



ACDHRS

**THEMATIC RESOLUTIONS ADOPTED AT THE FORUM ON THE PARTICIPATION OF NGOS IN THE
57TH ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS
AND THE 31ST AFRICAN HUMAN RIGHTS BOOK FAIR**

31ST OCTOBER – 2ND NOVEMBER, 2015

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BANJUL, THE GAMBIA

**TRES\001\11\2015: THEMATIC RESOLUTION ON MEASURES TO PROTECT AND PROMOTE THE
WORK OF WOMEN HUMAN RIGHTS DEFENDERS**

We, the participants of the Forum on the Participation of NGOs in the 57th Ordinary Session of the African Commission on Human and Peoples' Rights and the 31st African Human Rights Book fair held in Banjul, The Gambia from 31st October–2nd November 2015;

Recognize the many challenges confronting women on the African continent related to the recognition, exercise and enjoyment of their human rights, including the right to freedom of expression, association, and assembly, (ACHPR/245, amended)

Express deep concern about the difficult and extraordinarily dangerous environment in which human rights defenders, including in Africa, conduct their work, which is often characterized by arbitrary arrests and detentions, acts of harassment including judicial harassment, threats and other forms of intimidation, of summary and extra-judicial executions or torture; (ACHPR/196, amended with A/70/270)

Convinced that women human rights defenders face particular barriers to engaging in the defense of human rights and particular risks in the conduct of their work to defend human rights

The NGOs Forum calls upon the African Commission to:

- Encourage Commission members and States Parties to disseminate the report on the situation of women human rights defenders in Africa as widely as possible, in order to

ensure full participation in its follow-up by women human rights defenders and civil society organisations;

- Urge States Parties to implement the recommendations of the study, in full consultation with relevant stakeholders, and in particular women human rights defenders; and in this regard,
- Encourage efforts by States Parties to ensure an enabling environment for human rights defenders and civil society to work towards the defence and protection of women's rights, including by publicly reaffirming the legitimacy of the work of Women Human Rights Defenders and underlining the commitment of the State to protect the work of all Human Rights Defenders, including women.
- Further encourage all States Parties to adopt a specific law to promote and protect the work of human rights defenders, as a key component of protecting and promoting all human rights for all, which should include provisions that recognize and address the specific protection needs of women human rights defenders, consistent with international human rights standards including the UN Declaration on Human Rights Defenders (1998) and principles enshrined in the Declaration of Grand Bay and the Kigali Declaration;
- Call upon States to take immediate steps to identify and eliminate all legal, administrative, and practical obstacles and barriers to women's equality, including as related to discrimination against women, sexual and gender-based violence, and constraints on their full and effective participation in public and political life, including in defending rights;
- Urge States to ensure that efforts designed to prevent and address violations and discrimination against women human rights defenders and their families, including legislation, programmes and policy measures, are developed and monitored in consultation with defenders, civil society and other relevant stakeholders
- Emphasise that States have the primary responsibility to protect human rights and ensure implementation of obligations aimed at protecting the work of human rights defenders, and in this regard recommends States designate a governmental organ, relevant ministry, legislation commission, or other body to take up the work of implementation of these efforts,

- Further emphasise the important role that a national human rights institution can play in contributing to the promotion of respect for human rights defenders
- Reiterate the need for all organs tasked with the promotion of human rights to have the authority to elaborate, in consultation with defender and civil society groups, specific protection mechanisms for women human rights defenders, which could include *inter alia* emergency response, investigative expertise, and legal assistance;
- Call strongly on States to end impunity for violations, including by:
 - a. Establishing a transparent and publicly accessible database for recording attacks against Women Human Rights Defenders and for facilitating follow-up by governmental, non-governmental, and community-based actors, while also recognising the need to respect the right to privacy of survivors;
 - b. Ensuring due process in regard to accusations of violations, including impartial investigation;
 - c. Training the judiciary and public security authorities of the specific risks and protections for WHRDs, pursuant to above para(a) and para(b);
- Invite States to report on the progress of implementation of these efforts during presentation of their periodic reports to the ACHPR as well as on a voluntary basis during Commission sessions.

Done in Banjul, The Gambia - 2nd November 2015

TRES\002\11\2015: THEMATIC RESOLUTION HUMAN RIGHTS DEFENDERS IN AFRICA

We, the participants of the Forum on the Participation of NGOs in the 57th Ordinary Session of the African Commission on Human and Peoples' Rights and the 31st African Human Rights Book fair held in Banjul, The Gambia from 31st October–2nd November 2015;

Recalling the African Commission Resolution ACHPR/Res.69 (XXXV) 04 on the protection of human rights defenders in Africa and its Resolutions ACHPR/Res. 119 (XXXXII) 07 and ACPHR/Res. 196 (L) 11 on the situation of human rights defenders in Africa;

Further recalling the African Commission Resolution ACHPR/Res. 273 (LV) on Extending the Scope of the Mandate of the Special Rapporteur on Human Rights Defenders in Africa;

Deeply concerned with the arbitrary restrictions on the work of Human Rights Defenders (HRDs), including through harassment, intimidation and arrest of HRDs, as well as the use of restrictive laws particularly in Angola, Kenya, Lesotho, Malawi and Uganda;

Concerned about the state security charges against 20 HRDs in Angola, including 15 activists arrested and detained on charges of preparing a coup and an attack against the president; two women HRDs also charged in connection with the alleged attempted coup, as well as 3 other HRDs in Cabinda, Jose Marcos Mavungo, Arao Bula Tempo and Manuel Biongo;

Concerned about the increased harassment and intimidation of human rights defenders, as well as threats to their lives in countries such as Burundi, Lesotho and Malawi, leading to HRDs in Burundi and Lesotho fleeing the country;

Further concerned about the use of malicious prosecutions against HRDs working on sensitive issue in Kenya;

Noting the increasing use of laws and regulations, such as presidential decree 74/15 of 23 March 2015 in Angola, Public Benefits and Organisation Act law of 2013 in Kenya and the NGO Bill of 2015 in Uganda, in a manner which places severe restrictions on the space for civil society groups in these countries;

Recognising the positive steps taken by Cote D'Ivoire in passing a law which protects HRDs in the country, but that the law however still requires operationalization and inclusion of sanctions;

The NGOs Forum calls upon the African Commission to:

- adopt a resolution on Angola calling on the authorities to immediately release all HRDs detained for exercising their rights and to drop politically motivated charges against all HRDs, including the Angola 15, the two women HRDs and the three HRDs in Cabinda;
- carry out a fact finding mission to Burundi to assess the situation of HRDs in the country;
- call on all states to repeal laws which unreasonably restrict the work of civil society organisations, including by placing limitations on their funding and areas of work, as well as ensure laws which regulate NGOs are not abused in a manner which arbitrarily prevents the effective functioning of the human rights work of these organisations;
- call on all states to disseminate the report on the situation of WHRDs and implement the recommendations contained therein
- adopt a resolution recognizing the specific risks and protection issues for WHRDs
- call on states to emulate Cote D'Ivoire in passing similar laws which protect HRDs at the national level
- call on Cote D'Ivoire to adopt the decree operationalising the law and ensures sanctions are included for those who contravene the law
- call upon the reinstatement of the SADC tribunal and all the legal framework guaranteeing the protection of the rights of human rights defenders

TRES\003\11\2015: THEMATIC RESOLUTION ON THE SADC TRIBUNAL

We, the participants of the Forum on the Participation of NGOs in the 57th Ordinary Session of the African Commission on Human and Peoples' Rights and the 31st African Human Rights Book fair held in Banjul, The Gambia from 31st October–2nd November 2015;

Concerned about the adoption of an amended Protocol reconstituting the SADC Tribunal from a sub-regional court accessible to all SADC citizens, NGOs and the corporate sector into an inter-state dispute resolution mechanism;

Recognising the negative impact of removal of access and the human rights protection mandate of the SADC Tribunal for SADC citizens;

Disturbed by the retrogressive step by SADC Heads of State and Government in turning the SADC Tribunal into an interstate dispute resolution mechanism contrary to current normative frameworks which provide for courts accessible not only to states but also to natural and legal persons seeking to hold states accountable for alleged human rights violations;

Concerned that the decision of the SADC Summit of Heads of State and Government does not comply with the Abuja Treaty on the establishment of an African Economic Community in that SADC is now out of step with the other sub-regional economic communities with accessible human rights protection mechanisms;

The NGOs Forum calls upon the African Commission to adopt a Resolution calling upon SADC States:

- To reinstate the SADC Tribunal in its original form where it is accessible to individuals, NGOs and the corporate sector and has a mandate to protect human rights and ensure respect for the SADC Protocols and related international human rights instruments ratified.
- To respect access to justice, right to effective remedies and judicial independence at the regional level.
- Not to ratify the amended SADC Tribunal Protocol.
- Appoint Judges of the SADC Tribunal and guarantee its independence and open the sub-regional judicial body to all SADC citizens, NGOs, corporate sector and Member States.

Done at Banjul, The Gambia, on Monday, 2nd November 2015

TRES\004\11\2015: THEMATIC RESOLUTION ON THE SADC REGION

We, the participants of the Forum on the Participation of NGOs in the 57th Ordinary Session of the African Commission on Human and Peoples' Rights and the 31st African Human Rights Book fair held in Banjul, The Gambia from 31st October–2nd November 2015;

Concerned that while the overall picture of the SADC region is retrogressing, some countries in the region have registered some positive gains, yet some of these positive gains are being threatened;

Cognizance of the fact that the region has been going through many crisis that emerge because of lack of compliance with the basic rights guaranteed in the African Charter on Human and Peoples Rights, the rule of law, access to justice, poverty draconian laws that restrict multi-party system, trade unions and civil Society

Coupled with the resistance to participation of CSOs in regional integration programs which remains a key concern that CSOs, Human Rights Defenders continue to face;

The NGOs Forum calls upon the African Commission to adopt a Resolution on the following SADC countries as follows:

1. Angola

Concerns over state's interference and intimidation of human rights defenders with the recent detention of 15+2 activists, journalists and women human rights defenders

Concerns over the current draft new law which is aimed at restricting the work of human rights defenders and Civil Society.

✓ Resolution:

- a. adopt a resolution in support of the recent UN Special Rapporteur which called on Angola to release the 15+2 human rights defenders and drop all charges against them.
- b. urge the Angola's government to suspend the process of drafting this new law until all grey areas impinging on Civil Society's work are cleared
- c. restore access to justice for citizens in the SADC by reinstating the SADT Tribunal in its original form and encourage State Parties to provide access to justice by not ratifying the amended SADC Tribunal.

2. Malawi

Commend Malawi government for its maiden appearance for the review of its state report at the 56th session of the African Commissions on Human and Peoples Rights,

Concerns over the politicization of the Malawi NGO board and through the use of NGO law—whose origins, lest we forget, was to stifle opposition to a third term bid of former President Bakili Muluzi - to restrict and stifle the civil society space especially against “human rights defenders” deemed critical of government,

Concerns over Malawi government’s use of the Special Advisor to the President on NGOs and Civil Society and the National Intelligence Bureau (NIB) to destabilize and stifle the Civil Society space and activities, as well as instilling fear and intimidation in the operations of human rights defenders,

Concerns over the politicization of the state-run Malawi Broadcasting Corporation against human rights defenders, opposition leaders and critics of government,

Concerns over Malawi government’s failure to condemn and investigate the recent threats against human rights defenders, journalists, and opposition politicians

Resolutions:

- a. ensure the independence of the Malawi Broadcasting Corporation by amongst other things freeing it from any political influence especially such activities against the “critics” of government and human rights defenders.
- b. Condemn all the recent threats against human rights defenders, politicians, Anti Corruption Bureau boss, and journalists. Institute investigations into these threats as well as conclude on those concerning the arbitrary arrests, death threats and arson of offices and homes of human rights defenders, some media houses and opposition politicians in 2011. This includes the July 20, 2011 brutal killings and student activist Robert Chasowa’s murder as well as the murder of the Malawi Anti-Corruption Bureau officer.
- c. to Depoliticize the NGO board, the National Intelligence Bureau, and the Special Advisor on NGOs and Civil Society and stop using them as government’s agents of suppressing, restricting, and stifling the Civil Society space in Malawi
- d. to honour its commitment to the African Charter on Human and Peoples Rights and other international human rights instruments to which Malawi is party to by ensuring protection of human rights defenders and Civil Society through provision of an enabling and conducive environment providing protection to human rights defenders and providing a conducive and enabling environment free for Civil Society activities- from political interference.
- e. restore access to justice for citizens in the SADC by reinstating the SADT Tribunal in its original form and encourage State Parties to provide access to justice by not ratifying the amended SADC Tribunal.

3. Mozambique

Concerns over the hostile political climate and environment which is not conducive to political tolerance;

Concerns over the detention of 20 opposition members as well as deteriorating violations of women's rights, shrinking democratic and rule of law space as the general political instability in the country which is grossly affecting the work of human rights defenders as well as the citizens's full realization and enjoyment of democracy, freedom of expression, information and political tolerance.

Resolution:

- a. Release the 20 opposition members
- b. detained restore access to justice for citizens in the SADC by reinstating the SADT Tribunal in its original form and encourage State Parties to provide access to justice by not ratifying the amended SADC Tribunal.

4. Lesotho

Concerned over governments' political intolerance as well as impingement on the freedom of expression and information,

Concerned about the repeated political, conflict faced for many years in this country,

Concerned about the unlawful detention of 23 soldiers who remain imprisoned

Resolution:

- a. allow democracy and freedom of expression, information and political tolerance to prevail
- b. to ensure the full cooperation from both sides to bring investigations of allegations to a mutuality to end, as well as allowing a lasting peaceful solution to the political conflict
- c. to release the 23 soldiers illegally detained without further delay
- d. cooperate with the Commission of Inquiry and SADC Principles and legal framework.
- e. restore access to justice for citizens in the SADC by reinstating the SADT Tribunal in its original form and encourage State Parties to provide access to justice by not ratifying the amended SADC Tribunal.

5. Tanzania

The Forum welcomes the peaceful elections held in Tanzania, however, there have been some concerns raised by some quarters particularly the opposition over some irregularities which may have characterized the electoral process with rigging claims as some.

Resolution:

- a. to institute investigations into the alleged claims of rigging
- b. restore access to justice for citizens in the SADC by reinstating the SADT Tribunal in its original form and encourage State Parties to provide access to justice by not ratifying the amended SADC Tribunal.

6. Swaziland

Concerns over the draconian laws that limit the space of CSOs and citizens participation as well as advance of democracy and human rights in Swaziland,

Resolution:

- a. Repeal the draconian law that restrict the space of human rights defenders and the work of the Civil Society
- b. Legislate laws in line with the African Commission's Study Group on Freedom of Association
- c. restore access to justice for citizens in the SADC by reinstating the SADT Tribunal in its original form and encourage State Parties to provide access to justice by not ratifying the amended SADC Tribunal.
- d.

7. South Africa

Concerns over the continuous corruption that has revealed over 700 billion stolen in states departments which has left many communities severely disadvantaged as water, food, sanitation, education, health remain undelivered

Concerned for the right to assembly by demonstrators is violated leaving them with no alternative to raise their issues of corruption and police impunity is allowed to prevail for a long time.

Congratulate the students for a successful protest against school fees increase and those who began the protest which we call the Afro-Youth spring that started from Nigeria, Kenya, and all the youth to join and fight corruption and demand delivery of economic and social rights services – the right to education is promoted and protected by the African human rights mechanisms

Resolution:

- a. Guarantee the right to freedom of assembly and association
- b. Guarantee the right to education is promoted and protected as guaranteed in national and regional instruments.
- c. restore access to justice for citizens in the SADC by reinstating the SADT Tribunal in its original form and encourage State Parties to provide access to justice by not ratifying the amended SADC Tribunal.

8. Zimbabwe

Concerns of threats and intimidation against human rights defenders and also attempts to stifle the voice of CSOs,

Resolution:

- a. to honour its commitment to the African Charter on Human and Peoples' Rights and other international human rights instruments to which Zimbabwe is party to by ensuring protection of human rights defenders and Civil Society through provision of an enabling and conducive environment providing protection to human rights defenders and providing a conducive and enabling environment free for Civil Society activities- from political interference
- b. restore access to justice for citizens in the SADC by reinstating the SADT Tribunal in its original form and encourage State Parties to provide access to justice by not ratifying the amended SADC Tribunal.

Done in Banjul, The Gambia – 2nd November, 2015

TRES\005\11\2015: THEMATIC RESOLUTION ON PRISONS CONDITIONS OF DETENTION AND POLICING IN AFRICA

We, the participants of the Forum on the Participation of NGOs in the 57th Ordinary Session of the African Commission on Human and Peoples' Rights and the 31st African Human Rights Book fair held in Banjul, The Gambia from 31st October–2nd November 2015;

In the context of 2016 as African Year of Human Rights with a focus on women,

The NGOs Forum call on the African Commission to adopt a Resolution urging all AU Member States to:

- Review and declassify outdated and petty offences
- Review counterterrorism legislation and strategies to bring them in line with accepted International and Regional Human rights.
- Implement the African Commission guidelines of pre-trial detention and right to fair trial, including through encouraging states to use the tools that the Commission has developed to support their implementation, specifically with regard to building the capacity of the state and civil society.
- Increase efforts to document and visit incommunicado and secret places of detention.
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- Consider the development of a special fund to assist people unlawfully deprived of their liberty.
- Find ways of working with specific lobby groups, such as engagement with CSOs representing marginalised groups, especially LGBTI groups.
- Give consideration to the extent to which these interventions can inform African indicators for goal 16 of the SDGs which relates to access to justice.

Done in Banjul, The Gambia – 2nd November, 2015

TRES\006\11\2015: THEMATIC RESOLUTION ON INCLUSION OF AFRICAN YOUTHS

We, the participants of the Forum on the Participation of NGOs in the 57th Ordinary Session of the African Commission on Human and Peoples' Rights and the 31st African Human Rights Book fair held in Banjul, The Gambia from 31st October–2nd November 2015;

Recalling the African Youth Charter which provides a comprehensive framework for the protection and promotion of the rights of youth and for their empowerment and the building of their capacities and leadership, to enable them to take up their rightful place as active agents in decision-making and governance; and providing for the needs and aspirations of young displaced persons, refugees, women and youth with special needs;

Recalling Goal 15 of the African Union's Agenda 2063 towards engaged and empowered youth in Africa, and other AU standards and mechanisms targeting the youth, including NEPAD's Strategic Framework for Youth Programme and commitments made in commemoration of Africa Youth Day on 1 November 2015;

Considering the recognition by African States to the Youth Charter, that Africa's greatest resource is its youthful population and that through their active and full participation, Africans can surmount the difficulties that lie ahead; and that youth are partners, assets and a prerequisite for sustainable development and for the peace and prosperity of Africa with a unique contribution to make to the present and to future development;

Noting with concern as in the Charter, the human rights situation of African youth, many of whom are marginalised from mainstream society through inequalities in income, wealth, power and access, unemployment and underemployment, infected and affected by the HIV/AIDS pandemic, living in situations of poverty and hunger, experiencing illiteracy and poor quality educational systems, restricted access to health services and to information, exposure to violence including gender violence, engaging in armed conflicts and experiencing various forms of discrimination and harmful cultural practices;

The NGOS Forum calls upon the African Commission to:

- create structures to enable the participation of youth movements, that are not registered as NGOs, in African Commission processes;
- take concrete steps towards the elimination of obstacles for youth participation at national, regional and continental levels;

- in particular, push for the appointments of ACHPR and AUC Commissioners who are within the youth age bracket of 18 – 35;
- highlight the human rights situation of young women who face structural and cultural barriers to meeting their full potential, for example, by reason of early marriages, FGM and discrimination;
- call on Member States to provide adequate resources towards the creation of sufficient institutions for youth education and towards guaranteeing the quality of all educational and technical institutions;
- call on Member States to provide resources, capacity and opportunities for youth employment and entrepreneurship;
- promote the free movement of African youth throughout the continent including the removal of obstacles to the free movement of youth across the continent;
- highlight in their promotional and protection activities, the particular situation faced by youth human rights defenders and youth in conflict, including their vulnerability to recruitment into terrorism.

Done in Banjul, The Gambia – 2nd November, 2015

TRES\007\11\2015: THEMATIC RESOLUTION ON PEACE AND SECURITY

We, the participants of the Forum on the Participation of NGOs in the 57th Ordinary Session of the African Commission on Human and Peoples' Rights and the 31st African Human Rights Book fair held in Banjul, The Gambia from 31st October–2nd November 2015;

Deeply concerned by the on-going conflict situations in Cameroon, Central African Republic, Democratic Republic of Congo, Equatorial Guinea, Burundi, Kenya, Lesotho, Libya, Nigeria, Somalia, Sudan South Sudan.

Deeply concerned by reports of serious crimes under international law, and widespread violations of humanitarian and human rights law, including the African Charter on Human and People's Rights, being committed by all parties to the conflicts in these countries;

Considering that despite the existing regional normative and institutional frameworks for addressing conflicts, and threats of conflicts, in Africa, there seems to be serious limitations in coordinated responses to conflict threats, and human rights violations related to conflicts in Africa;

Noting that the Commission's performance and capacity to champion a human rights approach to conflict prevention, management and resolution is yet to be fully realised;

Call upon the African Commission:

- To develop a comprehensive and decisive strategy for addressing conflict-related human rights violations in Africa;
- In relation to the on-going armed conflicts in Africa and the serious human rights violations associated with these conflicts, utilise its powers under Article 58 of the African Charter on Human & Peoples' Rights to 'draw the attention of the Assembly of Heads of State and Government to these special cases';
- To work with the special interest group on Peace and Security, which is hereby established as focal point for NGOs, to coordinate further discussions and reflections amongst NGOs and the Commission during the inter-session period, by designating a Special Mechanism or Commissioner, with the aim of developing recommendations and strategies for enhancing the role of the African Commission in responding to conflicts in Africa;

- To further work towards bringing a wider group of NGOs and other stakeholders into this discussion during the inter-session period, and specifically commit to convening a consultative workshop on the margins of the upcoming Assembly of the AU Heads of States;
- To consider using civil society expertise in developing an action plan for enhancing the Commission's role in responding to on-going and emerging conflicts in Africa, including in strengthening its coordination mechanisms with the African Union, the Peace and Security Council of the African Union, and other relevant sub-regional bodies in Africa;
- To convene an open panel and interactive session on conflicts and human rights in Africa in its agenda for the 58th Ordinary Session of the Commission, in order to open space for wider discussion and the adoption of more effective strategies to respond to conflicts in Africa.

Done in Banjul, The Gambia – 2nd November, 2015