

Negating the Promotion of Human Rights Through “Claw-Back” Clauses in the African Charter on Human and People’s Rights

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Abstract

The phrase ‘claw-back’ clause has often been used to refer to those provisions of the African Charter that seek to minimize or limit some of the rights guaranteed under the Charter. Consequently, the African Charter on Human and Peoples’ Rights has often been criticized for having an abundance of “claw-back” clauses, thereby compromising the realization of some human rights. A critical analysis of the criticism leveled against the claw-back facility in the African Charter is warranted and is evidently clear that the implications of these claw-back clauses has a debilitating impact on the protection and promotion of human rights on the African continent. There has been the utilization of the work and efforts of the African Commission on Human and Peoples’ Rights to minimize the impact of the claw-back clause on the realization of human rights.