



THEMATIC RESOLUTIONS ADOPTED

TRES/001/10/18: Resolution on the implications of the African Union reform processes for the conduct of the mandate of the African Commission on Human and Peoples' Rights

We, the participants at the Forum on the Participation of NGOs Forum in the 63rd Ordinary Session of the African Commission on Human and Peoples' Rights and 37th African Human Rights Book Fair held from 20-22 October, 2018 at the Paradise Suites Hotel in Kololi, The Gambia

Recalling the mandate of the African Commission to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Aware that, as an African Union (AU) organ established by the African Charter, the African Commission shall enjoy total independence in the internal methodology it adopts in the exercise of its mandate. This includes, among other things, the definition of internal rules of procedures, code of conduct, and the creation of various internal mechanisms for the promotion and protection of human and peoples' rights in Africa;

Emphasizing that the right to freedom of expression and access to information is a fundamental human right guaranteed *inter alia* by Article 9 of the African Charter;

Recalling the adoption of the Declaration of Principles on Freedom of Expression in Africa by the African Commission, during its 32nd Ordinary Session, which elaborates the nature, content and extent of the right to freedom of expression and access to information provided for under Article 9 of the African Charter;

Recalling the action of the African Commission on the protection of human rights defenders in Africa, as shown by the adoption of various resolutions by the African Commission over the past thirty years¹, to ensure AU Member States guarantee for human rights defenders to conduct their work in a more secure and conducive environment;

Recalling and supporting the steady commitment expressed by the African Commission to promote the right to freedom of expression and association at national, regional and continental level;

Recalling and supporting the commitment of the African Commission to the development of democracy in Africa, by recognizing that the principles of good governance, transparency, and human rights are critical elements that contribute to the achievement of peace and sustainable development in Africa;

1 Resolutions: ACHPR/Res.69 (XXXV) 04, ACHPR/Res.56 (XXIX) 01, ACHPR/Res.104 (XXXXI) 07, ACHPR/Res.119 (XXXXII) 07, ACHPR/Res.196 (L) 11, ACHPR/Res.345 (LVIII) 16 and ACHPR/Res.376 (LX) 17 on the situation of human rights defenders in Africa

Mindful of the role of the African Commission under Article 45 of the African Charter, to 'formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights in particular;'

Commending the work of the African Commission which has, over the thirty years since its establishment, drawn attention to, provided redress and remedies for those who have been subjected to human rights violations across the continent;

Further commending and encouraging the African Commission for its bold and large contribution in setting progressive human rights norms on a range of subjects, such as sexual and reproductive health, sexual orientation, gender identity and expression, and the fight against sexual violence and its consequences;

Aware that for years, the African Commission has been subject to various threats and attempts to undermine its credibility and independence by individual State parties and the African Union as a whole, by autocratic and populist governments, which appears as an illustration of African leaders not wanting to be held accountable for human rights violations, and the lack of redress at national level for these violations happening under their watch;

Aware of Decision EX.CL/Dec.1008-1030(XXXIII) of the AU Executive Council (AU/EC Decision) which prescribes a new interpretation of the ACHPR's independence, described as being of a *'functional nature'* and requests that steps are taken *"to regularize the status of the ACHPR as an organ of the AU"*;

Deeply concerned that this AU/EC Decision requires that the African Commission *"revises criteria for granting and withdrawing observer status for NGOs which should to be aligned with the existing criteria on the accreditation of NGOs to the AU used by the AU for the accreditation of NGOs"*, and asking that the revised criteria take into account *"African values and traditions"*;

Deeply concerned that following from these directives, the AU/EC Decision also requires that the ACHPR withdraw the accreditation of the Coalition of African Lesbians as an NGO with observer status, which was done during the 24th Extra-Ordinary Session of the African Commission, held from 30 July to 8 August 2018 in Banjul, the Gambia;

Deeply concerned by the fact that these provisions of this AU / EC Decision appear as a signal of possible increasing restrictions and barriers for civil society organisations' access to the African Human Rights System in general, and to all 517 NGOs who currently hold observer status with the African Commission and are striving to advance and defend human rights for African populations;

Further alarmed by the potential direct impact and spill-over effect the implementation of this AU/EC Decision could have on civil society organisations currently accredited by the African Commission, but also on all those who may seek future accreditation;

Recalling that, as all African Union organs, and considering its mandate, the African Commission cannot overlook its accountability and responsibility towards African populations which are, for their most part, suffering from serious human rights violations, be it in time of conflict or of peace, and often perpetrated by State actors with total impunity;

Insisting that any reform process within the African Union must aim at upholding the human rights of the very people it was created to serve;

The NGO Forum adopts a resolution to:

decide to:

1. Publicly condemn these attempts by other AU organs in general, and the Executive Council of the AU in particular, to stifle the fundamental ideals of our very existence such as equality, non-discrimination, participation and representation;
2. Re-inforce mobilization from civil society across the continent to support the independence of the African Commission and access for civil society organisations and citizens.

Call upon the African Commission to:

1. Resist interference and attacks from other AU policy organs and uphold its independence;
2. Work jointly with the African Court on Human and Peoples' Rights to avoid the dismantling of the African human rights system;
3. Share information with civil society organisations on how and when to strengthen their support, also by working in complementarity with other stakeholders involved;
4. Share information on the next steps and timeframe envisaged for the potential implementation of Decision 10/15 of the Executive Council of the AU;

Done in Banjul, The Gambia – 22 October, 2018

TRES/002/10/18: THEMATIC RESOLUTION ON THE ABOLITION OF THE DEATH PENALTY IN AFRICA, PARTICULARLY WOMEN CONDEMNED TO DEATH

We, the participants of the NGOs Forum preceding the 63rd Ordinary Session of the African Commission on Human and Peoples' Rights and 37th African Human Rights Book held from 20-22 October, 2018 at the Paradise Suites Hotel in Kololi, The Gambia

Considering articles 4(1) and (2)(j) of the Protocol on the Rights of Women of the African Charter stating that *“Every Woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, human or degrading punishment and treatment shall be provided”* and ensuring that *“in those countries where the death penalty still exists, not to carry out death sentences on pregnant or nursing women;”*

Considering resolutions 42 (1999), 136 (2008) and 375 (2017) of the ACHPR urging States parties to the African Charter on Human and Peoples' Rights (African Charter) to consider a moratorium on the death penalty and to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

Considering article 4 of the African Charter stating that *“Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right”* and article 5 stating that *“Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly [...] torture, cruel, inhuman or degrading punishment and treatment shall be prohibited”*;

Considering the African Committee of Experts on the Rights and Welfare of the Child's General Comment 1 on the rights of children when their parents or primary caregivers are in conflict with the law;

Recalling the 6 Resolutions of the General Assembly of the United Nations, adopted in 2007, 2008, 2010, 2012, 2014 and 2016 calling on all States that still retain the death penalty to, *inter alia*, observe a moratorium on executions with a view to abolishing the death penalty;

Welcoming the holding of the first Continental Conference on the death penalty organized by the African Commission on Human and Peoples' Rights (ACHPR) in cooperation with the authorities of Benin; which created space for an open debate on the issue of the death penalty in Africa as well as on the necessity for Member States of the African Union (AU) to support the adoption of a regional protocol on the abolition of the death penalty;

Welcoming also the continental and worldwide trend towards the abolition of the death penalty in law and practice;

Noting in particular that 21 AU Member States have abolished the death penalty in law²;

Considering that the death penalty has no deterrent effect, is irreversible and constitutes a serious infringement to the right to life;

Observing that the death penalty is regularly imposed after unfair trials and that it is often used in an arbitrary and discriminatory manner, particularly against vulnerable groups;

Observing also that crimes for which women are condemned reveal patterns of gender inequality;

The NGOs Forum calls on the African Commission to adopt a resolution, in order to address urgent issues affecting women in prison generally, and particularly women on death row by:

Calling on all State Parties that still retain the death penalty to:

1. Work towards abolition of the death penalty, in accordance with the requirement of international laws to progressively realize abolition by eliminating it for offenses that do not meet the 'most serious crimes' standard;
2. Commute the death sentences of women currently on death row for offences that do not meet the 'most serious crimes' standard, particularly crimes that do not involve the intentional killing of human life;
3. Implement policies and legislative reforms that prevent the application of the death penalty when women act against their abusers and commute the sentences of women currently on death row in such cases.
4. Reform legislation and train judicial actors to ensure histories of abuse are considered as a mitigating factor in relevant cases, including by codifying gender specific defences and mitigating factors
5. In accordance with the UN Mandela Rules and the Bangkok Rules, ensure women's safety and security while in detention, including by hiring and training female prison staff to supervise women, and prohibiting the prolonged use of solitary confinement and the punitive denial of visits.
6. Limit the use of shackles or any restraint on women on death row, in line with the Mandela Rules and absolutely prohibit their use during pregnancy, childbirth and nursing, as require by the Bangkok Rules.

² South Africa, Angola, Benin, Burkina Faso, Burundi, Cape-Verde, Congo, Ivory Coast, Djibouti, Gabon, Guinea, Guinea Bissau, Madagascar, Mauritius, Mozambique, Namibia, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Togo.

7. Provide gender-specific health services to women on death row, including through training staff to recognize and address symptoms of mental illness and ensuring women have access to free sanitary products. Make efforts to house women geographically close to their homes and communities to facilitate contact with the outside world.
8. Adequately provide for the medical, educational and social needs of children living with their mothers on death row, in accordance with international standards.
9. Permit and encourage participation of women on death row in education and other rehabilitation programs in prison.
10. Increase transparency by making data and information publicly available on the number of women on death row, demarcated by age and the offenses for which they are convicted, to further support research and evidence-based policy and practice.

Done in Banjul, The Gambia - 22nd October, 2018

TRES/003/10/18: RESOLUTION ON THE IMPACT OF CORRUPTION ON FREEDOM OF EXPRESSION AND ACCESS TO INFORMATION IN AFRICA

We, the participants of the NGOs Forum preceding the 63rd Ordinary Session of the African Commission on Human and Peoples' Rights and 37th African Human Rights Book held from 20-22 October, 2018 at the Paradise Suites Hotel in Kololi, The Gambia

Realizing the negative impact of corruption on the values of governance and democracy in Africa;

Appreciating that once corrupted, expression and information actors and handlers are predisposed to withholding and distorting information that should otherwise be proactively disclosed to the public;

Noting that compromised reportage and coverage negatively influences the public's perception of what is true more so on public interest issues like health care, education, and land;

Realizing also that bribery of those in policy making positions also negatively affects freedom of expression and access to information policy making processes;

Noting also that corruption also affects objective and lawful licensing of media operators and disenfranchises those who are unable to pay high fees for bribes from running credible and independent media establishments;

Appreciating also that critical and independent media practitioners have been co-opted into government by being given government jobs so as to silence objective media work therefore leaving the public with fewer champions of human rights and truth;

Realizing that corruption is a critical inhibitor to legal redress for victims of freedom of expression and access to information and violations, and that it further fuels impunity for these violations;

The NGOs Forum urges the African Commission:

1. Develop a General Comment/Guidelines on the Promotion and Protection of Investigative Journalism to encourage and promote investigative journalism as an important tool against corruption in the continent.
2. Guide states on how to strengthen the capacities of the prosecutorial institutions on state obligations on freedom of expression, right to information, access to justice and how to regulate these rights as per regional and international standards through the development of a Special Mechanism on the Independence of the Judiciary.

3. Develops a General Comment/Guiding document on civic education on corruption and how it affects human rights to be adopted by all states in their civic education processes.
4. Calls on Member States to establish special investigative units within the police to carry out investigations on freedom of expression and access to information violations together with other state entities.
5. Develops guidelines on best practices to combat corruption in line with the African Charter on Democracy, Elections and Good Governance. Member states that have not ratified the Charter should also be compelled to do so.
6. Calls on all Member States to endorse international declarations on the protection of safety of journalists, support the adoption of international convention of safety of journalists, support adoption of international convention on safety of journalists and implement UN Security Council resolution on safety of journalists.

Done in Banjul, The Gambia – 20 October, 2018

**TRES/004/10/18: RESOLUTION SUR LES VIOLATIONS EXCESSIVES DES LIBERTES FONDAMENTALES
DANS AU CAMEROUN ET AU GABON PENDANT LE PROCESSUS ELECTORAL**

Le Forum des ONGs réuni en prélude à la 63^e session ordinaire de la Commission Africaine des Droits de l'Homme et des Peuples (CADHP) ;

Considérant les dispositions de la Charte Africaine des Droits de l'Homme et des Peuples (CADHP) notamment en son article 13 (1) qui stipule que « *tous les citoyens ont le droit de participer librement à la direction des affaires publiques de leur pays, soit directement, soit par l'intermédiaire de représentants librement choisis, ce, conformément aux règles édictées par la loi* » ;

Considérant les dispositions de la Charte Africaine de la Démocratie, des Elections et de la Gouvernance en Afrique ;

Considérant la résolution 272 de la Commission Africaine des Droits de l'Homme et des Peuples sur les élections en Afrique;

Profondément préoccupée par les violations des droits de l'homme, notamment les restrictions excessives de la liberté d'expression, d'association, de réunion pacifique, les interdictions des manifestants pacifiques tout au long du processus électoral, par de nombreuses arrestations et détentions arbitraires;

Préoccupé par les irrégularités et les difficultés à mener à bien la surveillance et l'observation de ces élections du fait du refus de l'autorité administrative d'accorder aux observateurs les accréditations, mais aussi à cause de la situation sécuritaire dans certaines parties du pays au Nord-Ouest, Sud-Ouest et l'Extrême-Nord, faible taux de participation surtout les jeunes et les femmes, Intimidations de certains membres représentants certains candidats de l'opposition ;

Préoccupé par l'insécurité grandissante, les disparitions forcées récurrentes, les exécutions sommaires et ou extrajudiciaires, les enlèvements et intimidations en République du Cameroun et du Gabon ;

Craignant la détérioration de la situation sociopolitique et des droits humains en République du Cameroun et du Gabon à l'issue de la proclamation des résultats de l'élection législatives et locales du 06 octobre 2018 et l'élection présidentielle du 07 octobre 2018 ;

Le forum des ONGs demande à la Commission Africaine d'appeler le gouvernement de la République du Cameroun et de la République du Gabon à :

encourager le respect des libertés fondamentales par la mise en œuvre effective des lignes directrices sur la liberté d'association et de réunion en Afrique;

ratifier et mettre en œuvre les dispositions et les instruments juridiques régionaux et internationaux relatifs aux Droits Humains ; en particulier la CADEG;

assurer un espace démocratique pour les acteurs de la société civile, de l'opposition politique, les journalistes, les avocats et des activistes des mouvements pro-démocratie en autorisant les manifestations publiques;

promouvoir l'intérêt collectif des peuples en assurant l'alternance au pouvoir, l'organisation des élections libres et transparentes et assurer l'indépendance, renforcer les capacités opérationnelles, matérielles et financières des organes électoraux nationale ;

encourager et accompagner le gouvernement du Cameroun à la mise en place d'une « Commission, Vérité, Justice et Réconciliation » pour sortir de la crise sociopolitique ;

appeler les Etats du Cameroun et du Gabon à faciliter les visites pays du Spécial Rapporteur sur les Défenseurs des Droits Humains.

Fait à Banjul, Gambie – 22 Octobre, 2018

TRES/005/10/18: RESOLUTION SUR LA SITUATION DES FEMMES DEFENSEURES DES DROITS HUMAIN EN AFRIQUE CENTRALE

Le Forum des ONGs réuni en prélude à la 63e session ordinaire de la Commission Africaine des Droits de l'Homme et des peuples (CADHP) ;

Considérant les dispositions de la Charte Africaine des Droits de l'Homme et des peuples et de la Charte Africaine de la Démocratie des Elections et de la Gouvernance en Afrique ;

Considérant les résolutions 275 sur la protection contre la violence et d'autres violations des droits humains de personnes sur la base de leur identité ou orientation sexuelle réelle ou supposée et 273 sur l'extension du mandat du Rapporteur spécial sur la situation des défenseurs des droits de l'homme en Afrique ;

Considérant le rapport de la Commission Africaine des Droits de l'Homme et des peuples sur la Situation des Femmes Défenseurs des Droits de l'Homme en Afrique ;

Préoccupé par la croissance des risques auxquels sont confrontées les femmes défenseures des droits humains et les personnes qui œuvrent en faveur des droits des femmes ou s'occupent de questions liées au genre du fait de leur activité, tels les actes de discrimination, les arrestations, traitements cruels inhumain et dégradants, les actes de torture, actes d'incrimination, pratiques stigmatisantes, agressions, menaces de mort et assassinats, violence sexuelle et viol ;

Reconnaître que la violence à l'égard des femmes défenseures des droits humains sont souvent justifiés au nom des normes sociales, des coutumes, des religions ou des traditions et directement liée à leur genre et au travail qu'elles mènent en faveur des droits des femmes, y compris la santé et les droits sexuels et reproductifs, ainsi que les nombreuses violations basées sur le genre.

Le forum des ONGs demande à la Commission Africaine d'appeler les gouvernements de l'Afrique Centrale à :

1. aborder la gravité des violations perpétrées à l'encontre des femmes défenseures des droits de l'homme et d'adopter des mécanismes de protection spécialement adaptés au genre ;
2. assurer la protection des femmes défenseures des droits humains victimes d'actes d'intimidation ou de représailles du fait de leurs activités de coopération auprès d'institutions internationales, ainsi que le libre accès aux mécanismes des droits humains régionaux et internationaux et la liberté de communication avec ceux-ci ;
3. soutenir et protéger les personnes engagées dans la lutte les violences contre faites aux femmes défenseures des droits de l'homme et à traduire en justice les auteurs d'exactions basés sur le genre ;
4. reconnaître la légitimité du rôle des femmes défenseures des droits de l'homme/défenseurs des droits des femmes, élaborer et adopter une loi au niveau national qui aborde les enjeux spécifiques des femmes défenseures des droits de l'homme ;
5. mettre en œuvre les engagements pris à l'échelon régional, international et adopter dans les plus brefs délais des mesures pour la pleine mise en œuvre de cette résolution décisive.

Fait à Banjul, Gambie – 22 Octobre, 2018