

The changes and challenges of our time and the existential crises facing the human rights system

We live in a time of both changes of historic proportions and profound and intersecting challenges. These changes and challenges are of huge consequences to human and peoples' rights, revealing and presenting the existential crisis facing the human rights system writ large. These consequences often tend to be felt in all parts of the world but they are felt more forcefully in parts of the world such as Africa, making them deserving of our most attention and collective actions.

Before I proceed to outline these changes and challenges and their implications, I would like to draw your attention to some real stories which bring home how these changes and challenges affect the lives and wellbeing of individuals and communities.

In October 2021, Kenyan athlete and Olympic runner *Agnes Tirop* was killed in her house. The athlete was found dead at her home in Iten in western Kenya, a town famous for serving as training base for long distance runners. Agnes was 25 years old and a rising star at the time of her killing. She died from stab wounds in her abdomen and neck. Police reported that the suspect for such violent death was the husband of Agnes. This is one, among many such incidents in what is described to be a national crisis of femicide.

In 2006, a ship chartered by the *multinational company TRAFIGURA Limited* brought to Abijan five hundred and twenty-eight cubic meters (528m³) of highly toxic waste which was discharged from the ship and dumped at several sites in Abidjan. The record of the African Court on Human and Peoples' Rights observed

citing the application submitted for its adjudication that ‘according to the Ivorian authorities, 17 people died of toxic gas inhalation and hundreds of thousands affected.’ The dumping of the toxic waste also led to what experts called ‘severe groundwater contamination.

On 24 March 2024, reports came from Darfur that the Sudan Armed Forces carried out **aristrike targetting Tora market** in North Darfur. According to the African Commission on Human and Peoples’ Rights, ‘the bombing struck a densely populated area, hitting a bustling market at a time when many civilians were shopping.’ This indiscriminate bombing is feared to have led to scores of deaths, with the death toll feared to reach hundreds of victims.

Following the outbreak of the ongoing war in Khartoum the capital of Sudan, *Hasna*, a newly married woman found herself captive to soldiers of the Rapid Support Forces who are fighting against the Sudan Armed Forces. ‘I have one request,’ her captive said. ‘I want to sleep with you. I asked you and now you’re going to do it.’ After being raped, Hasna managed to find her way to a home of a friend. Recounting her ordeal, Hasna said ‘I couldn’t stop wailing and crying. I told her what happened and she quickly took me to the bathroom, bathed me with salt water, wrapped my soiled clothes in a plastic bag, gave me Panadol, and then bathed me again.’ Another friend helped get a rape kit, and the Sudanese government’s Unit for Combating Violence against Women (CVAW) helped her get a morning-after pill. ‘I keep replaying the whole thing in my head. I can’t stand to be alone. I constantly need someone with me just to feel OK, to feel safe.’

One can add to these harrowing accounts, the stories of the killing of the father of *Abrham Meareg Amare* as a result of Facebook’s algorithm and poor moderation

allowing the spread of false information that led to the killing, the ordeal of a poor Senegalese husband and father of a newly born child on board a boat carrying 101 people with a promise of taking them to Canary Island but drifted on the sea for 35 days, or a coastal community near Dakar whose land was washed away by a rising sea level or communities displaced by heavy flooding in South Sudan or in Chad or Mozambique as a result of climate change induced extreme weather events.

These tragic stories of violence, oppression and inequities are but some of the many events and stories that characterize the current global and national context. These are the experiences that help to make sense of the forces and factors that brought existential crisis to human and peoples' rights at this historic juncture.

Speaking of historic juncture, we are witnessing tectonic shifts in power structure and relations of the world. The unipolar order of the post-Cold era is over. New centers of power are taking firm shape, inaugurating what is now widely recognized to be multipolarity. This not only involves the rise of new major powers such as China but also the exertion of unprecedented levels of influence on global events by middle powers such as Gulf countries and those in BRICS.

This shift in power is not simply between states. Perhaps the most dramatic shift in power structure of societies the world over is the one away from states, which constitute the bedrock on which the edifice of human rights is built, in favor of private entities, particularly big businesses. Today, the economic weight of some of the major big businesses has become much higher than the economic power of even the most powerful states in the world.

What is significant for our purpose about these shifts in power structure and relations between and within societies is their impact on human rights.

First, the enormous concentration of power in the hands of private entities is having deleterious consequences on questions of accountability.

Second, it has led to the diminishing of not only the power of the state but also most significantly loss of autonomy and policy space by the state, particularly in areas of financial and socio-economic spheres.

Third and relatedly, through the push of neoliberal policies, it has led to the commodification essential services and socio-economic rights.

Perhaps the most recent and concerning manifestation and consequence of this shift is the phenomenon of what is called state capture, in South Africa, and the emergence of global oligarchy.

It is the combination of this power shift and governance deficiencies that led to the toxic dumping by a multinational company in Abidjan, Cote d'Ivoire, thereby causing the death of many people, a life time of ill-health to hundreds of thousands and huge environmental damage.

This shift and its consequences undercut the assumptions on which the human rights system is founded. Among others, it challenges the assumption that the state the most powerful entity and it possesses 'autonomous' sovereign authority for executing the obligations arising from human and peoples' rights.

The other aspect of the change in power relations between states leading to the emergence of multipolarity also carries its own threats to human and peoples' rights. On the African continent, it has the effect of reducing Africa to a battle ground for domination and influence with dire consequences reminiscent of the Cold War. This rivalry over Africa is aggravating a 'new scramble,' targeting critical minerals and other resources, with countries of varying levels of economic and security power, including from Asia and the Middle East, actively seeking to expand their political and security influence across Africa. One of the worrisome consequences of this growing rivalry is the risk of internationalizing conflicts, with various powers giving support to opposing parties. The war in Sudan, in which the dignity and physical security of Hsana was violated with impunity and hundreds died from the indiscriminate bombing of 24 march 2025 in Darfur, is the most notable example of how the entanglement of external rivalry with conflicts at the national level creates the conditions for heinous acts of violence and impunity, thereby making human rights ring hallow.

Yet, these are not the only features of this era and the only sources of threats to human rights and. Inequalities globally and the persistence and today's deepening of pervasive socio-economic deprivations afflicting large number of peoples on the continent is a major feature also of our era. It was reported from a data in 2020, for example, that the number of people who live in extreme poverty in Africa jumped to over half a billion. What this means is that some 520 million people lack the income necessary to meet basic needs. These are our fellow citizens, Africans and human beings who lead an existence stripped of the essential conditions for a dignified life. These are the conditions forcing many like the Senegalese migrants, who survived near death experiences aboard a boat adrift on the Atlantic Ocean with no supplies for survival, to risk their lives in an attempt to escape extreme poverty.

At the heart of this is the unjust structure of international economic relations, whose financial and trading rules are designed and made to operate for sustaining the status quo, giving only little opportunity for economic transformation in poor countries and hence forced to remain at the bottom of the global economic pyramid. Yet, the human rights system in its operation, focus and jurisprudential and scholarly development is much more civil and political rights centric, hence remaining irrelevant to the lived experiences of large number of people languishing in extreme poverty.

The other source of major change that carries enormous implications for human rights is the scale and pace of new technological advancements, including artificial intelligence. Despite the promise that these technological advancements carry for enhancing human and peoples' rights, the nature and pace of their development continues to outstrip the pace of development of the guardrails for governing the development and use of these technologies, leading to a governance/regulatory vacuum exposing human and peoples' rights to various perils. The example of the role of Facebook's algorithm and poor moderation in the propagation of misinformation leading to the killing of Amare's father is only one of the many examples of the grave consequences of the design of algorithms for clickbait. The fact that these technological advancements are dominated by big tech businesses has the impact of reinforcing the concentration of power in private individuals and corporations, inducing what some analysts call **techno-feudalism**, a phenomenon having deleterious impacts on human rights and accountability for violations. Yet, the human rights system does not have the standards that impose direct obligation on big businesses, including tech companies, for human rights with the process for developing binding legal instrument on business and human rights, having fallen victim to the pressure and influence of the same entities.

Moving to the challenges of our time, the first of these to note is the *existential threat posed by the climate emergency*. Extreme weather events induced by climate change are wreaking havoc the world over. These events have become more frequent and more ferocious. While the main culprit for climate change are the greenhouse gas emissions for which the developed world bears the lions share of historical and current responsibility, Africa, which accounts for a negligible percentage of such emissions, is bearing the brunt of the climate emergency. Many parts of the continent are experiencing this emergency through heavy flooding, recurrent droughts and attendant food insecurity and hunger and starvation, hurricanes, sea level rises washing away the land and livelihoods of coastal communities and loss of water bodies and pasture on which many depend for their livelihood and survival. There are questions on whether the human rights system in its current design and form is well positioned for addressing the human rights issues arising from the climate emergency including on holding those responsible accountable and on delivering justice for those affected.

The other challenge which is also shaped, among others, by the developments and changes highlighted earlier, is what is called the democratic recession witnessed during the past decade and continues to accelerate. While democratic regression is a global phenomenon, its manifestations in Africa include the resurgence of military coups, the depreciation in the indicators of democratic governance, including the stifling of political dissent, the closure of the civic space and the failure to deliver accountability and services. On the other hand, this growing democratic governance deficit stands in contrast to the growing demand for a more accountable and responsive system of governance from people. The failure of democracy to deliver

despite support by 71 percent of people for a democratic system of government, has created disillusionment about democracy and human rights.

The other source of challenge is the rise in the number and impact of conflicts. Again, while this is a global phenomenon, the surge in conflicts in recent years is particularly salient here on our continent. What is of particular significance and concern in the context of human rights is that the vast majority of victims of these conflicts and violence are civilians, including children and women.

Such high-level impact of the rise in the number and geographic spread of conflicts is associated with another challenge, the increase in the willful violation of international humanitarian law and human rights by conflict actors. As a recent publication of my organization, Amani Africa, noted, in the context of the war in Sudan not only that the lives and bodies of civilians itself ended up becoming a major battlefield but also the absence of accountability for any of the violations have created an environment of impunity, hence making human rights ring hollow.

The other challenge relates to the persistence and deepening of historical inequalities and injustices as well as the rise to prominence of discriminatory and racist tendencies in the context of the upsurge of nationalist, xenophobic and right-wing politics. One of the major axes of inequality and injustice globally is centered around skin color, which, in today's world, is accentuated by AI and the related technological advancements. This is a major factor that stands on the way of equality and the achievement of the sustainable development goals. Its origin is directly to be traced back to the transatlantic enslavement of human beings from Africa, colonialism and apartheid. Without coming to terms fully with these historical injustices and their persisting consequences that continue to shape the lives of many

people in the world, the realization of the promise of human rights would remain differed, with major consequences to the legitimacy of human rights. This is where the timeliness and particular significance of the African Union theme for 2025 ‘Justice for Africans and peoples of African descent through reparations’ comes in.

The final yet another grave source of threat and challenge to human and peoples’ rights arise from patriarchy and the gender oppression that is characteristic of patriarchy. Patriarchy structures the roles of men and women in society and the relationship of women and men to power and the power relations between them. Apart from reinforcing toxic masculinity, the new technological advances are aggravating the impact of patriarchy on the lives of women and girls. As the story of Kenyan athlete and Olympic runner Agnes Tirop illustrates, patriarchy and the gender oppression that accompanies it not only impends the equal human rights of women but can also be deadly. In the context of war, the story of Hasna, and the experience that her story represents for countless women and girls, shows how atrocious patriarchy can be, leading to the use of rape as a weapon of war. These are developments that have widened gap between the level of institutional and legal progress the human rights system made on the one hand and the lack of impact of human rights on the behavior of actors, thereby precipitating a legitimacy crisis for human rights.

What sums up aptly the foregoing points is the address of UN Secretary-General, Antonio Guterres, to the 58th session of the human rights council earlier this month. He observed that, ‘human rights are being suffocated’ by autocrats, patriarchy, wars and violence, warmongers who thumb their nose at international law and IHL, the climate crisis, a morally bankrupt global financial system, runaway technologies and

growing intolerance, by voices of division and anger. In short, he pointed out, 'human rights are on the ropes and being pummeled hard.'

The foregoing challenges and changes and their impact on the lives and welfare of individuals and societies together with existing flaws in the practice of the system including the prioritization of and emphasis on civil and political rights to the detriment of socio-economic rights, legal positivism and judicialization of rights with inadequate regard to the role of social activism, and the failure to address historical injustices and their continuing impacts have brought the human rights system in to existential crisis.

There is an urgent need for course correction. First, the human rights system should bridge the gap between its promises and the reality of the lived experiences of many people in the world including the majority socio-economically deprived, socially and culturally marginalized and physically uprooted from their places of origin and forced into asylum and migration. As Samuel Moyn powerfully argued, this necessitates that particular emphasis is placed on distributive justice.

Second, there is also a need to expand the tools that the human rights system uses, going beyond focus on legal instruments and legalized forms of justice/supporting human rights. There is a need for also harnessing the tools required to scrutinise financial and economic structures and policies and make financial and economic policy making align with and are anchored on human rights standards.

Third, the human rights system and movement need also to place particular emphasis on the major axes of inequalities and oppression affecting the majority in the world. It needs to address historical injustices affecting Africans and peoples of African

origin as a result of slavery, colonialism and apartheid and reinforce the effort for removing the stranglehold of patriarchy and the gender oppression it occasions.

Fourth, in addition to litigation and the institutionalization of human rights, particular emphasis should be placed on building human rights *consciousness* that is capable of mobilizing robust public opinion necessary for action and *solidarity* rather than helplessness and *social and political activism* as critical factors for confronting the existential crises facing the human rights system.

Fifth, ensure that the human rights system operates in a way that shows that the life of people in all parts of the world is worthy of equal attention and mobilization for protection. It is imperative that human rights actors, media, social movements, opinion leaders as well as philanthropy form an alliance and work together for equal coverage and exposure of atrocities and violence committed in all parts of the world as critical means for mobilizing global public opinion and sustained engagement and action by relevant multilateral institutions. The defense of human rights should not be left to only human rights actors. It should be everyone's business and a collective responsibility.

Sixth, human rights should be deployed beyond its current remit to develop the required norms and standards to address emerging threats such as the climate emergency. Relatedly, the human rights system and international law in general needs to put in place new guardrails to tackle head on the dangers arising from AI and related new technologies and before it is too late.

Seventh and last, not any less significant, is the need to fill in the human rights protection vacuum arising from the accumulation of enormous, potentially

unaccountable power, by big businesses and their poorly regulated operations in the global south in particular, and institute **legally binding and effective system of accountability** by establishing direct obligation on businesses, including by adopting the UN treaty on business and human rights.

For the class that is assembled here today, you hold the promise for this change. As you continue your studies, I do hope that you would be the ones who would change the current trajectory and rescue the human rights system from the existential crises facing it.

Thank you for your kind attention!