

The Addis Ababa Road Map, independent human rights experts and the realisation of human rights ideals

Michael K Addo*

Introduction

The secretariats of the independent human rights experts of the African Commission on Human and Peoples' Rights (African Commission)¹ and the UN Human Rights Council² organised an official dialogue in Addis Ababa, Ethiopia, in January 2012 aimed at exploring ways of strengthening the work of experts. The outcome of this two-day meeting, attended by experts from both institutions,³ as well as representatives of UN agencies⁴ national human rights institutions and civil society

* Professor of Law, University of Notre Dame and Director of the London Law Program. Former member of United Nations Working Group on Business and Human Rights (2011-2018) and Member (with Christof Heyns) of the Joint Steering Committee of Addis Ababa Roadmap (2012-2013). I am grateful for the assistance of Ms Federica Donati at the UN Office of the High Commissioner for Human Rights (OHCHR) and Thomas Probert at the University of Pretoria. Any shortcomings are however entirely mine.

1 See, <https://www.achpr.org/> (accessed 31 December 2021). On the African Commission, see R Murray & D Long *The implementation of the findings of the African Commission on Human and Peoples' Rights* (Cambridge University Press 2015); M Ssenyonjo 'The African Commission and Court on Human and Peoples' Rights' in G Oberleitner (ed) *International human rights institutions, tribunals and courts* (Springer 2018) at 479.

2 See, on this, the UN Office of the High Commissioner for Human Rights (OHCHR) <https://www.ohchr.org> (accessed 31 December 2021) and I Seiderman 'The UN High Commissioner for Human Rights in the age of global backlash' (2019) 37 *Netherlands Quarterly of Human Rights* 5-13.

3 Nine experts from the UN Special Procedures, mandate holders for cultural rights (shaheed), extrajudicial, summary and arbitrary executions (Heyns), rights to freedom of peaceful assembly and association (Kiai), sale of children, child prostitution and child pornography (M'jid), torture and other cruel, inhuman and degrading treatment or punishment (Mendez), trafficking in persons, especially women and children (Ezeilo), foreign debt and related international financial obligations (Lumina), contemporary forms of racism, racial discrimination, xenophobia and related intolerance (Ruteere) and the situation of human rights in Côte d'Ivoire (Diène). The seven experts from the African Commission included experts on Prisons and Places of Detention in Africa (Kaggwa), Human Rights Defenders in Africa (Alapini-Gansou), Rights of Women in Africa (Maiga), Extractive Industries, Environment and Human Rights (Manirakiza), Refugees, Asylum Seekers, IDPs and Migrants (Fadel), Economic, Social and Cultural Rights and Death Penalty.

4 The UN Office to the African Union, UN Women, UNAIDS, UNDP, UNESCO, UNECA, UNHCR, ILO, UNFPA and UNICEF.

organisations,⁵ is what has come to be known as the ‘Addis Ababa Roadmap’ (Roadmap).⁶ The Roadmap has one primary objective: ‘to enhance collaboration between the UN Special Procedure mandate-holders and African Commission Special Mechanisms in the discharge of their mandates’.⁷ The outcome document identifies a variety of ways of achieving this objective including information sharing between the experts, bolstering peer to peer exchanges and learning as well as the consideration of joint actions including country visits, public statements, press releases, awareness raising events alongside the participation in each other’s events and thematic research.⁸ The activities under the Roadmap are managed by a joint group of representatives of experts from both sides with the support of their secretariats.

The 2012 Addis Ababa Roadmap raises many interesting issues of law, policy, process and identity which call for further reflection. The underlying ambition of the cooperation between the groups of experts is, in essence, the full realisation of the substantive human rights guarantees within the context of its key ideals of universality, indivisibility, interdependence and inalienability.⁹ We know however that the realisation of these fine ideals in a world riddled with practices and cultures that do not always cohere with the human rights principles, poses a genuine challenge that may entail the adoption of unconventional strategies to overcome. This chapter will assess how effectively the Roadmap is able to navigate this dissonance between the ideals and reality of international human rights. In that context the chapter will enquire into whether the independent experts identify as governmental experts or as non-state actors and whether their relationship with the governments of the intergovernmental institutions that selected them is significant to the legitimacy and practical value of their work.

For this purpose, the article draws on the transnational legal process scholarship¹⁰ to assess the effect, if any, on the normative

5 See OHCHR, Dialogue between Special Procedures Mandate-Holders of the UN Human Rights Council and the African Commission on Human and Peoples’ Rights (Dialogue) (Addis Ababa, 2012) at 1. https://www.ohchr.org/Documents/HRBodies/SP/SP_UNHRC_ACHPRRoad%20Map.pdf (accessed 31 December 2021).

6 See <https://defenddefenders.org/un-and-african-union-special-mechanisms-on-human-rights-adopt-a-roadmap-for-greater-cooperation/> (accessed 31 December 2021).

7 Dialogue (n 5) at 3.

8 As above.

9 See Preamble of the African Charter on Human and Peoples’ Rights (1981); Vienna Declaration and Programme of Action (1993).

10 On this, see HJ Steiner & DF Vagts *Transnational legal problems* (Foundation Press 1986); N el-Khory ‘Transnational legal process: theory and the effectiveness of international human rights treaties’ in N el-Khory *Irrational human rights? an examination of international human rights treaties* (Brill 2021) 190; HH Koh ‘Transnational legal process’ (1996) 75 *Nebraska Law Review* 182; HH Koh

development, interpretation and application of international human rights law. When Harold H. Koh posed the question ‘Why do nations obey international law’?,¹¹ he was seeking to analyse the motivation behind states’ compliance with their international obligations and proposing as a platform for explanation, the transnational legal process which he defined as

[t]he theory and practice of how public and private actors – nation states, international organizations, multinational enterprises, non-governmental organizations, and private individuals – interact in a variety of public and private, domestic and international fora to make, interpret, enforce, and ultimately, internalize rules of transnational law.¹²

Dean Koh concedes that this approach to seeking to explain the compliance question in international law, that is to say, the realisation of the principle of rule of law (why nations obey international law) is ‘untraditional’¹³ and/or because it is ‘non-statist’¹⁴ primarily for the room it affords to all transnational actors to contribute to shaping the law. Of the many dimensions and effects of the transnational legal process on international law, the most captivating of the untraditional character is the fact that non-state actors have a role and contribute to the making of the law. Less significant in terms of verifiable evidence is how and the extent to which this process influences states’ behaviour. That enquiry remains of continuing interest to scholars and policymakers alike.

International human rights law is represented as providing a relatively fertile ground for the transnational approach to international law¹⁵ and so of interest in this chapter to assess its significance in norm development, interpretation and application. The first section, with a focus on the nature and character of the Roadmap, analyses its nature and origins as a part of the transnational legal process, followed by a section that is devoted to the assessment of the program of activities for the implementation of the Roadmap and the extent to which these contribute to the realisation of international human rights ideals of universality, interdependence and indivisibility through norm development, interpretation and application. The next section explores some challenges facing the Roadmap and, finally, some conclusions are offered.

‘Transnational legal process after September 11th’ (2004) 22 *Berkeley Journal of International Law* 337 and HH Koh ‘Why do nations obey international law?’ (1996/1997) 106 *Yale Law Journal* 2599.

11 Koh 1996 (n 10).

12 Koh 1996 (n 10) 183-184.

13 Koh 2004 (n 10) 184.

14 As above.

15 See El Khory (n 10).

Nature and character

The record suggests that the Addis Ababa Roadmap was launched in January of 2012 under the auspices of the African Union (AU) and the UN Office of the High Commissioner for Human Rights (OHCHR) to bring together independent experts of the UN Human Rights Council (Special Procedure Mandate holders) and those of the African Commission on Human and Peoples' Rights.¹⁶ This is true but this formal narrative does not quite capture the contextual knowledge that contributes to the full character of this initiative. In fact, prior to this formal launch of the Roadmap, there had been regular interactions, discussions and activities between the two groups of experts.¹⁷ Indeed, the idea to formalise the relationship was at the behest of these experts, led by Christof Heyns who had prior professional dealings at both the United Nations and at the African Commission.¹⁸ As the UN Special Rapporteur on extrajudicial, summary or arbitrary executions at the time of the launch of the Roadmap, Christof Heyns had had a long association with the African Commission through the Centre for Human Rights at the University of Pretoria, which was made even more pertinent by the goals of his UN mandate that drew him even closer to the African Commission counterparts.

Independent experts as non-state actors

That the Roadmap is the brainchild of and managed by independent human rights experts makes it less of an official intergovernmental initiative. There is however a twist to the representation of the Roadmap as a non-state initiative due to the unique relationship between the group of experts and the two intergovernmental institutions from which they are drawn. It is true that the human rights experts involved in the Addis Ababa Roadmap hold their positions at the behest of the States that form the relevant intergovernmental organisations and the experts are usually elected by member states and given specific mandates the terms of which are defined by the states. For these and similar reasons, a casual observer may suggest that the experts are, at a minimum, embedded in the wider intergovernmental organisation and to that extent close to a state actor. However, in practice, the nature and character of these independent experts straddles across the state

16 Dialogue (n 5) 1.

17 See Christof Heyns was a member of the expert group on the WG on the Death Penalty. Also Sheila Keethraruth, at an earlier occasion, an expert on the Working Group on Extractive Industries.

18 As above.

and non-state identities but a lot more recognised as part of the latter (non-state) character than the former.

Admittedly independent human rights experts are not your traditional non-state actor, but then again, there is not a typical or standard non-state actor of which there are many groups ranging from individuals, social communities (such as indigenous peoples), private business enterprises, non-governmental organisations and in this instance independent experts. The distinguishing character of non-state actors is that they are not governmental agencies or state institutions although they maintain different levels of relationships with the state. Independent international human rights experts present among the group of non-state actors with a closer relationship with the state and yet not state actors. The most important characteristic in this context is that the experts are independent of the state with an autonomous responsibility that includes the power to call states to account for human rights shortcomings. The representation that compromises this character undermines the essence of their roles. Similarly, one that enhances the independence of the experts helps to achieve their mandates.

Independent human rights experts, of which there are many different categories,¹⁹ have emerged to be one of the successful strategies to bridge the gaps generated by the dissonance between the ideals and reality of human rights. So much of the work that such experts undertake towards the realisation of human rights ideals is guided by the mandate set for them by the inter-governmental institutions in which they are situated. For this reason, it is arguable that the true independence of such experts may be limited or even compromised. However, careful reflection of the work of human rights experts suggests a greater reach than the basic and literal application of their mandates for the practical reason that the specific terms of the mandate are unable or unlikely to capture or foresee every aspect for the implementation of the mandate. The terms of the mandate are therefore usually drafted in general and broad terms that allow for the mandate holder to interpret them in a way that enables the achievement of the ideals of the mandate. Most of this additional reach of the work of independent human rights experts is justified in the inherent power to interpret the terms of their mandates.²⁰ This power to be the ultimate judges of the scope of their

19 At the United Nations, for example, the Special Procedure Mandate holders are different from the treaty body experts.

20 On this, see MR Ferrer 'The inherent jurisdiction and its limits' (2013-2014) 13 *Otago Law Review* 107; C Brown 'The inherent powers of international courts and tribunals' (2005) 76 *British Yearbook of International Law* 195; J Liang 'The inherent jurisdiction and inherent powers of international criminal courts' (2012) 15 *New Criminal Law Review* 325. See also, Lord Devlin in *Connelly v DPP* (1964) AC 1254; Lord Bingham in *Grobbelaar v News Group Newspapers Limited* [2002] 1 WLR 3024.

mandates is critical to the success of their work as independent actors, especially in the limited instances when independent experts act in quasi-judicial roles. In practice, the definition of priorities, the selection of partners and the actions to be undertaken in order to achieve the terms of the mandates, rests with the independent experts themselves.

With this ability to reconceptualise their roles, most experts are able to assert a level of autonomous action that places them apart from the intergovernmental institution that mandated them. The Addis Ababa Roadmap is a product of this elastic application of the mandates of independent human rights experts. Admittedly, this approach to international human rights practice can raise legitimacy questions and in the circumstances of their work, these ancillary activities undertaken by these experts have to be justified to and oversighted by the supervisory institution and therefore risk not being entirely secure. In addition, as the extra-mandate activities tend to sit outside the conventional program, it would be interesting to understand how and why they come about and whether they have real added value that cannot be gained in the normal processes.

Terms of reference

Although a review of the terms of reference (mandates) of the independent experts of the African Commission and the UN Human Rights Council do not reveal an express reference to the Addis Ababa Roadmap, this does not mean that the launch of the Roadmap and engaging in activities under that initiative are outside of the relevant terms of reference. Following the argument (above) concerning the inherent authority of mandate holders to interpret the scope of their mandates as part of their independence, it is reasonable to expect that the practical steps considered necessary for the implementation of their mandates, which would not always be so expressly foreseen by the text of the authorising instrument, would ordinarily be seen as an essential responsibility of the mandate holders. In addition, there is evidence that the program of activities under the Roadmap were envisaged, in very broad terms by the various terms of reference of the mandate holders. In order to appreciate the necessity and the foreseeability of the Addis Ababa initiative, it is essential to revisit some of the basic elements of the Roadmap.

First and foremost is one of the characterisation of the January 2012 event as a dialogue and its outcome as a 'Roadmap'.²¹ The former marks the first rang in any exercise of collaboration for which the sharing of perspectives is essential in the search for a common ground. The idea of a dialogue suggests the absence of preconceived outcomes or

21 See Dialogue (n 5).

conclusions and therefore forward-looking in its outlook. Prior to the event, it is true that both groups of experts had been aware of each other's mandates and had even interacted and engaged on ad-hoc and informal basis but not with sufficient depth of appreciation of the priorities, working methods and challenges of each other's activities. The dialogue was therefore the most appropriate entry point for any future collaboration. The latter characterisation as a Roadmap is also significant for marking a means to an end rather than an end in itself. In this forward-looking respect, any of the potential areas of cooperation in the Roadmap are not prescriptive but illustrative only. This opens up the potential reach of the initiative to fields of activities that may not have been foreseen at the time of its adoption. This is therefore a flexible and dynamic Roadmap. This factor is especially useful for a subject – human rights – whose realisation requires adaptability.

The next important issue of interest is the nature of the initiative. Bearing in mind that this was convened under the auspices of intergovernmental institutions, it is arguable that its character will be drawn from that. However, there is more to the Addis Ababa Roadmap than who convened it. The role of the State and State institutions cannot be ignored but it should not be exaggerated either. In effect, the role of the intergovernmental organisations is largely facilitative, firstly in conferring a formal place in their institutional nomenclature to the activities of the independent experts some of whose informal interactions with each other predated the formalisation. It is therefore no surprise that the focus of the interactions that sustain the initiative from its initial dialogue and subsequently remains with the independent experts and other non-state actors. Furthermore, a nuanced assessment of the specific department of the secretariat that facilitated the formalisation of the initiative supports the primacy of the independent experts. At OHCHR, for example, there is a dedicated branch – the Special Procedures Branch (SPB) – with the primary responsibility to support the work of the independent mandate holders, including safeguarding their independence. That it was this department, alongside the Africa Branch of OHCHR,²² that facilitated the Addis Ababa dialogue is important to affirming the separation of the initiative from governmental influence.

Legitimacy: necessity and foreseeability

So far, the argument here suggests that this is a self-generated initiative by independent human rights experts operating under the umbrella of intergovernmental organisations that provide a formal framework but do not drive the workings of the initiative itself. It is argued further

22 The Directors of these two OHCHR branches, Ibrahim Wane from the Africa Branch and Jane Connors from the Special Procedures Branch supported the independent experts in the quest for the Roadmap.

that the status of ‘independent experts’ provides the mandate-holders a reasonable degree of autonomy to determine what is necessary for the effective implementation of their mandates and that some, if not all of the activities, may have been envisaged by the intergovernmental mandates and so conferring legitimacy on the initiative and its activities.

An effective analysis of the question whether the intergovernmental organisations could have foreseen the Roadmap and its activities requires an assessment both of the basis of such activities in norms and principles of general international law (the foundational mandate) as well as an assessment of the specific authority for the independent experts to engage in such activities

For the general and foundational mandate for the Roadmap, a good starting point is the Charter of the United Nations one of whose purposes is to ‘achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character’,²³ a principle that guides and underlies all the activities of the organisation.²⁴ Indeed, the principal organs of the organisation are required to promote and act in accordance with this principle of cooperation.²⁵ The principle of cooperation has provided the basis for a wide range of activities between the UN and the AU in matters of development, peace and security, the environment, human rights, terrorism, health etc from which the Roadmap can be said to draw its inspiration.²⁶ At the 2005 World Summit of the UN, for example, Member States expressly committed to cooperate to meet the needs of Africa through partnerships, capacity building, peacebuilding and integration into the international economic architecture.²⁷ This general commitment led to the adoption of a Declaration to enhance UN-AU cooperation between the UN Secretary-General and the Chairperson of the African Union Commission.²⁸

Focusing on human rights, the mandate of United Nations Human Rights Council²⁹ foresaw that ‘the promotion and protection of human rights should be based on the principles of cooperation and genuine dialogue’,³⁰ requiring the work of the Council to be guided by principles

23 UN Charter, art 1(3).

24 Chapter 1 of UN Charter.

25 For the General Assembly, see UN Charter, art 13 and for the Security Council, see UN Charter, art 24(2).

26 See, for example, GA Resolution 60/1 - 2005 World Summit Outcome. UN Doc. A/RES/60/1 (October 2005)

27 See 2005 World Summit Outcome (n 26) from para 68.

28 See UN Doc. A/61/630 (December 2006) on Declaration Enhancing UN-AU Cooperation: Framework for the Ten-Year Capacity Building Programme for the African Union.

29 See General Assembly Resolution 60/251 (2006) – Human Rights Council.

30 See General Assembly Resolution 60/251 (2006), Preamble.

including ‘constructive international dialogue and cooperation’³¹, ‘contribute, through dialogue and cooperation, towards the prevention of human rights violations’³² and to ‘work in close cooperation in the field of human rights with ... regional organisations’.³³ Furthermore, the OHCHR, the section of the UN secretariat responsible for providing administrative support for human rights matters entered into a Memorandum of Understanding with the African Union Commission in 2010³⁴ to strengthen cooperation between the two institutions. This is complemented by another Memorandum of Understanding between OHCHR and the African Commission in 2019³⁵ in which the parties expressly recalled

[t]he Addis Ababa Roadmap adopted by the Special Procedures of the United Nations Human Rights Council and those of the ACHPR in 2012 to strengthen cooperation between the international and regional human rights systems.³⁶

The 2019 MOU specifically identified among the activities

[s]upporting the joint actions between the international human rights bodies and the ACHPR, including its special mechanisms, inter alia, country visits, public statements, press releases, awareness raising events and participation in each other’s events, thematic research and contribution in the development of international and regional jurisprudence, standards and guidance, as well as follow-up on the recommendations emanating from these bodies.³⁷

This was lifted verbatim from the Roadmap outcome document.

Finally, from the perspective of the African Union, support for the general mandate for the independent experts to undertake and engage with the Roadmap may be found in article 45(3) of the African Charter on Human and Peoples’ Rights (African Charter), which invites the African Commission to ‘cooperate with other African and international institutions concerned with the promotion and protection of human rights in Africa’.³⁸

31 Preamble (n 30) para 4.

32 Preamble (n 30) para 5(f).

33 Preamble (n 30) para 5(h).

34 Memorandum of Understanding between the African Union Commission and the Office of the United Nations High Commissioner for Human Rights (2010), https://www.ohchr.org/EN/NewsEvents/Pages/OHCHR_AUCommissioncooperationAfrica.aspx (accessed 27 November 2021).

35 Memorandum of Understanding between the African Commission on Human and Peoples’ Rights and the Office of the United Nations High Commissioner for Human Rights (2019 OHCHR-ACHPR MOU), https://www.achpr.org/public/Document/file/English/MOU%20ACHPR-OHCHR_EN.pdf (accessed 27 November 2021).

36 2019 OHCHR-ACHPR MOU (n 35) Preamble.

37 2019 OHCHR-ACHPR MOU (n 35) art 2(c).

38 African Charter on Human and Peoples’ Rights (1981), file:///Users/mikeaddo/Downloads/banjul_charter%20(2).pdf (accessed 27 November 2021).

Next, is the assessment of the specific authority of the independent experts to adopt and engage in the activities of the Roadmap. Both groups of experts share the common vision of promoting the respect for human rights using similar working methods such as country visits, thematic reports and responding to communications.³⁹ However, the manner in which these tasks are to be achieved are different primarily because of the manner of their appointments. The expert mechanisms of the African Commission are members of the wider Commission and their work feeds into that Commission. Those of the United Nations on the other hand tend to be self-standing and not a part of another body. They prepare reports to the Human Rights Council and the General Assembly. The effect of this difference is that while the African Commission experts draw the terms of their mandate directly from the African Charter, those of the United Nations draw their mandates from the terms of specific resolutions of the Human Rights Council. These instruments therefore provide the basis for the Roadmap. While the Roadmap as a specific initiative could not have been foreseen by either institution, the activities arising from the Roadmap on the other hand may easily be justified under the terms of the mandates of these experts. Some of the justification such as the power to cooperate with others may be express, while other activities may be implied from their powers.

From the perspective of the African Commission experts, article 45 of the African Charter has already been mentioned as mandating cooperation with international institutions and this should be read in the wider context of the broader mandate of the Commission including the power to collect documents, undertake studies and organise seminars and workshops.⁴⁰ In addition, the power in the Charter to resort to any appropriate method of investigation and for this, hear from ‘any person capable of enlightening it’⁴¹ is relevant.

The mandate resolutions of the UN Special Procedure mandate-holders provide a mixture of express and implied authority that may

39 See, for example, for the UN Working Group on Business and Human Rights at <https://www.ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporationsandotherbusiness.aspx> (accessed 31 December 2021), and for Special Rapporteur on extrajudicial, summary and arbitrary executions, see, <https://www.ohchr.org/EN/Issues/Executions/Pages/SRExecutionsIndex.aspx> (accessed 31 December 2021). For a full list of United Nations Special procedure Mandates, see, <https://spinternet.ohchr.org/ViewAllCountryMandates.aspx?Type=TM> (accessed 31 December 2021). For African Commission, see, Special Rapporteur on Prisons, Conditions of detention and Policing in Africa, see, <https://www.achpr.org/specialmechanisms/detail?id=3> (accessed 31 December 2021); Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa, see, <https://www.achpr.org/specialmechanisms/detail?id=4> (accessed 31 December 2021). For full list of Special Mechanisms, see <https://www.achpr.org/specialmechanisms> (accessed 31 December 2021).

40 African Charter (n 38) art 45(1).

41 African Charter (n 38) art 46.

cover the activities of the Roadmap. The mandate resolution of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in force at the time of the launch of the Roadmap⁴² authorised the mandate-holder to

continue to cooperate with the Committee against Torture, the Sub-committee for the Prevention of Torture and relevant United Nations mechanisms and bodies and, as appropriate, regional organizations and mechanisms, national human rights institutions, national preventive mechanisms and civil society, including non-governmental organizations.⁴³

This power to cooperate which is evident in other mandate resolutions⁴⁴ is restated in every subsequent mandate renewal since, including the most recent renewal of that mandate in 2020.⁴⁵

The mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions represents the example of authority that is not as express as the Torture mandate and yet significant. The relevant resolution at the time of the launch of the Roadmap⁴⁶ refers to cooperation with other UN mechanisms⁴⁷ but not to regional mechanisms. Instead what it provides for that may be implied as enabling the activities under the Roadmap is for the ‘Special Rapporteur to ... *collect information from all concerned, to respond effectively to information that comes before him or her, to follow up on communications and country visits and to seek the views and comments of Governments and to reflect them, as appropriate, in the elaboration of his or her reports.*’⁴⁸ (emphasis added). The resolution further requests the Special Rapporteur ‘[T]o continue to examine situations of extrajudicial, summary or arbitrary

42 Human Rights Council Resolution 16/23 – Torture and other cruel, inhuman and degrading treatment or punishment: mandate of Special Rapporteur (UN Doc. A/HRC/RES/16/23) 12 April 2011, <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G11/127/41/PDF/G1112741.pdf?OpenElement> (accessed 31 December 2021).

43 Human Rights Council Resolution 16/23 (n 42) para 3(f).

44 See, for example Human Rights Council Resolution 17/4 (2011) in relation to the Working Group on Business and Human Rights.

45 Human Rights Council Resolution 43/20. Torture and other cruel, inhuman or degrading treatment or punishment: mandate of the Special Rapporteur (UN Doc. A/HRC/RES/43/20) 2 July 2020, <https://undocs.org/A/HRC/RES/43/20> (accessed 31 December 2021), para 1(f).

46 Human Rights Council Resolution 17/5 - Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions (UN Doc. A/HRC/RES/17/5) 1 July 2011, <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G11/142/92/PDF/G1114292.pdf?OpenElement> (accessed 31 December 2021). See similar terms in the most recent renewal of the mandate in Human Rights Council Resolution 44/5. Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions (UN Doc. A/HRC/RES/44/5) 22 July 2020, <https://undocs.org/en/A/HRC/RES/44/5> (accessed 31 December 2021), especially paras 7(a) and 9.

47 As above, para 9 that provides as follows: ‘Welcomes the cooperation established between the Special Rapporteur and other United Nations mechanisms and procedures in the field of human rights, and encourages the Special Rapporteur to continue efforts in that regard.’

48 As above, para 6.

executions *in all circumstances and for whatever reason*, and to submit his or her findings on an annual basis, together with conclusions and recommendations, to the Human Rights Council.⁴⁹ Ironically, it was one of these indirect directives to the Special Rapporteur to monitor the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment,⁵⁰ that provided his greatest inspiration for action under the Roadmap to work with colleagues from the African Commission to develop a General Comment on the right to life.⁵¹

Whether the authority to act under the Roadmap is seen as express or implied, it is also justifiable on the need as perceived by the individual mandate holder for effective action to implement the terms of the mandate. This is the necessity justification.⁵² The broad and general nature of the terms of the mandate of independent human rights experts means that the practical realisation of the terms of that mandate depends not only on the subject matter but also on the selected priorities of the mandate holder. In determining the activities that would, in their opinion, support or lead to the effective implementation of the mandate, they may choose to cooperate with others who can make meaningful contributions to that effort. Unless, therefore, the mandates expressly prohibit the cooperation with others, this form of engagement is seen to lie within their terms. It is a necessary part of their work.

There is another reason why cooperation may be seen as a necessary part of the mandate of independent experts and that is because of the sheer enormity of their tasks. Each mandate holder carries the responsibility (often alone) of the practical realisation of the ideals of the subject of their mandate. Apart from working to streamline the many dimensions of the subject, they are also expected to implement the standards globally or across the continent, ranging from awareness raising, responding to communications, visiting countries, consultations and preparing thematic reports. In reality, this is an impossible undertaking unless independent experts seek and work with various partners, both governmental and non-governmental. The practice of seeking and working with partners has become a standard part of the tool-kit of mandate holders as to be considered good practice.⁵³

49 As above, para 7(a) (emphasis added).

50 As above, para 7(e).

51 See below 'Collaboration on human rights themes'.

52 See A Brudner 'A theory of necessity' (1987) 7 *Oxford Journal of Legal Studies* 339; L Wolf-Philips 'Constitutional legitimacy: a study of the doctrine of necessity' (1979) 1 *Third World Quarterly* 98.

53 See, in relation to the UN Working Group on Business and Human Rights, 'Report of The Working Group on Business and Human Rights to the Human Rights Council', UN Doc. A/HRC/20/29 (2012) from 1.

In any case, working with other experts, especially from outside of the intergovernmental organisation of the mandate holder is a sure affirmation of the universality, interdependency and indivisibility of human rights.⁵⁴

This is one sense in which the Addis Ababa Roadmap is not unusual in the work of independent human rights experts. Indeed the [preamble of the] Roadmap affirmed the importance and necessity of cooperation for all the reasons set out above.⁵⁵ This raises the question of how effective the initiative has been in the realisation of the ideals of human rights through norm development and application. This is the question to which we turn.

The Roadmap in practice

The 2012 Addis Ababa meeting between independent experts of the UN and the African Commission had one primary objective in mind, that is to cooperate and collaborate with each other in the discharge of their mandates⁵⁶ and for this the Outcome document proposes some ‘practical measures to nurture, sustain and strengthen such cooperation’,⁵⁷ including sharing information, actions to bolster peer exchanges, joint actions, such as country visits, press releases and the participation in each other’s events.⁵⁸ Other equally important practical steps proposed for achieving the objectives of the Roadmap include undertaking collaborative research on thematic issues as well as working together on Commissions of Inquiry.⁵⁹ The extent to which these practical initiatives are able to contribute to the objectives of the Roadmap depends upon a variety of factors including opportunities, funding and the nature of the cooperation relationship.

Between its launch in 2012 and 2019, the Roadmap has generated considerable interaction and engagement between the United Nations and the African Commission, covering no less than over a hundred recorded activities.⁶⁰ This statistic is already an indication of success for the Roadmap. It is even more impressive to note that these activities have involved the breadth of UN and African mandate holders. Specifically, the

54 These international human rights ideals have both normative and practical dimensions. Their full effect includes the normative applicability of rights regardless of geography as well as the interrelatedness of different generations of rights but also their practical application across rights regimes and geographies.

55 See Dialogue (n 5).

56 Dialogue (n 5) at 3.

57 As above.

58 As above.

59 As above.

60 See OHCHR, Implementation Chart – Addis Ababa Roadmap 2012-2019 (hereafter referred to as Implementation Chart) on file at OHCHR.

activities have engaged at least 32⁶¹ out of the UN's 58⁶² mandates and, over the years, no less than 15 mandates of the African Commission.⁶³ Most of the experts who have been actively engaged in the activities of the Roadmap are predictable, including the holders of the four African country mandates (Burundi, Central African Republic, Eritrea and Côte d'Ivoire) and for the thematic mandates, intense activity in areas such as violence against women, human rights defenders, albinism, extra-judicial killing, discrimination against women, freedom of association and assembly, business and human rights is not surprising. This may be attributed to the importance of such issues in the region as well as the existence of corresponding mandates in both intergovernmental systems.

The reach of the Roadmap is however not limited to interests within the Africa Region only nor has it been limited to the UN Special Procedure and African Special Mandate systems. In fact, the Roadmap has also engaged the main intergovernmental institutions, including the African Union,⁶⁴ and the African Commission⁶⁵ as well as the UN Human Rights Council.⁶⁶ The participation of UN experts in the meetings of the African Commission (since the 52nd session)⁶⁷ alongside the participation of African Commission experts in meetings of the Human Rights Council (since the 20th session)⁶⁸ represent one of the largest areas of Roadmap impact, probably as much as the activities of the individual experts put together. UN experts have contributed to the judicial and quasi-judicial African institutions through the submission of *amicus curiae*.⁶⁹ Similarly, the Roadmap has also registered impact in other intergovernmental organisations including the Council of Europe⁷⁰ and the Inter-American Commission on Human Rights.⁷¹ Within the UN, the Roadmap had drawn the expertise of the human rights treaty bodies, especially the Committee on the Elimination of Discrimination against

61 As above.

62 See <https://www.ohchr.org/EN/HRBodies/SP/Pages/Welcompage.aspx> (accessed 31 December 2021).

63 See Implementation Chart (n 60).

64 See Implementation Chart (n 60).

65 As above.

66 As above.

67 Between 2012 and 2019, UN mandate holders had participated in no less than 22 activities of the African Commission.

68 Ten activities of the Human Rights Council.

69 See Implementation Chart (n 60).

70 As above.

71 As above.

Women (CEDAW),⁷² the Committee on the Rights of the Child (CRC)⁷³ and the Committee on Enforced Disappearances (CED).⁷⁴

Having said that, the lack of activities involving some mandates has been a surprise. That there is rather limited record of activity involving mandates such as African descent,⁷⁵ Disability,⁷⁶ Food,⁷⁷ Foreign debt,⁷⁸ Racism,⁷⁹ International Order⁸⁰ and International solidarity⁸¹ is difficult to explain because one would have expected such issues to be of interest in the Africa region. The low engagement in these instances may be a consequence of the priorities set by the mandate holders. Similarly, the low engagement with the Mali and Somalia country mandates is puzzling.

Cooperation

The implementation of the Roadmap through cooperation and collaboration is interesting for both historical and aspirational reasons. Historically, this emphasis on collaboration is significant because it departs from the traditionally hierarchical relationship between the United Nations and its agencies on the one hand and those of the African Union on the other. That relationship often presented the African Union as the junior and less accomplished partner that needs, requests and receives the support of its apparently grander, wealthier and more sophisticated United Nations partner. This unequal relationship tended to be represented in terms of support, capacity building (for the AU) or financial and other forms of needs transfer.⁸² For the integrity of the

72 As above.

73 As above.

74 As above.

75 See, <https://www.ohchr.org/EN/Issues/Racism/WGAfricanDescent/Pages/WGEPADIndex.aspx> (accessed 31 December 2021).

76 <https://www.ohchr.org/EN/Issues/Disability/SRDisabilities/Pages/SRDisabilitiesIndex.aspx> (accessed 31 December 2021).

77 <https://www.ohchr.org/EN/Issues/Food/Pages/FoodIndex.aspx> (accessed 31 December 2021).

78 <https://www.ohchr.org/EN/Issues/Development/IEDebt/Pages/IEDebtIndex.aspx> (accessed 31 December 2021).

79 <https://www.ohchr.org/EN/Issues/Racism/SRRacism/Pages/IndexSRRacism.aspx> (accessed 31 December 2021).

80 <https://www.ohchr.org/EN/Issues/IntOrder/Pages/IEInternationalorderIndex.aspx> (accessed 31 December 2021).

81 <https://www.ohchr.org/EN/Issues/Solidarity/Pages/IESolidarityIndex.aspx> (accessed 31 December 2021).

82 The implementation of the World Summit Outcome resolution of the General Assembly (Resolution 60/1 (2005)) which although affirmed the importance of 'Meeting the Special Needs of Africa', that led to the adoption of the Framework Declaration for the Ten Year Capacity Building Programme for the African Union (Doc. A/61/630). See, Declaration Enhancing UN-AU Cooperation was in fact a Framework for the Ten Year Capacity Building Programme for the African Union. See also, the terms of reference for the United Nations Office to the African Union to provide, inter alia 'a full range of capacity-building support' (see Budget for the United Nations Office to the African Union, UN Doc. A/64/762, para 23). Similarly,

Roadmap, it is important that the cooperation and collaboration in this instance is of a different character and there is ample reason to believe that it can be so and that it is so.

A genuine collaboration is possible, in the first place, because the motivation for the Roadmap lies outside the regimented framework set by the two institutions. That the actors are independent of their intergovernmental organisations and acknowledged experts, sets the foundation for the appreciation of each other's contributions to the success of the Roadmap. In addition, there is a record of genuine collaboration between the experts prior to the formal launch of the Roadmap in which the experts continue to value the contributions that each of them is able to bring to the full realisation of the Roadmap. In reality, the Roadmap was launched by individuals, both as experts and in the two secretariats who are committed to the ideal of the genuineness of the collaboration.⁸³ In fact, all the leading actors, experts and diplomats involved in the process already knew and respected each other and were personally and professionally invested in the success of the project. It is therefore no surprise, and indeed an indication of the true nature of the cooperation that the initial meeting to consider the terms of the Roadmap was characterised as a dialogue.

Furthermore, as human rights experts, each one is aware of the enormity and complexity of the effort to realise human rights ideals, especially in their part-time roles. This makes the significance of a genuine and supporting partnership essential and in practice this has been appreciated by the experts and their supporting teams. Finally, the governance structure of the Roadmap, through a Joint Working Group made up of representatives of both groups of experts⁸⁴ and alternating chairs between the two institutions affirms the importance of a true collaboration.

Joint activities

One of the true essences of effective collaboration is to undertake tasks together. This is not the easiest endeavour in the international human rights field, especially when it involves independent experts, who, while they may share a common grand vision for an effective promotion and protection of human rights, can differ in their priorities and approaches. This can be compounded by political, logistical and legal barriers such as common availability and the often unhelpful responses of third parties like the governments under scrutiny. Despite these challenges,

the OHCHR and AU Commission Memorandum of Understanding (2019 MOU) for Human Rights in Africa aims to 'provide[s] for technical assistance, training, capacity building and mutual cooperation.'

83 See Dialogue (n 5).

84 As above.

the Addis Ababa Roadmap has been particularly successful in a variety of joint activities. Apart from the joint country visits and press statements that are examined below, the experts have participated in joint induction trainings,⁸⁵ organised joint awareness raising events, undertaken thematic studies together and co-authored letters to governments (to Angolan President a dos Santos) and legislators⁸⁶ (Tanzania – re Kampala Convention). There is great merit and strength in such joint action because they demonstrate a unified community of experts as well as the interdependence and indivisibility of rights especially when different experts are able to link their mandates to a common human rights theme. This is in addition to getting to know and share the priorities of the different experts through which to build a stronger community of experts.

Country visits

By its nature country visits represent one of the most dynamic tools in the toolkit for an independent human rights expert. It provides opportunities for every aspect of the expert's responsibilities including information gathering, awareness-raising, promotional and protective engagements. It is the only working method that brings the expert in-person to the victim and the alleged wrongdoer. It can be impactful also for the solutions that can be offered on the ground as well as the credibility that country visits command on account of having experienced the challenges in its social and cultural context.

However, country visits are not without challenges of their own. They can only be undertaken at the invitation of the governments under scrutiny by solitary experts who can only arrange to hear and see the human rights concerns of only a small proportion of those affected. Governments can therefore influence the process and its outcomes by who is invited and how they engage with them. This becomes less feasible when the visit is undertaken by more than one expert.

In late September to early October 2012, the Special Rapporteurs for human rights defenders at the UN, Margaret Sekaggya and the African Commission, Reine Alapini-Gansou successfully undertook a visit together to Tunisia. Tunisia was in a transitional period after the violence of the Arab Spring and the government seemed open to such a visit. The UN Special Rapporteur, for example, concluded in her report:

The legal framework is relatively favourable to the activities of human rights defenders, though some implementation gaps remain and restrictions on some fundamental rights, most notably freedom of expression, are yet to be addressed.

The Government of Tunisia has taken positive steps towards ensuring an

85 See, Implementation Chart (n 60).

86 As above.

institutional framework conducive to the protection and promotion of human rights, including the activities of human rights defenders.⁸⁷

The two independent experts brought different emphasis and expertise to the visit and were able to travel far more widely and meet more people than would have been the case on their own. They were able to share information and reinforce common messages to the government. The impact of such a combined effort can be far reaching and sets a standard of review at a much higher level than normal. The visit did not result in a combined report as both experts prepared reports for their individual organisations for which they were able to emphasise aspects of their mandates considered of importance in that particular context. Such is the added value of the Addis Ababa Roadmap to have facilitated such a venture that the Tunisian country visit remains a reference point for improvement for human rights special mechanisms. That it was able to take place at all is a tribute to the quality of the cooperation arrangement but also a commendation to the astuteness of the experts involved.

Press releases

That the two groups of experts, taking account of the differences in their priorities, have been able to issue so many joint public statements and press releases is commendable.⁸⁸ These statements have tracked particular occasions (such as the designated international days – in support of torture victims, day against homophobia, transphobia and biphobia, international albinism awareness day, international migrants day and the launch of the Sustainable Development Goals (SDGs);⁸⁹ particular themes (reprisals against human rights defenders, detention of migrants, protection of journalists covering conflicts, human rights and terrorism and violence against women)⁹⁰ or particular events such as the abduction of school children in Nigeria, death sentences in Egypt or welcoming the landmark judicial decision concerning LGBT in Botswana.⁹¹ The issuance of often a strong statement on some of the issues such as LGBT rights, the death penalty, human rights defenders and violence against women not only affirm the independence of these experts but offer clear indication of their universal significance in human rights protection.

87 United Nations, Country Visit to Tunisia: 'Report of the Special Rapporteur on the situation of human rights defenders'. UN Doc. A/HRC/22/47/Add.2 (25 January 2013) paras 95 and 96. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/103/63/PDF/G1310363.pdf?OpenElement> (accessed 22 November 2021).

88 Between 2012 and 2019, over twenty statements and press releases were issued.

89 See Implementation Chart (n 60).

90 As above.

91 As above.

These press releases serve useful purposes of affirming human rights ideals or reacting (often critically) to events regionally or globally that affect these ideals. In addition, they are useful for assuring and reassuring victims of human rights abuse (human rights defenders, LGBT, torture, freedom of expression etc) that they are not alone. On other occasions, the press releases help to clarify misunderstandings about human rights and above all else, a powerful tool through which to hear the voice of the international community on important matters.

Every year since 2015, on the International Day against Homophobia, Transphobia and Biphobia, on the 17 May, the UN experts and experts of the African Commission have issued a statement urging tolerance, non-discrimination and the avoidance of violence. In 2017, the experts focused their statement on the rights of trans and gender diverse youth, who, the statement noted, are usually victims of official and unofficial discrimination as well as at risk of physical, sexual and psychological violence. These adverse treatments can in turn lead to exclusion from school, denial of medical facilities, employment and housing. This statement is remarkable for a variety of reasons, firstly for its reach. On this occasion the experts were also able to have the participation of experts from the Inter-American Commission and the Council of Europe. Secondly, securing the statement under the Roadmap gave it greater credibility and impact on a continent (Africa) where the abuse of trans people is endemic. Similar added value can be seen on the many other occasions and circumstances when joint statements have been issued under the Roadmap.

Most press releases are usually disseminated through the major press outlets whose reach is gradually shrinking in light of the growing social media. This is why it is no surprise that most intergovernmental organisations and their individual human rights experts have social media accounts through which they disseminate their views.⁹² Of the many joint activities concerning thematic issues, one clearly stands out and that is the collaboration to elaborate the African Commission General Comment on the right to life.

Collaboration on human rights themes

Another good indicator of success in human rights collaboration is to be able to agree a common understanding of the scope of international norms. This is especially true of collaboration across political and geographical regimes that are often informed by different cultural and political priorities. The scope of seemingly uncontroversial guarantees against torture or the arbitrary loss of life can prove difficult to agree

92 See twitter handle for the Special Rapporteur on Extreme Poverty and Human Rights <https://twitter.com/srpoverty> and for Special Rapporteur on Freedom of Association at <https://twitter.com/cvoule> (accessed 31 December 2021).

amongst human rights experts.⁹³ This and other normative challenges demonstrate the enormity of the ambition under the Roadmap to address thematic issues and this has taken a variety of forms ranging from providing input into the preparation of thematic reports, undertaking joint studies,⁹⁴ organising conferences and other meetings to discuss specific themes including the human rights situation in African countries.⁹⁵

When at its 52nd Ordinary Session in Yamoussoukro, Côte d'Ivoire, the African Commission expanded the mandate of its Working Group on the Death Penalty to include 'Extra-judicial, Summary and Arbitrary Killings in Africa',⁹⁶ it not only affirmed the relevance of all instances of unlawful killing under the African Charter but it also aligned its understanding of the right to life with international law. The adjusted mandate for the Working Group also brought it into a much closer working relationship with the UN mandate on Extrajudicial, Summary or Arbitrary Executions.⁹⁷ This made it a lot easier for a shared approach to their mandates under the Addis Ababa Roadmap.

In 2014, under its expanded mandate, the Working Group embarked on a project to draft a General Comment on the right to life in the African Charter and sought within the auspices of the Roadmap to collaborate with Christof Heyns, the UN Special Rapporteur on extrajudicial executions. The UN Special Rapporteur supported the process in a variety of ways including providing desktop research, a resource pack, a Framework discussion document outlining important ideas for the General Comment. A meeting in Kigali in 2015 to discuss this document⁹⁸ led to agreement of a draft text. The collaboration was officially characterised as 'technical assistance' for which the UN provided financial and other resources to facilitate a meeting of experts in Geneva in 2015 to discuss the terms of the General Comment.⁹⁹ The draft text was also placed on the website of the Commission with an invitation for comments from all interested stakeholders. The General

93 Compare on the right to life the African Commission General Comment 3 - <https://www.refworld.org/docid/5e67c9cb4.html> (accessed 31 December 2021) with UN Human Rights Committee General Comment 36 (2019) https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=8&DocTypeID=11 (accessed 31 December 2021).

94 On Freedom of Association for example, see, Implementation Chart (n 60).

95 Joint studies on the human rights situation in Eritrea and Central African Republic (CAR), see https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf (accessed 31 December 2021).

96 See, ACHPR Resolution 227 (2012) <https://www.achpr.org/sessions/resolutions?id=254> (accessed 31 December 2021).

97 See, <https://www.ohchr.org/EN/Issues/Executions/Pages/SRExecutionsIndex.aspx> (accessed 31 December 2021).

98 See, <https://www.achpr.org/presspublic/publication?id=45> (accessed 31 December 2021).

99 On file at OHCHR, Geneva.

Comment (3 – The Right to Life – Article 4 of the African Charter)¹⁰⁰ was adopted by the African Commission at its 57th Ordinary Session (Banjul) in November 2015.

Article 4 of the African Charter provides as follows:

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

This is a general statement of the right to life behind which encompasses a range of dimensions that the African Commission has to unravel through its promotion and protection activities. It is similar but not identical to other statement of the right in other international instruments¹⁰¹ and so although these may provide inspiration to the meaning of the African Charter provision, they can only be secondary sources. In addition, the geographical and cultural context may affect the nature of the Commission's emphasis and so this General Comment seeks to clarify the nature of the right to life 'as recognised in article 4 of the African Charter'.¹⁰²

The centrepiece original idea of the General Comment is the concept of a 'dignified life',¹⁰³ which informs the contextual considerations concerning the nature of the right to life and the distinct strategic themes that it proposes to be used to guide the interpretation and application of article 4. For this, the General Comment approaches the right through a broad lens¹⁰⁴ that requires states to take

preventive steps to preserve and protect the natural environment and humanitarian responses to natural disasters, famines, outbreaks of infectious diseases, or other emergencies. The State also has a responsibility to address more chronic yet pervasive threats to life, for example with respect to preventable maternal mortality, by establishing functioning health systems.¹⁰⁵

This concept of dignified life also calls for extra attention for vulnerable groups¹⁰⁶ and for States to hold private individuals and corporations, including private military and security companies accountable for causing or contributing to the arbitrary deprivation of life.¹⁰⁷

The approach to the right to life in this General Comment is genuinely forward-looking and responds well to the challenges in the

100 <https://www.achpr.org/legalinstruments/detail?id=10> (accessed 20 November 2021).

101 See, for example art 6 of International Covenant on Civil and Political Rights (1966) (ICCPR) or art 2 of the European Convention on Human Rights (1950) ECHR.

102 See, Introduction to General Comment 3, para 1.

103 Introduction to General Comment 3 (n 102) para 3.

104 Introduction to General Comment 3 (n 102) paras 3 & 41.

105 Introduction to General Comment 3 (n 102) para 3.

106 Introduction to General Comment 3 (n 102) para 11.

107 Introduction to General Comment 3 (n 102) paras 18 & 38.

African context including the impact of private actors on the loss of life. It captures some of the topical debates concerning the responsibility of private corporations to respect human rights at the UN.¹⁰⁸

Other activities

The strength of the Roadmap is as much in the qualitative contribution as in the breadth of activities the combined effect of which may be seen in the genuinely tangible steps towards the realisation of human rights ideals. Some of the other activities include the participation in each other's meetings and events and the Implementation Chart records *inter alia* meetings to jointly raise awareness of human rights situations or participation in the meetings of their intergovernmental bodies (the Human Rights Council and the African Commission), undertake training or participate in the annual meetings or to share expertise and experiences.¹⁰⁹ Such activities bring perspectives and dimensions that may be missed had the meetings been restricted to members of a particular intergovernmental group. In 2013, for example, at a side event organised during the 54th session of the African Commission, a member of the United Nations Working Group on Business and Human Rights made an intervention on the significance of the UN Guiding Principles on Business and Human Rights (UNGPs) on illicit capital flight.¹¹⁰ Similarly, experts from both organisations participated in the Continental Conference on the Abolition of the Death Penalty,¹¹¹ the Annual Forum usually held in Geneva as well as the African Regional Forum on Business and Human Rights held in Addis Ababa in 2014 and also, numerous workshops.¹¹²

In respect of participation in meetings, the participation of African Commission experts in the Annual Meeting of UN Special Procedure Mandate holders is especially notable. This is the one and only opportunity for UN experts to get together and reflect on their performance as well as share the benefit of their experiences. Considering the fluidity of memberships, it provides an excellent opportunity for members to get to meet new colleagues and explore ways of working together. The presence of experts from the African Commission at these meetings (in attendance every year since 2012) adds important dimensions to give visibility to the Roadmap. It allows the experts from both organisations to explore better ways of implementing their mandates and to contribute

108 See, UN Guiding Principles on Business and Human Rights (2011). https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr_en.pdf (accessed 31 December 2021).

109 See Implementation Chart (n 60).

110 As above.

111 SP on Extrajudicial, Summary or Arbitrary Executions.

112 See Implementation Chart (n 60).

to thematic discussions. Above all, such meetings represent tangible steps of the universality of human rights.

Other activities worth mentioning here include the peer support programs, submitting *amicus curiae* to the supervisory bodies, following up on each other's recommendations, contributing to Commissions of Inquiry, especially those that concern African Countries (Burundi and Cote d'Ivoire), working with civil society organisations and not to forget the engagement of their secretarial staff.¹¹³

Challenges

By any measure of assessment, the Roadmap has added considerable value to the realisation of human rights ideals, but this has not been the easiest of journeys. It is faced with challenges, the resolution of which would enhance its value. In the first place, despite the impact and value of the Roadmap, it lacks the full and complete status that would enable unrestrained functionality. As already argued,¹¹⁴ the experts are entitled, in the interpretation of their mandates, to cooperate and collaborate with anyone they consider of assistance. The recognition that this relationship confers is limited and cannot readily command attention or resources. In effect, the experts are constrained to operate the Roadmap as part of their existing mandates, drawing on the personnel and financial resources available to them. There is no opportunity to request additional support in the name of the Roadmap. In the unusual situation, when additional funding was provided to the UN Special Rapporteur for extrajudicial executions to convene a meeting of experts under the auspices of the Roadmap to discuss the African Commission General Comment on the right to life, it was justified as technical assistance from the OHCHR to the African Commission. A formal recognition would confer an official status to the Roadmap, alongside its experts with opportunities for the intergovernmental bodies to list their activities on its agenda and to request and receive reports for its activities. Until a formal character is recognised, the Roadmap will continue to exist only vicariously through the goodwill of its experts.

The absence of a formal status also means the Roadmap can represent additional effort on the part of the experts and their secretariats. Without administrative support of its own, the activities have necessarily been added on to existing programs and so creating strains on the capacities of those involved. This means that the full potential of the Roadmap cannot be realised which is a real shame in light of the impact that even a limited form has been able to realise. These constraints on capacity are not helped by the occasional policy disagreements that can arise

113 As above.

114 As above.

between the experts. It is true that differences in policies, priorities and strategies are unavoidable in a relationship such as the Roadmap but the effect of such ordinarily acceptable differences can be acute when the opportunities to act are already constrained.

In addition, the fact that the Roadmap does not command the attention of all experts in both organisations is a major challenge. The Roadmap is essentially a voluntary initiative to which individual mandate holder choose to join and there may be many different reasons why an expert may choose not to participate, including the absence of a comparable mandate or differences in priorities between related mandates. One should also not omit to mention the effect of the absence of formal character and with that the lack of additional resources to undertake the activities. This not only raises questions concerning the credibility of the initiative, but it does not help with the efforts to affirm the universality, interdependence and indivisibility of human rights. In practice, this limited participation means the bulk of the effort to keep the Roadmap alive is left to a small group of dedicated experts and their administrative support teams. That is an unfortunate loss of opportunity.

Conclusions

It takes the vision, energy and dedication of a few people to make meaningful change and under the Roadmap, this came from leaders such as Christof Heyns and Reine Alapini-Gansou guided unflinchingly by Jane Connors, Ibrahim Wane and Moussa Gassama, formerly at the OHCHR. Others, not expressly named, have also contributed to the success of the collaboration initiative. Many lessons may be shared from the Addis Ababa human rights initiative but one that should not be overlooked is the role of non-state actors such as independent human rights experts in the realisation of human rights ideals. The Roadmap has confirmed the importance of the transnational approach to human rights in which the role of all actors is significant.

In 2012 when the initiative was launched, the Outcome document set out important goals but how these would turn out was totally unpredictable. With no official status or resources of its own, one would be forgiven for being pessimistic. Yet the tangible successes of the Roadmap can be said to exceed all expectations. The Roadmap has revealed, beyond doubt, the value of collaboration, especially across organisations, geographies and cultures. It has helped to reveal the reality of the universality and interdependence of human rights broadly interpreted. The initiative has demonstrated the importance of a common understanding as well as the value of joined participation across stakeholders. This has enabled the breaking of traditional

barriers to register many international human rights firsts including the joint country visit, coordinated contributions to Commissions of Inquiry, collaboration to elaborate normative standards such as the General Comment on the right to life, working together on thematic issues and the joint press statements on the scope of human rights standards. The Roadmap has enabled a better understanding of what it takes to achieve effective collaboration and its lessons are completely transferable.

This raises a predictable question: Where next with the Addis Ababa Roadmap? That the question has to be posed at all is an indication of the vulnerability of the initiative, especially in the absence of the original instigators of the process. Nevertheless, a bright and more impactful future is possible for the Roadmap. That it has immense potential is not in doubt and that there is and always will be human rights experts across the two organisations who are committed to continuing the collaboration is also not in doubt. In addition, there is, after less than a decade of cooperation, a tangible track record of success sustained by a dedicated secretariats that may serve as motivation to sustain the Roadmap. All of these possibilities would however be reassured if the Roadmap were to gain official recognition and through that the necessary resources to take the initiative to the next and higher level of activity.