

# **THE EVOLUTION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS, ITS WORK AND PROCESSES**

**BY**

**CHIDI ANSELM ODINKALU<sup>1</sup>**

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<sup>1</sup> Ph.D.(London-LSE), Of the Africa Programme, Open Society Justice Initiative; Chair, Board of Directors, International Refugee Rights Initiative; Chair, Section on Public Interest and Development Law (SPIDEL), Nigerian Bar Association (NBA) and former Chair, Governing Council of the National Human Rights Commission, Nigeria. Working Text for Keynote Remarks to the 30<sup>th</sup> Anniversary of the African Commission on Human and Peoples' Rights, 61<sup>st</sup> Ordinary Session, Banjul, 2 November 2017. The views expressed here are personal to the author and do not necessarily reflect the policies or opinions of any institution with which he is or has previously been associated.

## THE EVOLUTION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS, ITS WORK AND PROCESSES

It is particularly pleasing to be able to join the activities marking the 30<sup>th</sup> anniversary of the African Commission on Human and Peoples' Rights in Banjul, The Gambia and to be able to transmit to present and past members of the Commission, the congratulations and appreciation of a generation of human rights advocates who have accompanied it on its momentous journey over these past three decade.

Nearly 10 years ago, I was rendered *persona-non-grata* by the previous regime in The Gambia in connection positions articulated in defence of human rights in the country and on our continent. I am grateful to the leadership of the Commission, which at all times exerted efforts to get my predicament resolved. Those efforts failed when the Attorney-General and Minister of Justice who was in dialogue with both the Commission and I over the issue was summarily relieved of his position and then himself placed in danger. It is, therefore, particularly gratifying to be able to attend this historic session. It is also a good occasion to congratulate the peoples of The Gambia and West Africa generally for their courage in taking on committed dictatorship and winning.

This 30<sup>th</sup> anniversary is, in many ways the beginning of a baton-passing moment in the evolution of African's regional human rights advocacy community. The generation that saw the launch of this system is slowly transitioning leadership in this enterprise to a younger generation. As this happens, it is useful to annotate the landmarks so far in the evolution of the system so that those who come hereafter can build on the strengths and avoid the landmines.

In this narrative, I am requested to telegraph the story of the first quarter century of the Commission. Even with the best will in the world and with skills much more capable than I could ever aspire to, that would be an impossible brief. I cannot pretend to such capability. The account that follows is, therefore, merely illustrative rather than exhaustive of how the Commission identified and took opportunities that presented themselves, sometimes by accident, at others by design but always in the company and with the support of partners. It is far from an exhaustive narrative of all such advances.

## In the Beginning

On 2 November 2017, the African Commission on Human and Peoples' Rights Convened in Addis Ababa, Ethiopia. Today, effectively makes it exactly 30 years since that historic session. The African Charter on Human and Peoples' Rights entered into force on 21 October 1986, paving the way for the election of Commissioners to take place in 11 Commissioners convened were elected by the 23rd Ordinary Session of the Assembly of Heads of State and Government of the OAU in Addis Ababa, July 28-30 1986. At the 1986 Summit, Senegal's President Abdou Diouf handed over the Chair of the Assembly to the President of the Peoples' Republic of The Congo's, Col. Dennis Sassou Nguesso. The election itself took place nine months later at the 23<sup>rd</sup> Ordinary Session of the OAU at the end of July, 1987. Thereafter, the stage was set for the inauguration of the Commission.

When the Commission convened in Addis Ababa, Ethiopia, on 2 November 1987, as the continent's pioneer regional human rights oversight institution, few thought of it as anything other than a plaything of the continent's big men. The pioneer Chair of the Commission, Professor Isaac Nguema, was the personal lawyer to Gabon's long-serving President, Omar Bongo. His Vice, Dr. Ibrahim Baddawi El-Sheik, was a senior Egyptian career diplomat. Alexis Gabou, the Commissioner from Congo Brazzaville, the Interior Ministers to Congo Brazzaville's President, Sassou Nguesso. Ali Bouhedma from Libya was the Foreign Minister Mouamar Gaddafi. They were joined by Maître Alioune Blondin Beye, who himself was Mali's Foreign Minister. Moleleki Mokama, Botswana's then Attorney-General was also elected member. Three years later, he became Chief Justice. Judge Yossoupha Ndiaye of Senegal's Constitutional Court and Judge Robert Kissanga of Tanzania. Sourahata Janneh, Sam-Grace Ibingira and CLC Mubanga-Chipoya, three lawyers from The Gambia, Uganda and Zambia respectively, made up the remainder of the of the complement of 11 Commissioners. Uganda and Zambia. The only woman in the vicinity was Mrs Esther Tchouta-Moussa, the pioneer Secretary of the Commission borrowed from the Secretariat of the then OAU, where she worked as Legal Adviser.

Their first Ordinary Session was in Addis Ababa, Ethiopia, which had not ratified the Charter. The excuse was that it was the headquarters of the OAU. The second was in Dakar, Senegal and the third was in Libreville, Gabon. The fourth was in Cairo and the fifth in Benghazi.

The world was a different place then. Africa was still ruled mostly by big men who considered themselves indispensable. The euphoria of the post-Independence years had given way to single-party states, life presidents, and constitutional

instability. In Zaire (now DRC), Mobutu Sese Seko ruled; Nelson Mandela was still in jail in Apartheid South Africa; Namibia was not yet independent; soldiers ruled most of West Africa (with the exception of Senegal and The Gambia); Mengistu Haile Mariam was still the President of Ethiopia and the doctrinal foundation of inter-state relations in Africa was non-interference in the internal affairs of member states of the OAU. Beyond Africa, Yugoslavia was still one country as was the Soviet Union. The internet was a military secret and the information revolution a distant dream. The idea of a Commission to inquire into human rights records of African States at best a misnomer.

Many people justifiably doubted whether this body could confront or address the challenge of protecting human rights on the continent. Most members among the initial composition of the Commission were seen as too close to their governments. However, they mostly enjoyed access to rulers around the continent, an invaluable position for laying the foundation for regional human rights institutions in Africa. In their own way, they were equipped to buffer the young Commission, giving it the time it needed to navigate the treacherous pathways of power in the continent then. It is a measure of the evolution of the Commission that most of them would probably be ineligible to be elected to the Commission today.

Recognising the political context in which they operated, the Commissioners agreed to a goal of building a regional system that would “stand on a solid foundation” and for this purpose to “make slow but sure lasting progress.” In May 1988, the 24<sup>th</sup> Ordinary Session of the Assembly of Heads of State and Government formally designated Banjul, Gambia as the seat of the Commission following an offer made by the then President, Sir Dawda Jawara. Nine months later, on 10 February, 1989, the OAU Secretariat designated Mr. Jean Ngabitshema Mutsinzi as the first Executive Secretary of the Commission. He was succeeded by Mr. Germain Baricako who was in turn succeeded by the current incumbent, Dr. Mary Maboreke.

Over the period since then, the Commission has evolved into a significant institution and spawned a complex regional human rights system. The narrative that follows provides highlights of some the major developments in the evolution of the Commission.

### **Independence and Composition of the Commission**

Article 31 of the African Charter merely provided that members of the Commission shall be chosen from among “African personalities of the highest reputation, known for their high morality, integrity, impartiality and competence in

matters of human and peoples' rights." It mentioned "impartiality" as a personal attribute of the Commissioners but not as an institutional characteristic or aspiration. There was also no requirement for considerations of gender diversity. The evolution was slow but the advocacy was steady. It came mostly from civil society who argued the case for the (O)AU to make the effort respect the Independence of the Commission.

This argument gained strength from 1993 when the first concrete steps towards the creation of the African Court on Human and Peoples' Rights began in Addis Ababa, Ethiopia. At the time, the incentive was to ensure that the Commission laid solid foundations in practice for a future African Court. By the end of the millennium, both the Commission and the AU had accepted the argument. Two developments would prove pivotal in this argument by the turn of the millennium. First, the AU issued a *Note Verbale* in 2002 advising that certain positions such as Ministerial and Ambassadorial positions were incompatible with membership of the Commission. Second, members of the Commission themselves voted to advise one of their colleagues from Mauritania, Mohammed Ould Babana, who was appointed an Ambassador to stand down and communicated this decision to the AU. From these developments, the Commission crystallized a standard of independence in its composition.

In keeping with the conventions of the OAU at the time, the election of the original slate of Commissioners reflected regional diversity. Thus, of the original slate, two were from Central Africa; two from east Africa; two from southern Africa; two from North Africa; and three from West Africa. The diversity requirements did not include considerations of sex or gender. The first woman, Judge Vera Duarte Martins, was only elected to the Commission at the 29<sup>th</sup> Ordinary Session of the OAU in Cairo in 1993, on the cessation of the terms of Commissioners Bouhedma, Gabou and Mokama. Also elected with her were Judge Atsu Kofi Amega of Togo and Professor Victor Dankwa of Ghana. With this election, the gradual turnover began towards a more independent Commission. Judge Duarte's election foreshadowed within the next decade, the second woman, Mrs. Julien Ondziel, would become first Vice-Chair and later first female Chairperson of the Commission. For the past decade, the Commission has had a majority of female members its last six chairpersons have been female.

### **Procedural Adaptations and the Protection Imperative**

The African Charter on Human and Peoples' Rights is characterized by dynamic ambiguity, which is very conducive to innovation. The Charter illustrates this with its provisions on the mandate of the Commission to protect human rights.

Article 30 establishes the Commission to “promote human and peoples’ rights in Africa and ensure their protection.” Article 45(2) goes further in providing that the Commission should “ensure the protection of human and peoples’ rights under conditions laid down by the present Charter.” It did not exactly say how but permitted the Commission in Article 46 to “resort to any appropriate method of investigation; it may hear from the Secretary General of the Organisation of African Unity or any other person capable of enlightening it.”

Prior to the inauguration of the Commission, the OAU had received several complaints of human rights violations against member States. Some of them, such as Liberia, against whom the first petition was registered, were not indeed then party to the Charter. Upon inauguration of the Commission, the Secretariat of the OAU passed these complaints to the Commission. What to make of these in the light of the provisions of the Charter would become a source of controversy outside the Commission and soul searching within it. Many observers believed that this gave the Commission no powers to do much in the area of protection, especially individual petitions. Within the Commission, much effort was spent figuring out what this meant. At the first session in Addis-Ababa in 1987, the Commission merely “noted with interest this aspect of its mandate” and “took cognizance of communications which had already been received at the OAU General Secretariat well before the installation of the Commission.”<sup>2</sup> It would take the Commission nearly two years merely to evolve templates for receiving communications. Even then, it could not quite make up its mind what to do with them. Even then, they were still tentative.

By 1990, the Commission had recorded 105 communications but was still not quite sure what to do with them or how. A sequence of events would help it along. First, by this time, a body of NGOs led by the International Commission of Jurists (ICJ) and Amnesty International (AI) had become interested in the work of the Commission and was pushing it to innovate in the handling of communications. Second, petitioners were inundating the Commission with questions about the fate of their petitions. A major change would occur in Lomé, Togo, in March 1994.

Emgba Louis Mekongo was a Cameroonian national, exiled to France. He claimed in his petition that he had suffered multiple violations at the hands of his government back in Cameroon, including false imprisonment and miscarriage of justice.<sup>3</sup> He sought considerable compensation in damages and wanted the Commission to hear him. Not inclined to leave things to chance, Mr. Mekongo flew

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<sup>2</sup> 1<sup>st</sup> Annual Activity Report, para 26

<sup>3</sup> Communication 59/91

down to the Session from Paris. The Commission had not reckoned with this determined petitioner but could not disregard the fact that he had travelled a long distance to be heard. So, the Commission made arrangements to hear Mr. Mekongo. Having heard him the Commission had to make a decision. It found in his favour and require Cameroon to compensate him in damages. The dam had been broken. By mid-2017, the Commission had received cumulatively, about 668 communications, of which 446 had been finalized since inception.

### **Extraordinary Sessions on Protection and Special Procedures**

Individual casework was not always suited to responding to the protection challenges that the Commission confronted. Sometimes it needed to do more with no time. The Commission faced such a situation in November 1995. It had before it communications against Nigeria involving the lives of some environmental and minority rights activists. Despite provisional measures from the Commission, it received news on 11 November 1995 that the nine Ogoni activists had been executed the previous day. The next Ordinary Session was nearly five months away. The Commission could not wait. Under the leadership of the Chair, Professor Isaac Nguema, the Commission decided to convene an extraordinary session. The subject was Nigeria and it added Rwanda to boot.

The problem was that Nigeria was too big a country in the firmament of the OAU. And Rwanda was also not insignificant. Few African countries wanted to host such a session. After protracted negotiations and with the assistance of the intelligence services in Uganda, the government of Uganda provided clearance, enabling the Commission to convene only its 2<sup>nd</sup> Extraordinary Session and the first on protection in Uganda on 18-19 December 1995. The speed with which the Commission undertook this work was path-breaking. It required partnership with states, non-state actors and informal networks. The Session ultimately paved the way for the United Nations human rights system to create a Special Rapporteur on Nigeria. At the Kampala Extraordinary Session also, endorsed in principle the creation of two special mechanism on Summary Arbitrary and Extra-Judicial Executions in Africa (in response to the Genocide in Rwanda at the urging of Amnesty International) and on Prisons and Places of Detention in Africa the Commission at the urging of a network of African and international advocates working with the Penal Reform International). The consequence was that the Commission scaled up its significance and methods.

Eight years later, in 2004, the Commission had a similar extraordinary session in Pretoria, South Africa, on the situation in Darfur, creating a cascade of events that would eventually lead to the referral of the situation in Darfur to the

International Criminal Court (ICC). By the beginning of 2017, the Commission had clocked 21 Extraordinary Sessions, most of them devoted to protection. It had also adapted and evolved several Special Procedures, including five Special Rapporteur positions and several Working Groups.

### **Confidentiality and Reporting**

The Commission had more problems than just what to do about complaints it received alleging violations of human rights by African States. Equally as problematic, if not more, was the question of disclosure about these complaints. Reflecting the spirit of non-interference, Article 59(1) of the Commission required that “All measures taken within the provisions of the present Chapter shall remain confidential until the Assembly of Heads of State and Government shall otherwise decide.” Article 59(3), however, authorized the Chairman of the Commission to publish the report “after it has been considered by the Assembly of Heads of State and Government.”

The Commission initially struggled with what to make of this. As it was still to build credibility or strong allies and advocates, the Commission was ably wary of beginning on a note of denouncing the Heads of State and Government or their countries. For the first five years, its initial activity reports were mostly bland, containing nothing about its work on cases or protection. There was internal disagreement on what to do about reporting. In April 1994, the Commission granted an application by NGO advocates led by the International Centre for the Protection of Human Rights, to re-examine its confidentiality practice based on a comparative study of the practice of confidentiality before international human rights institutions. Following this, the Commission determined that for ease of reference, it would annex reports on its casework to annual activity reports to the OAU. This would enable it to release the casework information. This was done with the 7<sup>th</sup> Annual Activity Report released in October 1994 and was well received. It established a practice that has continued to date. It also provided the basis for the Commission to incrementally evolve practice that would enable it to include *amici curiae* in its work.

Occasionally, the (O)AU has declined to authorize the release of the report of the Commission. In 2003, for instance, the AU required the Commission to defer the release of its 16<sup>th</sup> Annual Activity Report until it had formally received and annexed the inputs of a State – Zimbabwe - that had failed previously to respond to its request for inputs on a mission undertaken by the Commission to the country.



## Partnerships and Taking the Commission Seriously

One of the earliest successes of the Commission was in identifying and forging partnerships with states parties, other inter-governmental entities as well as with non-governmental organisations and national human rights institutions. This was not always as straightforward as it seemed.

Partnership is central to the existence of the Commission. Under Article 30 of the Charter, it is established “within” or “*aupres de l’*” (O)AU. While the English language version envisaged the establishment of the Commission inside the OAU, the French language version contemplated a Commission established in proximity or close to the OAU. From the beginning, therefore, the question of the nature of its relationship with the (O)AU and African States was problematic. The Commissioners lives under exceptionally powerful Presidents who were not averse to showing that they had powers. They paid the costs of the Commission, which was required by the Charter to report to them and take their permission before issuing their reports. The Heads through the AU could also take positions on whom the Commission fraternized with. Navigating their way around these constraints required patience and skillful negotiation.

The Commission began by cultivating the Heads. In 1988, they sought and received the permission of the (O)AU Summit to start receiving and considering state reports. Notably, however, they did not go to the Heads for similar permission with respect to individual complaints. In the same year, the Commission began granting Observer Status to NGOs. Early partnerships with entities like the UN Human Rights Centre, the Raoul Wallenberg Institute, and the Danish Centre, among many followed. The Commission became much sought after as a site for internships.

The International Commission of Jurists revolutionized somewhat the nature of partnerships with the Commission. The ICJ had been instrumental in the adoption of the Commission through the advocacy work of its one-time President, Judge Keba Mbaye of Senegal. The retirement of its longtime Secretary-General, Niall McDermott, in 1991 paved the way for an African to take over leadership of the organization. Adama Dieng, then new Secretary-General, who until then headed the ICJ’s Africa programme, injected considerable dynamism into the ICJ’s focus on the African Commission. He inspired what has become now, the custom of the NGO workshops preceding the Commission. The African Centre for Democracy and Human Rights Studies, established by the Government of the Gambia as a technical counterpart to the Commission was a natural partner in this.

It was still difficult for many states to take the Commission serious. This would change in 1994-1995. Until then, cases were routinely being decided without any appearance or inputs by States. Few States took notice of the Commission. Then in April 1994, the Commission decided two cases against Nigeria, then ruled by an army General, Sani Abacha. This was a game changer. At the 16<sup>th</sup> Ordinary Session in Banjul, Nigeria showed up with a formidable nine-person delegation, including the personal legal adviser to General Abacha. States began to take notice. It also meant NGOs had to become a lot more serious in preparing their cases. This would become evident the following year in Praia, Cape Verde, in October 1995. An NGO from Senegal had filed a petition against Zambia. Its representatives to the Session attended believing the State would not show up. They were poorly prepared. To their surprise, Zambia's Attorney-General showed up for the case. The NGOs who came unprepared had to take emergency tutorship in the legal issues involved.

Earlier in the year, in March 1995, in Lomé, the Commission had met amidst a clamour by the NGOs that it should take a stronger position on the atrocities in the Algerian civil war. This came against the background of widespread disappointment about the failure of the Commission to respond adequately or at all to the genocide in Rwanda the previous year. The NGO workshop raised a resolution on Algeria for consideration by the Commission. The Resolution on Algeria was part of a package of three resolutions generated on three country situations under military rule. In addition to Algeria, there were also resolutions on The Gambia and Nigeria. The resolution on Algeria was to condemn the annulment of the elections in that country in 1992 as well as the murderous conflict that followed in which over 100,000 were reportedly killed, mostly by the military.

Of these three countries, Algeria and Nigeria were two of the five biggest contributors to the budget of the (O)AU. Nigeria was already arm-wrestling the Commission at that time but Algeria had mostly been absent. That resolution changed all that. Following the Lomé session, members of the Commission suddenly became objects of serious attention from Algiers. They received high level visits from the Ambassadors or other personal emissaries of the Algerian President. More formal demarche to the OAU Secretariat also took place. Subsequently, the Algeria resolution failed to be included in the Annual Activity Report of the Commission. In the membership election that followed in 1995, Algeria put forward a candidate who got elected and would later become one of the most influential members of the Commission, later becoming first Vice-Chair and then Chair of the Commission. The States had begun to notice the Commission, not always in ways that they liked.

## **Institutional and Normative Innovations**

These partnerships were to serve the Commission well in advancing the case for enhancing the protection framework of the African regional system. The case for an African Court on Human and Peoples' Rights predated the formation of the OAU in 1963. Consensus was slow in evolving, however. The Commission finally galvanized it. The 14<sup>th</sup> Ordinary Session of the Commission in 1993 was preceded by a workshop which grappled for the first time with the technical feasibility of creating an African Court on Human and Peoples' Rights. The ICJ provided the impetus and the Legal Counsel of the OAU seemed interested in the idea. A technical group facilitated by the ICJ worked with the Legal Counsel and the Commission to prepare a draft of a Court Protocol. Senior members of the Commission became advocates for the draft, helping refine it and adapt it as objections from various states had to be met and responded to.

The preparation of the Protocol won the collaboration of the most improbably partners. Tunisia's President Zine Abdine Ben Ali played host to the final meeting to polish off the draft; Burkina Faso's Blaise Compaore hosted the Summit at which the Protocol was adopted in June 1998 and was the first to indicate acceptance of the right of individual access to the Court. In 2013, Burkina became the first State against whom the Court would issue a money award in the case involving the murder by alleged agents of the Compaore regime of journalist, Norbert Zongo.

The Commission also provided the convening for the preparation of the instrument that became the Maputo Protocol on the Human Rights of Women in Africa.

Through the exercise of its protection mandate, the Commission evolved jurisprudence effectively recognizing an independent right to nationality in the African Charter on Human and Peoples' Rights. Today, in an effort to crystallize this jurisprudence, the African Union is negotiating a Protocol to the African Charter on Human and Peoples' Rights to address statelessness and recognize the right to citizenship in Africa.

## **Conclusion**

Over three decades of trial, experimentation, and institutional diplomacy, the African Commission on Human and Peoples' Rights has come a long way. During this period, it has forged alliances, taken opportunities and also encountered obstacles. It has unquestionably made incredible progress. The course of progress has involved reversals in some cases and frustrations often enough but these have proved ultimately to be spurs for deeper commitment.

Ironically, the achievements of the Commission have brought it much closer scrutiny by some of the organs of the (O)AU. The reports of the Commission which used to be adopted pro-forma by the Assembly of Heads of State and Government are now studied very closely by the Heads. Some of the more recent dispositions from the Heads have become the subject of litigation before the African Court on Human and Peoples' Rights.

The frontiers of the work of the Commission have also ramified with new challenges in human rights in Africa. Three of these new challenges are notable. One is the problem of democracy without democrats and governments without electoral legitimacy which impinges on the right to participation in Article 13 of the African Charter. The second is information technology, new media and the politics of digital expression which present complex challenges for free expression, privacy rights and hate speech among other things in fragile societies in Africa. The third is reproductive and sexual health rights, including the protection of sexual minorities in Africa. There are no easy answers to these. It is important to recognize that these emerging issues struggle for attention with existing challenges such as poverty and food security, the human rights of women and access to social goods in Africa, especially health and education.

As we mark the inflection point of 30 years of the Commission, it is also important not to lose sight of how far the Commission has come or how this has been achieved. Three decades on, this modest beginning has spawned a regional human rights system for Africa that now comprises a very complex network of norms, institutions and procedures. It is hardly recognisable from its earliest incarnation. The Commission's membership now has a majority of women and all of its recent Chairpersons in the past decade (including the incumbent) have all been female.

Since the Commission was established, the continent has adopted regional treaties on the rights and welfare of children, on the human rights of women and on internal displacement. Seven years after they came into existence, the African Commission persuaded the then Organisation of African Unity (OAU) to authorise negotiations for an [African Court on Human and Peoples' Rights](#). In 2016, the Court, with its headquarters in Arusha, Tanzania, marked ten years of its existence.

This difficult history will be lost on many who reflect on the protection of human rights in Africa today. Around the continent now, the reality of institutions that receive complaints from citizens and can decide against powerful governments in cases of human rights violations is taken for granted. Countries that used to be

reluctant in obeying decisions of these bodies are now doing so. For instance, when the Commission found that Cameroon had violated human rights in unlawfully firing Judge Abdoulaye Mazou, the government reinstated him and paid compensation. Botswana reinstated the citizenship of opposition politician, John Modise and his children, after it had unlawfully rendered them stateless. The Commission saved the life of Nigerian General and diplomat Zamani Lekwot, sentenced to death by a military tribunal without a right of appeal. Burkina Faso has paid compensation to the family of slain journalist, [Norbert Zongo](#), after the African Court found that the previous government may have been complicit in his killing and in failing to find out who killed him. The Commission now also has several special procedures patented for diverse human rights issues, including extra-judicial killings and human rights of women. It has issued standards and guidelines on various issues from free expression to counter-terrorism. Its Model Law on Access to Information in Africa has inspired the adoption of about 15 new national level laws on the same subject across the continent.

The record of the African Commission has made the continent's leaders somewhat more accepting of regional supervision of human rights in Africa. Therefore, in the period since the Commission was established, the African Union has made human rights a fundamental principle for regional inter-governmental relations in Africa. Several of the continent's economic integration bodies, including those in west, east and central Africa, have also established regional courts of justice, nearly all of them with jurisdiction over human rights. This could hardly have been foreseen when the African Commission first convened in 1987.

However, there is still a lot of room to reimagine Africa's regional human rights system. Poor funding suggests a lack of commitment from the governments that should support it the most. The fact that Africans still cannot enjoy effective protection around their continent implies an unwholesome separation of economic from political rights. As Rwanda President Paul Kagame recently recommended in his [review](#) of the institutions and organs of the African Union (AU), there must be room to re-examine the multiplicity of overlapping regional courts and tribunals in order to save costs, reduce confusion and improve efficiency.

Above all, the persistence of mass atrocities challenges the aptitude of the continent's institutions and the commitment of its governments. It is also the ultimate major test of the efficacy of Africa's regional courts and tribunals. The continent cannot continue to outsource accountability to the rest of the world but the rest of the world cannot also continue to infantilise Africa or perpetuate the notion that the only place in which Africans who violate their own people can be

effectively held to account is outside the continent. The recent conviction of Chad's former President, Hissene Habre, by an AU-supported court in Senegal is evidence that it is possible to address high-level accountability for mass atrocities in Africa. This is why the proposal for an international crimes complement to the African Court on Human and Peoples' Rights should not be dismissed lightly.

Those 11 men and one woman who met in Addis-Ababa on 2 November 1987 at the First Ordinary Session of the African Commission may not have reflected anyone's idea of traditional champions of human rights. Few of that pioneering set of commissioners would be eligible for election to the Commission today. That demonstrates how far the system has come. But they were also true to their word as the progress has been "slow but sure". Whatever their flaws, the foundation of Africa's regional system has been "solid", if unspectacular. All this suggests that they were canny and, in their own way, committed to a better continent. They teach us that the enterprise of enhancing the institutions for the protection of human rights in Africa has room for everyone to play a role. It is a game of inclusion and addition not of sanctimony and exclusion. As a new generation prepares to take advance our system further into the future, there is a lot in its history for which the pioneering generation of actors should be proud and for which we owe them an eternal debt.