



20 years of Freedom, Human Rights and Democracy: South Africa, the AU and the African Charter on Democracy, Elections and Governance

DIALOGUE REPORT

*Organised by
The South African Human Rights
Institute*

*In collaboration with
The Southern Africa Trust
At
Constitution Hill, Johannesburg*

**THANKS TO FINANCIAL SUPPORT FROM THE STATE OF THE
UNION COALITION**

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ACRONYMS

AU	African Union
AU Instruments	14 AU Instruments of SOTU Coalition focus
APRM	African Peer Review Mechanism
AAEA	African Association of Electoral Authorities
AGA	African Governance Architecture
AUC	African Union Commission
CAADP	Comprehensive African Agricultural Development Programme
CEO	Chief Executive Officer
CGE	Commission for Gender Equality
CSO	Civil Society Organisations
DIRCO	Department of International Relation Cooperation
DWCPD	Department of Women Children and People With Disability / Women's Ministry
DDP	Democracy Development Programme
DOJ & Con	Department of Justice and Constitutional Development (& Correctional Services)
EISA	Electoral Institute for Sustainable Democracy in Africa
EPWP	Expanded Public Works Programme
FET	Further Education Training
HURISA	Human Rights Institute of South Africa
GMO	Genetically Modified Organism
IEC	Independent Electoral Commission
NHRI	National Human Rights Institutions
LSSA	Law Society of South Africa
OAU	Organisation of African Unity
SADC LA	Southern African Development Community, Law Association
SOTU	State of the Union
Trust	Southern Africa Trust

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We extend our gratitude to the Southern Africa Trust for their unwavering support and long standing relationship.

Special thanks go to the State of the Union Coalition for their support and their confidence in HURISA.

BACKGROUND INFORMATION

This report summarises proceedings of the two-day dialogue organised by Human Rights Institute of South Africa (HURISA), Southern Africa Trust (THE TRUST) and supported by the State of Union Coalition (SOTU). The main purpose of the dialogue was to popularise the SOTU (South African) 2013 Report and to bring together various stakeholders to deliberate on South Africa's compliance with the African Charter on Democracy, Elections and Governance. This coincided with South Africa's 20th Anniversary in a democratic dispensation, its entry into the African Union as well the holding of the nation's 5th democratic elections. The theme of the dialogue focused on South Africa's compliance with its obligations and commitments under the African Union. It was therefore important to assess the performance of South Africa in implementation of political, economic, social and cultural rights through the use of this AU Instrument as a state party.

The Mail and Guardian newspaper also collaborated with HURISA and the Trust and hosted a public meeting, human rights photo exhibition and cocktail event focused on the history of human rights in South Africa, with a particular focus on regulation of public gatherings and police brutality which was found to be persisting even in the new dispensation. This event was conducted at the Women's Jail, at Constitution Hill.

Invitations were also extended to State Departments, independent constitutional commissions "Chapter 9 Institutions" and pan-African institutions such as the African Peer Review Mechanism. The Department of International Relations and Cooperation tendered an apology but sent a solidarity message which was read by Mrs Laura Kganyaro of the Women's National Coalition. The Department of Justice and Constitutional Development was represented by Mr. Ndaba John Makhubele. Chapter 9 Institutions were also represented, including the representatives from the Commission for Gender Equality, the South African Human Rights Commission and Independent Electoral Commission of South Africa.

The Dialogue was co-facilitated by Advocate Sipho Mantula of HURISA, Julie Middleton and Marlon Zakeyo of the Trust and Ms Corlett Letlojane, Executive Director of HURISA also served as a resource person, presenting the report on South Africa's Compliance with 14 Selected AU Instruments (State of the Union – 2013 South Africa Report). Clement Phebe Mavungu was the General Rapporteur of the Dialogue and compiled this report. Other resource persons included Mr. Ndaba John Makhubele, Dr. Nomsa Masuku, Prof Frans Viljoen, Mr Sthembiso Madlala, Ms. Emilia Siwingwa, Ms Jeanne-Mari Retief, and Mr Grant Masterson. The dialogue provided thematic areas with a framework in which breakaway groups were constituted and the dialogue resolutions drafted.

A moment of solidarity was observed by support of the BRING-BACK-OUR-GIRLS campaign. Footage of this activity is also captured, where South Africans expressed their heart felt pain and disappointment regarding the abduction of over 270 Nigerian school girls by Bhoko Haram.

SECTION 1

INTRODUCTION

The Human Rights Institute of South Africa (HURISA), in collaboration with the Southern African Trust (The TRUST) convened a dialogue on the “20 Years of Freedom, Human Rights and Democracy in South Africa, the AU and the African Charter on Democracy, Elections and Governance” on 20 - 21 May 2014 at Constitution Hill, Johannesburg, South Africa. The dialogue was attended by over 100 delegates drawn from the nine (9) provinces of South Africa, all of them working on various human rights, governance and election issues. Amongst the delegates, the meeting counted representatives from the APRM, Ministry of Justice and Constitutional Affairs, Chapter 9 institutions such as the Independent Electoral Commission and the Commission on Gender Equality, academics, human rights activists, and representatives of youth, media and faith-based organisations.

DIALOGUE OBJECTIVES

The African Charter on Democracy, Elections and Governance provided the theoretical and structural framework upon which the meeting was predicated. The dialogue was convened with the following objectives:

- ✚ To provide South African academics, political analysts, election administrators, civil society organisations and government officials with an opportunity to reflect upon the 20 years of democracy in South Africa and evaluate progress made and challenges to be addressed;
- ✚ To provide the various participants with the opportunity to meaningfully engage on rule of law and election issues and evaluate progress made and challenges faced by South Africa in the implementation of the African Charter on Democracy, Elections and Governance;
- ✚ To provide a platform upon which the experiences and challenges of all stakeholders could be shared and lessons drawn from the just held 2014 general elections in South Africa;
- ✚ To reflect on common actions and strategies to be adopted by civil society to ensure
- ✚ South Africa’s effective implementation of, and compliance with, the African Charter on Democracy, Elections and Governance;
- ✚ To launch the 2013 South Africa State of the Union Report compiled by HURISA and The Trust, which highlights progress made by South Africa in ratifying, domesticating and implementing AU Instruments, identifies the gaps to be filled by South Africa and provides a number of recommendations that could assist South Africa to improve its compliance with the instruments adopted under the auspices of the African Union.

A copy of the concluding document is attached as Annexure “A” while the programme is attached hereto and marked Annexure “B”.

OPENNING SESSION



Acting as the master of ceremonies, Advocate Sipho Mantula of HURISA welcomed the participants and successively introduced the partner organisations involved in the planning and implementation of the meeting. He also acknowledged all organisations and national institutions represented at the dialogue before requesting all individual participants to introduce themselves and the organisation they were representing.

In her welcoming remarks, Ms. Petal Thring, CEO, of Constitution Hill gave a poignant briefing on the history of Constitution Hill as a prison where anti-apartheid activists such as the late former president of South Africa, Nelson Mandela were held. She expressed her satisfaction about the continued commitment of civil society organisations and called on democracy, elections and governance actors to strengthen their work together to advance constitutional democracy and human rights in South Africa. Ms Thring recalled the main objectives of the dialogue and called for successful deliberations that would respond to the urgent need to ensure that South Africa plays an exemplary role in implementing its obligations under the African Charter on Democracy, Elections and Governance. She concluded by emphasising that Constitution Hill will continue to offer a favourable forum for discussions that advance and strengthen constitutional democracy, human rights and the rule of law in South Africa.

SECTION 2

SOUTH AFRICA'S COMMITMENTS AND OBLIGATIONS UNDER AFRICAN UNION INSTRUMENTS

Overview of South Africa's AU Commitments, Obligations, and Compliance; Presentation of a Summary Report on South Africa's Compliance with 16 Selected AU Instruments (State of the Union – 2013 South Africa Report)



Ms Letlojane started by thanking participants for coming in numbers to participate in the dialogue. She reminded them that since the establishment of the Organisation of African Unity (OAU) in 1963 and its successor the African Union (AU) in July 2001, various instruments have been passed to guide the conduct of African states towards citizens and accelerate the process of African integration. These instruments

cover a wide spectrum of policy areas from peace and security through social and human development to economic development issues. However, despite their existence, adoption and implementation across the continent remains inconsistent.

The State of the Union (SOTU) is a coalition of civil society organisations working in ten African countries to urge their governments to ratify African Union instruments and track their implementation at national level. SOTU conducts bi-annual research to review country compliance and status of implementation of 16 Selected AU Instruments.¹ The first SOTU compliance reports were published in July 2010 and were well received by the African Union Commission (AUC), member states and other stakeholders.



As a member of the SOTU coalition, the Southern Africa Trust commissioned a study to determine South Africa's level of compliance with and implementation of key commitments in 16 Selected AU Protocols, conventions and declarations, and the impact of their implementation on citizens' quality of life. The study seeks to establish the status of ratification, domestication and implementation of these instruments at country level between 2010 and 2012.

Ms Letlojane stressed the main areas of progress or weakness and made recommendations to improve compliance. Overall, the report indicated that South Africa has an outstanding record in terms of ratification of African Union treaties and instruments, and that its national legislation and policies were recognised globally for entrenching human rights values. South Africa has also contributed positively to the development of Africa's legal architecture through the adoption of the New Partnership for Africa's Development (NEPAD) and its monitoring system, the APRM.

However, she indicated that domestication of AU treaties into South Africa's national law was lacking in some areas. Where instruments have been domesticated, there was often a gap between policy and practical implementation, especially in the areas of health, education, water and sanitation. The report also notes that South Africa has been irregular in meeting its periodic reporting obligations on three instruments, the African Charter on Human and Peoples' Rights, the Protocol on the Rights of Women in Africa and the African Charter on the Rights and Welfare of the Child.

She then took participants through a set of recommendations formulated in the State of the Union Report in respect of a number of areas of interest for the SOTU Coalition:

In the area of Human Rights and Democratic Governance, recommendations were the following:

-  The South African government must comply with its treaty obligations and submit all outstanding reports on the African Charter on Human and Peoples' Rights to the African Commission on Human and Peoples' Rights, and not to miss the deadline in submitting its initial report on the African Charter on Democracy, Elections and Governance when it comes due in 2014.
-  The South African government should raise awareness of all AU regional instruments including the African Charter on Human and Peoples' Rights, the African Charter on Democracy, Elections and Governance, and the Convention on Combating and Preventing Corruption.

¹ African Charter on Human and Peoples' Rights in Africa (1981); African Charter on Democracy, Elections and Governance (2007); The Treaty Establishing the African Economic Community (1991); Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament; African Union Convention on Preventing and Combating Corruption (2003); NEPAD Comprehensive African Agricultural Development Plan (2003); African Convention on the Conservation of Nature and Natural Resources; Africa Health Strategy 2007-2015 (2007); Abuja Call for Accelerated Action Towards universal Access to HIV/AIDS, Tuberculosis and Malaria by 2010 (2006); Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003); Maputo Plan of Action for Implementing the Continental Sexual and Reproductive Health and Rights Policy Framework 2007-2010 (2006); African Youth Charter (2006); African Charter on the Rights and Welfare of the Child (1990); Revised African Convention to the Conservation of Nature and Natural Resources; African Mining Vision (2009); Sharm El-Sheikh Commitments for Accelerating the Achievement of Water and Sanitation Goals in Africa (2008).

- ✚ The South African government should sufficiently fund national institutions to enable them cover their wide constitutional and legislative mandates and make an impact in poor communities.
- ✚ The South African Police Service, organisers of demonstrations, including civil society organisations, trade unions, and municipalities should be empowered with knowledge on provisions of the Regulations of Gatherings Act for proper use and enforcement in accordance with constitutional human rights.
- ✚ The South African government should ensure implementation of the Reprisals Resolution passed by the African Commission on Human and Peoples' Rights for the protection of human rights defenders.
- ✚ The South African government should use the Model Law on Information Law developed by Advocate Pansy Tlakula in her capacity as the African Commission on Human and Peoples' Rights Special Rapporteur on Freedom of Expression and Access to Information and launched at the 53rd Ordinary Session of the African Commission on Human and Peoples' Rights. This will facilitate guidance for strengthening freedom of expression, access and dissemination of Information.

In the area of Agriculture and Conservation of Nature and Natural Resources, the following recommendations were formulated:

- ✚ the South African government should speed up the signing of the Comprehensive Africa Agriculture Development Programme (CAADP) compact has not yet been signed, the CAADP Compact, as well as the development and implementation of the national CAADP Compact.
- ✚ The South African government should review the concept and effectiveness of smallholder farmer's scheme through consultations, and should implement a programme for skills development and capacity building.
- ✚ South Africa should engage stakeholders, including civil society, NHRIs, taxi drivers, trade unions and partners to address environmental hazards and improve health conditions in the country.
- ✚ The South African government should improve consultation processes to ensure inclusion of historically marginalised communities in mining processes for them to equitably benefit from the mining industry.
- ✚ The South African government should accelerate delivery of clean water and improve access to quality sanitation, and, in particular, put an end to the pit and bucket system in poor communities and informal settlements.

In respect of Health Strategy and Access to HIV/AIDS, TB and Malaria Services, the following recommendations are formulated in the report:

- ✚ The South African legislature should accelerate the passing of National Health Amendment Bill into legislation. It provides for the creation of an Office of Standards Compliance to ensure that all public and private facilities are able to deliver decent, safe and quality care.
- ✚ The South African government should ensure that the national health budget allocation is in line with African Health Strategy.
- ✚ The South African government should encourage alternative sources of sustainable finance including health insurance systems.
- ✚ The South African government should reduce the number of illegal abortions through providing education to health care workers and raising public awareness on Choice on Termination of Pregnancy Act.



Pic: Corlett Letlojane

In respect of rights and welfare of women in South Africa, it was recommended that:

- ✚ The government of South Africa should facilitate the forging of partnerships between CGE, civil society and DWCPD to design strategies to increase implementation of legislation.
- ✚ The government of South Africa should increase the budget allocation to the DWCPD and CGE for effective implementation of their mandates across the country.
- ✚ The South African government should facilitate the running of sensitisation on programmes for police and communities on laws promoting women and children's rights and enhance understanding of Domestic Violence Act and its effective implementation.
- ✚ Civil society and national human rights institutions should carry out advocacy for the repealing of all discriminatory laws detrimental to the development and upliftment of women in the economic and political spheres.

In the areas of rights and welfare of the child, the report contains the following recommendations:

- ✚ The South African government is applauded for submitting the initial state periodic report to African Committee of Experts on the Rights and Welfare of the Child; however, it is advised to improve its status of reporting going forward.
- ✚ The South African government should improve access to universal education by all children including the poor, children with disabilities as well as provide conducive facilities for children with disabilities.
- ✚ The South African government should support Black learners in science and mathematics subjects, as well as Black students at FET colleges and universities.
- ✚ The South African government should address child labour persisting in the various economic markets, including agriculture, domestic work, retail industry, particularly affecting girl children from poor communities
- ✚ The South African government should improve efforts to prosecute the perpetrators of torture, corporal punishment, harmful cultural practices, and sexual violence.
- ✚ In respect of youth, the following recommendations are formulated in the report:
- ✚ The South African government should popularise the African Youth Charter among officials, civil society and national human rights institutions.
- ✚ The South African government should empower the youth, especially young girls, to ensure their full rights, including socio-economic rights such as their rights to employment, education, health, housing, water, and sanitation.

- ✚ The South African government should develop, finalise, and implement a national plan of action to promote the rights of the youths and combat violence against young women by ensuring protection from harmful practices such as initiation schools and virginity testing of girls and ensuring that those found responsible are dealt with accordingly.
- ✚ The South African government must provide progress reports in respect of the Expanded Public Works Programme (EPWP), for the period 2009-2012, aimed at creating 5 million jobs for the youth, and recruitment of 8,000 youth for artisan training for employment within the national and provincial branches of the Department of Public Works.

In concluding her presentation, Ms Corlett emphasised the need to strengthen civil society's coordinated efforts and partnership with government departments and Chapter 9 Institutions to advance state compliance with the AU instruments interrogated by the SOTU study.

Observations and summary

- ✚ The presentation by Ms Corlett attracted a number of questions and comments, which enabled participants to discuss further and express their views on the following issues;
- ✚ The need to accelerate the strengthening partnership between the government, Chapter 9 Institutions and civil society as a response to the challenges facing South Africa with regard to the findings of the SOTU compliance report.
- ✚ The need to ensure the CAADP process considers issues of genetically modified organisms and especially the unfinished issue of land restitutions.
- ✚ The need to link human rights to culture to ensure that the human rights discourse is echoed in people's culture and tradition, and driven by and rooted in African values. so that human rights values are internalised.
- ✚ The need to explore the reasons for resistance to human rights, and repackaging human rights in a language that is understandable to the people .
- ✚ The need for government institutions and civil society to address the issue of increased child exploitation and labour in an exhaustive way by linking it to the broader issue of poverty.
- ✚ The need to develop strategies to put an end to police insensitivity, incompetence, irresponsiveness in view of the repeated incidents of police violence and brutality and especially the lack of effective mechanisms for police oversight and accountability.

SECTION 3

REFLECTIONS ON SOUTH AFRICA'S 20TH ANNIVERSARY OF OAU/AU MEMBERSHIP

During this panel discussion, the participants listened to the reading of the message of support from the Department of International Relations and Cooperation and a reflection from the Chief Director of the Department of Justice and Constitutional Development.

Message of support from the Department of International Relations

Africa Multi-lateral Directorate – 20 May 2014

Department of International Relations and Co-operation (Mr Mlungisi Singaphi)

This message was read to the dialogue by Mrs Laura Kganyago

We have noted your invitation to the DIRCO and have given it a serious thought. Allow us from the onset to wish you all the success with your deliberations and state that were it not for prior schedules we would have prioritised your deliberations. We hope you will accept our sincere apology.

The African Union Charter on Democracy, Elections and Governance and indeed the twenty year reflections on our freedom is a very important matter to us and we are convinced that both these milestones reflected an Africa and indeed an African country that is rising.

Since its inception, the Charter has been hailed as an integral, holistic approach to democracy and the best policy statement on democracy throughout the world. It therefore, demonstrated continued commitment by African leadership to promote democracy and governance.

The Charter promotes a culture of constitutionalism predicated on the respect for values and principles of democracy and human rights and therefore, provides a framework, within which member States could adhere to these values and principles. Emphases are put on the principles of transparency and accountability in the management of public affairs and thereby promote participatory democracy. The Charter further advocates for the principle of separation of Judicial, legislative and executive powers.

In line with other statutes of the AU, the Charter provides for the transfer of political power through regular, free and fair elections. These elections should be conducted by competent, independent and impartial electoral bodies in the presence of competent monitors and observers. It therefore regards unconstitutional changes of governments as illegal transfer of political power and those who procure power by unconstitutional means should be brought to justice.

Implications for South Africa

South Africa has signed the Charter during the 14th Ordinary Session of the Assembly of the AU in Addis Ababa, Ethiopia, in February 2010 and deposited its instrument of ratification in January 2011. The Charter came into force in February 2012 after the accession of Cameroon and the challenge now is to ensure that State Parties adhere to its provisions.

We hope that this brief reflection is an indication of how serious we consider the Charter and please accept it, as well as wishing good deliberations. Once more, please accept our sincere apologies.

Reflections on South Africa's 20th Anniversary of OAU/AU Membership from the Department of Justice and Constitutional Development



Speaking on behalf of the Department of Justice and Constitutional Development, Mr. Ndaba John Makhubele, Chief Director started by thanking the organisers for inviting him and his department to take part in the dialogue and share some thoughts. He welcomed the presentation of the SOTU report, in his view, highlighting several issues that South Africa is grappling with, including service delivery challenges, corruption, youth unemployment and gender violence. He indicated that, to respond to those challenges, the Government had inter alia set up a number of clusters – Economic cluster, Social cluster, and Security cluster - jointly chaired by his department and the Department of Defence. Those clusters are tasked to formulate Government's responses to specific issues and ensure that policies on those specific areas are effectively implemented.

Mr John Makhubele stressed that a lot has been done to advance and strengthen democracy in South Africa, even though much more needs to be done to ensure that constitutional democracy can secure economic freedom and social development for all. He indicated that he spoke from his experience as a witness of two years of democracy as an outsider and 20 years of democracy as an insider.

Mr Makhubele looked back in history and noted that at the decline of the apartheid system, South Africa was invited to join the international community, which led its new Government to ratify a number of international instruments, such as the International Covenant on Civil and Political Rights, Convention Against Torture and Convention on Elimination of all Forms of Discrimination Against Women, and became a member of the UN human rights system. A good constitution, which mirrors and responds to national problems was drafted and came into force in 1996. Democracy, human rights and the rule of law were made pillars of the constitution.

At the regional level, South Africa joined the AU and played a central role in its reform and especially in the adoption of key human rights and rule of law instruments and the establishment of relevant supporting institutions. Mr Makhubele indicated that, as a member State of the African Union, South Africa has played a leading role despite several internal and external challenges, including conflicts, crimes, poverty, states not standing against each other to denounce human rights violations. He observed that it was a irony that South Africa is refusing or delaying in submitting a declaration allowing individuals to access the African Court while it played a central role in the development of the Ouagadougou Protocol. He then lamented the fact that the African Court, which had already been toothless and faced with many obstacles, was being vested with jurisdiction over international crimes as well. This led him to interrogate whether the Court had prospects of fulfilling its mandate.

Mr Makhubele observed that, in fulfilling its obligations arising from the African Charter on Democracy, Elections and Governance, South Africa's efforts are impeded by several obstacles, among which corruption could be the most critical issue. The government has put in place mechanisms to address corruption but difficulties remain and government efforts remain works in progress. Other common problems include the gap between international treaties and local legislations, between legislations and policies, and between policies and real implementation.

Before closing his speech, Mr Makhubele noted that human resources are key in advancing the fulfilment of Government promises domestically and the implementation of its international commitments. In that regard, more efforts are being made to ensure that relevant State officials and State delegates are capacitated to ensure that South Africa continues to play a leading role at the continental and international level, and that this role is translated domestically by its ability to respond to the needs of its people.

Comments from participants further illustrated the need to support strengthening the capacity of State officials, and more coordination within and between relevant State departments concerned with the implementation of State international obligations, particularly in respect of the African Charter on Democracy, Elections and Governance. Participants also reiterated their regret at the fact that South Africa had delayed the submission of its periodic report to the African Commission on Human and Peoples' Rights on the basis of organising elections. The issue of human trafficking was also identified as a crucial problem that South Africa has not effectively dealt with despite its pervasiveness in the country. In respect of the Bring Back our Girls campaign, it was also highlighted that abduction of Nigerian girls was an example of human trafficking and questions were raised as to how the continent was addressing it and what particular role South Africa was playing.

It arose from the discussions on the issue of human trafficking that police services, which are key in preventing and curbing human trafficking in South Africa, are not yet well trained to respond to it. Also the extraterritorial nature of human trafficking in South Africa makes it even more challenging. It was also noted that ending human trafficking required the coordination of all social and political forces in support of initiatives to be taken by the Government.



At the conclusion of this session, all participants pledged solidarity and support to the “Bring Back Our Girls” Campaign and expressed several messages imploring the AU States to strengthen efforts to protect African citizens against militias, armed conflicts and terrorist attacks which have continued to weaken peace and stability the region and calling for robust actions to find the over 270 Nigerian young girls

and bring them back home in peace.



SECTION 4

Election Observer Missions in South Africa’s 2014 Elections



Chaired by Mr. Marlon Zakeyo of Southern Africa Trust, this panel discussed the key findings and observations from the observer missions deployed by SADC Lawyers Association and the Law Association of South Africa to observe the just held 2014 elections on

7 May. The purpose of the panel discussion was to confront the realities of South African elections with standards defined in the African Charter on Democracy, Elections and Governance.

SADC Lawyers Association Experience during the 2014 South African Elections

In her presentation, Ms. Emilia Siwingwa, Programme Director of the SADC Lawyers Association (SADC LA) started by thanking the organisers and introducing her organisation.

She emphasised that elections observation and monitoring is a key component of SADC LA's strategy to contributing towards the development of just and democratic societies and the promotion of free, fair and credible elections as conditions for sustainable peace and development in Southern Africa.

Ms Siwingwa indicated that SADC LA observed the 2014 South African provincial and national elections in the province of KwaZulu-Natal. The mission was a joint activity with the Law Society of South Africa and the KwaZulu-Natal Christian Council. Partnership with those two organisations allowed better understanding of the local context, which enabled them to complement and support the technical expertise of regional observers deployed by SADCLA.

After a brief background on the province of KwaZulu-Natal known particularly as a site of elections-related political violence, Mr Siwingwa highlighted that the Observation Mission employed a multi-pronged information gathering strategy, which included review of the constitutional and legal framework governing elections in South Africa. Consultations with key stakeholders such as the IEC, political parties, Chapter 9 Institutions, CSOs and other elections observe missions were carried out, including attending campaigns and information from local and national media.

She emphasised that areas of particular concern noted by the SADC LA team were the persistence of political violence in Kwazulu-Natal, the lack of political tolerance which threatened free expression and assembly, insufficient voter education in rural areas, insufficient mastery of electoral laws and regulations by polling agents, high level of campaigning on the electoral day, missing ballots and a low turnout of special voters.

Ms Siwingwa then shared with participants the list of recommendations formulated to the Independent Electoral Commission, political parties, the national and provincial governments, Chapter 9 Institutions, civil society and the international community. She advised that the final report would be released in June 2014.

African Charter on Democracy, Elections and Governance - Experience from the Law Society of South Africa during the South African 2014 Election



Speaking on behalf of the Law Society of South Africa (LSSA), Ms. Jeanne-Mari Retief from the

Legal Education and Development of this lawyers' body, indicated that in addition to their participation in the mission led by SADC LA,

LSSA had deployed a wider bigger team of observers beyond the province of KwaZulu-Natal. The observers were first trained to enable them to adhere to rules and regulations, and then met with all key political stakeholders, attended political rallies and met with civil society to get a sense of the political climate in the country. The main objective was to review the freeness (respect for freedom of assembly, of expression and of information), fairness (equal access to media, equal access to public services) and transparency (availability of information).

Ms Jeanne-Mari observed that their electoral mission noted issues similar to those already highlighted by SADC LA in their findings. She noted however that IEC officers were helpful in places where their missions were deployed. She observed that effective voter education remained a challenge, as many voters were confused regarding many issues including where to vote and how to do so. There were a lack of special arrangements to cater for sick persons not registered for special vote on the Election Day and many other individuals who could easily qualify as requiring special votes. LSSA had also recorded some technical problems with the scanning machines in a number of polling stations. Ms Jeanne-Mari also lamented the fact that Section 27 of the Electoral Act created a confusion exacerbated by the lack of voter education as many voters had no clear idea of when polling stations were to be open.

Observations

This panel attracted only comments and observations, as many participants had an opportunity to share their own experiences as voters in their specific areas but also as human rights activists and practitioners with the knowledge of the South African electoral context. It was highlighted that some stations had no special arrangements to assist people with disabilities to cast their vote. Some participants also lamented the fact that the African Union had released their electoral observer report before the end of the actual elections.

Clarifications were given regarding the fact that South Africa does not prohibit campaigning on the elections day, although the law prescribes parameters beyond which political parties can continue doing their campaign until the day of elections. It was also clarified that members of the public are by law allowed to assist people with disabilities and that, in South Africa, the visible presence of police is never seen as intimidation, but a security factor.

Other comments also highlighted the fact that many polling stations had no observers, no members of political parties, and that some observers did not adequately understand the South African electoral and political culture and context. It was also noted that youth participation in elections had decreased and that fairness with regard to access to electoral funding by new parties remain a thorny issue.

After all comments, Dr. Nomsa Masuku, Deputy CEO: Outreach of the Independent Electoral Commission took the floor to respond to and clarify some of the issues concerning the performance of the IEC. She indicated that the IEC has made substantial efforts to capacitate polling agents, but some of them fail to effectively carry out their duties. She also indicated that voter education is incremental and that CSOs also have an important role to play in that regard, beyond just election periods, but during the whole electoral cycle.



Dr Masuku also highlighted the fact that the law is weak in some areas, such as administration of special votes and that the IEC was limited to working within the parameters of the law. She called upon CSOs to play their role in pushing for the law to be improved.

She also indicated that election observation was voluntary, and therefore people have the right to observe elections where they wanted and that elections observer missions were and could not be funded by the IEC to ensure their neutrality and independence. She also lamented the fact that observer missions did not generally observe by-elections, which also have known problems that require observation. It was also clarified that the IEC administers funding for political parties, but the law has yet to define how the money must be used. CSOs can play a role in pushing for relevant laws to be adopted. Dr Masuku also emphasised that while vote secrecy is protected under the constitution, individuals have the right to choose to divulge their cast vote. She concluded by reiterating her institution's interest in working with civil society and especially in partnering for civil education outside the context of elections.

SECTION 5

THE AFRICAN CHARTER ON DEMOCRACY, ELECTIONS AND GOVERNANCE IN THE SOUTH AFRICAN LANDSCAPE



Chaired by Ms. Julie Middleton of Southern Africa Trust, this session explored and dissected the African Charter on Democracy, Elections and Governance. Four presentations were made to enable the participants to get a better understanding of the spirit and the provisions contained in the Charter, and especially their meaning in the context of South Africa and the region.

Preamble of the African Charter on Democracy, Elections and Governance: Political, economic and social governance - Summary of key issues

In his presentation, Mr. Sthembiso Madlala of the Democracy Development Programme started by discussing the context in which the outlining structure of the preamble and the events and facts that justified the development and adoption of African Democracy Charter. He explored the various African evils such as colonisation, balkanisation of Africa, liberation wars, decolonisation which resulted in other evils such as civil wars, coups d'état, bad governance, mismanagement of public resources, corruption and leadership crisis.

Using an interactive method, Mr Madlala took participants through to all paragraphs of the preamble of the African Democracy Charter and instigated discussions amongst participants on the said provisions. A particular emphasis was made on the fact that one of the important contributions of the African Democracy Charter was its promotion of a political culture of change of power based on the holding of regular, free, fair and transparent elections conducted by competent, independent and impartial national electoral bodies. Another important issue discussed is the firm stance of the African Democracy Charter about the unconstitutional changes of governments in Africa, a phenomenon that is coined as the essential causes of insecurity, instability and violent conflict in Africa. Also important was the debate around the centrality of promoting and strengthening good governance through the institutionalisation of transparency, accountability and participatory democracy in Africa.

Democracy, rule of law and human rights: Summary and factual points

In his presentation, Prof. Frans Viljoen started by making some general observations: The first objection was that the African Charter on Democracy is a product of compromise which, by its very nature could not be better than it is, particularly as far as its human rights protection and promoting provisions are concerned. The African Democracy Charter can be said to be a miraculous document given some of the provisions therein contained, which African countries were not yet ready to accept.

But in connection with the topic to be addressed, Prof. Viljoen highlighted that, though the African Democracy Charter contained values that speak to human rights issues, it could not be said to be an accomplished ideal, but rather a set of minimum standards. Prof. Frans noted that it was significant to note that the African Democracy Charter contained, in its Article 52, the most favourable provision clause, which actually opens a window for interested parties to rely on more favourable provisions already binding on States at the domestic, regional and international level. Prof. Viljoen also indicated that Article 44 of the African Democracy Charter provides for benchmarks to be developed and that South Africa should be playing a leading role in that regard.

Prof. Viljoen then went on to say that overall, the African Democracy Charter was a fairly good legal framework, but it was lagging behind with regard to implementation and enforcement mechanisms. He indicated that one theme that runs through the African Democracy Charter was participation of civil society, and it was a revolutionary development for States to be committed to ensuring conducive conditions for civil society participation. He emphasised the fact that one of the main contributions of the African Democracy Charter was that it contextualised human rights in a political landscape. In other words, the African Democracy Charter illustrates that there is a link between the state of human rights and the governance architecture of a country. Human rights are considered to be promoted and protected in a specific social, political and economic context.

Prof. Viljoen explored the various human rights promoting and protecting provisions of the African Democracy Charter. He discussed the various rights guaranteed in the African Democracy Charter and made from time to time a parallel with their protection under the African Charter on Human and Peoples' Rights. While discussing the right to political participation and expression, he indicated that the African Democracy Charter was indeed weak in its provisions on elections. He noted however that its Article 8 extends the grounds for non-discrimination to new grounds such as disability, migrant's status and other marginalised people. Notable was also provisions of the African Democracy Charter promoting and protecting free access to the media, and particularly equitable access to State-owned media. It also noted that the African Democracy Charter was progressive in that it guarantees the supremacy of the Constitution, linking it up to issues of independence of the courts and constitutional review. He also emphasised the obligation on State parties to set up certain institutions to advance democracy, elections and good governance, and particularly to ensure their independence, financial viability, effectiveness and accountability.

Before concluding his presentation, Prof. Viljoen discussed the African human rights bodies and political organs that could play a role in the implementation of the African Democracy Charter. He particularly emphasised the role to be played by the African Governance Architecture, the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples. He then concluded by reiterating South Africa's role (Art 7) should take a more vigorous human rights protective role in respect of other countries and in favour of African human rights bodies in Africa. Such proposal was based on Article 7 of the African Democracy Charter, which provides that "State Parties shall take all necessary measures to strengthen the Organs of the Union that are mandated to promote and protect human rights and to fight impunity and endow them with the necessary resources.

Observations of this panel

The two previous presentations attracted several questions from participants, comments and observations, which instigated a healthy debate. Issues discussed included whether elections lead to democratic performance and actually result in people on the ground accessing their basic rights? Participants lamented the fact that the lack of political will by African states to implement laws and policies to changing people's lives has weakened the relevance of human rights and the rule of law on the African continent. It was agreed that civil society should unite and coordinate their efforts to lobby and demand more from governments. Civil education beyond voter education was also identified as a means by which the people can be empowered to demand the rights and find governments accountable.

The discussions also highlighted the fact that the African Democracy Charter and its provisions should not be looked at and analysed in isolation from other existing African instruments. The African Democracy Charter and other existing instruments are mutually supportive and complementary. Poverty alleviation policies, for example, could be used to advance the right to food for instance. It was also highlighted that, in South Africa, race was still an important factor as far as elections and politics are concerned. To say that the current constitution is revolutionary or counter-revolutionary was debatable. But participants agreed that the constitution is transformative. To support his response to that question, Prof. Frans indicated that the South African courts would be criticised if they are not transformative. But they cannot be criticised for not being revolutionary.

Democratic elections: Summary and Issues of contention

In his presentation focussing on the summary of issues of contention regarding democratic elections, Mr. Grant Masterson, Programme Manager for African Peer Review Mechanism at the Electoral Institute for Sustainable Democracy in Africa (EISA) started by indicating that the impetus, which led to the African Democracy Charter, was the prevention of unconstitutional changes of government, the tonic to which was democratic, credible elections. The African Union impetus in this direction inspired a 2003 dialogue hosted by the IEC, African Association of Electoral Authorities (AAEA) and the AU. He also indicated that the Challenges of adopting the African Democracy Charter led to the voluntary principles of the African Peer Review Mechanism (APRM) and the contestations around the New Partnership for African Development (NEPAD). Today, the African Democracy Charter is increasingly being understood within the African Union as one of the critical catalysts behind the African Governance Architecture (AGA) and Agenda 2063.

Mr Masterson observed that, when assessing South African elections against the African Democracy Charter, the assessment looked favourable because the template in South Africa's case is somewhat reversed as it looked like the African Democracy Charter was describing South African elections rather than the other way around. He observed that civil society assessing the progress on South Africa's APRM report in 2011 gave elections in

South Africa the only green light in their report. The original APRM report recognised the peaceful and mature culture of democratic expression and strong, independent institutions (IEC) with high levels of public trust.



Mr Masterson also assessed South African elections in respect of Objective 3 of the African Democracy Charter: “Promote the holding of regular, free and fair elections to institutionalize legitimate authority of representative government as well as democratic change of governments.” He noted, in respect of that objective, that elections in South Africa are held regularly, predictably every 5 years since 1994; that the IEC is fully independent and has branches in all 9 provinces; the turnout was 73.43%, 25 million registered voters. In respect of Objective 13:

“Promote best practices in the management of elections for purposes of political stability and good governance”, he noted that elections results are auditable, and that response times to complaints were generally under an hour.

Mr Masterson also assessed South African elections in respect of a number of principles and articles of the African Democracy Charter, particularly Principles 3, 4, 7, 11 and Article 4.1 (Democracy and Human rights) and Article 4.2 (Universal Suffrage), Article 5 (No unconstitutional changes of government), Article 11 (Legal/Policy frameworks to promote culture of democracy and peace), Article 14 (Constitutional control of the military by civilian bodies), Article 17 and its sub-points (Regular, transparent elections), Article 21 (Election Observation & Monitoring) and Article 34 (Decentralised

power to elect local authorities). He observed that South Africa was generally scoring on all of those principles and provisions based on the fact that the IEC is independent and receives state funding through Parliament; multi-party liaison committees are established in all provinces; contesting parties commit to Political Party code of conduct prior to election; Political Party Code of Conduct exists, and Electoral Court adjudicates timeously on matters pertaining to the elections; local and international observers were allowed to monitor elections, even though the participation of embassies and consulates was more restricted than in previous elections due to the unusually high number of requests. Mr Masterson noted however that the 2014 elections marked the most acrimonious accusations yet that the SABC as state broadcaster was deliberately censoring its content in a favourable manner to the ANC, however it is certainly nothing new in the political rhetoric during South African elections.

In his concluding remarks he highlighted the contradictions of the African Union and its state parties, which required an active civil society. He referred to the Nyalali Commission recommendations in 1991, in Tanzania, which had recommended a move to multiparty democracy, with steps on how to separate the ruling CCM and the state. Crucially, the populace rejected the notion of multiparty democracy, but CCM pushed ahead regardless.

However, the steps to separate the ruling party from the state were only weakly implemented. He also indicated that the African Union slogan was "A people-driven African Union", yet the African Union Commission is based in Ethiopia, where nearly 80% of the countries in Africa require a visa to visit Ethiopia, CSOs in the country are systematically repressed, with 30% of national budget allocated for administration expenditure. The next AU Summit is in Equatorial Guinea, where the AUC has already confirmed CSOs will not be accredited to attend.

Mr Masterson also highlighted the Egyptian case where the Muslim Brotherhood's Morsi was democratically elected into his position with a weak, but clear mandate. Sponsored by foreign powers, Egypt's army toppled the democratically elected government, and the African Union seemed to have condoned the unconstitutional changes of power sponsored from the West. The Kenya and ICC situation was also discussed, in which the African Union resolution for the suspension of trials against Kenyatta and Ruto. He cited Landsberg's 'Golden Era' of African leadership (Mbeki, Obasanjo, Wade, Mkapa, Mwanawasa), which saw a regression on governance subsequent to this requiring active and vigilant civil society.

Culture of Democracy and Peace: Summary and Legislative Framework

In his presentation, Advocate Sipho Mantula of HURISA first discussed the South African legislative framework and noted that it was relatively consonant to the requirements of the African Democracy Charter as it mainly seeks to advance and consolidate national peace and stability. He then discussed peace and democracy in South Africa from a historical perspective and indicated that the legal framework in place has been set up to respond to the atrocities committed during the apartheid era and to ensure non-repetition of those gross violations.

Advocate Mantula indicated that, even though much is being done, particularly through the legislative framework formed to promote peace and security, South Africa continued to be plagued by social protects and high levels of crimes which then threaten peace and stability and political tolerance. He also highlighted the fact that there was no close working relationship between Chapter 9 Institutions and social movements. Civic education is replaced by voter education, and the role of media is not usually well understood.

He concluded by indicating that political leadership must adhere to peaceful principles together with their followers. Efforts to build peace will continue to be frustrated if there is no effective civic education.

Challenges, Gaps and Recommendations for South Africa under the African Charter on Democracy, Elections and Governance



The second day of the dialogue involved small group discussions in thematic areas covered by the African Democracy Charter. The thematic areas were: Political, Economic and Social Governance Democracy, Rule of Law and Human Rights, Democratic Elections, Culture of Democracy and Peace.

These thematic areas also provided the framework in which breakaway groups were constituted and the dialogue resolutions were drafted. The outcome of the discussions assisted in

development of a declaration, which was circulated to both media and government departments, in particular, DIRCO and Justice. The content of group discussions will inform civil society participation in and engagement with the process of development the initial State periodic report under the Democracy Charter, which the Government of South Africa is expected to submit in 2014.

Below is the outcome of breakaway discussions, which were presented in a plenary session:

Group 1: Political, Economic and Social Governance (Article 27)

Facilitated by Mr. Sthembiso Madlala, Democracy Development Programme, this group discussion focussed on the meaning of Article 27 of the Democracy Charter and its significance in the lives of citizens in South Africa. The group started by appreciating the African history and reality as contained in the Preamble of the Democracy Charter. This led to understanding the meaning of “governance” and “good governance” and to discussing the following principles which ground good governance: The rule of law, democracy, transparency, efficiency, effectiveness, public participation, openness, and accountability. The participants agreed that those principles, although non-exhaustive, serve as indicators and a measurement of good governance.



Based on those aspirations and principles, the participants explored what has achieved over the last twenty years of our democracy, what have been the challenges and what could be done differently. They also discussed what Africa has achieved since the establishment of the AU in general and the adoption of this Democracy Charter in particular, and what has been the role of South Africa towards ensuring that the abovementioned principles are achieved in Africa.

The group discussion culminated in the formulation of the following recommendations:

- ✚ Civil society should seek and obtain more recognition and support as a partner in ensuring an effective political, economic and social governance in South Africa;
- ✚ Parliament should be empowered technically in terms of increasing its research capacity and the capacity of its portfolio committees to deliver their respective mandates;
- ✚ Members of Parliament should be conscientised on their role in ensuring effectiveness, efficiency and accountability in respect of political, economic and social governance;

- ✚ The Public Service Act should be enforced more rigorously to break the cycle of impunity within the public service;
- ✚ Traditional leaders and structures should be more accessible, responsive and effective to the people;
- ✚ More should be done to ensure the accountability of the private sector through, inter alia enabling legislative and regulatory framework;
- ✚ The government and civil society organisations should empower ordinary citizens and the public to hold those in power accountable, through sensitisation initiatives and through dissemination of the information available AU instruments and domestic laws;
- ✚ Civil society should double its efforts to trigger political will for the Government to implement its commitments, influence its peers and hold them accountable.

Group 2: Democracy, Rule of Law and Human Rights (Article 4)

Under the facilitation of Mr. Clement Phebe, Human Rights Institute of South Africa, this group discussion focused on assessing the reality of democracy, rule of law and human rights in South Africa. The group started by acknowledging that the country inherited a past of injustice and inequality with a fundamentally unjust system of Apartheid, which denied people democracy, the rule of law and human rights. Years later, South Africa has one of the most progressive constitutions, which in principle promotes democracy, guarantees the rule of law and protects human rights. The participants observed however that, in spite of the progressive legal framework, there remained a gap between legislation and the practical implementation thereof.

The participants then evaluated the progress and challenges affecting a number of rights guaranteed both under the Democracy Charter and the South African Bill of Rights, which are the rights to access to information, the right to equality and non-discrimination, the right to access to basic services and the right to physical security.

On the right to access to information, it was noted that, even though the right to access to information was guaranteed under Section 32 of the South African Bill of Rights, not every one had access to information, especially people living in rural areas and people living with disabilities. Also, not everyone is able to access the Internet and government's websites and not everyone can make it to provincial parliaments for National gazettes. As far as "sensitive information" is concerned, there was contention in the group: Some argued that bills such as the Secrecy bill serve to protect the State and public institutions and that the government ought not to make it available. However, others contended that all information should be subjected to the principle of transparency and accountability.



On the right to equality and non-discrimination, the participants noted that this right is provided for in Section 9 of the Bill of Rights. It was agreed that in principle, South Africa had good laws that have been adopted to give effect to this right and especially to correct historical injustices, such as the Basic Conditions of Employment Act and the Employment Equity Act. However, the challenge is at the implementation level. One of the examples given were that South African has not yet reached the goal of having a 50% representation of women in all sectors (private and public)

On access to basic services, group members agreed that it was one of the most burning issues that South Africa must address. From the right to housing, healthcare, food, water to social security as guaranteed in the Bill of Rights, the Government is still lagging behind in meeting the needs of South Africa citizens, especially the most vulnerable. That is why service delivery protests in South Africa is the order of the

day, which have been met by violent police repression. It was agreed that corruption and incompetence are at the root causes of failure in respect of the service delivery.

Lastly, the participants discussed the right to physical security that, they noted, was guaranteed in the Bill of Rights, but also faced several challenges at the implementation level. It was noted that police violence was a serious threat to the right to physical security, lamenting the fact that an organ entrusted with the power to protect people and their goods is often part of the problem as far as the right to physical security is concerned. Further, group members also identified the porosity of South Africa borders to be a serious cause for rampant illegal immigration as well as trafficking of human beings and counterfeit goods.

The participants ended by formulating a set of recommendations:

- ✚ To ensure improved and accountable public sector management, through among other things employment of skilled and competent officials and expedited service delivery and accommodation of public participation;
- ✚ The government should make available and accessible information on vital issues such as health, and public documents critical for the enjoyment of other constitutionally guaranteed rights;
- ✚ Police should receive adequate training on how to properly respond to peaceful or even violent protests;
- ✚ The State should monitor this form of capacity- building through proper planning, budgeting and evaluation thereof
- ✚ The Government should do more to combat corruption and to improve control systems on points of entry.

Group 3 - Democratic Elections (Article 17)

Facilitated by Mr. Grant Masterson, this group evaluated South Africa's democratic journey, with a particularly emphasis on elections. They all agreed that elections in South Africa are held regularly, predictably every 5 years since 1994. They also agreed about the independence and responsiveness of the IEC and the fact that elections results are auditable.



However, it was observed that several polling officers were still not adequately prepared for the management of elections. It was also noted that more the youth and lacked adequate civic education to enable them to effectively vote. Participants also observed that by-elections do not usually attract the attention of civil society and international observers.

The discussions led to the following recommendations:

- ✚ The IEC should do more to strengthen the capacity of polling agents;
- ✚ The IEC and civil society should work hand in hand to ensure an effective electoral education and participation, especially for the most vulnerable;
- ✚ South Africa should influence positively other African countries and share best practices in terms of electoral management;
- ✚ Civil society and international observers should get involved more with by-elections;
- ✚ The human rights curriculum should be reviewed to include an effective civic and electoral education for the youth.

Commission 4 - Culture of Democracy and Peace (Article 11)

Led by Ms. Molly Dlamini, Southern Africa Liaison Office, group discussions under this theme focused on ways, means and challengers to fostering a culture of democracy and peace in South Africa. Group members first tried to understand the meaning of culture agreed that there was lack of understanding around what constitutes a culture. They noted that violence and police brutality have not favoured a culture of democracy and peace. They observed that in South Africa, violence was historically used to resolve problems and still violence and brute force are utilised to resolve issues nowadays. High levels of violent crime cripple political activism, and this impacts on both peace and democracy.



The participants also noted that youth and children do not have a clear understanding of democracy and democratic processes. There is a lack education around electoral processes amongst children and youth to entrench a culture of democracy and peace and eventually leads to voter apathy amongst the younger generation. It was also noted that there was bad assimilation of multi-party democracy, which contributes to disproportionate political influence amongst communities. While the notion of civic engagement and participation is not inclusive and participatory, participation and education with civil society is not an on-going process.

The group formulated the following recommendations:

- ✚ Lobbying for the implementation and regular review of existing education policy on human rights and democracy instruction in schools.
- ✚ The State should reconcile legal instruments and cultural values so that culture plays a role in issues of democracy, through the inclusion of indigenous practices, so the charter is domesticated meaningfully.
- ✚ Politicians should not take advantage of poverty and ignorance amongst communities to advance their actions, but rather address their socio-economic needs to ensure that they can effectively access democratic process;
- ✚ Civil society and Government to establish partnerships as opposed to creating on-going antagonist relationships which create more harm than good for beneficiaries;
- ✚ Utilising the media for accessibility and consultation in democratic process, print, television and radio media to be utilised as a source for civic education and engagement.
- ✚ Political parties to engage in ongoing civic and electoral education and the importance of participating in democratic process;
- ✚ The state to create platforms for civic engagement and participation process. Participation to be inclusive and accessible to all concerned to avoid a situation where civil society organisations and government become mouth pieces for the masses without consulting them.
- ✚ There is a need for a continuous relationship between civil society organisation and chapter 9 institutions.
- ✚ Need for training and sensitization of security forces in order to avoid excessive use of force.

CONCLUSION

The two-day dialogue provided a golden opportunity to evaluate the 20 years of South Africa in the African Union. The debates which focused on the African Democracy Charter and its impact in South Africa allowed all participants, from Government, Chapter 9 Institutions and civil society to assess the progress made domestically and to identify the challenges, which all participants committed to advocate for change.

The dialogue also provided an opportunity to launch the SOTU 2013 Report on South Africa, and especially to sensitise civil society, the media and government officials on its content. All participants requested copies of the report, which will guide their advocacy with the South African Government.

In view of all challenges relating to South Africa's compliance with AU instruments, and particularly the African Democracy Charter. Participants committed to working together and coordinating their efforts to ensure that South Africa's commitments at the AU level are translated into laws and policies and effectively implemented at the national, provincial and local level.

In view of the challenges facing South Africa and the region as a whole, participants committed to coordinating their efforts, but also to working with other civil society organisations from the region to ensure that AU Instruments are implemented at the local level. Participants also expressed their appreciation for the dialogue, and requested that additional meetings be organised to further strengthen their knowledge and capacity in order to hold the State and its institutions accountable.

ANNEXURE A: PROGRAMME OF THE CONFERENCE

Human Rights Conference Centre- Constitutional Hill, Gauteng, South Africa
20-21 May 2014 (Africa Week)
“20 years of Freedom, Human Rights and Democracy – South Africa, the AU and the African
Charter on Democracy, Elections and Governance”

Day 1: 20 May 2014

1st Session: South Africa’s commitments and obligations under AU instruments

Facilitator: Adv. Sipho Mantula, Human Rights Institute of South Africa

8:00 - 9:00	Arrival, Registration and Tea
9:00 - 9:05	Welcoming Remarks – Ms. Petal Thring, CEO, Constitution Hill
9:05 - 9:10	Introduction by Participants
9:10 - 9:15	Purpose of the Public Dialogue
9:15 - 10:00	Overview of South Africa’s AU Commitments, Obligations, and Compliance. Presentation of a Summary Report on South Africa’s Compliance with Selected AU Instruments (State of the Union – 2013 South Africa Report) Ms. Corlett Letlojane, Human Rights Institute of South Africa
10:00 - 10:30	Comments and Observations
10:30 - 10:45	Tea Break and Networking
10:45 - 11:15	Development of the African Charter on Democracy, Elections and Governance Department of International Relations and Cooperation, Africa Multi-lateral Directorate (<i>Message of Support</i>) International Justice Relations and African Human Rights System in South Africa Since 1994 Mr. Ndaba John Makhubele, Chief Director, Department of Justice and Constitutional Development National and Provincial Democratic Elections and Public Participation in South Africa 1994- 2014 Dr. Nomsa Masuku, Deputy CEO: Outreach, Independent Electoral Commission
11:15 - 11:45	Comments and Observations

11:45- 12:30	<p>Moderator: Mr. Marlon Zakeyo, Southern Africa Trust</p> <p>SADC Lawyers Association Experience, Post 2014 South African Elections Ms. Emilia Siwingwa, Programme Director, SADC Lawyers Association</p> <p>African Charter on Democracy, Elections and Governance - South African 2014 Election Experiences Ms. Jeanne-Mari Retief, Legal Education and Development, Law Society of South Africa</p>
12:30 - 13:00	Comments and Observations
13:00 - 14:00	Lunch and Networking

2nd Session: The African Charter on Democracy, Elections and Governance in the South African Landscape

Facilitator: Ms. Julie Middleton, Southern Africa Trust

14:00 - 14:20	<p>Preamble of the African Charter on Democracy, Elections and Governance, and Political, Economic and Social Governance - Summary and Key Issues Mr. Sthembiso Madlala, Democracy Development Programme</p>
14:20 - 14:35	<p>Democracy, Rule of Law, and Human Rights - Summary and Factual Points Prof. Frans Viljoen, Director, Centre for Human Rights, University of Pretoria</p>
14:35 - 15:05	Comments and Observations
15:05 - 15:20	<p>Democratic Elections - Summary and Issues of Contention Mr. Grant Masterson, Programme Manager for African Peer Review Mechanism, Electoral Institute for Sustainable Democracy in Africa (EISA)</p>
15:20 - 15:35	<p>Culture of Democracy and Peace - Summary and Legislative and Policy Framework Adv. Sipho Mantula, Human Rights Institute of South Africa</p>
15:35 - 16:05	Comments and Observations
16:05 - 16:15	End of Day 1 and Announcements
18:30 - 21:00	Mail and Guardian Discussion and Exhibition

Day 2: 21 May 2014

3rd Session: Challenges, Gaps and Recommendations for South Africa under the African Charter on Democracy, Elections and Governance

9:00 - 9:10	Recap of Day 1
9:25 - 9:30	Briefing the Breakaway Session Commissions
9:30 - 10:20 Breakaway sessions	Commission 1 - Political, Economic and Social Governance (Article 27) Mr. Sthembiso Madlala, Democracy Development Programme
	Commission 2 - Democracy, Rule of Law and Human Rights (Article 4) Mr. Clement Phebe, Human Rights Institute of South Africa
	Commission 3 - Democratic Elections (Article 17) Mr. Grant Masterson, Programme Manager for African Peer Review Mechanism, Electoral Institute for Sustainable Democracy in Africa (EISA)
	Commission 4 - Culture of Democracy and Peace (Article 11) Ms. Molly Dlamini, Southern Africa Liaison Office
10:20 - 10:40	Tea Break and Networking
10:40 - 11:30	Report Back to Plenary by Commissions
11:30 - 12:30	Comments, Recommendations and Constitutional Hill Declaration
12:30 - 13:00	Closing Remarks, Acknowledgment of Partners and Vote of Thanks
13:00 - 14:30	Lunch and Departure



ANNEXURE B: LIST OF PARTICIPANTS

No	Name and Surname	Gender		Organisation	Position	Tel/Cell and Fax
		Male	Female			
1.	Ms Selmah Lukhele		1	Nsikazi Community Advice and Resource Office	Director	071 565 5665 Fax: 086 662 2839
2.	Ms Sonto Mabanga		2	Albert Luthuli Human Rights Advice Centre	Co-ordinator	079 219 7521 Fax: 086 565 3117
3.	Mr Lennox Sthembiso Mdlala	1		DDP	Project Co-ordinator	072 234 2992 Tel 031 304 9305
4.	Ms Emilia Siwingwa		3	SADC Lawyers Association	Programme Director	012 366 8861
5.	Mrs Elizabeth Mokotong		4	Greater Tshwane Election Consortium		
6.	Ms Boshigo Matlou		5	Greater Tshwane Election Consortium		
7.	Ms Naledi Kotu-Rammopo		6			
8.	Mr Sabelo Sibanda	2		Sudan Solidarity Network	Secretary General	0730845415
9.	Mr Sabir	3		Defur Solidarity Network		
10.	Ms Lindelwa Lutho Langa		7			082 044 4890
11.	Mr Looks Matoto	4		DPSA	Deputy Chair Human Rights	078 146 4133 Fax: 086 509 7091
12.	Mr Tuma Sebichwu	5		Malaika Orphane Centre	Child Welfare Founder	083750 8229
13.	Mr Ovayo Akhani Wotshela	6		Equal Education& The Bookery	Volunteer	073 732 4391/ 076 299 8742

14.	Dr Lendy Spires		8	Bumads Foundation	President Chairperson	071 944 9166 Fax: 086 610 6005
15.	Ms Conti Tshweu		9	National Women Coalition	Co-ordinator	073 207 6634 6702060390080
16.	Mr Mashile Phalane	7		Batlabane Foundation	Director	072 336 7853
17.	Mr I.M. Rakgoale (Thau-Thau)	8		Bakehase Rastafari	Grandmaster Chairperson	073 788 5808
18.	Mr Theminkosi Josopu	9		South African Youth Council	Secretary General	076 675 7912
19.	Miss Lieketseng Mohlakoana Motopi		10	CGE	Researcher	051 403 7182
20.	Ms Nandipha Mjuza		11	Interchurch Local Development Agency	Director	073 630 8514
21.	Mr Matipa Mwamuka	10		Anex	Project Coordinator	021 638 5521
22.	Mr Teboho Molisalife	11		NW Provincial Council Of Aids	L. Adv	082 147 1425
23.	Mr Dalmar Jama	12		African Peer Review Mechanism	Researcher	011 256 3425 079 288 3318
24.	Ms Liziwe Selana		12	African Peer Review Mechanism		(011) 256-3401
25.	Ms Dawn Anderson		13	Justice And Peace South Region/ ST Maria Catholic Church	SSC ADMIN CLERK	Tel: 086-034-4443 Fax: 086-262-7386 084 084 4804
26.	Ms Katie Brown		14	ST Maria Goretti Justice & Peace	JP Ref	078 948 4874
27.	Mrs Mmapula Malatjie		15	Batlabane Foundation	Coordinator	071 817 8743 6701010738083
28.	Dr Showers Mawowa	13		Southern African Liaison Office (SALO)	<i>Manager: Research and Development</i>	Tel:012 433 6511 Fax: 061 352 4950
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30.	Ms Amkelwa Mapatwana		16	ZAYRAH	Programs Manager	073 606 4901

31.	Dr Nomsa Masuku		17	IEC	Deputy CEO	Tel: +27 12 622 5542 Fax: +27 12 622 5398
32.	Ms. Jeanne-Mari Retief		18	Law Society of South Africa / Legal Education and Development	Facilitator	074 687 6323
33.	Mr Ndaba John Makhubele	15		Department of Justice and Constitutional Development	Chief Director	
34.	Prof F Viljoen	16		Democracy, Rule of Law, and Human rights		073 393 4181
35.	Mr Grant Masterson	17		Democratic Elections	Programme Manager, APRM	011 381 6000
36.	Ms Molly Dlamini		19	Culture of Democracy and Peace Commission 4 (Article 11)	SALO	082 923 4294
37.	Adv Sipho Mantula	18		HURISA	Advocate	084 781 5587
38.	Ms Corlett Letlojane		20	HURISA	Executive Director	
39.	Mr Clement Pebe	19		HURISA		
40.	Mr Junior Sikhwivhulu	20		HURISA		
41.	Ms Julia Seleka		21	HURISA	Projects Administrator	
42.	Mr Marlon Zakeyo	21		Southern Africa Trust	Programme Manager	073 461 1691
43.	Miss Tatenda Mazarura		22	Crisis In Action Zimbabwe		
44.	Ms Yvonne Mhlauli		23	Sizoya Sibuye Women's Forum.		
45.	Patricia Alarm		24	Sizoya Sibuye Women's Forum.		
46.	Ms Palesa Musa		25	Sizoya Sibuye Women's Forum.		
47.	Mr Brain Mazibuko	22		VOV/CSUR	Member	060 381 8182
48.	Mr Tumi Ka Zwane	23		SAYC	Deputy	074 767 7857

					President	
49.	Ms Siphokazi Mtoco		26	SAYC	NWC	073 077 9545
50.	Ms Shirley Malakane		27	NWPLA		082 469 1494
51.	Ms Bibi Bazola		28	CGE	Researcher	076 259 5999
52.	Ms Venessa Shongwe		29	Nsikazi Community Advice And Resources Office		
53.	Ms Doreen Langa		30	ANEX	Project Coordinator	071 638 5521 076 528 1230
54.	Mrs Laura Kganyago		31	Women's National Coalition	Secretary General	082 719 5968
55.	Mrs Laura Catherine Marks		32	Together We Give	Executive Director	078 480 1367
56.	Mr Chris Manda	24		Coorp Agri	Secretary	076 960 7478
57.	Mr Unco Chabana	25		SALO		084 058 5820
58.	Ms Funeka Thabethe		33	CGE		082 379 0658
59.	Ms Naledi Selebano		34	CGE		078 022 7548
60.	Ms Yvonne Ntomto Mhlanli		35	SISI		074 766 6755
61.	Mr Brian Muzininga	26		ZXW		071 824 6492
62.	Mr Jibril Ibrahim Kavo	27		APRM		076 104 3357
63.	Mr Sambalo Mathebula	28		SALO		072 545 0986
64.	Mr Xolile Davids	26		RUF		083 337 3658
65.	Mr Sikhungo Jebe	27		Media		081 597 9504
66.	Ms Nondumiso Nlibadi		36	Action Aid SA		084 756 2815
67.	Mr P. Africa	28		RUF		083 753 5846
68.	Ms Patience Rusere		37	CHANNELZIM		076 270 9200
69.	Mr Reuben Pasha	29		Constitution Hill		083 633 0313
70.	Mr John Moerane	30		Lethabong		072 558 9195
71.	Ms Rea Simigiannis		38	HURISA		082 859 4856
72.	Mr Medard Abenge	31		SAFIS		072 153 0176
73.	Mr Kgomo Mohapeloa	32		G-1		081 733 0182
74.	Mr Roland Maseko	33		IDC	Accountant	079 802 9609
75.	Mr Davison Mudzinana	34		Mvura Ya Africa Production		
76.	Mr Francis Heshwe	34				
77.	Mr Oswald Chikosi	35				
78.	Ms Faith Baloyi		39	Negritude		
79.	Mr Walter Rakosa	36		Fananathi Media	Virtual Artist	073 317 1015
80.	Ms Shereen Garda		40	Rastafari		060 462 9456

				United Front		
81.	Ms Stacey Hope Bailie		41	Economic Justice Intern Oxfam		084 951 7712
82.	Mr Michael Gogwane	37			Program Coordinator	082 8822462
83.	Ms Thando Sipoye		42	ANKH Foundation		078 215 2529
84.	Mr Muntorzi Mutandiri	38			Coordinator	0739105941
85.	Mr Mokesh Morar	39			Chairperson	011 056 6598
86.	Ms Valentina		43			
87.	Ms Thoko Mpumlwana		44			
88.	Ms Malusi Mpumlwana		45			
89.	Mr Robert Shoniwa	40			Youth Coordinator	073 186 1251
90.	Mr S.Fikeni	41				082 202 1096
91.	Ms Portia Kobue		46			
92.	Ms Caithlin Longman		47			
93.	Mr Alister Shields	42		Kia Ora Africa Ltd		
94.	Mr R Van Wyk	43		Love Life Trust		079 978 7138
95.	Mr Mthandazo Ndlovu	44		OXFAM		011 223 2444
96.	Mr Boitsholo Bodibe	45				079 389 7425
97.	Mr Ramarwaneng Bodibe	46		Lalia Consulting		
98.	Mr Ras Aviwe Tyvmre	47				
99.	Prof Andre Keet	48		Director Of Free State University		 277514017554  27723551331
Total Males = 48 Total Females =47						

ANNEXURE C: CONCLUDING DECLARATION

Human Rights Institute of South Africa (HURISA) and State of the Union Coalition (SOTU) endorsed by Southern Africa Trust (THE TRUST)

“South Africa 20 years in the (OAU) African Union”

We over 100 Participants Representatives made of, Human Rights Defenders, Activist and Various Civil Society leaders gathered at the Human Rights Institute of South Africa (HURISA) and Southern Africa Trust (THE TRUST) at a dialogue event supported by State of the Union Coalition (SOTU) to commemorate South Africa’s 20 years of freedom, human rights and democracy and the launch of the State of the Union Coalition Report on South Africa’s Compliance with the AU Instruments, including engaging the South African State officials and representatives from Chapter 9 Institutions to reflect on South Africa’s compliance with its AU commitments, on 20-21 May 2014, Constitutional Hill, Braamfontein.

We pledge our solidarity support to the “Bring Back Our Girls” Campaign and implore the AU States to double and strength efforts to protect African citizens against militias, armed conflicts and terrorist attacks engulfing countries of the region and call for robust actions to find the over 270 Nigerian Young Girls and bring them back home in peace.

We acknowledge the milestone achievements made by South Africa in the advancement of the African legal architecture and noted carefully the government’s commitment to build a culture of human rights, through ratification of the AU Instruments, including the fourteen (14) AU Instruments prioritised by the State of the Union Coalition.

We are deeply concerned about South Africa’s lack of compliance with its African Union obligations to popularise all AU mechanisms as all these remain unknown by the majority of the population of South Africa. The Government has made little progress with regard to implementation, in particular, the African Union Charter on Democracy Election and Governance was not complied with or considered before and during the 2014 election to manage political intolerance and service delivery protests;

We further note with concern South Africa’s inaction to promote access to justice by failure to make Article 34 (6) Declaration to allow individuals direct access to the African Court;

We are alarmed about the failure to implement the Africa Mining Vision (MVA) to protect the mining community against the flagrant violation of their labour rights by the multinationals and private sector.

Commending the government for championing the Comprehensive Africa Agricultural and Development Programme (CAADP) which expires in 2015, however we express our disappointment with the slow pace to sign the Compact agreement in which a plan of action committing the government to eliminate hunger, reduce poverty and food insecurity affecting many people in South Africa.

We are alarmed by South Africa’s long overdue periodic reports, despite the civil society urging the Government to submit all its outstanding periodic reports on the African Charter on Human and People’s Rights, the Protocol on the Rights of Women in Africa to the African Commission on Human and People’s Rights. We remain concerned about the lack of progress to address the Youth’s dilemma experienced in high unemployment, teenage pregnancy, poverty, rampant use of tobacco and substances which causes TB, lung cancer and inequality as espoused by the African Youth Charter

We further commend the South African Government for crafting ten (10) pieces of legislation to protect nature, and natural resources as stipulated under the Revised Africa Convention on Conservation of Nature and Natural Resources (RACCNNR) before this AU Instrument entered into force.




We are concerned with the high level of Police brutality, resulting in the increased killings and injuries sustained by innocent people in South Africa especially, during service delivery protests, since the inception of freedom and democracy in 1993. Regulations of Gathering Act the instrument adopted to effect gatherings is not properly implemented and there's a huge contradiction with the Constitutional provisions promoting and protecting the right to freedom of expression, association, assembly, demonstration, picketing and presentation of petitions.

We are also concern about the delays in the following:

- ✚ Implementation of the human rights education which has been incorporated in the schools curricular, as well as and domestication of African Charter on the Rights and Welfare of the Child to end torture, and harmful traditional practices
- ✚ Ending of informal settlement as deadline to do so in 2014,
- ✚ Ending of pit toilet, bucket toilet system by 2010,
- ✚ Inequality in funding of political parties including lack of promoting transparency and obligation to disclose, as well as respect the autonomy of the Civil Society Organisations and Human Rights Defenders,
- ✚ Implementation of Maputo Protocol to address the pervasive gender based violence, rape and brutal murder of women
- ✚ Weak parliamentary debates, including of appointment of unskilled and unqualified public servants,
- ✚ Human Rights Education including, awareness raising, sensitisation of police, civil society, trade unions, youth, political parties, NHRIs and others sectors about AU human rights Instruments as well as repeal of laws that perpetuate stereotypes, inequality against women, stigma and patriarchy in the society
- ✚ Civic education to the media, access to information, and use of the ACHPR Model Law, especially for people living in rural area, people with disabilities
- ✚ Equal treatment and respect of Traditional Institutions recognised by communities
- ✚ Use of Local Observers and SADC Mission in national elections

We call upon the Government of South Africa:

- ✚ To take all necessary steps to implement its regional and constitutional obligations, in particular to submit the periodic report under the ACHPR and the Maputo Protocol, and to sign the Compact for full implementation of CAADP;
- ✚ To take all necessary steps to make Article 34 (6) Declaration to allow individual access to the African Court;
- ✚ To end pit toilet, as deadline has passed to do so by 2010
- ✚ To end Informal Settlements by 2015
- ✚ To recognise CSOs as true and credible partners in the promotion and protection of human rights;
- ✚ To foster human rights and civic education, particularly by ensuring that the human rights curriculum at schools is effectively applied,
- ✚ To incorporate human rights provisions in the RGA;
- ✚ To enact a law for promotion and protection of HRDs and ensure marches, protests and demonstrations are respected and protected
- ✚ To ensure improved and accountable public sector management, through among other things employment of skilled and competent officials and expedited service delivery and accommodation of public participation.

-  To ensure that political parties and leaders comply with South African regional obligations,
-  To respect the independence of national human rights institutions, especially the Office of the Public Protector, and enable them to function without fear, favour or prejudice;
-  To reaffirm its leadership in and encourage its counterparts to, supporting human rights and rule of law instruments and bodies at the AU – SADC level.

Thus done on 21 May 2014

ANNEXURE D:

Immediate Media Statement

19 May 2014

Observation of Africa Week- 19-25 May 2014: HURISA and THE TRUST are hosting event from 20-21 May 2014 Looking Back at South Africa's Participation in the African Union since 1994

Attention: Editors and Reporters

The Human Rights Institute of South Africa and the Southern Africa Trust, with support from the State of the Union (SOTU) Coalition invites members of the media to a one (1) and half day commemorative dialogue focusing on the forth-coming launch of the SOTU report (2011/12) on South Africa's compliance with the African Union instruments, to be held in Constitutional Hill, Braamfontein.

The Africa week dialogue will mirror the 20 years of the South Africa's participation during the then Organisation of African Unity (OAU now African Union (AU) since May 23 1994, launch of the State of the Union- SA report (2012/13), reflect on the African Charter on Democracy, Elections and Governance (2007) in the light of the recent South African General Elections of 2014 and convene an evening media critical debate and freedom of assembly/protest exhibition.

The central objective of this commemorative dialogue is to engage in a critical analysis made by the South African Government since its homecoming to the African Continental diplomacy of the African Union and its compliance with the fourteen (14) African Union legal instruments with a specific focus on the African Charter on Democracy, Elections and Governance (2007).

We anticipate the commemorative dialogue will identify challenges and recommendations relating to the African Charter on Democracy, Elections and Governance through robust and intense discussion.

Details of the dialogue are as follows:

Date: 20- 21 May 2014,

Time: 9:00am – 16: 30pm

Venue: Constitutional Hill, Human Rights Dialogue Centre, Johannesburg

The anticipated speakers will emanate from Department of International Relations and Co-operation, Department of Justice and Constitutional Development, Independent Electoral Commission, African Peer Review Mechanism Secretariat, Law Society of South Africa, SADC Lawyers Association, Centre for Human Rights, Institute for Global dialogue, Electoral Institute of Sustainable Democracy in Africa, Southern Africa Liaison Office and various national civil society leaders.

The evening media debate and exhibition of news photography from the Mail and Guardian will focus on freedom of assembly in South Africa. Images of historic (pre-1994) and contemporary (post-1994) protests will be juxtaposed to show how far the country has come in protecting free assembly, while also drawing attention to the concerning trend of violent clashes between citizens and police. Human rights activists and a political analyst will engage the participant's.

Media Debate and Exhibition Details

Date: 20 May 2014,

Time: 6:30pm: 21:00pm

Venue: Constitution Hill, Women's Jail, Johannesburg

Issued by the Human Rights Institute of South Africa

Contact:

Tel: 011 333 1730

Email: info@hurisa.org.za



ANNEXURE E

Cocktail Event

Summary of the Africa Week Media Debate: Reflections on 20 Years of South Africa in the African Union and Photographic Exhibition held on 20 May 2014 in Constitutional Hill, Women Gaol, Johannesburg.

The evening debate was moderated by Dr Bhekinkosi Moyo (Executive Director) of Southern Africa Trust who introduced the mandate of Southern Africa Trust and the significance of Africa Week within the context of the State of the Union Campaign. He introduced the main speakers of the evening, Ms Elinor Sisulu, Writer and Social Justice Activist; and Prof Somadoda Fikeni, Political Analyst and Commentator, and also allowed the Deputy Chairperson of the Human Rights Institute of South Africa Ms Rea Simigiannis to present the welcoming remarks.

The welcoming note reminded the audience that, coincidentally this year marks the 20 years of HURISA in existence and that HURISA was established after the completion of the mandate of the Goldstone Commission in 1993, which had been appointed to investigate public violence taking place throughout the country where black people were being mysteriously killed.

HURISA held its first African Human Rights Camp, (as opposed to a concentration camp) in



1995. This was an annual three-week course held in different countries on the continent. Activists from all over the continent were invited to participate and learn, discuss and debate human rights issues happening in all of the respective countries. At the first African Human Rights camp, we had two participants from Burundi and Rwanda who related the horrors of the genocide, which took place there. The annual camp existed for many years and provided a comprehensive approach to human rights from an international, regional and national perspective. It has also been touching to see

how the kidnapping of the young Nigerian girls by Boko Haram has resulted in a worldwide campaign from the White House to many other countries of the world, such as South Africa speaking out against these abuses. Human rights for one mean human rights for all!

The media debate interrogated the meaning of the 20th anniversary, and questioned whether South Africa has realised the rights and freedoms enshrined in AU human rights treaties. The keynote speakers presented eloquently on South Africa's foreign relations yet lamented the lack of continuity and implementation of the ideal of foreign policy directives of South Africa that was pursuit on African Renaissance. Issues of cultural diplomacy and the role of South Africa in



conflict resolution interventions in the African Continent was acknowledged, as was the lack of popular awareness within the country of South Africa's role in the African Union. The speakers also highlighted the lack of gender parity on leadership within the African Union, as well as the deficits in policy implementation.

Parallel to the evening debate, the audience was provided with an opportunity to view an exhibition of news photography from the Mail and Guardian.

ANNEXURE F

ABOUT SOTU: A BRIEF HISTORY



WHAT IS OUR THEORY OF CHANGE?

Establishing and evolving a democratic culture, effective public institutions and meaningful citizens' participation in public affairs requires investment in relationships and processes that raise the voices, perspectives and interests of the African peoples to demand the delivery of key political, social and economic rights standards. By informing and empowering citizens to demand implementation, this will demonstrate to politicians and civil servants that the continental standards have national and local political relevance. The establishment of national multi-agency platforms will provoke policy dialogues with national authorities on the resources, mechanisms and prioritization required.

WHY THIS COALITION?

While there are a number of organisations and coalitions that have been tracking and advocating for Governments to ratify and implement key standards and protocols, the State of the Union (SOTU) coalition is the only coalition to date that has tracked and engaged citizens, Governments and the African Union on the performance of Governments against a broad range of key democratic governance, economic, social rights, civil and political rights policy standards and instruments. The coalition has demonstrated considerable continental policy impact within a remarkably short period of time. Visiting the AUC Deputy Chairperson H.E. Erastus Mwencha in April 2011, he informed the Coalition in a private meeting that, "[He has] seen the State of the Union report and it touches on the very core of our existence, the implementation of AU decisions...not surprised you provoked the January Summit debate. Their attention is captured."

Members of the coalition have strong relationships at national and continental levels with coalitions and organisations working on the full range of rights being tracked and advocated for. It is intended that these

relationships be invited to collaborate on specific parts of the campaign with the State of the Union coalition.

These may include joint research, lobbying, advocacy and constituency mobilization. The emphasis on creating inclusive national and continental platforms rather than the state of the union coalition doing all of the work is in recognition that there are other coalitions and organisations that SOTU can work with either on specific rights (health, agriculture and so on), group interest rights (women and youth) and national or regional policy spaces.

A learning workshop organised with regional coalitions and networks working on the Regional Economic Communities identified a range of potential areas for cross regional learning and advocacy. It is hoped that SOTU can support this work by provoking compliance reports by the regional NGO councils of decisions taken at the regional levels.

WHY NOW?

A huge gap exists between the new pro-poor, rights based policy standards and legal instruments outlined above on one hand and national public policies, institutional mechanisms, service provision, budget priorities, citizens' engagement in governance and laws on the other. This has been acknowledged by at least four organs of the African Union namely; The African Union Commission, the Addis based Permanent Representatives, the Executive Council and the Pan African Parliament over the course of 2011.

Following the release of the continental and national State of the Union reports in 2010, the momentum for accelerating the popularization and implementation of AU decisions has increased in velocity. In July 2010, the Executive Council in Decisions 566, 568 and 571 explicitly called on CSOs to assist in the popularization and implementation of AU decisions. In January 2011, the issue was revisited in a specific agenda item of the African Union Summit and in a subsequent retreat of the AU Commission and the Permanent Representatives Committee.

In March 2011, the Chairperson of the AU Commission in a lecture to the Organisation of American States recognized the importance of the issue for the African Union. A key factor in their interest in the coalition is their frustration with the slow speed of integration of AU decisions and declarations into national policies, laws and budgets. We have found key allies in AU policymaking arenas are receptive and supportive of civic strategies to accelerate this at national level. For example, in Mozambique, the recent ratification of the Charter on Democracy, a key demand of the coalition, provides new scope for accelerating the realization of these standards at national level. In Nigeria, the recent election has seen the expansion of women MPs to 30% of the National Assembly and in Kenya the new Constitution now provides for the automatic domestication of regional and international instruments. These examples demonstrate that policy space exists to work on this issue.

In addition, significant opportunities exist for the coalition in partnership with the African Union and Governments to transform the culture of poor public awareness, non-implementation and ineffective compliance over the next five years. Some of the key moments include;

ANNUALLY

January and July Summits and Ministerial, Regional Economic Community Summits, March

8 International Women's day, July 31 Pan African Women's Day, May 25 Africa Day, June 16 Day of the African Child, December 10 Human Rights Day, Annual Independence/Heroes days, November 1, Pan African Youth Day;

2012 – 2015

Thirty-one countries will undergo elections. They include Cameroon, Kenya, Ghana,

Senegal, South Africa and Mozambique

2013 MAY 25

50th Anniversary of the Organisation of African Unity and the African Union

2015, SEPTEMBER

Deadline for Member States to meet the Millennium Declaration and Millennium Development Goals

Lastly, a number of established and emerging autonomous pan Africa coalitions and organisations exist and are prepared to work on this project. New and mainstream media continues to expand and amplify the choices available for African citizens to directly participate in AU and national government affairs. Injecting a digital component into campaigning around the African Union would break through the current challenges of mobilising African citizens across Africa.