



DIRECTORATE OF INFORMATION & COMMUNICATION

Press Release No: /2021

Date: 5 July 2021

Venue: Addis Ababa, Ethiopia.

PRESS RELEASE.

The realities of 40 years of implementation of the African Charter on Human and Peoples' Rights.

The [African Charter on Human and Peoples' Rights](#) represents an exercise of African agency in defining the essence and meaning of the rights that give full expression to Africa's long struggle and aspirations for dignity, freedom, equality and justice. The African Charter main target are the individual states and addresses itself to both colonial rule and the oppression of people in the hands of independent governments. The African Charter is one of the human rights instrument that is widely cited not only in large number of continental legal and policy documents, but also in national and sub-regional instruments. Along with other human rights instruments it inspired, the African Charter continues to serve as source of inspiration in the elaboration of national bills of rights and various laws giving effect to specific human rights. It is equally iconic in its contribution to the corpus of international human rights.

The African Commission on Human and Peoples' Rights on the 28th June 2021, led the celebrations of the 40th anniversary of the African Charter on Human and Peoples' Rights (also commonly known as the Banjul Charter) adopted in Nairobi, Kenya, on 27 June 1981, by the Assembly of Heads of State of the then Organization of African Unity (OAU). The 40th anniversary was commemorated under the theme "Realities of 40 years of implementation of the African Charter on Human and Peoples' Rights and the journey towards the Africa We Want." The African Charter has been ratified by fifty-four (54) of the fifty-five (55) Member States of the African Union making it one of the most widely ratified instruments adopted by the African Union. This almost universal ratification of the Charter, signifies a near universal acceptance by African States of the standards contained therein. In its 40 years of existence, the system the African Charter has established, has contributed greatly to the recognition of the legitimacy of the works of civil society organizations, human rights defenders, political opposition and the media.

The implementation of the African Charter has been key in the intimately intertwined work of the three key human rights supervisory institutions within the African Human

Rights System, which are the African **Commission** on Human and Peoples' Rights; African **Court** on Human and Peoples' Rights; and the **Committee** of Experts on the Rights and Welfare of the Child. The mandate of the Court and the Commission are complementary. For instance, under article 6 of its Protocol, the Court can, when deciding on the admissibility of a case, request the opinion of the Commission. Furthermore, in respect of advisory opinions, the Court is enjoined not to consider any request for advisory opinion where the subject matter relates to a case being considered by the Commission. The Court and the Commission, therefore, are front line institutions in so far as the interpretation and application of the Charter are concerned.

The African Charter is the first legal instrument to lift the veil of sovereignty that excluded any scrutiny of how independent African states treated people under their jurisdiction. While the African Charter was adopted in the early 80s, violations and internal strife affected the humanity of African citizenry thereby underscoring the need for strengthening the role of the continental organisation in the protection of human rights. This is best illustrated when the Chairperson of the OAU in 1979, Liberia's President William Tolbert said in his opening address to the OAU summit that "the principle of non-interference had become 'an excuse for our silence over inhuman actions committed by Africans against Africans...The provisions concerning human rights must be made explicit.'" The African Charter then served as the legal predecessor to, and laid the foundation for the AU Constitutive Act principles that included the respect for democratic principles, human rights, the rule of law and good governance. Articles 4(h) and (p) led to a shift from the absolute non-intervention in the internal affairs of states to the right to by the Organization 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. By implementing the various polities of the African Union, sanctions and suspension of a state where unconstitutional change of government takes place have also been applied.

Reaffirming the principles enshrined in the African Charter, member states have over the years adopted several other legal documents to supplement it in building the legal framework of the Organization. The Protocols cover a broad spectrum of human rights including civil and political rights; economic, social and cultural rights including the right to development, they include;

1. 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).
2. The Protocol to the African Charter on Human and Peoples' Rights on the [Rights of Women](#) in Africa (adopted in 2003);
3. The Protocol to the African Charter on Human and Peoples' Rights on the [Rights of Older Persons](#) in Africa (adopted in 2016); and
4. The Protocol to the African Charter on Human and Peoples' Rights on the [Rights of People with Disability](#) (adopted in 2018).

Moreover, to expand the scope of its instruments to complement the Human rights Charter and tackling political dimensions that indeed affect human rights, the following instruments have been adopted;

1. The 2003 African Union [Convention on Preventing and Combating Corruption](#).
2. The 2007 African Charter on [Democracy, Elections and Governance](#) (ACDEG).
3. The 2009 African Union Convention for the Protection and Assistance of [Internally Displaced Persons](#) in Africa (the Kampala Convention) .
4. the 2018 Protocol to the Treaty Establishing the African Economic Community Relating to [Free Movement of Persons](#), Right of Residence and Right of Establishment.
5. The Statute on the Establishment of [Legal Aid Fund](#) for the African Union Human Rights Organs which was adopted on 30 January 2016. The Legal Aid Fund is however yet to be operationalized.

Furthermore, based on the principles of the African human rights charter, numerous decisions have also been adopted by the AU policy organs such as the adoption of [Agenda 2063](#) in January 2015, whereby Aspiration 3 seeks to achieve an Africa of good governance, democracy, respect for human rights, justice and the rule of law. 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 [African Union Development Agency-NEPAD](#) (AUDA-NEPAD). APRM deals with Democracy and Political Governance, through the promotion and protection of human rights, while AUDA-NEPAD fosters the economic development in the continent.

Despite these elaborate policies and efforts by the African Union and its Organs, the challenges on the continent around human and peoples' rights still exist. The challenges stems from the aftermath of colonial exploitation; issues of state sovereignty; weak enforcement and accountability measures, limited resources for effective implementation of the human rights standards exacerbated by conflicts, corruption, competing priorities at the domestic level, and more recently, the COVID-19 pandemic. These challenges have led to democratic governance deficit; widespread poverty and deepening inequality; pervasive gender oppression; the rising insecurity and violence; and the climate emergency; growing numbers of refugees and internally displaced persons; and the deprivation of their means of livelihood, human dignity and hope for millions of African citizenry.

Read the statements delivered on the 40th Anniversary commemoration ceremony [here](#).

For further information please contact:

Doreen Apollos, Directorate of Information and Communication | African Union Commission | E-mail: ApollosD@africa-union.org | www.au.int|Addis Ababa | Ethiopia

Directorate of Information and Communication | African Union Commission,
E-mail: DIC@african-union.org | **Website:** www.au.africa | Addis Ababa | Ethiopia
Follow Us: [Facebook](#) | [Twitter](#) | [LinkedIn](#) | [Instagram](#) | [YouTube](#)