

# Drifting Apart? Africans' with Albinism and the UDHR at 70

**Bright Nkrumah**

**ORCID iD:** <https://orcid.id/0000-0003-3501-5184>

## **Abstract**

Akin to rhinos or elephants, persons with albinism in contemporary Africa are hunted down, killed and their body parts harvested for due to superstitions that they can bring success, sexual conquest, power and riches. Women and children are the most victimised despite being guaranteed protection by the Universal Declaration of Human Rights (UDHR). It is undeniable that the UDHR (has had and continues to have a significant impact on rights of Africans with this condition. Besides inspiring the enactment of several resolutions, declarations and treaties, all reaffirming the right to freedom, dignity and security of persons living with albinism (PwA), an increasing number of African constitutions have the rights of PwA directly entrenched into them. However, it is undeniably clear that safeguarding the dignity, welfare and rights of PwA albinism in Africa is a herculean task. The Declaration's agenda of protecting PwA remains unrealised and unfinished in the continent, especially in the face of the on-going persecutions. Drawing on contemporary multi-disciplinary studies, specialist research interests and common interest in albinism, this paper reflects on the impact of the UDHR towards the protection of PwA and forecasts its potential contribution for reform in the continent over the next decade.

**Keywords:** Albinism, abductions, UDHR, Africa, superstition

## **1 Introduction**

In early March 2017, the sound of people trying to drill through a wall woke a Malawian man (named Gilbert Daire), who was convinced that hunters were coming for his head and body parts (Dixon 2017). The attackers were however

fended off by the assistance of neighbours who came to help due to the screams of his wife. Like Daire, thousands of people living with albinism are being targeted for their body parts by people who believe that they bring riches, good luck, success or sexual conquest (Mostert & Weich 2017). Like Malawi, many countries in sub-Saharan Africa (including Tanzania, Nigeria and South Africa) have witnessed a surge in human rights violations against PwA, ranging from killings, abductions, grave robberies by criminal gangs and in some instances, close family members (Mswela 2017).

Clearly, it is evident that the abduction, killing and mutilation of the body of individuals living with albinism in Africa has a series of adverse ramifications and has established individuals with this impairment as a vulnerable section of the population who deserve equal rights to security and safety as other people in the society (Aceves 2015). Discriminations and abductions have considerably limited their freedom of movement since they are in constant fear of vicious attacks. Out of fear for their safety, some learners with this condition have dropped out of school while others who continue with their education often find it challenging to focus on their studies (Possi & Possi 2017). In light of the high rate of reported ritual murders across sub-Saharan Africa, it is very possible that some of the missing children with this impairment have fallen victims to this practice, even though this assertion remains a speculation. Many parents of children having this impairment sometimes do not prefer their children walking alone to school for fear of being abducted (Seepersaud 2018).

Women and children are especially vulnerable for two reasons: first, due to the beliefs that sexual encounter with an albino will cure HIV/AIDS, women and girls face the danger of sexual abuse and rape; and second, they are seen as easier targets by criminal gangs for abductions or killings (Scott 1999). Then the mutilated body parts are retailed on black market created by hostile traditional healers (*sangomas*) who use them for ‘mystic’ potions (Larson 2011). This worrying activity is stimulated by an erroneous but widespread belief that the body parts of persons living with albinism (PwA) contain mystic powers (Bucaro 2010). The mistaken belief, in addition to the violence it triggers, has unsurprisingly generated mass fear for the lives of PwA in the continent. This fear clearly has gripped many PwA in sub-Saharan Africa and therefore deprived them from living a normal life (Mostert 2016). Whereas these attacks are perpetrated by individuals and criminal gangs, African governments who are parties to key (regional and international) human rights

treaties have an obligation to safeguard the rights of this vulnerable group (Amnesty International 2016). While some African countries' efforts designed to protect PwA from persecution is commendable, these attempts have not been able to create a safe environment for PwA to live (Combrinck & Mute 2014). Albinism is a genetic disorder seen in all ethnic and racial groups, occurring in approximately one in 17, 000 births (Kamga 2013). Not many individuals are aware of the challenges or the medical problems faced by PwA and even fewer have had contact with albinism. Inherited from both parents who (both) might be a carrier of faulty gene, albinism prevents the skin from producing adequate melanin. It is characterised by a severe reduction or absence of melanin – the the pigment that provides colour to the skin and serves as the skin's protective cover from the Sun's ultraviolet light (Mute & Kalekye 2017). A larger section of PwA are legally blind.

Coincidentally, the year 2018 marks the 70th anniversary of the Universal Declaration of Human Rights (UDHR). And as once mooted by Nadine Gordimer, any individual who ponders on the content of the UDHR will certainly give specific consideration to those provisions that relate to individual or collective rights that appear to be under threat (Gordimer 1999). As the superstitions and deeply-held myths about albinism fuelling the violence against PwA and trade in their body parts, article 2 of the UDHR, which states that '[e]veryone is entitled to all the rights and freedoms set forth in this UDHR, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status' has a special significance for contemporary Africa (UDHR 1948). Living in a society where human beings are the items of macabre trade, the first paragraph of article 1 of the UDHR is in addition mainly poignant: '[a]ll human beings are born free and equal in dignity and rights' (Lord & Stein 2013) Thus, the discrimination faced by PwA in Africa could fall under several other grounds under the UDHR, specifically disability, colour and race (Flinterman 2008). It is undeniable that over the last seven decades, the UDHR (from a normative and quasi-normative perspective) has had and continues to have a significant impact on the rights of PwA in Africa.

Africa has, over the last 30 years witnessed an increasing number of national constitutions affirming the right of PwA to equality and non-discrimination. Moreover, there has been a proliferation of resolutions, declarations and treaties all affirming that PwA have certain inalienable and indivisible rights. Nonetheless, human rights abuse and violations against PwA

in the African continent span from extreme forms of infanticide, mutilations, abductions, and killings to widespread exclusion from access to public services, including health and education, societal discrimination which is evident in verbal abuse in public (Mswela 2013). It is in this light that this contribution seeks to interrogate whether the UDHR has harmed or helped people living with albinism in the continent. Are the values set out in the UDHR as timeless and relevant today as they were seven decades ago? What are the gaps between its rhetoric and reality, especially towards the protection of PwA in Africa? The verbal abuse, discrimination and threat faced by PwA are clear indications that PwA are yet to benefit from the revolution triggered by the instrument. The contribution therefore proceeds to examine the meaning of the concept of universality and whether it is still applicable 70 years on.

It must be noted that the overall objective of this contribution is to analyse the impact of the UDHR towards the protection of PwA in Africa and estimate the possible impact of the instrument in safeguarding PwA's rights over the next decades. Giving that 'people with albinism across the social divide in [Africa] endure a life of extreme social exclusion within the family, in the community and the country at large', policies and legislations seeking to protect or violate their rights are of strategic significance in the region and needs closer attention (Amnesty International 2016). Section I of this paper provides a discussion of the UDHR's provisions concerning rights of PwA, while reviewing other UDHR inspired (regional and international) human rights instrument concerning PwA in Africa. Section II provides a critical review of the values of the UDHR towards the development of the rights of PwA in Africa, with specific reference to provisions relating to their rights of domestic constitutions. Section III is dedicated to assessing three main challenges that undercut protection of PwA in the continent in addition to examining the extent to which the UDHR responds to these pushbacks. The potential role of the UDHR in safeguarding the rights of PwA in the coming decades form the centre of discussion under section IV. At the end, some suggestions and conclusions are offered.

## **2 Prevailing Discourses of Albinism under the UDHR**

The protection of human beings from discrimination and brutal murders can be considered as one of the primary focus of the UDHR (D'Agostino 2002; Dolinger 2016). Nonetheless, the UDHR does not contain a clear provision

which espouses or call for adequate protection for PwA, although it simply calls for equality and protection of all individuals irrespective of their colour (Ofodile 2010). Articles 1 and 2 assert that akin to other human beings, PwA are ‘born free and equal in dignity and rights [...] without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or *other status*.’

Although the UDHR did not specifically set out albinism as grounds to which discrimination is proscribed, the inclusion of ‘other status’ in the UDHR, according to the Office of the United Nations (UN) High Commissioner for Human Rights demonstrates the unlimited nature of the proscription of discrimination (UN 2013). This clause provides another avenue through which discrimination faced by African PwA could be addressed. It was against this backdrop that the UN Independent Expert on the enjoyment of human rights by PwA, Ms. Ikponwosa Ero mooted that the discrimination faced by PwA could be interpreted as falling under a number of different provisions under the UDHR: disability, colour and race stand out (UN 2016). According to her, although it could be argued that people living with albinism in Africa may not essentially constitute a racial group (in terms of how this notion is often construed), the plight of albinos could better be classified under the governing concept ‘racial discrimination’, which could be grounded on any of the five different grounds: ethnic origin, national origin, descent, colour and race (Bayefsky 1999).

Article 3 of the UDHR is of significant importance to PwA in Africa with its guarantee of the right to life, liberty and security of person. There is no limitation clause or derogation with regard to right to life, and thus, any form of abduction, killing and mutilation of body parts of PwA is a violation of their right set out in the UDHR (Scheffer 1998). Article 4 further prohibits the abduction of PwA while article 5 proscribes torture and cautions that no one (irrespective of colour or race) should be subjected to ‘cruel, inhuman or degrading treatment or punishment’. Accordingly, the slower death endured by PwA (due to their kidnapping and dismemberment of their body parts (by hired killers)) constitute a gross violation of article 4 and 5 of the UDHR (Bruynell 2012). In a continent where there are prejudices and stereotypes, coupled with harmful practices against PwA, article 3 continues to provide an avenue for deep soul searching and introspection (Baehr 2000). These safeguards, entrenched under the UDHR provides an indication that it continues to serve as a beacon of hope to PwA and their loved ones in the continent and beyond

(Allmand 1998). Yet, the superstition attached to this condition in Africa has an enormous influence on the lives of PwA, from cradle to grave. The myths and beliefs surrounding the conditions interfere with access to marriage, employment and education while affecting family life. It is obvious that the persecution of this group is underpinned by cultural and religious beliefs (Benyah 2017). For the thoughts of most Africans, have been shaped by their traditional religious perspective which perceives an inextricable relationship between the physical and the spirit realm (Sanneh 2003: 16-18). The belief in the existence of the invisible world, and the spirit beings as well as their ties with the material world, has often nudged some to undertake various activities as a means to ward off evil or establish closer ties with the spirit beings for fortune (Gifford 2015:13). Thus, since religious beliefs trigger corresponding religious practices, the belief in the mystical communication with the spirit world has spurred the evolution of some parallel religious rituals such as the persecution of PwA (Atiemo 2013: 58).

While the UDHR adopts a minimalist approach towards the protection of PwA (by not specifically pronouncing on rights of PwA), it sets out five primarily articles which are of relevance and lays a solid foundation for safeguarding Africa's PwA in the coming decades. Undoubtedly, the UDHR has inspired the insertion of the right to life, liberty and security in key (international, regional and national) instruments, to which this contribution now turns to.

### **3 Towards Deterrence of PwA Persecution**

Over the last seven decades, the UDHR has proven to be the touchstone and 'high water mark for the global consensus on the substance of human rights' (Cronin-Furman 2010). At the time of its adoption (as a non-binding resolution on 10 December 1948), some members of the UN General Assembly hoped that it would become a binding instrument one day. This dream has partly been achieved. Most of the provisions of the UDHR have flourished, fostered and generated a myriad of other pro-human rights instruments. Whereas the UDHR's powerful moral focus, according to Cronin-Furman (2010: 176) has 'fostered the development of a contemporary [human rights] norm', Mates (2001: 204) notes that the 'international system has developed standards detailing *specific parts* of the Universal UDHR [and how] to implement those standards'. Consequently, the UDHR's definition of human rights has been

used by drafters of these succeeding instruments in their effort to ensure compliance with the various articles of the UDHR (Flinterman 2008). Take for instance, whereas several civil and political rights in the Declaration (including the rights to security, liberty and life), can be found in the ICCPR, there is now a *Torture Convention* detailing article 5 of the UDHR which proscribes torture against PwA (Cheng 2008; See UNGA 1984). Since the focus of the paper is on the protection of albinistic persons, the paper now turns to look at selected sections of some of these standards and how they entrench the right of this vulnerable group.

Article 2 of the ICCPR asserts that all member states must ensure equal right for everyone within its jurisdiction ‘without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.’ Considering that article 6 of the ICCPR affords every person ‘the inherent right to life’, the killing of PwA constitutes a violation of their right to life as entrenched in the instrument. Article 9 of the ICCPR guarantees the right to security of each person, however, PwA are deprived this right in light of the violent acts they are usually subjected to. This provision has profound significance to PwA especially due to the abduction and kidnapping, even though article 9 directly relates to ‘arbitrary arrest, detention’ by the state. One could tout that Africans with this impairment are being discriminated against since they are targets of violent attacks and abductions for witchcraft killings. Considering that they are the most vulnerable and fragile members of the society, most victims of these violent attacks are children. The significance of article 26 of the ICCPR is that it obliges state parties to put in place measures to prevent all forms of discrimination against persons living with this impairment. Such steps must ensure effective, equal and appropriate safeguards against discrimination on the basis of health status, social origin as well as colour.

The murder and mutilation of body parts of children living with albinism also constitute a gross infringement of their rights to life as guaranteed by the CRC under article 6. All the 55 African Union member states are parties to the CRC (with Somalia and South Sudan) being the latest state parties (UNHCR 2019). Article 6 of the CRC ultimately obliges state parties to ensure the optimal development as well as survival of the African child by recognising the inherent right to life of the child.

Further, the abduction and sale of body parts of children constitute a violation while threatening their right to access education as set out under

article 28 of the CRC. As has been reported in some sections of Tanzania, Malawi and South Africa, children living with albinism may be prevented from or deterred from attending school for fear of being abducted (Alum *et al.* 2009). So far, the government of Tanzania in an effort to tackle murder and violence against children with albinism, has adopted some measure of protection by assigning a police officer to accompany children on their way to and from school. This initiative clearly demonstrates that the Tanzanian government seeks to comply with its legal obligation as set out under article 6 of the CRC which clearly states that '[c]hildren have the right to live. Governments should ensure that children survive and develop healthily.' Besides Tanzania, no similar initiative (as far as could be determined) has been adopted in other sub-Saharan African countries where the hunting and mutilation of children living with albinism is pervasive. Article 2(2) of the ICESCR also calls on state parties to guarantee the rights of every person without 'discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.'

One document inspired by the UDHR which has had and continues to have a great impact on the adoption of appropriate, effective and immediate measures to safeguard the rights of persons in Africa, and the world in general is the CRPD (Waterstone 2011; Possi 2016). The Preamble as well as article 1 of the CRPD sets out the social element of disability by affirming that any explanation of disability must be based on the social aspect of attitudinal as well as physical constraints that hinders individuals with impairment from contributing effectively to development in their communities (Hendricks 2007). The CRPD addresses issues of non-discrimination as well as the elimination of attitudinal, social and legal barriers to the involvement of people with impairment by looking beyond the issue of access to the physical environment (Kanter 2007). The Convention's social approach to the issue of disability draws attention to the manner in which society rejects or embraces people with disability by shifting the focus from a person's mental or physical shortfalls (Lord & Stein 2013; Ngai 2009). Disability is, therefore, perceived as an outcome of unfortunate social condition which ought to be eliminated or transformed, rather than it being viewed as unavoidable (Kayess & French 2008; Dhanda 2008). The Convention acknowledges that the environment and impairment relate to bring about the experience of disability when individuals with deficits are unable to participate in the state on equal grounds. This overarching conception of disability provides a more practical approach for



tackling concerns and disadvantages often endured by PwA in contemporary Africa (Weller 2010). Their lifetime physical condition implies that these individuals have to constantly navigate conditions which may arise as a result of their uniqueness (Bielefeldt 2007). One of the social models of addressing discrimination towards people with albinism is by removing barriers erected by the state and community (Sandoval 2009). It is in this respect that article 8(1) of the CRPD obliges ratified states to adopt appropriate, effective and immediate steps to tackle harmful practices, prejudices, and stereotypes against persons with impairment. The instrument entreats states to use its provisions as guiding principles when drafting or amending domestic legislations (MacKay 2007).

At the regional level, the UDHR inspired the adoption of the 1986 African Charter on Human and Peoples' Rights (ACHPR 2019) which as of February 2019 had 53-member states. Under article 4 of the ACHPR, all human beings (irrespective of race or colour) have an inalienable right to life and integrity, and no entity or individual should deprive any of these rights. While the Banjul Charter (unlike other regional or international human rights norms) in terms of regulating the right to life does not have a substantive protocol prohibiting the death penalty it, however, does strongly and explicitly denounce killing of any individual (ACHPR 2016). The second sentence of article 4 of the Charter provides additional protection for individuals with albinism from arbitrary execution or killing (Chongwe 1987; Amoah 1992). To demonstrate the importance of the right to life towards the realisation of other rights, the African Charter links it to the religious, physical and moral well-being of the person (Evans & Murray 2008: 189).

The African Charter on the Rights and Welfare of the Child (ACRWC or Children's Charter) adopted in 1990 with 41-member states, is an overarching instrument on the protection of the rights of children, including African children with albinism (ACHPR 2019a). The ACRWC was born out of criticism by African states that the CRC failed to take into consideration fundamental economic, social and cultural issues specific to the continent (Chirwa 2002). Besides acknowledging that the African child must be granted special care and needs protection from abuse, the ACRWC acknowledges that children with albinism have distinctive position in African society (Olowu 2002).

As a supervisory body of the ACRWC, the African Committee of Experts on the Rights and Welfare of the Child (ACERWC 2016) in an attempt

to understand the plight of children living with albinism, embarked on an on-site visit in August 2015 to the provisional holding housings in the Lake Zone of Tanzania occupied by children living with albinism (ACERWC 2016). Besides assessing the challenges and abuse faced by these children, the ACERWC (2016) was tasked to mobilise different state and non-state actors to assist with improving the security and living condition of the children and also conduct a mapping of the factors which exacerbates the continues violent attacks against these children in the area specially, and Africa in general. The ACERWC (2016) subsequently released its findings in a 2016 report which mooted that the abduction and violent attacks perpetuated against children living with albinism were widespread and impacting on many other rights which the affected children are entitled. It also intimated that the children in the temporary holding centres were easy targets for hunters, especially due to their extreme vulnerable conditions. Besides condemning the Tanzanian government for failing to adopt adequate measures (in line with the provisions of the ACRWC, CRC and other international human rights) to safeguard these children from their hunters, it asserted that the temporary holding houses were akin to detention centres and not safe havens. The ACERWC (2016) concluded that the shelters did not serve the best interest of the children concerned, since some parents relied on it to dissociate themselves from the children they did not want to be seen with. In its recommendation, the Committee advised that the state must end the permanent nature of the shelter and devise a mechanism which could provide the children with a family setting. Such mechanism could include among others the destigmatization of the condition of albinism by the state. To achieve this end, the state may encourage socialisation through sport activities or other recreational activities which will enable people to see PwA as individuals with the same abilities and, can perform (even better) than their contemporaries in all aspects of life.

Besides armed conflict and sexual abuse, children with albinism in Africa are particularly exposed to different kinds of deprivation and maltreatment, ranging from gender discrimination within the health care and educational systems to economic hardships (Wakefield 2014). An additional range of challenges confronting African children with impairment include child-headed households, early marriages and child prostitution (Chilemba 2016). The UDHR is, therefore, a significant instrument for the protection of children living with albinism, especially as it inspired the adoption of child-related instruments such as the CRC and ACRWC, both seeking to safeguard

the African child living with albinism from abduction, trafficking, sexual abuse, exploitation, harmful sociocultural practices, ill-treatment, discrimination and violent attacks (Mandipa 2013). The lack of adequate mechanism to address the plight of PwA suggest that there is the need for an overarching legal and institutional framework to be adopted at the regional level to tackle the ongoing human rights abuse against PwA in Africa (Bucaro 2010). Such an institutional framework could be the adoption of a binding human rights document specifically guaranteeing the rights of PwA. The adoption of a treaty at (sub)regional must ultimately be accompanied by a treaty body (preferably a Committee with the power of enforcement) to monitor the operationalisation of the instrument at the national level. Given that all African states are parties to the UDHR, it is important that they fulfil their obligation of safeguarding their citizens from vicious attacks, abductions and killings which are affront to the provisions of the UDHR (Flinterman 1998).

#### **4 The Force of Law: Protection of PwA at the Domestic Level**

Whereas none of African countries' constitutions contain specific reference to PwA, virtually all of them have a provision devoted to fundamental principles or bill of rights which guarantee democratic ideals (of freedom, equality, dignity and non-discrimination) as set out by the UDHR (Li-ann 2009). Under article 9(f) of the 1977 Constitution of Tanzania, Tanzanians avow that 'human dignity is preserved and upheld in accordance with the spirit' of the UDHR; article 43 of the 2004 Constitution of Mozambique asserts '[t]he constitutional principles in respect of fundamental rights shall be interpreted and integrated in harmony with the Universal Declaration of Human Rights'; while article 9(f) of the Constitution of Tanzania pronounce that human dignity must be 'preserved and upheld in accordance with the spirit of the Universal Declaration of Human Rights'.

Borrowing from articles 1 to 5 of the UDHR, although none of the constitutions call for explicit protection of the rights of PwA, they nonetheless directly call on states to ensure adequate protection for this vulnerable group (Defeis 2004). Like other citizens in the country, Malawians with albinism have their rights entrenched in Chapter IV (Bill of Rights) of the 2010 Malawi Constitution. As indicated under this provision, the wide-range of rights (civil/political and economic/social/cultural) entrenched is to be enjoyed by everyone irrespective of your complexion or race. Besides disability, the

Malawian Constitution proscribes discrimination on other grounds such as colour, race and other status. The Constitution specifically indicates under section 20(1) that '[d]iscrimination of persons in any form is prohibited and all persons are, under any law, guaranteed equal and effective protection against discrimination on grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, property, birth or other status.' In the context of this article, any discriminatory practices towards PwA will therefore be in breach of the Constitution. Also, any abduction and mutilation of the body parts of PwA will also constitute a violation of section 13(3) of the Constitution which affirms that '[n]o person shall be subject to torture of any kind or cruel, inhuman or degrading treatment or punishment'. Other important provisions in the Constitution relevant to the protection of PwA are the rights to life (section 16), personal liberty (section 18) and dignity (section 19(1)). It is important to note that unlike other rights (such as freedom of speech), the right to life has no limitation, restriction or derogation (Mutharika 1996). In order to place criminal liability for discriminatory practices and address inequalities in Malawi society, the section 20(2) of the Constitution creates room for the adoption or amendment of existing legislation.

In the case of South Africa, the entrenchment of citizens' rights to life translates into the state's positive obligation to safeguard lives. This right can also be construed in the negative sense as imposing a duty on the state to refrain from taking an individual's life (Mutharika 1996). By extension, the state is obliged to safeguard individuals, including PwA from possible violent attacks and death (Aceves 2015). The section 12(1)(c) of the 1996 Constitution guarantees the right of every individual from all forms of violent acts, committed by either private or public entity. A persons' right to life and physical integrity is violated when he or she becomes a victim of violent acts causing grave physical harm or death. In addition, the right not to be tortured in any way is guaranteed under section 12(1)(d) whiles freedom from cruel, degrading and inhuman treatment is guaranteed under section 12(1)(e). The state's constitutional obligation to safeguard citizens from abuse by private actors has evolved as a norm of due diligence, a well-known notion in tort law (Kochan 2005). It is an obligation of conduct, implying that a government will not be held responsible for a violation of human rights if it initially adopted all reasonable steps to forestall the occurrence of such act. Perceived as an obligation of due diligence, deterrence is the demonstration of safeguarding.

Under comparable circumstances, due diligence calls for a parallel judicious preventive step as could be required of states. The steps taking by the government of Tanzania in the provision of temporary holding centres and escort of learners by police officers are instructive in this regard.

In sum, the UDHR has stimulated and continues to stimulate developments in human rights instruments relevant for the protection of PwA in Africa (Matas 2001). For states where the essential duty of standard-setting has been attained, the UDHR remains important and continues to unveil the flaws of African states in failing to translate into reality the human rights standards they have adopted. While the CRPD and Banjul Charter codify the responsibility of states to safeguard the rights of PwA, the ACRWC places the rights of children with albinism on firm legal ground. The ACRWC, however, is not without demerits.

Although the ACRWC has lofty ideals for the protection of children with albinism (since they are most vulnerable), it lacks operationalisation. For instance, while the ACERWC serves as an avenue for receiving communications and state reporting, it is not fully operational. First constituted on 10 July 2001, the ACERWC has not attained any substantive achievement for worth citing, especially with regards to African children with albinism. The failure of the Committee to vigorously advance the rights of these children with impairment could be linked to five key reasons:

- (i) lack of strong collaboration between the ACERWC and the African Commission on Human and People's Rights;
- (ii) inadequate number of legal experts to provide support to ACERWC members;
- (iii) lack of state's commitment to their reporting obligation;
- (iv) a dysfunctional secretariat;
- (v) failure of state parties to nominate suitably competent candidates to the ACERWC (Wakefield 2014).

In sum, whereas African states have continuously paid lip-service to the UDHR over the last seven decades and framed numerous regional and national laws to safeguard the rights of people living with albinism, the operationalisation of these instruments have been characterised by lack of demonstrated commitment and non-prioritization of their rights at both regional and national levels (Udombana 2008).

## **5 Looking Forward: A Proposal for Adequate Protection for African PwA**

The UDHR does not seem to tackle peculiar challenges that encroach on the development and survival of person's living albinism in contemporary Africa, especially as it makes sweeping statements for the right of the individual (Clark & Nevas 1974). The UDHR does not specifically tackle two main challenges that have confronted PwA in the past and still pervasive in contemporary Africa: erroneous traditional conceptions and harmful cultural practices.

The perpetration of harmful traditional or cultural practices on PwA remain a major barrier to the attainment of the lofty ideals of the UDHR, and pushes back article 1, which proclaims everyone is born free and equal in rights and dignity (Drzewicki 1998). Harmful traditional practices visited on PwA is brutal (Combrinck & Mute 2014). Machetes and knives are allegedly the instruments employed in cutting the body parts (head, breasts and limbs) of the defenceless and wailing victim. Two gruesome murders are worth citing. On 1 August 2015, Thandazile Mpunzi, a 20-year-old South African woman with albinism was lured by her boyfriend to a village in KwaZulu-Natal where she was strangled to death (ECR News 2015). The deceased's body was mutilated and skinned for ritual purposes. Also, in Malawi, a two-year old baby with albinism was abducted from her home and beheaded, leaving behind her clothes, teeth and skull (Amnesty International 2017). These violent acts clearly demonstrate that the ancient notion of Ubuntu (humanness) which resonates through the provisions of the UDHR is diminishing (Finegan 2012). The violent nature of these atrocities completely undermines the UDHR's cardinal tenets of human dignity and life (Bray 2000).

Irrespective of these drawbacks, all is not lost-yet. The beliefs and practices of Africa's population keeps evolving with time and never static (Sarkin 2018). As set out by article 21, every individual has the right to participate in the governance of his or her society community, whiles article 27(1) guarantees citizen's right to participate in the cultural life of their community, it is high time civil society organisations drew inspiration from the UDHR and join hands with (inter)national organisations and mobilise PwA to usher in a new dawn of perception and respect for the rights of African citizens' living with albinism.

The evolution and exponential spread of the Internet as a means of communication is fast exposing the daily discrimination and abuse suffered by

PwA. The advent of cyberspace implies that information concerning country's approaches towards protecting vulnerable groups could be shared while giving visibility to human rights abuses on a global platform. As demonstrated in the Mpunzi's case, because of cyberspace, decisions (directly or indirectly relating to PwA) from various provincial or national courtrooms can be more readily disseminated and shared with colleagues across the continent and not merely buried in the pages of court documents.

There are already some indications of improvement towards changing the false perception concerning PwA. In demonstrating perhaps commitment to alleviate the plight of PwA at the regional level, the African Commission on Human and Peoples' Rights (2018) adopted a resolution calling for an end to the widespread discrimination, stigma, systematic attacks and killings against PwA in the continent. It further calls on African leaders to take steps to eliminate all forms of discrimination and violence against PwA, while ensuring that perpetrators are duly investigated and brought to justice. At the international level, the UN's General Assembly on 18 December 2014 adopted a Resolution 69/170 proclaiming 13 June as the International Albinism Awareness Day. The resolution, among others calls for the prevention of discrimination as well as violent attacks against PwA. These initiatives, at both the regional and international levels hold a lot of promise towards shifting the erroneous perception about albinism while encouraging states to afford adequate security to this vulnerable group. Moreover, the provision of adequate human and logistical support to the African Commission on Human and Peoples' Rights will enable it to discharge its mandate effectively by safeguarding the rights of children with albinism, especially by filling an application with the African Court on Human and Peoples' Rights (the African Court) against a state for failing to adequately safeguard the interest of its citizens with albinism.

Moreover, regional and national institutional collaboration and partnerships hold much promise towards tackling violence against PwA. The golden thread that unifies all international and continental human rights human rights bodies is the UDHR. Strong institutional collaboration between the African human rights system and their European and Latin American counterparts will enhance the capacity of African Commission, the African Children's Committee and the African Court towards the operationalisation and monitoring of the Banjul Charter and ACRWC which if both implemented effectively, could curb violations committed against PwA.

Much of the future of PwA in Africa will depend on the judiciary. In contemporary Africa (with South Africa being a shining example), some judges have chosen not to temper justice with mercy, by sentencing perpetrators harshly for offences relating to violence against PwA. Following the 2015 brutal murder of Mpunzi mentioned above, the Vryheid Regional Court on 25 September 2015, sentenced the victim's boyfriend and his accomplice to 20 years imprisonment, while the witchdoctor (who conspired with the perpetrators) received life sentence by the Mtubatuba High Court for his role in the murder of the victim (Stolley 2016). In a separate case, a Tanzanian court sentenced to death four men after dismembering Lyaku Willy, a man living with albinism (Karimi 2009). These harsh sentences to some extent hold the prospect of deterring individuals who might be tempted to cause bodily harm to persons living albinism as a result of erroneous beliefs. In sum, courts have a key role to play in the safeguarding of African population living with albinism from abduction, killing and mutilation of body parts.

Another key ingredient necessary for safeguarding the rights of PwA in Africa is the involvement of civil society organisations (CSOS). Besides highlighting abuses against PwA wherever and whenever they occur, CSOs can play a meaningful role by serving as the mouthpiece for PwA. Africa's CSOs are gradually making progress in holding governments accountable for their (local and international) commitments and promoting public awareness about the erroneous conception of people with albinism. Ultimately, effective leadership is what is needed from the CSO, public to public sector in order to tackle the issue of violence against African PwA. Only bold and decisive leadership at the helm of government will ensure that commitments undertaken and promises made are seriously considered and judiciously enforced by all branches of government. Giving that the medical conditions of PwA could hamper their employment opportunities, the private sector can contribute towards creation of economic opportunities or jobs or invest in areas where majority of this vulnerable group reside.

## **Conclusion**

Through the adoption of the UDHR as well as the several other (sub)regional and international human rights norms it has stimulated, leaders from the African continent have made manifold commitments towards protecting the rights of PwA in the region. The protection of PwA from discrimination,



abduction, murder and mutilation of their body parts is a primary concern not only for potential victims, but a national and regional concern. While many African states are parties to the UDHR and other international instruments (ICCPR, ICESCR, CRC, CRPD, Banjul Charter, and ACRWC) which impose a legal obligation on them to safeguard the rights of their citizens (including PwA), there is very little indication that they take their obligations seriously. It is important that African leaders acknowledge that the process of legal reforms (for enhancing human rights) does not only center around ratification of international instruments or enactment of national human rights framework, but rather taking adequate steps to implement the provisions set out in these instruments. In addition, any new legislation that seeks to strengthen protection for PwA must be matched by political will of states to safeguard this group.

Giving the ongoing atrocities committed against children, women and men living with albinism across the continent, the contribution focuses on how the values of the UDHR can be invoked, specifically, provisions relating to the right to dignity, life and security of the person can be used to safeguard these individuals. The contribution critically analysed the impact of violent attacks inflicted on Africans with albinism and underscored that by virtue of being a party to the UDHR and subsequent international human rights instruments, African states are obliged to safeguard their citizens' right to life and dignity. The provisions of the UDHR set out above provide important normative framework for tackling violence against albinism. While the UDHR cannot be a substitute to domestic legislations, it serves as a guiding principle and an operational complement to national instruments. The prevalence of brutal killings of Africans with albinism triggers the need for a multi-pronged approach discussed above. The paper underscored the position of African states as the main guardians and enforcers of the UDHR (and related international human rights norms) and entreats African leaders to adhere to their (inter)national obligations of protecting citizens from arbitrary killings, torture and discrimination.

Awareness campaigns concerning albinism are not adequate. If long-term solutions are to be found, a joint effort on the part of all state and non-state actors is needed. Rather than depending entirely on the efforts of non-governmental organisations, human rights activists, the state's security apparatus, and the public must collaborate and become active in this respect. It is suggested that the general public be entreated to formulate and operationalise a community-based policing and security programmes in locations where

people with albinism reside (as a form of supporting and complementary initiative to formal policing). Whereas severe sentencing and strict prosecution of perpetrators of brutal killings of PwA may deter potential attackers, community advocacy must be a topmost priority.

In sum, African leaders must be more vigilant in their efforts to curb the trafficking in body parts of PwA from one jurisdiction to another. States must therefore design and operationalise effective preventive methods, such as the appointment of a task team to operationalise safety measures for this vulnerable group. Although not adequate, the protection afforded to Tanzanians with albinism is worth emulating by other African countries such as South Africa where the abduction, killings and mutilation of the body parts of children with albinism is rising.

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Professor Bright Nkrumah  
Center for Human Rights  
Faculty of Law  
University of the Free State  
Bloemfontein  
[nkrumahB@ufs.ac.za](mailto:nkrumahB@ufs.ac.za)