Global Influence on Africa's Human Rights Frameworks

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1. Introduction

The evolution of human rights frameworks in Africa is a subject of profound complexity, representing a dynamic and often contentious negotiation between indigenous values, the legacies of colonialism, and the powerful currents of contemporary global standards. As the Executive Secretary of the National Human Rights Commission of Nigeria, and from an academic standpoint, it is evident that this process is far from a simple, unidirectional imposition of external norms. Rather, it is a multifaceted dialectic involving adaptation, resistance, and significant contribution from the continent itself. This paper examines the global influence on Africa's human rights architecture, arguing that while international institutions and instruments have provided a crucial foundational blueprint, the ultimate efficacy and legitimacy of these frameworks depend on their ability to be critically engaged with, adapted to local realities, and harnessed to hold both state and non-state actors accountable. The central paradox that this exploration navigates is that global human rights discourse, while offering emancipatory potential, can also be complicit in structures of power that perpetuate the very injustices it seeks to remedy, particularly through the hegemony of global capital and the limitations of a state-centric model.

The post-World War II international order, spearheaded by the United Nations Universal Declaration of Human Rights (UDHR) of 1948, established a universalist language of rights that has fundamentally shaped constitutional and legal developments across Africa.[1] This global architecture is deeply rooted in Enlightenment philosophy and Western political thought, presenting both an 'imagined social order' of human dignity and a potential site of cultural imposition.[2] African nations, upon gaining independence, largely embraced this language, embedding civil, political, social, and economic rights into their foundational documents, including the 1999 Constitution of the Federal Republic of Nigeria (As Amended) and the transformative South African Constitution of 1996. The African regional system itself, culminating in the African Charter on Human and Peoples Rights (1981), represents a deliberate engagement with and adaptation of

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[1] Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR).
[2] Pam Christie, 'The Complexity of Human Rights in Global Times: The Case of the Right to Education in South Africa' (2010) 30 International Journal of Educational Development 3, 4.

global norms, introducing distinct concepts like peoples' rights and individual duties, thereby contributing a unique voice to the global discourse[3].

However, the translation of these lofty global commitments into tangible realities for the African people has been fraught with challenges. As Christie powerfully demonstrates through the South African case, the constitutional promise of a right to basic education has been starkly contradicted by socio-economic policies that privilege market logic over social justice, effectively subordinating the right to education to the ability to pay.[4] This gap between promise and delivery reveals a critical dimension of global influence: the powerful role of neoliberal economic globalisation. Van der Bank identifies this tension, noting that globalisation, characterised by multinational corporations and international financial institutions, often operates with a blatant disregard for human rights, as tragically illustrated in the Niger Delta.[5] The state, tasked as the primary duty-bearer for human rights, often finds its sovereignty constrained and its policy choices dictated by the imperatives of attracting foreign investment and complying with the conditions of international financial institutions.

This brings us to the most potent critique of the interplay between global forces and African rights frameworks: the ascendancy of what Upendra Baxi termed the 'trade-related, market-friendly human rights' (TREMF) paradigm.[6] As analysed by Okafor and others, this paradigm subtly shifts the focus from protecting people to protecting capital.[7]

The African Human Rights Action Plan (AHRAP), a seminal continental policy document, is examined through this lens and found wanting. Despite its commendable ambitions, its treatment of capital is limited and fails to adequately theorise or address the structural role of Transnational Corporations (TNCs) and business interests in human rights violations.[8] By largely omitting robust, binding mechanisms for corporate accountability

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[3] African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) (1982) 21 ILM 58 (Banjul Charter).
[4] Christie (n 2) 8-9.
[5] C.M. van der Bank, 'Globalisation and Human Rights: Some Implications for the African Content and Government' (2010) 6 World Journal of Entrepreneurship, Management and Sustainable Development 181, 186.
[6] Upendra Baxi, *The Future of Human Rights* (3rd edn, Oxford University Press 2008) 242-249.
[7] Obiora Chinedu Okafor and others, 'Presence through Absence? Understanding the Role of Capital in the African Human Rights Action Plan' (2020) 58 The Journal of Modern African Studies 579, 581.
[8] ibid .

and opting for a voluntarist approach, the AHRAP risks, perhaps unintentionally, privileging the interests of capital and exemplifying what Baxi warned against: a framework that allows human rights to be subsumed by market logic.[9] This 'presence through absence', the silencing of capital's pervasive role, becomes a defining feature of the framework's limitations.[10]

Therefore, understanding the global influence on Africa's human rights frameworks requires acknowledging this constant negotiation. It is a process of convergence in some areas, such as the adoption of international legal standards, and contestation in others, such as resisting the TREMF model and asserting African philosophies like *Ubuntu*. It is a process of continuous adaptation, reflecting Africa's complex position as both a participant in and a subject of an interconnected world. This paper will argue that sustainable human rights protection in Africa requires frameworks that are both internationally informed and locally owned. This necessitates moving beyond the state-centric and often capital-friendly limitations of current models to foster meaningful participation from diverse stakeholders, including a robust civil society, an assertive judiciary, and communities themselves. It demands a critical engagement with globalisation that harnesses its opportunities while fiercely mitigating its excesses, ensuring that the pursuit of human dignity remains the paramount objective of Africa's human rights project.

Keywords: Human Rights, Africa, Global Influence, Human Rights Frameworks, African Human Rights System,

1.1 Conceptual Clarification

By clarifying these key terms and concepts, this paper aims to provide a comprehensive understanding of the interplay between global influences and Africa's human rights frameworks. A clear conceptual foundation is essential because human rights in Africa cannot be divorced from the historical legacies of colonialism, the normative force of international instruments, and the resilience of indigenous values. Clarifying notions

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[9] Baxi (n 6) 234.
[10] Okafor (n 7) 586.

such as human rights, Africa, global influence, human rights frameworks, and the African human rights system helps to situate the discourse within both global and regional contexts.

Human Rights

Human rights are those fundamental rights and freedoms to which every person is inherently entitled simply by virtue of being human, regardless of nationality, ethnicity, religion, gender, or any other status. They include civil and political rights (such as freedom of expression, right to a fair trial, freedom from torture), as well as economic, social, and cultural rights (such as the rights to education, health, work, and housing). These rights are universal, inalienable, indivisible and interdependent. They exist both at the moral level and, increasingly, in legal form via treaties, conventions, constitutional provisions, customary international law, and regional instruments. The United Nations, via the Universal Declaration of Human Rights (UDHR) 1948 and subsequent covenants, has been central in articulating these norms. For example, the UN states that human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, etc.[11] In African settings, these universal norms often interact with traditional values, customary law, and communal conceptions of rights and obligations, creating sometimes tensions or hybrid forms.

Africa

In this context, "Africa" refers not just to a geographic entity but to the multiplicity of states, cultures, legal systems, and societies on the African continent, including both sub-regional variations (e.g., North, West, East, Central, Southern Africa) and intra-state differences (ethnic, religious, customary). It implies inherited colonial legal legacies, the post-colonial state structures, and systems of indigenous governance. When discussing Africa in the human rights context, it is crucial to recognise diversity: in history, culture, customary law, political governance, levels of development, colonial experiences, languages, and legal pluralism. Thus, what applies in one part of Africa may not apply in another. The term also implies the entities created to handle human rights at the

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[11] Human Rights | What are Human Rights?", United Nations, , https://www.un.org/en/global-issues/human-rights
 accessed 28 August 2025

continental level, such as the African Union (AU), the African Charter on Human and Peoples' Rights, the African Court, etc., which constitute part of the institutional framework that shapes how human rights are understood, implemented, and enforced in Africa. For instance, the African Human Rights System is described as comprising the AU bodies such as the African Commission on Human and Peoples' Rights (ACHPR), the African Court on Human and Peoples' Rights (AfCHPR), and the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), each with different mandates.[12]

Global Influence

"Global Influence" refers to how ideas, norms, institutions, treaties, legal standards, economic pressures, diplomatic engagement, international civil society, global media, and funding mechanisms emanating from the international sphere affect, shape, constrain, or enable the domestic policies, laws, and practices of countries. In human rights, this includes how international treaties and conventions (e.g. ICCPR, ICESCR), United Nations bodies, intergovernmental organisations, foreign donors, human rights NGOs, transnational movements, global courts, and regional systems exert normative, legal, political, and operational pressure or offer models of what is acceptable or required of states. Global influence can be direct (e.g. treaty ratification, monitoring, reporting) or indirect (e.g. comparative jurisprudence, diffusion of norms, soft power). In the African context, global influence has often meant the importation and adaptation of human rights norms from international bodies, but also contestation where global norms are perceived as being misaligned with local culture, values or priorities.[13] Especially the treatment of "social dimension" and "political dimension" of globalisation, and how they correlate with human rights outcomes.

Human Rights Framework

"Human Rights Framework" refers to the structured set of legal, institutional, normative, and procedural components through which human rights are defined, protected,

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[12]African Human Rights System, Centre for Global Law & Justice, Resource Hub, https://cglj.org/human-rights-oversight/regional/african/. Accessed 28 August 2025.
[13] Takiyar, A. & Rao, N. V. M., "Impact of Globalization on Human Rights: Evidence from Sub-Saharan Africa", *International Journal of Social Economics*, Vol. 47 No. 12, pp. 1453-1480 (2020).

promoted, and enforced in each context. This includes international treaties and conventions; regional human rights instruments; national constitutions and legislation; judiciary and courts; administrative bodies; monitoring and oversight institutions (e.g., National Human Rights Institutions); customary or traditional dispute resolution in some contexts; civil society mechanisms; and procedures for redress, reporting, enforcement, and accountability. A framework also includes informal norms and practices (political culture, public expectations, social norms). The strength, coherence, legitimacy and effectiveness of a human rights framework depend on how these components work together, how they are resourced, their independence, and the embedding of human rights in public institutions. In Africa, human rights frameworks consist of both the international legal instruments that many states have ratified, the African regional human rights instruments (e.g., the African Charter), continental and sub-regional courts and commissions, as well as national constitutional protections and civil society oversight[14].

African Human Rights System

The "African Human Rights System" is a particular regional human rights framework established under the auspices of the African Union, involving a constellation of bodies, treaties, courts, and procedures that together aim to protect and promote human rights in Africa. Key components include the African Charter on Human and Peoples' Rights (ACHPR), the African Commission on Human and Peoples' Rights, the African Court on Human and Peoples' Rights, and auxiliary bodies such as the African Committee of Experts on the Rights and Welfare of the Child (ACERWC). The system provides mechanisms for states to report, for individuals or groups to make complaints, for judgments or decisions to be rendered, and for normative development (via jurisprudence, decisions, and recommendations). It is distinguished by its blend of civil and political rights, with people-centred or collective rights (e.g. peoples' rights, duties, welfare) and by its articulation of socio-economic rights, though implementation often faces challenges of enforcement, resources, political will, and the tension between universal norms and local or customary legal norms. For instance, while many African

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[14] Human rights legal framework", GSDRC, Topic Guides, https://gsdrc.org/topic-guides/human-rights/human-rights-legal-framework/. Accessed 30 August 2025.

states have ratified the African Charter, some have been slower to accept the jurisdiction of the African Court, or to implement its decisions domestically[15].

2. Historical Foundations of Human Rights in Africa

To comprehend the contemporary architecture of human rights in Africa and its interaction with global influences, one must first trace its deep historical roots. These foundations are not monolithic but are built upon three distinct yet interconnected strata: the rich substratum of pre-colonial indigenous values, the disruptive and imposed layer of colonial legacies, and the aspirational, albeit often fraught, early post-independence attempts to construct regional frameworks. An examination of these layers reveals that Africa's engagement with human rights is not a recent phenomenon born of Western import but a complex historical process of erosion, imposition, and reclamation.

2.1   Pre-colonial Indigenous Values and Traditional Governance Systems

While the contemporary language of human rights is deeply embedded in the post-Enlightenment West, the underlying principles of human dignity, community welfare, and accountability have long been embedded in African philosophical thought and traditional governance systems. The provided texts, though focusing more on the modern period, hint at this foundation through the concept of *Ubuntu*, often summarised by the phrase *umuntu ngumuntu ngabantu* ('a person is a person through other persons').[16] This philosophy, as noted by van der Bank, promotes social responsibility and solidarity, the duty of care, the virtues of sensitivity, selflessness and devotion to duty and the vision of a society founded on justice and equality.[17] These values formed the ethical bedrock of many pre-colonial societies, where governance was often based on systems of checks and balances, communal ownership, and restorative justice. Leaders were frequently accountable to councils of elders or the community itself, and conceptions of

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[15] African Human Rights System", Centre for Global Law & Justice, Resource Hub, https://cglj.org/human-rights-oversight/regional/african/ accessed 30 August 2025,
[16] *S v Makwanyane and Another* [1995] ZACC 3, para 308 (Chaskalson P).
[17] C.M. van der Bank, 'Globalisation and Human Rights: Some Implications for the African Content and Government' (2010) 6 World Journal of Entrepreneurship, Management and Sustainable Development 181, 187.

rights were inherently tied to duties within a communal context. This stands in contrast to the more individualistic, rights-bearing subject of Western liberalism, highlighting a foundational tension that would later resurface in Africa's engagement with international human rights law.

2.2   Colonial Legacies and Their Impact on Law and Human Rights

The colonial encounter represents a profound and violent rupture in Africa's socio-political development, the legacies of which continue to distort its human rights landscape. Colonialism was not merely a political takeover, but a comprehensive project of legal, economic, and cultural imposition designed for extraction and control. As Christie argues, the current architecture of human rights, exemplified by international declarations, was established alongside other formations of modernity.[18] However, these formations were introduced in Africa not through a social contract but through conquest, fundamentally perverting their application.

The colonial state introduced a dual legal system: a modern, positivist legal framework for the colonisers and the economic sphere, while often relegating natives to a distorted version of customary law under the authority of appointed traditional rulers.[19] This strategy, as the history of apartheid South Africa exemplifies, created a misleadingly common form of institutions that masked vastly different and deeply unequal experiences.[20] The core function of law shifted from upholding communal welfare to enforcing forced labour, land dispossession, and political subjugation. This period saw the systematic suppression of indigenous systems of governance and justice, replacing them with apparatuses designed for domination. The state that emerged at independence was thus a paradoxical entity; it inherited the coercive instruments and borders of the colonial state while being expected to champion the rights and freedoms it had been designed to suppress. This legacy bequeathed a significant myopia and exclusions within

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[18] Pam Christie, 'The Complexity of Human Rights in Global Times: The Case of the Right to Education in South Africa' (2010) 30 International Journal of Educational Development 3, 4.
[19] See generally, Martin Chanock, *Law, Custom and Social Order: The Colonial Experience in Malawi and Zambia* (Cambridge University Press 1985).
[20] Christie (n 3) 6.

the very language of rights, which had at times been shaped by silenced voices and at others acted to deepen the deafness towards them.[21]

2.3   Early Post-Independence Attempts at Regional Frameworks

The early post-independence era was characterised by a fervent desire to assert sovereignty and forge a Pan-African identity, yet this ambition was immediately constrained by the realities of the Cold War and the fragility of nascent nation-states. The first major regional body, the Organisation of African Unity (OAU), established in 1963, prioritised the principles of sovereignty and territorial integrity above all else, a direct response to the trauma of colonialism and the need for consolidation.[22] As van der Bank critically notes, the OAU, while united against external threats like apartheid, often turned a blind eye to human rights abuses by the likes of Uganda's Idi Amin, prioritising regime security over human security.[23]

This era's approach to human rights was therefore tentative and state-centric. The primary focus was on the collective right to self-determination and liberation from colonial and racist regimes. While the language of the UDHR was invoked, it was not until 1981 that the African Charter on Human and Peoples' Rights ('the Banjul Charter') was adopted, coming into force in 1986. The Charter itself, however, is a product of this early post-independence zeitgeist. It represents a crucial early attempt to create a *distinctly African* framework, one that sought to reconcile global norms with African realities. Its innovative inclusion of 'Peoples' Rights' (to self-determination, development, and disposal of natural resources) and its emphasis on individual duties reflect a conscious effort to incorporate communal values and address the specific historical experiences of the continent.[24]

However, this framework also bore the marks of its time. The strong emphasis on state sovereignty and the principle of non-interference, coupled with weak enforcement

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[21] M. Anne Brown, *Human Rights and the Borders of Suffering: The Promotion of Human Rights in International Politics* (Manchester University Press 2002) 7, as cited in Christie (n 3) 2-3.
[22] OAU Charter (adopted 25 May 1963, entered into force 13 September 1963) 479 UNTS 39.
[23] van der Bank (n 2) 185.
[24] African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) (1982) 21 ILM 58, arts 19-24; 27-29.

mechanisms, limited its initial effectiveness. As Okafor and others might suggest through their Baxian lens, the framework was nascent and had not yet fully grappled with the emerging threat of global capital, focusing instead on the state as the primary, and often sole, actor of concern.[25] Nevertheless, the Banjul Charter laid the indispensable groundwork for a regional human rights system, establishing the African Commission on Human and Peoples' Rights and creating a platform for what would become a more robust and critical continental discourse in the decades to follow.

In summary, the historical foundations of Africa's human rights framework are built upon a palimpsest of communal values, colonial distortion, and post-independence aspiration. Understanding this complex history is essential for any critical analysis of the global influences that shape the continent today, revealing that the struggle for human dignity in Africa is a continuous process of navigating and reconciling these often contradictory inheritances.

3. Global Influences on African Human Rights Architecture

The architecture of human rights in Africa has been profoundly shaped by global influences, ranging from normative frameworks established by the United Nations to the conditionalities imposed by international financial institutions and the advocacy of transnational civil society. The interplay between these external forces and domestic realities has significantly influenced the trajectory of human rights across the continent.

3.1   Role of the United Nations (UDHR, ICCPR, ICESCR, CEDAW)

The United Nations (UN) has played a pivotal role in shaping the global human rights order, and by extension, the African human rights framework. The adoption of the Universal Declaration of Human Rights (UDHR) in 1948 represented the first comprehensive international articulation of rights and freedoms to which all people are entitled. As a foundational text, the UDHR set universal standards for dignity, equality,

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[25] Obiora Chinedu Okafor and others, 'Presence through Absence? Understanding the Role of Capital in the African Human Rights Action Plan' (2020) 58 The Journal of Modern African Studies 579, 581.

and justice, inspiring national constitutions and regional systems, including the African Charter on Human and Peoples' Rights (ACHPR). Its emphasis on equality before the law, freedom of expression, and protection from arbitrary detention provided the normative foundation for Africa's post-independence legal reforms and constitutionalism.[26]

Building upon the UDHR, the International Covenant on Civil and Political Rights (ICCPR) 1966 gave binding legal force to many of its principles. With provisions safeguarding life, liberty, fair trial, freedom of thought, conscience, religion, and association, the ICCPR has influenced African states in entrenching democratic governance and judicial protections in their constitutions. The establishment of the Human Rights Committee to oversee compliance also introduced a mechanism of accountability that African states have drawn upon in domestic reforms.[27]

Complementing the ICCPR, the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966 recognised the indivisibility of rights by protecting the right to work, education, health, social security, and an adequate standard of living. This covenant has shaped African human rights frameworks by reinforcing the linkage between development and human dignity, thereby influencing the African Charter's recognition of collective rights and duties alongside individual rights.[28]

The UN has also advanced specialised conventions that further informed Africa's human rights order. The Convention on the Elimination of All Forms of Discrimination Against Women CEDAW 1979, regarded as the "Bill of Rights for Women," has been instrumental in advancing gender equality across Africa. CEDAW has shaped national reforms in family law, political participation, and protection from gender-based violence, aligning with African women's rights movements.[29]

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[26] Mr. S.V. Veerichetty. "International Journal of Creative Research Thoughts", (2024), 214-215
[27] ibid
[28] Ibid
[29] Ibid

3.2 International Financial Institutions and Development Agencies

Integration into the global economy can create conditions conducive to better governance and institutional reforms over time[30]. Structural adjustment programmes and development loans from institutions like the World Bank and the International Monetary Fund often come with governance conditionalities that may indirectly affect human rights. However, the study cautions that economic liberalisation without strong social protections can exacerbate inequalities and lead to social unrest, potentially triggering state repression.[31] This underscores the need for these institutions to align their policies with human rights standards to avoid adverse outcomes.

3.3 Influence of Foreign Governments and Donor Conditionalities

In the Cold War era, during which superpower support for authoritarian regimes in Sub-Saharan Africa led to widespread human rights abuses, as geopolitical allegiance often trumped democratic accountability.[32] In the contemporary era, development aid and bilateral partnerships often include human rights and good governance clauses. Reports from state actors like the US Department of State may be politically motivated, reflecting strategic interests rather than objective assessments.[33] This suggests that while donor conditionalities can be a force for good, they must be applied consistently and transparently to avoid being instrumentalised for political ends.

3.4 Transnational Civil Society Movements and Advocacy Networks

These have emerged as critical agents of change. The powerful role of social globalisation is defined through cultural exchange, information flows, and people-to-people contacts in improving human rights outcomes.[34] Non-governmental organisations such as Amnesty International and Human Rights Watch provide essential monitoring and reporting, which not only raises global awareness but also mobilises international

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[30] Aman Takiyar and N.V.M. Rao, 'Impact of Globalization on Human Rights: Evidence from Sub-Saharan Africa' (2020) International Journal of Social Economics 4.
[31] Ibid
[32] Ibid
[33] Ibid
[34] Ibid

pressure. The diffusion of norms through media, education, and civil society networks helps create a domestic constituency for rights, empowering local activists and strengthening accountability mechanisms.[35] This norm-driven influence complements legal and political pressures, making it a vital component of the global human rights architecture.

Global influences on Africa's human rights landscape are multifaceted and evolving. While international norms and civil society advocacy have driven progress, the conditionalities of donors and financial institutions must be carefully designed to avoid unintended negative consequences. A holistic approach that prioritises social integration alongside political and economic engagement is essential for sustainable human rights advancement in Africa.

4. Regional and Sub-Regional African Responses

The African response to the global human rights discourse has been neither passive nor purely imitative. Instead, the continent has developed a sophisticated, multi-layered architecture that represents a conscious effort to adapt universal norms to African realities, thereby creating a dynamic space for global-local interaction. This architecture operates at both regional and sub-regional levels, comprising the African Union's mechanisms and the courts of various Regional Economic Communities (RECs). These bodies do not merely replicate global models; they interpret, apply, and sometimes challenge international standards through a distinctly African lens, producing a hybrid system that reflects both global influence and local agency.

4.1   African Charter on Human and Peoples' Rights (1981) as a Hybrid of Global and Local Values

The cornerstone of Africa's regional response is the African Charter on Human and Peoples' Rights (the African Charter). Adopted in 1981, it represents a seminal act of normative innovation, deliberately crafted as a hybrid instrument that incorporates global standards while infusing them with values deemed essential to the African

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[35] Ibid

context.[36] While influenced by the International Bill of Rights, the Charter's distinctiveness lies in its expansion of the human rights corpus. It famously incorporates 'Peoples' Rights', including the right to self-determination, to freely dispose of wealth and natural resources, and to economic, social, and cultural development[37]. This directly addresses the historical experience of colonialism and economic exploitation, reflecting a collective aspiration for a more equitable international order.

Furthermore, the Charter introduces the concept of individual duties to the family, society, the state, and the international community.[38] This emphasis on duties, often linked to philosophies like *Ubuntu*, introduces a communitarian dimension that contrasts with the more individualistic orientation of some Western-derived human rights instruments. Thus, the African Charter is not a mere ratification of global norms but a purposeful reinterpretation of them, establishing a framework where global human rights principles are harmonised with a specific articulation of African values and historical imperatives.

4.2   Establishment and Role of the African Commission and African Court

The African Charter established the African Commission on Human and Peoples' Rights as its primary monitoring body.[39] The Commission's role has been pivotal in interpreting the Charter's unique provisions, thereby shaping the continent's human rights jurisprudence. It considers state reports, investigates communications alleging violations, and undertakes promotional activities. Its decisions, while not legally binding in the same way as court judgments, carry significant moral and legal authority and have elaborated on the meaning of the Charter's hybrid rights and duties.

To strengthen the system's enforcement mechanism, the Protocol to the African Charter on the Establishment of an African Court on Human and Peoples' Rights was adopted,

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[36] African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) CAB/LEG/67/3 rev 5.
[37] ibid
[38] ibid
[39] ibid

leading to the creation of the African Court.[40] The Court's mandate to issue binding judgments represents a significant step towards aligning the African system with global standards of judicial oversight in human rights. However, its jurisdiction over cases brought by individuals and NGOs requires a special declaration by member states, a design that reflects a negotiated balance between the global ideal of direct access and the local reality of state sovereignty concerns.[41] Together, the Commission and the Court form the core of the regional protective system, interpreting a uniquely African instrument through a blend of international legal principles and contextual reasoning.

4.3   Sub-regional Bodies

A critical development in the African human rights landscape is the emergence of REC courts as potent actors in human rights protection. Initially focused solely on economic integration, RECs like the Economic Community of West African States (ECOWAS), the Southern African Development Community (SADC), and the East African Community (EAC) have progressively integrated human rights into their mandates.[42] This evolution was driven by the recognition that human rights, coupled with good governance, create an appropriate investment climate that is critical to furthering economic development.[43]

The ECOWAS Community Court of Justice stands out for its explicit human rights mandate, granted via a 2005 protocol amendment that allows it to 'determine cases of violation of human rights occurring in any of the member states.[44]   The SADC Tribunal, though its protocol is silent on human rights, has asserted jurisdiction based on the principles of human rights, democracy, and the rule of law enshrined in the SADC Treaty.[45]   Conversely, the East African Court of Justice (EACJ) operates under an express

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[40] Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (adopted 10 June 1998, entered into force 25 January 2004) OAU Doc OAU/LEG/EXP/AFCHPR/PROT (III).
[41] Ibid
[42] See generally, Economic Community of West African States, *Protocol A/P.1/7/91 on the Community Court of Justice* (as amended, 2005); Treaty of the Southern African Development Community (adopted 17 August 1992, entered into force 30 September 1993) 32 ILM 116; Treaty for the Establishment of the East African Community (adopted 30 November 1999, entered into force 7 July 2000) 2144 UNTS 255.
[43] OC Ruppel, 'The Role of International and National Law in the Human Rights Discourse in Africa' (2009) 9 African Human Rights Law Journal 275, 279.
[44] ECOWAS, *Supplementary Protocol A/SP.1/01/05 Amending the Protocol A/P.1/7/91 on the Community Court of Justice
[45] See *Mike Campbell (Pvt) Ltd and Others v Republic of Zimbabwe*, SADC (T) Case No. 2/2007, Judgment of 28 November 2008

exclusion of human rights jurisdiction until a specific protocol is adopted, though it has creatively adjudicated human rights issues framed as breaches of the community's fundamental principles, such as the rule of law. [46] This variety of approaches demonstrates a sub-regional experimentation with integrating global human rights norms into economic frameworks, creating a new, more accessible layer of supranational protection for Africans.

4.4   Case Studies of Landmark Rulings Showing Global-Local Interaction

The jurisprudence of these courts provides compelling case studies of global-local interaction. It references the landmark approach of the SADC Tribunal in the Campbell case, where it asserted its human rights jurisdiction despite the lack of an explicit treaty provision, grounding its authority in the SADC Treaty's foundational principles.[47] This represents a judicial assertion of a localised interpretation of a community's objects and purposes to embrace global human rights norms. Similarly, the EACJ's reasoning in the *Katabazi* case illustrates a nuanced interaction. The Court acknowledged it had no jurisdiction to deal with human rights issues *per se* due to the treaty's express exclusion. However, it crucially held that it would 'not abdicate from exercising its jurisdiction of interpretation under Article 27(1) merely because the reference includes an allegation of human rights violation.[48] This allowed it to address a human rights concern (illegal detention) by characterising it as a violation of the EAC's fundamental principle of the rule of law. This judicial innovation demonstrates a strategic engagement with global human rights norms through the specific, locally defined gateway of community law, avoiding a direct clash with state sovereignty while advancing human rights protection.

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[46] *East African Law Society & Others v The Attorney General of Kenya & Others*, EACJ Ref No. 3 of 2007, Judgment of 1 April 2008; *James Katabazi & 21 Others v Secretary General of the East African Community & Another*, EACJ Ref No. 1 of 2007, Judgment of 1 November 2007.
[47] *Mike Campbell (Pvt) Ltd and Others v Republic of Zimbabwe* (n 10).
[48] *James Katabazi & 21 Others* (n 11) para 5.

5. Contemporary Challenges and Emerging Issues

The African human rights project, while significantly advanced through its unique normative and institutional frameworks, operates within a complex and rapidly evolving global and continental landscape. The interplay between global influences and local realities generates a set of profound contemporary challenges and emerging issues that test the resilience, adaptability, and effectiveness of the continent's human rights systems. These challenges reveal the tensions between universal norms and specific contexts, between new global threats and entrenched local problems, and between aspirational legal frameworks and the stark realities of implementation.

5.1   Civil-Political Rights vs. Socio-Economic Rights in African Contexts

A defining challenge across Africa is the acute tension between the formal recognition of rights and their tangible realisation, a tension often framed as a divide between civil-political rights and socio-economic rights. While the African Charter on Human and Peoples' Rights famously bridges this divide by according equal status to both sets of rights, the lived experience for millions of Africans reveals a stark disparity.[49] Mass protests and widespread unrest have been witnessed around the world, fuelled by growing inequalities, unfulfilled socio-economic rights, job insecurity, income disparities, lack of opportunities and discontent.[50] This global phenomenon is acutely felt in Africa, where poverty and inadequate infrastructure directly impede the enjoyment of rights to health, water, and education.

The right to development is inextricably linked to broader governance issues, including limited resources dedicated to health, water, and sanitation for millions of people.[51] This highlights a critical nexus: the fulfilment of socio-economic rights is not merely a function of resource allocation but a fundamental governance issue. States often justify the curtailment of civil political rights, such as assembly and expression, as necessary for stability or economic development. However, the failure to address socio-economic

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[49]African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) CAB/LEG/67/3 rev 5
[50] UN Department of Economic and Social Affairs, *World Social Report 2020: Inequality in a rapidly changing world* (2020) 11.
[51] Mo Ibrahim Foundation, *Agendas 2063 & 2030: Is Africa on Track? African Governance Report* (2019) 28.

grievances itself becomes a primary source of instability, creating a vicious cycle where restrictions on civil liberties undermine the accountability needed to drive socio-economic progress.

5.2   Digital Rights, Surveillance, and Freedom of Expression in the Digital Age

The digital age presents a new frontier for human rights advocacy and violation, and Africa is at the centre of this struggle. Global technological advancements have been met with a regressive local response in many states, leading to a significant closing of civic space. This provides a sobering assessment: 'freedoms of expression, movement, information, assembly, and association have seen regression in some Member States.[52]

States have continued to enact laws and policies that restrict civil society organisations, human rights defenders and journalists from freely exercising their right to information, assembly and association. These rights have often been restricted under the guise of security concerns, attempts to curb defamation, and fake news. This has led to, in some cases, complete internet and telecommunication shutdowns and in others, partial blockades of online spaces and platforms, taxes on social media, shutdowns of media houses and/or surveillance and censorship.[53] This represents a clear example of global influence: the adoption of sophisticated surveillance technologies and authoritarian legal practices from other regions, adapted to suppress dissent and control information flows in Africa, particularly during elections.[54] The emerging need to regulate these technologies without compromising liberties is identified as a critical priority for continental bodies like the African Commission.

5.3   Environmental Justice and Climate Change as Human Rights Issues

The global climate crisis disproportionately impacts Africa, transforming environmental degradation into a direct human rights emergency. The text identifies climate change as a key emerging issue which is increasingly becoming the source of conflict, violence and

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[52] The State of African Regional Human Rights Bodies and Mechanisms 2018-2019* (Amnesty International 2019) 5
[53] Ibid.
[54] Ibid.

displacement on the continent. The resulting displacement creates a cascade of rights violations, threatening rights to life, dignity, food, water, and shelter for vast populations.

The report notes the high number of refugees and IDPs within Africa and warns that with the current trend of climate change, the situation looks bleak, further threatening the human rights situation.[55] This underscores a critical point: environmental justice is not a separate concern but is central to achieving peace, security, and the fulfilment of basic human rights. The African Charter's inclusion of peoples' rights to a satisfactory environment and to development places a duty on states and the international community to address this existential threat, which is arguably the most profound example of a global phenomenon with devastating local consequences.[56]

5.4   Gender Equality and Indigenous Peoples' Rights

Despite a progressive continental framework exemplified by the Maputo Protocol, a significant implementation gap persists in advancing gender equality. Provisions against sexual and gender-based violence, discrimination, harassment and upholding political, socio-economic and cultural rights of women and girls are now enshrined in constitutions and other pieces of legislation.[57] However, these expanded normative commitments continue to be undermined by inadequate implementation, institutional barriers, discriminatory and patriarchal social norms and practices, as well as by violence and intimidation.[58] This highlights the limit of global normative influence without deep-rooted local social transformation. Similarly, while not explicitly detailed in the text, the plight of indigenous peoples is often linked to issues of land rights, resource extraction, and environmental degradation, pointing to a need for more robust mechanisms to protect the rights of vulnerable and marginalised groups against both state and non-state actors, including businesses.

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[55] Key Dingake, 'Challenges of human rights in Africa' (2018) *Mmegi Online*.
[56] African Charter (n 1) arts 22, 24.
[57] Abdulmelik N and Belay T, 'Advancing Women's Political Rights in Africa: the Promise and Potential of ACDEG' (2019) 54(2) Africa Spectrum 147, 148.
[58] Ibid.

5.5 Tensions Between Traditional Authority Systems and Modern Frameworks

The operation of traditional authority systems can often create tension with modern, universally derived human rights frameworks, particularly concerning gender equality, inheritance rights, and administration of justice. While this does not delve into this specific tension, it alludes to the broader challenge of discriminatory and patriarchal social norms and practices that undermine women's rights.[59] These norms are often embedded within and enforced by traditional structures.

The challenge for the African human rights system is to navigate this complex terrain respectfully, without dismissing traditional systems outright, while steadfastly upholding the universal and non-derogable principles of equality and non-discrimination enshrined in the African Charter. This requires a nuanced approach that promotes dialogue and harmonisation, ensuring that culture and tradition are not used as a justification for human rights violations.

6. Negotiation Between Global and Local Norms

The diffusion and implementation of human rights norms in Africa is not a linear process of adoption or rejection. Rather, it is a dynamic and complex negotiation, a dialectical process where global standards encounter local realities, leading to outcomes of adaptation, resistance, and unique contribution. This interplay is central to understanding the true nature of global influence on Africa's human rights frameworks, moving beyond simplistic narratives of imposition to reveal a more nuanced reality of engagement and reinterpretation.

6.1 Adaptation: Selective Integration of Global Standards

The post-Cold War era witnessed a profound belief among Western actors in the exportability of a specific model of liberal democracy and rule of law, encompassing prison standards, rules governing elections and political party donations, media

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[59] Ibid

guidelines and mechanisms of oversight for the military.[60] However, the infrequency with which stable democracies emerged from this approach led to a significant policy shift. The new paradigm, as articulated by former UN Secretary-General Kofi Annan, emphasises that success depends on ensuring a common basis in international norms and standards while simultaneously eschewing one-size-fits-all formulas and the importation of foreign models.[61] This pivot signifies a move towards adapting the selective integration of global standards into local contexts. This is not a wholesale adoption but a process of filtering global norms through the prism of national assessments, national participation and national needs and aspirations.[62] In practice, this can be observed in the Africanisation of human rights through instruments like the African Charter, which integrates universal civil and political rights but frames them within a context that includes peoples' rights and individual duties, representing a selective and context-sensitive incorporation of global standards.

6.2 Resistance: Pushback Against Perceived External Impositions

The approach of putting external pressure on people to adopt a specific model of liberal democracy was increasingly perceived as normatively problematic.[63] This perception triggers pushback, a conscious or subconscious rejection of norms that are seen as alien, illegitimate, or incompatible with local realities. This resistance stems from the perceived 'externality' of promotion and the low level of local ownership by recipient populations.[64] When global norms are promoted through asymmetric, conditionality-oriented modes of interaction, they often trigger domestic contestation[65]. In the African context, this resistance can manifest as the rejection of specific Western models of governance, the assertion of cultural relativism in certain rights discussions, or the prioritisation of socio-economic rights and development over a strict focus on civil-

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[60] Lisbeth Zimmermann, *Global Norms with a Local Face* (Cambridge University Press 2017) 1.

[61] United Nations Security Council, 'The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General' (2004) UN Doc S/2004/616, as cited in Zimmermann .

[62] UNSC Report (n 61).

[63] Zimmermann (n 60)

[64] Thomas Carothers, 'Democracy Assistance: Political vs. Developmental?' (2009) 26(1) Journal of Democracy 87, as cited in Zimmermann (n 60)

[65] Zimmermann (n 60)

political rights, challenging the presumed universality of a pre-packaged liberal democratic template.

6.3   Contribution: How Africa Enriches Global Human Rights Discourse

Perhaps the most significant aspect of this negotiation is Africa's active contribution to the global human rights discourse. The continent has not been a passive recipient but an innovative contributor, enriching international law with concepts that address its specific historical and philosophical contexts.

The African Charter on Human and Peoples' Rights is the prime exemplar of this contribution. While drawing from the Universal Declaration of Human Rights, it introduces groundbreaking concepts:

Collective Rights (Peoples' Rights)

The Charter explicitly recognises the rights of peoples to existence, self-determination, and to freely dispose of their wealth and natural resources.[66] This directly addresses the historical experience of colonialism and ongoing economic exploitation, injecting a crucial communitarian and developmental dimension into a discourse often dominated by individualism.

Duties of the Individual

In a unique departure from most international instruments, the Charter outlines duties of the individual towards the family, society, the state, and the international community.[67] This reflects philosophical traditions like Ubuntu, emphasising communal interdependence and responsibility, and offers a counterbalance to the predominantly rights-focused language of other systems.

The Right to Development

 The African Charter was instrumental in foregrounding the right to development as a fundamental human right, articulating the aspiration for a more equitable international economic order. These innovations demonstrate that the flow of influence is not

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[66] African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) CAB/LEG/67/3 rev 5
[67]Ibid

unidirectional. Africa has taken global norms and, through a process of localisation and reinterpretation, has given back to the world refined and expanded concepts of rights. This challenges the 'norm-socialisation' approach, which tends to view any deviation from the original global norm as a 'watering down', and instead supports the localisation perspective, which sees such adaptation as a source of legitimacy and enrichment.

the negotiation between global and local norms in Africa is a continuous process of dialogue, contestation, and creativity. It involves the adaptation of universal standards to local realities, resistance to perceived impositions that lack legitimacy, and, most importantly, the profound contribution of African concepts that have expanded and enriched the very meaning of human rights for the entire world. This tripartite process of adaptation, resistance, and contribution is the true hallmark of the global influence on Africa's human rights frameworks.

7. Recommendations

The prospects for global influence on Africa's human rights framework appear both promising and challenging. To navigate this path successfully, the following recommendations are proposed:

1. **Bridge the Implementation Gap:** Future efforts must prioritise closing the persistent gap between formal commitments and practical realities. This demands renewed attention to capacity building, resource allocation, and the cultivation of genuine political will at both national and regional levels.

2. **Navigate Cultural Particularities with Care:** The tension between universal standards and cultural particularities continues to require careful navigation. A sustained, respectful dialogue involving states, civil society, traditional leaders, and communities is essential to building consensus and legitimising human rights norms locally.

3. **Develop Sophisticated Responses to Modern Challenges:** The increasing complexity of human rights issues in a globalised world, from transnational corporate accountability to digital privacy concerns, requires sophisticated responses. African

institutions should develop frameworks that effectively balance state sovereignty with the necessity of international cooperation to address these transnational issues.

4. **Leverage Africa's Normative Contributions:** The principles of *ubuntu*, emphasising interconnectedness, community, and restorative justice, offer valuable insights for the global community. Africa should confidently leverage these philosophical orientations to contribute to international debates on addressing contemporary global challenges that require collective responses and community-based approaches.

8. Conclusion

The exploration of the global influence on Africa's human rights frameworks reveals a dynamic and complex narrative that transcends simplistic notions of norm imposition or passive reception. This paper has demonstrated that Africa's engagement with international human rights standards represents a sophisticated process of negotiation, adaptation, and, most significantly, substantive contribution to the global human rights discourse. The continent's journey from the immediate post-colonial period to the present day illustrates an evolving consciousness that balances universal principles with contextual realities, creating a distinctive human rights architecture that reflects Africa's unique historical experiences and philosophical orientations.

Africa's role in the global human rights landscape has transformed remarkably from being primarily a norm-taker to becoming an increasingly influential norm-maker. The development of the African Charter on Human and Peoples' Rights stands as a testament to this evolution, embodying what might be termed "contextual universalism", the adaptation of universal principles to reflect regional values and priorities while maintaining fidelity to fundamental human dignity. This instrument, along with the establishment of the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights, demonstrates Africa's capacity to develop institutional mechanisms that address both universal concerns and specific regional challenges.

Looking forward, Africa's human rights frameworks must continue to evolve in response to both internal developments and global influences. The continent's approach to human rights protection offers the world a model of how universal principles can be adapted to local contexts without sacrificing fundamental values. Africa's experience suggests that the most effective human rights frameworks are those that emerge from genuine dialogue between international standards and local realities, between legal formalism and cultural legitimacy, between state obligations and community practices.

In conclusion, the global influence on Africa's human rights frameworks has not resulted in mere imitation or wholesale adoption of external models. Rather, it has stimulated a creative process of engagement that has produced distinctive approaches to human rights protection that are both universally resonant and particularly African. As the world continues to grapple with complex human rights challenges in an increasingly interconnected global landscape, Africa's experience offers valuable lessons about the possibilities and necessities of developing human rights frameworks that honour both the universal nature of human dignity and the particularities of cultural context.

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