

**THE PROMOTION OF THE AFRICAN HUMAN AND PEOPLES'  
RIGHTS SYSTEM IN THE GAMBIA, A CROSS CULTURAL &  
AFRICOLOGICAL ANALYSIS**

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## **ABSTRACT**

Primarily, this study seeks to examine the means and effectiveness of the African Commission on Human and Peoples' Rights, African human and Peoples' rights organizations, and the government of the Gambia in their efforts to propagate the institutions and legal instruments of the African Human and Peoples' Rights System (AHPRS) in general and the rights and duties of the African Charter on Human and Peoples' Rights in the country of The Gambia in particular since the Charter came into force in 1986. The work explores the history of the AHPRS from ancient conceptions of rights and duties within Classical Africa to its formal establishment in the 1980s and 1990s with emphasis placed on the particular political and social history of The Gambia. Further, the work presents and analyzes the work of three African human rights organizations operating within The Gambia and offers an Afrocentric critique of the promotion of the African Human and Peoples' Rights System.

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**CHAPTER 1.**  
**INTRODUCTION**

The African Union Commission on May 19, 2009 released its “Strategic Plan 2009-2012” in furthering its task of unifying the states and Peoples of Africa. The Plan is designed to advance the realization of the Union’s vision of “An integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in global arena”.<sup>1</sup> The Plan lists four broad intervention areas or key strategic pillars to the fulfillment of this vision: Peace and Security, Integration, Development and Cooperation, Shared Values, and Institution and Capacity Building.<sup>2</sup> “The pillars are strategic issues around which the core business of the Commission will be organized, and resources applied for the realization of expected results”.<sup>3</sup> Within the pillar of Shared Values, the first strategic objective is the promotion of “good governance, democracy and human rights”.<sup>4</sup>

This recent push on behalf of the African Union to promote “Shared Values” particularly in the area of human rights is linked with earlier developments in the promotion and protection of human rights in Africa principally, the creation of the African Charter on Human and Peoples’ Rights. This concern for the protection and promotion of human and Peoples’ rights in contemporary Africa must be of paramount importance to those Africans at home and abroad fighting for African liberation and

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<sup>1</sup> “Strategic Plan 2009-2012” The African Union Commission. Directorate for Strategic

<sup>2</sup> Ibid., 6.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid., 7.

development. Too often however, when the concept of human rights is mentioned in conjunction with the People of Africa it is Eurocentric minded Africans and/or non-Africans motivated at best by sentiments of pity and at worst by imperialist machinations that are the first to engage in scholarly analysis. Rarely is the agency of African People given its paramount place in the analysis of rights protection and promotion on the continent. This study seeks to apply an Africological analysis that is centered on the idea of African agency to the question of how ideas on human and Peoples' rights are spread from high-level African political institutions such as the aforementioned AU Commission to the hearts and minds of the African masses. This question must be properly analyzed if the masses of African people are to use the ideas within the African Charter on Human and Peoples' Rights as an instrument in the struggle for African development on African terms.

### ***Statement of the Problem***

Primarily, this study seeks to examine the means and effectiveness of the African Commission on Human and Peoples' Rights, African human and Peoples' rights organizations, and the government of the Gambia in their efforts to propagate the institutions and legal instruments of the African Human and Peoples' Rights System (AHPRS) in general and the rights and duties of the African Charter on Human and Peoples' Rights in the country of The Gambia in particular since the Charter came into force in 1986. The work will explore the history of the AHPRS from ancient conceptions of rights and duties within Classical Africa to its formal establishment in the 1980s and 1990s.

### ***Purpose of the Study***

As Africa continues to fluctuate between furthering its political unification and pandering to foreign interests, it becomes imperative to examine the legal and political instruments put in place by its continental and regional bodies of power to assess their ability to provide the African masses with sustainable development on their own terms. Perhaps the most crucial of these instruments is the African Charter on Human and People's Rights or the Banjul Charter. The African Charter is the first continental legal instrument that seeks to protect the rights of all African citizens while at the same time drawing inspiration from traditional African culture. Created in 1981 and ratified by all the member states of the African Union, the Banjul Charter was designed to accomplish three goals. First, the Charter outlines the rights that are guaranteed to the individuals and Peoples inside of African states. Secondly, it establishes the African Commission on Human and People's Rights to promote and protect those rights. Thirdly, the Charter lists a number of duties required by every individual in order for these rights to be enjoyed by all. It is these three objectives that will prove to be the most important to the future of Africa's people. Specifically it is the promotion of the enumerated rights and duties listed in the Banjul Charter that must be propagated effectively by the Commission and other stakeholders in order for the Charter to become a more complete functioning tool for the African people. Understanding this, the objective of this study is to explore the methods used by the African Commission on Human and People's Rights, the government of The Gambia, and African human rights organizations to promote the enumerated rights and duties listed in the Banjul Charter. Particularly, this study will focus on the propaganda activities and instruments produced by Gambian human and Peoples' rights organizations

in an effort to understand the theoretical and practical basis for the dissemination of ideas.

This study has at its core the idea that the proper propagation of the enumerated rights and duties of the Banjul Charter has the potential to help facilitate the creation of a coordinated Pan-African movement for human and Peoples' rights that would span the continent and the Diaspora. By exploring the positive and negative aspects of the methods that have been taken by the Commission and Gambian human and Peoples' rights organizations in regards to the promotion of the enumerated rights and duties, recommendations can be made to civil society, states and the Commission on how to effectively inculcate these principles into the people.

### ***Limitations of the Study***

This study was limited by a few factors. The first is that a much more expansive study of different regions of the African continent would have provided a more accurate analysis of the propagation efforts of the Commission and other human and Peoples' rights stakeholders. Another limitation is the language factor. Although the official language of the Gambia is English, communicating with the people of the Gambia in the languages of Mande, Wolof, Jola and Fula may have provided deeper insight into effective propaganda methods. Finally, the political environment of The Gambia limited the study in that the government has made numerous veiled threats against human rights activists and any person seeking to promote the rights of the Gambian masses. Numerous disappearances and government-induced persecution have left many in the country weary to have political discussions in a vocal level above a hushed whisper. Although the researcher spent two and a half months in the country, many of the organizations and

persons sought for interviews were reluctant to speak about the Gambia's human and Peoples' rights situation. Ultimately, more time must be spent within the country by future researchers in collaboration with courageous Gambian citizens willing to defy the current tyrannical government.

**CHAPTER 2.**  
**LITERATURE REVIEW**

The literature concerning human rights in Africa is largely concerned with the issues of rights protection and violation prevention. Within that body of work, much has been written concerning the modern African Human and Peoples' Rights System (AHPRS) including its origins and institutionalization as well as the debate between cultural relativism and universalism within it. Additionally, scholars have analyzed the functioning of the various institutions within the AHPRS including the African Commission on Human and Peoples' Rights, NGOs, and to a lesser extent, the human rights work of governmental and non-governmental actors within The Gambia. These three areas will be reviewed below.

***2.1 Cultural Relativity and the Banjul Charter***

The majority of the literature concerning the AHPRS in general and the African Charter on Human and Peoples' Rights in particular come from international and human rights legal experts who debate the strengths and weaknesses of the Charter from their own disciplinary perspectives. Within the literature of this group of scholars lies a primary contradiction. The primary contradiction within the literature, although presented in the disciplinary language of legal studies and political philosophy transcends both as it is the same contradiction that arises anytime African thought is presented in modern

academia. That contradiction is the intense divide between those scholars promoting European cultural and intellectual hegemony and those scholars struggling against it.

In order understand this contradiction and how it plays out in the literature concerning the African Charter; it becomes imperative to first briefly examine the salient features of the instrument. The Preamble of the Charter states that it takes, “into consideration” the “historical tradition and the values of African civilization which should inspire and characterize their reflection on the concept of human and peoples' rights”.<sup>5</sup> With this established, the body of the Charter outlines the rights that are guaranteed to the individuals and Peoples inside of African states. The Charter also establishes and outlines the work of the African Commission on Human and People’s Rights, which is tasked with promoting and protecting those rights. As the Charter draws inspiration from other regional and international human rights instruments including the Universal Declaration of Human Rights many of the articles included within are considered universal human rights norms. These rights are primarily civil and political rights guaranteed to the individual such as the right to life and liberty, the freedoms of association, religion, and press, as well as the freedom from any form of discrimination based on race, gender, religion and so on.

In addition to these basic civil and political rights guaranteed to the individual, the Charter articulates three innovations centered in the culture and needs of African People that make it a unique document when compared to the other regional and international human rights instruments. First, the Charter guarantees social, economic, and cultural rights that are often referred to as ‘second generation rights’ such as the right to

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<sup>5</sup> African Charter on Human and Peoples’ Rights, OAU DOC CAB/LEG/67/73, rev 5,27 June 1981., Preamble.

development, the right to health, the right to work, and the right to education. What is unique and innovative is not the inclusion of such rights, as they are included in other regional and international instruments, but the fact that they are conceptualized as being indivisible from the civil/political rights mentioned earlier. Secondly, the Charter not only guarantees these rights to the individual but also provides provisions for the protection of collectives known as Peoples' rights. Lastly, the African Charter lists a number of duties required by every individual in order for these rights to be enjoyed by all.

It is these innovations centered in African culture that leads to the contradiction in the literature between the advocates of 'Eurocentric universality' and those forced to validate and uphold 'cultural relativity' with regards to the concept of human rights in Africa as articulated in the Banjul Charter. The 'Eurocentric universalists' feel that human rights in Africa must conform to a uniform global standard grounded in Western liberalism. These scholars believe that Europe's political and philosophic history constitute the sole progenitors of universal human rights conceptions. Particularly, these scholars map the history of human rights from the birth of liberalism in Western Europe and culminating with the Universal Declaration of Human Rights in 1948. One of the strongest proponents of this perspective and who also wrote on the Charter is Jack Donnelly. In "Human Rights and Human Dignity: An Analytic Critique of Non-Western Conceptions of Human Rights", he asserts that only the Western European conception of human rights is adequate in framing and protecting universal human rights. He analyzes the non-western traditions of Islam, Africa, India, China, and the Soviet Union and comes to the general conclusion that these societies do not have a true concept of human rights

only one of “human dignity”. Donnelly’s entire argument rests on the notion that the European conception of “man” is the only true way of looking at the “universal human”. He writes, “To have human rights one does not have to be anything other than a human being. Neither must one do anything other than be born a human being”.<sup>6</sup> This view would not reconcile with many traditional African beliefs which do not assign personhood to a being until he or she becomes a formal part of the community. Donnelly confuses this again when he states, “Even in many cases where Africans had personal rights vis-à-vis their government, those rights were not based on one’s humanity per se but on membership in the community, status, or some other ascriptive characteristic”.<sup>7</sup> What he fails to consider is that in African societies, one’s humanity is itself determined by this connection and any attempt to sever it results in an incomplete humanity. He quotes Wai as saying “traditional African attitudes, beliefs, institutions, and experiences sustained the view that certain rights should be upheld against alleged necessities of state”.<sup>8</sup> Instead of understanding this as an assertion of the idea of inalienability in African thought, Donnelly simply dismisses it as “confusing human rights with limited government”.<sup>9</sup> With no further explanation, he ends his section on Africa by stating “recognition of human rights simply was not the way of traditional Africa, with obvious and important consequences for political practice”.<sup>10</sup> He also boldly states,

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<sup>6</sup> Donnelly, Jack. "Human Rights and Human Dignity: An Analytic Critique of Non-Western Conceptions of Human Rights." *The American Political Science Review*, 1982: 303-316.

<sup>7</sup> Ibid., 308.

<sup>8</sup> Ibid., 307.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

“...incorporating Third World views would be likely to have major costs for human rights”.<sup>11</sup>

In conflict with the views of Donnelly and other Eurocentric universalists is Makau Mutua. In “The Banjul Charter: The Case for an African Cultural Fingerprint” Mutua seeks to establish the African cultural continuities of the African Charter on Human and People’s Rights. He first tries to establish that the idea of human rights was not alien to Africa as some scholars like Donnelly made it seem. In traditional African societies people had the right to life<sup>12</sup>, the presumption of innocence, personal security, property, marriage, and the dignity and integrity of the family<sup>13</sup>. Mutua uses the pre-colonial practices of the Akamba, the Akan, and other ethnic groups to display an indigenous African recognition for human rights. Particularly, he attempts to reconcile the concepts of rights and duties as outlined in the Charter. He writes, “Individual rights cannot make sense in a social and political vacuum, devoid of the duties of individuals. This appears to be more true of Africa than of any other place. The individualist, narrow formulation of human rights is ill-suited to the African political and cultural universe”.<sup>14</sup> He points out the connection between the concept of duties and that of Peoples rights. He states:

Like the duty concept, the idea of peoples’ rights is embodied in the African philosophy which sees men and women primarily as social beings embraced in the body of the community. It was pointed out during the drafting of the African Charter that individual rights could be justified

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<sup>11</sup> Ibid.

<sup>12</sup> Mutua, Makau wa. “The Banjul Charter: The Case for an African Cultural Fingerprint.” In *Cultural Transformation and Human Rights in Africa*, ed. Abdullahi A. Na’im, 68-108. New York: Zed Books, 2002.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid., 68.

only in the context of the rights of the community; consequently the drafters made room in the Charter for peoples' rights.<sup>15</sup>

A number of human rights scholars have also effectively argued for the cultural relativist position. In an article entitled, "NEPAD's African Peer Review Mechanism: Progress and Prospects", Adebayo Adedeji stresses the importance of having policies and institutions that draw from and respect the cultural knowledge of African people. He states, "As long as Africans continue to rely on and utilise our colonial and apartheid political and socio-economic inheritances, the achievement of any political, economic, and governance engineering and breakthroughs shall continue to elude Africa".<sup>16</sup> Adedeji further writes,

Given the critical role of institutions in fixing the destiny of nations, their origins must not be divorced from the cultures of the societies concerned. The greatest mistake of the first generation of Africa's political leadership was their failure to embark on the restitution of their ancient culture, and the rebirth and utilisation of their heritage in building the institutions of their societies.<sup>17</sup>

He also declares, "...what had confronted African since independence was primarily a political crisis, albeit with devastating economic consequences".<sup>18</sup> Central to this political crisis were the blatant human rights violations that occurred on the continent following independence. The Banjul Charter was created expressly to provide an instrument to protect human rights on the continent using the cultural knowledge of Africa as described by Adedeji. Oji Umzurkie's "African Charter on Human and People's Rights", is an

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<sup>15</sup> Ibid., 91.

<sup>16</sup> Adedeji, Adebayo. "NEPAD's African Peer Review Mechanism: Progress and Prospects." In *The African Union and its Institutions*, by John Akokpari, Angela Ndinga-Muvumba and Tim Murithi, 241-269. Sunnyside: Fanele, 2008.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid., 245.

early journal article outlining the various aspects of the Banjul Charter. Umozurike's knowledge of the Charter comes from not only his work as a legal scholar but also his practical experience with the instrument as a former chairman of the African Commission on Human and Peoples' Rights. He begins by describing the steps that were taken that led up to the creation and unanimous adoption of the Charter by the OAU in 1981. He spends much of the piece arguing in favor of the concept of duties as outlined in the Charter. Umozurike explains the rights granted to the individual by the Charter as well as the duties it places on all individuals. These duties are stated in Articles 27 through 29 in the Charter and include: the duty to serve the national community, the duty to preserve traditional African values, the duty to work for the cohesion and respect of the family, as well as the duty to contribute to the achievement of African unity<sup>19</sup>. Understanding that the enforceability of these duties is in many ways impossible, Umozurkie writes, "The states' responsibilities for these duties imply a minimum obligation to inculcate the underlying principles and ideals in their subjects".<sup>20</sup> He goes on to say "An enumeration of rights and duties may not achieve the intended ends, but it serves to give them publicity and entrench them in the minds of men".<sup>21</sup> On the concern that the stress of duties in the Charter would be abused by states, Umozurike argues that, "It is wholesome, however, to emphasize duties along with rights in order to maintain a proper balance".<sup>22</sup> Also, the author points out many distinct characteristics that make the Charter different from its American and European counterparts including the incorporation of People's

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<sup>19</sup> African Charter, Articles 27-29.

<sup>20</sup>Umozurike, U. O., "The African Charter on Human and People's Rights." *The American Journal of International Law*, 1983: 902-912.

<sup>21</sup> Ibid., 911.

<sup>22</sup> Ibid.

rights alongside individual rights as well as the rights to development and self-determination.

An alternate and more authentically universalist argument has also been presented in the literature that operates in opposition to the Eurocentric version presented by Donnelly. Abdullahi A. An-Na'im and Jeffrey Hammond in "Cultural Transformation and Human Rights in African Societies" attempt to advocate for universalization by arguing in favor of what they refer to as a "cultural transformation" approach to human rights. An-Na'im and Hammond refer to cultural transformation as "the dynamics of change as internal processes of societal adaption by a variety of actors in response to a wide range of stimuli at different levels, rather than simply the product of internal hegemony or external imposition".<sup>23</sup> Essentially, the authors favor an approach to human rights which seeks to inculcate international human rights standards into African people by finding aspects of local culture which are congruent with them. They state:

The project of the universality of human rights is to be realized through a confluence of internal societal responses to injustice and oppression, instead of attempting to transplant a fully developed and conclusive concept and its implementation mechanisms from one society to another. The way to get a universal idea accepted locally is to present it in local terms, which can be done by local people.<sup>24</sup>

For An-Na'im and Hammond human rights "must be seen as the present expression of a long history of struggle for social justice and resistance to oppression in all human

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<sup>23</sup> An-Na'im, Abdullahi and Jeffrey Hammond. "Cultural Transformation and Human Rights in African Societies". *Cultural Transformation and Human Rights in Africa*. London: Zed Books, 2002.

<sup>24</sup> Ibid., 16.

societies, rather than simply the product of so-called Western political philosophy and experiences”.<sup>25</sup>

Two texts attempt to study the concept of human rights as understood by a single African ethnic group. In both cases the group under examination is the Akan of Ghana. The first study is Kobina Oforu-Donkoh’s 2010 work, *Human Rights in African Religions and Philosophy, The Case of the Akan of Ghana*. Oforu-Donkoh uses the “religious, philosophical, moral, and social aspects” of Akan culture in order to “legitimize human rights in African cultures” using a cross-cultural approach.<sup>26</sup> The cross-cultural approach to human rights studies was introduced by An-Na’im who called for “the study of individual cultures with a view to locating their life-enhancing values that are compatible with the international human rights norms and invoking them as the foundations of human rights in those cultures”.<sup>27</sup> After intensive exploration into traditional Akan thought and identifying the human rights articles of the Universal Declaration of Human Rights within it, Oforu-Donkoh establishes “that all of these rights are legitimately founded in Akan thought, based on native values and beliefs of the people”.<sup>28</sup> He also identifies within Akan thought and practice a number of the concepts that African culture as a whole has contributed to corpus of global human rights knowledge including the idea of the indivisibility of the individual and society<sup>29</sup> as well as that of the individual’s duty to society.<sup>30</sup>

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<sup>25</sup> Ibid., 19.

<sup>26</sup> Oforu-Donkoh, Kobina. *Human Rights in African Religions and Philosophy, The Case of the Akan of Ghana*. Saarbrücken: LAP Lambert Academic Publishing, 2010.

<sup>27</sup> Oforu-Donkoh 4.

<sup>28</sup> Ibid., 183.

<sup>29</sup> Ibid., 182.

<sup>30</sup> Ibid., 107.

One of the only texts to investigate the idea of cultural relativity in human rights Africa empirically is Baah's 2000 study *Human Rights in Africa, The Conflict of Implementation*. He begins by analyzing the contents of the African Charter in comparison with the human rights principles espoused in Western thought and international instruments. Baah then presents the field research in the form of a questionnaire he administered to Akans at various centers of Ghana.<sup>31</sup> Baah's questionnaires sought to assess the Akans comprehension on such Western human rights concepts as individuality and universality as well as an exploration of the Akan concept of human dignity.<sup>32</sup> His findings lead Baah to assert, "Africans in general and Akans in particular either do not accept human rights as formulated or do not understand the philosophical foundations of it".<sup>33</sup>

The concept of peoples' rights and duties in particular and the question of universality in general must be explored further but due to space limitations this author will end the discussion here in agreement with Rembe who writes in *The System of Protection of Human Rights under the African Charter on Human and Peoples' Rights: Problems and Prospects*, "...the African Charter contains ingenious innovations as well as serious shortcomings: the latter have to be addressed to during the implementation stage".<sup>34</sup>

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<sup>31</sup> Ibid., 63.

<sup>32</sup> Ibid., 72.

<sup>33</sup> Baah, Richard Amoako. *Human Rights in Africa: The Conflict of Implementation*. Lanham: University Press of America, 2000.

<sup>34</sup> Rembe, N.S.. *The System of Protection of Human Rights under the African Charter on Human and Peoples' Rights: Problems and Prospects*. Roma: Institute of Southern African Studies, 1991.

## *2.2 Institutions of the African Human and Peoples' Rights System*

The “implementation stage” discussed by Rembe is actualized through the institutions of the AHPRS. Studies concerning these institutions are the second prominent theme in the scholarship. Scholars attest to the fact that the history of the establishment of the AHPRS is a testament to both the strengths and weaknesses of diplomatic pan-Africanism from the level of the African Union (AU) to that of civil society. There is nearly a consensus in the literature that the OAU was during its organizational lifetime, both incapable and unwilling to protect the human and Peoples' rights of Africans in the independence era. Largely this was due to the fact that the organization's mandate was simply to rid the continent of colonialism in all its forms while at the same time heeding to the golden rule of “non-interference”. It can be argued however that the adoption of the Charter in 1981 and its coming to force in 1986 represented a major shift in the OAU's stance on non-interference which would ultimately find its strongest expression in the transformation of the OAU into the AU in 2002. In the middle of this transformation is the work of the African Commission on Human and Peoples' Rights and its strivings during its twenty-six year existence.

Housed in Banjul, The Gambia, the Commission became operational in 1987. The make-up of the Commission is outlined in Article 31 of the Charter, which reads,

1. The Commission shall consist of eleven members chosen from amongst African personalities of the highest reputation, known for their high morality, integrity, impartiality and competence in matters of human and peoples' rights; particular consideration being given to persons having legal experience.

2. The members of the Commission shall serve in their personal capacity.<sup>35</sup>

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<sup>35</sup> African Charter, Art. 31.

The work of the Commission is outlined in Chapter II, Article 45 of the Banjul Charter. It is tasked with both promotional and protective responsibilities. Promotionally, the Commission is to hold conferences, collect documents, undertake studies, and disseminate information concerning human rights in Africa.<sup>36</sup> Its protective mandate is to hear and rule on complaints (called communications) brought to it by individuals, NGOs, and states concerning violations of the Banjul Charter.<sup>37</sup>

The scholarship concerning the Commission is in agreement with the fact that lack of political and material support from the OAU/AU has unfortunately made it extremely difficult for the Commission to uphold these responsibilities to the African People. No other author has done more scholarly work on the operations of the Commission than Rachel Murray. She has done and continues to do a tremendous job collecting and analyzing the documents of the Commission which she along with Malcolm Evans have compiled into two volumes entitled *Documents of The African Commission on Human and Peoples' Rights*. These primary source documents are invaluable when it comes to understanding the inner workings of the Commission and its struggles with the OAU. In describing the work of the Commission and its relation to the OAU she writes in *Human Rights in Africa, From the OAU to the African Union*,

Resolutions adopted by the OAU organs relating to the work of the Commission and in the adoption of its reports have generally, therefore, been limited to formalities, supporting the idea of the Commission and that it should be strengthened in general, urging states to ratify the Charter and subsequent instruments and submit their reports to the Commission. Over the years, however, the fact that its reports were on the agenda of the OAU organs and the adoption of additional protocols to the African

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<sup>36</sup> Ibid., Art. 45.

<sup>37</sup> Ibid., Art. 56.

Charter, requiring the involvement of the OAU, have had some influence on the way in which the latter has approached human rights.<sup>38</sup>

Another text that describes the work of the Commission is Ankumah's *The African Commission on Human and Peoples' Rights Practice and Procedures*.

Ankumah's text attempts three objectives: to provide practical guidance to NGOs and practicing lawyers on how to gaining access to the African Commission, provide information on the human rights system in Africa, and thirdly to be used by the Commission in its interpretation of the Charter.<sup>39</sup> She like others stresses the lack of resources of the Commission but also adds a critical eye to the little discussed issue of the Commission's reliance on Northern assistance in both financial and human terms.

Ankumah however is optimistic in her view of the Commission and its work. She writes, "... Most commentators, including the present author, are more optimistic and believe that the African Commission has potential to become an effective protector of human rights".<sup>40</sup>

Recognizing that human rights promotion and protection are meaningless without courts to judge human rights cases, the African Union inaugurated the African Court on Human and People's Rights. Motala discusses the emergence of the African Court on Human and People's Rights, which became a functional body in January 2006. This is twenty years after the ACHPR came into force. The most important section of this article to the present research is the discussion concerning the African Court's powers to hear

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<sup>38</sup> Murray, Rachel. *Human Rights in Africa From the OAU to the African Union*. Cambridge: Cambridge University Press, 2004.

<sup>39</sup> Ankumah, Evelyn A.. *The African Commission on Human and Peoples' Rights Practice and Procedures*. The Hague: Kluwer Law International, 1996.

<sup>40</sup> *Ibid.*, 9.

cases thus becoming an instrument of protection for human rights as defined in the Charter. He writes, “The African Court has been established to complement the protective mandate of the African Commission. The African Court will in fact augment the protective mandate of the African Commission, since it will be able to render binding decisions that will be enforced by the AU Executive Council”.<sup>41</sup> With the court’s foreseeable takeover of the protective duties originally deemed under the auspices of the Commission, the promotional aspect of the Commission can come to the fore as the institution’s top priority. This is a positive development for the human rights agenda on the continent in that the Commission can do a more impressive job at promoting the rights and duties articulated in the Charter. The limited resources that the Commission works with can now be better spent in the area of promotion. Unfortunately on the issue of resource allocation, Motola also states, “Since its establishment in 1989, the African Commission has not been adequately resourced by the AU and thus has had to rely on financial support from donors outside of Africa, especially European governments”.<sup>42</sup> He is not certain but hopes that this will not be the same fate of the Court as the instrument has potential to protect human rights on the continent in new ways far more expansive and impactful than the Commission.

The establishment of the Court and the continued work of the Commission represent both the strengths and weakness of diplomatic pan-Africanism. Although no one would deny that the establishment of these bodies was a positive step for a continent struggling with human rights problems, one must be critical of the fact that many of these

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<sup>41</sup> Motola, Ahmed. "The African Court on Human and People's Rights: Origins and Prospects." In *The African Union and Its Institutions*, by John Akopari, Angela Ndinga-Muvumba and Tim Murithi, 271-291. Sunnyside: Fanele, 2008.

<sup>42</sup> *Ibid.*, 282.

conversations are not being heard by the people who they affect the most. Thus the problem of diplomatic pan-Africanism: positive initiatives without popular ownership. Commenting on the idea of popular ownership on the occasion of the opening session of the 47<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, Ms. Dolly Joiner, a commissioner of the African Union states

The promotion and protection of human rights in Africa is a collective effort. Whilst we have a propensity to emphasize the role and responsibilities of State Parties, we cannot and should not forget to remind ourselves that our success hinges on building wider ownership and ensuring that the burden of responsibility and actions is shared across all sectors of our societies. Building a culture of human rights and establishing the respect for human rights as a natural element of people to people engagements, requires that the human rights we all talk about be internalized by each individual. It is after all, most often, at the level of individual interactions that rights are infringed. In as much as our humanism is best reflected in our interactions with others, our exercise of rights must also be predicated on our respect for the rights of others. This might go a long way in building the rights culture all our instruments and mechanisms are seeking to establish.<sup>43</sup>

### ***2.3 The African Commission and Promotion of the ACHPR***

Popular ownership of the African Charter requires in part, a proper understanding of the best practices in promoting the Charter to the African masses by the Commission. The issue however is that the protective mandate of the Commission has received the most attention from scholars writing on the institution. Primarily, legal scholars have examined the jurisprudence emanating from the decisions on communications made by the Commission and compared it to those from comparable quasi-judicial and judicial

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<sup>43</sup> Joiner, Julia Dolly. "Statement by Her Excellency Mrs. Julia Dolly Joiner Commissioner for Political Affairs African Union Commission ." Banjul, 2010 12th-May.

institutions such as the UN and the European Court of Human Rights.<sup>44</sup> The promotional mandate has not been covered as extensively and as a result most works dealing with the functions of the Commission only dedicate a small section to the Commission's promotional work.

The Charter itself sets the basic promotional activities for the Commission in Article 45 (1), which states:

The functions of the Commission shall be:

1. To promote Human and Peoples' Rights and in particular:

(a) To collect documents, undertake studies and researches on African problems in the field of human and peoples' rights, organize seminars, symposia and conferences, disseminate information, encourage national and local institutions concerned with human and peoples' rights, and should the case arise, give its views or make recommendations to Governments.

(b) To formulate and lay down, principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African Governments may base their legislations.

(c) Co-operate with other African and international institutions concerned with the promotion and protection of human and peoples' rights.<sup>45</sup>

Most scholars when commenting on the promotional mandate simply parrot these provisions without exploring or critiquing the actual activities of the Commission.<sup>46</sup>

When one investigates the compilation of documents from the Commission ranging from

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<sup>44</sup> See Jallow, Murray & Evans, others.

<sup>45</sup> African Charter, Article 45.

<sup>46</sup> See: Ndulo, Muna, "The African Commission and Court under the African Human Rights System". In *Africa's Human Rights Architecture*, edited by John Akokpari and Daniel Shea Zimble, 182-203. Sunnyside: Fanele, 2008.; Mindzie, Mirielle Affa'a, "The African Commission and Court under the African Human Rights System". In *Africa's Human Rights Architecture*, edited by John Akokpari and Daniel Shea Zimble, 204-232. Sunnyside: Fanele, 2008; Rembe.

the years 1986 to 2007 and collected in two volumes by Evans and Murray<sup>47</sup>, a pattern of lofty aspirations followed by paltry and/or delayed results emerges in terms of promotion.

In its early years of operation the Commission recommended a number of collaborative steps to be taken by itself and the member states of the OAU in promoting the AHPRS. The first ten years of the Commission's activity reports contain recommendations for seminars and outlined educational plans designed to promote human and Peoples' rights in African states.<sup>48</sup> In the "First Activity Report of the African Commission on Human and Peoples' Rights", adopted in 1988, the Commission outlines a Programme of Action which, among other things, called for:

1. Establishment of African Library and a Documentation Centre on Human Rights;
2. Printing and dissemination of the African Charter on Human and Peoples' Rights including its Rules of Procedure;
3. Publication of an African Review on Human and Peoples' Rights;
4. Periodical radio broadcasts and television programmes on Human Rights in Africa;
5. Integration of Teaching of Human Rights on the Syllabi of secondary education,<sup>49</sup>

By the adoption of the Third Activity Report in 1990, the Commissioners are already lamenting the lack of funds available for its operations<sup>50</sup> and needed to fulfill many of the items listed above. At the presentation of the Third Activity Report, the Chairman of the Commission at the time, U.O. Umozurike recounted to the Assembly of Heads of State that the Commission's "promotional responsibilities are very wide but we

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<sup>47</sup> Murray, Rachel and Malcolm Evans. *Documents of the African Commission on Human and Peoples' Rights*. Portland: Hart, 2001; Murray, Rachel and Malcolm Evans. *Documents of the African Commission on Human and Peoples' Rights Volume II. 1999-2007*. Portland: Hart, 2008.

<sup>48</sup> See Activity Reports 2-7 in Murray and Evans 2001.

<sup>49</sup> Murray and Evans 2001, 167.

<sup>50</sup> *Ibid.*, 202.

have not the resources for them. Our facilities in some respects are still rudimentary. We have no library yet. We are therefore seeking help in acquiring facilities, to enable us to perform effectively”.<sup>51</sup> Although the Fifth Activity report includes a “Draft Resolution on Promotional Activities” as well as a list of future seminars that it planned to organize, the very next activity report states:

Since the entry into force of the African Charter on Human and Peoples’ Rights and the establishment of the Commission, the latter has suffered from a chronic lack of staff, resources and services necessary for the effective discharge of its functions. No funds are allocated in the Commission’s budget for promotional activities”.<sup>52</sup>

The Commission is forced to report twice, both in 1996 and again in 1997, “Due to financial problems, facing the OAU, several projects of the Commission had to be suspended. This only made worse the situation of the Commission”.<sup>53</sup>

In 1996, the Commission approved a new five-year action plan referred to as the Mauritius Plan of Action. This plan was created to find solutions to the problems including “serious resource constraints”<sup>54</sup> that hampered the realization of the previous action plans and resolutions of the Commission during its first ten years. The Mauritius Plan is constructed as “more of a continuity than an innovation”<sup>55</sup> in its relationship to the previous action plans of the Commission. What differs in the Mauritius Plan is that its recommendations are not only focused on the Commission and African states but also are concerned with further strengthening the relationship between the Commission and non-state actors, particularly NGOs that became more critical to the Commission’s

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<sup>51</sup> Ibid., 202.

<sup>52</sup> Ibid., 213.

<sup>53</sup> Ibid., 498.

<sup>54</sup> Ibid., 579.

<sup>55</sup> Ibid., 579.

promotional work in the ten years following its creation.

As was mentioned earlier, scholars have tended to devote more time to the protective mandate of the Commission than the promotional one. However, one of the promotional activities engaged in by the Commission that has been analyzed by scholars are the country visits that are required by each Commissioner. Occurring before and after the adoption of the Mauritius Plan, these missions have the main purpose of sensitizing “the public on human rights issues in an effort to enhance respect and recognition of the rights set forth in the Charter”.<sup>56</sup> This aspect of the promotional activities of the Commission also displays the dependency of the Commission on non-state actors. Ankumah discusses the style and impact of the Commission’s promotional visits to African states. She remarks that these visits occur during the intercessional period during which time Commissioners “visit human rights organizations, universities, and other institutions in the countries assigned to them”.<sup>57</sup> Ankumah lauds this aspect of the Commission’s promotion mandate particularly within her home country of Ghana<sup>58</sup> but is not without critique. She laments that the promotional visits are often focused on “urban areas and institutions of higher education” and that the neglect of the rural and illiterate populations “where the masses in Africa are concentrated”<sup>59</sup> must be remedied through the cooperation of the Commission and local NGOs.

Mbondenyi, in his volume *The African System on Human and Peoples’ Rights* also discusses the shortcomings of the Commission in fulfilling its promotional mandate. He echoes Ankumah’s concern that the average African is being ignored by the

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<sup>56</sup> Ankumah 21.

<sup>57</sup> Ibid., 21

<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

Commissioners during their country visits as a result of their catering to urban and university audiences.<sup>60</sup> Mbondenyi further notes that even within the lectures and presentations given by the Commission, the focus has been primarily on civil/political rights as opposed to socio-economic ones.

Mbondenyi traces the difficulty in the Commission's ability to effectively carry out its promotional mandate to both internal and external issues. Internally, the primary issue is the Commission's constant struggles with lack of material support from the African Union as a result of a lack of commitment from the member states to contribute their agreed upon dues. The promotional visits particularly are retarded in that the funds allocated to the Commission are "enough to cover only four promotion missions in a year, whereas, each Commissioner is expected to undertake at least two missions per year".<sup>61</sup> Externally, the political climate in nearly all African states makes promotion of the Charter difficult because of states' ambivalence and/or hostility to the rights guaranteed within. Ultimately, like Ankumah, he implores the Commission to work with civil society in general and NGOs in particular to bolster its promotional activities in African states.

Although the Commission has published no formal evaluation of the Mauritius Plan, it can be deduced from the Activity Reports and Communiqués in the years after 2001 that although the partnerships between the Commission and various non-state actors have strengthened significantly, that of the Commission and the African Union has remained the same. Funding from the AU is still insufficient for the Commission's

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<sup>60</sup> Mbondenyi, Morris. *The African System on Human and Peoples' Rights Its Promises, Prospects, and Pitfalls*. Saarbrücken: LAP Lambert, 2010.

<sup>61</sup> *Ibid.*, 391.

promotional needs and its recommendations for the popularization of the African Charter at all levels of education have been largely ignored. African and international NGOs, on the other hand have assisted in the Commission's promotional mandate by co-sponsoring seminars and workshops on human rights issues and also funding various projects such as the Commission's website.

#### ***2.4 Non-Governmental Organizations and the AHPRS***

This growing relationship between non-state actors, particularly NGOs is presented in the literature as being a double-edged sword for the AHPRS. Non-governmental organizations blossomed in Africa following the end of the Cold War period and the scholarship regarding them has grown at the same rate. Manji and O'Coill discuss the history of NGOs in Africa in an article "The Missionary Position: NGOs and Development in Africa". The authors place the explosive growth of NGOs in Africa during the early 1990s as part of what they refer to as the "development machine" or "a vast institutional and disciplinary nexus of official agencies, practitioners, consultants, scholars and other miscellaneous experts producing and consuming knowledge about the 'developing world'".<sup>62</sup> Manji and O'Coill also see the modern growth of NGOs in Africa as a continuation of "the missionaries and voluntary organisations that cooperated in Europe's colonization and control of Africa".<sup>63</sup> Instead of the colonial domination of the 19<sup>th</sup> and early 20<sup>th</sup> century, the authors argue that it is neoliberalism and western ideas of development that are being expanded by NGOs. They write:

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<sup>62</sup> Manji, Firoze and Carl O'Coill. "The Missionary Position: NGOs and Development in Africa." *International Affairs* (2002): 567-583.

<sup>63</sup> *Ibid.*, 568.

They have taken the 'missionary position'-service delivery, running projects that are motivated by charity, pity and doing things for people (implicitly who can't do it for themselves), albeit with the verbiage of participatory approaches... It may not have been as direct or as underhand as some of the activities willingly taken up by colonial missionary societies and voluntary organizations. But that is not to say it is any less significant. Indeed, one could argue that it has actually been far more effective.<sup>64</sup>

Manji and O'Coill end by advising NGOs in Africa to move out of the "missionary position" and embrace truly emancipatory activities and movements that will ultimately require a weaning off of western donor funding.

Focusing primarily on human rights NGOs, Isaa Shivji in *The Concept of Human Rights in Africa* refers to them as "the most active organisations"<sup>65</sup> in the human rights activism of the post-Cold War era. As an African-Marxist, Shivji critiques the human rights discourse and activism emitting from academics and NGOs alike for their overall silence on the role of imperialism and neocolonialism in Africa's human rights struggles. Shivji begins his analysis on NGOs by dividing those operating in Africa into three major groups: International Non-governmental Organisations (INGOs), foreign-based NGOS (FONGOs), and local NGOS (LONGOs).<sup>66</sup> INGOs include organizations such as the International Commission of Jurists, the International Committee of the Red Cross, and Amnesty International. FONGOs are those organizations that work on human rights issues in African countries but are based in other countries such as Human Rights Watch. It is Shivji's discussion of LONGOs, which he also refers to as FFUNGOs (foreign funded NGOs), where he is most critical as he laments that their reliance on foreign

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<sup>64</sup> Ibid., 581.

<sup>65</sup> Shivji, I.G. *The Concept of Human Rights in Africa*. London: CODESRIA Book Series, 1989.

<sup>66</sup> Shivji 34.

funding has left them toothless in the face of neocolonial aggression. He states, "African NGOs that are set up, it would seem, are institutional mechanisms by which to obtain foreign funds... rather than grass-root organisations of the intellectuals and the people to struggle for rights".<sup>67</sup> Shivji further states:

At best these FFUNGOs of 'intellectuals' see themselves as a kind of think-tanks to research and churn out policy recommendations for states, the very violators of human rights. Their approach to human rights work is thus dictated by these primary objectives. They specialise in organizing pan-African conferences where intellectuals meet; present and listen to the usual legalistic papers on rights; fight over positions and end up holding parties where the funding agencies are graciously thanked and invited to donate more.<sup>68</sup>

Like Manji and O'Coill, Shivji does hold out some hope for LONGOs, so long as they shift in their functioning in three ways. First, Shivji implores LONGOs to "clearly distance themselves from imperialist funded organisations".<sup>69</sup> Secondly, LONGOs must "distance themselves from authoritarian state structures". For Shivji most African states are neocolonial states that have tended "to usurp and obliterate the autonomy of civil society" and are run by elites who "derive their support from imperialism".<sup>70</sup> Those LONGOs that align themselves with such states, "compromise themselves strategically and are thus disabled from serving the interests of the people".<sup>71</sup> Along the same lines, Shivji also cautions LONGOs to "move away from elitist orientations if they are to do genuine grass-root work". This third guideline is necessary in that "only the people themselves can protect and fight for their rights" with intellectuals and "experts" joining

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<sup>67</sup> Ibid., 61.

<sup>68</sup> Ibid., 88.

<sup>69</sup> Ibid., 87.

<sup>70</sup> Ibid., 70.

<sup>71</sup> Ibid., 88.

but not usurping the people's struggle. It is Shivji's ultimate assertion that, "human rights activity cannot be separated from the general struggle of the people against oppression".<sup>72</sup>

Providing a more detailed study on human rights works within African NGOs Martin, Gitta, and Ige in "Promoting Human Rights Education in a Marginalized Africa", provide insight into the strategies and challenges that were faced African human rights educators in the mid to late 1990s. This work is one of the few articles that examined the beliefs of a Pan-African body of human rights organizers and educators. The findings of Martin, Gitta, and Ige were based on interviews the researchers conducted with "more than sixty African human rights leaders and educators from East, Southern, and West Africa" following the 1993 UN Human Rights Conference in Vienna.<sup>73</sup> The authors also note how the democratic reforms that swept through Africa in the 1990s opened the door for unprecedented civil society growth lead in part by NGOs in general and human rights NGOs in particular. They note, like Shivji that the work of these ever growing human rights organizations is largely reliant on external financial support, primarily from foreign governments. For many African human rights NGOs, "The United States, Canada, and most Western European governments have provided aid in the form of cash and equipment, consultants, and overseas travel, as well as study programs".<sup>74</sup> Although this has garnered the leaders of these NGOs great acclaim in the donor countries and other

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<sup>72</sup> Ibid., 89.

<sup>73</sup> Martin, J. Paul, Cosmas Gitta, and Tokunbo Ige. "Promoting Human Rights Education in a Marginalized Africa." In *Human Rights Education for the Twenty-First Century*, by George J. Andreopoulos and Richard Pierre Claude, 436-454. Philadelphia: University of Pennsylvania Press, 1997.

<sup>74</sup> Ibid., 439.

places abroad, the authors state, “These successes, however, are often more visible from abroad than they are in daily life for ordinary citizens in both rural and urban Africa”.<sup>75</sup>

Although the external funding issue has proven to be a slightly negative facet within African human rights NGOs, the findings of the authors from the interviews they conducted on the other hand reveals a general acceptance of the African view of human rights and duties as expressed in the Banjul Charter and by those scholars of the “cultural relativist” persuasion. The authors state that the “informants frequently emphasized that African human rights ideology is more solidaristic than the European version”.<sup>76</sup>

Secondly, the Africans stressed “the view that that poverty and economic marginalization are as great a threat to human dignity as violations of civil rights, and therefore must be at the core of the human rights agenda”.<sup>77</sup> All in all, the African educators and human rights leaders interviewed saw “the general need to correct the negative impact of colonialism and its continuation through economic inequities and ineffective political structures” and as a result sought a holistic approach to human rights activism that included addressing the structural problems of African states and also “one that would require building new political cultures that incorporate traditional cultures but are adapted to new state and economic structures”.<sup>78</sup> The interviewees were of the understanding “that the promotion of human rights depends on the expansion of popular consciousness, which depends in

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<sup>75</sup> Ibid., 439.

<sup>76</sup> Ibid., 442.

<sup>77</sup> Ibid., 442.

<sup>78</sup> Ibid., 443.

turn on educational programs that reach wider segments of the population than are presently accessible to the human rights NGO community”.<sup>79</sup>

## ***2.5 NGOs and the Promotion of the ACHPR***

Scholars discussing the ACHPR have consistently acknowledged the role played by NGOs in the promotion of the African Charter as well as the work of the African Commission. Ankumah affirms that, “The African Commission, more than any other human rights treaty body has developed a unique relationship with NGOs”.<sup>80</sup> She highlights the NGO workshops held before the Ordinary Sessions of the Commission as “important steps towards the protection of human rights for the people of Africa” in that they “have yielded fruitful results including the appointment of female Commissioners and the adoption of various resolutions”.<sup>81</sup> Over the years, these workshops have been organized and financed by the ICJ and the Gambian NGO, the African Centre for Democracy and Human Rights.

For Mbelle, the primary purpose of NGOs when engaging regional institutions like the African Commission is to “draw the attention of these institutions to human rights violation in their countries, or across several countries, in order to seek redress”.<sup>82</sup> She lists six areas of engagement between NGOs and the Commission. The first form of engagement, gaining observer status from the Commission, in a way helps facilitate the

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<sup>79</sup> Ibid., 443.

<sup>80</sup> Ankumah 186.

<sup>81</sup> Ibid., 187.

<sup>82</sup> Mbelle, Nobuntu “The Role of Non-governmental Organisations and National Human Rights Institutions at the African Commission”. In *The African Charter on Human and Peoples’ Rights The System in Practice, 1986-2006*, edited by Malcolm Evans and Rachel Murray, 289-315. Cambridge: Cambridge University Press, 2008.

other six. NGOs with observer status with the Commission enter a mutually beneficial relationship of work. The Commission receives valuable information on the human rights situation inside African countries. This is done through the submission of activity reports every two years by NGOs. For its part, the Commission provides NGOs with access to its public documents and also a place to participate in joint sessions. Being formally recognized by the African Commission, also allows NGOs to “participate in the public sessions of the African Commission, and in its special mechanisms...more importantly, NGOs may propose an agenda item for the sessions; they can also take the floor and make interventions during the public sessions”.<sup>83</sup> This is the second form of engagement for NGOs with the Commission. At these public sessions, human rights NGOs are also “appraised of the activities of the African Commission during the intersession period”.<sup>84</sup>

The third avenue of NGO engagement with the Commission is through working with the special mechanisms. The Commission’s five special mechanisms are each headed by a rapporteur. To date, there are rapporteurs on the Rights of Women; Prisons and Conditions of Detention; Refugees, Internally Displaced Persons and Migrants; Human Rights Defenders; and Freedom of Expression in Africa. Mbelle acknowledges, that, “NGOs initiated the establishment of these mechanisms and provide support to them in the execution of their mandates”.<sup>85</sup> A large portion of the work of these special mechanisms, involves promotional missions to African states to garner a first-hand look

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<sup>83</sup> Ibid., 292.

<sup>84</sup> Mbelle, Nobuntu. “Civil Society and the Promotion of Human Rights in Africa”. *Africa’s Human Rights Architecture*. John Akokpari and Daniel Shea Zimble, Sunnyside; Centre for Conflict Resolution, 2008.

<sup>85</sup> Ibid., 166.

at the human rights situation within their area of specialty. NGOs within African states are the point people that help coordinate these visits along with the host government.

The setting of standards, filing of state reports and litigation are the other forms of engagement between the Commission and NGOs according to Mbelle. The Commission's standards setting emerges out of the various human rights principles it creates through its promotion and jurisprudence. NGOs have assisted in the creation of these principles by collaborating with the Commission on the drafting of position papers, the holding of seminars, and the establishing of working groups.<sup>86</sup> The submitting of state reports or "shadow reports" by NGOs allows the Commission to view a more holistic view of the human rights situation in a specific state given that if it relied solely on the reports provided by the states themselves, a skewed analysis may result. Finally, the African Charter provides NGOs with the right to bring communications before the Commission. Since its beginning, NGOs have been the single most active actor in filing complaints before the Commission. With the exception of one case, these human rights groups have been responsible for initiating all of the jurisprudence to emerge on the African Charter including cases dealing with not only political and civil rights violations but also those seeking redress for social, economic, and cultural rights violations.<sup>87</sup>

Although scholars believe that the relationship between NGOs and the Commission has for the most part been positive, they do highlight some negative aspects as well. Ankumah points out a number of instances where the Commission has adopted resolutions from the NGO workshop that were based on faulty information concerning

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<sup>86</sup> Ibid., 167.

<sup>87</sup> Ibid., 169.

the human rights situation in certain states.<sup>88</sup> She also discusses various instances where NGOs have publicly criticized the Commission without being constructive or substantive.<sup>89</sup> For Mbondenyi, "... the Commission has also somehow failed in its relationship with NGOs, though admittedly, they have greatly influenced its activities... the Commission has seemingly developed the tendency of abandoning some of its responsibilities to these organisations".<sup>90</sup> He cites particularly collaborations with the special mechanisms to prove this point. He states, "...it is not exclusively the inadequacy of the African Charter that hampers the African Commission's effectiveness, but also the lack of resources and most critically, the lack of will and requisite expertise on the part of some Commissioners".<sup>91</sup>

## ***2.6 Human Rights Promotion In The Gambia***

As a signatory to the African Charter on Human and Peoples' Rights, the government of the Gambia has agreed in accordance with Article 25 to propagate the Charter within the country. Article 25 of the ACHPR states,

"States parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood"<sup>92</sup>.

Scholarly literature concerning the methods and effectiveness of human rights promotion in the Gambia is extremely sparse. In 2011, the Centre for Human Rights at the

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<sup>88</sup> Ankumah 188.

<sup>89</sup> Ibid., 190.

<sup>90</sup> Mbondenyi 384.

<sup>91</sup> Ibid., 385.

<sup>92</sup> African Charter, Art. 25.

University of Pretoria in conjunction with Oxfam compiled a report titled *Implementation of the African Charter on Human and Peoples' Rights and the Protocol thereto on the Rights of Women in Africa in selected African States*.<sup>93</sup> The report considered the countries: Benin, Burkina Faso, Cameroon, Chad, Congo, Cote d'Ivoire, Eritrea, Gambia, Kenya, Lesotho, Mauritius, Mozambique, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa and Zimbabwe.

African Commission legal officer Tem FuhMbuh wrote the report on the Gambia. FuhMbuh discusses how the Gambia has not yet domesticated the Charter on Human and Peoples' Rights. However, the country has domesticated the more recent Protocol on Women's Rights due largely to the efforts of local women's rights NGOs. While making a comparison between the Gambian constitution and the Charter is FuhMbuh states:

The provisions of Chapter IV of the Gambian Constitution on the protection of fundamental rights and freedoms correspond largely to the provisions of the Charter and the Protocol. The constitution protects the right to life, the right to personal liberty, freedom from slavery and forced labour, torture and inhuman treatment, the right to privacy, property, fair trial, freedom of speech, conscience, assembly, association and movement, the right to political participation, right to marry, right to education, culture, freedom from discrimination, and lumps together rights for women, children and the disabled.<sup>201</sup> However, the constitution does not protect the right to health, the right to work, food, shelter and environmental and developmental rights.<sup>94</sup>

The report states that the Charter is well known among local NGOs (with African Centre for Democracy and Human Rights Studies and the Institute for Human Rights and Development in Africa) and particularly the women's groups who pushed for the

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<sup>93</sup> FuhMbuh, Tem. "The Gambia". In *Implementation of the African Charter on Human and Peoples' Rights and the Protocol thereto on the Rights of Women in Africa in selected African States*. Edited by Centre for Human Rights, University of Pretoria, 2011.

<sup>94</sup> *Ibid.*, 82.

domestication of the Protocol on Women's Rights. The African Commission on Human and Peoples' Rights however:

...had very little effect in practice. Ordinary people in the Gambia do not even know about the existence of the Commission and what it does. The Commission is complicit in this ignorance about its existence and activities since it does virtually nothing to market itself locally and has no local initiatives to promote the Charter. The Commission is very detached from the Community in which it operates, does not liaise with local organizations and institutions such as local NGOs, the Bar and Bench, Parliament, the Government, the University and the local media in order to make itself and the Charter known, nor does it frequently react on its own initiative to human rights violations that take place within the country.<sup>95</sup>

The author does not adequately explain how he comes to this conclusion and the report overall is relatively superficial in terms of the human rights work being done in the Gambia. FuhMbuh interviews a small amount of people and all of them are legal officers of law professors. Also, the interview questions and the questionnaire guidelines created by the Centre for Human Rights and used by FuhMbuh were not interested in collecting data concerning the actual characteristics of Charter based human rights work in the countries it reviewed.

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<sup>95</sup> Ibid., 86.

### **CHAPTER 3.**

#### **METHODOLOGY AND METHODS**

This study seeks to add to the scholarship on the African human and Peoples' rights system by engaging with two interrelated issues. The first is a proper understanding of the organized movement of Pan-African human rights concepts and ideals from the level of the African masses to the African Union and back to that of the African masses using a critical case study. Secondly, this work seeks to understand how African stakeholders are using continental policies grounded in African culture to further develop Africa and her Peoples on their own terms. As a document whose framers consciously utilized African culture and values in its design, the African Charter on Human and Peoples' Rights is an appropriate instrument to examine how Africa's own cultural framework is being used by various stakeholders to empower African peoples.

Two ideological pillars anchor the theoretical framework of this study, cross-cultural perspective and Afrocentricity. Sudanese scholars Francis Deng and Abdullahi Ahmed An-Na'im advanced the cross-cultural approach in the early 1990s. The approach stands on the premise that there are indeed universal human rights standards to which every polity must meet for its citizens. These standards are codified in such instruments as the U.N. Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention for the Elimination of Discrimination Against Women. The approach argues that the rights within such instruments must be identified in various cultures and promoted so that governments and elites cannot hide behind cultural relativism as they fail to protect the human rights of the masses of their

states. While not dismissing the position of cultural relativists, the cross-cultural perspective seeks to work within the relative-universal dialectic. Deng and Na'im state that the cross-cultural approach begins, "the process of using the creative tension between the demands of cultural relativism, on the one hand, and those of universalism, on the other, in favor of greater recognition and implementation of human rights".<sup>96</sup>

The cross-cultural perspective consists of two elements, internal cultural discourse and cross-cultural dialogue. Deng and An-Na'im believe, "every society or culture recognizes certain values, mores, norms, and operational principles by which it seeks to approximate the ideals of human dignity as contextually defined or understood" and that "the promotion of international standards of human rights not only should be done with due respect to meritorious cultural values and traditions of the wide variety of world communities, but would indeed be reinforced and strengthened by these diverse standards".<sup>97</sup> With academics and activists being centered in the cultures they are either studying or advocating for, they are better capable of making the international, regional, and national human rights standards seem credible or legitimate to the masses by connecting those codified standards to values already upheld within the mass society.

Na'im writes in 1992:

There may therefore be room for changing a cultural position from within, through internal discourse about the fundamental values of the culture and the rationale for these values. In view of the fact that such discourse is always taking place in relation to moral, political, and social issues, it should not be difficult to focus attention on the human rights implications of those issues. This public awareness can be achieved through intellectual

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<sup>96</sup> Abdullahi Ahmed An-Na'im and Francis Deng. *Human Rights in Africa*. The Brookings Institute; Washington D.C., 1990.

<sup>97</sup> *Ibid.*, xiii.

and scholarly debate, artistic and literary expression of alternative views on those issues, and political and social action furthering those views.<sup>98</sup>

The second element of the cross-cultural perspective calls for deliberate dialogue between cultures “to overcome cultural antagonism to human rights norms that are problematic in a given context”.<sup>99</sup> Cross-cultural scholars push for an honest discourse that acknowledges that all human rights standards come from some cultural and political place. And also that a true multicultural expression of human rights will require a bit of give and take. This aspect of cross-cultural dialogue has been articulated strongly by Kenyan human rights scholar and activist Makau wa Mutua. Mutua has consistently written of the need for scholars and activists within the global human rights movement to *critically* confront and transcend the status quo presentation of human rights discourse and its mission to universalize a corpus centered in Western liberalism. In “Ideology of Human Rights”, Mutua argues that most human rights discourse is in actuality a “universalized version” of Western liberal democracy and that “the specific philosophy on which the current ‘universal’ and official human rights corpus is based is essentially European”.<sup>100</sup> He cautions the actors and thinkers of the human rights movement to not view the concepts and instruments of the corpus as closed to change or to believe that the “official” corpus is the “final answer” on what is in reality a young idea.

In contributing to honest cross-cultural dialogue, Mutua’s critical evaluation of the human rights movement and its instruments further categorizes four schools of human

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<sup>98</sup> An-Na’im, Abdullahi Ahmed. *Human Rights in Cross-Cultural Perspective*. Philadelphia: University of Pennsylvania Press, 1992.

<sup>99</sup> *Ibid.*, 5.

<sup>100</sup> Mutua, Makau wa. "Ideology of Human Rights." *Virginia Journal of International Law* 36 (1996): 589-657.

rights thought that dominate the discourse: conventional doctrinalists, constitutionalists or conceptualizers, political strategists or instrumentalists, and cultural agnostics or multiculturalists. The first two schools Mutua states are “closest in ideological orientation”<sup>101</sup> in that the both believe in the power of human rights law and the universality and most importantly the finality of the Western, liberal human rights corpus. These schools feed off each other in that the conventional doctrinalists operate as activists largely through international NGOs armed with the theory provided by the conceptualizers. Mutua states:

Both schools enjoy a spirited supporting cast in the non-Western world. In the last several decades, the number of national human rights NGOs and human rights academics has mushroomed in the South. In virtually all cases, they reproduce intellectual patterns and strategies of advocacy similar to those in the West. Although there are some significant differences on the emphasis placed on certain rights, there has been little originality as the corpus has conquered new territory outside the West.<sup>102</sup>

The third school of Mutua’s is the political strategists who utilize human rights as a policy tool for the nations they represent. Actors within this school are governments or representatives of governments particularly powerful Western ones that deploy “human rights and democracy interchangeably for the advancement of a variety of interests: strategic, tactical, geopolitical, security, ‘vital’, economic, and political”.<sup>103</sup> The issue with this school is the inconsistency and lack of commitment to human rights ideals that result as states pursue benefits over principles.

Contrary to and most critical of the first two schools and without the inconsistency of the third are the cultural agnostics within which Mutua himself as well

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<sup>101</sup> Ibid., 595.

<sup>102</sup> Ibid., 597.

<sup>103</sup> Ibid., 652.

as well as An-Na'im and Deng would fall. Scholars in this school reject the universalization of Western liberalism as the sole articulation of human rights and insist on a "multicultural conception of human rights":

The dilemma of the agnostic, therefore, is not that he sees an "evil" in the Eurocentric formulation of the human rights corpus; although he sees much good in it, he does not agree with its zealous Western construction and its close identification with liberal democracy.<sup>104</sup>

The cultural agnostics for Mutua are "outsider-insiders" composed of Africans, Asians, Latin Americans, and cultural minorities in the West such as African-Americans who "though educated in the West or in Western-oriented educational systems, have philosophical, moral, and cultural questions about the distinctly Eurocentric formulation of human rights discourse".<sup>105</sup> Cultural agnostics "explore the historical and cultural imperatives that are essential for the creation of a legitimate corpus. African cultural agnostics look not solely to the history of the development of the Western corpus of human rights but primarily they seek to look at traditional African culture and historical movements that have resulted in the modern African Human and Peoples' Rights System and its component original concepts.

As a work being conducted by such an "outside-insider" and also as one emerging within the discipline of Africology, this work seeks to center itself within African culture and contribute to the study of African phenomena from this center. Thus, an Afrocentric perspective of analyzing human rights and duties as called for by Cobbah as well as Asante will provide the second pillar in the theoretical framework that will underpin this study. Afrocentricity as a metatheory or paradigm is defined as "a consciousness, quality

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<sup>104</sup> Ibid., 646.

<sup>105</sup> Ibid., 640.

of thought, mode of analysis, and actionable perspective where Africans seek, from agency, to assert subject place within the context of African history”.<sup>106</sup> Cobbah states that any analysis of human rights and duties must be grounded in the worldview (as articulated by Nobles) of Africans themselves. He states, “The worldview that predominates African societies provides an approach to human dignity that is not only different from the natural rights approach but may indeed serve to improve the quality of the human rights discussion at the international level”.<sup>107</sup> Describing the worldview Cobbah writes,

As a people, Africans emphasize groupness, sameness, and commonality. Rather than the survival of the fittest and control over nature, the African worldview is tempered with the general guiding principle of the survival of the entire community and a sense of cooperation, interdependence, and collective responsibility.<sup>108</sup>

This work seeks to operate from that worldview and through the Afrocentric metatheory as it attempts to formulate a theory on human rights promotion in Africa by observing the work of African human rights advocates in the Gambia.

As the Afrocentric metatheory has developed over the years, a number of scholars have added or expounded upon the definition given above. For this study, two aspects of the metatheory as asserted by two authors will be central to the analysis. First, the Afrocentric objective as explained by Modupe as one of his seven components of Afrocentricity is the backbone of the research. Modupe defines the Afrocentric objective

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<sup>106</sup> Asante, Molefi K. *An Afrocentric Manifesto*. Cambridge: Polity Press, 2007.

<sup>107</sup> Cobbah, Josiah A. M. “African Values and the Human Rights Debate: An African Perspective” *Human Rights Quarterly*. 1987, 309-331.

<sup>108</sup> *Ibid.*, 328.

as being African development or African existence on African terms.<sup>109</sup> Secondly, the concept of organizational agency as introduced by Poe. Agency is seminal to Afrocentric theory but Poe expands the concept to collectives and particularly to organizations. He states, “Individual agency is asserted as a conditional factor of personal powers, whereas organizational agency is asserted as a conditional factor of collective power”.<sup>110</sup> He further writes:

For Afrocentric inquiry, the values guiding and sustaining force of Afrocentric scholarship is the desire to most effectively and rapidly improve African agency to ensure arrival at a state of Maatic balance. Qualified agency is made possible by accurate examination as it:

1. increases the strategic and tactical options available for praxis and
2. evaluates the relative effectiveness of past Africa agency.<sup>111</sup>

Ultimately, it is the goal of this study to operate within the cross-cultural perspective by using the Afrocentric metatheory and its component objectives and concepts to:

1. Explore the development of the African Human and Peoples’ Rights System as a distinct product of conscious African culture and as a critical contribution to universal human rights standards.
2. Investigate the organizational agency of various human rights promoters in The Gambia in their attempts to meet the Afrocentric objective of African development on African terms.

### ***Procedures***

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<sup>109</sup> Modupe, Danjuma S. “The Afrocentric Philosophical Perspective: A Narrative Outline” in *The Afrocentric Paradigm*. Edited by Ama Mazama, 55-72. Trenton: Africa World Press, 2003.

<sup>110</sup> Poe, Zizwe. “The Construction of an Africalogical Method to Examine Nkrumahism’s Contribution to Pan-African Agency” *Journal of Black Studies*. 2001, 729-745.

<sup>111</sup> *Ibid.*, 738.

Although this work will be conducted with the upmost integrity and honesty, it will not and cannot be objective. In agreement with Asante, as an Afrologist, this researcher “does not accept the European concept of objectivity because it is invalid operationally”.<sup>112</sup> Also in agreement with Mutua this work “springs from my resistance to a doctrine [the “official” human rights discourse and corpus] that I view as part of the colonial project in which I am a subject not a citizen”.<sup>113</sup> As an African scholar dedicated to the liberation of African Peoples, this researcher is personally invested in the work being done by African human rights workers and organizations. In line with this, this study will immerse the researcher in the social and cultural environment of the informants in order to meet the wholistic requirements of the Afrocentric method. Ultimately, this study being in the Afrocentric tradition hopes to assist in “the humanizing if the world”.<sup>114</sup>

The primary unit of analysis for his study will be African human and Peoples’ rights organizations operating within The Gambia. The Gambia was chosen as the environment to be studied for two reasons. First the country is considered the unofficial home of the AHPRS as it has hosted the Commission since its inception and the African Charter is also known as the Banjul Charter. Secondly, during the period that the AHPRS was formally established, The Gambia experienced a political atmosphere indicative of much of independence Africa in which there was a military take over and subsequent return to some form of democracy. By studying the operations of human rights

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<sup>112</sup> Asante, Molefi K. *Kemet, Afrocentricity and Knowledge*. Trenton: Africa World Press, 1990.

<sup>113</sup> Mutua, Makau wa. “The Complexity of Universalism in Human Rights”. In *Human Rights with Modesty: The Problem of Universalism*, 51-64. The Netherlands, 2004.

<sup>114</sup> Asante 27.

organizations in this fluid political atmosphere, the researcher is able to observe if and/or how their promotional strategies and/or message change in accordance with political structures.

In order to ascertain the methods employed to promote human rights instruments in Africa in general and The Gambia in particular, the method for data analysis to be utilized will be an inductive content analysis. Content analysis is generally “used to find patterns in a text—a body of information--whether that textual body is written, spoken, or visual”.<sup>115</sup> Content analysis can be either inductive or deductive. Deductive content analysis attempts to test an established theory whereas inductive content analysis seeks to produce new theory. This analysis will necessarily be inductive in that no theory on African human rights and duties promotion has been generated.

Data was collected from the promotional and educational materials and presentations prepared by three human and Peoples’ rights organizations that operate within The Gambia: the African Centre for Democracy and Human Rights Studies (ACDHRS), the Institute for Human Rights and Development in Africa (IHRDA), and the Gambian Committee for the Elimination of Harmful Traditional Practices (GAMCOTRAP). These three organizations were chosen for analysis for the following reasons. First, each group has explicitly maintained that part of their mandate is to promote the AHPRS within the Gambia. Secondly, these organizations have been identified in other studies as being the most active and well known in the Gambia. Finally, the level of activity engaged in by the three organizations has over the years

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<sup>115</sup> Peterson-Lewis, Sonja. “Table for Overview of Research Methods”. Unpublished.

resulted in a rich amount of written and visual material that would make a robust content analysis possible.

What are revealed in the findings are the results of three content analyses (one of each organization) that seek to discover both if and how these three Gambian human and Peoples' rights organizations promote the *African Conception on Human Rights*. This *African Conception of Human Rights* is present in a promotional activity (a presentation, report, or publication) the when the promoter:

- A)** Explicitly mentions the work of the institutions of the AHPRS (The African Commission on Human and Peoples Rights, The African Court on Human and Peoples Rights and the African Committee of Experts on the Rights and Welfare of the Child)
- B)** Explicitly mentions the legal instruments of the AHPRS (The Charter and its subsequent Protocols)
- C)** Explicitly mentions or alludes to the three uniquely African contributions to human rights discourse:
  1. The concept of Peoples Rights
  2. The concepts of Individual Duties to Society
  3. The indivisibility of all rights

## **CHAPTER 4.**

### **HISTORY OF THE AFRICAN HUMAN AND PEOPLES' RIGHTS SYSTEM**

In order to truly comprehend the African system of human and Peoples' rights in a cross-cultural and Afrocentric manner, it is imperative to chart the evolutionary and revolutionary paths taken by African Peoples in their journey to uphold human dignity in accordance with the moral idea of Maat. Evolutionarily, the African concept of human and Peoples' rights develops as cultural production begins in the ancient civilizations of the Nile Valley and eventual spreads to all corners of the continent. As Africans forge societies and interact with each other as well as nature, methods of protecting human dignity continued to evolve with time. Once confronted with the external challenges of the current period, African People consciously embark on the revolutionary task of articulating a unified vision of human and Peoples' rights and subsequently creating the instruments and institutions necessary for the fulfillment of that vision.

#### ***4.1 Ancient Considerations***

Ultimately, human and Peoples' rights as expressed in the philosophical works and legal instruments of any of the world's societies are cultural products. As was discussed earlier, the official African conceptualization of human and Peoples' rights, the African Charter, has been consciously articulated to reflect African cultural values. These cultural values are themselves part and parcel of what some refer to as the African Worldview. The African Worldview has been described as being a "product of Africa's

history, culture, and philosophy”.<sup>116</sup> For Azibo, it is primarily the cultural aspect of the worldview that makes it distinct. Azibo uses Nobles’ theory of the process of cultural structure to illuminate the differences between European and African cultures and thus the worldviews that emerged from these cultures. Nobles presents culture as a scientific construct containing three structural levels: the primary, secondary, and the surface.<sup>117</sup> The primary and the secondary or intermediate levels constitute the deep structure of culture. This deep structure of culture consists of a people’s cultural factors or cosmological, ontological, and axiological beliefs along with the corresponding cultural aspects of worldview, ideology, and ethos.<sup>118</sup> The surface level of culture deals with what James describes as the “outward physical manifestations of culture and its artifacts (i.e., specific languages, specific knowledge of tribal origins, customs, rituals, African socioeconomic organization and so on)”.<sup>119</sup>

To illustrate the unique perspective of the African worldview, Azibo catalogues the primary philosophical differences between the African cultural structure and that of the European. Cosmologically, African culture views the universe as being an “interconnected and interdependent edifice” with “origination by the Divine”. The European on the other hand believes that the universe is characterized by “independence and separation of entities” and that humans exist apart from nature. Ontologically, “Spirit or force endow all things” for the African whereas the European worldview stresses materiality as the only thing worthy of exploration. Finally, the African

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<sup>116</sup> Azibo, D. A. “Articulating the Distinction Between Black Studies and the Study of Blacks: The Fundamental Role of Culture and the African-Centered Worldview”. *The African American Studies Reader* edited by Nathaniel Norment (2005): 420-441.

<sup>117</sup> Ibid., 423.

<sup>118</sup> Ibid., 424.

<sup>119</sup> Ibid., 422.

worldview sees universal relations axiologically as the “rhythmic and harmonious interchange of syntheses and contradictions”. The European worldview conversely states that the defining character of the universe is the “conflict of opposing forces with the end result being the conquering of one force of the other.”<sup>120</sup>

With an understanding of these basic philosophical assumptions, a more detailed exploration into how Africans have viewed human nature itself is needed to comprehend the development of the African conceptualization of human and Peoples’ rights. Any exploration of human nature informed by the African worldview must begin with a centered analysis of the philosophical thought of classical African civilization and culture, which emanated from the Nile Valley. This is because ideas concerning human nature and the relationship between individual man/woman and the People were first expressed in the thought (sebayet) of the classical African civilization of KMT. The idea that human beings by virtue of simply being human are endowed with a certain dignity that cannot be violated is as old as African civilization itself. The earliest known expressions of the concepts that would inform modern human rights discourse are found in the philosophical and moral writings of ancient KMT.

In Kemetic philosophy, man’s nature was a constant struggle between two dialectically appositional forces. Hilliard explains this dialectical nature of Kemetic belief as the “‘law of opposites’ (the relationship between pairs of elements)” which “sets up the conditions under which creativity occurs”.<sup>121</sup> These forces were represented by the deities of Ausar/Heru and Set and their eternal struggle for dominance. According to

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<sup>120</sup> Ibid.

<sup>121</sup> Hilliard, Asa G. *SBA: The Reawakening of the African Mind*. Gainesville: Makare, 1999.

Kemetic religion, there are nine supreme deities called the Ennead. Four of these deities are “essentially involved in the relationships of the gods to human beings” and “represented the major forces in society”.<sup>122</sup> These four deities were Ausar, his wife Auset, Set, and his wife Nebhet. Ausar as well as his “son” Heru represent the force of order and righteousness as embodied by both the dead and resurrected per-aa (king/pharaoh). Set also called The Great Opponent, was the eternal opposing force of Ausar/Heru. Conceptually, he epitomized chaos and disorder.<sup>123</sup> Because these two deities were the closest in relation with man, it can be postulated that they represented two aspects of human nature. Thus, in classical African thought, human nature was seen to be an eternal struggle between the forces of Ausar/Heru and that of Set or more basically, righteousness/order versus wickedness/chaos.

Furthermore, the two natures of man were also expressed in Kemetic sebayet as the struggle between Maat and Isfet. Maat is associated with the Ausar/Heru nature of man. Asante writes, “Maat was the incarnation of truth and justice, but more than that because it was the cosmic principle of harmony”.<sup>124</sup> Maat is often classified as being the totality of Seven Cardinal Principles: truth, justice, harmony, balance, reciprocity, righteousness, and order. Karenga writes, “But essentially Maat means rightness in the spiritual and moral sense in three realms: the Divine, the natural and the social. In another

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<sup>122</sup> Asante, Molefi K. *Kemet, Afrocentricity and Knowledge*. Trenton: Africa World Press, 1990.

<sup>123</sup> See Asante 55 and Oden "The Contendings of Horus and Seth" (Chester Beatty Papyrus No. 1): A Structural Interpretation". *History of Religions* 18 (1979): 352-369.

<sup>124</sup> Asante 55; Oden 359.

sense, it is an interrelated order of rightness which requires and is the result of right relations with and behavior toward the Divine, nature and other humans”.<sup>125</sup>

Appositionally, Isfet is associated with the Set aspect of human nature. However, Isfet is not to be confused as being equivalent to the Euro-Christian concept of original sin and the view held by proponents of realism that human nature is at its core evil and power-hungry. The traditional African worldview holds that human nature is a balance of both Maat and Isfet and that evil only exist or “resides in the ability of a person to ‘mess around with’ the natural order, to tamper with the state of harmony”.<sup>126</sup> Asante further asserts that, “...evil is always associated with human beings; it does not, and cannot exist apart from some human touch. Once evil is found to be present and human beings appear to be in a state of confusion because of it, then there has to be a ritual to make it right, to rebalance the natural order”.<sup>127</sup> Thus, in the traditional African worldview, evil or Isfet is not the basic principle of human nature as expressed by realism but only an appositional force to the Maatic nature of man. Asante writes, “They [the people of Kemet] were sure that humans possessed both good and evil”.<sup>128</sup>

With this understanding of the dual nature of man as expressed in the classical African worldview, it is necessary to display how this belief translated to man as a collective. As was explained, the African worldview places no premium on the individual as he relates to himself but place the importance on man as a member of the society. The society becomes the unit of analysis in the traditional African worldview and in KMT; the society is analyzed based on its abidance or lack thereof to the principles of Maat.

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<sup>125</sup> Karenga, Malauna. *Introduction to Black Studies*. Los Angeles: Sankore Press, 2003.

<sup>126</sup> Asante 94.

<sup>127</sup> Ibid.

<sup>128</sup> Ibid., 169.

Goelet states, “The Egyptians did not have any word in their vocabulary which quite corresponds to our notion of the ‘state’, but they did hold the notion of order at the center of their worldview. This was the concept of Maat, a word often translated in modern accounts as "truth" or "justice," but better rendered as "order" or "guidance".<sup>129</sup> The KMT people were not devoted to a “state” but to the maintenance of order in the society. The people of KMT were charged with defending the society against the unrelenting efforts of the disruptive forces of Isfet. In society, Isfet could manifest itself in a wide range of ways: wrongdoing, lying, decay, rebellion, disease, invading foreigners, wars, and natural calamities, to name a few.<sup>130</sup> It was the responsibility of the individual to the community to uphold Maat and fight against Isfet and the responsibility of the society to the individual to ensure Maatic balance as well. The main actor responsible for this was the per-aa. In discussing the difference between European monarchs and their African counterparts, Asante states, “Different czars possessed different attitudes toward their duties and offices and had different directions in their reigns, but the Kemetic ruler was in fact the embodiment of something eternal, something superior to the hold of the office”.<sup>131</sup> Goelet writes,

“In many ways, the Egyptians extended the underlying vision of Maat's centrality to the principles of worldly governance-the state also needed to be balanced perfectly against the standard of Maat. Should the forces of primordial chaos prevail, the Egyptians' existence would tilt out of balance, and disorder and turmoil would prevail in the land”.<sup>132</sup>

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<sup>129</sup> Goelet, Ogden. “Memphis and Thebes: Disaster and Renewal in Ancient Egyptian Consciousness”. *The Classical World* 97 (2003): 19-29.

<sup>130</sup> Goelet 20.

<sup>131</sup> Asante 96.

<sup>132</sup> Goelet 19.

The populous as well as the per-aa of KMT understood that the maintenance of Maatic balance was a communal project eternal in struggle and scope.

Maat, and the discourse around it, demonstrates KMT's "role in the earliest normative foundations for human rights".<sup>133</sup> Karenga articulates, "Maatian discourse offers not only an ancient foundation" but "also an important contribution to a comparative cultural discourse on human rights and relations".<sup>134</sup> Although there are no ancient Kemetic words for human rights as legally enforced claims, there did exist "situations of violations of rights which are resolved by the state which reflect concepts of both civil and human rights".<sup>135</sup> Most prominently, Maatian discourse promotes the two interrelated concepts of the sanctity of human life and equality. Within the Maatian philosophical and moral works of KMT such as the Narratives of Khunanpu and Djedi, Instructions to the Prime Minister, and the Four Good Deeds of Ra, familiar human rights ideals emerge to uphold these two concepts including: the right to life, the right to due process, the right to speech, the right to conscience, and the right to equal access to natural resources.<sup>136</sup>

"Ancient Kemet stands to Yoruba, Akan, Shona, and African Americans like the step pyramid of Zoser stands in relationship to all other pyramids, first and prototypical".<sup>137</sup> Thus, the concept of human dignity as articulated in the Maatian discourse of ancient KMT finds further expression in the legal, moral, and philosophical thought of subsequent African Peoples. These expressions are part and parcel of the

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<sup>133</sup> Karenga, Maulana. "Maatian Discourse and Human Rights: Ancient Egyptian Textual Sources". *Africalogical Perspectives* 5 (2008): 107-124.

<sup>134</sup> *Ibid.*, 110.

<sup>135</sup> *Ibid.*, 110.

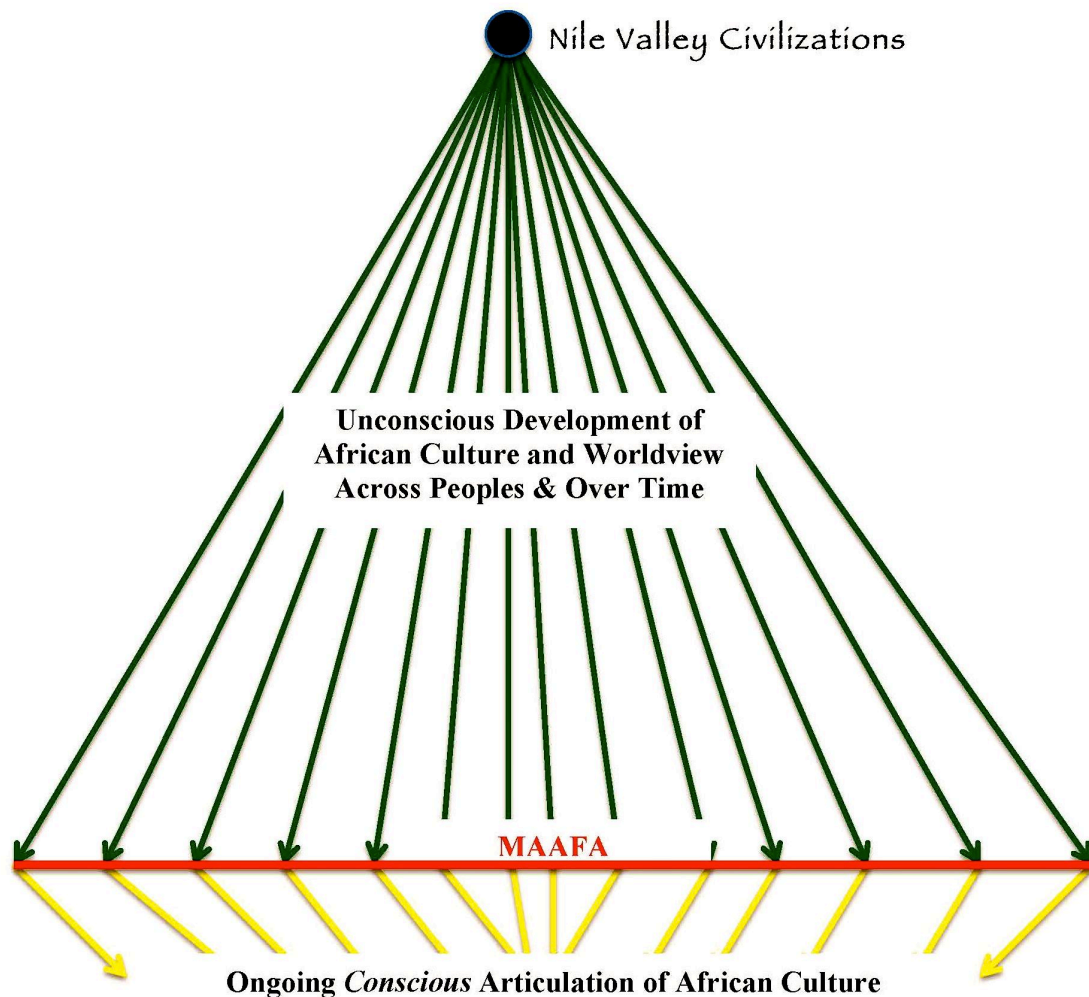
<sup>136</sup> *Ibid.*, 115.

<sup>137</sup> Asante 97.

unconscious development of African culture over time and space as displayed in Figure 1.

1. An example of one of the fullest African instruments concerning human dignity emerged from the Empire of Mali in the 13<sup>th</sup> century. This instrument was the Charter of Kurkan Fuga, which would codify the Mandinka beliefs concerning human rights among polities stretching spatially from the Niger River bend to the Atlantic Ocean and temporally from the 13<sup>th</sup> to the 19<sup>th</sup> century.

**Figure 1**



As a complete text, the Manden Charter of Kurukan Fuga was almost lost to history before a version was compiled and written during a workshop of Mande dielis held in Guinea in 1998. Prior to this meeting, the Charter had only been transmitted orally and stored in the minds of the dielis and in the actions of the various Manding speaking peoples of West Africa.<sup>138</sup> The text of the Charter contains forty-four articles or according to Niane, “decisions and recommendations” that “are made a fundamental law which provided the basis for the empire created by Sundiata, the Mali Empire”.<sup>139</sup> The significance of this Charter is that it establishes an African conception of human rights that predates both the Magna Carta of England and the Declaration of the Rights of Man of France. The worth of this document was further enshrined in 2009 when UNESCO decided that it was to be inscribed on the “Representative List of the Intangible Cultural Heritage of Humanity”. As part of its decision, the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage noted:

The Charter, one of the oldest constitutions in the world albeit mainly in oral form, contains a preamble of seven chapters advocating social peace in diversity, the inviolability of the human being, education, the integrity of the motherland, food security, the abolition of slavery by razzia (or raid), and freedom of expression and trade.... To keep the tradition alive, commemorative annual ceremonies of the historic assembly are organized in the village of Kangaba (adjacent to the vast clearing of Kurukan Fuga, which now lies in Mali, (close to the Guinean border). The ceremonies are backed by the local and national authorities of Mali and, in particular, the traditional authorities, who see it as a source of law and as promoting a message of love, peace and fraternity, which has survived through the ages. The Manden Charter continues to underlie the basis of the values and identity of the populations concerned.<sup>140</sup>

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<sup>138</sup> Seye, Sharif Elvalide. “L’Afrique a fait sa déclaration des droits de l’homme en 1236”. *Les Afriques*. 07-08-2008. <http://www.lesafriques.com/actualite/l-afrique-a-fait-sa-declaration-des-droits-de-l-homme-en.html?Itemid=89>

<sup>139</sup> Ibid.

<sup>140</sup> Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage 73.

The first section of the Charter outlines the “municipal organization”<sup>141</sup> of the Mande Empire. The first article of the Charter establishes for the nascent Mali Empire the militaristic and ideological aggressiveness that all strong empires must possess. It states, “The Great Mande society is divided into sixteen clans of quiver carriers, five clans of marabouts, four groups of nyamakalas and one group of slaves. Each one has a specific and role”.<sup>142</sup> The sixteen clans of quiver carriers were according to Kouyate, “the warriors who should defend the territorial integrity of the Empire were recruited from this group which is composed of the following clans: Traore, Conde, Camara, Kourouma, Kamissoko, Magassouba, Diawara, Sako, Fofana, Koita, Dansouba, Diaby, Diallo, Diakite, Sidibe, and Sangare”. It should be noted that this is the most numerous of the Mande groups and thus by surrendering the largest segment of society to the practice of war, Sundiata and his generals were sowing the seeds of large-scale conscription and the creation of a standing army. On the ideological battlefield, the five marabout clans made up of the Cisse, Berete, Diane, Sylla, and Noma, are responsible with “teaching the new religion”.<sup>143</sup> The second article of the Charter ensures that everyone “hold them in respect and consideration”. These powerful mediums of proselytization along with long-distance travelling Mandinka traders ventured throughout West Africa establishing trading posts and religious schools. The western wing of the empire was especially adept

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<sup>141</sup> Niang, Mangone. “The Kurukan Fuga Charter: An example of Endogenous Governance Mechanism fro Conflict Prevention” in *Inter-generational Forum on Endogenous Governance in West Africa*. Edited by Governance, Conflict Dynamics, Peace and Security Sahel and West Africa Club/OECD, 2006.

<sup>142</sup> The Charter of Kurukan Fuga.

<sup>143</sup> Kouyate, Simon. “The Charter of Kurukan Fuga”. *West Africa Review* (2009): 75-83.

at combining Islam with force to bring peoples into the imperial fold as Mandinka spread into the Senegambia and Futa Jalon regions during the 13<sup>th</sup> and 14<sup>th</sup> centuries.

With the structure of the Empire established, the Charter then lists the rights and duties expected of all Peoples' within the polity. According to Niang, "The Kurukan Fuga Act... was the celebration of a legal code, broadened and more detailed, which from that moment had the force of law for all community groups of Mande".<sup>144</sup> This legal code included the most fundamental of human rights. It honored the right to life in its fifth article, which reads, "Everybody has a right to life and to the preservation of its physical integrity. Accordingly, any attempt to deprive one's fellow being of life is punished with death".<sup>145</sup> Furthermore, the Charter of Kurukan Fuga calls for the involvement of women in societal management<sup>146</sup>, the protection of foreigners<sup>147</sup>, the education of all the children in society<sup>148</sup>, and the equality of everyone under the law.<sup>149</sup> Kurukanian polities would develop using this framework until the coming of European forms of government and laws during the era of colonialism in the late 19<sup>th</sup> century.

#### ***4.2 Pan-African Struggle for Human Rights During the Maafa***

The developmental trajectory of the general culture of African Peoples and the particular Mandinka culture, which gave rise to the Charter of Kurukan Fuga, were

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<sup>144</sup> Niang 72.

<sup>145</sup> The Charter of Kurukan Fuga Article 5.

<sup>146</sup> Ibid., Article 16.

<sup>147</sup> Ibid., Article 24.

<sup>148</sup> Ibid., Article 9.

<sup>149</sup> Ibid., Article 44.

thrown off course by the coming of the most recent, widespread, and ongoing Maafa.<sup>150</sup> This Maafa is the total cultural disruption of African Peoples as a result of the three interconnected systems of chattel slavery, colonialism, and neocolonialism. At the most basic level, this current Maafa has been fundamentally to the African masses, a continued denial of essentially every internationally and regionally recognized human and Peoples' rights standard and statute. However, as the dialectical adage goes, "where ever there is oppression, there is resistance". Thus, as African People organized and continue to organize themselves against the effects of the Maafa, the struggle for human dignity has been fought in the legal and political realms as one for the protection of human and Peoples' rights. Although most would agree with this assessment of the organized struggle of African People during the Maafa, there is an aspect of its nature that is not often concerned. That consideration being the non-governmental structure taken most often by the organizational agents engaged in the fight. Throughout the Maafa and particularly within the past two hundred years, African People have for the most part been systematically shut out from the instruments of government wherever they are found on the globe. This lack of substantial presence in matters of government was and is due to both explicit or de jure exclusion as in formal colonization as well as de facto exclusion through the malfunctioning governmental structures of the current neocolonial period.<sup>151</sup> As a result, the principle organized agents in the struggle for human rights in the African world have thus been compulsory non-governmental or cNGOs or organizations of

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<sup>150</sup> For this author, the first great Maafa occurred with the fall of the Nile Valley Civilizations, which primarily effected the North and Northeast corner of the continent.

<sup>151</sup> See Ayetti in *Indigenous African Institutions*. Although his neo-liberal, pro-capitalist positions are troublesome, his conclusion that modern political instruments adopted at the end of colonialism have not served the masses of African People is largely correct.

Peoples' *forcibly* excluded from participating in the governments of the polities they live in. These collective agents will be referred to as African Human and Peoples' Rights Organizations (AHPROs). AHPROs will be defined as compulsory non-governmental organizations operated by Africans for the purpose of advocating for the rights of African individuals and Peoples.

AHPROs as organized agents struggling against the effects of the Maafa on African people are born in what Sallah calls the first phase of Pan-Africanism.<sup>152</sup> This phase was characterized by the “manifestation of fraternal solidarity among people of African origin at home and abroad to combat slavery and racial discrimination”.<sup>153</sup> For the first time in history, People of African descent adopt the term “African” as a cultural and political identifier in a self-conscious manner. Initially, it is in the Diaspora that this phenomenon begins due to the fact that chattel slavery in the Americas created the atmosphere for the rapid blurring and coalescing of multiple ethnic identities among Africans.

The earliest cNGO utilizing this political and cultural moniker “African” was the Free African Society of Philadelphia founded in 1787. The Society was created to provide mutual aid for the growing free Black population of Philadelphia by reverends Absalom Jones and Richard Allen. Although not necessarily an organization struggling openly for human or Peoples' rights, the Free African Society's mutual aid program did promote and actualize many of the duties that would later be codified in the Banjul Charter. For instance, the Society's pronouncement of the unity of African People “without regard to

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<sup>152</sup> Sallah, Halifa. *Treatise on Founding A Federation of African Republics*. People's Centre for Social Science Research, Civic Awareness and Community Initiative; Serrekunda, 2007.

<sup>153</sup> Sallah 27.

religious tenets” anticipates Articles 2 and 29;B.<sup>154</sup> Also, in the requirement that all its members contribute to the well being of each other in general and “widows and fatherless children”<sup>155</sup> in particular, the Society antedates the Charter’s duty to “preserve the harmonious development of the family and to work for the cohesion and respect of the family”.

Other “African” organizations, schools, churches, and movements would arise during this first phase of Pan-Africanism in the Diaspora and would eventually influence and be influenced by the nascent African nationalism growing on the continent itself as a result of European imperialism. Lenin writes in *Imperialism* that in 1876 European powers controlled only 10.8% of the physical territory of Africa. Within fourteen years, that percentage would rise to 90.4%.<sup>156</sup> From this time until the independence era of the second half of the twentieth century, European colonialism violated all of the Peoples’ rights currently catalogued in the African Charter in every polity on the continent with the exception of Ethiopia.<sup>157</sup> This new form of struggle would usher in what Sallah refers to as the second wave of Pan-Africanism, which “constituted the manifestation of solidarity among people of African origin to combat colonialism and affirm the right to self determination and independence”.<sup>158</sup> AHPROs both on the continent and in the

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<sup>154</sup> Article 2: Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status. Article 29: The individual shall also have the duty: B. To contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African unity.

<sup>155</sup> Preamble of Free African Society

<sup>156</sup> Lenin, V. I. *Imperialism, the Highest Stage of Capitalism*.

<sup>157</sup> Liberia essentially was colonized by proxy by the United States through its Americo-Liberian settler colony.

<sup>158</sup> Sallah 27.

Diaspora would produce declarations, charters, and constitutions articulating the developing African perspective on human and Peoples' rights.

Perhaps the largest cache of declarations of African human and Peoples' rights ideals can be found in the writings of the Pan-African conference and congresses that began at the dawn of the 20<sup>th</sup> century. The first Pan-African Conference was organized during the height of colonialism in Africa. The Berlin Conference had taken place only five years earlier and the hyper-exploitation of African people and their resources were at the most brutal point in the colonial epoch. With the exception of Ethiopia, who under Emperor Menelik I defeated the invading Italians at the Battle of Adowa, the entire continent was under colonial control (Liberia is included in this group because unfortunately it was in essence a settler colony controlled by the United States). The conference was convened in London under the leadership of a Trinidadian lawyer named Henry Sylvester Williams. The country with the most representatives was the United States but much of the African world was also represented including delegates from the Antigua, Jamaica, Trinidad, St. Lucia, Cuba, and from the African countries of Ethiopia, Gold Coast, Liberia, Sierra Leone, and Ivory Coast. According to Benito Sylvain, a Haitian who attended and helped promote the event, the purpose of the conference was to,

...examine the situation facing the African race in every corner of the globe, to solemnly protest the unjust contempt and odious treatment which are still heaped upon the race everywhere, and finally to create a central organization which would in due course coordinate the common efforts and safeguard, by means of methodical and continuous action, the economic interests as well as the political and social rights of their exploited and oppressed brethren.<sup>159</sup>

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<sup>159</sup> Sylvain, Benito "The Pan-African Association" In *The Pan-African Connection* edited by Tony Martin, 201-216. Dover: The Majority Press, 1983.

The “economic interests as well as the political and social rights” that the delegates sought to fight for were articulated in their address to the “Christian nations”, i.e. West Europe and America. W.E.B. Du Bois served as the chairman of the committee who drafted the address and the appeal that was made reflected both his thinking on African rights at the time and foreshadowed the more forceful demands he and others would make decades later. The boldest appeal made by the delegates of the conference was to “Let the Congo Free State become a great central Negro State of the world, and let its prosperity be counted not simply in cash and commerce, but in the happiness and true advancement of its Black People”.<sup>160</sup> Another appeal asks the European nations to “Let not color or race be a feature of distinction between white and Black men, regardless of worth or ability”.<sup>161</sup> This appeal finds future expression in the Banjul Charter. Article 2 of the Charter states:

*Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.*<sup>162</sup>

Similar sentiment is also expressed in the appeal made specifically to the United States, which asks,

...may the conscience of a great nation rise and rebuke all dishonesty and unrighteous oppression toward the American Negro, and grant to him the right of franchise, security of person and property, and generous recognition of the great work he has accomplished in a generation toward raising nine millions of human beings from slavery to manhood.<sup>163</sup>

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<sup>160</sup> Ibid., 210.

<sup>161</sup> Ibid., 209.

<sup>162</sup> African Charter, Art. 2.

<sup>163</sup> Sylvain 209.

Clearly this speaks to Du Bois' struggle in the United States for full equality and equal access. This struggle would famously culminate in Du Bois' work with the Niagara Movement and subsequent founding of the civil rights NGO the National Association for the Advancement of Colored People in 1909.

Also out of the 1900 Conference came the IAHPRO, the Pan-African Association, an organization that was designed to give life to the work done at the Conference. Unfortunately, many of the initial leaders of this early Pan-African movement as well as the Association died during the first decade of the 20<sup>th</sup> century<sup>164</sup>. Du Bois would serve as a seminal connector between this phase and the revival of the Pan-African movement in the post World War years. It was in 1919 that Du Bois lead his first Pan-African Congress in Paris. The 1919 congress was called in what seemed to be a window of opportunity for Africans under the yoke of colonialism following the end of World War I. Many around the world believed that after the amount of violence that occurred during the battles between European nations the victorious powers would reorder the international system in order to create a more peaceful world. Du Bois was in this number as Contee writes, "In the course of the First World War, Du Bois believed that the changes and the idealism of the war offered an opportunity for blacks the world over to benefit from the ideals of democracy, anti-imperialism and anti-colonialism, especially as expressed in the Fourteen Points".<sup>165</sup> The "Fourteen Points" were those of President and white supremacist Woodrow Wilson which would come to form the basis of the newly formed League of Nations.

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<sup>164</sup> Contee, Clarence G.. "Du Bois, the NAACP, and the Pan-African Congress of 1919". *The Journal of Negro History*. 1972, pp. 13-28.

<sup>165</sup> Ibid.

Most of the demands issued by the Pan-Africans were addressed to this League of Nations. One of the clearest examples of Du Bois' conception of human rights for African people can be found in this resolution he largely was responsible for writing. Realistic that complete political independence was yet a far way off, Du Bois and the other framers of the resolution were demanding rights within the colonial context. These were a demand for the protection of certain rights by the European powers and not a demand for Africans to be the protectors of their own rights. Thus the concept of "the civilized Negro" is present throughout the resolution developed at the Congress. However, even in this colonial context, the majority of the rights asked for in this resolution are similar in principle and essence to those in the Banjul Charter. For example the third demand states, "Slavery, forced labor and corporal punishment, except in punishment of crime, shall be abolished; and the general conditions of labor shall be prescribed and regulated by the State".<sup>166</sup> This can be directly compared to the right articulated in the Banjul Charter in Article 5 which reads:

*Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.*<sup>167</sup>

The same can be said for the fourth demand which reads,

It shall be the right of every Native child to learn to read and write his own language and the language of the trustee nation, at public expense, and to be given technical instruction in some branch of industry. The State shall

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<sup>166</sup> Du Bois, William Edward Burghardt. "The Pan-African Congress." in *Crisis*, New York: Crisis Publishing Co., 1919.

<sup>167</sup> African Charter, Art. 5.

also educate as large a number of Natives as possible in higher technical and cultural training and maintain a corps of Native teachers.<sup>168</sup>

The Banjul Charter also guarantees that the state provide education to its citizens when it lists education as a right in Article 17, Section 1. The fifth demand to the League states that “The State shall be responsible for medical care and sanitary conditions without discouraging collective and individual initiative. A service created by the State shall provide physicians and hospitals, and shall enforce rules. The State shall establish a native medical staff”.<sup>169</sup> Article 16 of the Banjul Charter in comparison, calls for essentially the same thing. It guarantees the right to the best attainable health to the citizens of African states and that it is the state’s responsibility to “take the necessary measures to protect the health of their people”.<sup>170</sup>

The sixth demand was forceful even in its moderation as it called for African participation in government but not immediate independence. It reads,

The Natives of Africa must have the right to participate in the government as fast as their development permits in conformity with the principle that the government exists for the Natives and not the Natives for the government. The Natives shall have voice in the government to the extent that their development permits, beginning at once with local and tribal government according to ancient usage, and extending gradually as education and experience proceeds, to the higher offices of State, to the end that, in time, Africa be ruled by consent of the Africans.<sup>171</sup>

Aside from the gradual nature of the demand and the questionable “as their development permits” caveat, the demand is essentially codified in Article 13 of the Banjul Charter which reads, “Every citizen shall have the right to participate freely in the government of

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<sup>168</sup> Du Bois 273.

<sup>169</sup> Ibid.

<sup>170</sup> African Charter, Art. 16.

<sup>171</sup> Du Bois 272.

his country, either directly or through freely chosen representatives in accordance with the provisions of the law”.<sup>172</sup> Lastly, the rights to “liberty of conscience”, life and property are present in both the demands of the 1919 Congress as well as the Banjul Charter.

The “Manifesto to the League of Nations” that came out of the conference was written by Du Bois and held three core demands for the European powers. The first demand articulated by Du Bois and his comrades was that “the Allied and Associated Powers establish a Code of Laws for the international protection of the Natives of Africa similar to the proposed international Code for Labor”. The second demand was that “a man of Negro descent be appointed to the League’s mandates Commission at the first vacancy”. The third demand was for the League of Nations to use its “vast moral power” to affirm “the absolute equality of the races”.<sup>173</sup>

Just as the League of Nations unable and perhaps unwilling to keep peace among the European powers, it equally failed to meet any of the demands called for by the 1919 Pan-African Congress. Subsequently, Du Bois and other Pan-African activists continued to the struggle for African rights during the inter-war period. Thus three more Pan-African Congresses were convened in the 1920s (one in 1921, one in 1923 and another 1927). The resolutions that came out of these conferences were basically reiterations of the 1919 version. They did however become more forceful as the years progressed. There was less and less talk of the civilizing mission of colonialism and more of a demand for

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<sup>172</sup> African Charter, Art. 13.

<sup>173</sup> Levering Lewis, David. *W.E.B. Du Bois: The Fight for Equality and the American Century, 1919-1963*. New York: Henry Holt Publishing, 2000.

complete self-government with new rights also being added. For example, one of the demands of the 1923 resolution was the right to a trial by jury and even more radical a demand for “the right of blacks to bear arms in their own defense”.<sup>174</sup> Although the former was codified in Article 7, the latter right did not make it into the Banjul Charter as an individual right but is expressed in principle in Article 20, Section 2 which states, “Colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community”.<sup>175</sup> Unfortunately the colonial powers as well as America continued to ignore the Pan-African movement and during the Depression years things only went from bad to worse for Africans across the globe.

In the period between the World Wars, the new political boundaries created through the colonial carve up as well as the intensified “pacification” efforts of the imperialists inadvertently led to the formation of large multinational AHPROs. One of the most active was the National Congress of British West Africa (NCBWA) founded in 1920. The organizers of the NCBWA were from the educated elite and traditional ruling classes from the colonies of the Gold Coast, Nigeria, Sierra Leone, and the Gambia. A number of organizations and movements can be cited as the impetus for its formation. First, the NCBWA was preceded by two London based initiatives. They were the African Progress Union, which headquartered in London, held the objective of the upholding of

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<sup>174</sup> Du Bois, William Edward Burghardt . *The World and Africa*. New York: Viking Press, 1947.

<sup>175</sup>African Charter, Art. 20 Sec. 2.

“the principle of equal treatment for all within the British Empire”<sup>176</sup> as well as the African student organizations also located in London at the time. In addition to these Diaspora based organizations, the Gold Coast Aboriginal Rights Protection Society founded in 1898 also provided initial leadership and inspiration to the NCBWA through its agitation both in the colony of the Gold Coast as well as its connections to the Pan-African Congresses.<sup>177</sup>

In March 1920, the NCBWA outlined a list of reforms it wished to see implemented by the colonial regime with special emphasis placed on equal rights and some level self-determination. The NCBWA also requested universal and compulsory education, unified economic development for all of the colonies within the organization, and more control over the natural resources and land of the colonies.<sup>178</sup> The language of the resolution was in many ways similar to those of the Pan-African Congresses of the 1920s. Instead of advocating for complete independence and full sovereignty, the NCBWA sought only the right to be treated in the same manner as Englishmen under the authority of the imperial crown. Thus, the document ends stating:

It is hereby resolved by this Congress that its policy is to maintain strictly and inviolate the connection of the British West African Dependencies with the British Empire, and to maintain unreservedly all and every right of free citizenship of the Empire and the fundamental principle that taxation goes With effective representation.<sup>179</sup>

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<sup>176</sup> Eluwa, G.I.C. “Background to the Emergence of the National Congress of British West Africa”. *African Studies Review* (1971): 205-218.

<sup>177</sup> Asante, S. K. B.. “The Neglected Aspects of the Activities of the Gold Coast Aborigines Rights Protection Society”. *Phylon* (1975), pp. 32-45.

<sup>178</sup> “Resolutions of the National Congress of British West Africa”. In *Ideologies of Liberation*. edited by J. Ayo Langley. London: Rex Collins, 1979.

<sup>179</sup> *Ibid.*, 747.

In the same period, the largest AHPRO ever created was established. The Universal Negro Improvement Association and African Community League was founded by Marcus Mosiah Garvey and Amy Ashwood Garvey in Jamaica in 1914 and reached its zenith in the inter-war period. No other AHPRO would connect Africans around the globe in the form and scope of the UNIA-ACL. While the Pan-African Congresses and the various continental IAHPROs of the early twentieth century were made up primarily of the educated elite and merchant classes, the UNIA-ACL's millions of members were mostly of the urban and rural working classes of the African world. From its beginning, the organization was both influenced by and influenced developments on the continent. Its creation was facilitated by a conversation between Marcus Garvey and a man from South Africa on a ship. The South African recounted to Garvey the atrocities of colonial rule in his country. Upon hearing this Garvey, return to his cabin on the ship and decided to form the UNIA-ACL.<sup>180</sup>

The UNIA-ACL's position on the human and Peoples' rights of Africans was codified following the organization's first International Convention in 1920 in the Declaration of Rights of the Negro Peoples of the World. Following a preamble, which described the injustices faced by Africans around the globe, the Declaration outlines forty rights demanded by the Association. Just as the demands made by the organizers of the Second Pan-African Congress a year earlier anticipated the rights in the Banjul Charter, so to did the demands in the Declaration. The demands begin with an assertion of the

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<sup>180</sup> Martin, Tony. *The Pan-African Connection*. Dover: The Majority Press, 1983.

equality of all humanity and a declaration of the principle of non-discrimination.<sup>181</sup> It further goes on to demand immediate self-determination for all Peoples in a manner much more powerful than similar expressions of the Pan-African Congresses and the NCBWA. Other rights included in the Declaration and later included in the African Charter include: the right to education, freedom of conscience, the freedom of movement, freedom from torture, freedom of the press, as well as the Peoples' right to self-defense.

The UNIA-ACL and its Declaration of Rights spread all over the African world, and influenced other African nationalists as well as other AHPROs. This is particularly true in the connection between the UNIA-ACL and the African National Congress (ANC) of Azania. Founded in 1912, the ANC sought to protect and promote the human rights of the Peoples of Azania. Many of the early leaders of the ANC met with Garvey and other leaders of the UNIA-ACL and the two organizations shared and published information on each other's arena of struggle.<sup>182</sup> The same was true of the NCBWA and its leadership.

Eluwa writes,

“it is significant that Casely Hayford himself considered that the UNIA, with whose constitutional aspect he was in sympathy, had done more than any other agency to bring ‘to the notice of world opinion the disabilities of the African race. A Lagos branch of the Garveyite movement, established in the fall of 1920, included Patriarch J. G. Campbell, who was also a prominent member of the NCBWA’.”<sup>183</sup>

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<sup>181</sup> “The Declaration of Rights of the Negro Peoples of the World” in *Marcus Garvey and the Vision of Africa*. edited by John Henrik Clarke, 441-451. Baltimore: Black Classic Press, 2011.

<sup>182</sup> Martin 136.

<sup>183</sup> Eluwa 214.

Africans continued to become much more emboldened and radical in their call for complete independence and equality during and especially following World War II. There was a merging of the Pan-African Congress's educated elite leadership and the mass movement sentiment of the UNIA-ACL. The resulting connections brought about a greater desire and demand in the African world for true self-determination. Central to this more dynamic and forceful Pan-African movement was the Pan-African Congress of 1945. In *The World and Africa* Du Bois speaks on the significance of this Fifth Pan-African Congress as laying "in the fact that it took a step toward a broader movement and a real effort of the peoples of Africa and the descendants of Africa the world over to start a great march toward democracy for black folk".<sup>184</sup> Just as the 1919 Congress was attempting to put Africans on the agenda of the period following World War I, the 1945 Congress sought to use the ending of World War II to push for greater human rights and freedom for Africans. Du Bois realized that a stronger statement had to be made to the newly created United Nations as to avoid a repeat of the League of Nations failure. In "Africa at the Peace Table" Du Bois says,

I do not mean to be unduly pessimistic; but realism demands that we face the fact that after this war the United Nations will be almost irresistibly tempted to consider Africa from an industrial and commercial point of view as a means of helping pay war costs and reestablishing prosperity. If the treatment of Africa in postwar planning begins or ends here the results will be tragic. One can see in all these postwar plans -- although often, I know, the implication is not intentional or even suspected -- the persistence of the old pattern of thought: the white man's need of African labor and raw materials and the assumption that these must be cheap in order to yield maximum profits. Above all, and most tragically, appears the assumption that the only problem so far as Africa is concerned is that

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<sup>184</sup> DuBois *The World in Africa* 245.

the various dominating nations of the world must henceforth be treated equitably in sharing the material and the labor.<sup>185</sup>

Du Bois and the other organizers of the Congress know that the time had come for Africans to demand once and for all complete independence. Along with Du Bois who by this time was in his late seventies, were future African leaders Kwame Nkrumah, Jomo Kenyatta, and the great radical theoretician, George Padmore. The 1945 Pan African Congress held in Manchester, England was much more socialist oriented in its demands and the right to self-determination was stressed much more by the participants. The Congress' resolution contained demands for many of the rights previously demanded in the previous resolutions including the freedom of press, racial equality, state provided health care, education, as well as the right to participate in government.

The key right expressed in the Congress' resolution however, was that of self-determination. The right to self-determination is one of the oldest rights in the modern international human rights system. Simply put, it is the right of a People to decide their own political organization and direction. One of the first instruments to push for this right was the Atlantic Charter issued at the end of World War II. This right was again upheld by the United Nations' Declaration on Human Rights which also appeared following World War II. This right has been expressed by a wide array of successful and ongoing liberation movements around the globe including the Eritreans, the Pakistanis, the Bengalis, the Balkan states, and most recently the Southern Sudanese. All of these peoples have attempted to separate themselves from what they feel are oppressive states

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<sup>185</sup> Du Bois, William Edward Burghardt. "Africa at the Peace Table" In Negro Digest, 75-79 Chicago: Negro Digest, 1943.

that are stunting their political, cultural, and/or religious development. In discussing the right to self-determination, The Banjul Charter, Article 20 states,

*1. All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.*

*2. Colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community.*

*3. All peoples shall have the right to the assistance of the States parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.*<sup>186</sup>

Thirty-six years prior at the beginning of decisive anti-colonial struggle of the mid-20<sup>th</sup> century, the Manchester Congress demanded the same right for African people under colonization. In the resolution to the 1945 Congress declared to the colonial powers,

We are determined to be free. We want education. We want the right to earn a decent living; the right to express our thoughts and emotions, to adopt and create forms of beauty. We demand for Black Africa autonomy and independence, so far and no further than it is possible in this One World for groups and peoples to rule themselves subject to inevitable world unity and federation.

We are not ashamed to have been an age-long patient people. We continue willingly to sacrifice and strive. But we are unwilling to starve any longer while doing the world's drudgery, in order to support by our poverty and ignorance a false aristocracy and a discarded imperialism.<sup>187</sup>

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<sup>186</sup> African Charter, Article 20.

<sup>187</sup>“Resolutions of the Pan-African Congress, Manchester” In *Ideologies of Liberation in Black Africa 1856-1970*. edited by J. Ayo Langley. London: Rex Collins, 1979.

Absent from the resolution were any references to the ‘civilizing mission’ of colonialism and added in their place lay sharp critiques of European capitalist exploitation. The framers of the resolution added a denunciation of capitalism that was included in the “Declaration To The Colonial Powers”. Du Bois and the other Pan-Africanists wrote, “We condemn the monopoly of capital and the rule of private wealth and industry for private profit alone. We welcome economic democracy as the only real democracy”.<sup>188</sup> This reflects not only the delegates but Du Bois’ own movement to the far left that would ultimately lead to him joining the Communist Party in 1961.

In its final section, the 1945 Congress’ resolution issues a Declaration To The Colonial Peoples which outlines the necessary steps that the masses of Africa must take in order to achieve their freedom. The Declaration calls on the people of Africa to “fight for these ends by all means at their disposal” and in specific respect the African working masses to “organize effectively” for the “battle against imperialism”. The framers also place responsibility on the intellectuals and professional classes to add their unique skills to the liberation struggle. The placing of duties on African people was absent in the earlier resolutions, which placed much of the agency on the shoulders of the colonial powers. This new directive would be echoed again in the previously mentioned Articles 27 through 29 of the Banjul Charter that deal with duties on the individual including the most important duty to “contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African unity”.<sup>189</sup>

### ***4.3 An Organizational Consensus on African Culture***

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<sup>188</sup> Ibid.

<sup>189</sup> African Charter, Art. 29.

Following the 1945 Pan-African Congress, the leaders and organizers who drafted the resolution as well as those influenced by the eventful meeting began agitating for independence and state power. The AHPROs largely transformed into political parties concerned with controlling the instruments of power that would be vacated by the former colonizers. By the mid-1960s most of the countries in Africa had achieved independence. The time had come for the new African leadership to create a new political, social, and economic culture throughout the continent that would be conducive with the human rights principles espoused by AHPROs of the colonial period. Most trace the beginning of independent African countries discussing human and Peoples' rights to this time period with the African Conference on the Rule of Law that took place in 1961 in Lagos, Nigeria.<sup>190</sup> It was at this conference that the newly independent countries began discussing the possibility of creating an African convention on human rights as well as a court to oversee its protection.

Lagos would seem to be the most appropriate venue to hold such a conference when it is considered that one of if not the first African writer to tackle the idea of a human rights charter specific to Africa was Nigerian president Nnamdi Azikiwe. It was Azikiwe's protest memorandum entitled "The Atlantic Charter and British West Africa"

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<sup>190</sup> Jallow, Hassan B.. *The Law of the African (Banjul) Charter On Human And People's Rights*. Victoria: Trafford, 2007. Ankumah, Evelyn A.. *The African Commission on Human and Peoples' Rights Practice and Procedures*. The Hague: Kluwer Law International, 1996.; Lindholt, Lome. *Questioning the Universality of Human Rights The African Charter on Human and Peoples' Rights in Botswana, Malawi and Mozambique*. Brookfield: Ashgate, 1997.; Matthews, Kay. "The OAU and Political Economy of Human Rights in Africa: An Analysis of the African Charter on Human and Peoples' Rights", *Africa Today*, 1981: 85-103.

which called for as Kufuor states “a Charter applicable to Africa”.<sup>191</sup> Describing the seminal article in “Second World War Propaganda, Imperial Idealism and Anti-Colonial Nationalism in British West Africa”, Ibhawoh writes:

The Atlantic Charter was idle talk among Western powers that held no promise of self determination for Africans and other colonized people. In line with this thinking, the prominent Nigerian nationalist and editor of the *West African Pilot*, Nnamdi Azikiwe, urged Africans to prepare their own charters of rights and freedoms rather than rely on those who were too busy preparing their own.<sup>192</sup>

Chris Maina Peter in *Human Rights in Africa*, places the beginning of independent African countries discussing human and Peoples’ rights earlier than the Lagos conference. He cites the earliest such meeting as being the First Conference of Independent African States in Accra, Ghana in 1958.<sup>193</sup> This conference was called for by Kwame Nkrumah who at the dawn of Ghana’s independence deemed it meaningless unless it was connected to the complete independence of all of Africa. In attendance were the independent states of Africa who at the time included Ethiopia, Ghana, Guinea, Liberia, Libya, Morocco, Tunisia, and the United Arab Republic (Egypt). In the conference resolution the countries affirmed to adhere “to the principles enunciated at the Bandung Conference” and namely to the “Respect for the fundamental human rights and for the purposes and principles of the Charter of the United Nations”.<sup>194</sup> Peter also

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<sup>191</sup> Kufuor, Kofi O. *The African Human Rights System Origin and Evolution*, New York: Palgrave Macmillan, 2010.

<sup>192</sup> Ibhawoh, Bonny. "Second World War Propaganda, Imperial Idealism and Anti-Colonial Nationalism in British West Africa." *Nordic Journal of African Studies*, 2007: 221-243.

<sup>193</sup> Peter, Chris Maina. *Human Rights In Africa*. Westport: Greenwood Press, 1990.

<sup>194</sup> Langely 766.

discusses the 1960 Second Conference of Independent African States in Addis Ababa as one of the first official dialogues on human rights in independent Africa.

After the perceived unity of the early independence meetings, a divergence began to emerge as the new leaders and their respective parties disagreed on the path to be taken to reach the goals of decolonization. Some would try to uphold the tradition of the Pan-African Congresses and articulate an independent and revolutionary vision for Africa while others clung to micro-nationalism and neo-colonial relationships with the former colonizers. Fortunately, even those of the latter had to recognize at least in lip service the need for and continued development of African unity. A compromise was reached between the two groups of leaders in the form of the Organization of African Unity (OAU) founded in 1963. The OAU would provide the venue and institutional framework for programs and strategies concerning the continent's development to be debated and adopted. The organization provided the space for discussion on and adoption of official statements concerning African cultural unity, which ultimately contributed to the creation of the African human and Peoples rights system.

Three documents (two official and one non-official) led to the consensus reached by the OAU on the question of African culture. First, the Pan-African Cultural Manifesto although unofficial, must be considered a crucial document in the development of The "Cultural Charter of Africa" adopted by the Organization of African Unity (OAU) in Port Louis, Mauritius in 1976 and entered into force with the ratification of Chad on September 9, 1990. The Cultural Charter of Africa is the first legal instrument adopted on the continental level that attempts to outline the cultural characteristics of African people. This treaty and its 2006 replacement entitled the "Charter For African Cultural

Renaissance” can be viewed as a continued and dynamic synthesis of the cultural philosophies of a number of African leader/theoreticians as well as a departure point for any discussion concerning the presentation of conscious African culture especially as it relates to the African Human and Peoples Rights System.

*The Pan-African Cultural Manifesto of Algiers*

The preamble of the Cultural Charter of Africa states that the Heads of State and Government of the Organization of African Unity were guided by the “the Pan-African Cultural Manifesto of Algiers (1969)”.<sup>195</sup> This manifesto was the end result of the First All African Cultural Festival convened by the OAU and held in Algiers from July 21<sup>st</sup> to August 1<sup>st</sup> in 1969. The Cultural Commission of the OAU suggested the idea for the festival in 1965. The theme of the festival was “African culture, its reality, its role in the liberation struggle, in the consolidation of African unity and the economic and social development of Africa”. Representing all the independent countries as well as liberation movements of still colonized regions were “a host of African personalities, most of them responsible for cultural affairs in their countries, and a great number of scientists, ethnologists, anthropologists and sociologists whose work had contributed to knowledge of African culture”.<sup>196</sup> Also in attendance were representatives of the African-American struggle most notably Kwame Ture (then Stokely Carmichael) and Eldridge Cleaver.

Ultimately, “the festival gave the opportunities to African nations to get to know each other and also to let the world know what Africa is, and what she means to make of

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<sup>195</sup> Cultural Charter For Africa, 1976.

<sup>196</sup> La Guma, Alex. “Pan-African Festival”. *Labour Monthly* (1969), 414-416.

her future”.<sup>197</sup> The nearly two-week festival included a vast array of cultural production and competition with awards handed out for such expressions as literature, drama, music, poetry, and dance. However, as Lindfors writes, “the *raison d’être* of the First Pan-African Cultural Festival appears to have been more political than cultural”.<sup>198</sup> As a result, all of the cultural discussions and debates that occurred at the symposiums held in the Club de Pins Center were colored with the political discourse of the time and largely boasted strong revolutionary sentiment. Shepherd reports,

Most of the speakers were motivated by an over-riding concern to relate the realities of scholarship and symbolism of the artist to the necessities for transforming the conditions and quality of life. Though every national situation was different, there was a pan-African consciousness of the revolutionary task that remained unfinished from Algeria to South Africa.<sup>199</sup>

Although permeating throughout the representatives, the delegates from Guinea (Conakry) expressed this “pan-African consciousness” most vociferously.<sup>200</sup> This is no surprise considering that the political and philosophical leadership of the country were in the hands the Democratic Party of Guinea (P.D.G) under the guidance of two of Africa’s greatest revolutionary theorists in Kwame Nkrumah and Ahmed Sekou Toure. In his text *Revolution Culture, & Pan-Africanism*, Toure writes, “We, Peoples claiming of belonging to revolutionary Pan-Africanism, we must descend to the roots of our culture, *not to be sucked in, not to be isolated*, but to draw up forces and materials, in the

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<sup>197</sup> La Guma, 415.

<sup>198</sup> Lindfors, Bernth. “Anti-Negritude in Algiers”. *Africa Today* 17 (1970): 5-7.

<sup>199</sup> Shepherd, George W. “Reflections on the Pan-African Cultural Conference in Algiers”, *Africa Today*. (1969).

<sup>200</sup> Lindfors, 5.

edification of a new type of society”<sup>201</sup> [emphasis added]. Along with this desire to draw from culture, the idea of class struggle was also a central ideological tenant of the P.D.G. and was brought into the symposium on culture by the Guinean delegation. Toure defines the P.D.G.’s conception of class struggle in *Women in Society* when he writes:

“This struggle has a long history; it was born out of the flowering of the human conscience. Society has been marked by the existence of two natures of life, two natures transposing themselves in thought, action, behavior and in the options of men, whether political, economic, social, or cultural. In other words, there are two human natures in Mankind and in each People; we have the People itself and the anti-People, with a permanent struggle being waged between the two, the class struggle”.<sup>202</sup>

Toure takes this class struggle from the level of the individual to that of the society. Unlike the liberal theorists who view the individual as the unit of analysis, Toure states that, “The individual cannot be free or worthy, in isolation, since he can only be compared to himself”.<sup>203</sup> For Ture, “Everything begins with the People and ends up with the People”. Because of this, “we shall never be superior to the People because we emanate from them”.<sup>204</sup> He writes further, “Indeed, the permanent property of every human quality or defect, is to be incarnated by the men for whom the notions of good and evil, justice and injustice exist. The qualities and defects appear only through *the thinking and behavior of men in their mutual relationships*” [italics added].<sup>205</sup> Speaking of the basic philosophy of the P.D.G in *L’Afrique et la Revolution*, Ture also states, “It is this harmony between the individual and the society, in the interdependence of each which

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<sup>201</sup> Toure, Ahmed Sekou, *Revolution, Culture, & Pan-Africanism* (African Democratic Revolution), 177.

<sup>202</sup> Toure, Ahmed Sekou. *Women in Society*

<sup>203</sup> Ibid., 19.

<sup>204</sup> Ibid., 30.

<sup>205</sup> Ibid., 230.

constitutes the essential philosophical base of our doctrines. Any other design, which would separate these two elements, would mutilate both the man and the society”.<sup>206</sup> Ture characterizes each class in his text *Strategy and Tactics of the Revolution*:

Today, we have the People’s class constituted by the working strata and the anti-People class constituting the support of all imperialist, colonialist and neo-colonialist action, because it is composed of feudal and bourgeois minded individuals, living on human exploitation and having individualistic aspirations contrary to those of the People.<sup>207</sup>

The main contradiction between the interests of the People’s class and anti-People class is simply that the former relies on the exploitation of nature to survive whereas the latter thrives on human exploitation. Ture reiterates the African belief in appositional complementariness when he states, “Contradiction is inevitable. Contradiction is an element inherent in life, for life is engendered and animated by the struggle of opposites. Wherever there is life, there is contradiction”.<sup>208</sup> As explained by Toure, the P.D.G. held that Pan-Africanism was “the class struggle at the level of Africa and of her eternal branches”.<sup>209</sup> It is this idea of Pan-Africanism that the delegates from Guinea would promote during the festival would ultimately find its voice in the Pan-African Cultural Manifesto (hereafter referred to as the Manifesto) that emerged from the symposium and its discussions.

The Manifesto is divided into three sections: the realities of African culture, the role of African culture in national liberation struggle and in the consolidation of African Unity, and the role of African culture in the economic and social development of Africa.

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<sup>206</sup> Toure, Ahmed Sekou. *L’Afrique et la Revolution*.

<sup>207</sup> Toure, Ahmed Sekou. *Strategy and Tactics of the Revolution*.

<sup>208</sup> Ibid., 194.

<sup>209</sup> Toure, Ahmed Sekou. *Revolution, Culture, and Pan-Africanism*.

The authors of the Manifesto begin the discussion on the realities of African culture by giving a definition and characteristics of culture in the universal sense. Culture is defined as “the totality of tangible and intangible tools, works of art and science, knowledge and know-how, languages, modes of thought, patterns of behaviour and experience acquired by the people in its liberating effort to dominate nature and to build up an ever improving society”.<sup>210</sup> Culture begins with and is built by the people “and thus covers the social, political, economic and technical fields”. The Manifesto further characterizes culture as being “dynamic” and “future oriented” while at the same time it urges Africans to:

...go back to the sources of our values, not to confine ourselves to them, but rather to draw up a critical inventory in order to get rid of archaic and stultifying elements, the fallacious and alienating foreign elements brought in by colonialism, and to retain only those elements which are still valid, bringing them up to date and enriching them with the benefits of the scientific, technical and social revolutions so as to bring them into line with what is modern and universal.<sup>211</sup>

The Manifesto then goes on to describe the damage colonialism perpetuated on the culture of African people from the time of the slave trade until the political domination of the 19<sup>th</sup> and 20<sup>th</sup> centuries. Colonialism is considered a “total action, both in its essence and its spirit” that justifies itself “morally and intellectually by force and coercion”. Understanding that the colonial domination of most of Africa would have been impossible without African collaborators, the authors of the Manifesto acknowledged the role played by the “ruling classes” in supporting European hegemony particularly in the social, intellectual, and cultural fields. These ruling classes who accepted the culture of the colonizer would in time create a colonial elite that would become victims of

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<sup>210</sup> Pan-African Cultural Manifesto, 1969.

<sup>211</sup> Ibid.

“depersonalisation and alienation”.<sup>212</sup> Toure states, “Not only did the education that was given tend to assimilate us, to depersonalize, to occidentalize us, to present to us our civilization, our culture, our own sociological and philosophical conceptions, in a word our humanism, as the expression of the savage”.<sup>213</sup> Nkrumah explores the same phenomenon of the culturally alienated colonial intellectual in *Consciencism* when he writes, “By reason of their lack of contact with their own roots, they became prone to accept some theory of universalism, provided it was expressed in vague, mellifluous terms”.<sup>214</sup> The Manifesto calls on these intellectuals to reintegrate themselves into the masses of African people and thus “inspire that radical transformation of the mind”. Toure refers to this transformation as “Re-Africanization”. He writes, “Each one must go back to the African cultural and moral sources, recover his own conscience, reconvert himself, in his thoughts and in his actions, to the values, to the conditions and to the interests of Africa”.<sup>215</sup>

The Manifesto concludes its examination on the realities of African culture by attempting to outline the specifics of Africanity. It is important to point out here that “Africanity” as described by the authors of the Manifesto was almost a direct response from the delegations led by Guinea that were determined to move past the theory of Negritude. The Guinea delegation no doubt under the philosophical direct of Sekou Toure and the P.D.G. were given the charge in regards to Negritude, “to destroy it and make it dry under the hot sun of African with all its radicles”. Africanity was for the authors, “determined by profound similarities and common aspirations” found among all

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<sup>212</sup> Toure, Ahmed Sekou. *Toward Full Re-Africanization*.

<sup>213</sup> *Ibid.*, 9.

<sup>214</sup> Nkrumah, Kwame. *Consciencism*. New York: Monthly Review Press, 1965.

<sup>215</sup> Toure 51.

African peoples. The profound similarities that constitute elements of the “indomitable African personality” are listed as the values of “solidarity, hospitality, mutual aid, brotherhood and the feeling of belonging to the same humanity”.<sup>216</sup> Africanity was characterized as obeying the “law of dialectic of particular and the general of specificity and universality” in that it “springs from the double source of our common heritage and our common destiny”.<sup>217</sup> The destination the authors of the Manifesto were assigning to Africa was one of a unified Africa “above all forms of chauvinism” that was built on the foundations of “the fraternity of the liberating struggle”.<sup>218</sup> Thus, Africanity for the authors of the Manifesto was not tied to skin color as the Negritudists would claim but was linked more so to sustained anti-imperial struggle that was being waged not only on the continent but also around the world. Supporting this view of Africanity Toure writes,

What must concern us, is our cultural identity and our community of historical destiny to have been wrongly treated by exploiter powers. Therefore we must define ourselves, not by the colour of the skin which is a static element, but in function only of our objectives of progress which are, as from them, dynamic, right and noble.<sup>219</sup>

The second section of the Manifesto begins by exploring the role of African culture in national liberation struggle, which is described by the authors as being a “natural dialectical correlation”.<sup>220</sup> For above all else, the struggle against colonialism and imperialism were pre-eminently cultural acts.<sup>221</sup> At the same time, the winning of independence and the ongoing armed struggles permitted for the authors of the Manifesto

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<sup>216</sup> Manifesto 2.

<sup>217</sup> Ibid.

<sup>218</sup> Ibid.

<sup>219</sup> Toure, *Revolution, Culture & Pan-Africanism* 176.

<sup>220</sup> Ibid.

<sup>221</sup> Ibid.

a “cultural renaissance” to occur in these territories throughout the continent thus undergirding the Africanity discussed in the previous section. This Africanity born of struggle and transcendent of “national and regional concerns”<sup>222</sup> was to be considered the center of African unity and the impetus of “a resurrection and rebirth of an avant-garde African humanism”.<sup>223</sup> Ultimately, Africanity in conjunction with national liberation would unify the continent and protect it against neocolonialism, described in the Manifesto as being “no less ominous and dangerous, subtle and insidious as it is for the development and future culture of Africa” than traditional colonialism.

This discussion of neocolonialism in the Manifesto is one of the first in an official document of the OAU and can be traced to the Guinea delegation and its co-president Kwame Nkrumah. Four years prior to the 1969 festival Nkrumah saw neocolonialism as the most daunting threat to African freedom in the second half of the twentieth century and described its form in detail in his classic book *Neo-colonialism: The Last Stage of Imperialism*. He wrote, “The essence of neo-colonialism is that the State which is subject to it, is in theory, independent and has all the outward trappings of international sovereignty. In reality its economic system and thus its political policy is directed from outside”.<sup>224</sup> Neo-colonialism takes the resources including but not limited to raw materials and labor from the exploited country and uses them to enrich foreign businesses and the countries they represent. “The struggle against neo-colonialism is aimed at preventing the financial power of the developed countries being used in such a way as to

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<sup>222</sup> Ibid., 5.

<sup>223</sup> Ibid., 5.

<sup>224</sup> Nkrumah, Kwame. *Neocolonialism the Last Stage of Imperialism*. New York: International Publishers, 1965.

impoverish the less developed”.<sup>225</sup> Nkrumah realized that the African states emerging from colonial control would be susceptible to neo-colonial domination because neo-colonialism does not require obvious imperial agents such as colonialism. For example, a European colonial administrator does not need to be present in a neo-colonial system. Neo-colonial powers only need to finance those persons in power thus, making it easier to confuse and continue the exploitation of, the masses. Nkrumah wrote, “Many of our so-called independent states are in fact neo-colonies. They have all the outward appearances of sovereignty, but their economy and therefore their political policy is directed from outside”.<sup>226</sup>

By the late 1960s, Nkrumah realized that only an African unity formed by the African masses armed in struggle would defeat neocolonialism in Africa. In his book *Challenge of the Congo*, Nkrumah wrote, “For years, a virtual state of war has existed in Africa between the developing independent states, and their foreign interests determined to maintain and even strengthen their stronghold on the economic life of our continent. This ‘war’ must now come into the open and be fought and won in the military sense if Africa is ever to achieve her full development”.<sup>227</sup> Nkrumah practiced what he preached and prior to the western inspired coup that removed him from power often-used Ghana’s resources to fight against neocolonialism in all its forms within the continent. In 1960 when neo-colonial forces (backed by America) descended upon the Congo, Nkrumah sent Ghanaian forces to back the government of Prime Minister Patrice Lumumba. Simon Baynham writes “in terms of its resources, Ghana made one of the heaviest manpower

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<sup>225</sup> Ibid., ix.

<sup>226</sup> Ibid., 433.

<sup>227</sup> Nkrumah, Kwame. Nkrumah, Kwame. *Challenge of the Congo*. New York: International Publishers, 1967.

contributions to the Congo. By the end of 1960, she had 2,394 army officers and men in the country”.<sup>228</sup>

Nkrumah’s commitment to fighting neo-colonialism was not limited simply to the Congo. Nkrumah used Ghana’s resources to train Africans to fight against neo-colonialism. In a government document that was released in Ghana following Nkrumah’s overthrow, it was written that, “Nkrumah not only turned Ghana into a sanctuary and training ground for subversions from independent African nations but also acted as a conveyor built for secretly transporting political malcontents to communist countries for guerilla training and revolutionary indoctrination”.<sup>229</sup> As early as 1959 Nkrumah began erecting a large complex of buildings known as the African Affairs Center where “political refugees” were housed and fed until such time as they entered guerilla training camps<sup>230</sup>. After the coup that removed him from power in Ghana, Nkrumah sharpened his analysis of unified armed struggle in Guinea as co-president and published in 1968 the text *Handbook of Revolutionary Warfare* which further advocated revolutionary struggle on a continental scale against imperialism and neocolonialism.

Armed with this ideological weaponry of Toure and Nkrumah, the Guinean delegation brought these ideas to the festival and undoubtedly influenced not only the first and second sections of the Manifesto but the concluding one as well which dealt with the role of culture in the economic and social development of Africa. The Manifesto argues that African culture rooted in Africanity “must avoid a complacent and unfruitful evocation of the past, and must, on the contrary, imply an innovating effort and an

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<sup>228</sup> Baynham, Simon. *The Military and Politics in Nkrumah’s Ghana*. Boulder: Westview Press, 1988.

<sup>229</sup> *Nkrumah’s Deception of Africa*

<sup>230</sup> *Ibid.*, 2.

adaption of African culture to modern requirements” and also “avoid the obstacle of the academic and futile search for a dilettante culture leading to unproductive and decadent aestheticism”.<sup>231</sup> Thus it must look to become popular in character and “should promote a specific conception of scientific organization and the rationalisation of our productive activities, as well as the methods of appropriating the means of production (land, natural resources, industry, etc.) and the distribution of the goods produced.”<sup>232</sup> Above all else, African culture “should be apparent in a concrete and tangible manner in the joint use of our national forces and natural resources to promote a harmonious and accelerated economic, social and cultural development throughout the continent”.<sup>233</sup> The Manifesto concludes by listing forty recommendations for the “dynamic utilisation of the elements of African culture”<sup>234</sup> that include: the setting up continental organizations and institutions devoted to promoting and exchanging African culture, the transposition of Africanity into a unified African Trade Union movement, as well as continued and increased support for on-going liberation struggles.

### *The Cultural Charter for Africa*

The Pan-African Cultural Manifesto would be adopted unanimously at the end of the festival and would re-emerge seven years later as the primary source of influence for the Cultural Charter for Africa. The Cultural Charter of Africa (hereafter referred to as the Cultural Charter) was drafted and adopted during the final years of European colonial domination of Africa. In the year 1976 most African states had liberated themselves with

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<sup>231</sup> Manifesto 8.

<sup>232</sup> Ibid.

<sup>233</sup> Ibid.

<sup>234</sup> Ibid.

the exceptions of Djibouti and Western Sahara and of course the prolonged and fierce liberation struggles of Zimbabwe, South Africa (Azania), and Namibia were still raging. Just as in Algiers, the spirit of anti-imperialism and revolution were still very much in the hearts and discourse of the Africans in attendance. In this political context, the OAU meet in Port Louis, Mauritius for its annual meeting. Here it was decided to draft and adopt a cultural charter for Africa that would be of a more legalistic nature than the Manifesto.

The first section of the Cultural Charter is its preamble, which outlines the basic assumptions that the Charter was structured around. The statements within are primarily a summary of the Manifesto and a reassertion of the previously agreed upon characteristics and uses of African culture. The preamble highlights the fact that colonialism attempted to depersonalize the African and that it “encouraged the formation of an elite which is too often alienated from its culture and susceptible to assimilation and that a serious gap has been opened between the said elite and the African popular masses”.<sup>235</sup> It goes on to affirm the dialectic unity of Africa in that “African cultural diversity, the expression of a single identity, is a factor making for equilibrium and development in the service of national integration”.<sup>236</sup> The preamble also displays its anti-imperialist nature when it states, “that culture constitutes for our peoples the surest means of overcoming our technological backwardness and the most efficient force of our victorious resistance to imperialist blackmail”.<sup>237</sup> The preamble concludes with the statement “African culture is meaningless unless it plays a full part in the political and social liberation struggle, and in

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<sup>235</sup> Cultural Charter For Africa, 1976.

<sup>236</sup> Ibid., 2.

<sup>237</sup> Ibid.

the rehabilitation and unification efforts and that there is no limit to the cultural development of a people”.<sup>238</sup>

Part I of the Cultural Charter is composed of two articles designed to outline the aims, objectives and principles of the Charter. Article 1 asserts that the Cultural Charter seeks to “to liberate the African peoples from socio-cultural conditions which impede their development in order to recreate and maintain the sense and will for progress” by restoring, rehabilitating, and developing through co-operation and coordination “all dynamic values in the African cultural heritage” while at the same time rejecting “any element which is an impediment to progress”.<sup>239</sup> In order to accomplish this great task, Article 2 provides five principles for African states to subscribe to:

- (a) access of all citizens to education and to culture;
- (b) respect for the freedom to create and the liberation of the creative genius of the people;
- (c) respect for national authenticities and specificities in the field of culture;
- (d) selective integration of science and modern technology into the cultural life of the African peoples;
- (e) exchange and dissemination of cultural experience between African countries, in the field of cultural decolonization in all its forms.

The Cultural Charter’s following thirty-five articles are divided into eight further sections: Cultural Diversity and National Identity; National Cultural Development; Training and Life-Long Education; The Use of African Languages; Use of Media; The Role of Governments in Cultural Development; Inter-African Cultural Cooperation; and

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<sup>238</sup> Ibid.

<sup>239</sup> Ibid., 4.

Final Provisions. ”.<sup>240</sup> The priorities, methods and means that are listed particularly in Article 6 correspond to the recommendations of the Manifesto yet provide more detail as to states.

What are salient about the Cultural Charter are not so much the recommendations to states on the legal and practical work they can do to promote African culture but the characterizations of African culture found within it. First, the Cultural Charter articulates a class-conscious view of culture in the same vein as the Manifesto. Article 6 states, “it is the working people who make history and establish the foundations and conditions for the advancement of culture”.<sup>241</sup> Further, Article 7 reads, “the driving force of Africa is based more on development of the collective personality than on individual advancement and profit, and that culture cannot be considered as the privilege of an elite”.<sup>242</sup> Lastly, the Cultural Charter recognizes the dynamism of African culture by placing its development in the hands of African youth.

#### ***4.4 The Institutionalization of the AHRS***

The ideas within the Manifesto and Cultural Charter would provide the cultural framework for the official African expression on human and Peoples’ rights in the form of the Banjul Charter. Three years following the adoption of the Cultural Charter, African leaders came together to create the instruments and institutions that would become the African human and Peoples’ rights system. The 1970s saw both the independence of the last remaining colonial regimes as well as the further entrenchment

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<sup>240</sup> Cultural Charter 6.

<sup>241</sup> Ibid.

<sup>242</sup> Ibid.

of neocolonialism. This can be attributed to what Poe refers to as the failure of African polities to embrace the Pan-African Nationalism and realignment as envisioned by Nkrumah and others, which led to the sham independence of neocolonialism. Coups, assassinations, economic exploitation, and general oppression all the result of this neocolonial situation, contributed to the deplorable human rights situation faced by African Peoples. Jallow recounts the criticism many African states faced as a result of their failure to address mounting human rights violations within their borders. He writes,

By the early 1970's however, in the face of this lack of concern at the official level, sectors of civil society in Africa were beginning to exert enormous pressure on the OAU states to accord greater respect to civil and political rights and indeed to take measures for the creation of regional machinery for the protection of such rights.<sup>243</sup>

It is almost unanimous in the literature that the brutality of the regimes of Nguema of Equatorial Guinea, Idi Amin in Uganda and Bokassa of Central African Republic contributed to the creation of the Charter and the Commission.<sup>244</sup> Moving away from the established literature, Kufuor points to three different factors leading to the adoption of the Charter: the quest for legitimacy by African governments, active civil society within African states, and the strategic role that international organizations played.<sup>245</sup>

One of the most in depth writings on the Charter is Hassan B. Jallow's *The Law of the African (Banjul) Charter on Human and People's Rights*. As one of the legal experts that prepared the draft of the Charter, Jallow is able to give a detailed firsthand account of the proceedings and debates that contributed to the development of the Banjul Charter.

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<sup>243</sup> Jallow 22.

<sup>244</sup> Murray, Rachel. *Human Rights in Africa From the OAU to the African Union*. Cambridge: Cambridge Univeristy Press, 2004.; Peter 8; Lindholt 75; Ankumah 5; Jallow 22.

<sup>245</sup> Kufuor 13.

He outlines the various meetings that took place between 1979 and 1981 that ultimately led to the adoption of the Charter by the member states of the OAU. The first was the OAU summit in Monrovia, Liberia in July 1979. The highlight of this meeting was the tabling of a motion by Senegalese president Leopold Senghor that called for the immediate drafting of a Charter to establish a Human Rights Commission for Africa.<sup>246</sup> After little debate, the African heads of state unanimously decided to draft a charter to establish an African Commission on human rights. It was decided that a group of experts would convene in Senegal in November of 1979 to complete a first draft of the document. Peter writes, “The main objective was to prepare a truly African convention on human rights based on an African philosophy, and an instrument that would be responsive to African needs”.<sup>247</sup>

The meeting of experts took place between November and December of 1979. Jallow’s firsthand account of the process of developing the draft charter provides an insider view into what it took for Africans of diverse political and legal backgrounds to create such a document. No other piece in the literature is as detailed or insightful. He begins by referencing the address given by the OAU General Secretary Edem Kodjo who stressed “that without the basic rights of man, without the minimal freedom of thought and action, there cannot be any real development”.<sup>248</sup> Of importance also to Jallow was the address given by Leopold Senghor then president of Senegal to the group of experts prior to their deliberations. He quotes Senghor as saying, “We could get inspirations from our beautiful and positive traditions. Therefore, you must keep constantly in mind our

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<sup>246</sup> Jallow 24.

<sup>247</sup> Peter 9.

<sup>248</sup> Jallow 26.

values of civilization and the real needs of Africa”.<sup>249</sup> He further stated. “Room should be made for this African tradition in our Charter on Human Rights, while bathing in our philosophy, which consists in not alienating the subordination of the individual to the community, in co-existence, in giving everyone a certain number of rights and duties”.<sup>250</sup> Jallow at no time recounts any of the experts questioning Senghor’s usage of terms like “African civilization” and “African tradition” which would seem to stem from his concept of Negritude which has often been characterized as essentialist. Throughout the literature, no mention has been made to any of the experts who drafted the Charter protesting Senghor’s use of the term “African civilization” nor the recommendations he made to the experts based off this undefined characterization.

There were however, serious ideological differences between the experts concerning what rights would be given privilege in the Charter. The main point of contention was over the predominance of political and civil rights versus social and economic rights. At the end it was decided to include both sets of rights with neither taking a predominate position. Jallow writes that these various ideological debates resulted in a document that was “guided by three considerations on which consensus was achieved”.<sup>251</sup> First, that the charter must be based in African cultural values and traditions. Second, that enjoyment of rights entails duties on the part of the individual. And third, a continental organ would be established to promote and protect human rights. From the meeting of experts, the draft was given to ministers of justice representing 38

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<sup>249</sup> Ibid., 28.

<sup>250</sup> Ibid.

<sup>251</sup> Ibid., 33.

countries gathered in Banjul, The Gambia between June 9 and 15 1980.<sup>252</sup> These ministers represented not themselves as the experts had but their various states which caused the debates over the draft to be much more heated and infused with interstate conflict at the time, such as that between Ethiopia and Somalia. Therefore, the delegates only completed eleven articles at the first meeting.<sup>253</sup> One year later the ministers of justice met again. This time two changes were made to the meeting's procedure. The first change was that instead of 38 countries debating over the draft, a drafting committee would be established comprising of ministers from Tunisia, Zimbabwe, Kenya, Togo, and Cameroon.<sup>254</sup> Secondly as Jallow states "the first session had tended to be prolonged endlessly due to the decision of the conference to reach agreement on the basis of consensus" and that because of this it was decided to "proceed to a vote on all matters where there was disagreement".<sup>255</sup> These two alterations made the meeting run smoother and more productively. On June 19<sup>th</sup> 1981, the final draft was approved by the ministers and later adopted on June 28<sup>th</sup> 1981 in Nairobi, Kenya by the Assembly of Heads of Government of the OAU. The Charter came into force in 1986 once the fifteenth country signed and ratified the instrument. In 1987, the African Commission began its operations as the protective and promotional body of the Charter.

Although a milestone in the history of human and Peoples' rights on the continent, the Charter was not Africa's final contribution to human rights law. In 1990, a protocol was added to protect the rights of children throughout the continent. Akokpari writes that the African Charter on the Rights and Welfare of the Child "enjoins African

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<sup>252</sup> Ibid., 34.

<sup>253</sup> Peter 10.

<sup>254</sup> Jallow 44.

<sup>255</sup> Ibid., 45.

states to institute measures that end child labour, child soldering, discrimination, abuses, violations, sexual exploitation and torture”. Further he states, “The objective is to ensure that African Children are given access to basic education healthcare, and parental protection, and are enabled to live decent and secured lives free from fear and threats to their safety”.<sup>256</sup> In addition to the adoption of the African Children’s Charter, the OAU also established an eleven member Committee on the Rights and Welfare of the Child to monitor its adherence by states. The African Charter on the Rights and Welfare of the Child came in force in 1999.

Another one of the issues many African human rights promoters had with the African Charter was its piecemeal treatment of women’s rights. As pointed out by Anyumba, women’s rights are given protection in only four articles of the Charter and even then in a mostly implicit manner.<sup>257</sup> Article 2 guarantees equality under the Charter regardless of “race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status”.<sup>258</sup> Article 3 establishes the equality of all people before and under the protection of the law.<sup>259</sup> Article 18, Section 3 explicitly mentions women as reads, “The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions”.<sup>260</sup>

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<sup>256</sup> Akokpari, John. “Human Rights Actors and Institutions” in *Africa’s Human Rights Architecture*. Sunnyside: Centre for Conflict Resolution, 2008.

<sup>257</sup> Anyumba, Rita. "Instruments on Women's Rights." In *Breathing Life Into The African Union Protocol On Women's Rights in Africa*, by Roselynn Musa, Falza Jama Mohammed and Firoze Manji, 9-13. Oxford: Solidarity for African Women's Rights & African Union Women, Gender and Development Directorate, 2006.

<sup>258</sup> African Charter Article 2.

<sup>259</sup> *Ibid.*, Article 3.

<sup>260</sup> *Ibid.*, Article 18 Sec. 3.

Lastly Article 60 names the Convention for the Elimination of Discrimination Against Women as one of the international instruments that the African Commission on Human and Peoples' Rights will draw inspiration from while considering communications.

Considering this as insufficient, human and Peoples' rights organizations around the continent began agitating for amendments to be added to the Charter specifically address women's issues. Just as with the Charter, AHPROs played the crucial role in agitating for further advancement of human rights on the continent. Hearing their call, it was decided by the OAU in 1996 that a draft protocol would be written to the Charter that would strengthen the instrument in that regard. The first step in the process was the Commission's appointment of a Special Rapporteur on the Rights of Women whose duties it would be to assist the OAU and the Commission in the "development and enactment of policies that promote and protect the human rights of women in Africa".<sup>261</sup> The Commissioner named to this position was Congolese national Julienne Ondziel-Gnelenga.

Ondziel-Gnelenga formed a working group and also sought and received the assistance of a number of human and Peoples' rights organizations in the drafting of the Protocol. In a drafting process that occurred between 1999 and 2001, attempted to align the Protocol with established international as well as produce a document that would meet the specific needs of African women. The international standard that the drafters used as their model was the U.N.'s Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In concert with the CEDAW as well as the

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<sup>261</sup> "Who is the Special Rapporteur on the Rights of Women?' (1999) WILDAF News 5" as quoted in Banda, Fareda's *Women, Law and Human Rights An African Perspective*. Oxford, Hart Publishing, 2005.

African Charter, the draft Protocol on women's rights included civil, political, economic, social, and culture rights.<sup>262</sup> The provisions that spoke exclusively to the particular issues faced by African Women included protections for the rights of widows, protection against FGM, and the prohibition of polygyny. Further, as Banda writes, "Recognising that much of the controversy about the human rights of African women is the issue of 'African Cultural values' and their interpretation, the Draft Protocol acknowledged the importance of African culture, but made a plea for the inclusion of African women in the formulation of cultural values".<sup>263</sup>

This initial draft was forwarded to the Commission in November 1999 in Kigali Rwanda and was amended in several places to include the rights of girls in addition to those of women.<sup>264</sup> Inclusions were also made to protect the rights of elderly and disabled women. From there the Draft went in 2000 to the OAU primarily its Gender Unit which incorporated into the draft much of a draft Convention on Harmful Traditional Practices that it had been preparing with a consortium of African women's organizations.<sup>265</sup> After these additions, a group of experts representing African states reviewed the document and made two major alterations. The experts overturned the original draft's prohibition on polygyny and instead added an article calling for states to encourage monogamy but would not outlaw the practice all together. They also added articles to provide protections for the rights of women refugees, asylum seekers, internally displaced persons, and

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<sup>262</sup> Banda, Fareda. *Women, Law and Human Rights An African Perspective*. Oxford, Hart Publishing, 2005.

<sup>263</sup> *Ibid.*, 69.

<sup>264</sup> *Ibid.*, 73.

<sup>265</sup> *Ibid.*, 75.

returnees.<sup>266</sup> In July of 2003 the final version of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa as adopted by the African Union and entered into force on November 25, 2005.

The final piece added to the AHPRS was the African Court on Human and Peoples' Rights. Ndulo writes, "When the charter was drafted, a decision was made to create a commission without the power to make legally-binding decisions. Consequently, it did not follow the European and American model of having a regional human rights court... whose decisions are legally binding on OAU member states".<sup>267</sup> The AHPRS as a whole and the Commission's work in particular were criticized throughout the 1990s because the decisions given by the Commission were largely ignored by the states that they were filed against. AHPROs during this period agitated for the creation of a court and in 1998, the protocol establishing it was adopted by the OAU. Article 2 of the Protocol establishes the court's relationship to the Commission as complementing, "the protective mandate of the African Commission on Human and Peoples' Rights".<sup>268</sup> In this capacity, the eleven-member court is designed to hear cases concerning the African Charter, its Protocols, and any other regional human rights instrument brought to it by states, the Commission, NGOs with observer status to the Commission, and individuals.<sup>269</sup> The Court decided on its first case in 2009 and was merged with the African Court of Justice in 2010. Observers of the AHPRS including Ndulo, have argued

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<sup>266</sup> Ibid., 76.

<sup>267</sup> Ndulo, Muna. "The African Commission and Court under the African Human Rights System". *Africa's Human Rights Architecture*. John Akokpari and Daniel Shea Zimble. Sunnyside: Centre for Conflict Resolution, 2008.

<sup>268</sup> Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights, Article 2.

<sup>269</sup> Ibid., Article 5.

that the Court will in the future take over the protective mandate of the Commission and leaving the latter to focus solely on promoting human and Peoples' rights throughout the continent.

## CHAPTER 5.

### BRIEF POLITICAL HISTORY OF THE GAMBIA

#### *5.1 The Kurukanian Kingdoms of the Gambia*

Moving from the general history and the establishment of the AHPRS, it becomes important to describe the cultural, historical, and political stage within Africa known as The Gambia where African Peoples have developed methods of protecting human dignity for centuries. The political history of the Gambia has been characterized by relative peace and cultural exchange among the Peoples that have lived and developed societies in the region. Reconstructions of this history are often the combination of the work and memories of traditional Gambian oral historians with the scholarship of Eurocentric scholars. The result has been few published works, which provide an Afrocentric perspective of Gambian history. Text written with this perspective would provide agency to the People of the region both before and after the arrival of Europeans.<sup>270</sup> An example of the Eurocentric presentation of Gambian history can be found in Hughes and Perfect's 2006 *A Political History of The Gambia 1816-1994*. The text's section on constitutional change in the Gambia begins with British colonialism and does not take into account the established constitutional order of the region, the Charter of Kurukan Fuga. A more accurate representation of The Gambia's recent political history and culture must be characterized by the influence of the triumvirate of Mandinka political philosophy as embodied in the Charter of Kurukan Fuga, Afro-Sufism, and the English Common Law

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<sup>270</sup> The only published material that does this is Jali Morro Suso's *West Africa History of the Sub-Region, The Empire of Manding and Kabu Organisation, Kings Rulers and Their Territories*. This text traces the political history of the Gambia from the 12<sup>th</sup> century until the coup of 1994.

tradition on the organized African agents operating in the region between the 13<sup>th</sup> and 20<sup>th</sup> centuries.

The early history of the region comes from the oral historians or griots. Primarily, much of this history is an account of the Mandinkaization of the region and its Peoples beginning in the 13<sup>th</sup> century. Prior to the political and cultural migration of the Mandinka, the Jola and Serer Peoples were the earliest inhabitants of the lands surrounding the Gambia River. Although mostly located in modern Senegal, the Serer occupied the lands on the north bank on the estuary to the Atlantic Ocean. The Jola, who according to oral tradition called themselves Ajamatau<sup>271</sup>, were largely populated in along the southern bank of the river near the southwest corner of the modern day country as well as in the Casamance region of modern Senegal. In terms of political structure, the Jola of the 13<sup>th</sup> century were characterized by decentralized authority structures and horizontal organization. Their communities were spread over several square miles and were independent of each other.<sup>272</sup> The Mandinkaization of the area would introduce a new political culture grounded in the Charter of Kurukan Fuga to the area that would connect to the larger Mali Empire that would dominate the Western Sudan from the 13<sup>th</sup> to the 16<sup>th</sup> centuries.

Gambian historians have recounted migration narratives that tell of the travels of Mandinka Peoples to the area from the east. Thus, the history of the Peoples of the Gambia has been viewed as an extension of the history of the rise and consolidation of the Mali Empire established by the Mande speaking Peoples of the Niger River bend

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<sup>271</sup> Suso, Jali Moro. *West Africa The Empire of Manding and Kabu Organisation, Kings, Rulers and Their Territories*. 2009.

<sup>272</sup> Suso 22.

area. According to oral historians, the Mandinka presence in the Gambia River region begins with the westward expansion of the Mali Empire under the direction of Tira Makhang (or Tiramakan Traore).<sup>273</sup> Tira Makhang was one of the trusted generals of the founder of Mali, the famed Sundiata Keita. He was given the task of expanding the Empire westward to establish trade links and increase the wealth of the empire. Entering the Gambia in 1350, Tira Makhang initiated the first wave of Mandinkaization in the region. His arrival brought with him the Mande social and political organization that was codified around the same time in the Charter of Kurukan Fuga.

The Mandinkaization or more appropriately, the Kurukanization of the political culture of Peoples of the Gambia was widespread in the kingdoms along the river from the upper region in the east to the estuary in west from the 13<sup>th</sup> century until colonization in the 19<sup>th</sup>. Two main factors made this possible. First, the Peoples of the region were and are very open to cultural exchange. Writing of the Niumi kingdom that ruled the north bank of the estuary of the Gambia River, Wright states:

...the people who lived in Niumi over the five or six centuries before 1900 were not necessarily Mandinka in the contemporary sense, but were more likely a real mixture of people from different families, different regions, and (to some extent) different cultures. They spoke several languages, one of which might be dominant through one period, another through another, according to regional political circumstances.<sup>274</sup>

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<sup>273</sup> This narrative is largely seen by modern scholars as a cliché to explain Mandinka cultural and political domination of the region. See “Wright, Donald. “Beyond Migration and Conquest: Oral Traditions and Mandinka Ethnicity in Senegambia”. *History in Africa* 12 (1985): 335-348.; and Innes, Gordon *Kaabu and Fuladu, Historical Narratives of the Gambian Mandinka*. London: School of Oriental and African Studies, 1976.

<sup>274</sup> Wright, Donald R. *The World and a Very Small Place in Africa, A History of Globalization in Niumi, The Gambia*. Armonk: M.E. Sharpe, 2004.

Secondly, the economic benefits of association with the trading networks of the Mandinka dominated Western Sudan facilitated the ruling classes willingness to adopt Mandinka customs, language, and political organization.

A number of powerful kingdoms dominated the political milieu of the Senegambia area during this period. The most influential was the polity of Kaabu, which was “a confederation of states stretching from the River Gambia in the north to the Rio Corubal in Guinea Bissau in the south”.<sup>275</sup> The founding, establishment, and fall of Kaabu are some of the most recanted histories of Gambian griots. Tiramakang founded Kaabu and the kingdom was a subsidiary of the Mali Empire until the latter’s decline in the 15<sup>th</sup> century. Following this, Kaabu maintained its Mandinka political structure but was now an autonomous kingdom of its own. As outlined in the Charter of Kurukan Fuga, the four level social and political structures were established in Kaabu. Boubacar states,

At the apex stood the military aristocracy, the Nyannco. Below them came the Korin nobility, ruling over the ordinary masses of free peasants. Here too there were castes of craft people called namalo... All were forbidden to marry free persons, those born outside caste limits. At the bottom of the social pyramid came the slaves.<sup>276</sup>

It is from Kaabu that members of the Mandinka warrior elite, the nyancho, established lineages, kingdoms, and trading networks along the lower Gambia and coastal areas.<sup>277</sup>

The reaches of the Kurukanian influence expanded as Mandinka traders and conquerors spread. The furthest yet one of the most powerful states founded by Mandinka

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<sup>275</sup> Innes 27.

<sup>276</sup> Barry Boubacar. *Senegambia and the Atlantic Slave Trade*. Cambridge University Press, 1998.

<sup>277</sup> Wright, Donald R. “The Epic of Kelefa Saane as a Guide to the Nature of Precolonial Senegambian Society-and Vice Versa”. ”. *History in Africa* 14 (1987): 287-309.

trailblazers of Kaabu was the kingdom of Niumi at the mouth of the river on the Atlantic coast. Just as in Kaabu, the political and social structure was organized following the principles and statutes of the Charter of Kurukan Fuga. The Mandinka ruling families gained control of the region around the beginning of the sixteenth century<sup>278</sup> yet the state remained much like other Senegambian polities very ethnically mixed with Serer, Wolof, and Fula inhabitants.<sup>279</sup> The nyancho rulers of Niumi took advantage of their position at the estuary of the river to gain wealth through the taxation of trade along the river. This position became extremely profitable for the rulers of Niumi during the rise and apex of the European slave trade. Wright states:

One thing above all others was the key to Niumi's stability and prosperity through the seventeenth and eighteenth centuries: the ability of the state's rulers to control and tax the busy trade between the western savannas and the Atlantic complex that passed along its shores and through the state. Those who controlled political and social functions of the state recognized this and developed institutions to maintain order and ensure state revenues through the period when the slave trade, and the no-less significant trade of other commodities, was going on all around.<sup>280</sup>

By the 19<sup>th</sup> century, polities controlled by leaders of both Mandinka and non-Mandinka lineages were nonetheless Kurukanian in political structure and dominated both banks of the river. Including Niumi, fourteen other kingdoms under "mansas" existed along the river at the beginning of the 19<sup>th</sup> century: Baddibu, Upper and Lower Niani, Wuli, Combo, Fogy, Kiang, Jarra, Nyamina, Eropina, Jiamarra, Tomani, and Kantora.<sup>281</sup> According to Quinn, these polities would undergo two radical changes in the

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<sup>278</sup> Wright 292.

<sup>279</sup> Suso 89.

<sup>280</sup> Wright 100.

<sup>281</sup> Quinn, Charlotte A, "Mandingo States In Nineteenth Century Gambia". In *Papers on the Manding*. Edited by Carleton T. Hodge. Bloomington: Indiana University Publications, 1971.

second half of the century. The first was the period “characterized by religious warfare between traditional authorities and Muslim revolutionaries, resulting in the overthrow of the old state system and tentative establishment of new structures of authority”.<sup>282</sup>

Historians refer to this conflict as the Soninke-Marabout Wars. These wars would begin the introduction of Afro-Sufism to the masses of the Peoples along the Gambian river. The second radical change would be the consolidation of European colonialism.

Prior to the mid-19<sup>th</sup> century, only a small minority of the People of the Gambia professed Islam. Many of the rulers of the Mandinka kingdoms were nominal Muslims who tolerated the small Islamic communities within their polities. Muslim traders operated throughout the region and travelling Islamic scholars were able to teach without harassment and even advise certain rulers in power. Within the kingdoms, Muslims had their own representation and judges that handled the communities legal disputes based on a combination of Sharia and traditional law.

The relatively powerless position of Muslims in the Gambia would change however in the middle of the century. The power of the non-Muslim Mandinka ruling elite would be weakened substantially as a result of an economic downturn faced at beginning in the early part of the century. This downturn itself was the result of two inter-related occurrences. First, in 1807, the British unilaterally attempted to end the slave trade along Africa’s west coast including the river Gambia. Since the 15<sup>th</sup> century, the slave trade had been one of the most lucrative activities for the ruling elites of the Gambian kingdoms. According to Suso, the seemingly insatiable European demand for free labor overshadowed “the trade in other items like gold, ivory, wax, and other

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<sup>282</sup> Quinn 205.

products in West Africa” and “became the main preoccupation of all European nations of the west coast of Africa”.<sup>283</sup> By the beginning of the 19<sup>th</sup> century, the Gambian ruling families had become almost completely dependent on the slave trade for their revenues. Quinn writes, “The British depended on the Mandingo kings and village chiefs to maintain the modicum of order necessary for trade within the river states, while the Mandingo leaders consolidated their own positions by customs and gifts from the Europeans”.<sup>284</sup> Once the British were able to purchase the island of Banjul at the mouth of the river Gambia and establish a strong hold there, the trade in Africans declined particularly to nil.

As the ruling classes’ wealth began to deteriorate, the wealth of non-royal traders began to increase as a result of the growing trade in peanuts. This was the second factor leading to the economic downturn of the ruling classes. The 19<sup>th</sup> century saw the introduction of peanut farming along the Gambia River from Brazil. The growing and harvesting of peanuts would become the most profitable agricultural activity of the Gambia from this time and remains so today. Independent farmers and largely Muslim recent immigrants to the region did the early cultivation of the cash crop. Quinn writes:

The groundnut producers sold directly to traders from European companies based in Bathurst. They were therefore less vulnerable to the heavy taxation which the Mandingo landlords had imposed on the slave merchants with their large caravans as they wound their way slowly through the river states toward the sea. Cash and trade goods were now being diffused among the Gambia populations without royal control, and the kings’ monopolies suffered.<sup>285</sup>

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<sup>283</sup> Suso 85.

<sup>284</sup> Quinn, Charlotte A. *Mandingo Kingdoms of the Senegambia*. Evanston: Northwestern University Press, 1972.

<sup>285</sup> *Ibid.*, 214.

With the economic downturn came heavier taxation on independent farmers and traders. Many of the most successful of these non-royal traders and farmers were Muslims. The divided between these Muslims and the ruling families would come to be defined by the terms Marabout and Soninke. The Marabouts were those non land-owning Muslims in the Senegambia that were shut out of leadership by and heavily taxed by the non-Muslim ruling families or the Soninkes.<sup>286</sup> Under the particular leadership of the cleric-warrior Maba, the Marabouts successfully waged jihad against the Soninke rulers along the Gambia from the 1850s until the 1890s. Although successful in removing the Soninke from the seats of political power they had controlled for over three hundred years, the Marabouts were not able to consolidate state structures in the political vacuum due to internal disputes after Maba's death, a rash of epidemic diseases of the 1860s, and most importantly, European colonial expansion.<sup>287</sup>

## ***5.2 Resistance to British Colonialism***

As was mentioned, formal colonization of the Gambia began in 1816 with the British annexation of Banjul Island which was renamed Bathurst. The few Europeans who settled Bathurst in the early 19<sup>th</sup> century were primarily military officials and soldiers. As the colony moved from being exclusively a military outpost for the cessation of the slave trade on the river to an import/export centre for legitimate trade, more merchants began to settle the island. Even with this influx especially during the groundnut boom of the mid-19<sup>th</sup> century, the number of Europeans in the Gambia

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<sup>286</sup> Quinn 53.

<sup>287</sup> Quinn *Mandingo Kingdoms of the Senegambia* 158.

remained small. Throughout the century, there were only between thirty to fifty European residents in Banjul at any given time and virtually none outside the island.<sup>288</sup> These merchants would come to dominate the political scene for the second half of the 19<sup>th</sup> century and would be responsible for the expansion of British influence further up river. When the Soninke-Marabout Wars raged along the river, quite naturally trade especially in groundnuts was disrupted. The merchants in Banjul appealed to the colonial officials to send gunboats and other forms of military support into the Mandingo Kingdoms to support any leader whether Soninke or Marabout that was willing to submit to British “protection” and maintain peace within their kingdoms. Those who resisted were killed or exiled by the British and their allies. In a six-week period in 1900, Quinn states “troops moved up and down the Protectorate removing leadership cadre everywhere but in Molo’s well controlled districts in Fuladu” and that “every alkali from Kotakunda to Kerewan was taken in a boat to exile either in Combo or Sierra Leone”.<sup>289</sup>

With the “pacification” of the river kingdoms, the Gambia became fully in the sphere of British colonialism. Colonial rule in the Gambia was characterized by a pronounced bifurcation between the urbanized colony of Bathurst along with its immediate surroundings and rural Protectorate (formally established in 1894) up river, which held the vast majority of the population. In the years between 1850 and independence in 1965, Bathurst was under the immediate control of the colonial administration. The districts in the Protectorate however were governed using Britain’s well-established policy of in-direct rule. “Pacified” kings became reduced to “chiefs” and

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<sup>288</sup> Hughes, Arnold and David Perfect. *A Political History of The Gambia 1816-1994*. Rochester; University of Rochester Press, 2006.

<sup>289</sup> Quinn 190.

were responsible for keeping order in their jurisdictions as well as collecting taxes for the colonial government. For most of the colonial period, the People of the Protectorate were excluded from political participation by the combination of urban apathy and corrupt local leadership.

Thus, active resistance against British rule was immediate and sustained in the Gambia largely by the urban dwellers in Bathurst. By the beginning of the 20<sup>th</sup> century, Bathurst was a pan-African metropolis. Along with Wolof, Fula, Jola, and Mandinka Peoples, the island town was also home to a large community of Africans displaced by the Atlantic slave trade. These Africans were “liberated” by British anti-slaving vessels that intercepted slaving ships along Africa’s west coast beginning in the early 19<sup>th</sup> century. These Liberated Africans as they came to known were a conglomeration of ethnic groups from the region. Within their ranks were Yoruba, Hausa and Igbo from modern day Nigeria, Popo from what is now Cameroon, and “Congos”.<sup>290</sup> There was also a large collection of Sierra Leoneans in the colony as well. Collectively, these liberated Africans became known as Aku. Also among the Aku were also the mulatto offspring of colonial officials and African women.

The Aku and the other urbanized Africans would both compete and cooperate with the European merchants in the colony for economic and political dominance. For the first half of the 19<sup>th</sup> century, the urban Africans were largely under the employ of the British merchants. They were roundly mistreated both in wages and in living conditions.<sup>291</sup> By the 1860s however, the numerical deficiency of the Europeans allowed some of the urban Africans to enter and thrive in the mercantile business. Those Africans

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<sup>290</sup> Hughes and Perfect 20.

<sup>291</sup> Hughes and Perfect 63.

that succeed in establishing profitable artisan shops and trading companies began in the 1860s to appeal for greater political power in the colony. Understanding that economic prosperity was more important than racial antagonism, an alliance was formed between the British merchants and their African counterparts particularly after both groups successfully agitated against cession French rule.<sup>292</sup> Thus by the end of the 19<sup>th</sup> century, a few carefully selected Africans had been appointed to the colony's legislative council that represented the interests of all merchants in Bathurst.

This new alliance would create within the African community in Bathurst a religious and to a greater extent a class division. The successful African merchants in Bathurst were largely Aku Christians trained in Methodist schools and churches. Their community was separated from the Muslim community of recent Senegambian migrants to the city. The Muslims formed their own organizations and were excluded from any form of political power in the colony until the turn of the 20<sup>th</sup> century. The African community of Bathurst was representative of what Ture termed the People/anti-People class struggle.<sup>293</sup> The anti-Peoples class within the African community worked locked step with the European merchants in withholding the franchise from the masses of the colony. Largely represented by the Aku family the Forster, this class would be appointed to the colony's legislative council and forcefully struggle against any efforts of self-determination on the part of the larger African community.

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<sup>292</sup> Ibid., 77.

<sup>293</sup> Ture characterizes each class in his text *Strategy and Tactics of the Revolution*: Today, we have the People's class constituted by the working strata and the anti-People class constituting the support of all imperialist, colonialist and neo-colonialist action, because it is composed of feudal and bourgeois minded individuals, living on human exploitation and having individualistic aspirations contrary to those of the People (p.186).

The Peoples' class in Bathurst would organize itself into the sustained opposition to the Forester led African and European merchants in the beginnings of the 20<sup>th</sup> century. This urban anti-colonial movement of the Gambia was part of the larger Pan-African self-determination struggle and would introduce a modern rights based discourse into the colony. In 1920 a section of the AHPRO the National Council of British West Africa was organized in the Gambia under the leadership of E. F. Small. Small was hardened in his nationalist beliefs through a number of unfavorable encounters with European merchants and colonial officials. In one particular episode, he was removed from the province of Ballanghar and from his position as a mission employee for his refusal to apologize for coming to blows with a European trader.<sup>294</sup> Small facilitated the forming of Gambia's first farming syndicate, the Gambia Farmers' Co-operative Marketing Association (GFCMA), which unlike previous Bathurst based organizations, successfully bridged the gap between the colony and the Protectorate. He also established the country's first union the Bathurst Trade Union (BTU) in 1929. Quoting a colonial official remarking on Small Langley writes, "An official described him in 1937 as ' this self-appointed champion of non-existing grievances felt by an imaginary body of citizens . . .; he seems to find agitation irresistible '".<sup>295</sup> Small over his career proved to be the colony's most ardent Pan-Africanist and internationalist.<sup>296</sup>

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<sup>294</sup> Hughes, Arnold and David Perfect. "Trade Unionism in the Gambia". *African Affairs* 88 (1989): 549-572.

<sup>295</sup> Langley, J. Ayodele. "The Gambia Section of the National Congress of British West Africa". *Africa: Journal of the International African Institute* 39, (1969): 382-395.

<sup>296</sup> Langley discusses Small's connection to other Pan-African organizers particularly George Padmore as well as Small's travels to international workers meetings in Europe and possibly the Soviet Union. Perfect and Hughes point this out as well.

Small's work with the NCBWA began when he transformed the Gambia Native Defense Union into the Gambia section after he attended the organization's first conference in Accra, Ghana in 1920.<sup>297</sup> In the beginning, the Gambian section was composed of a large cross section of Bathurst Africans including the elites led by Samuel Forster. However, once Small returned from Ghana and called for a mass meeting to endorse the resolutions of the conference, Forster and other elites withdrew from the organization.<sup>298</sup> Forster's class feared that greater political participation by the masses of the colony would unseat them from power and were thus adamantly opposed to any discussion on enfranchisement.<sup>299</sup> With the exit of the anti-Peoples elements within the organization, the Gambian section of the NCBWA organized around the rights based resolutions of the Accra conference. The primary focus of the organization's activism was securing the franchise for the Gambian people. In 1926, the Gambia section hosted the NCBWA conference, which articulated resolutions concerning the rights to education, political participation, as well as "commercial and economic independence".<sup>300</sup> However, because of the antagonism of both the anti-People urban elite and the British backed Protectorate "chiefs", the Gambian section was not able to galvanize the mass support needed to pressure the colonial administration on the organizations resolutions. Thus, it was only at the near conclusion of the colonial era in 1960 that the right of universal suffrage was granted in The Gambia.

According to Cessay, "the activities of all male Bathurst social and political outfits, such as the National Council of British West Africa (NCBWA), Bathurst

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<sup>297</sup> Langley 383.

<sup>298</sup> Hughes and Perfect 87.

<sup>299</sup> Ibid., 88.

<sup>300</sup> Langley 391.

Ratepayers Association (BRA), Reform Club, and denominational groupings, such as Young Muslim Congress, are fairly well mentioned in works on Gambian history by Hughes and Perfect, Grey-Johnson, and Fredrick's, there is little if any mention of the activities and profiles of women's associations and their leaders during the period under study".<sup>301</sup> On the local level of the struggle in the colony, a number of women's organizations contributed to anti-colonial resistance. Cessay writes:

First, it must be remembered that women in Bathurst had many experiences in bonding in the form of church groups, choirs, savings clubs, and ex-pupils' associations dating back to the 1910s... In pre-colonial Gambian society also, there existed women's unions such as age set associations. For decades prior to the 1930s, Bathurst women had networked within the tight circles of such small groupings at the family, street, school and town levels for mutual benefit. For instance, women traders at the Albert Market in Bathurst had a long tradition of associating dating back to the 1870s, to protect one another from victimization by overzealous colonial agents, such as tax collectors and public health officials.<sup>302</sup>

As the colony's anti-People urban elite effectively undercut the anti-colonial movement led by the NCBWA, the "chiefs" maintained tight control over the rural masses. In the period following World War II, the youth of the Protectorate began to voice their discontent with the administration of the "chiefs". Several reasons are given for the feelings of the youth including: not having the opportunity to own a household until they were forty, the corruption of the chiefs specifically in their manipulations of district tribunals, as well as their proximity to the political ideas emerging from Bathurst.<sup>303</sup> These new political ideas were particularly appealing to the young relatives of many of the Mandinka chiefs who studied in Bathurst. In 1957, this group formed the

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<sup>301</sup> Cessay, Hassoum. *Gambian Women Profiles and Historical Notes*. Kanifing: Fulladu Publishers, 2011.

<sup>302</sup> Cessay 56.

<sup>303</sup> Hughes and Perfect 135.

Protectorate Peoples Party (PPP) in Bathurst. The PPP would transform itself into the Peoples' Progressive Party and by 1960 was able to effectively organize and propagate their message throughout the Protectorate and as a result, the PPP would win the majority of seats in the newly created House of Representatives.<sup>304</sup>

Hughes has categorized this change from urban dominated colonial politics to power emanating from the rural area as Gambia's "Green Uprising".<sup>305</sup> Just prior to the PPP's electoral success in 1960, the Party would come under the leadership of one of the only Mandinka graduates in the country, David Jawara. Under his leadership, the PPP would be handed control of the country when the Gambia was granted self-government in 1963. Finally, independence was achieved in 1965 and in 1970, the country was transformed into a republic with Jawara become its first president.

### ***5.3 Politics and Human Rights in The First Republic***

Jawara and the PPP dominated the first republic period. The party never lost power in any of the country's elections from 1970 until the coup in 1994. The Jawara Era was characterized by a middle of the road approach to politics both internally and externally. Internally, the Gambia's First Republic constitution outlined the limits the government was willing to go in ensuring the human and Peoples' rights of its citizens. As with most constitutions of newly independent African countries, the contents of the initial constitution of the country were negotiated with the departing colonial master. Thus, the government from independence in 1965 adopted a Westminster system in the

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<sup>304</sup> Ibid., 136.

<sup>305</sup> Hughes, Arnold. "From Green Uprising to National Reconciliation: The People's Progressive Party in the Gambia 1959-1973". *Canadian Journal of African Studies*, 1975.

style of England. The PPP was never satisfied with this arrangement and not long after independence attempted to change it at first unsuccessfully nine months after the granting of independence. Following a referendum pushed by the PPP, the country became a full republic in 1970. Chapter three of the new constitution of The Gambia contained the rights guaranteed to citizens of the country. Dankwa writes that the 1970 constitution provides for: the right to life; the right to personal liberty; the right to freedom from slavery and forced labour; the right to freedom from inhuman treatment; the right to freedom from expropriation of property without adequate compensation; the right to rights protection against arbitrary search or entry; the right to freedom of conscience; protection of freedom of assembly and association; protection of freedom of movement; and protection from discrimination, on the grounds of race ethnic unit, place of origin, political opinion, color or creed.<sup>306</sup>

This constitution limited the Gambian people to a set of first generation or “liberal” rights that excluded any protections for economic, social, and cultural rights as well as any group or Peoples’ rights. However, it must be emphasized that Jawara’s government was one of the most successful on the continent in protecting these rights for its citizens. One result of both the lack of economic, social, and cultural rights and the freedom of Gambians to express their political opinions, was the growth of socialist inspired non-governmental organizations that agitated for revolutionary Pan-Africanism as espoused by theoreticians such as Nkrumah and Toure as well as radical Diasporan organizations such as the Black Panthers. Much of the early leadership of these

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<sup>306</sup>Anin, Patrick Dankwa. “The Role of The Judiciary in the Promotion and Protection of Human Rights The Gambian Experience”. *African Journal of International and Comparative Law* 3 (1991), pp. 771-784.

organizations had indeed received training in Nkrumah's Winnebah Institute and other centers of revolutionary training. Perfect and Hughes discuss how these groups were largely made up of young dissatisfied urbanites unable to find gainful employment especially in the economic downturn of the late seventies and early eighties.<sup>307</sup> The revolutionary Pan-African organizations that rose between independence and the military take-over of 1994 included: Tonya, the Kent Street Vows, the Black Brotherhood Movement, the Black Panthers, the Kwame Nkrumah Memorial Foundation, the People's Movement for Independence against Neo-Colonialism and Capitalism in The Gambia, and the Movement for Justice in Africa.<sup>308</sup>

As was mentioned the young people that formed these groups received much of their training and inspiration from outside the country. This was due to the fact that the Jawara government was not seen as being a revolutionary zone of Africa. As a diplomat, Jawara was a moderate Pan-Africanist who supported the establishment of the OAU but kept his distance ideologically from the likes of Nkrumah and Toure and also politically by not vocally or materially supporting many liberation struggles in the 1970s and 1980s. Jawara's Gambia "refused to join in the group of nine independent African states that obey a 1965 OAU resolution to break off diplomatic relations with Britain over its failure to use force to put an end to the Smith regime" and also would not "engage in other than diplomatic statements criticizing British and other western involvement in South Africa".<sup>309</sup>

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<sup>307</sup> Hughes and Perfect 200.

<sup>308</sup> Hughes and Perfect 201-207.

<sup>309</sup> Ibid., 270.

The struggle for economic and social rights and Pan-Africanism would come to a head in 1981 with an unsuccessful coup against the Jawara government. Led by Kukoi Samba Sanyang the coup was conspired a small number of urban radicals with the assistance of members of the country's paramilitary the Field Force. On July 30, 1981, the coup began with ten civilians and a handful of soldiers of the Field Force overtaking the national armory and moving on to the strategic targets of the radio station, State House, and airport.<sup>310</sup> The plotters took to the airways to announce the takeover and their plans for a "dictatorship of the proletariat" and the death to "neocolonialism, racism, and fascism".<sup>311</sup> The other reasons given for their actions included the economic problems of the country as well as rampant corruption within the Jawara government. Whatever the other ideological and political goals of the coup were, they could not be articulated before the revolutionaries were defeated by a combination of their own infighting, the intervention of superior Senegalese forces, and most importantly a lack of popular support for their efforts by the masses of the country particularly the rural population.

Jawara was out of the country during the coup and once it had been put down, his government went about making two major changes designed to prevent extra-governmental takeovers from occurring again. Primarily, the governments of The Gambia and Senegal formed a federation for mutual protection and benefit. Secondly, after reviewing the relative ease it took for a hand-full of revolutionaries to overtake the security forces of the country, the Jawara government created a national army for the Gambia. What the Jawara government did not do was to address the issues of economic, social, and cultural rights that motivated the coup plotters in the first place nor did it deal

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<sup>310</sup> Ibid., 214.

<sup>311</sup> Ibid., 212.

effectively with the corruption of some of its members. This is surprising considering that the very year of the attempted coup, the OAU had adopted the African Charter, which included such rights and because of Jawara's advocacy for it was named the Banjul Charter. Although The Gambia was one of the first states to sign and ratify the document, it did not domesticate its principles into national law during the Jawara era or any time thereafter.<sup>312</sup>

All three of these factors would lead to the successful coup of Yaya Jammeh in 1994. First, the Senegal-Gambia Federation would be a short-lived affair beset with all the struggles associated with any federation in which both sides are unwilling to sacrifice their "sovereignty" for the greater good. Secondly, the army created by the post-coup Jawara government would be the very institution strong enough to take control of the country in the precise manner it was designed to offset. Lastly, Jawara's failure to incorporate and actualize economic, social, and cultural rights into the rule of law and governance in The Gambia (even though these same rights a given regional prominence in the very African Charter named after country's capital city) may have contributed to the popular support given initially to Jammeh's takeover which made promises of economic and social change to the masses.

#### ***5.4 Politics and Human Rights in The Second Republic***

On July 22, 1994, the citizens of the Gambia exchanged a near thirty-year-old regime dedicated to civil and political rights with no real program of economic and social

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<sup>312</sup> The Gambia signed the African Charter on November 2, 1983 and ratified it on August 6, 1983.

rights for a military dictatorship that would trample all political and civil rights and provide piece-meal acquiescence to economic, social, and cultural rights. From 1994 until 1996, the constitution was suspended and the state was run by the Armed Forces Provisional Ruling Council (AFPRC) with a twenty-nine year old Jammeh as its chairman. Since the elections of 1996, nominally, The Gambia is a multi-party democracy functioning under the 1997 constitution. In reality, The Gambia is a one party state headed by a leader who transformed himself from a military despot to a civilian one. The recent elections of 2012 impactful displayed the authoritarian nature of the Jammeh regime. At it's beginning, Jammeh proclaimed that no election or opposition could remove him from power but only "Allah himself". All over the highways and roads between the cities of Serekunda and Banjul one can see the billboards, which speak to "Gambian democracy". One sign in particular reads, "A Vote For Jammeh Is The Sacred Duty of All Gambians". During the election season, the opposition parties argued that the ruling party, Jammeh's APRC had effectively turned the state treasury into its own campaign funds. The opposition was also hamstrung by the two-week "official" campaigning period they were given to make their appeals to the Gambian populace.

Jammeh presents himself to the people of the Gambia as the only person capable of doing the mediocre job he has done since taking power in 1994. His Excellency Dr. El Haji Yahya Jammeh is believed by his supporters (and many of his detractors) to possess strong spiritual powers most often attributed to his father who was considered by many a supreme traditional healer and talisman maker. One story goes while training in the U.S. as a member of the military he held a live grenade in his hands without it going off. He has also received much notoriety in the West for his HIV/AIDs treatments, which he and

his patients claim, cure them completely of the disease. Jammeh has also claimed to be able to treat other ailments as well including asthma. While head of state and government, Jammeh operates a large farm, the proceeds of which goes to fund Koranic verse reading contests and other such pet projects. Although he calls himself a Pan-Africanist and a fighter for African unity, his rhetoric far surpasses any of his policies.

In regards to human and Peoples' rights, the situation in The Gambia under Jammeh has constitutionally improved in the protections that are guaranteed yet has deteriorated tremendously in the actual protections of those rights. The 1997 Constitution incorporated all of the civil and political rights of the 1970 version and included protections for the rights to culture<sup>313</sup>, education<sup>314</sup>, marry<sup>315</sup>, as well as specific provisions for the rights of children<sup>316</sup> women<sup>317</sup>, and the disabled<sup>318</sup>. The Constitution also incorporates a set of duties in the same vein as the African Charter. Article 220 reads, "The exercise and enjoyment of rights and freedoms are inseparable from the performance of duties and obligations".<sup>319</sup> The Gambian citizens are expected to:

- (a) promote the prestige and good reputation of The Gambia and respect the symbols of The Gambia;
- (b) uphold and defend the Constitution;
- (c) foster national unity and live harmoniously with others;
- (d) respect the rights, freedoms and legitimate interests of others and refrain from acting in a manner detrimental to the welfare of other persons;
- (e) serve The Gambia by working conscientiously in his or her chosen occupation;

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<sup>313</sup> Constitution of the Republic of The Gambia, 1997, Article 32.

<sup>314</sup> Ibid., Article 30.

<sup>315</sup> Ibid., Article 27.

<sup>316</sup> Ibid., Article 29.

<sup>317</sup> Ibid., Article 28.

<sup>318</sup> Ibid., Article 31.

<sup>319</sup> Ibid., Article 220.

- (f) protect and preserve public property and expose and combat the misuse and waste of public funds and property;
- (g) contribute to the well being of the community in which the citizen lives;
- (h) be loyal to The Gambia and contribute to its defence when necessary;
- (i) co-operate with the appropriate agencies in the maintenance of law and order, and
- (j) protect and conserve the environment of The Gambia.

Even with these constitutional additions, the Peoples of The Gambia have their rights violated constantly by the state under Jammeh’s rule. Violations of civil and political rights have become so egregious that the NGOs attending the biannual forum of the African Commission have formally requested that the Commission consider moving its headquarters out of the country.<sup>320</sup> The collective of NGOs stated quite boldly, “the Government of the Gambia does not possess the moral authority in principle and practice, to continue to be bestowed with the privilege of hosting a human rights Commission secretariat, since it has demonstrated time and again that the protection of and respect for human rights is not a priority”.<sup>321</sup> Providing more details for their position the letter reads:

The Gambia government has over the years walked a path of continuous infractions on the fundamental rights of the Gambian citizenry, specifically in the following instances- the assassination of Deyda Hydera and the extra-judicial killings of 48 innocent migrants, [mostly Ghanaians] in 2005; disappearances of Ebrima (Chief) Manneh and Daba Marena and five other security officials in 2006; the abduction, stigmatisation and drugging of mostly elderly women accused of being ‘witches’ in 2007; and the continuous harassment and jailing of journalists and illegal closure of private media houses deemed critical of the Gambia Government; and the systematic dismantling of institutions of governance- the legislature and judiciary particularly.

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<sup>320</sup> “African Civil Society Call for the relocation of the African Commission on Human and Peoples’ Rights headquarters from The Gambia”.

<sup>321</sup> Ibid., 2.

The continued threats heaped on human rights defenders- especially given utterances made by President Jammeh, that he cannot guarantee the safety of human rights defenders working in The Gambia, does not make Banjul an ideal human rights capital of the African continent. Gambia`s government has breached every single principle that the African Human Rights Charter espouses, and it has been requested, on numerous occasions, to respect its obligations to the Human Rights Charter, especially given the fact that it is hosting the Commission.<sup>322</sup>

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<sup>322</sup> Ibid., 1.

**CHAPTER 6.**  
**AFRICAN HUMAN AND PEOPLES' RIGHTS ORGANIZATIONS IN**  
**THE GAMBIA**

Within this political context a number of human rights organizations have attempted to promote the African Charter on Human and Peoples' Rights. Africa in Democracy and Good Governance was one such organization. Some have been more successful than others at navigating the political environment of a country that houses the African Commission while at the same routinely violates the rights of its citizens.

***6.1 African Centre for Democracy and Human Rights Studies***

The oldest human rights organization in The Gambia to have as part of its mandate the promotion of the rights and duties of the African Charter on Human and Peoples' Rights is the African Centre for Democracy and Human Rights Studies (ACDHRS). The mission of the ACDHRS is to play "a central role in promoting and protecting human rights and democracy in Africa, through the media of capacity building, networking, action-oriented research, publication and documentation".<sup>323</sup> The Centre envisions its work as assisting in the pursuit of the aims of Article 25 of the African Charter.<sup>324</sup> The ACDHRS was granted observer status with the African Commission

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<sup>323</sup> "Mission Statement" [www.acdhrs.org](http://www.acdhrs.org).

<sup>324</sup> Article 25 of the African Charter states that, "States Parties to the Charter shall have the duty to promote and ensure through teaching, education and publication, the 'respect of the rights and freedoms contained in the present Charter and to see that these freedoms and rights as well as corresponding obligations and duties are understood".

during its sixth session in October 1989.<sup>325</sup> From its founding in 1989 until today, the organization has been one of the most consistent partners of the Commission particularly in its promotional mandate. According to a Center for Human Rights report on the promotion of the African Charter, the ACDHRS was one of two organizations operating in the country that are more widely known locally in The Gambia for its work than the Commission itself.<sup>326</sup>

### ***The First Republic Period of the ACDHRS 1989-1994***

The history of the ACDHRS can be divided between its operations during the First Republic (1989-1994) and its operations during the Second Republic (1994-present). The African Centre for Democracy and Human Rights Studies (ACDHRS) was initially founded in 1989 as the national human rights institute for The Gambia under then President Dawda Jawara. The Gambian government agreed to create a human rights organisation based on the following principles:

- (i) it should be an autonomous, non-governmental body mandated to cover the whole of Africa;
- (ii) its mandate should be exclusively promotional;
- (iii) it should be governed by an independent Council comprising distinguished human rights activists and scholars; and
- (iv) it should have diverse sources of funding in addition to a yearly subvention from the Government of The Gambia in fulfillment of its

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<sup>325</sup> “NGOs with observer status” African Commission on Human and Peoples' Rights. <http://www.achpr.org/network/ngo/by-name/#>.

<sup>326</sup> FuhMbuh 86.

obligation under Article 26 of the African Charter for the promotion and protection of human rights.<sup>327</sup>

On June 20<sup>th</sup> 1989 the National Assembly adopted the African Centre for Democracy and Human Rights Studies Act. Describing the general function of the Centre, section four of the act states:

(1) The Centre shall generally, in co-operation with other African and international institutions, encourage the promotion of human and peoples rights through training and research.

(2) In the performance of its functions under subsection (1) of this section, the Centre may-

(a) organise workshops, seminars and conferences involving people from all over the Continent for the purpose of exchanging ideas on common problems;

(b) sponsor public lectures in different parts of Africa;

(c) indicate and assist in the implementation of human rights related projects in Africa; and

(d) publish periodicals and journals.<sup>328</sup>

To fulfill its mandate, the ACDHRS executed six programs in the areas of human rights: human rights procedures, research, documentation, publication, human rights internships and training and education.

One of the most enduring activities that the Centre has conducted over the years has been its seminars on human rights topics and procedures. The first such seminar was held in November 1989. The ACDHRS along with the African Association of International Law and the African Commission organized a seminar on the Judiciary and

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<sup>327</sup> Sock, Raymond. "Historical Background". *Report on the Activities of the African Centre for Democracy and Human Rights Studies 1990-1993*. New-Type Press, Kanifing, 1993.

<sup>328</sup> The Government of the Gambia. *Laws of The Gambia*. Vol. 6. Portsmouth: Grosvenor Press, 1990.

Human Rights in Africa. “The main purpose of the conference was to appeal to the 36 States party to the African Charter on Human and People's Rights to develop a human rights culture in Africa and to raise the level of the African peoples' consciousness of human rights”.<sup>329</sup> Attending the seminar were judges, academicians, lawyers and human rights activists from twenty-four states, eighteen of which were African. The session culminated in the issue of an appeal (the Banjul Appeal) to all African states and peoples.

The fourteen-point appeal called for all African States and Peoples to first “take appropriate measures to democratize the national polity and institutions as a pre-condition and fundamental basis for the full enjoyment of the civil, political, socio-economic and cultural rights embodied in the African Charter on Human and Peoples' Rights”.<sup>330</sup> The Banjul Appeal demanded of African states to disseminate human rights information within national societies, mandate the independence of African judiciaries, allow impartial access to courts, ensure the autonomy and proper funding of the African Commission, protect refugees and migrants, maintain human rights standards within structural adjustment agreements, and to ratify the and domesticate the Charter.<sup>331</sup> Lastly the Appeal requested of civil society in general and NGOs in particular to “be more actively involved in the dissemination of information on the African Charter on Human and Peoples' rights, and in ensuring its promotion and implementation”.<sup>332</sup>

Following this initial seminar and committed to carrying out the ideas of the Banjul Appeal, the ACDHRS held its first seminar exclusively on "International Human Rights Procedures" from November 25-29 in 1991. Eleven participants and

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<sup>329</sup> “The Banjul Declaration”. South African Journal on Human Rights. Vol. 6 1990.

<sup>330</sup> Ibid., 88.

<sup>331</sup> Ibid., 89.

<sup>332</sup> Ibid., 89.

representatives of NGOs from across Africa attended the inaugural workshop.<sup>333</sup> The seminar examined in a “practical and participatory manner” the procedures of the African Commission on Human and Peoples' Rights; the UN Commission on Human Rights; the UN Sub Commission on the Prevention of Discrimination and the Protection of Minorities; the UN Committee on Human Rights; and other UN Treaty bodies such as the Committee against Torture and the Committee on the Elimination of Racial Discrimination. By 2002, the Centre would organize ten such seminars on the same topic with generally the same structure with representation coming from NGOs all over the continent. Along with these seminars, the Centre also conducted workshops on the African human and Peoples’ rights system within the college and secondary schools, unions, as well as women’s organizations within The Gambia.<sup>334</sup>

The Research Programme was designed by the Centre to focus on “conducting or commissioning theoretical and empirical studies on African human rights problems with a view to ameliorating the human rights situation”.<sup>335</sup> The Centre’s first major research project covered the prison conditions and their subsequent human rights issues in six different African countries. After conducting the research, the Centre held a seminar reviewing the results and issuing several resolutions concerning trial procedures; the physical conditions of imprisonment; the conduct of prison personnel and the administration of prisons; discipline, punishment and rehabilitation of prisoners; women and children in prison; political prisoners; and health care and AIDS in prison.<sup>336</sup>

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<sup>333</sup> “Human Rights Procedures” Activity Report 1990-1993.

<sup>334</sup> *Ibid.*, 10.

<sup>335</sup> *Ibid.*, 11.

<sup>336</sup> *Ibid.*, 12.

The Publications Unit was very active building off the work of the Research Programme, during the first five years of the Centre's existence. From 1989 to 1994 the Centre under the directorship of a Raymond Sock, published a number materials concerning human rights topics in Africa. Sock wrote a number of publications for the Centre during this period primarily on the topics of women's rights, extra-judicial killings, and prison conditions and prisoners' rights. Sock's publication record during his tenure as director of the Centre largely displays the western conception of human rights with little use of the African features of the Charter such as peoples' rights, duties, or even the economic, social, and cultural rights that are even found in UN instruments. During this period, only one of the publications of the ACDHRS could fall into Mutua's conceptual category of the "cultural agnostic". That is, the publication expanded the western notions of human rights discourse by including the contributions of African, Asian, or Latin American cultures. Along with one of the experts tasked with drafting the Charter, Minister of Justice Hassan B. Jallow, Paul Hunt [find out who this is] co-authored the 1991 ACDHRS publication entitled "AIDs and the African Charter". Within it, Jallow and Hunt apply the entire African Charter to analyze the pandemic of AIDs as a human rights question. Not only do Jallow and Hunt recognize that people living with AIDs were due the civil and political rights of freedom from discrimination, freedom of movement, and privacy, but also were required as African citizens to perform duties to the larger community such as not infecting others and educating those around them about the disease.<sup>337</sup> The cornerstone of the Publication Unit was unquestionably the quarterly African Human Rights Newsletter published by the Commission beginning in 1991.

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<sup>337</sup> Hunt, Paul and Jallow, Hassan B. "AIDS and the African Charter" 1991.

The Human Rights Internship Programme allowed the Centre to open its doors to Africans and foreigners interested in the African human and Peoples' rights system to gain valuable hands on experience in research and promotion. However, even though the doors were open to African interns, financial restraints did not allow any African students to work at the Centre during its first five years. For better or worse, the interns that did join the Centre were European students from schools in America, Canada, and Europe.<sup>338</sup> These interns worked as document translators, cleric workers, and documentation collectors.

The focal point of the ACDHRS' Documentation Programme was and is the library of human rights materials it maintains at its headquarters. The Programme's stated objective was "to create a unit which would be a central collection and dissemination point for information published worldwide on issues concerning human rights and democracy, particularly in Africa".<sup>339</sup> Between 1990 and 1994, the Documentation Programme collected over 1500 articles, studies, reports, monographs, newsletters, newspaper clippings and official documents. One of the first workers in the Documentation Programme was a young Hannah Forster who would become the current executive director in 2001. The ACDHRS during this time heavily promoted the collection and preservation of human rights documentation by NGOs and organized several seminars on this topic.

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<sup>338</sup> "From 1990 to June 1993, the African Centre supervised the work of six student interns from northern institutions –from Harvard University (1990), Columbia University (1990), the University of London (1990), Michigan University (1991), Brown University (three months in 1993), and CUSO, Canada (three months in 1993). "The Human Rights Internship Programme" Activity Report 1990-1993, 13.

<sup>339</sup> Activity Report 1990-1993 14.

The Training and Education Programme during the First Republic period organized a number of seminars designed primarily to train governmental officials on various aspects of human rights protection in Africa. The Centre trained senior magistrates from Guinea, Benin, Cameroon, Togo, and Gabon on international human rights instruments in 1991 with the aim to “examine the administration of justice in the light of international human rights law with an emphasis on how participants could help to protect and promote human rights in their every day professional work”.<sup>340</sup> A similar seminar was conducted in February 1993 with ten magistrates from Southern, Eastern, and Central Africa. The majority of the training seminars however were held with participation by the former NCBWA countries of Ghana, Sierra Leone, and Nigeria. These seminars were designed to familiarize a wide array of professionals including paralegals, police officers, and other public officials with international and regional human rights instruments.

In addition to the six programs listed, the ACHDRS also initiated, organized, and hosted several forums aimed at bringing together NGOs and the African Commission during the latter’s bi-annual sessions. The Commission and the Centre shared a very close relationship during this period largely as a result of the two institutions occupying the same office building in Banjul. The first NGO Forum was held between October 5<sup>th</sup> and 7<sup>th</sup> in 1991 just prior to the Tenth Session of the African Commission.<sup>341</sup> Between this meeting and 1994, the ACHDRS collaborated with the International Commission of Jurists in facilitating the participation of civil society organizations, academicians and

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<sup>340</sup> Activity Report 1990-1993 19.

<sup>341</sup> *Ibid.*, 5.

other professionals from Africa and beyond in the African Commission's sessions.<sup>342</sup> At these sessions, NGOs are able to come together and express their concerns on the human rights situations in their particular countries as well as the continent as a whole. The

ACDHRS states the objectives of the Forum are:

1. To foster closer collaboration and co-operation among NGOs, and with the African Commission for promotion and protection human rights in Africa;
2. To provide a discussion platform for organizations working on democracy and human rights issues in the continent;
3. To promote inter-regional/organizational networking for the implementation of decisions of the Forum as contained in the ACHPR Communiqué amongst others.<sup>343</sup>

These forums have become an integral part of the African human and Peoples' right system. After each one, resolutions are made by the participants and are presented to the Commission. These resolutions function as a collective shadow report for the entire continent. They also provide collective suggestions to the Commission concerning structural and procedural aspects of the African human and Peoples' rights system. For example, in the third Forum, the Centre presented a paper calling for the Commission to reconsider its "procedural requirement" of the exhausting local remedies before an individual or organization could bring a communication before the Commission. Within the same Forum, the Centre and other participants also suggested that the Commission "appoint a Special Rapporteur on the Rights of Women to study the situation of women, their role, their positions and their rights, and the obstacles to the implementation of women's rights including inappropriate traditional practices, lack of access to education,

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<sup>342</sup> "About the Forum". <http://www.acdhhs.org/ngo-forum/>.

<sup>343</sup> <http://www.acdhhs.org/ngo-forum/>.

food, health and political decision-making, and violence against women”.<sup>344</sup> Although the Commission did not act upon the former suggestion procedurally, the latter was actualized with the appointment of Mrs. Julienne Ondziel-Gnelenga as the first Special Rapporteur on the Rights of Women in 1998.

At the end of the first period of the Centre two events would nearly lead to its demise. First, a number of controversies arose surrounding the administration of the Centre. Around 1994, a number of staff members from other African countries began publicly bashing the leadership of Centre, which they charged with corruption, nepotism, and mismanagement. Questions were also raised as to the effectiveness of the organization in meeting its established goals. These issues lead to the resignation of the first executive director Raymond Sock.

The second event was the 1994 coup which toppled President Jawara who served as the Chief Patron of the Centre from its founding. As an organization committed to the rule of law and the democratic process, the Centre was compelled to denounce the coup on simply the grounds of principle. More importantly, although initially widely supported by the general population after thirty years of Jawara’s rule, it was not certain whether or not the new regime would support African human rights in general and the Centre in particular in the way Jawara’s government did. In the African Human Rights Newsletter of September 1994, the Centre’s cover article titled, “Basic Rights Under a Military Government ‘With a Difference?’” heaps praise on the deposed Jawara while skeptically questioning the new regime’s assertions that this coup would be different from others that had occurred on the continent. The article states, “It is true that the AFPRC thus far has

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<sup>344</sup> Activity Report 1990-1993 8.

not brought bloodshed or civil strife to The Gambia. Yet the abridgement of fundamental rights through decrees and arbitrary arrests means that in The Gambia citizens have become subjects, governed by a handful of leaders who effectively are accountable to no one.<sup>345</sup>

### ***The Second Republic Period of the ACDHRS 1995-Present***

Following the 1994 coup, the Centre separated itself completely from the military government. In the Activity Report of the ACDHRS for 1994-1995, Judge Kayode Eso as chairman of the Centre's Governing Council boldly stated, "No longer could the Centre be regarded as tied to the apron strings of any government".<sup>346</sup> On August 11, 1995, the Governing Council approved new statutes and regulations that restructured the Centre's higher levels so that its Chairman would no longer be the attorney-general of The Gambia and its Chief Parton would no long be the Gambia's president. Another change at the executive level of the Centre was the appointment of Zoe Tembo of Zambia as the new Executive Director. Tembo was the Programme Coordinator for the Centre since 1992 and was acting director following the departure of Sock.

With Tembo at the helm, the Centre expanded its six programmatic themes to eight. In addition to the human rights procedures, research, documentation, publication, human rights internships and training and education programs, the Centre also incorporated the Women and the African NGO Networking and Institution Building

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<sup>345</sup> "Basic Rights Under a Military Government "With a Difference"?". *African Human Rights Newsletter* 4, July-September 1994.

<sup>346</sup> Activity Report 1994-1995.

programs into its regular work. All of these programmes with the exception of the publication programme, experienced quantitative growth during Tembo's tenure.

The Human Rights Procedures and Training and Education Programmes both attracted more participants from across the continent and covered a vaster array of human rights topics. Along with its annual seminars on International Human Rights Procedures held in Banjul, the ACDHRS organized several other workshops outside the country. The Centre held the 2<sup>nd</sup> International Training Course on Human Rights Documentation and Information Handling in Africa in Tunis, Tunisia in September 1998. This seminar was a part of the effort of the Centre to expand its training to include practical issues within human rights NGOs. In October 1998, the Centre organized a workshop on the independence of the judiciary in Port Louis, Mauritius. A seminar on Women in Conflict situations was held in Lusaka, Zambia between the 24<sup>th</sup> and the 29<sup>th</sup> of May in 1999. Between 1998 and 2000 "Some 300 persons from predominantly human rights NGOs in 35 countries in Africa participated in these courses".<sup>347</sup>

The Centre further held training courses for stakeholders other than NGOs. Trainees in the Centre's courses came from the judiciary, the armed Forces, the legislature, the executive and other civil society institutions. From June 26 to 30 1995, a training course for senior military officers on the protection of human rights was held in Banjul. The stated objective of the course was to "introduce senior military officers to international and regional human rights instruments and to help them see how their work ties in with codes of ethics and how they can contribute to the promotion of Human

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<sup>347</sup> Activity Report 1998-2000 7.

Rights in the course of the execution of their profession as soldiers”.<sup>348</sup> The timely, course (almost one year after the coup and in the midst of military rule) covered the African Charter, the UN Declaration on Human Rights, and the International Covenant on civil and political rights. Participants came from The Gambia, Burkina Faso, Burundi, Egypt, Ghana, Lesotho, Mali, Mauritania, Niger, Rwanda, Senegal, Sierra Leone, South Africa, Togo, Tunisia, and Zimbabwe.<sup>349</sup>

The Research Programme, “designed to play a pivotal role in defining human rights, analysing reasons for violations and prescribing appropriate measures to address issues” was largely underdeveloped after the First Republic Period. The Centre embarked on a number of studies and publications at the beginning of the Second Republic. Two research projects were initiated in 1995. One used the case studies of Kenya and Senegal to explore inheritance laws in Africa. This work was completed and translated into both English and French. The other centered on marriage laws in Africa using Cameroon and Namibia as cases.<sup>350</sup> This research was ultimately altered and re-commissioned in 1997 with The Gambia, Ghana, Liberia, and Mauritius replacing Cameroon and Namibia as the case studies.<sup>351</sup>

Under the leadership of Hannah Forster, the Documentation Programme continued to accumulate books, monographs, videos, and other human rights resources. By 1996, 4000 documents were collected by the Centre through its own accusation process as well as through a publication exchange with other NGOs. By 2000, over forty organizations within and outside of Africa were in an exchange network with the

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<sup>348</sup> Activity Report 1994-1995 10.

<sup>349</sup> Ibid.

<sup>350</sup> Ibid., 5.

<sup>351</sup> Activity Report 1996-1998 11.

Centre.<sup>352</sup> Although the Centre wrote in its Activity Reports of 1994-1996 and 1996-1998 that its had entered into talks to setup human rights corners in libraries and schools in the Provinces, no further reports of the actualization of this activity could be found.<sup>353</sup>

The Centre's Publication Programme continued to produce the African Human Rights Newsletter as well as other topical papers. The African Human Rights Newsletter was and is considered the ACDHRS' "main channel of communication in the promotion of human rights and democratic principles".<sup>354</sup> The first two years of the Second Republic period saw the Centre's newsletter tackle the themes of freedom of expression, structural adjustment, reproductive rights and family planning, and military governance. In addition to topical themes, the newsletter's articles also reported on the activities of the Centre and the work of the Commission.<sup>355</sup>

As was mentioned, the Second Republic Period for the Centre was not as productive in terms of the organization's publication of scholarly papers on human rights issues as the previous period under the directorship of Raymond Sock had been. The Centre published one topical paper during this period in August 1994 entitled "The Evidence of Extrajudicial, Arbitrary or Summary Execution in Africa". The Publication Programme also produced activity reports of the Centre and pamphlets summarizing the training courses and seminars put on by the Centre during this period as well. It was also during this period that the Centre established its presence on-line with the launching of its first website in 2000.

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<sup>352</sup> Activity Report 1998-2000 14.

<sup>353</sup> Activity Report 1994-1996 7; Activity Report 1996-1998 11.

<sup>354</sup> "Activity Report 1996-1998 10.

<sup>355</sup> A more detailed analysis of the African Human Rights Newsletter will be presented in the following section.

The Human Rights Internship Programme was able to attract slightly more African students than was possible in the First Period. In 1995, a Marian Forson of Ghana interned at the Centre for nine months. Between 1996 and 1998, no African interns from outside The Gambia worked at the Centre. In 1999, a Nigerian named Nkeiru Makun interned in the Legal and Research unit of the Centre and in 2000, two interns from Chad worked in the Documentation Unit.<sup>356</sup> The other eight foreign interns at the Centre during this time were from either Canada or the United States.<sup>357</sup> Along with these foreign interns, the Centre was inundated with assistance from Gambians during the period who worked in nearly all of the organization's units and programs.

The African NGO Networking and Institution Building Programme continued to connect the ACDHRS with other African and international organizations especially during the Centre's co-sponsored NGO Forums held before every bi-annual meeting of the Commission. Unlike the First Republic Period where the ACDHRS organized the Forum with the ICJ, the Centre has taken sole responsibility for facilitating the program since 2001. The Centre also began a training course on organizational management for other human rights groups designed:

1. To equip African Human Rights NGOs with the knowledge of how to administer and manage their organisations;
2. To exchange and seek solutions to problems encountered in their work;
3. To discuss ways and means of further strengthening African Human Rights NGOs in networking activities.<sup>358</sup>

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<sup>356</sup> Activity Report 1998-2000 31.

<sup>357</sup> Four from the US and Four from Canada. See Activity Report 1996-1998 Appendix 2 25; Activity Report 1998-2000 31.

<sup>358</sup> Activity Report 1994-1995 13

With the management course, the Centre facilitated discussion on such practical topics as: auditing, accounting, computer skills, organizational effectiveness and strategic management.<sup>359</sup>

### ***Promotion of the Maputo Protocol***

Lastly and perhaps most significantly, the Women's Programme has become arguably the Centre's most successful programme within The Gambia. The development of the Centre as a strong institution for women's rights can be traced to its leadership during the Second Republic Period by women's' activists Zoe Tembo and Hannah Forster. Around the same time that the Commission was seeking to rectify its somewhat delinquent appreciation of women's rights the Centre was as well. The ACDHRS noted, "that despite the progress made in the promotion and achievement of human rights in Africa over the last few years, women's rights were still not recognised as being human rights".<sup>360</sup> The Centre's first seminar exclusively on the issue of women's rights was a workshop held on African women and tradition, culture and religion from February 28 to March 4 in 1994. "The workshop afforded African women scholars, activists and mothers, and, indeed, men, a unique opportunity to explore some of the themes relevant to women's rights in Africa prior to the regional meeting for the Fourth World Conference on women" that would take place in 1995 in Beijing.<sup>361</sup> The Centre

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<sup>359</sup> Ibid.

<sup>360</sup> Activity Report 1996-1998 11.

<sup>361</sup> Ibid.

republished the resolution of the workshop in its Human Rights Newsletter which contained among other things...<sup>362</sup>

In 1996 the Centre in collaboration with the South African NGO, Advice Desk for Abused Women, organized a training course on “International Human Rights Procedures for the Protection and Promotion of Women’s Rights in Africa”. The seminar was attended by thirty participants and eleven observers from Benin, Botswana, Cameroon, Cote d’Ivoire, The Gambia, Kenya, Mauritius, Senegal, Sierra Leone, South Africa, Togo, Tunisia, Uganda, Zambia and Zimbabwe.<sup>363</sup> The year 1997 saw two additional programs on women’s rights. The first had the title “Empowerment of Women, Violence against Women” in May 1997 and was attended by twenty-three participants from Benin, Cape Verde, Egypt, The Gambia, Lesotho, Nigeria, Sierra Leone, South Africa, Uganda and Zambia. Finally the Centre organized a training programme in South Africa which among other topics the Additional Protocol (on Women's Rights) to the African Charter on Human and People's' Rights.<sup>364</sup>

The Protocol on Women’s Rights or the Maputo Protocol was given high priority by the ACDHRS from the time of its drafting until its ratification by The Gambia in 2005. The Centre’s work with the Maputo Protocol would ultimately lead to the instrument’s domestication into Gambian law with the Women’s Act of 2010. Executives Zoe Tembo and Hannah Forster played crucial roles in the drafting process of the document both in terms of material assistance and providing expert knowledge to the creation of the instrument.

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<sup>362</sup> “The Resolutions”. *African Human Rights Newsletter* 4 Jan-June 1994. 11.

<sup>363</sup> Activity Report 1996-1998 11.

<sup>364</sup> *Ibid.*, 12.

Beginning in 1996, the African Centre raised funds to contribute to the financing of the work of the experts and the holding of regional seminars and consultations with African women that would led to the creation of the Protocol.<sup>365</sup> One of the first meetings of the Experts Working Group tasked with drafting the Protocol was held at the Centre in January 1998. At this meeting the Working Group “considered and adopted a draft terms of reference for the Special Rapporteur on the rights of women in Africa, the mandate, justification, duration, area of investigation, presentation of reports as well as criteria and procedure fro appointing the special rapporteur”.<sup>366</sup> One year later, the Working group met again this time in Dakar, Senegal to discuss the incorporation of proposed amendments from NGOs including ACDHRS into the draft protocol. July of that same year, a final meeting co-financed by the Centre was held in Dakar to structure the Draft to send to the Commission.<sup>367</sup> One final Working Group meeting was held in Kigali, Rwanda on the eve of the Commission’s 26<sup>th</sup> session. This meeting, in which final input was considered and the draft was submitted to the Commissioners was also financed in part by the Centre.

Once the Protocol was adopted by the African Union in 2003, the ACDHRS joined with other NGOs and AHPROs to sensitize its contents and agitate for signatures, ratification, and domestication within individual states including The Gambia. As early as 2001, the Centre had already begun promoting the Protocol within its International

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<sup>365</sup> “Protocol on the Rights of Women”. African Human Rights Newsletter. Issue: Vol. 6 no. 4 Oct.-Dec. 1996.

<sup>366</sup> “Working Group Meets On Draft Protocol On The Rights of Women”. African Human Rights Newsletter. Issue: Vol. 8 no. 1 Jan-March. 1998.

<sup>367</sup> “PROGRESS ON ADDITIONAL PROTOCOL ON WOMEN'S RIGHTS” African Human Rights Newsletter. Issue: Vol. 8 no. 1 July-Sept. 1999.

Human Rights Procedures training course.<sup>368</sup> Externally, the Centre forged relationships with other human rights organizations committed to the rights of African women.

ACHDHRS is one of the thirty-six organizations in the multi-national coalition, Solidarity for African Women's Rights or SOAWR. Established in 2004, the SOAWR's goals are three-fold: the achievement of universal ratification of the Maputo Protocol, the popularization of the Protocol, and the domestication of the Protocol in all countries.<sup>369</sup>

As apart of SOAWR, the Centre along with other Gambian human rights organizations agitated successfully for the Protocol's ratification in the Gambia on May 25, 2005. With this achieved, the Centre moved to popularize the Protocol. Part of the Centre's strategy was to distribute copies of the Protocol around the country including an Arabic translation of the text for Muslim communities.<sup>370</sup> In a 2008 quarterly produced by Equality Now and SOAWR entitled, "Update on the Campaign on Ratification, Domestication and Popularization of the Protocol on the Rights of Women in Africa", ACDHRS is highlighted for its promotional activities among Gambian women. It states:

From the 2 to 4 of December, the African Centre for Democracy and Human Rights Studies (ACDHRS) organized a three-day sensitization workshop for grass roots women from the Western region of Gambia on the AU Protocol on the Rights of Women in two local languages, Wolof and Mandinka. It was attended by 27 participants, six of whom were men. The objective was to train these women on the Protocol and enable community members to become fully conversant with the provisions of the Protocol and provide them with knowledge and skills necessary to popularise the

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<sup>368</sup> "ACDHRS Organises Ninth Training Course on the Use of the International Human Rights Procedures". African Human Rights Newsletter. Issue: Vol. 11 no. 1 Jan-March 2001.

<sup>369</sup> "About SOAWR" <http://www.soawr.org/en/about/>.

<sup>370</sup> "Solidarity for African Women's Rights Coalition: Campaign updates from around Africa". *The Protocol To The African Charter on Human and Peoples' Rights on Women's Rights in Africa, From Ratification to the Realisation of African Women's Human Rights.*, 2005.

Protocol in respective communities. The workshop equipped grassroots women with information on the provisions of the Protocol and the rights enshrined therein. Selected articles of the Protocol were illustrated in pictorials for easy comprehension by the participants.<sup>371</sup>

Building off of this groundwork the ACDHRS pushed for the final goal of the SOAWR coalition: domestication of the Maputo Protocol. This was finally achieved with the adoption of the Women's Act of 2010, which was enacted by the National Assembly in April 2010. According to a report compiled by the African Development Bank Group, after “a participatory process” that “involved extensive consultation among stakeholders at the national, regional, district and community levels” the Act as signed into law requirements of gender equity in government, quotas for women’s participation in political decision-making, protections for young mothers, a call for equal remuneration and equal social benefits for working women and men, and a number of other statutes designed to achieve gender equality within the country.<sup>372</sup> In his report on The Gambia FuhMbuh writes, “The Women’s Act 2010 is the one piece of legislation in the Gambia that expressly [sic] incorporates an international treaty. In the introduction to the law, it is clearly stated ‘an act to implement the legal provisions of the National Policy for the Advancement of Gambian Women and Girls, and to incorporate and enforce... the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa and for other matters connected therewith’”.<sup>373</sup> FuhMbuh further states, “The

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<sup>371</sup>Equality Now. "Country Level Actions, The Gambia ." Update on the Campaign on Ratification, Domestication and Popularization of the Protocol on the Rights of Women in Africa, October-December 2008: 1.

<sup>372</sup>AFRICAN DEVELOPMENT BANK GROUP. THE GAMBIA: COUNTRY GENDER PROFILE October 2011.

<sup>373</sup> FuhMbuh 82.

domestication of CEDAW and the Protocol in the Women's Act 2010 was largely as a result of lobbying and advocacy undertaken by these organizations, notably the ACDHRS".<sup>374</sup> However, as impressive the work done by the Centre in legally domesticating the Maputo Protocol, by the organizations own admission, much more has to be done to inculcate its principles into the general population. In a study done by the ACDHRS in 2010 it was revealed that only 16% of the populous had awareness of the Women's Act.<sup>375</sup>

### *Content Analysis of the African Human Rights Newsletter*

As was mentioned previously, the ACDHRS' African Human Rights Newsletter is considered the organization's "main channel of communication in the promotion of human rights and democratic principles".<sup>376</sup> Beginning in 1991, the Centre began releasing the quarterly periodical to an international audience. Each issue was written in both English and French. Throughout the years, the newsletter has expanded from an average of eight pages to twelve and with a special edition of fifteen.<sup>377</sup> During, the first four years of the publication, most of the issues were theme based with such focuses as women's rights, children rights, and democracy. The newsletter always included segments detailing the Centre's work as well as general updates on the development of the AHPRS throughout the 1990s and into the beginning years of the new millennium. Only two sections in the publication appeared regularly. Those were the "Focus on

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<sup>374</sup> Ibid., 83.

<sup>375</sup> AFRICAN DEVELOPMENT BANK GROUP. THE GAMBIA: COUNTRY GENDER PROFILE October 2011.

<sup>376</sup> "Activity Report 1996-1998".

<sup>377</sup> The African Human Rights Newsletter of 1996 celebrated ten years of the Charter's entry into force and included the most articles of any editions.

African NGOs” and “Human Rights Documentation on Africa”. The “Focus on African NGOs” would highlight the work and mission of a African human rights NGO. During the early years of the publication when each issue was based on a theme, the work of the NGOs in this section would be connected with that aspect of human rights. The “Human Rights Documentation on Africa” section listed recently released publications on human rights issues internationally and on the continent. With the exception of articles or statements reprinted from meetings, workshops, or other publications, the only authors listed for writing individual articles are two interns who volunteered at the Centre.<sup>378</sup>

Currently, the newsletters are housed in the Centre’s documentation center in a storage room off of the main library. The newsletters are stacked on shelves with an estimate of fifty to sixty of each available issue piled one on top of the other. The facility is not maintained well and the stacked newsletters a covered in slight layer of dust. From this, the researcher was able to procure and scan thirty-nine issues or one of each available issue.<sup>379</sup> The years covered in the analyzed issues extend from 1991 to 2003. Of the fifty-two issues of the newsletter published by the Centre, thirty-nine were available

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<sup>378</sup> Canadian intern Denis Jobin wrote “The State, Free Market and Human Rights” Issue: Vol. 7 no. 3 July-Sept. 1997 and another intern Ross van Horn wrote “The Fine Line Between Sovereign Rights and Human Rights in Africa and Beyond; Should it be Crossed?” in Issue: Vol. 13 no. 1 January-March 2003.

<sup>379</sup> The researcher was not given much assistance in the ACDHRS’ documentation center. Stationed in the library was a young high school aged Gambian intern who could not provide much help. There is no consistent filing system although books and other materials are arranged by country and topic. In regards to the newsletters, the intern informed the researcher that those in the adjacent room were the only copies she was aware of. At the time of the researcher’s visits the documentarian was not available for questions or to assist in locating the missing newsletters.

for consideration for this work.<sup>380</sup> Within these thirty-nine issues, 247 articles were read and analyzed for their content.<sup>381</sup>

What was looked for in the articles of the African Human Rights Newsletter was the Centre's promotion of the African conception of human and Peoples' rights. This African conception of human and Peoples' rights manifests itself both ideologically and structurally. Ideologically, the African conception of human and Peoples' rights are represented in the legal instruments of the AHPRS while the institutions of the AHPRS make up the structural component. The legal instruments consist of the African Charter on Human and Peoples' Rights, the Protocol to the African Charter on the Rights of Women in Africa, the African Charter on the Rights and Welfare of the Child, and the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights. The institutions of the AHPRS are the African Commission on Human and Peoples' Rights, the African Committee of Experts on the Rights and Welfare of the Child, and the African Court on Human and Peoples' Rights. The results of the first analysis show that out of the 247 articles reviewed, 114 concerned the instruments and institutions of the AHPRS. Thus, 46% of all of the articles appearing in the sample of the Centre's newsletter promote the institutions and legal instruments of the AHPRS. Table 1 displays the institutions and legal instrumentations of the AHPRS and the number of articles each one is discussed in.

**Table 1. Legal Instruments and Institutions of the AHPRS Within the African Human Rights Newsletter 1991-2003**

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<sup>380</sup> The 13 missing issues include: Vol. 1: 2-3; Vol. 2: 1,2,4; Vol. 3: 1,3; Vol. 4: 2; Vol. 10: 4; Vol. 12: 3; Vol. 13: 2,3,4.

<sup>381</sup> See Appendix for complete list of articles.

	Number of articles
The African Charter on Human and Peoples' Rights	38
The African Commission on Human and Peoples' Rights	38
The Protocol on the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	23
The African Charter on Rights and Welfare of the Child	11
The African Court on Human and Peoples' Rights	10

Almost one third, or 38 of the 114 articles, promoted the institutions of the AHPRS. Every one of these articles documented the work of the Commission, as it was the only functioning institution of the AHPRS active during the period between 1991 and 2003 with the exception of the African Committee of Experts on the Rights and Welfare of the Child which was institutionalize only in 2001. These articles promoted the work of the Commission by reviewing the ordinary sessions of the Commission including the biannual NGO Forum, updating readers on the comings and goings of Commissioners, chronicling the work of the special mechanisms such as the rapporteurs on women and penal systems, as well as monitoring the drafting of instruments such as the protocol on the establishment of the African Human Rights Court and the protocol on women's rights.

Further analysis of the 114 articles promoting the AHPRS was done to identify the various human rights concepts particular to the African system to be found therein. Particularly, analysis was done to identify the ideological components of the African concept of human rights. African conceptions of human and Peoples rights are the three innovations of the African Charter that have contributed to the global understanding of human rights. The first is the Charter’s recognition of the indivisibility of all forms of human rights, most significantly, the equality of civil and political with economic, social, and cultural. The second is the African contribution of the concept of the reciprocity of individual rights with individual duties. Finally, the African conception of human rights incorporates Peoples’ rights as a level of protection for collectives in addition to those granted simply to individuals.

As the primary ideological statement of the African concept of human rights, the Charter and its contents were identified and analyzed within the 114 newsletter articles promoting the AHPRS. Table 2 displays the results of the analysis:

**Table 2. Contents and Concepts of the African Charter on Human and Peoples’ Rights Within the African Human Rights Newsletter 1991-2003**

	Number of articles
<b>The Charter in general</b>	38
<b>Indivisibility of Rights</b>	21
<b>The Promotion of Traditional African values</b>	9
<b>The Concept of Individual Duties</b>	5
<b>Article 9 of the African Charter</b>	3

<b>Article 2 Non-Discrimination</b>	3
<b>Article 25 States Duty to Promote the Charter</b>	3
<b>Peoples' Rights in general</b>	3
<b>Article 22 Peoples' Right to development</b>	3
<b>Right to Assemble</b>	2
<b>Article 5 Right to be free from torture</b>	2
<b>Article 18 of The African Charter</b>	2
<b>Article 8 Freedom of religion</b>	1
<b>Equality Before the Law</b>	1
<b>Freedom of Association</b>	1
<b>The Right to Participation</b>	1

A total of 38 articles or one third of the total articles discussing the AHPRS were found to promote the Charter in general or as whole. Once this was established, the task moved to finding specific aspects of the Charter that were being promoted in the newsletter. Quantitatively, the most promoted concept found within the Charter as well as the most promoted aspect of the African conception of human rights in the newsletter was the indivisibility of all forms of rights. Twenty-one articles or 18% discussed the equality of economic, social, and cultural rights as well as the need for states and organizations to give them full consideration. These articles contained such statements as:

“The concept of civil and political rights as well as economic, social and cultural rights has provided individuals and groups subjected to

discrimination with the means for correcting injustice and enhancing social integration”<sup>382</sup>

or:

“It takes under its umbrella, peoples' rights, the right to development and economic, social and cultural rights, inseparable from civic and political rights, fruits which make it original”.<sup>383</sup>

This displays the Centre’s willingness to promote heavily this third of the African conception of human rights by making it the most discussed human rights concept within their organizational organ.

The second most promoted concept found within the articles on the AHPRS was that of the role of traditional African culture in grounding the articulation and protection of human rights on the continent. As the Preamble of the Charter states, the drafters and signers of the Charter were, “Firmly convinced of their duty to promote and protect human and people' rights and freedoms taking into account the importance traditionally attached to these rights and freedoms in Africa”. One article reflecting on the African Charter stated, “A truly African Charter should reflect our traditions and which deserve to be preserved and our values, and the legitimate aspirations of our peoples, in order to complete the global international effort made to reinforce respect for human rights”.<sup>384</sup> Another, describing the First OAU Ministerial Conference on Human Rights in Africa held in Mauritius in 1999 remarked, “It therefore called for integration of the positive

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<sup>382</sup> “DAKAR: Critical Concerns for AFRICA'S WOMEN”- Issue: Vol. 4 no. 4 Sept.-Dec. 1994.

<sup>383</sup> “Random Selection of 10th Anniversary Statements”- Issue: Vol. 6 no. 4 Oct.- Dec. 1996.

<sup>384</sup> “The African Concept of Human Rights”- Issue: Vol. 6 no. 3 July- Sep 1996.

traditional and cultural values of Africa into the human rights debate for transmission to future generations”.<sup>385</sup> Nine articles fall into this category or about 8% of the total.

The concept of individual duties was expressed in only the five articles concerning the AHPRS. This amounts to only 4% of the 114 analyzed articles. It is important to note that this small percentage of articles only discuss the concept of duties abstractly without close examination of the enumerated duties found within Articles 27-29 of the Charter. For example, in a 1996 article written specifically on the African concept of human rights states, “The same remark could be made on the subject of African society: in Africa, laws and duties are regarded as being two facets of the same reality two inseparable realities. Consequently it is no surprise to find, for the first time in a treaty of this type, a list of the duties of the individual towards the community in the African Charter on Human and Peoples' Rights”.<sup>386</sup> In fact, three of the five articles including the one cited, all are found in the special edition celebrating the tenth anniversary of the coming into force of the African Charter. Most significantly, there are no mentions or allusions to the duties provided in Article 29: 7-8 which place on the individual the responsibilities:

7. To preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well being of society;

8. To contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African unity.<sup>387</sup>

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<sup>385</sup> “FIRST OAU MINISTERIAL CONFERENCE ON HUMAN RIGHTS IN AFRICA ADOPTS GRAND BAY DECLARATION”- Issue: Vol. 9 no. 3 July-September 1999.

<sup>386</sup> “The African Concept of Human Rights”- Issue: Vol. 6 no. 3 July- Sep 1996.

<sup>387</sup> African Charter Article 29, 7-8.

These duties represent the articles of the African Charter that implore the most Pan-African agency onto the citizens of the continent's states.

The third aspect of the African conception of human rights is the recognition of the rights of collectives known in the AHPRS as Peoples' rights. Only three articles include statements related to this human rights concept. Just as the majority of statements concerning the concept of individual duties were found in the issue celebrating the ten year anniversary of the Charter's coming into force, so too are the majority (two out of three) of articles promoting Peoples' rights.<sup>388</sup> The other was a statement from a 1995 article discussing the effects of structural adjustment on human rights in Africa in which the writer states, "Few pay attention to the side effects which begin to encroach on people's rights to certain inalienable standards as provided for by international and regional instruments protecting human rights and the dignity of the human kind".<sup>389</sup> Within that same article are two more statements that articulate the Peoples' rights found in Articles 22 and 24, which are the right to development and to a satisfactory environment respectively.<sup>390</sup>

Along with the contents in and concepts of the Charter, the African Human Rights Newsletter also promoted the other legal instruments of the AHPRS: the Protocol to the African Charter on the Rights of Women in Africa, the African Charter on the Rights and Welfare of the Child, and the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights.

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<sup>388</sup> See "The African Human Rights System: Ten Years of Development"- Issue: Vol. 6 no. 3 July- Sep 1996 and Article: "The ICJ Traces the Charter's History"- Issue: Vol. 6 no. 3 July- Sep 1996.

<sup>389</sup> "Structural Adjustment and Human Rights"- Issue: Vol. 5 no. 4 Oct-Dec 1995.

<sup>390</sup> *Ibid.*, 3.

Following the Charter, the Women's Protocol was given the second most coverage of any of the legal instruments. This was largely due to the fact that the late 1990s and early 2000s were the time period in which the major struggle within the AHPRS was the institutionalization of a distinct set of protections for African women. Twenty-three of 114 articles promoted either the drafting process that led or the contents of the Women's Protocol. This accounts for 20% of the articles concerning the AHPRS. These articles provide a history. A single article in particular documented some of the specific articles of the Protocol (at that time still in draft status) including Article 5 that deals with freedom from harmful traditional practices, Article 6 which discusses polygyny, and Article 7 which guarantees the rights of widows.<sup>391</sup>

The African Charter on the Rights and Welfare of the Child was explored in eleven articles of the African Human Rights Newsletter for a total of a little less than 10%. Although adopted in 1990 by the OAU the children's protocol only came into force in 1999. With the bulk of the issues of the newsletter appearing during this period, many of the articles explore the contents of the Children's Charter and also update the reader on the ratification process that culminated in November 1999. Particularly, the articles of the Children's Charter that are promoted within the articles of the newsletter are Article 21 (the protection of children from harmful traditional practices such as FGM) which is highlighted in four articles, Article 15 (the protection of children from hard labour) which

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<sup>391</sup> "SOME SUGGESTIONS FOR AMENDMENT TO WOMEN'S PROTOCOL"- Issue: Vol. 9 no. 3 July-September 1999.

is found in three articles, and Article 29 (the protection of children from trafficking) which appears also in three articles.<sup>392</sup>

Finally, the African Human Rights Newsletter includes ten articles that promote the African Court on Human and Peoples' Rights. These articles make up 9% of the articles covering the AHPRS. The articles begin in 1994 with a mention of an appeal to the OAU to create an African Court<sup>393</sup> and end with an appeal in the final newsletter analyzed (the March 2003 issue) to states to ratify the Protocol on the establishment of the Court, which would occur later that year.<sup>394</sup>

## ***6.2 The Institute for Human Rights and Development in Africa***

Although the ACDHRS states its mission is to play a central role in both “promoting and protecting human rights and democracy in Africa”, its work has weighed heavily on the promotional side. In contrast, the AHPRO the Institute for Human Rights and Development in Africa (IHRDA) has placed greater emphasis on supporting the protective mandate of the African human and Peoples rights system. The IHRDA was founded in The Gambia in 1998 and continues to operate out of the Greater Banjul area. Along with the ACDHRS, FuhMbuh named the IHRDA as one of the “most prominent” human rights NGOs in the Gambia in his report for the Centre for Human Rights.<sup>395</sup> The

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<sup>392</sup> See “THE IMPORTANCE OF PEACE IN THE DEVELOPMENT OF THE CHILD”- Issue: Vol. 10 no. 1 January-March 2000 p. 5, “AFRICAN CHILDREN'S RIGHTS CHARTER NOW IN FORCE”- Issue: Vol. 10 no. 3 July-September 2000 p. 2, and “ACDHRS joins other Stakeholders to Commemorate the Day of the African Child”- Issue: Vol. 11 no. 2 April-June 2002.

<sup>393</sup> “The Resolutions”- Issue: Vol. 4 no. 1&2 Jan-June 1994.

<sup>394</sup> “The African Court; Not Yet 15”- Issue: Vol. 13 no. 1 January-March 2003.

<sup>395</sup> FuhMbuh 83.

IHRDA was granted observer status by the Commission during its 26<sup>th</sup> session in November 1999. According to its website, the IHRDA's mandate "is to increase the effectiveness and accessibility of the human rights protection mechanisms of the African Union, since the most critical challenge to the effectiveness of the African human rights system is a lack of awareness concerning its procedures". Thus the IHRDA "has undertaken to promote respect for human rights on the continent by strengthening the human rights institutions in Africa, ensuring compliance with the existing norms and making the system widely accessible to victims of human rights violations and other actors of civil society".<sup>396</sup>

The organization has summed up its work in three key words: defend, educate, and inform. Defending for the IHRDA entails the advising and representing victims of human rights abuses in Africa with pro bono legal counsel. The IHRDA's education work is defined by the training of human rights defenders in Africa on the African human rights system and how to use its mechanisms to seek justice for victims of violations". Lastly, the organization seeks to inform through the publishing and distributing information on the African human rights system".<sup>397</sup>

Since its founding the IHRDA has utilized the principle of active partnership on a number of different levels. According to a paper written by one of the organization's co-founders, Julia Harrington, "The Institute for Human Rights and Development was founded on the belief that the Organization of African Unity has created a potentially powerful instrument in its treaty law, most of which is unknown and goes unused, and

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<sup>396</sup> "Our History" IHRDA. <http://www.ihrda.org/our-history/>.

<sup>397</sup> *A Human Rights Defenders' Guide to the African Commission on Human and Peoples' Rights*. Institute for Human Rights and Development in Africa (IHRDA) / International Service for Human Rights (ISHR), 2012.

that active partnerships are required to take full advantage of this instrument”.<sup>398</sup> The IHRDA is predicated on this idea of active partnership primarily between human rights NGOs and the Commission. She further states that, “the desire to develop partnerships was the impetus behind the creation of the Institute in 1997”. Thus it was “through working in the legal section of the Secretariat of the Commission, a few individuals came by the rather arcane, detailed knowledge of the Commission’s procedures, and saw how in a few cases the Commission’s actions saved and changed lives. But it was the aggressive inquiries of those who came asking for this knowledge that led to the creation of the Institute”.<sup>399</sup>

The Institute is truly a child of the African Commission. Its founders Harrington and the late Senegalese lawyer Alpha Fall established the organization while the former worked as an intern in the legal department and the later as a legal advisor. Coming from the United States, Harrington was advised to work at the Commission by the African human rights scholar and then Harvard professor Makau wa Mutua. Surprisingly, Harrington had initially tried to intern at the ACDHRS but was told they were not accepting interns at that time.<sup>400</sup> Harrington described the Commission she interned with in the early 1990s as “very disorganized”. Fall arrived in 1996 to take over the post of *legal something* and he and Harrington began working with each other and subsequently came to the realization that with proper training, African individuals and organizations could take better advantage of the Commission’s protective mandate than what had hitherto been attempted.

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<sup>398</sup> Harrington, Julia. “The Institute for Human Rights and Development: Ethics and partnership in Africa”. *The Society for International Development*. 1999.

<sup>399</sup> Harrington 2.

<sup>400</sup> Harrington Interview 2/28/2013.

Along with its partnership with the Commission, the organization has also forged relationships with other African human rights NGOs in ways similar to the ACDHRS. Like the Centre, the IHRDA have organized workshops and seminars concerning various human rights topics salient for the continent. The Institute has divided its workshops into four broad areas: African Human Rights Procedures, The Gambia Legal Capacity Building Project, Economic Social and Cultural Rights Workshops, and Children's Rights Workshops.

The Institute's annual workshop on procedures of the African Human Rights System has been the organizations most consistent program. Since 1999 the Institute as organized these programs mostly in The Gambia. The third installment of these workshops was attended by the ACDHRS and covered in their newsletter. At that workshop held in September 2001 twenty people participated representing the countries of Senegal, South Africa, Malawi, Nigeria, Rwanda, Democratic Republic of Congo, the Central African Republic, Ethiopia, and Guinea Conakry.<sup>401</sup> Spread over ten days, the workshop covered: the history and context of the African Human Rights System, the procedures of the African Human Rights System, the role of NGOs before the African Community, a chronology and overview of the development of economic and social rights, human rights law of vulnerable groups, state reports, human rights litigation/communications by NGOs before the Commission, the African Union, the Committee on the Rights and Welfare of a Child, and thematic sessions on individual projects.<sup>402</sup>

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<sup>401</sup> "ACDHRS participates at IHRD 3<sup>rd</sup> Annual Workshop". African Human Rights Newsletter. July-September 2001.

<sup>402</sup> Ibid.

In 2000, the IHRDA began facilitating its Gambia Legal Capacity Building Project with a seminar on the “Application of International Human Rights Law in The Gambia”. The workshop “primarily targeted members of the Gambian Judiciary and the Gambia Bar Association”<sup>403</sup> and attracted sixty participants. The next workshop was held in October 2001 and was titled “Judicial Colloquium on Locus Standi in Administrative Justice and Human Rights Enforcement”. As with the first workshop, this one was also attended by the Gambian Judiciary and the Gambia Bar Association. In addition, participants came from Kenya, Tanzania, Nigeria, and Sudan.<sup>404</sup> The year after the IHRDA held a “Training Course on Public International Law for Gambian Government Officers” also under the Gambia Legal Capacity Building Project. This project and the workshops under this theme share a name with the Legal Capacity Building Programme, which the Institute is also apart of.

The Legal Capacity Building Programme (LCBP) is a programme of the Gambian Judiciary financed by the UK Department for International Development that began in 2004. The IHRDA served as project manager under the management of the judiciary for the programme during its first Phase from 2004-2007. The *raison-d’etre* for the LCBP is “the strengthening of the existing legal system in The Gambia and the introduction of significant but incremental reform in court management and financing, decentralisation

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<sup>403</sup> “Seminar on the Application of International Human Rights Law in The Gambia” <http://www.ihrda.org/2000/07/seminar-on-the-application-of-international-human-rights-law-in-the-gambia/>.

<sup>404</sup> “Judicial Colloquium on Locus Standi in Administrative Justice and Human Rights Enforcement”. <http://www.ihrda.org/2001/05/judicial-colloquium-on-locus-standi-in-administrative-justice-and-human-rights-enforcement/>.

and increased accessibility of legal services in the rural areas”.<sup>405</sup> From 2004 to 2007, the IHRDA organized four workshops under this theme and were largely attended by lawyers and judicial officials from within the country.<sup>406</sup>

With the end of the LCBP workshops, the Institute organized a seminar on litigating economic, social, and cultural rights in Nigeria in March 2008. The workshop was held in conjunction with the Social Economic Rights Action Centre (SERAC) of Nigeria. No more appropriate organization could co-host such an event with the IHRDA as the SERAC was the NGO responsible for bringing the one of the most successful economic, social, and cultural rights case before the Commission in the same year.<sup>407</sup> In fact, the workshop may have provided many of the legal strategies used in the SERAC communication. The workshop was attended by “representatives from the judiciary, the Lagos State Ministry of Justice, the Nigerian Bar Association, civil society organisations and private legal practitioners” and “examined the question of justiciability of economic and social rights in Nigeria, strategies for litigating economic and social rights in Nigeria

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<sup>405</sup> “The Gambia Legal Capacity Building Programme (LCBP)”

<http://www.ihrda.org/2004/10/the-gambia-legal-capacity-building-programme-lcbp/>.

<sup>406</sup> Seminar on Access to Justice as a Fundamental Right (2005); Roundtable Discussion on Legal Aid in The Gambia (2006); Legal Aid Bill 2007 Review Workshop (2007); and  
<sup>407</sup> “On December 3, 2008, the Social and Economic Rights Action Center (SERAC) in collaboration with a US-based leading law firm, Debevoise and Plimpton, filed another landmark communication before the African Commission on Human and Peoples' Rights. The Communication was brought against the state of Nigeria on behalf of the victims of the July 1990 brutal demolition of Maroko Community in Lagos state, who were forcibly evicted from their homes and businesses by the government of Nigeria in violation of the African Charter on Human and Peoples' Rights”. “African Commission Communication & Decision” <http://www.serac.org/Pages.asp?id=301>.

and at the regional level, and the human rights dimensions of the indigene/settler divide in Nigeria”.<sup>408</sup>

Lastly, the IHRDA has organized three workshops on the rights of the African child. From November 30<sup>th</sup> to December 3<sup>rd</sup> in 2004, the Institute collaborated with Save the Children Sweden to convene the First Pan-African Workshop on the Procedures of the African Committee of Experts on the Rights and Welfare of the Child. Two years later a three-day sensitization workshop was held in Banjul with twenty active members of International SOS Children’s Village. Topics discussed at the workshop included: economic and social rights of children, the protection of children under international and regional human rights instruments, and Gambian law on child protection.<sup>409</sup> The same workshop would be held a year later this time in Monrovia, Liberia and once again in 2008 in Conakry, Guinea.

The Institute’s Case Law Analyser has been one of its key tools in providing easy access to the protective mandate of the Commission. In collaboration with Human Rights Information and Documentation Systems (HURIDOCS), the IHRDA’s goal for the Case Law Analyser “is to promote human rights in Africa by filling the information lacuna on the African Human Rights System using the most intuitive and research friendly information systems to provide free access to the most comprehensive multilingual collection of African human rights case law”.<sup>410</sup> HURIDOCS, founded in 1982 in Europe, was established to act as an informal network of human rights organizations with

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<sup>408</sup> “Litigating Economic, Social and Cultural Rights in Nigeria”.

<http://www.ihrda.org/2008/04/litigating-economic-social-and-cultural-rights-in-nigeria/>

<sup>409</sup>“ Workshop on Child Protection (2006)” <http://www.ihrda.org/2006/12/workshop-on-child-protection/>.

<sup>410</sup> “Case Law Analyser”. <http://caselaw.ihrda.org/more/>.

the mandate of training “persons in the technical details of documenting international human rights standards” as well as of seeking to “establish a common foundation for documentation”.<sup>411</sup> With the Case Law Analyser, lawyers, organizations, academics, or anyone with an interest can visit the site for free and access all of the decisions of the Commission as well as other human rights treaty bodies such as the African Court, the East African Court of Justice, the SADC Tribunal, the ECOWAS Community Court of Justice, and the African Committee of Experts on the Rights and Welfare of the Child.

The Case Law Analyser is one example of the online presence of the IHRDA. Of all the human rights NGOs in The Gambia, the IHRDA has taken the most advantage of Internet technologies and social media. The organization’s website was launched in 2004. In addition, the IHRDA was promoted his work through the sites Twitter and Facebook.

### ***Content Analysis of the IHRDA Facebook Posts***

With most of the IHRDA’s mandate falling within the protective realm of human rights (pro bono legal counseling, the Case Law Analyser project, and protect oriented workshops), identifying promotional works of the organization was more difficult than with the ACDHRS. It also did not help that the IHRDA is a much younger organization. However, there does exist one area where the IHRDA has out promoted the other two Gambian organizations in regards to the AHPRS. As was discussed in the previous chapter, the IHRDA has done more than any other human rights organization operating in The Gambia to promote its work and the AHPRS in the realm of social media. In this era, political and social movements of disparate goals and geographical regions are

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<sup>411</sup> Welch, Claude. *Protecting Human Rights in Africa Strategies and Roles of Nongovernmental Organizations*. Philadelphia: University of Pennsylvania Press 1995.

harnessing the tools of social media. Examples can be seen everywhere from the so called “Arab Spring” to the American Occupy movement that gained the world’s attention in 2011.

The Gambia like much of Africa has a growing number of its citizens with access to online information. *Look into Wrights book and other sources.*

In 2010, the IHRDA created its Facebook account to update the online world about its work and the “goings-ons” in the human rights movement across the continent. As of April 2013, the IHRDA page has 792 likes meaning that every time the organization posts an update, 792 people will receive it on their “walls”. Largely the organization’s Kenyan publications and communications officer Humphrey Sipalla maintains the page. Of his work, which began in 2008, the IHRDA states, “If it needs to be said, written, advertised, posted, blogged, ‘facebooked’, ‘tweeted’, IHRDA’s witty, brilliant, ‘thinking-out-of-the-box’ Sipalla gets it done, armed with a warm cup of coffee”.<sup>412</sup>

The posts of the IHRDA that were analyzed begin with May 6, 2010 and end on December 11, 2012. The total number of posts during this period was 181.<sup>413</sup> Many of the posts were three to four lines long and often included links to longer web articles, legal instruments, and to the IHRDA’s own website. Approximately 29% or a total of fifty-three posts concerned the work of the IHRDA and were used to update the reader on staff openings, internship opportunities, ongoing projects, and past and future workshops attended or conducted by the organization.

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<sup>412</sup> “Staff”. Institute for Human Rights Development in Africa.  
<http://www.ihrda.org/staff/>.

<sup>413</sup> A complete listing if the posts analyzed can be found in Appendix B.

Using the same method of analysis that was conducted on the articles of the ACHDRS' Human Rights Newsletters, the posts of the IHRDA were reviewed for their promotion of the AHPRS in general and the African conception of human rights in particular. The vast majority of the IHRDA's posts promotes the institutional aspect of the AHPRS and covers little of the ideological as represented in the various legal instruments. Only ten of the 126 posts or about 8% mention the African Charter in general. Within this there is little mention of direct rights, duties, and other concepts of the Charter. In fact, one post on March 8, 2011 contains nearly all of the mentions to specific articles within the Charter. The post announced the filing of a complaint to the African Commission by the IHRDA and the Observatoire congolais des droits de l'homme (OCDH) on behalf of one Guy Marcellin Yambo. In the post the IHRDA writes:

The complainants therefore allege the violation of their rights as guaranteed by the African Charter. In particular, they allege violations of articles 1, 4, 5, 6, 7.1, 14 and 26, relating the obligation of states to guarantee human rights (1) and independence of the courts (26), the prohibition of torture (5), arbitrary arrest (6) and the rights to life (4), fair trial (7.1) and property (14).<sup>414</sup>

Of the 181 posts created by the IHRDA, 126 concerned some institution or legal instrument of the AHPRS. Within those 126 posts, the largest category reported on the work of the African Commission. Eighty posts or 63% covered some aspect of the Commission's work. Most of these were live reports from the three ordinary sessions Commission between May 2010 and December 2012. These posts update readers on the Commission's decisions on communications, new appointments, and interactions with NGOs and states. By posting these live reports on both Facebook and also Twitter, the

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<sup>414</sup> Institute for Human Rights Development in Africa. Facebook post March 8, 2011.

IHRDA is able to keep readers all over the globe current with the proceedings of the Commission that are otherwise not publicized or reported much later.

### ***6.3 The Gambia Committee on Traditional Practices***

Unlike the ACDHRS and the IHRDA, the Gambia Committee on Traditional Practices (GAMCOTRAP) does not have observer status with the Commission. The organization's primary goal is "to empower grassroots groups, individuals and Community based organizations as well policy decision makers to support women's concerns towards equality".<sup>415</sup> GAMCOTRAP, "is committed to the promotion and protection of women and girl children's political, social, sexual, reproductive health and educational rights". Further, the organization "promotes awareness of traditional practices that restrict these rights, encouraging beneficial practices and also to eliminate all forms of harmful practices against women and children".<sup>416</sup> It ultimately seeks the "preservation of beneficial practices as well as the elimination of all forms of harmful traditional practices".<sup>417</sup> GAMCOTRAP lists eleven objectives for its work:

1. To carry out research into traditional practices that affect the sexual and reproductive health of women and girl children in The Gambia.
2. To identify and promote traditional practices that improves the status of girl-children and women.

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<sup>415</sup> "Matters of Policy" GAMCOTRAP. [http://www.gamcotrap.gm/content/index.php?option=com\\_content&view=article&id=52&Itemid=76](http://www.gamcotrap.gm/content/index.php?option=com_content&view=article&id=52&Itemid=76).

<sup>416</sup> Camara, Sarjo. "Gambia: Dr Isatou Touray, Executive Director, GAMCOTRAP" Foroyaa. 29 NOVEMBER 2012; <http://allafrica.com/stories/201211300792.html>.

<sup>417</sup> "Profile of Circumcisers From the Lower River Region of The Gambia" GAMCOTRAP, 2011.

3. To create awareness on the effects of harmful traditional practices on the health of girl-children and women, in particular FGM, nutritional taboos, child/early marriages and wife inheritance.
4. To promote and encourage the education of girls at all levels.
5. To sensitize and lobby, decision and policy makers, about socio-cultural practices that are harmful to the health of girl-children and women.
6. To promote and protect the human rights of girl-children and women.
7. To create awareness on international and national instruments that address discrimination and violence against girl-children and women.
8. To solicit funds locally and externally for the purpose of carrying out the above objectives.
9. To influence policies in promoting and protecting women and children's rights.
10. To use the rights based approach into our activities.
11. To promote the political participation and representation of women in elective decision making positions.<sup>418</sup>

The work of GAMCOTRAP has been and continues to be motivated by the work of its founder, Dr. Isatou Touray who established the organization in June 1984. Dr. Touray has used her own experience, as a Gambian woman who was circumcised at ten years old to highlight her position as a “cultural insider”. She recalls:

“When I was ten years I was taken to my mother’s house and was told ‘you going to be a woman’. And I was very happy because, what I saw around me were so beautiful: songs, dance, beads, my cultural outfits. And everything around me was so beautiful that I

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<sup>418</sup>“Objectives” GAMCOTRAP.

[http://www.gamcotrap.gm/content/index.php?option=com\\_content&view=article&id=49&Itemid=73](http://www.gamcotrap.gm/content/index.php?option=com_content&view=article&id=49&Itemid=73).

said, ‘well it’s the day that I’m going to be a woman’ only to find that the following day, I was taken to the bush with beautiful songs dances and all the frenzies it goes with, I was laid down and my clitoris was cut. With different parts not only the clitoris the smaller lips and other parts were damaged. This symbolizes, I symbolize, a lot of African women who have been circumcised in the name of culture, in the name of who the ideal woman is. This is me”.<sup>419</sup>

Dr. Touray credits her husband as being the catalyst for her advocacy against harmful traditional practices particularly, FGM. In the same talk she states:

When I got married, I’m a mother of four children, three girls and one boy, my husband told me my girls are not going to be circumcised and I said ‘hey, what do you mean how can you say that when your religion says it.’ He said, ‘No, it is not about religion. It’s about control.’ My husband is a medical doctor and he’s been seeing a lot of incidences of the effects of FGM on women’s health and he raised my consciousness”.<sup>420</sup>

The activities of GAMCOTRAP are varied and multiform. Most of the organization’s work is around consciousness raising on the issue of FGM and other harmful practices. Dr. Touray affirms that the organization’s struggle utilizes “cultural responsive strategies”. GAMCOTRAP engages this aspect of its mandate throughout the country in a holistic fashion they refer to as a “multi-sectoral and a socio-cultural response”<sup>421</sup> or sometimes the “Cluster approach”.<sup>422</sup> With this approach, the organization has trained, women, men, children, community leaders, chiefs, government officials, and perhaps most importantly circumcisers themselves. Broadly, the work of

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<sup>419</sup> Isatou Touray at TedxWomen 2012. <http://tedxwomen.org/speakers/isatou-touray/> 2:40-4:34.

<sup>420</sup> Isatou Touray at TedxWomen 2012. <http://tedxwomen.org/speakers/isatou-touray/> 2:40-4:34.

<sup>421</sup> “GAMCOTRAP’s Engagement”. Frequently Asked Questions p. 1

<sup>422</sup> “Profile of Circumcisers From the Lower River Region of The Gambia” GAMCOTRAP, 2011.

GAMCOTRAP can be divided into the three categories of sensitization, the alternative economic opportunities program, and advocacy for legislative change.

When beginning any sensitization, GAMCOTRAP emphasizes to all stakeholders that FGM is not a religiously mandated practice. One of the principle reasons given for the continuation of the practice is that people feel Islam mandates the circumcision of both men and women. Many in the country regard FGM as a Sunnah, or an aspect of life described by the Prophet Muhammad in the Hadith. GAMCOTRAP has worked over the years with religious scholars and imams on this issue and have come to the conclusion that nowhere in the Koran is there a mention of FGM. Also they have concluded that the authenticity of the Hadith in question has been proven to be false therefore the religion does not mandate the practice. One of GAMCOTRAP's religious advisers and most ardent supporters is Imam Baba Muhtarr Leigh. Leigh in the past has travelled with GAMCOTRAP stressing the dynamism of culture and also clearing up many misconceptions on the religiosity of FGM and also other practices within the culture that are violations to women's rights such as inheritance issues and land ownership.<sup>423</sup>

With the cultural and religious justifications for FGM and other harmful practices debunked, GAMCOTRAP incorporates into its sensitization programs medical evidence of the harm of FGM. One of the more effective means of explaining the medical consequences of FGM has been the visual presentations of some of the physical side effects of FGM. The GAMCOTRAP facilitators use videos, photo slide shows, and posters displaying and explaining human anatomy (and FGM's effects on it) during these sessions. In a typical workshop with youth in 2009, GAMCOTRAP listed four reasons

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<sup>423</sup> WORKSHOP WITH CHIEFS ON THE RIGHTS OF THE CHILD AND SEXUAL AND REPRODUCTIVE HEALTH. 2005.

for this aspect of its sensitization program. First it gave to participants “a first sight of the processes involved in the cutting of the female reproductive organ and the conditions within which they are performed”. Secondly, it allowed for participants to “assess the damage done, both in the short term and long term on the health of girls and women”. Thirdly a moment was provided for the reflection “on the claims made by their religious leaders that Female Genital Mutilation poses no harm to women and children 's health”. Finally, the visual presentation was designed for the youth participants to “reflect back for the need to inform and sensitize their colleagues on the issues”.<sup>424</sup>

Presentations of this sort have proven to be not only effective on youth but also even on senior men and women such as a group of chiefs who at the conclusion of a workshop in 2005 stated, “...the pictures helped them to understand the issues at a broader perspectives which made some of them regret the trauma that had happened to their children and women”.<sup>425</sup>

GAMCOTRAP’s program on Alternative Employment Opportunities (AEO) exemplifies the holistic approach to the promotion and protection of women’s rights. The AEO program seeks to “divert the energies” of circumcisers “to more positive income generating activities in their communities through the introduction of a chosen economic activity of their choice”.<sup>426</sup> The organization realized being within the culture and also by asking the circumcisers themselves that circumcision along with being a matter of culture and religion is also one of economics as well. Many of the women who circumcise girls

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<sup>424</sup> GAMCOTRAP. “Training with Youth on Traditional Practices Affecting the Rights of the Child 2 - 4 January, 2009.

<sup>425</sup> GAMCOTRAP. WORKSHOP WITH CHIEFS ON THE RIGHTS OF THE CHILD AND SEXUAL AND REPRODUCTIVE HEALTH. DECEMBER 2005.

<sup>426</sup> GAMCOTRAP Situational Report on Alternative Employment Opportunities For Ex-Circumcisers From 2002-2007.

are compensated to varying degrees for each girl they perform on and depend on this money as an important source of household income. One ex-circumciser Ms. Fatoumata Bah-Sare Saïdy circumcised eighty to ninety girls every year with cost ranging from D20 (about \$.60US) to D100 (about \$3.00US) each.<sup>427</sup>

The program was funded and organized under the auspices of the Inter African Committee on Traditional Practices Affecting the Health of Women and Children (IAC) in 2001. The IAC was established in 1984 the same year as GAMCOTRAP with the mission to, “promote gender equality and contribute to the improvement of the health status, social, economic, political, human rights and quality of life of African women and children through elimination of harmful traditional practices and the promotion of beneficial ones”.<sup>428</sup> With similar mandates, GAMCOTRAP and the IAC have forged a close partnership over the years. Dr. Touray is the secretary-general of the IAC and GAMCOTRAP as an organization is the IAC’s national committee for the Gambia.

Thus GAMCOTRAP was given the task of carrying out a feasibility study in 2001 with twelve circumcisers. The findings of the pilot study displayed that if given assistance with an alternative economic opportunity such as pottery, gardening, animal husbandry circumcisers are willing to not only “drop the knife” but become “role models in their communities and create awareness about harmful traditional practices to effect positive change”.<sup>429</sup>

### ***The Rights Based Approach and the Promotion of the Maputo Protocol***

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<sup>427</sup> Profile of Circumcisers From The Lower River Region of The Gambia. GAMCOTRAP .

<sup>428</sup> “Mission” Inter-African Committee on Traditional Practices. [http://www.iac-ciaf.net/index.php?option=com\\_content&view=article&id=10&Itemid=3](http://www.iac-ciaf.net/index.php?option=com_content&view=article&id=10&Itemid=3).

<sup>429</sup> GAMCOTRAP Situational Report.

The recent work of GAMCOTRAP has been highlighted by the organization's shift from a health-based approach to the elimination of harmful traditional practices to a rights based approach. The approach has, "created awareness regarding the 'best interest of the child' principle and the role of the community, State and other critical actors to promote women and children's rights" in the context of Gambian culture.<sup>430</sup> This rights-based approach is grounded in a number of international and region treaties and conventions. Initially, the rights based approach of GAMCOTRAP utilized the language of the CEDAW to advocate the illegal nature of harmful traditional practices. In 2005 though, the organization began to include "Rights Education" into its work designed to create awareness on the Maputo Protocol and the Convention on the Rights of the Child.<sup>431</sup>

The Maputo Protocol is particularly important to the work of GAMCOTRAP not only because it specifically seeks to protect the rights of women, but also because Dr. Touray was one of the non-governmental experts involved in its drafting process from the beginning. The Gambia ratified the Protocol on May 25, 2005. It was also in 2005 that the Maputo Protocol came into force. This was the beginning of GAMCOTRAP aggressively promoting its contents and lobbying for its provisions to be domesticated by the National Assembly. Just as with the Charter, ratification in the Gambia does not automatically render domestication. Understanding this, GAMCOTRAP joined with organizations such as the ACDHRS to advocate for its domestication, which was finally realized with the adoption of the Women's Act of 2010.

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<sup>430</sup> "Profile of Circumcisers From the Lower River Region of The Gambia" 6.

<sup>431</sup> GAMCOTRAP 2005 Annual Report.

Unfortunately, in the same year GAMCOTRAP achieved one of its most significant victories the organization was in the public's attention for reasons other than its work in women's rights. In October 2010, Dr. Touray and GAMCOTRAP organizer Amie Bojang-Sissoho were arrested and accused of embezzling 30,000 Euros from a Spanish organization. The police detained the two activists for nine days in The Gambia's infamous Mile 2 Prison. Dr. Touray regarded the investigation and subsequent detention as politically motivated. In a February 3, 2011 interview with Equality Now concerning the case she remarked, "This may have been intended to silence us regarding our work locally and globally, considering that GAMCOTRAP is a contributor to the global women's rights debate through, for instance, our alternative reports to the UN Commission on the Status of Women".<sup>432</sup> In December 2012, the charges were dropped against the two activists as a result of the lack of evidence.

The trial of the Dr. Touray and Amie Bojang-Sissoho would not be the only example of what many believe to be state-directed persecution against human rights defenders associated with GAMCOTRAP. The outspoken Imam Baba Leigh unfortunately has been missing since December 2012 after being picked up from his residence by men identifying themselves as National Intelligence agents. He has not been able to have contact with family or an attorney since that date. Although the state is not confirming his detention, it is also not attempting to use its resources to locate the imam. Many human rights activists within the Gambia and abroad feel as though his detention is

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<sup>432</sup>“Dr. Isatou Touray, Risking Everything to End Harmful Traditional Practices in The Gambia”. Equality Now. [http://www.equalitynow.org/partner/dr\\_isatou\\_touray](http://www.equalitynow.org/partner/dr_isatou_touray).

a direct result of his advocacy for human rights particularly his agitation against the recent executions that occurred in the country following Ramadan.<sup>433</sup>

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<sup>433</sup> “Is Imam Baba Leigh A Forgotten Detainee?” Editorial. Daily News. February 13, 2013, <http://dailynews.gm/africa/gambia/article/is-imam-baba-leigh-a-forgotten-detainee>.

## CHAPTER 7.

### FINDINGS AND WAY FORWARD

The content analyses sought to discover both if and how these three Gambian human and Peoples' rights organizations promoted the *African Conception of Human Rights* in order to further the task of articulating an Afrocentric theory of human and Peoples' rights promotion. Again, as was mentioned, *African Conception of Human Rights* is present in a promotional activity (a presentation, report, or publication) the when the promoter:

- A) Explicitly mentions the work of the institutions of the AHPRS (The African Commission on Human and Peoples Rights, The African Court on Human and Peoples Rights and the African Committee of Experts on the Rights and Welfare of the Child)
- B) Explicitly mentions the legal instruments of the AHPRS (The Charter and its subsequent Protocols)
- C) Explicitly mentions or alludes to the three uniquely African contributions to human rights discourse:
  - 1. The concept of Peoples Rights
  - 2. The concepts of Individual Duties to Society
  - 3. The indivisibility of all rights

The findings have revealed that the ACDHRS, the IHRDA, and GAMCOTRAP have all promoted both the structural and ideological manifestations of the African conception of human and Peoples' rights to varying degrees, using different promotional tactics, and with different focuses. The ACHDRS has over the years done much to promote both the structural and ideological manifestations of the African conception of human rights through its reporting on the work of the Commission and also its direct contributions to the development of the Maputo Protocol. The IHRDA has almost exclusively promoted

the structural aspect by focusing most of its promotional time on reporting on the Commission, the Court, and the African Committee of Experts on the Rights and Welfare of the Child. GAMCOTRAP although primarily concerned with promoting and protecting women's rights in general and committed to the elimination of FGM in particular, has displayed its commitment to promoting the African conception of human rights primarily by upholding the African principle of the indivisibility of all rights through its "wholistic" engagement approach and specifically its alternative economic opportunity program.

One aspect of the African conception of human rights that all three organizations fall short in promoting is the concept of individual duties. The framers of the Charter were very clear in the Preamble that "the enjoyment of rights and freedoms also implies the performance of duties on the part of everyone".<sup>434</sup> When they wrote this and also Articles 27-29, the framers were serious about duties being inseparable from rights. From the findings of the analysis it appears as though the three Gambian human and Peoples' rights organizations studied do not feel the same. Both the ACDHRS and the IHRDA make mention of the concept of duties in their respective promotional mediums, neither give attention to what exactly those rights are as enumerated in the Charter. If indeed "in Africa, laws and duties are regarded as being two facets of the same reality two inseparable realities" as is mentioned in one of the articles in the African Human Rights Newsletter, then promotion of duties should be given at least equal treatment in the promotional activities and mediums of AHPROs. In fact, it can be argued that the individual duties enumerated in the Charter should be promoted more than individual

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<sup>434</sup> The African Charter on Human and Peoples' Rights, Preamble.

rights because it is very easy for someone to know when their rights are being violated but to know what is expected of them to contribute to society in general and Africa in particular may need to be constantly reinforced.

However, promotion is not limited to “what” is promoted but also “how” and to “whom”. Three further areas concerning the promotional work of these three Gambian organizations must be investigated to further lead to an Afrocentric theory of human and Peoples’ rights promotion. These are: audience of promotion, funding of promotional activities, and method engagement. The exploration of these three areas using the data gathered from the inductive content analysis of the promotion of the AHPRS by the AHPROs of the Gambia is key furthering the attempt to articulate an Afrocentric theory of human and Peoples’ rights promotion.

### ***Audiences for Promotion***

To begin it is important to refer back to Shivji’s three implorations for LONGOSs such as the ACDHRS, the IHRDA, and GAMCOTRAP. The last imploration of Shivji to LONGOs to, “move away from elitist orientations if they are to do genuine grass-root work”, will be considered first. This imploration speaks directly to the issue of each organization’s primary audience for their promotional activities. AHPROs promoting the African human and Peoples’ rights system do so to three primary audiences: other NGOs, representatives of African states, intellectual elites and the broad African masses. The majority of the promotional work of the ACDHRS is AHPRO to NGO promotion. The African Human Rights Newsletter being the Centre’s primary promotional medium is marketed to and written for other African NGOs, international organizations, and academics. Written in French and English, the Newsletter is described by the Centre as

acting as “the network pivot with human rights organisations, and passing as the human rights news forum for all of Africa”.<sup>435</sup>

Another example of the Centre’s intended promotional audience are the seminars and courses organized by the Centre with the task of familiarizing other African NGOs with the content and procedures associated with international human rights instruments including the African Charter. The first such course was conducted in 1994 and included NGOs a number of African countries from all regions of the continent.<sup>436</sup> The director of ACDHRS introduced the pilot course by stating its principle objective as providing, “participating NGOs with enough ammunition to enable them to use the various international and regional procedures and mechanisms more efficaciously to protect rights and freedoms”<sup>437</sup>. To meet its objective at the inaugural course, the Centre focused on the various United Nations Human Rights Protection Procedures as well as the regional mechanism for rights protection contained in the African Charter on Human and Peoples’ Rights. The Centre also provided the NGO representatives with “hands-on experience on how to file communications and complaints to international treaty bodies and make interventions on Human Rights violations”.<sup>438</sup> The course was divided into five days with morning and afternoon sessions. The first two days following the opening were

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<sup>435</sup> Activity Report 1994-1995, 8.

<sup>436</sup> Representatives came from: Mouvement Burkinabe des Droits de l’Homme et des Peuples, Burkina Faso; Ligue Camerounaise des Droits de la Personne, Cameroon; Ligue Tchadienne des Droits de l’Homme, Chad; Association pour la Defense des Droits de l’Homme et des Libertes, Djibouti; Ghana Committee on Human and Peoples’ Rights, Ghana; Ligue Bissau-Guineene de Droits de l’Homme, Guinea Bissau; ICJ Kenya Section, Kenya; Association of Female Lawyers of Liberia, Liberia; The Christian Service Committee of Churches, Malawi; Collectif des Femmes du Mali, Mali; Ligue Mauritanienne des Droits de l’Homme, Mauritania; Legal Research and Resource Development Centre, Nigeria; Ligue des Droits de la Personne dans la Region des Grands Lacs, Rwanda; Tanzania Women Lawyers Association, Tanzania; International Society for Human Rights, The Gambia; Gambia Human Rights Society, The Gambia. African Centre For Democracy and Human Rights Studies. "Report on the Training Course on The Use of International Human Rights Procedures." Banjul, 1994. 1-22.

<sup>437</sup> Ibid., 2.

<sup>438</sup> Ibid.

spent on the various UN mechanisms and instruments while days four and five were spent on the workings of the African system rooted in the African Charter. The Centre brought in experts from the UN to facilitate the sections dealing with its procedures while the Centre utilized the services of the Secretary to the African Commission on Human and Peoples' Rights Germain Baricako as well as its own staff members to lead discussion on the African system. Baricako expressed his belief in the Charter when he explained to the participants, "The African Charter on Human and Peoples' Rights is a living symbol of the resolve of Africa to safeguard human rights on our continent and it behooves us to give concrete expression to this will in our daily life".<sup>439</sup> Although nine years after the Charter had come in force, Baricako must have felt the need to reiterate this as the report states, "the material was new for a good many of the participants".<sup>440</sup> Judging from the Centre's published summaries of these course over they years, the general pattern and presentation of the course has changed little since this initial meeting.

Seminars and courses of the type are the norm for the Centre. They have brought hundreds of African human rights organizations to the Gambia to conduct such seminars. This research will refer to these sessions as "choir practice". This is done in reference to the old saying "preaching to the choir". The Centre does not simply hold discussions on the need for and place of human rights in African development with other organizations but goes beyond this by actually providing "the choir" or other African human rights organizations with the "hymns" of the AHPRS. Much of the IHRDA's promotional work as well falls into this category with its workshops on the African system, economic and social rights, and children's rights being attended primarily by other NGOs.

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<sup>439</sup> Ibid., 7.

<sup>440</sup> Ibid., 13.

Of the three AHPROs analyzed, GAMCOTRAP has done the most to broaden its audience and attempt to answer Shivji's imploration. In particular, GAMCOTRAP has done the most to close the urban rural divide that has plague not only NGOs in the Gambia but across the continent. Even when the ACHDRS and the IHRDA have branched out to promote the human rights system and concepts to Peoples not organized in to NGOs, their efforts have only taken them to locations within the Serekunda-Banjul urban complex such as high schools. This can be viewed as a continuing of the old model of colonial Gambia of separating the urban "colony" from the rural "Protectorate" and concentrating political movements and organization in the former. GAMCOTRAP with its offices in Kannifing district in urban Serekunda operates within both realms. As an organization that is committed to using a "holistic approach" to the elimination of harmful traditional practices, GAMCOTRAP's work specifically takes them to the areas where the practices occur and thrive, the rural communities while at the same time it lobbies for legislative change in the country's urban power centres. GAMCOTRAP's promotional workshops as were mentioned previously are conducted with circumcisers, chiefs, men, women, and children in the rural as well as urban areas to bring to information to as many Gambians across all spectrums.

Not only has GAMCOTRAP spent much of their time in the rural communities, the organization has also utilized traditional communication techniques in spreading its message. One of the most successful strategies of GAMCOTRAP has been the continued use of the Kanyeleng institution in its promotional activities. The Kanyeleng are social organizations composed of women who suffer from fertility issues who spend portions of their time ritualistically begging Allah for reproductive favor. For many Gambian

women, fertility problems can include complete infertility, early child mortality, or even having only one to two children in a society that values the large family unit.

In doing this, Kanyeleng groups act in absurd and social unacceptable manners designed to shame unto themselves to illicit Allah's sympathy to bless them with children. They often put on shows where they act in clownish ways by wearing funny clothing and impersonating people of power. While performing, Kanyeleng are permitted to provide social commentary on political and societal issues facing the community in a frank and open way without the threat of rebuff. In this regard they have over the years been considered some of the best institutions of communication in the country. Various organizations have hired groups of Kanyelengs to go into the community and spread messages concerning issues from AIDS awareness to women's rights. GAMCOTRAP was consistently used the Kanyeleng in its promotional work and have had outstanding results with this traditional way of reaching the masses. The use of the Kanyeleng coupled with GAMCOTRAPs overall "holistic" model has allowed many within the Gambia and outside observers to comment on the organization's ability to reach the masses of the country. In describing GAMCOTRAP's style anthropologist Ylva Hernlund wrote:

GAMCOTRAP staff behave in an extremely humble way when "on trek." They use very modest accommodations, eat simple food, and work long hours without ever complaining about discomfort or fatigue. GAMCOTRAP staff meet community members *on their own terms* [emphasis added], joining them in their work and domestic responsibilities. They are acutely aware of farming cycles and women's domestic labor burdens and make a genuine and concerted effort to empathize with the realities of the people they are trying to reach.<sup>441</sup>

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<sup>441</sup> Hernlund, Ylva. "External review of: Training and Information Campaign on the Eradication of FGM, The Gambia". 2009.

## ***Funding***

Another of Shivji's implorations calls on LONGOs to "clearly distance themselves from imperialist funded organisations".<sup>442</sup> One thing all three Gambian AHPROs have in common is their reliance on foreign funds for the operation of their work. Throughout its entire operating history, the ACDHRS has relied on international funders. Raymond Sock, first director of the African Centre, wrote of the early efforts of the organization to receive funding:

"A UN fellowship enabled the Director-designate of the Centre to attend human rights courses in Geneva and Strasbourg from July to August 1989. During this same period a campaign launched to promote the Centre took the Chairman and the Director-designate to the United States early in 1989 and later to Canada, Denmark, the Netherlands and the United Kingdom. On this tour they received strong indications that these funders were willing to sponsor programmes run by the African Centre. The Gambia Government informed the OAU about the establishment of the Centre through its Secretary General. *No substantial financial assistance was expected from African Governments* [emphasis added]. It was thought useful to obtain modest contributions from a few to emphasise the regional character of the African Centre".<sup>443</sup>

In its first three years of operation the Centre received 4,826,640.46 dalasi from Canada, the United States, Norway, Finland, the Netherlands, the United Nations, Sweden, Denmark, and the United Kingdom. This is compared to 2,705,500.00 dalasi contributed by the Gambian government. Thus, European countries funded 64% of the operations of the Centre including *all* of its major programmes and workshops.<sup>444</sup> The trend continued upward between 1994-1995 with 6,319,995.00 dalasi being contributed by European

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<sup>442</sup> Shivji 87.

<sup>443</sup> Sock 4.

<sup>444</sup> Activity Report 1990-1993.

states and the UN and 2,500,000 given by the Gambian document an increase of 8%.<sup>445</sup> The Activity Report of the Centre for the years 1996-1998 displays the further continuation of the increase of foreign funding with a total of 79% of the ACHRS' operating budget coming from these sources.<sup>446</sup> The IHRDA lists among its funders: the United States Embassy in The Gambia, the John Merck Fund, the John D. and Catherine T. MacArthur Foundation, the Ford Foundation, Australian Aid, and the government of Canada, the Department for International Development of the UK.<sup>447</sup> GAMCOTRAP counts among its funders Save the Children-Sweden, the British High Commission, the American Embassy, UNICEF, the Global Fund for Women, and the government of Spain.

Although the research could not point to an exact instance where the funding sources of any of the three Gambian AHPROs directly influenced the direction of any of the groups' work, heavy reliance on foreign funding necessarily diminishes the organizational agency. How can an organization like the ACDHRS which the data shows has consistently pushed the African belief in the indivisibility of rights, effectively critique and challenge neocolonial policies that infringe on the economic and social rights of the African masses while receiving the majority of their funding from the very same governments who devise and carry-out those policies? The same can be asked of GAMCOTRAP whose mandate is to promote and protect women's rights. Scholars have shown that neocolonial economic policies such as structural adjustment have the most adverse effects on women and girl-children.

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<sup>445</sup> Activity Report 1994-1995 p 16.

<sup>446</sup> Activity Report 1996-1998.

<sup>447</sup> "Funders" <http://www.ihrda.org/funders/>.

Shivji's final imploration to LONGOs is to distance themselves from autocratic and oppressive governments. In this regard the positions of the three Gambian AHPROs are again similar. The government of the Gambia has been shown to be both autocratic and tyrannical following the coup of 1994. At first, the ACDHRS attempted to distance itself from the new military leaders but soon were receiving funding and support by the new government even before the restoration of "democracy" in 1996. Since then, the organization has been slow to criticize and publicize the human rights abuses and entrenchment of dictatorship in Jammeh's Gambia. The IHRDA has been slightly more progressive in this regard than the ACDHRS. The IHRDA does not receive funding from the Jammeh's government and has even assisted victims of his regime in filing reports to the African Commission. As was mentioned earlier, GAMCOTRAP engages the government and in the past has worked with government offices but has also faced persecution at the hands of the same government.

### ***Pan-African Agency and the Human Rights Movement***

With the combination of Shivji's implorations and the African conception of human and Peoples' rights, an Afrocentric theory for human rights promotion would be defined as the promotion of the African conception of human and Peoples' rights through the medium of mass-oriented African human rights organizations, independent of both imperialist funding and anti-People governments. This however would not be sufficient. What is missing is the assertion that the human rights movement in Africa be indivisible from the movement for African unification. A cursory look at the history of the establishment of the AHPRS displays this truth. To begin, one can look to Peter's assertion that the First Conference of Independent States in 1958 in Ghana and the

Second Conference of Independent States in Addis were two of the first official dialogues on human rights in independent Africa. At these meetings, Kwame Nkrumah would call for a United States of Africa designed to meet the needs of the African People. This could have been the beginning of what Poe would refer to as functional independence. He states, “by functional interdependence, or unity, the author means the willful organization of Africa’s resources, natural and human, by Africans and for the African masses, with the interest of humanity in mind according to an African worldview”.<sup>448</sup> However, the ideas forwarded by Nkrumah were not to be and the result has been the very neocolonialism that the Charter was designed to help eliminate.

The protection of human and Peoples’ rights in Africa can only be achieved within the political framework of a continental government. There is no other way around this. When one considers a state like the Gambia, whose small, mono-crop economy cannot possibly provide assurance for the economic and social rights this assertion rings even more true. The country is a classic example of the type of Balkanization as discussed by Nkrumah and elaborated on and re-termed “South-Americanization” by Diop. Diop writes:

Black Africa would be not Balkanized (for the political regimes of the Balkan countries are now relatively stable) but South Americanized. It would be made up of a proliferation of little dictator-ridden countries without organic ties one to another, ephemeral, afflicted with chronic weakness, governed by terror with the help of outsized police forces, but under economic domination by foreign countries, pulling strings through mere presence of an embassy.<sup>449</sup>

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<sup>448</sup>Poe, D. Zizwe. “Perennial Challenges to African Independence and the Nagging Essentials of African Liberation” *The Journal of Pan African Studies*. 2012, 313-329.

<sup>449</sup> Diop, Cheikh Anta. *Black Africa The Economic and Cultural Basis for a Federated State*. Trenton: Africa World Press, 1987.

If this does not accurately describe the current situation in The Gambia this researcher does not know what does. Human and Peoples' rights organizations within the Gambia must be cognizant of the fact that there will forever be violations of human and Peoples' rights in the state unless it ceases to be a state and incorporates herself into a larger federal political structure optimally on a continental scale but at the very least on a regional one. Until the indivisible nature of human rights and Pan-Africanism is realized, AHPROs will be fighting an incomplete battle. Thus, an Afrocentric theory on human and Peoples' rights promotion would be articulated as, the promotion of the African conception of human and Peoples' rights through the medium of mass-oriented African human rights organizations, independent of both imperialist funding and anti-People governments and committed to Pan-Africanism.

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## APPENDIX A

### AFRICAN (BANJUL) CHARTER ON HUMAN AND PEOPLES' RIGHTS

(Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986)

#### *Preamble*

The African States members of the Organization of African Unity, parties to the present convention entitled "African Charter on Human and Peoples' Rights",

Recalling Decision 115 (XVI) of the Assembly of Heads of State and Government at its Sixteenth Ordinary Session held in Monrovia, Liberia, from 17 to 20 July 1979 on the preparation of a "preliminary draft on an African Charter on Human and Peoples' Rights providing inter alia for the establishment of bodies to promote and protect human and peoples' rights";

Considering the Charter of the Organization of African Unity, which stipulates that "freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples";

Reaffirming the pledge they solemnly made in Article 2 of the said Charter to eradicate all forms of colonialism from Africa, to coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa and to promote international cooperation having due regard to the Charter of the United Nations. and the Universal Declaration of Human Rights;

Taking into consideration the virtues of their historical tradition and the values of African civilization which should inspire and characterize their reflection on the concept of human and peoples' rights;

Recognizing on the one hand, that fundamental human rights stem from the attributes of human beings which justifies their national and international protection and on the other hand that the reality and respect of peoples rights should necessarily guarantee human rights;

Considering that the enjoyment of rights and freedoms also implies the performance of duties on the part of everyone; Convinced that it is henceforth essential to pay a particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights;

Conscious of their duty to achieve the total liberation of Africa, the peoples of which are

still struggling for their dignity and genuine independence, and undertaking to eliminate colonialism, neo-colonialism, apartheid, zionism and to dismantle aggressive foreign military bases and all forms of discrimination, particularly those based on race, ethnic group, color, sex, language, religion or political opinions;

Reaffirming their adherence to the principles of human and peoples' rights and freedoms contained in the declarations, conventions and other instrument adopted by the Organization of African Unity, the Movement of Non-Aligned Countries and the United Nations;

Firmly convinced of their duty to promote and protect human and people' rights and freedoms taking into account the importance traditionally attached to these rights and freedoms in Africa;

Have agreed as follows:

## **Part I: Rights and Duties**

### Chapter I: Human and Peoples' Rights

#### Article 1

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.

#### Article 2

Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

#### Article 3

1. Every individual shall be equal before the law.
2. Every individual shall be entitled to equal protection of the law.

#### Article 4

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

#### Article 5

Every individual shall have the right to the respect of the dignity inherent in a human

being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

#### Article 6

Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

#### Article 7

1. Every individual shall have the right to have his cause heard. This comprises: (a) the right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force; (b) the right to be presumed innocent until proved guilty by a competent court or tribunal; (c) the right to defense, including the right to be defended by counsel of his choice; (d) the right to be tried within a reasonable time by an impartial court or tribunal.

2. No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which no provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender.

#### Article 8

Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.

#### Article 9

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinions within the law.

#### Article 10

1. Every individual shall have the right to free association provided that he abides by the law.
2. Subject to the obligation of solidarity provided for in 29 no one may be compelled to join an association.

#### Article 11

Every individual shall have the right to assemble freely with others. The exercise of this

right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

#### Article 12

1. Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law.
2. Every individual shall have the right to leave any country including his own, and to return to his country. This right may only be subject to restrictions, provided for by law for the protection of national security, law and order, public health or morality.
3. Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with laws of those countries and international conventions.
4. A non-national legally admitted in a territory of a State Party to the present Charter, may only be expelled from it by virtue of a decision taken in accordance with the law.
5. The mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups.

#### Article 13

1. Every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law.
2. Every citizen shall have the right of equal access to the public service of his country.
3. Every individual shall have the right of access to public property and services in strict equality of all persons before the law.

#### Article 14

The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.

#### Article 15

Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work.

#### Article 16

1. Every individual shall have the right to enjoy the best attainable state of physical and

mental health.

2. States parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.

#### Article 17

1. Every individual shall have the right to education.
2. Every individual may freely, take part in the cultural life of his community.
3. The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.

#### Article 18

1. The family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and moral.
2. The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community.
3. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.
4. The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.

#### Article 19

All peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.

#### Article 20

1. All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.
2. Colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community.
3. All peoples shall have the right to the assistance of the States parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.

## Article 21

1. All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.
2. In case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to an adequate compensation.
3. The free disposal of wealth and natural resources shall be exercised without prejudice to the obligation of promoting international economic cooperation based on mutual respect, equitable exchange and the principles of international law.
4. States parties to the present Charter shall individually and collectively exercise the right to free disposal of their wealth and natural resources with a view to strengthening African unity and solidarity.
5. States parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practiced by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources.

## Article 22

1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.
2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

## Article 23

1. All peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organization of African Unity shall govern relations between States.
2. For the purpose of strengthening peace, solidarity and friendly relations, States parties to the present Charter shall ensure that: (a) any individual enjoying the right of asylum under 12 of the present Charter shall not engage in subversive activities against his country of origin or any other State party to the present Charter; (b) their territories shall not be used as bases for subversive or terrorist activities against the people of any other State party to the present Charter.

## Article 24

All peoples shall have the right to a general satisfactory environment favorable to their development.

#### Article 25

States parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood.

#### Article 26

States parties to the present Charter shall have the duty to guarantee the independence of the Courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter.

### Chapter II: Duties

#### Article 27

1. Every individual shall have duties towards his family and society, the State and other legally recognized communities and the international community.
2. The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest.

#### Article 28

Every individual shall have the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.

#### Article 29

The individual shall also have the duty:

1. To preserve the harmonious development of the family and to work for the cohesion and respect of the family; to respect his parents at all times, to maintain them in case of need;
2. To serve his national community by placing his physical and intellectual abilities at its service;
3. Not to compromise the security of the State whose national or resident he is;
4. To preserve and strengthen social and national solidarity, particularly when the latter is

threatened;

5. To preserve and strengthen the national independence and the territorial integrity of his country and to contribute to its defense in accordance with the law;
6. To work to the best of his abilities and competence, and to pay taxes imposed by law in the interest of the society;
7. To preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well being of society;
8. To contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African unity.

## **Part II: Measures of Safeguard**

### **Chapter I: Establishment and Organization of the African Commission on Human and Peoples' Rights**

#### **Article 30**

An African Commission on Human and Peoples' Rights, hereinafter called "the Commission", shall be established within the Organization of African Unity to promote human and peoples' rights and ensure their protection in Africa.

#### **Article 31**

1. The Commission shall consist of eleven members chosen from amongst African personalities of the highest reputation, known for their high morality, integrity, impartiality and competence in matters of human and peoples' rights; particular consideration being given to persons having legal experience.
2. The members of the Commission shall serve in their personal capacity.

#### **Article 32**

The Commission shall not include more than one national of the same state.

#### **Article 33**

The members of the Commission shall be elected by secret ballot by the Assembly of Heads of State and Government, from a list of persons nominated by the States parties to the present Charter.

#### **Article 34**

Each State party to the present Charter may not nominate more than two candidates. The candidates must have the nationality of one of the States party to the present Charter. When two candidates are nominated by a State, one of them may not be a national of that State.

#### Article 35

1. The Secretary General of the Organization of African Unity shall invite States parties to the present Charter at least four months before the elections to nominate candidates;
2. The Secretary General of the Organization of African Unity shall make an alphabetical list of the persons thus nominated and communicate it to the Heads of State and Government at least one month before the elections.

#### Article 36

The members of the Commission shall be elected for a six year period and shall be eligible for re-election. However, the term of office of four of the members elected at the first election shall terminate after two years and the term of office of three others, at the end of four years.

#### Article 37

Immediately after the first election, the Chairman of the Assembly of Heads of State and Government of the Organization of African Unity shall draw lots to decide the names of those members referred to in Article 36.

#### Article 38

After their election, the members of the Commission shall make a solemn declaration to discharge their duties impartially and faithfully.

#### Article 39

1. In case of death or resignation of a member of the Commission the Chairman of the Commission shall immediately inform the Secretary General of the Organization of African Unity, who shall declare the seat vacant from the date of death or from the date on which the resignation takes effect.
2. If, in the unanimous opinion of other members of the Commission, a member has stopped discharging his duties for any reason other than a temporary absence, the Chairman of the Commission shall inform the Secretary General of the Organization of African Unity, who shall then declare the seat vacant.
3. In each of the cases anticipated above, the Assembly of Heads of State and Government shall replace the member whose seat became vacant for the remaining period of his term unless the period is less than six months.

#### Article 40

Every member of the Commission shall be in office until the date his successor assumes office.

#### Article 41

The Secretary General of the Organization of African Unity shall appoint the Secretary of the Commission. He shall also provide the staff and services necessary for the effective discharge of the duties of the Commission. The Organization of African Unity shall bear the costs of the staff and services.

#### Article 42

1. The Commission shall elect its Chairman and Vice Chairman for a two-year period. They shall be eligible for re-election.
2. The Commission shall lay down its rules of procedure.
3. Seven members shall form the quorum.
4. In case of an equality of votes, the Chairman shall have a casting vote.
5. The Secretary General may attend the meetings of the Commission. He shall not participate in deliberations nor shall he be entitled to vote. The Chairman of the Commission may, however, invite him to speak.

#### Article 43

In discharging their duties, members of the Commission shall enjoy diplomatic privileges and immunities provided for in the General Convention on the Privileges and Immunities of the Organization of African Unity.

#### Article 44

Provision shall be made for the emoluments and allowances of the members of the Commission in the Regular Budget of the Organization of African Unity.

### Chapter II -- Mandate of the Commission

#### Article 45

The functions of the Commission shall be:

1. To promote Human and Peoples' Rights and in particular:

(a) To collect documents, undertake studies and researches on African problems in the field of human and peoples' rights, organize seminars, symposia and conferences, disseminate information, encourage national and local institutions concerned with human and peoples' rights, and should the case arise, give its views or make recommendations to Governments.

(b) To formulate and lay down, principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African Governments may base their legislations.

(c) Co-operate with other African and international institutions concerned with the promotion and protection of human and peoples' rights.

2. Ensure the protection of human and peoples' rights under conditions laid down by the present Charter.

3. Interpret all the provisions of the present Charter at the request of a State party, an institution of the OAU or an African Organization recognized by the OAU.

4. Perform any other tasks which may be entrusted to it by the Assembly of Heads of State and Government.

### Chapter III -- Procedure of the Commission

#### Article 46

The Commission may resort to any appropriate method of investigation; it may hear from the Secretary General of the Organization of African Unity or any other person capable of enlightening it.

#### Communication from States

#### Article 47

If a State party to the present Charter has good reasons to believe that another State party to this Charter has violated the provisions of the Charter, it may draw, by written communication, the attention of that State to the matter. This communication shall also be addressed to the Secretary General of the OAU and to the Chairman of the Commission.

Within three months of the receipt of the communication, the State to which the communication is addressed shall give the enquiring State, written explanation or statement elucidating the matter. This should include as much as possible relevant information relating to the laws and rules of procedure applied and applicable, and the redress already given or course of action available.

#### Article 48

If within three months from the date on which the original communication is received by the State to which it is addressed, the issue is not settled to the satisfaction of the two States involved through bilateral negotiation or by any other peaceful procedure, either State shall have the right to submit the matter to the Commission through the Chairman and shall notify the other States involved.

#### Article 49

Notwithstanding the provisions of 47, if a State party to the present Charter considers that another State party has violated the provisions of the Charter, it may refer the matter directly to the Commission by addressing a communication to the Chairman, to the Secretary General of the Organization of African Unity and the State concerned.

#### Article 50

The Commission can only deal with a matter submitted to it after making sure that all local remedies, if they exist, have been exhausted, unless it is obvious to the Commission that the procedure of achieving these remedies would be unduly prolonged.

#### Article 51

1. The Commission may ask the States concerned to provide it with all relevant information.
2. When the Commission is considering the matter, States concerned may be represented before it and submit written or oral representation.

#### Article 52

After having obtained from the States concerned and from other sources all the information it deems necessary and after having tried all appropriate means to reach an amicable solution based on the respect of Human and Peoples' Rights, the Commission shall prepare, within a reasonable period of time from the notification referred to in 48, a report stating the facts and its findings. This report shall be sent to the States concerned and communicated to the Assembly of Heads of State and Government.

#### Article 53

While transmitting its report, the Commission may make to the Assembly of Heads of State and Government such recommendations as it deems useful.

#### Article 54

The Commission shall submit to each ordinary Session of the Assembly of Heads of State and Government a report on its activities.

## Other Communications

### Article 55

1. Before each Session, the Secretary of the Commission shall make a list of the communications other than those of States parties to the present Charter and transmit them to the members of the Commission, who shall indicate which communications should be considered by the Commission.
2. A communication shall be considered by the Commission if a simple majority of its members so decide.

### Article 56

Communications relating to human and peoples' rights referred to in 55 received by the Commission, shall be considered if they:

1. Indicate their authors even if the latter request anonymity,
2. Are compatible with the Charter of the Organization of African Unity or with the present Charter,
3. Are not written in disparaging or insulting language directed against the State concerned and its institutions or to the Organization of African Unity,
4. Are not based exclusively on news discriminated through the mass media,
5. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged,
6. Are submitted within a reasonable period from the time local remedies are exhausted or from the date the Commission is seized of the matter, and
7. Do not deal with cases which have been settled by these States involved in accordance with the principles of the Charter of the United Nations, or the Charter of the Organization of African Unity or the provisions of the present Charter.

### Article 57

Prior to any substantive consideration, all communications shall be brought to the knowledge of the State concerned by the Chairman of the Commission.

### Article 58

1. When it appears after deliberations of the Commission that one or more communications apparently relate to special cases which reveal the existence of a series

of serious or massive violations of human and peoples' rights, the Commission shall draw the attention of the Assembly of Heads of State and Government to these special cases.

2. The Assembly of Heads of State and Government may then request the Commission to undertake an in-depth study of these cases and make a factual report, accompanied by its findings and recommendations.

3. A case of emergency duly noticed by the Commission shall be submitted by the latter to the Chairman of the Assembly of Heads of State and Government who may request an in-depth study.

#### Article 59

1. All measures taken within the provisions of the present Charter shall remain confidential until such a time as the Assembly of Heads of State and Government shall otherwise decide.

2. However, the report shall be published by the Chairman of the Commission upon the decision of the Assembly of Heads of State and Government.

3. The report on the activities of the Commission shall be published by its Chairman after it has been considered by the Assembly of Heads of State and Government.

### Chapter IV -- Applicable Principles

#### Article 60

The Commission shall draw inspiration from international law on human and peoples' rights, particularly from the provisions of various African instruments on human and peoples' rights, the Charter of the United Nations, the Charter of the Organization of African Unity, the Universal Declaration of Human Rights, other instruments adopted by the United Nations and by African countries in the field of human and peoples' rights as well as from the provisions of various instruments adopted within the Specialized Agencies of the United Nations of which the parties to the present Charter are members.

#### Article 61

The Commission shall also take into consideration, as subsidiary measures to determine the principles of law, other general or special international conventions, laying down rules expressly recognized by member states of the Organization of African Unity, African practices consistent with international norms on human and people's rights, customs generally accepted as law, general principles of law recognized by African states as well as legal precedents and doctrine.

#### Article 62

Each state party shall undertake to submit every two years, from the date the present Charter comes into force, a report on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognized and guaranteed by the present Charter.

#### Article 63

1. The present Charter shall be open to signature, ratification or adherence of the member states of the Organization of African Unity.
2. The instruments of ratification or adherence to the present Charter shall be deposited with the Secretary General of the Organization of African Unity.
3. The present Charter shall come into force three months after the reception by the Secretary General of the instruments of ratification or adherence of a simple majority of the member states of the Organization of African Unity.

### **Part III: General Provisions**

#### Article 64

1. After the coming into force of the present Charter, members of the Commission shall be elected in accordance with the relevant Articles of the present Charter.
2. The Secretary General of the Organization of African Unity shall convene the first meeting of the Commission at the Headquarters of the Organization within three months of the constitution of the Commission. Thereafter, the Commission shall be convened by its Chairman whenever necessary but at least once a year.

#### Article 65

For each of the States that will ratify or adhere to the present Charter after its coming into force, the Charter shall take effect three months after the date of the deposit by that State of its instrument of ratification or adherence.

#### Article 66

Special protocols or agreements may, if necessary, supplement the provisions of the present Charter.

#### Article 67

The Secretary General of the Organization of African Unity shall inform member states of the Organization of the deposit of each instrument of ratification or adherence.

#### Article 68

The present Charter may be amended if a State party makes a written request to that effect to the Secretary General of the Organization of African Unity. The Assembly of Heads of State and Government may only consider the draft amendment after all the States parties have been duly informed of it and the Commission has given its opinion on it at the request of the sponsoring State. The amendment shall be approved by a simple majority of the States parties. It shall come into force for each State which has accepted it in accordance with its constitutional procedure three months after the Secretary General has received notice of the acceptance.

*Adopted by the eighteenth Assembly of Heads of State and Government June 1981 – Nairobi, Kenya*

## APPENDIX B

### ACDHRS African Human Rights Newsletter Content

#### **Issue: Vol. 1 no. 1 Feb 1991**

1. Article: "Dear Friends..."

Subject: Work of the Centre

2. Article: "African Commission Meets"- 1

Subject: Work of the African Commission on Human and Peoples' Rights

HR Topics:

*Right to Assemble; Freedom of expression:*

"the Chair had addressed a letter to President Mobutu during the recent student unrest and military crackdowns in Zaire, this was not publicised and consequently the Commission was not seen to have played any role in what was widely recognized in the West as a serious human rights violation on the African continent."

3. Article: "Two UN Meetings- An African Focus"

Subject: Work of the UN

#### **Issue: Vol. 1 no. 4 Dec 1991**

4. Article: "AFRICAN HUMAN RIGHTS NGOs"-2

Subject: The work of African NGOs;

HR Topics:

*Economic Rights; Social Rights; Cultural Rights:*

"An effective human rights strategy for African NGOs will give considerable attention to economic, social and cultural rights. Although an integral part of the international law of human rights, economic and social rights receive scant attention from most western human rights NGOs, partly because their promotion raises difficult questions." (p.1)

5. Article: "FOCUS ON AFRICAN NGOs"-3

Subject: The work of African NGOs

HR Topics:

*Democratic governance; Traditional African values:*

“The Study and Research Group on Democracy and Economic and Social Development (GERDDES) is a nongovernmental organisation established in 1990 and based in Cotonou, Benin. At present, it has over 300 members from Africa, Europe and North America. The primary objectives of GERDDES are:

- \* to conduct studies and research relating to democracy and development in Africa;
- \* to promote democracy in Africa. The organisation has conducted studies on tying aid to human rights, and the relationship between democracy and traditional African values. (p. 3)

*Fundamental Freedoms:*

“The Central African League for Human Rights (LCD H), based in Bangui, was established in June 1991. Its aim is to protect the fundamental freedoms enshrined in international human rights instruments, particularly the Universal Declaration of Human Rights and the African Charter.” (p. 3)

6. Article: “AFRICAN COMMISSION MEETS”-4

Subject: The work of the African Commission

7. Article: “Workshop on NGO Participation”-5

Subject: Summary of “workshop in Banjul on NGO Participation in the African Commission on Human and Peoples' Rights”.

HR Topics:

*Traditional African values;*

“Participants urged that the African Charter be interpreted and, where necessary, amended to take into account the current human rights situation in Africa and to enhance protection of human rights in the continent. In particular, the preamble of the Charter should be amended to incorporate the duty to eliminate dictatorship in all its forms and to promote democracy in Africa... It was urged that the moral and traditional values referred to in the African Charter be interpreted in such a way as to enhance the enjoyment of human and peoples' rights.” (p. 5)

8. Article: "THE UN -AN AFRICAN FOCUS"

Subject: African states overdue reports to the UN Human Rights Committee.

9. Article: "UN Commission on the Status of Women"

Subject: Background information on the Commission on the Status of Women

**Issue: Vol. 2 no. 3 September-December 1992**

10. Article: "Dear Friends..."-6

Subject: A discussion on the right to development as articulated in the African Charter.

HR Topics:

*Right to Development; Equality of Civil/Political Rights with EcoSoc Rights:*

Entire article and "This is a participatory right- a right to development- that should not be paternalistically bestowed from above but of the kind that should be exercised from below. We, therefore, call on our policy makers to allow those at the grassroots to express their needs and for them to participate fully in the formulation of strategies to satisfy those needs."

11. Article: "Traditional Practices and the rights of Women"-7

Subject: Summary of the UN seminar on traditional practices and additional commentary.

HR Topics:

*Protection from FGM; Right to health; Right to life; Children's rights:*

"Many rights of women and children are violated, one of the several which comes readily to mind being women's right to health. These practices can result in AIDS; which also means that the right to life as a fundamental human right is violated. Again, the rights of children as provided or in the Convention on the Rights of the Child (1989) and The African Charter on Rights and Welfare of the Child are violated in the name of tradition." (p. 1)

12. Article: "NGO Participation in the African Commission"-8

Subject: Summary of the third workshop on the Participation in the Work of the African Commission on Human and Peoples' Rights.

HR Topics:

*Traditional African values; Women's Rights; Gender equality:*

“The situation of women in Africa came under special focus when the workshop discussed the obvious historic marginalization of women which affects the very notion of equality. The NGOs called for a better human rights interpretation of the Charter's cultural values as embodied in Articles 18 and 29.” (p. 3)

*Right to development; Equality of civil/political rights with EcoSoc Rights:*

“The implementation of the right to development was another of the major topics covered. Resolutions were urged taking into account the interdependence and indivisibility of the right to development and all human rights, the obstacles to the implementation of the right to development (including, the debt burden, structural adjustment, the enrichment of states' officials by fraudulence, etc.).”

13. Article: “Democracy In Action, A Fly Past of African States”

Subject: Listing of the democratic practices of various African countries.

14. Article: “Ghana Holds Multi-Party Elections”

Subject: A review of recent elections in Ghana.

15. Article: “FOCUS ON AFRICAN NGOs”

Subject: Article discusses the founding and purpose of the l'Union Interafricain de Droits de l'Homme (l'UIDH).

16. Article: “NGO Workshop on Information Systems on Children's Rights”

Subject; A summary of a workshop attended by the Centre on Children's Rights.

**Issue: Vol. 3 no. 2 Apr-June 1993**

17. Article: “Dear Friends...”

Subject: The author commenting on the inability of African NGOs to meet as a group at the World Conference on Human Rights in Vienna in 1993.

18. Article: “UPSTAIRS AND DOWN IN VIENNA”

Subject: A summary of the NGO experience at the World Conference on Human Rights in Vienna in 1993.

19. Article: "New Seats in the African Commission"-9

Subject: Announcement of three new members of the African Commission.

20. Article: "WORKSHOP ON THE ROLE OF THE POLICE ON THE PROTECTION OF HUMAN RIGHTS"

Subject: A discussion of the thoughts of police officers who attended the Centre's workshop.

21. Article: "The Day of the African Child, The African Charter on the Rights and Welfare of the Child"-10

Subject: A reprinting of a paper given at the workshop celebrate the Day of the African Child, 16 June 1993.

HR Topics:

*Children's Rights:*

"Out of that debate have come agreements, conventions, and protocols the most important of which, perhaps, are the United Convention on the Rights of the Child adopted in 1989, and most relevant to us in Africa, the African Charter on the Rights and Welfare of the Child adopted in 1990." (p. 4)

*Freedom from harmful cultural practices:*

"Article (3) of the Charter, addressing the obligations of all countries, states: "Any customs, tradition, cultural or religious practice that is inconsistent with the rights, duties, and obligations contained in the present Charter shall to the extent of such inconsistency be discouraged." (p. 4)

"Article 21 touches the raw exposed nerves of Arab and Sub-Saharan Africa when it fights to protect children against harmful social and cultural practices. And here all hell breaks quickly loose because this is where we scream very loudly "It is our culture" to scar the face of our children gouging out portions of flesh in tribal markings, cuts and lacerations to the face, arms and body." (p. 5)

*Right to Education:*

"Article 11 focuses on Education. Compare its requirements to the fact that 60 per cent of Africa is illiterate. Add that to the grim fact that some African countries spend only D18.00 (US\$2) per child per year on education and think very carefully of the future which this spells." (p. 4)

*Right to Health:*

“Article 14 prescribes for Health and Health Services which must form the backdrop for the general theatre of things. A sick child means a weak future for any continent.” (p. 4)

*Freedom of the Child from harmful labor:*

“Article 15 and 16 protect the child from being engaged in any form of labour which will undermine its full mental, physical, moral, and social development.” (p. 5)

*Freedom of the Child from all abuses:*

“The practice of child marriages coincides with this even if remotely where in the name of culture a 10-year old girl is pregnant of her first child in marriage simply because someone had paid a handsome dowry. The Charter protects them against all abuses - physical, mental and sexual.”

22. Article: “FOCUS ON AFRICAN NGOs”

Subject: Discussion of the Catholic NGO, The Catholic Commission for Justice and Peace in The Gambia.

23. Article: “Economic and Social Rights and Democracy in Africa”-11

Subject: An article connecting EcoSoc rights to government accountability in Africa’s new democracies.

HR Topics:

*Equality of civil/political rights with EcoSoc rights:*

“In conclusion by placing equal premium on Economic and Social rights within the African context accountability will be ensured with social justice ensuing and ultimately a true participatory democratic system.” (p. 6)

24. Article: “WOMEN'S RIGHT IN AFRICA, THE CASE OF UNITY DOW OF BOTSWANA”-12

Subject: An overview of the case won by Unity Dow that dealt with non-discrimination in terms of marriage and nationality.

HR Topics:

*Non-Discrimination (Gender):*

She also claimed that the constitutional rights to non-discrimination must be granted in light of Botswana's ratification of the African Charter on Human and Peoples' Rights which incorporates the human rights articulated in other human rights treaties such as the Convention on the elimination of all Forms of Discrimination against Women (CEDAW). (p. 7)

**Issue: Vol. 3 no. 4 Oct-Dec 1993**

25. Article: "Looking Forward to Beijing 95"-13

Subject: A preview of a 1994 workshop for African women's rights activists readying themselves for the 1995 World Conference on women.

HR Topics:

*Freedom from neocolonialism; Freedom from apartheid:*

"The Strategies have identified the element of Peace as one of the key objectives currently made ineffective by the unabated arms race, in particular in the nuclear field, armed conflicts, external domination, foreign occupation, acquisition of land by force, aggression, imperialism, colonialism, neocolonialism, racism, apartheid, gross violation of human rights, terrorism, repression, the disappearance of persons and discrimination on the basis of sex."

26. Article: "INTRODUCTION TO THE ISSUE OF REPRODUCTIVE RIGHTS AND FAMILY PLANNING"-14

Subject: Article on family planning and reproductive rights.

HR Topics:

*Reproductive Rights; General Women's Rights*

"The narrowest confine reproductive rights to the right to decide to have children or not and the right to have access to the means which enable the exercise of such rights. The broadest include the right to education, equality at work, right to health, right to choose a spouse and to enter into marriage only with one's free and full consent."

27. Article: "FOCUS ON AFRICAN NGOs"

Subject: An overview of various African NGOs and their work.

28. Article: "TRADITIONAL AFRICAN CULTURE AND WOMEN'S RIGHTS"-15

Subject: A discussion of the tension between harmful traditional practices and the human rights of African women.

HR Topics:

*Non-Discrimination (Gender):*

“Article 2 in this Charter ensures that every individual is entitled to the enjoyment of the rights and freedoms recognised and guaranteed without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion. Article 18 (3) spells out more explicitly the protection of women's rights in Africa by specifically calling upon states parties to ensure the elimination of every discrimination against women and to ensure the protection of the rights of women and children as stipulated in other international declarations and conventions.” (p. 6)

**Issue: Vol. 4 no. 1&2 Jan-June 1994**

29. Article: “Reproductive Rights and Family Planning”-16

Subject: A discussion of the benefits of reproductive rights and family planning in Africa.

HR Topics:

*Reproductive Rights:*

Reproductive Rights is the right to have the number of children you want with whom you want to have them, when you want them, and how often you want them, without coercion from partners/ husbands, in-laws, community, society or your nation.

30. Article: “Dear Friends...”

Subject: A discussion of the upcoming NGO Forum in Senegal related to the World Conference on Women.

31. Article: “A FRAMEWORK FOR FILING ECOSOC COMPLAINTS  
UNDER THE AFRICAN CHARTER”-17

Subject: A discussion of how to realistically approach the filing of EcoSoc complaints.

HR Topics:

*Equality of civil/political rights with EcoSoc rights:*

“The most striking feature of the African Charter is that all the categories of rights are placed on an equal legal footing. The Charter does not divide the rights into different titles, but are promulgated in a single document. This affirms the non-hierarchical approach of the African system.”

32. Article: "EXTRAJUDICIAL SUMMARY ON ARBITRARY EXECUTION~ HOW NGOs CAN ACT THROUGH THE UN"

Subject: A Discussion on the procedures of the UN in dealing with complaints of arbitrary execution.

33. Article: "WOMEN REFUGEES FACE SPECIAL HEALTH PROBLEMS"

Subject: An exploration into the health problems faced by women in refugee camps.

34. Article: "The Resolutions"-18

Subject: A reprinting of the resolution from the workshop hosted by the Centre on the theme: AFRICAN WOMEN AND TRADITION, CULTURE AND RELIGION.

*The Charter Generally:*

"1. a) African Charter on Human and Peoples' Rights and the Convention for the Elimination of Discrimination Against Women (CEDAW) be publicised more widely and pressure be put on governments to abide by them, and

b) that Governments take immediate steps towards the establishment of the African Court on Human and Peoples' Rights and to ensure that women are equitably represented.

2. The Charter be amended to be more explicit on the rights of women.

3. More countries be encouraged to sign, ratify and work on the de facto implementation of the Charter and CEDAW without reservation." (p. 11)

*Gender parity in government:*

"Support groups lobby intensively for the equitable appointment of women to responsible positions in Government and public life, as in diplomacy, civic and ministerial appointments, etc., and to demand that Governments appoint women commissioners to the African Commission." (p. 11)

*Freedom from harmful traditional practices:*

"States enact laws to make female genital mutilation and other harmful traditional practices criminal offences and that women's organisations lobby to make the eradication of female genital mutilation and other harmful traditional practices part of the conditionalities for multilateral and bilateral aid to Africa." (p.11)

**Issue: Vol. 4 no. 3 July-Sept 1994**

35. Article: "Basic Rights Under a Military Government "With a Difference"?"-19

Subject: An article discussing the military coup of 1994 and its effects on democracy in The Gambia.

HR Topic:

*African Commission:*

"Jawara was a strong advocate for human rights within both the Organization of African Unity and the Commonwealth. Under his leadership, the African Commission for Human and Peoples' Rights selected Banjul as its base." (p. 1)

36. Article: "Dear Friends..."- 20

Subject: A discussion of the various human rights statutes that coups violate.

HR Topics:

*Right to participation:*

"Article 13 of the African Charter proclaims that "(1) Every citizen shall have the right to participate freely in the government of his [or her] country, either directly or through freely chosen representatives in accordance with provisions of the law." (p. 2)

37. Article: "Democracy and Africa: Lessons from Lesotho"

Subject: A political history of post-colonial Lesotho and its transition from military to civilian rule.

38. Article: "FOCUS ON AFRICAN NGOs"

Subject: Reviews of the work of the NGOs l'Observatoire Panafricain de la democratie (PAD) and the Zairian Association in Defense of Human Rights.

39. Article: "TWO GOVERNMENTS, ONE COUNTRY: THE CASES OF TOGO AND ZAIRE"

Subject: A discussion of the human rights situations in Togo and Zaire since the take over by military autocrats in 1965.

**Issue: Vol. 4 no. 4 Sept.-Dec. 1994**

40. Article: "DAKAR: Critical Concerns for AFRICA'S WOMEN"-21

Subject: A summary of the discussions that occurred on women's rights in Africa at the Dakar Women's Conference.

HR Topics:

*African Charter in General:*

"Democracy is instrumentally linked to human rights and as defined in the African Charter on Human and People's Rights and the 1993 Vienna Programme of Action, is based on the freely expressed will of people (men, women and youth) to determine their own political, economic, social and cultural systems. In Africa, the process of democratization has been put in motion with varying success."

*Equality of civil/political rights with EcoSoc rights:*

"The concept of civil and political rights as well as economic, social and cultural rights has provided individuals and groups subjected to discrimination with the means for correcting injustice and enhancing social integration."

41. Article: "WALY NDIAYE WINS HUMAN RIGHTS PRIZE 1994"-22

Subject: An announcement of Ndiaye' winning of the prize as well as a review of his work.

HR Topics:

*African Charter in general:*

"One of the architects of the African Charter for Human and People's Rights and currently the UN Special Rapporteur on Extrajudicial Summary or Arbitrary Executions, Senegalese lawyer, Mr. Bacre Waly Ndiaye, in September, received the 1994 Human Rights Prize from the International Service for Human Rights (ISHR)."

42. Article: "RIGHTS CAMPAIGN POSTERS"

Subject: The ACDHRS announces that they have created a number of posters on women's rights to sensitize African people on women's rights.

43. Article: "FOCUS ON AFRICAN NGOs"

Subject: A discussion of two African NGOs: the Women Law and Development Centre and the Centre de Developpement pour Ia Femme.

44. Article: "Rape in Zimbabwe"

Subject: A summary of recent case of rape and forced marriage in Zimbabwe.

**Issue: Vol. 5 no. 1 Jan-March 1995**

45. Article: "8th African NGO Forum Focuses On Rights, Prisons"-23

Subject: Summary of the African Commission NGO Forum of March 1995.

HR Topics:

*Work of the Commission\*:*

"The work of the African Commission, it said, continues to be plagued by the lack of adequate resources. For example, it was pointed out that the Report of the 16th Session of the African Commission has yet to be adopted due to lack of quorum; some Commissioners had left before the report was available for adoption."

*Economic Rights; Cultural Rights:*

"The Workshop discussed the absence of judicial recourse for violations of economic, social and cultural rights. It discussed how the policies of the World Bank and International Monetary Fund (IMF) and corruption among the African political elite affect the enjoyment of these rights. It recommended among other things that implementation of economic, social and cultural rights be defined as a priority. It also called for a strategy to lobby at the World Bank and the IMF on this very pertinent matter."

46. Article: "Getting To Know Your Commissioners"-24

Subject: A list of the current members of the Commission with their contact information

47. Article: "NGO Forum Asserts Violations Feed Conflicts"-25

Subject: A further summary of the NGO forum of 1995.

HR Topics:

*Work of the Commission\**

*Equality of civil/political rights with EcoSoc rights:*

“The NGO Forum further passed resolutions reaffirming the indivisibility of human rights and the primary responsibility of governments to ensure the implementation of all human rights including economic, social and cultural rights.

48. Article: “The African Commission's Final Communiqué from Lomé [Summary]”-26

Subject: A summary of the 17<sup>th</sup> Ordinary Session of the Commission in Lomé.

HR Topics:

*Work of the Commission\**

*Rights of Women:*

“The Commission approved the conclusions and recommendations on the seminar on the rights of women in Africa and the African Charter on Human and Peoples' Rights. These call mainly for an additional protocol on the rights of women to be prepared, pending the adoption of this additional protocol, some interim measures should be taken by the State parties in order to allow women to enjoy their full rights. They ask the Commission to recommend to the OAU the nomination of a special Rapporteur to the Commission responsible for the protection of women's rights. Commissioners Dr. Duarte Martins and Prof. Dankwa will initiate work on an additional protocol on the rights of Women.” (p. 5)

49. Article: “African Women Seek Rights In Silent Charter”-27

Subject: A summary of a seminar on the African Charter and the Human Rights of Women in Africa that was held from 8-9 March 1995 in Lomé and a reproduction of the final communiqué with the request for an additional protocol on Women’s rights.

HR Topics:

*The African Charter in General\**

**Issue: Vol. 5 no. 2 Apr-June 1995**

50. Article: “Freedom of Expression”-28

Subject: A discussion on the freedom of expression in Africa and the Charter position on it.

HR Topics:

*Freedom of Expression:*

“Violation of the Charter are rampant and a great deal more goes unreported. But perhaps the singular issue most threatening to the rights and freedoms of individuals and groups is the violation of the right to free expression. The African Commission on Human and Peoples' Rights has received more than 150 communications on violations of Freedom of Expression from various countries in Africa. Article 9 of the African Charter states:

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate opinions within the law.” (p. 1)

51. Article: “Training Senior In The Protection Military Officers Of Human Rights”

Subject: Review of the seminar held by the Centre involving the human rights training of military officers.

52. Article: “Freedom of Expression and of Association”-29

Subject: A review of the guarantees to the freedom of expression and association in various human rights instruments.

HR Topics:

*Freedom of expression; Freedom to receive information; Freedom of Association:*

“THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS 21 October 1986, Addis Ababa

ARTICLE 8: Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.

ARTICLE 9:

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinion within the law.

ARTICLE 10:

1. Every individual shall have the right of free association provided that he abides by the law.
2. Subject to the solidarity provided for in Article 29 no one may be compelled to join an association.” (p. 5)

53. Article: “Focus on African NGOs”-30

Subject: A summary of the work of the Nigerian NGO Constitutional Rights Project.

HR Topics:

*The Charter in general; The Commission;*

“CRP works for the promotion of human rights and the rule of law in Nigeria in accordance with the African Charter on Human and Peoples' Rights and the International Covenants on Human Rights. The CRP has observer status with the African Commission on Human and Peoples' Rights... CRP concludes that the current state of press freedom in Nigeria falls very much below the standards set by the International Bill of Rights and the African Charter on Human and Peoples' Rights and states that the need to redress this shortcoming is an urgent task for the government and the people of Nigeria.” (p. 7)

**Issue: Vol. 5 no. 3 July-Sept 1995**

54. Article: “New African Centre Launched”-31

Subject: A discussion of the ceremony surrounding the launching of the new ACDHRS.

HR Topics:

*The Charter in general:*

“He underlined the nation's pride of association with the historic drafting of the African Charter for Human and Peoples' Rights known as the Banjul Charter” (p. 1)

55. Article: “Zoe Tembo : Executive Director”

Subject: Introduction and background to Zoe Tembo, the new director of the Centre.

56. Article: “A fitting farewell to Ray”

Subject: A summary of the farewell celebration for outgoing director Ray Sock.

57. Article: “Summary of the New Statutes”-32

Subject: An article outlining the new structure of the Centre.

HR Topics:

*The Charter in general:*

“The new Statutes of the African Centre reflect the ongoing commitment to the promotion of the aims and principles of the African Charter of Human and Peoples' Rights and to the respect for the universality of human rights as enshrined in the International Bill of Human Rights.”

*Article 25 on the duty of promotion:*

“Now as an independent panAfrican non-governmental organisation it seeks to continue the aims of Article 25 which ask that states parties carry a duty to promote and ensure through teaching, education and publication, the respect for rights and freedom contained in the Charter.”

58. Article: “Launching the Second Stage of the African Centre”

Subject: A short history of the administrative meetings and the results of those meetings, which led to the new structure of the Centre.

59. Article: “FOCUS ON THE AFRICAN CENTRE”

Subject: A description of the work of the Centre from its beginnings to 1995.

**Issue: Vol. 5 no. 4 Oct-Dec 1995**

60. Article: “Structural Adjustment and Human Rights”-33

Subject: A discussion of SAPs and their effect on human and peoples’ rights in Africa.

HR Topics:

*Peoples’ Rights:*

“Few pay attention to the side effects which begin to encroach on people's rights to certain inalienable standards as provided for by international and regional instruments protecting human rights and the dignity of the human kind.” (p. 3)

*Peoples’ right to development; Right to satisfactory environment:*

“Article 22 of the African Charter which states that all peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.” (p. 3)

“Articles 14 to 24 of The African Charter on Human and Peoples' Rights bind all states parties to the provision of factors conducive to the economic, social and cultural development of all peoples with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind. All people shall have the right to general satisfactory environment favourable to their development.” (p. 3)

61. Article: “Cape Verde: Ninth NGO Forum”-34

Subject: Summary of the NGO preceding the 1995 meeting of the Commission.

HR Topic:

*The Charter in general:*

“Efforts should be made to sensitize judicial officers on their role in the implementation of the African Charter and other human rights instruments.” (p. 4)

*The equality of civil/political rights with EcoSoc rights:*

“The Workshop considered guidelines for the monitoring of economic, social and cultural rights in recognition of their importance as human rights. Participants reiterated the need to fight against social and economic injustices and crimes such as corruption backed by impunity and wastage. Development strategies established by international monetary institutions should place human beings at the centre of development and not only as a means.” (p. 4)

62. Article: “A Human Rights Look At SAP”-35

Subject: A further discussion of SAPs and their effect on human and peoples’ rights in Africa and the report of the UN special rapporteur on the issue.

HR Topics:

*Economic, social, and cultural rights:*

“According to the reports, SAP influenced the implementation of economic cultural and social rights in two very important ways. First, they influence the people's ability to exercise these rights and, second, they determine the ability of Governments to put these rights into practice.” (p. 5)

63. Article: “FOCUS ON AFRICAN NGOs”- 36

Subject: A summary of the work of the Egyptian Organization for Human Rights Studies.

HR Topics:

*The Charter in general:*

“A major part of its promotional activities cover the sensitisation of Government and people on the provisions of the United Nations human rights conventions, declarations and other international covenants including the African Charter.” (p. 6)

**Issue: Vol. 6 no. 1 Jan-Mar 1996**

64. Article: "The Child and its Rights"-37

Subject: A discussion of children's rights in Africa.

HR Topics:

*Children's Rights:*

"In 1979, the Organisation of African Unity (OAU) underlined the urgent need to give special attention to the needs of children by the promulgation of the African Charter on the Rights and Welfare of the Child. It followed up by declaring in 1989 a Decade for the Survival, Protection and Development of the African Child. The 48 Articles of the Charter enjoin African states to ensure free basic education, health care and equality regardless of ethnic or religious differences or sex of children; to establish minimum ages of employment and marriage; to protect against child abuse and trafficking and to prevent their recruitment as participants in armed conflicts." (p. 2)

65. Article: "AFRICAN COMMISSION SECOND EXTRA-ORDINARY SESSION"-38

Subject: A summary of the ACHPRS second extraordinary session with special emphasis on the Ken Saro-Wiwa incident.

HR Topics:

*The work of the Commission\**

66. Article: "THE RIGHTS OF THE CHILD, A SOUTH AFRICAN PERSPECTIVE"

Subject: A summary of the efforts of South Africa in the area of children's rights.

67. Article: "Books for Mile 2 Prisons"- 39

Subject: A discussion on the Centre's program to stock the library at Mile 2 Prison.

HR Topics:

*The Charter in general:*

"The PRI had donated 200 (STG) for the purchase of books for the library at the Central Prisons while the Centre contributed copies of the African Human Rights Newsletter and occasional papers produced by the centre along with copies of the African Charter on Human and Peoples' Rights." (p. 5)

68. Article: "FOCUS ON AFRICAN NGOS"

Subject: Summary of the work of the Kenyan NGO the African Network for the Prevention and Protection Against Child Abuse and Neglect.

69. Article: "VOTES OF HOPE"

Subject: A summary of the action taken by some African countries in terms of children's rights.

**Issue: Vol. 6 no. 2 Apr-June 1996**

70. Article: "10th NGO Forum: Independence of the Judiciary"-40

Subject: Summary of NGO forum and a reproduction of its recommendations.

HR Topics:

*The work of the Commission\**

71. Article: "Building a Relationship Between ACHPR and National Judicial Systems"-41

Subject: A discussion of what national judiciaries should do to give effect to the Charter.

HR Topics:

*The Charter in general:*

"Judge Robert Kisanga, a member of the ACHPR in his discussion of the judge's role in the protection of human rights, said that once the Charter is enacted into national laws, judges can then interpret domestic law in the light of these and other international instruments. Where the law conflicts, the latter prevail." (p. 3)

72. Article: "19TH ORDINARY SESSION OF THE COMMISSION"-42

Subject: Summary of the 19<sup>th</sup> Ordinary Session in Burkina Faso.

HR Topics:

*The work of the Commission\**

73. Article: "Human Rights in judicial Decisions"-43

Subject: An article on democracy, human rights and judicial decisions.

HR Topics:

*Equality before the law:*

“The African Charter guarantees right to equality before the law, human dignity and inviolability. Perhaps nowhere else is a continental organisation for the protection and promotion of human rights more desirable than in Africa which has experienced some of the worst abuses of human rights.” (p. 5)

74. Article: “FOCUS ON AN AFRICAN NGO”

Subject: An article summarizing the work of South African NGO Human Rights Committee.

**Issue: Vol. 6 no. 3 July- Sep 1996**

75. Article: “The African Human Rights System: Ten Years of Development”-44

Subject: A brief assessment of the work of the AHRS ten years after coming into force written by Germain Baricako, Secretary of the ACHPR.

HR Topics:

*The work of the Commission\**

*The Charter in general\**

*The role of traditional African culture:*

“While incorporating principles of universal dimension, the authors of the African Charter drew inspiration from the virtues of the historical traditions and the values of African civilisation in order to ensure that they produce a Charter which was not something "ready-made" and imported from abroad.” (p. 1)

*Reciprocity between the individual and community:*

“Thus, contrary to the Western vision which attaches greater importance to the individual, the African Charter is characterised by the concept of a reciprocal relationship between the individual and the community, the latter also being subject to the law. Individual rights and collective rights remain inextricably linked in a permanent relationship of interdependence.” (p. 1)

*The concept of duties:*

“While the individual is naturally entitled to the enjoyment of civil, political, economic, social and cultural rights (Articles 2 to 7), he is also expected to accomplish his duties towards others, the family, the society, the state, other legally recognised entities, and,

indeed, the international community (Articles 27 to 29). In actual fact, the rights and duties of the individual are two sides of the same coin.” (p. 1)

*The concept of peoples' rights:*

“The importance accorded to peoples' rights in the African Charter is significant and reinforces its uniqueness. In fact, it is the first legally binding treaty to clearly spell out in coherent language peoples' rights which we find dabbed here and there in various international declarations or resolutions.” (p. 2)

76. Article: “The African Concept of Human Rights”-45

Subject: An article adapted from the keynote address delivered by Justice Keba Mbai, convenor of the drafting committee of the African Charter, at the Conference of jurists and Heads of Government held in Nairobi from 2-4 December, 1985.

HR Topics:

*The Charter in general\**

*The role of traditional African culture:*

“A truly African Charter should reflect our traditions and which deserve to be preserved and our values, and the legitimate aspirations of our peoples, in order to complete the global international effort made to reinforce respect for human rights. The African leaders needed a Charter which respects traditions and customs and integrated into the worldwide and regional rules. To promote and protect individual and collective human rights.” (p. 3)

*The concept of duties:*

“The same remark could be made on the subject of African society: in Africa, laws and duties are regarded as being two facets of the same reality two inseparable realities. Consequently it is no surprise to find, for the first time in a treaty of this type, a list of the duties of the individual towards the community in the African Charter on Human and Peoples' Rights.” (p. 3)

77. Article: “Ten Years After the Charter: What is the Score on the Status of Women”-46

Subject: An article detailing the shortcomings of the Charter in terms of women's rights and how women's rights have fared during the past ten years.

HR Topics:

*The Charter in general\**

Non-discrimination:

“Article 2 provides that rights and freedoms shall be enjoyed by all irrespective of SEX and that all shall be equal before the law yet women's rights are specifically recognised only in Article 18(3) and that within the context of the family and coupled with the Rights of the Child.” (p. 4)

78. Article: “The Military in the Political Equation in Africa”

Subject: A discussion of the state and the causes and effects of the military takeovers of the state in Africa.

79. Article: “FOCUS ON AFRICAN NGOs AFRONET, EOHR, LMDH look at Rights, NGOs and Africa”

Subject: The article discuss the three organizations as well as a detailed looked at the human rights situation in southern Africa.

80. Article: “The African Commission, An appraisal by Prof. O Umzurike, Commissioner, ACHPR”-47

Subject: A discussion of the history, work, successes and challenges of the Commission from a first-hand experience.

HR Topics:

*The work of the Commission\**

81. Article: “A Charter of Hope”-48

Subject: A history and description of the Charter.

HR Topics:

*The Charter in general\**

82. Article: “PEACE AND PEACEKEEPING: RESTORING AFRICA”

Subject: A discussion of the political difficulties in forming successful African peace keeping forces under regional and continental control.

83. Article: “YESTERDAY AND TODAY”-49

Subject: An overview of the work of the Commission over the past few years as seen through the eyes of Centre director Zoe Tembo.

HR Topics:

*The work of the Commission\**

84. Article: "The ICJ Traces the Charter's History"-50

Subject: The history of the Charter and its contents are discussed as well as the International Commission of Jurists' role in its creation.

HR Topics:

*Peoples' Rights*

"The definition of peoples' rights was a problem. While some called it revolutionary and progressive, others were skeptical. The meaning was deliberately couched open to accommodate respective rights and for interpretation to allow for functional meanings... The emphasis on tradition is unique but all the same, it was thought prudent not to deviate from international norms solemnly adopted in various universal instruments" (p. 12)

*Traditional African culture and human rights*

"The drafters were guided by the principle that the Charter should reflect the African concepts of human rights, taking as a pattern the African philosophy of law." (p. 12)

*Duties together with rights*

"The first includes rights and duties, a novel approach in international instruments and which accords with the African concept of rights being inseparable from duties. It places special emphasis on the rights and duties of the community (the family, society, the nation, the State)." (p. 12)

85. Article: "The African Child: is there any cause for celebration?" by Ibrahima Diouf, Vice President for Children Defence International, Africa

Subject: A brief exploration into how African countries have responded to the UN resolution on children's rights.

86. Article: "Election Monitoring & Democracy" by Ben Lobolu, President, Human Rights Monitoring Group (HURIMOG) and Member ACDHRS Governing Council

Subject: A review of the process of election monitoring in African countries.

\*Advertisement for books on the Commission and The Charter on pg. 15

**Issue: Vol. 6 no. 4 Oct.- Dec. 1996**

87. Article: “Eleventh ICJ Workshop: Commission and NGOs Need Each Other”-51

Subject: A discussion and summary of the 11<sup>th</sup> workshop on the participation of NonGovernmental Organisations in the African Commission for Human and Peoples' Rights held in Grand Bay, Mauritius from 18-20 October, 1996.

HR Topics:

*The work of the Commission\**

88. Article: “Protocol on the Rights of Women”-52

Subject: An update on the drafting process of the Protocol on women’s rights

HR Topics:

The Charter in general\*

89. Article: “NGOs Full and Ready Partners, 1996-2001”-53

Subject: A review of the Plan of Action adopted by the Commission at the 20<sup>th</sup> meeting and influenced by NGOs.

HR Topics:

*The work of the Commission\**

90. Article: “Random Selection of 10th Anniversary Statements”-54

Subject: Statements made by dignitaries concerning the 10<sup>th</sup> anniversary of the entering of force of the Charter.

HR Topics:

*The Charter in general\**

*Political/civil rights indivisible from soc/eco*

“It takes under its umbrella, peoples' rights, the right to development and economic, social and cultural rights, inseparable from civic and political rights, fruits which make it original.” (p. 5)

91. Article: “Focus on African NGOs”

Subject: An article highlighting the Centre for Applied Legal Studies of South Africa.

92. Article: "African Centre Pays Courtesy Call on President Uteem"

Subject: A discussion of the meeting between the ACDHRS with President Uteem of Mauritius.

93. Article: "Strengthening The African Human Rights Machinery" (Extracts from a paper by Kofi Kumado)-55

Subject: An examination of the proposed African Court on Human and Peoples' Rights as well as the means of strengthening and promoting the Charter and the Commission.

HR Topics:

*The Charter in general\**

*The work of the Commission\**

**Issue: Vol. 7 no. 1 Jan-Mar. 1997**

94. Article: "The Preliminary Draft of the African Human Rights Court"-56

Subject: An overview of the draft protocol on the establishment of the African Court and a small review of the steps taken to create the draft.

HR Topics:

The African Court in general\*

95. Article: "Interpreting Violence Against Women" (A write up by Janessa Gans and Celeste Helms, Interns from Principia College, Elmhurst, Illinois in the USA who have been with us for three months under the Women's Programme.)

Subject: A brief discussion on violence against women and some proposed solutions.

96. Article: "The Dakar Resolution on Children in Intolerable Circumstances and in Situations of Conflict"

Subject: A reprinting of the resolution from the 7th International General Assembly of Defence for Children International.

97. Article: "Eso's Mystery Gunman"

Subject: A review of the book written by Eso on the rule of law in Nigeria.

98. Article: "2nd Training Course on Management for African NGOs"

Subject: A review of the seminar out on by the Centre which was designed “to equip African Human Rights NGOs with the knowledge of how to administer and manage their organisations and exchange ideas on seeking solutions to problems encountered in their work”.

99. Article: “FOCUS ON AFRICAN NGOs”

Subject: An overview of the mission and work of the Cairo Institute for Human Rights Studies.

100. Article: “Slavery in Mauritania”

Subject: An expose of the continued slavery in Mauritania.

**Issue: Vol. 7 no. 2 Apr.-June. 1997**

101. Article: “EMPOWERMENT OF WOMEN: VIOLENCE AGAINST WOMEN”-57

Subject: A summary of a seminar hosted by the Centre on women’s rights.

HR Topics:

*The Charter in general\**

*The Protocol on Women’s Rights*

The African Charter and the rights of women; the additional protocol to the African Charter; the African Commission on Human and Peoples' Rights delivered by Mrs Zoe Tembo, Executive Director of the African Centre. (p. 2)

102. Article: “Strategies on Gender Information.”

Subject: An examination “on strategies for dissemination of information and their gender implications”.

103. Article: “Lets Talk Solutions!”

Subject: A report on the work done by the International Federation of Women Lawyers of Kenya around solutions for domestic and institutionalized violence against women.

104. Article: “RECOMMENDATION:”-58

Subject: A reprinting of the resolution created at the seminar on The Empowerment of Women: Violence Against Women.

HR Topics:

*The Charter in general\**

“CONSCIOUS of the great potential provided in the African Charter for Human and Peoples' Rights, the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), the UN and other international human rights instruments and protocols toward improving the lot of women in society,” (p. 4)

105. Article: “Nightmare in Switzerland”

Subject: A recounting of the wrongful and racist arrest of an African activist in Geneva.

106. Article: “GOD'S OWN· SAY ON DOMESTIC VIOLENCE”

Subject: “A summary on religious text and their use and misuse on the question of domestic and institutionalized violence against women.

107. Article: “FOCUS ON AFRICAN NGOs”

Subject: A review of the work of the human rights groups HUMAN RIGHTS CONCERN (HURICO) and the Foundation for Research on Women's Health, Productivity and the Environment.

108. Article: “NGOs and the Commission in Nouachott”-59

Subject: A review of the NGO/ Commission session with special emphasis on the emerging African Court.

HR Topics:

*The African Court in general\**

*The work of the Commission\**

**Issue: Vol. 7 no. 3 July-Sept. 1997**

109. Article: “THE RWANDA TRIBUNAL- Bringing Killers to Justice-”

Subject: An overview of the structure, mandate, and history of the tribunals concerning the Rwanda genocides.

110. Article: “Violence against Women - The Rwandan Perspective.”

Subject: A discussion of the situation of women in Rwanda both before and during the genocide.

111. Article: “African NGO-Support for Tribunal”

Subject: A reprinted resolution from the Commission's 5th Training Course on the use of International Human Rights Procedures with special emphasis on the Rwanda tribunals.

112. Article: "SUSPECTS IN GENOCIDE"

Subject: A list and description of some of the convicted criminals of the Rwanda genocide.

113. Article: "NO TO IMPUNITY!"-60

Subject: A history of international anti-genocide courts and statues.

HR Topics:

*The African Court in general\**

*The work of the Commission\**

"The elimination of this state of affairs from the continent, and the world at large is helped along immensely by the creation of an International Criminal Court and most certainly for the continent of Africa by the proposed African Human Rights Court, the protocols of which are currently being diligently worked on by The African Commission on Human and Peoples' Rights and African Human Rights NGO family."

114. Article: "The State, Free Market and Human Rights"

Subject: An article written by a Canadian intern advocating for capitalism in Africa.  
Completely ignorant!

115. Article: "FOCUS ON AFRICAN NGOs"

Subject: A description of Prisoners Rehabilitation & Welfare Action (PRA W A), which works towards the improvement of the criminal justice and penal system in Nigeria.

116. Article: "Jo'burg Training Course Discusses Additional Protocol on Women"-61

Subject: A summary of the 2<sup>nd</sup> Training Course on International Human Rights Procedures for the Promotion and Protection of Women's rights in Africa organised by the African Centre.

HR Topics:

*The Charter in general\**

*The Protocol on Women's Rights*

“But the main theme which really occupied the African NGOs were the discourse on the link with CEDAW and the Draft Optional Protocol to amend the African Charter on Human and Peoples' Rights.” (p. 7)

*Article 18:*

“Although Article 18 (3) ensures against discrimination against women, yet equality, Patten argued, was not only the absence of discrimination but the equal enjoyment of rights, opportunities and responsibilities.” (p. 7)

**Issue: Vol. 7 no. 4 Oct.-Dec. 1997**

117. Article: “AFRICAN COMMISSION CELEBRATES 10th ANNIVERSARY”-62

Subject: A review of the 22<sup>nd</sup> Session of the ACHPR with special emphasis because of the celebration of the Commission's 10<sup>th</sup> anniversary.

HR Topics:

*The Work of the Commission\**

*The Charter in general\**

*The Protocol on Women's Rights*

“In her opening statement, Mrs Ige noted that the decision by the Commission to draft an additional protocol to the Charter on the rights of women was warmly welcomed by the NGO community.” (p. 2)

118. Article: “Nguema hands over Human Rights baton”-63

Subject: An interview with longstanding and outgoing Commissioner Prof. Nguema.

HR Topics:

*The Work of the Commission\**

*The Charter in general\**

119. Article: “12th ICJ Workshop takes place in The Gambia.”-64

Subject: A summary of the twelfth ICJ workshop on the participation in the African Commission on Human and Peoples' Rights.

HR Topics:

*The Work of the Commission\**

*The Charter in general\**

*The Protocol on Women's Rights*

*The African Court in general\**

“The workshop deliberated on a number of issues including: The human rights situation in Africa; the draft Protocol on the African Court on Human and Peoples' Rights; the proposed International Court; the Draft protocol on the Rights of Women; Independence and Impartiality of the African Commission and other treaty bodies; NGO Strategy for ensuring effective promotion and protection of human rights in Africa; among others.” (p. 4)

120. Article: “Youssoupha Ndiaye elected Chairman of the African Commission.”-65

Subject: Interview with newly elected chairman Youssoupha Ndiaye of Senegal.

HR Topics:

*The Work of the Commission\**

*The equality of civil/political rights with EcoSoc rights:*

“THERE CAN BE NO SOCIAL AND ECONOMIC DEVELOPMENT WITHOUT HUMAN RIGHTS.” (p. 5)

121. Article: “African Human Rights NGOs Attend Management Course”

Subject: A summary of the 3rd Management Course for African Human Rights NGOs.

122. Article: “FOCUS ON AFRICAN NGOs”

Subject: An overview of the work of the Cairo Institute for Human Rights Studies (CIHRS).

**Issue: Vol. 8 no. 1 Jan.-Mar. 1998**

123. Article: “WORKING GROUP MEETS ON DRAFT PROTOCOL ON THE RIGHTS OF WOMEN”-66

Subject: A discussion of a meeting held at the African Centre in which the draft of the Women's Protocol was worked on.

HR Topics:

*The Work of the Commission\**

*The Protocol on Women's Rights*

124. Article: "One Day Seminar on the African Charter takes place in Banjul"-67

Subject: A summary of a seminar on the African Charter hosted by the Centre and the British Council in Dakar.

HR Topics:

*The Charter in general\**

"Participants listened to papers on an Introduction to the African Charter on Human and Peoples' Rights- Its History and Provisions; Domestic Implementation of the African Charter with emphasis on Civil and Political Rights; Economic and Cultural Rights; The Concept and Duty of the individual..." (p. 3).

*Traditional African culture and human rights:*

"She [Mrs. Tembo] noted that the African Charter seeks to combine African values with international norms and also guarantees civil and political rights, which include, equal protection of laws, the right to due process, freedom on conscience, religion, expression, association, assembly and the right to participate in government" (p. 3).

125. Article: "African Centre Restructured"-68

Subject: An update on the work and structure of the African Centre.

HR Topics:

*The Charter in general\**

"On 11 August, 1995, the Governing Council approved new statutes and regulations guaranteeing the Centre's independence and autonomy, making it a truly Pan African regional human rights Non-Governmental Organisation, committed to the promotion of the aims and principles of the African Charter on Human and Peoples' Rights, the respect and universality of human rights as enshrined in the International Bill of Rights." (p. 4)

126. Article: "Focus on African NGOs"

Subject: A review of the African woman's rights NGO AAWORD.

127. Article: "African Women Parliamentarians Meet in Rwanda"

Subject: A review of a meeting of African female parliamentarians in Rwanda and a reprinting of the resolutions of that meeting.

**Issue: Vol. 8 no. 2 April-June 1998**

128. Article: "AFRICAN COMMISSION APPOINTS SPECIAL RAPPORTEUR ON THE RIGHTS OF WOMEN"-69

Subject: An update on the work done on the Protocol on Women and the announcement of Mrs. Julienne Ondziel-Gnelenga as the new special rapporteur.

HR Topics:

The work of the African Commission in General\*

The Women's Protocol in general\*

"The Experts Working Group on the Draft Additional Protocol on the Rights of Women presented the amended draft protocol to the African Commission on Human and Peoples' Rights at its 23rd Ordinary Session held in Banjul, The Gambia from 20-29 April, 1998." (p. 1)

129. Article: "AFRICAN COMMISSION DISCUSSES HUMAN RIGHTS SITUATION IN AFRICA"-70

Subject: A summary of the human rights issues discussed in the 23<sup>rd</sup> session of the Commission.

HR Topics:

*The Work of the Commission in General\**

130. Article: "Democracy at work: Checks and Balances"

Subject: A review of the speeches given at a seminar on democracy organized by the Centre and the British High Commission held in Banjul.

131. Article: "Human Rights Procedures Course Takes Place in Banjul"

Subject: A review of the 7<sup>th</sup> Training Course on the Use of International Human rights Procedures organized by the Centre.

132. Article: "Focus on African NGOs"

Subject: A review of the work of the African Institute for Democracy (IAD) in Dakar Senegal.

133. Article: “Developing Television and Human Rights in Africa”-71

Subject: A discussion on preserving African cultural norms through media.

HR Topics:

*Traditional African culture and human rights:*

“She [first lady Mrs. Tuti Faal-Jammeh] stressed the importance of the television, radio and film industry in bringing out the positive attributes of African traditional and cultural norms. Preserving these norms is paramount in the drive to empower women and children, protecting their rights in traditional African societies, and acting also as a strong medium in educating women on the dangers posed to their health by negative practices.” (p. 7)

**Issue: Vol. 8 no. 3 July-September 1998**

134. Article: “Measuring Up or Being Let Down”

Subject: A review of the Universal Declaration on Human Rights and how its statues are being upheld or violated in the continent.

135. Article: “Body and Soul Female Genital and Rights Mutilation”-72

Subject: A look at the UDHR and its relationship to FGM.

HR Topics:

*FGM in Africa:*

“Women are victims of traditions, said Mary Small. She’s the Programme Coordinator for the Gambia Committee on Traditional Practices (GAMCOTRAP), an arm of the Inter-African Committee on Traditional Practices Affecting the Health of Women and Children (IAC).

136. Article: “Focus on African NGOs”

Subject: A review of the work of the Liberian Justice and Peace Commission (JPC).

137. Article: “Mandate/Mission Statement of the African Centre for Democracy and Human Rights Studies”-73

Subject: A review of the mission and work of the Centre.

HR Topics:

*Article 25 of the Charter:*

“The African Centre for Democracy and Human Rights Studies is a pan-African non-governmental organisation which based its original creation in 1989 on Article 25 of the African Charter for Human and Peoples’ Rights which states, "States Parties [have] ... the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the Charter as to see it that these freedoms and rights as well as corresponding obligations are understood." (p. 8)

138. Article: “Vienna +5”

Subject: A discussion of the review of the Vienna Declaration that occurred in Ottawa, Canada.

**Issue: Vol. 8 no. 4 October-December 1998**

139. Article: “Progression and Regression at the 24th Commission Session Hope for Human Rights but Mounting Violence on the Continent Might Mean Trouble”-74

Subject: A review of the activities of the Commission at the 24<sup>th</sup> session in Banjul.

HR Topics:

*The work of the Commission in general\**

*The women’s Protocol in general\*:*

“Mme. Julienne OndzielGnelenga is the Special Rapporteur for Women. She was unable to promote the Draft Protocol to the African Charter on Human and Peoples' Rights Concerning the Rights of Women as much as she wanted to. She said it was due to lack of funds. Remarks were made by some NGOs that the Protocol was not strong enough. Mme. OndzielGnelenga said it was only a start and, "There is a lot more to come.” (p. 2)

140. Article: “Recognition for Women in Africa, Gaining Ground with the Additional Protocol”-75

Subject: An update on the work of the Commission on the question of women’s rights in Africa.

HR Topics:

*The women’s Protocol in general\*:*

“The Draft Protocol to the African Charter on Human and Peoples' Rights Concerning the Rights of Women is the beginning of a new era for African women. It was conceived at a "Seminar on the African Charter and Human Rights of Women in Africa" in 1995. The Additional Protocol will make African governments re-evaluate their policies on women's rights. There are 22 Articles improving women's roles and status. The Protocol asks for the protection of rights by binding state parties to, "Take specific positive action in those areas where discrimination against women in law and in fact continues to exist," Article 4.” (p. 3)

*Article 18(3):*

"The state shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions." (p. 3)

141. Article: “The First Lasts The International Criminal Tribunal for Rwanda hopes history won't repeat”.

Subject: A discussion on the Rwanda genocide tribunals.

142. Article: Focus on African NGOs

Subject: A review of the mission and work of the Legal Defence and Assistance Program (LEDAP) NGO of Nigeria.

143. Article: Actively Learning at the Course on International Human Rights Procedures

Subject: A review of the second part of the 7th Training Course on International Human Rights Procedures at the Centre.

**Issue: Vol. 9 no. 1 January-March 1999**

144. Article: “COURSE PARTICIPANTS INTENSIFY CALL FOR FEMALE EQUITY”-76

Subject: A summary of a training program at the African Centre.

HR Topics:

*Protocol on Women's Rights in general\**

145. Article: “A New Year Message To You”

Subject: A discussion on the human rights situation in Africa in 1999.

146. Article: “Hell Let Loose on Human Rights in Sierra Leone”-77

Subject: A article on the background and results of the Sierra Leone conflict.

HR Topics:

*African Court:*

“The OAU Assembly of Heads of State and Government has also adopted the additional protocol to the African Charter for the establishment of the African Court on Human and Peoples' Rights. This instrument is currently awaiting the statutory ratification by 15 State parties to the African Charter, for it to come into force. The establishment of this Court is expected to promote human rights in the continent, as it will bring to book, perpetrators of violation of human rights, to serve as a deterrent.” (p. 5)

147. Article: “ACDHRS ENHANCES CAPACITY OF AFRICAN NGOs TO MAINTAIN INFORMATION CENTRES”

Subject: Update and review of the ACDHRS program on the institutionalization of information centres in NGOs.

148. Article: “Focus on African NGOs”

Subject: A Summary of the Danish Human Rights Resource Centre.

**Issue: Vol. 9 no. 2 April-June 1999**

149. Article: “OAU SECRETARY GENERAL CALLS FOR CONCERTED EFFORT TO CHANGE HUMAN RIGHTS SITUATION IN AFRICA”-78

Subject: A summary of the 25<sup>th</sup> Ordinary session of the Commission.

HR Topics:

The work of the Commission in general\*

The Women’s Protocol in general

The Children’s’ Protocol in general:

“Dr. Salim Salim appealed to national human rights institutions and the various human rights NGOs with which the Commission has established partnerships, to reflect on appropriate strategies to ensure speedy ratification of the Protocol on the African Court on Human and Peoples' Rights, as well as the African Charter on the Rights and Welfare of the Child. Also the early finalisation of the Draft Protocol on the Rights of Women in Africa.” (p. 2)

150. Article: “African Commission Adopts New Criteria For NGO Observer Status”-79

Subject: An overview of the new guidelines created by the Commission for the granting of observer status for NGOs.

HR Topics:

*The work of the Commission in general\**

*Children’s Protocol in particular:*

“the Resolution on the ratification of the African Charter on the Rights and Welfare of the Child. This resolution urged all States Parties to the African Charter on Human and Peoples' Rights that have not yet ratified the Charter on the Rights and Welfare of the Child, to do so without further delay, to allow its entry into force.” (p. 6)

151. Article: “ACDHRS HOLDS FOURTH MANAGEMENT COURSE FOR HUMAN RIGHTS NGOs”

Subject: A review of the Centre’s fourth Management training course for African human rights NGOs.

152. Article: “COMMUNICATION SPECIALIST JOINS STAFF OF ACDHRS”

Subject: An announcement of the Centre’s hiring of new personnel.

153. Article: “FOCUS ON AFRICAN NGOs”

Subject: A summary of the mission and work of the Centre for Human Rights, University of Pretoria.

**Issue: Vol. 9 no. 3 July-September 1999**

154. Article: WOMEN IN CONFLICT SITUATIONS IN AFRICA

Subject: A review of a weeklong training program organized by the Centre in Zambia.

155. Article: “SOME SUGGESTIONS FOR AMENDMENT TO WOMEN'S - PROTOCOL”-80

Subject: A discussion of the recommendations made by the participants of the Women in Conflict Situations training course on the Women’s Protocol.

HR Topics:

*Article 7 of Women's Protocol:*

“Among these was a proposal for an amendment to Article 7 (5) which reads: ‘A widow shall have the right to inherit her husband’s property’ ...” (p. 2)

*Article 6 of Women's Protocol:*

“On the question of polygamy which is dealt with in Article 6 (2a), to wit, ‘polygamy shall be prohibited except otherwise consented by both parties’, the participants noted that this was a ‘clawback’ clause”. (p 2)

*Article 5 of Women's Protocol:*

“Another issue that was hotly debated was the practice of Female Genital Mutilation (FGM) which is addressed in Article 5 (e), to wit: "State Parties shall ... prohibit all traditional and cultural practices which are physically and/or morally harmful to women and girls and which are against recognised international norms (including forced feeding, genital mutilation, infibulation, etc.) While some participants called for caution in the approach to this issue ‘since it is steeped in African culture and tradition’, the majority of the participants agreed that FGM should be banned by all State Parties to the OAU.” (p. 8)

156. Article: “ACDHRS LAYS FOUNDATION STONE FOR OFFICE BUILDING”

Subject: A description of the opening of the building of the Centre’s new headquarters.

157. Article: “FIRST OAU MINISTERIAL CONFERENCE ON HUMAN RIGHTS IN AFRICA ADOPTS GRAND BAY DECLARATION”-81

Subject: A summary of the first OAU ministerial conference on human rights in Africa and the adoption of the Mauritius Plan of Action.

HR Topics:

*The Charter in general\**

*Traditional African culture in human rights:*

“It therefore called for integration of the positive traditional and cultural values of Africa into the human rights debate for transmission to future generations” (p. 5).

158. Article: “PROGRESS ON ADDITIONAL PROTOCOL ON WOMEN'S RIGHTS”-82

Subject: An update on the finalization of the Women’s Protocol.

HR Topics:

*The Women's Protocol in general\**

159. Article: "MEMBERSHIP OF ACHPR RECONSTITUTED"-83

Subject: An update on the new members of the ACHPRS

HR Topics:

*The work of the Commission\**

160. Article: FOCUS ON AFRICAN HUMAN RIGHTS NGOs

Subject: A review of the Society for the Welfare of Women Prisoners (SWEWP) of Nigeria.

**Issue: Vol. 9 no. 4 October-December 1999**

161. Article: "'DEMOCRACY IS ABSOLUTELY NECESSARY FOR HUMAN DEVELOPMENT' -PRESIDENT DIOUF"-84

Subject: A discussion of the Conference on Crisis Democracy and the Rule of Law in Senegal.

HR Topics:

*Economic, social, and cultural rights with civil/political rights:*

"The ONDH leader stressed that the eradication of poverty and the sustenance of the democratic renaissance in the region remained a challenge to African leaders and called for priority to be given not only to civil and political rights, but also to economic, social and cultural rights." (p. 2)

"The three-day Conference included presentation of papers by eminent scholars and human rights activists group work and plenary sessions, culminating in the adoption of several resolutions and recommendation, some of which were as follows:

- the need to promote and protect economic, social, political and cultural rights" (p. 3)

162. Article: "THREE PROFESSIONALS JOIN STAFF OF ACDHRS"

Subject: An announcement of the hiring of three new staffers to the Centre

163. Article: "HUMAN RIGHTS DEFENDERS MEET IN DAKAR"

Subject: A summary of the proceedings at the Experts' seminar on The Protection of

Human Rights Defenders in Africa: International Norms and Strategies.

164. Article: "WAD NET ESTABLISHED"

Subject: An articles discussing the establishment of the West Africa Democracy Network(WADNET).

165. Article: "AFRICAN COMMISSION ADOPTS DRAFT PROTOCOL ON WOMEN'S RIGHTS"-85

Subject: An announcement of the Commission's adoption of the Women's Protocol.

HR Topics:

*The Women's Protocol in general\**

167. Article: "DANKWA ELECTED CHAIRMAN OF THE AFRICAN COMMISSION"-86

Subject: A summary of the 26<sup>th</sup> Session of the African Commission held in Kigali , Rwanda as well as the elections that occurred there.

HR Topics:

*The work of the Commission in general\**

168. Article: "FOCUS ON AFRICAN NGOs"

Subject: A review of the work and mission of the African Centre for Women of the UN.

**Issue: Vol. 10 no. 1 January-March 2000**

169. Article: "NEW YEAR/ MILLENNIUM MESSAGE BY THE EXECUTIVE DIRECTOR"

Subject: A message by Zoe Tembo of the Centre discussing the human rights situation in Africa at the end of the 20<sup>th</sup> century and reflecting on the continent since independence.

\*mentions the Charter: "The African Centre for Democracy and Human Rights Studies which was set up eleven years ago to sensitise and educate the people of Africa about the provisions ofthe African Charter on Human and Peoples' Rights, will continue in its efforts in this direction". (p.2)

170. Article: "REGIONAL CONSULTATION ON CHILD RIGHTS ADOPTS ABIDJAN APPEAL"-87

Subject: A summary of a meeting on children's rights organized by UNICEF in Abidjan in November 1999.

HR Topics:

*Children's rights in general*

"They urged States to ratify, translate into national languages and implement effectively, pertinent instruments, especially the Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child, the Convention on the Elimination of all Forms of Discrimination Against Women, the Convention on the Prohibition of the Use, Storage, Production and Transport of Anti-personnel Mines and On their Destruction, and the ILO Convention on the worst forms of labour." (p. 3)

*The right to free primary education*

"The African Charter on the Rights and Welfare of the Child which is now in force, recognises the right of every child to free primary education" (p. 3)

171. Article: "THE IMPORTANCE OF PEACE IN THE DEVELOPMENT OF THE CHILD"-88

Subject: A discussion on international law and its place in securing peace and upholding the rights of children.

HR Topics:

*Children's rights in general*

"The Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child which form part of the International Law on Human Rights, have as their major objective, to guarantee and safeguard the best interest of the child." (p. 4)

"The African Charter on the Rights and Welfare of the Child (ACRWC) came into force in November, 1999" (p. 4)

*The family as the basis of society:*

"The African Charter emphasises the central role of the family as the natural unit and basis of society in bringing up children" (p. 4)

*Duties of the individual:*

"It also underscores the need to observe fundamental rights, and urges every individual to pursue the harmonious development of the family, including children." (p. 4)

Freedom from exploitation, trafficking and child labor:

“Article 35 of the CRC prohibits the abduction of children, while Article 36 protects children from all other forms of exploitation. These issues are similarly dealt with in Articles 22-29 in the ACRWC.” (p. 5)

172. Article: “Towards Sustainable Peace in Africa”

Subject: An exploration of the human needs theory of Burton and its place in describing African conflicts.

173. Article: “Focus on African NGOs”

Subject: A summary of the mission and work of the Federation of African Women's Peace Networks (FERFAP).

**Issue: Vol. 10 no. 2 April-June 2000**

174. Article: “NGOS CALL FOR THE COMBAT OF IMPUNITY IN AFRICA”-89

Subject: A review of the NGO Forum held before the 27<sup>th</sup> Ordinary Session in Algiers with special emphasis on the resolution concerning impunity in Africa

HR Topics:

*The work of the Commission in general*

*The African Court:*

“In this regard, they urged member states of the OAU to speed up ratification of the protocol on the creation of the African Court on Human and Peoples' Rights and the Treaty on the International Criminal Tribunal.” (p. 1)

“Strategies for the speedy ratification of the Additional Protocol to the African Charter on the establishment of an African Court on Human and Peoples' Rights” (p. 3)

*Women's Rights:*

“The Additional Protocol to the African Charter concerning the rights of women” (p. 3)

175. Editorial: “ACDHRS CONCERNED AT TURN OF EVENTS IN SIERRA LEONE”

Subject: An editorial by the Centre condemning the violations taking place in Sierra Leone.

176. Article: "AFRICAN CENTRE TAKES 48 NGOs TO AFRICAN COMMISSION'S 27TH SESSION"-90

Subject: A review of the 27<sup>th</sup> Session of the Commission in Algiers.

HR Topics:

*The work of the Commission*

*The equality of social, economic rights with political and civil rights:*

"The Head of State reminded his audience of the tendency to exclude from human rights discuss the world economic order "which excludes the poor, increases inequalities and minimises the chances of the development of African countries". He called for solutions that take into account the enormous gaps between the developed and developing nations and insisted that political rights must be pursued alongside economic and social rights in order to attain better living standards of the African people. "Any achievement in human rights remains fragile as long as there is poverty, as this will lead to violence and all sorts of conflicts", Mr. Boutetlika added." (p. 4)

*The Charter in general:*

"The Minister of Justice and Institutional Affairs of Rwanda, Mr. Mucyo Jean de Dieu spoke on behalf of States delegates. He described the meeting as a testimony of commitment to do away with injustice and to set up cooperation with other countries in order to offer a better life to the people of Africa. He stressed the need for each state to adopt adequate legislation to guarantee to its people the rights enshrined in the African Charter." (p. 5)

*Promotional Activities of the Commission:*

"As part of its promotional activities, the Commission decided to organise seminars on the following topics:

- Contemporary forms of slavery
- The right to education and development

Freedom of movement and asylum rights in Africa

- The rights of persons with disability in Africa
- Economic, social and cultural rights in Africa
- Freedom of expression in Africa

177. Article: ACDHRS Reacts to Violent Upheaval in The Gambia-91

Subject: The Centre's reaction to the violent suppression of student protestors in The Gambia in April 2000

HR Topics:

*The Charter in general*

*Violations in The Gambia*

*The right of assembly, peaceful demonstration*

“The letter called attention to relevant Sections of the Gambian Constitution, the African Charter and the Universal Declaration on Human Rights which guarantee the right to peaceful demonstration without arms, and pointed out that the demonstrations should have been allowed to proceed and end peacefully without any violation, by the students, of the laws of the land dealing with public order, safety and security” (p. 8)

178. Article: “STATUS OF THE ADDITIONAL PROTOCOL ON WOMEN'S RIGHTS”-92

Subject: An update on the work of creating the Women's Protocol

HR Topics:

*The Women's Protocol*

*Work on the Commission*

179. Article: “ARAB-AFRICAN NGO UNION TO BE ESTABLISHED”-93

Subject: A discussion of the inaugural conference of Arab-African GOs held in Tripoli, Libya from 14th-16th April, 2000.

HR Topics:

*Duty for African Unity?:*

The keynote address was delivered by Professor Ali Badawi of the University of Libya. He recalled the Sirte Declaration of 9th September, 1999, in which Heads of State and Government of the OAU agreed to explore the call of the Libyan leader, Colonel Muammar Al-Qaddafi for a united Africa, and stressed that NGOs have a positive role to play in the realisation of this goal.

180. Article: “FOCUS ON AFRICAN NGOs/INSTITUTIONS”

Subject: A discussion of Algeria's national human rights institution the L'Observatoire National des Droits de l'Homme

181. Announcement: "TWO INTERNS AT ACDHRS LIBRARY"

Subject: An announcement of two African interns working at the Centre.

**Issue: Vol. 10 no. 3 July-September 2000**

182. Article: "AFRICAN CHILDREN'S RIGHTS CHARTER NOW IN FORCE"-94

Subject: A review of the African Charter on the Rights of the Child and an announcement of its coming into force.

HR Topics:

*Children's rights in general*

"Specifically, the African Charter on Children's Rights reflects the uniqueness of the situation of children in African societies." (p. 1)

*Right to Free education (Article 11 in Children's Charter)*

"Article 11 (Education) requires African States to "provide free and compulsory basic education" for all children. This is crucial to the development of Africa, as failure to provide basic education in the past is perhaps the largest contributory factor to the continent's high illiteracy rate and underdevelopment. The pressing issue of adequate secondary and post-secondary education is addressed in Section 3b of Article 11. It requires States " to encourage the development of secondary education in its different forms and to progressively make it free and accessible to all". (p. 2)

*Child Labor Rights (Article 15 in Children's Charter)*

"The pressing issue of child labor rights is reflected in Article 15. It states that " Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with his/her physical, mental, spiritual, moral or social development". The Article requires States Parties to take appropriate legislative measures to ensure the proper administration of this proviso, particularly in matters pertaining to minimum ages for admission to employment, appropriate penalties or other sanctions to ensure the effective enforcement of this Article. Also to promote the dissemination of information on the hazards of child labour to all sectors of the community." (p. 2)

*Protection against sexual exploitation (Article 27)*

“Protection against sexual exploitation of children is covered in Article 27. It requires States Parties to protect the child from all forms of sexual exploitation and sexual abuse, including the use of children in prostitution, pornographic and other sexual activities.” (p. 2)

Child trafficking (Article 29)

“Closely tied to the issue of sexual exploitation of children is sale, trafficking and abduction of children. This is dealt with in Article 29. It prescribes that States Parties shall take appropriate measures to prevent the abduction, sale of, or traffic in children for any purpose or in any form, by any person including parents or legal guardians of the child, and the use of children in all forms of begging.” (p. 2)

Protection from harmful traditional practices (Article 21)

“Another issue of note addressed in the Charter deals with the protection of children from harmful traditional practices (Article 21 ). It requires States to "eliminate all harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child". It deals specifically with the issue of child marriage and calls for the prohibition of this practice through effective action, including legislation specifying the minimum age of marriage to be 18 years.” (p. 2)

183. Article: “WORLD CONFERENCE AGAINST RACISM XENOPHOBIA AND INTOLERANCE”

Subject: An update on the preparations for the upcoming World Conference on Racism.

184. Article: “PERPETRATORS OF WAR CRIMES IN SIERRA LEONE TO FACE TRIBUNAL”

Subject: A discussion on the tribunals being setup for the perpetrators of the Sierra Leone crisis convened by the UN and the Sierra Leone government.

185. Article: “ACDHRS PARTICIPATES AT IHRTP”

Subject: A review of the the 21 " Annual International Human Right-; Training Programme (IHRTP) held in Canada from 11-30 June, 2000.

186. Article: “ACDHR Lectures Gambia Police Officers On Human Rights”-95

Subject: A summary of a human rights training course put on by the Centre for Gambian security forces.

HR Topics:

*Indivisibility of Rights:*

“Dr. Senghore explained that human rights could be divided into three categories - first generation rights (civil and political), second generation rights (economic, social and cultural) and third generation rights (such as the rights to development and selfdetermination). He explained the importance of each one and insisted that they are not treated in isolation as they are all of equal merit and are indivisible” (p. 7)

187. Article: “FOCUS ON AFRICAN HUMAN RIGHTS NGOs/INSTITUTIONS”

Subject: An overview of the Ugandan NGO The Centre for Conflict Resolution (CECORE).

**Issue: Vol. 11 no. 1 Jan-March 2001**

188. Article: “ACDHRS' NEW OFFICE BUILDING OFFICIALLY OPENED”-96

Subject: A review of the opening of the Centre’s new headquarters.

HR Topics:

*The African Charter in General\**

Promotion of the Charter:

“He recalled the coming into force of the African Charter on Human and Peoples’ Rights in 1986 and the subsequent establishment of the African Commission on Human and Peoples’ Rights in The Gambia by the OAU, to supervise its implementation and added: “The Gambia Government then had a vision, and that was to establish a Centre that would compliment the efforts of the African Commission on Human and Peoples’ Rights. The Gambia Government believed that if the African Charter was to be meaningful to the people of Africa, its provisions had to be explained to, and understood, by all the peoples in the continent”. (p. 2)

189. Article: “ACDHRS ORGANISES NINTH TRAINING COURSE ON THE USE OF THE INTERNATIONAL HUMAN RIGHTS PROCEDURES”-97

Subject: A review of the Centre’s the ninth training course on The Use of the International Human Rights Procedures.

HR Topics:

*The African Charter in general\**

*The Women’s Protocol*

*The Children's Protocol*

“The training programme was very intensive. It covered the African Human Rights Instruments including the African Charter on Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child and the Additional Protocol to the African Charter on Women's Rights, which is yet to be concluded”. (p. 8)

190. Article: “INTERNATIONAL CONFERENCE ON TORTURE AND INTERNATIONAL JUSTICE”-98

Subject: A summary of a conference on Torture and International Justice in Dakar, Senegal, from November 23-25, 2000.

HR Topics:

*Right to be free from torture (Article 5)*

“The Convention against Torture and the legal provisions on Torture in several international instruments including the African Charter on Human and Peoples' Rights (Article 5), formed the basis of the discussions”. (p. 10)

191. Article: “FOCUS ON AFRICAN HUMAN RIGHTS NGOs/INSTITUTIONS”

Subject: An overview of the work and mission of the Burkina Faso NGO the Promo-Femmes Developpement Solidarite (PF/DS)

192: Article: “STOP PRESS! EXECUTIVE DIRECTOR DIES AT 43”

Subject: An announcement of the death of the Centre's executive director Zoe Tembo and a eulogization of her life as a human rights activist.

**Issue: Vol. 811no. 2 April-June 2001**

193. Article: “ACDHRS ORGANISES NGO FORUM IN LIBYA”-99

Subject: A summary of the NGO forum preceding the 29<sup>th</sup> session of the Commission.

HR Topics:

Indivisibility of rights:

“Lack of freedom of speech and of association were being denied citizens in varying degrees in several countries, while African Governments continued to pay lip service to economic, social and cultural rights.” (p.2)

“Noting the pervasive neglect of economic, social and cultural rights in several countries in Africa and the negative effects of globalization on the peoples of the continent” (p. 4)

“Reaffirm the indivisibility interdependence and universality of all rights” (p. 4)

“4. To urge African States about their obligations in implementing the various human rights instruments including those pertaining to economic, social and cultural rights in order to lift the peoples of Africa out of the quagmire of poverty, disease and illiteracy”. (p. 4)

#### *Principle of African unity?*

“He welcomed everyone to the Forum and apologised for any lapses that they may encounter in the arrangements. He enjoined participants to endeavour to feel at home and hoped the Forum will contribute positively to the further development of human rights and African unity on the continent.” (3)

#### *Women’s Protocol in general*

#### *Protocol on Court*

“She acknowledged the role being played by NGOs in the work of the African Commission, citing their contribution to the drafting of the Additional Protocol on Women's Rights and the Protocol on the African Court.”

194. Article: “ACDHRS Leads NGOs TO 29<sup>th</sup> Session”-100

Subject: The review of the public session of the Commission at its 29<sup>th</sup> ordinary session.

HR Topics:

#### *The work of the Commission\**

Promotional Work of the Commission:

“14. Within the framework of its promotional activities, the Commission reiterated its decision to organize seminars on the following themes:

- Contemporary Forms of slavery;
- Right to Education and Development;
- Freedom of Movement and Right to Asylum in Africa;
- Rights of people with disabilities;
- Economic, Social and Cultural Rights in Africa;
- Prevention of Torture; and
- Refugees and internally displaced persons in Africa

195. Article: “Editorial African Union Established”

Subject: An announcement of the formation of the African Union with a presentation of the pros and cons of the new organization.

196. Article: "NGO Forum to Precede WCAR Conference"

Subject: An announcement of the NGO FORUM TO PRECEDE WCAR CONFERENCE and a list of the conference's objectives.

197. Article: "THE NEW AFRICAN UNION AND THE AFRICAN HUMAN RIGHTS SYSTEM"-101

Subject: An article made up of the extracts from a paper written by Justice Kayode Eso titled "The Role of the African Human Rights System and Civil Society in the African Union".

HR Topics:

The Charter in general\*

198. Article: "ACDHRS Trains Rural Women on Human Rights and Gender Issues"-102

Subject: A review of The Gambia based Trust Agency for Rural Development' training course for rural women leaders entitled the Women Leadership Project and the Centre's role as providing the human rights training to the group.

HR Topics:

*The Charter in general\**

199. Article: "FOCUS ON AFRICAN HUMAN RIGHTS NGOs"

Subject: A review of the mission and work of the Geneva based NGO Synergies Africa.

**Issue: Vol. 11 no. 3 July-September 2001**

200. Article: "New Executive Director Appointed"

Subject: An announcement of the appointment of Hannah Forster to the Centre's executive director position.

201. Article: "WCAR HERALDS NEW HOPE FOR THE ERADICATION OF RACISM"

Subject: A summary of the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban, South Africa in September 2001 and a review of the conferences' declaration.

202. Article: "Outcomes of the NGO Forum of the WCAR: Held in Durban, South Africa, 28 August-] September 2001"

Subject: A discussion of the NGO Forum prior to the WCAR.

203. Article: "The Youth Summit of the WCAR"

Subject: A review of the International Youth Summit of the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance and its Plan of Action.

204. Article: "FOCUS ON AFRICAN HUMAN RIGHTSNGOS"

Subject: A description of the mission and work South African National NGO Coalition (SANGOCO).

205. Article: "ACDHRS participates at IHRD 3rd Annual Workshop"

Subject: A summary of the African Centre for Democracy and Human Rights Studies participation in the 3rd annual workshop on procedures of the African Human Rights System organised by the Institute for Human Rights Development in Africa.

206. Article: "World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance:"

Subject: A discussion of the outcomes and implications of the 3<sup>rd</sup> WCAR.

207. Article: "THE INTERSECTION OF GENDER AND RACE: The Issue of Gender at WCAR" by Bintou Kamara

Subject: A review of the intersection of racism and gender as it relates to the WCAR.

208. Article: "Secretary-general Urges Conference To Meet World's Expectations With Call For Action To Combat Racism"

Subject: A reprinting of Kofi Annan's statement at WCAR.

209. Article: "Statement at Opening of Durban Conference"

Subject: A reprinting of Mary Robinson's opening statement at WCAR.

**Issue: Vol. 11 no. 4 October-December 2001**

210. Article: “Themes and Outcomes of the NGO Forum on the Participation of NGOs in the 30th Ordinary Session of the African Commission”-103

Subject: A review of the NGO Forum from October 10th to October 12th, 2001, that preceded the 30<sup>th</sup> ordinary session of the African Commission.

HR Topics:

*The Charter, Women’s Protocol and Children’s Protocol in general\**

The indivisibility of human rights:

“During the NGO Forum, special emphasis was placed on the importance of the full realization of economic, social and cultural rights in all African countries particularly in the wake of the accelerated trend toward globalisation, as well as economic and commercial liberalization.” (p. 3)

“Reaffirming the importance of the realization of the universality and interdependence of all human rights,” (p. 3)

“Reaffirming the need for the full realization of all human rights, particularly economic, social and cultural rights.” (p. 3)

“We, the participants at the NGO Forum organized by the African Centre for Democracy and Human Rights Studies in collaboration with the African Commission on Human and Peoples' Rights from the 10th to the 12th October 2001 in Banjul, The Gambia, to prepare Human Rights NGOs for participation in progress towards the promotion and protection of human rights and democratisation, the African continent still faces serious challenges in its efforts towards the realization of human rights for all , due to:

- Impunity,
- Lack of respect for the electoral process,
- Poverty and underdevelopment,
- Globalisation,
- Neglect of the realization of economic, social, and cultural rights,” (p. 3)

“To urge governments to establish effective mechanisms for the realization of economic, social, and cultural rights, and to accord particular attention to the needs and rights of minorities and indigenous peoples. We urge governments to avoid ethnocentric and separatist approaches that favour one group over another group.” (p. 4)

211. Article: “ACDHRS New Executive Committee”

Subject: An update on the Centre's appointment of new members to its executive committee.

212. Article: "A Need For Coordination"

Subject: An appeal for more cooperation among African human rights NGOs.

213. Article: "Gambians Cast their Votes"

Subject: An announcement on the election of Jammeh to office of the president.

214. Article: "The African Commission on Human and Peoples' Rights 30th Ordinary Session in Banjul, The Gambia"-104

Subject: A summary of the public session of the 30<sup>th</sup> ordinary session of the Commission

HR Topics:

*The work of the Commission\**

*The Charter in general\**

215. Article: "Focus on African Human Rights NGOs"

Subject: A description on the NGO Africa Legal Aid of Ghana.

216. Article: "ACDHRS Participated at the IPA/ ECOWAS Seminar"

Subject: A summary and reprinting of the issues discussed at the "Towards a Pax West Africana: Building Peace in a Troubled Sub-Region" seminar in Abuja.

217. Article: "CRC in the Context of Integrated Management of Childhood Illnesses"

Subject: A summary of the Gambia's Integrated Management of Childhood Illnesses (IMCI) project.

218. Article: "ACDHRS Training Course on the Promotion and Protection of Women's Rights in Africa"

Subject: A description of the Centre's 4th Training Course on the Use of International Human Rights Procedures for the Promotion and Protection of the Rights of Women in Africa.

**Issue: Vol. 12 no. 1 January-March 2002**

219. Article: "Experts Consult over Human Rights Training Manuals"

Subject: A review of a brainstorming session at the Centre designed to beginning the creation of a human rights manual for the primary and secondary schools of the Gambia.

220. Article: "A STRATEGY FOR PEACE AND TOLERANCE"

Subject: An article describing the Centre's commitment to human rights education.

221. Article: "Robben Island Workshop to prepare guidelines to prevent torture in Africa"-105

Subject: A summary of the workshop in Cape Town, SA held by the Commission and designed to prepare guidelines for the prevention of torture in Africa.

HR Topics:

Article 5

"Article 5 of the African Charter on Human and Peoples' Rights states that "Every individual shall have the right to the respect of dignity inherent in a human being . . . All forms of exploitation and degradation of man particularly ... torture, cruel , inhuman or degrading punishment and treatment, shall be prohibited." (p. 3)

222. Article: "Impunity an Obstacle to Human Rights Protection A Review of the Habre Case"

Subject: A discussion of impunity and human rights in relation to the trial of Chadian leader Habre.

223. Article: "CORDAID visits the Centre"

Subject: An announcement of the visit of Netherlands NGO CORDAID to the Centre.

224. Article: "Election Watch"

Subject: An overview of upcoming elections around continent including Zimbabwe and Zambia.

225. Article: "FOCUS ON AFRICAN HUMAN RIGHTS NGOS"

Subject: A description of Ugandan NGO The Interdisciplinary Teaching of Human Rights Peace And Ethics Project (ITHPEP).

226. Article: "Strengthening National and Sub-regional Capacities for Promoting and Protecting Human Rights in West Africa"

Subject: A discussion of a workshop held at the Centre to “discuss and co-ordinate views and suggestions from governments, national human rights organizations and civil society institutions in the West African sub-region”. (p. 11)

**Issue: Vol. 11 no. 2 April-June 2002**

227. Article: “ACDHRS, HURISA Host 10th Training Course on the Use of International Human Rights Procedures”-106

Subject: A review of the 10<sup>th</sup> Training Course on the Use of International Human Rights Procedures for the promotion and protection of Human Rights in Africa, from April 22-27, 2002 in Pretoria, South Africa organized by the Centre and the Human Rights Institute of South Africa.

HR Topics:

The Charter in general\*

228. Article: “Transformative Justice”

Subject: A discussion of the African Transformative Justice Project (ATJP) in Nigeria, Ghana and The Gambia.

229. Article: “African Transformative Justice Project Launched in Brikama”

Subject: A discussion of the launching of the ATJP in the Gambia which is designed to implement as alternatives to the courts and imprisonment, Mediation Centres in order to provide avenues for support and conflict resolution to those community members who do not want to or cannot afford to go through the criminal justice system's process and institution.

230. Article: “ACDHRS, HURISA, ACHPR hold NGO Forum and the 5<sup>th</sup> Human Rights Book Fair

Subject: A review of the NGO Forum prior to the 31<sup>st</sup> Ordinary Session of the Commission.

231. Article: “Vieira de Mello Appointed High Commissioner for Human Rights”

Subject: The announcement of Brazilian born Sergio Vieira de Mello appointed as the United Nations High Commissioner for Human Rights.

232. Article: “Draft Optional Protocol to the Convention Against Torture Adopted”

Subject: An announcement the adoption of the Draft Optional Protocol to the Convention Against Torture.

The work of the Commission\*

233. Article: “FOCUS ON AFRICAN HUMAN RIGHTS NGOs”

Subject: A review of the mission and work of the South African NGO The Human Rights Institute of South Africa (HURISA).

224. Article: “CLA raised Concern about the Rule of Law in Zimbabwe”

Subject: An article in protest of the arrest of the President of the Law Society of Zimbabwe, Mr. Sternford Mayo.

225. Article: “ACDHRS joins other Stakeholders to Commemorate the Day of the African Child”- 107

Subject: A summary of the ACDHRS’ participation in celebrating the occasion the Day of the African Child.

HR Topics:

The Children’s Protocol\*

The African Charter in general\*

*Article 21:*

“She cited Article 21 of the Charter, which provides protection against harmful traditional practices.” (p. 8)

“Mrs. Forster further cited Articles 26, 27, 28 and 29 as providing protection against apartheid and discrimination, sexual exploitation, drug abuse and child trafficking and abduction respectively.” (p. 8)

*Article 9:*

“Mrs. Forster Stated that Article 19 of the ACRWC has clearly stated that every child is entitled to parental care and protection. She however added that the State as well as Civil Society has important roles to play in protecting children.” (p. 8)

226. Article: “ELECTION WATCH Madagascar, Sierra Leone and Mali”

Subject: An overview of elections being held across the continent.

227. Article: “SAHRINGON REPORT ON NGO FORUM MEETING AND SESSIONS OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES RIGHTS HELD AT PRETORIA, SOUTH AFRICA 29 APRIL -7 MAY 2002 PREPARED BY YVONNE DAUSAB (REGIONAL PROJECT COORDINATOR)”- 108

Subject: A reprinting of the report of the Southern African Human Rights NGO Network' report on the NGO Forum and session of the Commission.

HR Topics:

The work of the Commission\*

*Article 45:*

“In terms of Article 45 of the African Charter on Human and People's Rights ('the Charter') the African Commission on Human and People's Rights (ACHPR) has a responsibility to ensure the promotion and protection of human rights in Africa. Within the frame and spirit of this provision it 'cooperates with other African and international institutions and organisations concerned with the protection and promotion of human rights. (p. 12)

Indivisibility of rights:

“There has been a de facto and de jure concentration on civil and political rights thus excluding socioeconomic rights from the realm of activism both on the part of governments and the civil society. Amid what appears to be a murky picture of the content are windows of opportunity for civil society to be more pro-active when responding to human rights issues in the region and on the continent.

First, the distinction between the civil and political, socio-economic and third generation rights is unacceptable and needs to be articulated as indivisible and interdependent.” (p. 12)

228. Article: “The Gender Dimension of NEPAD Poverty and Rights”-109

Subject: A discussion of how NEPAD might relate to women's rights in Africa.

HR Topics:

*The Charter in general\**

*Women's Protocol\**

“Concerning women's rights, it is still unclear, how NEPAD will relate to the existing instruments of women's rights. These instruments include: the Elimination of All forms of Discrimination Against Women, CEDAW; the Beijing Platform of Action, the Dakar

Platform of Action, the African Charter on Human and Peoples' Rights and probably the Additional Protocol on the Rights of Women in Africa.” (p. 15)

**Issue: Vol. 12 no. 4 October-December 2002**

229. Article: “ACDHRS Holds 51h IHRPW”-110

Subject: A summary of the Centre’s Fifth Training Course on the Use of International Human Rights Procedures for the Promotion and Protection of Women's Rights in Africa.

HR Topics:

*The Charter in general\**

*The Women’s Protocol:*

“The Optional Protocol to the African Charter relating to the African Court on Human and Peoples' Rights, and the draft Additional Protocol to the African Charter on the Rights of Women were also evaluated.” (p. 9)

230. Article: “Ivory Coast Put to the Test”

Subject: A review of the political crisis in Ivory Coast.

231. Article: “ACDHRS, ACHPR Hold NGO Forum in Preparation for the 32<sup>nd</sup> Ordinary Session”

Subject: A summary of an internal workshop held by the Centre with the key objective of the meeting was to restructure the Centre so that it is better able to address the changing human rights situation in Africa.

232. Article: “FOCUS ON BOOK FAIR”

Subject: A description of the Book Fair of the Centre before the NGO Forum.

233. Article: “VP Lays Foundation Stone for ACDHRS's Conference, Training Centre”

Subject: An article detailing the laying of a foundation at the Centre’s new building and remarks by the vice-president of The Gambia.

234. Article: “Focus on NGOs”

Subject: A description of the mission and work of the NGO the Campaign for the Promotion of Democracy in Liberia (CPD)

235. Article: "Speech by Mr. Mohammed M. Genedy, Chairman of the ACDHRS, at the Opening Ceremony of the 32nd Ordinary Session of the African Commission on Human and Peoples' Rights"-111

Subject: A reprinting of Mohammed Genedy speech at 32<sup>nd</sup> Session.

HR Topic:

*The African Charter in general\**

236. Article: "Mrs. Patten Elected into the UN Committee on CEDAW"

Subject: An announcement of Pramila Patten's appointment to the 23 Member Committee of the UN Committee on the Convention on the Elimination of all forms of Discrimination Against Women, CEDAW.

237. Article: "ACDHRS Observes International Human Rights Day"

Subject: A review of the work of the Centre on Human Rights Day and remarks from the executive director Forster.

**Issue: Vol. 13 no. 1 January-March 2003**

238. Article: "Seven Women Make it to the International Criminal Court"

Subject: An reprinted article about the new female judges appointed to the ICC.

239. Article: "Signatures, Ratifications and Implementation"-112

Subject: The failure of states to implement the rights instruments they agree to.

HR Topics:

*Economic, Social, and Cultural Rights*

"We must also mention that some governments have choose to collaborate with foreign companies in the exploitation of the natural resources of the state to the detriment of the people without regards to their economic, social and cultural rights."

240. Article: "IDPs, Refugees' Rights to Information and Communication"

Subject: A summary of a workshop held in Ghana on the Information and Communication Rights of Refugees and Internally Displaced Persons: a West African Case Study,

241. Article: "Defending Democracy: A Global Survey of foreign policy Trends 1992-2002"

Subject: An article examining African states' backing of international efforts to ensure "democracy" internationally particularly in Africa.

242. Article: "The Economic Rights of Women"-113

Subject: A summary of a paper presented by the Legal and Research Assistant of the African Centre for Democracy and Human Rights Studies, Ms. Sainabou Jaye at International Women's Day celebrations in The Gambia.

HR Topics:

Indivisibility of rights

"She added that the Universal Declaration of Human Rights, highlights the right to own property either alone or in partnership; the realisation of economic social and cultural rights which are indispensable for the development of the individual and the right to work and receive equal pay for equal work without discrimination as well as the rights to a standard of living that would allow a healthy development as stipulated in Articles 1 ,2, 17, 22, 23 and 25." (p. 5)

243. Article: "The African Court; Not Yet 15"-114

Subject: An update on the completion of the ratification process of the Court Protocol, which up to that point had not been reached.

HR Topics:

The Court Protocol in general\*

The work of the Commission\*

244. Article: "What does the creation of the International Criminal Court mean for African Nations?"

Subject: An overview of the history, structure, and purpose of the ICC and its relationship to Africa.

245. Article: "Focus on NGOS"

Subject: A summary of the mission and work of the NGO the Centre for Democracy and Development (CDD) of Nigeria.

246. Article: "Election Watch, Turning of the Tables in Kenya"

Subject: A discussion on the positive results of the recent elections in Kenya.

247. Article “The Fine Line Between Sovereign Rights and Human Rights in Africa and Beyond; Should it be Crossed?” (written by European intern Ross van Horn)

Subject: An article advocating the softening of the principle of state sovereignty to curb human rights violations.

Universalism:

“Regardless of these upcoming challenges, the creation of the ICC can only be good for Africans, as it allows African nations to strengthen their commitment to universal principles of human rights.” (p. 13)

**N (Total Articles)= 247**

**n (AHPRS Related)= 114**

## APPENDIX C

### Institute for Human Rights and Development in Africa (IHRDA) Facebook Posts 2010-2012

#### **1. May 6, 2010**

will be issuing brief info alerts during the 47th Ordinary Session of the African Commission on Human and Peoples' Rights to be held in Banjul, The Gambia from 12 to 27 May 2010

#### **2. May 7, 2010**

You can also visit our official website through the link below.

#### **3. July 9, 2010**

March 2010 - IHRDA Consultative Workshop on the Legal Aid Act 2008 reported in "Daily Observer"

<http://observer.gm/africa/gambia/article/legal-aid-act-2008-implementation-discussed>

“The Institute for Human Rights and Development in Africa (IHRDA) in collaboration with the Attorney General's Chambers and The Gambia Bar Association recently held a two-day consultative workshop on the implementation of The Gambia Legal Aid Act 2008, at the Sheraton Hotel.”

#### **4. July 9, 2010**

May 2010 - IHRDA participates in marking World Press Freedom Day with the Gambia Press Union

Gambian Media Marks World Press Freedom Day  
Thursday, May 6, 2010 at 6:55 AM

[http://www.gambiapressunion.org/index.php?id=835&tx\\_ttnews%5Btt\\_news%5D=30&cHash=ad90497fb6](http://www.gambiapressunion.org/index.php?id=835&tx_ttnews%5Btt_news%5D=30&cHash=ad90497fb6)

“Media practitioners in The Gambia under the auspices of the Gambia Press Union (GPU) on Monday May 3rd joined the rest of the world in observing World Press Freedom Day”.

#### **5. July 9, 2010**

July 2010 - IHRDA article on legal aid and the Legal Aid Act 2008 of The Gambia published in "Foroyaa" Newspaper. To read the article, please follow the link below.

#### **6. October 5, 2010**

October 5th 2010 - IHRDA is pleased to celebrate the launch of the National Agency for Legal Aid (NALA) of The Gambia. IHRDA congratulates the Ministry of Justice and Attorney-General's Chambers of The Gambia for its concrete efforts to establish NALA by appointing a Board of Directors.

The launch of the NALA on 30 September 2010 represents a huge step forward in access to justice in The Gambia. With NALA established in fulfillment of Sec. 3 (1) of the Legal Aid Act 2008 (LAA), the focus now moves to putting into operation an effective and efficient legal aid system and a sustainable Legal Aid Fund.

#### **7. October 5, 2010 at 7:57am**

#### **IHRDA CELEBRATES THE LAUNCH OF THE NATIONAL AGENCY FOR LEGAL AID OF THE GAMBIA**

The Institute for Human Rights and Development in Africa (IHRDA) is pleased to celebrate the launch of the National Agency for Legal Aid (NALA) of The Gambia. IHRDA congratulates the Ministry of Justice and Attorney-General's Chambers of The Gambia for its concrete efforts to establish NALA by appointing a Board of Directors.

The launch of the NALA on 30 September 2010 represents a huge step forward in access to justice in The Gambia. With NALA established in fulfillment of Sec. 3 (1) of the Legal Aid Act 2008 (LAA), the focus now moves to putting into operation an effective and efficient legal aid system and a sustainable Legal Aid Fund.

The establishment of NALA was among the key recommendations at a workshop jointly organised by IHRDA and the Ministry on the implementation of the Legal Aid Act (2008) on March 25-26 2010. Salient workshop recommendations were the following: To fully implement the LAA, the Attorney-General and Minister for Justice was urged to: prescribe regulations to establish minimum wage urgently; empower NALA, through Legal Notice, to prepare a Legal Aid Guide containing the processes, procedures, forms necessary for smooth administration of legal aid.

On organisation and administration of an effective and efficient legal aid scheme, NALA was urged to:

Ensure it covers persons in the informal sector, the majority of whom would be eligible to benefit from the legal aid scheme;

Broaden the scope of legal aid practitioners beyond lawyers to include paralegals. and law students at the University of The Gambia.

On funding for NALA and especially the Legal Aid Fund, NALA is urged to:

Advocate for adequate government allocation for legal aid;

Sensitise parliamentarians on the issues around legal aid such as: backlog of cases, need to ensure speedy trial of cases, as a way to lobby for necessary funding.

Poverty should not be a barrier to accessing justice. It is therefore imperative that there be a system of primarily state funded legal representation available to all indigent persons.

IHRDA reiterates its commitment to work with the newly established NALA, Judiciary,

Ministry of Justice and Attorney-General's Chambers, the Bar Association and other civil society organisations to enhance access to justice in The Gambia.

#### Background

IHRDA and the Ministry for Justice and Attorney-General's Chambers of The Gambia collaborated to strengthen access to justice and in particular provision of legal aid for the last six years. In 2005 and 2006, the two entities convened several consultative meetings geared towards improving legal aid, which led to a draft prepared by the Attorney-General's Chambers.

In September 2007, IHRDA facilitated a workshop to discuss the draft Bill in detail. Workshop recommendations ensured that the Bill broadened access to justice and also brought it in consonance with best practices in legal aid and with international and African human rights law. In October 2008, the Legal Aid Act was enacted.

After the LAA's enactment, other stakeholders, i.e. civil society, Bar Association, Police and Prisons Services needed to prepare for the LAA's implementation. To facilitate their acquaintance with the provisions of the LAA and sharing on expectations for the implementation of the LAA, IHRDA and the Ministry of Justice once again organised a workshop in March 2010. Legal aid experts from Ghana and South Africa were invited to share on best practices obtained in their jurisdictions.

#### **8. October 8, 2010**

##### **NHRIs IN NORTH AND WEST AFRICA TRAINED ON AFRICAN HUMAN RIGHTS MECHANISMS - Sep 27-28 2010**

NHRIs in North and West Africa attended a training workshop on African human rights mechanisms. The training focused on the African Commission on Human and Peoples' Rights (ACmHPR), the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), the African Court on Human and Peoples' Rights (ACtHPR) and the Court of Justice of the Economic Community for West African States (ECOWAS). During the workshop, participants also shared experiences, challenges and good practices on the work of these mechanisms. The workshop also provided the opportunity to explore areas and strategies for greater involvement and engagement of NHRIs with these human rights mechanisms.

#### **9. October 8, 2010 at 5:54am**

Dakar, Savana Hotel, 27-28 September 2010

National Human Rights Institutions (NHRIs) in North and West Africa renewed their commitment to work with African and international human rights mechanisms during a workshop held in Dakar, Sénégal, on 27 and 28 September 2010. The workshop was attended by 21 high-ranking officials from NHRIs in the two sub-regions.[1] NHRIs are crucial at national, regional and international levels in protecting human rights. While domestically they deal with core human rights issues, they also interact with regional and international human rights mechanisms. They thus serve as a channel to

domesticate regional and international human rights norms on the one hand, and raise key human rights concerns at national level to regional and international levels on another. Workshop participants recognized that the establishment of regional human rights mechanisms represented a significant milestone in the evolution of initiatives to promote and protect human rights, justice and the rule of law in Africa. Participants were exposed to the crucial role played by the African Commission on Human and Peoples' Rights, the Committee of Experts on the Rights and Welfare of the Child, the African Court on Human and Peoples' Rights and the Court of Justice of the Economic Community for West African States. Participants agreed that it was a rare advantage to be able to actively engage and interact with representatives[2] of these institutions to increase their involvement and effectiveness at the regional level.

During the two-day workshop, participants endeavoured to familiarize themselves with the African regional human rights mechanisms and their different mandates and modes of implementation. They also shared experiences, challenges and good practices on the work of the above-stated bodies, while interacting with their representatives. Finally, the workshop provided the opportunity to explore areas and strategies for greater involvement and engagement of NHRIs with these human rights mechanisms.

The need to enhance the strategic partnership between NHRIs and African human rights mechanism was greatly felt. Mutual benefit could be derived, among others, through:

Ratification of relevant human rights instruments;

Monitoring implementation of recommendations and decisions of regional human rights mechanisms;

Engaging with State Parties to present their initial and periodic reports;

Providing assistance during fact-finding missions;

Conducting advocacy for the promotion and protection of charter-based rights; and

Opening direct lines of communications between NHRIs and African Human Rights Mechanisms through NANHRI.

Workshop participants expressed their sincere thanks to the African Committee of Experts on the Rights and Welfare of the Child, to the African Commission on Human and Peoples' Rights and to the Court of Justice of the Economic Community of West African States for having made the journey to participate to the Dakar workshop. They also expressed their appreciation to the Office of the High Commissioner for Human Rights, the Commonwealth Secretariat, the Organisation internationale de la francophonie and the Coalition for an Effective African Court on Human and Peoples' Rights which provided financial and technical support for the organization of the workshop. The Dakar workshop participants also expressed their gratitude to the government of Senegal through the minister holding the human rights portfolio who chaired the opening ceremony, as well as the minister of justice who was represented at the closing ceremony by his chief of staff. At the end of the workshop, participants defined the broad lines for the Plan of Action intended to reinforce the cooperation between the NHRIs and the African human rights mechanisms.

#### Background

The overall objective of the Dakar workshop was to enhance and promote effective engagement of NHRIs in north and west Africa with the African regional human rights mechanisms. The workshop organizers were the Network of African Human Rights Institutions (NANHRI) and the Institute for Human Rights and Development in Africa

(IHRDA). Being a membership body with an oversight role, NANHRI has a mandate to encourage and support the establishment of strong and independent NHRIs in Africa. IHRDA is pan-African human rights NGO based in Banjul, The Gambia, working to strengthen human rights protection and promotion in Africa by offering pro bono legal counsel for victims of human right abuses, conducting training and disseminating information on the African human rights system. IHRDA partnered with NANHRI in its capacity as the focal point for NHRIs with the Coalition for an Effective African Court (CEAC). The Office of the High Commissioner for Human Rights (OHCHR), the Commonwealth Secretariat, l'Organisation Internationale de la Francophonie (OIF) and CEAC provided technical and financial support. The workshop host, the Comité Sénégalais des Droits de l'Homme, provided logistical support.

Adopted on the 28th September 2010 in Dakar, Senegal

For Further Information, please contact:

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[1] List of NHRIs attending: Algeria, Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Ghana, Guinea Bissau, Guinea Conakry, Mali, Mauritania, Morocco, Nigeria, Senegal, Sierra Leone, Tunisia.

[2] No representative from the African Court on Human and Peoples' Right attended because the Court is currently holding its 18th session in Dar es salaam, Tanzania, from 20.09.10.

## **10. October 19, 2010 at 2:05pm**

### **PUBLIC STATEMENT**

19 October 2010

Twenty Nigerian citizens and a non-governmental organisation are challenging the indigene/settler dichotomy legally before the Federal High Court in Nigeria. The Federal High Court, Kaduna, presided over by Hon. Justice Mohammed Lawal Shuaibu, adjourned the case to 24 November 2010. The applicants contend that the indigene/settle dichotomy impacts negatively on the enjoyment of fundamental human rights enshrined in Nigeria's constitution and African and international human rights law.

21 applicants mounted a constitutional challenge before the Federal High Court in the Kaduna Division against the Federal Government, the Federal Character Commission, Plateau, Kaduna, Kano and Katsina states and Jos North Local Government Area (LGA), Shendam LGA, Kaduna South LGA, Giwa LGA (Kaduna), Fagge LGA (Kano), Kumbotso LGA (Kano), Nassarawa LGA (Kano) and Tarauni LGA (Kano). The Applicants are challenging the policy and practice of discrimination meted out to them by the named respondents through their classification as "settlers" or "non-indigenes". This

suit, brought under the new Fundamental Rights (Enforcement Procedure) Rules 2009, therefore seeks to obtain a decision that will lead the Respondents to fully recognise and respect the rights of the applicants, as well as of all other Nigerians.

The Applicants, all residents in the said States and Local Governments for decades (and their families sometimes for centuries), are seeking an order for the enforcement of their fundamental human rights. They contend that these rights are enshrined in the Constitution of the Federal Republic of Nigeria 1999 and other laws, including the African Charter on Human and Peoples' Rights Act 1995 (Federal Laws of Nigeria, Cap. 10). They also base their claims on international law, including the African Charter on Human and Peoples' Rights (ACHPR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Universal Declaration of Human Rights (UDHR).

A favourable outcome will benefit millions of victims and reform the current order. It is hoped that this suit will generate change in Government policy and practice with regard to this issue. Additionally, the suit will inject objective and universal constitutional concerns into the otherwise polarised and potentially explosive question of denial of constitutional rights and discrimination on the basis of place of origin and ethnicity

#### Background

The Federal Character Principle is enshrined in s. 147 (3) of the Constitution of the Federal Republic of Nigeria, 1999. However well-intentioned, in a multi-ethnic setting like Nigeria, the Principle has been unnecessarily expanded and distorted, allowing for politicization of the question of who is considered "indigene" of a State or Local Government Area in Nigeria. Further, classifications of "indigeneity" and issuance of "indigene certificates" have resulted in preferential and sometimes exclusive access to rights and services ordinarily due to all citizens. As a result, Nigerians who are classified as "non-indigenes" or "settlers" are marginalised and excluded in ways that have nothing to do with the aims of preservation of cultural identity and autonomy envisioned by the Federal Character Principle.

The discriminatory treatment meted out to "non-indigenes" has deep historical and socio-political underpinnings, and is probably the most sensitive subject in Nigeria's public life. It has contributed to a cycle of violence in certain states and is of earnest national security concern for Nigeria. As such, if not resolved, it can threaten the very social fabric of Nigeria.

"Non-indigenes" are discriminated against and are denied rights, opportunities and benefits, including:

- a. educational opportunities and benefits;
- b. employment opportunities and benefits;
- c. access to public and military service;
- d. property ownership and allocation;
- e. government infrastructure and services such as roads, water and schools; and
- f. political participation and opportunities.

The discriminatory treatment faced by "non-indigenes" defeats the idea of integration which should help in moulding society and strengthening the "One Nigeria" belief.

Counsel for the applicants:  
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### **11. October 19, 2010 at 2:19pm**

#### **BRIEFING PAPER**

19 October 2010

On 19 October 2010, the Federal High Court, Kaduna, presided over by Hon. Justice Mohammed Lawal Shuaibu, adjourned a fundamental rights proceeding to 24 November 2010. The case addresses the indigene/settler dichotomy in Nigeria.

Twenty Nigerian citizens and a non-governmental organisation are challenging the indigene/settler dichotomy legally before the Federal High Court in Nigeria. They contend that this dichotomy impacts negatively on the enjoyment of fundamental human rights enshrined in Nigeria's constitution and African and international human rights law. The 21 applicants mounted a constitutional challenge before the Federal High Court in the Kaduna Division against the Federal Government, the Federal Character Commission, Plateau, Kaduna, Kano and Katsina states and Jos North Local Government Area (LGA), Shendam LGA, Kaduna South LGA, Giwa LGA (Kaduna), Fagge LGA (Kano), Kumbotso LGA (Kano), Nassarawa LGA (Kano) and Tarauni LGA (Kano). The Applicants are challenging the policy and practice of discrimination meted out to them by the named respondents through their classification as "settlers" or "non-indigenes". This suit, brought under the new Fundamental Rights (Enforcement Procedure) Rules 2009, seeks to obtain a decision that will lead the Respondents to fully recognise and respect the rights of the applicants, as well as all other Nigerians.

The Applicants, all residents in the said States and Local Governments for decades (and their families sometimes for centuries), are seeking an order for the enforcement of their fundamental human rights. They contend that these rights are enshrined in the

Constitution of the Federal Republic of Nigeria 1999 and other laws, including the African Charter on Human and Peoples' Rights Act 1995 (Federal Laws of Nigeria, Cap. 10). They also base their claims on international law, including the African Charter on Human and Peoples' Rights (ACHPR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Universal Declaration of Human Rights (UDHR).

The applicants claim the following reliefs from the Federal High Court, Kaduna

1. An order declaring that the pattern and practice of discrimination against Nigerian citizens who are classified as "non-indigenes" or "settlers" of their State and Local Government Areas and as such denied rights, opportunities and benefits is in violation of Chapter IV, sections 42 (1) and 34 (1) of the Constitution of the Federal Republic of Nigeria 1999, articles 2,3,5, 13, 15,17, 19 and 22 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap. A9, Volume 1, Laws of the Federation of Nigeria, 2004 and municipal, regional and international bills of rights, including articles 2,3,5, 13, 15,17, 19 and 22 of the African Charter on Human and Peoples' Rights, articles 2, 5, 12, 16, 22, 25 and 26 of the International Covenant on Civil and Political Rights (ICCPR), articles 2 (2), 4, 5 (2), 6 and 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and articles 1, 2, 6, 7, 13, 17, 20, 21, 23 and 26 of the Universal Declaration of Human Rights.

2. An order declaring that:

(i) the pattern and practice of issuing indigene certificates, residential certificates and certificates of settlers by state and local governments is a violation of and direct affront to sections 42 (1) and 25 of the Constitution of the Federal Republic of Nigeria and articles 2, 3, 5, 13, 15, 17, 19 and 22 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap. A9, Volume 1, Laws of the Federation of Nigeria, 2004 and municipal, regional and international bills of rights, including articles 2,3,5, 13, ,15,17, 19 and 22 of the African Charter on Human and Peoples' Rights, articles 2, 5, , 16, 25 (c) and 26 of the International Covenant on Civil and Political Rights (ICCPR), articles 4, 5 (2), 6 and 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and articles 1, 2, 6, 7, 21, 23 and 26 of the Universal Declaration of Human Rights.

(ii) all indigene, residential and settlers certificates previously issued by the Respondents or any of them are invalid, null and void;

3. An order declaring that the reliance on indigene certificates, residential certificates and certificates of settlers by federal, state and local governments and their agencies for the purpose of granting and/or denying educational, employment and other opportunities constitutes a violation of sections 42 (1) and section 25 of the Constitution of the Federal Republic of Nigeria and articles 2, 3, 5, 13, 15, 17, 19 and 22 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap. A9, Volume 1, Laws of the Federation of Nigeria, 2004 and municipal, regional and international bills of rights, including articles 2,3,5, 13, ,15,17, 19 and 22 of the African Charter on Human and Peoples' Rights, articles 2, 5, , 16, 25 (c) and 26 of the International Covenant on Civil and Political Rights (ICCPR), articles 4, 5 (2), 6 and 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and articles 1, 2, 6, 7, 21, 23 and 26 of the Universal Declaration of Human Rights.

4. An order directing the Respondents to stop, desist and discontinue forthwith the pattern and practice of discrimination against the Applicants and others similarly situated on the basis of indigeneity as determined by the issuance of indigene certificates;
5. An order prohibiting the Respondent Local Governments from further issuing indigene certificates, residential certificates or certificates of settlership;
6. An order prohibiting the Respondents, specifically including but not limited to the Federal Character Commission and any other federal, state or local government ministries, departments or agencies from relying on indigene certificates, residential certificates or certificates of settlership for the purpose of providing employment, educational and other opportunities;
7. An order granting the Applicants redress for violations of their rights as set forth herein in such manner as the Court may consider just and appropriate;
8. An order establishing a mechanism to provide redress for others similarly situated including but not limited to setting up a Commission to collect data and information on violations suffered with a view to redressing such violations;
9. A perpetual injunction restraining the Respondents, their agents, successors and privies from further discriminating against the Applicants and others similarly situated on account of their being regarded as non-indigenes.

A favourable outcome will benefit millions of victims and reform the current order. It is hoped that this suit will generate change in Government policy and practice with regard to this issue. Additionally, the suit will inject objective and universal constitutional concerns into the otherwise polarised and potentially explosive question of denial of constitutional rights and discrimination on the basis of place of origin and ethnicity

## Background

The Federal Character Principle is enshrined in s. 147 (3) of the Constitution of the Federal Republic of Nigeria, 1999. However well-intentioned, in a multi-ethnic setting like Nigeria, the Principle has been unnecessarily expanded and distorted, allowing for politicization of the question of who is considered “indigene” of a State or Local Government Area in Nigeria. Further, classifications of “indigeneity” and issuance of “indigene certificates” have resulted in preferential and sometimes exclusive access to rights and services ordinarily due to all citizens. As a result, Nigerians who are classified as “non-indigenes” or “settlers” are marginalised and excluded in ways that have nothing to do with the aims of preservation of cultural identity and autonomy envisioned by the Federal Character Principle.

The discriminatory treatment meted out to “non-indigenes” has deep historical and socio-political underpinnings, and is probably the most sensitive subject in Nigeria’s public life. It has contributed to a cycle of violence in certain states and is of earnest national security concern for Nigeria. As such, if not resolved, it can threaten the very social fabric of Nigeria.

“Non-indigenes” are discriminated against and are denied rights, opportunities and benefits, including:

- a. educational opportunities and benefits;
- b. employment opportunities and benefits;
- c. access to public and military service;

- d. property ownership and allocation;
- e. government infrastructure and services such as roads, water and schools; and
- f. political participation and opportunities.

The discriminatory treatment faced by “non-indigenes” defeats the idea of integration which should help in moulding society and strengthening the “One Nigeria’ belief. It is this that the applicants want to achieve with this constitutional challenge.

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## **12. October 27, 2010 at 11:54am**

The African Commission on Human and Peoples’ Rights (ACmHPR) has ruled against the Mauritanian government, finding it in violation of the rights to non-discrimination and property, as well as in violation of its obligations towards the African Charter on Human and Peoples’ Rights for its un-proportional punishment through closure and seizure of property of the opposition political party and arrest of leaders of Union de forces démocratiques/ Ere nouvelle (UFD/EN) in November and December 2000.

The decision, published in the ACmHPR’s 28th Annual Activity Report after its approval by the July 2010 AU Assembly of Heads of State and Government, is an important step in the 10 year journey for UFD/EN and their clients, INTERIGHTS, IHRDA and Association mauritanienne des droits de l’Homme (AMDH). This decision, 373/06 INTERIGHTS, IHRDA and AMDH v Mauritania, is the second decision issued by the ACmHPR on the matter. It follows the decision on the original communication 242/01 INTERIGHTS, IHRDA and AMDH v Mauritania. Communication 373/06 was filed on 1st September 2006 and follows up on the allegations made in the earlier 242/01 INTERIGHTS, IHRDA and AMDH v Mauritania of violation of articles 1, 2, 7, 9(2), 10(1), 13 and 14 of the African Charter. This follows the arbitrary dissolution of the

political party UFD/EN and seizure of its movable and immovable assets as well as arrest, harassment and intimidation of its leaders between October and December 2000.

Agreeing with the victims, the ACmHPR has recommended that Mauritania pay adequate compensation to the victims for the loss suffered and ensure that its laws on freedom of association and in particular as concerns political parties, conform to its obligations under the African Charter on Human and Peoples' Rights. Moreover, in continuing a recent trend, Mauritania is further required to report back to the ACmHPR in 6 months as to its progress in implementing the recommendations.

#### Landmark jurisprudence

This decision 373/06, is also landmark case law as it is the first time the ACmHPR has reviewed a decision to exhaustively address the allegations and prayers of the Complainants. The ACmHPR reaffirmed its obligation and commitment to review such an incomplete decision, termed 'infra petita' in the interests of justice. In doing so, it set out the conditions under which a decision can be termed 'infra petita' and therefore have right to be reviewed. Of the seven (7) alleged violations of the African Charter in the original communication 242/01, the ACmHPR failed to pronounce itself on three of these, while also failing to recommend specific remedies for the violations that it did pronounce on. In the words of the ACmHPR, "it is perfectly legal for a tribunal that had forgotten to decide on a claim ('infra petita') to supplement its decision without affecting the res judicata character of the other claims decided upon. This procedure ... can be undertaken suo moto or on the request of one of the parties" [para. 38].

Thus the ACmHPR has reasserted the right to a remedy for a violation and offers clarity to victims who seek justice before the ACmHPR not only will the outcome clarify if the African Charter has been violated but if so, a remedy for the violation suffered will be ordered. It also clears the way for other possible request for review of infra petita decisions.

The original communication 242/01 INTERRIGHTS, IHRDA and AMDH v Mauritania was filed 25th April 2001.

### **13. November 11, 2010**

#### AFRICAN HUMAN RIGHTS CASE LAW ANALYSER

IHRDA and Human Rights Information and Documentation Systems (HURIDOCS) launched a new online database of jurisprudence of the African Human Rights System on 8

November 2010.

The Caselaw Analyser provides:

- Automated high quality pertinent analysis;
- African human rights decisions in English and French available free of charge;
- Easy browsing of inter-related decisions;
- Quick access of primary case law for each violation;

- Automatic calculation of jurisprudential value of each decision based on frequency of citation;
- Comprehensive key word search;
- Hyperlinks to authorities (laws and cases cited);
- Easy annotation and sharing of commentary on interesting decisions.

**14. November 11, 2010 at 4:54am**

The Institute for Human Rights and Development in Africa (IHRDA) would like to extend its sincere gratitude to the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) for once again, inviting it to participate in the 16th Ordinary Session.

IHRDA would like to congratulate the new members of the ACERWC on their election and warmly welcome them to the ACERWC. As we pledged in our statement last year, IHRDA is committed to working with you to fulfil your mandate collectively and individually. The task ahead in promoting and protecting children's rights is daunting but we have confidence in your competence and ability to meet the challenges ahead. Once again, congratulations and welcome.

IHRDA also extends special thanks to the ACERWC for granting it Observer Status, thus making it the first organisation to be accorded such Status. IHRDA pledges to fulfil its obligations associated with this Status.

IHRDA is a pan-African, non-governmental organisation that works for the effective use of the protection mechanisms of the African human rights system, which include the African Commission on Human and Peoples' Rights (ACmHPR), the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), the African Court on Human and Peoples' Rights (ACtHPR) and recently the Courts of the Regional Economic Communities. Through litigation, capacity-building, publications, research and advocacy, IHRDA works to ensure that these mechanisms are accessible and effective for the protection and promotion of human rights in Africa.

IHRDA would further like to commend the ACERWC for the steps it has taken towards strengthening its collaboration with the ACmHPR. Of particular mention is the regular participation of the Secretary of the ACERWC, Madame Mariama Mohammed Cisse in the Sessions of the ACmHPR, following successful advocacy efforts by IHRDA, Plan International, Save the Children, with support from the African Child Policy Forum (ACPF) and all other child rights organisations present before the ACmHPR, which resulted in the adoption of a 'Resolution on Cooperation Between the African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child in Africa' at the end of the 45th Session in May 2009. By this Resolution, the ACHPR Special Rapporteur on the Rights of Women in Africa has been appointed as the Focal Person to liaise with State Parties, Inter-governmental organisations and non-governmental organisations on matters of child rights in Africa.

As we commend the Secretary of the ACERWC in reaching out to the ACmHPR, IHRDA and its partners are working assiduously to ensure that this collaboration is further defined, focused and concretised in actual programmes and activities jointly undertaken by both bodies. To reciprocate the ACmHPR's efforts, IHRDA urges the ACERWC to likewise appoint a Focal point with the ACmHPR to work more closely with the Special Rapporteur on the Rights of Women in Africa to strengthen its collaboration with the ACmHPR. In the near future, IHRDA hopes to see the ACERWC extend and concretise its collaboration with the ACtHPR.

The state of child rights in Africa still remains a matter of serious concern. IHRDA is particularly interested in the state of the child's right to nationality on the continent. Though the African Charter on the Rights and Welfare of the Child (ACRWC) clearly grants the child a right to nationality under article 6, this right is yet to be fully realised in a number of African States. IHRDA would therefore be working closely with civil society partners and the ACERWC to fully interpret and define the parameters of article 6 through a General Comment to enable State parties fully guarantee and fulfil this right.

IHRDA is also concerned about the gaps in the incorporation of the ACRWC's provision in national child rights legislation and the actual implementation thereof. Of particular mention is a recent case from Sudan where four children have been sentenced to death by the Special Court in Nyala South Darfur, Sudan on charges of armed robbery, fomenting war against State, criminal damage and offences against the State. This conviction is in contravention of articles 5(1) and (3) and 17 of the ACRWC which guarantee the child's right to life and prohibits the death penalty, and the right to fair trial respectively, as well as article 37 of the Convention on the Rights of the Child which prohibits the death penalty for children. The names of the four children are: Ibrahim Shrief Yousef (17 years old, of the Birged Tribe); Altyeb Mohamed Yagoup (16 years old, of the Zagawa Tribe); Abdalla Abdalla Doud (16 years old, of the Gimr Tribe); Abdarazig Daoud Abdelseed (15 years, of the Birged Tribe).

There are gaps in the Child Law of 2004 of Sudan which makes it possible for the Special Court to impose the death penalty on children. IHRDA is working with our partners in Sudan to provide the ACERWC with more information on this case but would still like to present this issue to the 16th Session and request the ACERWC to also commence investigations into the matter and request Sudan to refrain from executing these children in compliance with its treaty obligations under the ACRWC. IHRDA would further request the ACERWC to request Sudan to immediately bring its Child Law of 2004 and all other law relating to children in full compliance with the ACRWC and CRC.

In conclusion, IHRDA would again like to congratulate the newly-elected members and Bureau and pledges its support to the ACERWC and its Bureau to ensure that the ACERWC effectively carries out its mandate. The future looks bright with the development of the ACERWC's Plan of Action (2010-2014), a vibrant Civil Society Forum before the ACERWC's Sessions and the ACERWC's cordial relationship with

child-focused organisations, as these efforts, efficiently employed, will go a long way to improve the implementation of the ACERWC in Africa.

IHRDA wishes the ACERWC fruitful deliberations and a successful 16th Ordinary Session.

**15. November 23, 2010 at 11:52am**

The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) held its 16th Ordinary Session from 8th to 12th November 2010 in Addis Ababa, Ethiopia at the Conference Centre of the African Union Commission Headquarters, commencing with the 3rd Pre-Session on the 8th November to consider the State Party Reports of Cameroun and Togo.

The 16th Session welcomed the six newly-appointed members of the ACERWC in the persons of: Madame DELLADJ-SEBAA Fatima (Algeria), Dr Benyam Dawit Mezmur (Ethiopia), Amal Muhammad al-Hanqari (Libya), Dr MUHIMPUNDU Félicité (Rwanda), Mr Clement Julius Mashamba (Tanzania), and Hon. Justice Alfas M. Chitakunye (Zimbabwe).

The ACERWC also elected a new Bureau comprising of Madame Agnès Kaboré (Chairperson), Mr Cyprien Yanclo (1st Vice-Chairperson), Dr Benyam Dawit Mezmur (2nd Vice-Chairperson), Madame DELLADJ-SEBAA Fatima (3rd Vice-Chairperson) and Mr Clement Julius Mashamba (Rapporteur).

The Session was attended by civil society organisations including IHRDA, Save the Children Sweden, UK and Alliance, UK, Plan International, African Child Policy Forum (ACPF), the national child rights coalition of Togo (FODDET), Helpline International, CONAFE-Senegal and the national child rights coalition from Cameroun.

The key activities of the Session included:

the presentation of the Recommendations of the Civil Society Forum to the ACERWC; presentations on Child Labour in Africa by the Department of Social Affairs of the African Union Commission (AUC-DSA) and the International Labour Organisation (ILO);

consideration of the State Party Report of Rwanda; discussion of the ACERWC's Draft Plan of Action for 2010 – 2014;

consideration of the Revised Rules of Procedure of the ACERWC; discussion on collaboration with the United Nations Committee on the Rights of the Child (UNCRC);

consideration of the Communications against Uganda and Kenya;

and consideration of applications for Observer Status received from non-governmental organisations.

**16. November 24, 2010 at 2:23pm**

The Constitutional case filed by Adamu Garba and 20 others against the Attorney-General of the Federation and 13 other Nigerian federal, state and local government authorities came up for hearing today, 24th November 2010 at the Federal High Court in

Kaduna. The case came up before Hon Justice Mohammed Lawal Shuaibu who adjourned the case to 24th January 2011 for adoption of final written addresses and other processes.

Adamu Garba and his fellow plaintiffs are challenging the institutionalised practice of discrimination against 'settlers' in favour of 'indigenes' that is at the heart of much social unrest in Nigeria.

For more details on the case, kindly consult our notes.

### **17. February 15, 2011 at 8:22am**

#### **LEGAL INTERN (PORTUGUESE-SPEAKING)**

IHRDA is seeking to recruit a Legal Intern (Portuguese speaking) to start work on April 18th 2011 for a period of six months. Under the supervision of the Deputy Director, the legal intern will be involved in the main programme areas of IHRDA, namely litigation before African regional human rights bodies, publications on the African Human Rights System, training on using the system, and research.

#### **SPECIFIC RESPONSIBILITIES**

- Background research on a specific Portuguese-speaking country (to be determined) in order to assist with identification of critical and emerging issues for litigation purposes; the selected intern will be expected to produce a comprehensive report;
- Putting together a database of contacts in the specific country;
- Editing and translation of material in Portuguese to be posted on IHRDA's website and its online tool for African human rights case law (<http://caselaw.ihrda.org>).

#### **QUALIFICATIONS AND ELIGIBILITY:**

- Degree in law from a recognised university; specialisation in human rights is desirable;
- Knowledge of the African regional human rights system and the African Union;
- Fluency in Portuguese, with good working knowledge of English or French;
- Good writing skills;
- Computer literacy.

#### **BENEFITS**

- Monthly internship stipend;
- Housing and health insurance;
- A return economy class air ticket from the country of residence.

#### **APPLICATION INSTRUCTIONS**

Applicants should send the following documents to Adam Jobe at [ajobe@ihrda.org](mailto:ajobe@ihrda.org) copied to [ihrda@ihrda.org](mailto:ihrda@ihrda.org):

- Application letter addressed to the Executive Director expressing interest and qualifications for the internship;
- A Curriculum Vitae with contact details of two referees;
- A sample of writing in Portuguese and English (or French)

Application deadline: Tuesday 15th March 2011. Only short-listed candidates will be contacted.

## ABOUT IHRDA

The Institute for Human Rights & Development in Africa (IHRDA) is a pan-African human rights organisation based in Banjul, The Gambia. IHRDA specialises in the African human rights system, including litigation in national and international fora based on African human rights treaties, and training in the procedures of African treaty mechanisms.

### **18. February 25, 2011 at 8:38am**

IHRDA is seeking to recruit a Publications and Communications Intern to start work in 11 April 2011 for a period of six months. Under the supervision of the Deputy Director, the Publications and Communications intern will be involved in the main work areas relating to publications and communication at IHRDA.

## SPECIFIC RESPONSIBILITIES

- Ensure updating of information on IHRDA's main website <http://ihrda.org> including review of textual and image content, in both English and French;
- Review and updating of information on the specialised caselaw database website <http://caselaw.ihrda.org>
- Regular uploading of information on IHRDA's Facebook page [www.facebook.com/ihrda](http://www.facebook.com/ihrda) ;
- Assisting in the dissemination of press releases, public statements, e-newsletters and other publicity material;
- Assisting in the maintenance of an accurate database of the documentation centre.

## QUALIFICATIONS AND ELIGIBILITY

- Degree in information sciences, law, communications, the humanities, or related field from a recognised university;
- Fluency in French with good working knowledge of English or vice versa;
- Good writing skills;
- High comfort level with internet communications.
- Knowledge or previous experience in web-based communication applications like Wordpress, Joomla, Drupal is highly desirable;
- Knowledge or previous experience in editing, copy-editing and publishing, including knowledge of desktop publishing applications like Adobe, Quark Xpress would be considered as an added advantage;
- Interest in or willingness to learn about human rights in Africa, particularly the African regional human rights system is desirable.

## BENEFITS

- Monthly internship stipend

## APPLICATION INSTRUCTIONS

Applicants should send the following documents to Adam Jobe at [ajobe@ihrda.org](mailto:ajobe@ihrda.org) copied to [ihrda@ihrda.org](mailto:ihrda@ihrda.org):

- Cover letter, addressed to the Executive Director, expressing your motivation and suitability for the internship;
- A Curriculum Vitae with contact details of two referees;
- A duly completed internship form, download-able on our website at <http://www.ihrda.org/internships/>;
- A sample of writing in French or English or address of previous web-based work.

**Please Note**

Kindly also read the Internship Policy, also available on our website at <http://www.ihrda.org/internships/>

Kindly indicate where you learnt of this announcement.

Application deadline: March 25 2011. Only short-listed candidates will be contacted.

**ABOUT IHRDA**

The Institute for Human Rights & Development in Africa (IHRDA) is a pan-African human rights organisation based in Banjul, The Gambia. IHRDA specialises in the African human rights system, including litigation in national and international fora based on African human rights treaties, and training in the procedures of African treaty mechanisms.

**PUBLICATIONS AND COMMUNICATIONS INTERN**

**19. February 25, 2011**

Save your research. Bookmark your favourite decisions. Comment and annotate interesting jurisprudence. And find all this again when you log in later. Open your personal account on the Caselaw Analyser!

**20. March 8, 2011 at 4:50am**

The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) will hold a hearing to receive and consider arguments on the merit of the communication ‘Nubian Children in Kenya v Kenya’ filed by IHRDA in 2009. The hearing will be held on March 22 2011 during the 17th ACERWC Ordinary Session to be held in Addis Ababa from 21-25 March 2011.

The ACERWC admitted the communication during its 15th session in March 2010. This is the second communication under consideration by the ACERWC and the first to reach the merits stage.

**21. March 8, 2011 at 7:29am**

The Adamu Garba and Ors v Federal Attorney General of Nigeria and Ors constitutional case will be heard on the 14th March 2011 before Hon. Justice Mohammed Lawal Shuaibu.

Adamu Garba and 20 other Nigerian citizens are suing the Federal Government of Nigeria and 13 state and local governments for discrimination caused by their support of the indigene/settler divide. Claiming their right to protection from discrimination, the 21

persons are asking the Federal High Court in Kaduna to enforce their constitutional rights. They are suing the Federal Government, the Federal Character Commission, Plateau, Kaduna, Kano and Katsina states, and Jos North Local Government Area (LGA), Shendam LGA, Kaduna South LGA, Giwa LGA (Kaduna), Fagge LGA (Kano), Kumbotso LGA (Kano), Nassarawa LGA (Kano) and Tarauni LGA (Kano).

The complainants are challenging their arbitrary classification as “settlers” or “non-indigenes” by their respective states. This government practice denies them their fundamental human rights under Nigeria’s 1999 Constitution and African and international human rights law. They are asking the Federal High Court to order the full recognition and respect of their rights, and those of all Nigerians suffering similar discrimination.

The complainants claim they have lived in their respective states for decades and some families for more than a century. Yet they are still classified as “settlers” and denied the dignity of belonging to a place they call home. They are made to go through long and rigorous processes to get indigene certificates, only to be humiliatingly denied these documents. This denial is not based on any objective criteria.

Without a certificate of indigeniety, access to state scholarships, employment particularly in the public sector and even admission to public educational institutions is barred. Yet as citizens of Nigeria and of their respective states they are entitled to these facilities. Treated as second class citizens, it is not uncommon for the neighbourhoods of “settler” communities to be denied infrastructure and essential social amenities while those of “indigene” classified communities are adequately endowed.

“Non-indigenes” are in addition routinely denied other state-issued documentation like title deeds for lands, business licences and their cultures threatened by refusal to installation of traditional chiefs and renaming of locations.

Their experience is replicated in the lives of hundreds of thousands, probably millions of other Nigerians faced with similar predicaments. The indigene-settler divide creates the curious situation where full Nigerian citizens are still denied their roots in the locations their families have know for up to more than 100 years.

#### Legal update

The Applicants are all residents of Plateau, Kaduna, Kano and Katsina States and Jos North (Plateau), Shendam (Plateau), Kaduna South, Giwa (Kaduna), Fagge (Kano), Kumbotso (Kano), Nassarawa (Kano) and Tarauni (Kano) local government areas for decades (and their families sometimes for centuries). They seek an order for the enforcement of their fundamental human rights. They contend that these rights are enshrined in the Constitution of the Federal Republic of Nigeria 1999 and other laws, including the African Charter on Human and Peoples’ Rights Act 1995 (Federal Laws of Nigeria, Cap. 10). They also base their claims on international law, including the African Charter on Human and Peoples’ Rights (ACHPR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Universal Declaration of Human Rights (UDHR).

Five out of the fourteen Respondents (the 1st, 3rd, 7th and 8th and 13th Respondents) have entered appearance. Counsel for the 3rd, 7th, 8th and 13th Respondents filed preliminary objections challenging the jurisdiction of the Federal High Court to hear the matter. The preliminary objections and the application are to be heard on the 14th March 2011.

## **22. March 8, 2011 at 1:24pm**

IHRDA and its partners l'Action contre l'impunité des droits humains (ACIDH) and Rights and Accountability in Development (RAID) have filed a communication before the African Commission on Human and Peoples' Rights against the Democratic Republic of Congo. The communication, relating to human rights violations that occurred in Kilwa in October 2004, was seized of by the African Commission in November 2010.

The case is filed on behalf of the late Pierre Kunda Musopelo, the late Ulimwengu Lukumani, the late Ulimwengu Nombele and two victims who have elected anonymity for fear of reprisals.

The complainants allege that the events that took place in the south-eastern remote town of Kilwa and the subsequent failure of the DRC state to ensure reparations to victims are in violation of several guarantees of the African Charter on Human and Peoples' Rights.

### **Facts**

On the night of 14 October 2004, a group of 6 to 7 poorly armed and organised individuals attacked the little south eastern town of Kilwa. Calling themselves the Mouvement Révolutionnaire de Libération du Katanga (MRLK), a rebel movement seeking the independence of Katanga, they over the next day took the town and about 100 youths voluntarily joined their ranks. No human rights violations were reported during this period. However, in response, and for fear for their nearby mining operations, the Australian company Anvil Mining called in the 62th Infantry Brigade of the Congolese army stationed in Pweto, about 135 kms away, and provided trucks, drivers, food and other logistical support to facilitate their movement to Kilwa. The army invaded the town in full force, bombing homes and conducting arbitrary arrests, unlawful detentions, torture, pillage and summary executions.

A UN Mission in Congo (MONUC) investigation carried out 22-24 October 2004 put the death toll at 73, including summary executions of 28 arrestees. In 2007, 8 concerned army commanders and 3 Anvil Mining employees were brought before a military court but the case was dismissed. An appeal against this decision was also dismissed on technicalities thus blocking any chances for relief for the victims.

The complainants therefore allege the violation of their rights as guaranteed by the African Charter. In particular, they allege violations of articles 1, 4, 5, 6, 7.1, 14 and 26, relating the obligation of states to guarantee human rights (1) and independence of the courts (26), the prohibition of torture (5), arbitrary arrest (6) and the rights to life (4), fair trial (7.1) and property (14).

**23. March 9, 2011 at 5:13am**

The Coalition of an Effective African Court on Human and Peoples' Rights (the Coalition) was founded in 2003 for advocate for effective, efficient, independent and credible African Court on Human and Peoples' Rights.

Key performance areas will include:

- Overall leadership and operational management;
- Fundraising for implementation of Coalition programmes;
- Strategic planning, framework development and budget planning;
- Developing partnerships and organising events and opportunities that benefit the Coalition;
- Managing annual meetings and other initiatives in conjunction with partners.

Requirements:

- Degree in Law, International Relations or other relevant field; specialisation in Human Rights or Humanitarian Law would be an advantage;
- Interpersonal, teamwork, cross-cultural awareness and stress tolerance, innovation and excellent communication skills, oral and written;
- Competence in English with a working knowledge of French (Alternatively, competence in French with working knowledge of English);
- At least five years experience in management, advocacy and network building;
- Knowledge and familiarity with the African human rights system;
- Ability to interact with NGOs, and government officials and intergovernmental organisations with professionalism;
- Ability to use computer software packages such as Microsoft Office 2007.

The position is based in Arusha, Tanzania and requires international travel. Attractive salary commensurate with experience and qualifications offered to the successful candidate.

To apply for this position submit your CV accompanied by a one page motivation letter in MS Word format to Tito Byenkya, Chairperson of the Coalition, by email [admin@africancourtcoalition.org](mailto:admin@africancourtcoalition.org) not later than 31 March 2011.

Only applicants on the shortlist will be contacted.

**24. March 9, 2011 at 8:40am**

The Institute for Human Rights and Development in Africa (IHRDA) and the Observatoire congolais des droits de l'homme (OCDH) have filed a communication before the African Commission on Human and Peoples' Rights against the Republic of Congo. The case is filed on behalf of Guy Marcellin Yambo, who died in detention at a Brazzaville police station under suspicious circumstances.

The complainants assert that the death of Mr Yambo while in police custody and the subsequent failure of the state to ensure justice and reparations are in violation of the

human rights guaranteed to Mr Yambo and his family by the African Charter on Human and Peoples' Rights.

#### Facts

Guy Yambo, aged 37, went missing on 11 January 2007. On 23 January, after a fruitless search, the family was summoned to Ouenzé 2 (Ouenzé Mandzandza) police station in Brazzaville to be informed of Mr Yambo's death and that his body had been transferred to the municipal mortuary. On identification, Mr Yambo's body bore obvious trauma marks, which the police attributed to the actions by a co-detainee. The family was unable to afford costs of an autopsy. The death certificate, released after several months, listed a road accident as the cause of death.

On 23 May 2007, the Yambo family sued the police for denying assistance to a person in danger, murder and torture and cruel and inhuman treatment, all crimes under Congolese law. The case remains pending to date. No officers were disciplined and the commanding officer was simply transferred to another station.

The Yambo family is alleging violation of the rights of Guy Yambo as guaranteed by the African Charter, in particular, the guarantees to the rights to life and personal integrity (4) and fair trial (7.1.a), the prohibition of torture and cruel inhuman or degrading treatment (5), freedom from arbitrary arrest (6) and the obligation to secure the independence of the courts (26).

#### **25. March 11, 2011 at 8:18am**

The community of Tudun Wada in Abuja face possible eviction following an Abuja high court ruled that the right to housing cannot be enforced in Nigeria until a specific law is passed by parliament. In a decision delivered on 16th December 2010, the High Court of the Federal Capital Territory (FCT) ruled the residents had failed to prove their case against the Minister for the FCT and the Federal Capital Development Authority (FCDA).

The lawsuit was filed by seven members of the Tudun Wada on behalf of the whole community numbering about 10,000 after the FCDA placed bulldozers and other equipment, and police in riot gear, ready to forcibly evict the residents. This action had been taken in spite of several appeals from the community to the FCT Minister and the FCDA. The residents wanted to either be integrated into the Abuja Master Plan – the city's development plan – or relocated in accordance with due process of law. The community has lived in Tudun Wada for over two decades and taken possession of the land in the village.

The community had argued that they had a right to housing by virtue of the Fundamental Objectives and Directive Principles of State Policy in Chapter 2 of the Nigerian Constitution. However, the Court ruled that Chapter 2 could not be questioned by any judicial, legislative or executive authority as stated in the Constitution itself. At best, the Constitution required that these authorities follow Chapter 2 in all their decisions. Referring to some earlier decisions of the Supreme Court of Nigeria, the Court decided

that a matter under Chapter 2 of the Constitution could only be questioned by a judicial authority when the National Assembly had passed that specific matter into law.

With this background, the Court concluded that even though the community had argued that their right to housing, by interpretation, was protected by the African Charter on Human and Peoples' Rights - which is part of Nigerian law – that right could not be enforced because the National Assembly had not specifically passed a law to requiring that housing be enforced as a fundamental human right.

The Court added that even if the people of Tudun Wada had an enforceable fundamental human right to property under Chapter 4 of the Constitution, they had failed to prove that they had legally acquired their land and homes in Tudun Wada with the approval of the FDCA. Consequently in the absence of such approval, the Minister for the FCT and the FDA were within their rights to evict the community. The Court added that merely possessing the land in Tudun Wada for over twenty years did not entitle them to the land. The Court also considered that the FCT Minister and the FCDA had given proper eviction notice to the residents of Tudun Wada in as expected by the Urban and Regional Planning Law.

The Court concluded that the Tudun Wada community had failed to prove that they were entitled to any legally enforceable right to housing which could be protected by the Court. At best the residents were squatters who had occupied the land illegally and could be evicted. Referring to its earlier decision in a similar eviction case, the Court remarked that such requests for protection by the Courts had the tendency to suggest to the “larger society that lawlessness and impunity pays”. The Court was therefore not to interfere in the lawful exercise of State powers against few members of the society whose unlawful activities were going to be affected. To the FCT Minister and the FCDA, the Court also noted that they ought to have a systematic process of recovering the lands which had been illegally possessed “to alleviate the attendant inconveniences it may engender to the affected illegal developers”.

The Tudun Wada community has since taken steps with IHRDA's support to appeal the decision.

### **26. March 14, 2011 at 2:50pm**

The Adamu Garba and 20 Ors v Federal Attorney General of Nigeria and 13 Ors constitutional case was heard today 14th March 2011 at the Federal High Court in Kaduna before Hon. Justice Mohammed Lawal Shuaibu. Arguments of both parties were heard and the case has been adjourned to 3rd June 2011 for judgment.

Adamu Garba and 20 other Nigerian citizens are suing the Federal Government of Nigeria and 13 state and local governments for discrimination caused by their support of the indigene/settler divide. Claiming their right to protection from discrimination, the 21 persons are asking the Federal High Court in Kaduna to enforce their constitutional rights. They are suing the Federal Government, the Federal Character Commission, Plateau, Kaduna, Kano and Katsina states, and Jos North Local Government Area (LGA),

Shendam LGA, Kaduna South LGA, Giwa LGA (Kaduna), Fagge LGA (Kano), Kumbotso LGA (Kano), Nassarawa LGA (Kano) and Tarauni LGA (Kano).

The complainants are challenging their arbitrary classification as “settlers” or “non-indigenes” by their respective states. This government practice denies them their fundamental human rights under Nigeria’s 1999 Constitution and African and international human rights law. They are asking the Federal High Court to order the full recognition and respect of their rights, and those of all Nigerians suffering similar discrimination.

**27. March 17, 2011 at 5:53am**

The Institute for Human Rights and Development in Africa (IHRDA), with the financial support of the Open Society Initiative for West Africa, is operating a fund for individuals/groups litigating cases before the African Commission for Human and Peoples’ Rights. The fund covers travel, accommodation and other related expenses.

Applicants to this fund must fulfill the following criteria:

Must be a national/organisation of an ECOWAS state, Cameroon, Chad or Mauritania;

Must have a communication before the African Commission for Human and Peoples’ Rights (ACmHPR) [cases before the ACmHPR are referred to as ‘communications’].

Applications should consist of the following:

An application letter;

Description of the communication including detailed information on the progress of your communication with the ACmHPR - approximately 800 words;

Evidence of nationality [e.g. copy of ID, NGO or company registration document].

Applications should be addressed to:

Executive Director,

Institute for Human Rights and Development in Africa (IHRDA),

949 Brusubi Layout, AU Summit Highway,

PO Box 1896, Banjul, The Gambia.

Email applications should be sent to [hannoh@ihrda.org](mailto:hannoh@ihrda.org).

Subject line: “Application for Legal Defence Fund – 49th African Commission Session”.

Deadline for applications for the 49th Ordinary Session of the ACmHPR that will take place in Banjul, The Gambia from 28 April-12 May 2011, is Monday 4th April 2011.

**28. March 18, 2011 at 6:35am**

In 2008 and 2009, IHRDA began engaging with the Children’s Court as part of its collaboration with the Judiciary of The Gambia towards the establishment of a new legal aid system in The Gambia. During this time, it became apparent that many of the cases before the Children’s Court had stalled due to lack of lawyers to represent the affected children.

In 2010, IHRDA began a project, with the support of the Canadian Fund for Local Initiatives (CFLI), to provide the legal aid necessary for advancing stalled cases involving children before the Children's court in The Gambia. Under the Children's Act of The Gambia, it is mandatory for children charged with criminal offences to be represented in court.

To enable IHRDA determine which children to assist under the project, a set of criteria was developed to select cases which deserved most urgent attention. Selection was necessary given that only 20 cases of the many in the docket of the Children's Court could be handled by this project.

IHRDA has worked with members of the Gambia Bar Association in a bid to select competent and willing lawyers to handle the cases. Lawyers have been selected based on their knowledge and experience in representing children in trials, demonstrated commitment to pro bono legal work, and familiarity with the practice of the Children's court. A high premium has been placed on selection of lawyers as they are central to achieving the objective of the project, which is ensuring that the affected children have a fair trial. Lawyers have therefore committed to ensure progress on the cases and providing the best possible legal representation to the child clients.

IHRDA is also committed to support the lawyers with legal research where needed. This is aimed at encouraging cross pollination and mutual sharing of knowledge and skills on best practices in litigation of children's cases and promoting the use of regional and international procedural and jurisprudential standards.

The Children's Court has been purposive in seeking the realisation of the project objectives from 2008 to date. As the cases have been selected and lawyers assigned to cases, the Court has sought to notify the state prosecutorial authorities to prepare for trial in these long stalled cases. Trials begin in the March-April period.

This legal aid to children project is part of IHRDA's commitment to improving access to justice in The Gambia, and particularly through legal aid. IHRDA has worked intensively with the Attorney-General's Chambers and the Ministry of Justice, since 2005, for the establishment of a viable and sustainable legal aid system in The Gambia. This project saw the drafting of and enactment the Legal Aid Act 2008, to replace the Poor Persons' Defence Act of 1992. This enactment, in addition to greatly improving the scope, eligibility and administrative framework of legal aid, also fulfils a recommendation of the African Commission on Human and Peoples' Rights decision in the case Purohit and Moore v The Gambia. In this case, the African Commission found the Poor Persons' Defence Act inadequate to provide reasonable legal remedies for persons in need and urged appropriate legislative reform.

The enactment of the Legal Aid Act has also seen the creation of the National Agency for Legal Aid (NALA).

**29. March 24, 2011**

Human rights defenders appeal for direct access to the African Court | IHRDA  
[www.ihrda.org](http://www.ihrda.org)

Human rights defenders attending a conference to promote the African Court on Human and Peoples' Rights in Malawi have called for concerted efforts to ensure that individuals and NGOs have direct access to the African Court. The conference participants were addressing the major obstacles that have s

<http://www.ihrda.org/2011/03/human-rights-defenders-appeal-for-direct-access-to-the-african-court/>

**30. March 31, 2011**

Kenya violates African Children's Charter as Nubian children suffer discrimination and statelessness

[www.ihrda.org](http://www.ihrda.org)

Kenya has been found in violation of the rights of Nubian children to non-discrimination, nationality and protection against statelessness by the African Committee of Experts on the Rights and Welfare of the Child. In a landmark decision issued on 25 March 2011, the Committee finalised its considera

<http://www.ihrda.org/2011/03/kenya-violates-african-children%E2%80%99s-charter-as-nubian-children-suffer-discrimination-and-statelessness/>

**31. April 5, 2011**

Save your research. Bookmark your favourite decisions. Comment and annotate interesting jurisprudence. And find all this again when you log in later. Open your personal account on the Caselaw Analyser!

**32. April 7, 2011**

Analysers User Tips - 1

To find the most comprehensive listing of decisions invoking ANY of the 68 articles of the African Charter, follow this link <http://caselaw.ihrda.org/instrument/achpr/> and click on the article or right you are researching on. A list of decisions specific to your choice will appear below the interactive map.

**33. April 8, 2011 at 5:45am**

On behalf of the Truth, Justice and Reconciliation Commission of Kenya (TJRC), HURIDOCS is seeking a highly motivated individual with proven team management abilities and data analysis skills to manage the transfer of information from over 20'000+ statements collected by the TJRC staff into a structured database.

This is an international posting of 12 months, but restricted to applicants from Africa. The successful applicant will be based at the TJRC's headquarters in Nairobi and report directly to the Commissioners.

When applying, please indicate when you can be available to start work. Priority will be given to candidates who are available at short notice.

Qualified and interested persons should send an application letter as soon as possible, with a detailed CV, naming at least two professional referees, by email to Daniel D'Esposito, HURIDOCs Executive Director, at [info@huridocs.org](mailto:info@huridocs.org).

#### Duties

Responsible for managing the coding and data entry of 20,000+ statements collected by the Kenyan Truth, Justice, and Reconciliation Commission involving:

Oversight of 30 coders and data entry personnel.

Management of the standardized coding process including weekly inter-rater reliability testing and determinations in ambiguous cases.

Management of the data entry process including dual data entry for random subset of statements and/or other methods for testing data quality.

Editing of database for out-of-scope values.

Randomized ordering of coding and data entry process to allow data in database to be representative of the statements prior to full data entry being completed.

Enforcement of data security measures including check in/check out procedure for paper statements and logging of completion of coding and data entry tasks via a statement control file.

Additional responsibilities include regular interaction with research team, education of research team as to best uses of quantitative information available from the database, and incorporation of database information into final Commission Report.

#### Requirements:

Database management experience, excellent computer skills including proficiency in Excel (pivot tables and statistical graphics), data analysis experience, good written and oral communication skills. Proven managerial ability to lead and motivate a team of 30 persons and meet performance targets in terms of quality and time. Very high aptitude for precision to ensure consistent and high quality data entry. B.A. or B.S. with major in social sciences, statistics, or computer science required; M.A. or M.S. a plus. Experience with human rights-related data a plus.

#### Background

The TJRC is established by an Act of Parliament (Truth Justice and Reconciliation Commission Act no. 6 of 2008) to investigate the gross human rights violations and other historical injustices in Kenya between 12 December 1963 and 28 February 2008. The TJRC's activities include to:

Investigate all of the violations listed above Identify the individuals, public institutions, bodies, organizations, public office holders, the State, state actors, or persons purporting

to have acted on behalf of any public body responsible for or involved in the violations and abuses;

Identify and specify the victims of the violations and abuses and make appropriate recommendations for redress, including reparations;

Create a historical record of violations of human rights abuses; Identify and recommend prosecutions of any person responsible or involved in serious violations of human rights, including socio-economic rights;

Make recommendations for systemic and institutional reform to ensure that such violations do not occur in the future

The TJRC has collected over 20'000 detailed statements from victims and witness as part of this process, which now need to be computerized so as to inform the TJRC's analysis and reporting.

More information is available on the TJRC's website at <http://www.tjrkenya.org/>

#### **34. April 11, 2011**

Analyser User Tips - 2

To consult a comprehensive index of keywords, please follow this link

<http://caselaw.ihrda.org/keywords>

#### **35. April 19, 2011**

Thanks to user feedback, the following improvements on the Analyser will soon be released:

- The 2 search engines, 'Quick search' and 'Advanced search', have been integrated into one more user-friendly searching system
- The Analyser takes the user straight to search functionalities
- The various lists of decisions have been merged into one, with the user having the option to sort result chronologically, most jurisprudentially viable and by relevance to search parameters.

Please keep the feedback coming.

#### **36. April 22, 2011**

It is with great sadness that we announce the death of Alpha Fall, IHRDA's co-founder, on 21 April 2011 at a hospital in Brussels. After working at the Secretariat of the African Commission on Human and Peoples' Rights, as co-founder and Executive Director of IHRDA (2003-2005), Alpha set out to sensitise Africa about the African Charter and bring its mechanisms to their full potential. Alpha believed strongly in defending human rights in Africa, and he lived this passion unreservedly. His contribution to the promotion of human rights in Africa has been immense. He helped train hundreds of human rights defenders to promote and seek protection of their rights. Time and again, he lectured at universities, facilitated workshops, filed cases pro bono on behalf of victims of human rights abuses and advised human rights institutions. His life's work leaves an indelible mark on human rights in Africa and he will be sorely missed.

Alpha studied law at Cheikh Anta Diop University in Dakar and the University of Notre Dame, Indiana, USA. He also worked with the International Centre for Transitional Justice in Kinshasa and was, immediately prior to his death, Head of Transitional Justice Unit, UN OHCHR in Bujumbura.

IHRDA has opened a condolence book at our offices in Brusubi, The Gambia. Funeral arrangements will be announced later. Our heartfelt sympathies to Alpha's family, and especially Nana, Manel, Naila and Ibrahima.

### **37. April 25, 2011**

It is with great sadness that we announce the death of Alpha Fall, IHRDA's co-founder, on 21 April 2011, in Brussels, where he was receiving medical treatment.

Alpha's contribution to human rights in Africa has been immense. After working at the Secretariat of the African Commission on Human and Peoples' Rights, Alpha became co-founder of the IHRDA in 1997 and later its Executive Director. Alpha believed strongly in defending human rights, and he lived this passion unreservedly.

Alpha's vision for IHRDA was that it would help render the African Charter real and live, by spreading knowledge of its protections and bringing African treaty bodies to their full potential. To the realisation of this vision, Alpha brought tremendous intelligence, energy, determination, integrity, eloquence and good humour.

Those who did not know him well may remember him as an incisive participant in human rights fora all over Africa. Those who worked with him directly remember his strongly-held opinions and tireless work, motivated by deep concern for the victims of injustice and leavened by personal warmth.

Alpha helped train hundreds of human rights defenders in Africa to promote and seek protection of their rights under the African Charter. He lectured at universities, facilitated workshops, and was a pioneer in filing pro bono cases on behalf of victims of human rights abuses. Living by his belief in the need to build human rights institutions that serve the common good rather than individuals, he built the IHRDA into an institution that survived the departure of its founders.

As a founder member of Rencontre africaine pour la defense des droits de l'homme (RADDHO) Alpha participated in all its activities as from 2000 relating to human rights promotion and education pertaining to international human rights treaties, conventions and state obligations in the field of human rights.

Alpha studied law at Cheikh Anta Diop University in Dakar. After graduation, he worked for a time at IPRES, the Senegalese government pension fund, before beginning his human rights work. He received an LLM in human rights from the University of Notre Dame, Indiana, USA. After leaving the IHRDA in 2005, he worked for Global Rights and then with the International Centre for Transitional Justice in Kinshasa. At the time of his death, Alpha was Head of the Transitional Justice Unit of UN OHCHR in Bujumbura. In 2000, he married Nana Vyuzura and they had two sons, Manel and Ibrahima, and a daughter, Naila, who survive him. IHRDA has opened a condolence book at its offices in Brusubi, as well as at the venue of the NGO Forum and 49th African Commission session and welcomes condolence and remembrances messages that will be passed on to Alpha's family. Funeral arrangements will be announced later. Our heartfelt sympathies to Alpha's family.

**38. April 27, 2011**

The funeral will take place on Friday 29 April 2011 in St. Louis, Senegal

**39. April 29, 2011**

Tribute to Alpha Fall by his alma mater

**40. May 4, 2011**

Alpha was buried in his home town, St. Louis, Senegal, on 29 April 2011. May his soul rest in perfect peace. Sheila

**41. May 10, 2011**

CIHRS-IHRDA statement on Egypt at the African Commission session - May 4 2011

<http://www.ihrda.org/2011/05/cihrs-ihrda-statement-before-african-commission-on-egypt-may-4-2011/>

**42. May 11, 2011**

Follow link to see a slideshow of pictures

Alpha Fall Honoured at NGO Forum and 49th African Commission Session | IHRDA

**43. May 13, 2011**

IHRDA is proud to join the Special Rapporteur of the African Commission on HRDs, ISHR, West Africa HRDs Network, East and Horn of Africa Human Rights Defenders Project, AFRICAN CENTRE FOR DEMOCRACY AND HUMAN RIGHTS STUDIES, Cairo Institute for Human Rights Studies; Central Africa HRDs Network and HURISA in the just created Study Group on Freedom of Association in Africa.

**44. May 13, 2011**

IHRDA welcomes the appointment of Commissioner Kayitesi Zainabo Sylvie as Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa.

**45. May 16, 2011**

HRDA-OSIWA fund litigants to plead case before African Commission | IHRDA  
[www.ihrda.org](http://www.ihrda.org)

IHRDA, with the support of Open Society Institute for West Africa (OSIWA), was pleased to support the Southern Cameroons Peoples Organisation (SCAPO) to travel to

the just concluded 49th Ordinary Session of the African Commission held in Banjul, The Gambia (Apr 28-May 12 2011). SCAPO has been a comp

<http://www.ihrda.org/2011/05/ihrda-osiwa-fund-litigants-to-plead-case-before-african-commission/>

#### **46. May 17, 2011**

May 17, 2011 8:24am

Throw back from the past: Former Special Rapporteur for Refugees, Migrants and IDPs of the African Commission, Tom Nyanduga, on a joint mission with IHRDA and OSJI to meet Mauritanian refugees in 2007 as part of implementation of decision 54/91[...] Malawi African Association et al v Mauritania. Also in present are Dr Feyi Ogunade, Commission Senior Legal Officer, Julia Harrington, OSJI and Souleymane Jules Sagna, IHRDA-OSJI Mauritania Consultant

#### **47. June 8, 2011 at 12:58pm**

A joint IHRDA/OSJI team met with representatives of the Nubian Community in Kibera, Nairobi, Kenya on 28 May 2011 to share the successful outcome of the Communication 002/2009 Nubian Children in Kenya v Kenya. In March 2011, the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) announced its preliminary decision in the case filed by IHRDA and OSJI on behalf of Nubian children.

The ACERWC found Kenya in violation of its obligations under the African Charter on the Rights and Welfare of the Child (the Charter). As Nubian children were not granted Kenyan nationality at birth, it violated Article 6 (3) of the Charter and represented the State's failure to fulfil its obligation to avoid the statelessness of children under Article 6 (4). The ACERWC also found that Kenya was unlawfully discriminating against Nubian children's access to citizenship prohibited by Article 3.

Members of the Council of Elders of the Nubian community in Kibera were of the view that the ACERWC's decision should be celebrated. Members of the Nubian Community needed to know about this first victory in their long struggle for citizenship, equality and non-discrimination. Plans are underway to celebrate this victory on the Day of the Africa Child, observed on 16 June 2011.

#### **48. June 17, 2011**

Nigeria: Constitutional challenge to indigene-settler divide still awaits judgement | IHRDA

[www.ihrda.org](http://www.ihrda.org)

The Adamu Garba and 20 Ors v Federal Attorney General of Nigeria and 13 Ors constitutional case, scheduled for judgment on Friday June 3rd 2011 has been adjourned. Judgement was not delivered as scheduled because the judge did not come to court.

<http://www.ihrda.org/2011/06/nigeria-constitutional-challenge-to-indigene-settler-divide-still-awaits-judgement/>

**49. June 17, 2011**

As Africa marks the Day of the African Child, the Institute for Human Rights and Development in Africa (IHRDA) joins the Nubian community in Kenya to celebrate a first victory in their long struggle for citizenship. Nubian children have a right to Kenyan nationality and citizenship at birth.

<http://www.ihrda.org/2011/06/kenya-nubian-children-should-be-given-nationality-at-birth/>

**50. June 22, 2011**

Three and a half years later: Mauritanian returnees still await restoration of citizenship documents

[www.ihrda.org](http://www.ihrda.org)

“... take diligent measures to replace the national identity documents of those Mauritanian citizens, which were taken from them at the time of their expulsion and ensure their return without delay to Mauritania we well as the restitution of the belongings looted from them at the time of the said expu

**51. June 29, 2011**

IHRDA attends UNHCR Annual NGO Consultations | IHRDA

[www.ihrda.org](http://www.ihrda.org)

IHRDA is participating at the United Nations Office of the High Commissioner for Refugees (UNHCR) NGO Consultations taking place in Geneva. This meeting brings together civil society to share and exchange with the UNHCR on questions relating the UNHCR mandate: the protection of refugees under the 19...

**52. June 29, 2011**

Celebrating 30 years of the African Charter in publications | IHRDA

[www.ihrda.org](http://www.ihrda.org)

As we celebrate the 30 years of the existence of the African Charter on Human and Peoples' Rights and reflect on the state of the African Human Rights System, IHRDA is planning a series of publication on various aspects of human rights in Africa.

<http://www.ihrda.org/2011/06/celebrating-30-years-of-the-african-charetr-in-publications/>

**53. June 29, 2011**

African Charter turns 30: time to celebrate, time to reflect | IHRDA

[www.ihrda.org](http://www.ihrda.org)

On June 27 1981, OAU Heads of State and Government, meeting in Nairobi, adopted the African Charter on Human and Peoples' Rights (ACHPR), thus beginning the 30 year

journey of building the African Human Rights System. Keen to have an African contribution to international human rights law, the Africa

<http://www.ihrda.org/2011/06/african-charter-turns-30-time-to-celebrate-time-to-reflect/>

**54. August 8, 2011**

IHRDA has just launched a new and more efficient Case law Analyser. Now you can search using key words and view statistics for every decision. Come check it out!

**55. August 8, 2011**

You can now chat with us directly while browsing the Analyser! We are available to answer your queries and we value your feedback! See bottom right corner!

**56. August 8, 2011**

For the first time ever, you can now study the jurisprudential history and "future" of every African Commission decision. Sample <http://caselaw.ihrda.org/graphs/svg/147.95-149.96.svg>

**57. August 10, 2011**

The African Court has issued 2 new judgements in June 2011. Soufiane Ababou v Algeria - No. 002/2011 & Daniel Amare and Mulugeta Amare v Mozambique & Mozambique Airlines - No. 005/2011. These break ground by referring cases to the African Commission, invoking Art. 6 (3) of the Court Protocol. Can the Court refer a substantive matter to the Commission? Follow our discussion and post your comments!

**58. August 15, 2011 at 4:38am**

TERMS OF REFERENCE FOR JOINT IHRDA/ISHR PUBLICATION FOR HUMAN RIGHTS DEFENDERS IN AFRICA

1.0 INTRODUCTION

The Institute for Human Rights and Development in Africa (IHRDA) and the International Service for Human Rights (ISHR) are engaged in a joint project to produce a publication providing information on how the African Commission on Human and Peoples' Rights protects the rights of human rights defenders (HRDS) in Africa.

1.1. IHRDA

The vision of IHRDA is of a continent where all have access to justice, using national, African and international human rights law for the promotion and protection of peoples' rights. IHRDA works to create awareness about African regional human rights

mechanisms and to increase their accessibility, usage and effectiveness. IHRDA's principal focus is ensuring that the enforcement mechanisms of African human rights treaties are an effective instrument for redress of human rights violations on the continent. IHRDA therefore focuses its activities towards both strengthening these mechanisms themselves and improving civil society's interaction with them. Through litigation, advocacy and capacity building, IHRDA demonstrates that the use of the African regional instruments and mechanisms provide an important avenue for securing human rights and reparations.

Website: [www.ihrda.org](http://www.ihrda.org)

## 1.2. ISHR

ISHR is a non-governmental organisation (NGO) committed to serving and promoting the effective protection of human rights defenders and their work. Created in 1984, we have established ourselves by supporting and facilitating the work of human rights defenders and their engagement with the United Nations (UN) and regional human rights systems. We work at national, regional and international levels. We are a leading organisation in our field, with offices strategically located in both Geneva and New York. ISHR acts as a bridge between human rights defenders and the international and regional human rights systems. While building human rights defenders' capacity to effectively engage with the UN human rights system, we also advocate for the improvement of that system. ISHR offers a unique platform for analysing and discussing the existing systems for the promotion and protection of human rights. We also build the capacity of human rights defenders to help them face new and ongoing challenges in their countries.

Website: [www.ishr.org](http://www.ishr.org)

## 2.0 CONSULTANCY

IHRDA and ISHR seek to engage a Consultant to turn an already existing first draft of the publication into a user-friendly text which will be launched during the 50th Ordinary Session of the African Commission on Human and Peoples' Rights (24 October – 7 November 2011).

## 3.0 PURPOSE AND SCOPE OF THE ASSIGNMENT

A first draft of the publication, which is already available, needs to be turned into a text using language, style and format which would deliver key information in a user-friendly manner, according to the following main specifications:

- Produce a publication which is clear, easily readable, using short, concise and to the point sentences;
- Turn complex legal concepts and text into straight-forward and accessible language;
- Break up the text by using short sections and a question-and-answer format, allowing the HRD to quickly locate the specific bit of information he/she is looking for by keeping paragraphs short and limited to a single subject matter;

- Use style which allows the text to be visually accessible and appealing, ensuring that the most important points are readable at a glance, with informative headings;
- Incorporate substantive improvements to the document through analysis and a focus on the advocacy potential of the document.

#### 4.0 TIMEFRAME AND DELIVERABLE

The final publication is scheduled to be launched to celebrate the 30th Anniversary of the African Charter on Human and Peoples' Rights during the 50th Ordinary Session of the African Commission to take place between 24 October and 7 November 2011.

The schedule and timeframe to produce the deliverable (i.e. the reworked text) is as follows:

15 – 22 August 2011: Advertise on IHRDA and ISHR websites;  
 29 August 2011: Selected consultant informed;  
 31 August 2011: Signature of contract;  
 1 – 15 Sep 2011: Consultant to produce first version of revised draft;  
 16 – 23 Sep 2011: IHRDA/ISHR Review of first version of revised draft;  
 24 – 30 Sep 2011: Consultant incorporates comments;  
 1 – 8 Oct 2011: Final review (IHRDA and ISHR) and formatting;  
 9 – 15 Oct 2011: Printing  
 Week of 24 – 31 October 2011: Launch

#### 5.0 REQUIRED SKILLS

- (i) Ability to write clearly, concisely and to summarize complex text without losing the gist;
- (ii) Ability to present legal concepts in an easy-to-understand manner;
- (iii) Ability to show ideas visually and graphically;
- (iv) Demonstrated experience in undertaking similar projects;
- (v) Ability to work within tight deadlines and deliver on time.

#### 6.0 REMUNERATION

A flat rate of Euros 1,000.

#### 7.0 HOW TO APPLY:

- Please send a letter indicating your interest in undertaking this project, together with a two-page CV and an unedited sample of your work;
- Deadline for the application: 23 August 2011

The application should be sent to: [hsipalla@ihrda.org](mailto:hsipalla@ihrda.org) and [sbkeetharuth@yahoo.com](mailto:sbkeetharuth@yahoo.com), cc to [c.voule@ishr.ch](mailto:c.voule@ishr.ch) and [e.openshaw@ishr.ch](mailto:e.openshaw@ishr.ch) Only short-listed candidates will be contact. No phone calls please.

**59. September 28, 2011**

## Call for applications to Legal Defence Fund

IHRDA, with the financial support of the Open Society Initiative for West Africa (OSIWA), is operating a fund for individuals/groups litigating cases before the African Commission for Human and Peoples' Rights.

The fund covers travel, accommodation and other related expenses. Applicants to this fund must fulfill the following criteria:

- Must be a national/organisation of an ECOWAS state, Cameroon, Chad or Mauritania;
- Must have a communication before the African Commission for Human and Peoples' Rights (ACmHPR) [cases before the ACmHPR are referred to as 'communications'].

Applications should consist of the following:

- An application letter;
- Description of the communication including detailed information on the progress of your communication with the ACmHPR – approximately 800 words;
- Evidence of nationality [e.g. copy of ID, NGO or company registration document].

Applications should be addressed to:

Executive Director,  
Institute for Human Rights and Development in Africa (IHRDA),  
949 Brusubi Layout, AU Summit Highway,  
PO Box 1896,  
Banjul, The Gambia.

Email applications should be sent to [hannoh@ihrda.org](mailto:hannoh@ihrda.org). Subject line: "Application for Legal Defence Fund – 50th African Commission Session".

Deadline for applications for the 50th Ordinary Session of the ACmHPR that will take place in Banjul, The Gambia from 24 October-7 November 2011, is Friday 14th October 2011.

## **60. September 29, 2011**

### VACANCY: BILINGUAL PUBLICATIONS AND COMMUNICATIONS FELLOWSHIPS

IHRDA is a pan-african non-governmental organisation that works to promote awareness of human rights in Africa and improve the effectiveness. We envision a continent where all have access to justice, using national, African and international human rights law and mechanisms. Summarised in three key words - defend, educate, inform – IHRDA works by advising and representing (pro bono legal counsel) victims of human rights abuses in Africa, training human rights defenders in Africa on the African Human Rights System and how to use its mechanisms to seek justice for victims of violations and publishing and distributing information on the African Human Rights System. Thus, we demonstrate that the use of the African human rights instruments and mechanisms provides an important avenue for securing human rights and reparation.

The African Human Rights Case law Analyser is a collection of decisions from the African human rights system. Created and run by IHRDA, it offers the most exhaustive access to the decisions of the African Commission on Human and Peoples' Rights in English and French. It is unrivalled in its research friendliness, convenient navigation and search options, and intuitive readability.

#### DESCRIPTION OF THE POST

IHRDA is seeking to recruit two (2) Publications and Communications Fellows to start work on 30 January 2012 for a period of twelve (12) months. Under the supervision of the Deputy Director, the Publications and Communications fellows will be involved in the main work areas relating to publications and communication at IHRDA.

#### SPECIFIC RESPONSIBILITIES

- Upload information on to IHRDA's case law database, the Case law Analyser <http://caselaw.ihrda.org/> including textual revision, in either English, French or Portuguese;
- Assist in the collection of the texts of legal instruments and decisions of the judicial bodies of the regional human rights system (African Commission, African Court, African Committee of Experts) and the sub-regional economic communities (ECOWAS, SADC, EAC);
- Edit these texts to ensure grammatical and spelling accuracy as well as stylistic consistency;
- Upload these texts on to the Case law Analyser, while adding a special syntax that facilitates the functioning of the Analyser;
- Collect news and information on the regional human rights system and the sub-regional economic communities of Africa (ECOWAS, SADC, EAC) ;
- Regularly translate news and information on the Case law Analyser for publication on IHRDA's social media accounts: [www.facebook.com/ihrda](http://www.facebook.com/ihrda) ; [www.linkedin.com/in/ihrda](http://www.linkedin.com/in/ihrda) ; [www.twitter.com/ihrdafrica](http://www.twitter.com/ihrdafrica);

#### QUALIFICATIONS AND ELIGIBILITY

- Degree in information sciences, law, communications, the humanities, or related field from a recognised university;
  - Bilingual: Fluency in French with good working knowledge of English or Portuguese or vice versa;
  - Exceptional writing and editorial skills;
  - High comfort level with internet communications.
  - Knowledge or previous experience in web-based communication applications like WordPress, Joomla, Drupal is highly desirable;
  - Knowledge or previous experience in editing, copy-editing and publishing, including knowledge of desktop publishing applications like Adobe, Quark Xpress would be considered as an added advantage;
  - Interest in or willingness to learn about human rights in Africa, particularly Africa's regional and sub-regional human rights systems is desirable.
- Added advantage

- Experience in demanding, meticulous editorial work ;
- Knowledge of the workings of Africa's continental and sub-regional human rights protections systems.

#### BENEFITS

- Monthly internship stipend
- Medical cover
- Accommodation
- Return air tickets

#### APPLICATION INSTRUCTIONS

Applicants should send the following documents to Modou Sowe at [msowe@ihrda.org](mailto:msowe@ihrda.org) copied to [ihrda@ihrda.org](mailto:ihrda@ihrda.org) :

- Cover letter, addressed to the Executive Director, expressing your motivation and suitability for the internship;
- A Curriculum Vitae with contact details of two referees;
- A duly completed fellowship/internship form, download-able on our website at <http://www.ihrda.org/fellowships/> ;
- A sample of writing in French/English/Portuguese or address of previous web-based work.

Please Note

Kindly also read the Internship Policy, also available on our website at <http://www.ihrda.org/fellowships/>

Kindly indicate where you learnt of this announcement.

Application deadline: November 6 2012. Only short-listed candidates will be contacted.

#### **61. September 30, 2011**

African Children's Committee publishes first ever decision

The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) has published its first ever decision on a communication. In the decision, issued on 22 March 2011, on communication 002/2009 IHRDA and OSJI (on behalf of children of Nubian descent in Kenya) v Kenya, the ACERWC finds Kenya in violation of the rights of Nubian children to non-discrimination, nationality and protection against statelessness. This historical decision, the first one ever by the Committee, makes it the first time that a State has been found in violation of children's rights treaty by an international body. The Committee is the only child rights treaty monitoring body with the power to determine cases.

Read the full decision at <http://www.ihrda.org/wp-content/uploads/2011/09/002-09-Nubian-children-v-Kenya-Eng.pdf>

#### **62. September 30, 2011**

African Children's Committee publishes first ever decision

<http://www.acerwc.org/2011/09/decisions-children-nubian-descent-kenya-published/>

Decision on children of Nubian descent in Kenya published | ACERWC

[www.acerwc.org](http://www.acerwc.org)

The African Committee of Experts on the Rights and Welfare of the Child has published its first ever decision on a communication. The decision on communication 002/2009 IHRDA and OSJI (on behalf of children of Nubian descent in Kenya) v Kenya was adopted by the ACERWC on 22 March 2011, during its ...

<http://acerwc.org/2011/09/decisions-children-nubian-descent-kenya-published/>

### **63. October 4, 2011 at 11:45am**

IHRDA celebrates today an important landmark. More than 10,000 people have visited the African Human Rights Case law Analyser since its launch on November 8 2010. The Case law Analyser offers the most exhaustive access to the decisions of the African Commission on Human and Peoples' Rights in English and French.

These last 11 months, the Caselaw Analyser has been visited 18 922 times, and those visits came from 159 countries or territories. 7289 visits came from Africa, 7181 from Europe, 3056 from Americas, and the rest from Asia and Oceania. These visits used 72 different languages and were performed by 53.30% new visitors, and 46.70% of returning visitors.

IHRDA and our partners HURIDOCS are honoured by the regularity with which researchers return to the Case law Analyser, combined with the constant growth of new visits and the time spent visiting the Analyser (an average of 7 minutes). This attests to the quality of information and display of the Case law Analyser. The research friendliness of the Analyser is confirmed by the diversity of the origins of the visits, from traffic sources to languages and territories.

The growth of the Analyser has only been possible thanks to the comments and criticisms of those who visited it. On this very special date, not only do we thank you, but we reiterate that we heartily welcome your comments, critique, complaints and notifications of any errors on the system, to help us further improve the access to the most comprehensive multilingual collection of African human rights case law.

### **Background**

The African Human Rights Case law Analyser (CLA) is a joint project of the Institute for Human Rights and Development in Africa (IHRDA) and Human Rights Information and Documentation Systems (HURIDOCS). Its principal aim is to promote human rights in Africa by filling the information lacuna on the African Human Rights System using the most intuitive and research friendly information systems to provide free access to the most comprehensive multilingual collection of African human rights case law.

### **Case law Analyser functions**

The CLA goes beyond simply listing case law but offers effective tools for its high quality analysis. The CLA is unrivalled in its research friendly innovations, among which are:

- it highlights primary case law so the uninitiated user easily finds relevant information;

- it automatically computes jurisprudential rank of each decision by calculating the number of citations;
- it provides easy browsing experience;
- it allows the researcher to simultaneously read a decision and the text of all law and case law authorities cited in it by loading all these texts within the same reading pane. We call this unique “inline loading”;
- It allows researchers to save their research by signing-up and maintaining their own private account, just like on Yahoo or Gmail. Through this personal account, researchers can bookmark interesting decisions and paragraphs, and annotate them with either private or public comments.

The CLA was launched on November 8 2010 in Banjul, The Gambia, at the NGO Forum before the 48 ACmHPR Ordinary Session by the Chair of the ACmHPR, Me Reine Alapini-Gansou in the presence of attending human rights defenders as well as a member of the African Court on Human and Peoples’ Rights, Justice El Hadji Guissé.

Later in mid 2011, IHRDA and HURIDOCS began making improvements on the CLA. These improvements include:

- reworking of the layout of the CLA to further exhibit its unique functions (like comments and personal research saving accounts);
- harmonise duplications (like merge the two search engines that the CLA had earlier);
- exhibit more effectively the CLA’s enormous stock of meta data on case law that now available on the right-hand column of the search page;
- highlight the list of keywords;
- add case headnotes to further enhance ease of use for researchers;
- add case graphs. These are a uniquely innovative feature that allows researchers to visualise in a easy to understand graph, the entire breadth of citation links of a particular decision. We hope this visual representation of jurisprudential history will reanimate the study of African human rights case law;
- Add a convenient feedback service that allows visitors to the website to directly chat with one of our research support staff. When staff are offline, the feedback service will send us an email with your comments.

The work on the CLA is ongoing and heartily welcome your comments, critique, complaints and notifications of any errors on the system which we will endeavour to redress as soon as possible.

Collection of all African human rights case law

We will be working in 2012 to expand the coverage of the CLA to include five (5) other supra-national human rights complaints-handling bodies in Africa:

- the African Court on Human and Peoples’ Rights (AfCHPR),
- the African Committee of Experts on the Rights and Welfare of the Child (ACERWC)
- the SADC Tribunal,
- the EAC Court, and
- the ECOWAS Court.

All the case law of Africa will be integrated into one easily inter-navigable system which will allow researchers to compare case law across all these judicial instances.

Furthermore, although Portuguese is the official language of 6 African countries, the AU, ECOWAS and SADC, availability of African human rights case law in Portuguese remains low. The ACmHPR has only made 10 of its 183 decisions available in Portuguese. The other 5 human rights instances also have none of their case law in Portuguese. Adding a Portuguese version of the CLA, would significantly redress this imbalance.

**64. October 6, 2011**

The rare text of the 1988 Rules of Procedure of the African Commission on Human and Peoples' Rights, available on the African Human Rights Case law Analyser [http://caselaw.ihrda.org/doc/1988\\_acmhpr\\_rop/view/](http://caselaw.ihrda.org/doc/1988_acmhpr_rop/view/)

**65. October 6, 2011**

Draft Agenda of upcoming 50th African Commission Ordinary Session - Oct 24 to Nov 7 2011, Banjul [http://achpr.org/english/Agenda/Draft%20Agenda\\_50.doc](http://achpr.org/english/Agenda/Draft%20Agenda_50.doc)

**66. October 6, 2011**

For twitter users, follow us @IHRDAfrica for updates during upcoming 50th Session of African Commission on Human and Peoples' Rights. hashtag #ACmHPR\_50OS

**67. October 6, 2011**

Burundi, Togo and Nigeria expected to defend their periodic #human\_rights reports under #African\_Charter #ACmHPR\_50OS in #Banjul

**68. October 18, 2011**

Forum for the participation of NGOs in the 50th Session of the African Commission starts tomorrow Oct 19 2011 at Kairaba Hotel at 09h

**69. October 18, 2011**

NGO Forum for ACHPR 50 Session: Panel discussion on the Communications Procedure before the African Commission on Human and Peoples Rights: Progress, opportunities and challenges over the last 30 years. 1630h-1830h at Kairaba Hotel, Banjul

**70. October 18, 2011**

NGO Forum for ACHPR 50 Session: Panel Discussion on Freedom of Association - Progress, Opportunities and Challenges to Freedom of Association. Brings together the African Commission Study Group on Freedom of Association in Africa (members include AFRICAN CENTRE FOR DEMOCRACY AND HUMAN RIGHTS STUDIES East and Horn of Africa Human Rights Defenders Project) and Africa Trade Union 1145h-1300h on Oct 20 2011

**71. October 18, 2011**

NGO Forum for ACHPR 50 Session: Presentation of ACHPR Documents - Principles and Guidelines on Economic, Social and Cultural Rights (Nairobi Guidelines) and Reporting Guidelines (Tunis Guidelines): Launch by Commissioner Khalfallah, Commissioner Atoki, IHRDA and Interights. 0900h-1030h at Kairaba Hotel, Banjul on Oct 20 2011

**72. October 19, 2011**

#NGOForum : #Amnesty 's Noel Kututwa traces history and development of #African Charter over last 30 years #ACHPR50 #Banjul

**73. October 19, 2011**

NGO Forum for ACHPR 50 Session: overview on regional human rights situation, also looking at the development progress and challenges during the 30 years of existence of the African Charter as well as the way forward.

**74. October 19, 2011**

NGOForum: Panel discussion 30th Anniversary of the African Charter on Human and Peoples' Rights: Celebration or Reflection?

**75. October 20, 2011**

NGOForum: Live tweeting from 2nd day: Panel on Principles and Guidelines on Economic and Social Rights (Nairobi Guidelines) and Reporting Guidelines (Tunis Guidelines) - 0930h; Housing is a human rights: stop evictions in Africa - 1045h; Panel discussion of Freedom of Association - Progress, Opportunities and Challenges over the last 30 years - 1145h; Afternoon session dedicated to special interest groups (1400h) #ACHPR50 #ACHPR50 #Banjul

**76. October 20, 2011**

NGOForum: live tweeting from Kairaba Hotel, Banjul. Please use the following hashtags #NGOForum #ACHPR50

**77. October 20, 2011**

Programme of the Commemorative Colloquium of the 30th Anniversary of the African Charter on Human and Peoples' Rights  
Venue: Sheraton Hotel, Banjul, The Gambia  
Dates: 22-23 October 2011  
Theme:

“Current challenges and future opportunities in the promotion and protection of human rights in Africa”

<http://www.ihrda.org/wp-content/uploads/2011/10/Draft-Agenda-colloquium-22-23-Oct-English.doc>

**78. October 22, 2011**

Commemorative Colloquium of the 30th Anniversary of the African Charter on Human and Peoples' Rights opens today morning at the Sheraton Banjul, The Gambia

Theme:

“Current challenges and future opportunities in the promotion and protection of human rights in Africa”

**79. October 26, 2011**

Live tweeting on presentation of Nigeria's 2008-2010 state report to the African Commission on Human and Peoples' Rights. Follow us on @IHRDAfrica

**80. October 27, 2011**

Live tweeting on presentation of Burundi's state report to the African Commission on Human and Peoples' Rights. Oct 27 2011 - Follow us on @IHRDAfrica

**81. October 28, 2011**

Togo's human rights report to be presented before African Commission on Human and Peoples' Rights - Combined 3rd, 4th, 5th Reports

[http://achpr.org/english/state\\_reports/Togo/Republic\\_Togo\\_%20Periodic%20Report.pdf](http://achpr.org/english/state_reports/Togo/Republic_Togo_%20Periodic%20Report.pdf)

**82. October 29, 2011**

Examination of Togo's human rights report continues (Oct 29 2011) before African Commission on Human and Peoples' Rights - Combined 3rd, 4th, 5th Reports

[http://achpr.org/english/state\\_reports/Togo/Republic\\_Togo\\_%20Periodic%20Report.pdf](http://achpr.org/english/state_reports/Togo/Republic_Togo_%20Periodic%20Report.pdf)

**83. October 29, 2011**

Public Session on the 50th Ordinary Session of the African Commission on Human and Peoples' Rights comes to an close. The Commission begins its private considerations tomorrow. Will be back with the Final Communique on Nov 5 2011. For twitter updates #ACHPR50

**84. November 8, 2011**

Final Communique of the 50th Ordinary Session of the African Commission on Human and Peoples' Rights

[http://achpr.org/english/communiqués/Final%20Communique\\_50.pdf](http://achpr.org/english/communiqués/Final%20Communique_50.pdf)

**85. December 1, 2011**

<http://www.ihrda.org/2011/12/vacancy---legal-officer/>

VACANCY – LEGAL OFFICER | IHRDA

www.ihrda.org

The Institute for Human Rights and Development in Africa (IHRDA) is seeking to recruit a Legal Officer with litigation, legal research and

**86. December 4, 2011**

<http://www.youtube.com/watch?v=jMbO0qRBIIY&feature=youtu.be>

“Special Rapporteur for Refugees in Africa visits Mauritania refugees

**87. December 6, 2011**

<http://www.ihrda.org/2011/12/fonadhosjihrda-colloquium-on-transitional-justice-and-reconciliation/>

**88. December 18, 2011**

Nigeria: Judgment delivered in the Constitutional challenge to indigene-settler divide.  
December 16, 2011

Judgment was delivered today by Hon. Justice Mohammed Lawal Shuaibu of the Federal High Court in Kaduna in the case of Adamu Garba and 20 Ors v Federal Attorney General of Nigeria and 13 Ors

The judge in his judgement struck out the case relying on the following four (4) main reasons:

1. That no specific claim was made against the 1st and 2nd Respondents (The Federal Government and the Federal Character Commission respectively).
2. That the indigene/settler divide is outside the purview of Chapter 4 and Section 251 of the 1999 Constitution as well as the Fundamental Rights Enforcement (Procedure Rule) 1991.
3. That the Federal High Court Kaduna has no jurisdiction to deal with claims arising outside the limits of the territorial jurisdiction of the court.
4. That the Applicants’ main affidavit was based on the Oaths Act 1990 which was repealed.

Adamu Garba and 20 other Nigerian citizens sued the Federal Government of Nigeria and 13 state and local governments for discrimination caused by the indigene/settler divide. Claiming their right to protection from discrimination, the 21 persons urged the Federal High Court in Kaduna to enforce their constitutional rights. They sued the Federal Government, the Federal Character Commission, Plateau, Kaduna, Kano and

Katsina states, and Jos North Local Government Area (LGA), Shendam LGA, Kaduna South LGA, Giwa LGA (Kaduna), Fagge LGA (Kano), Kumbotso LGA (Kano), Nassarawa LGA (Kano) and Tarauni LGA (Kano).

The complainants challenged their arbitrary classification as “settlers” or “non-indigenes” by their respective states. This government practice denied them their fundamental human rights under Nigeria’s 1999 Constitution and African and international human rights law. They are asking the Federal High Court to order the full recognition and respect of their rights, and those of all Nigerians suffering similar discrimination.

#### Background

The Federal Character Principle is enshrined in s. 147 (3) of the Constitution of the Federal Republic of Nigeria, 1999. However well-intentioned, in a multi-ethnic setting like Nigeria, the Principle has been unnecessarily expanded and distorted, allowing for politicisation of the question of who is considered “indigene” of a State or Local Government Area in Nigeria. Further, classifications of “indigeneity” and issuance of “indigene certificates” have resulted in preferential and sometimes exclusive access to rights and services ordinarily due to all citizens. As a result, Nigerians who are classified as “non-indigenes” or “settlers” are marginalised and excluded in ways that have nothing to do with the aims of preservation of cultural identity and autonomy envisioned by the Federal Character Principle.

The discriminatory treatment meted out to “non-indigenes” has deep historical and socio-political underpinnings, and is probably the most sensitive subject in Nigeria’s public life. It has contributed to a cycle of violence in certain states and is of earnest national security concern for Nigeria. As such, if not resolved, it can threaten the very social fabric of Nigeria.

“Non-indigenes” are discriminated against and are denied rights, opportunities and benefits, including:

1. educational opportunities and benefits;
2. employment opportunities and benefits;
3. access to public and military service;
4. property ownership and allocation;
5. government infrastructure and services such as roads, water and schools; and
6. political participation and opportunities.

The discriminatory treatment faced by “non-indigenes” defeats the idea of integration which should help in moulding society and strengthening the “One Nigeria” belief.

The Applicants are not satisfied with the reasoning and issues relied upon by the Judge in striking out the suit. They have therefore requested their legal team to study the Judgment and advice on the options available in the circumstances.

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M. Lawal Ishaq Esq.  
Gaye Sowe Esq.  
Akika, Abashi, Okoye & Mann  
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**89. January 30, 2012**

**INSTITUTE FOR HUMAN RIGHTS AND DEVELOPMENT IN AFRICA -  
VACANCY – EXECUTIVE DIRECTOR**

The Institute for Human Rights and Development in Africa (IHRDA) is seeking to recruit an Executive Director with vision and strategic thinking, experience in working with the African human rights system and management strengths.

**90. February 9, 2012**

Funding: Call for applications to the Legal Defence Fund – Feb 2012 | IHRDA  
[www.ihrda.org](http://www.ihrda.org)

The Institute for Human Rights and Development in Africa (IHRDA), with the financial support of the Open Society Initiative for West Africa (OSIWA), is operating a fund for individuals/groups litigating cases before the African Commission for Human and Peoples' Rights.

**91. March 2, 2012**

4 new African Commission decisions available at African Human Rights Caselaw Analyser (CLA). More coming soon!

**92. March 2, 2012**

Final Communiqué of the 11th Extra-Ordinary Session of the African Commission on Human and Peoples Rights Feb 21-29 2012

**93. March 2, 2012**

African Commission to monitor the trial of accused persons who are transferred from the International Criminal Tribunal for Rwanda to national courts in Rwanda.

[http://achpr.org/english/communiques/11eos\\_final%20Communique.pdf](http://achpr.org/english/communiques/11eos_final%20Communique.pdf)

**94. March 2, 2012**

Commission also considered and adopted the Resolution on the Mandate, as well as the Terms of Reference of the Working Group on Communications, which was established during its 50th Ordinary Session.

[http://achpr.org/english/communiques/11eos\\_final%20Communique.pdf](http://achpr.org/english/communiques/11eos_final%20Communique.pdf)

**95. March 2, 2012**

The Commission examined fourteen (14) Communications:

- a. Three (3) Communications on Seizure, and decided to be seized with two (2);
- b. Two (2) Communications on Provisional Measures, none of which was granted;
- c. One (1) Communication concerning implementation of the Commission's recommendations and agreed on ways of following up on the implementation;
- 4
- d. Six (6) Communications on Admissibility, and declared one (1) admissible and five (5) inadmissible;
- e. One (1) Communication on the Merits;
- f. One (1) communication for withdrawal

Several Communications were considered for referral to the African Court on Human and Peoples' Rights, and the African Commission decided to refer one Communication to the African Court.

[http://achpr.org/english/communiques/11eos\\_final%20Communique.pdf](http://achpr.org/english/communiques/11eos_final%20Communique.pdf)

**96. March 12, 2012**

The African Children's Charter Project (ACCP) is a four-year Project (2011 to 2014) aimed at facilitating the promotion and implementation of the African Charter on the Rights and Welfare of the Child (ACRWC or the Charter). Seeking a consultant.  
Deadline Mar 26 2012

**97. March 21, 2012**

IHRDA Welcomes New Board Chair, Members | IHRDA  
[www.ihrda.org](http://www.ihrda.org)

We are pleased to announce that IHRDA has a new Chair of the Board of Directors, Ms. Janet Ramatoulie Sallah-Njie.

**98. April 5, 2012**

<http://www.ihrda.org/2012/04/follow-ihrda-social-media-updates-on-51st-african-commission-ordinary-session/>

Follow IHRDA social media updates on 51st African Commission Ordinary Session | IHRDA  
[www.ihrda.org](http://www.ihrda.org)

IHRDA will be covering the 51st Ordinary Session of the African Commission on Human and Peoples' Rights on social media. Through our Facebook, Twitter and LinkedIn accounts, we will keep you updated on statements, examination of state reports

**99. April 5, 2012**

IHRDA will be covering the 51st Ordinary Session of the African Commission on Human and Peoples' Rights on social media. Through our Facebook, Twitter and LinkedIn accounts, we will keep you updated on statements, examination of state reports from Angola and Sudan, book launches, thematic discussions and other information on the events in Banjul surrounding the NGO Forum (Apr 14-16) and the 51st Ordinary Session of the African Commission (Apr 18-May 2 2012).

Follow us on Twitter @IHRDAfrica #ACHPR51 #Banjul #humanrights

Connect with us on LinkedIn – <http://www.linkedin.com/in/ihrda>

**100. April 5, 2012**

<http://www.ihrda.org/2012/04/new-book-legal-aid-in-the-gambia/>  
New book – Legal Aid in The Gambia | IHRDA  
[www.ihrda.org](http://www.ihrda.org)

Access to justice is a fundamental human right. Legal aid is all about providing legal assistance to indigent people to protect their fundamental rights and obtain a fair hearing.

**101. April 5, 2012**

<http://www.ihrda.org/2012/04/acerwc-decision-on-nationality-of-nubian-children-summary/>  
ACERWC decision on nationality of Nubian children – summary | IHRDA  
[www.ihrda.org](http://www.ihrda.org)

In its first ever decision, 002/Com/002/09 IHRDA and OSJI (on behalf of children of Nubian descent in Kenya) v Kenya, the African Committee of Experts on the Rights and Welfare of the Child has found Kenya to have violated the rights of Nubian children to non-discrimination, nationality and protecti...

**102. April 5, 2012**

<http://www.ihrda.org/2012/04/2012-ihrda-brochure/> Want to know who we are, what we do, check out our new 8 page brochure

**103. April 12, 2012**

<http://www.ihrda.org/2012/04/forum-for-victims-of-systemic-crimes-and-justice-processes-in-africa-13-14-apr-2012/>

IHRDA, the Cairo Institute for Human Rights Studies (CIHRS), the Independent Medical Legal Unit (IMLU), REDRESS and the Victims Rights Working Group (VRWG) will hold a regional Forum on Victims' of Systemic Crimes and Justice Processes in Africa on the margins of the NGO Forum for the 51st Ordinary Session of the African Commission on Human and Peoples' Rights.

The one and a half day meeting (13-14 April 2012) will bring together 15-20 experts/representatives of civil society from African countries to discuss and exchange on experiences of victims of systemic crimes in accessing justice at the national, sub-regional and international levels.

The meeting will also provide a platform for lawyers, activists and human rights defenders to discuss strategies for the way forward as they interact with a view to establishing a network of national and international civil society groups and experts to ensure that victims' rights are effectively protected at the national, regional and international levels.

**104. April 14, 2012**

Follow our live tweet feed on events at NGO Forum for Participation in 51st African Commission Session @IHRDAfrica

**105. April 15, 2012**

The African Court Coalition will be holding a 2-hour panel discussion on developments at the African Court at the Kairaba Hotel during lunchtime on Friday 20 April 2012. African Commission session participants are welcome to attend. Lunch will be served.

**106. April 15, 2012**

NGOs litigating cases before the African Commission on Human and Peoples' Rights (ACmHPR) will be holding a 1 hour discussion on strengthening the protective mandate of the ACmHPR. Discussions will focus on challenges of litigation before ACmHPR and the role and ToRs of the Commission's new Working Group on Communications. Reine Alapini-Gansou and other members of the African Commission will be in brief attendance to inform NGOs on the WGC and hear from them their challenges. 11.15am to 12.15pm at the Kairaba Hotel on Monday 16 April 2012.

**107. April 15, 2012**

Follow our live tweet feed on events at NGO Forum for Participation in 51st African Commission Session @IHRDAfrica #ACHPR51 #CADHP51

**108. April 18, 2012**

Follow our live tweet feed on events at Opening ceremony of 51st African Commission on Human and Peoples' Rights Session @IHRDAfrica #ACHPR51 #CADHP51 #humanrights #Banjul

**109. April 19, 2012**

Follow our live tweet feed on events at Opening ceremony of 51st African Commission on Human and Peoples' Rights Session @IHRDAfrica #ACHPR51 #CADHP51 #humanrights #Banjul

**110. April 20, 2012**

Follow our live tweet feed on events at Opening ceremony of 51st African Commission on Human and Peoples' Rights Session @IHRDAfrica #ACHPR51 #CADHP51 #humanrights #Banjul Friday Apr 20 2012

**111. April 20, 2012**

Follow proceedings from the 51st Ordinary Session of LIVESTREAM. |Follow us on twitter @IHRDAfrica

**112. April 20, 2012**

Watch our live tweet feed and LIVESTREAM of Open Discussion on African Court on Human and Peoples' Rights Session @IHRDAfrica #ACHPR51 #CADHP51 #humanrights #Banjul Friday Apr 20 2012

**113. April 20, 2012**

Follow our LIVESTREAM and tweet feed on #Angola #humanrights record tomorrow Apr 21 2012 0900GMT #ACHPR51 #Banjul

**114. April 21, 2012**

Angola presenting its human rights report to the African Commission on Human and Peoples' Rights (ACmHPR). Banjul 21 April 2012

**115. April 23, 2012**

our official handle @IHRDAfrica is over quota. follow us on @hsipalla @Moriartee @elizabethamaaze @josysomda #ACHPR51 #humanrights

**116. April 23, 2012**

our official handle @IHRDAfrica is now back on line. follow us #ACHPR51 #humanrights

**117. April 24, 2012**

<http://twitcam.livestream.com/9offz> - Livestream of 51st Ordinary Session of African Commission on Human & Peoples' Rights, Day 7 Banjul, The Gambia

**118. April 24, 2012**

Oh dear! Once again, our official handle @IHRDAfrica is over quota for today. follow us on @hsipalla @Moriartee @elizabethamaaze @josysomda #ACHPR51 #humanrights

**119. May 2, 2012**

@IHRDAfrica end of 51st Ordinary Session of #AfricanCommission on Human & Peoples' Rights today Wednesday 2/5/2012 in #Banjul, #Gambia #ACHPR51

**120. May 2, 2012**

@IHRDAfrica #AfricanCommission adopted Concluding Observations on the Periodic Report of #Togo #ACHPR51 #HumanRights

**121. May 2, 2012**

@IHRDAfrica #AfricanCommission considered 77 Communications: it was seized with 4 & considered 2 on the Merits. #ACHPR51

**122. May 2, 2012**

@IHRDAfrica 71 #Communications deferred to #ACHPR52OrdinarySession for reasons like time constraints & no response from one/both parties.

**123. May 2, 2012**

@IHRDAfrica #AfricanCommission conducted oral hearings on 4 Communications #ACHPR51

**124. May 3, 2012**

Been a year since our co-founder #AlphaFall passed on. We remember him fondly & his dreams for #Africa where #humanrights are enjoyed by all

**125. May 28, 2012**

#IHRDA Statement on #ExtractiveIndustries and #HumanRights in #Africa  
<http://t.co/SnnR1EPK>

51st Ordinary Session of the African Commission on Human and Peoples' Rights, 18 April- 02 May 2012, Banjul, The Gambia

## IHRDA Statement on Extractive Industries and Human Rights in Africa

The Institute for Human Rights and Development in Africa (IHRDA) wishes to congratulate the African Commission on Human and Peoples' Rights (the African Commission) for the establishment of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa. We encourage the Working Group in its work to ensure greater protection of the right of all peoples to freely dispose of their wealth and natural resources and to a general satisfactory environment favorable to their development, as provided for in articles 21 and 24 of the African Charter on Human and Peoples' Rights.

The list of persistent human rights violations committed by those involved in the extractive industries sector, including by non-state actors impact negatively on communities in resource-rich areas. These serious human rights violations include forced relocation and eviction of local communities, loss of their livelihood, destruction of the ecosystem and pollution to name but a few. Resources, namely oil, gas and minerals, have also brought political instability, revenue management challenges, corruption and increased social tension.

In most cases, impunity, weak judicial systems and gaps existing in the national legislations are the main causes of the persistence of these human rights violations. For example, the DRC government adopted Law No 007/2002 establishing the Congolese Mining Code in July 2002. The law asserted the primacy of mining permits over individual land titles. This has opened the door to several cases of forced relocations and evictions in the country with little safeguards and support for local communities. In most cases, minimal or no steps are taken to protect the right to education, health, housing, access to water or to alternative means of subsistence livelihood.

On the basis of the forgoing, IHRDA would like to urge the African Commission through its Working Group to:

Pay particular attention to the persistent human rights violations committed during forced relocations and evictions of local communities in the context of extractive industries, which has a serious impact on other fundamental rights;  
Provide adequate guidance to mineral-rich countries to improve their legislative and regulatory frameworks, build institutional capacity and strengthen governance in the extractive industries field.

### **126. June 7, 2012**

statement by #Chairperson of #ACHPRWorkingGroup on #IndigenousPeoples at #10thSessionoftheUNPermanentForumonIndigenous...<http://t.co/0Q2Vh4UF>

### **127. June 13, 2012**

A step forward! 12 June 2012, #DRC has a #NationalPlan (#PNLTE) against the #worstformsofchildlabour

**128. June 18, 2012**

#DayoftheAfricanChild (#DAC) DAC 2012: #childrenwithdisabilities in #Africa; causes-consequences-#rights, #ACERWC prov...<http://t.co/gE8PeEoB>

**129. June 21, 2012**

#AfricanCommission #SpecialRapporteur on #HumanRightsDefenders in #Africa strongly condemns detention of 4 #ICC staff ...<http://t.co/KMvB0Sxu>

**130. June 26, 2012**

#InternationalDayinSupportofVictimsofTorture: Joint Statement by #ACHPR, #InterAmerican & #UN Mechanisms <http://t.co/xusp7UP6>

**131. July 3, 2012**

#Ezulwini conference in #Swaziland calls for inclusive #education in #SADC <http://t.co/fVwd9mW6>

**132. July 26, 2012**

#ACHPRSpecialRapporteurs for #WomensRights & #HRDefenders condemn violation of #righttodignity & #physicalintegrity of #women in #Sudan

**133. July 30, 2012**

<http://www.ihrda.org/2012/04/violation-of-right-to-security-massive-explosion-at-mpila/>

Association pour les Droits de l'Homme et l'Univers Carcéral (ADHUC)

51st Ordinary Session of the African Commission on Human and Peoples' Rights, 12 April -02 May 2012

Explosion of the Mpila Munitions Depot in Brazzaville, Republic of Congo

Statement of Association pour les droits de L'homme et L'univers carcéral (ADHUC) & Institute for Human Rights and Development in Africa (IHRDA) on Violation of the Right to Security

l'Association pour les droits de l'homme et l'univers carcéral (ADHUC) and Institute for Human Rights and Development in Africa (IHRDA), are deeply troubled by the human casualty caused by the explosion of the Mpila munitions depot in Brazzaville, Republic

of Congo on 04 March 2012. Indeed, this tragedy is not the first of its kind in the Republic of Congo,[1] let alone on the African continent.[2]

To better understand the context of the tragic incident of 04 March 2012, it is important to go back to the colonial era when, for strategic reasons, the city had set up barracks close to urban centres. After the Republic of Congo gained independence in 1960 and with the ever growing population, the barracks were left in the centre of major cities, representing a permanent danger to the inhabitants.[3] Although the Congolese government took the decision some years ago to transfer munitions depots out of urban centres, this decision has not been translated into reality.[4] This remained despite the fact that explosions of munitions depots in Pointe Noire and at the Supplies Office of Brazzaville in 1994 and 1997 respectively, caused human and material damage.

The casualty of the Mpila munitions depot explosion and of which detonations shook Brazzaville, the Congolese capital extending to several kilometers around, was very high; about 900 dead, more than 1, 000 injured and a significant number of people without shelter. The explosion which occurred in the morning of 04 March 2012 at about 8:00 a.m. and of which detonations continued to occur even several days after the incident, has plunged the population into a state of unprecedented psychosis and emotional shock.

This situation constitutes a clear violation of Article 23 of the African Charter on Human and Peoples' Rights which enshrines the right of people to security. Although aware of the danger posed by the presence of the Mpila munitions depot in the centre of urban areas, the government did nothing to prevent the occurrence of this tragedy. As the African Commission so aptly stated itself, the standards for human rights do not only contain the limits to State power but they also impose a positive obligation on States to prevent violations of human rights.[5]

From the foregoing, ADHUC and IHRDA call on the African Commission:

- To urge the government of the Republic of the Congo to take measures to pay appropriate compensation and the necessary attention to all victims of the 04 March 2012 explosion or to their families;
- To urge the Congolese government to take necessary measures to avoid collateral damage from the March 04 explosion and to transfer the munitions depots still found in urban centres outside thereof;
- To urge the Congolese government to accelerate the ratification process of the Kampala Convention on Internally Displaced Persons in Africa;
- Finally, to consider, when examining periodic reports or field missions, the question of and the risk of munitions depots found in urban centres.

#### **134. July 30, 2012**

IHRDA Statement on the Protective Mandate of the African Commission

<http://t.co/47kABwkh>

#### **135. July 30, 2012**

Sheila, Angela, bid farewell to IHRDA, welcome in new management  
After five (5) and six (6) great years of dedicated and progressive leadership, IHRDA announces that Sheila Keetharuth and Angela Naggaga are leaving the organisation. Sheila was IHRDA's Executive Director from November 2006 to June 2012 and Angela, the Deputy Director from January 2006 to July 2012.

**136. July 30, 2012**

Our official site is experiencing technical difficulties which block updates. We are therefore posting on social media as we resolve problem

**137. August 13, 2012**

#ArchbishopDesmondTutu joins campaign to save #SADCTribunal as southern #Africa leaders prepare to decide its fate at ...<http://t.co/blrad0Wc>

**138. August 21, 2012**

Final #Communiqué of 32nd Summit of #SADC Heads of State & gov't #Maputo, #Mozambique 17-18 August 2012 <http://t.co/v7Iv7Pnb>

**139. August 23, 2012**

Call for Applications to the #SpecialFund of the #OptionalProtocol to the #UNConvention against #Torture 2013 <http://t.co/Q4BJquw9>

**140. September 4, 2012**

#ACHPR reacts to #execution of 9 on #deathrow in #TheGambia <http://t.co/YVbdrKok>

**141. September 4, 2012**

IHRDA and Eye of the Child Workshop in Malawi <http://t.co/y6WHgTek>

**142. September 5, 2012**

2nd day of #IHRDA & #EyeoftheChild Workshop in #Malawi today

**143. September 5, 2012**

#IHRDAWorkshop in #Malawi - Today's programme: The #SADCTribunal & #HumanRights Enforcement: prospects

**144. September 7, 2012**

#Execution of 9 persons on #deathrow in #TheGambia, #IHRDA expresses its concerns

**145. September 10, 2012**

9-22 October 2012 #52ndACHPR ordinary session - see #invitation for #NGOs  
<http://t.co/EnZNR313>

**146. September 26, 2012**

1st official visit of #UN & #ACHPR #SpecialRapporteurs on #HumanRights Defenders in #Tunisia from 27 Sept - 05/10/2012 since #ArabSpring ½

**147. October 6, 2012**

17:00 Panel Discussion: Prospects & Challenges of #CSO participation in struggle for #Democracy, #HumanRights & RuleofLaw in Africa 25yrs on

**148. October 6, 2012**

Civil society must intervene to prevent polarization in prolonged political crisis #CSO

**149. October 7, 2012**

Centre for #HumanRights #SouthAfrica: #children are not considered in #migration policies & #legislature

**150. October 7, 2012**

Consortium for #Refugees & Migrants in #SouthAfrica requests ACHPR Special Rapporteur to visit South Africa because migrants are stigmatized

**151. October 8, 2012**

#PANHRD acknowledges presence of delegations from #Seychelles, #Mauritius, #SaoTomé & #Principé in NGO Forum #ACHPR52

**152. October 9, 2012**

Today, Tuesday 09/10/2012 Opening Ceremony of 52nd Ordinary Session of the African Commission on Human & Peoples' Rights at Fondation Felix Houphouët Boigny, Yamoussoukro, Ivory Coast.

**153. October 9, 2012**

President of the Republic of Côte d'Ivoire, Alassane Ouattara, will be present at the Opening Ceremony of the 52nd Ordinary Session of the African Commission on Human & Peoples' Rights

**154. October 9, 2012**

Item 4: "Review of 25 yrs of the work of the African Commission in the protection & promotion of human & peoples' rights in Africa" #ACHPR52

**155. October 9, 2012**

#Algeria State Delegate says gov't has always responded to all communications from the African Commission #ACHPR52

**156. October 9, 2012**

Dr Janneh was arrested for printing T-shirts demanding #freedom & end dictatorship in #Gambia, #detention conditions are deplorable #ACHPR52

**157. October 10, 2012**

Chidi Odinkalu: there is an overlap between #AfCHPR & #ACHPR

**158. October 11, 2012**

6th application for Observer Status before the ACHPR is from African Centre for Treatment & Rehabilitation of #Torture Victims #ACHPR52

**159. October 11, 2012**

Observer Status before the African Commission is granted to #Feminine International #ACHPR52

**160. October 11, 2012**

End of consideration of applications for Observer Status before the African Commission, coffee break #ACHPR52

**161. October 11, 2012**

Ibrahima Kane urges ACHPR Commissioners to organize sensitization on the #AfricanCharter prior to session in future host countries #ACHPR52

**162. October 11, 2012**

End of presentation of #IvoryCoast periodicreport, questions & recommendations of the African Commission #ACHPR52

**163. October 12, 2012**

Mr Coulibaly: there are few female inmates in #IvoryCoast #prisons & none of them is pregnant or breastfeeding #ACHPR52

**164. October 12, 2012**

Mr Coulibaly: #AfricanCharter has been included in curricula of #prison wardens training in #IvoryCoast to respect prisoners' #humanrights

**165. October 12, 2012**

Mr Coulibaly: there are specialized institutions for #disabled persons in #IvoryCoast #ACHPR52

**166. October 12, 2012**

Mr Coulibaly: #adultery is a crime in #IvoryCoast #ACHPR52

**167. October 13, 2012**

Commissioner Maiga: Mechanism is expediting #MaputoProtocol ratification at continental level & ensure its implementation in #women's rights

**168. October 13, 2012**

Commissioner Kayitesi: despite efforts to abolish the #deathpenalty, some countries still execute #deathrow prisoners e.g. #Gambia #ACHPR52

**169. October 13, 2012**

#AmnestyInternational urges ACHPR to go on mission in #Gambia to investigate executions & use of the #deathpenalty #ACHPR52 @AmnestyOnline

**170. October 14, 2012**

#OSIEA - Ibrahima Kane: It is an unpleasant precedence for a State to refuse to implement the African Commission's decision #ACHPR52

**171. October 15, 2012**

Day 7 - continuation of Item 9 on agenda: Presentation of Activity Reports of Special Mechanisms of the African Commission #ACHPR52

**172. October 15, 2012**

Presentation of Activity Report: Chairperson of the Committee on the Protection of the Rights of People living with #HIV (#PLHIV) #ACHPR52

**173. October 23, 2012**

The African Commission on Human & Peoples' Rights now has a Twitter account! Follow @ACHPR #HumanRights #ACHPR52

**174. October 24, 2012**

#IHRDA statement in commemoration of African #HumanRights Day  
<http://t.co/PRXXX5ZE>

**175. October 25, 2012**

ACHPR Launches Facebook Page

The African Commission on Human and Peoples' Rights (ACHPR) has launched its Facebook page. This page is meant to ensure an even dissemination of information about all ACHPR activities in the implementation of its mandate, which is to protect and promote human and peoples' rights as well as ensure States Parties' compliance with the African Charter on Human and Peoples' Rights. Visit the ACHPR's Facebook page on the following link: <http://www.facebook.com/pages/African-Commission-on-Human-and-Peoples-Rights/409822709083531>.

**176. October 25, 2012**

ACHPR Launches Facebook Page

The African Commission on Human and Peoples' Rights (ACHPR) has launched its Facebook page. This page is meant to ensure an even dissemination of information about all ACHPR activities in the implementation of its mandate, which is to protect and promote human and peoples' rights as well as ensure States Parties' compliance with the African Charter on Human and Peoples' Rights. Visit the ACHPR's Facebook page on the following link:

<http://www.facebook.com/pages/African-Commission-on-Human-and-Peoples-Rights/409822709083531>

**177. November 8, 2012**

The 7th #CSO forum on the African Charter on the Rights and Welfare of the #Child will be held in #Nairobi, #Kenya 9 – 11 November 2012.

**178. November 16, 2012**

#ECOWAS Community Court of #Justice takes landmark decision on pre-trial #detention in #SikiruAlade v. #Nigeria case <http://t.co/FW6B58Kc>

**179. November 27, 2012**

#IHRDA Statement on International Day for the Elimination of #Violence against #Women <http://t.co/Iant868d>

**180. December 8, 2012**

2nd Day of 4th World #HumanRights #MootCourt Competition, #Pretoria, #SouthAfrica

**181. December 11, 2012**

#NormanManley Law School, #Jamaica wins World #HumanRights #MootCourt for 3rd time in a row - University of #Pretoria, #SouthAfrica

**Total: 181**