

## **DECLARATION OF THE NGO FORUM TO THE AFRICAN COMMISSION**

We the NGOs participating at the NGO Forum preceding the 52<sup>nd</sup> session of the African Commission on Human and Peoples Rights at La Fondation Felix Houphouet-Boigny, Yamoussoukro, Cote d'Ivoire from 6<sup>th</sup>- 8<sup>th</sup> October 2012

Contrary to previous NGO Forums during which numerous resolutions were presented to the Commission we will hereby present one declaration highlighting the various issues that we as the NGO Forum believe to be critical. While some of these issues have been addressed by the Commission additional work still needs to be done. The purpose of this document is to remind the Commission of the various resolutions presented about these issues and to encourage it to take the necessary steps to ensure that violations within these domains. Specifically, recommendations will be presented.

We recognize the Commission's work towards the advancement of various mechanisms adopted over the years to improve human rights in the region despite the difficult working conditions in monitoring accountability and redress of violations.

### **Freedom of Expression**

Regarding Freedom of Expression, the NGO Forum calls upon the African Commission on Human and Peoples' Rights to:

1. Adopt and actively implement ATI laws in line with Article 9 of the African Charter and the Declaration of Principles on FOE in Africa
2. Ratify the AU treaties that impact on ATI and FOE on the continent
3. Implement fully recommendations from the Commission
4. Put in place urgent and effective mechanisms to protect journalists from attacks by State entities and private individuals
5. We also urge the Commission to pass a resolution urging the AU Heads of State summit to urge Member States to pass a Special Declaration allowing citizens and CSOs direct access to the African Court on Human and Peoples' Rights

### **Murder and Violence on the Basis of Sexual Orientation and Gender Identity**

Regarding the murder and violence on the basis of sexual orientation and gender identity, the NGO Forum calls upon the African Commission on Human and Peoples' Rights to:

1. Pass a resolution condemning the increased incidences of murder and violence on the basis of real or perceived sexual orientation and gender identity across Africa and to call on States to respect their obligations under the African Charter to investigate and prosecute both state and non-state actors who perpetrate these violations and abuses.

### **Indigenous Peoples**

Regarding the rights of indigenous peoples, the NGO Forum calls on the ACHPR to:

1. Ensure specific attention to and protection for the rights of indigenous populations uprooted from their lands and territories as a consequence of discriminatory government policies, the impact of armed conflicts, and the actions of private economic interests.

### **Refugees, Migrants, and IDPs**

Regarding the state of refugees, migrants, and IDPs, the NGO Forum calls upon the ACHPR to:

1. Support the SR to visit each sub-region, in particular South Africa, Libya, Equatorial Guinea, Mali, and Kenya, to identify the real situation of refugees and migrants and the state of their rights on the ground.
2. Remind states of their obligations under the African Charter and other instruments related to migrant, refugee and IDP rights,
3. Urge states to ratify, domesticate, and implement the provisions of the Kampala convention
4. Encourage states to cooperate with SR visits, in line with their mandates.
5. Reaffirm the ACHPR's recognition of the rights of Indigenous People.
6. Develop a binding protocol to the African Charter for non-state actors to comply with human rights standards
7. Comply with article 169 of ILO
8. Comply with the UN resolution on Indigenous Peoples.
9. Ensure the legal enforceability of ESC rights of indigenous peoples.
10. Ensure free prior informed consent as a framework for development that may affect the lives and livelihoods of Indigenous People.
11. Ensure access to justice for people whose economic, social and cultural rights are violated
12. Strengthen the legal enforcement of economic, social and cultural rights

### **People with Disabilities**

Regarding the situation of people with disabilities in Africa, the NGO Forum calls upon the African Commission on Human and Peoples' Rights to:

1. Collaborate with civil society organizations to draft an African Protocol for Persons with Disabilities
2. Urge member states which have not signed and ratified that United Nations Convention on the Rights of Persons with Disabilities to do so
3. Support a visit by Special Rapporteurs to Mali and Cote d'Ivoire to investigate the state of the rights of persons with disabilities and elderly persons, and to include their findings in their report

### **Children's Rights**

Regarding the rights of the child, the NGO Forum calls upon the African Commission for Human and Peoples' Rights to:

1. Ensure coherence and collaboration between the various communications and state reports on issues regarding the rights of the child
2. Facilitate the collaboration of Commission and Committee members stationed in the same country to conduct joint in-country missions regarding the rights of the child
3. Urge member state to condemn the practice of human trafficking, particularly of women and children, address the root causes of such trafficking, and enforce measures against trafficking, and facilitate the return of victims of trafficking and provision of compensation
4. Consider establishing a thematic group on youth to report on the state rights of youth in all reports, and submit all youth-related recommendations from their reports to the AU Committee on the Africa Youth Charter.
5. Reinforce and accelerate cooperation between the AU Committee and the African Commission for Human and Peoples' Rights

### **Pre-trial Detention, Policing, and Torture**

Regarding the issues of pre-trial detention, policing, and torture, the NGO Forum calls upon the African Commission for Human and Peoples' Rights to:

1. Call on states to ensure that arrests are carried out on grounds clearly established by law, in accordance with international standards, without discrimination for any reason.
2. Call on states to guarantee that prison conditions are in accordance with international standards and protect all rights of detainees
3. Urge state parties to allow access to the Special Rapporteur on Prisons and Places of Detention in Africa to all detention facilities in their respective countries.
4. Call upon states to uphold the international standards for prisoners' rights to legal counsel, access to medical care, and freedom from torture
5. Call upon states to ensure that police forces abide by international standards for public order policing, including refraining from the use of excessive force.
6. Urge member states which have not ratifying the UN CAT to do so.
7. Develop specific guidelines for member states to fully address the needs of survivors of torture as per Part III of the Robben Island Guidelines.

### **Women's Rights**

Regarding the status of women in Africa, the NGO Forum calls upon the African Commission to ensure:

1. That the Special Rapporteur on Women's Rights in Africa use the Protocol on the Rights of Women as a blue print to analyze all state reports and require that all state parties to the Charter and the Protocol ensure that women's issues are incorporated into their reports on their countries.
2. That all special mandates incorporate women's rights in their specific mandates and closely collaborate with civil society to evaluate the progress of states in implementing of recommendations made by the Special Rapporteur on the Rights of Women.

### **Transitional Justice**

Regarding the issue of transitional justice in the African countries, the NGO Forum calls upon the African Commission to:

1. That the African Commission supports domestic mechanisms to address the impunity gap beyond the prosecution of persons bearing the responsibility for serious crimes.
2. Promote increased emphasis on restorative justice.
3. Call on States to include victim participation at all levels in transitional justice processes to adequately address their needs.
4. Ensure the development of mechanisms that secure and protect victim participation.
5. To encourage a multi-sectoral approach to transitional justice mechanisms which include consultations with relevant actors and institutions.
6. Encourage the development of context specific transitional justice mechanisms as derived from victim and stakeholder consultation.
7. Continue supporting institutional reform in countries going through a transition.

### **Environment, Human Rights, and Extractive Industries**

Regarding the issues of environment, human rights, and extractive industries, the NGO Forum calls upon the African Commission to:

1. Monitor the Marikana Commission of Inquiry and the Liability of Police and the Mining Companies in the events of 16<sup>th</sup> August 2012.
2. We call for the establishment of the Special Rapporteur on Rural Development to focus on local communities and their land rights, environmental impact, consultation, compensation and reparation.

### **Human Rights Defenders**

Regarding the situation of human rights defenders in the African continent, the NGO Forum calls upon the African Commission to:

1. Provide special attention and ensure protection for groups of human rights defenders who are facing greater risks, including as women human rights defenders, LGBTI activists, journalists, bloggers and others working in the field of media, defenders working in environment rights, defenders working

during conflict situations, indigenous populations and people living in African islands.

2. Urge member states to take effective steps towards demilitarization of institutions and reform of laws curtailing and criminalizing the work of human rights defenders, and include the UN Declaration on Human Rights Defenders in the national laws.

### **Death Penalty**

Regarding the death penalty, the NGO Forum calls upon the African Commission for Human and Peoples' Rights to:

1. Strongly condemn the execution of nine inmates in The Gambia on 23 August 2012, as well as the secrecy which surrounded the execution and the refusal to return their bodies to relatives, and call upon the government of Gambia to respect the right to life and to comply with the moratorium on the death penalty
2. Condemn the executions that took place in South Sudan in 28 August 2012

### **Country Situation of Particular Concern; Sudan**

Regarding the special situation of Sudan, the NGO Forum calls upon the African Commission for Human and Peoples' Rights to:

1. Condemn the killing of civilians by Sudanese government in Darfur, in the Nuba mountains and in the Blue Nile

### **Reprisals**

On the issue of reprisals against those who cooperate with the African human rights system, the NGO Forum acknowledges the adoption by the African Commission in its 50<sup>th</sup> session of the resolution ACHPR/Res.196(L) 2011 calling on African states to end reprisals against individuals and groups which collaborate with the African human rights system. However, those who collaborate with the African human rights system continue to be targeted. Therefore, the NGO Forum requests the commission to set up a follow-up mechanism which will allow the Commission to collect all the cases of reprisals and to hold concerned governments accountable, taking the UN system as an example.

***Done in Yamoussoukro, Ivory Coast  
8<sup>th</sup> October, 2012***