

Human Rights in Africa and Challenges of the African Commission on Human and Peoples' Rights (ACHPR)

Henry Kam Kah and Jude Ngwefang Mbom

University of Buea, Cameroon

DOI: <https://dx.doi.org/10.47772/IJRISS.2024.806057>

Received: 15 January 2024; Accepted: 19 January 2024; Published: 03 July 2024

ABSTRACT

In this paper we surmise that the African Commission on Human and Peoples' Rights (ACHPR) has since creation done a lot to promote human rights in Africa but has faced challenges which have impeded its success. Several human rights have been violated in African countries but efforts have also been made to improve on the situation. The persistence of human rights violations and non-implementation calls for an improvement in the future so that the African Union and national governments would gain the approval and support of Africans from all works of life. We have relied on a content analysis of available literature to be able to appreciate first, the state of human and peoples' rights in Africa, role of the ACHPR, challenges and reform to better the situation in the future.

Keywords: Human Rights, African Union, Challenges, National Governments

DEBATE IN CONTEXT, OBJECTIVES AND METHODOLOGY EMPLOYED

The notion of human rights has been a subject of debate among scholars for a long time. Ajomo (1985) argues that the expression human rights does not lend itself to a precise definition and can only be best described than defined. Gallie (1955-56) and Little (1981:35) follow the same argument and make it clear that it results from experiential, ideological, cultural and historical contextualisation. Humana (1983) however attempts a definition of human rights are. He contends that human rights are laws and practices that have evolved with time and aimed at protecting ordinary people, minorities, groups and races from oppressive rulers and governments. Vance (1980:5-6) on the other hand outlines three things to consider in the discussion about human rights. The first is autonomy from government violation of the integrity of the person, right to the fulfilment of such vital needs as food, shelter, health care and education and lastly the vigour to enjoy civil and political liberties. The contention that human rights are a concept that was invented or inspired from the West is forcefully presented by some scholars like Houtondji (1986:319-332). Any concept of human rights that is truly universal should encompass all shades of meanings and to include an African perception (Hendrickson, 1989:19-43). The preoccupations about issues of food and shelter by Developing countries are today considered as a prerequisite for human dignity and civil rights (Park, 1987:400).

Although the history of human rights in some literature is traced to the Stoics, the Magna Carta of 1215, Petition of Rights 1682, Bill of Rights 1689, Virginia Declaration of Rights 1776, American Declaration of Independence 1776, French Declaration of Rights of Man and the Citizen 1789, Universal Declaration of Human Rights 1948, European Convention for the Protection of Human Rights and Freedoms 1950, American Convention for the Protection of Human Rights and Freedom 1959, written constitutions for several independent modern states and states liberated from colonialism and the African Charter on Human and Peoples' Rights 1986, pre-colonial African societies never celebrated violence, war, robbery, rape, stealing, materialism, theft or sex the way it happens in contemporary societies (Taiwo, 1994:21; Ojo, 2003:16). This was based on the defence of human and peoples' rights and it might therefore be misleading

to limit the discussion of the history of human rights to the Stoics and the other declarations that followed principally from the West (Ojo, 2003:19). In fact, the concern for human rights is as old as humanity itself. Ojo (2003:15) contends that the idea of the inalienable rights of people predates the very political system which produces the law making institutes as they are known today. Again, Heyns and Killander (2006) argue that human rights encompass and touch on practically every aspect of peoples' lives and must be guaranteed, guarded, defended and respected at all times.

The limitation of the human rights discussion through liberal regimes which are the products of western culture does not fit into the African indigenous justice system. In fact, the restoration of rights, dignity, interests, and well being of victims, offenders and the entire community is the goal of African indigenous justice system. As a victim centred justice system, the first priority of African indigenous justice is the safety of victims. Assistance is given to victims to restore their injury, property lost and their sense of security and dignity (Elechi, 2004). Yet in many African societies today, the tendency has been to divide human rights, to valorise some and dismiss others (Zezeza, 2007) essentially because of the Western notion of what these rights are and how they should be handled.

The different arguments about human rights notwithstanding, this paper attempts an examination of the balance sheet of the respect for human rights in Africa in the 21st century, the contribution of the ACHPR to the promotion of human rights in the continent, the shortcomings of this organ and the way to go in the respect of human rights in different African countries today. We consulted written documents including books, book chapters, articles and other internet sources and through a content analysis of the data collected we have examined the degree to which human rights are being pursued and respected in Africa today. The role of the ACHPR in the promotion of human rights over the past several decades has been critically examined.

BALANCE SHEET OF AFRICAN HUMAN RIGHTS SITUATION

The establishment of several human rights organisations at the national, sub-regional and continental levels in Africa is a clear indication of the importance of human rights in governance in the continent today. Several African Union (AU) organs like the Pan-African Parliament, the African Court of Justice (ACJ), the Economic, Social and Cultural Council (ECOSOCC), the Peace and Security Council, the New Partnership for Africa's Development (NEPAD) and its African Peer Review Mechanism (APRM) are preoccupied with human rights in one way or the other. They uphold human rights as a prominent feature in the pursuance of their objectives. Besides, the Constitutive Act of the AU stipulates that one of the objectives of the Union shall be to "promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments." These organs notwithstanding, the available literature on human rights in Africa has painted a different picture of the respect of human rights. Some of this literature condemns the record as gloomy while others examine the improvements that have recorded challenges notwithstanding.

According to Ake the problems of human rights in Africa today are as a result of the fact that:

We put less emphasis on individuals and more on the collectivity, we do not allow that the individual has any claims which may override that of the society. We assume harmony, not divergence of interests, competition and conflict; we are more inclined to think of our obligations to other members of our society rather than our claims against them. (Cited in Evaluation, 1999:15).

Although this argument came up more than ten years ago, it is as true to life today in Africa as before and explains some of the human rights abuses that characterise some African countries like Ivory Coast and Sudan, efforts to end this notwithstanding. Gumedze (2003:148) also contends that although there is available legal recourse before the ACHPR, the continent is continuously ravaged by all kinds of human

rights violation. This is partly because African people are ignorant of the complaints procedures and the lack of human rights culture in most parts of Africa especially at the level of the government. In addition, Mugwanga (2001: 268) posits that the very poor human rights record in Africa is because at the primary level member states of the AU have failed to undertake the necessary measures to give effect to the provisions of the Charter as required by article 1 of the Charter which states that:

“The Member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Chapter and shall undertake to adopt legislative or other measures to give effect to them.”

The 1994 genocide in Rwanda, the crisis in the Darfur and Kordofan regions of Sudan, Democratic Republic of the Congo (DRC), Libya, Egypt, Ivory Coast among others are an indication that Africa has a long road to cover as far as the respect of human and peoples' rights are concerned (Heyns and Killander, 2006;). This poor human rights record in many African countries is partly because States parties have failed to comply with the treaty requirement of submitting their state reports every two years after the submission of the initial report (Report, 2003:3).

The issues of human rights and governance are of central concern to all Africans (Magnarella, 1998:1) and the human rights situation in Africa is decidedly bleak and to achieve genuine human rights may be the continent's greatest challenge in this new millennium (Magnarella, 2000:17). Several factors account for the poor human rights situation in many African countries. These include the forceful recruitment of children soldiers to fight wars for gullible politicians, social and political unrest as obtained today in Libya, Ivory Coast, Sudan, Somalia among others, racism as in South Africa, poverty, maltreatment of refugees and internally displaced persons, ignorance, disease, religious intolerance as in Northern Nigeria, internal conflicts as in Libya, Sudan, Ivory Coast, Guinea, Chad, Nigeria, Angola among others, bad management of state resources, long detention without trial, the monopoly of power as in Cameroon, Equatorial Guinea and Zimbabwe, the absence of judicial and press autonomy and border conflicts all over the continent. There is also regional factionalism as in Ivory Coast, military involvement in partisan politics in some countries and rape of women and girl children (Before the African Commission, 2000:52-3; Magnarella, 2000:19; Lamb, 2002:30; Ebeku, 2004:264; Rousselot, 2010:71; <http://www.africafiles.org/article.asp?ID=16501>; ACHPR/Res 114(xxxxi)07; www.communitylawcentre.org.za/clc-projects/.../newsletter%2022.pdf). These and other factors have contributed to a poor human and peoples' rights record in the African continent, the efforts of human rights organisations notwithstanding. This poor record is however not uniform all over the continent because of the internal dynamics of individual countries and various parts of the continent (www.dev.diplomacy.edu/AfricanCharter/human_intro.asp).

International human rights groups have over the years pronounced on the state of human rights in Africa. In 1999 for instance, the Human Rights Watch concluded its report by stating that “much of Africa made little headway in adjusting to the imperatives of democratic rule and respect for human rights” (Magnarella, 2000:17). Freedom House, an independent watchdog organisation has stated that among the world's most repressive societies with the worst human rights abuse records are Burma, Equatorial Guinea, Eritrea, Libya, North Korea and Sudan. Among these are three African countries. Many other African countries have been listed as having some of the worst human rights records in the world. These include in an ascending order Sudan, Egypt, Uganda, DRC, South Africa, Morocco, Tunisia, Libya, Senegal, Lesotho, Chad, Togo, Burundi, Cameroon, Angola, Rwanda, Congo Republic and Algeria (<http://www.faqs.org/shareranks/836,TOP-ABUSERS-OF-HUMAN-RIGHTS-BY-COUNTRY>; <http://www.voanews.com/english/news/africa/pan/17-Countries-Top-List-Of-Worlds-Worst-Human-Rights-Abusers-122958138.html>).

The Rapporteur on Human Rights Defenders in Africa stated that between May and October 2007 Tunisia, Algeria, Nigeria, Egypt, Somalia, Zambia, DRC, Rwanda, Zimbabwe, Sudan, Ivory Coast and the Central

African Republic (CAR) were accused on several human rights abuse. These abuses included police harassments, threats and intimidation as in Tunisia, Algeria and Nigeria. There was also violations of freedom of expression and freedom of association as in Egypt, Somalia and Zambia; excessive charges, arbitrary arrest and detention, ill treatment as in Algeria, DRC, Rwanda, Zimbabwe and Sudan. The Ivory Coast and Tunisia were accused of vandalism and destruction of property while the DRC and the CAR were accused of killings and enforced disappearances respectively (The Rapporteur Newsletter Issue1: November 2007). These records have not improved four years after these accusations. The records of human rights in Ivory Coast, Sudan, Somalia, and Zimbabwe have moved from bad to worse in 2011.

The poor human rights record notwithstanding, there have been some improvements in awareness and respect for human rights in the continent. Today as compared to the 1990s, more people enjoy more rights. Many more people are also more aware of the limitations of Africa's human rights regimes. Somehow, both the state and civil society organisations are prone to uphold human rights even if there is still a lot to be done in this direction. Since the turn of the 1990s, the number of states that abide by some features of democratic governance such as elections and multiparty politics has increased notwithstanding some reversals, manipulations by some dictators, harassment and intimidation of the opposition, violence, vote rigging and campaigns for third terms by incumbents which is contrary to constitutional provisions. In fact, there are many domains of public life that are now governed by the rule of law. In some countries like Ghana, stricter separation of powers between the various branches of the government are being institutionalised and an increase in calls for greater accountability in public offices (Zezeza, 2007). In a general sense, men and women throughout Africa today are working to create better lives for themselves and their children although in the midst of a difficult environment. They are committed to realising inalienable rights to freedom and dignity (Human Rights, 1995). The ACHPR has since creation been responsible for implementing the charter on human and peoples' rights in the continent.

ROLE OF THE ACHPR/CHALLENGES

The ACHPR was a product of several challenges to the respect of human rights which were a product of the colonial experience where European countries abused the rights of Africans in an attempt to exploit their human and natural resources. The colonial period in Africa negated all categories of human rights from basic rights to self determination to the freedoms of expression and association. In an attempt to exploit the resources of the continent, the police, the intelligence forces, the armed forces and the prison services were active and coerced many African people into submission (www.dev.diplomacy.edu/AfricanCharter/human_intro.asp). The single party states that emerged after independence did not invest in essential aspects of the right to development, health, education and safe work. The Cold War between America and Russia also compromised the respect for human rights in Africa and it was against this background that the Organisation of African Unity (OAU) promulgated the African Charter which eventually evolved to be the principal human rights instrument for Africa.

It was on 12 June 1981 that the African Charter on Human and Peoples' Rights was adopted and this came into force on 21 October 1986. The overriding mission of the Charter is the promotion and protection of human and peoples' rights in Africa (http://www.achpr.org/english/declarations/declaration_mauritius_en.html). The three major functions of the ACHPR which was set up on 29 July 1987 include; the protection of human and peoples' rights, the promotion of human and peoples' rights and the interpretation of the African Charter on Human and Peoples' Rights. It is assisted by the African Court of Human and Peoples' Rights which has the jurisdiction to make final and binding decision on human rights violations carried out by AU member states although this is still to be really felt (<http://www.responsibilitytoprotect.org/index.php/africa>; www.communitylawcentre.org.za/clc-projects/.../newsletter%2022.pdf; Evaluation, 1999; African Human Rights, 2008:8; Zimmermann and Bäumlner, 2010). In order to promote human rights the Commission

collects documents, undertakes studies and research and organises seminars, symposia and conferences. This makes the Commission to collaborate with national and international institutions concerned with human rights. This Commission decides on complaints and calls communications both from member states and from individuals and non-governmental organisations (NGOs).

Besides, the Special Rapporteurs of the Commission deal with specific allegations of human rights violations. An important aspect is the fact that human rights are not the preserve of the domestic jurisdiction of states and this has been admitted and affirmed by the Commission (Onoria, 2003:2). To fulfil the broad mandate, the Commission periodically pronounces on the state of human rights in Africa through resolutions, declarations, undertakes investigatory missions to various countries to conduct on the spot investigations on alleged human rights violations. It also receives from member states of the AU annual reports describing the human rights situation in their respective countries and the progress made. Special sub-committees of the Commission include the Commission Jurisprudence on Participatory Rights and Commission Resolutions on Participatory Rights (http://works.bepress.com/ndiva_kofele_kale/1). All human rights organisations and institutions in Africa are invited to work with the Commission and combine their efforts and harmonise their activities so that they can achieve maximum results in the promotion of human and peoples' rights in Africa.

On several occasions, the African Commission has carried out certain activities in keeping with its objectives. The various mechanisms under the Commission including the special Rapporteurs on human rights defenders and on freedom of expression have responded to the apparent increase in attacks on human rights defenders, women activists and journalists in many African countries. Zimbabwe currently has the largest number of communications before the Commission. Among the subjects of petitions are freedom of expression, forced evictions, independence of national institutions such as the judiciary, extra-judicial and summary killings, torture and inadequate legislative and constitutional mechanisms. In April 2006, the Commission asked the government of Zimbabwe to take urgent and appropriate measures to obviate the general deterioration of the health of terminally ill individuals who because of forced evictions carried out under Operation Murambatsvina did not have access to anti-retro-viral treatment. The government was also asked to ensure that school children sat their final exams and to provide shelter and medical treatment for the elderly and the sick (<http://www.africafiles.org/article.asp?ID=16501>).

Throughout its period of existence, the Commission has encouraged governments to detain people in humane conditions and that during detention such people should be allowed to have access to their lawyers during trial, so that they can prepare their defence. They should also have access to their lawyers after convictions to discuss on prospects of appeal and for these lawyers to ensure that their clients are detained in conditions of international standards. The Commission also insists that prisoners should meet family members, doctors and be allowed sufficient light in their cells and enough food. This is in keeping with Article 5 of the Charter which emphasises the “respect of the dignity inherent in a human being and the recognition of his legal status.” The Commission has also emphasised that states should not discriminate against prisoners because of religious beliefs. When this happened in Sudan against prisoners, it was considered as a violation of Article 8 of the African Charter which emphasises the need for “freedom of conscience, the profession and free practice of religion” to be guaranteed.

Besides, the Charter is the main instrument for promoting and protecting human rights in Africa. It indicates an organised commitment towards the protection of human rights in Africa. What makes the Charter an all encompassing instrument is that it is specially designed to respond to African concerns, traditions and conditions. It has a special significance to the African continent owing to the provision of three generations of rights, namely civil and political rights, economic, social and cultural rights and peoples' rights. In addition, the Charter through which the Commission operates is the only regional organisation in Africa that incorporates collective rights under the concept of peoples' rights and also provides for both state and

individual rights. By making recommendations that relate to the violation of human and peoples' rights the Commission indirectly promotes these rights (Gumedze, 2003:119-120).

Following a petition by Mr Morka of Nigeria against his government because of the environmental degradation and health problems which resulted from the contamination of the environment among the Ogoni people, the Commission ruled on it. During the 30th Ordinary Session of the Commission in Banjul, The Gambia between 13-27 October 2001, the Commission found the Federal Republic of Nigeria in violation of Articles 2, 4, 14, 16, 18(1), 21 and 24 of the African Charter. Article 2 states that a human being is entitled to the enjoyment of rights and freedoms not minding his/her race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status. In Article 4 all human beings are entitled to respect for life and their integrity. It is not expected that anyone will be arbitrarily deprived of the right. The Charter in Article 14 states that peoples' right to property shall be guaranteed. This can only be violated when this is in the interest of the community and according to appropriate law and in Article 16 the emphasis is on the right to enjoy the best state of physical and mental health and State Parties should protect the health of their people and give medical attention to the sick. Meanwhile in Article 18 (1), the family needs the protection of the state and in Articles 21 and 24 respectively, people have the freedom to dispose of their wealth and natural resources in the exclusive interest of the people and the people have the right to a general satisfactory environment which favours their development.

In addition, in another petition from the Ogoni people of the Niger region of Nigeria against the state of Nigeria, the Commission considered environmental degradation as a violation of the right to satisfactory environment and the right to life and dignity of the human person (Ebeku, 2003:165). This decision has only helped to highlight the environmental problems of the Niger Delta region of Nigeria, oil development related human rights abuses and the general plight of indigenous inhabitants of the region as a result of the oil operations of the oil exploratory companies. By mobilising political pressure on those who are violating recognised norms is one way of influencing a national government to implement environmentally favourable policies. This is especially binding on Nigeria which is a signatory to the Charter on Human and Peoples' Rights. In all of this, the Commission aims at a constructive dialogue but this depends on the timely submission and quality of the reports for which purpose improved guidelines have been elaborated (Evans and Murray, 2002: 188). It is through this that since the adoption of the ACHPR, it has in collaboration with other affiliated organs fought for the protection of essential values of the human conditions namely the right to life, the freedom of expression, the right to free movement in a sound environment (Heyns and Killander, 2006:3).

These objectives and activities of the African Commission notwithstanding, there are several limitations which have compromised these objectives. Some of these limitations are institutional and others are a result of the unwillingness of parties to a conflict to abide by the ruling of the Commission. Evans and Murray (2008) argue that in spite of the advances made in terms of mechanisms and of jurisprudence, the demands on human rights mechanisms remain enormous in Africa. The Commission lacks the visibility that it should have because of serious constraints on human and financial resources. This has made it difficult for the Commission to follow up most of the appeals. Besides, it has come under increased pressure from the political bodies of the AU which is ironical considering that the AU Constitutive Act makes for the promotion and protection of human rights. In addition, most information that concerns the work of the African Commission is in the archives of the Commission in Banjul and therefore not easily accessible (Killander, 2006).

Another serious problem of the African Commission is that its enforcement mechanism remains problematic and has been described by Ojo (2006:21) as very weak. The Commission has been particularly slow in implementing its protective mandate, partly because of its rather low funding and staffing levels. It also

faces the difficulty of guaranteeing effective regional diversity and independence of the Commissioners (Zezeza, 2007). The Commission also lacks established jurisprudence to deal with interstate communication and this makes the civil society in Africa to limit its activities to individual communications with very little impact (www.communitylawcentre.org.za/clc-projects/.../newsletter%2022.pdf). The emphasis that all local remedies needs to be exhausted both judicial and administrative before a communication is filed to it has been criticised on the basis that some national governments have used delay tactics to deny people their rights in national judicial and administrative institutions. There is also an apparent lack of effective and competent judicial organs in most of the State parties to the Charter. The inapplicability of the local remedies rule in the claims brought against states coincides with gross violations of substantive rights under the Charter. The situations of serious violations of rights and the lengthy periods taken by claims before national courts epitomise the absence of effective judicial procedures or the existence of such procedures that nonetheless do not function satisfactorily. This has made the Commission to act as if it was a court of First Instance in many of the cases that have come before it which is a negation of the essence of the local remedies rule (Onoria, 2003:23).

Besides, there is acquiescence and conspicuous silence of the AU leadership to attacks from governments of the decisions of the Commission. Their non-implementation of the recommendations of the Commission remains a worrying concern. This is because of the lack of effective enforcement due to the non-binding nature of its findings and the lack of power to act on its own initiative (Evaluation, 1999:41). On several occasions, Zimbabwe has attacked, undermined and ridiculed the work of the Commission through subterfuge and unfounded interpretations of the rules of procedure of the AU and the Commission but the AU leadership has not been forceful enough to call Zimbabwe to order (<http://www.africafiles.org/article.asp?ID=16501>). In addition, when on 31 May 2011, the African Court on Human and Peoples' Rights issued a ruling that massive human rights violations had been carried out in Libya by the Gaddafi regime, little support was given by the leadership of the AU to this ruling (<http://www.responsibilitytoprotect.org/index.php/africa>). National governments have not also collaborated with the Commission because they simply signed the Charter for political reasons and buy legitimacy in the international system and not because of a genuine desire to uphold human and peoples' rights (Ojo, 2006:21).

Furthermore, the Commissioners are not getting the assistance from the Secretariat that is considered necessary. Besides, the Commission has not had sufficient funds to continue having a Special Rapporteur on extra-judicial killings and to make reports available in working languages of the AU. Accessibility is made difficult by the Commission being placed in Banjul with its less than optional lines of communication and difficult access from most African countries. It also limits the face-to-face access to the Commission that there is no fixed schedule for the sessions. This means that a party wanting to present a case orally to the Commission cannot be certain when the case will be heard. Many people in Africa are not aware of the existence of the Commission or that it may issue decisions and recommendations with respect to specific cases. Many State Parties also lack the will and ability to respect the time limits set by the Commission and the result has been lost of interest by complainants and communication has often lost its relevance. The fact also that the AU Assembly can suppress decisions by the Commission in any event weakens the independence of the Commission (African Human Rights, 2008:9). In 2006 it was openly acknowledged that the Commission had not established formal ties with the AU organs and mechanisms involved in the protection and promotion of human rights.

The current number of Commissioners of eleven is too small and their meeting period of thirty days annually is grossly inadequate to meet the responsibilities linked to the mandate of the Commission. Besides, in the election of Commissioners the provisions of the African Charter relating to possession of human rights knowledge, expertise and incompatibility which have a bearing on the independent functioning of the Commission have hardly been coherently adhered to by Member States of the AU. This

has been compounded by the fact that the expertise and number of legal staff in the Commission's secretariat is inadequate to meet the expected level of efficiency and professionalism. The absence of ground rules to delineate the relationship between the Commission, Secretariat and the AU Commission has sometimes resulted in the breakdown of trust and confidence between the Commission and Secretariat (Report of Retreat of Members, 2003:5-6). These weaknesses point to the fact that effective measures are necessary to enhance the human rights situation in Africa through the Commission.

THE WAY TO GO ABOUT HUMAN AND PEOPLES' RIGHTS

Considering the numerous shortcomings of the ACHPR as concerns the improvement of human rights in Africa, several forward-looking measures are urgently needed to make this regional body more successful. The Charter needs to be revised to reflect new circumstances and its enforceability improved. This will entail the development of sub-regional institutions and an indigenous African human rights jurisprudence and enforcement system. The present system of jurisprudence is heavily western in outlook and is partly responsible for some of the problems of the respect of human rights in Africa today. Since NGOs play an important role in the defence of human rights in many African countries, there is need for the Commission to strengthen collaboration with them for better results and sustainability. The Commission should also establish more efficient and accessible methods for dealing with messages, for example, hotlines for Rapporteurs so that their work will be more visible and successful. There should also be a more successful collaboration between the Commission and other AU organs promoting human and peoples' rights like the AU, NEPAD steering committee and the Pan-African parliament so that together they can advance the cause of human rights between states and individuals and between states (Report of the Retreat, 2003:2).

An effective complaints process will go a long way to facilitate the Commission's protective mandate and the African continent will be saved from its current unfortunate predicament. This will entail the development of innovative strategies like the use of information and communication technology which will enhance African human rights law jurisprudence. The dedication to work by members of the Commission can only bear fruits if the structure enjoys the full support from the Assembly of Heads of State and Government of the AU, individual African states, intergovernmental organisations, national human rights institutions and civil society. Without an effective mechanism for the enforcement of the decisions of the Commission by the Assembly of the Heads of State and Government and the AU, the litigation of the Commission will remain an exercise in futility. An effective secretariat will facilitate its smooth running in performing its functions as provided for in the Charter (Gumedze, 2003:148; van der Linde, 2003:187).

Other related activities are necessary to enhance the respect for human rights. Collaboration with the UN treaty bodies will facilitate the sharing of information, joint action and programming. There should be a reliable and regular follow-up mechanism for decisions and recommendations. The AU should also endeavour to source for and provide adequate human and financial resources particularly the human resources to enhance the Commission's capacity to consider communications. Considering the volume of work and the challenges involved, the AU should increase the number of Commissioners and scrupulously adhere to the principles of geographical and gender representation and State parties should only nominate and elect those with requisite knowledge, expertise and commitment to human rights and whose regular assignments do not compromise their independence. The AU should also develop clear policy and guidelines on extra-budgetary funding of the Commission and its activities if the human the defence of rights must be vigorously pursued (Report of the Retreat, 2003:5-6). In general terms, Magnarella (2000:25) captured the way forward in a more succinct manner when eleven years ago he said that "Meeting the human rights challenge in the new millennium will require Africans to adapt new political and developmental paradigms that also meet the continent's economic, demographic and health challenges."

CONCLUSION

In this paper, we have tried to size up the human rights balance sheet for African countries in this new millennium. We presented the debate that surrounds the concept of human rights and also observed that although a lot has been done in the creation of awareness and promotion of human rights, there are still a lot of human rights abuses all over the continent and within countries due to civil unrest, dictatorship, non-respect of the recommendations of the ACHPR among others. Among the countries of the world with the worst human rights records, a very good number of them are African countries which are also coincidentally members of the AU and signatories to the African Charter on Human and Peoples' Rights. This is worrisome and there is need for a more vigorous policy of enforcement of respect for human rights by member states of the AU. Following an evaluation of the activities of the Commission based on its Charter we have pointed to areas of improvement but there are still many problems which have hindered the work of the Commission and made progress in human rights very slow.

BIBLIOGRAPHY

1. ACHPR/Res 114 (xxxxi) 07: Resolution on Migration and Human Rights in 42nd Ordinary Session in Brazzaville Republic of Congo, 15-18 November 2007.
2. African Human Rights Complaints Handling Mechanisms: A Descriptive Analysis. Copenhagen: The Danish Institute for Human Rights, 2008.
3. Ajomo, M.A. 1985. "Man in Quest of Himself: The Challenges of Human Rights." The 18th Ilorin Lecture Delivered at the University of Ilorin, Ilorin, Nigeria on the Occasion of its 9th Convocation Ceremony, October 25. Ilorin, Nigeria: Unilorin Press.
4. At the Heart of the Action: Women Defending Human Rights. *The Rapporteur's Newsletter Issue 1*: November 2007.
5. Before the African Commission on Human and Peoples' Rights of the Organisation of African Unity: Friendly Communication on the Subject of Ethiopian Mass Expulsions of People of Eritrean Origin or Descent. New Haven, Connecticut, The Allard K. Lowenstein International Human Rights Clinic Yale Law School, 2000.
6. Ebeku, Kaniye S.A. 2003. "The Right to a Satisfactory Environment and the African Commission." *African Human Rights Law Journal*, Vol. 3: 149-166.
7. Ebeku, Kaniye S.A. 2004. A New Hope for African Women: Overview of Africa's Protocol on Women's Rights. *Nordic Journal of African Studies*, Vol. 13, No. 3: 264-274.
8. Elechi, O. Oko. 2004. "Human Rights and the Indigenous Justice System." Paper Presented at the 18th International Conference of the International Society for the Reform of Criminal Law, Montreal, Quebec Canada, 8-12 August.
9. Evaluation: The African Commission on Human and Peoples' Rights. Copenhagen: Nordic African Institute, 1999.
10. Evans, Malcolm D. and Rachel Murray eds. *The African Charter on Human and Peoples' Rights: The System in Practice, 1986-2000*. Cambridge: Cambridge University Press.
11. Evans, Malcolm and Rachel Murray. 2008. *The African Charter on Human and Peoples' Rights: The System in Practice 1986-2006* Second Edition. Cambridge: Cambridge University Press.
12. Gallie, W.B. 1955-56. "Essentially Contested Concepts." *Proceedings of the Aristotelian Society*, Vol. 56: 167-198.
13. Gumedze, Sabelo. 2003. "Bringing Communications before the African Commission on Human and Peoples' Rights." *African Human Rights Law Journal*. Vol. 3: 118-148.
14. Hendrickson, J.M. 1989. "Rights in Traditional African Societies." J.A.A. Ayoade and A.A.B. Agbaje eds. *African Traditional Political Thought and Institutions*. Lagos: Centre for Black and African Arts and Civilisation, National Theatre.

15. Heyns, Christof and Magnus Killander eds. *Compendium of Key Human Rights Documents of the African Union* Second Edition. Pretoria: Pretoria University Law Press (PULP).
16. Houtondji, P.J. 1986. "The Masters Voice-Remarks on the Problem of Human Rights in Africa." Paul Ricceaur ed. *Philosophical Foundations of Human Rights*. Paris: UNESCO.
17. Humana, C. 1983. *World Human Rights Guide*. London: Hutchinson.
18. Human Rights and Democracy in Africa Testimony of the Honourable John Shattuck Assistant Secretary of State Bureau of Democracy, Human Rights and Labour before the Sub-committee on Africa Committee on International Relations US House of Representatives, February 22, 1995. US Department of State 95/02/22.
19. Kilander, Magnus. 2006. "Confidentiality vs. Publicity: Interpreting Article 59 of the African Charter on Human and Peoples' Rights." *African Human Rights Law Journal*, Vol. 6, No. 2: 572-581.
20. Lamb, Guy. 2002. "Debasing Democracy: Security Forces and Human Rights Abuses in Post-Liberation Namibia and South Africa." Yul Derek Davids, Christiaan Keulder, Guy Lamb, João Pereira and Dirk Spilker. Henning Melber Compiler. *Measuring Democracy and Human Rights in Southern Africa*. Uppsala: Nordic Africa Institute. pp. 30-49.
21. Letter Ref: ACHPR/COMM/A044/1 of the ACHPR to Mr Felix Morka of Lagos, 27 May 2002.
22. Little, R. 1981. "Ideology and Change." Barry Buzan and R.U. Barry Jones eds. *Change and the Study of International Relations*. London: Frances Printers.
23. Magnarella, Paul J. 1998. "Introduction." *African Studies Quarterly*, Vol. 2, Issue 3: 1-2.
24. Magnarella, Paul J. 1998. "Achieving Human Rights in Africa: The Challenge for the New Millennium." *African Studies Quarterly*, Vol. 2, Issue 3: 17-27.
25. Mugwanya, G.W. 2001. "Examination of the State Reports by the African Commission: A Critical Appraisal." *African Human Rights Law Journal*. Vol. 1: 268.
26. Ojo, Emmanuel O. 2006. "Human Rights and Sustainable Democracy in Nigeria (1999-2003)." *Journal of Social Sciences*, Vol. 13, No. 1: 15-29.
27. Onoria, Henry. 2003. "The African Commission on Human and Peoples' Rights and the Exhaustion of Local Remedies under the African Charter." *African Human Rights Law Journal*, Vol. 3: 1-24.
28. Report of the Retreat of Members of the African Commission on Human and Peoples' Rights (ACHPR) Facilitated by the High Commissioner for Human Rights (OHCHR), Addis Ababa, 24-26 September 2003.
29. Rousselot, Juliette. 2010. The Impact of French Influence on the State of Democracy and Human Rights in Cameroon. *Cameroon Journal of Democracy and Human Rights*, Vol. 4, No. 1: 59-71.
30. Taiwo, O.C. 1994. "Implementation of the United Nations Declaration of Human Rights: An Examination of Human Rights Protection in Nigeria." *Nigeria Journal of Democracy*, Vol. 1, No. 1: 21.
31. van de Linde, Morne. 2003. "Considering the Interpretation and Implementation of Article 24 of the African Charter on Human and Peoples' Rights in Light of the SERAC Communication." *African Human Rights Law Journal*, Vol. 3: 167- 187.
32. Vance, C.R. 1980. *Basic Rights*. New Jersey: Princeton University Press.
33. Zimmermann, Andreas and Jelena Bäuml. 2010. "Current Challenges Facing the African Court on Human and Peoples' Rights." Kas International Reports.

Internet Sources

1. Africa: Decisions Adopted during the 17th African Union Summit. allafrica.com, accessed on 10 July 2011.
2. Africa. <http://www.responsibilitytoprotect.org/index.php/africa>, accessed on 9 July 2011.
3. Celebrating Minor Victories? Zimbabwe at the African Commission on Human and Peoples' Rights. <http://www.africafiles.org/article.asp?ID=16501>, accessed on 10 July 2011.
4. Human Rights in Africa. www.dev.diplomacy.edu/AfricanCharter/human_intro.asp, accessed on 4 August 2011.

5. Kale, Ndiva Kofele. Participatory Rights in Africa: A Brief Overview of an Emerging Regional Custom. http://works.be.press.com/ndiva_kofele_kale/1, accessed on 6 August 2011.
6. Major International/ Regional Instruments dealing with the Concept of Human Rights. www.dev.diplomacy.edu/AfricanCharter/human_intro.asp, accessed on 4 August 2011.
7. Mauritius Plan of Action. http://www.achpr.org/english/declarations/declaration_mauritius_en.html, accessed on 9 July 2011.
8. Mujuzi, Jamil Ddamulira. Protecting Prisoners' Rights before the African Commission on Human and Peoples' Rights: The Role of Civil Society. Civil Society Prison Reform Initiative (CSPRI) Newsletter No. 22, June 2007. www.communitylawcentre.org.za/clc-projects/.../newsletter%2022.pdf.
9. Seventeen Countries Top List of World's Worst Human Rights Abusers. <http://www.voanews.com/english/news/africa/pan/17-Countries-Top-List-Of-Worlds-Worst-Human-Rights-Abusers-122958138.html>, accessed on 4 August 2011.
10. Top Abusers of Human Rights by Country as of 2009. <http://www.faqs.org/shareranks/836, TOP-ABUSERS-OF-HUMAN-RIGHTS-BY-COUNTRY>, accessed on 4 August 2011.
11. Zeleza, P.T. The Struggle for Human Rights in Africa Posted 18 May 2007 in African Affairs. <http://www.zeleza.com/blogging/african-affairs/struggle-human-rights-africa>, accessed on 9 July 2011.