

**Democracy, Human Rights and State Reform
in Africa**

Shelton George, researcher

Introduction

The role of the African human rights system has been neglected

The recently formed African Union (AU) and its development plan, the New Partnership for Africa's Development (NEPAD), represents a renewed commitment to democracy and human rights by African leaders. Presidents Thabo Mbeki of South Africa and Olusegun Obasanjo of Nigeria have been instrumental in shaping the African dimension of the post-1989 international wave of democratisation. These leaders are the continent's new visionaries who seek to transform African state-society relations through the promotion and consolidation of democracy and human rights. Indeed, the absence of democracy and the lack of respect for human rights resulted in a situation in which state and society were in a condition of almost perpetual conflict. Many post-colonial governments were autocratic and corrupt, placing their particular interest above that of society. Citizens became the subject of tyranny, and resistance was crushed with impunity in many parts of the continent. Consequently, African states were militarily strong, but lacked legitimacy and popularity. The Mbeki-Obasanjo led movement thus seeks to democratise state-society relations and in the process transform the weak African state. However, ongoing resistance will have to be confronted, democracy promoted and substantive shortcomings, such as the neglect of human rights, have to be addressed if the initiative is to prove more than a mere paper commitment.

In the transition from the Organisation of African Unity (OAU) to the AU, the role of the African human rights system has been neglected. The African human rights structure, comprising the African Charter, the African Commission and the proposed African Court, at present does not form an integrated part of the AU system. The incorporation and strengthening of this system is

Democracy, human rights and state reform in Africa

fundamental to the implementation of a substantive model of democracy, one that goes beyond procedural concerns such as elections and prioritises issues of state legitimacy, popularity, responsiveness and socio-economic rights.

Resisting Reform

*Corruption is maintained
behind the façade of
democratisation*

Many African states are headed by regimes that have a vested interest in resisting the post-1989 wave of demands for democracy. These demands have come by way of popular political challenges from within national borders and through external agents attaching special conditions to the distribution of aid and assistance. In responding to the external demand based incentive, often presented as the need to accept and implement multi-party politics, African rulers have proven to be crafty and innovative. For instance, some governments implement democracy within a context of ongoing violence, intimidation, corruption and a general lack of transparency and accountability. In other words corruption is maintained behind the façade of democratisation. Such a context allows for continued plundering of natural resources, misuse of state institutions and the growth of private armies. This has led certain commentators to conclude that such “features of public life in Africa suggest that the state itself is becoming a vehicle for organised criminal activity”.¹

The above scenario represents an extreme case of no-democracy, a situation in which states are strong in military and coercive terms but weak in respect of political legitimacy and political will to provide human security and an environment for economic development. In sum, these are states in which the governing elite has not sought to protect political and civil rights or

Democracy, human rights and state reform in Africa

economic, social and cultural rights. They endorse structures, such as the African Charter on Human and Peoples' Rights that emphasise promotion but fail to protect. Regimes ratify, accede to, or sign the African Charter. In doing this they undertake to promote the values and standards contained in the Charter. Governments even submit reports detailing how they will promote democratic standards and human rights norms within their respective countries. However, the ruling class is fully aware that the African human rights system lacks enforcement capacity. As a result, promotion takes the form of a minimum standard and undertaking, one that falls far short of protection.

The African human rights system lacks enforcement capacity

This system does not represent significant institutional pressure aimed at holding the governing elite accountable to the people and is not a serious threat to their monopoly on power. The façade or democratic illusion ensures some measure of donor support and this plays a role in ensuring the perpetuation of the aforementioned brand of illiberal governance. Foreign money contributes to regime survival. The budget of the ruling class is supplemented and this provides the means to satisfy a limited support base, strengthen the military, in certain cases co-opt members of the opposition and also demonstrate some signs of progress such as improved health care and/or the provision of housing and potable water. Essentially, the process of democratic opening that represents progress is being manipulated and undermined so as to ensure regime survival and avoid the peaceful handing over of power.

The persistence of this trend represents a major threat to the Mbeki-Obasanjo agenda that seeks to promote and operationalise democratic norms, values and standards as an integral part of state reform. Resistance is a phenomenon that can be under-

Democracy, human rights and state reform in Africa

*The post-1990 African wave
of democratisation comprises
a significant domestic
support base*

estimated in the context of the emergence of African democratic-centred initiatives such as the move from the OAU to the AU and the adoption of NEPAD as an official AU programme. The reality, as noted, is that commitments to the democratic transformation process are already dealt a blow by states that accept the emerging framework challenging autocracy, while undermining the phenomenon at the level of implementation. For instance, the absence of effective opposition parties, functioning in a free and fair environment, is a key factor that the African emerging democracy orientated structure recognises as important. Many leaders accept this policy, but through methods of intimidation and manipulation, they manage to avoid full compliance. Those with the desire to transform Africa will have to confront such actions as they serve to undermine democracy and human rights.

Multiparty Democracy: A Western Agenda?

In 1989 a World Bank study, *Sub-Saharan Africa: From Crisis to Sustainable Growth* pointed out that the underlying cause of Africa's development problems was a crisis of governance. The study postulated that governance refers to the exercise of political power to *manage* a nation's affairs. Furthermore, the report noted that this experiment in political management failed due to the absence or lack of countervailing power² - an opposition or multiparty politics.

Two points can be gleaned here. One, the emphasis is on management, a technocratic notion indeed. Two, the ushering in of a dispensation of multiparty politics through the introduction of opposition parties is held to be both necessary and essential.

Democracy, human rights and state reform in Africa

Moreover, the two are inextricably linked. That is, opposition makes for effective management. Hence, the study argues that:

Because countervailing power has been lacking, state officials in many countries have served their own interests without fear of being called to account. In self-defence, individuals have built up personal networks of influence rather than hold the all-powerful state accountable for its systemic failures. In this way, politics becomes personalised, and patronage becomes essential to maintain power. The leadership assumes broad discretionary authority and loses its legitimacy.³

A more fundamental transformation of African states and their relationship with society is required if democracy is to be consolidated

It therefore appears that the western-led approach directed at improving the effectiveness of governance and strengthening the role of the African state in matters pertaining to political and economic development cannot be rejected. This position has the support of African institutions such as the African Union, the African Development Bank and the African Development Fund. It is also reflected in African initiatives such as the Conference on Security, Stability, Development and Cooperation (CSSDCA) and NEPAD.

Elements of good governance - accountability, transparency, combating corruption, stakeholder participation and a sound legal and judicial framework, which translate into some of the characteristics of a well-functioning state - have generally been lacking in post-independence governance strategies. This has culminated in the situation encapsulated in the no-democracy, weak-state phenomenon. This in turn accounts for the widespread acceptance of the need for greater democratisation. Apart from external pressure, the post-1990 African wave of democratisation comprises a significant domestic support base. Many Africans have for a long time endured exclusion from state

Democracy, human rights and state reform in Africa

power and resources and instead existed in a situation of conflict with the state. They are resisting authoritarian governance, and democracy is the popular alternative.

Nevertheless, while multiparty politics plays an important part in promoting democracy and ensuring the accompanying institutional framework of political and civil guarantees, it is not the 'be all and end all' of democracy. A more fundamental transformation of African states and their relationship with society is required if democracy is to be consolidated. This model of transformation not only focuses on the role of the state in terms of civil and political rights but also on its willingness and commitment to build capacity to address economic and social rights such as the need for land and housing, food and water. Capacity involves two related dimensions:

The Western model contains certain obvious weaknesses or limitations, especially when applied to developing countries

- The state needs to strengthen its ability to manage the affairs of the nation - this includes issues such as improving tax collection and dealing effectively with corruption and conflict
- Managing or facilitating development in the interest of sustainable economic growth directed at addressing issues of inequality

In this way the emphasis is on a 'quality democracy', an approach that will serve to strengthen procedural democracy and popular belief in the democratic system of governance. This is a process which seeks to develop an appropriate relationship between African states and their citizens, one in which the state ceases to function as a vehicle for personal enrichment.

Democratic Process

It is clear that post-colonial democratic experiments in Africa do not reflect a proud and successful history

It is clear that post-colonial democratic experiments in Africa do not reflect a proud and successful history. Instead, waves of democracy have been countered by counter-waves. Important lessons can be learned from this. For instance, the continued and arguably strengthened existence of what is variously termed the authoritarian, absolutist or patrimonial autocratic state, demonstrates that a democracy that empowers people and transforms society must be built - it cannot be imported. In order to achieve this, the Human Development Report *Deepening democracy in a fragmented world*⁴ identifies key institutions of democratic governance that must be strengthened (built):

- A system of representation, with well-functioning political parties and interest associations
- An electoral system that guarantees free and fair elections as well as universal suffrage
- A system of checks and balances based on the separation of powers, with independent judicial and legislative branches
- A vibrant civil society, able to monitor government and private business - and provide alternative forms of political participation
- A free and independent media
- Effective civilian control over the military and other security forces.

While the above is important, the process toward substantive and sustainable democracy requires that the state play a role, which at a qualitative level goes beyond the aforementioned references

Democracy, human rights and state reform in Africa

to procedural and multiparty politics. That is, African states must actively seek to deepen democracy through reconstructing the relationship between state and society. All groups, sectors and individuals should be incorporated as citizens, not subjects, within the state. Institutions outlined in the said report, facilitate this important process but do not directly engage fundamental issues such as inequality, which is a direct manifestation of control and access to state power, resources and institutions. Inequality is also, in part, a product of the African rural-urban divide and the traditional-modern divide. Africa thus needs systems, institutions, programmes and practices that respond to the realities they seek to address. Such efforts may involve the inclusion of traditional leaders in the South African process of democratisation and village councils in the case of Uganda's 'process' of political opening. Efforts to deal with inequality will have to go a lot further - adopting a multifaceted and multidimensional approach - but the point is that African historical and contemporary experiences take place against a backdrop of unique and specific developments. The outcomes - failures, mixed results and successes - reflect this and so too should the responses.

***Democracy and human rights
are not separate processes***

Furthermore the Western model contains certain obvious weaknesses or limitations, especially when applied to developing countries. In respect of the political dimension, a minimalist approach, for example electoral competition and just managerial practices, is at times deemed enough to make a state democratic and hence the beneficiary of external aid and assistance. With regard to economic reform, Western conceptualised and imposed macroeconomic policies, taking the form of structural adjustment programs (SAPs), have long been presented as the solution to Africa's economic woes. Both the former and the latter have

Democracy, human rights and state reform in Africa

proven inadequate in addressing the extent of the African problem. In the African context, the Leviathan remains largely weak, and in many instances autocratic, and unable to meet the needs of its people. It thus culminates that democratic systems in Africa will also have to grapple with ongoing adverse socio-economic conditions if democracy is to be sustained. Likewise economic reforms should be guided by their impact on socio-economic rights because socio-economic neglect has the potential to undermine political gains.

Africa's leaders must learn that the first step toward a self-reliant future and the restoration, material and non-material, of the continent's situation is the establishment of governmental and institutional legitimacy and accountability

Observers such as Adebayo Adedeji provide some of the more far-reaching insights into addressing the African predicament of weak and unviable states. Adedeji, one of Africa's most respected development and political-economy specialists, notes:

Africa's leaders must learn that the first step toward a self-reliant future and the restoration, material and non-material, of the continent's situation is the establishment of governmental and institutional legitimacy and accountability.⁵

It must be reiterated that this is an important step, but it is only part of the process of reforming the state. Implicit in the World Bank report *Can Africa Claim the 21st Century?* is an acknowledgement of this reality. The report states:

Without political stability, checks and balances on power, public responsibility for key services and social legitimacy for government are in jeopardy and economic development may not be achieved. Without these foundations of good political and economic governance, Africa's development will be sluggish - or stalled.⁶

The problem is therefore not so much one of acknowledging the different dimensions of the African predicament; rather it is one of emphasis and approach. The West, for instance, emphasises an established role for the international community in promoting

Democracy, human rights and state reform in Africa

civil and political liberties. Economic and social justice, however, is held to be the prime responsibility of the state, yet they neglect to engage the discriminatory international context and framework within which states must function.

Democratisation and state reform in Africa are facing an important challenge - engaging both the structural and institutional legacy of political and economic underdevelopment. Then only will democracy emerge as a significant factor in addressing the African dilemma of weak, corrupt and omnipresent states. Emphasising the point, Adedeji argues “democratisation in Africa will be sustainable and credible only as an integral part of the transformation of the continent’s political and socio-economic structures.”⁷

Democratisation in Africa will be sustainable and credible only as an integral part of the transformation of the continent’s political and socio-economic structures

Both realities must be confronted if the renaissance is to become meaningful for the impoverished African masses suffering the debilitating affects of a lack of basic services, resources and facilities. Implementing democracy and securing significant development thus constitute an important priority for the African state if it is to emerge from a legacy of prebendalism and establish itself as a credible, strong and effective actor both domestically and on the world stage. The process is complex and a variety of aspects and factors will have to be engaged if democratisation is to prove sustainable.

The Human Rights Dimension

Human rights constitute an important part of the process of democratisation directed at state and continental political reform. Democracy and human rights are not separate processes; instead, they are inter-linked. Substantive democracy does not

Democracy, human rights and state reform in Africa

focus on or guarantee civil and political liberties while neglecting socio-economic and cultural considerations. This is an important balance, one that the dynamics of democratic state transformation must confront. For instance, the debate about whether development or democracy should come first needs to be simultaneously revived and reconstituted. Development must not be used as an excuse for the persistence of undemocratic politics; rather it should be engaged for the purposes of prioritising human rights, thereby making a qualitative contribution to the discourse of reform.

*There is a link between
democratic governance and
development*

This process is a fundamental challenge, one facing much resistance. It is, therefore, no coincidence that South Africa is currently playing a pivotal role in promoting the African democratisation agenda. South Africa's domestic situation represents the internal dimension of its African and global foreign policy ambitions. South Africa together with countries such as Botswana and Mauritius, in spite of certain flaws in approach, continues to regard human rights as an essential component of democratic transformation, and they are aware of the benefits of such an approach to political and socio-economic governance.

In respect of South Africa, apartheid was dismantled and in its place emerged a system that not only promotes, but also seeks to protect democracy and human rights. The country's economic performance has improved and significant progress has been recorded in terms of service delivery to the impoverished majority. This implies a link between democratic governance and development. Consequently, the Mbeki administration and its allies are engaged in spreading the message of democratic and human rights governance to the continent, a continent which once prioritised these ideals and then lost its way when some of

Democracy, human rights and state reform in Africa

its leaders established themselves as the new oppressors and human rights violators.

The newly emerging African democratic alliance thus seeks to revive the aspirations embodied by liberation movements during the colonial era, and institutionalise these standards within continental structures such as the AU. However, resistance to this agenda at an institutional level is extremely difficult to counter.

The newly emerging African democratic alliance thus seeks to revive the aspirations embodied by liberation movements during the colonial era

Developments at the United Nations Commission on Human Rights (the Commission), held annually in Geneva, are illustrative of this reality. The task of the Commission is to set international human rights standards and evolve an international agenda on human rights and their progressive realisation. It also aims to promote and protect human rights universally and examine the actions of states in compliance with their international treaty obligations, international human rights, and humanitarian law. The Commission therefore investigates deviations from and violations of these norms by states and other actors, and recommends appropriate action. At the 57th session of the Commission, African ambassadors, representing African heads of state, took a decision to vote against any non-African member who introduces a United Nations resolution criticising human rights practices of any African state.⁸ It is well known that the functioning of the Commission is informed by the political motivations of various role players, countries and regions. However, such action by the African group presents a dilemma for pro-democracy, pro-human rights states such as South Africa at three levels:

- The pro-democracy, pro-human rights states do not resist scrutiny of their own internal situations
- The pro-democracy, pro-human rights states seek to strengthen the global democracy and human rights

Democracy, human rights and state reform in Africa

movement

- The pro-democracy, pro-human rights states are fully aware that some of the African members of the Commission are guilty of human rights violations and do not want to face African and international criticism.

It is a contradiction to promote democracy, while neglecting or ignoring human rights, as they are inextricably linked

Despite these considerations the pro-democracy, pro-human rights group voted against resolutions that condemn African states for human rights violations, knowing that this action undermines human rights promotion and protection, since it shields abusive regimes from international scrutiny. Human rights give substance to the global democracy movement. It is a contradiction to promote democracy, while neglecting or ignoring human rights, as they are inextricably linked.

Finally, the omission of the human rights system from the newly constituted structures that form the AU marks the continued marginalisation of human rights on the continent. The focus at the moment is on defining the role and importance of each of the 10 organs of the AU. The human rights system has not been incorporated as one of the organs, and as it stands, will not receive the same measure of attention - in respect of reform and improvement - given to the various organs.

Endnotes

1. Bayart J-F, Ellis S, Hibou B. *The Criminalisation of the State in Africa*. Indiana: James Currey, 1999.
2. *Sub-Saharan Africa: From Crisis to Sustainable Growth - A long-term Perspective Study*. Washington DC: World Bank,

Democracy, human rights and state reform in Africa

1989: 60-61.

3. Ibid.

4. United Nations Development Programme. *Human Development Report 2002: Deepening democracy in a fragmented world*. Oxford: Oxford University Press, 2002: 4.

5. Adedeji A. 'An Alternative for Africa.' *Journal of Democracy*. 1994; 5(4): 123.

6. *Can Africa Claim the 21st Century?* Washington DC: World Bank, 2000: 51.

7. Adedeji 127.

8. Commission on Human Rights. Reports of the Fifty-Seventh Session (19 March - 27 April 2001).