THE INTERNATIONAL CRIMINAL COURT AND HUMAN RIGHTS ENFORCEMENT IN AFRICA

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I. INTRODUCTION

The inauguration of a permanent tribunal for the prosecution of serious crimes has raised anew the problem of enforcement of human rights in international law. This article will commence with a brief mention of the origin and nature of state's human rights obligations. Reference will also be made to the implementation of international obligations with particular emphasis on the International Criminal Court (ICC), and the difficulties encountered in judicial enforcement of international obligations in general. The peculiar social, political and economic situation in Africa and the ingredients that feed the widespread human rights violations in the region will also be raised. In conclusion, suggestions for improvement will be proffered.

II. ORIGIN OF STATES HUMAN RIGHTS OBLIGATIONS[1]

At the root of the difficulty, in the decisive enforcement of states international human rights obligations are the absence of an effective central authority, and the consensus method of building the international legal order. The Peace of Westphalia 1648, which ended the Thirty Years religious war in Europe effectively dismantled the absolutist, centralist powers of the Holy Roman Empire, and transferred sovereignty to the different nation states.

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1. While every society in whatever level of development has, however nominal, notions of freedom, human rights in its present documented form, as the cornerstone of peace and security in the world today became a forceful idea after the Second World War. *See also* Philip C. Aka, *Human Rights as Conflict Resolution in Africa in the New Century*, 11 TUL. J. COMP. & INT'L L. 179, 183 (2003).

Within their jurisdiction, states could virtually do any thing, and deal with their subjects in any way they liked without attracting any external question. But the horrors of the Second World War, which ended in 1945 called to question this unchecked and uncontrolled absolutist powers of the state-sovereignty. There was a realization that massive human rights violations with open or tacit support of the state in any part of the globe ultimately diminishes humanity in general and may even have the unintended consequence of threatening the peace and security of the world.[2]

While it is not necessary or even desirable to go back to this period of a single, absolutist authority in the international legal order, attempt to strike a balance has been made by placing obligations on states as a means of checking their excesses. There is now a common standard below which no state is allowed to fall without attracting the outrage of the world. At that point where this outrage begins, exclusiveness of domestic jurisdiction should stop.[3] This common standard has been set through concepts such as *jus cogens* (peremptory norms of international law), *erga omnes* (obligations owed the international community as a whole), international crimes, which has been defined by the International Law Commission in its draft articles on states responsibilities as "breach by a state of an international obligation so essential for the protection of fundamental interests of the international community."[4] A state's obligation to respect and ensure human rights is primarily inward directed. It is owed to its subjects. The international community gets interested only when a states conduct is so egregious as to threaten this fundamental interest of the international community. This interest is nothing other than maintenance of peace and security which is better secured by respecting human rights.

These concepts, *jus cogens*, *erga omnes* and international crimes share more or less the same contents that dovetail into the present human rights provisions. It is quite tempting therefore to rank all human rights equal because of their dependence on one another. But certain acts are so egregious and mind rending that they merit special attention. Through these concepts, some human rights have been selected as super norms and given an extra protective status. Genocide, slavery and racial discrimination, aggressive war, war crimes and crime against humanity today form the red line beyond which none should cross. These norms are final and admit of no derogation. Any breach of these

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2. Leo Gross, *The Peace of Westphalia, 1648–1948*, 42 AM. J. INT'L L. 20–40 (1948). See also Richard A. Falk, *The Interplay of Westphalia and Charter Conceptions of International Legal Order*, *in* THE FUTURE OF INTERNATIONAL LEGAL ORDER, VOL. 1 33 (Richard A Falk & Cyril E. Black eds., 1969).

3. Hersch Lauterpacht, *The Grotian Tradition in International Law*, 23 BRIT. Y. INT'L L. 1, 46 (1946).

4. *See* Report of the International Law Commission on the Work of its Forty-Eighth Session, 6 May-26 July 1996, U.N. GAOR, 51st Sess., Supp. No. 10, at 131 (Ch. III), U.N. Doc. A/51/10 (1996).

norms is treated as an international concern whether this occurs in time of war or peace, internally or extra-territorially. Therefore, not all human rights issues fall under the jurisdiction of the International Criminal Court. The jurisdiction of the ICC will be limited to only the most serious crimes of concern to the international community. These, according to the Rome Statute are genocide, war crimes, aggression and crimes against humanity. Crime against humanity has been held to be intrinsically more serious than war crimes, for they are deemed to be directed against the whole of humanity as its victim, thereby injuring a greater interest than war crimes limited towards a restricted group of people. Apart from its classical content such as murder, extermination and torture, it now includes sexual offenses such as rape, sexual slavery, enforced prostitution and forced pregnancy, forced sterilization and other form of sexual violence of comparable gravity.[5] These crimes whether committed in time of war or a period of brief upheaval or during peace time, are equally punishable as such. The drive to establish interstate-universal jurisdiction is based first on the fact that some crimes are so heinous that they offend the interest of all humanity—imperiling civilization itself.[6] This entitles any state to punish it on behalf of the rest of mankind. Also, most massive and widespread atrocities are often executed with open or tacit support of those in control of states instrumentalities of power. This makes it difficult if not impossible to prosecute the perpetrators without an external intervention.

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5. Rome Statute of the International Criminal Court, United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, July 17, 1998, arts. 5–8, U.N. Doc. A/CONF. 183/9 (1998), 2187 U.N.T.S. 90 (1998).

6. Kenneth C. Randal, *Universal Jurisdiction under International Law*, 66 TEX. L. REV., 785, 803 (1988); RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 404 (1987). The international human rights law, serve as a moral imperative for all nations. Those specially selected norms which fall under *jus cogens*, *erga omnes* and international crime entitles each state even when their citizens are not directly involved, and even if the offense falls outside the states territorial jurisdiction to prosecute. In *Filartiga v. Pena-Irala*, 630 F. 2d. 876 (2d. Cir. 1980), a Paraguayan police officer who participated in torturing to death a citizen of Paraguay was sued under the Alien Torts Acts Claim by the relatives of the deceased. The U.S. Court of Appeal for the 2nd Circuit in assuming jurisdiction said that "the torturer has become—like the pirate and slave trader before him—*hosti humani generic*, an enemy of all mankind." *Id.* at 881. *See also* Attorney General of the Government of Israel v. Eichman, 36 I.L.R 18, 26–57 (Dist. Ct. Jerusalem, 1961). The abduction from Argentina and prosecution in Israel of Eichman was based on the universal jurisdiction applied to *erga omnes* norms of which genocide, crime against humanity, which Eichman as a Nazi henchman participated in, are part of. STEVEN R. RATNER & JASON S. ABRAMS, ACCOUNTABILITY FOR HUMAN RIGHTS ATROCITIES IN INTERNATIONAL LAW: BEYOND THE NUREMBERG LEGACY 141–43 (1997).

III. JUDICIAL ENFORCEMENT OF INTERNATIONAL OBLIGATIONS[7]

Conceptually, all international courts and tribunals share some basic elements with national judicial organs. These are independent existence and institutionalization of the organs, creation through a legal or political instrument, laid down rules of procedure, duty of interpretation and application of the law.[8] But in nearly every other respects international courts differ from national legal institutions.

First is the issue of jurisdiction of the respective international court or tribunal to handle the matter, and second is the problem of observation and enforcement of the court's decisions. For example, the International Court of Justice (ICJ) generally accepted as the World Court, does not have mandatory jurisdiction over any matter or party unless parties expressly submit to it. This non–mandatory jurisdiction can bring about serious deadlock as seen in the Nicaragua case, where the USA, after submitting to the jurisdiction of the ICJ, refused further participation when judgment was rendered. The ICJ reiterated also in the Monetary Gold case that it cannot adjudicate on the international responsibilities of states without their consent.[9]

Criminal justice which involves the full force of state power is intricately intertwined with sovereignty. States both great and small are for various reasons generally reluctant to cede any of its powers in this area to another entity, more so when this will mean submitting to an external judicial organ with supranational powers. The stronger states do not want any limitation on their powers, while the smaller, weaker ones such as African states fear external control or interference in their domestic affairs. The International Criminal Court (ICC) tried therefore to overcome this hurdle by assuming compulsory or

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7. For an extensive coverage of enforcement of international obligations, *see* OBASI OKAFOR-OBASI, THE ENFORCEMENT OF STATE OBLIGATIONS TO RESPECT AND ENSURE HUMAN RIGHTS IN INTERNATIONAL LAW 74 (2003). Other tools available in international law for the enforcement of states obligations range from coercive measures such as threat of, or actual military intervention, use of force short of war, reprisals and countermeasures. Intervention is mostly effective if it is embarked upon by a multilateral and not unilateral force, and received a prior recommendation by the Security Council. Non-violent methods of enforcement are economic pressure such as sanctions and trade embargoes, breach of diplomatic relations which protests actions of a particular state, contentious judicial proceedings, which could end in imposition of fines, forfeitures or reparation for the victim. There is also the very subtle but not ineffective method, publicity, intended to hurt the international image of the state involved in atrocities.

8. Christian Tomuschat, *International Courts and Tribunals with Regionally Restricted and/ or Specialized Jurisdiction, in* JUDICIAL SETTLEMENT OF INTERNATIONAL DISPUTES: INTERNATIONAL COURT OF JUSTICE, OTHER COURTS AND TRIBUNALS, ARBITRATION AND CONCILIATION, AN INTERNATIONAL SYMPOSIUM 307 (1974).

9. Corfu Channel Case, Merits, 1949 I.C.J. 4–35 (Apr. 9); Case of the Monetary Gold Removed from Rome in 1943 (Italy v. Fr.; U.K. v. U.S.) Preliminary Question, I.C.J. Reports (1954), 19, 35; *see also* Statute of the International Court of Justice, June 26, 1945, art. 36, 59 Stat. 1055, T.S. No. 993.

mandatory jurisdiction over cases involving any state that has ratified the Rome Statute. This compulsory jurisdiction is an attempt to avoid uncertainties and secure the cooperation of states parties in strengthening world peace and security.

Though this compulsory jurisdiction makes the court easily accessible, it has inadvertently triggered suspicion as to which extent it can use this power to jeopardize or limit the fundamental interests of any state. Behind the reluctance of the U.S. government, for example, to ratify the statute, is the fear that its service men could be targeted for frivolous and mischievous prosecution intended to embarrass the only surviving super power. But this fear is unfounded, because the ICC is targeting only international criminals of all nations, and not from any particular country. Nonetheless, the supranational application of the decisions of the ICC gives a hint of the primacy of international law and the establishment of universal criminal jurisdiction which can, at least legally, limit the global ambition of some powerful states.

However, this so-called compulsory jurisdiction is apparently not as effective as it seems. In reality, the ICC does not have automatically inhering powers to assume jurisdiction over any case. Original and automatic jurisdiction belongs to the state whose subjects are either perpetrators or victims of the offense, or the state in whose territory the offense was committed. Before the ICC can assume jurisdiction, the state concerned must decline to prosecute, lack the resources to prosecute, formally hand over the matter to the ICC for prosecution, or when the Security Council requests it, to investigate a particular situation and prosecute. Theoretically, it is therefore possible for the ICC to exist for a very long time without entertaining any single case. If the Democratic Republic of Congo (DRC) and Republic of Uganda had the powers and resources to apprehend and prosecute the rebels causing the mayhem in their countries, they would not have requested the ICC for help in this regard. They would have gone ahead and prosecuted to the relief of the world those behind the atrocities in their countries.

The mere invitation and lodging of these complaints before the ICC alone do not indicate a wide acceptance of the legitimacy of the court, or a positive disposition towards it by all states. This cord might well be struck if the court handles these two initial cases well. The court itself, critics and protagonists remain apprehensive of the outcome. If it fails to deliver, its death knell might well be sounded, as critics will point at the flaws, possible biases, and the difficulties of erecting on a permanent basis an effective international criminal jurisdiction. But if it presents itself well, it will earn the trust of all nations and could be flooded with more cases. As we all know, atrocities deserving of the attention of the court abound all over the world today. These first two cases if properly handled will not only form the reference point for future cases before

the court, but may even encourage national courts to cooperate with it in their efforts to combat international crimes.

IV. WHO MAY BE PROSECUTED BEFORE THE ICC?

Even though classical international law recognized only states as subjects, the Nuremberg and Tokyo Military Tribunals laid the present foundation of directly burdening individuals with criminal responsibility even when acting on behalf of their states. That a state can commit a crime was affirmed by the Nuremberg tribunal. But a state as an abstract entity, such as Germany, cannot be put in the witness box, prosecuted, convicted, sentenced to prison term, or an entire population executed, just to punish an act of state considered an international crime.[10] Therefore the most prominent individuals or officials seen as the extended hands of the state are prosecuted and punished, thereby reviving the issue of the place of the individual in international law. Other ad hoc international criminal tribunals like Yugoslavia, Rwanda and Sierra Leone have followed the same pattern of placing international criminal responsibilities on individuals. This is a confirmation of the powerful statement by the Nuremberg tribunal that, crimes against international law are committed by men, and not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced.[11]

Traditionally, the denial of subject status to individuals in international law makes criminal prosecution of states difficult if not impossible.[12] But the acceptance of the individual and other non–state actors as subjects of modern international law has eased the process of punishing any international offense committed. This is because, whether seen as an act of state or as a result of individual volition, whenever a crime is committed, a particular person or a group of persons that are identifiable and directly connected with the crime would be held responsible. Also, the need to combat international terrorism, hijacking of airplanes, drug trafficking, international money laundering have helped to declare individuals who commit these offenses which have

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10. Alain Pellet, *Can a State Commit a Crime? Definitely Yes, in* STATE RESPONSIBILITY IN INTERNATIONAL LAW 425 (Rene Provost ed., 2002).

11. However both Nuremberg and Tokyo Military Tribunals have been criticized as not being international or truly representative at all. They were perceived as "victor's courts" for the purpose of prosecuting the enemy and rendering only "victor's justice." KRISTINA MISKOWIAK, THE INTERNATIONAL CRIMINAL COURT: CONSENT, COMPATIBILITY AND COOPERATION, COPENHAGEN 12 (2000). The International Criminal Tribunal for Yugoslavia sitting at The Hague has convicted and sentenced to various terms of imprisonment, Edmovic and Tadic, for offences ranging from war crimes, genocide to crime against humanity. The International Criminal Tribunal for Rwanda sitting in Arusha (Tanzania) has convicted also for similar offences and sentenced to various terms of imprisonment Jean Paul Akeyesu and Jean Kambanda.

12. The most convenient and effective tool for punishing renegade states was resort to a devastating war, either by a more powerful state or a coalition of states against the recalcitrant state.

cross-border effects, as *hosti humani generis*—common enemies of mankind. And they could be prosecuted by any court on behalf of the international community or by an international tribunal.

However, placing an individual before a truly international court such as the ICC helps to avoid the insinuation of victor's justice. Even after a bloody internal ethnic war or crisis as witnessed in Rwanda and the DRC, an international judicial organ detached from the emotions and sentiments of the situation leading to the crisis will be more able to be neutral and procedurally just than a national court that is more likely to be vindictive. At least the ICC cannot hand down a death sentence because the statute forbids it from doing that even if it is inclined to. It would be more relied upon in establishing accountability.[13]

With the acceptance of states, individuals and other non-state actors such as rebel groups as subjects of international law, it has been possible for President Museveni, acting on behalf of Uganda, to request for the criminal investigation of a rebel group known as the Lords Resistance Army. This group has been ravaging his country and causing mayhem and brigandage with the aim of installing a Christian government based on the Ten Commandments. On the same note, the young President Kabila had also earlier requested the investigation and prosecution by the ICC of those who in the course of the long drawn war in the Congo committed genocide, war crimes and crimes against humanity, including those behind the recent massacre of about 200 refugees at a camp near DRC's border with Rwanda. However, the ICC will be investigating only crimes allegedly committed since its establishment in July 2002. Troops from all countries that participated in the five year war, especially those from the DRC, Rwanda and Uganda, and the rebel groups, such as the Congolese Liberation Movement led by Jean Pierre Bemba who are alleged to have committed massive rapes, forced labor and cannibalism in the northeastern Ituri province will be targeted in the investigation.[14] Because of the widespread nature of the offenses, the duration and intensity of the crimes, most citizens while accepting this limited intervention by the ICC regret the non-retroactive application of the ICC statute. They complain that the period covered is too limited and narrow, and will enable some big fish to escape the drag net. Nonetheless, the punishment of even just a handful of the most visible perpetrators of these atrocities will serve, if a symbolic purpose of assuaging the feelings of their victims who want to see justice done.

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13. Michael Reisman, *Scenarios of Implementation of the Statute of the International Criminal Court, in* THE ROME STATUTE OF INTERNATIONAL CRIMINAL COURT: A CHALLENGE TO IMPUNITY, BURLINGTON 281 (Marurio Politi & Giuseppe Nesi eds., 2001).

14. Daniel Balint Kurti, *Congo Looks to International Court for Justice*, ASSOCIATED PRESS WIRE, June 2, 2004.

How these will play out will be both interesting and revealing. Traditionally, prosecution of war crimes has always been directed against individuals acting on behalf of the government. But in these two cases, governments that have consistently been accused of committing atrocities are now accusing individuals and organizations (rebel groups) of wreaking havoc in their territories and thus deserving of international investigation, prosecution and punishment. This is a new development in international criminal justice. The absence of a global police force or an international prison facility requires the cooperation of states in the implementation of the sentences. The experiences of the ad hoc tribunals from Nuremberg, but particularly Yugoslavia and Rwanda will be immensely beneficial to the ICC which is established to do the same work, but only on a permanent basis. Most convicts of the Rwanda tribunal are serving terms in the Arusha prison facility based on an international agreement with Tanzania.

V. COMBATING AFRICAN HUMAN RIGHTS CRISIS

Unfortunately, recent wars in Africa manifested on a grand scale all the atrocities punishable under the Rome Statute. In Rwanda, Sierra Leone, Liberia, DRC and Uganda, the gory story is the same. People have been maimed, mutilated, tortured, cannibalized, and women raped en masse, ignoring all known rules of war. Both government and rebel troops are equally guilty of these atrocities.

While helpful and complimentary, the ICC is not the best tool for combating such massive crimes, which it has set out to enforce. As the ICC does not have its own police, military or law enforcement agents, it therefore will be relying on the assistance and cooperation of the states that have ratified its statute in order to function effectively. Because of these institutional defects, the court will have to work through the states in conducting investigations, obtaining evidence and apprehending suspects. This makes it over dependent on the states in order to function and is likely to be delaying the prosecution of suspects, and delaying justice.[15] To reach a point whereby the ICC is called upon to intervene is indicative of how bad a situation has become. Like curative medicine, judicial enforcement of human rights arises after an injury has occurred. But prevention as we all know is better than cure. In Africa, addressing the factors that lead to these widespread human rights abuses will work better than prosecuting a handful of the most visible renegades as symbolic of justice being done.

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15. LEILA NADYA SADAT, THE INTERNATIONAL CRIMINAL COURT AND THE TRANSFORMATION OF INTERNATIONAL LAW: JUSTICE FOR THE NEW MILLENNIUM 250 (2002).

The effective enforcement of the judgment of the ICC requires consent, complimentary efforts and cooperation of all states parties. This cooperation should not be seen only in terms of states making available their prison facilities for the detention of convicts. It should extend to helping Africa tackle its urgent political, social and economic problems which persistence sustain the long drawn African crisis that lead to these human rights abuses.

In spite of the nominal provision of fundamental human rights in virtually all the constitutions of African states, violations persist with impunity. Observably, the human rights situation has been in continuous deterioration since the different countries gained their independence. Wars, civil strife, ethnic tension and clashes have all combined to cost Africa more than twelve million lives in the last four decades. Factors responsible for these include, arbitrary colonial boundaries that lumped together groups without consideration of their different social and cultural differences, thus breeding distrust, tension and intermittent violent clashes and civil wars. The absence of a reliable and functional democratic structure and over concentration of powers and resources on the central government, by excluding certain regions makes them to resort to agitation for autonomy, inevitably leading to violent clashes. In Africa, the root of all massive human rights violations is political, and hardly judicial. Thus, the solution requires not a judicial but a political means which takes into considerations factors such as restructuring, political and economic empowerment of a certain disadvantaged class or group. Unless the political, social and cultural issues are addressed, the courts, including the ICC will not be able to provide a lasting solution to the different abuses we are now witnessing in Africa.

During the trial of Jean Paul Akeyesu by the International Criminal Tribunal for Rwanda, the evidence gathered revealed that there was a premeditated intention, a centrally organized and meticulously executed plan to annihilate a particular group of people—the Tutsis of Rwanda. And within few months of the upheaval, close to a million people were killed. The Nigeria-Biafra civil war claimed approximately the lives of more than three million Igbo, mostly women and children.[16] From the coastal plains of Sierra Leone, through the tropical forests of the Congo to the mountains of Uganda, millions have perished because of unresolved political struggles. Neither the conviction of Akeyesu by the Rwandan tribunal nor the prosecution of all those who bear

16. Aside from the simmering political tension in Nigeria in the mid-sixties, the immediate precursor of the civil war was the general anti-Igbo uprising in the Northern part of the country which, sweeping the region as a wave claimed the lives of about 100,000 Igbo and other indigenes of the then Eastern Region. Several thousands more were wounded and property worth millions of Pounds destroyed. There were no arrests and no prosecution. This led to a strong feeling that the Federal government tacitly or inadvertently condoned the genocidal act, or was incapable of protecting the lives and property of its citizens. The feeling of insecurity among Easterners, led to an agitation for a safer haven, which the political leaders of the then Eastern region of Nigeria, called Biafra. Soon after, the Nigeria-Biafra civil war broke out.

the greatest responsibility for the atrocities in Sierra Leone such as John Koroma and Foday Sankor can effectively prevent a reoccurrence of similar situation in the future. These issues require political solution. The solution will start by institutionalizing an effective and functioning constitution, which will not only guarantee fairness in the election of the leaders, but also check and balance the powers of different governmental organs and prevent abuse. It will regulate the relationship between the government and the people, and also safeguard a meaningful participation of different ethnic groups in their government and give them a sense of belonging. Observation and respect of human rights is just one of the many obligations which customary international law as well as conventions and judicial decisions have placed on states, and by extension of the third party effect of fundamental human rights[17] also on private individuals. For example, as the fundamentals of human rights continue to flourish in Europe, there is less and less likelihood of witnessing similar upheaval that jolted the continent half a century ago and brought about Nuremberg and Tokyo Military Tribunals.[18]

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17. Human rights as a right, privilege and immunity, which a state owes its subjects, run vertically between the state and the subjects. However, there is a horizontal dimension to the enjoyment of these rights which is known as the "third party effect" of fundamental human rights. This is a concept existing in German constitutional mechanism and known as *Drittwirkung*. It is a process whereby private individuals, just like the state are burdened with the duty to respect and observe the fundamental human rights of others. Ordinarily, most human rights, especially of the first generation, are expressed in negative terms whereby the state is only required to refrain from intruding into the private sphere of its subjects. It has been observed, that even where the state restrains itself from breaching a citizens fundamental human rights, a private person can violate those rights in a way that the state could have done. Thus, the state is called upon not only to respect the rights of its subjects, but also to prevent private individuals from violating those rights, and will be held responsible if it does not create a condition to prevent the violation of individual rights by private persons who may not even be acting as agents of the state.

18. The inadvertence of Versailles to provide adequate support for the fragile democratic movement in Germany after the First World War, the total absence of an economic recovery program and the frontal umbrage caused by the punitive conditions of the armistice laid the unanticipated foundation for the Second World War. Wisely avoiding the mistakes of the past, in Europe, the prosecution and conviction of the principal Nazi officials was immediately followed by heavily financed economic recovery program for Germany—The Marshall Plan. In addition, there was a conscious de-nazification of German political and legal systems through deeply entrenched democratic process. The Weimar Constitution of 1919 was replaced with the German Basic Law of 1949 (*Grundgesetz*) with its elegant but serious provisions for safeguarding the dignity, rights and freedoms of every person. These political and economic developments are more impacting in securing human rights and preventing future tragedies than the token imprisonment and execution of few diehard Nazi henchmen. Today, neither Europe nor the rest of the world will by any stretch of the imagination have reason to fear another Auschwitz, Dachau or Treblinka, or have angst that someday, someone in Berlin, would march with military boots to Paris in order to settle a political difference by force. The flowering of rule of law and democracy in Europe today has made such irredentist behavior both anachronistic and unfashionable. Democracy and economic progress are just the best tools for securing human rights. If similar efforts, as described above, are duplicated in Africa with the help of the international community, a new day for human rights will surely dawn on the continent.

While democracy may not be the panacea for all human rights abuses, it has at least presented itself as the best form of government to check dictatorial inclinations of leaders and helps at least prevent a society from descent into wide spread human rights abuses. Democracy has the best enduring tool to resolving every political issue, by taking into consideration each group's opinion, hopes and fears. Therefore, while the ICC will remain relevant in prosecuting the most visible perpetrators of human rights atrocities that touch on and concern the interest of the international community, more attention should continue to be paid to the factors that trigger off the abuses in the first place. Professor Aka, in his proposal for resolving Africa's conflicts that cause these abuses listed a comprehensive human rights model based on democracy as a political system and integrating human rights education, economic progress, political restructuring, attention to collective or group rights, and necessity for external help as constituent elements.[19] Any realistic observer of Africa for the past four decades will find no problem agreeing with this conclusion.

19. Aka, *supra* note 1, at 208.