



**THEMATIC RESOLUTIONS ADOPTED AT THE NGOs FORUM PRECEDING THE
69TH ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN
AND PEOPLES' RIGHTS
10-12 NOVEMBER, 2021 - ZOOM WEBINAR**

**TRES/001/11/21- RESOLUTION ON THE URGENT NEED FOR EQUITABLE
ACCESS TO COVID-19 VACCINES IN AFRICA**

We, the participants of the Forum on the Participation of NGOs in the 68th Ordinary Session of the African Commission on Human and Peoples' Rights (ACHPR) held virtually in the form of a Zoom Webinar from 10-11 November 2021 due to the current global Coronavirus (Covid19) pandemic

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

Recalling Article 16 of the African Charter that provides that every individual shall have the right to enjoy the best attainable state of physical and mental health, and that State Parties shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick;

Recalling the Abuja Declaration, adopted by Heads of State and Government of the African Union in 2001, through which they set a target of allocating at least 15 percent of their annual budgets to improve the health sector;

Further recalling the Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter, in particular the principle that the State should avail itself of the necessary technical assistance and cooperation from both other States and international agencies as required to assist with the fulfilment of its obligations under the Charter; and that all States have the obligation to engage in international cooperation for the realization of economic, social and cultural rights and must prioritize allocation of such

assistance towards the realization of these rights, while also noting that it is particularly incumbent upon developed countries, as well as others which are in a position to assist others, to do so;

Recalling the ACHPR Press Release issued on 4 June 2020 on the Impact of the Covid19 Pandemic on Economic, Social and Cultural Rights in Africa, in particular the call to State Parties to the African Charter to commence bilateral and multilateral negotiations to ensure that any proven medical treatment and vaccine for Covid-19 is affordable and available and will benefit their populations;

Welcoming the decision of the African Commission on Human and Peoples' Rights in ACHPR/Res. 446 (LXVI) 2020 to task the Working Group on Economic, Social and Cultural Rights in collaboration with UNAIDS, to prepare a draft study on 'The Right to health for all and its financing in Africa', while also acknowledging that access to health care for all as a fundamental right and public good that should be guaranteed through public investment;

Deploring the vastly unequal global distribution of Covid-19 vaccines, a stark reminder of how the pandemic has magnified existing inequalities, with 64.7% of people in high-income countries fully vaccinated compared to 6% in Africa by early November 2021;

Noting with concern that many African countries are not on track to reach the World Health Organization's target of vaccinating 40% of the world's population by the end of 2021;

Applauding the proposal submitted by South Africa and India to the World Trade Organization to waive intellectual property rights on Covid-19 medicines, tools, equipment and vaccines, and co-sponsored by the majority of State Parties to the African Charter;

Call on the African Commission on Human and Peoples Rights to adopt a Resolution to:

1. address the urgent need for equitable access to Covid-19 vaccines in Africa;

2. Urge wealthy states who have stockpiled Covid-19 vaccines to redistribute the hundreds of millions of surplus vaccines currently in their stocks;
3. Urge pharmaceutical companies to deliver 50% of vaccines they produce between now and 31 December to low and lower-middle income countries;
4. Urge wealthy States and pharmaceutical companies to urgently increase the global supply of Covid-19 vaccines through temporary suspension of intellectual property rights for Covid-19 vaccines, tests, treatments and other medical tools by supporting the proposed waiver of the TRIPS Agreement at the World Trade Organization;
5. Urge wealthy states to use all legal and policy tools to require pharmaceutical companies to transfer knowledge and technology to local and regional manufacturers, including by joining initiatives such as the WHO's mRNA vaccine Technology Transfer Hub and Covid-19 Technology Access Pool (C-TAP);
6. Call for increased investment in capacity building, so that low and middle income countries including in Africa can manufacture their own vaccines and end the supply bottle-neck;
7. Urge States Parties to the African Charter to ensure transparency in their health budgets and implementation of plans to distribute and administer Covid-19 vaccinations;
8. Urge States Parties to take effective measures to continue to prioritize vaccination of groups most at risk from the virus (in the absence of sufficient supplies of Covid-19 vaccines)

Done virtually on Zoom on 12th November, 2021

TRES/002/11/21: RESOLUTION ON THE PROTECTION OF CIVIC SPACE AND HUMAN RIGHTS DEFENDERS IN AFRICA

We, the participants of the Forum on the Participation of NGOs in the 69th Ordinary Session of the African Commission on Human and Peoples' Rights (ACHPR) held virtually from 10-12 November 2021 due to the current global Coronavirus (Covid-19) pandemic,

Noting the lack of protective and enabling legal frameworks for Human Rights Defenders (HRDs) and Civil Society Organizations (CSOs) in most territories of African Union (AU) Member States,

Alarmed by the growing trends of digital threats as a result of arbitrary internet shutdowns, blocking of social media sites, which restrictions continually affect the legitimate work of CSOs and HRDs, including hindering peoples' opportunity to report human rights violations in times of crisis to the international community,

Disturbed by the growing phenomenon of military coups, including in Sudan and Guinea, as well as the continued use of the state of emergency in Ethiopia which exacerbate the precarious operating environment for CSOs and HRDs,

Further disturbed by the lack of mechanisms for protection of defenders of climate change and environmental rights who are increasingly targeted for their advocacy work,

Deeply disturbed by the closing of civic space and impediments to freedom of association, assembly, expression by the enactment of restrictive NGO laws, anti-money laundering and anti-terrorism related laws, nationalism and patriotic measures threatening CSOs and HRDs and criminalizing their advocacy work as seen in Zimbabwe's Private Voluntary Organizations Amendment Bill, proposed patriotism legal provisions and the Public Order Act and Suppression of Terrorism Act in e-Swatini.

Deeply concerned by continued arbitrary arrests of journalists and other HRDs by national security services in South Sudan and Sudan.

Frustrated by the lack of promotion and protection of socio-economic rights in the Democratic Republic of Congo.

Disheartened by inadequate implementation of human rights laws, and lack of redress for violations arising from the conflict in Ethiopia.

We call on the African Commission on Human and Peoples' Rights to:

1. adopt a Resolution urging all AU Member States to improve protection mechanisms for HRDs in the next 40 years through the implementation of the African Charter and other human rights related instruments in their countries as we strive towards shaping the Africa we want, and particularly urge the States of Democratic Republic of Congo, e-Swatini, Ethiopia, Malawi, South Sudan, Sudan, Zambia, and Zimbabwe to be guided by human rights principles when enacting or reviewing laws and ensuring compliance with the African Commission's Resolution 449 in addressing the Covid-19 pandemic.

We further call on the African Commission to adopt a Resolution urging State Parties to:

2. Ensure comprehensive law reform to address all repressive laws that shrink civic space around protests, assembly, association, and expression rights - including NGO laws, anti-money laundering/counter terrorism related laws and emergency laws;
3. Adopt legal frameworks for HRDs protection, including those working on climate justice, and to deepen respect of social and economic rights for the next forty years;
4. Increase funding for human rights systems and support African Union (AU) initiatives, especially those relating to HRDs, investing in structural improvement for National Human Rights Institutions (NHRIs) and silencing the guns.
5. Commit to and implement long-term programs and conduct educational and awareness campaigns on regional human rights norms and best practices.
6. Reiterate timeous submission of State periodic reports.
7. Create an enabling environment for CSOs for them to carry out their critical watchdog role by ensuring that any legal reform proposals on CSO

regulation do not hinder the operations of human rights and governance focused organizations.

8. Guarantee that the laws to combat money laundering and financing terrorism should not lead to over regulation of CSOs and that all laws imposing restrictions must be proportionate.

Done virtually on 12th November, 2021

TRES/003/11/21 - RESOLUTION ON DOMESTIC WORKERS IN AFRICA

We, the participants of the Forum on the Participation of NGOs in the 69th Ordinary Session of the African Commission on Human and Peoples' Rights (ACHPR) held virtually from 10-12 November 2021 due to the current global Coronavirus (Covid-19) pandemic,

Recognizing that domestic workers experience intersectional discrimination including on the basis of race, class, nationality, and the gendered historical legacies of colonialism in Africa;

Recognizing the South African Constitutional Court in the case *Sylvia Mahlangu and Another v Minister of Labour and Others Compensation 2021 (2) SA 54 (CC)* recognised that intersectional discrimination on the basis of race and gender constituted not only indirect, but "aggravated" discrimination.

Recognizing that migrant domestic workers face further and compounded discrimination and lack recourse in cases of infringement of rights often because of the immigration status or nationality.

Recognizing that domestic workers in Africa continue to be referred, in some laws and regulations, as "servants" and suffer from low pay, long hours, frequent abuse, exploitation and gender-based violence;

Recognizing that domestic workers are particularly vulnerable to human trafficking and illegal migration based on their search for better employment opportunities in foreign countries triggered by the poor socio-economic conditions of their home countries.

Recognizing that live-in domestic workers suffer a unique absence of privacy, freedom of association and movement, right to have and raise children.

Recognizing that domestic work in Africa is frequently unregulated or under-regulated, is excluded from traditional work protection such as collective bargaining and social protection schemes, and national minimum wage laws.

Recognizing that domestic workers were not recognised as essential workers in most countries, and also were outside social protection schemes, which worsened their situation during the Covid 19 pandemic.

Recognizing that even where domestic work is regulated, the rapidly growing gig platform economy is entering the domestic worker sector and removes existing legal protection by turning domestic workers into contract workers, at the other end of the spectrum, domestic workers also recruited through custom and “familliage”, and are outside of workplace protection.

Recognizing that where it is regulated, domestic work regulation is chronically under-enforced, since labour inspectors are generally circumscribed in their ability to enter and investigate private homes.

Recognizing that while the International Labour Organisation adopted Convention 189, the Domestic Worker Convention in 2011, only six African countries have ratified the Convention.

Recognizing that the African Charter on Human and Peoples Rights entrenches the core right to non-discrimination as well as the right to work, which guarantees individuals the right to work under equitable and satisfactory conditions, and to receive equal pay for equal value. Further that the Pretoria Declaration on Economic, Social and Cultural rights expressly provides that workers in the informal economy are protected under the Article 15 right to work.

Recognizing that the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) entrenches the core right to non-discrimination. Further, that the Maputo Protocol mandates state parties to ensure effective gender equality between men and women, and modify social and cultural patterns of conduct, which are based on the stereotyped roles for men and women; to promote the right to equal remuneration, to establish systems of social protection for workers in formal and informal economy, and to

take the necessary steps to recognize the economic value of the work of women in the home.

Call on the African Commission on Human and Peoples' Rights to adopt a Resolution to:

1. Encourage all Member States of the African Union to urgently ratify ILO Convention 189 and to ensure that it is applied stringently so as to improve the working conditions of domestic workers.
2. Urge Members of the Africa Union to immediately take legislative and other measures to recognize domestic work as decent and dignified work including through specific regulation of the sector, as well as ratification and domestication of C190;
3. Call upon Members States of the African Union to take all necessary steps to remove all references to "servants" and other derogatory language against domestic workers in their domestic laws, policies and regulations, in recognition of the historic gendered legacy of domestic work;
4. Request the Economic, Social & Cultural Council (ECOSOC) to commission research to be presented at the next meeting of its General Assembly and draft a model law recognizing and regulating domestic work and workers which is responsive to the African context and will serve as a minimum baseline for countries to adopt;
5. Strongly encourage Member States of the African Union to ensure that both domestic workers and employers are educated about their workplace rights and duties;
6. Urging Member States of the African Union to ensure adequate enforcement through labour inspectors, access to justice through efficient dispute resolution mechanisms and access to courts, as well as through co-operation with and enabling of domestic worker unions;
7. Calling on Member States to recognize the intersectional risks resulting from poverty which drive domestic workers into the hands of human traffickers for purposes of labour or sex exploitation and the need for governments to provide preventative interventions;

8. Calling on all Member States to ensure that bilateral agreements crafted between two countries in respect of domestic and other low wage workers be subject to public scrutiny/comment.

Done virtually on Zoom on 12th November, 2021