



# **AFRICA'S EVOLVING HUMAN RIGHTS ARCHITECTURE**



**POLICY ADVISORY GROUP SEMINAR REPORT**

28 AND 29 JUNE 2007, VINEYARD HOTEL, CAPE TOWN, SOUTH AFRICA

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## **A POLICY ADVISORY GROUP SEMINAR**

HOSTED BY THE CENTRE FOR CONFLICT RESOLUTION, CAPE TOWN, SOUTH AFRICA

VINEYARD HOTEL, CAPE TOWN, SOUTH AFRICA

28 AND 29 JUNE 2007

SEMINAR REPORT

## **RAPORTEURS**

ELIZABETH MYBURGH AND HELEN SCANLON



# Table of Contents

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Acknowledgements, CCR and the Rapporteurs	5
Executive Summary	6
I. Introduction	11
1.1 Objectives	11
1.2 Seminar Themes	12
1.3 Background	12
2. The United Nations and Human Rights in Africa	14
3. Human Rights and the Organisation of African Unity	17
4. Human Rights, Development and Gender in Africa	19
5. The African Commission on Human and Peoples' Rights	22
6. Governance and Parliaments in Africa	25
7. Africa's Sub-regional Organisations and Human Rights Protection	27
8. The Impact of the US "War on Terror" on Africa	30
9. Conclusion	32

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## Annexes

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I. Agenda	33
II. List of Participants	36
III. List of Acronyms	38

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## About the Organiser:

### The Centre for Conflict Resolution (CCR), Cape Town

The Centre for Conflict Resolution is based in Cape Town, South Africa. Established in 1968, the organisation has wide-ranging experience of conflict interventions in the Western Cape and southern Africa and is working increasingly on a pan-continental basis to strengthen the conflict management capacity of Africa’s regional organisations, as well as on policy research on the United Nations’ (UN) role in Africa; South Africa’s role in Africa; African Union (AU)/New Partnership for Africa’s Development (NEPAD) relations; and HIV/AIDS and Human Security.

## The Rapporteurs

Ms Elizabeth Myburgh is a Research Assistant at the Centre for Conflict Resolution, Cape Town, South Africa. Dr Helen Scanlon is the Africa Co-ordinator: Gender Programme, for the International Centre for Transitional Justice, Cape Town, South Africa.

# Executive Summary

**The Centre for Conflict Resolution (CCR), Cape Town, South Africa, held a policy advisory group meeting on the theme, “Africa’s Evolving Human Rights Architecture”, on 28 and 29 June 2007. The meeting set out to review and analyse the experiences and lessons from a number of human rights actors and institutions on the continent.**

The Cape Town policy advisory group comprised 40 participants, including senior officials from the UN and national human rights institutions, academics, and civil society activists. The development and emergence of new continental, sub-regional and national institutions suggest a deeper commitment to human rights by African governments. However, this still has to be reinforced by the political will to ensure human rights protection for Africa’s 800 million citizens. The Cape Town meeting sought to analyse how effective the continent’s new human rights institutions are, as well as to recommend strategies that can be adopted to strengthen them in instances where these institutions may be found wanting.

## Context

Since the Rwandan genocide of 1994 in which about 800,000 people were killed, human rights protection has been placed on the continental agenda by the African Union (AU) and Africa’s regional economic communities (RECs) such as the Southern African Development Community (SADC); the Economic Community of West African States (ECOWAS); the Intergovernmental Authority on Development (IGAD); and the Economic Community of Central African States (ECCAS). Addressing human rights abuses is increasingly seen as central to efforts to develop a new system of democratic governance on the continent. The New Partnership for Africa’s Development (NEPAD) and the African Peer Review Mechanism (APRM) also represent new instruments to promote democratic governance in Africa. The evolving security and governance architecture created by the AU and RECs features a strong recognition that social justice is necessary for the establishment of democracy, accountability, and the rule of law. This evolving human rights architecture also commits African countries to broaden the scope of human rights to incorporate the protection of women, youth and children, as well as a defence of environmental rights. The principles and objectives of the AU’s Constitutive Act of 2000 stress the need to promote and protect human rights and to consolidate peace with justice. In reality, however, the AU’s human rights edifice operates independently from its conflict resolution systems, despite the fact that these mandates often overlap. Furthermore, despite the emergence of an African human rights architecture, great uncertainty still remains about the commitment of some governments to these institutions. Many African countries continue to fail to confront and address their own national human rights issues, and the performance of regional structures continues to be hampered by a lack of political will and resources.

## The United Nations and Human Rights in Africa

After the Second World War, the United Nations adopted the Universal Declaration of Human Rights in 1948, which remains the foundation of international standards for promoting human rights. The international human rights system has grown substantially since then and is predicated on three generations of rights.

These fall broadly into the following categories:

- The protection of civil and political rights;
- The protection of economic, social and cultural rights; and
- The protection of “solidarity rights” such as the right to development and peace.

In theory, the growth of the international human rights system, has been reflected in a series of international and regional treaties prohibiting discrimination based on gender, race, and ethnic origin. An understanding of the definition of human rights has developed from the basis of the Western liberal definition of civil and political rights, to include the concerns of the global South in spheres such as socio-economic rights, cultural rights and environmental rights. Nonetheless, the fear remains that the more powerful states in the 15-member UN Security Council may use human rights rhetoric to justify interference in the affairs of weaker states.

## Human Rights and the Organisation of African Unity

The African Charter on Human and Peoples’ Rights (or the “Banjul Charter”) adopted by the Organisation of African Unity (OAU) – now the African Union – in 1981 enshrined similar principles to those outlined in the UN’s Universal Declaration of Human Rights of 1948. The African nature of the Charter is reflected by the inclusion of the rights as well as the duties and obligations of the individual citizen towards her state and community. However, the signatories of the Charter often observed the document in its breach, leading critics to dismiss the OAU’s human rights record. Whereas obvious weaknesses are inherent in the Banjul Charter, it nonetheless remains the primary regional instrument for the promotion and protection of human rights on the continent. It is therefore important that strategies are adopted to make the protection of human rights outlined in the Charter more attainable. Increased awareness of human rights protection mechanisms would be one way of achieving this goal. Some potential strategies to promote awareness of human rights could include the adoption of a policy on national civic education – including mandatory human rights courses – and working together with civil society organisations (CSOs) in developing human rights awareness and sensitisation programmes. The Charter’s enforcement body, the African Commission on Human and Peoples’ Rights, provides a starting point for the development of a human rights culture across the continent. The Commission is therefore an important tool in the fight to eradicate human rights abuses that are still evident on the continent.

## Human Rights, Development and Gender in Africa

Despite the growth in international instruments to promote and protect human rights, Africa’s development has been severely impeded by ongoing incidents of violent conflict and the violation of human rights on the continent. Former UN Secretary-General, Kofi Annan, called for the development of a comprehensive strategy for Africa, noting that this would rest on the three pillars of: peace and security; development; and human rights and the rule of law. Nonetheless, there has often been a tension between development and human rights in Africa due to their competing objectives. Internationally, more recent human rights-driven development agendas have been influenced by the establishment of the New Partnership for Africa’s Development in 2001 and the UN’s Millennium Development Goals (MDGs) of 2000. While international obligations may be flawed, they are nonetheless critical to the establishment of international norms. Consequently, the need to ensure the protection of human rights in order to achieve development is increasingly being accepted in national and international law.



The existence of international instruments also has implications for the protection of gender rights in Africa. In 2003 and 2004, African heads of state adopted the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa ("the Women's Protocol") as well as the Solemn Declaration on Gender Equality, which both endorse the provisions of UN Security Council Resolution 1325 of 2000 on Women and Peace and Security. The Protocol is one of the few international human rights instruments to be informed by the experiences of African women, and includes certain unique features such as calls for protection against harmful cultural practices, especially those linked to marriage, sexuality, and property, as well as the protection of women in armed conflict. A strong feature of the protocol is that it is legally binding on governments that have ratified it. However, there is an urgent need to increase the number of signatories to the Protocol, as not all AU member states have ratified it. Currently, 21 countries are signatories, while 32 countries have yet to ratify the Protocol.

## The African Commission on Human and Peoples' Rights

The African Charter on Human and Peoples' Rights, which was adopted by the OAU in 1981 and came into force in 1986, provides the framework for the promotion and protection of human rights across Africa. To ensure compliance with the rights set out in both the Charter for Human and Peoples' Rights and the Charter on the Rights and Welfare of the Child, the African Commission on Human and Peoples' Rights and the Committee of Experts on the Rights and Welfare of the Child served as enforcement mechanisms in 1987 and 2002, respectively, to provide an effective means through which human rights could be implemented throughout the continent. While the commission has an important role to play, its enforcement mechanisms have been criticised for failing to have the expected impact in addressing human rights violations on the continent.

## Governance and Parliaments in Africa

Africa's human rights record has tended to mirror political developments on the continent. The democratisation processes that swept through Africa with the end of the Cold War in the 1990s resulted in a paradigm shift in official rhetoric on the promotion of human rights. Positive developments in governance and the promotion of human rights have included:

- The growth of citizens' access to justice due to the increased number of institutions with a strong focus on human rights;
- Wider acceptance of the need for human security that embraces a people-centred approach to security;
- An increase in the visibility of women at the parliamentary level in many governments, and regional bodies such as the AU;
- Improved conscientisation of the rights of vulnerable groups; and
- The growth of transitional justice mechanisms to address human rights violations committed during conflicts. These range from truth commissions to war crimes tribunals.

## Africa's Sub-regional Organisations and Human Rights Protection

Africa has seen the creation of a number of continental and international courts in recent years. The continent boasts two continental courts - the African Court on Human and Peoples' Rights (ACHPR), created in 1998; and the African Court of Justice (ACJ), created in 2002. International and regional non-governmental organisations (NGOs) can play an important role in helping to increase the effectiveness of these courts and tribunals, in

building the AU's human rights architecture, and in generally contributing towards the creation of continental legal frameworks. A significant development has been the indictment and prosecution of various former African heads of state in international criminal tribunals, as well as national or foreign courts. These indictments and other referrals, such as those to the Hague-based International Criminal Court (ICC), are sending out a clear message that the abuse and violation of human rights in Africa will no longer be tolerated.

## The Impact of the US “War on Terror” on Africa

Since the “war on terror” was declared by the United States after the attacks on the country in September 2001, Africa has received renewed attention from Washington as a “strategic partner” in its fight against terrorism. This development has serious implications for promoting human rights concerns on the continent. Africa is seen as useful to the US because of the proximity of some African countries to the Persian Gulf region. This has resulted in a proliferation of American initiatives to combat terrorism. At the national level, many African countries have opened their borders to US intelligence organisations; and almost all African countries have adopted counter-terrorism legislation in accordance with UN Security Council Resolution 1373 of 2001. Accusations have, however, been made by many Africans that recent developments could constitute a new “Cold War” in Africa in which anti-terrorism – rather than anti-communism – determines Washington’s support for autocratic African regimes. Thus, African governments and national human rights institutions should consult with the UN Security Council’s 15-member Counter-Terrorism Committee (CTC) and feed their input into the passage of any future anti-terrorist legislation that could have negative implications for the continent.

## Policy Recommendations

Ten key policy recommendations on Africa’s evolving human rights architecture emerged from the Cape Town seminar:

1. The monitoring of the implementation of international human rights laws needs to be enforced at the national level in Africa through parliaments, national human rights institutions and civil society. This can be achieved through the submission of alternative reports detailing human rights violations to international institutions;
2. In order to promote and protect human rights, there is a need to develop media sensitivity and strategies to promote awareness of international instruments in all African countries;
3. Coalitions on specific human rights issues should be established. For example, actors promoting the AU Protocol on Women need to identify specific matters of priority and work with other civil society actors on these;
4. There is a need to adopt national civic education programmes on human rights and to provide mandatory human rights education in schools on the continent, which can be done in consultation with civil society;
5. The sensitisation of national military police and other security structures to human rights and international instruments is necessary for their effective implementation;
6. There is a need to promote an understanding of human rights in a way that it does not alienate the very people they are meant to assist, and to ensure that the advancement of individual rights does not undermine the fabric of African societies;
7. The African Commission and national human rights institutions need to strengthen their working relationship, especially in the area of non-compliance by states;

8. There is a need to harmonise and institutionalise Africa's sub-regional courts and to bring them under the auspices of the African Court; these courts must also be made more accessible to those who need them most;
9. National human rights institutions should consult with the UN Security Council's Counter-Terrorism Committee set up under UN Security Council Resolution 1373 of 2001 and make inputs on any future anti-terrorist legislation that has negative implications for the continent; and
10. A fund should be established to help individuals with the costs of pursuing cases of human rights violations at the regional level.



**ABOVE:** Ms Yasmin Jusu-Sheriff, Human Rights Commission of Sierra Leone, Freetown, *left*; Mr Sam Kona, Independent Consultant, Nairobi

**RIGHT:** Professor Paul Zeleza, Penn State University, Pennsylvania

**CENTRE:** Professor Osita Eze, Nigerian Institute of International Affairs, Lagos

**FAR RIGHT:** Dr Solomon Gomes, African Union Commission, Addis Ababa



# 1. Introduction

**The Centre for Conflict Resolution (CCR) in Cape Town, South Africa, held a policy advisory group meeting on the theme, “Africa’s Evolving Human Rights Architecture”, on 28 and 29 June 2007 in Cape Town. The meeting set out to review and analyse the experiences and lessons from a number of human rights actors and institutions on the continent.**

The development and emergence of new continental, sub-regional and national institutions suggest a deeper commitment to human rights by African countries. However, this still has to be reinforced by the political will to ensure human rights protection. Since the tragedy of the Rwandan genocide of 1994, in which about 800,000 people were killed, human rights protection has been placed on the continental agenda by the African Union (AU) and Africa’s regional economic communities (RECs) such as the Southern African Development Community (SADC); the Economic Community of West African States (ECOWAS); the Intergovernmental Authority on Development (IGAD), and the Economic Community of Central African States (ECCAS). The New Partnership for Africa’s Development (NEPAD) and the African Peer Review Mechanism (APRM) also represent new instruments to promote democratic governance in Africa.

Addressing human rights abuses is increasingly seen as central to efforts to develop a new system of democratic governance on the continent. The principles and objectives of the AU’s Constitutive Act of 2000 emphasise the need to promote and protect human rights and to consolidate peace with justice. In reality, however, the AU’s human rights edifice operates independently of its conflict resolution systems, despite the fact that their mandates often overlap. Conflict resolution practitioners and human rights activists in Africa, however, have a vital role to play in consolidating peace with justice. The Cape Town meeting sought to analyse how effective the continent’s new human rights institutions are, as well as to recommend strategies that can be adopted to strengthen them in instances where these institutions may be found wanting.

Around 30 participants, including senior officials from the AU, the United Nations (UN), national human rights institutions (NHRIs), academics, and civil society activists attended the Cape Town policy advisory group meeting. Key officials who attended included: James Jonah, former UN Undersecretary-General for Political Affairs, New York; Solomon Gomes, Political Adviser to the Darfur Integrated Task Force at the African Union; Angela Melo, a Commissioner at the African Commission on Human and Peoples’ Rights; Yasmin Jusu-Sheriff, a Commissioner in the Human Rights Commission of Sierra Leone; and Charles Villa-Vicencio, Executive Director of the Institute for Justice and Reconciliation, Cape Town.

## 1.1 Objectives

The violation of human rights is a global problem, but the prevalence of violent conflicts and autocratic rule in parts of Africa means that the continent has yet to witness a paradigm shift towards privileging the human rights of its 800 million citizens. Previous continental frameworks for human rights protection have had limited success in defending the human rights of African citizens.<sup>1</sup> Africa’s human rights regime is therefore still

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<sup>1</sup> Michael Fleshman, “Human Rights Move Up On Africa’s Agenda: New African Court to Promote Rule of Law, End Impunity for Rights Violators”, *Africa Renewal*, 18(2) (July 2004), p.10.

relatively weak, despite a growing body of declarations, conventions and protocols such as the Protocol Establishing an African Human Rights Court in 1998 and the AU Protocol on the Rights of Women of 2003.

The primary goal of the Cape Town policy seminar was to explore the development of continental and regional human rights institutions in Africa. The meeting set out to identify ways of strengthening the capacity of both African governments as well as regional and sub-regional organisations to manage human rights constructively. The development of African regional systems for the protection and promotion of human rights was assessed through an examination of structures within the AU and Africa's sub-regional organisations. The goal was to contribute to ensuring an effective regional judicial system for upholding the rule of law, human dignity and human rights.

## 1.2 Seminar Themes

The following seven areas formed the basis of presentations and discussions during the policy meeting:

- The United Nations and Human Rights in Africa;
- Human Rights and the Organisation of African Unity (OAU);
- Human Rights, Development and Gender in Africa;
- The African Commission on Human and Peoples' Rights;
- Governance and Parliaments in Africa;
- Africa's Sub-regional Organisations and Human Rights Protection; and
- The Impact of the US "War on Terror" on Africa.

## 1.3 Background

Many African governments – acting nationally and also collectively through the African Union – are confronting what some observers have depicted as a “culture of impunity” that exists for those guilty of human rights abuses in parts of the continent. The evidence of the link between gross human rights violations and the emergence of conflicts is generally no longer contested.<sup>2</sup> Through the AU, African heads of state have recently expressed their “determination to address the scourge of conflicts in Africa in a collective, comprehensive and decisive manner” and identified the need to address human rights violations on the continent in order to achieve this.<sup>3</sup> Within the evolving security and governance architecture created by the AU and Africa's RECs, there is a strong recognition that social justice is necessary for the establishment of democracy, accountability and the rule of law. This evolving human rights architecture also commits African countries to broadening the scope of human rights to incorporate the protection of women, youth and children, as well as a defence of environmental rights.

Since the AU replaced the Organisation of African Unity (OAU) in Durban, South Africa, in July 2002, its policy frameworks, as well as those of the New Partnership for Africa's Development, have reiterated the link between peace, security, human rights, democratic governance and development. The recurrence of conflicts in a number of African countries such as Angola, Liberia and the Democratic Republic of the Congo (DRC) has

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2 Centre for Conflict Resolution, *National Human Rights Institutions, Conflict Management and Peacebuilding in Africa*, Technical Seminar Report, 29 November - 3 December 2004 (available at <http://ccrweb.uct.ac.za>).

3 Constitutive Act of the African Union (available at [www.africa-union.org/Official\\_documents/Decisions\\_Declarations/Maputo%20decisions.pdf](http://www.africa-union.org/Official_documents/Decisions_Declarations/Maputo%20decisions.pdf); accessed 15 April 2007).

demonstrated the importance of the need to address human rights to achieve peace and security. The subsequent creation of an African Peer Review Mechanism (APRM), to which at least 26 African governments have since subscribed,<sup>4</sup> shows an increasing willingness by many African governments to support – at least rhetorically – human rights protection at the continental level. Critics have, however, noted that the APRM lacks an implementation mechanism to sanction errant regimes. Despite the emergence of an African human rights architecture, great uncertainty still remains over the commitment of some governments to these institutions. Many African countries are still failing to confront and address their own national human rights issues, and the performance of regional structures continues to be hampered by a lack of political will and resources. The current conflict in Sudan’s Darfur region has resulted in more than 200,000 deaths since 2003, as well as the displacement of about 2.5 million people from their homes.<sup>5</sup> Nonetheless, the Khartoum government has so far not been called to account seriously by African governments for this violence or its failure to protect the human rights of its citizens. Sudan was, however, denied the chance to chair the AU in 2006/7. In Zimbabwe, the government-sanctioned forced removal of people from their homes in 2005, known as “Operation Restore Order/*Murambatsvina*”, has been described by a UN report as a “violation of the right to adequate housing and other rights including the right to life, property and freedom of movement”.<sup>6</sup>

FACT BOX

The current conflict in Sudan’s Darfur region has resulted in more than 200,000 deaths since 2003, as well as the displacement of about 2.5 million people from their homes.



ABOVE: Professor Muna Ndulo, University of Cornell, Ithaca, New York

RIGHT: Mr Enoch Mulembe, Zambian Human Rights Commission, Lusaka, left, and other seminar participants in session

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- 4 These countries include: Algeria, Angola, Benin, Burkina Faso, Cameroon, the Democratic Republic of the Congo, Egypt, Ethiopia, Gabon, Ghana, Kenya, Lesotho, Malawi, Mali, Mauritius, Mozambique, Nigeria, Rwanda, São Tomé and Príncipe, Senegal, Sierra Leone, South Africa, Sudan, Tanzania, Uganda and Zambia.
  - 5 “Behind the Scenes at the UN”, *The Guardian* (London), 15 April 2006.
  - 6 Anna Tibaijuka, *Report of the Fact-finding Mission to Zimbabwe to Assess the Scope and Impact of Operation Murambatsvina*, United Nations Special Envoy on Human Settlements Issues in Zimbabwe, Nairobi, Kenya, 18 July 2005, p.63.

## 2. The United Nations and Human Rights in Africa

**While the premise of finding local solutions to addressing human rights abuses in Africa may be preferable to external solutions, there still remains an urgent need to ensure that the international community supports and does not undermine human rights protection on the continent.**

The concept of human rights has led to many questions being raised over how and who defines human rights, as well as how these rights impact on the relationship between the individual and society. Following the Second World War, the United Nations adopted the Universal Declaration of Human Rights in 1948, which remains the foundation of international standards for human rights. The Declaration sought to set principles aimed at preventing the future occurrence of human rights atrocities such as the Nazi genocide against Jews of 1933 – 1945. The commitment made in the UN Charter of 1945 states that:

“We, the peoples of the United Nations, determined to save succeeding generations from the scourge of war ... [pledge] to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to promote social progress and better standards of life in larger freedom.”<sup>7</sup>

In order to uphold this commitment, the Commission on Human Rights was created in 1946 by the UN Economic and Social Council (ECOSOC) – a subsidiary body of the General Assembly – to “examine, monitor, and report” on human rights issues in member states and to establish legal norms to protect human rights and freedoms worldwide.<sup>8</sup>

The international human rights system has grown substantially since then, and is predicated on three generations of rights. These fall broadly into the following categories:

- Protection of civil and political rights;
- Protection of economic, social, and cultural rights; and
- Protection of “solidarity rights” such as the right to development and peace.<sup>9</sup>

Theoretically, the growth of the international human rights system has been reflected in a series of international and regional treaties which prohibit discrimination based on race, ethnic origin, or gender, such as the 1965 UN International Convention on the Elimination of All Forms of Racial Discrimination and the 1989 UN Convention on the Rights of the Child. Developments in this sphere have also been supplemented through the creation of a number of human rights bodies such as the Sub-commission on the Promotion and Protection of Human Rights, Special Rapporteurs on issues such as torture and the rights of minorities, as well as through the

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7 United Nations, *Charter of the United Nations*, 24 October 1945.

8 Helen Scanlon, “The UN Human Rights Council: From Rights to Responsibility”, in Adekeye Adebajo and Helen Scanlon (eds.), *A Dialogue of the Deaf: Essays on Africa and the United Nations* (Johannesburg: Jacana, 2006), pp.131-146.

9 Paul Tiyambe Zeleza, “The Conundrum of Development and Human Rights in Africa”, Paper presented at the CCR seminar, *Africa’s Evolving Human Rights Architecture*, Cape Town, 28 and 29 June 2007.

engagement of individual experts and representatives who have investigated allegations of human rights abuses. However, despite these commitments, the primacy of the principle of state sovereignty has rendered many of these instruments largely ineffective in practice. Thus, even subscription to the 1948 Genocide Convention, under which the principle of non-intervention can be overridden in order to prevent abuse of human rights, could not prevent the 1994 Rwandan genocide.

In 1945, the fifth Pan-African Congress in Manchester, England, adopted human rights as central to its guiding principles. For many African nationalist leaders, international principles of human rights were shrouded in hypocrisy, considering the flagrant human rights violations committed by the French, British, Portuguese and Belgians within their African colonies. Some scholars have argued that the concept of human rights is a Western construction, or – more bluntly – that they are “an ideological cover for Western interests”.<sup>10</sup> However, the development of the majority of international human rights instruments since the creation of the UN in 1945 has never been led by the West. Often, the origin of the demands for human rights has originated from demands for liberation and the needs of various “minorities”. Consequently, the understanding of what constitutes human rights has developed from the Western liberal definition of civil and political rights to include the concerns of the global South in spheres such as socio-economic rights, women’s rights, children’s rights, cultural rights and environmental rights. Many of the leaders of the continent’s nationalist movements such as Kwame Nkrumah of Ghana and Julius Nyerere of Tanzania embraced the main tenets of human rights discourse as well as the principles of democratic governance in the struggle for independence. Furthermore, newly-created African governments enshrined the protection of human rights in their national constitutions in the 1950s and 1960s.

“The failure of many Western countries within the UN to oppose apartheid in South Africa after 1948 led to criticisms of the international understanding of human rights.”

Nonetheless, the failure of many Western countries within the UN to oppose apartheid in South Africa after 1948 led to criticisms of the international understanding of human rights. The membership of the UN grew after the adoption of the Universal Declaration on Human Rights in 1948 from 51 members to 192 by 2007, incorporating former African and Asian colonies as well as the successor states in central and eastern Europe. However, the Human Rights Commission, theoretically the UN organ to uphold human rights, seemed to be distant from the concerns of post-colonial countries. This distance was amplified, both spatially and ideologically, when the Commission on Human Rights was moved from the UN secretariat in New York, US, to Geneva, Switzerland, in the 1970s.

Still, during the 1970s, human rights abuses in the developing world became an increasing feature in Western foreign policy, and the UN Human Rights Commission was often used as a political forum to identify perceived

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10 Kader Asmal, “South Africa, the UN, and Human Rights”, in Adebajo and Scanlon (eds.), *A Dialogue of the Deaf*, pp.227-241.

11 James Jonah, “The United Nations and Human Rights in Africa”, Paper presented at the CCR seminar, *Africa’s Evolving Human Rights Architecture*, Cape Town, 28 and 29 June 2007.

12 Global Policy, “Creation of the Human Rights Council” (available at <http://www.globalpolicy.org/reform/topics/hrcindex.htm> ; accessed 12 April 2006).

13 *In Larger Freedom: Towards Development, Security and Human Rights For All*, Report of the UN Secretary-General; follow-up to the outcome of the Millennium Summit, 21 March 2005, A/59/2005.



human rights violators. As a result, growing numbers of African countries sought membership of the Commission both to protect themselves against accusations of human rights abuses and to promote their own interests.<sup>11</sup> The integrity of the Commission was subsequently questioned, and criticism mounted that certain countries used membership of the organ to prevent scrutiny of their own human rights abuses and to block international action against them, leading to allegations that the Commission was an “abuser’s defence society”.<sup>12</sup> In former UN Secretary-General Kofi Annan’s 2005 report, *In Larger Freedom*, he argued that the UN Human Rights Commission had been undermined by “declining credibility and professionalism”.<sup>13</sup> As a result, the body was replaced in 2006 by the UN Human Rights Council.

Perhaps not unsurprisingly, the fear remains that the more powerful states in the UN Security Council may use human rights rhetoric to justify interference in the affairs of weaker states. Concerns have thus been raised over the rhetoric of human rights being used as one of the justifications for the US intervention in Iraq in 2003. These fears are bolstered by the fact that the majority of country-specific investigations into human rights violations led by the UN tend to focus on abuses in poorer countries while overlooking those committed by Western powers, for example, the treatment of those incarcerated in the American prison camp at Guantanamo Bay in Cuba.<sup>14</sup>



**ABOVE:** Ambassador James Jonah, former UN Undersecretary-General for Political Affairs, New York, *left*; Dr Adekeye Adebajo, Centre for Conflict Resolution, Cape Town  
**LEFT:** Commissioner Angela Melo, African Commission on Human and Peoples’ Rights, Maputo  
**FAR LEFT:** Professor Muna Ndulo, University of Cornell, Ithaca, New York

14 James Jonah, “The United Nations and Human Rights in Africa”, Paper presented at the CCR seminar, *Africa’s Evolving Human Rights Architecture*, Cape Town, 28 and 29 June 2007.

### 3. Human Rights and the Organisation of African Unity

**The development of human rights in Africa has been shaped by the continent's unique history. In Africa, the legacy inherited from pre-colonial African traditions is reflected in the human rights instruments developed by the OAU.**

Intrinsic rights such as the right to life, freedom of expression and association, as well as an obligation to one's community, especially to those who are most in need, are deemed to be part of the traditional African system of human rights. An important aspect of these rights is that they are perceived to be derived from duties. In the colonial era, the rights of Africans were often eroded or denied by colonial powers. In the decolonisation struggles that followed, the emphasis shifted to advancing and "restoring" the rights of Africans. The pursuit of human rights was aimed at freedom and dignity for all, irrespective of race or class. This was also one of the main concerns on the agenda of all five pan-African congresses held between 1900 and 1945, resulting in less emphasis being placed on universal rights in this phase of human rights development in Africa.

The focus of the OAU, which was established in 1963, was initially geared towards accelerating the process of decolonisation, and supporting liberation struggles on the continent. The founding document of the organisation reflected this preoccupation.<sup>15</sup> The African Charter on Human and Peoples' Rights (ACHPR) – often called the "Banjul Charter" – was adopted by the OAU in 1981, and enshrined similar principles to those in the UN Universal Declaration of Human Rights of 1948. Its signatories, however, often observed the Banjul Charter in its breach. As a result, critics have dismissed the OAU as a "dictators' club" that failed to respect the human rights of African citizens, with Uganda's Idi Amin – whose regime killed an estimated 300 000 people – even becoming the chairman of the organisation.<sup>16</sup>

Owing to its adherence to the principle of "non-interference in the internal affairs of member states", the OAU adopted an approach to conflicts which favoured informal methods for resolving disputes such as international mediation and conciliation.<sup>17</sup> Former UN Secretary-General, Kofi Annan, has noted that these are useful methods of resolving conflicts, since they offer "the convenience of pragmatism, flexibility, persuasion and compromise".<sup>18</sup> However, the drawbacks of such informal methods are that they are often reactive and remedial instead of being proactive and preventive. The result was that members of the OAU mostly failed to respond in circumstances of obvious human rights abuses by their peers. One of the perceived reasons for the OAU's silence on human rights abuses was that many African leaders feared that criticising other countries would invite criticism of human rights violations occurring within their own borders. Since the end of the Cold War in the 1990s, a wave of democratisation, as well as a realisation that Africa is of less strategic importance to the West, led the OAU to focus greater attention on developing its own regional instruments for the promotion of human rights on the continent. Although some critics have labelled the African Commission on Human and

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15 Article II of the OAU Charter states the following purposes of the organisation: "To defend their (African States) sovereignty, their territorial integrity and interdependence" (Ic); and "To eradicate all forms of colonialism from Africa" (Id).

16 Fleshman, "Human Rights Move Up On Africa's Agenda", p.10.

17 Siphamandla Zondi, "A Luta Continua: The Struggle for Human Rights and Democratic Governance in Africa". Paper presented at the CCR seminar, *Africa's Evolving Human Rights Architecture*, Cape Town, 28 and 29 June 2007.

18 Malcom Davids and Rachel Murray (eds.), *The African Charter on Human and Peoples' Rights: The System in Practice, 1986 - 2000* (Cambridge: Cambridge University Press, 2002), pp.6-8.

Peoples' Rights as a "false dawn" for the protection of human rights, the instrument has nonetheless been a useful tool for human rights organisations at a national and regional level. A clear weakness of this body is its flimsy powers of investigation and enforcement. As a result, the commission has been seen as neither an effective nor a powerful guardian of human rights in Africa, largely because its decisions are not binding. The lack of legal obligation has meant that African governments have often failed to comply with the findings of the commission. A further impediment to the commission's effective functioning has been the lack of financial resources needed to fulfil its mandate. Additional weaknesses also include the "drawback" clauses contained in the ACHPR. These clauses make the enforcement of a right dependent on municipal law or subject to the discretion of national authorities. Nonetheless, the positive aspects of the ACHPR should also be recognised. These include the fact that the Banjul Charter makes provision for the "right to development". This provision is often not contained in African constitutions, most of which include guarantees mainly for more "Western" civil and political rights. The African nature of the Banjul Charter is reflected in the inclusion of rights as well as duties and obligations of the individual towards her state and community. Analysts have further noted that each of the rights promoted by the Charter is "inherent, inalienable, universal and has a legitimacy of its own. One cannot be fully enjoyed without the other".<sup>19</sup>

Although there are clear weaknesses and challenges inherent in the Charter, the document remains the primary regional instrument for the promotion and protection of human rights on the continent. It is therefore important that strategies are adopted to make the protection of human rights – as outlined in the Charter – more attainable. Increased awareness of human rights protection mechanisms would be one of the ways in which to achieve this goal. Strategies to promote this include the development of media coverage; the adoption of a policy on national civic education which would include mandatory human rights courses; and working with civil society organisations (CSOs) to develop human rights sensitisation programmes.<sup>20</sup> The ACHPR provides a starting point for the development of a human rights culture across Africa. It is therefore an essential tool in the fight towards eradicating human rights abuses on the continent.

“One of the perceived reasons for the OAU's silence on human rights abuses was that many African leaders feared that criticising other countries would invite criticism of human rights violations occurring within their own borders.”



From left: Dr Solomon Gomes, Senior Political Officer, Darfur Integrated Task Force, Addis Ababa; Ms Yasmin Jusu Sherriff, Sierra Leone Human Rights Commission, Freetown; Professor Osita Eze, Nigerian Institute of International Affairs, Lagos

19 Osita Eze, "Human Rights and the Organisation of African Unity", Paper presented at the CCR seminar, *Africa's Evolving Human Rights Architecture*, Cape Town, 28 and 29 June 2007.

20 Solomon Gomes, "Strategies to Respect, Promote and Protect Human and Peoples' Rights in Africa", Paper presented at the CCR seminar, *Africa's Evolving Human Rights Architecture*, Cape Town, 28 and 29 June 2007.

## 4. Human Rights, Development and Gender in Africa

**Despite the growth in international instruments to promote and protect human rights, Africa's development has been severely impeded by the proliferation of violent conflicts and the violation of human rights on the continent.**

Former UN Secretary-General, Kofi Annan, therefore, during a speech in Johannesburg, South Africa, in July 2007, called for the development of a comprehensive strategy for Africa and noted that this would rest on the three pillars of peace and security; development; and human rights and the rule of law.<sup>21</sup> Nonetheless, there has often been a tension between development and human rights in Africa due to their competing objectives. Since the founding of the UN in 1945, definitions of development have grown from an emphasis on national macro-economic growth to embrace a broader vision of "sustainable human development".<sup>22</sup>

**"Violence against women is...increasingly used as a tactic during armed conflicts (and) addressing the gendered effects of conflicts is integral to supporting human rights in Africa."**

The Universal Declaration of Human Rights of 1948 included a number of rights that form part of the "right to development". However, these received little attention as a result of the Cold War. The right to development achieved more significance through three international statutes:

- The African Charter on Human and Peoples' Rights in 1981;
- The Declaration on the Right to Development by the UN General Assembly in 1986; and
- The Vienna Declaration and Programme of Action in 1993.

The African Charter was the first regional system to embrace a framework that drew an explicit link between development, democracy and human rights. The Charter stated "that it is henceforth essential to pay particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights". In 1986, through the Declaration on the Right to Development, the UN noted that the right to development is an "inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations".<sup>23</sup> This was reinforced by the Vienna Declaration and Programme of Action of 1993 which outlined the right to development as "an integral part of fundamental human rights".<sup>24</sup> The

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21 Kofi Annan, Address to the fifth Nelson Mandela Annual Lecture, 22 July 2007, Johannesburg (available at [http://www.nelsonmandela.org/index.php/news/article/the\\_fifth\\_nelson\\_mandela\\_annual\\_lecture\\_address/](http://www.nelsonmandela.org/index.php/news/article/the_fifth_nelson_mandela_annual_lecture_address/); accessed 30 July 2007).

22 Paul Tiyambe Zeleza, 'The Conundrum of Development and Human Rights in Africa', Paper presented at the CCR seminar, *Africa's Evolving Human Rights Architecture*, 27 and 28 June 2007.

23 Declaration on the Right to Development, Adopted by General Assembly Resolution 41/128, 4 December 1986 (available at <http://www.ohchr.org/english/law/rtd.htm>; accessed 12 August 2007).

24 Vienna Declaration and Programme of Action, Adopted by the World Conference on Human Rights in Vienna on 25 June 1993 (available at <http://www.ohchr.org/english/law/pdf/vienna.pdf>; accessed 24 June 2007).

adoption of the right to development advanced international understanding of human rights beyond those of civil and political rights. Nonetheless, it remains the responsibility of African governments to ensure the realisation of these rights, resulting in implementation taking a variety of forms at the national level. It should also be noted that the principle of the right to development remains a contested area in international law.

Internationally, more recent human rights-driven development agendas have been influenced by the establishment of NEPAD (which sought to promote democratic governance in Africa in exchange for Western aid, investment and debt relief) and the UN Millennium Development Goals (MDGs) of 2000, which aimed to halve poverty by 2015. While international obligations may be flawed, they are, nonetheless, critical to the establishment of international norms. Consequently, the need to ensure the protection of human rights in order to achieve development is increasingly accepted in national and international law. Debates over women's human rights in Africa encapsulate many of the contentious issues surrounding international human rights: how and by whom human rights are defined and their implications for the relationship between the individual and society. According to a 2002 report by former UN Secretary-General, Kofi Annan, women and children are disproportionate targets and constitute the majority of all victims of contemporary armed conflicts. Currently, of the 13 million internally displaced persons (IDPs) in 20 countries on the continent, 85 per cent are women and children. Violence against women – especially sexual violence – is also increasingly used as a tactic during armed conflicts. Thus, addressing the gendered effects of conflicts is integral to supporting human rights in Africa.

A series of international instruments has implications for the protection of gender rights in Africa. In 2003 and 2004, African heads of states adopted the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa ("the Women's Protocol") and the Solemn Declaration on Gender Equality, which endorse the provisions of UN Security Council Resolution 1325 of 2000 on Women and Peace and Security. The two documents call for the presence of women in conflict prevention and peacebuilding activities in order to reverse their marginalisation. These international commitments are bolstered by some of the guiding principles of the AU, including: the promotion of gender equality (in terms of which the AU Commission has mandated a 50 per cent representation of women in its institutions);<sup>25</sup> the championing of social justice; and the support of "good governance" through the rejection of unconstitutional changes of government, articulated in Article 30 of the AU's Constitutive Act of 2000. The Act has also made provision for the participation of civil society actors in the AU's work through structures such as the Pan-African Parliament (PAP) and the Economic, Social and Cultural Council (ECOSOCC), as well as NEPAD.<sup>26</sup> The hope is that the creation of these organs will promote the involvement of African civil society in continental institutions and provide for greater protection and monitoring of human rights.

Those campaigning on behalf of the advancement of women's rights as human rights claim that inequality based on gender often harms women in a variety of ways, including poverty and the impact of HIV/AIDS. Addressing these challenges requires emphasis on the full range of rights specific to women, including reproductive health and access to resources. As a result, advancing the promotion of the human rights of women should theoretically allow them to take greater control over every aspect of their lives. However, the promotion of gender rights and human rights is a complex and uneven process, since laws are often modelled on human rights ideals originating from outside Africa, which sometimes impacts negatively on local customs and practices.

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25 See Centre for Conflict Resolution, *Women and Peacebuilding in Africa*, Seminar Report, Cape Town, South Africa, 27 and 28 October 2005 (available at <http://ccrweb.ccr.uct.ac.za>).

26 See Centre for Conflict Resolution, *Building an African Union for the Twenty-First Century*, Seminar Report, Cape Town, South Africa, 20-22 August 2005 (available at <http://ccrweb.ccr.uct.ac.za>).

The OAU's primary human rights document – the African Charter of 1981 – refers to women only twice: article 2 includes sex in a broad non-discrimination clause, while article 18(3) requires states to eliminate “every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions”.<sup>27</sup> A key limitation of the African Charter is its emphasis on upholding African traditions and customs without consideration that certain customs could perpetuate gender inequality and discrimination against women. In practice, however, the African Commission on Human and Peoples' Rights addresses women's rights issues in a number of ways including the representation of women in the structures of the Commission, and the appointment of a Special Rapporteur on the Rights of Women in 1998.

“In order to address some of the limitations of the African Charter, the AU Protocol was adopted in 2003 after intense lobbying and advocacy efforts by African women's rights networks.”

In order to address some of the limitations of the African Charter, the AU Protocol was adopted in 2003 after intense lobbying and advocacy efforts by African women's rights networks. However, not all AU member states have ratified the protocol: currently, 23 countries are signatories to it, leaving a further 32 countries yet to ratify it.<sup>28</sup> The protocol is one of the few international human rights instruments informed by the lived experiences of African women, and includes certain unique features which include calls for:

- Protection against harmful cultural practices, especially those linked to marriage, sexuality, and property;
- Legalisation on abortion in cases of rape and incest, which is especially radical given that abortion is still considered illegal and/or “immoral” in many African legal systems;
- Consent in marriage and equality of spouses during and after marriage; and
- Protection of women in armed conflict.

One important advantage of the protocol is that it is legally binding on those governments that have ratified it. However, just as national laws and legal processes are often difficult to access, international instruments are even harder to enact because they often require all national options for redress to be exhausted first, which creates barriers for the vulnerable groups they are meant to protect.



*From left: Ms Yaliwe Clarke and Dr Helen Scanlon, Centre for Conflict Resolution, Cape Town; Professor Cathi Albertyn, University of the Witwatersrand, Johannesburg; Professor Paul Zeleza, Penn State University, Pennsylvania*

<sup>27</sup> See African Charter, article 2, 18(3).

<sup>28</sup> See SOAWR Policy Brief on Grand Debate (available at [www.Pambazuka.org/aumonitor/index.php/AUMONITOR/comments/soawr\\_policy](http://www.Pambazuka.org/aumonitor/index.php/AUMONITOR/comments/soawr_policy); accessed 12 August 2007).

## 5. The African Commission on Human and Peoples' Rights

**The African Charter on Human and Peoples' Rights, which was adopted by the OAU in 1981 and came into force in 1986, provides the framework for the promotion and protection of human rights across Africa. The African Charter is central to the human rights system on the continent.**

Other human rights instruments which form part of the regional human rights system include: the Charter on the Rights and Welfare of the Child, established in 1990, and the Protocol establishing an African Court on Human and Peoples' Rights, adopted in 1998. To ensure compliance with the rights set out in both the Charter for Human and Peoples' Rights and the Charter on the Rights and Welfare of the Child, the African Commission on Human and Peoples' Rights and the Committee of Experts on the Rights and Welfare of the Child were established in 1987 and 2002, respectively, as enforcement mechanisms to provide an effective means through which human rights could be implemented throughout the continent.

The African Commission monitors the compliance by states with their obligations under the African Charter. The mandate of the Commission also includes a promotional role and it is entrusted with the dissemination of information in spreading the promotion and protection of human rights. The African Commission formulates principles; it receives and gives consideration to state and individual complaints; and it provides for the interpretation of the provisions of the African Charter.<sup>29</sup> The African Commission further reports to the Assembly of the African Union each year and depends on this body for the implementation of its decisions and resolutions.<sup>30</sup>

The Committee of Experts on the Rights and Welfare of the Child has functions similar to those of the African Commission, including examination of states parties' reports, consideration of individual communications, and the power to investigate any matter falling within the ambit of the African Charter, as well as assessing measures that state parties have adopted to implement the Charter.<sup>31</sup>

While the commission has an important role to play, several factors have hampered efforts to fulfil its mandate. The effectiveness of the commission's enforcement mechanisms has come under criticism for failing to have the expected impact in addressing human rights violations. Other weaknesses of the commission include: the perception that the body lacks credibility; and criticisms that the elected commissioners lack impartiality. In addition, the lack of financial and human resources has contributed to ineffective delivery of justice by the commission. The inability to enforce its decisions has also been pointed out as an important weakness. These criticisms may be useful in helping the commission to identify those areas in need of improvement, and could

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29 Amnesty International. "Organisation of African Unity: Making human rights a reality for Africans" (available at <http://web.amnesty.org/library/print/ENGIOR630011998> : accessed 12 August 2007).

30 Ibid.

31 Mireille Affa'a Mindzie. "The African Commission on Human and Peoples' Rights". Paper presented at the CCR seminar. *Africa's Evolving Human Rights Architecture*. Cape Town, 28 and 29 June 2007.

assist the body with developing methods to overcome its shortcomings. Despite these setbacks, the commission has also made some significant advances. It has been able to transform the ambiguities of some provisions of the African Charter into more concrete recommendations that have helped it to further the development of a regional human rights system. The commission has also been able to adopt several resolutions aimed at reaffirming and developing provisions of the Charter. It has further been noted out that both the commission and the Charter have “in-built mechanisms for self-correction and adjustment”.<sup>32</sup>

The African Union has put in place some remedies to address the weaknesses and challenges faced by the commission. These include: the recognition of the need for stronger collaboration between the organisation’s human rights instruments as well as regular interaction between the commission and the organs of the AU. The AU’s Constitutive Act of 2000 reflects a stronger commitment to the promotion and protection of human rights than its predecessor, the OAU. The relationship between the commission and the AU’s 15-member Peace and Security Council that was created in 2004 is spelled out clearly. It has also been suggested that the relationship between the commission and the African Peer Review Mechanism should become more formalised. The African Charter aims to serve as a mechanism to monitor political governance and the rule of law in African countries.<sup>33</sup> The commission has also been able to develop mutually beneficial partnerships with African civil society activists. Consequently, human rights organisations have played a major role in the promotion of the African Charter and the commission by popularising the regional human rights system.<sup>34</sup> It should also be noted that the African Commission is the only African institution that has openly condemned the human rights violations in Zimbabwe. The commission has made statements regarding the situation in Guinea and has submitted reports on countries such as Sudan where gross violation human rights are occurring.<sup>35</sup>

The African Court of Human and Peoples’ Rights has been set up to complement the work of the commission, and to safeguard and enforce the rights guaranteed in the African Charter as well as to strengthen the protective mandate of the commission. The Court will be able to adjudicate on matters concerning the violation of regional and international human rights instruments such as the Convention on the Rights of the Child, the Genocide Convention, the International Covenant on Social, Cultural and Economic Rights, and other human rights treaties ratified by African states.<sup>36</sup> The Court also has the power to rule if it identifies a violation of the African Charter and this can include decisions on compensation and/or reparation. There is a provision that governments undertake to comply with the judgment of the court in any case to which they are parties within the time stipulated and to guarantee its execution.<sup>37</sup> The effectiveness of the Court still remains to be measured and will depend, among other things, on whether non-compliance is addressed, whether there is reasonable access to the court, and also whether sufficient resources are made available for the Court to be effective.<sup>38</sup>

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32 Affa’a Mindzie. ‘The African Commission on Human and Peoples’ Rights’.

33 Ibid.

34 Ibid.

35 Muna Ndulo, ‘The Commission and the Court under the African Human Rights System’, Paper presented at the CCR seminar, *Africa’s Evolving Human Rights Architecture*, Cape Town, 28 and 29 June 2007.

36 Ibid.

37 Ibid.

38 Ibid.



Despite comprehensive international and regional instruments being available to promote and protect human rights, the human rights situation in many countries across the world and in Africa remains untenable. The role of governments in promoting respect for human rights is critical. National human rights institutions should make use of the African commission and should persist in making recommendations to errant governments. Enforcement of human rights at the national level is the first step. It is, however, unrealistic to think that a Human Rights Court and other related institutions can create a human rights culture on the continent without political leadership at the highest level. Litigation is not the only way of promoting human rights: raising the awareness of the general public on issues relating to human rights is also an important step, as ordinary people are often unaware of existing human rights instruments or their own rights. National human rights institutions thus have an important role to play in this regard, and they could become an effective means by which to ensure that state parties uphold their responsibilities with regard to the promotion and protection of human rights in Africa.<sup>39</sup>

“Despite comprehensive international and regional instruments being available...the human rights situation in many countries across the world and in Africa remains untenable.”



**ABOVE:** From left: Dr Mireille Affa'a Mindzie, Centre for Conflict Resolution, Cape Town; Mr Bahame Nyanduga, African Commission on Human and Peoples' Rights, Dar es Salaam; Professor Muna Ndulo, Cornell University, Ithaca, New York  
**RIGHT:** Ms Stella Allberry, Movement for Democratic Change, Harare, Zimbabwe  
**FAR RIGHT:** Mr Dheeruj Baramall Seetulsingh, National Human Rights Commission, Port Louis



<sup>39</sup> Michelle Parlevliet, Guy Lamb and Victoria Maloka (eds.), *National Human Rights Institutions in Africa: Defenders of Human Rights, Managers of Conflict, Builders of Peace* (Cape Town: Centre for Conflict Resolution, 2005).

## 6. Governance and Parliaments in Africa

**Africa's human rights record has tended to mirror political developments on the continent.<sup>40</sup> The European colonial powers' repudiation of the human rights of Africans in the 19th and 20th centuries proved critical in provoking demands for self-government on the continent in the 1950s and 1960s.**

Thus, Africa's human rights discourse was driven by a desire to reverse the damage that colonialism had exacted on African countries and to secure civil and political rights for all African citizens.<sup>41</sup> Social and economic rights increasingly provided the focus for newly-independent African states competing for a place in a global economic order that they considered to be biased towards the interests of Western states. During the Cold War era, many of the democratically-elected post-colonial African governments were replaced by one-party states and autocratic regimes under which concerns over human rights became marginalised. The fact that most African countries were either directly or indirectly beholden to one of the ideological superpower camps – led by the United States or the Soviet Union – meant that external actors were complicit in the denial of human rights to African citizens. Former leaders such as Zaire's Mobutu Sese Seko, Somalia's Siad Barre, Liberia's Samuel Doe, and Ethiopia's Mengistu Haile Mariam were supported by either superpower. Many African leaders at this time, such as Joseph Momoh in Sierra Leone and Daniel Arap Moi in Kenya, also maintained that concepts of human rights and democracy were a "Western" construction. Furthermore, brutal human rights abuses were perpetuated for nearly four decades through institutionalised racism and discriminatory laws enacted by white governments in southern Africa, with the tacit collusion of their European and American patrons.

The democratisation processes that swept through Africa with the end of the Cold War in the 1990s, as well as pressure from civil society and development partners in countries such as Benin, Zambia and Cameroon, resulted in a paradigm shift in official rhetoric on the promotion of human rights. Currently, most African governments – with the exception of the monarchies of Swaziland and Morocco, as well as Libya, and Eritrea – have democratic electoral mechanisms which are diverse in their mechanisms of accountability. Different forms of governance have emerged across the continent. These have usually been coupled with constitutions that institute firm commitments to the protection of human rights, as well as a clear separation of powers between the judiciary and the executive. As occurred in the immediate post-colonial period in the 1950s and 1960s, newly-formed governments embraced the concepts of democratisation and human rights after the end of the Cold War. However, circumstances proved different since the human rights discourse in the 1990s was fuelled by widespread popular discontent as a result of undemocratic governance and the effects of Structural Adjustment Programmes (SAPs) that most African governments had been forced to implement by the International Monetary Fund (IMF) and the World Bank from the 1980s.

Nonetheless, critics have cautioned that, while democratic and human rights-sensitive principles have been embraced during the last 20 years in Africa, African political institutions remain those inherited from colonial structures and governments are still often suspicious of human rights advocates.

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<sup>40</sup> Fleshman, "Human Rights Move Up On Africa's Agenda".

<sup>41</sup> See Paul Zeleza and Philip McConaughay, "The Struggle for Human Rights in Africa", in Paul Zeleza and Philip McConaughay (eds.), *Human Rights, the Rule of Law, and Development in Africa* (University of Pennsylvania Press, 2004).

Positive developments in governance and the promotion of human rights should, however, not be overlooked. These include:

- The growth of citizens' access to justice due to the increased number of institutions with a strong focus on human rights;
- The wider acceptance of the need for human security which embraces a people-centred approach to security;
- An increase in the visibility of women at the parliamentary level in many governments as well as in regional bodies such as the AU;
- An improved conscientisation of the rights of vulnerable groups; and
- The growth of transitional justice mechanisms to address human rights violations committed during conflicts. These range from truth commissions to war crimes tribunals.

“Newly-formed governments (in the immediate post-colonial period in the 1950s and 1960s) embraced the concepts of democratisation and human rights after the end of the Cold War (in the 1990s).”



**ABOVE:** From left: Ms Lia Nijzink, University of Cape Town, Cape Town; Ms Epiphania Mfundo, Commission for Human Rights and Good Governance, Dar es Salaam; Dr Siphamandla Zondi, Institute for Global Dialogue, Johannesburg

**RIGHT:** Ms Dieudonnee Simon Kalinganire, Rwanda Human Rights Commission, Kigali, left; Mr David Monyae, University of the Witwatersrand, Johannesburg,

**FAR RIGHT:** Mr Isaac Lartey Annan, Commission on Human Rights and Administrative Justice, Accra, left; Commissioner Angela Melo, African Commission on Human and Peoples' Rights, Maputo



## 7. Africa's Sub-regional Organisations and Human Rights Protection

**Africa has been described as innovative in establishing international and regional tribunals. The continent also has the distinction of having the first hybrid international criminal court and also the first referrals to the Hague-based International Criminal Court (ICC).**

The number of regional courts and tribunals in Africa applying regional and international law to their cases is also unique. These regional and sub-regional arrangements have been put in place to ensure that justice is delivered when problems are not dealt with successfully at the national level. Africa boasts two continental courts, the African Court of Human and Peoples' Rights created in 1998, and the African Court of Justice, created in 2002, which were both merged in 2004. The following sub-regional courts are also in operation:

- The Arab Maghreb Union (AMU) Judicial Authority;
- The Common Market of Eastern and Southern African (COMESA) Court of Justice;
- The East African Community (EAC) Court of Justice;
- The Economic Community of Central African States Court of Justice;
- The Economic and Monetary Community of Central Africa (CEMAC) Court of Justice;
- The Economic Community of West African States Court of Justice;
- The Organisation for the Harmonisation of African Business Law (OHADA) Common Court of Justice and Arbitration;
- The Southern African Development Community Tribunal; and
- The West African Economic and Monetary Union (WAEMU) Court of Justice.

There are also two international criminal tribunals: the International Criminal Tribunal for Rwanda (ICTR) and the Special Court for Sierra Leone (SCSL).

Other courts handling African cases are:

- The International Criminal Court;
- The International Court of Justice (ICJ);
- The International Tribunal for the Law of the Sea (ITLOS);
- Permanent Court of Arbitration (PCA); and
- The World Trade Organisation (WTO) dispute settlement system.<sup>42</sup>

The African sub-regional courts can be broadly categorised into three types. One type is the Courts of Justice for various regional economic communities, such as the Court of Justice for the Economic Community of West African States, based in Abuja, Nigeria; the Court of Justice of the West African Economic and Monetary Union, based in Ouagadougou, Burkina Faso; the Court of Justice of the Common Market of East and Southern Africa, based in Lusaka, Zambia; and some of the other similar courts mentioned above. The focus of these courts is

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<sup>42</sup> Project on International Courts and Tribunals, African International Courts and Tribunals website homepage (available at <http://www.aict-ctia.org/>; accessed 23 July 2007).

**RIGHT:** Mr Dheeruj Baramall Seetulsingh, National Human Rights Commission, Port Louis, Mauritius

**FAR RIGHT:** *From left:* Ms Salome Katia, Great Lakes Parliamentary Forum on Peace, Nairobi; Mr Isaac Lartey Annan, Commission on Human Rights and Administrative Justice, Accra; Commissioner Angela Melo, African Commission on Human and Peoples' Rights, Maputo

**BELOW:** Ms Aseghedech Ghirmazion, Independent Consultant, Nairobi, *left*; Mr Andras Vamos-Goldman, Canadian High Commission, Tshwane



concentrated mostly on cases brought by individuals, including companies and NGOs, against governments in Africa on issues ranging from discrimination, citizenship, regional trade and transactions, to compliance with national and regional rule of law issues. A second type of court is the African Court of Human and Peoples' Rights. The cases brought before this court include those of violations of human and people's rights. The Court also has the power to issue decisions that will be enforceable against African governments and institutions. Finally, the African Court of Justice, which has the authority to decide on cases arising from the operation of the AU's Constitutive Act, is an example of another type of court.

The significance of these sub-regional and regional courts is that all of them provide avenues through which errant African governments can be held accountable. By adopting and effectively implementing national, sub-regional and regional laws, these sub-regional courts could play an important role in demonstrating and ensuring a commitment to the rule of law. The courts could also provide an alternative means of resolving disputes when national remedies have failed.

Although most of these courts do not receive many cases and are mostly inactive, they do form part of the established legal framework on the continent, and may become more effective if the shortcomings and challenges they face are adequately addressed. Some of these challenges include: enhancing their image so that their credibility and standing is promoted among people who view these institutions with distrust and scepticism mainly because they have been created by African governments who are sometimes perpetrators of

the very crimes that these courts seek to address. Outreach programmes to raise public awareness could also assist in promoting information about these courts, most of which are little known among the general public. The lack of funding of regional courts is another major obstacle that needs to be overcome. It could also benefit the promotion of human rights, humanitarian law and the rule of law if there were efforts at creating closer co-operation between the courts, law enforcement agencies and African civil society activists.<sup>43</sup>

International and regional non-governmental organisations can play an important role in helping to increase the potential of these courts and tribunals, in building the AU's human rights architecture, and in generally contributing towards the creation of continental legal frameworks. Organisations such as the Open Society Justice Initiative have collaborated with African and other international NGOs to advocate the securing of sufficient ratifications for the establishment of the African Court of Human and Peoples' Rights. The organisation is also involved in actively promoting litigation before the African Commission on Human and Peoples' Rights. A significant development has been the indictment and prosecution of various former heads of state/governments in international criminal tribunals, national or foreign courts. These include Jean Kambanda, the Rwandan prime minister during the 1994 genocide, and Charles Taylor, the former head of state of Liberia who is currently on trial in the Hague for crimes against humanity.<sup>44</sup> These indictments and other referrals such as those to the ICC are sending out a clear message that the abuse and violation of human rights in Africa will no longer be tolerated.



**ABOVE:** Dr Abdul Lamin, University of the Witwatersrand, Johannesburg  
**TOP RIGHT:** From left: Ms Yaliwe Clarke, Centre for Conflict Resolution, Cape Town; Dr Helen Scanlon, Centre for Conflict Resolution, Cape Town; Professor Cathi Albertyn, University of the Witwatersrand, Johannesburg  
**RIGHT:** Professor Osita Eze, Nigerian Institute of International Affairs, Lagos, left; Dr Solomon Gomes, African Union Commission, Addis Ababa



43 Anselm Odinkalu, "Regional Courts in Africa: A Promise in Search of Fulfillment", Justice Initiative (available at [www.justiceinitiative.org/db/resource2/fs/?file\\_id=15281](http://www.justiceinitiative.org/db/resource2/fs/?file_id=15281) ; accessed 3 September 2007).

44 Jo-Ansie van Wyk, "Political Leaders in Africa: Presidents, Patrons or Profiteers?", Occasional Paper Series 2(1), 2007, ACCORD (available at [http://www.accord.org.za/op/OPS\\_vol2\\_nol\\_2007.pdf](http://www.accord.org.za/op/OPS_vol2_nol_2007.pdf) ; accessed 23 July 2007).

## 8. The Impact of the US “War on Terror” on Africa

**During the Cold War, both Washington and Moscow strategically pursued the allegiance of African governments by actively supporting and providing aid to dictators. The effects of this support for undemocratic regimes are still evident today, although a steady movement towards stability and improvement in the political and social development of many African countries is also evident.**

However, since the United States declared a “war on terror” after the attacks on New York and Washington D.C., of September 2001, Africa has received renewed attention from Washington as a “strategic partner” in its fight against terrorism. The continent is also seen as being useful to the US because of the proximity of some African countries to the Persian Gulf region. Expressions of support from African heads of state after the attacks on the US in 2001 have created the perception that most African countries are in support of the US-led efforts in its “war on terror”. As a result, a number of initiatives to combat terrorism have emerged in Africa since 2001. With the American bombings of purported Al-Qaeda bases in Somalia in 2007 and plans for the establishment of a US Central Command in Africa by September 2008, the question of US involvement on the continent has taken on particular significance. The 2002 attacks on an Israeli-owned hotel and an El-Al passenger aircraft in Mombasa, Kenya, resulted in increased American counter-terrorism activities in East Africa and on the Horn of Africa. Washington has taken a particular interest in Africa due to the presence of a large Muslim population of over 308 million people, particularly in countries such as Somalia, Nigeria and West Africa’s Sahel region.<sup>45</sup> An American army base, with 1,200 troops, was established in Djibouti in 2002. Currently, there is talk of further bases being built in Senegal, Uganda, Ghana, Djibouti, Cameroon, Gabon and Equatorial Guinea.<sup>46</sup> Specific US-sponsored counter-terrorism initiatives include:

- The Trans-Sahara Counter-Terrorism Initiative (TSCTI);
- The Joint Task force “Aztek Silence”;
- The US\$100-million East African Counter-Terrorism Initiative (EACTI); and
- The Combined Joint Task Force, Horn of Africa (CJTF-HOA).<sup>47</sup>

These initiatives involve, among other things, military training, military assistance and terrorist financing prevention. Critical questions have thus emerged over the consequences and ramifications of America’s “war on terror” in Africa.

At the national level, many African countries have opened their borders to US intelligence organisations; and several African countries have adopted counter-terrorism legislation in accordance with UN Security Council resolution 1373 of 2001.<sup>48</sup> This resolution set out to combat the activities of “terrorist” groups, and to encourage

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45 See Mwesiga Baregu, “Terrorism and Counter Terrorism: Dialogue or Confrontation?”, in Adebajo and Scanlon (eds.), *A Dialogue of the Deaf*, pp.261-274.

46 Kobbi V. Kra Ocran, “Voluntary Re-Colonisation of Ghana to Be Strengthened With US Military Base”, 18 January 2007 (available at <http://www.ghanaweb.com/GhanaHomePage/features/artikel.php?ID=117473> ; accessed 14 February 2007).

47 William Pope, “Opening Remarks”, East African Counter-terrorism Initiative Conference, Kampala, Uganda, 21 April 2004.

48 Mwesiga Baregu, “The US Global War on Terror, Human Rights and the Responsibility to Protect in Africa”. Paper presented at CCR policy seminar, *Africa’s Evolving Human Rights Architecture*, Cape Town 28 and 29 June 2007.

UN member states to share intelligence as well as ratify international treaties on terrorism so that they could be incorporated into national law. These efforts were to be assisted through the creation of the UN Security Council's 15-member Counter-Terrorism Committee (CTC), which was set up to monitor implementation of the resolution. However, the resolution and the committee have both been widely criticised due to their failure to define "terrorism". The failure to ensure human rights protection led to UN Security Council Resolution 1456 of 2003 which stated that: "States must ensure that any measures taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law."<sup>49</sup>

Accusations have also been made that recent developments in Africa could constitute a new "Cold War" in which anti-terrorism, rather than anti-communism, determines Washington's support for sometimes autocratic African regimes. Washington has also been accused of having pressured some African governments into passing anti-terrorism legislation that could be used to violate civil liberties and undermine legitimate domestic opposition. International NGOs such as Amnesty International have suggested that there is as yet no internationally agreed-upon definition of "terrorism", and nor are there accepted definitions of responses under which governments can justify reacting to perceived "terrorist" threats. As a result, "terrorism" has been invoked in situations ranging from arbitrary detention to regime change and for actions that would otherwise be deemed unacceptable by international human rights standards under different circumstances.<sup>50</sup> Analysts have also warned of the dangers of ignoring or overriding agreed-upon international standards, due processes, transparency and rule of law, all of which could play a role in holding states and others to account. It has also been noted that the term "terrorism" is used mostly to describe the actions of non-governmental actors and not those of state officials. Thus, African governments and national human rights institutions should consult with the UN Counter-Terrorism Committee and make inputs on the passage of any future anti-terrorist legislation that could have negative implications for the continent.



**ABOVE:** Professor Mwesiga Baregu, University of Dar es Salaam, Dar es Salaam

**RIGHT:** Mr Peter Mcomalla, Hurepi Centre for Peace, Conflict Resolution and Human Rights Studies, Arusha

49 Ibid.

50 Amnesty International, "The War against Terrorism: a Human Rights Perspective", speech by Kate Gilmore, Amnesty International Executive Deputy Secretary General at the European Social Forum, Florence, 2002 (available at <http://web.amnesty.org/web/web.nsf/print/103EB424A1A546A480256D10004340BB> ; accessed 12 July 2007).



## 9. Conclusion

**The African continent has yet to witness a paradigm shift towards privileging the human rights of its 800 million citizens. Africa's human rights regime is still relatively weak, despite the growing body of declarations, conventions and protocols.**

The lack of political will to act on human rights abuses in compliance with national laws and international protocols remains a challenge to ensuring protection against gross human rights violations in Africa. While enforcement mechanisms are often weak, there are, nonetheless, instruments, both internationally and on the continent, to support the protection of human rights. Significant steps have been taken by the AU to renew, strengthen and improve its commitment to the promotion and protection of human rights on the continent. Respect for human rights is critical to ensuring peace, security and development in Africa.

### Policy Recommendations

Ten key policy recommendations on Africa's evolving human rights architecture emerged from the Cape Town seminar:

1. The monitoring of the implementation of international human rights laws needs to be enforced at the national level in Africa through parliaments, national human rights institutions and civil society. This can be achieved through the submission of alternative reports detailing human rights violations to international institutions;
2. In order to promote and protect human rights, there is a need to develop media sensitivity and strategies to promote awareness of international instruments in all African countries;
3. Coalitions on specific human rights issues should be established. For example, actors promoting the AU Protocol on Women need to identify specific matters of priority and work with other civil society actors on these;
4. There is a need to adopt national civic education programmes on human rights and to provide mandatory human rights education in schools on the continent, which can be done in consultation with civil society;
5. The sensitisation of national military police and other security structures to human rights and international instruments is necessary for their effective implementation;
6. There is a need to promote an understanding of human rights in a way that it does not alienate the very people they are meant to assist, and to ensure that the advancement of individual rights does not undermine the fabric of African societies;
7. The African Commission and national human rights institutions need to strengthen their working relationship, especially in the area of non-compliance by states;
8. There is a need to harmonise and institutionalise Africa's sub-regional courts and to bring them under the auspices of the African Court; these courts must also be made more accessible to those who need them most;
9. National human rights institutions should consult with the UN Security Council's Counter-Terrorism Committee set up under UN Security Council Resolution 1373 of 2001 and make inputs on any future anti-terrorist legislation that has negative implications for the continent; and
10. A fund should be established to help individuals with the costs of pursuing cases of human rights violations at the regional level.

# Annex I

## Agenda

Day One: Thursday 28 June 2007

**09h00–09h15 Welcome and Opening**

Dr Adekeye Adebajo, Executive Director, Centre for Conflict Resolution, Cape Town

**09h15–10h45 Session I: Human Rights in Africa – Setting the Scene**

Chair: Dr Adekeye Adebajo, Executive Director, Centre for Conflict Resolution, Cape Town

Keynote Address: Ambassador James Jonah, former UN Undersecretary-General for Political Affairs, New York, “The United Nations and Human Rights in Africa”

10h45–11h00 Coffee Break

**11h00–12h30 Session II: Human Rights and the Organisation of African Unity**

Chair: Ms Yasmin Jusu-Sherriff, Sierra Leone Human Rights Commission, Sierra Leone

Speakers: Professor Osita Eze, Nigerian Institute of International Affairs, Lagos, “Human Rights and the Organisation of African Unity”

Dr Solomon Gomes, Senior Political Officer, Darfur Integrated Task Force, Addis Ababa, “Strategies to Promote and Protect Human and Peoples’ Rights in Africa”

12h30–13h30 Lunch

**13h30–15h00 Session III: Human Rights, Development and Gender in Africa**

Chair: Professor Cathi Albertyn, University of the Witwatersrand, Johannesburg

Speakers: Professor Paul Zeleza, Penn State University, Pennsylvania, “The Conundrum of Development and Human Rights in Africa”

Dr Helen Scanlon and Ms Yaliwe Clarke, Centre for Conflict Resolution, Cape Town, “Women’s Rights as Human Rights in Africa”

15h00–15h15 Coffee Break

**15h15–16h45 Session IV: The African Commission on Human and Peoples' Rights**

**Chair:** Mr Bahame Nyanduga, African Commission on Human and Peoples' Rights, Dar es Salaam

**Speakers:** Professor Muna Ndulo, Cornell University, Ithaca, New York, "The African Commission and Court on Human and Peoples' Rights as Enforcement Mechanisms of a Human Rights System"

Dr Mireille Affa'a Mindzie, Centre for Conflict Resolution, Cape Town, "The African Commission on Human and Peoples' Rights"

Day Two: Friday, 29 June 2007

**09h30–11h00 Session V: Governance and Parliaments in Africa**

**Chair:** Ms Epiphania Mfundo, Commission for Human Rights and Good Governance, Dar es Salaam

**Speakers:** Dr Siphamandla Zondi, Institute for Global Dialogue, Johannesburg, "A Luta Continua: The Struggle for Human Rights and Democratic Governance in Africa"

Ms Lia Nijzink, University of Cape Town, Cape Town, "Human Rights and Parliaments in Africa"

11h00–11h15 Coffee Break

**11h15–12h45 Session VI: Africa's Sub-Regional Organisations and Human Rights Protection and the Impact of the "War on Terror" in Africa**

**Chair:** Ms Aseghedech Ghirmazion, former Director, Heinrich Boll Foundation, Nairobi

**Speakers:** Dr Abdul Lamin, University of Witwatersrand, Johannesburg, "A Comparative Study of Africa's Sub-regional Courts and Tribunals"

Professor Mwesiga Baregu, University of Dar es Salaam, Dar es Salaam, "The Uses and Abuses of the US 'War on Terror' in Africa"

12h45-13h00 Completion of Evaluation Forms

13h00-14h00 Lunch

**14h00-15h00 Session VII: Rapporteurs' Report and the Way Forward**

**Chair:** Ambassador James Jonah, former UN Undersecretary-General for Political Affairs, New York

**Speakers:** Dr Helen Scanlon, Senior Researcher, Centre for Conflict Resolution, Cape Town

Ms Elizabeth Myburgh, Research Assistant, Centre for Conflict Resolution, Cape Town



Participants in the seminar, "Africa's Evolving Human Rights Architecture", held at the Vineyard Hotel, Cape Town, on 28 and 29 June 2007.

# Annex II

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## Annex II

### List of Acronyms

ACHPR	African Court of Human and Peoples' Rights
ACJ	African Court of Justice
APRM	African Peer Review Mechanism
AU	African Union
CJTF-HOA	Combined Joint Task Force, Horn of Africa
CSO	Civil Society Organisation
CTC	Counter-Terrorism Committee
DRC	The Democratic Republic of the Congo
EACTI	East African Counter-Terrorism Initiative
ECCAS	Economic Community of Central African States
ECOSOCC	African Union Economic, Social and Cultural Council
ECOSOC	United Nations Economic and Social Council
ECOWAS	Economic Community of West African States
ICC	International Criminal Court
ICJ	International Court of Justice
ICTR	International Criminal Tribunal for Rwanda
IDPs	Internally Displaced Persons
IGAD	Intergovernmental Authority on Development
MDGs	Millennium Development Goals
NEPAD	New Partnership for Africa's Development
NGO	Non-governmental Organisation
NHRIs	National Human Rights Institutions
OAU	Organisation of African Unity
PAP	Pan-African Parliament
RECs	Regional Economic Communities
SADC	Southern African Development Community
TSCTI	Trans-Sahara Counter-Terrorism Initiative
UN	United Nations

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## VOLUME 1 THE NEW PARTNERSHIP FOR AFRICA'S SECURITY

THE UNITED NATIONS, REGIONAL ORGANISATIONS AND FUTURE SECURITY THREATS IN AFRICA

The inter-related and vexing issues of political instability in Africa and international security within the framework of UN reform were specifically focused on at this policy seminar, held from 21 – 23 May 2004 in Claremont, Cape Town.



## VOLUME 5 WHITHER SADC?

SOUTHERN AFRICA'S POST-APARTHEID SECURITY AGENDA

The role and capacity of the Southern African Development Community's (SADC) Organ on Politics, Defence and Security (OPDS) were focused on at this meeting in Oudekraal, Cape Town, on 18 and 19 June 2005.



## VOLUME 2 SOUTH AFRICA IN AFRICA

THE POST-APARTHEID DECADE

The role that South Africa has played on the African continent and the challenges that persist in South Africa's domestic transformation 10 years into democracy were assessed at this meeting in Stellenbosch, Cape Town, from 29 July - 1 August 2004.



## VOLUME 6 HIV/AIDS AND HUMAN SECURITY:

AN AGENDA FOR AFRICA

The links between human security and the HIV/AIDS pandemic in Africa, and the potential role of African leadership and the African Union in addressing this crisis were analysed at this policy advisory group meeting in Addis Ababa, Ethiopia, on 9 and 10 September 2005.



## VOLUME 3 THE AU/NEPAD AND AFRICA'S EVOLVING GOVERNANCE AND SECURITY ARCHITECTURE

The state of governance and security in Africa under the AU and NEPAD were analysed and assessed at this policy advisory group meeting in Misty Hills, Johannesburg, on 11 and 12 December 2004.



## VOLUME 7 BUILDING AN AFRICAN UNION FOR THE 21ST CENTURY

RELATIONS WITH REGIONAL ECONOMIC COMMUNITIES (RECS), NEPAD AND CIVIL SOCIETY

This seminar in Cape Town from 20 – 22 August 2005 made policy recommendations on how the AU's institutions, including NEPAD, could achieve their aims and objectives.



## VOLUME 4 A MORE SECURE CONTINENT

AFRICAN PERSPECTIVES ON THE UN HIGH-LEVEL PANEL REPORT, A MORE SECURE WORLD: OUR SHARED RESPONSIBILITY

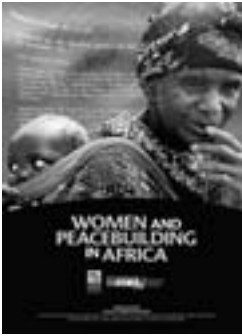
African perspectives on the United Nations' (UN) High-Level Panel report on Threats, Challenges and Change were considered at this policy advisory group meeting in Somerset West, Cape Town, on 23 and 24 April 2005.



## VOLUME 8 THE PEACEBUILDING ROLE OF CIVIL SOCIETY IN SOUTHERN AFRICA

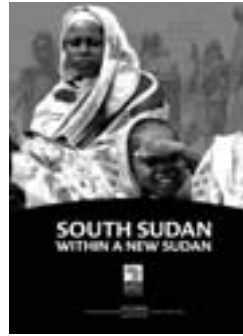
This meeting, held in Maseru, Lesotho, on 14 and 15 October 2005, explores civil society's role in relation to southern Africa, democratic governance, its nexus with government, and draws on comparative experiences in peacebuilding.





**VOLUME 9  
WOMEN AND  
PEACEBUILDING IN  
AFRICA**

This meeting, held in Cape Town on 27 and 28 October 2005, reviewed the progress of the implementation of UN Security Council Resolution 1325 on Women and Peacebuilding in Africa in the five years since its adoption by the United Nations in 2000.



**VOLUME 13  
SOUTH SUDAN WITHIN  
A NEW SUDAN**

This policy advisory group seminar on 20 and 21 April 2006 in Franschhoek, Western Cape, assessed the implementation of the Comprehensive Peace Agreement (CPA) signed in January 2005 by the Government of the Republic of the Sudan (GOS) and the Sudan People's Liberation Movement/Sudan People's Liberation Army (SPLM/A).



**VOLUME 10  
HIV/AIDS AND  
MILITARIES IN  
SOUTHERN AFRICA**

This two-day policy advisory group seminar in Windhoek, Namibia, on 9 and 10 February 2006 examined issues of HIV/AIDS and militaries in southern Africa.



**VOLUME 14  
AFRICAN PERSPECTIVES  
ON THE UN  
PEACEBUILDING  
COMMISSION**

This meeting, in Maputo, Mozambique, on 3 and 4 August 2006, analysed the relevance for Africa of the creation, in December 2005, of the UN Peacebuilding Commission, and examined how countries emerging from conflict could benefit from its establishment.



**VOLUME 11  
AIDS AND SOCIETY  
IN SOUTH AFRICA:**

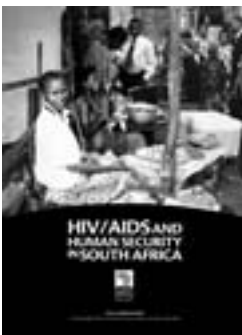
**BUILDING A COMMUNITY OF PRACTICE**

This policy and research seminar, held in Cape Town on 27 and 28 March 2006, developed and disseminated new knowledge on the impact of HIV/AIDS in South Africa in the three key areas of: democratic practice; sustainable development; and peace and security.



**VOLUME 15  
THE PEACEBUILDING  
ROLE OF CIVIL SOCIETY  
IN CENTRAL AFRICA**

This sub-regional seminar, held from 10 to 12 April 2006 in Douala, Cameroon, provided an opportunity for civil society actors, representatives of the Economic Community of Central African States (ECCAS), the United Nations (UN) and other relevant players to analyse and understand the causes and consequences of conflict in central Africa.



**VOLUME 12  
HIV/AIDS AND HUMAN  
SECURITY IN SOUTH  
AFRICA**

This two-day policy seminar on 26 and 27 June 2006 took place in Cape Town and examined the scope and response to HIV/AIDS in South Africa and southern Africa from a human security perspective.



**VOLUME 16  
UNITED NATIONS  
MEDIATION EXPERIENCE  
IN AFRICA**

This seminar, held in Cape Town on 16 and 17 October 2006, sought to draw out key lessons from mediation and conflict resolution experiences in Africa, and to identify gaps in mediation support while exploring how best to fill them. It was the first regional consultation on the United Nations' newly-established Mediation Support Unit (MSU).



**VOLUME 17**  
**WEST AFRICA'S**  
**EVOLVING SECURITY**  
**ARCHITECTURE**

LOOKING BACK TO THE FUTURE

The conflict management challenges facing the Economic Community of West African States (ECOWAS) in the areas of governance, development, and security reform and post-conflict peacebuilding formed the basis of this policy seminar in Accra, Ghana, on 30 and 31 October 2006.



**VOLUME 19**  
**AFRICA'S**  
**RESPONSIBILITY TO**  
**PROTECT**

This policy seminar, held in Somerset West, South Africa, on 23 and 24 April 2007, interrogated issues around humanitarian intervention in Africa and the responsibility of regional governments and the international community in the face of humanitarian crises.



**VOLUME 18**  
**THE UNITED NATIONS**  
**AND AFRICA: PEACE,**  
**DEVELOPMENT AND**  
**HUMAN SECURITY**

This policy advisory group meeting, held in Maputo, Mozambique, from 14 to 16 December 2006, set out to assess the role of the principal organs and the specialised agencies of the UN in Africa.



**VOLUME 20**  
**WOMEN IN POST-CONFLICT**  
**SOCIETIES IN AFRICA**

The objective of the seminar, held in Johannesburg, South Africa, on 6 and 7 November 2006, was to discuss and identify concrete ways of engendering reconstruction and peace processes in African societies emerging from conflict.

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The development and emergence of new continental, sub-regional and national institutions suggest a deeper commitment to human rights by African governments. This report addresses the effectiveness of the continent's new human rights institutions and recommends ways to strengthen them in instances where these institutions may be found wanting.



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