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## **THEMATIC RECOMMENDATIONS ADOPTED AT THE NGOs FORUM PRECEDING THE 65<sup>TH</sup> ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS AND 39<sup>TH</sup> AFRICAN HUMAN RIGHTS BOOKFAIR**

**17-19 OCTOBER, 2019 - PARADISE SUITES HOTEL – KOLOLI, THE GAMBIA**

### **TREC/001/010/19: RECOMMANDATION SUR LA CORRUPTION**

Nous, participants au Forum sur la participation des ONG précédant la 65<sup>ème</sup> Session ordinaire de la Commission africaine des droits de l'homme et des peuples et la 39<sup>ème</sup> Foire africaine du livre sur les droits de l'homme, tenue du 17 au 19 octobre 2019 à l'hôtel Paradise Suites à Kololi, en Gambie;

La corruption affecte de manière disproportionnée les personnes vivant dans la pauvreté et celles dont les voix sont marginalisées, la grande majorité étant des jeunes et des femmes ;

Cette pratique fausse la répartition équitable des services sociaux tels que la santé, l'eau, l'assainissement, l'éducation et l'accès à la justice. Il engendre des sociétés inégales, rend les groupes vulnérables, y compris les jeunes exposés à la traite des êtres humains, à la migration irrégulière, au recrutement dans les groupes armés et les milices ainsi qu'à d'autres formes d'extrémisme violent ;

Dans le système éducatif, la corruption se manifeste dans la passation des marchés pour la construction des écoles, les enseignants et les élèves fantômes, le détournement des ressources destinées aux achats de matériels scolaires et leurs approvisionnements, les pots-de-vin pour l'accès à l'éducation et l'achat de grades et de faux diplômes, pour ne citer que cela. De même, dans le secteur de la justice, les victimes de la corruption sont souvent ceux qui ont besoin d'être réhabilités dans leurs droits. Dans le secteur de la santé, certains employés demandent des paiements supplémentaires illégaux pour la provision des services aux ayant-droits;

Lutte contre les flux financiers illicites et recouvrement des biens mal acquis Les flux illicites d'argent qui quittent le continent réduisent la quantité de ressources disponibles à investir dans l'emploi et destinée à fournir des services sociaux essentiels aux citoyens de l'Afrique. Le continent est particulièrement vulnérable à ce problème en raison de l'abondance de ressources naturelles combinée à des antécédents de mauvaise gouvernance.

Lancé en 2015, le Groupe d'experts africains sur les flux illicites de capitaux, présidé par l'ancien président Thabo Mbeki, a constaté que le continent perdait plus de 50 milliards de dollars par an en flux financiers illicites. Aujourd'hui, ces estimations s'élèvent à 90 milliards de dollars américains;

Les conséquences de la corruption sur le développement économique du continent ne peuvent pas être sous-estimées. La corruption n'est pas un crime sans victime et touche souvent ceux qui souffrent le plus - les personnes vulnérables, pauvres et marginalisées;

Auparavant, l'UA s'était engagée à lutter contre la corruption en Afrique et à garantir une culture de bonne gouvernance et d'État de droit. Cet engagement est inscrit dans un certain nombre de traités de l'Union Africaine, notamment :

- a. La convention de l'UA pour prévenir et combattre la corruption (AUCPCC), adoptée en 2003 ;
- b. La Charte africaine de la démocratie, des élections et de la gouvernance, adoptée en 2007 ;
- c. La ratification par plusieurs pays de la convention des nations-unies contre la corruption et ses mécanismes d'examen ;
- d. La Charte africaine des valeurs et des principes du service public et de l'administration, adoptée en 2011 ;
- e. La Charte africaine sur les valeurs et les principes de la décentralisation, de la gouvernance et du développement local, adoptée en 2014 Malgré certains engagements collectifs apparents contre la corruption en Afrique, le défi reste énorme.

En ratifiant ces chartes, les pays africains ont renforcé leur engagement en faveur de la démocratie, des droits de l'homme et de l'État de droit, ainsi que des valeurs de transparence, d'intégrité, de participation et de responsabilité. Malheureusement, malgré ces efforts, notamment l'adhésion à la Convention des Nations Unies contre la corruption et ses mécanismes d'examen et l'adoption d'autres lois régionales et sous régionale, la corruption reste une menace et un obstacle pour les États africains, en particulier dans l'établissement d'institutions démocratiques et l'atteinte des objectifs de développement durable. À ce titre,

Nous soumettons les recommandations suivantes :

1. Mettre en place une communauté de praticiens consacrée à la passation des marchés publics respectueux des principes d'éthique et tenant en compte de la valeur/prix ;
2. Consacrer des ressources à la formation et au suivi des procédures de passation des marchés publics ;
3. Investir dans la recherche dans le secteur des marchés publics et formuler constamment des recommandations pour son amélioration. Les contrats ouverts Les faits nous montrent que les contrats ouverts stimulent la croissance

économique et renforcent les systèmes de passation de marchés publics. Les contrats ouverts dans la publication des informations et les principes de contrats ouverts établis en 2014 facilitent la dissémination standardisée des données, clarifient les documents nécessaires au processus contractuel et permettent une analyse plus approfondie des données ;

4. Impliquer le secteur privé dans la promotion de la redevabilité et de la lutte contre la corruption conformément à la convention des nations-unies contre la corruption et ses mécanismes d'examen ;
5. Exiger que les soumissionnaires aux marchés publics se soumettent aux vérifications sur les antécédents de la société et de ses dirigeants, actionnaires majoritaires et bénéficiaires effectifs, ainsi que divulguer l'identité des propriétaires ;
6. Exiger aux États l'indépendance formelle de la justice et des institutions en charge de la lutte contre la corruption et les infractions assimilés ;
7. Exiger l'implication des acteurs de la société civile œuvrant dans le domaine de la lutte contre la corruption, la bonne gouvernance et les infractions assimilés conformément à la convention de l'Union Africaine, la convention des nations-unies et ses mécanismes d'examen ;
8. S'assurer que des mesures sévères, incluant des poursuites pénales, existent pour sanctionner la mauvaise conduite, les auteurs de violation ces lois et des lois connexes, ainsi que les coupables de fausses déclarations.

Fait à Banjul, Gambie - 19 Octobre 2019

- FIN

**TREC/002/010/19: RECOMMENDATION ON THE SITUATION OF TRANSGENDER AND INTERSEX PERSONS**

We, the participants at the Forum on the participation of NGOs preceding the 65<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights and 39<sup>th</sup> African Human Rights Bookfair held from 17-19 October, 2019 at the Paradise Suites Hotel in Kololi, The Gambia;

Reaffirm the rights to dignity, equality, and to the equal protection of the law, as guaranteed by the African Charter on Human and People's Rights and all other universal human rights norms and in particular;

Condemn all forms of discrimination, stigma and violence meted against transgender, intersex and gender diverse people, which continues to endanger the lives and families in the absence of effective protection and accountability against perpetrators of such crimes;

Hereby call on the African Commission on Human and Peoples' Rights to urge African Union member states to:

1. Guarantee a conducive environment for safety and security, education, health, and a favorable legislative and policy environment for transgender, intersex and gender diverse persons;
2. Ensure the prosecution of perpetrators of violence against transgender, intersex and gender diverse persons and;
3. Ensure meaningful participation of transgender and intersex persons in decision making spaces;

**Furthermore, urge transgender and intersex partner institutions to:**

1. Improve on their efforts aimed at including transgender and intersex voices in their programming, and engage transgender and intersex people directly on their issues;
2. Ensure that transgender and intersex organizing is adequately funded, included through well-structured affirmative action policies and mechanisms;
3. Continue to provide technical assistance to transgender and intersex organizations, through capacity enhancements and constructive partnerships, and the sharing of any learnings and good practice;
4. Provide solidarity to and join transgender and intersex specific advocacy initiatives for policy change at national, regional and international levels;
5. Expand their security response programs to ensure that there are transgender and intersex competent and take into consideration the specific vulnerability of transgender and intersex persons.

Done in Banjul, The Gambia – 19<sup>th</sup> October, 2019

- **END**

**TREC/003/010/19: RECOMMENDATION ON THE GUIDELINES FOR SHADOW REPORTING**

We, the participants at the Forum on the participation of NGOs preceding the 65<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights and 39<sup>th</sup> African Human Rights Bookfair held from 17-19 October, 2019 at the Paradise Suites Hotel in Kololi, The Gambia;

Aware that Article 62 of the African Charter on Human and Peoples' Rights and Article 26 of the Maputo Protocol mandates the African Commission on Human and Peoples' Rights to receive reports from States Parties on their implementation and compliance with the provisions of the African Charter and the Maputo Protocol;

Considering the African Commission through its Resolution ACHPR/Res.30(XXIV)98 and Rule 74 (2) of the Rules of Procedure recognizes the important role of civil society organizations and individuals with relevant expertise in contributing to the examination of the State Party reports;

Recognizing that there is no guidelines for civil society to follow for the preparation and submission of shadow reports;

The NGOs Forum recommends to the African Commission on Human and Peoples' Rights to:

1. develop and adopt standardized guidelines to improve and enhance the content of shadow reports to the African Commission

Done in Banjul, The Gambia – 19<sup>th</sup> October, 2019

- **END**

## **TREC/004/010/19: RECOMMENDATION ON THE RIGHT TO NATIONALITY**

We, the participants at the Forum on the participation of NGOs preceding the 65<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights and 39<sup>th</sup> African Human Rights Bookfair held from 17-19 October, 2019 at the Paradise Suites Hotel in Kololi, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa, under Article 4 of the African Charter on Human and Peoples' Rights

Recalling Article 6(g) and (h) of the Maputo Protocol on the Rights of Women in Africa which protects the rights of women to retain their nationality and to pass nationality to their children on an equal basis with men; and recalling SDG 5 which calls for equality for all;

Recalling Section 6 of the African Union's Policy Framework on Migration (2018-2030), which acknowledged that the right to a nationality is a fundamental rights recognized under international law, but that, nevertheless, forcibly displaced persons are affected disproportionately by the problems of statelessness, especially women and children,

Welcome the commitment in the 50th Anniversary Solemn Declaration of the Assembly of Heads of States and Government of the African Union, the Agenda 2063 Framework Document and SDG 16 containing the target on providing identity for all;

Appreciating the designation of the theme of the year 2019 to the 'Year of Refugees, Returnees and Internally Displaced Persons in Africa: Towards Durable Solutions to Forced Displacement', especially among women, children and persons with disabilities,

Stressing that access to nationality is key to the empowerment of women, which in turn is crucial to the development and peace in Africa,

The NGOs Forum calls on the African Commission on Human and Peoples' Rights to:

1. continue to support the African Union's work on the Protocol on the Specific Aspects of the Right to a Nationality and the Eradication of Statelessness in Africa; and encourage the African Union to present the Protocol for adoption by States in 2020 in line with African States' pledge at the 2019 UNHCR Excom meeting in Geneva;
2. recognized the vulnerabilities of women and girls rendered stateless and encourage States to implement and report on Article 6 of the Maputo Protocol;
3. Encourage States to design and implement Regional Action Plans to eradicate statelessness within the various Regional Economic Communities following the example of the Abidjan ICGLR declarations on statelessness.

Done in Banjul – The Gambia – 19<sup>th</sup> October, 2019

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**TREC/005/010/19: RECOMMENDATION ON ENSURING HUMAN SECURITY THROUGH WOMEN'S PARTICIPATION AND LEADERSHIP IN A FRAMEWORK OF PEACE, SECURITY AND HUMAN RIGHTS**

We, the participants at the Forum on the participation of NGOs preceding the 65<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights and 39<sup>th</sup> African Human Rights Bookfair held from 17-19 October, 2019 at the Paradise Suites Hotel in Kololi, The Gambia;

Considering that next year, the ground-breaking UN Security Council Resolution 1325 on Women, Peace and Security celebrates its 20<sup>th</sup> anniversary, this landmark document recognizes the important role of women in peacebuilding as well as highlighted women's meaningful participation in peace negotiations,

Reaffirming the importance of mutual re-enforcement of the Women, Peace and Security agenda and the African Human Rights System, mentioning especially in the African Charter on Human and Peoples' Rights and Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol);

Conscious of the need for furthering and prioritizing the implementation and universality of the Women, Peace and Security agenda;

Noting with concern the need to strengthen the mechanisms on the continent ensuring and maintaining the security of marginalized groups, including refugees and internally displaced people, focusing particularly on the situation and role of women, especially in times of conflict, climate change and unequal distribution of wealth;

Concerned about the need to find sustainable solutions to forced displacement in Africa, and to move from theory to action, and

Considering that the particular problems faced by refugees and displaced women and girls; the difficult living conditions in refugee camps; women sexually exploited by men perceived as their protectors; low economic power to women which exposes them to abuse and exploitation; no access to health and reproductive services; and low participation of women and girls in refuge and decision-making therefore their needs and sensitivities are not taken into account.

Hereby recommend and call on African Commission on Human and Peoples' Rights to:

1. Urge States to move from resolutions to action and implementation of the UNSCR 1325 as well as ensure that the WPS agenda should be the umbrella for every action and programme dedicated to increase women's meaningful participation, protection and prevention of conflict;

2. Encourage Governments to provide secure living conditions for women and girls in camps and host communities, including to sensitize refugees on their rights and the legislation of the country and to create a women's rights observatory for refugees;
3. Urge Governments to support women's rights organizations in education, awareness and advocacy on refugee issues;
4. Call upon Governments to establish mechanisms to ensure the security of marginalized people such as refugees, returnees and internally displaced people focusing on the role of women, including mechanisms to protect women from gender-based violence and for psycho-social and medical support survivors. More effort and resources need to be invested in the grassroots communities to counter the stigma and shame that still affect women who have been subjected to gender based violence;
5. Call upon various stakeholders to campaign for increased awareness on the rights of women among IDPs, refugees and returnees reflecting on their safety;
6. Encourage Governments to promote positive masculinity;
7. Call upon the need to create safe spaces for women, especially at the community level to enable them mobilize, organize and advocate for their issues;
8. Urge Governments to understand the importance of women economic empowerment and access to financial services;
9. Call upon local Governments to see to the needs special and vulnerable groups including children and vulnerable women and their rights to information and resources;
10. Urge Governments to apply best practice concerning protecting and integrating refugee women and learn from other countries and contexts in doing so;
11. Urge Governments to ensure that perpetrators of gender based violence are accountable for their deeds; and
12. Call upon all countries on the African continent to ratify, domesticate and implement the Maputo Protocol.

Done in Banjul, The Gambia - 19<sup>th</sup> October, 2019

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**TREC/006/010/19: RECOMMENDATION ON FINDING DURABLE SOLUTIONS TO ADDRESS MOVEMENT OF PERSONS AND FORCED DISPLACEMENT IN AFRICA**

We, the participants at the Forum on the participation of NGOs preceding the 65<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights and 39<sup>th</sup> African Human Rights Bookfair held from 17-19 October, 2019 at the Paradise Suites Hotel in Kololi, The Gambia;

Commending the African Union for declaring 2019 as the Year of Refugees, Returnees Internally Displaced Persons: towards durable solutions to forced displacement in Africa' to mark 50<sup>th</sup> Anniversary of the AU Convention Governing the Specific Aspects of Refugee Problems in Africa, adopted on 10 September 1969 and entered into force on 20 June 1974, and the 10<sup>th</sup> Anniversary of the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa adopted on 23 October 2009 and entered into force on 6 December 2012,

Noting with serious concern the ongoing plight faced by refugees, migrants and internally displaced persons in Africa and the need for durable solutions to address their problems comprehensively to ensure their adequate protection,

Recognising that the UN Charter and the Universal Declaration of Human Rights have affirmed the principle that human beings shall enjoy fundamental right and freedoms without discrimination,

Recalling the States' duty to protect the inherent rights of internally displaced persons as provided by international human rights law and humanitarian law as set out in the 1998 UN Guiding Principles on Internally Displaced Persons,

Recalling Article 12 of the African Charter on Human and Peoples' Rights safeguarding the rights to freedom of movement and residence of the individual within the borders of a State and to seek and obtain asylum, and prohibiting mass expulsion of non-national,

Condemning, all violent attacks targeting African citizens on any part of the Continent, including discrimination, stigmatization, inequality, inhuman and degrading treatment, xenophobia, theft and malicious damage to property, and refusal of access to basic necessities, such as education, health, employment, shelter and needed humanitarian aid,

Noting the need for the interpretation of Article 12 of the African Charter and how State Parties should give effect to rights of refugees, migrants and internally displaced persons in Africa,

Recommend to the African Commission to:

- To develop indicative questions in respect of Article 12 of the African Charter to assist State Parties report adequately on steps that has been taken to implement Article 12 at the national levels.

Done in Banjul, The Gambia – 19th October, 2019

- END