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**40th ANNIVERSARY CELEBRATION OF THE AFRICAN CHARTER ON HUMAN
AND PEOPLES' RIGHTS**

VIRTUAL

**The Influence of the African Charter on Human and Peoples' Rights on the African
Union Legal Regime**

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Excellences,

Ladies and gentlemen,

At the outset, let me thank the African Human Rights Commission for inviting me to celebrate this memorable day.

Some might think that we are not doing enough for human rights, however, I would say that we can't underestimate the power of words that can influence and change the world. Words here come into place to ensure that our governments respect our humanity and dignity.

Between our two founding documents, the African Charter on human and people's rights was adopted. At the AU, we went into strides from OAU Charter that only mentioned in its preamble the respect for human rights and the universal declaration on human rights to ensuring the protection of human rights in the AU Constitutive Act.

The major focus shifted from independence at OAU to development and integration at AU. This shift included the respect and protection of human rights in Africa. While the African Charter was adopted in the early 80s, violations and internal strifes affected our humanity and its presence combined with the practice of the Commission, exposed that there is a need for strengthening the role of the continental organisation in the protection of human rights. Hence, the AU Constitutive Act principles included the 'respect for democratic principles, human rights, the rule of law and good governance'.¹

Moreover, Article 4(h) and (p) led to a shift from the absolute non intervention in the internal affairs of states at OAU to the right to intervene in a member state when gross, widespread and systematic human rights violations are committed, be it war crimes, genocide or crimes against humanity.

¹ See Article 4 (m) of the Constitutive Act of the African Union.

This is where the power of words can change the world. The non respect of the good governance principles, democracy and the rights of people to express themselves led to another sanction which is the possible suspension of a state where unconstitutional change of government takes place. This leads to real change by simply implementing the laws of the African Union.

Hence from the outset, it can be observed that the presence of the African Charter on Human and People's Rights had an influence on the shift in our founding legal documents between AU and its predecessor and by virtue of this shift, our world is changing.

Speaking of this shift, we can not miss noticing that one of the objectives of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union mentioned in Article 3 (f) is to promote and encourage democratic practices, good governance and the rule of law, protect human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law, as part of the efforts for preventing conflicts. Again another influence that brings in the human rights aspect as stated in the African Charter on Human Rights.

In addition, Reaffirming the principles enshrined in the African Charter, member states adopted several other legal documents to supplement it in building the legal framework of the Organization, these include:

- The Protocol to the African Charter on Human and Peoples' Rights on the establishment of the **African Court** on Human and Peoples' Rights (adopted in 1998).
- The second is the Additional Protocol to the African Charter on Human and Peoples' Rights on the **Rights of Women** in Africa (adopted in 2003);
- Third is the Protocol to the African Charter on Human and Peoples' Rights on the **Rights of Older Persons in Africa** (adopted in 2016); and

- Fourth is the Protocol to the African Charter on Human and Peoples' Rights on the **Rights of People with Disability** (adopted in 2018).

The aforementioned Protocols cover a broad spectrum of human rights including civil and political rights; economic, social and cultural rights including the right to development.

This is a commendable and great achievement for the human rights system and jurisprudence in Africa. It influences the holistic focus of human rights, even at the domestic level.

Moreover, AU wanted to expand the scope of its instruments to complement the Human rights Charter and tackling political dimensions that indeed affect human rights, I will mention just a few :

- The 2003 African Union Convention on Preventing and Combating **Corruption** .
- The 2007 African Charter on **Democracy, Elections and Governance** (ACDEG).
- The 2009 African Union Convention for the Protection and Assistance of **Internally Displaced Persons** in Africa (the Kampala Convention) .
- the 2018 Protocol to the Treaty Establishing the African Economic Community Relating to **Free Movement of Persons**, Right of Residence and Right of Establishment.

Before I forget, I would also like to mention a very important legal instrument which was inspired by the African Charter on Human and Peoples Rights. That is the Statute on the Establishment of **Legal Aid Fund** for the African Union Human Rights Organs which was adopted on 30 January 2016.

Although the Legal Aid Fund is yet to be operationalized, it is a very important mechanism in the African Union legal system which may inspire emulation at the national level.

Furthermore, it is important to remember that based on the principles of the African human rights charter, numerous decisions were adopted by the AU polciy organs. On top of these is the adoption of **Agenda 2063** in January 2015 whereby Aspiration 3 of the

AU Strategic Framework seeks to achieve an Africa of good governance, democracy, respect for human rights, justice and the rule of law .

We therefore see the human rights principles and values from the African Charter and other AU human rights legal instruments influencing the strategic framework of the AU, alongside development and economic considerations.

Let's also remember that the ongoing **reform process** of the Union has the protection of Human Rights as a key priority by the reform of the African Peer Review Mechanism (**APRM) and AUDA-NEPAD**. One is to deal with Democracy and Political Governance, through the promotion and protection of human rights, while the other fosters the economic development in the continent.

These efforts are complemented by the continued engagement of Member States in law reform processes to ensure conformity of their domestic laws and policies with the provisions of the African Charter and other African legal instrument on Human Rights.

Ladies and gentlemen,

Despite these florid rules, they are not free from challenges in implementation. Challenges include: state sovereignty; weak enforcement and accountability measures, limited resources for effective implementation of the human rights standards exacerbated by the pandemic, conflicts, corruption as well as competing priorities at the domestic level, just to mention a few.

Let me conclude by saying that the mentioned challenges should never discourage us. We should continue working towards the right path. History taught us that Aspiring for freedom and human dignity don't come for free. Africa has paid the price for its independence and Africans will keep paying the price to overcome the challenges to ensure the respect of their human rights. The bill is high but it's worth it and nowhere is better than the 40th Anniversary of the African Charter of Human and People's Rights celebration to express our gratitude to our founding fathers that fought for our freedoms

while sending a message to the world that we have gone a long way and we will continue fighting to change our world to make it a better one.

I Thank you.