

Reviewing human rights in the context of human security

1.1 Background

This review of human rights in a selection of eight African countries is inspired by the aims and ambitions of the New Partnership for Africa's Development (NEPAD) and the newly launched African Peer Review Mechanism (APRM). The challenge of NEPAD for African political leaders is to improve governance on the African continent in order to create the conditions for growth and development, both through the continent's own efforts and by attracting greater investment and development assistance from international partners. The peer review mechanism is meant to monitor and encourage adherence to the NEPAD standards of good governance. Nineteen countries have so far signed up to the APRM and the first peer reviews are taking place in 2004.¹ Due to time constraints, only eight of these nineteen countries were included in this initial study.

This monograph forms part of the African Human Security Initiative (AHSI). Our aim is to add value to the official peer review process. Although NEPAD is “inherently a state-centric initiative, pitched at the level of African political leadership taking responsibility for the continent's development”,² the plan envisages a supportive role for civil society.

It is in this spirit that the research institutes that make up the AHSI partners embarked on a review of eight of the countries that have signed up to the APRM. The countries are: Algeria, Ethiopia, Ghana, Kenya,

1 The 19 countries are: Algeria, Angola, Benin, Burkina Faso, Cameroon, Republic of Congo, Egypt, Ethiopia, Gabon, Ghana, Kenya, Mali, Mauritius, Mozambique, Nigeria, Rwanda, Senegal, South Africa and Uganda.

2 J Cilliers, *Human security in Africa: A conceptual framework for review*, AHSI, Pretoria, 2004, p 20.

Nigeria, Senegal, South Africa and Uganda. The AHSI reviews do not attempt to duplicate the APRM methodology, but concentrate instead on particular aspects of good political governance that lie within the remit of their expertise. In our case, this means the field of peace and security studies are broadly defined. Our review therefore focuses on AU commitments to good governance that have a particular impact on *human security* on the African continent.

Within the broad remit of reviewing human security, this monograph reviews human rights observance in the eight countries selected, with particular emphasis on institutions and practices that, if put in place and respected, would greatly enhance human security on the African continent. The objective is to determine whether the states to be reviewed have taken any concrete steps to domesticate the relevant standards to which they have committed themselves; to determine the level of the actual enjoyment of these human rights commitments within the national sphere; and to provide specific information on the legal and *de facto* situation in the countries concerned.

The rights that are addressed are personal safety and security, which encompasses the right to life; freedom from arbitrary arrest and detention; and freedom from torture, cruel, inhuman or degrading treatment or punishment. Within this theme of personal safety and security, we also look at security issues affecting children and refugees, since the AU has a charter and convention in force, which specifically address these two groups. The other themes addressed are access to justice and freedom of expression.

This study highlights the chief areas of difficulty that countries have in meeting their human rights obligations in the areas of personal safety and security, access to justice and freedom of expression.

It was not our intention to rank or prioritise rights, which would undoubtedly detract from the universal goal of realising all human rights. Human rights are indivisible and need to be treated in an integrated manner. Rights should therefore be implemented irrespective of whether they are considered positive or negative, justiciable or non-judiciable, or otherwise. Exhaustive information is not provided on each country. Rather, this study highlights the chief areas of difficulty that countries have in meeting

their human rights obligations in the areas of personal safety and security; access to justice; and freedom of expression.

1.2 Linking human rights and human security

Human security refers to the secure access of human beings to the conditions that most contribute to their flourishing. In other words, “if human development is freedom from want (a process widening the range of people’s choices), human security can be understood as the ability to pursue those choices in a safe environment on an equal basis with others.”³

The value of the concept of human security is that it helps us to focus squarely on human beings and to realise that traditional concerns for the security of the state, and for security against external or internal threats, cannot be viewed as ends in themselves but rather as *means* that must be judged according to whether and to what extent they contribute to (or indeed detract from) the interests of human beings. Thus, the conceptual framework for the AHSI project includes the view that:

“national security is about those governmental institutions that ensure the physical protection and safety of their citizens and their equal access to the law and protection from abuse. These are primarily composed of two sets of government systems and institutions. The first components consist of the traditional instruments of national security namely the criminal justice system (police, justice and correctional services/prisons), the military and the intelligence community. The second, and more important, relates to the nature of governance, its institutions and the rules, norms and values that underpin it, as well as the efficacy thereof.”⁴

The concept of human security must be given more specific content in order to serve as a guide to the assessment of actual social conditions and institutions. In particular, what *are* the conditions that most contribute to human flourishing?

³ J Cilliers, *Human security in Africa: A conceptual framework for review*, AHSI, Pretoria, 2004, p12.

⁴ *Ibid.*

It is clear that, at a maximum, these conditions can include a great deal, as very many things contribute to our flourishing in some way. However, it seems that a concept of human security that demands the secure access of human beings to all of these factors is likely to demand too much for a variety of reasons. First, it may not be possible to easily agree as to what the factors of concern are. Second, it may be unrealistic or undesirable to guarantee secure access to all of these conditions, because they are expensive or difficult to achieve. Third, even if it is thought desirable for human beings to have secure access to certain conditions of flourishing, it may not be required as a matter of *justice* that any given actor (such as the state) bring about that access.

It seems more reasonable, realistic and supportable to anchor the concept of human security to a more restricted set of conditions that may be viewed as essential requirements for an adequate human life in shared social conditions. In such an approach, it is viewed as necessary that human beings should have access to these essential requirements if they

Human security requires, at a minimum, secure access to the essential requirements for an adequate human life. These essential requirements are in turn specified by a conception of human rights.

are to possess human security. How should these essential requirements for an adequate human life in shared social conditions be identified?

Here, a conception of human rights is of singular importance, as it identifies a (more or less broadly shared) consensus concerning these most basic requirements. We may therefore propose that the relationship between human security and human rights is as follows: human security requires, at a minimum, secure access to the essential requirements for an adequate human life. These essential requirements are, in turn, specified by a conception of human rights.

The human rights that must be respected in order for human security to prevail in a shared social context surely today include the following: freedom from arbitrary arrest and detention; freedom from torture, and other forms of cruel, inhuman and degrading punishment; personal security and safety; access to the courts; rights to fair, equitable and transparent judicial processes before independent tribunals; and freedom to express opinions and to seek, receive and impart information.

1.3 The choice of AU human rights commitments

Each of the countries under review has dealt with, or is currently in the process of dealing with, situations that have affected their past and current human rights records. For example, Ghana and Nigeria have only recently come under democratic leadership, having spent most of their independence under military rule. Under military rule, or quasi-military rule, there was little regard for the rule of law and for human rights. Similarly, it is only in late 2002 that Kenya came under new leadership – after a 25-year reign by President Daniel Arap Moi, where human rights were not generally respected. It is only now, under President Mwai Kibaki, that the government seems to be making a serious attempt at improving human rights in Kenya.

Each of the countries under review has dealt with, or is currently in the process of dealing with, situations that have affected their past and current human rights records.

In Algeria, in response to acts of terrorism, the country has been under a state of emergency since 1992. While the country has declared that the state of emergency does not affect certain rights, in actuality, serious abuses of human rights exist in the country as a result of the powers that the state of emergency gives to Algerian authorities. In Ethiopia, ethnic conflict and border disputes have affected the country's human rights record, as have 20 years of repressive military rule. Uganda has been in an ongoing battle with rebel forces for almost two decades, leading to mass human rights abuses there. Similarly, the independence movement in the Casamance region have adversely affected human rights in Senegal. More recently, Kenya and Uganda have enacted terrorism bills, which grant powers to the government similar to those under the United States Patriot Act, powers that are an affront to human rights.⁵ South Africa, while celebrating ten years of democracy in 2004, is still coming to terms with the legacy of systematic, widespread abuse of human rights that were committed under four decades of apartheid.

⁵ Uganda's Suppression of Terrorism Act was passed in March 2002. Kenya's Suppression of Terrorism Bill was published in March 2003.

Yet, despite these internal challenges, all of the countries under review have agreed to participate in the APRM, and have committed themselves to the principles set forth in the NEPAD Declaration on Democracy, Political, Economic and Corporate Governance. Accordingly, they have committed themselves to the following human rights standards:

- The African Charter on Human and Peoples' Rights;
- The African Charter on the Rights and Welfare of the Child;
- The Protocol on the Establishment of an African Court on Human and Peoples' Rights;
- The Grand Bay (Mauritius) Declaration and Plan of Action for the Promotion and Protection of Human Rights;
- The Conference on Security, Stability, Development and Co-operation (CSSDCA) Solemn Declaration;
- The Constitutive Act of the African Union;
- other decisions of the African Union; and
- "the other international obligations and undertakings entered in the context of the United Nations."⁶

Further, NEPAD members undertake to "work with renewed determination to enforce the rule of law, the equality of all citizens before the law and the liberty of the individual", as well to enforce "individual and collective freedoms".⁷ Paragraph 10 is probably the most poignant in terms of NEPAD's commitment to human rights. It states:

"In light of Africa's history, respect for human rights has to be accorded an importance and urgency all of its own... We undertake to do more to advance the cause of human rights in Africa, generally and, specifically, to end the moral shame exemplified by the plight of women, children, the disabled and ethnic minorities in conflict situations in Africa."

⁶ Declaration on democracy, political, economic and corporate governance, NEPAD, Assembly of heads of state and government, 38th ordinary session of the Organisation of African Unity, 8 July 2002, AHG/235 (XXXVIII), Annex I, paras. 3 and 4.

⁷ *Ibid*, para. 7.

Finally, under the human rights framework, NEPAD members agreed to:

- Facilitate the development of vibrant civil society organisations, including strengthening human rights institutions at the national, sub-regional and regional levels;
- Support the Charter, African Commission and Court on Human and People's Rights as important instruments for ensuring the promotion, protection and observance of human rights;
- Strengthen co-operation with the UN High Commissioner for Human Rights; and
- Ensure responsible free expression, inclusive of the freedom of the press.⁸

We now turn to a closer examination of the general and specific human rights commitments contained in the following key documents of the AU, and its predecessor, the Organisation of African Unity (OAU).

1.3.1 The Constitutive Act of the African Union

Under the Constitutive Act of the AU, which abrogated and replaced the Charter of the OAU, one of the objectives of the Union and its members is to “promote and protect human and peoples’ rights in accordance with the African Charter on Human and Peoples’ Rights and other relevant human rights instruments”.⁹ Since that time, the AU has issued more elaborate statements regarding their commitment to human rights, the most recent of these being the Kigali Declaration.¹⁰

1.3.2 The Kigali and Grand Bay Declarations

The Kigali Declaration, which was adopted at the First AU Ministerial Conference on Human Rights in Africa in May 2003, set out several objectives for AU members, objectives that are similar to those contained in an earlier document, the Grand Bay Declaration and Plan of Action of

⁸ *Ibid*, para. 15.

⁹ Constitutive Act of the African Union, 2000, art. 3.

¹⁰ Kigali Declaration, MIN/CONF/HRA/Decl.1 (I), adopted at the First AU Ministerial Conference on Human Rights in Africa, 8 May 2003.

the First OAU Ministerial Conference on Human Rights in April 1999.¹¹ Amongst other provisions, the declarations call for respect for regional human rights documents, as well as the states' obligations under international law. Both declarations ask that states incorporate principles of the African Charter and its protocols, international humanitarian law, and international human rights law into their domestic legislation. They also highlight the need by states to focus on the rights of certain vulnerable groups such as women and children, as well as those of refugees, internally displaced persons (IDPs) and returnees. Further, the declarations call for just, equitable and accessible judiciaries.

1.3.3 The CSSDCA Solemn Declaration and Memorandum of Understanding

The CSSDCA Solemn Declaration says that states will “protect and promote respect for human rights and fundamental freedom, such as the freedom of expression and association.”¹² The CSSDCA Memorandum of Understanding¹³ outlines the following human rights related commitments: adherence to the 1999 Grand Bay (Mauritius) Declaration and Plan of Action on Human Rights in Africa, “observance, protection and promotion of human rights... in accordance with provisions of the African Charter on Human and Peoples’ Rights and the Grand Bay Declaration”, and speedy establishment of an African Court on Human and Peoples’ Rights. The Memorandum of Understanding (MOU) further states that by 2003 all African countries should ratify the Protocol to the African Charter on the Establishment of an African Court on Human and Peoples’ Rights. The MOU also calls for the submission of annual state reports to the African Commission of Human and Peoples’ Rights by 2004.

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

12 Solemn Declaration on Security, Stability, Development and Cooperation in Africa, Assembly of heads of state and government, 36th ordinary session, 10–12 July 2000, AHG/Decl.4 (XXXVI).

13 Memorandum of Understanding on Security, Stability, Development and Cooperation in Africa, heads of state and government, First Standing Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA), 8–9 July 2002, Durban, South Africa, OAU/CIVIL SOCIETY.3 (II) Annex.

1.3.4 The African Charter on Human and Peoples' Rights

The African Charter on Human and Peoples' Rights was adopted by the OAU on 17 June 1981 and entered into force on 21 October 1986. Article 1 of the Charter calls for recognition of all of the rights, duties and freedoms set forth in the Charter by OAU member states. It further requires that states make these rights, duties and freedoms part of their national legislation. The Charter incorporates civil and political rights as well as economic and social rights. It also makes provisions for peoples' rights, as well as outlining duties that both the state and the individual have towards their community and country. Protocols have also been added to the Charter, including: the Protocol on the Rights of Women in Africa,¹⁴ and the Protocol on the Establishment of an African Court on Human and Peoples' Rights.¹⁵ The Charter, along with its protocols, is the most elaborate human rights document that has been adopted by African heads of state, and will therefore be the focus of this paper when reviewing state commitments to human rights.

The monitoring body of the African Charter is the African Commission on Human and Peoples' Rights. The Commission was established under article 30 of the Charter and receives its mandate under article 45. One of the most used functions of the Commission is the communication procedure set forth under article 55 of the Charter. Individuals, and non-governmental organisations representing groups or individuals, have used this article to bring allegations of human rights violations against African states.

In the powers afforded to it under article 45(3) of the Charter, the Commission has worked extensively on providing proper interpretations of the African Charter. For example, the Commission has determined that no derogations can be made from the Charter and that laws must conform to those that one would find in a democratic society. These interpretations, as well as recommendations and resolutions that have been issued by the Commission, must be followed by states when interpreting the African Charter's provisions.

¹⁴ Protocol to the African Charter on Human and Peoples Rights on the Rights of Women, adopted in July 2003, not yet entered into force.

¹⁵ Protocol to the African Charter on Human and Peoples Rights on the Establishment of an African Court on Human and Peoples' Rights, entered into force on 25 January 2004.

1.3.5 The African Charter on the Rights and Welfare of the Child

The African Charter on the Rights and Welfare of the Child was adopted by the OAU in 1990, and entered into force on 29 November 1999. The Charter is significant for being the first regional mechanism devoted to the rights and issues of children. It can be said to be a marked improvement from the United Nations (UN) Convention on the Rights of the Child for addressing certain rights and issues that are not addressed in the UN Convention, such as harmful cultural practices; outright prohibition on the recruitment of children (defined as any person under 18 years of age) in armed conflict; and the prohibition of marriages or betrothals involving children. The Charter's treaty monitoring body, the Committee of Independent Experts, will also have within its mandate the power to entertain individual complaints from "any person" in matters relating to the Charter's provisions.

1.3.6 The Convention Governing Specific Aspects of Refugee Problems in Africa and the Khartoum Declaration and Recommendations on Refugees, Returnees and Internally Displaced Persons in Africa

The specific commitments for addressing the situation of refugees are the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, which was adopted in 1969 and entered into force in 1974, and the more recent Khartoum Declaration and Recommendations of the OAU Ministerial Meeting on Refugees, Returnees and Internally Displaced Persons in Africa. The Khartoum Recommendations, adopted in 1998 by the OAU, address the plight of internally displaced persons and returnees in more detail than does the Convention. They urge states to "accede, incorporate, and implement" the OAU Convention, the UN Convention Relating to the Status of Refugees and its Protocol, as well other instruments including: the Convention on the Reduction of Statelessness and the African Charter on Human and Peoples' Rights.¹⁶ The recommendations also urge

¹⁶ Khartoum Recommendations of the OAU, Ministerial Meeting on Refugees, Returnees and Internally Displaced Persons in Africa, adopted by the OAU, 13 December 1998, in Khartoum, Sudan, section 2.

states to extend asylum to all deserving applicants, to adhere to the policy of *non-refoulement*, and to develop rehabilitation programmes that would assist in the resettlement of returnees.¹⁷

1.4 Structure of the report

This first chapter provides the context for the monograph by, first, conceptualising the link between human rights and human security; and second, describing and discussing the AU commitments chosen for review. The tables at the end of this chapter provide a summary of the commitments to be reviewed, as well as the indicators used to measure each commitment. The relevant indicators are also listed at the outset of each subsequent chapter.

Chapter Two reviews general acceptance of regional human rights standards in each country. Chapter Three reviews the extent to which countries uphold the rights to personal safety and security, including the right to life, freedom from arbitrary arrest and detention, and freedom from torture and other forms of cruel, degrading and inhuman treatment. Chapter Four reviews the personal safety and security of vulnerable groups, namely children and refugees.

While other groups, such as women, the elderly and the disabled are also among the groups most vulnerable to rights violations, this review focused only on children and refugees because of the specific commitments that AU member states have made towards these two groups. While a Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa has been written, it still has not entered into force. Therefore it was deemed that a review of state commitments to this Protocol should not be included. However, many of the security and safety issues affecting women have either been touched upon in relation to problems affecting girls, or in the section dealing with torture.

Chapters Five and Six deal with freedom of expression and access to justice respectively. Chapter Seven provides some conclusions on progress in upholding human rights standards in the countries under review.

¹⁷ *Ibid*, articles 3(a), 3(b), and section 5.

TABLE 1: PERSONAL SAFETY AND SECURITY

RIGHT TO LIFE		FREEDOM FROM ARBITRARY ARREST AND DETENTION		FREEDOM FROM TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT	
COMMITMENT	INDICATORS	COMMITMENT	INDICATOR	COMMITMENT	INDICATOR
<p>Specific: Article 4 of the African Charter on Human and Peoples' Rights: Human beings are inviolable. Every human being is entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.</p> <p>General: Constitutive Act of the AU, para. 4; The AU and its members will uphold "respect for the sanctity of human life".</p>	<ol style="list-style-type: none"> 1. Is the right to life constitutionally guaranteed? 2. Do state authorities carry out summary or extrajudicial executions? 3. Are forced disappearances or abductions a problem in the country? 4. Do prison conditions lead to death? 5. Do vigilante, terrorist, rebel groups or criminals commit killings without fear of state action? 	<p>Specific: Article 6 of the African Charter on Human and Peoples' Rights: Every individual shall have the right to liberty and to security of person. No one shall be deprived of his freedom except for reasons previously laid down by law. In particular, no one may be arbitrarily arrested or detained.</p>	<ol style="list-style-type: none"> 1. Does the state provide clear national laws, such as constitutional or legislative provisions, for the protection of arrested and detained persons? 2. From the moment that a deprivation of liberty occurs, are basic safeguards in place for the arrested or detained person? 3. Are persons often arrested and detained for long periods of time without charge? 4. Are lengthy pre-trial detentions a problem? 5. Are persons charged with bailable offences often remanded to prison, and comprising a significant portion of the country's prison population? 	<p>Specific: Article 5 of the African Charter on Human and Peoples' Rights: Prohibits all forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment.</p> <p>OAU Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines).</p>	<ol style="list-style-type: none"> 1. Do constitutional protections exist against such acts? 2. Has the state ratified the Convention against Torture and recognised the competency of the United Nations Committee against Torture as stipulated under para. 1 of the Robben Island Guidelines? 3. Is torture, cruel, degrading or inhuman treatment practised by state authorities? 4. Does the state have guidelines in place for the treatment of detained persons that are in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners as stipulated under Part II, para. 33 of the Robben Island Guidelines?

TABLE 2: PERSONAL SAFETY AND SECURITY: CHILDREN AND REFUGEES

CHILDREN	INDICATOR	COMMITMENT	REFUGEES
<p>Specific: African Charter on the Rights and Welfare of the Child</p> <p>General: Grand Bay Declaration: calls for the elimination of cultural practices that are dehumanising or demeaning to children, the eradication of violence against children, the end of child labour, the sexual exploitation and trafficking of children.</p> <p>Kigali Declaration: calls for the end of the practice of child soldiers and the protection of children in situations of armed conflict.</p> <p>CSSDCA Memorandum of Understanding: calls for the promotion and protection of the rights and welfare of the child.</p> <p>African Charter on Human and Peoples' Rights: calls for the protection of human rights of individuals in African states.</p>	<p>1. Has the state ratified the African Charter on the Rights and Welfare of the Child?</p> <p>2. Has the state ratified the UN Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict and the Protocol on the Trafficking and Sexual Exploitation of Children as stipulated under para. 24 of the CSSDCA Memorandum of Understanding. <i>This would imply ratification of the Convention on the Rights of the Child.</i></p> <p>3. Have cultural practices harmful to children been abolished or do they continue to be practised and thus tolerated by the state?</p> <p>4. Are children used as child soldiers in armed conflict?</p> <p>5. Is there a problem of child labour, trafficking in children or sexual exploitation of children?</p>	<p>Specific: OAU Convention Governing the Specific Aspects of Refugee Problems in Africa</p> <p>Khartoum Declaration and Recommendations of the OAU Ministerial Meeting on Refugees, Returnees and Internally Displaced Persons in Africa</p> <p>General: CSSDCA Solemn Declaration: calls the study of the problem of refugee and displaced persons in Africa and for the mobilisation of resources to provide adequate assistance to asylum seekers.</p> <p>The Kigali Declaration urges member states to implement all relevant international and regional instruments related to the protection of refugees, internally displaced persons, and returnees.</p>	<p>INDICATOR</p> <p>1. Has the state ratified the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa as stipulated under section 5, para. 4 of the Khartoum Recommendations?</p> <p>2. Has the state acceded to the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol as stipulated under para. 3 of the Khartoum Declaration and section 2, para. 4 of its recommendations?</p> <p>3. Does the state abide by the principle of <i>non-refoulement</i> as stipulated in article 2, section 3 of the OAU Convention?</p> <p>4. Does the state have proper measures in place for reviewing asylum applications and for hosting refugees?</p> <p>5. Are the rights to life, arbitrary arrest and detention, and right to be free from cruel, inhuman and degrading treatment upheld for refugees by the state?</p>

TABLE 3: FREEDOM OF EXPRESSION

FREEDOM OF EXPRESSION	
<p>COMMITMENT</p> <p>Specific:</p> <p>Article 9 of the African Charter on Human and Peoples' Rights: "[E]very individual shall have the right to express and disseminate his opinions within the law."</p> <p>Declaration of Principles on Freedom of Expression in Africa</p> <p>Article 10 of the African Charter on Human and Peoples' Rights: "Every individual shall have the right to freely associate, provided that he abides by the law."</p> <p>Article 11 of the African Charter on Human and Peoples' Rights: "Every individual shall have the right to freely assemble with others."</p> <p>General:</p> <p>Grand Bay Declaration, para. 21: Free and independent press</p> <p>Kigali Declaration, para. 29: Free and independent press</p> <p>NEPAD Declaration para. 15: Free and independent press</p>	<p>INDICATORS</p> <ol style="list-style-type: none"> 1. Do the countries under review have a free and independent press? 2. Is their national legislation restricting the right of freedom of expression? 3. Does the state repress the media? 4. Are individuals, primarily those most vocal against the state (that is, politicians, journalists, activists) free to express opinions, disseminate information and to carry out their work free of government interference? 5. How does the state react to demonstrations, marches, protests and the like?

TABLE 4: ACCESS TO JUSTICE

ACCESS TO JUSTICE	
<p>COMMITMENT</p> <p>Specific:</p> <p>Article 7 of the African Charter on Human and Peoples’ Rights: Every individual shall have the right to have his or her cause heard.</p> <p>Article 13 (2) of the African Charter on Human and Peoples’ Rights: Every citizen shall have the right of equal access to the public service of his country.</p> <p>OAU Principles and Guidelines on the Right to Fair Trial and Legal Assistance in Africa.</p> <p>General:</p> <p>Grand Bay Declaration, para. 4: recognises the need for an “independent, open, accessible and impartial judiciary, which can deliver justice promptly and at an affordable cost.”</p> <p>Kigali Declaration, para. 5: calls upon states to guarantee “independence, accessibility, affordability and due process of the justice system.”</p>	<p>INDICATORS</p> <ol style="list-style-type: none"> 1. Are persons tried in fair, public, independent and impartial courts or tribunals? 2. Is the right to counsel guaranteed? 3. Is the judiciary accessible and affordable? 4. Have military or special tribunals, not conforming to regional human rights standards, been established by the state? 5. Are there impunity or amnesty laws that prevent victims from seeking justice against their perpetrators?