

THE RULE OF LAW PROGRAM FOR SUB-SAHARAN AFRICA

TEN YEARS OF ITS EXISTENCE

- DEMOCRACY
- HUMAN RIGHTS
- CONSTITUTIONALISM
- SEPARATION OF POWERS
- GOOD GOVERNANCE
- REGIONAL COOPERATION

By Peter Wendoh, Project Advisor
Strathmore University, November 15, 2016



- **THE GENESIS**

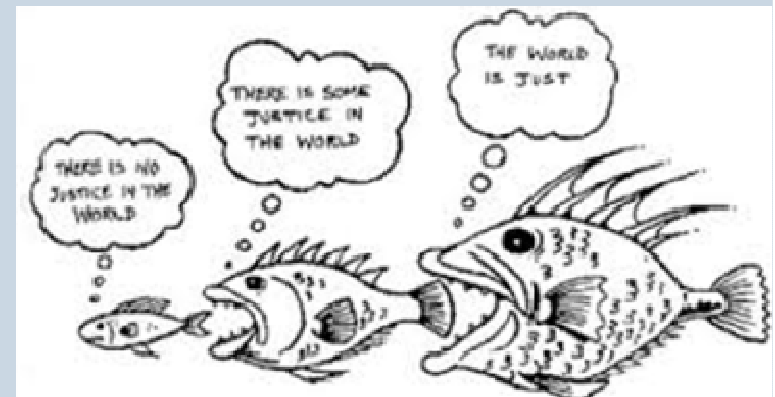
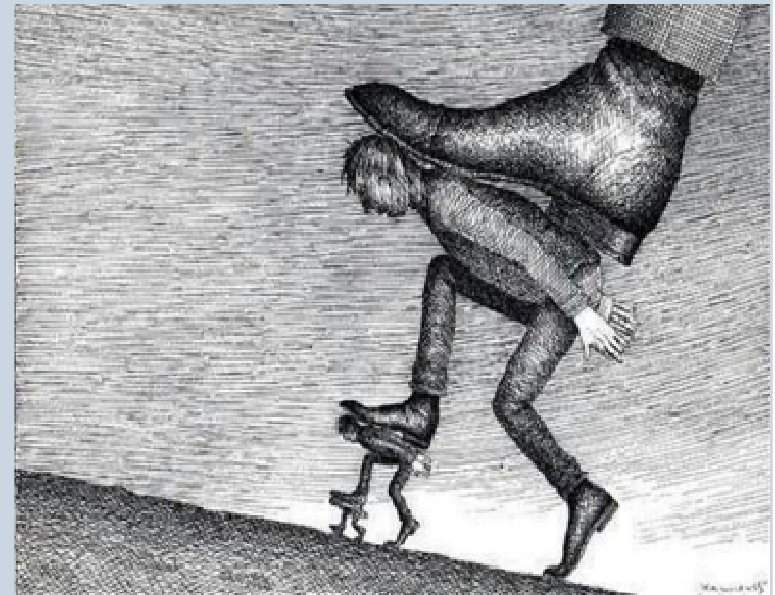
- Consultative meeting with key stakeholders in Mweya Western Uganda, October 2005



THE RULE OF LAW PROGRAM FOR SUB-SAHARAN AFRICA

Inspiration:

- Positive experiences of the Rule of Law Programs in Latin America, Asia and Europe
- Foundation's own conviction that democracy, economic and social development in Africa are only achievable and sustainable under a thriving and strong rule of law regime
- Started in January 2006 based in Nairobi to specifically promote the rule of law in Sub-Saharan Africa
- Covers 49 African countries with the exclusion of Morocco, Tunisia, Libya, Algeria and Egypt



THE RULE OF LAW PROGRAM FOR SUB-SAHARAN AFRICA

Stewardship:

Directed by

- Late Mr. Gerd Bossen (2006-2007)
- Prof. Christian Roschmann (2008-February 2014)
- Dr. Arne Wulff (March 2014 to date)

Project Advisor:

- Mr. Peter Wendoh



OBJECTIVE OF THE PROGRAM

To contribute to the development and strengthening of the rule of law on the continent;

- Complementing and linking the work of the KAS country programs in the field of rule of law
- promoting networks among various key stakeholders for exchange of views, experiences and expertise.



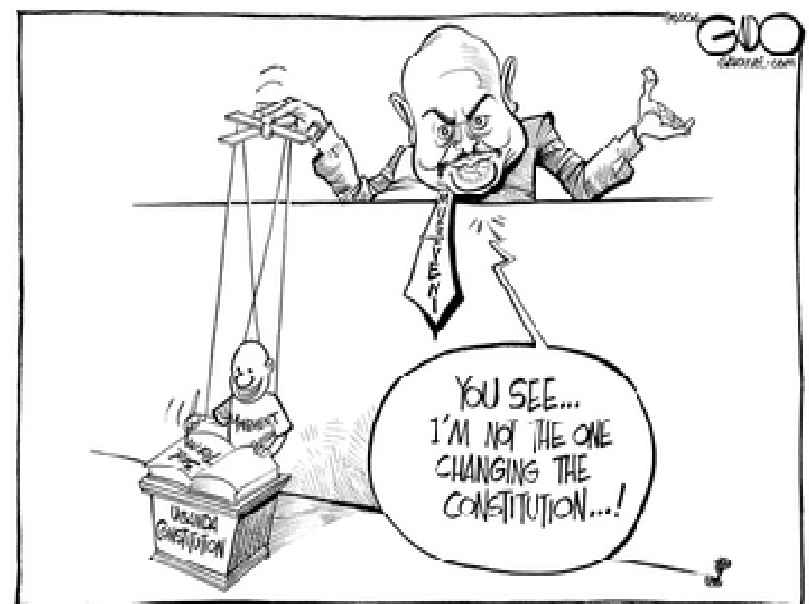
MAIN AREAS OF ENGAGEMENT

■ Independence of the judiciary:

- Constitutional and legislative framework that establish and govern the functioning of the judiciaries
- Legal and administrative policies that regulate the appointment, promotion and removal criteria of judicial officers
- Fiscal autonomy of the judiciaries
- Respect for and enforcement of court decisions

■ Constitution-making and constitutionalism:

- supporting various initiatives in constitution-making and constitutional reform activities
- Identify and address issues that contribute to the lack of respect for constitutional provisions and/or full implementation of the constitutions



MAIN AREAS OF ENGAGEMENT

- **Separation of powers**

- Strengthening of institutions for effective checks and balances

- **Human Rights** – particularly the economic, social and cultural rights
Assess the extend to which fundamental rights and freedom are enshrined in the constitution (Bill of Rights) and how they are respected, upheld and enjoyed by all

- **Democracy:** Participation of citizenry in the process at all levels

- **Good Governance:** fight against corruption and impunity

- Enhanced transparency and accountability in governance processes at all levels

- **Regional integration** to foster strong regional blocs, which are paramount to the realization of peace, stability, social and economic development in Africa



METHODOLOGY OF ENGAGEMENT

Providing a **platform** for exchange of ideas, experiences, expertise, successes and challenges with a view to finding **practical** and **sustainable solutions for Africa**

Target groups:

Judges, prosecutors, legislators, the executive, political parties, legal institutions, Bar Associations, the academia, the civil society, the media etc. across the continent.

Women, youth and people with disabilities are special target groups for the program due to their vulnerabilities.



MAIN ACTIVITIES

Implemented in collaboration with various **African partners**:

- Convening of **conferences, workshops, seminars** and other similar fora that bring together various stakeholders
- **Building and Strengthening of Networks** (Groups & Associations)
- Organizing **study and exchange programs for different groups** within and beyond Africa
- **Supporting research, analysis and publication** of comprehensive reports on topical issues pertinent to the concept of the rule of law
- Granting of university **scholarships** to gifted young professionals and scholars who have a keen interest in the subject of the rule of law



SELECTED STAKEHOLDERS' FORA

- Stakeholders' conference: **Independence of the Judiciary in Sub-Saharan Africa** (October 2006, Nanyuki - Kenya & June 2008, Entebbe - Uganda)
- Stakeholders' conference: **State of the Rule of Law in Sub-Saharan Africa** (October 2006, Mombasa - Kenya)
- Stakeholders' conference: **Separation of powers in Sub-Saharan Africa** (November 2006, Cape Town - South Africa)
- Conference: **Constitution-making, Ratification and Implementation of International Instruments** in Sub-Saharan Africa (February 2007 - South Africa)
- Stakeholders' conference: **Constitutional Adjudication in Sub-Saharan Africa** (June 2007 - Tanzania)



SELECTED STAKEHOLDERS' FORA

- Stakeholders' Conference on **Human Rights in Africa** (September 2008, Kigali - Rwanda)
- Stakeholders' Conference: **Freedom of the Press and Freedom of Information in Africa** (February 2009, Addis Ababa - Ethiopia)
- Stakeholders workshop: **Decentralization and Administrative Law** in Francophone Africa (February 2010, Dakar - Senegal)



SELECTED STAKEHOLDERS' FORA

- Capacity Building Workshops (Kenya School of Law): **Rule of Law and Governance under the new Constitutional Dispensation: Implications for the Kenyan public Service** (2011)
- Conference on **Constitutional Reforms in Kenya and Tanzania in Light of the EAC Treaty** (October 2012, Arusha - Tanzania)A group of men are seated at a conference table. In the background, a banner reads "Constitutional Reform Processes in Tanzania and Kenya Regional Conference" and "TGCL".
- Conference on **Constitutional Reform Processes in Tanzania and Kenya** (May 2013, Dar es Salaam - Tanzania)Two men in suits are shaking hands outdoors. The man on the left is wearing a blue suit and a patterned tie, while the man on the right is wearing a dark suit and a red tie.A large group of people, including men and women, are seated in a hall for a conference. Some are wearing traditional headscarves.



SELECTED STAKEHOLDERS' FORA

- Stakeholders' workshop (CHR): **Restoring the SADC Tribunal** (Aug 2014, Pretoria) AND a follow-up Workshop (SADC LA) for **National Human Rights Commissions in the SADC region on the Restoration of the SADC Tribunal** (Feb 2016, Gaborone - Botswana)
- Stakeholders' Conference (NANHRI): **Budgetary Control, Corruption and Human Rights in Africa** (July 2014, Entebbe - Uganda)



SELECTED STAKEHOLDERS' FORA

- Stakeholders' conference (PALU): **Current Role and Proposed Evolution of the African Court** (October 2014, Arusha – Tanzania)
- Stakeholders' workshop (SADC LA): **Governance and Democracy in the SADC Region** - Reflections and prospects of strengthening democracy in the SADC Region (May 2015, Johannesburg – South Africa)



SELECTED STAKEHOLDERS' FORA

- Stakeholders' Conference (UoP): **Implementation of Modern African Constitutions** (June 2016, Pretoria)



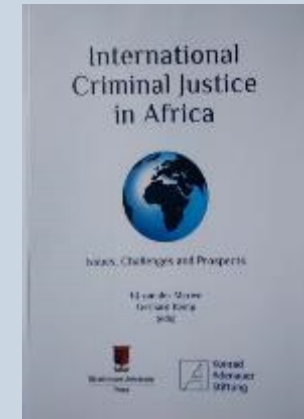
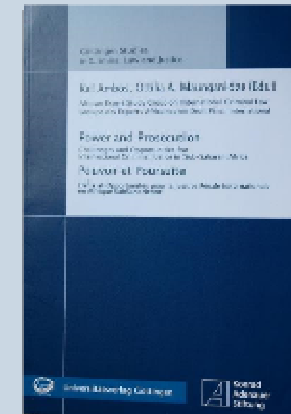
STRENGTHENING OF NETWORKS

- **Annual Jurists' Conferences** (*ICJ–Kenyan Section*)
- **Options for Transitional Justice in Post-Conflict African States**
(November 2009)
- **Constitutional Change, Democratic Transition and the Role of the Judiciary in Government Reform: Questions and Lessons**
(November 2010)



STRENGTHENING OF NETWORKS

- Annual workshops of **KAS' African Group of Experts on International Criminal Justice**
- Annual publication: **International Criminal Justice in Africa**



STRENGTHENING OF NETWORKS

- Establishment of the **Association of East African National Human Rights Institutions** (EAC Partner States)



STUDY VISITS AND EXCHANGE PROGRAMS

- 11 Judges of the **African Court on Human and Peoples' Rights** visit the ICC, the European Court for Human Rights, the German Federal Constitutional Court, the Inter-American Court for Human Rights and the Supreme Court in Washington (May 2007, **The Hague, Strasbourg, Karlsruhe, San José, Washington**)
- 5 Presidents of **Constitutional and Supreme Courts from Western and Central Africa** and 5 Chief Justices **of EAC member states** visit German's legal and judicial institutions (September 2007 and February 2012 respectively)
- **EACJ judges** visit the ICC, European Court of Justice and the European Court for Human Rights and various German legal and judicial institutions (March 2011 and October 2015 respectively)
- Some of the leading jurists from Africa have also been sponsored to attend some of our International events



STUDY VISITS AND EXCHANGE PROGRAMS

- Exchange Program:

SADC Tribunal – EACJ

Exchange program for judges and senior court officials

(July 2010, Arusha)

(July 2011, Windhoek)

(2012, Arusha)



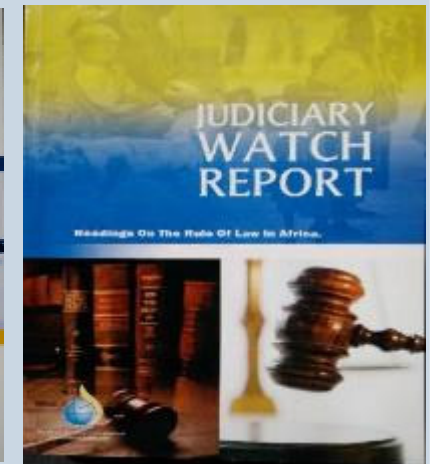
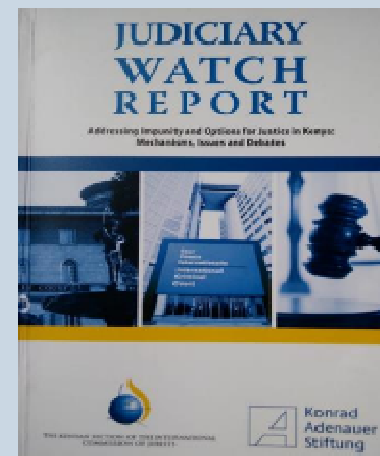
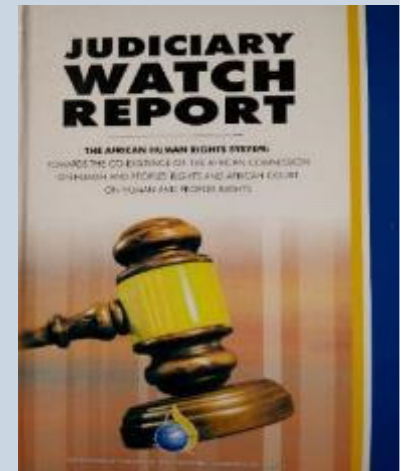
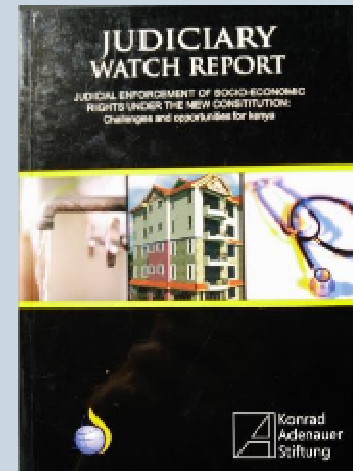
STUDY VISITS AND EXCHANGE PROGRAMS

- Information visit by **German Federal Constitutional Court Judge Prof. Herbert Landau** to the **South African Constitutional Court** (March 2011, Johannesburg)
- Sponsoring of leading jurists from Africa to International events



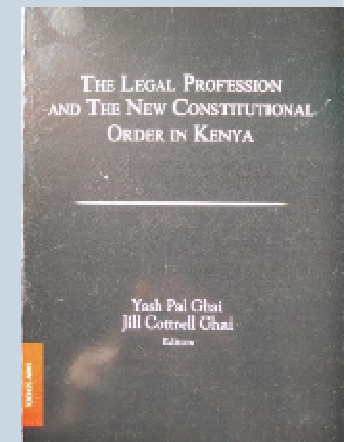
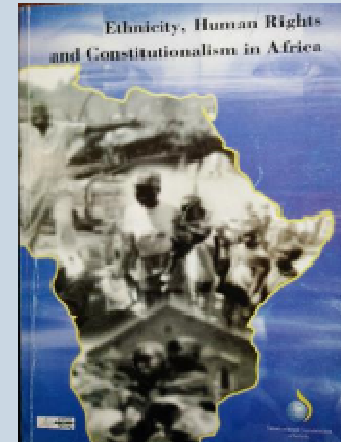
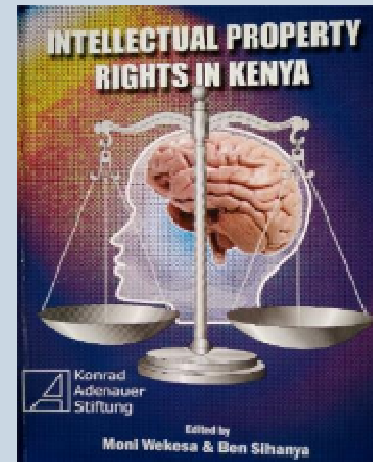
PUBLICATIONS

- Judiciary Watch Report Series (ICJ):
- **The African Human Rights System:** Towards the co-existence of the African Commission on Human and Peoples' Rights and African Court on Human and Peoples' Rights (ed. Frans Viljoen, 2006)
- **Judicial Enforcement of Socio-Economic Rights under the new Constitution:** Challenges and opportunities for Kenya (ed. Japhet Biegon & Godfrey M. Musila, 2011)
- **Addressing Impunity and Options for Justice in Kenya:** Mechanisms, Issues and Debates (2009)



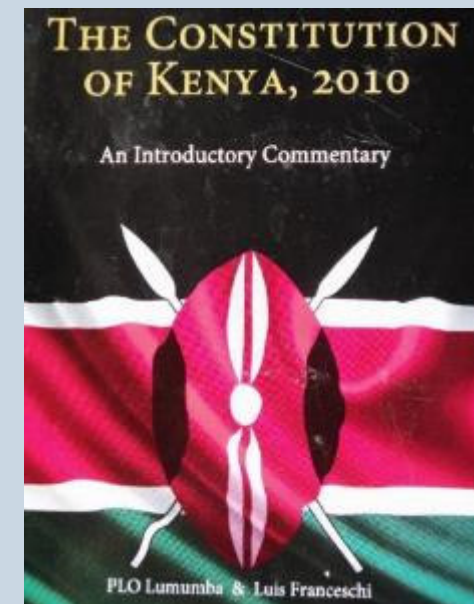
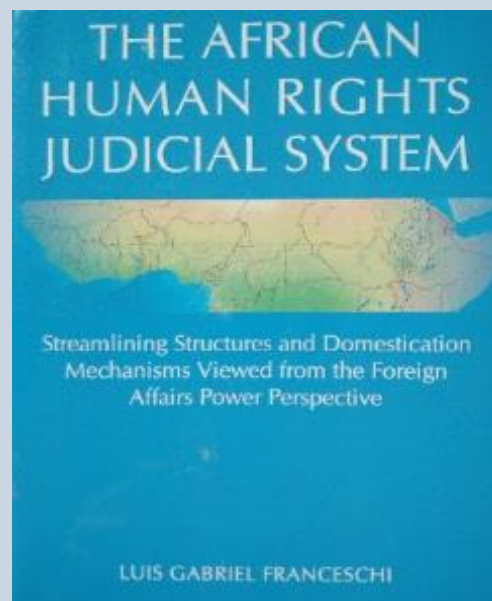
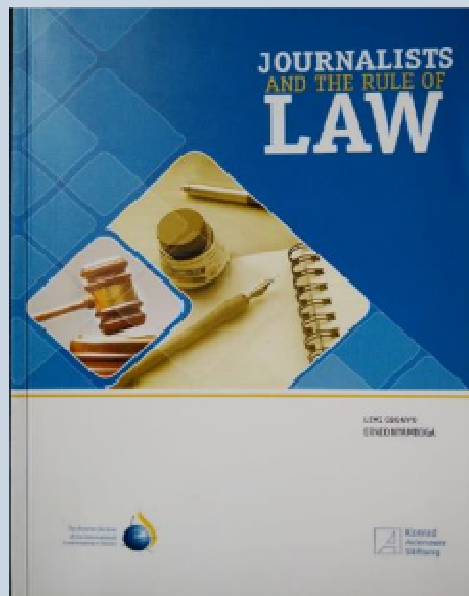
PUBLICATIONS

- **Electoral Reform in Africa** (ICJ):
Challenges and Opportunities (2011)
- **Ethnicity, Human Rights and Constitutionalism in Africa** (ICJ)
(2008)
- **Intellectual Property Rights in Kenya**
(ed. Moni Wekesa & Ben Sihanya, 2009)
- **The Legal Profession and the new Constitutional Order in Kenya** (ed.
Yash Pal Ghai & Jill Cottrell Ghai, 2014)
- **Journalists and the Rule of Law** (ed.
Levi Obonyo & Erneo Nyamboga, 2011)



PUBLICATIONS

- **The African Human Rights Judicial System.** Streamlining structures and domestication mechanisms viewed from the foreign affairs power perspective (ed. Dr. Luis Gabriel Franceschi, 2014)
- **The Constitution of Kenya, 2010:** An Introductory Commentary (ed. by PLO Lumumba & Dr. Luis Franceschi, 2014)



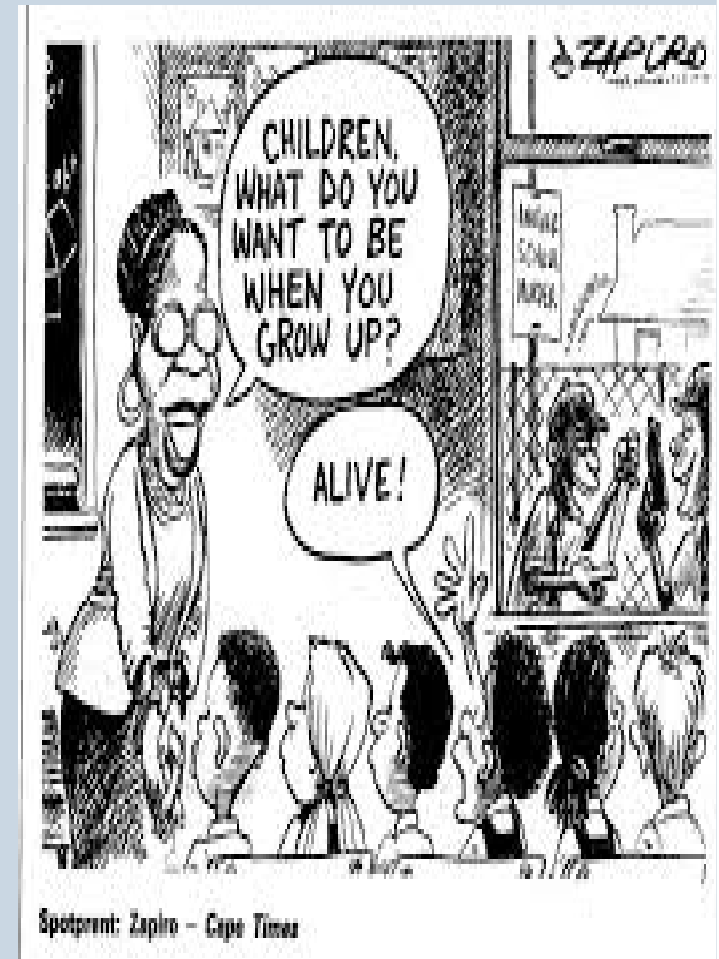
SPECIFIC ACTIVITIES FOR WOMEN

- **Women's participation in governance and political processes**
- Jurists' Conference (2015): **Achieving gender equality in political process**, from theory to practice: Lessons for Africa
- **Access to justice**
- **Strengthening the Protection of Women Rights in West Africa:** Regional Training and Advocacy Workshop on the Rules of Procedure of the African Court, African Commission & ECOWAS Court of Justice (African Court Coalition & Senegalese Association of Female Jurists (AJS), 2015, Dakar - Senegal)



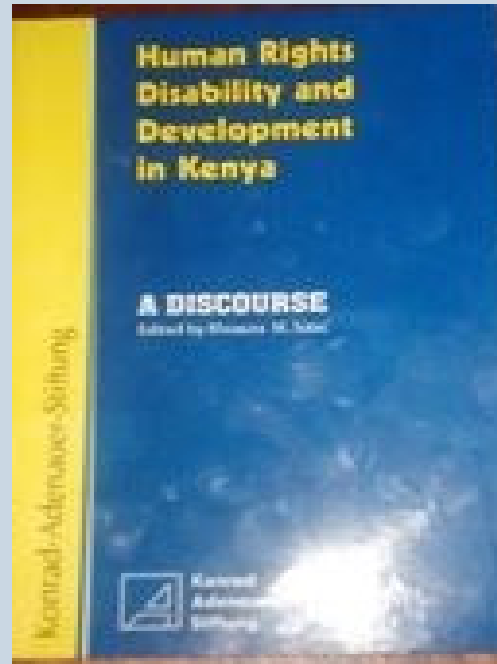
SPECIFIC ACTIVITIES FOR THE YOUTH

- **Involvement and nurturing of the** youth as future leaders, defenders and implementers of the rule of law in Africa
- **supporting educational measures (scholarships), research and dialogue programs** that are focused on meeting local needs both now and in the future
- Regular training seminars and annual joint-regional meetings for **young legal researchers** mainly from Francophone Africa
- Publication – **KAS African Law Study Library**
- 23rd **Africa Human Rights Moot Court Competition** (2014, Nairobi - Kenya)



SPECIFIC ACTIVITIES FOR PERSONS WITH DISABILITIES

- KAS Scholarship Recipient
- **Human Rights, Disability and Development in Kenya**
(ed. by Isaac Mwaura, 2009)
The only Braille Edition



NEW FRONTIERS: CLIMATE CHANGE

Publication

■ **Climate Change – International Law and Global Governance:**

Volume I: Legal Responses and Global Responsibility &

Volume II: Policy, Diplomacy and Governance in a Changing Environment, ed. Prof. Dr. Oliver C. Ruppel, Prof. Dr. Christian Roschmann and Dr. Katharina Ruppel-Schlichting (2013)



NEW FRONTIERS: CLIMATE CHANGE

Stakeholders' Conferences *(UNEP)*

- **First Africa Colloquium on Environmental Rule of Law**
(October 2015, Nairobi - Kenya)
- **Workshop** for East and Southern Africa to Reflect **on UNEA-2 Outcomes and Climate Change Adaptation** through a Multi-stakeholder Approach
(September 2016, Nairobi - Kenya)
- **Training for African Diplomats (AIIL): Negotiating International Treaties** - Focus on Climate Change Issues
(July 2014, Addis Ababa - Ethiopia)



NEW FRONTIERS

- Training for African Diplomats (*AIIL*):
Negotiating International Treaties -
Focus on Climate Change Issues
(July 2014, Addis Ababa - Ethiopia)
- **Terrorism:** Challenges to Emerging
Democracies in Africa
(*SLS*, August 2014, Nairobi - Kenya)
- Annual conferences: **Combating
Corruption in Africa**
(*IFAISA – Accountability Now*)



OUR PARTNERS

- Accountability NOW – IFAISA
- African Court on Human and People's Rights
- African Institute of International Law
- Association of Law Reform Agencies for East and Southern Africa
- Catholic University of Bukavu
- East African Court of Justice
- East Africa Law Society
- Inter-governmental Authority on Development (IGAD)
- Kenya School of Law
- Kenyan Section of the International Commission of Jurists
- National University Rwanda
- Network of African National Human Rights Institutions
- Pan-African Lawyers' Union
- SADC Lawyers' Association
- Stellenbosch University
- Strathmore University
- The Association of National Human Rights Institutions of East Africa
- The Greater Horn Horizon Forum
- Uganda Law Society
- United Nations Environment Programme
- Gaston Berger University, St. Louis, Senegal
- University of Benin
- University of Burundi
- University of Kinshasa
- University of Lubumbashi
- University of Nairobi
- University of Pretoria: CHR & Institute for International and Comparative Law



IMPACT

The Program does not pretend to offer solutions to the numerous challenges facing Africa but it endeavours to support rule of law-related and political development processes by specifically, offering **platforms** that enable an **exchange of views, experiences and expertise between key players within the fields of rule of law, politics, economics and the society** in general, for the **ultimate benefit of the people of Africa**.

Its major success is the robust **networks of key stakeholders at all levels, that have been established through the years**. This has ensured that **rule of law** is and remains an important agenda item within national, regional and continental debate.

In 2010, the Assembly of the AU Heads of State and Government established an African Governance Architecture (AGA), which was designed to establish a framework for developing and interlinking the numerous initiatives and processes at national and regional levels. The objective is to work in a coordinated and effective manner that will help **achieve democratic governance and enhance respect for human rights and the rule of law**.



CONCLUSION

Africa has not realised its full potential but commendable progress has been made in the last two decades.

Greatest challenges moving forward:

- **Corruption and impunity**
- **Environmental crimes** - illegal trade in wildlife; smuggling of ozone-depleting substances (ODS); illicit trade of hazardous waste; illegal logging
- **Climate Change**
- **Terrorism**

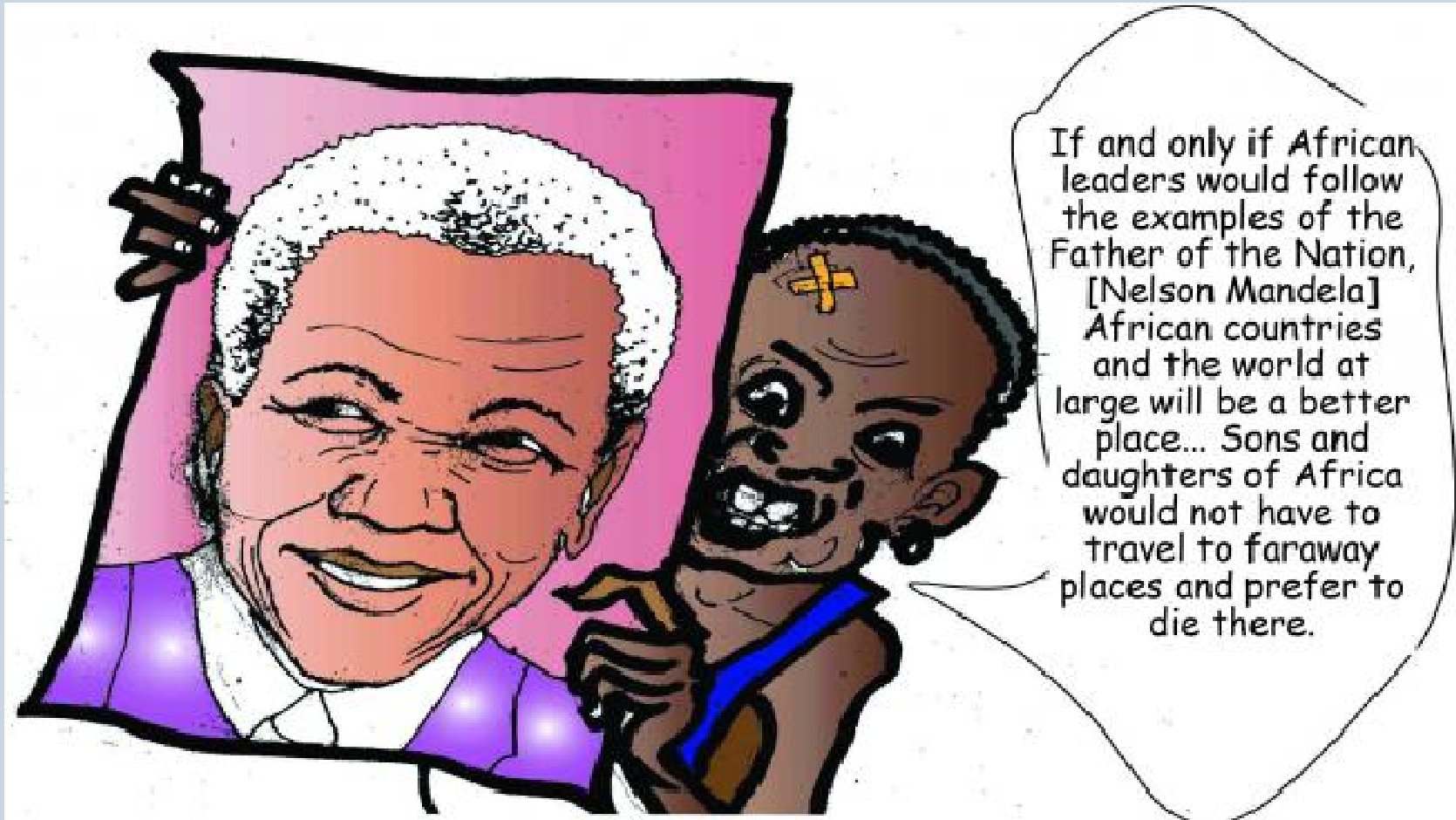
These challenges are surmountable, **if we all join hands and focus on that which is good, noble and just.**

Vigilance and **consistency** are the key to ensuring that the gains are protected and new grounds are broken.



AFRICA WE ALL DESIRE

This journey starts with **you and I**; and the time is **NOW!**





CONTACT

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