

**The use of Information and Communications Technology (ICTs)  
in human rights promotion: A case study of the African  
Commission on Human and Peoples' Rights**

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## **Abstract**

The employment of ICT tools as a weapon of choice at the African Commission on Human and Peoples' Rights, an organ established within the African Union with a broad mandate of spearheading human rights promotion on the African Continent has not been emphasised as a crucial element in the struggle towards achieving human rights promotion and protection on the African continent, with the resulting consequence that the Commission is not as visible and known to the people that it is supposed to serve.

It is in this regard that this thesis was undertaken with an aim of examining the effects of employing alternative new media communication strategies as well other tools and approaches as a means of re-inventing its methods and approaches and show how this strategy, or the lack of it, could make or break an institution.

It is hoped that the thesis will contribute in increasing the profile of the African Commission on Human and Peoples' Rights in the public image and eventually lead to embracing ICTs as a driving force in Africa's human rights' safeguards.

## **Key terms**

### **African Charter on Human and Peoples' Rights**

A regional human rights instrument created by the OAU to promote and protect human and peoples' rights in Africa. Adopted in June 1981, it is now binding on 52 of the 53 member states of the African Union.

### **African Commission on Human and Peoples' Rights**

An organ established in 1987 within the Organisation of African Unity (now the African Union) by virtue of Article 30 of the African Charter on Human and Peoples' Rights, mandated to promote and ensure the protection of human and peoples' rights in Africa.

### **Assembly of Heads of State and Government**

A political organ created within the OAU and charged with the responsibility of making decisions for the African continent, and solving continental crises. The body is composed of Heads of State and Government of the African Union, and meets twice a year. It is the supreme political organ of the African Union.

### **Organisation of African Unity (OAU)**

A regional organisation made up of independent African states. Created in May 1963, the Organisation's main aims were to foster African unity, and to combat colonialism and apartheid.

### **Promotion**

Promotion in this context refers to a series of activities which are undertaken at the African Commission on Human and Peoples' Rights with a view of publicizing the Commission and its work across the African continent and abroad, thereby advancing the realization of the culture of Human Rights on the continent. Promotion is a function under article 45(1) of the African Charter conferring on the Commission activities aimed at sensitising people on their rights, freedoms and responsibilities.

### **States' Periodic Reports**

Reports that states parties to the African Charter are required under article 62 thereof to submit to the Commission after every two years from the date on which the Charter came into force for the state. Through these reports, the states are required to indicate the legislative and other measures taken to give effect to the provisions of the Charter.

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# Chapter One

## 1.0 Background to the Study

### 1.1 Introduction

Accurate and consistent Human Rights promotion is an essential element to human rights diplomacy, campaigning, advocacy, and research. It is also crucial to building and sustaining the legitimacy and reputation of organizations.

Africa is among the other continents with a region-specific human rights monitoring body – the African Commission on Human and Peoples’ Rights (hereinafter referred to as “the Commission”) – a body established in 1987 within the Organisation of African Unity (OAU) to monitor the implementation of the rights, freedoms and duties as guaranteed by the African Charter. The African Charter is the youngest regional human rights instrument in the world. At its inception, Article 45 gave the Commission a broad mandate of promoting human rights, protecting human rights as well as interpreting the provisions of the African Charter.

Though much progress has been made to promote human rights on the African continent, more needs to be done to make this important human rights body well known and accessible. The procedures of the Commission are not well known to the majority.



This research therefore seeks to render a critical analysis that will lead and co-ordinate a programme of promotional work across the region, including the integration of the use of ICT tools and technologies as part of its promotional strategy.

## **1.2 Statement of the research problem**

The weakness or strength of any institution revolves around its normative and procedural scope, its implementation machinery and above all the practice of all the relevant actors.

The Commission has, due to procedural and material constraints, not fully amalgamated ICT in its efforts to fulfil its mandate, and it is also, owing to the lack of adequate human resources, been handicapped to implement promotional activities that would sell its activities to the beneficiaries, in the process negatively impacting on its image.

This state of affairs is compounded by the widespread illiteracy of the population majority, leading to the net effect that the efforts of the Commission and NGOs to create awareness have been largely insignificant.

Whereas Article 25 of the African Charter on human and peoples' rights requires States to educate their citizens on the rights and duties as enshrined in the Charter, very few States, if any – appear to have done so. The consequence of this situation is that the Commission is known by only a small segment of the population in Africa, and even less known outside Africa. Unfortunately, this state of affairs has made the Commission ineffective as the bulk of its beneficiaries do not have adequate information about its existence, its activities, as well as lack of information as to how they can benefit.

## **1.3 Justification**

Most studies on the Commission have tended to focus on studying the institution as an African mechanism for the protection of human rights on the continent, but none

has attempted to single out tools that could be utilised to engage and reach out to the masses who are the beneficiaries.

It is hoped that this one will add to the knowledge gained from the previous studies as well as fill the gaps by examining the extent to which the mandate of human rights promotion of the Commission is being fulfilled and singling out tools that could be utilised to redeem the Commission's image.

It is hoped that this approach of examining the effects of employing effective promotional strategies, and show how this strategy, or the lack of it, can make or break an institution would assist fill the existing gaps.

The study will also raise awareness and discussion among the various stakeholders of the African Human Rights architecture.

## **1.4 Objectives**

### **1.4.1 Research Objectives**

The broad objective of this study is to determine the effectiveness of the current human rights promotion strategies used by the African Commission in fulfillment of its mandate.

### **1.4.2 Objectives**

- (a) Explore the extent at which the Commission utilizes ICT tools to fulfill its human rights promotion mandate and investigate the constraints it faces.
- (b) Make recommendations on how the Commission could revamp its mandate by use of alternative promotional strategies.

## **1.5 Research Question**

To what extent is the Commission fulfilling its mandate and what alternative strategies could be employed in order to perfect the human rights architecture on the African continent?

## **1.6 Justification of the Research Question**

Whereas the African Charter, as the principal document that guides human rights promotion on the African Continent, provides for the establishment of a Commission to oversee the implementation of the rights guaranteed therein, paradoxically, this very charter limits the functions of the Commission that it created. The Charter, for example, does not grant the Commission express authority to hold States accountable for human rights violations. For this reason, the Commission is dependent on the goodwill of State Parties to perform some of its duties; unfortunately, this reliance on the goodwill of member states makes the Commission appear ineffective in the eyes of the public.

In this regard, the Commission needs to employ alternative strategies to reclaim its image among the wider public. In so doing, the Commission will need to appraise its services and carefully identify its key target audience by use of an appropriate human rights strategy that will lead and co-ordinate a programme of promotional work across the region. The chosen strategy should try to embrace all facets of our society, including the integration of gender and child rights in its promotional work vis-à-vis their relationship with its programmes.

## **1.7 Key Audiences**

The key audience is the institution itself – the African Commission on Human and Peoples’ Rights. The African Commission is made up of the eleven elected Commissioners and the Secretariat, who are also key audiences for this research. Another key audience are the states themselves – member states of the African Union, who are also State Parties to the African Charter on Human and People’s Rights.

## **1.8 Research Methodology**

Understanding the bottlenecks hindering the African Commission from fulfilling its mandate requires a case study approach. For this reason, this study is not conceived within any strict theoretical framework; rather, it is based on a case

study of the African Commission. The study thus adopts a historical, analytical, and empirical approach.

Secondary sources of information are being used in developing the thesis arguments. Library facilities at the African Commission which are rich in historical documents related to the establishment, mandate and activities of the African Commission from inception to date were used to develop the arguments.

In an effort to understand the current situation at the African Commission that has led critics to believe there are some weaknesses inherent within the system, the researcher took a historical analysis of events surrounding the African Human Rights architecture and drew conclusions that formed part of the recommendations.

Qualitative inquiry was employed in an effort to conduct an effective study. For this reason, discussions with various human rights activists was undertaken which helped in concretising the subject at hand. Content analysis was also used to examine the content and nature of the promotional methods that were used at the Commission.

For purposes of carrying out a comprehensive study that aimed at assembling available information and evidence throughout the research process, the researcher employed a multi-stage model (Bardach, 2009), an approach that analyzing the evidence and drawing conclusions.

## **1.9 Arrangement of chapters**

This thesis examines the work of the African Commission in promoting human rights, and how technology and ICTs can help the Commission strengthen its human rights promotion, reach out to a wider population, and engage more effectively with those it seeks to empower.

The thesis seeks to render a critical analysis of the Commission's work, resources, and capabilities, and makes a strong case for the Commission to embrace

technology and ICTs. It also makes recommendations for innovatively mapping out the social media landscape in order to take advantage of mass dissemination capabilities utilising various ICT approaches.

The thesis is presented in four main chapters.

Chapter One introduces the study, and sets the tone for the subject matter of investigation – the employment of Information Communication Technology tools at the Commission as a weapon of choice in the realization of human and peoples' rights on the African continent. The Chapter introduces the topic of study and gives the background as well as a chronology of events that necessitated the creation of the African Commission, as well as the achievements and challenges faced in the process of implementing its functions.

Chapter two discusses the findings, where the methodology and objective for carrying out the research is briefly stated. The chapter reflects on the demise of apartheid and colonialism in the 1960s, and how apartheid and self-determination were the remaining issues that caught Africa's imagination, to the extent that less attention was paid to human rights issues on the continent.

Although passed at a time when the majority of African states were being denied their basic human rights, and despite its well-known flaws, the Charter remains a point of reference in the field of human rights and is a fundamental text that given promise to the millions of people across the African continent.

In an attempt to give to the reader a synopsis of the concept of human rights on the continent, the chapter describes the circumstances that led to the African leaders of the time to set in motion the process that eventually led to the establishment of a human rights commission with a broad mandate within the Organization of African Unity with the purpose of inculcating on the continent a culture that would become progressively more respectful of human rights and human dignity by rallying African peoples and getting them involved in activities of protection, defence and promotion of human rights.

Today, the African Charter is an integral part of the constitutional norms of most African countries. At the same time, civil society organisations attempt, sometimes under particularly difficult conditions, to actualise the Charter, in the hope that it will contribute to the improvement of their people's living conditions and, thereby, to the economic development of the continent.

For its part, the African Commission has striven, since its establishment in 1987, and with the varied support of non-governmental organisations (NGOs), to promote and protect the relevant provisions of the African Charter, while adapting them to diverse African contexts, and to reflect, in the most inclusive manner possible, on ways and means of reinforcing the mechanism for the protection of these rights. The African Commission has taken several initiatives aimed at a significant expansion of the role of these norms, and of the institutions and actors charged with implementing them, in African societies.

Chapter three discusses the achievements and limitations of the African human rights system, and notes that in spite of the African Charter and numerous other regional human rights instruments, the continent continues to witness unprecedented denial of human rights.

Twenty seven years after the establishment of the African Commission, this Chapter takes a pause and examines the achievements, challenges and perspectives of the Commission in its efforts to safeguard the rights and duties, especially in this dynamic globalized world connected by various ICT tools.

The chapter hints at the achievements of the Commission in fulfilling its mandate but also, in the same measure, citing current practices, notes that until a viable system with unfettered power to find member states guilty of human rights violations is realised and make those findings stick, a genuine human rights mechanism on the African continent will remain but on paper.

The Chapter observes that today's digital world demands of organisations to be present on social media, and notes that most of them are, including the African

Union headquarters, the United Nations and its agencies, government bodies, non-governmental bodies, educational institutions, as well as host of many others bodies, and basing on this, recommends that since the major business of the Commission is to promote human rights, it should take advantage of this to promote its activities online by twitting and face booking their work to the millions out there. The United Nations Under-Secretary-General for Communications and Public Information, for example has remarked that:

*“Facebook, YouTube, Flickr and Twitter have entered the lexicon of people from all walks of life.”*

And continued thus:

*“At the UN, we are deeply conscious of the need to bridge the divide between those who do and do not always have the benefits of the latest technology, but also to participate in the dialogue that is taking place among those who are engaging via new modes of public discussion.”*

The thesis is concluded in Chapter Four by presenting the Recommendations and Conclusions, where the Commission’s efforts in creating a conducive environment for the effective realisation of human rights for all is applauded, noting however that an alternative promotion strategy that embraces ICTs as a driving force would be desirable in order to give efficacy to the aspirations of human rights' safeguards in Africa as well as for the Commission to reclaim its image among the wider public.

# Chapter Two

## 2.0 Working towards the realization of Human Rights in Africa

The African Union (AU), created by the Constitutive Act of 2000 is the successor of the Organisation of African Unity (OAU) which was founded in 1963 to provide a forum for independent States emerging from the dismantling of colonial empires. Given the circumstances prevailing at that time, the primary focus was on the protection of the state, not the individual; and thus the concern of African governments centred on issues relating to colonialism, apartheid, self-determination, and sovereign equality of States. It was for this reason that the OAU did not initially develop a strong human rights position or even endorse specific protections for individuals.

The Organisation of African Unity (OAU), now African Union (AU), is made up of fifty-four independent African states<sup>1</sup> and stands out as the largest regional (continental) organisation.

Whereas scholars have had varying views regarding the necessity, functions and effectiveness of the African Union, they all seem to agree about the place of the African Union in the global order. It can be argued, as Andemicael (1976, p. 11) does,

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<sup>1</sup> South Sudan gained independence from Sudan in July 2011 as the outcome of a 2005 peace deal that ended Africa's longest-running civil war and is the latest member to join the organization, becoming the 54<sup>th</sup> member state of the African Union.



that the African Union is ... “a comprehensive inter-governmental organisation embracing all aspects of inter-state relations...,” an argument which Chanda (1992, p. 21-24) agrees with, but adds, while examining its functions, that its primary task is to furnish the mechanism for resolving “African problems by Africans in an African forum free from outside influence and pressure”.

## **2.1 The African Charter**

The year 1981 could be gleaned as the genesis of human rights promotion on the African Continent due to the fact that in that year, an African Charter on Human and Peoples’ Rights was adopted as the premier human rights instrument on the African continent.

The African Charter, also variously referred to as the Banjul Charter given the West African city location in the Republic of The Gambia which housed preliminary preparations that gave birth to this document, is an historic development that created conditions for a regional mechanism to promote and protect the fundamental rights and freedoms of over 500 million people in Africa. Creation of a human rights system was particularly significant as it indicated that Africa for the first time recognised that human rights violations were a matter of concern for the international community.

The first call for the establishment of an African human rights system within the context of the Organization of African Unity (OAU) was put forward in 1979, when, during the Assembly of Heads of State and Government of the OAU held in Monrovia (Liberia) in July 1979, a motion was moved for the elaboration of an African Charter on Human and Peoples’ Rights.

The African Charter was finally adopted by the OAU at its annual summit held in Nairobi (Kenya) in 1981; the Charter entered into force on 21<sup>st</sup> October 1986.

The African human rights system, therefore, is centered on the African Charter on Human and Peoples' Rights, which is also the first comprehensive continental treaty for the protection and promotion of human rights.

Two additional Protocols – the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa – have been added to complement the Charter. In July 1990, the Assembly of Heads of States and Governments at its 26<sup>th</sup> Ordinary Session also adopted the African Charter on the Rights and Welfare of the Child, which came into force in November 1999.

At present all 54 African States are State Parties to the Charter, and the document forms an integral part of the constitutional norms of most African countries.

## **2.2 The promise of the African Charter**

Having been ratified by fifty-three out of the fifty-four AU Member States, the document forms an integral part of the constitutional norms of most African countries. Nmehielle (2004) opines that civil society organisations attempt, sometimes under particularly difficult conditions, “to actualise the Charter”, in the hope that it will contribute to the improvement of their people's living conditions and, thereby, to the economic development of the continent.

In its preamble, the aim of the Charter is stated as taking into account both international human rights standards and “the virtues of African historical tradition and the values of African civilisation”. Indeed, when summarising the charter, Ankumah (1996, p. 6) argues that the charter was meant to be based on an African legal philosophy that was responsive to African needs, and it was meant to reflect the history, values, traditions and economic development of the continent.

In the preamble of the African charter, African States commit themselves:

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*“... to coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa and to promote international cooperation having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights.”*

Article 45 of the Charter reaffirms the above commitment, proclaiming the promotion and respect for human rights as well as fundamental freedoms for all Africans being a major objective of the African human rights system.

The adoption of the Charter ushered in a new era of human rights discourse on the continent as the Charter is considered to reflect the specific hopes of the African people for a fuller and better life in which African States accept to observe certain minimum standards of treatment of their citizens.

Various scholars have commented on the African Charter and the promise it puts forth for Africa, with Bello (1985, p. 27) arguing that by adopting the Charter, Africa had “acknowledged the need for a comprehensive institutionalized machinery to give effect to the firm attachment to the promotion of respect for, and protection of internationally recognized norms of human rights”.

Other scholars however, hold divergent views, with Ankumah (1996, p. 16), after comparing the African Charter to the other two major regional human rights instruments, namely, the 1969 American Convention on Human Rights and the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, observes that the African Charter is the youngest regional mechanism for the protection of human rights, and notes that in almost all respects, the weakest; and for this reason, Ankumah (1996) argues that that the promise of both the Charter and the organ it creates – the Commission – cannot be fulfilled without “substantial revision and reconstruction” and concludes her argument by observing that the Charter is seen as a human rights instrument specifically designed to respond to “African concerns, African traditions and African conditions”.

According to Ankumah (1996), the stated objective of the drafters of the Charter was to prepare a Charter “based on African legal philosophy ...responsive to African needs... designed to reflect the “history, values, traditions and economic development of the continent”.

It has also been argued that the OAU Charter does not consecrate the rights of Africans as individuals; rather, its priority was to strongly re-affirm the integrity of the state and the inviolability of its frontiers. As previously argued, Ankumah (1996) argues that “*the priority of African politicians of the time was to strengthen the new-born states, not to emphasise the rights of the individual*” and that what Africa needed to prove to the international community was to “convince the international community to accept that a specific African concept of human rights exists, without questioning the principle of universalism”.

Varied scholars have supported the above views and argued, as Bello (1985, p.27) does, that the creation of the African Charter “brought relief to the Continent as it brought to an end almost twenty years of embarrassing silence on the rampant human rights abuses on the continent. ...by adopting the Charter, OAU member states had “*acknowledged the need for comprehensive institutionalised machinery to give effect to the firm attachment to the promotion of respect for, and protection of internationally recognised norms of human rights*”.

Whereas Articles 27 to 29 spell out the duties that an individual has towards his family and society, Donnelly (1989, p. 55-57), notes how the former Soviet Union frequently used the “excuse of individual’s duties towards the state and in the process abrogated individual rights”, and warns that the same might happen to Africa’s politicians who might one day, using the said Articles that spell out an individual’s duties to the state, “trump on individual human rights and freedoms when the two sets of obligations are in conflict.”

Others scholars however disagree with the above view, instead insisting on the self-determination and foreign exploitation as the major reason for spelling out the individual's duties in Articles 27-29. As has been argued by Mutua (1995, p. 372) Articles 27 – 29 “are inspired by the continent's history of domination and occupation by outside powers... [and] represent an extension of the principle of self-determination” by demanding citizen loyalty as a shield against foreign exploitation. According to Mutua,

*the duty to place one's intellectual abilities at the service of the State [for example] is a legitimate State interest, for the 'brain drain' has robbed Africa of massive intellect...the Charter [also] asks individuals to promote African unity, an especially critical role given arbitrary balkanisation by the colonial powers.*

In the preamble to the African Charter, African States commit themselves:

*“... to coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa and to promote international cooperation having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights.”*

For his part, the Secretary-General of the OAU emphasized the liberation of the continent (Benedek, 1992, p. 23) craftily intertwining the concept of the continent's liberation with Africa's cultural values as being the enduring achievements of the Charter when he states thus:

*... the African Charter is a significant critique which expresses our will to ensure the liberation of our continent, the development of man and all his faculties, as well as the*

*establishment of a society that takes into account our cultural values and traditions*

For his part, Justice Keba Mbye, (1994, p.26) who is considered as the father of the African Charter, while reminiscing at the Charter which he spearheaded in drafting, seems to be looking back at the circumstances under which the Charter was drafted when he says: “it was the best that could be achieved at the time.”

The above statement could be interpreted to be saying that it was essential for the architects of the Charter to ensure that African leaders of the time accepted the legal instrument presented to them, and, for this reason, the drafters had to present a Charter that would be acceptable to all concerned parties. Perhaps presenting a tightly drafted legal instrument which set high standards could perhaps have been counterproductive and could perhaps had been dismissed altogether by African leaders of the time.

It has been argued, as Heyns (2002, p.143) does, that the primary duty created by the Charter is to place the obligation of recognizing and giving effect to the rights enshrined in the Charter squarely on member states of the African Union. Continuing his discourse, Heyns (2002) observes that this broad obligation is considered to have “four components, namely, to *“respect, to protect, to promote and to fulfill”* the rights recognized in the Charter.

In keeping in line with the international norms as developed by the United Nations regarding human rights law, it is safe to argue at this point that the African Charter is no exception to the rule.

### **2.3 The African Commission on Human and Peoples’ Rights: Africa’s human rights premier**

Implementation of the African human rights system is entrusted to the African Commission on Human and Peoples’ Rights (the Commission), a regional human rights treaty body established in November 1987, by virtue of Article 30 of the

African Charter on Human and Peoples' Rights (the African Charter), to protect and promote human and peoples' rights and monitor the implementation of the rights, freedoms and duties as guaranteed by the Charter (and its Protocols), as well as to monitor State compliance with the African Charter.

Sitting at the apex of the elaborate institutional framework for the advancement of human and peoples' rights in the African continent, the Commission is an autonomous treaty body consisting of eleven part-time members, known as Commissioners, who perform policy-making as well as implementation roles. They elect their own Bureau, which comprises a Chairperson and a Vice-Chairperson. In turn, the Commissioners are serviced by a full-time Secretariat, led by an Executive Secretary appointed by the Chairperson of the African Union Commission.

The Commission is thus the premier regional institution responsible for the promotion and protection of human and people's rights in Africa. Headquartered in Banjul, The Gambia, the Commission was established in 1987 by the Organisation of African Unity (OAU) now the African Union (AU) under *Article 30* of the African Charter on Human and Peoples' Rights. The Commission is an autonomous treaty body responsible for the promotion and protection of human and peoples' rights in Africa, in accordance with the Charter, which normative provisions anchor the Africa human rights system.

The Commission's broad mandate, which Österdahl (2002, p. 223) cites as its main task, is derived from Articles 45, 46, 55 and 62 of the Charter, providing for the promotion and protection of human rights as well as interpretation of the African Charter.

Over and above this broad mandate, Article 54 and 59 of the Charter mandates the Commission to make recommendations on its findings regarding human rights violations on the continent. The Commission undertakes this mandate by receiving and examining communications/complaints submitted to it by the aggrieved parties,

and over the years, communications/complaints received by the Commission have included those submitted by individuals, groups, organizations – both African and foreign, as well as states, alleging human rights violations. The Commission also undertakes Mission visits in member states and responds to cases of emergency and/or serious or massive violation of human rights.

The Chairperson of the Commission is mandated by Article 59 of the African Charter to deliver the Commission's annual activity report to the Assembly of Heads of State and Government during their annual summits held in January and June/July of every year. The Commission's annual activity report usually contains the Commission's decisions on complaints (communications), resolutions taken at its sessions, mission reports, as well as information about the promotional activities of the Commissioners such as country missions and participation at seminars. However, publication of the report is dependent on the approval of the Heads of state and Government – in effect therefore – becoming a limiting factor.

Indeed, Article 59(1) stipulates that:

*"All measures taken within the provision of the present Charter shall remain confidential until such a time as the Assembly of Heads of State and Government shall otherwise decide".*

The above could imply that the powers of the Commission in this regard are limited, prompting Commissioner Atsu Kofi Amega (ACDHRS, 1997, p.1) to pensively reflect on this limitation in the following words:

*"The question that has always preoccupied the Commission is that of knowing the fate of these reports, questions left to the competence and conscience of the Heads of State and Government".*

Coupled to the above is the fact that the Charter did not grant the Commission authority to hold States accountable for human rights violations, nor to impose sanctions on a violating entity neither to award damages to the victims.



The above restrictions imposed on the Commission just goes to re-enforce the idea that African leaders of the time never envisaged an organ that would interfere with their national sovereignty in “violation” of article III (2) of the Charter of the Organisation of African Unity that talks about the non-interference in the internal affairs of member states.

The Commission’s mandate is further expanded by being asked in Article 45 of the Charter to play an advisory function by providing counsel to State Parties, AU institutions and African Organizations recognized by the African Union, by interpreting the provisions of the Charter at their request.

Article 1 of the Charter obliges States parties not only to “recognise” the rights, duties and freedoms enshrined in the Charter but also to “undertake to adopt legislative or other measures to give effect to them”.

Articles 48, 49 and 55 empower the Commission to receive and consider, subject to certain limitations, complaints (communications) alleging violations of the Charter from member states, NGOs and individuals.

The Charter, also referred to as the Banjul Charter, due to the fact that the headquarters of the Commission is in Banjul and the final draft of the Charter was done in Banjul, The Gambia, is the third regional human rights instrument in the world, alongside the European and American Conventions.

By virtue of Article 64 of the Charter, the Commission is expected to convene on a regular basis “whenever necessary but at least once a year”.

In fulfillment of Article 41 of the Charter which mandates the Chairman of the AU to “provide the staff and services necessary for the effective discharge of the duties of the Commission,” the Secretariat is established on a full-time basis and is responsible, for example, for the planning and implementation of bi-annual meetings of the Commission, conducting human rights research, undertaking

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promotional and protection missions in conjunction with the Commission, and many other duties assigned to it by the Commission.

Being a full-time establishment of the Commission, the Secretariat determines the success or failure thereof, as it carries out day-to-day operations of the Commission, preparing draft decisions on communications, advising the Commission on the human rights situation of countries, preparing fact-finding and promotional missions, preparing questions on state reports, initiating dialogue between the Commission and state parties, engaging with civil society and other stakeholders, undertaking research on human rights challenges on the continent, as well as striving to protecting the sensitivity and ensuring the confidentiality of matters brought before the Commission.

### **2.3.1 Composition**

In fulfillment of Article 31 of the Charter, the Commission is composed of eleven members drawn from among African personalities with the highest reputation and integrity. Upon taking the oath of office, the elected eleven independent members are then elected by the Executive Council of the African Union to serve for six-year terms on a part-time basis with the possibility of a single re-election, and henceforth assume the title of Commissioners of the African Commission on Human and Peoples' Rights.

### **2.3.2 Sessions of the Commission**

As part of its mandate, and in conformity with Article 64 of the Charter, the Commission holds two Ordinary Sessions each year. During such Sessions, the Commission considers State periodic reports under Article 62 of the African Charter on compliance; human rights violations on the continent as well as promotional activities of the Commissioners; applications for observer status for Non-Governmental Organisations and affiliate status from African National Human Rights Institutions.

The Commission also meets privately for extra-ordinary sessions to consider human rights violations and adopts resolutions on human rights issues.

In fulfilment of Article 45 of the Charter in relation to promoting human rights, protecting human rights, as well as interpreting the Charter, Commissioners do undertake various activities during the inter-session period as highlighted by the Commission's Inter-session Activity Reports, including among others, undertaking human rights investigative activities, human rights promotional activities, as well as defending human rights in their assigned countries of responsibility by issuing press releases as well as issuing urgent appeals (ACHPR, 2014).

### **2.3.3 Promoting human rights**

Article 30 of the Charter which establishes the Commission imparts a dual mandate on the Commission of promoting human and peoples' rights and ensuring their protection in Africa.

In defining the term "promotion" Article 45 of the Charter lists many actions as falling within the Commission's promotional mandate, including:

*"collecting documents, undertaking studies and researches on African problems in the field of human and peoples' rights, organizing seminars, symposia and conferences, disseminating information, encouraging national and local institutions concerned with human and peoples' rights and, should the case arise, giving its views or make recommendations to Governments".*

Read together with Article 45(1) of the Charter therefore, the term "promotion" could refer to a series of activities which are undertaken with a view to publicizing the Commission and its work across the African continent and abroad, thereby advancing the realization of the culture of Human Rights on the continent. In this context therefore, human rights promotion could refer to the initiatives aimed at popularising the Charter and the Commission among the general African population and all other relevant stakeholders, with a view of increasing their visibility among the wider public.

Promotional activities may include activities aimed at gathering and disseminating information through workshops, seminars and symposia, and the formulation of

principles to address legal problems of human rights and co-operation with African and international human rights institutions.

Promotion also includes the gathering and dissemination of documentation and information and the development of a global network of partner institutions.

Promotional activities take several forms and can be fulfilled using a variety of tools, conferences, workshops, seminars, lectures, which can be organized at all levels by the Commission on its own or along with partners be it governments, governments institutions or civil society organizations. These tools can be tailored to target people of all walk of society.

Other promotional activities (albeit of limited effect) include translation, publication and dissemination of the Charter; promotion through the production and dissemination of the activities of the Commission and other information materials, and promotion through research and active education. The sheer volume of the task, coupled with the lack of time and resources has meant that many of these activities have had very limited impact.

Promotion also includes research and documentation, dissemination of information through workshops, seminars and symposia, and the formulation of principles to address legal problems of human rights and co-operation with African and international human rights institutions.

The insistence on promotion of human rights is based on the premise that if people are not aware of their rights, they, most likely, cannot ensure their protection.

The Commission is empowered to interpret the charter at the request of a state party, the OAU, or an institution recognised by the OAU. The mandate of the Commission also includes creating a culture of respect for human rights on the continent, and it is worth noting at this point that the Commission has, since its inception in 1987, played a critical role in the promotion and protection of human

rights on the African continent in fulfilment of its mandate as stipulated in Article 45 of the African Charter.

The initial achievement of the promotional work of the Commission was at its 39<sup>th</sup> Ordinary Session held in The Gambia in May 2006 when two Special Mechanisms, namely, Special Rapporteurs and Working Groups were established. The Commission has since then adopted a number of standard-setting instruments relating to these thematic areas and other human rights generally. It has conducted research in order to clarify the content of human rights to promote their advancement. It would therefore be appreciated that Special mechanisms play an important role by researching, gathering and documenting information. In fact, over the last twenty years, the Commission has played a key role in Human Rights Education and has issued numerous publications, educational and information materials on human rights, in an attempt to contribute to a culture of promoting and indeed protecting human rights in the region.

In fulfillment of the above mandate, the Commission has initiated a number of measures, including in particular, at its eighth Ordinary Session in October 1990, to allocate to Commissioners countries within the continent that they are expected to undertake human rights promotional and sensitisation missions on regular basis by visiting and disseminating information about the African Charter and the Commission. These missions are usually undertaken during the intersession periods of the African Commission; and reports, including recommendations are submitted to the African Commission during its ordinary sessions for consideration and adoption.

The Commission undertakes missions to investigate allegations of massive human rights violations within member states. At the end of each such mission, reports are produced making recommendations to the concerned state on how to improve the human rights situation in the country concerned.

Promotional missions have given the Commission an opportunity to initiate dialogue with African States and other stakeholders involved with the promotion and protection of human rights in Africa. Direct interaction with State Parties therefore is main means which the Commission has used in promoting human rights in the 54 multi-national and multi-ethnic States of the African Union.

Indeed, the first plan to guide the Commission with regards its promotional mandate was established recently in its 2008-2012 Strategic Plan. This factor, coupled with the limitation in resources, has led to less emphasis on promoting human rights in Africa, as a consequence leading to the existence, mandate and activities of the Commission to be little known by the majority of the people on the African continent.

#### **2.4 The new Africa's human rights discourse**

In July 1999, the Organisation of African Unity decided to convene an extraordinary session to expedite the process of economic and political integration on the continent. Accordingly, at the end of the Session, the 1999 OAU Sirte Declaration called for the establishment of an African Union to accelerate the process of integration in the African Continent. And in 2000, the Lome (Togo) Summit adopted the Constitutive Act, an instrument that replaced the Charter of the Organisation of African Unity, thus paving the way for the transformation of the Organization of African Unity (OAU) into the African Union (AU). This action concluded a long journey in the quest for African unity, a political vision for Africa envisaged by the founding fathers of the OAU in 1963.

The 2000 Constitutive Act of the African Union provides that the birth of the African Union is a “legacy of a Pan-African movement towards creating institutions to achieve the objectives of peace, political stability, democracy, economic integration and good governance”. To ensure implementation of its objectives and principles, the Act (the Constitutive Act, 2002) provides for the establishment of several

organs, most, if not all, of which are directly or indirectly responsible for human rights promotion.

The objectives and principles enunciated in the Constitutive Act, together with the mandate conferred to the various organs confirm that the African Union seeks to make human rights a cross-cutting theme of its programmes and activities.

Unlike the Organisation of African Unity, the African Union is governed by several progressive and broad objectives and principles, most of which embody basic human rights values (Africa Human Rights Strategy, 2011). The express mention of these human rights tenets in the Constitutive Act is a dramatic shift from the old order of the OAU where decolonisation and the dismantling of apartheid were the focus of the organization, and issues of human rights were regarded as secondary. These broad principles and objectives in the Constitutive Act appear to present a holistic perspective of the way the new breed of African leaders perceive and intend to approach issues of human rights on the continent – making human rights a central theme of the African Union (Africa Human Rights Strategy, 2011).

The transformation of the OAU into the AU in 2002, ushered an era of institutional building which saw the establishment of several human rights and related institutions and bodies aimed at consolidating the human rights gains already recorded (Africa Human Rights Strategy, 2011). The Constitutive Act of the African Union in particular recognizes the centrality of human rights in the integration of the continent and in sustainable peace and development, while Article 4(L) of the Constitutive Act enshrines the gender equality principle. Initiatives such as the New Partnership for Africa's Development (NEPAD) and its African Peer Review Mechanisms (APRM) show that a new era has dawned in Africa, with regard to human and peoples' rights. The establishment of the ECOSOCC is further reality of the AU-civil society partnership and provides the Union with a medium to hear "the other side". This partnership has given legitimacy and credence to the work of many Non-Governmental Organizations (NGOs) in several countries, and enabled them to feed into the continental processes.

With a view to mainstreaming and ensuring proper coordination of the AU's human rights project, the African Union Commission (2011) adopted a comprehensive Human Rights Strategy for Africa with the objective of taking the normative human and peoples' rights framework of the continent and turn it into the concrete lived realities of the people of Africa, and thereby create a viable human rights culture on the continent by making the promotion and protection of human rights a reality. The Strategy examines the strategic objective, content and value modalities of enhancing the existing and unfolding human rights initiatives, and seeks to build synergies with other governance initiatives, like the African Governance Architecture.

As the premier human rights institution on the continent, the Commission has a statutory obligation (under the African Charter) to promote and ensure the protection of human rights and must seek to ensure that the promotion and protection of human rights by other organs of the AU is done in a coordinated fashion.

It should however be pointed out that in spite the recent establishment of other institutions with similar mandates, the Commission remains the premier continental body dealing with human rights. With more than two decades of experience in the human rights field, the Commission predates all the other organs of the African Union, including those with limited human rights mandate.

Unlike other organs, the mandate of the Commission is all embracing; covering all issues aimed at enhancing the welfare of the African people, and includes the whole gamut of rights from the so-called third, second and first generation rights.

And given the nature of its mandate, the extent of its functions and the procedure in which it is required to operate, whereas it is very important that the Commission establishes close relationship with the other organs of the African Union, but at the same time it should ensure its independence, integrity and the confidence of the general public.



## **2.5 Challenges faced by the Commission in fulfilling its mandate**

The strength or weakness of any institution revolves around its normative and procedural scope, its implementation machinery and above all the practice of all the relevant actors (Eno, 2002). Like many other institutions in Africa, the Commission has, already mentioned above, been until recently handicapped financially, materially, as well as with the lack of human capital.

Of all the regional human rights mechanisms in existence, the Commission's mandate is the broadest as it includes the promotion of human rights, the protection of human rights, the interpretation of the Charter, as well as performing any other task assign to it by the AU Assembly.

Yet it needs to accomplish this undertaking in all fifty-four (54) Member States of the African Union, having, as it were, different degrees of socio-economic and political development, as well as exhibiting, in the majority of cases, weak institutional and legislative structures capable of supporting government policies aimed at upholding international human rights norms.

Article 31 of the Charter provides that the Commission shall be made up of eleven Africans known for their "high morality, impartiality and competence in matters of human rights..." This provision thus effectively provides for eleven part-time Commissioners who would be responsible for implementing the Commission's dual mandate in Africa's diverse region comprising 54 independent states. It could easily be gleaned from this Charter provision that the task at hand is quite enormous, as some of the Commissioners may be full-time employees in their respective countries, and the only chance they have to meet as a group is during the Commission's statutory meetings/sessions. It should thus be appreciated that the size of the Commission is relatively small in comparison with the size of the 54 Charter-member states, and in view of its very broad mandate.

The provisions of Article 31 of the Charter translates to the conclusion that the volume of work at hand for the Commission is quite enormous, especially given the

fact that as many parts of Africa had been under military rule or one party political system of government, rampant human rights violations was the norm. This state of affairs meant that the Commission received many human rights complaints, but unfortunately could not handle the complaints efficiently and effectively given the lack of resources, both human and financial.

It would thus be appreciated that promoting human rights in 54 multi-national, multi-ethnic and, in some places multi-civilisational cartographic States means that each Commissioner has the responsibility of promoting human rights in at least four states – a virtual impossible task. It would thus be appreciated that Africa's diverse geography, diverse language as well as diverse population conspire against practical initiatives to put forward strategies that attempt to achieve uniform dissemination of information as various challenges are raised in regard to the operations of the Commission and its effectiveness. This challenge is compounded by the structure and composition of the commission, with only eleven Commissioners who are supposed to traverse the whole breadth of the continent in an effort to promote and protect human rights. This challenge is compounded by incessant conflict on the continent where situations of armed conflicts in some African states do not create conducive environments for the respect of human rights, a factor which makes it challenging difficult for the Commission to carry out its work in respect of those State Parties. Yet unfortunately, such conflict-ridden member states are quite sizeable on the continent.

Paragraph 23(a) of the Commission's Sixth Annual Activity Report (1992-1993) states:

*“In spite of serious administrative and financial shortcomings and the repeated requests of the Commission, no substantial measure has been taken to resolve this situation...”*

The above statement goes to imply that the Commission has been operating under very limited resources, and that financial allocations to the Commission are not

always adequate to enable it to carry out its mandate. The Commission was thus forced to resort to sourcing funds from external donors, including the European Community, United Nations Agencies, as well as international human rights institutions. These institutions have provided human, material and financial assistance to keep operations at the Commission's Secretariat going. This state of affairs of limited resources has been undoubtedly disruptive for the Commission as it could not forecast its activity plans adequately due to uncertainty regarding the continued availability of the staff and other resources, as well as the fact that assistance from external sources could be seen as derailing its independence.

In addition to this, the existence of rampant social and political unrest on the continent, coupled by the widespread poverty, as well as internal conflicts on the continent have caused massive, flagrant and systematic violations of human and peoples' rights in many parts of the continent, thus exerting pressure on the Commission due to the rising number of complaints received.

Whereas Article 62 of the African Charter, Article 14(4) of the Kampala Convention for the Protection and Assistance of Internally Displaced Persons, as well as Rule 73(1) of the Commission's Rules of Procedure require member states to submit every two years their human rights activities to the Commission, many states have been reluctant and/or unwilling to present their reports to the Commission or even to communicate with it on measures they have taken to give effect to the provisions of the Charter. Such unwillingness is also exemplified by the fact that the comments and observations made by the Commission on state reporting have not had any discernible effect on states' policies and human rights practices.

Yet, in order for Africa to benefit from the rights and freedoms as enshrined in the Charter, people must be made aware of these rights, and given proper instructions as to how they can seek redress both at national and international level if their rights are violated. The people must also be educated about the role of the human rights institutions at their disposal that could be approached in case of a violation.

Indeed, Articles 17 (1) of the African Charter states:

*“that every individual shall have rights to education.”*

This goes to show that the Charter recognises the need for public awareness and has mandated the Commission to, *inter alia*,

*“promote human and peoples’ rights, and in particular, organise seminars, symposia and conferences; disseminate information, encourage national and local institutions concerned with human and peoples’ rights...”*

Indeed, Article 25 of the African Charter provides *that “State Parties...shall have the duty to promote and ensure through teaching, education, and publication the respect of the rights and freedoms...”*

The above is a requirement for States Parties to undertake human rights education, to educate their citizens on the rights and duties as enshrined in the Charter. However, very few States, if any has done so. The unwillingness of States to educate their citizenry is amplified by the widespread illiteracy among the general population, thus making the efforts of the Commission and NGOs to create awareness to have been largely insignificant.

To salvage the situation, the Commission needs to be taking action across the region, lobbying governments and asking that human rights education become part of the curriculum in their countries or that it is developed further and given more focus and more resources.

Scholars have since mulled over the Commission’s important work vis-à-vis its invisibility to the general public and wondered what component was lacking to make the Commission more visible out there. On his part, Amoah (1992, p. 4, p. 227) opines that one of the Commission’s most serious constraints is the lack of awareness and publicity about its activities and argues that without enhancing peoples’ knowledge of their rights, there will be no meaningful resources allocated to it, and it will attract very little co-operation and support from African leaders. So

much so that States parties have not only woefully failed to comply with their obligations under the charter but have also deliberately ignored recommendations made by the Commission. In his own words, Amoah (1992) notes:

*“The Commission has so far tied its own hands... has tended to shield the work of the Commission from the public view and scrutiny. The end result has been protection of states (rather than individuals) but exposure of the Commission to charges of ineffectiveness and lack of certainty, (vision initiative and vigour) about the end result of its work. Both situations undermine the confidence of the general public regarding the Commission’s effectiveness and relevance”.*

The lack of publicity on the Commission’s activities, perhaps more than anything else, has negatively affected all the hard work of the Commission, to the extent that in spite of the massive human rights violations on the continent, many victims do not know about the existence of the Commission despite the fact that Article 45 (1) (a) of the Charter recognises the need for public awareness. The said Article mandates the Commission inter alia, to, *“promote human and peoples’ rights and in particular organise seminars, symposia and conferences; disseminate information, encourage national and local institutions concerned with human and peoples’ rights”* the fact of the matter however is that given the widespread ignorance, illiteracy and the uncritical acceptance of authority in Africa, the efforts of the Commission to create this awareness have been largely insignificant. This state of affairs is compounded by the fact that very few states, if any, have undertaken to educate their citizens on the rights and duties enshrined in the Charter as required under Article 25 of the Charter, and as a result, the Commission has received only few petitions.

Whereas O’Shea (2000, pg. 22) agrees that the Commission is a useful tool for human rights promotion, however, he argues that it has unfortunately carved itself the image of an “ineffective mechanism” for human rights protection, thus calling for the establishment of a human rights court as an adjudicating body to carry out the judicial mandate of the Commission.

Like many inter-governmental institutions in Africa, the Commission has not yet amalgamated Information Communication Technologies (ICTs) in its mandate, and, as already alluded to earlier, it is also handicapped materially as well as lack of adequate human resources to implement its mandate. The consequence of this situation is that the Commission is known only by a small segment of the population in Africa, and by an even small segment outside Africa, which factor has unfortunately made the Commission appear ineffective.

## **2.6 Improvements at the Commission**

The above shortcomings notwithstanding, it is fair to say that there has been considerable improvement in the work of the Commission over the years. This is exemplified by the increasing interest that has been demonstrated not only by NGOs but also by Member States. Journalists and human rights scholars are writing more and more on the work of the Commission, thus publicizing the same, and the Commission, in an effort to improve on its work methods. It has appointed some of its members as special rapporteurs on specific issues.

It will therefore not be wrong to pronounce that the Commission has done a lot in creating a culture of human rights on the continent and contributed in developing the international human rights jurisprudence. In emergency situations for example, the Commission has managed to stay execution of certain actions that would, if implemented, cause irreparable damage to the victim(s). This it does by invoking its Rules (Rules of Procedure, 2010 p. 35) related to issuance of provisional measures. Article 98(1) of the Commission's Rules empowers the Commission to ask the concerned party to stay implementation of certain actions that would cause irreparable damage to the victim were it to be implemented.

By invoking this Rule, the Commission has been able to prevent states from taking actions that would lead to irreparable damage to the victim(s), while awaiting the Commission's decisions. It is gratifying to note that some states do comply with the Commission's request for provisional measures, in the process contributing to the

rule of law on the continent. The Ogiek case (2013), an African Court on Human and Peoples' Rights ruling in "*African Commission on Human and Peoples' Rights vs The Republic of Kenya*" is a good example of the applicability of this principle, where the Commission successfully issued provisional measures to the Republic of Kenya asking the latter to stay the eviction of the Ogiek indigenous community from their ancestral homeland until the Commission decided on the case. The Commission later referred the case to the African Court on Human and Peoples' Rights.

It would be therefore be correct to surmise that, in spite of the lukewarm attitude many states have had towards the Commission, the latter has tried its best to implant the subject of human rights on the agenda of political leaders in Africa so much so that to date, many states do take seriously their state reporting obligations as stipulated under Article 62 of the African Charter.

The bottom line, however, is that these achievements are still too remote to change the perceptions about the effectiveness of the Commission, thus calling for a paradigm shift.

This chronology is an attempt to show the human rights architecture on the African Continent, and to relate it to the value of having an effective promotion agenda as the basis for realising the concept and practice of human rights. In today's day and age where human rights and democratic values have been brought to the forefront due to recent developments across the globe, the Commission needs to redefine itself, step up its efforts of promoting human rights, and reach out to a wider segment of the population. In doing this, the Commission needs to embrace technology, ICTs, and the Internet – tools which are already being used by millions of African citizens who yearn for human rights education, promotion, and protection. By embracing ICTs to achieve its aims, the Commission has the potential to become a catalyst in the area of human rights promotion.

The next Chapter will therefore highlight the many ways in which technology, ICTs, and the Internet can be effectively utilised in human rights promotion.



# Chapter Three

## 3.0 The Effective use of ICTs

*“The Special Rapporteur underscores the unique and transformative nature of the Internet not only to enable individuals to exercise their right to freedom of opinion and expression, but also a range of other human rights, and to promote the progress of society as a whole.”* – Frank La Rue, UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, (United Nations Human Rights Council, May 2011)

The Special Rapporteur’s Report underscores the unique and transformative nature of the Internet – and by implication ICTs<sup>2</sup> – (given that ICTs enable the functioning of the Internet; and in this context, one cannot talk about the Internet without referring also to ICTs). This transformative nature not only enables the promotion and enjoyment of people’s rights but is also fundamental to human welfare and in this context leads to the progress of society as a whole.

Coming in the wake of the 2011 Arab spring, the Report is indeed a timely intervention given the realization that some governments, facing mass protests, often resort to arbitrary decisions/breaches to freedom of expression by use of

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<sup>2</sup> The term “ICT” which stands for “Information Communication Technology” has been defined to reflect the seamless convergence of digital processing and telecommunications, including all equipment, processes, procedures and systems used to provide and support information systems; including hardware, processes, and systems that are used for storing, managing, communicating and sharing information.

state censorship as one of the means to clamp down on citizens' rights, in the process trampling on people's rights and freedoms. At the peak of Egypt's 2011 "youth" revolution, for example, the state of Egypt virtually cut off all ICT outlets from and to Egypt in an attempt to stifle peoples' access to information. This action was in violation of many international instruments prohibiting censorship, including the Universal Declaration of Human Rights as well as the African Charter on Human and People's Rights. Article 19 (Universal Declaration of Human Rights, 1948) for example emphasizes this fact in no uncertain terms when it states that *...the right to seek, receive and impart information and ideas through any media and regardless of frontiers...*

The Report notes many disturbing trends happening all over the world where peoples' rights are fragrantly trodden upon without due regard to established international standard and norms, and deplored this condition in the following words:-

*"many states ...habitually control and manipulate peoples' rights through various means, including arbitrary blocking and / or filtering of content; criminalization of legitimate expression; imposition of intermediary liability; disconnecting users from Internet access, including on the basis of intellectual property rights law; cyber-attacks; and inadequate protection of the right to privacy and data protection"....*

ICTs tools, including personal websites, blogs and discussion groups have given a voice to men and women who were once only passive consumers of information. The bottom-line of the Report therefore is to sound an alarm and to alert the world to the attempts by various national governments to extinguish the people's voice – the ICTs – through arbitrary actions which often resort to blocking ICT outlets whenever their citizens seek to exercise their offline as well as online rights, blaming the latter as the catalyst and labeling their citizens "cyber-dissidents".

This chapter will therefore highlight the transformative nature of the internet and ICTs through various aspects, and will suggest ways in which the Commission can integrate the use of the Internet and ICTs into its human rights promotion mandate.

### **3.1 The evolution of ICTs and the Internet**

Historically, efforts towards a mass information dissemination mechanism began centuries ago during the Reformation period, in which the spiritual awakening in Europe led to the birth of the printing press. Before the Internet, access to information was for the privileged few. The masses were always left in the dark, with no means to find information even if they wanted.

The crave for information in all its formats paved the way for the creation of the Internet<sup>3</sup> and the World Wide Web, with the resulting information explosion. Internet users around the world today now exceed one billion, and the rate is growing at astronomical proportions.

The year 1989 is a watershed in the ICT world, when Professor Sir Tim Berners-Lee, a British Engineer and Computer Scientist, implemented the first successful communication between an http and server via the Internet, thus being credited with inventing the World Wide Web. Lee's continued engagement with the web that he created, as Director of the World Wide Consortium (W3C), which oversees the Web's continued development is a welcome development and worthy noting at this point.

The birth of the Internet increased the amount of information readily available in the public domain, which in turn, opened up qualitatively new fields of high-speed information highways, to the extent that one can afford to stay in their offices for weeks, running searches through the web and exchanging emails with their

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<sup>3</sup> The 2014 Internet World Statistics define the Internet as a global computer network providing a variety of information and communication facilities, consisting of interconnected networks using standardized communication protocols.

colleagues and contacts, and transmit astronomical amounts of information to their constituents in real time.

Such a society is characterized by users' constant updating and upgrading of their personal, political as well as business bonds, while promptly accommodating to new technologies and services.

In an increasingly complex world where human rights are the focus of the international community, the Commission, in spite of lack of adequate resources is facing numerous requests for a faster response to Africa's crises which are but rooted in the contradiction of the postcolonial quasi-state.

It is evident therefore that in a matter of only a few years, the Internet has consolidated itself as a very powerful platform that has changed the way we do business, and the way we communicate is a testimony in itself that speaks volumes about its importance in today's globalized world. It can therefore be argued, as Costea (2007, p. 171) does, that *"the Internet and the world wide web has reached the point when nobody can afford to ignore it, at their own loss."*

Examining the question of empowerment, Keohane and Nye (2006, p. 193) have examined the power of ICT and observed that *... "the ability to disseminate free information increases the potential for persuasion in world politics... the ability to control the information – use or abuse – is a way to empowerment."*

### **3.1.1 Internet Ubiquitousness**

The emergence of the Internet revolutionised communication, to the extent that, according to the Internet World Statistics, "the internet is the fastest spreading technology in world history (Internet World Statistics, 2014). Comparing internet penetration to telephones and TV combined, for example, the same statistics reveal the fast rates of Internet Ubiquitousness when the report observes that *..."*whereas it took 46 years before 30% of American homes were wired; 38 years passed before 30% of US homes had telephones, and 17 years for TV. The Internet, however, took only seven years to reach 30% of American houses".

Revealing the nature and scope of internet ubiquitousness, Internet World Stats (2014) reveals that by the end of 2014, over 3 billion people were users of the Internet. Statistically, the study revealed that whereas “internet penetration in 1995 was less than 1%, about 40% of the world population has an internet connection to date, with the number of internet users increasing tenfold from 1999 to 2013. The statistics further reveal that the first billion was reached in 2005, the second billion in 2010, and predicts that the third billion will be reached by the end of 2014”.

Similar studies come to the same conclusion, revealing how Internet Ubiquitousness is impacting the world – the Netcraft survey (2011) revealed there were more than 320 million active websites on the Internet with a growth rate of about 400 000 new sites per day. And yet, considering that both governmental and international organizations are legally required to publish all their official documents on the Internet, leads to the logical conclusion that Ubiquitousness should be expected to increase at even a faster rate in the future.

Musing at the rate of Internet penetration and Ubiquitousness, (Royal Pingdom, 2010) notes how the year 2000 marked an era of the dot-com boom and observes the resulting Internet penetration and Ubiquitousness since then by comparing internet growth statistics for a ten-year period beginning in the year 2000 when the internet boom was in its infancy stages.

By the aid of digital technologies, the internet unites various parties by various means, including text, audio and video communications, undoubtedly yielding numerous advantages as well as creating many opportunities.

The internet provides the possibility to be informed at any time about developments, both national and international developments, at negligible cost, thus allowing one to be up-to-date at any time thus affecting a better and deeper analysis of global events in a shorter timeframe. By making it possible to be in continuous contact, the internet in this respect aids decision making.

In “*Cyber security and Internet Freedoms: Finding the balance*”, Kisakye (2015) reports on the proceedings of an African conference on online child protection held in Uganda amidst the effects of ICTs on the young, noting that children as young as 15 months are “speaking on phone and playing computer games”, which raises a legitimate concerns about protecting young people from adverse effects “buried in the great opportunities presented by the internet” and reports how, responding to this concern, the International Telecommunications Union (ITU) has in this respect asked governments around the world to form “Computer Emergency Response Teams” (CERTs) to coordinate monitoring of computer usage and abuse. Previous scholarly studies have come to the same conclusion: that Internet ubiquitousness has diffused at a faster rate than any other technology in human history, Prensky (2001, p.1) and predicted this development when he noted that “today’s child is a product of a generation which was born, raised and grew up with Internet, and in this regard, does not remember the time before it”, a generation he refers to as “digital natives,” and their predecessors, the parents, as “digital immigrants.”

While noting that due to fast-paced digital innovations and increased connectivity the digital gap was widening between the two groups, it is worthwhile taking note of the existence of a binding international treaty (Council of Europe, 2001) the Convention on Cybercrime, drawn up to curtail the excesses such as those as reported in the newspaper. The Convention lays down guidelines against cybercrime by prohibiting crimes committed via the Internet and other computer networks, dealing particularly with infringements of copyright, computer-related fraud, child pornography and violations of network security, and also contains a series of powers and procedures such as the search of computer networks and lawful interception.

### **3.1.2 Information processing**

One of the main communication tools that facilitate receiving, processing, and delivering information is the electronic mail (e-mail). With the use of e-mail, information is disseminated to constituents in real time, thus speeding up the decision-making process. Various examples of this are cited, one of them being the

ability to enable engagement in intensive online campaigns. With the advent of globalization, information dissemination becomes critical, and it can be appreciated, as Fulton (1998) does, that democracy and human rights are the current dominant issues in today's world; as well as the fight against terrorism, drugs, global crime, the environment, population, refugees, migration; disease and famine prevention, among others.

The digital age increase the relevance of ICT applications for various issues. By making it possible for information to be shared quickly, easily an instantly, globalization propels a local issue to become an issue of global interest and concern, thus making it a necessity for interested parties, but especially diplomats, to use Email as well as engage in online campaigns for varied issues, ranging from politics to security and development, among others. Recent online campaigns include efforts to shape world opinion for the World Information Society, the climate change, securing the release of Burmese opposition politician Aung San Suu Kyi as well as nuclear non-proliferation, among others.

As one of the key forces shaping economic growth, a globalized world needs to employ ICT tools to unlock the vast untapped potential to sustainably improve people's living conditions. Citizens of the more globalized countries enjoy better access to a wider variety of goods and services, lower prices and better-paying jobs, compared to their counterpart from less globalized countries, for example. In the same vein, connectivity and prosperity – a result of globalization – are inextricably linked. E-mail is now being complemented by real-time textual, voice-chats, as well as video-conferencing – developments that has made it possible for online cooperation using various tools, including, but not limited to, shared databases, shared documents, as well as calendars. These developments, coupled by the emergence of forums, webcasts, as well as blogs, have tended to blur any remaining vestiges of differences between the media, thus leading to net citizens.

Other scholars have weighed in on the debate and whereas there is a consensus that Email presents many opportunities, some argue that it would be prudent to take caution while communicating in this interconnected world. Citing the Wikileaks phenomenon – the 2010 release of US diplomatic cables through the Wiki leaks website, Burt (2010) laments how ICT technologies can easily usher in many technological breakthroughs but at the same time could cause disasters if not handled expeditiously. Citing the Wikileaks phenomenon, he also forecasts how the event will forever affect the relationship between “diplomacy and the internet,” arguing that “a fast decision is not necessarily the best decision” thus calling for a secure use of the service.

Today’s information age makes it possible to have access to a tailor-made mosaic, consisting of, as Sucharipa (2012) illustrates, “web sites of different national and international news agencies on one’s computer” and to be electronically connected with colleagues all over the world thus having the ability to quickly gather important information and seamlessly have that information distributed remotely in real time.

The above goes to show that we are living in a drastically changed society with different information flows, and Email in particular has emerged as ICT tool that has replaced the old methods of letter communication, telegraph, and regular face-face summits.

### **3.1.3 Engine of transformation and development**

Many studies have variously seen a link between ICTs and societal transformation, and basing on the data, has come to a conclusion that ICTs are enablers of development. For her part, Lallana (2004) observes that ICTs enhance all forms of information exchange as well as facilitating observation, learning and decision-making, while at the same time expanding business transactions. She adds that with the help of ICTs, markets operate more efficiently and are more accessible, which in turn leads to business-related efficiencies and faster turnover, increased productivity, and profitability.



Seen as engines of transformation, many countries have developed visions of the future where ICTs are seen as engines of transformation to achieve a desired state, the “e-enabled state”. Some of the best known examples include Malaysia’s Vision 2020, e-Japan, Botswana’s vision 2016, as well as Canada’s roll-out infrastructure to make, according to Labelle (2005), “the information and knowledge infrastructure accessible to all.”

By adopting ICTs, societies have tremendously been transformed to the benefit of their people. The 1998 Asia-Pacific Economic Cooperation to promote and develop the use of electronic commerce is a case in point.

All over the world, ICTs continue to be diffused at a rapid rate. In a recent study on the global digital divide, Trujillo Mendoza (2001) asserts that ICT diffusion accounts for up to 90 percent of the increase in the Human development Index (HDI) which is being observed in some nations. Basing on this evidence, it can be argued that ICTs have an important role to play in fighting poverty as well as achieving the Millennium Development Goals (MDGs).

There are divergent views on whether the internet is a negative or positive force that drives the world. But suffice to note is the fact that in a matter of only a few years, the internet has consolidated itself as a very powerful platform that has changed the way we do business, and the way we communicate.

#### **3.1.4 Digital Convergence**

In the past, different technological innovations belonged to different and distinctive separate industry segments. Recent advancements in ICT have changed this approach and digital convergence is now trending where several ICT functionalities are primed into one conglomerate.

Using the concept of digital convergence, it is now possible to make telephone call, watch Television, get internet, and share music via the Internet in one device. The main point of convergence has been observed in VoIP systems like Skype which offers a lower price as well as integrating data and voice communication.

Used in combination with satellite technologies such as satellite digital radio or other satellite-based Internet access services, radio is a good tool that can apply the principle of digital convergence by taking advantage of the Internet.

In Sri Lanka for example, Labelle (2005) details, how, with support from UNESCO, community radio and Internet connectivity have been brought together to help the radio station meet the information needs of its listeners, by making the radio an intermediate or middleware technology for many users that have no capacity to use ICTs or no access to these tools.

### **3.1.5 Cloud computing**

Cloud computing is a new ICT trend where computer applications are delivered as services over the internet and stored to “huge server farms in the cloud” with the result that one is able to have his data stored and accessed from anywhere online, which, in effect, making less important these days to own a device in order to have access to technology. The use of online mail servers like Gmail, Yahoo, Hotmail as well as social media applications and online applications advance the concept of cloud computing more and it makes it possible for more people to benefit from information and storage services online.

### **3.1.6 Mobile connectivity**

Every other day, the world is witnessing the role of ICT and how it is affecting peoples' daily lives, to the extent that every six months or so, on a regular basis, a new device, application, system, platform, or idea will emerge that will make people's lives a little better. In this sense therefore, ICT has made the world more convenient for lots of people. While weighing in on the subject, Brown (2002, p.5) is of the view that the interest in mobile connectivity emanates from its core features: ...“small, portable, constantly on, and potentially constantly connected, in the process allowing us to interact in more meaningful ways”.

As the race between technology companies in trying to outdo one another continues, the world continues to be bombarded with new devices with smaller chips, faster processors, as well as fancier and clearer screens.

The ability of mobile technology to break down the concept of physicality is another interesting development, to the extent that ICTs have the ability to instantly and remotely connect with people half a world away, as well as the ease of helping people make many varied decisions ranging from everyday issues to complex global decisions having global implications.

While comparing and contrasting technological innovations in history, Baron (2008, p.4) is fascinated by ICTs ability to remove the physical necessity and notes the advantages brought about by this development by observing thus "... it's far simpler to communicate with people not physically present than at any time in human history," an observation which highlights what Negroponte (1995, p.165) in his *Being Digital*, calls the "post-information age as being the one that will remove the limitations of geography". In his work *Being Digital*, Negroponte (1995), visualizes the state of the world where he sees a digital world where *"communication brings not only a quantum leap upward in volume, it changes our relationships to time and space. Your location is your (portable) e-mail address; other geographic places can (virtually) come to you (p. 165). Asynchronous communication becomes more and more prevalent (answering machines, e-mail, on – demand television...).*

A global study by Gartner group (2010) notes similar results, and showed that by 2013, mobile connectivity would overtake personal computers as the most common web access device, and that smart phones would by far outnumber installed personal computers thereafter. Today's improvements in cellular technology allow mobile connection in the same way as computers, with the result that today's evolving mobile technologies are offering even more ways to access the Internet without the physical constraint of wires.

Through development of backbone network, it is possible to stimulate broadband services and thus be able to bridge the Digital Divide. Digital content industry has vast societal as well as economic potential through employment creation, capital investment, provision of skills and capabilities to traditional as well as new industry

sectors. It is therefore necessary to build backbone infrastructure by building sea cables which helps lower costs, provide high speed Internet bandwidth and enhance efficiency of service delivery.

Across Africa, the Gartner Group's study prediction (2010) has been actualized as mobile penetration has skyrocketed in a matter of a few years; from 1% in 2000 to 54% in 2012; with more than 754 million connections in Sub-Saharan Africa and over 35 mobile network operators. Mobile connectivity of several African countries such as Seychelles, Tunisia, Morocco, and Ghana having mobile subscription penetration rates in excess of 100%. Tunisia, at 120%, has 10.8 million more cellphone connections than it has citizens.

With the above statistics in mind, it is no surprise when the trend is surfacing in many countries where mobile infrastructure is becoming as important to national economies as road or energy infrastructure, for example. Apart from providing voice and Internet access, mobile networks in some African countries now facilitate more individual and small business financial transactions than the banking industry.

There are various efforts geared towards reducing the digital divide between the two hemispheres, especially in developing countries where mobile devices often provide "a more affordable way to connect to the Internet than computers." The affordability of mobile phones is a trend has the potential to propel ICT penetration in many ways. The Gartner Group predicts that "...mobile phones will overtake personal computers (PCs) as the most common web access device worldwide", with a prediction that "smartphones and browser-equipped enhanced phones in use will exceed 1.82 billion and will remain greater than the installed base for PCs thereafter... the next billion Internet users will be witnessed through use of mobile phone connectivity which will overtake personal computers (PCs) as the most common web access device worldwide."

Whereas there have been positive trends in ICT diffusion in the developing world, much more needs to be done to achieve an information society for all. It is gratifying to note that developing countries have embraced mobile technology and the gap with developed countries for that technology is narrowing rapidly.

### **3.1.7 Paperless society**

Paper is a strictly localized medium where almost all documents are in hard copies and where exhaustive electronic document storage mechanisms are non-existent. Even when multiple copies of a paper document is made, the reality is that copies of paper documents have the same constraints as the originals do. As paper environment is generally suited for use by few people at a time, thus making one's physical presence a necessity.

Undoubtedly, such a system has its limitations, thus calling for taking advantage of ICT applications which have been seen to help overcome the above limitations. Today's fast-moving global economy is witnessing a switch-over from paper documents to electronic information as they have been realized to be easier to process as well as reduces costs and delays along the supply chain thus increasing security and transparency thus leading to higher revenues while at the same time aiding international trade, either through processes involving business-to-business (B2B) or business-to-government (B2G) transactions.

Digitization has been seen to facilitate easy information storage, sharing and retrieval. Greenstone Digital software (<http://greenstone.org>), an open-source suite of software for building and distributing digital collections is among a list of open-source software which provides a new way of organizing information and publishing it on the Internet or on CD-ROM.

The emergence of digital signatures is making it possible for a complete digitization of paper documents to digitized documents by the help of ICTs. A digital signature is an electronic signature that can be used to authenticate the identity of the sender of a message or the signer of a document, and to ensure that the original content of the message is unchanged. Digital signatures are easily transportable, cannot

be imitated by someone else, and can be automatically time-stamped. Digital signatures have the ability to ensure that the original signed message arrived means that the sender cannot easily repudiate it later, and are commonly used for software distribution, financial transactions, and in other cases where it is important to detect forgery and tampering.

### **3.2 The use of ICTs in human rights promotion**

ICTs have been shown to amplify people's voices, especially the disadvantaged in society – a voice that enables the poor and those with disabilities to use their own knowledge and skills to escape poverty traps.

The Commission's limited profile and visibility, to the extent that it is not much known by the general population in many countries, including where it is currently headquartered, is a sobering fact that needs addressing. As has been pointed out in previous text of this study, the Commission has made significant achievements in instilling a culture of respect for human rights on the continent. However, for the achievements to have a lasting and noticeable impact, this need to be backed up by a coherent branding and public relations strategy which has been unfortunately lacking.

Commenting on the question of the Commission visibility and effectiveness, Sirleaf (1991, p. 27) had this to say:

*"...the Commission is generally unknown and invisible, it is regarded with suspicion by those who do know it, as seen from the eyes of a casual observer, it is not performing..."*

Various explanations for this state of affairs has variously been advanced, ranging from inadequate funding resulting in its declining profile, lack of capacity, insufficient political will, unwillingness by States to surrender sovereignty to supranational monitoring bodies, unwillingness by some States to domesticate international human rights treaties, persistent violence across the continent which

result in destruction of life, property and reverse human rights gains, widespread poverty, ignorance and lack of awareness, the effects of colonialism characterized by human rights unfriendly laws, bad governance, corruption and disregard for the rule of law. For his part, Rembe (1991, p.44) has singled out ...”the lack of mandate to make final binding decisions” as a major challenge.

As already pointed out, the analysis by various scholars who have written about the African Commission point in the direction that whereas the Commission has had to wither with many challenges since its establishment, the major daunting task at hand that the Commission needs to address is the lack of publicity of its activities, and many scholars seem to agree that it is this aspect, perhaps more than anything else, that has led to the negative impression of the Commission in the eyes of the public. Indeed, the Charter recognises the need for public awareness and has mandated the Commission to, inter alia,

*“...promote human and peoples’ rights and in particular organise seminars, symposia and conferences; disseminate information, encourage national and local institutions concerned with human and peoples’ rights...”*

### **3.2.1 Promoting human rights and improving other areas**

Undoubtedly, the use of ICTs and the Internet can help promote human rights and improve other areas. As the Special Rapporteur opined in his report (2011), the unique and transformative nature of the Internet – and by extension ICTs – can help promote the progress of society as a whole.

Three main areas have been identified as meriting special consideration: freedom of expression – a fundamental right in itself and an enabler of other rights; access to ICTs/the Internet – without which, the advantages of the transformative nature of technology cannot be reaped; and human rights education, with education being a major catalyst for human development (UNESCO, 2005).

#### **- ICTs and freedom of expression**

International human rights conventions including the 1950 European convention for the protection of human rights and fundamental freedoms, the 1969 American convention on human rights as well as the 1981 African charter on human and people's rights uphold the principle that freedom of expression is a human right that needs to be respected. Upholding this principle, the African charter on human and people's rights states in Article 9 that *"...every individual has the right to express and disseminate his or her opinions within the law."*

On the backdrop of Egypt's blocking of ICT outlets at the height of the 2011 mass protests that culminated in the fall of a regime, there is need for national governments to be urged to stop curtailing people's digital rights. Through a press statement <http://www.achpr.org/press/2011/02/d9/> the Commission did condemn such actions by the affected governments in North Africa but perhaps that message could have been amplified better in Africa and beyond had it been packaged and delivered using multiple ICT tools in an effort to safeguard citizens' digital rights.

Surveillance, privacy laws, threats, imprisonment, intimidation, and killings have been happening across the continent, lending to the assertion that regional institutions with a human rights mandate are largely failing to protect the victims. It is possible for the Commission, working in concert with partners, to support the development of new means to protect the right to privacy and freedom from surveillance.

- **Improving access**

In Africa, the ICT domain is characterised by poor ICT infrastructure, weak regulatory frameworks as well as limited human resources resulting in inadequate access to affordable telephones, broadcasting, computers and the Internet (Oxfam, 2005). African teledensity remains below one line per 100 people. Service costs are also high: the connection cost in Africa averages 20 per cent of GDP per capita, compared with the world average of 9 per cent, and 1 per cent for high-



income countries. Africa has been unable to capitalise on ICT as a tool in enhancing livelihoods and creating new business opportunities, and cross-border linkages within the continent and with global markets have been constrained. Though many countries in Africa have started ICT policy reforms, the report (Oxfam, 2005) maintains that “service penetration, quality or tariffs have not yet improved”.

Yet, driven by digital convergence, it is here argued that intensive use of ICTs can bring unprecedented comparative advantages to the continent. The knowledge-based economy of the future will depend more and more on the effective use of ICTs. Rapid advances in technology coupled with the diminishing cost of acquiring new ICT tools are opening new windows of opportunity for Africa to accelerate development. ICT revolution can accelerate Africa’s goals in human rights, fostering intra-regional trade, common market, integration into the global economy, as well as realising its security needs.

Over and above this, ICT has several connected advantages, ranging from provision of an impetus to the democratisation process and good governance; facilitating Africa’s integration into the new information society by use of its cultural diversity as a leverage; helpful tools for a wide range of applications, such as remote sensing and environmental, agricultural and infrastructural planning;

Developing countries face practical challenges, ranging from the “digital divide” to the limited infrastructure requirements necessary for implementation.

- **Promoting human rights education**

The Universal Declaration of Human Rights (Article 26 (2)) sees education as an enabling factor in one’s development and emphasises its importance to a person’s development when it states thus:

*“...Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms...”*

Human rights education, training and public information have been described as basic ingredients for the promotion of human rights and achievement of stable and harmonious relations in communities (UN OHCHR, 1993), and this aspect goes to show that Human Rights Education is endorsed by regional as well as international instruments.

Human Rights Education is aimed at disseminating information on, and enhancing the understanding of, human rights. It embraces the right to education, with a view to ensuring that human rights values and principles permeate our daily lives.

Human Rights Education is also aimed at empowering individuals, groups and communities through engendering and nurturing respect for human rights consistent with internationally recognised human rights principles, and it a necessary tool for promoting and protecting human rights , propagated through school and other educational media, including music, theatre and dance, among other tools.

Given Africa's illiteracy rate, it is possible for the Commission to make use of alternative approaches that would resonate with the masses, so that the majority are able to internalise their rights, and be fully aware of these rights when that information is imparted in a way that relates and resonates with their everyday lives. Hence, innovative mediums for promoting human rights have to be developed to help people, including those who are not literate and those who are outside the four walls of a classroom to, be able to understand their rights and protect them. Many approaches come to mind, but, given the widespread illiteracy on the Continent, for purposes of mass dissemination, the use of theatre, music or drama could have a positive outcome.

The reason is that these mediums provide an alternative learning and acculturation framework which also successfully advances the principles of Human Rights Education. They are a direct form of communication which brings various aspects of human rights into practice, and also enhances understanding of the rights in the

Charter, within an everyday, real-world context. The same way that great literature functions to activate the thought processes of the reader, so also does theatre, music and dance work to stimulate the target audience into engaging with human rights in a real-world way, thereby fostering a better understanding and appreciation of the rights.

These mediums widen the reach of educational material by going beyond the traditional educational frameworks to include those normally considered beyond the purview of classrooms. It reaches people in enclaves such as national theatres, cinemas, beer halls; people sitting in dining rooms of private homes, taxis, trains, buses; it reaches the fields where women till the crops and the valleys where men herd the cattle and boys tend the flocks, in the playground where children play house by the moonlight – everywhere where formal education does not normally reach, thereby making human rights education an integral part of peoples' lives as they go about their day-to-day activities. In other words, HRE becomes internalised, an integral part of the currency of everyday life. By effecting human rights education through theatre, music and dance is basically approaching the subject differently, about going beyond the norm to initiate behavioural change by starting a human rights discourse that is built into the way people actually live.

Thus, even though these mediums are generally used for entertainment, they can also be innovatively, creatively and very effectively used to sensitise communities regarding issues that require advocacy, promotion and protection, such as human rights.

The overall objective is to promote the African Charter by informing the people of Africa about it, disseminating information about it, educating people about it, and popularising it so that people are aware of their human rights as enshrined in the Charter.

For the formal sector, by employing various ICT tools, the Commission could insist that African governments teach human rights education in schools in an effort to build a regional culture of human rights and prevent human rights abuses.

### **3.2.2 Comparative analysis, best practices, and recommendations**

The Commission's work is virtually all paper-based – operating in a paper environment where almost all documents are in hard copies and where exhaustive electronic document storage mechanisms are non-existent. Unfortunately, such a system has its limitations.

There is thus an urgent need to develop an electronic system that should make it possible to achieve preparing, despatching, receiving and archiving documents electronically. There needs to happen a virtual centralised handling system which allows for simultaneous sharing of documents while at the same time enhancing their safety and confidentiality.

Other institutions that have had to grapple with the challenges of dealing with paper-based technology have come to realise the limitations of such approaches and have come up with novel solutions which makes use of ICT tools to address any existing challenges.

The Inter-American Commission effectively utilises ICT tools in all her public engagements, treating the audience to real-time images of all the Commission's proceedings, in the process captivating the audience's attention and interest in their activities.

Elsewhere, institutional websites are manned by a dedicated team, usually comprising of a webmaster, a web designer and a web editor who are responsible for regular management and updating of the website, ensuring that content management is in order, as well as ensuring that correct information is uploaded and that there was no repetition of published articles. This is very crucial especially when there are several official languages (such as English, Portuguese, French and Arabic) as is the case with the Commission.

The Commission, being the oldest and premier human rights treaty monitoring body in Africa, has a long history and practice that provides a rich record of efforts made on the African continent to protect and promote human rights. In today's information technology age, the Commission website is a valuable resource for the dissemination of its rich repository of human rights information including soft law principles and guidelines, resolutions, press releases, urgent appeals, state reports, concluding observations, ratification tables, reports from special mechanisms, state visits, fact finding missions and all other documentation obtaining at the Commission.

In this regard, the Commission is to be commended when in 2010, well aware that its website was built on a manual HTML technology which necessitated that each page had to be hand coded which in the process made updating the website a laborious process, effected a technology upgrade of its website. However, whereas this is a commendable initiative, there is need to build on this significant improvement of the Commission's website by emulating best practices elsewhere, including media practices by the African Union headquarters where a 'situation room' could be created for communicating recent news, urgent information, press releases after major events and links to articles where the Commission is cited, in the process enhancing the Commission's communication with its publics.

Whereas it is a fact that the Commission's recruitment process is centrally managed at the African Union head office which factor sometimes leads to delays in effecting essential recruitment to fill the existing posts at the Commission, it would be desirable to retain the services of a Communications Officer as well as a webmaster where the former would be responsible, as a media expert, for communicating the Commission's messages to the wider public using various ICT tools at his/her disposal.

There are various innovations solutions in use at the Inter-American Commission on Human Rights, including a petition management system that updates itself on a daily basis; the document management system that scans all closed files as well

as paper documents; as well as the practice of Commissioners having web pages to which documents are posted directly thus automatically eliminating the necessity to photocopy documents during Hearings – practices which point to the possibility of achieving a paperless office in the near future. These innovations are coupled with the fact that Commissioners at the Inter-American Commission on Human Rights have individual webpages to which documents are directly posted, thus eliminating the necessity to photocopy documents – especially during Hearings.

Unfortunately, the above practice contrasts sharply with the practices obtaining at the Commission where, thirty –four years since the adoption of the African Charter in 1981, the practice during Sessions has not changed an inch – paper technology is still the practice, leading to, as it were, the many limitations of paper and paper-based technology.

It would be appreciated that the Commission does upload online press releases onto its website, but what is missing in this regard is a functioning RSS feed. The Commission does not make use of blog posts either in its human rights promotion, yet these channels are extremely important as they lead to getting useful feedback.

The African Commission’s website does not have links to appropriate social media platforms like Facebook, twitter, Instagram, yet advances in ICT dictate that for an organization wishing to effectively communicate with its audience there needs to happen a social media presence.

### **3.3 The use of social media in human rights promotion**

The Commission could make use of social media to popularise its dual mandate especially as ICT has solved the problem of distance to the point that it is no longer a barrier. The Commission could for example send human rights messages and projects to all her social “friends” in an instant and see their response without having to make use of traditional approaches. Globalization makes it possible for social networking to become a cheap, helpful marketing system able to gain contacts, clients, and increased public awareness.

Based on the idea that any two people can be connected through a chain of five or less intermediaries, the concept of social networking has been equated to the concept of the six-degrees of separation as illustrated by Karinthy, (1929) through his play “*Chains*” – it is also referred to as the “human web” – referring to the idea that people who join social networking also invite their established contacts to do the same, and the process goes on indefinitely, thereby culminating into communities created to support a common theme.

The use of hash tag – # – is a true contemporary tale of information management that has caught the imagination of today’s globalised world. Providing useful optimizations to everyday things, Price (2011) narrates how the hash tag was invented by an early Twitter user named Chris Messina in 2007 who, “when introducing friends over e-mail, wrote #Introduction in the subject line”. A developer advocate at Google, Messina is today regarded as the “hash godfather.”

In today’s digital age, the hash tag is used to identify with various current events, be it movements, events, happenings, brands, or any other event of the day which appeals to the general public.

Used extensively, ranging from #BringBackOurGirls, a social network campaign that made the plight of the 200 Nigerian school girls that were abducted by the Islamist militants-Boko Haram, and the push for the facilitation of release of the girls a matter of international priority at a supersonic and expeditious mobilisation speed; to the #BringBackAJStaff campaign that saw thousands of journalists and well-wishers worldwide go to Twitter to express their concern over the treatment of Al-Jazeera journalists that were arrested in Egypt for allegedly siding with the outlawed Muslim brotherhood group; to the 2014 Israel-Gaza conflict where, the hash tag has been effectively used to shape global opinion and reaction, Aljazeera (2012) describes how the use of the hashtag was instrumental in rallying people from different continents – the global community – to identify with a cause.

### **3.3.1 Recommendations**

Recent advances in ICT has placed at our disposal various Channels for engaging with our publics, and the Commission could consider utilizing these in her quest to promote human rights on the continent.

Demography statistics (World Population Review, 2013) indicate that two hundred million of Africa's populations are youths between the ages of 15 and 24, a factor that should not be lost when it comes to determining the medium of communication to this age group. As already pointed out that Prensky (2001, p.1) refers to this age group as digital natives, which factor calls for engaging with them using several social media channels.

There needs to happen an effective utilization of "web 2.0" to its full advantage, which, since its first use in 1999, DiNucci (1999, p.32) in her article "Fragmented Future", the term has come to be used to describe blogs, the crowd-sourced encyclopedia site Wikipedia, social media sites including Facebook as well as file-sharing sites like Flickr. Web 2.0 described as the art of using this new Internet phenomenon in order to achieve those objectives – "citizen to citizen, person to person."

Elsewhere, Twitter is being used in many creative ways, including as "breaking news" during major events, an example being the use of Twitter to "break news" during the American military raid that killed Al Qaeda leader Osama Bin Laden (Mashable, 2011). The Commission is absent in this area too. Surprisingly, the African Court, a body that was created to complement the Commission, is present in this and other domains.

The Commission could consider using Facebook, the most popular social networking site, given its ability to allow users to identify and closely connect with the message, thus serving as a didactic platform. When properly utilized, it is hoped that the Commission's audience will become familiar with terms related to human rights, individual duties, state obligations, types of redress, mechanisms,



human rights clinics, reporting an abuse, human rights documentation, human rights litigation, human rights, and individual contributions to human rights, possible solutions, and actions for reducing human rights violations on the continent.

### **Twitter**

A very dynamic social network most effective with constant feeding, Twitter continues to form an important tool for real time conversations around the globe. The Commission could make use of Twitter with the aim of generating positive public opinion in a given subject area, and content that generates positive comments and high traffic could be re-tweeted so as to get as a wide publicity and popularity as possible.

### **RSA-style animations**

To achieve maximum impact the Commission may want animate its messages, especially considering that most of her audience are youths, who are easily susceptible to new ideas. Many messages could get distorted given today's information explosion, and for this reason, to make sure that her messages reach the intended audience and receive the attention it deserves, the Commission may want to be more innovative in many ways, including in information packaging. One of such methods is the use of innovative tools, for example by employing the use of RSA style.

The Commission may need to focus the narratives and align them to specific audiences – one narrative could be directed to a general audience while the other narrative could be targeted for schools, to be used in Human Rights Education. Such a narrative should be brief, highlighting the results of the various human rights reports and how they relate schools, suggesting ways in which schools and students can help to champion the human rights cause.

### **YouTube and Webinars**

A series of webinars could be recorded live and then uploaded to a YouTube channel and moderated by a leading expert in the field of human rights. Such an expert could be a former Commissioner, a leading academic, or any other leading personality on the continent. Issues that the webinar could discuss could be many and varied, depending on the prevailing situation and the circumstances.

## **Blogs**

Expert opinions complemented by firsthand accounts make for interesting and timely blogs. As there are quite a number of human rights experts on the continent who are quite good at global communications, the Commission could consider soliciting for the services of such expertise who could be asked to post blogs on a periodic basis, and thereafter comments with illustrative examples of the issues under discussion would be entertained.

### **3.4 Way forward: an ICT strategy**

There is an adage that 'Information is power.' Witness how information shared on social media, mainly spread by the youths, very easily reached the masses in Tunisia and Egypt rural corners and thus changed the political landscape in North Africa. Likewise, used effectively, ICT has the potential to assist in dispersing human rights-related information.

Information is an important ingredient that aids in making right choices in life. Sufficient information helps people to decide rationally and take the right course of action beneficial to them. ICT helps people to know what is happening around the world, socialize them with the values of pluralism, equip them with the elements of modernity, as well as make public services more responsive to the people.

The principles of democracy, the rule of law, good governance and respect for human rights and fundamental freedoms are interlinked with one another but are also closely related to poverty. Poverty is not only about lack of material resources. It is also about lack of knowledge, lack of power, opportunities, choice and security.

Democracy and poverty reduction can never be guaranteed by politicians alone; in the end, it is a question of people's opportunities to influence their situation, claim their rights and being able to voice their concerns. But to exercise these rights presupposes that citizens have access to information that has not been filtered, censored or distorted. How can people claim their rights if they don't know what they are? How can people voice their concerns if they risk being prosecuted for doing so?

For the Commission to be able to match the changing times and thus be able to have an impact on the millions of peoples across Africa as well as the global village that we are living in today, coupled with the international focus that human rights issues have come to bear on all aspects of life these days, there is need for the Commission to come up with avenues that will expose its activities to the wider audience.

Elsewhere in Africa, member states are coming up with creative ways to reach to their people. In East Africa, for example, the Republic of Uganda is employing innovative ways of effective utilization of ICT tools has begun to bear fruit. By using tools like <http://askyourgov.ug> an ICT initiative that is creating awareness and enabling citizens to utilise their rights embedded in the Access to Information Act 2006, Ugandans can now request for information from any Government department and receives feedback accordingly.

Already, some AU member states are making use of ICTs in creative ways. During the 2012 Uganda general elections for example, the Electoral Commission published voters' registers online and a website – [www.ec.or.ug](http://www.ec.or.ug) – to view voters at different polling stations was launched. This was followed by the crowdsourcing platform UgandaWatch – [www.ugandawatch.org](http://www.ugandawatch.org) – developed by Democracy Monitoring Group to enable voters send in reports through short text message (SMS).

### **3.5 Human rights promotion and niche diplomacy**

The Commission can emulate best practices from some small states such as Norway and Qatar, which, due to their smallness, make effective use of niche diplomacy to achieve their aims. Qatar has, for example, made regional conflict mediation initiatives as her niche diplomacy, a strategy that mirrors Norway's niche diplomacy strategy of having an international reputation of being the world's capital for peace negotiations, as well as being associated with the prestigious Nobel Peace Prize.

Defined as "specializing and focusing resources within one area so to yield the best returns," niche diplomacy has been effectively used by these two states as their main tool to achieve greatness, despite their smallness. (Henrikson, 2006, p.67). It would be worthwhile for the Commission to emulate such examples and effectively exploit to the fullest her distinctive niche of being Africa's human rights premier institution and put this to her advantage.

The Commission will need to creatively employ ICTs and brand its image within African borders as well as outside by telling the world a story of resilience, perseverance, working for the common good, as well as stating its successes and challenges. Used innovatively, it is possible for the Commission to turn around its fortunes and flourish in this ever-evolving human rights arena of this digital age.

The Republic of Uganda has managed to employ several branding techniques to redeem her image on several occasions; the country has on several occasions tried to redeem her dented image by use of several branding techniques. Dented by police's brutal crackdown on peaceful demonstrations, Mobile Monitor (2011) reveals how the government of Uganda hired a public relations firm to redeem her image in the eyes of the wider community; and further to the above, All Africa (2005) reported how the country hired an American television company – Cable News Network – to promote the country's image especially to the outside world

and in the process attract investment opportunities as well as boost the tourism sector.

It is worthy pointing out at this point that in spite of the challenges it faces, the Commission has made a number of remarkable contributions to the human rights landscape in Africa. Despite this fact, however, the above attempts by the Republic of Uganda is a clear manifestation to show that the Commission has generally under-sold itself and its achievements to the African people, including those who reside within its immediate geographic area.

Unlike in the European system where the Committee of Ministers takes binding decisions and supervises the implementation of the Commission's decisions, in the African system, this is not the case. Instead, the Commission's Annual Activity reports and decisions are submitted to the Assembly of Heads of State and Government, with the result that the Commission is sometimes restricted from performing some of its charter-imposed duties, including undertaking promotional, protection, fact-finding missions as well as state reporting as it has to request permission to undertake such activities, a request that may be granted or otherwise denied.

When people are made aware of their rights, they can become empowered to engage in civil society, public service as well as politics at all levels. It is important that all available means be used to disseminate messages so that peoples are informed of the channels through which they may exercise their civil and political rights and contribute to decision-making processes that impact their lives.

Bearing in mind the above, the Commission could focus on those areas where it has a clear comparative lead, experience and expertise thereby consolidating its long-established functions, including human rights promotion, protection, and research.

Panapress (2015) reports of the acceptance by African political leaders to declare 2016 as African Human Rights Year. It would be recalled that, the Assembly of the African Union, at its 23rd Summit in January 2014, agreed to declare 2016 as

African Human Rights Year “to celebrate efforts of promoting and protecting peoples’ rights across the continent”. The initiative of celebrating an Africa human rights year was to “to raise awareness on human and people’s rights on the continent, in particular, women’s rights and take stock of progress or efforts made, including major challenges and/or obstacles encountered.” In this regard, it would be desirable for the Commission to creatively take advantage of this development and sell its existence and activities to the wider public by making effective use of various ICT tools.

To highlight the Commission’s work since its establishment with a view to creating awareness to its existence as well as enhancing its visibility thus promoting its public image for the benefit of the African people, the Commission could consider taking advantage of innovative information packaging such as, for example, animated infographics video, and have this widely shared and disseminated through various ICT delivery mechanisms to share the same with her audience highlighting its history, mandate, successes and challenges, as well as sharing its vision for its way forward. When packaged innovatively, it is possible for the Commission to enhance its public profile, gain greater collaboration with other human rights stakeholders in Africa and beyond, and thus, in the process, gaining concrete support for her vision to tackle challenges it faces and its way forward, as well as involving communities who may not be privy to ICT tools in promoting human rights through innovative approaches.

### **3.6 Conclusion**

Whereas ICTs are not an end in themselves, their effective usage empowers people and communities to become self-sufficient in meeting their basic needs and reach their full potential. The agent of change and of empowerment is information, which the Commission could creatively harness in its quest to rebrand itself and thus embark on fulfilling its mandate as provided for by the relevant provisions of the Charter that created it. Access to information helps people identify and seize opportunities to grow and develop, and to better their lives and that of their families

and communities. Access to information facilitates participation in society, in the economy, in government, and in the development process itself. The ability to share information on a level playing field helps overcome barriers to communication and encourages exchange and collaboration. As Waller (2007, p. 479) observes, *“the winners in today’s globalized world will be those who will wisely harness ICTs to their limits”*.

# Chapter Four

## 4.0 Recommendations and conclusions

### 4.1 Strengthening the Commission

Africa has repeatedly committed itself publicly, at both sub-regional as well as regional level, to the defence of human and peoples' rights on the continent by issuing various norms, standards as well as setting up various institutions relating to human rights protection and promotion on the continent. Among these is Article 3(h) of the Constitutive Act of the African Union, the African Charter on Human and Peoples' Rights, the protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights, Article 4 (c) of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, as well as the human rights strategy, among others.

Unfortunately, in spite of these lofty ideas, the daily lives of Africans do not always manifest the concrete benefits of these initiatives. Africa remains beset, as it were, by various socio-economic and political problems, including corruption, poverty, armed conflicts, and abuse of individuals' fundamental rights.

Africa's Human Rights Strategy (para. 20) for example laments the situation the continent continues to face: *'the slow pace of ratification, domestication and implementation of instruments and decisions of human rights bodies.... there is*



*inadequate coordination and coherence among AU organs and institutions and the Regional Economic Communities in terms of policy initiation, development and implementation...the capacity and resources for implementation have not matched the progress achieved in adopting human rights instruments and establishing institutions’.*

The above admission by the African Union is evidence which points to the fact that more remains to be done in order to translate the benefits of human rights protection and promotion into the daily lives of the peoples of Africa. Without saying, Africa needs more than ever before a Commission that is capable of discharging its mandate effectively.

## **4.2 Recommendations**

The weakness or strength of any human rights institution revolves around its normative and procedural scope, its implementation machinery and above all the practice of all the relevant actors. The African Commission is no exception to this rule.

4.2.1 The existing promotional activities of the Commission need to be catapulted by amalgamating ICT in implementation. ICT could help upload all the Commission’s information materials online, and also achieve the digitisation of the Commission’s documents. This needs to happen in a seamless manner to disseminating information about the Commission.

4.2.2 There is need for developing a Communication strategy that should aim at strengthening the Commission’s corporate identity and positioning of its activities. Nsega (2011) points out that “such a strategy should build and maintain creative and effective communication partnerships, particularly with the media; promote ICT usage; ensure responsiveness to the rapidly changing ICT technologies and environments, advocate for media liberalization and deregulation to ensure a more central, dynamic and effective contribution of communication to the work of the Commission”.

4.2.3 It will be necessary to develop and implement a robust web and social media strategy, with a focus on adaptations for mobile Internet, and use of other new media technologies, that will support the Commission's communication and resource mobilization objectives. The main strategic objective in this regard would be the establishment and maintenance of an online presence that could lead to fruitful engagement with the public. Creative use of social media tools would be a good starting point, especially Facebook and twitter. There are links to these on the website, but they don't lead anywhere. A news page that feeds into a monthly newsletter would also be desirable, but at the moment the 'subscribe to the newsletter' button at the end leads nowhere as the Commission does not currently produce any newsletter.

4.2.4 There is need to map out the social media landscape in Africa in order to take advantage of mass dissemination capabilities that already exist. This can be done by carrying out online research and interact with providers as needed, with the intention of creatively using social media to promote the Commission and help revamp its image.

4.2.5 It is necessary to reposition the Commission as a premier human rights institution by boosting its image and profile through various branding techniques that, if creatively implemented, could see the Commission's fortunes skyrocket. As a leader and pacesetter in its field, the Commission needs to strategically focus on selected issues and activity-areas that demonstrate impact and appropriately captures its distinctive niche.

4.2.6 There is need to upgrade the entire ICT system in the Commission to current international standards. An improved system should be based on a functioning email system which was not in existence by the time of compiling this thesis, with staff using personal (Internet) email addresses for official communication. Such an improvement may want to include documents management as well, with an aim of gradually moving away from the employment of paper technology in its entirety to an automated server system that would assist

in the management of documents and correspondence, with different levels of access, so that documents are centrally stored, remain safe, and be accessed by different users for different purposes.

4.2.7 There needs to happen an effective utilization of “web 2.0” to its full advantage, which, since its first use in 1999, the term has come to be used to describe blogs, the crowd -sourced encyclopedia site Wikipedia, social media sites including Facebook as well as file-sharing sites like Flickr. (DiNucci 1999, p.32) advocated for web 2.0 in today’s digital world, arguing that the purpose was to achieve in today’s internet phenomenon the objectives of “citizen to citizen, person to person.”

4.2.8 There is need to build the capacity of the Commission’s Secretariat with adequate staff as a long term solution to implement the necessary ICT strategies that would assist in promoting visibility of the institution. In this regard, policy organs of the African Union will need to augment the staffing of the Secretariat to cover the various areas of need.

4.2.9 Whereas the Commission has maintained that the main obligation to protect human rights is that of the State itself and the Commission’s role is that of a facilitator, the state reporting guidelines need to be amended by expressly requiring member states to discuss the implementation of their obligation in promoting and/or educating citizens about human rights.

4.2.10 It would be a desirable approach to utilize ICTs creatively to engage the Commission’s audience through creation of an online site that offers people the chance to remotely share ideas and information; either through blog, a forum or other innovative approaches.

### **4.3 Conclusion**

In conclusion, the facts point to the fact that by 1981, when attempts at promoting human rights were in its normative stages, the digital revolution had not yet taken root in Africa. For this reason, the Commission came up with strategies that suited

very well with the times, among which was the creation of a special rapporteur on freedom of expression, to the extent that whenever a human rights violation occurs, the Special Rapporteur issued statements and press releases. Suffice to point out here that the use of amalgamating ICTs into its promotional strategy had not yet become a vehicle for this purpose.

However, with the advent of globalization, the world today continues on a path of remarkable technological change in the Information and communications domain. If recent events in North Africa and the Arab region during the Arab spring are anything to go by, the power and effects of various ICT tools can be deployed for mass mobilisation purposes to achieve a common good. This trend has been compounded by the use of new media and social networking options which approaches have given many people immediate access to the latest-breaking developments from an array of communications sources, as and when it happens. Especially for the youths, social networking has become daily routine of their lives, and nearly every internet user has an account in these social networking sites like Twitter, Facebook, Orkut, Zorpia, Myspace etc. The result is that distance between peoples is no longer a barrier, a facet which the Commission, as an African Union organ mandated to oversee human rights promotion on the Continent, could embrace as a crucial element in the struggle to promote human rights.

It is hoped that this thesis will lead to the employment of ICT tools as weapon of choice that would assist the Commission in realising its broad mandate, and that such an initiative will be supported by the various stakeholders who have a bearing and an interest in a vibrant Commission that lives up to the expectations of all. Especially as the complementary relationship between the Commission and the Court is now operational, as well as the existence of other formalized African Union organs and processes with a human rights dimension which also offer potentials to complementing the work of the Commission. "The winners in today's globalized world", observes Waller (2007, p. 479) "will be those who will wisely harness ICTs to their limits."

In the tradition of institutions with similar mandate as well as other institutions both at international level, regional level, intergovernmental organisations, Non-Governmental Organisations, Governmental agencies, as well as the great research centres and think tanks that have had to creatively harness ICT tools to their advantage, the Commission ought to, by employing ICTs as a weapon of choice, be at the heart of a series of activities across the African continent and beyond, making use of its broad mandate which is based on a binding continent-wide instrument with powers to promote, protect as well as interpret the provisions of the charter and formulate legal opinion, creatively make use of its niche human rights focus and expertise for the benefit of the millions of its publics that it ought to serve. It can be concluded therefore, as Costea (2007, p. 171) does, that *“the Internet and the world wide web has reached the point when nobody can afford to ignore it, at their own loss.”*

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