FB 03: Faculty of Social Sciences and Philosophy
Department of Political Science - Philipps University Marburg

MA Seminar WS 2018/19

The African Human Rights System

Module leader: Dipl.-Pol. Sanjeev Thavarajah LLB, PgDL, LLM
Email: sanjeev.thavarajah@staff.uni-marburg.de

Module Overview

The aim of the course is to provide a detailed examination of the structures in the African regional systems for the promotion and protection of human rights. We will consider the role of the Organisation of African Unity/African Union. The module shall focus, in particular, on the African Charter on Human and Peoples' Rights, the work of its Commission and the work of the judicial institutions. It will further provide a critical overview of the development of relevant African human rights norms. We shall also look at limitations, individual duties, civil and political rights as well as socio-economic rights.

Assessment Methods:

The seminar will be assessed via presentation and course work.

Presentations:

Students are expected to contact the module leader with a presentation topic of their choice, to be chosen from the list of topics below, by 23.55 on 19 October 2018. The below listed topics will be allocated on a first come, first serve basis.

Date	Time	Session & Topic	Background reading
18/10/18	8:00 - 10:00	Session 1 Introduction to notion of human rights in Africa	Cobbah, J 'African Values and the Human Rights Debate: An African Perspective', 9(3) *Human Rights Quarterly (*1987) 309-331 Howard, R., 'Evaluating Human Rights in Africa: Some Problems of Implicit Comparisons', 6(2) *Human Rights Quarterly* (1984) 160-179 Ibhawoh, B, 'Between Culture and Constitution: Evaluating the Cultural Legitimacy of Human Rights in the African State', 22(3) *HRQ* (2000) 838-860
25/10/18	08:00 - 10:00	Session 2 The African Charter on Human and Peoples' Rights	Communication 155/96 *The Social and Economic Rights Action Center and the Center for Economic and Social Rights v Nigeria*, Fifteenth Activity Report of the African Commission, http://www.achpr.org/english/_doc_target/documentation.html?../activity_reports/activity15_en.pdf Mutua, M, 'The Banjul Charter and the African Cultural Fingerprint: an Evaluation of the Language of Duties', 35 *Va. J. Int'l L.* (1995) 339-80 Kiwanuka, RN, 'Note, The Meaning of "People" in the African Charter on Human and Peoples' Rights', 82 *AJIL* (1988) 80-101 Murray and Wheatley, 'Group Rights and the African Charter on Human and Peoples'

			Rights', 25(1) *Human Rights Quarterly* (2003), 213-236
1/11/18	8:00 - 10:00	Session 3 Main mechanism for the promotion and protection of human rights in Africa: the African Commission on Human and Peoples' Rights	Mugwanya, GW, 'Examination of State Reports by the African Commission: A Critical Appraisal', 1(2) *African Human Rights Law Journal* (2001) 268-284 Viljoen, F, 'The Special Rapporteur on Prisons and Conditions of Detention in Africa: Achievements and Possibilities' 27(1) *Human Rights Quarterly* (2005) 125-171
8/11/18	8:00 – 10:00	Session 4 Submission of communications to the African Commission on Human and Peoples' Rights	www.achpr.org, see Documentation, Annual Reports, see Annexures in relevant Annual Reports, and from Heyns & Killander (eds) *Compendium of Key Human Rights Documents of the African Union* (2006) Communication 147/95 (joined with 149/96), *Jawara v The Gambia* (13th Activity Report) Communication 255/2002, *Prince v South Africa,* (*Compendium*, pp. 239 – 243) Odinkalu and Christensen, 'The African Commission on Human and Peoples' Rights: The Development of its Non-State Communication Procedures', 20(2) *HRQ* (1998) 235
15/11/18	8:00 - 10:00	Session 5 Minority rights: indigenous peoples' rights in Africa	Communication 75/92, *Katangese Peoples' Congress v Zaire*, Eighth Annual Report, http://www.up.ac.za/chr/ahrdb/ahrdb.html Resolution on the Rights of Indigenous Peoples' Communities,

			http://www.achpr.org/english/_doc_target/documentation.html?../resolutions/resolution56_en.htm Bojosi, KN and Wachira, GM "Protecting Indigenous Peoples in Africa: An Analysis of the Approach of the African Commission on Human and Peoples' Rights' (2006) 6/2 *AHRLJ* 382, 393-406
22/11/18	8:00 - 10:00	Session 6 Rights of sexual minorities in Africa	Murray, R and Viljoen, F, 'Towards non-discrimination on the basis of sexual orientation: The normative basis and procedural possibilities before the African Commission on Human and Peoples' Rights and the African Union' (2007) 29/1 *Human Rights Quarterly* 86-111 Uganda Anti-Homosexuality Bill http://www.chr.up.ac.za/images/files/news/press/press_release_uganda_anti_homosexuality_bill_22october_2009_act.pdf
29/11/18	8:00 - 10:00	Session 7 Women's rights in Africa	Protocol on the Rights of Women in Africa, as adopted July 2003: http://www.achpr.org/english/_info/women_en.html Convention on the Elimination of Discrimination Against Women (CEDAW): http://www.unhchr.ch/html/menu3/b/e1cedaw.html Oloka-Onyango, J and Tamale, S "The Personal is Political", or Why Women's Rights are Indeed Human Rights: An African

			Perspective on International Feminism', 17/4 *Human Rights Quarterly* (1995) 691-731 Murray, R, 'Women's Rights and the Organization of African Unity and African Union: The Protocol on the Rights of Women in Africa", in D Buss and A Manju (eds), *International Law: Modern Feminist Approaches* (2005) 253-72.
06/12/18	8:00 - 10:00	Session 8 Children's rights in Africa	African Charter on the Rights and Welfare of the Child UN Convention on the Rights of the Child Chirwa, D, 'The merits and demerits of the African Charter on the Rights and Welfare of the Child' (2002) 10 International Journal of Children's Rights 157
13/12/18	8:00 - 10:00	Session 9 The African Human Rights Court	Resolution on the Importance of Implementation of the Recommendations of the African Commission on Human and Peoples' Rights, see http://www.achpr.org/english/resolutions/resolution102_en.html
20/12/18	8:00 - 10:00	Session 10 Implementation and enforcement of the African human rights system	Protocol on the African Court on Human and Peoples' Rights, see http://www.achpr.org/html/basicinstruments.html#3 Protocol and Statute of the African Court of Justice and Human Rights, see http://www.hurisa.org.za/Advocacy/AfricanCourt/Single_Legal_Instument.pdf Ouguergouz, F, 'The

			Establishment of an African Court of Human and Peoples' Rights: A Judicial Premiere for the African Union' (2005) *African Yearbook of International Law* 79 Pityana, NB, 'Hurdles and Pitfalls in International Human Rights Law: The Ratification Process of the African Charter on the Establishment of the African Court on Human and Peoples' Rights' (2003) 28 *SAYIL* 110
17/1/19	8:00 - 10:00	Session 11 Kampala Convention	IDP Convention (Kampala Convention) (2009) http://www.africa-union.org/root/AR/index/Convention%20on%20IDPs%20_Eng_%20-%20Final.pdf
24/1/19	8:00 - 10:00	Session 12 AFRICAN CHARTER ON DEMOCRACY, ELECTIONS AND GOVERNANCE	African Charter on Democracy, Elections, Governance (2007) http://www.chr.up.ac.za/images/files/documents/ahrdd/treaties/Draft_African_Charter_Democracy_Elections_Governance.pdf Stacy-Ann Elvy: Towards a New Democratic Africa: The African Charter on Democracy, Elections and Governance, Emory International Law Review. http://law.emory.edu/eilr/content/volume-27/issue-1/articles/towards-new-democratic-africa.html
31/1/19	8:00 - 10:00	Session 13 Civil and Political Rights	NEGA EWUNETIE AND ADMASU ALEMAYEHU (2012): The Civil and Political Rights in African Charter. In: http://www.abyssinialaw.com/study-on-line/item/363-the-civil-and-political-rights-in-african-charter
7/2/19	8:00 - 10:00	Session 14 Economic, Social and Cultural Rights	Sibonile Khoza (2002): Promoting economic, social and cultural rights in Africa:

			The African Commission holds a seminar in Pretoria. In:http://www.corteidh.or.cr/tablas/R21565.pdf
14/2/19	8:00 - 10:00	Session 15 Peoples' Rights and Group Rights	AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS: PRINCIPLES AND GUIDELINES ON THE IMPLEMENTATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS. In: http://www.achpr.org/files/instruments/economic-social-cultural/achpr_instr_guide_draft_esc_rights_eng.pdf

Literature

Essential (Books/Journals/Specific chapters/Journal Articles)

Cobbah, J 'African Values and the Human Rights Debate: An African Perspective', 9(3) *Human Rights Quarterly (*1987) 309-331
Howard, R., 'Evaluating Human Rights in Africa: Some Problems of Implicit Comparisons', 6(2) *Human Rights Quarterly* (1984) 160-179
Ibhawoh, B, 'Between Culture and Constitution: Evaluating the Cultural Legitimacy of Human Rights in the African State', 22(3) *HRQ* (2000) 838-860
Magliveras and Naldi, G, 'The African Union. A New Dawn for Africa?', 51(2) *The International and Comparative Law Quarterly* (2002) 415-425
Viljoen, F, *International human rights law in Africa*, Oxford University Press, 2007, Chapter 5

Recommended

Ankumah, E, *The African Commission on Human and Peoples' Rights. Practices and Procedures*, Martinus Nijhoff, The Hague, 1996, Chapters 1, 2 and 5
Anyangwe, C, 'Obligations of states parties to the African Charter on Human and Peoples' Rights', 10 RADIC (1998) 625
Evans, M and Murray R, *The African Charter on Human and Peoples' Rights. The System in Practice*, Cambridge University Press, 2002, Chapters 5 and 6
Okere, OB, 'The Protection of Human Rights in Africa and the African Charter on Human and Peoples' Rights: A Comparative Analysis with the European and American Systems' 6 *Human Rights Quarterly* (1984) 141-159
Umozurike, UO, *The African Charter on Human and Peoples' Rights*, Martinus Nijhoff, The Hague, 1998
Bedjaoui M, 'The Right to Development and the jus cogens', 2(2) *Lesotho Law Journal* (1986) 93-129
Dersso, SA, 'The Jurisprudence of the African Commission on Human and Peoples' Rights with Respect to Peoples' Rights' (2006) 6 *AHRLJ* 358