

REVIEW ESSAYS

Human Rights in African Political Institutions: Between Rhetoric, Practice, and the Struggle for International Visibility

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Rachel Murray, *Human Rights in Africa: From the OAU to the African Union*, Cambridge, Cambridge University Press, 2004, ISBN-13: 9780521839174, ISBN-10: 0521839173, 349 pp., £50.00 (hb).

M. Mubiala, *Le Système régional Africain de Protection des Droits de l'Homme*, Brussels, Bruylant, 2005, ISBN 280272021X, 299 pp., €65.00.

I. INTRODUCTION

Throughout the nearly half-century of existence of independent African states,¹ protracted processes of internal state building were accompanied by the creation of regional and sub-regional institutions aimed at fostering regional and international co-operation. The creation of the Organization of African Unity (OAU) in 1963,² transformed into the African Union at the dawn of the twenty-first century,³ translated an early aspiration of African countries to work hand in hand in tackling not only the complex legacy of their colonialist past but also the many developmental challenges ahead. For most countries the predominant challenge was to secure the viability of the inherited states with artificially drawn boundaries that divided some peoples while bonding together others who had previously shared not much more than a common colonial past.⁴ Some fifty years after the formal acquisition of independence by most African states, efforts at satisfying the basic needs of currently

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1. With the exception of Liberia and Ethiopia – considered to be the only African countries not subject to direct colonial rule – most African countries gained their independence at the end of the 1950s and in the early 1960s. See for more detail N. L. Wallace-Bruce, 'Africa and International Law: The Emergence to Statehood', (1985) 23 *Journal of Modern African Studies* 575.
2. Charter of the Organization of African Unity, 479 UNTS 39 (1963).
3. Constitutive Act of the African Union, OAU Doc. CAB/LEG/23.15 (2001).
4. M. Mutua, 'Why Redraw the Map of Africa?: A Moral and Legal Inquiry', (1994–5) 16 *Michigan Journal of International Law* 1113. The present analysis will draw inspiration from many of the author's writings on African regionalism, thanks to the author's critical perspective and ability to maintain a distance from mainstream analyses.

fewer than one billion Africans⁵ are still to deliver results, failure to do so in the immediate aftermath of decolonization being attributable to difficulties attached to state building, post-independence poor African leadership,⁶ and a global Cold War context which had very negative repercussions on the continent.⁷

Africa carries in the popular mind an infamous reputation as a theatre of never-ending inter-ethnic rivalries and conflicts culminating in the most atrocious human rights violations. In addition to its being a fertile ground for chronic disease, extreme poverty haunts millions of people, who, in some instances, are still under the yoke of tyrannical or authoritarian regimes. This unattractive portrait of the continent nearly annihilates at first glance any rationality of endeavours aimed at identifying intrinsic African notions and conceptions of 'human rights' and their genuine application within the framework of continental bodies.⁸ The limited scope of the present inquiry does not allow for an extensive exploration of all the linkages between colonial heritage, post-independence leadership, global political context, and the relatively short history of post-independence Africa, and their part in the poor human rights record of the continent. Neither is this article an exhaustive overview of the normative and institutional development of human rights within the African regional system. Its main aim is rather to explore the conceptual, rhetorical, and practical resonance of human rights in Africa, and their political 'instrumentalization', having a basis in the works on African human rights regionalism by Murray and Mubiala.

The differing analytical perspectives on human rights in Africa adopted by the two authors will be analysed against the background of the continuing struggle of the continental political bodies for international visibility. Two considerations inspire the choice for this critical reading of the above publications. First, Africa seems to represent a paradoxical situation whereby the proliferation of formally adhered-to human rights norms is not matched with practice in terms of implementation. Second, both authors discern two 'seasons' of human rights normative and institutional developments in Africa: the liberation-oriented first wave, inscribed in pan-Africanist ideals, and a post-Cold War dynamic which paved the way for questioning human rights records in a post-colonial African context.

Accordingly, the present analysis will explore the significance of the asserted positive dynamics, keeping in mind the discrepancy between the multiplicity of standards and practice. It will argue that, while the above analytical framework is attractive, its practical significance remains limited by other factors underlying the various challenges African countries and regional organizations continue to face. The chaotic picture painted by both authors reveals that from their inception,

5. UN estimates for the overall African population by 2005 was 905,936,000. See <http://unstats.un.org/pop/dVariables/DRetrieval.aspx> (last visited 15 February 2007).

6. S. Adejumobi, 'Citizenship, Rights, and the Problem of Conflicts and Civil Wars in Africa', (2001) 23 *Human Rights Quarterly* 148.

7. For the impact of these factors on problems faced by Africa, see G. K. Kuria, 'Human Rights and Democracy in Africa', (1991) 15 *Fletcher Forum of World Affairs* 23.

8. On a relevant examination of this intricate question, see N. J. Udombana, 'Can the Leopard Change its Spots? The African Union Treaty and Human Rights', (2002) 17 *American University International Law Review* 1177.

African regional bodies – more than other human rights institutions – have always been subjected to pulls and pushes by non-continental actors on which they rely for funding. In most cases the result has taken the form of the spontaneous adoption of standards which ended up by not being implemented. It will further be argued that the authenticity and legitimacy of human rights initiatives and endeavours on the continent remain questionable if they are not an integral part of a genuine commitment, by regional actors, to adhere to principles that they are committed to putting into practice.

2. HUMAN RIGHTS IN AFRICA UNDER GLOBAL LEGAL AND GEOPOLITICAL PERSPECTIVES

2.1. On the human rights discourse in Africa

2.1.1. *The origin and nature of rights: an old debate?*

The slightly more than half a century history of the codification of international human rights enjoyed a tremendously positive resonance, at least in theory, in Africa. At the same time their codification and institutionalization in Africa met fierce criticism, mostly relating to the interaction between human rights ideals – perceived as embodying a ‘universalization’ of Western historical and philosophical experiences – and African cultural values. Against this background, it is worth briefly revisiting the debate and some interrogations over human rights as embedded in African cultural values and political landscapes, before focusing on the central thematic issues explored by Mubiala and Murray as well as their respective contribution to the debate.

Some radical analyses denouncing the overall human rights corpus as a set of imposed values grounded in Eurocentric liberal philosophy⁹ need to be nuanced in the light of the role played by human rights precepts on the continent since the independence of countries and Africa’s limited – but somehow significant – role in building global human rights architecture.¹⁰ It is a fact that the emergence of human rights cannot be disconnected from ideological debates opposing civil and political rights to economic, social, and cultural rights on the one hand or individual to group rights on the other.¹¹

However, even if the development of the human rights movement in the immediate aftermath of the Second World War took place at a time when almost the entire African continent was still under colonial rule, the continent subsequently

9. For some literature on this subject see M. Mutua, ‘The Ideology of Human Rights’, (1995–6) 36 *Virginia Journal of International Law* 589; O. C. Okafor, ‘Newness, Imperialism, and International Legal Reform in Our Time: A TWAAIL Perspective’, (2005) 43 *Osgoode Hall Law Journal* 171.

10. On the role played by human rights in early years surrounding the independence of African states see Murray, 1–22; for the role played by the continent in the formulation of the international human rights corpus see, among many others, R. Murray and S. Wheatley, ‘Groups and the African Charter on Human and Peoples’ Rights’, (2003) 25 *Human Rights Quarterly* 213; M. Mutua, ‘The Banjul Charter and the African Cultural Fingerprint: An Evaluation of the Language of Duties’, (1994–5) 35 *Virginia Journal of International Law* 339.

11. On early exploration of the relevant debates see K. Vasak and P. Alston (eds.), *The International Dimensions of Human Rights* (1982), vols. 1 and 2; J. Berting et al. (eds.), *Human Rights in a Pluralist World: Individuals and Collectivities* (1990).

played both direct and indirect roles in shaping the global human rights debate, despite its limited political influence and weight in the post-independence world order.¹² Furthermore, it has been argued that if the form, content, and institutional framework of 'human rights' notions in pre-colonial African societies might be in sharp contrast to their current manifestation, they share a preoccupation, namely safeguarding human dignity.¹³ Formal adherence to human rights ideals by African countries is illustrated by the relatively high level of ratification of major human rights instruments, both universal and regional.¹⁴ But, more specifically, various aspects of African regionalism, as thoroughly analysed by both authors, account precisely for the African imprint not only in shaping a human rights framework mindful of regional philosophical and cultural values, but also in somehow influencing the global human rights debate.

From the outset, Africa was instrumental in resisting the artificially constructed division of human rights into civil and political versus economic, social, and cultural rights by adhering to the principle of the indivisibility and interdependence of human rights. Furthermore, the continent championed the unpopular economic, social, and cultural rights as well as collective rights against dominant liberal paradigms premised on the pre-eminence of 'individual-centric' civil and political rights (Murray, pp. 245–63; Mubiala, pp. 30–57).¹⁵ Despite being somehow outdated, this classical debate is far from loosening its hold, given its modern manifestation through the North–South ideological dissension over the economic, social, and cultural dimensions of the highly disputed and politicized right to development (Mubiala, pp. 12–22).¹⁶

The professed universal aspiration of human rights since the adoption of the United Nations' Universal Declaration of Human Rights hardly accommodates relativistic propositions not conforming to the mainstream movement.¹⁷ Hence major criticisms of the human rights corpus as domesticated in Africa relate, in more general terms, to their positivistic 'instrumentalization' rather than to a complete rejection of the body as alien to African cultural values. This position is strongly put forward by Mutua in his discursive article on 'the ideology of human rights', in which the author explicitly acknowledges that his uneasiness with this body of legal norms is not related to an abstract idea which, admittedly, is attached to all cultures, but to 'the positive law of human rights'¹⁸ perceived as reflecting overwhelmingly

12. See F. Viljoen, 'Africa's Contribution to the Development of International Human Rights and Humanitarian Law', (2001) 1 *African Human Rights Law Journal* 18.

13. Z. Motala, 'Human Rights in Africa: A Cultural, Ideological, and Legal Examination', (1988–1989) 12 *Hastings International and Comparative Law Review* 373.

14. For a status of ratification of international and regional human rights instruments by African countries, see respectively: <http://www.ohchr.org/english/countries/ratification/index.htm> and http://www.achpr.org/english/_info/index_ratifications_en.html (last visited 09 February 2006).

15. On further discussion thereon see C. A. Odinkalu, 'Analysis of Paralysis or Paralysis by Analysis – Implementing Economic, Social, and Cultural Rights under the African Charter on Human and Peoples' Rights', (2001) 23 *Human Rights Quarterly* 327.

16. See also, for a more comprehensive discussion of the debate surrounding the right to development and the resonance on North–South divide, P. Alston, 'Making Space for New Human Rights: The Case of the Right to Development', (1988) 1 *Harvard Human Rights Yearbook* 3.

17. Mutua, *supra* note 9, at 640–6.

18. *Ibid.*, 595.

Eurocentric liberal values and thereby representing a ‘moralized expression of political ideology’.¹⁹ In support of his argument, the author somehow provocatively classifies human rights scholars and activists into (i) conventional doctrinalists; (ii) constitutionalists or conceptualizers; (iii) cultural agnostics or multiculturalists; and (iv) political strategists or instrumentalists.²⁰

This strong critique subscribes to the growing questioning of the international legal system whereby many aspects of the discipline – either norms or their selective application – seem to reflect positivistic adherence to dominant Western historical and philosophical experiences and the geostrategic use of law by powerful states in their own interests.²¹ But notwithstanding the above propositions dissenting from mainstream analyses, even the most radical critiques of the body acknowledge some value to human rights in protecting individuals and collectives against the state. The main interrogations are linked to the nature of, and existing correlations between, norms and their ‘hierarchization’ embedded in political and ideological spheres. Hence, as extensively discussed by both authors from different perspectives, the current predominance in the debate of individual-centric civil and political rights does not allow for a subsequent labelling of the whole human rights body as a purely Western imposition.²² Arguments developed below will show that African countries endorsed human rights precepts and norms in their struggles for liberation and incorporated them – in varying forms – in their national and regional institutional settings.

2.1.2. *Human rights in Africa: between positivism and holistic approach*

Against the background of the above ideological debates over foundations of human rights and their place in African legal and political institutions, Mubiala and Murray contribute significantly to the debate through their respective insights into African regionalism. They offer a complementary picture of the status of human rights promotion and protection in Africa in theory and practice. Both contributions have in common the fact that they rely on other international or regional human rights models – mainly the perceived successful European human rights system – in analysing the African system (Murray, pp. 31 ff.; Mubiala, pp. 24–8). Because both authors have analysed specific aspects of African regionalism in previous publications,²³

19. *Ibid.*, 592.

20. *Ibid.*, at 594. The nature of the present analysis does not allow for an extensive exploration of the author’s discursive characterization of modern human rights law as overtly Eurocentric in nature and reflective of liberal-democratic ideals. These categories are construed as not mutually exclusive.

21. For relevant discourses see among others P. Sands, *Lawless World: Making and Breaking Global Rules* (2006); A. Anghie, ‘Finding the Peripheries: Sovereignty and Colonialism in Nineteenth-Century International Law’, (1999) 40 *Harvard International Law Journal* 1; Okafor, *supra* note 9; J. T. Gathii, ‘International Law and Eurocentricity’, (1998) 9 *European Journal of International Law* 184; M. Mutua, ‘Savages, Victims and Saviors: The Metaphor of Human Rights’, (2001) 42 *Harvard International Law Journal* 201, at 214, n. 57, where the author quotes M. Bedjaoui’s description of international law as a ‘a set of rules with a geographical bias . . . a religious–ethical inspiration . . . an economic motivation . . . and political aims’.

22. As somehow claimed by Mutua, *supra* note 9, at 594 ff.

23. See among others R. Murray, *The African Commission on Human and Peoples Rights and International Law* (2000); R. Murray, ‘Developments in the African Human Rights System 2003–04’, (2006) 6 *Human Rights Law Review* 160; Murray and Wheatley, *supra* note 10; M. D. Evans and R. Murray (eds.), *The African Charter on Human and Peoples’ Rights* (2005); M. Mubiala, ‘Contribution à l’étude comparative des mécanismes régionaux africain,

neither of the books under review attempts to provide a complete picture of all aspects of the *problématique* of human rights in Africa. The common denominator of both contributions lies in their ability to cover recent developments in the field of human rights on the continent.

Mainstream analyses of the African regional human rights system are characterized by a focus on normative, institutional, and jurisprudential developments on the continent, resorting to positivistic and comparative techniques.²⁴ Mubiala's book subscribes to this traditional analytical framework. Following a very concise overview of 'human rights' conceptions in pre-colonial Africa, the author focuses more or less extensively on the African Charter on Human and Peoples' Rights (ACHPR) and related protocols, with a very limited insight into pre-charter or subsequent mechanisms and processes.²⁵ There lies the main disappointment with a book whose title ambitiously suggests that it covers all aspects of the ever-dynamic African regionalism, a task which the author undertakes but can hardly satisfactorily fulfil due to the limited extent of his contribution.²⁶

The analysis loses focus in attempting to cover all aspects of African human rights regionalism. Despite its aim of covering the system as a whole, Mubiala's work primarily concentrates on relatively recent normative, institutional, and interpretative dynamics,²⁷ making it more than a duplication of pre-existing works. It supplements pre-existing important contributions on human rights in Africa, some by men and women considered to be emblematic framers of the system.²⁸ The author

américain et européen de protection des droits de l'homme', (1997) 9 *Revue africaine de droit international et comparé*, 42; M. Mubiala, 'La Cour africaine des droits de l'homme et des peuples: mimétisme institutionnel ou avance judiciaire?', (1998) 102 *Revue générale de droit international public* 765; M. Mubiala, 'Intégrer les droits de l'homme aux activités et programmes des mécanismes régionaux et sous-régionaux de prévention, de gestion et de règlement des conflits en Afrique' (Etude réalisée pour le Troisième Forum sur la gouvernance en Afrique, Bamako, 28–30 June 1999), *Cahier africain des droits de l'homme n° 2*, December 1999, 179; M. Mubiala, 'Les mécanismes de protection des droits de l'homme des Nations Unies et la condition du réfugié, avec une attention spéciale à l'Afrique', communication à l'Atelier régional de Dakar sur la protection des droits de l'homme des réfugiés dans le contexte africain, organisé par la Division de la Promotion du HCR, 1–4 décembre 1998 (1999) 11 *Revue africaine de droit international et comparé* 671.

24. Mutua, *supra* note 9, at 626–40, on 'constitutionalizing human rights'.

25. The System Established by the African Charter on Human and Peoples' Rights (African Charter), adopted on 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 ILM 58 (1982), entered into force on 21 October 1986, covers nearly half of the book (pp. 29–118), whereas other mechanisms or processes are just succinctly referred to.

26. The book is 299 pages long, of which annexes take up nearly 100 pages.

27. These include the adoption of the 1998 Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (Protocol on the African Court), OAU Doc. OAU/LEG/EXP/AFCHPR/PROT (III); 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Protocol on Women Rights), CAB/LEG/66.6 (Sept. 13, 2000), repr. in (2001) 1 *African Human Rights Law Journal* 40; 1990 African Charter on the Rights and Welfare of the Child (ACRWC), OAU Doc. CAB/LEG/24.9/49 (1990); 2001 The New Partnership for Africa's Development (NEPAD), Framework Document, available at <http://www.nepad.org/2005/files/documents/inbrief.pdf> (last visited 22 January 2007); the Conference on Security, Stability, Development and Co-operation in Africa (CSS-DCA) is a result of a long process and thus comprises a Solemn Declaration (adopted by the Assembly of Heads of States and Government, 36th ordinary session 10–12 July 2000, AHG, Decl.4 (XXXVI)) and a Memorandum of Understanding adopted by Heads of State and Government, First Standing Conference on Security, Stability, Development and Cooperation in Africa, 8–9 July 2002, OAU/CIVIL SOCIETY.3 (II), Annex.

28. Among these are K. Mbaye, *Les droits de l'homme en Afrique* (1992), U. O. Umuzurike, *The African Charter on Human and Peoples' Rights* (1997); E. Ankuamah, *The African Commission on Human and Peoples' Rights: Practices and Procedures* (1996); F. Ouguergouz, *La Charte Africaine des Droits de l'Homme et des Peuples* (1993).

further gives particular attention to ongoing dynamics within the jurisprudence of the African Commission on Human and Peoples' Rights or other activities streaming from the commission's consultative mandate, resulting in flexible interpretations of 'peoples' rights' provisions in the ACHPR to encompass particular groups that are part of national populations. The author elaborates on recent dynamics intended to give effect to peoples' rights provisions of the ACHPR (Arts. 19–24) and on the potential for accommodation of the growing number of minority and indigenous peoples' claims for special legal protection (p. 42). His analysis of African human rights regionalism adopts a duality between charter-based normative and institutional developments on the one hand and other disconnected, self-contained regimes on the other (pp. 29 ff.).

Murray adopts a more holistic approach in her examination of the African regional human rights system. She concentrates on normative and institutional developments relating to human rights from early instances of independence – with the creation of the OAU – to current dynamics under the aegis of the AU. She takes a different analytical line by attempting to assess the significance of human rights in Africa within regional political institutions. In discerning human (and peoples') rights in Africa, the author does not restrict her insights to the relevant, formally binding treaties, but goes further, by covering 'numerous resolutions and decisions from a variety of bodies across the OAU/AU structure which relate to human rights' (p. 267). The book is much more descriptive of the system and thus less discursive. But its thorough reading suggests that the author endorses, even though using very prudent language, a Western type of liberal democratic state and European institutions, including human rights institutions, as models for African counterparts, which, as she clearly and rightly points out, 'copied' the former in many respects (pp. 31–5, 105 and *passim*). The author goes even further in this parallelism by suggesting that it is 'unfortunate . . . that the opportunity was not taken to ensure, for example as happens with the EU, that a requirement of accession to the AU should be that a state must be democratic' (p. 82).

The generally formulated criticism of the avoidance by African leaderships of scrutiny of their human rights records through formal adherence to relativistic notions of human rights – giving pre-eminence to peoples' collective rights purported to reflect (authentic or romanticized) African traditional values – needs to be nuanced.²⁹ Both authors agree on the vital role played by OAU/AU organs and member states – on the ground of solidarity – in accommodating millions of refugees since the early instances of independence (pp. 185 ff.).³⁰ Notwithstanding the assistance of external actors such as the United Nations High Commissioner for Refugees (UNHCR) and donor countries in providing for their basic needs, both authors observe that the primary responsibility in accommodating millions of refugees on the continent has always been borne by African governments, many of which have

29. Motala, *supra* note 13, at 379–83.

30. See also Mubiala, 126–51.

experienced (or continue to experience) internal unrest rooted in their undertaking to bear the heavy burden of hosting refugees from neighbouring countries.³¹

The major difference between the approaches adopted by both authors on human rights in Africa lies in their perspectives. While Mubiala's work reads more like a traditional descriptive portrait of a strictly construed African regional human rights system, Murray goes beyond merely painting a picture of the normative and institutional status of human rights on the continent by drawing a picture of the place of human rights within African regional political institutions, using a historical perspective. The novelty of her approach lies in her ability to describe the (lack of or deficiency in) collaboration between African human rights institutions and regional political bodies (OAU/AU).

2.2. Two 'seasons' of the concept of human rights in the African landscape

A close examination of 'human rights' on the continent suggests, as one author has remarked, that the 'concept and practice of human rights in Africa have been conditioned by the continent's past, its culture, traditions, values; its contemporary political and economic development as well as the political concerns of its leaders'.³² This proposition is supported by the convergence of Murray and Mubiala in discerning two 'seasons' in the formulation and development of human rights in Africa. The so-called 'first season' is associated with the context of African struggles for independence, and is described as running until the end of the Cold War (Mubiala, pp. xv, xix; Murray, pp. 7–48).³³ This phase of the formulation and development of human rights is characterized by the continental leadership's strong affirmation of – and striving for – political and economic independence, considered the most pressing of all its numerous aspirations. Accordingly, those human rights dimensions intersecting with the then dominant political discourse will be given precedence. African instruments will thus be characterized by a strong anti-colonialist rhetoric in their definition of relations between African states and the rest of the world, with more focus on the former colonial world powers.³⁴

Purely legalistic perceptions of African human rights regionalism tend to restrict it to the dynamics following the adoption of the ACHPR.³⁵ Compared with Europe and the Americas, it is a fact that formal codification of human rights norms on the continent took place at a relatively late stage, in 1981, with the adoption of the charter.³⁶ Nonetheless, the major input of Murray's contribution lies in its ability to go beyond positivistic considerations by singling out human rights ideals

31. The Democratic Republic of Congo and Chad constitute notorious examples of troubles linked to hosting refugees from neighbouring countries.

32. O. Ojo, 'Understanding Human Rights in Africa', in J. Berting et al., *supra* note 11, 115.

33. Nmehielle adopts a slightly different approach by distinguishing three eras of human rights in Africa: (i) the response to colonial rule; (ii) the 'middle ages of African Human rights consciousness'; and (iii) the African renaissance streaming from new institutions such as the African Union, NEPAD, and so on (see V. O. Nmehielle, 'The African Union and African Renaissance: A New Era for Human Rights Protection in Africa', (2003) 7 *Singapore Journal of International & Comparative Law* 412.

34. On this see Ojo, *supra* note 32, at 116 ff.

35. Viljoen, *supra* note 12.

36. See the European Convention for the Protection of Human Rights and Fundamental Freedoms, (ETS No. 5), 213 UNTS 222, opened for signature on 4 November 1950, entered into force on 3 September 1953; and the

underpinning liberation struggles on the continent, culminating in the decolonization of most African countries in the 1950s and 1960s (pp. 7–22). Formulated at the turn of the nineteenth century in other regions of the world,³⁷ and despite the fact that its non-delineated contours remain subject to extensive academic discourses,³⁸ the then evolving international entitlement of peoples (whether as a matter of right or principle) to self-determination acquired more significance in the context of the struggles for African independence.³⁹ Liberation movements and the resulting independent African states held self-determination to be an uncompromisable and sacrosanct principle. Accordingly, considerations of the human rights of oppressed peoples would be omnipresent in the working of continental political bodies in the first years of independence of African countries (pp. 7–21).⁴⁰

Normative and institutional developments will be highly influenced by a context of decolonization, the struggle for the liberation of peoples from foreign occupation and against racist regimes (Mubiala, p. xix). Even if the provisions of the OAU charter made ‘little express mention of human rights’ (p. 7), self-determination proved to be the main guiding principle of continental bodies in these early years (pp. 15–17). This explains why, once most African countries had acquired independence and were confronted with the humiliating apartheid practices in South Africa and by extension in Namibia, they openly supported the liberation movements of countries in that region, whether through individual state endeavours, or as part of undertakings by regional organizations.⁴¹ Among other actions, the OAU specifically called for non-recognition of South African Bantustans and shadow-type of self-government in Namibia, imposed against will of the peoples. Murray refers to many OAU resolutions (p. 18),⁴² and hence, beyond the usual rhetoric characterizing the organization, the OAU – as rightly remarked – ‘spent many of its early years assisting in liberation of colonised entities and giving assistance to liberation movements, including funding their arms purchases and providing them with training’ (p. 9). In addition to self-determination, other principles such as sovereign equality of states and the right of peoples freely to dispose of their wealth and natural resources became the

American Convention on Human Rights, OAS Treaty Series No. 36, 1144 UNTS 123, adopted on 22 November 1969, entered into force 18 July 1978.

37. For a detailed discussion of the past, present, and future of the right to self-determination under international law, see J. Crawford, ‘The Right to Self-determination in International Law: Its Development and Future’, in P. Alston (ed.), *Peoples’ Rights* (2001), 7; M. Batistich, ‘The Right to Self-Determination and International Law’, (1992–5) 7 *Auckland University Law Review* 1013.
38. As reflected in J. Klabbbers and R. Lefeber, ‘Africa: Lost between Self-Determination and *Uti Possidetis*’, in C. Brölmann et al. (eds.), *Peoples and Minorities in International Law* (1993), 37, and Crawford, *supra* note 37, in which both analyses underscore the still imprecise meaning of self-determination under international law, with two major challenges pertaining to the definition of beneficiaries and to whether the right entails a right to independent statehood in post-colonial context.
39. For a historical overview of the application of self-determination in Africa, see Klabbbers and Lefeber, *supra* note 38; B. Lynn, ‘The Evolution of Self-Determination in International Law: South Africa, Namibia, and the Case of Walvis Bay’, (1990) 4 *Emory International Law Review* 251; H. Klug, ‘Self-Determination and the Struggle against Apartheid’, (1989–90) 8 *Wisconsin International Law Journal* 251.
40. See also N. Mandela, *Long Walk to Freedom* (1995), at 95–6, on the influence of human rights principles, namely the Atlantic Charter, on his liberation struggle.
41. On the support for struggles in South Africa, see Murray, 17–21.
42. Among them CM/Res.492 (XXVII) and CM/Res.455 (XXVI) on South African Bantustans and resolution CM/res.537 (XXVIII) on Namibia.

dominant creed of continental bodies during the process of decolonization and its immediate aftermath (Mubiala, pp. 15–17).

Various criticisms have been voiced, including by the two authors (Mubiala, pp. 14–15; Murray, pp. 7–8), over a perceived overt politicization and ‘instrumentalization’ of human rights during this period and their appropriation by the state as the main beneficiary, at the expense of individuals construed – under Enlightenment ideals and reflected in the ‘international bill of human rights’ – as the primary bearers of rights.⁴³ Insistence on sovereignty and self-determination against colonial and neo-colonial domination at the expense of protection of the individual from the state – constructed as the ultimate predator under human rights imageries⁴⁴ – is castigated for shielding African states and leaders against scrutiny of their human rights records (Murray, p. 8; Mubiala, p. 14).⁴⁵ As the criticism goes, prioritization of these rights above individual human rights entitlements results in the toleration of gross human rights violations in numerous parts of the continent during this period (Murray, pp. 21–5, 77–83). Following this script, a causal link is even established between impunity for gross human rights violators and the flourishing of totalitarian drift in post-independence Africa.⁴⁶

However, if this picture fits correctly into the mainstream ‘human rights activists’ type of scholarship focusing on the immediacy of occurrences unconnected with underlying causes,⁴⁷ it does little justice to a needed contextualization of the whole ‘human rights debate’ in Africa. More importantly, it overlooks the spatial and temporal circumstances presiding over the continent’s destiny during this period and the existing correlation between problems faced by African countries or regional bodies and international geopolitics. The volatile political and socio-economic conditions of newly independent African countries were not conducive to an effective enforcement of human rights precepts modelled on the image of Western institutions which had witnessed a relatively long process of building and consolidation. Drafters of the African charter were convinced that dominant values in most African cultures imposed a balancing between the individual and society and, consequently, constructed rights and duties as inherently intertwined.⁴⁸ Despite limited jurisprudence, the often raised scepticism over the ‘justiciability’ of an instrument containing civil and political rights – as well as economic, social, and cultural rights of individuals and collectives – were thwarted by the recent jurisprudence of the

43. As is the case with most provisions of the 1948 Universal Declaration of Human Rights, GA Res. 217A (III), UN Doc. A/810 at 71 (1948); the 1966 International Covenant on Economic, Social and Cultural Rights, GA Res. 2200A (XXI), 21 UNGAOR Supp. (No. 16) at 49, UN Doc. A/6316 (1966), 993 UNTS 3; and the 1966 International Covenant on Civil and Political Rights, GA Res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 52, UN Doc. A/6316 (1966), 999 UNTS 171. For other relevant criticisms see S. S. Mahmud, ‘The State and Human Rights in Africa in the 1990s: Perspectives and Prospects’ (1993) 15 *Human Rights Quarterly* 485.

44. See Mutua, *supra* note 21, at 219–27.

45. See also Nmehielle, *supra* note 33, at 412.

46. See generally K. Kibwana, ‘Human Rights and/or Economic Development: Which Way Africa?’, (1993) *Third World Legal Studies* 43; Nmehielle, *supra* note 33, at 412 ff.

47. Mutua, *supra* note 9, at 607 ff.

48. On this see Mutua *supra* note 10, at 339; I. A. B. El-Sheikh, ‘The African Regional System of Human Rights: Notes and Comments’, in C. Bassiouni and Z. Motala (eds.), *The Protection of Human Rights in African Criminal Proceedings* (1995), 23, at 24–5.

African commission.⁴⁹ It flows from its progressive interpretation of the charter that the main issues raised by the African relativistic approach to human rights relate to a commitment to implement recognized rights rather than to their nature or categorization. Hence, contextualization of human rights in Africa is inscribed in a strong belief and commitment to all rights, to their indivisibility and interrelatedness, an affirmation appearing in international instruments⁵⁰ but rarely translated into effect. Murray refers to this formal commitment by the African leadership to all human rights as exemplified by the OAU (pp. 26–8).⁵¹

It is a fact that intrinsic but also extrinsic factors shaped and adversely affected the status of human rights in particular African countries.⁵² Besides poor post-colonial leadership and challenges attached to governing diverse (and often colonially antagonized) ethnicities with limited material and financial resources and qualified human resources, human rights promotion and protection were far from being the main driving force of Western policies towards Africa in a global context of Cold War.⁵³ Despite the development of domestically enforceable human rights norms in Western liberal democracies, the latter constantly applied double standards vis-à-vis human rights violations committed in developing countries in general and African countries in particular.⁵⁴ Thus, until recently, many Western states, on which most African states depended economically, paid only lip service to human rights ideals in their (political and economic) dealings with the continent.⁵⁵ It is widely documented that some of them even actively and openly supported – or were even instrumental in the installation of – dictatorships as far as they served their interests.⁵⁶ Notwithstanding the intricate interaction between these factors, attempts to find solutions to African conflicts and other political, economic, and social problems have hardly adopted a holistic approach. While African leaderships kept looking at colonization as the main source of the continent's ordeals, including contemporary problems, the outside world – with the United Nations in the lead – insisted that 'Africa must look at itself . . . and . . . look beyond its colonial past for the causes of current

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49. See among other cases the African Commission on Human and Peoples' Rights in Comm. No. 75/92 (1995), *Katangese Peoples' Congress v. Zaire*; Comm. No. 155/96 (2001), *The Social and Economic Rights Action Center for Economic and Social Rights v. Nigeria*; Comm. Nos. 54/91, 61/91, 98/93, 164/97–196/97 and 210/98 (2000), *Malawi African Association and Others v. Mauritania*; Comm. No. 48/90, 50/91, 52/91, 89/93 (1999), *Amnesty International and Others v. Sudan* – decisions whereby the African Commission took steps in progressively interpreting charter provisions in matters covering all sets of rights and duties.
50. For international instruments on indivisibility and interconnectedness of all human rights, see Proclamation of Teheran, Final Act of the International Conference on Human Rights, 22 April to 13 May 1968, UN Doc. A/CONF.32/41 at 3 (1968), para. 13; Committee on Economic, Social and Cultural Rights, The Nature of States Parties' Obligations (Art. 2, par.1): 14/12/90. CESCR General comment 3. para. 8, UN Doc. E/1991/23; Vienna Declaration, World Conference on Human Rights, 14–25 June 1993, UN Doc. A/CONF.157/24 (Part I) at 20 (1993), para. 5; Report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, UN. Doc A/CONF.189/12, Durban 31 August–8 September 2001, para. 25 of the preamble.
51. OAU, Declaration of the Assembly of Heads of State and Government of the Organization of African Unity on the Political and Socio-Economic Situation in Africa and the Fundamental Changes taking Place in the World, 11 July 1990, AHG/Decl.1 (XXVI).
52. This can be inferred from the reading of the OAU Declaration, *ibid*.
53. See among others Odinkalu, *supra* note 15, at 329 ff.
54. See more generally Motala, *supra* note 13, at 373.
55. See more generally Mutua, *supra* note 9, at 646.
56. *Ibid.*, at 646–52.

conflicts' (Murray, p. 47). But the mere fact of linking the beginning of a new season of human rights on the continent to the end of the Cold War – which had opposed Western powers to the Soviet bloc, with Africa playing no other role than that of a battleground for proxy wars – is an implicit acknowledgement of the relevance of external factors to the creation of poor human rights records in Africa.

In contrast to this first season, during which, it is argued, human rights were used by African countries as a strategic political tool in their decolonization struggles, both authors agree that post-Cold War dynamics carried a new climate conducive to the effective protection of human rights in African countries (Murray, pp. 73 ff.; Mubiala, pp. 18 ff.). New standards and instruments were elaborated and institutions created in what is referred to as the second 'season' of human rights in Africa (Mubiala, p. xx). The adoption of a number of instruments relating to human rights is presented as reflecting this new breath in African regionalism. The progressive move underlying the adoption of an African Charter on the Rights and Welfare of the Child (ACRWC) in 1990, contemporaneously with the UN convention on the same subject, the adoption of the Protocols to the African Charter on an African Court and on Women's Rights, the creation of the New Partnership for Africa's Development (NEPAD), the Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA), and the Declaration on Democracy, Political, Economic, and Corporate Governance (DDPECG)⁵⁷ – among others – are hailed as representing landmark steps in the direction of the effective protection and enforcement of human rights on the continent.⁵⁸ The said changes are further illustrated by the endorsement by African regional institutions of a linkage between human rights on the one hand and liberal democracy (Murray, pp. 73 ff., where she underscores the fact that this linkage is in line with dynamics in other parts of the world or in global institutions), development (pp. 235 ff.), and conflict resolution on the other (pp. 116 ff.). By pledging not to recognize governments resulting from military coups and endorsing democratic governance through regular, multiparty, 'free and fair' elections, African regional institutions are presented as bearing a wind of change in the direction of effective human rights protection on the continent (pp. 77 ff.).

A renewed commitment by continental institutions to human rights is further inferred, under positivistic considerations, from the fact that at least six of the 14 objectives of the AU 'address human rights issues directly or impliedly'.⁵⁹ These provisions are presented as reflective of 'a serious departure from the OAU [in] according prominence to human rights'.⁶⁰ AU institutional endorsement of human rights is portrayed as a revolutionary step in the right direction, since

57. NEPAD, Declaration on Democracy, Political, Economic, and Corporate Governance (DDPECG), AHG/235 (XXXVIII), Annex 1, available at <http://www.nepad.org/2005/files/documents/2.pdf> (last visited 22 February 2007).

58. See Nmehielle, *supra* note 33, at 412 ff. These instruments or standards are supplemented by other declarations, resolutions, reports, or communiqués by African regional political institutions entailing a commitment to human rights.

59. Nmehielle, *supra* note 33, at 433.

60. *Ibid.*

[B]efore, any attention to human rights has been secondary, developed as a consequence of the OAU organs' concentration on other matters. With recent changes in respect of the AU and its constitutive act, in particular with the CSSDCA process and NEPAD, the potential to maintain a link between democracy and human rights is large. (Murray, pp. 112–13)

The imminent 'judicialization' of charter provisions and related instruments following the entry into force of the protocol on an African Court on Human and Peoples' Rights⁶¹ and the appointment of the first judges⁶² fills the remaining gap within African regional bodies in emulating European and inter-American human rights systems. The move is celebrated as a revolutionary step, despite remaining criticism over jurisdictional limitations *ratione personae* not matching the far-reaching provisions on subject-matter jurisdiction. Mubiala and Murray highlight rather the difficulties related to the establishment of the court as far as funding and its relations with the commission and other AU organs are concerned (Mubiala, p. 93; Murray, pp. 68–9).⁶³ Both authors commend efforts leading to the creation of the African court, while Murray revisits the controversy surrounding its proposed merger with the AU Court of Justice (pp. 68–9). While remaining prudent in voicing her opinion, she appears to be sympathetic to the opposition of human rights activists to the merger as, in reaction to the minimization of costs presented as the main benefit of the merger, she proposes a search for alternative funds to be achieved through cuts in military spending (*ibid.*). If this proposition is hard to reject in an era of the fashionable advocacy of demilitarization, it remains unrealistic for the many countries of the continent still facing unrest, whereby security – and consequently military spending – remains a legitimate preoccupation of concerned governments.⁶⁴

Furthermore, by associating human rights with conflict resolution and development, the OAU/AU and its organs construct them as a panacea for the numerous challenges currently faced by the continent (Murray, pp. 116 and 235). Thus, as a consequence of the advent of the so-called 'new season' in human rights promotion and protection on the continent, there seems to be a tendency to reverse the African Charter's philosophical foundations according to which 'satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights',⁶⁵ since adherence by African regional institutions to liberal–democratic

61. Entered into force on 25 January 2004 in accordance with Art. 34(3) of the protocol and ratified by 23 states as of January 2007. See <http://www.africa-union.org/root/au/Documents/Treaties/List/Protocol%20on%20the%20African%20Court%20on%20Human%20and%20Peoples%20Rights.pdf> (last visited 22 February 2007).

62. African Union, Decision on the Election of Judges of the African Court on Human and Peoples' Rights Doc. EX.CL/241 (VIII), Executive Council, Eighth Session, 16–21 January 2006, Doc. EX.CL/2Dec. 261 (VIII), at http://www.africa-union.org/root/AU/Documents/Decisions/com/AU6th_ord_Council_Decisions_Jan2006_Khartoum.pdf (last visited 22 February 2007).

63. For other analyses see F. Viljoen, 'A Human Rights Court for Africa, and Africans', (2004) 30 *Brooklyn Journal of International Law* 1; Nmehielle, *supra* note 33; R. W. Eno, 'The Jurisdiction of the African Court on Human and Peoples' Rights', (2002) 2 *African Human Rights Law Journal* 223.

64. This is true for those countries still facing or recovering from civil wars, such as all the countries of the Great Lakes region – Sudan, Sierra Leone, Central African Republic, and Chad – but also many others seen as relatively stable but facing insurrectional movements and/or dealing with armed radical groups.

65. See para. 8 of the preamble to the African charter, which reads,

ideals culminates in according much greater preference to the latter category of rights than to the former.⁶⁶

This transpires from the recent development of norms and institutions which focus much more on enforceable individual civil and political rights than on economic, social, and cultural rights, as well as on collective rights. Even if recent documents such as the 1999 Grand Bay⁶⁷ and 2003 Kigali⁶⁸ Declarations translate OAU/AU commitment to the indivisibility of all human rights and urge states to promote and protect them equally, the general context of human rights activism on the continent, under the guise of liberal democratic ideals and globalization imperatives, seems to condition the realization of economic, social, and cultural rights on a minimum implementation of civil and political rights.⁶⁹

3. THE RELEVANCE OF POLITICAL AND ECONOMIC FACTORS TO THE STATUS OF HUMAN RIGHTS IN AFRICA

The adoption of new instruments with a corollary establishment of new institutions and processes dedicated to, or integrating, human rights certainly represents major changes in the African legal, political, and socioeconomic landscapes. However, as rightly depicted throughout Murray's work, most developments of human rights standards and institutions on the continent have often been ad hoc (see, e.g., p. 47). Furthermore, several of the continent's human rights initiatives remain conditioned on various factors, the most salient being the economic dependence of the continent and the reliance by regional institutions on external funding for their functioning (p. 237). It is argued here that recent human rights initiatives in Africa – far from being entirely generated by a genuine commitment by continental leaderships to human rights ideals – are, rather, much more a result of unco-ordinated but pragmatic responses to global imperatives and external pressures directly or indirectly exerted on decision-makers to act in predetermined ways.⁷⁰ Accordingly, the genuineness of the so-called renewed political will since the 1990s (p. 167) and the authenticity of African human rights initiatives remain widely questionable in the light of their lack of solid and legitimate foundations. The institutional independence of

Convinced that it is henceforth essential to pay particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in 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 . . .

66. Even though this is not specifically mentioned in any of the multiple regional instruments relating to human (and peoples') rights, this proposition can be deduced from the somehow linear causality established between adherence to democracy, human rights and developments. NEPAD seems to caution this vision, despite formally reiterating the relevance of all human rights (see Murray, 73–115, 235–66).

67. OAU, 'Grand Bay (Mauritius) Declaration and Plan of Action, First OAU Ministerial Conference on Human Rights in Africa, 12–16 April 1999, CONF/HRA/DECL (I), para. 1.

68. African Union, 'Kigali Declaration', First AU Ministerial Conference on Human Rights in Africa, 8 May 2003, MIN/CONF/HRA/Decl.1 (I), para. 4.

69. See more generally the NEPAD Framework document (*supra* note 27) and the DDPECG (*supra* note 58).

70. On the determinant role of NGOs in the process of setting up the African Court on Human and Peoples' Rights, see Viljoen, *supra* note 63, at 8–10.

regional (human rights) bodies is undermined by a chronic shortage of resources and corresponding dependence on foreign aid in fulfilling their mandate.⁷¹

The significance of recent developments relating to human rights remains to be tested. The real impact of ongoing dynamics needs to be examined beyond formalism and the tendency of African institutions blindly and inconsequentially to sail in the mainstream.⁷² More specifically, African institutions have been castigated for their tendency to emulate their European counterparts, despite differing historical, cultural, and socioeconomic contextual experiences.⁷³ African countries as well as regional bodies seem to be in a rush to comply with the dictates of international institutions, non-governmental organizations (NGOs), or Western partners – on which they heavily rely for funding – in paying lip service to the promotion and protection of human rights (mirroring international or European standards), without much working out of practical issues relating to their concerted implementation. Reflecting on various challenges created by normative and mostly institutional multiplicity within the AU framework, Murray rightly points out that

the following bodies have important human rights remits: the African Committee on the Rights and Welfare of the Child, the CSSDCA Unit, NEPAD, APRM [African Peer Review Mechanism], the African Commission on Human and Peoples' Rights, the Commission for Refugees, the AU Commission and its various departments, not to mention the proposed African Court on Human and Peoples' Rights and the African Court of Justice. (p. 268)

This leads to a situation whereby a growing number of regional bodies not only are explicitly or implicitly entrusted with cross-cutting mandates of promotion and/or protection of human rights, but also have to take into consideration sub-regional organizations such as the Union Économique et Monétaire Ouest Africaine (UEMOA), the Communauté Economique et Monétaire de l'Afrique Centrale (CEMAC), the Southern African Development Community (SADC), and the Organisation pour l'Harmonisation du droit des affaires en Afrique (OHADA), whose own courts of justice directly or indirectly encompass issues relating to the protection of human rights (p. 102). Generated norms and institutions remain little known by potential beneficiaries as regional institutions and national governments fail in their obligation to disseminate them (Mubiala, p. 62). The ratification of instruments and insertion of bills of rights in national constitutions are rarely matched by consistent practice.

71. As rightly pointed out by Udombana, with regard to the proliferation of institutions under the AU,

It is already becoming clear that very little thought was given to how the AU will be funded. Yet, African rulers are creating new organs, with sometimes ill-defined or duplicate functions, thus making the confusion more confounded. What the OAU needs is to trim down its existing institutions, so as to finance them effectively and efficiently . . . The existing institutions, including the human rights institutions, are in danger of a total collapse. (Udombana, *supra* note 8, at 1255)

72. The African human rights system has been praised for its open policy towards NGOs, seen as a positive accommodation of civil society, representative of the people. However, existing interactions between global and local NGOs and the dependence of the latter on the former inspire more caution in ascertaining how representative they are of the will of the people. For a discussion see K. Appiagyei-Atua, 'Human Rights NGOs and their Role in the Promotion and Protection of Rights in Africa', (2002) 9 *International Journal on Minority and Group Rights* 265.

73. N. J. Udombana, 'An African Human Rights Court and an African Union Court: A Needful Duality or a Needless Duplication?', (2002–3) 28 *Brooklyn Journal of International Law* 811.

Thus the promotion and protection of human rights have become a leitmotif not to be omitted from any major regional, sub-regional or national instrument. NEPAD and related processes are hailed as initiatives aimed at revitalizing the continent's image.⁷⁴ While this image of the continent from the perspective of the outside world matters in many respects, it should not be the driving force of African institutions whose primary responsibility lies in legitimately serving African populations in accordance with their aspirations, on the basis of held societal precepts.

4. CONCLUSION

Being mainly descriptive analyses of African human rights regionalism, Mubiala's book and Murray's book, in particular, provide sufficiently researched material for anyone interested in getting an updated picture of the system in general (Mubiala) or of the place of human rights in regional political institutions (Murray). In the light of the current dynamics of growing international concern over human rights violations and reinvented international criminal accountability for gross human rights violations,⁷⁵ it seems a priori untenable and pointless to voice sceptical considerations over ongoing dynamics purportedly aimed at promoting and protecting human rights on the continent. However, the effective protection of human rights in Africa will not be achieved through a multiplicity of instruments, institutions, and processes dedicated thereto. If this were the case, Africa would virtually represent the 'ideal' in adherence to human rights precepts, considering the statutory flexibility of the regional human rights system enabling inspiration to be drawn from, or the application of, universal or other regional standards.⁷⁶

The multiple instruments or processes highlighted above either explicitly or through the interpretation of their provisions nullify the internationally established labelling of rights as civil, political, economic, social, cultural, individual, or collective. If the formal undertakings therein were translated into reality, there is no doubt that African peoples and societies would be positively transformed, despite unavoidable tensions between individuals and collectives, rights and duties. The recent jurisprudence of the African commission – hopefully to be followed by the newly established African court – 'demystified' the often alleged problematic justiciability of economic, social, and cultural rights as well as peoples' or collective rights.⁷⁷ These cases reveal that the major challenge to human rights promotion and protection in Africa relates not to the nature of rights but to a

74. Centre for Conflict Resolution, 'The AU/NEPAD and Africa's Evolving Governance and Security Architecture', December 2004, 6, available at http://ccrweb.ccr.uct.ac.za/fileadmin/template/ccr/pdf/AUNEPAD_Report1.pdf (last visited 22 February 2007).

75. Mubiala includes in his examination of African human rights regionalism a chapter dedicated to the establishment of an international criminal justice system in the African context, where he gives an overview of core instruments (statutes and rules of procedure and evidence) and the jurisprudential contributions of the International Criminal Tribunal for Rwanda (ICTR) (185–200). Surprisingly, he does not extend his examination to the Special Court for Sierra Leone (See Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone, signed 16 January 2002).

76. As reflected in Arts. 60–1 of the African Charter.

77. See the cases referred to *supra* note 49.

genuine commitment to their implementation. Hence, while this apparent flexibility of African institutions with regard to human rights is commendable, it transpires from the above analysis – based on the works reviewed here – that the adoption of particular standards is the result not always of calculated moves but of ad hoc reactions to unfolding events.

The current multiplicity of instruments and standards, the duplication of work by different bodies, and the proliferation of institutions with similar or cross-cutting human rights mandates inspire more caution than optimism over the course taken by regional bodies with regard to human rights. Furthermore, the active involvement not only of foreign NGOs and governments but also of international institutions can only generate positive results if stripped of their characteristic paternalism towards African countries and institutions.

As is rightly pointed out, rather than indefinitely continuing on the path of elaboration of numerous human rights standards ‘little known and little used, even by OAU/AU organs themselves’ (Murray, p. 267), Africa ‘must find its rhythm and cohesive forces to build its institutions’⁷⁸ and adopt contextual relevance and enforceable standards. It is only by matching the rhetorical adherence to human rights with practice and co-ordinated action that a second season of human rights in Africa can carry any real meaning. Such endeavours need to be driven by legitimate concern over African peoples’ realities and aspirations.

78. N. J. Udobana, *supra* note 73, at 855.