

S3. Ep 6. The Malabo Protocol on the African Court – Can justice really be served

[00:00:00] **Masechaba Mdaka:** I warmly welcome you to the season finale episode of Season three of Let's Talk Human Rights. Reflecting back to our past episodes, we have been through a rich, informative, and at times heart wrenching journey with our guests who are majority at the frontline of defending human rights as human rights defenders. [00:00:23] Of the 55 countries in Africa, we have profiled 10 with considerable geographic regional spread.

[00:00:30] **Esther Njomo Omam:** One thing is sure that if you are called a human rights defendant, then it means that you should be very careful. You should watch your steps.

[00:00:46] **Ms Lorna Merekaje:** I must say that this pace and. Where we operate as human rights defenders is, is quite quite complicated. It is complex. And we always ask ourselves, we always have to ask ourselves, why are we really doing this? Why am I doing this?

[00:00:48] **Audio Clip:** That the sole aim is to go and find water, find electricity. If that fails. You go and find wood, you burn the wood so that you can heat your home so that you're not cold. And then you just try and find any way possible to try to make money so that you can survive so that you can feed yourself. You can feed your family.

[00:00:49] **Audio Clip:** And I was not ready for it. I said, I don't want to die like so, and so I don't want to leave school like my friend. I don't want to be married by someone who is not even my choice because it's an old man that, uh, the family or, or your father decides for you. But it was not easy to convince my community at that time.

[00:00:53] **Audio Clip:** First, if you look at, uh, the main reason behind human trafficking, it's a commercial entity, uh, involving billions and billions of dollars. It's not a small, uh, business. It's run, uh, both locally and internationally and with very powerful people across the globe.

[00:02:00] **Masechaba Mdaka:** What a journey it has been... As promised, today, we endeavour to understand more about the Malabo Protocol with respect to the African Court on Human and People's rights.

[00:02:10] I would like to go back to the purpose of the journey in unpacking and exploring stories in the African region with regard to the role of human rights defenders. According to the website of the International Service for Human Rights, the United Nations Declaration on Human Rights Defenders defines a human rights defender as anyone working for the promotion and protection of human rights.

[00:02:37] This broad definition encompasses professional as well as non-professional human rights workers, volunteers, journalists, lawyers and anyone else carrying out, even on an occasional basis, a human rights activist. The Declaration further articulates existing human rights in a way that makes it easier to apply them to the situation of human rights defenders.

[00:03:00] It specifies how the rights contained in the major human rights instruments, including the right to freedom of expression, association and assembly, apply to defenders. It also outlines the specific duties of States and the responsibility of everyone with regard to defending human rights.

[00:03:27] Reading this, one is reminded that the the frame work to protect and advance the work in cause of human rights defenders is recognized and its importance and relevance are tantamount to protecting people. This is clear. So what of the African Court on the Human and Peoples Rights? On their website, the Court was established by virtue of Article 1 of the Protocol to the

African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (hereon referred to as the Protocol).

[00:03:55] The Protocol establishing the African Court on Human and Peoples' Rights was adopted on 9 June 1998 in Burkina Faso and came into force on 25 January 2004 after it was ratified by more than 15 countries. The mandate of this Court is to complement and reinforce the functions of the African Commission – often referred to as the Banjul Commission),

[00:04:20] which is a quasi-judicial body charged with monitoring the implementation of the Charter. The Court applies the provisions of the African Charter on Human and Peoples' Rights and other human rights instruments ratified by the States concerned. It does not have criminal jurisdiction like the International Criminal Court.

[00:04:41] So where are we with this today? In this episode journey, I am joined by Dr Chidi Odinkalu. Chidi Anselm Odinkalu is a Professor of Practice in International Human Rights Law at the Fletcher School. He previously chaired Nigeria's National Human Rights Commission and served on the panel of eminent persons that negotiated the return of The Gambia to the Commonwealth in 2017.

[00:05:09] Chidi has acted as counsel in international human rights litigation before Africa's regional human rights courts and tribunals and was involved in the creation of the African Court on Human and Peoples' Rights. He is associated with several advocacy initiatives for the protection of human rights, including the International Refugee Rights Initiative.

[00:05:33] His research focuses on contemporary challenges of multilateralism in regional systems in development, human rights and governance. He is the co-author of *Too Good to Die: Third Term and the Myth of the Indispensable Man in Africa* (Kachifo, 2018).

[00:05:58] Let's define the Malabo Protocol with the regard to the African Court: Let's de-clutter the clutter or complexity if there is

any. What is the Malabo Protocol and how it plays in respect to the African court?

[00:06:13] **Dr Chidi Odinkalu:** Let me say thank you, first of all, for having me here and for engaging with the subject of the African Court and how it's come about.

[00:06:21] Now, Malabo is the capital of Equatorial Guinea. That's the first thing and a protocol is an agreement between countries, between heads of state, uh, for the purpose of amending an earlier agreement. Yeah. And the earlier agreement in this case was the agreement to set up an African court on human people's rights.

[00:06:49] So maybe that's where we actually begin before we get to Malabo. The African court was set up in 1998 by an agreement [00:07:00] that African heads of state reached at their meeting in Wagadugu, Burkina Faso.

[00:07:08] The African court itself was set up to help with the implementation of the African charter on human and people's rights, which had been adopted by the organization of African Unity in 1981 in Nairobi. So, and the first commitment to set up an African court was adopted in Lagos in 1961. That was the first time.

[00:07:43] African countries kind of indicated that they would be interested in setting up an African court. So you can see how long it's taken from 1961 to 1998 to, so 1961, 1981, [00:08:00] 1998, and then the Malabo protocol was adopted in 2014. Now, but between 1998 and 2014 the African Union was set up in 2000 to replace the organization of African Unions, and the African Union then decided it was going to have an African Court of Justice.

[00:08:24] So you had an African court of human and people's right, and African Court of Justice. So when President of Nigeria's former president was the chairperson of the African Union in 2004, he thought this is too many courts. If you have one court of justice, one court of human rights, African commission of human and people's rights, the alphabet soup was getting both confusing and potentially quite expensive and unaffordable.

[00:08:50] And so he suggested to the aid that they should try and merge all of these into one continental court. That [00:09:00] is how the movement towards the adoption of the Malabo protocol came about, and the Malabo protocol therefore tries to merge the two courts. They have all of these courts, continental courts, at level into one court to three courts in one court.

[00:09:21] One is, or four courts in one, depending on how you look at it. So it is a court of justice to supervise regional integration in Africa. Two, it is a court of human and people's rights to address the human rights issues presently being handled by the African court on human and peoples right. Number three, it is a court to try.

[00:09:44] Crimes of significance, international crimes of significance in Africa, such as war crimes, crimes against humanity, trafficking in persons, trafficking in drugs, unconstitutional changes in government, and the like. And then it'll be the administrative [00:10:00] tribunal of the African Union. All of these in one court that I hope, uh uh, that's a summary version of what the Malabo Protocol tries to achieve.

[00:10:10] **Masechaba Mdaka:** Chidi, I can tell you, you've definitely educated me because, you know, even reading this on text, it's a lot, and the narrative that you have just explained really puts it into context. So one actually cannot see this as whether it was intentionally or unintentionally procrastinating on the effectiveness of the court, but it was rather, um, the procedural, uh, things in the background that were happening to basically bring it to this point.

[00:10:37] Um, I would like to actually come in on the point where you were just speaking about the chronology, you know, between 1961, 1981, 1980, 1998, going into 2014, I mean, thinking about the mandate of the African court and, um, the power perceivably, um, how one would view it at, uh, the point of enforcing the criminal jurisdiction of its [00:11:00] powers, which you have just spoken about.

[00:11:02] Is that actually happening? Is that something that is already effective? Has it been, um, enforced or is that still another conversation for another decade?

[00:11:11] **Dr Chidi Odinkalu:** No, it's not, it's not yet enforced. Um, it's, it's going to take time for us to get there.

Masechaba Mdaka: Why is that?

[00:11:22] **Dr Chidi Odinkalu:** And at the moment, the infrastructure isn't necessarily there. The, the first thing is now that the Malabo protocol has adopted, you need sufficient countries to rectify it before it can come into force. It needs 15 African states to ratify it before it can come into force and we don't have that yet. Um, and when that is, You then have to have the court, the infrastructure put in place in terms of, um, personnel.

[00:11:50] A prosecutor will have to be appointed, registrar will have to be appointed, the judges will have to be elected, and the different chambers of the court constituted. Uh, so [00:12:00] you have the three chambers, including the criminal chamber. Um, and then there'll be an accolade chamber as well in addition to every other thing.

[00:12:09] Um, and all of those will have to be constituted. You then have to have the, uh, corporation arrangements with the respective states reached so that the states can surrender people or surrender evidence to the court. All of that will take time administratively speaking. There is the political and administration dimension as well, which is that, I mean, the context to this is Africa's dispute, at least part of the context of this.

[00:12:33] Not entirely all of it is Africa issues with the International Criminal Court. As you probably know, um, the International Criminal Court, which is headquartered in the Hague, has faced this criticism. Uh, some of it legitimately has got to be said that it only targets Africans, um, uh, and the pigment of its justice is essentially black.

[00:12:58] And that [00:13:00] therefore, that the court is not doing enough to show that it is a global court for global crime. And so, African countries have been worried about this for a long time. They, uh, the court contemplated under the Malabo protocol, therefore is deliberately given a criminal jurisdiction. Now, this is the first time that a regional human rights court in the world.

[00:13:26] Will consider having a criminal jurisdiction. There are regional human rights courts in Europe and in the Americas, um, but they don't have criminal jurisdiction. As a matter of fact, there is Putatively one also the Arab countries of the Middle East. But none of those is given a criminal jurisdiction except the one in Africa.

[00:13:48] Uh, which, which is therefore a very unique experiment. And so all of that is going to take some time to put in place and to, and to unfold. Uh, I suspect over another generation or two.
[00:14:00]

[00:14:00] **Masechaba Mdaka:** So Chidi, I'd like to stay on that point. Um, just in terms of speaking about making it work and, you know, how we can think about strengthening the functions of the African court for the future.

[00:14:12] Um, you speak about the fact that, um, 15 countries, uh, are needed in terms of, uh, ratifying it for it to come into force. I'd like to actually know where we are in terms of the count for the countries and what you've described to me now is not necessarily a lack of appetite or resistance from, um, you know, independent, sovereign countries to domesticate, you know, I mean, now, you know, we talk about the levels from ratification to adoption to to domestication, um, the vision and the intent, uh, seem to have been vibrantly present in the beginning, but you've rightfully also, uh, put it into context that this is the first of its kind.

[00:14:54] In terms of putting pen to paper to action, do you think it's actually feasible and, [00:15:00] um, it will actually happen? Or maybe is there some, some fear in, in, in some senses of some countries holding back diplomacy considered and all those things?

[00:15:11] **Dr Chidi Odinkalu:** No, you know, the dispute between Africa and the ICC, which partly frames the criminal jurisdiction, certainly of the, um, the court created by the Malabo protocol, the African and people's rights to give it, its full under the protocol, that dispute has at least two dimensions to it.

[00:15:37] One dimension to that dispute is the color of justice before the ICC, which this many certainly within the Aids describe as black, uh, in parenthesis. The other is the notion that the ICC was increasingly being used to target African heads of state or African Senior [00:16:00] or African political leaders. And so a warrant, what had been out for, uh, beginning with, uh, vice President Pemba in the DRC, um, Laurent Gbagbo, former president of Cote d'Ivoire.

[00:16:14] And, uh, then you had, uh, president al-Bashir in Sudan. Um, and folks felt, look, uh, whatever our issues are with these people, Africans should have the first right to trial them rather than having them, uh, wrenched off to a destination in Europe, which, uh, evokes all manner of symbolism, particularly against the history of European colonialism in Africa, and some would argue European occupation of parts of Africa, historically.

[00:16:55] Now, whether you like it or not, that does resonate with a lot of [00:17:00] people, uh, including people who detest everything about some of these characters whose names I've mentioned. Um, but sometimes the focus on the heads of state can detract from the issue, which is accountability. And the reality is trying a head of state, who is sitting.

[00:17:23] Even if they are heads of state of Banana republics isn't an easy thing. However, most heads of state would not directly by themselves be involved in International crimes. They get involved through orders issued or uh, acts conducted by people underneath them. And even if you cannot get the head of state, you can get a clerk in their office, a sergeant under their command or general under their command.

[00:17:52] And so the idea with the Malabo protocol is, let us begin somewhere. We may not be able to start with trying [00:18:00] a

head of state. The ICC, by the way, has failed at trying every head of state that the tried to bring before them, but let us start with establishing the principle that regional accountability for some of these crimes must exist.

[00:18:15] And so you see the kind of thing that the African Union did with the extraordinary Chamber convened in Dakar, Senegal to try the former president of Chad, and that was successful. Now, so the idea is we begin somewhere and progressively, incrementally, we can get to the point of establishing the point over generations that whoever irrespective of office is involved in these kinds of crimes can be accountable and we, Africans will be responsible for bringing those people to account.

[00:18:47] **Masechaba Mdaka:** Mm-hmm. It actually goes straight into my next point, Chidi, which is who then is likely to initiate a case? And what forms the basis of a case? So [00:19:00] does it first have to be from within country or is there the option in future for a civic or class action, um, for individuals or groups to approach the court? Um, what does that process, or what is it likely to look like?

[00:19:15] **Dr Chidi Odinkalu:** There are three different, um, jurisdictions or four different kinds of proceedings that can go before the court. The criminal is only one of them by no means Uh, and even that it's got different slices to it. Uh, the criminal dimension is not the only dimension to the jurisdiction of the court. Yeah. Um, you've got, in addition to the criminal, you've got the human rights dimension, which is state responsibility, not individual.

[00:19:43] The criminal dimension is individual responsibility. The human rights jurisdiction is state responsibility. Then you have the court of justice, it'll have a court of justice, a regional integration court, which can be accessed by business, trying [00:20:00] to, uh, do business within the framework, for instance, of an African continental free trade area and that kind of thing.

[00:20:07] And then you have the administrative tribunal of the African Union, which will be open to staff of the African Union if they have grievances against the African Union as an in-

ternational or continental institution. So, different people therefore can access the court. If, for instance, I feel violated by a state, um, that state is party to the Malabo protocol and the court is in existence, I can go, I can sue the state directly before the African court on human and people's rights and the case will go to the human rights chamber.

[00:20:44] Now, if I'm a business person trying to do business in say, country B, say Burkina Faso which is a member of the, uh, African Court Protocol and, uh, I feel cheated. [00:21:00] I can sue them and that case will go to the chamber responsible for issues arising from regional integration. Um, if, however, I am a staff of the African Union and I feel I have been fired unfairly.

[00:21:17] Or I have been discriminated against unfairly, I sue before the administrative chamber of the tribunal, or in the administrative tribunal jurisdiction of the court. Um, now the criminal jurisdiction will be triggered by a prosecutor, uh, with proper authorizations from the court, uh, when that happened [00:21:39] As I said, we're not there yet cause the court has not yet come into form.

[00:21:43] **Masechaba Mdaka:** Chidi, I'd like to, um, come in on this point. We've been going through a reflective journey of our previous, uh, seasons, uh, for looking at human rights in Africa, and we have profiled 10 countries and, um, like [00:22:00] most countries around the world, Africa is no stranger to human rights violations and atrocities.

[00:22:05] You mentioned, um, that the court on human rights is one that is the responsibility of state. The accountability falls on them. What we have seen, of course, is what is perceived as the continued genocide and political repression in, for example, the Democratic Republic of Congo, the east of the country. Which has fueled a humanitarian crisis.

[00:22:28] Likewise, in the case of South Sudan, uh, where, um, you know, the peace agreement, which over and over again, um, seems to not be bearing any fruit. In the case of Mali, where state machinery was used to oppress people, uh, drive divisions, and of

course now a military regime are having taken over, but again, complicating things.

[00:22:46] We've got the Cameroon Anglophone and francophone, um, crisis unfolding there over the years. All these things are brought on by the governments whom the ordinary people have voted into power. And if the accountability or [00:23:00] the responsibility falls on state, I mean, what is, what is the point of recourse for the ordinary person?

[00:23:06] **Dr Chidi Odinkalu:** Just to reflect on a few dimensions to the question. Um, so the extent that there are issues affecting the issues of, uh, crime, um, international crime in particular in any of those situations and the African Court of Justice, uh, the Malabo protocol, um, creates in, in total, I believe, uh, overnight crimes, uh, war crimes, crimes against humanity, genocide, trafficking in persons, trafficking, drugs, trafficking in toxic and harmful substances, unconstitutional changes in government.

[00:23:50] Uh, international financial crimes are also there affecting African countries, uh, there are a lot of them. So there are lots of possibilities, [00:24:00] reference to substantive scope of the crimes that could be prosecuted under the Malabo protocol and, you know, people laugh and say, well, this is a massive field of stuff, but if you were to take trafficking in toxic substances for instance.

[00:24:18] There are lots of people have created dumping grounds all over the African continent, um, with the kinds of substances that trafficking and lots of poor people in poor communities being killed by, of thing, exposed to dreadful things as well. So the desirability of criminalizing such is not necessarily in question, uh, whether that should be tried by original court is another matter, but given the, the debilities, the limitations and constraints that several African countries suffer.

[00:24:48] You can see some of the reasons why some people may consider it worthwhile putting these, and the fact that lots of trafficking Africans for organs and all for [00:25:00] cheap labor and other things is also a reality. These are crimes targeted in many

ways at Africans these days. Um, so to that extent, there is a possibility for seeking through the mechanism of the criminal jurisdiction to ensure accountability.

[00:25:19] But I think I should also say this, uh, since uh, you know, this is going out beyond us on this conversation. I, I totally see that African governments have responsibility, um, should have responsibility for several of the situations you speak about, but I don't think, actually, I think we should be brutal about the fact that responsibility is not limited to African government.

[00:25:46] Look, the situation in the DRC has been festering since the independence of the DRC in 1960. Some people would say, Since King Leopold turned the DRC into a private [00:26:00] plantation in 1885, and it's easy to sit down today and think, oh, DRC is a problem created by the [words unclear].

[00:26:18] Who killed Patrice Lumumba? How did Patrice Lumumba die? And if you don't go back, at least to Patrice Lumumba, You will not understand why the DRC has not been allowed to get on with being a country that it can be. A lot of people forget the history of human rights documentation began in the Congo plantation of King Leopold with the case report in 1904.

[00:26:47] The casement report led the Belgian, the Belgian Parliament was so appalled by the contents of the Casement report that in 1908 they expropriated [00:27:00] Congo from King Leopold, paid in compensation and then transferred ownership of Congo, colonialism of Congo from King Leopold's private estate to the Belgium state. That's how bad it was. And the damage that King Leopold and the Belgians did to the Congo has never been acknowledged or redressed.

[00:27:26] You probably followed the story of how the Belgians returned the tooth, the molar of Patrice Lumumba to the Congo earlier this year. That is the only thing left of what the Belgians did to the cadaver of Patrice Lumumba. The fact that that is neither acknowledged nor any redress offered for that is part of the crisis of the Congo.

[00:27:57] And by the way, the [00:28:00] invasion of the Congo by the combined forces of Rwanda and Uganda, which led to a case before the ICJ in the armed activities case has also not been dealt with and what people call the African World War, uh, which involved about, uh, what 9 to 11 African countries from Zimbabwe and Namibia up to Uganda, DRC and Uganda.

[00:28:28] So let us also be open to understanding the histories that have brought us to where we are.

[00:28:35] **Masechaba Mdaka:** It is definitely noted Chidi. Um, we cannot speak, uh, outside of history for any course of life. Um, addressing, as you say, all areas of accountability is necessary to understand the bigger picture, but we also move on in, in the hope and the need that, uh, at the, at the center of all of this and at, at the Center of Survival and, and human dignity.

[00:28:58] It's, it is [00:29:00] the, the ordinary person. Uh, ultimately while these conversations take place at the top, um, they are people who, who genuinely, um, and, and in a real time sense really go through it. Um, while all these things are being considered on that note Chidi. Um, you speak very passionately about this and one is, is really able to, to, to really, um, appreciate you as a person and.

[00:29:24] The law making field, um, whether we're seeing a difference as we move forward. I wanna speak about your activism slightly, if we should call it activism. Um, what inspired you and what continues to inspire you, uh, to walk this path, uh, both in your maybe personal or professional Cause?

[00:29:43] **Dr Chidi Odinkalu:** The fact is I'm a child of war. [00:29:45] I was born in the Nigerian Civil War, um, into, uh, internal displacement and starvation. Uh, and that's, that really shaped my [00:30:00] life, um, and my trajectory. Um, so it's, it's not like, uh, no, I was born hungry and, uh, without shelter and I, I really don't have any right to be here. Uh, cause many of the kids who were born with me didn't make it.

[00:30:21] Um, and I also born into military rules. Those three things being born into war, displacement and hunger, sorry, four things. And also military rule, um, pretty much told me what I don't want. Uh, and so it made it much easier to settle on what I'd like to see. And that's really, those continue to drive me, probably continue to drive me until the day after I'm dead.

[00:30:46] **Masechaba Mdaka:** And, um, If I should maybe ask you just to continue after sharing that personal, uh, part of your journey and, and where you come from. What is your hope or wish for justice for the ordinary person [00:31:00] ultimately?

[00:31:00] **Dr Chidi Odinkalu:** Is it, uh, and this is where I think we can work and chew gum at the same time. Uh, and, uh, you know, I think I've seen this from different sides.

[00:31:10] I've seen this from, not just for, as a child, from what I've just told you as an adult, I've seen detention, I've seen exile, um, I've also chaired the National Human Rights Commission of my country. Uh, and the average victim isn't interested in some of the issues that bother us, right? They, they just want this, the things they are seeing fixed or the things that they're suffering fixed.

[00:31:39] Um, and sorted. So if I'm in detention, I don't wanna be detained, you know, if I'm in detention, I wanna be released. Uh, if I can get released from, Uh, from facilities in my country. Anybody who can help me get that is fine. Uh, if my community is suffering atrocity, I'm not interested in long grammar as [00:32:00] my people or West Africans would call it.

[00:32:02] Uh, if we're suffering from atrocities with relief, that's fine. Now, that is the average reaction of the victim. Um, if it is an African court, that's fine. If it's not an African court, but there is another court elsewhere in the world with jurisdiction of all issues, and we can get relief from them, we'll take the relief from them, right?

[00:32:28] That's the inclination. And, you cannot blame a victim or a person at the wrong end of the stick for desiring justice in that manner. That said, the, our countries around the continent have not always been good at providing the kinds of institutions, pro-

cesses, procedures, mechanisms that should provide people with access to those mechanisms and those remedies.

[00:32:59] And some, quite [00:33:00] often also when you have a, some people may get access but cannot get exit, you know, as lawyers. Uh, lawyers like to talk about access to justice, but access to justice can sometimes not be as is sometimes not as important as exit, timely and fair exit from justice. It's no use being a, being a widow, right?

[00:33:24] So you're a widow. You've lost your husband. And first of all, instead of being able to get, go to administrative procedures and sort out title so that you can get access to the assets left by your husband, you have to go to court because your in-laws have deprived you and your children of access to those assets right?

[00:33:44] Now, you then go to court. That means you've got to hire lawyers. You're not having to borrow now to pay for lawyers when you should be paying for your children's education and their medical needs and their food and shelter, and now you then stay in court for another [00:34:00] 20, 25, 30 years with those lawyers accessing assets that you should never have had to go to court with.

[00:34:06] That is how impoverishment happens. That's how we, we promote poverty across generations on the continent. Right? So that this issue we're talking about, about human rights, about access to justice has direct consequences for whether or not we're able to preserve people's lives in dignity, but also whether or not we're able to tackle the challenge of [Words not clear] poverty across the country.

[00:34:37] **Masechaba Mdaka:** Chidi, freedom underpins the very essence of Human rights by its own definition, the freedom of movement, freedom of expression, freedom to feel safe. Human rights defenders all over the world are fighting for the recognition and protection of most of the time, fundamental basic rights. [00:35:00] And given that their mandate to a large extent is also covered and recognized by the UN Declaration on, um, the work of human rights defenders.

[00:35:11] Would you say where we are, where we're coming from and where we're headed? Can we ever truly be free, even outside of the laws? Which one would even say seemingly police our human behavior?

[00:35:26] **Dr Chidi Odinkalu:** Uh, human rights is about freedom or, or access to freedoms in many ways, but what makes it possible, in my view, is not necessarily freedoms [00:35:39] but equality, non-discrimination, because if you emphasize the freedom part too much, you end up with libertarianism. And if you emphasize the freedom part too much, the rich will always be able to afford and buy more freedoms than the poor. And you could end up in a situation in a zero sum [00:36:00] society in which the extent of your freedom is seen as undermining.

[00:36:09] And so the equality, and in many ways it's the great ideological battle of the ages, the battle between freedom, liberty on the one, and equality on the other hand. And the, the, the fact is that stable societies are societies that are able to manage their Guinea coefficient and the Guinea coefficient, which is really evidence of.

[00:36:37] Of the, of the stretch inequality in any society. And part of the problem of the growing challenge of instability in many countries is the reality is that the Guinea coefficient is growing in of our countries. The richer getting. So we're producing more African billionaires at the time when we're also producing more African [00:37:00] poor people.

[00:37:02] Right. Uh, our rather, the billionaires are making more and the poor people are growing and it looks like the billionaires are making money at the expense of Africa's poor and poor people cannot afford access to freedom. You cannot freedom your way out of poverty. The kinds of poverty in many ways that you see in many of our slum neighborhoods across the continent.

[00:37:30] So, and this is why a lot of people would argue that in addition to the freedom so that, that we need to take a, a more complete view of the human rights body, uh, so that it's important to make sure that government is not just authoritarian or that kind

of thing. But in addition to that, government has also got to provide for basic education, access to healthcare, access to basic social goods [00:38:00] for the people.

[00:38:00] So you don't end up with a country like Equatorial Guinea where the country is making a lot of money from Petroleum, is very limited in population, so ordinarily the vast money it is making should be able to make its people very comfortable. But in reality that money is being held by one man and his family who are going around the world buying up assets and living playboy lives with it.

[00:38:24] Uh, you cannot guarantee people freedom in that kinda situation to get out of that kind of inequity. So you also do need responsible leadership. Uh, and the reason I'm saying this, You know, human rights are important, but to get human rights and to address access to human rights and to fix them, we've got to make sure we to build equitable societies.

[00:38:50] And there is a political dimension, therefore, to the human rights problem in Africa that should not forget. Uh, and if [00:39:00] we address that political dimension, it makes it easier for the Judicial institutions like an African court for instance, or for accountability institutions like the police to do their work much more effectively.

[00:39:13] And it's also possible then for historically marginalized segments of society, such as, for instance, women to get a better and fairer deal. Courts are not going to always be able to fix historical injustice such, such as injustice to women or injustice to the Batwaor injustice to the sun. That also requires political leadership and a political deal.

[00:39:39] **Masechaba Mdaka:** Chidi, thank you so much for this very informative, um, session and conversation that we've had today. I think definitely our listeners will benefit from knowing definitions for starters, knowing exactly what the point of call actually looks like in terms of realistically and [00:40:00] understanding all those pillars, uh, which surround, um, the

[00:40:04] African court on, uh, human and people's rights. So for us, this has thoroughly been enriching, especially bringing a culmination, uh, to an end of a season and reflecting back on the previous, um, conversations that we've had and really seeing what alignment potentially looks like for the future and, uh, what we as people who are still here can, can do to, to mark those improvements.

[00:40:33] Something that struck me in my conversation with Chidi is the idea that change takes time. The necessity to have an African Court that holds African leaders and countries to account speaks to the responsibility and accountability of the state and possibly also to the fact that the African continent can and wants to redress power imbalances and human rights atrocities of the past and present. The African Court on Human and People's rights is the first of its kind globally

[00:41:06] to want to tackle these issues - and it's important to recognise that this is not an exact science - but as Chidi said - we have to start somewhere. Reaching a consensus between all the courts over the decades to consolidate their efforts has been challenging - but as we move forward, especially in light of going back to state accountability and responsibility the continued work of human rights defenders

[00:41:34] is all the more vital to ensure this is a lived reality for the future. My right, Your right, Our right, humanity is always and should be for us All ... This has been the sixth episode of the third season of "Let's Talk Human Rights – the FNF Africa podcast exploring human rights issues". We trust you have enjoyed it and been enlightened by it.

[00:42:05] This brings us to the end of Season 3. We look forward to the fourth instalment season, journeying through Africa, sharing our stories and looking ahead to safeguarding and protecting our Freedoms and Rights in our time and beyond. The Friedrich Naumann Foundation sub-Saharan Africa (FNF) is an independent German organisation that is committed to promoting liberal ideals and politics in Africa such as human rights, the rule of law, democracy, innovation, digitization and free trade. By conducting cam-

paings, media events, seminars, workshops, study tours, cultural happenings and training courses the foundation promotes human rights including freedom of expression, freedom of the press, children's rights and LGBTQI+ rights and engages against violence targeting women and capital punishment.

[00:42:48] If you are interested in our activities, follow us on Instagram, Facebook and Twitter. Simply check for "Friedrich Naumann Foundation Africa".