

TRANSPARENCY AND ACCOUNTABILITY IN THE HUMAN RIGHTS SYSTEM: A COMPARATIVE LOOK AT THE UN AND THE AU

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A. INTRODUCTION

Prior to the attainment of political independence, most African nationalists closed ranks in order to forge a common ideological front aimed at wresting political independence from their erstwhile colonial overlords. These nationalist were inspired by Pan-Africanism (Afrocentrism) which evolved out of the works of African-American intellectuals in the late nineteenth and early twentieth centuries. With the attainment of independence by Ghana in 1957, Kwame Nkrumah's Pan-Africanism was embraced across the African continent. Suffice it to say that by the 1960s when most African countries secured political independence from their respective colonial overlords, the future looked bright for these independent African States. But six years down the line it became increasingly clear that most of those independent African States could not, so to speak, sustain their respective political independence. What happened was that official corruption, nepotism, profligacy, stealing of public funds somewhat became statecraft in those independent African States. Under the pretext of fighting the aforesaid ills, some power-thirsty military juntas in those corrupt African States staged military coup d'états that destroyed the pre-existing legal orders in those corrupt African States. The tragedy of the incursion of the military into politics in Africa is now history.

Perhaps the greatest tragedy in Africa today is that despite gaining political independence from their erstwhile colonial masters, most African countries are yet to be completely emancipated from variants forms of neo-colonialism: paternalistic imperialism, political imperialism, economic imperialism and cultural imperialism. According to Kwame Nkrumah Ghana who coined the word "neo-colonialism", "the error of neo-colonialism is that the nation which is subject to it is in theory independent and has all the outward trappings of international sovereignty. In reality its economic system and thus its political policy is directed from outside..."

For me, the most pernicious form of imperialism that oftentimes goes undetected in Africa is cultural imperialism. Another pernicious form, which is linked with cultural imperialism, is violation of human rights in Africa under various euphemisms. Culture is the life of a people. Therefore the destruction of a people's cultural heritage is tantamount to destruction of the people. Unfortunately what we are witnessing

today in Africa is a profound systematic deconstruction of the African cultural heritage; a tragic deconstruction of those family social safety-nets upon which the

the African people lay their claim to civilization. A couple of years ago I attended an international conference in Accra, Ghana. Topping the list of subject matters slated for discussion at the Conference was the erosion of Afrocentrism amid the burgeoning Eurocentrism and egregious human rights abuses in Africa. All the Conference speakers were unanimous in agreeing that the contributions of African people to world history and world civilization are constantly being undermined against the Eurocentric assumptions and myths that all that glitters in the West is good and must be embraced in Africa. For instance, Dr. Abu Bako enunciated that many policies imposed on Africans by foreigners are not only hurtful to African economic interests but undermine the communally-binding ideals which form the superstructure for the building of African ethos and culture.

The United Nations was founded on October 24, 1945 essentially to promote world peace and security. In fairness, since its foundation to succeed the League of Nations, the UN has achieved some of the lofty objectives for which it was founded. But it is also true that the catalogues of human miseries which the United Nations was founded to eradicate or at least ameliorate are still far from being achieved. The four objectives of the UN Charter- Protection and promotion of human rights; Electoral assistance; Support for the restoration and extension of State authority; Promotion of social and economic recovery and development.-remain elusive. Articles 1-4 of the UN Charter encapsulates the foundational principle of the sovereign equality of all its Members. Specifically, Article 2 (4) of the Charter states that "Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations".. But unfortunately, we live in a world in which might is right as we saw in the recent Russian invasion of Ukraine. Our humanity has been squirming in darkness. Signs of despair are on the faces of many. There is no peace in the world. All you hear from North to South, East and West are wars, rumours of wars, deadly scourges of terrorism, and sounds of suicide bombings, conflicts, killings and so forth. Deprived of justice, a lot of people have resorted to violence and other forms of self-help to seek remedy. If you review the current history of mankind or if you look at the precarious situation of the world today there are many living in fear: fear of existence; fear of terrorist attack and fear of the very technology wherein many have staked their happiness. There are others who are naked who need clothing; those hungry looking for food; the sick in desperate need of medicine and consolation; the homeless looking for housing. However it has been argued that the United Nations has been unable to live up to its bidding. "To most of us, the United Nations symbolizes the quest for world peace. Yet since the UN's founding more than 50 years ago, world peace has remained elusive. We have seen wars in Korea, Vietnam, the Middle East, the Balkans, and across much of Africa and Latin America. Millions of innocents have been slaughtered in horrific genocides from Cambodia to Rwanda. We have witnessed an unprecedented buildup of weapons so deadly that

millions of lives can be snuffed out with the push of a button. More recently, we have seen international terrorism claim thousands of lives on American soil on one terrible day. We are now engaged in yet another war, the struggle against international terrorism which has already taken many lives and may be prolonged for many years. The era of the United Nations has not, by any stretch of the imagination, been a peaceful one. Why hasn't the United Nations lived up to its billing? Defenders of the United Nations insist that the catastrophes in recent world history have occurred not because of the UN, but in spite of it. A stronger and more efficient United Nations, they argue, would certainly have the power to prevent such calamities from happening in the future¹.

It is noteworthy that at the end of World War II, the UN Human rights system has remained as the system for the promotion of human rights in the world. "After the war, sovereign States undertook painstaking and decades-long international negotiations of binding and non-binding international agreements about human rights, beginning with the Universal Declaration of Human Rights and continuing with the International Covenant on Civil and Political Rights and nine other human rights treaties addressing economic and social rights, protection from torture, and the rights of vulnerable or marginalized groups. During the Cold War, the dominant debate about human rights was about the very nature of human rights and their origins. On one side, the United States promoted civil and political rights. But on the other hand, the Soviet Union promoted economic and social rights. Each side was adamant about the priority of the rights they championed as a precondition for achieving all other human rights. As a result of this disagreement, UN treaties and negotiated political agreements to this day generally fuse together the civil rights tradition of the United States with the socialist tradition embraced by communist countries. The UN system has settled on the formulation that "all human rights are universal, indivisible and interdependent and interrelated. Two key pillars of the UN human rights system that emerged from the debates during the Cold War Period were UN treaty bodies that monitored the implementation of UN human rights treaties by States that had ratified them, and UN-appointed experts and other mandate holders who were assigned thematic or country-based human rights topics. The reports and interactions of UN member States with these two pillars of the human rights system became the fertile ground for debating new human rights concepts and expanding existing ones during the 1980s and 1990s and expanding existing ones during the 1980s and 1990s"²

One may be tempted to ask at this juncture: What is human right? Whose human right are we talking about? Has anything gone wrong with the UN Human rights system? Or, has the UN human rights been corrupted or politicized? And if the UN Human rights system has been corrupted or politicized, what can African governments and African leaders do to reform the UN Human rights systems? The answers to these aforesaid questions, for me, are key to resolving the sovereignty

¹ Inside The United Nations: A critical Look at the UN By Steve Bonta. Page 1

The UN, an Evil Institution? By J.C Willke, MD, President, International Right to Life Federation

² What Went Wrong with the Human Rights System? By Stefano Gennarini, J.D <https://cfam.org/definitions/what-went-wrong-with-the-human-rights-system/>

question in Africa. African leaders must not succumb to increasing foreign pressure to destroy or deconstruct African cultural heritage. We are Africans. We are black and proud. We are proud to live out our cultural identity. Aside from negative portrayal of Africa and demonization of African leaders in the popular western press, there is also the sovereignty question. According to Kwame Nkrumah Ghana who coined the word "neo-colonialism", "the error of neo-colonialism is that the nation which is subject to it is in theory independent and has all the outward trappings of international sovereignty. In reality its economic system and thus its political policy is directed from outside...". Some African countries, it seems, exist in the shadow of their erstwhile colonial masters. It seems as if what these independent countries gained from their former colonial masters was just flag independence not economic, political or cultural independence.

Whether you call this paternalistic imperialism, political imperialism, economic imperialism or cultural imperialism, the question remains: when will Africa rise above its present predicaments? In the online debate with the title, Will Africa ever rise? several commentators had tried to answer the aforesaid question. While some aver that Africa is littered with unrepentant despotic leaders, and consequently cannot rise again, others are of the view that since Africa is the cradle of civilization the continent will sooner or later rediscover itself and rise above the present challenges clipping its wings. A couple of years ago at the Leadership Institute, Arlington Virginia, United States I met Mr. Kabasu Babu Katulondi, a former Governor of Kasai Occidental Province in Congo, and a die-hard Pan-Africanist. He presented a paper on Afrocentrism and erosion of African heritage at the Institute. In his paper, he regretted that since the glorious exit of Nelson Mandela, no Southern political figure has been trying to promote the ideals which Mandela lived for and died for. He regretted Jacob Zuma's failed democracy in South Africa and the numerous scandals trailing it.

But on a very optimistic note, Kabasu predicted that despite its inadequacies and failing, Africa will one day rise to rule the world. Kabasu tipped Nigeria as the giant that will rescue Africa from its numerous miseries. On learning I was a Nigerian, he took interest in me obviously for one reason-the Boko Haram killings in Nigeria. After consoling me about the tragedy, he quickly pointed out that he was optimistically looking forward to the day when Nigeria will reclaim her leadership position in Africa. Kabasu admires the leadership style of former Nigerian President Olusegun Obasanjo and wishes that the upcoming African leaders would imbibe it in positively shaping Africa. Later, Kabasu handed over to me a copy of his book entitled: The Making of the Congo State in the U.S: a Forgotten Story. In the book, the former governor examines, among other things, the challenges faced by Congo after 30 years of the self-proclaimed Marshal Mobutu Sese Seko despotic rule in Congo. He develops an optimistic convincing argument on why the U.S-Congo rapprochement will bring about the much-vaunted reconstruction of Congo and Africa in general. In this regard, he invites the Congolese in the diaspora and the American policy makers to launch a new U.S-Congo Project from containment to maximalist reconstruction of Congo given the geo-strategic importance of Congo. Tracing the origin of Congo to "prowess" of America diplomacy, especially the accomplished American Henry

Morton Stanley, he says that the days of rhetoric are over and now is the time for reconstruction of Congo.

Without fostering any misguided patriotic zeal, one can appreciate the sentiment which impels the likes of Kabasu to become strong advocates of a post-war and post-conflict virile Africa. It is true that Africa has its own sphere of world problems. It is also true that despite gaining political independence, some independent African States are still helplessly living under the strong economic, political and cultural influence of their former colonial masters. But that shouldn't give room for any Afro-pessimism. Despite the seemingly irreversible cataclysm that trails Africa it will rise again to occupy its rightful position in the world.

Therefore the paper invites the African (AU) and African heads of government to do a complete assessment of the foreign human rights organizations working in their territories to see whether they are working for their own good or just advancing the narrow interests of their home countries. This is the way the AU and African governments can be transparent in governance and also become accountable to the African people. In this regards, Eurocentrism must give way to Afrocentrism. Government policies and political decisions in Africa should be in consonant with the cultural, religious and philosophical convictions of the African people. This is the real meaning of democracy. We need a new generation of Africans to make a clear and compelling case for the liberating ideals and principles that should govern the laws passed in African countries. We should educate the Parliaments in different African countries to sift the treaties and bills to know whether they satisfy the aspiration of the people. This is the essence of domestication.

B WHAT IS HUMAN RIGHT?

To distinguish between true and false human rights, one must first understand the proper foundation of human rights, namely the human person, his unique dignity, rights, and values. Genuine human rights rest on three pillars: philosophical, creational, and redemptive. Boethius defined the "person" as a rational individual who seeks truth and has free will. He has freedom (with which he can choose to do good and love). More importantly, God endowed humans with a spiritual and immortal soul. So the human being is a composite of body and soul. Human beings are not a quantity of flesh. People who cannot use their reason, those unable to give birth, and those who are mentally ill all benefit from these unique philosophical attributes. Man's immortal soul gives him great dignity and rights. Man is thus superior to animals and inanimate beings. In terms of creation, man is made in God's image and likeness, and God gave him dominion over material creation. All human beings, male and female, are born, morally speaking, free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.³

³Art. 1, Universal Declaration of Human Rights. (It is noteworthy that the term "born" refers to moral birth, not physical birth).

Rights derive from the inherent dignity of the human person;⁴ who shall be recognized as a person before the law,⁵ from the moment of conception. Rights are correlative with the individual's duties to others and to the community.⁶ Rights are not absolute but may be limited by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare of a democratic society.⁷

a. Examples of true human rights.

Right to life, Right to Freedom of movement and Association, Right to personal liberty, Right to dignity of human person, Right to Right to fair hearing, Right to Private and family, Right to freedom from discrimination, Right to Freedom of thought, conscience and religion, right to property, bodily integrity, and the means necessary for proper development of life, namely food, clothing, shelter, rest, medical care, and social services are all true human rights. Human beings have the right to security in case of sickness, unemployment, or other circumstances where they are deprived of their means of subsistence through no fault of their own. He has the right to be informed honestly about public events and respect other people's rights and reputations. There is also the right to basic education.

Indeed, promoting true human rights serves the human person's interests, common good, and human flourishing. But on the other hand, limiting valid human rights, especially the religious freedom of individuals and communities, is painful and an assault on man's dignity. Religious freedom restrictions and violations, for example, go against man's dignity and objective rights.

Genuine human rights follow from the proper understanding of the human person. False rights do not respect the human person or his nature. According to Michael Novak, true human rights are those that: a) fundamentally express the nature of man and the basis for interpersonal relationships. b) Inalienable (non-transferable). c) Natural (i.e., based on natural law and are not a consequence of cultural, social or political concessions). d) Universal (i.e., they are for all men and women). e) They are inviolable (violation means an attack on the person's dignity). A person cannot renounce them (even euthanasia). g) they are reciprocal (each right must be acknowledged). Significantly, licentious or

4 Preamble para. 1, 5, art. 1, Universal Declaration of Human Rights; preamble para. 2, International Covenant on Civil and Political Rights; preamble para. 2, International Covenant on Economic, Social and Cultural Rights.

5 Art. 16, International Covenant on Civil and Political Rights.

6 Art. 29.1, Universal Declaration of Human Rights; preamble para. 5, International Covenant on Civil and Political

Rights; preamble para. 5., International Covenant on Economic, Social and Cultural Rights.

7 Art. 29.2, Universal Declaration of Human Rights.

hedonistic practices cannot be referred to as "human rights" and are not human rights. Offences against public morality such as embezzlement of public funds, grafts, scam, pornography, murder, abortion, child sexual abuse, domestic violence, abortion, suicide, homosexuality, lesbianism and other cultural aberrations are not human rights. There is no international right to abortion, homosexuality, or gay marriage because consensus binds international law. So far there is no consensus or agreement by all nations that abortion, lesbianism and homosexuality should become international human rights. You may be aware that as far back as June 29 2016 the prestigious and most exalted European Court of Human Rights sitting in Strasbourg, France delivered a historic and unimpeachable judgment that LGBTQ1+ is not a human right. The court, which is the highest court in Europe, held that "marriages" entered into by people of same-sex cannot be considered as marriage. As important as this judgment is, the liberal media such as pro-gay CNN or pro-gay BBC and others refused to report it. The Court's decision arose from the suit filed at the Court by Heli Hämäläinen, a citizen of Finland. Heli had already in 2002 fathered a child with his wife of over 10 years. But he wanted to become a woman. Consequently in 2009 he abandoned his wife and son and underwent a sex reassignment surgery in order to anatomically look like a woman. Prior to the surgery, he had tried to change his legal identity from male to female without success. Thereafter he wanted to "marry" a fellow man. But he was disallowed to do so because Finland does not allow persons of the same sex to "marry" each other. Then feeling aggrieved he brought a suit at the European Court of Human Rights. But in its ruling the Court held that European human rights law recognizes the "fundamental right of a man and woman to marry and to found a family" and "enshrines the traditional concept of marriage as being between a man and a woman." The Court's ruling also bars people with same-sex attraction from filing a law suit to obtain a same-sex "marriage".

In spite of this historic judgment, the West is forcing developing countries and African countries to embrace and legalize LGBTQ1+ notwithstanding the consensus reached at the various United Nations Conferences that laws passed in every developing country and indeed African countries must reflect the diverse social, economic and environmental conditions of the continent with full respect for their religious, cultural backgrounds and philosophical convictions. The truth remains that when democracies lose their constituting philosophical and legal principles-when wrongs are described as "rights" and the tools of Law are deployed to do and justify evil-democracies metamorphose into totalitarianisms. ..."Rights" are used as pretexts for dissolving constitutionalism and establishing shadow governments (as, for example, when courts usurp the prerogatives of legislatures, or when regulatory agencies make life-and-death decisions, or when legal and medical professionals or firms stymie the careers of the young by requiring them to acknowledge the existence of spurious "rights" in order to pursue their vocations). In all of this-and all of this is going on, today-the rule of law is being undermined, the bonds of civic friendships are being strained,

fundamental norms of justice are being violated, and the inner architecture of democracy is being dismantled⁸.

Democracy rests on many assumptions. One of those assumptions is that men have enough wisdom and virtue to pursue the end of democracy—promotion of the welfare of the people. But viewed against the backdrop of history, men do not have enough wisdom and virtue to pursue the end of democracy. Democracy is challenged from within by sheer ignorance and pursuit of personal interests at the expense of the common good and welfare of the people. Democracy is not even a measure and a guarantee of political success. This is because totalitarianism is present in constitutional democracy as much as it is present in military despotism. Simply put, constitutional democracy is not a guarantee of freedom. If constitutional democracy must lead to true human development and human flourishing it must transcend political experiment. Democracy is more than a political experiment: it is also a moral enterprise which largely depends on the ethics and virtues of the citizenry for its success. In his book, *The Moral Mandate for Freedom*, Prof Rocco Buttiglione shared the views of Plato, Cicero, James Madison and Alexis De Tocqueville to the effect that democracy not run by highly-principled political leaders is bound to collapse. Plato, in particular, was hostile to democracy because he feared that the democratic powers and institutions would be imperiled under the watch of men of unruly passions and creatures of appetite. In his often-cited classic work, *Democracy in America*, French historian and diplomat Alexis De Tocqueville writes that democracy bereft of equality of conditions is bound to gravitate towards despotism. To all these thinkers, democracy is not synonymous with instant political and economic prosperity. If it is said that democracy liberates all men it is on the assumption that there are political leaders with high moral principles ready to navigate democracy to a safe harbor. Unfortunately most democracies are not run by men with high ethical principles.

Most democracies unfortunately are in the hands of men of unruly passions and creatures of appetite. Even a democratic government elected through a free and fair election is not intrinsically a good government that can guarantee equality and freedom. Therefore no democracy in which wrongs and social injustices are intentionally committed and perpetuated can save a country. No democracy in which the political leaders intentionally commit wrongs against the country can save the country. If you take away freedom and justice all that remains in a country are open robberies. We must begin to move away from the Statist mentality that once we establish democratic institutions, bureaucracies and enact laws all our human problems will be solved. In principle, functional bureaucracies, democratic institutions and laws are good, but not every obligation that augurs well for proper ordering of society can be democratized, bureaucratized let alone legislated upon or codified in positive law.

⁸ *The Moral Foundation of Freedom* By George Weigel, Senior Fellow, The Ethics and Public Policy Centre, WashinGton D.C

Therefore we must work out our democracy. The surest way to be ruined by democracy is to take democracy for granted. So, we can no longer take our democracy for granted. Among the ills of contemporary democracy is lack of freedom. We must envision a democracy that guarantees freedom. Freedom is more than absence of imprisonment or deliverance from despotic rulers. Freedom concerns shared beliefs, shared values and liberating principles. If there are no liberating principles to guide political activity, then political ideas and convictions can easily be manipulated or corrupted for reasons of power.

C THE DECONSTRUCTION OR POLITICIZATION OF HUMAN RIGHTS SYSTEM BY THE UN

It is beyond question that the United Nations Universal Declaration of Human Rights 1948 is the oldest universally-accepted human rights instrument in the world. The process of the rights revolution which we witnessed in the early 1990s has now resulted in the invention of the "global right to choose". In her seminal work entitled: *The Globalization of the Western Cultural Revolution*, Marguerite A. Peters writes that the forceful imposition of the new "global right to choose" culture has not only destroyed the concept of the universal values recognized in all cultures and enshrined in the 1948 Universal Declaration on Human Rights but has opened a Pandora box for proliferation in all directions of all sorts of rights as there are possible choices. That is why today we hear about all sorts of rights, ranging from the right to commit suicide or choose one's death; the right to kill the so-called unwanted child; the right to sexual orientation (rights of lesbians and homosexuals); the right of human beings to "marry" animals to the right of human beings to have sex with animals (bestiality). "It is a fundamental tenet of international law and foreign relations that it is ultimately Sovereign States themselves, individually and mutually, who are the final interpreters of their obligations and commitments under international law and in international agreements. The only exception to this is where Sovereign States cede their sovereignty to a third party court or arbitration system to resolve disputes about the interpretation of their obligations. This is not the case in the UN human rights system, where States have been careful not to cede any sovereignty to UN human rights mechanisms.

"Following the increasing importance that the Office of the High Commissioner for Human Rights has taken within the UN human rights system. The gradual expansion of the role of the OHCHR, and its increasing influence within the UN system, is rapidly shifting the balance of legal authority within the UN human rights system. The gradual expansion of the role of the OHCHR, and its increasing influence within the UN system, is rapidly shifting the balance of legal authority within the UN human rights system from States to the UN bureaucracy... The OHCHR and other UN agencies consider the views of The OHCHR, the UN treaty bodies, and the special procedures themselves characterize their opinions as "authoritative... Governments that fund the OHCHR earmark funds for pet projects and influence the opinions and hiring decisions of the OHCHR in this regard. The fact that nearly half of the OHCHR budget is made up of voluntary contributions by member states, as opposed to funds from the UN regular budget, increases

the influence of OHCHR donors. This has resulted in a gross normative imbalance that undermines the legitimacy of the human rights system, that some have criticized as a "neo-colonial" structure. Nowhere is this more visible than in the case of the capture of UN treaty bodies by the international abortion industry and the governments who support it at UN headquarters. This process has been extensively documented by the Center for Family and Human Rights, and was definitively exposed in the seminal article, "Rights by Stealth" by Susan Yoshihara and Douglas Sylva, of the same institute. In recent times, a similar capture has taken place with the LGBT lobby. Until recently, the notions of "sexual orientation" and "gender identity" were entirely foreign in UN policy, and UN agencies were cautious in promoting so-called "LGBT rights" for fear of upsetting UN member states. The OHCHR and the treaty bodies began to promote the notion of "sexual orientation" as a category of non-discrimination under international law in the 1990s under the guidance of the OHCHR. The OHCHR staff have since successfully shepherded this issue in every UN treaty body and have had remarkable success in getting UN agencies to promote these notions through dedicated personnel in every UN agency. This continues apace, even though "sexual orientation and gender identity" is an issue that continues to divide the UN General Assembly"⁹

It is noteworthy that the expansion of the role of the OHCHR, and its increasing influence within the UN system has led to the compromise of the human rights ideals contained in United Nations Universal Declaration of Human Rights 1948. This is sad. The Universal Declaration of Human Rights 1948, as I earlier said, was the first Universally-acceptable international documents binding on all nations, and has ample provisions for the protection of the family institution. Specifically, articles 16 (a) & (b), 22, 24, 25, 26 of the Universal Declaration of Human Rights 1948 clearly recognize that the family, based on marriage, a complementary partnership for life, between one man and one woman of marriageable age, constituted with full and free consent, publicly expressed, to which the mission of transmitting life is naturally and exclusively entrusted. "It is worth reflecting upon why the drafters of these post-World War II human rights documents chose to include the family as a subject of protection. After all, older charters, such as the U.S. Bill of Rights and the French Declaration of the Rights of Man and the Citizen, were completely silent on the subject. The explanation seems to be that the drafters, of the postwar declarations were using 20th century national constitutions, to some extent, as models. Where the family is concerned, there are

⁹ What Went Wrong with the Human Rights System? By Stefano Gennarini, J.D <https://c-fam.org/definitions/what-went-wrong-with-the-human-rights-system/>

strong similarities between the treatment of the family in the declarations and the constitutions of several continental European and Latin American countries¹⁰

One could say that from 1948 to 1995, the traditional family was still protected. Things started following apart from 1995. Unfortunately from 1995 we witnessed the removal of family-related, cultural and moral-related principles in the UN documents. Specifically in 1995 the United Nations Secretariat issued a booklet stating: "The basic principle of social organization is human rights of the individuals, which have been set forth in international instruments of human rights" This is a very subtle way of deconstructing the family. It led to the erosion of the moral authority of the family of parents. It sets individual rights in opposition to family relationships. It undermined the status of the family as a subject of human rights protection At the Beijing Conference the U.N.'s Committee on the status of women produced a 149-page document without mentioning "Marriage", "motherhood" or "family life". The European Union has deconstructed the family to include all sorts of clichés, powers, individual liberty, gender equality, LGBT1+ ideology, transgender rights, gender neutrality, binary rights etc. .

¹⁰ Professor Mary Anne Glendon E.g., Bolivia 1945 (Art. 133: "Marriage, the family, and motherhood are under the protection of the State"); France 1946 (Preamble: "The nation ensures to the individual and the family the conditions necessary to their development"); Ireland 1937 (Art. 41: "The State recognizes the family as the natural primary and fundamental unit group of society....The State, therefore,. guarantees to protect the family in its constitution and authority...."); Italy 1947 (Art. 29: "The Republic recognizes the rights of the family as a natural social unit based on marriage"); Spain 1945 (Art. 22: "The State recognizes and protects the family as a natural and fundamental institution of society with rights and duties prior and superior to all human positive law"). Similar language is found in the 1947 constitutions of the United States of Brazil and the 1946-47 constitutions of the states of occupied Germany. The reception of these ideas in the U.N. drafting process must have been facilitated by the fact that prominent Catholics, particularly philosopher Jacques Maritain and Lebanese diplomat Charles Malik, were among the main architects of the U.N. human rights project. Another connection between the 1948 Declarations and certain national constitutions bears importantly on their treatment of the family. The two international declarations belong, in form and spirit, to a group of postwar rights instruments that are neither libertarian nor collectivist in philosophy. They are grounded, rather, in a common set of assumptions about man and society that one might call dignitarian, or personalist. The Bogota and U.N. declarations provide in almost identical language that all men and women are born free and equal in dignity and rights; that human beings are endowed with reason and conscience, and that they should act towards one another in a spirit of brotherhood.⁵ Both documents treat the bearer of individual rights, not as a self-sufficient monad, but as a person situated in community and family relationships. The U.N. Declaration, for example, provides that everyone has duties to the "community in which alone the free and full development of his personality is possible. With regard to the problem that concerns us today, it is interesting that the history of the 1948 declarations is silent on how their family-related provisions should be carried into effect. All indications are that the drafters regarded family protection as a task to be carried out by institutions closer to families themselves. The principle of subsidiarity seems implicit in Article 16 of the U.N. Declaration which provides that: "The family...is entitled to protection by society (as well as] the state." Beyond affirming a small core of fundamental principles which public and private institutions were expected to observe, the U.N.'s involvement with families in its early years was confined mainly to providing humanitarian assistance.

As time went by, however, the U.N. grew into an elaborate bureaucracy, employing thousands of international civil servants. Its specialized agencies multiplied and extended their reach. Some of the newer U.N. groups, such as the Population Fund and the Committee on the Status of Women, became more intent on managing the, family than assisting it

Today there are all sorts of international actors wielding all forms of international Conventions all aimed at decons But, as I earlier stated, international law cannot be imposed on countries. It binds on consent of countries or, put differently, the binding nature of international law is a matter of consent of sovereign States. In other words, international law only binds in consent. According to Justice John Marshall in the popular case of **Madbury V Madison**, there is no international Supreme Court that decides how each sovereign State ought to interpret or apply a given international norm. The interpretation of one sovereign State is not better or worse than the interpretation of another sovereign State.

D. MY EXPERIENCE AT THE UN

My first shock participating at the UN Proceedings and Meetings was my encounter with the word: "transgender". Hitherto I had been hearing about transgender but did not really know what it meant or where to place it. But one year at the UN Proceedings I came face to face with "transgender". We were all seated and participating in Proceedings. Suddenly there was a little commotion downstairs. Some Delegates quickly rushed down to ascertain what was amiss. I did not follow them. I just remained seated. But when they returned they narrated that a young man was caught in the female toilet. Asked what he was doing in the female toilet, he simply laughed and said that even though externally he was a male but inside him he was a female (a transgendered female) and therefore qualified to use the female toilet with his fellow females. I was astounded. I was flabbergasted. My second shock at the UN was when I learned the true meaning of diplomacy at the UN. It was at the UN that I learned the hypocrisy behind diplomacy and international relations at the United Nations. Diplomacy and international relations, at least as practised at the United Nations, are nothing but hypocritically agreeing with the Chair and other delegates even when you know very well that what was agreed upon were bundles of lies and stupidity. At the United Nations, truth is a rare commodity. At the United Nations, immorality and lies are embellished in deceptive flowering speeches and fine rhetoric and sold as the truth. Delegates who attempt to adhere to moral values are singled out for ridicule and contempt. Delegates who oppose the pro-abortion and pro-gay propositions of the European Union and America are singled out and immediately reported to their respective home-countries as mischief makers and never-do-wells at the United Nations. For example, once I managed to persuade a certain delegate from one country to oppose abortion and other nasty things that were put up for debate and vote. Eventually, this lady bravely succeeded in doing so. But guess what happened afterwards the following day? The United Nations telephoned her country and falsely alleged that she constituted a nuisance at the United Nations. When I saw her the next day, she frowned at me and told me that after her opposition to those bad things, the UN called her country and reported to her government that she was causing trouble at the UN. Before I left her, she was depressed because, according to her, her job at her country's Mission was in jeopardy. I tried unsuccessfully to console her but she couldn't be consoled. She just told me that she would never oppose those immoral things again in the future at the UN.

My third shock at the UN is that many African Delegates who travel to New York every year to participate in the UN Proceedings and Meetings veer off

and engage in shopping jamborees in New York. Many African delegates who leave the shores of their respective countries under the cover of participating in the UN events end up at various New York shopping malls and supermarkets buying various items and filling their bags and baggage with them. For example, one day on my way home after one of the UN sessions, I ran into some gorgeously-dressed African female delegates returning from their shopping spree. Except for the delegate badges they wore, the women could have been mistaken for African market women carrying on the business of buying and selling in New York's streets. Each lady delegate was beaming with smiles as she carried her several bags stocked with assorted purchases.

But my greatest shock participating in the UN Proceedings in New York is the open intimidation and bullying of African Delegates by the European Union and American Delegates. "The resolution to combat HIV/AIDS became stacked with contentious proposals from the United States and the European Union that promote the stigmatization of the highest risk behaviors for spreading AIDS. The African and Islamic delegates were so dissatisfied with how the United States handled the maternal mortality resolution that they did the almost unthinkable: they stood up to the United States and the European Union. They refused to accept the sexual rights provisions, including comprehensive sexuality education for children. They refused to reach an agreement, even if it meant overturning their resolution. I believe everyone was taken aback. Delegates were required to concentrate on the main document, "Agreed Conclusions." The African voting bloc, sensing the power they possessed to reject the demands of the developed countries, remained steadfast in their refusal to accept the unacceptable. They determined once more that no document was better than a flawed document and unequivocally stated that they would no longer be bullied by Western countries, particularly the United States. In the end, the United States ruined the main CSW document, which was supposed to help rural women overcome poverty. Once again, the United States attempted to turn that document into a radical feminist document, refusing to recognize parental rights, demanding sexuality education, promoting "modern contraceptive methods," and calling for "access" to contraceptives in multiple references. The delegates from the United States also refused to allow the term "reproductive rights" to be used in a context that would limit its meaning and make it difficult to use to promote abortion. They claimed they had "instructions" not to reach an agreement until all of their demands were met. So, in the end, the main document had to be discarded as well, all because of the United States' obsessive focus on sexual rights."¹¹

You can see how the United States and the European Union Delegates bully their counterparts, particularly their counterparts from developing countries, at the United Nations. Equally annoying is the specter of abuses heaved on African countries at the United Nations. For example, one UN Committee that

¹¹ Report of one of the UN Sessions by Sharon Slater, President, Family Watch International, United States

calls itself the United Nations Committee on the Rights of the Child is known for bullying African countries, threatening and intimidating them into voting in favor of unmarried teen sex, teen contraception, and teen abortion. Even commentators on Facebook and Twitter have slammed the Committee for acting like a bully. The Committee mocks African countries and others for opposing unmarried teen sex, teen contraception, and teen abortion. Once this Committee ordered the Catholic Church to stop opposing teen sex, teen contraception, and teen abortion. In essence, the Committee argues that under international law, children have the right to have sex, use contraception, and have abortions. The main issues that need to be resolved, in my opinion, are not whether teen sex, contraception, or abortion are morally or legally justifiable or not. Rather, the main issues that need to be resolved are; first, whether or not there is a binding international law permitting teen sex, contraception, and abortion; second, whether the Committee has the right to violate the human rights of developing countries. The truth is that there is no binding international agreement that allows teen sex, contraception, or abortion. The consensus reached at both the International Conference on Population and Development (ICPD) in 1994 and the Fourth World Conference on Women in Beijing, China in 1995 is that "any measures or changes related to abortion within the health system can only be determined at the national or local level according to the national legislative process" (Beijing 1995).

As a result, the United Nations Committee on the Rights of the Child's promotion of teen sex, teen contraception, and teen abortion is a violation of the ICPD (1994), Beijing (1995), Article 26.3 of the Universal Declaration of Human Rights, Article 18, 4 of the International Covenant on Civil and Political Rights, and Articles 5 and 18, 1 of the Convention on the Rights of the Child, and, above all, offensive to most cultures. As a result, the recent order issued by the Committee above is illegal and thus null and void. Teen "sexual rights" violate the ICPD (1994), Beijing (1995), Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, Convention on the Rights of the Child, and the majority of cultures. As a result, the Committee on the Child's Rights was acting outside of its mandate. The United Nations was not established in 1945 to corrupt children; instead, it was established to maintain peace and security and prevent threats to peace. Yet, beyond belief, the United Nations Committee on the Rights of the Child is threatening the stability and corrupting children, our future. This is heartbreaking. According to the United Nations Declaration on the Rights of the Child, "mankind owes the child the best it has to offer."

Furthermore, our shared humanity requires us to always protect children, who are the most vulnerable. Suppose the United Nations Committee on the Rights of the Child truly cares about children. In that case, it should have been fighting child prostitution, child pornography, child labor, child soldiering, and other forms of child exploitation. As a result, the Committee should refrain from acting like a bully and corrupting children.

E AFRICAN VICTORY AT THE UN

However, all is not bleak for Africa at the UN. African countries do win victories at the UN. For example, Africa won a resounding victory at the 48th Session of the United Nations Commission on Population and Development, which took place April 13-17, 2015, at the United Nations Building in New York City, United States. It was an astonishingly successful session for African countries. For the first time in the UN Commission on Population and Development history, the Commission adjourned on April 17, 2015, without an outcome or consensus document--only a few times in history, has a United Nations Commission failed to produce a consensus document. As a result, what happened at the United Nations on April 17, 2015, was more than just a symbolic victory: it was a historical, revolutionary, and precedent-setting African victory. That African victory had helped to improve Africa's international image in the international community. It has strengthened the respective African nations' national sovereignty. It has dispelled the myth that the African continent is inferior to other continents. Above all, it has served as a deterrent to African countries' bullying, intimidation, and coercion at the United Nations. For many years, African countries, including Nigeria, have been victims of organized deception, coercion, bullying, blackmail, manipulation, and abuse of power at the UN. However, at the aforementioned 48th Session of the United Nations Commission on Population and Development, a fortified African Group led by Ambassador Usman Sarki, a distinguished and widely respected Nigerian ambassador, stood firm and refused to be coerced or intimidated by the United Nations Funds for Population Activities (UNFPA), America, Belgium, and other European nations into accepting the inclusion of "comprehensive sexuality education" (CSE) and "racial equality" During the negotiations, Ambassador Sarki made it clear that the African Group would not accept and adopt the text unless the UNFPA, the United States, and European nations were willing to remove the contentious CSE and abortion rights. During the negotiations, there was a minor drama. Ambassador Sarki had politely asked Ms. Bénédicte Frankinet, the Chair of the Commission (who hails from Belgium, a country known for its liberal abortion views), for an additional ten minutes to elicit African countries' concerns that had not been reflected in the proposed final document on behalf of the Africa Group. He told the Chair diplomatically that the text could not be a "final text" because it contained "notions, positions, and language" that would impose "impossible and unacceptable commitments" on the African Group and the Member States. He urged the Chair to "go the extra mile" and further negotiations to remove "objectionable elements" from the text.

To ambassador Sarki's dismay, and the surprise of all Member States in attendance, the Chair of the Commission arrogantly refused to grant this request. Instead, it withdrew the text on the ridiculous premise that her pro-abortion text superseded the views of the African Group and the other Member States and could not be waived or changed. At this point, Ambassador Sarki expressed his disappointment and explained that the

African Group had neither requested nor desired that the text be withdrawn but only wanted ten minutes for discussion to make the document acceptable. Before Ambassador Sarki knew it, the Chair had overruled him and refused to listen to him any longer. To put it another way, the Chair rudely denied Ambassador Sarki a fair hearing at the UN.

As a result of this regrettable intolerance, the United Nations Commission on Population and Development's 48th Session ended without a consensus. What a pity! As I previously stated, this is the first time in the 21-year history of the United Nations Commission on Population and Development that this had occurred. By refusing to succumb to American and European intimidation and coercion, Africa had sent a strong message to the world that African nations have matured and will no longer submit to international threats, blackmail, or intimidation.

F SAFEGUARDING THE SOVEREIGNTY, INTERESTS AND HUMAN RIGHTS OF AFRICAN COUNTRIES AT THE UN

As earlier stated, we are Africans. We have since attained our political independence from our erstwhile colonial masters. Consequently the AU and African countries have a right as sovereign nations to decide for themselves the kind of laws they can enact for the good of their citizens. We should reject anything which compromises the territorial sovereignty of African countries. If African heads of State are not dictating to Europe or America the kind of laws they should enact, why should the U.S or the U.K dictate to us the kind of laws we should enact. If the U.S. or any other country or any United Nations body is bent on stopping the financial assistance to us simply because we have not legalized LGBTQ1+ so be it. We must not compromise our territorial sovereignty. earth's offscouring. The American and European delegates may continue to treat the African delegates at the UN with utter contempt and as the offscouring of the earth because they do not subscribe to western lifestyles that are antithetical to African cultural heritage. But we must never surrender. We must not compromise our values. Every society has its own set of values, which should be nurtured as the society grows. African societies have their own set of values to adhere to. After all, laws are enacted in consonant with the social realities and values of a people. Every country is concerned with preserving its most valuable assets or values. We are different. We are Africans. Agreed, culture is dynamic but not at the expense of our identity as Africans. We cannot be copying hook line and sinker abrasive foreign lifestyles and imposing them on our people. In any case, as I earlier stated, the consensus reached at the various United Nations Conferences is that the law passed in every developing county including Nigeria must reflect the diverse social, economic and environmental conditions of that country, with full respect for their religious, cultural

backgrounds and philosophical convictions. LGBTQ1+ has no respect for the religious and philosophical convictions of the Nigerian people and therefore cannot be imported into Nigeria.

You may be well aware that when Nigeria was contemplating enacting a law outlawing LGBTQ1+ the then British Prime Minister David Cameron threatened to withdraw the British aids from Nigeria if Nigeria proceeded to enact the law. As it turned out, David Mark Nigeria's Senate President at that time ignored Cameron's blackmail. He and other Nigerian lawmakers proceeded to outlaw LGBTQ1+. In the words of David Mark, "If there is any country that wants to stop giving us aid because we want to pass the bill on same sex same, that country can go ahead. We are a sovereign nation and we have the right to decide for ourselves because no country can interfere in the way we run our country. Same sex marriage is against our culture and tradition and against our beliefs. Only marriage contracted between a man and a woman either under Islamic law, Customary law and Marriage Act is recognized as valid in Nigeria..."It is unfair to tie whatever assistance or aid to Nigeria to the laws we make in the overall interest of our citizens otherwise we are tempted to believe that such assistance comes with ulterior motives..."If the assistance is aimed at mortgaging our future, values, custom and ways of life, then they should as well keep their assistance,"

David Mark is right. The AU and African leaders should emulate his conviction and courage. His stance at that time is the only way African leaders can be accountable to the African people. African leaders cannot and must not succumb to the manipulations of the destiny of Africa by powerful foreign countries under the instrumentality of foreign aids. Therefore African countries should muster the political will to reject foreign aids attached with strange conditionalities aimed at exploiting and enslaving the people of Africa as they did during the Slave Trade. All that glitters is not gold. Prima facie, United Nations agencies and other foreign organizations working in Africa may appear as development partners of African countries. There is nothing like free lunch anywhere. These UN agencies may be awarding scholarships to some indigents Africans. They may be doling out money to some African governments for reconstruction and rehabilitation of some infrastructure. Both all these are just mere smokescreens for their ulterior motive of exploiting Africa and destroying its human capital.

More importantly, African government officials must not rush to ratify or domesticate any regional and international treaties without first weighing their importance to the real development of Africa. They must first consult their respective parliaments and stakeholders in order to assess whether the regional or international treaties conform with the social realities in their respective countries. Human rights laws resulting from manipulation and coercion by the United States and European Union do not automatically apply in most African countries. For example, currently the European Union (EU) is pressuring Africa-Caribbean-Pacific heads of government to sign the Africa-Caribbean-Pacific-European Union Agreement (ACP-EU Agreement) treaty providing for legalization abortion, radical sexual "rights" in across Africa as

well as legalize immoral sex education for African children. This treaty also obligates all the 79 ACP countries to vote on the same side of the issues as the EU at the UN. This is terrible. In short, it is EU neo-colonialism or what has been dubbed EU ideological colonization. African leaders must not accept this ACP-EU Agreement, and, if they must accept it they must insist that it must be amended to the effect that it excludes legalization of abortion, radical sexual "rights" and immoral biological sex education for African children. More importantly, they must insist that a clause be added in the Agreement to the effect that the implementation of the Agreement must be effected with full respect to national sovereignty and religious, cultural and philosophical convictions of the African people.

On their part, African Parliaments must not ratify or domesticate regional or international conventions without due consultation with various stakeholders and interest groups in the country. Before ratification or domestication, the Parliaments should first reassess these treaties in light of their respective countries' social realities. For example, the Protocol to the African Charter on Human and People's Rights on the Rights of Women 2003, ⁽¹⁴⁾, also known as the Maputo Protocol, had been ratified and even domesticated by some African countries. But the truth of the matter is that the Maputo Protocol is incompatible with fundamental human rights instruments such as the Universal Declaration of Human Rights, the United Nations Declaration on the Rights of the Child, and the International Covenant on Civil and Political Rights. It is also incompatible with African regional instruments such as the African Charter on Human and People's Rights, which Nigeria and many African countries have domesticated. In particular, article 14 (2)(c) of the Maputo Protocol is incompatible with the language of African values, particularly the language of the African Charter, which upholds the human rights of both the child and the mother.) As a result, the Maputo Protocol is unacceptable and should not be implemented in African countries. Nigeria's refusal to domesticate the Maputo Protocol, despite having ratified it, is not a violation of her international obligations; instead, Nigeria is simply exercising her right as an independent sovereign: it is the right of every country's people to make laws for themselves per their respective Constitutions.

A number of countries such as Argentina, Austria, France, Belgium, Greece, Spain, Netherlands, United States of America, Mexico and other countries operate what is termed the Monist doctrine in which treaties made in accordance with their respective constitution automatically binds their domestic courts without any specific act of incorporation. But Nigeria and many African countries operate the Dualist doctrine in which treaties are not binding as constituent part of domestic laws unless they are first domesticated or incorporated into the laws of the respective countries. In the case of **General Sani Abacha and others V Chief Gani Fawehinmi** decided on Friday, the 28th day of April 2000, the Nigerian Supreme Court held, among others, that international treaties do not automatically form part of our domestic law and not justiciable in Nigerian courts unless specifically domesticated by the National Assembly. Domestic Courts have no jurisdiction to construe or apply unincorporated international treaties nor could unincorporated treaties be enforced in Nigeria until they are incorporated in the laws of Nigeria. And in the event of a conflict between domestic law and international law the former shall prevail to the extent of the inconsistency Even those international laws signed

and ratified by Nigeria are not binding on Nigeria until domesticated by the National Assembly by virtue of section 12(1) of the 1999 Constitution.

In essence, the Nigerian Supreme Court held that the international treaty entered into by the government of Nigeria does not have binding force in Nigeria until it is made into law by the National Assembly through section 12 of the Constitution. According to Justice Micheal Ekundayo Ogundare JSC (of blessed memory), the African Charter is not superior to the Constitution. As a result, if there is a conflict between the African Charter and our 1999 Constitution, the latter takes precedence to the extent of the inconsistency. The late Justice Okay Achike JSC (of blessed memory) stated unequivocally that "unincorporated treaties cannot change aspects of Nigerian law even if Nigeria is a party to those treaties." Indeed, unincorporated treaties do not affect citizens' rights and duties under either common law or statute law." "If such a treaty is not incorporated into our municipal law, our domestic courts have no jurisdiction to construe or apply its provisions...", wrote Justice Akintola Olufemi Ejiwunmi JSC, CON (of blessed memory). These declarations of the law Lords are consistent with the position of the law in Nigeria on this issue. A contrary pronouncement would be a constitutional travesty. But some jurists cite the well-known case of Greco-Bulgarian Communities (Greece V Bulgaria), as well as other foreign cases and practices in England, Barbados, Trinidad and Tobago, the Bahamas, Zimbabwe, South Africa, Tanzania, and elsewhere, to support their argument that treaties that had not been domesticated have force of law in a country. But as I earlier stated, before regional treaties and international bills can be "respected" or applied in a country the parliament of that country must first ensure that the treaties conform to the people's socio-cultural, economic, and religious realities. The National Assembly and the people of Nigeria must sort through the treaties and bills to see if they meet the people's expectations.

International law, as Professor J.L Brierly correctly stated in his magnum opus, *The Law of Nation: An Introduction to the International Law of Peace*, international law is based on good faith between nations. Every country is concerned with preserving what it considers to be its most valuable assets or values. There are numerous circumstances under which a sovereign State may choose to change its obligations under a treaty. For example, Saudi Arabia, Cuba, Pakistan, and other countries are all signatories to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Still, they reject CEDAW's radicalization of women's rights. The mere existence of some laudable provisions in a treaty does not imply that all other provisions are equally praiseworthy. The United States, for example, rejected the Geneva Protocol because it prescribes international armed conflict, even though the Protocol's other provisions are binding international norms. Importing foreign practices and lifestyles and attempting to impose them as laws in the name of adhering to international obligations is suicidal.

Finally, African countries must stop living under the shadow and exploitation of their former colonial masters and other powerful countries. Therefore it is high time Africa started rejecting Western development aids with debasing conditionalities. In other words, foreign aids that are used as a stratagem to advance the selfish interests of

the aids givers must be rejected. Nkrumah Ghana put it this way. "The result of neo-colonialism is that foreign capital is used for the exploitation rather than for the development of the less developed parts of the world. Investment under neo-colonialism increases rather than decreases the gap between the rich and the poor countries of the world..." As the beleaguered Ambassador Sarki had urged, American and European Delegates must not impose unhelpful ideas and concepts on the African Delegates at the UN. I completely agree with Ambassador Sarki. The United Nations should learn to be more a transparent and objective umpire, balancing the interests of all parties, particularly the Africans, and eschewing pressure from narrow interest groups. That is the only way it can successfully carry out its functions.

CONCLUDED