

The Pan-African “Charter for African Cultural Renaissance”: A Postcolonial Agenda for Africa in the 21st Century

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Abstract: Despite the formal end of colonial rule in Africa, (neo-)colonial structures continue shaping parts of the continent. Against this situation, the concept of an African Renaissance envisions the rebirth of the continent and its rise from oppression. The Charter for African Cultural Renaissance is a Pan-African treaty that most clearly defines this concept to date. The Charter aims to give back agency to African actors and empower Africa to reach its full potential through culture in a broad range of areas, including human rights, education, science, technology, creative industries, and cultural heritage. The present article examines the treaty’s emancipatory character and explores to what extent it may serve as a postcolonial agenda for Africa in the 21st century, potentially bringing about real change for the continent’s future. In that respect, an in-depth legal analysis of the Charter’s substantive provisions will show that the African-wide treaty contains numerous innovative provisions. Furthermore, existing links to international law are highlighted. An exploration of actions taken for the implementation of the treaty reveals significant international efforts. For the African Union, the Charter’s implementation is part of wider efforts to achieve Pan-Africanism and African Renaissance. Supportive initiatives by UNESCO have been placed under the framework of “Global Priority Africa.” Still, challenges to fulfil the promises of African Cultural Renaissance persist. In that respect, the article proposes some pathways to overcome those challenges.

Keywords: Charter for African Cultural Renaissance; Postcolonialism; Cultural Heritage Cultural Development

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A. Introduction

“The call for Africa’s renewal, for an African Renaissance is a call to rebellion. [...] Surely, there must be politicians and business people, youth and women activists, trade unionists, religious leaders, artists and professionals from the Cape to Cairo, from Madagascar to Cape Verde, who are sufficiently enraged by Africa’s condition in the world to want to join the mass crusade for Africa’s renewal. It is to these that we say, without equivocation, that to be a true African is to be a rebel in the cause of the African Renaissance, whose success in the new century and millennium [sic] is one of the great historic challenges of our time.”¹

Thabo Mbeki, then South African president, describes that Africa must overcome its current state in the world and renew itself. One of the main reasons for this need is the fact that despite the end of formal colonial rule, (neo)colonial dependency and power structures persist. To mention just a few examples: Arbitrary colonial border delimitations continue to divide African communities and remain a source of conflict between States.² The wealth of African cultural heritage and cultural expressions has been severely damaged by colonial occupation, plunder, and exploitation.³ Much of the cultural property removed during colonial times remains outside its countries of origin, leaving many African communities alienated from their culture and without access to their cultural heritage. The languages of former colonial powers remain dominant in Africa, thus neglecting local languages and impairing cultural diversity, identity, and heritage.⁴ Also, the “ongoing denial of African history”⁵ rooted in the falsification and appropriation of history by colonial powers leaves many Africans without knowledge of their own history. As Judge Abdulqawi Yusuf highlighted, “African history [...] was interrupted in its development, buried in the ashes of

1 *Thabo Mbeki*, The African Renaissance Statement, SABC, Gallagher Estate, 13 August 1998, <https://dirco1.azurewebsites.net/docs/speeches/1998/mbek0813.htm> (last accessed on 18 January 2025).

2 The International Court of Justice dealt with various cases of border conflicts with colonial origins. See ICJ, Case concerning the Frontier Dispute (*Burkina Faso v. Republic of Mali*), Judgment of 22 December 1986; ICJ, Land and Maritime Boundary between Cameroon and Nigeria (*Cameroon v. Nigeria: Equatorial Guinea Intervening*), Judgment of 10 October 2002; ICJ, Case concerning the Frontier Dispute (*Benin v. Niger*), Judgment of 12 July 2005; ICJ, Frontier Dispute (*Burkina Faso v. Niger*), Judgment of 16 April 2013. More generally see *Brian Taylor Sumner*, Territorial Disputes at the International Court of Justice, *Duke Law Journal* 53 (2004), pp. 1779-1812.

3 *Sabine von Schorlemer*, Die panafrikanische ‘Charter for African Cultural Renaissance’: Eine postkoloniale Agenda für das Kulturerbe Afrikas und für Restitutionen, Opladen 2025, p. 21.

4 *Bruno de Witte*, Language as Cultural Heritage, in: Francesco Francioni / Ana Filipa Vrdoljak (eds.), *The Oxford Handbook of International Cultural Heritage Law*, Oxford 2020, p. 370; *Olawale I. Maiyegun / Angela Martins*, The Role of Culture in African Renaissance, Integration, and Sustainable Development, *The International Journal on Green Growth and Development* 3 (2017), p. 66.

5 *Dan Hicks*, The British Museums, London 2020, p. 47.

colonial conquest or disrupted through the plundering of cultural heritage items, artefacts and archives from the continent.”⁶

Already this short overview illustrates that despite many former African colonies having gained formal independence in the second half of the 20th century, the impact of colonialism has not been overcome yet. Quite on the contrary, its effects still shape African communities, societies, and States to this day.

African Renaissance seeks to overcome this status quo. It aims at the rebirth of Africa and its rise from neo-colonial oppression to reach its full potential.⁷ This endeavour is codified and further concretized in the Charter for African Cultural Renaissance (CACR)⁸ – a Pan-African treaty negotiated under the auspices of the African Union (AU), adopted in 2006 and in force since 2020.⁹

The CACR centres around culture and its crucial role in achieving the African Renaissance. It aims to revive Africa’s diverse culture and rich cultural expressions oppressed by external forces such as former colonialism and contemporary globalisation¹⁰ as well as using the force of culture to further development.¹¹

The CACR has been described as one of the AU’s “most significant contemporary treaties.”¹² Indeed, it aims to empower African States and societies to accomplish “political, economic and social liberation,”¹³ and seeks to give back agency to African States and societies to reappropriate their culture, languages, and history. Nevertheless, the Charter remains rather unknown. In fact, it took 14 years until the treaty entered into force – one of the possible reasons for that being the lack of awareness of the relevance of culture in the field of African Renaissance.¹⁴

Against this backdrop, the present article seeks to analyse the Charter and its significance, exploring in what way the CACR is suitable to serve as a postcolonial agenda for

6 Abdulqawi A. Yusuf, Foreword, in: Sabine von Schorlemer, *Die panafrikanische ‘Charter for African Cultural Renaissance’: Eine postkoloniale Agenda für das Kulturerbe Afrikas und für Restititionen*, Opladen 2025, p. 6.

7 Vincent O. Nmehielle, *The African Union and African Renaissance*, *Singapore Journal of International and Comparative Law* 7 (2003), pp. 416 ff.

8 Charter for African Cultural Renaissance (CACR) (adopted on 14 January 2006).

9 African Union, *Continental Launch of the Entry into Force of the Charter for African Cultural Renaissance (2006) and Africa Day Celebrations*, 25.05.2021, <https://au.int/en/newsevents/20210525/continental-launch-entry-force-charter-african-cultural-renaissance-2006-and> (last accessed on 18 January 2025).

10 Preamble para. 6 CACR.

11 Preamble para. 7 CACR.

12 Janet Blake, *International Cultural Heritage Law*, Oxford 2015, p. 316.

13 Preamble para. 10 CACR.

14 Kevin Bakulumpagi, *Resolution of the African Commission on Human and Peoples’ Rights on the Protection of Sacred Natural Sites and Territories*, *African Human Rights Yearbook* 5 (2021), p. 317.

Africa in the 21st century. Therefore, it will examine to what extent the CACR's provisions are innovative and able to bring real change to Africa's future.

To answer these research questions, the article will first explore the central concepts of the African Cultural Renaissance and Pan-Africanism, then turn to an in-depth analysis of the substantive provisions of the CACR, before examining actions by the African Union and UNESCO to implement this treaty.

Being aware of the constant risk of potential Eurocentric biases, the current study will focus on the document that the African Union with its 55 Member States has adopted solemnly and whose promotion can, thus, be assumed to be in Africa's genuine interest: The Charter for African Cultural Renaissance.

B. Background: African Cultural Renaissance and Pan-Africanism

The roots of the concept of the African Renaissance go back at least to the 20th century. The idea was made popular by the Senegalese anthropologist and historian Cheikh Anta Diop in a series of essays published between 1946 and 1960.¹⁵ It was further promoted by Thabo Mbeki, quoted above, at the end of the century. Not only did Mbeki take up the idea in his speeches,¹⁶ but he also hosted a conference on the African Renaissance in 1998 and opened the African Renaissance Institute in Pretoria, South Africa, one year later.¹⁷

African Renaissance aims at the continent's postcolonial rebirth. It "encapsulates the need for Africa to arise from oppression, neo-colonial subjugation, lack of continental accountability, in order to enable the continent to reach its greatest potential."¹⁸ Culture plays an important role in this quest for African development. For Cheikh Anta Diop, it was essential that African culture and history were the foundations of the renewal. Agency being a central cornerstone of the concept, Diop emphasized that Africans should be enabled to take responsibility for building their own future.¹⁹

African Renaissance itself is "deeply rooted in the idea of Pan-Africanism."²⁰ Likewise, Pan-Africanism strives for African development. It sees African unity as the driving force to that end. As it has been aptly described:

"Pan-Africanism is an ideology and movement that encourages the solidarity of Africans worldwide. It is based on the belief that unity is vital to economic, social and political progress and so, it aims to 'unify and uplift' people of African descent.

15 Sabelo J. Ndlovu-Gatsheni, Revisiting the African Renaissance, Oxford Research Encyclopedia of Politics (2019), p. 5. The essays were published collectively in 1966 under the title "Towards the African Renaissance: Essays in Culture and Development, 1946-1960".

16 With further references *Yusuf*, note 6, p. 5.

17 *Ndlovu-Gatsheni*, note 15, p. 2.

18 *Nmehielle*, note 7, pp. 416 ff.

19 *Ndlovu-Gatsheni*, note 15, p. 5.

20 *Yusuf*, note 6, p. 5.

*[...] The ideology asserts that the fate of all African peoples and countries are intertwined. At its core, Pan-Africanism is 'a belief that African peoples, both on the continent and in the Diaspora, share not merely a common history, but a common destiny', "*²¹

Pan-Africanism, as further concretized by the African Union, fosters not only democratization and development²² but also recognizes the important role of culture. In cultural terms, Pan-Africanism is particularly about respecting and recognizing the uniqueness of African cultures, traditions, and lifestyles and giving them high priority in the context of overall social development.²³ Likewise, the African Cultural Renaissance is "about the revival of African cultures based on the dynamic values of African cultural expressions and cultural heritage that promote African identity, human rights, social cohesion and human development."²⁴

Consequently, Pan-Africanism and African Renaissance are fundamental to Africa's future and "critical to the continent's progress."²⁵ This becomes evident in the AU's "Agenda 2063: The Africa We Want."²⁶ This 50-year strategic framework for the long-term transformation of the continent envisions Africa developing into an integrated, united, peaceful, sovereign, prosperous, and independent continent, "driven by its own citizens, and representing a dynamic force in the international arena."²⁷ A self-confident Africa is envisioned – "self-confident in its identity, heritage, culture and shared values."²⁸

"The Africa We Want" reflects the continent's determined will to regain agency and find its own path – based on the African Cultural Renaissance and Pan-Africanism. The CACR has similar objectives, which will be outlined in the following part.

21 African Union, Presentation on ICT, Pan-Africanism and Renaissance, <https://au.int/en/file/27222-wd-presentationonictpanafricanismandrenaissancepdf> (last accessed on 18 January 2025).

22 *Abdulqawi A. Yusuf*, Pan-Africanism and International Law, in: *Académie de Droit International de la Haye* (ed.), *Collected Courses of The Hague Academy of International Law – Recueil des cours*, The Hague 2014, pp. 199–202.

23 African Union, Agenda 2063, The Africa We Want, <https://au.int/en/agenda2063/overview> (last accessed on 18 January 2025), para. 7; see also *Schorlemer*, note 3, p. 36.

24 *Yusuf*, note 6, p. 6.

25 African Union, Agenda 2063 Framework Document, p. 85. See also *Lando Kirchmair*, *Shifting the Focus from an International Towards a More Regional Cultural Heritage Protection in the Middle East and North Africa*, *World Comparative Law* 53 (2020), p. 283.

26 African Union Agenda 2063.

27 African Union / African Union Development Agency, *Second Continental Report on the Implementation of Agenda 2063*, Midrand 2022, p. iv.

28 African Union Agenda 2063, para. 7.

C. Legal Basis: The Charter for African Cultural Renaissance

I. Genesis of the CACR

After the formal liberation from colonial rule in the 1950s and 60s, most independent African States focussed primarily on the economic development of their countries.²⁹ At the same time, however, they were concerned with the revitalization of autochthonous cultural values, which were often suppressed, even eradicated by colonial powers. Thus, it became questionable whether the preservation of traditional values and progressive development were compatible. An alignment of the two objectives was found in the concept of cultural development, viewing-cultural development as “one of the essential factors in general development.”³⁰ This concept was significantly shaped by UNESCO, which pushed to transform the perception of culture as something rather static and traditional into an innovative tool for development.³¹

Gradually, African States started to take cultural aspects into consideration within their development policies.³² In 1985, the Organization of African Union’s (OAU)³³ Heads of State and Government committed themselves to “the need to align cultural development with the economic development of Africa.”³⁴ Moreover, the importance of cultural development for Africa’s international relations was emphasized in the OAU’s 1996 Yaoundé Declaration in which the Heads of State acknowledged: “[...] the continent’s place in the concert of nations of tomorrow and beyond and the pull it will have on the other regions will depend on its cultural development.”³⁵

The importance of culture was further acknowledged in the OAU’s Cultural Charter for Africa – the CACR’s predecessor – which was adopted in 1976 and entered into force in 1990.³⁶ This previous Charter can be seen as an early normative step in the quest for an African Cultural Renaissance.³⁷ It understood culture as an important tool in the struggle for political and social liberation and “the most efficient force of our victorious resistance to imperialist blackmail.”³⁸ To this end, the treaty foresaw to strengthen cultural

29 *Schorlemer*, note 3, p. 56.

30 UNESCO Doc. SHC/MD/13 (1970), Resolution 12, para. 1. More generally on the culture-development nexus see *Sabine von Schorlemer*, UNESCO-Weltkulturerbe und postkoloniale Diskurse, Baden-Baden 2022, pp. 85 ff.

31 *Schorlemer*, note 3, p. 56.

32 *Kebede Kassa Tsegaye*, The Cultural Agenda of the OAU/AU since 1963, *Africology: The Journal of Pan African Studies* 9 (2016), pp. 43 ff.

33 The OAU, founded in 1963, is the predecessor of the AU, founded in 2002.

34 OAU Doc. AHG/Decl.2(XXI) (1985), preamble para. 7.

35 OAU Doc. AHG/Decl.3 (XXXII) (1996), para. 29.

36 Cultural Charter for Africa (adopted on 5 July 1976). For further analysis of the content of this treaty, cf. *Schorlemer*, note 3, pp. 58–61.

37 *Schorlemer*, note 3, p. 61.

38 Preamble paras. 10, 11 Cultural Charter for Africa, see also Art. 1 a, d Cultural Charter for Africa.

cooperation³⁹ and preserve and promote African cultural heritage.⁴⁰ Furthermore, a whole part of the Charter was dedicated to national cultural development,⁴¹ in which the State Parties agreed to develop national cultural policies⁴² and integrate them into economic and social development policies.⁴³

With the founding of the African Union in 2002,⁴⁴ an even stronger focus was placed on the importance of culture. The promotion of sustainable cultural development was already mentioned as an objective in the AU's Constitutive Act.⁴⁵ The AU Commission's Strategic Plan (2004), furthermore, saw African culture and languages as assets to be used for Africa to become "a force we can rely upon."⁴⁶

Only four years after the AU's founding, in 2006, a new cultural treaty, the CACR, was adopted,⁴⁷ replacing the Cultural Charter for Africa and clearly reflecting the AU's focus on culture. In practice, however, the CACR got off to a rather rough start. Initially, the treaty foresaw that it would enter into force after two-thirds of the AU Member States ratified it.⁴⁸ However, by 2011, five years after the Charter's adoption, only three members had become State Parties.⁴⁹ The AU, several African States, UNESCO, NGOs, and networks launched public campaigns calling on the AU Member States to ratify. This included, among others, the 2013 "Pan-African Forum for the Culture of Peace" by the AU, UNESCO, and the Government of Angola,⁵⁰ a conference on "Partnership with Civil Society in [...] the Charter of African Cultural Renaissance: What Challenges? What Solution?" in 2017,⁵¹ and

39 Art. 1 e, f Cultural Charter for Africa. See also Arts. 30-32 Cultural Charter for Africa.

40 Art. 1 b Cultural Charter for Africa. See also Arts. 26-29 Cultural Charter for Africa.

41 Part III, Arts. 6-11 Cultural Charter for Africa.

42 Art. 6 a Cultural Charter for Africa.

43 Art. 6 b Cultural Charter for Africa.

44 AU Doc. ASS/AU/Decl. 2 b (1) (2002).

45 Art. 3 j Constitutive Act of the African Union (adopted on 11 July 2000). See also Art. 3 k Constitutive Act of the African Union as an indirect reference to culture.

46 AU Commission, Strategic Plan of the African Union Commission, https://sarpn.org/documents/d0001693/P2037-AU_Strategic-Plan_May2004.pdf (last accessed on 18 January 2025), p. 3.

47 AU Doc. Assembly/AU/Dec. 94 (VI) (2006). Approved by Ministers of Culture already in AU Doc. AUCMC/MIN/DRAFT/RAPT/RPT(I) (2005), para. 19.

48 Art. 35 CACR.

49 African Union, Launch of the Campaign for African Cultural Renaissance for the Southern Africa Development Community (SADC) Member States, 30.11.2011, https://au.int/sites/default/files/speeches/27738-sp-remarks_for_csa_-_sadc_launch_-_with_directors_input_edited1_0.pdf (last accessed on 18 January 2025), p. 3.

50 UNESCO Doc. AFR-2013/WS/2 (2013), p. 130.

51 Centre Régional pour les Arts Vivants en Afrique, Regional Workshop on the 2005 UNESCO Convention and the African Union Charter for Cultural Renaissance, 13.04.2022, https://www.cera.vafrique.org/fr/node/16?language_content_entity=en (last accessed on 18 January 2025).

activities by the Pan-African Arterial Network of artists, companies, and NGOs.⁵² Despite these efforts, the number of ratifications remained below the threshold set by article 35 CACR, so in 2019, an amendment to the Charter was adopted, lowering the number of required ratifications to 15.⁵³ Only months later, in 2020, the CACR finally entered into force.⁵⁴ Currently, 34 States have signed the treaty, of which 18 have ratified it.⁵⁵

The reasons for the apparent lack of political will to accede to the Charter of African Cultural Renaissance could be manifold. They might include the lack of awareness of the relevance of the treaty provisions and their exact content,⁵⁶ the supposedly small importance of culture compared to other political matters such as security or economy, and the diversity of State and non-State actors involved in cultural policies complicating related decision-making processes.⁵⁷ Moreover, it is possible that some States considered the 1976 Cultural Charter for Africa to be sufficient and therefore saw no need to ratify another cultural treaty.⁵⁸

As of today, the CACR is an African-wide international treaty that binds States that have ratified it. In the relations between its parties, it replaces the older Cultural Charter for Africa.⁵⁹ If State Parties of the Cultural Charter have not ratified the CACR, the former remains in force.⁶⁰ Against this background, the following analysis of the legal provisions of the CACR will reveal that the CACR contains some important provisions.

52 Arterial Network, Understand the Charter for African Cultural Renaissance, 21.03.2018, <https://www.youtube.com/watch?v=6pib4T2tz4c> (last accessed on 18 January 2025).

53 AU Directorate of Information and Communication, Key Decisions of the 32nd Ordinary Session of the Assembly of the African Union (January 2019), <https://au.int/sites/default/files/pressreleases/35794-pr-decisions.pdf>, On the Draft Legal Instruments, para. vi (last accessed on 18 January 2025).

54 African Union, Continental Launch of the Entry into Force of the Charter for African Cultural Renaissance (2006) and Africa Day Celebrations, 25.05.2021, <https://au.int/en/newsevents/20210525/continental-launch-entry-force-charter-african-cultural-renaissance-2006-and> (last accessed on 18 January 2025).

55 African Union, List of Countries which Have Signed, Ratified/Acceded to the Charter for African Cultural Renaissance, https://au.int/sites/default/files/treaties/37305-sl-CHARTER_FOR_AFRICA_N_CULTURAL_RENAISSANCE_0.pdf (last accessed on 18 January 2025).

56 *Bakulumpagi*, note 14, p. 317.

57 African Union, Launch of the Campaign for African Cultural Renaissance for the Southern Africa Development Community (SADC) Member States, https://au.int/sites/default/files/speeches/27738-sp-remarks_for_csa_-_sadc_launch_-_with_directors_input_edited1_0.pdf (last accessed on 18 January 2025), p. 5.

58 *Schorlemer*, note 3, pp. 67–69.

59 Art. 2 a CACR. This reflects the legal principle of *lex posterior derogat legi priori*.

60 Art. 2 b CACR.

II. Provisions of the CACR

1. Preamble

While a treaty's preamble is not itself legally binding, it sets an important context for the interpretation of the following provisions.⁶¹

The CACR's preamble starts by defining what culture is. Culture entails "the set of distinctive linguistic, spiritual, material, intellectual and emotional features of the society or a social group," which "encompasses, in addition to art and literature, lifestyles, ways of living together, value systems, traditions and beliefs."⁶² This expresses a broad understanding of culture, which includes not only tangible but also intangible cultural heritage and cultural expressions. Moreover, it is acknowledged "that all cultures emanate from societies, communities, groups and individuals."⁶³ In turn, it can be concluded that cultural development also comprises societal development.

Accordingly, the cultural autonomy of individuals is emphasized: "[...] any people have the inalienable right to organize their cultural life in full harmony with their political, economic, social, philosophical and spiritual ideas."⁶⁴ This already hints at the CACR's human rights approach, which will be discussed later.

Moreover, the CACR's *telos* becomes apparent. First, Africa's experiences of cultural oppression during colonialism are recalled. The preamble states that "cultural domination [...] during the slave trade and the colonial era led to the depersonalization of part of the African peoples, falsified their history, systematically disparaged and combated African values, and tried to replace progressively and officially their languages by that of the colonize [sic]."⁶⁵ Building on this, the Charter's understanding of culture is elucidated: Culture is seen as a tool in the "political, economic and social liberation struggle"⁶⁶ and "the most efficient response to the challenges of globalisation."⁶⁷ This already hints at the emancipatory potential of the CACR as a post-colonial agenda for Africa. The central concern of the Charter is overcoming remaining dependencies and achieving the desired resurgence of the continent in the 21st century through culture.

61 Art. 31 (2) Vienna Convention on the Law of Treaties (adopted on 23 May 1969).

62 Preamble para. 3 CACR.

63 Preamble para. 4 CACR.

64 Preamble para. 5 CACR.

65 Preamble para. 7 CACR.

66 Preamble para. 16 CACR.

67 Preamble para. 15 CACR.

2. Objectives and Principles

After setting the context through the preamble, article 3 lays out the twelve objectives of the CACR, the achievement of which is specified in the following provisions. Subsequently, five principles are enumerated in article 4, underlying and supporting the achievement of these objectives.

Among the most important objectives are the promotion of human rights, namely “the dignity of African men and women”⁶⁸ and the “freedom of expression and cultural democracy”⁶⁹ – the former expressing the emancipatory character of the CACR as respect for the dignity of Africans is essential for the post-colonial aim to overcome colonial injustice, acknowledge the harm done, and promote African identities.⁷⁰ Further human rights provisions such as “respect for [...] cultural rights of minorities”⁷¹ and “access of all citizens [...] to culture”⁷² are mentioned as the CACR’s underlying principles in article 4.

Another crucial objective is related to development. Cultural objectives are to be integrated into “development strategies”⁷³ and “an enabling environment” should be promoted which “maintain[s] and reinforce[s] the sense and will for progress and development.”⁷⁴ This is also important to enable people “to cope with globalization.”⁷⁵

Furthermore, cultural heritage is to be preserved, restored, and rehabilitated.⁷⁶ The return of cultural property plundered in colonial contexts, and the repatriation of human remains, i.e., ancestors of African communities remaining in various museums in the Global North, often those of former colonial powers, is part and parcel of this endeavour.⁷⁷

Further objectives include strengthening the role of culture “in promoting peace,”⁷⁸ democracy,⁷⁹ and “social cohesion”⁸⁰ and encouraging cultural cooperation between Member States and internationally – this also involves the diaspora.⁸¹ To achieve the latter,

68 Art. 3 a CACR.

69 Art. 3 b CACR.

70 See Art. 6 CACR.

71 Art. 4 c CACR.

72 Art. 4 a CACR.

73 Art. 3 g CACR.

74 Art. 3 c CACR.

75 Art. 3 l CACR.

76 Art. 3 d, i CACR.

77 For more detail, see the analysis by *Schorlemer*, note 3, pp. 139–307, including the return of the Benin Bronzes from Germany to Nigeria.

78 Art. 3 j CACR.

79 Art. 3 b CACR.

80 Art. 3 k CACR.

81 Art. 3 f, k CACR. The role of the African diaspora is to be discussed *infra*.

the "exchange and dissemination of cultural experiences between African countries"⁸² is established as a principle.

The thematic breadth of the objectives reflects the importance attributed to culture in various areas of society and for the future of Africa. It also expresses the cross-cutting approach of the CACR. Obviously, the drafters were committed to integrate cultural objectives into various policy areas such as human rights, development strategies, or also peace and democracy.

3. Substantive Legal Provisions in the CACR

After presenting the CACR's context, the following chapter will analyse the substantive provisions of the CACR in order to examine the post-colonial, emancipatory character of the treaty.

First, it should be noted that the significance of cultural diversity is emphasized in the Charter. This importantly shapes the understanding of an African Cultural Renaissance. Article 5 reads: "African States recognize that cultural diversity is a factor for mutual enrichment of peoples and nations."⁸³ The conclusion drawn from this general recognition is quite remarkable. For State Parties "commit themselves to defend minorities, their cultures, their rights and their fundamental freedoms."⁸⁴ Given the lack of protection of minorities in many States, this is a significant statement, as it shows that the State Parties are willing to protect and promote the rights of minorities, including in the context of cultural rights.⁸⁵ This approach is in line with the UNESCO Universal Declaration on Cultural Diversity, which acknowledges cultural diversity as a source for development and creativity on the one hand⁸⁶ and emphasizes the need to protect cultural diversity through human rights on the other hand.⁸⁷

Cultural diversity might not only relate to individuals and communities but also to the diverse cultural industries – comprising the creation, production, and distribution of cultural goods and services – whose promotion is covered by the CACR, too.⁸⁸ Likewise, the above-mentioned UNESCO Declaration and, additionally, the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions⁸⁹ are concerned with cultural goods and services, their production, and dissemination as an aspect of cultural

⁸² Art. 4 e CACR.

⁸³ Art. 5 (1) CACR.

⁸⁴ Art. 5 (1) CACR.

⁸⁵ *Schorlemer*, note 3, p. 83.

⁸⁶ UNESCO Doc. 31 C/Resolution 25 (2001), Arts. 3, 7.

⁸⁷ *Ibid.*, Arts. 4-6.

⁸⁸ Art. 22 CACR.

⁸⁹ Convention on the Protection and Promotion of the Diversity of Cultural Expressions (adopted on 20 October 2005).

diversity.⁹⁰ In this regard, the CACR acknowledges that training, especially for young people, is crucial to facilitate innovation and cultural development.⁹¹ Hence, State Parties are obliged to support training programmes through corresponding policies, the improvement, renewing, and adaptation of existing trainings, and the establishment of training institutions.⁹² At the same time, it is emphasized that modern training methods must not break the links with “traditional sources of culture.”⁹³ Consequently, the Charter tries to strike a balance between preserving cultural traditions on the one hand and utilising modern technologies for creative endeavours on the other. This must be taken into account when planning measures for the implementation of the CACR.⁹⁴

Second, education and the promotion of traditional languages assume an important role in the CACR. African Cultural Renaissance is closely linked to education with the aim of fighting the alienation of Africans from their own culture on the one hand and changing the global perception of Africa through awareness-raising on the other hand. This is especially important in a post-colonial context to overcome remaining power imbalances. Thus, the CACR foresees that State Parties should develop national language policies and implement reforms to integrate African languages into their education systems.⁹⁵ Such systems should also embody African and universal values.⁹⁶ In this way, the roots of Africa’s youth in African culture should be strengthened and their social forces unleashed.⁹⁷

Third, a decisive matter for the African Cultural Renaissance is the reappropriation of African history.⁹⁸ The CACR states that State Parties “agree on the need for reconstruction of the historical memory and conscience of Africa and the African Diaspora.”⁹⁹ This provision is not only innovative but also central to the understanding of the African Cultural Renaissance, as it links knowledge of the pre-colonial and colonial past with the future of the African continent.¹⁰⁰

To develop a comprehensive understanding of history, suitable learning and teaching materials are required. The CACR refers in this respect to the ‘General History of Africa’

90 UNESCO Doc. 31 C/Resolution 25 (2001), Arts. 8, 9.

91 Art. 15 CACR.

92 Arts. 16, 17 CACR.

93 Art. 17 CACR.

94 *Schorlemer*, note 3, p. 87.

95 Arts. 18, 19 CACR.

96 Preamble para. 7 CACR.

97 *Schorlemer*, note 3, p. 84.

98 See Preamble paras. 6, 7; Arts. 7 (2), 27 CACR.

99 Art. 7 (1) CACR.

100 *Schorlemer*, note 3, p. 84.

(GHA) compiled by UNESCO¹⁰¹ as a "valid base" to teach the history of the continent.¹⁰² In fact, the GHA vividly illustrates how Africa's historical memory can be activated and knowledge about it can be imparted anew if needed. Therefore, the State Parties recommend its dissemination in African languages and its publication in shorter, simplified versions to reach a wider audience.¹⁰³ Lastly, the recollection of historical records is a necessary prerequisite to reappropriate African history.¹⁰⁴ In that regard, the return and preservation of archives¹⁰⁵ is crucial, which will be discussed further below.

Fourth, the CACR reveals that the African Cultural Renaissance is characterized by cultural development and innovation – the latter being sort of a leitmotif of the Charter.¹⁰⁶ It is acknowledged that "culture is a factor of social progress and a driving force for innovation."¹⁰⁷ Therefore, State Parties are obliged to support cultural innovation and development.¹⁰⁸ More specifically, they should "create an enabling environment that fosters creativity."¹⁰⁹ This includes providing appropriate institutional and legal frameworks, financial, technical, and other support, as well as incentives such as tax exemptions.¹¹⁰ To promote cultural development, the CACR demonstrates an openness towards science and new technologies. The strengthened "role of science and technology" is fundamental to an African Cultural Renaissance as it is already mentioned as an instrument to achieve the CACR's objectives.¹¹¹ More specifically, article 19 states that technological progress should be considered when intensifying the use of African languages.¹¹² In general, the State Parties commit themselves to encourage the use of "information and communication media for their cultural development"¹¹³ and create an environment that promotes the "creation, protection, production and distribution of cultural works."¹¹⁴

Fifth, another new approach of the CACR is the wholehearted consideration of existing and newly forming "cultural stakeholders." A whole chapter of provisions is dedicated to them.¹¹⁵ The State Parties acknowledge that State and non-State actors are involved in

101 All volumes can be found under UNESCO, General History of Africa, <https://www.unesco.org/en/general-history-africa> (last accessed on 18 January 2025).

102 Art. 7 (2) CACR.

103 Ibid.

104 *Schorlemer*, note 3, p. 100.

105 Art. 27 CACR.

106 *Schorlemer*, note 3, p. 85.

107 Art. 8 CACR.

108 Arts. 9, 11 CACR.

109 Art. 22 CACR.

110 Ibid.

111 Art. 4 d CACR.

112 Art. 19 CACR.

113 Art. 20 CACR.

114 Art. 21 c CACR.

115 Chapter II, Arts. 11-17 CACR.

cultural development, including “designers, private developers, associations, local governments, the private sector.”¹¹⁶ Accordingly, they commit themselves to legislative, administrative, and financial support.¹¹⁷ Furthermore, the CACR is the first cultural treaty that explicitly acknowledges elderly and traditional leaders as “cultural stakeholders in their own right.”¹¹⁸ They are “to be integrated in modern mechanisms of conflict resolution and the inter-cultural dialogue system.”¹¹⁹ Their protection as the guardians of traditional ancestral knowledge is an essential instrument for the preservation of cultural heritage, especially sacred cultural heritage sites, and the cultural values and identities inextricably linked to those sites against (neo)colonial threats to cultural heritage.¹²⁰ The provision is also in line with human rights law, namely the UN Declaration on the Rights of Indigenous Peoples, which ensures that indigenous peoples can participate in decision-making processes by self-chosen representatives,¹²¹ including elders and traditional leaders. At the same time, the provision might not be entirely unproblematic from a human rights point of view as (male-dominated) traditions might have negative effects for future generations or even go against the principle of equality between men and women as foreseen, for example, in article 2 of the African Charter on Human and Peoples’ Rights.¹²²

Sixth, besides various provisions that are generally in line with universal human rights law,¹²³ the CACR also includes more specific provisions entailing dedicated human rights objectives, thereby strengthening cultural human rights in particular. Besides the recognition of cultural human rights in the preamble discussed earlier, the Charter contains various concrete provisions on human rights, among them the freedom of art,¹²⁴ gender equality,¹²⁵ the protection of minorities,¹²⁶ and the right to cultural participation and access to culture.¹²⁷ Especially the latter two are crucial points in postcolonial discourses, as the

116 Art. 11 (1) CACR.

117 Art. 11 (2) CACR.

118 Art. 14 CACR; see *Schorlemer*, note 3, pp. 93–94.

119 Art. 14 CACR.

120 See also *Schorlemer*, note 30, pp. 366 ff.; *Schorlemer*, note 3, pp. 85–86, 92–94.

121 UN Doc. A/61/295 (2007), Art. 18.

122 African Charter on Human and Peoples’ Rights (adopted on 1 June 1981).

123 See the various references to international human rights law made earlier in the discussion of specific provisions.

124 Art. 10 (2) CACR. In international human rights law see similarly International Covenant on Economic, Social and Cultural Rights (adopted on 16 December 1966), Art. 15 (2); International Covenant on Civil and Political Rights (adopted on 16 December 1966), Art. 19 (2).

125 Art. 12 (2) CACR. See similarly Convention on the Elimination of All Forms of Discrimination against Women (adopted on 18 December 1979), Art. 2 a.

126 Arts. 4 c, 5 (1) CACR. See also International Covenant on Civil and Political Rights, Art. 27.

127 Arts. 4 a, 10 (2), 15 CACR. See likewise International Covenant on Economic, Social and Cultural Rights, Art. 15 (1). Its relevance has been reflected in International Law Association, Participation in Global Heritage Governance, Final Report, Lisbon 2022, para. 37.

lack of access to culture and cultural heritage is understood as a manifestation of remaining colonial power and dependency structures.¹²⁸ The distinguishing feature of the wording chosen in the CACR is that marginalised and underprivileged communities are explicitly mentioned as rights holders: "African States should create an enabling environment to enhance the access and participation of all in culture, including marginalized and underprivileged communities."¹²⁹ This also reflects the traditional relevance of people's and group rights and non-State actors in the African legal sphere, as highlighted in articles 20-24 of the African Charter on Human and Peoples' Rights.¹³⁰

Seventh, the CACR clearly emphasizes the role of the diaspora, i.e., "peoples of African origin living outside the continent, irrespective of their citizenship and nationality and who are willing to contribute to the development of the continent and the building of the African Union."¹³¹ For the first time, the diaspora is seen as an important entity in an Africa-wide cultural treaty. Not only is the "conscience of [...] the African Diaspora"¹³² to be reconstructed, but also the ties with it to be strengthened.¹³³ Part VIII on the diaspora in general aims at generating support for Africa's further development,¹³⁴ raising awareness, and strengthening African perspectives internationally.¹³⁵ This corresponds to the rising consciousness of Afro-descendant people all over the world who generally wish to intensify their links with Africa and to promote African interests.¹³⁶

4. Focus of the CACR: Provisions on the Protection of Cultural Heritage and Restitution

The promotion and preservation of African cultural heritage is central to the African Cultural Renaissance and chapter V contains five articles dedicated entirely to these objectives.¹³⁷ The central relevance of the matter can also be explained with the CACR's understanding of cultural heritage. Cultural heritage is not static but has "dynamic values" whose develop-

¹²⁸ For more, see *Schorlemer*, note 30, pp. 366 ff.

¹²⁹ Art. 15 CACR.

¹³⁰ More generally on group rights in the African legal sphere, see *Vincent O. Nmeielle*, Development of the African Human Rights System in the Last Decade, Human Rights Brief 11 (2004), pp. 6–11; *Richard N. Kiwanuka*, The Meaning of "People" in the African Charter on Human and Peoples' Rights, American Journal of International Law 1 (1988), pp. 80–101; *Fatsah Ouguergouz*, The African Charter of Human and Peoples' Rights, The Hague 2003.

¹³¹ AU Doc. EX.CL/164(VII) (2006), para. 2. For further definitions, see *Larissa van den Herik*, Diasporas and International Law, ESIL Reflections 7 (2018), p. 1.

¹³² Art. 7 (1) CACR.

¹³³ Art. 32 CACR.

¹³⁴ Ibid.

¹³⁵ Art. 33 a, b CACR.

¹³⁶ On the connection between African diaspora and their 'homelands', see e.g., *Ross Bond*, Understanding International Migration, Social, Cultural and Historical Contexts, Cham 2022, pp. 75–99.

¹³⁷ Besides chapter V, see also Arts. 3 d, 10 (2) CACR.

ment “promote human rights, social cohesion and human development”¹³⁸ and thus serve the overarching goals of an African Renaissance.

More specifically, the CACR contains a provision that obliges State Parties to “take steps to put an end to the pillage and illicit traffic of African cultural property.”¹³⁹ From the point of view of cultural heritage law, such steps should be taken in line with the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property,¹⁴⁰ which offers more detailed provisions on the matter. Indeed, the increasing traffic of art and antiquities from Africa to art markets in the Global North, especially in Europe, North America, and Japan, has been criticized as a continuum to the removal of cultural property under colonial rule: “A prelude to colonial conquest and domination, the chaos and rampant destruction of Africa’s heritage today is, to a large degree, a result of colonization and subsequent neo-colonization that implanted within the African states dictatorial Western-leaning regimes, dependent and catering to the North’s interests.”¹⁴¹ The consequences for African societies are profound: Societies, especially their youths, lose connection to their cultural heritage and its linked meanings and values, and the shaping effect heritage has on identities and social cohesion is impaired. Moreover, organized crime grows, which might lead to a further division of society.¹⁴² Hence, the above-mentioned provision can be seen as an attempt to fight colonial continuities and, therefore, further shapes the CACR as a postcolonial agenda for Africa.

Furthermore, the CACR contains the obligation to ensure that cultural property, archives, and historical records removed from the continent are returned to their countries of origin.¹⁴³ The relevant provisions are supported by an ever-growing movement calling for the return of cultural property from colonial contexts from museums, cultural, and scientific institutions in the Global North.¹⁴⁴ The return of illicitly removed cultural property, the acknowledgment of the related colonial injustice committed, and the restoration of people’s access to their cultural heritage are important postcolonial goals for an emancipated Africa that overcomes colonial structures.¹⁴⁵ With regard to archives and historical records, returns are essential for the reappropriation of African history. The restoration of

138 Art. 3 k CACR.

139 Art. 26 CACR.

140 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (adopted on 14 November 1970).

141 *George Abungu*, *Illicit Trafficking and Destruction of Cultural Property in Africa, A Continent at a Crossroad*, *The Journal of Art Crime* 15 (2016), p. 36. See also *Kwame Anthony Appiah*, *Whose Culture Is It, Anyway?*, in: James A. R. Nafziger / Ann M. Nicgorski (eds.), *Cultural Heritage Issues*, Leiden 2009, p. 212.

142 *Abungu*, *Ibid.*

143 Arts. 26, 27 CACR.

144 *Schorlemer*, note 3, p. 97.

145 On returns of cultural heritage and their importance for post-colonial Africa, see extensively *Schorlemer*, note 3.

the collective memory contained in archives is an important prerequisite to close colonial-related knowledge gaps as they make it possible to explore the past and remember it.¹⁴⁶ Still, the return alone will not be enough to compensate for the loss of knowledge and the consequences of colonial plundering, let alone remedy them.¹⁴⁷

With regard to the provisions on the return of cultural property, it can be criticised that in contrast to countries of origin, communities or societies of origin, such as ethnic groups, minorities, or indigenous communities, are not mentioned as entitled to returns in the CACR. This risks to marginalise non-State groups, which are traditional culture bearers taking care of cultural heritage and transmitting it and the related knowledge to next generations. From a postcolonial perspective, participation of communities in return procedures and respect for their cultural rights are crucial to avoid their marginalization.¹⁴⁸

Lastly, regarding the preservation of cultural heritage, the CACR establishes the African World Heritage Fund¹⁴⁹ – a facility intended to ensure the necessary resources for the safeguarding of African cultural heritage. While the CACR itself does not contain any further provisions on the exact nature of the fund, e.g., regarding its financing or implementation, practice following the CACR's adoption¹⁵⁰ showed that the Fund is mainly used to protect UNESCO World Heritage Sites, support their management, and prepare inscriptions of new sites to overcome the underrepresentation of African sites on the UNESCO World Heritage List.¹⁵¹ The Fund's activities and other measures for the implementation of the Charter will be discussed in the following.

146 *Olaf Zimmermann*, *Mein kulturpolitisches Pflichtenheft*, Berlin 2023, p. 161. On the return of archives see among others *Lara Müller*, *Returns of Cultural Artefacts and Human Remains in a (Post)colonial Context*, Working Paper Deutsches Zentrum Kulturgutverluste 1 (2021), p. 13; *Bénédicte Savoy*, *Plunder, Restitution, Emotion and the Weight of Archives*, in: Ines Rotermund-Reynard (ed.), *Echoes of Exile*, Berlin 2015, pp. 27–44.

147 *Manlio Frigo*, *Restitution of Cultural Property and Decolonization of Museums*, in: Laura Pineschi (ed.), *Cultural Heritage, Sustainable Development and Human Remains*, London 2024, p. 189.

148 *Kristin Hausler*, *The Participation of Non-State Actors in the Implementation of Cultural Heritage Law*, in: Francesco Francioni / Ana Filipa Vrdoljak (eds.), *The Oxford Handbook of International Cultural Heritage Law*, Oxford 2020, p. 785. On the importance of the participation of non-State actors in return processes, see *Schorlemer*, note 3, pp. 174 ff., 254 ff.

149 Art. 25 CACR.

150 The African World Heritage Fund was established in 2006 by the AU and has since been supported by UNESCO. See African World Heritage Fund, *Annual Report 2022*, <https://awhf.net/wp-content/uploads/2023/06/AWHF-2022-Annual-Report.pdf> (last accessed on 18 January 2025), p. 1.

151 On the latter, see *Schorlemer*, note 30, pp. 354 ff.

D. Implementation and Enforcement of the Charter for African Cultural Renaissance

I. *Actions by the African Union*

The CACR can only function successfully as a postcolonial agenda for Africa in the 21st century if it is implemented. In practice, one can observe the intensified cultural cooperation in Africa as foreseen in the CACR.¹⁵² This development is considerably driven by the AU and will be illustrated followingly by some examples.

The AU declared 2021 as the year of “Arts, Culture and Heritage: Levers for Building the Africa We Want”¹⁵³ – a theme that resembles the core of the African Cultural Renaissance. The specific contents of this theme were presented at the “Biennale of Luanda, Pan-African Forum for Culture of Peace.”¹⁵⁴ At this conference, a roadmap was published that laid out specific activities, so-called flagship initiatives, and related projects to be implemented by various State and non-State partners.¹⁵⁵ Especially flagship initiative I, “The contribution of arts, culture and heritage to sustainable peace,” and its related activities¹⁵⁶ can be seen as part of the CACR’s implementation process. Related activities include, among others, a programme to promote employment in the cultural industry in six African countries, a project to empower young jazz artists, a programme to promote cultural innovation, and the development of a publication reflecting on Africanness and the “role of education systems in the African cultural renaissance.”¹⁵⁷

A conference on the theme year, organised by the AU in May 2021, also celebrated the CACR’s entry into force. The celebration further shaped the contours of the African Cultural Renaissance by emphasizing focus areas of the CACR, including the promotion of African identity and shared values in the spirit of Pan-Africanism and African Renaissance, as well as the development of the creative industries in Africa.¹⁵⁸ Furthermore, an increase

152 See Arts. 30-32 CACR.

153 AU Doc. EX.CL/I231(XXXVII) Rev.1 (2020).

154 African Union / UNESCO, Preliminary Report, https://www.unesco.org/biennaleluanda/2021/sites/default/files/medias/files/2022/01/EN%20Biennale%20of%20Luanda%20Preliminary%20Report_FIN%20%282501%29.pdf (last accessed on 18 January 2025).

155 African Union / UNESCO, Preliminary Report, Annexes, https://www.unesco.org/biennaleluanda/2021/sites/default/files/medias/files/2022/01/EN%20ANNEXES_PRELIMINARY%20REPORT_FIN%20%2825.01%29.pdf (last accessed on 18 January 2025), Annex 9.

156 Ibid., pp. 59–63.

157 Ibid.

158 Schorlemer, note 3, p. 108. See also African Union, Programme for the Virtual Celebration of Africa Day and Continental Launch of the Entry into Force of the Charter for African Cultural Renaissance, 25.05.2021, https://au.int/sites/default/files/newsevents/programmes/40355-pg-programme_for_the_commitment_launch_of_the_entry_into_force_of_the_charter_for_african_cultural_renaissance.pdf (last accessed on 18 January 2025); African Union, Launch, 25.05.2021, https://www.youtube.com/watch?v=wJmchr7_e_4 (last accessed on 18 January 2025).

in inscribed UNESCO World Heritage Sites¹⁵⁹ was mentioned as an objective of the African Cultural Renaissance. This is noteworthy, as the 1972 UNESCO Convention is not explicitly referred to in the CACR. However, by linking the Charter with the globally applicable UNESCO World Heritage Convention, African cultural heritage law becomes more closely intertwined with the universal level. This may lead to beneficial synergy effects between regional and universal cultural heritage preservation.¹⁶⁰

Furthermore, in March 2021, the AU Minister of Arts, Culture, and Heritage published a communiqué, in which they not only committed themselves to promote the AU theme of the year and related events and activities,¹⁶¹ cooperate with the AU to implement the above-mentioned roadmap,¹⁶² but also more specifically advocated for "Member States to allocate at least 1% of their national budget to the arts, culture and heritage sector by 2030."¹⁶³ While this budget might put a considerable burden on some States' households, it can also support their socio-economic development, constitute a considerable investment into a Pan-African future, and contribute to the achievement of the CACR's objectives.¹⁶⁴

Another AU project aimed at implementing the CACR is the establishment of the "Great Museum of Africa" (GMA) in Algeria: "The African Charter for African Cultural Renaissance recognises the important role that culture plays in mobilising and unifying people around common ideals and promoting African culture to build the ideals of Pan-Africanism. The Great Museum of Africa (GMA) project aims to create awareness of and benefit from Africa's vast, dynamic, and diverse cultural artefacts and the influence Africa has and continues to have on the various cultures of the world in areas such as art, music, language, and science. The Great African Museum will be a focal centre for preserving and promoting African cultural heritage."¹⁶⁵ To these ends, the GMA is supposed to offer rooms for Africa-wide exhibitions and performances. Meanwhile, considerable progress has been made regarding the completion of the project: A temporary site was opened in

159 Inscriptions are made based on the UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage (adopted on 16 November 1972).

160 *Schorlemer*, note 3, p. 110.

161 African Union, Communiqué of the 2nd Virtual Forum of the African Union Ministers Responsible for Arts, Culture and Heritage on the Launch of the AU Concept Note and Roadmap on the Theme of the Year for 2021, 25.03.2021, <https://au.int/en/pressreleases/20210325/2nd-virtual-forum-au-ministers-responsible-arts-culture-and-heritage>, (last accessed on 18 January 2025), para. 9.

162 *Ibid.*, para. 10.

163 *Ibid.*, para 13.

164 *Schorlemer*, note 3, p. 111.

165 African Union / African Union Development Agency, note 27, p. 75.

June 2023,¹⁶⁶ the first continental exhibition has been prepared and important bureaucratic procedures with the host country Algeria were completed.¹⁶⁷

Another aspect of the CACR's implementation process concerns the African World Heritage Fund (AWHF), established in article 25 CACR.¹⁶⁸ In order to support the newly established Fund, UNESCO classified the AWHF as a "Category II Centre,"¹⁶⁹ which makes it an official partner of the UNESCO World Heritage Centre, Paris, and part of a worldwide network of institutions. The AWHF's activities across Africa aim for the Pan-African strengthening of African heritage in line with the CACR.¹⁷⁰ Among others, these activities include the support of preparations for inscriptions of UNESCO World Heritage Sites through workshops, financial support in the form of grants, and training for the capacity-building of heritage professionals. Activities also focus on capacity-building regarding the management and safeguarding of already listed UNESCO World Heritage Sites through workshops, trainings, and the financing of specific measures aimed at the conservation of World Heritage Sites.¹⁷¹ As limited financial resources make the fund's work challenging, in May 2023, the United Arab Emirates in cooperation with the AWHF and the International Alliance for the Protection of Heritage in Conflict Areas (ALIPH)¹⁷² established a new fund to boost the AWHF's activities. This new funding mechanism allows the AWHF to also implement new projects, while at the same time, financial demands remain high considering possible threats from climate change and more conflicts breaking out.

II. Support by the UNESCO: Global Priority Africa

Early on, UNESCO recognized the CACR's potential. Already in 2007, then UNESCO Director-General Koïchiro Matsuura called the adoption of the CACR a "historic deci-

166 African Union, Launch of the Temporary Site of the Great Museum of Africa (GMA), 14.06.2023, <https://au.int/en/newsevents/20230614/launch-temporary-site-great-museum-africa-gma-flagship-project-african-union> (last accessed on 18 January 2025).

167 African Union / African Union Development Agency, note 27, p. 62.

168 Art. 25 CACR.

169 UNESCO, Agreement Between the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Government of South Africa Referring to the Creation and Operation of the African World Heritage Fund under the Auspices of UNESCO (Category 2) (2010). Category II Centres support the UNESCO's strategic objectives while not being a legal part of the Organization. Most Centres engage in capacity-building, research or the financing of activities.

170 Schorlemer, note 3, p. 118.

171 See, e.g., UNESCO Doc. WHC-03/27.COM/24 (2003), Decision 27 COM 7B.3; UNESCO Doc. WHC-06/30.COM/19 (2006), Decision 30 COM 8B.34; UNESCO Doc. WHC-08/32.COM/24Rev (2006), Decision 32 COM 8B.50.

172 ALIPH was founded in 2017 by the United Arab Emirates in cooperation with France, see ALIPH, Bylaws Adopted by the Foundation Board on 8 March 2023, https://www.aliph-foundation.org/files/ALIPH_Bylaws_2023_EN_TK_MAM_BK.pdf (last accessed on 18 January 2025).

sion[...]."¹⁷³ Ever since, UNESCO has adopted various measures to actively support the AU and its Member States in the implementation of the Charter.¹⁷⁴

For UNESCO, the CACR fits into the overarching framework of its "Global Priority Africa." This strategic focus was decided upon by the UNESCO General Conference in 2019.¹⁷⁵ It aims to link the objectives of the 2030 UN Agenda for Sustainable Development with the 2063 AU Agenda,¹⁷⁶ thereby improving sustainable development, peace, and security in Africa. In this regard, UNESCO's 2022-2029 Medium-Term Strategy mentions for the first time the importance of Pan-Africanism and African Renaissance for this priority.¹⁷⁷ Although the CACR is not explicitly mentioned, one can infer that it will play a decisive role in this strategic focus. This is, firstly, because the CACR is the legal instrument that most precisely characterises the African Cultural Renaissance to date, and secondly, the objectives mentioned in the Medium-Term Strategy are closely aligned with the provisions of the CACR. For example, UNESCO calls on African States to ratify the UNESCO conventions as they will "respond to the growing need to ensure heritage conservation and sustainable development."¹⁷⁸ Likewise, the CACR emphasizes the importance of the UNESCO conventions and promotes their ratification.¹⁷⁹ Furthermore, UNESCO commits itself "to build institutional, legal and operational capacities" to respond "to the rise in illicit trafficking of cultural property in Africa"¹⁸⁰ – an important post-colonial matter of the Charter discussed earlier.¹⁸¹

The "Global Priority Africa" is further operationalized in the 2022-2029 "Operational Strategy for Priority Africa." This UNESCO Strategy describes challenges for the achievement of an African Cultural Renaissance while developing flagship programmes to overcome these challenges.¹⁸² Especially relevant for the implementation of the CACR are the flagship programmes "Campus Africa: Reinforcing Higher Education in Africa,"¹⁸³ "The General History of Africa as a Catalyst for Achieving Agenda 2063 and Agenda 2030,"¹⁸⁴ and "Fostering Cultural Heritage and Capacity Development."¹⁸⁵ Depending on the concrete resources mobilized in the years to come for the implementation of these

173 UNESCO Doc. DG/2007/094 (2007), p. 4.

174 For more examples, see *Schorlemer*, note 3, pp. 123–138, 310–328.

175 UNESCO Doc. 40 C/11 (2019).

176 AU Doc. Assembly/AU/Dec.565(XXIV), para. 6.

177 UNESCO Doc. 210 EX/22 (2020), para. 34.

178 UNESCO Doc. 41 C/4 (2022), p. 30.

179 See Preamble para. 2, Arts. 22 d, 29 CACR.

180 UNESCO Doc. 41 C/4 (2022), p. 30.

181 Art. 26 CACR.

182 UNESCO Doc. ADM-2022/WS/1 (2022).

183 *Ibid.*, pp. 15 ff.

184 *Ibid.*, pp. 21 ff.

185 *Ibid.*, pp. 27 ff.

programmes and their related activities, UNESCO's Operational Strategy for Priority Africa is able to make a significant contribution to achieving the objectives of the CACR.¹⁸⁶

In summary, it can be said that UNESCO's activities take up central demands of the CACR to the universal level and incorporate them not only into the Organization's strategic considerations but also into UNESCO's operational activities in the current decade.¹⁸⁷ It can be hoped that the AU will practically benefit from the alliance with UNESCO. Through UNESCO's institutional, legal, and operational capacities bridging regional and international levels of action, real progress in the implementation of the CACR can be expected.

III. Progress on the Implementation of the African Cultural Renaissance

The actual progress made on the implementation of the CACR has been evaluated in the Continental Report on the Implementation of Agenda 2063.¹⁸⁸ The reason for this procedure is related to the fact that Goal 16 of the Agenda 2063 states that "African Cultural Renaissance is pre-eminent," referring to the priority areas of "Values and Ideals of Pan Africanism," "Cultural Values and African Renaissance," and "Cultural Heritage, Creative Arts and Businesses."¹⁸⁹ All of the areas are in line with the CACR's provisions.

The latest Implementation Report from 2022 shows that progress on the African Cultural Renaissance was slower than planned. The overall progress on Goal 16 is assessed at 45%.¹⁹⁰ However, real progress varies strongly between regions. While North Africa shows a progress of 65% on Goal 16,¹⁹¹ Central Africa demonstrates no progress at all (0%).¹⁹² A closer look reveals that a high number of countries (22 out of 37 analysed) have not shown any progress at all, while other countries have proven considerable progress, such as Ethiopia, Ghana, Senegal, and Tunisia (100%, respectively).¹⁹³

The overall rather slow progress can be explained by the weak integration of indigenous African culture, values, and languages into school curricula through which the progress has been assessed in the Implementation Report.¹⁹⁴ This stands in contrast to the commitment to the implementation of the General History of Africa representing African culture and values addressed earlier, which was affirmed by African Heads of States and Governments at a side-event to the Transforming Education Summit in September

186 *Schorlemer*, note 3, pp. 130 ff.

187 *Ibid.*, p. 129.

188 See for example African Union / African Union Development Agency, note 27.

189 *Ibid.*

190 *Ibid.*, p. 86.

191 *Ibid.*, p. 89.

192 *Ibid.*, p. 91.

193 *Ibid.*, pp. 96-132.

194 *Ibid.*, pp. 41, 138.

2022.¹⁹⁵ While the reasons for the discrepancy between such declarations of intent and actual progress are not very clear and might be country-specific, the AU's analysis of best practices shows that considerable progress can be observed in such countries where there was the necessary political will and responsible ministries have assumed responsibility to revise school curricula.¹⁹⁶ This implies that good governance and the availability of sufficient personnel and financial resources in the education sector are crucial for future progress in the field.

Moreover, one can observe that the AU und UNESCO have made considerable efforts to support the dissemination of the GHA as a tool for the implementation of the CACR. In May 2024, the two organisations jointly hosted a seminar on "Teaching African History: Pathways to Africa's Renaissance and Integration" in which, inter alia, the potential of the GHA for an African Cultural Renaissance was emphasized.¹⁹⁷ More concretely, the UNESCO dedicated an entire flagship programme under its Global Priority Africa to the GHA¹⁹⁸ and launched a two-year 300,000 US dollars project which aims at building capacities and mainstreaming the GHA into African education systems.¹⁹⁹ Under this framework, in September 2024, UNESCO launched updated tools to support domestic stakeholders with the implementation of the GHA into national curricula and hosted a pilot workshop with representatives from various West African countries presenting the use of these tools. The workshop led to the development of a roadmap for the implementation of the GHA and the formation of a collaborative network for sharing best practices.²⁰⁰ These outcomes can be seen as a promising sign for future progress in the implementation of the CACR and show how AU and UNESCO support can foster national efforts.

With regard to the implementation process, other organisations have highlighted fragile structures for civil society organisations and a lack of cooperation between them as a reason for slow progress.²⁰¹ The Advisory Organ of the AU, the Economic, Social, and Cultural Council (ECOSOC), is composed of different civil society groups, serving as a "platform

195 African Union, Teaching of African History Pathways to Africa's Renaissance and Integration, 30.05.2024, <https://au.int/en/pressreleases/20240530/teaching-african-history-pathways-africas-renaissance-and-integration> (last accessed on 22 December 2024).

196 African Union / African Union Development Agency, note 27, pp. 41–42.

197 African Union, Teaching of African History Pathways to Africa's Renaissance and Integration, 30.05.2024, <https://au.int/en/pressreleases/20240530/teaching-african-history-pathways-africas-renaissance-and-integration> (last accessed on 22 December 2024).

198 UNESCO Doc. ED-2024/WS/16 (2024).

199 UNESCO, Transforming Education through the General History of Africa (GHA), <https://core.unesco.org/en/project/3210131031> (last accessed on 22 December 2024).

200 UNESCO, Mainstreaming the General History of Africa into Education Systems, 29.10.2024, <https://www.unesco.org/en/articles/mainstreaming-general-history-africa-education-systems?hub=74448> (last accessed 22 December 2024).

201 Centre Régional pour les Arts Vivants en Afrique, Regional Workshop on the 2005 UNESCO Convention and the African Union Charter for Cultural Renaissance, 13.04.2022, https://www.ce.ravafrique.org/fr/node/16?language_content_entity=en (last accessed on 18 January 2025).

for civil society.”²⁰² This brings to the fore that civil society should play a greater role as well in the implementation of the CACR.²⁰³ Civil society contributions are undoubtedly central to the successful implementation of the ambitious goals of the African Cultural Renaissance in the context of the 2063 Agenda for Sustainable Development (and the CACR) throughout Africa.

IV. Future Efforts

The analysis of actions by the AU and UNESCO showed that various initiatives have been taken to bring the CACR’s provisions to life. For the AU, the CACR’s implementation is placed in the wider frameworks of achieving Pan-Africanism and African Renaissance while in the context of UNESCO, the CACR is anchored in the “Global Priority Africa.” These links between the CACR and broader political objectives can strengthen the CACR’s implementation. However, despite those efforts, the discussion of the findings of the 2063 Agenda Implementation Report has shown that the overall progress is slow, and further efforts for the implementation of the Charter are needed.

What might these efforts look like? Until today, out of the AU’s 55 Member States, only 34 have signed the CACR and an even smaller number of 18 States have ratified it.²⁰⁴ Real progress on the implementation of the African Cultural Renaissance first and foremost requires more States to become parties and bind themselves to the CACR. Now that a first milestone has been reached with the treaty’s entry into force, sustained efforts by the AU and UNESCO would be welcomed, especially because the ratification of cultural treaties seem to generally take longer than the ratification of international treaties in other fields.²⁰⁵ AU efforts could especially build upon the argument that the ratification of the CACR does not entail high costs for the State Parties, as no profound legal changes at national level are required by the CACR. For UNESCO, the endorsement of ratifications could be embedded in its wider Global Priority Africa and could be supported by dialogues on the potential of the CACR for development in the education and culture sector with potential State Parties.

However, more ratifications are not enough. For the successful implementation of the CACR, State Parties should focus on the areas of implementation that have been identified to have room for improvement, including education, the inclusion of non-State actors, and ending the ongoing plundering and illicit trafficking of cultural property. To these ends, they should make use of the support of the AU and UNESCO.

The treaty’s broad wording gives States a relatively high degree of flexibility to implement measures. This scope might be used constructively by State Parties for improving

202 *Yusuf*, note 22, p. 299.

203 This is also in line with Arts. 11-17 CACR.

204 African Union, List of Countries which Have Signed, Ratified/Accessed to the Charter for African Cultural Renaissance, https://au.int/sites/default/files/treaties/37305-sl-CHARTER_FOR_AFRICAN_CULTURAL_RENAISSANCE_0.pdf (last accessed on 18 January 2025).

205 *Schorlemer*, note 3, pp. 67–69.

the implementation of the CACR at a national level. However, it might also risk a lack of actions.²⁰⁶ This concern is even more pressing considering that of the 18 State Parties, eight, i.e., almost half of them, belong to the Sahel region, which has recently experienced repeated military coups and political instability.²⁰⁷ In such a context, it remains uncertain whether the concerned States will prioritise culture and be able and willing to fulfil their treaty obligations. Considering the importance of culture for peace and security especially in "fostering cohesive societies and bridging the divides,"²⁰⁸ it would nevertheless be welcomed if State Parties continued to implement the CACR even under conditions of political instability. The foreboding backlash for the African Cultural Renaissance would be particularly regrettable not only because some countries in the Sahel zone were leading in the implementation of the African Cultural Renaissance,²⁰⁹ but also because the Charter itself is important for promoting employment of African people in the creative industries.

At the same time, the monitoring, i.e., the supervision of the progress of implementation by State Parties appears to be rather weak. For example, unlike in the UN system, no committee has been set up responsible for reviewing State Parties' actions and making suggestions for improvement.²¹⁰ However, the AU Commission's role has been strengthened to "coordinate, monitor, evaluate and harmonize best practices and policies concerning programmes and networks."²¹¹ These competencies might also be used to ensure that State Parties follow their commitments made in the CACR.²¹²

Lastly, it must be emphasized that not only actions by African actors are needed to realise an African Cultural Renaissance but also actors in the Global North must get involved in this endeavour. Hence, in areas such as the return of cultural property, the active involvement of museums, institutions, and States in the Global North is required, as well as a change in practice at the world's art markets to stop the ongoing traffic of cultural property, to mention just two examples.²¹³

This shows that there is still a long way to go, and worldwide efforts are needed to finally overcome dependencies and unfold Africa's full (cultural) potential.

E. Conclusion

The African Cultural Renaissance aims for the African continent to develop further and reach its full potential in the field of and through culture, cultural heritage, and cultural

206 Ibid., p. 90.

207 Ibid., p. 114 on Niger.

208 AU Doc. PSC/PR/COMM.1243 (2024), para. 11 e.

209 AU / African Union Development Agency, note 27, p. 42.

210 Regarding monitoring structures of the CACR, cf. *Schorlemer*, note 3, p. 197.

211 Art. 31 (1) CACR.

212 *Schorlemer*, note 3, p. 107.

213 In greater detail, cf. *ibid.*, pp. 139–308.

diversity. The CACR is the legal instrument which up to now lays out the contours of this concept in greatest detail.

Throughout the article, it became obvious that the CACR's provisions aim to overcome neo-colonial power imbalances, give agency to African actors, reappropriate what has been taken during colonialism, and empower Africa to reach its full potential.

An in-depth analysis of the CACR's provisions has demonstrated that the Charter specifies in what practical forms culture can play a role in the struggle for political, economic, and social liberation and in meeting the developmental challenges of globalisation. Its provisions cover a wide range of topics, including science, technology, the creative industries, education, and tangible and intangible cultural heritage. Various articles set important impulses for shaping the African Cultural Renaissance in the 21st century.

As it has been shown at various points throughout this article, the CACR's provisions refer directly or indirectly to other instruments of international cultural heritage or human rights law or are aligned with them.²¹⁴ The links between regional and international law are welcomed as synergy effects might emerge that have positive effects on both legal regimes.²¹⁵ The nexus might also benefit the CACR provided that the international law instruments, ratified by most AU Member States, are used to support the implementation of the CACR.²¹⁶

However, it is difficult to say whether CACR's normative provisions may come to grips with challenges in the future, be it climate change or digitalisation, and their effects on African culture and development. State Parties might propose amendments or a revision of the treaty, which is to be adopted by the AU Assembly by consensus or a two-thirds majority.²¹⁷ In this way, provided political will for reform exists, the CACR will remain flexible to react to future challenges and demanding tasks.

To conclude, the Charter for African Cultural Renaissance is an exceptional regional treaty as it is based on a broad understanding of culture highlighting its cross-cutting relevance for diverse areas of society, including education, development, innovation, science, technology, human rights, and cultural heritage. The treaty contains numerous provisions that reveal important new elements of the African Cultural Renaissance, such as cultural diversity, the reappropriation of African history, the role of cultural stakeholders, or the impact of the African diaspora. Thus, the CACR's provisions give essential contours to the concepts of African Cultural Renaissance and Pan-Africanism – aiming at the well-being

214 See the explicit reference to the instruments of international law in preamble para. 2; Arts. 22 d, 29 CACR. Provisions in line with other instruments of international law can be found in Arts. 4, 5, 10 (2), 12 (2), 14, 15, 26 CACR. For a detailed discussion of these articles see above.

215 On synergy effects between cultural heritage and international human rights law, see *Schorlemer*, note 30, pp. 431 ff.

216 This could include, for example, the ratification and implementation of the 1970 UNESCO Convention as a means to fulfil the obligation to end the pillage and trafficking of cultural property as stipulated in Art. 26 CACR.

217 Art. 39 CACR.

of African people and their cultural autonomy. Therefore, the CACR can be regarded a promising post-colonial agenda for an emancipated Africa in the 21st century.



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