

SITUATION OF HUMAN RIGHTS IN AFRICA

Sub-regional Reports on Human Rights and Democracy in 2019



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I. INTRODUCTION

The situation of human rights and democracy in Africa has always been a major concern for African civil society organizations as borne out in this report drawn from meetings of the NGO Forum meetings and the specific interest groups deliberating during the different sessions preceding the meetings of the African Commission on Human and Peoples' Rights (ACHPR) in 2019.

During this period, the situation of human rights and democracy has been marked by some improvement but with a recurrence of violations of human rights and democratic principles in the continent.

Developed as an advocacy tool of the ACDHRS, the main aim of the NGOs Forum is to foster closer collaboration among NGOs and with other human rights bodies, especially the African Commission on Human and Peoples' Rights for the purpose of promoting and protecting human rights in Africa and consolidating our various contributions to this process. A good number of NGOs have been made aware of the existence of the African Commission on Human and Peoples' Rights and its special mechanisms and mandates through such an initiative. It has also led to the engagement of many an individual and organisation with the human right system.

The agenda of the Forum developed through consultations with participants and partners will avail us an opportunity to review the situation of democracy and human rights on the continent.

The specific interest groups are various and evolving at that, because they result from the requests made by the participants. They include:

1. Prisons, Conditions of Detention / Order Maintenance in Africa
2. Rights women in Africa
3. Human Rights Defenders / Freedom of Association and assembly in Africa
4. Freedom of Expression and Access to Information in Africa
5. Prevention of Torture in Africa
6. Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa
7. Indigenous Populations/Communities in Africa
8. Economic, Social and Cultural Rights in Africa

9. Death Penalty and Extrajudicial Executions, Summary and Arbitrary Killings in Africa
10. Rights of Elder Persons and People with Disabilities in Africa
11. People living with HIV and Those at Risk, Vulnerable and Affected by HIV
12. Extractive Industries, Environment and Human Rights Violations
13. Sexual Orientation and Gender Identity (SOGI)
14. Peace and Security in Africa
15. Rights of Children and Youth
16. Enforced disappearances
17. Land and Housing Rights
18. Independence of Judges and Lawyers.

II. SITUATION OF HUMAN RIGHTS AND DEMOCRACY IN AFRICA

1. THEMATIC SUMMARY

In reviewing the situation of human rights and democracy on the continent, the Forum acknowledged that there were some positive developments, including the criminalisation of torture, the banning of female genital mutilation, the campaign against early and or forced child marriage and the Campaign on the Decriminalization of Abortion in Africa, among others.

Democratic regime changes such as that observed in the Gambia, the adoption of parity laws in Tunisia following the democratic transition, the adoption of laws on the protection of human rights defenders in Côte d'Ivoire, Burkina Faso and Mali. However, despite these few improvements, a lot more needs to be done as many African countries continue to face challenges before, during and post elections. Reports on the increasing threats of conflict; insecurity; disease; poverty; corruption; food insecurity; discrimination of marginalized groups; high unemployment; arbitrary detention and extrajudicial killings; violence; torture; attacks on human rights defenders (HRDs), especially women HRDs; access to information; the freedom of expression, religion, association and assembly coupled with rise in terrorist attacks on innocent citizens and many other human rights violations have undeniably brought untold suffering and

even death to the citizenry of the concerned countries, particularly to the women and children.

The treatment of women, victims of sexual violence, extremism, or harmful traditional practices were also urgent issues. The Forum therefore welcomes the development of the Guidelines on Combating Sexual Violence and its consequences in Africa with much optimism and sincerely hopes that it will respond to the urgent needs of female victims. The Forum was privileged to receive testimonies of victims of sexual violence, thereby substantiating the fact that these social ills abound and the culture of silence had sustained its anonymity. The Forum agreed that the unmasking of this ugly phenomenon needs to be as brutal as the crime and ensure that victims have the courage to absolutely unveil these cruel and harmful acts of wickedness mostly done to women.

The Forum noted the complacency of some States in dealing with these issues and therefore call on the African Commission to urge States that have not yet signed the Declaration to the Protocol to the African Court to do so. This will allow access by many such victims, individuals and other groups, to seek justice.

Conflict is rife and the attendant casualties, of mostly the women and young girls bear the brunt of such fatalities as is manifest in many countries including Burundi, Central Africa Republic, DRC, Nigeria and Sudan. The Forum

reiterated its call to the African Commission to convene an open panel and interactive session on conflicts and human rights in Africa in order to open up space for wider constructive consultation and discussion on strategies and to make recommendations aimed at collectively responding to conflicts in Africa; and to use its powers under Article 58 of the African Charter on Human and Peoples' Rights to ensure that these cases are brought to the attention of the Assembly of Heads of State and Government.

The continuing human rights violations and abuse experienced by lesbian, bi-sexual and transwomen, especially in Burundi, Kenya, Nigeria, Senegal, Sudan, Tanzania and Uganda is a real cause for concern. The social construct and value system placed on women by law and religion has had an adverse effect and as a result these women face discrimination, social injustice and violations ranging from rape, blackmail, extortion, sexual harassment, among others. The Forum would wish to call on the African Commission to encourage more exchanges with these groups to create a better understanding of the situation of these marginalised groups.

The threat of terrorist and violent extremism is real and remains a frightening and very disturbing phenomenon that has traumatised civilians in many African states, particularly the women and the children. It is an open secret that many African countries have become victims of

such circumstance and are struggling to address the security challenges it generates, as a result.

Countering terrorism strategies in some countries has unfortunately done more harm than good and has led to grave violations of human rights and the rule of law. Moreover, counter terrorism is used as a pretext to limit the work of civil society, violating the freedom of association, among others thus curtailing the effective contribution of civil society in these countries. The Forum, therefore, recommends that the African Commission on Human and Peoples' Rights undertake a fact finding mission to the countries in question with a view to determining the extent to which States have or have not adhered to the Principles and Guidelines on Human and Peoples' Rights while countering terrorism.

Violations related to Freedom of Expression and Access to Information still abound. The existence of draconian laws which curtail the enjoyment of rights of citizens, censorship and cyber laws institutionalizing Internet restrictions and blockages especially in countries that host African Union mechanisms remain disconcerting. The African Commission is urged to call on States to remove or amend laws that are not in compliance with protection guaranteed in national constitutions and under regional and international law. Moreover, the attention of States should be brought to the access to information model law developed by the African Commission and urged to

widely disseminate the process on how citizens can access information.

Women and children constitute the largest group of victims in any armed conflict particularly in Africa when peace and security is threatening. It is disheartening to note that they are victims of rape, torture, summary executions and sexual violence from armed groups, security forces and other parties to the conflict. Although 19 countries have adopted and developed action plans in accordance with United Nations Security Council Resolution 1325, there is a discrepancy between law and practice as the level of implementation is not evident

In States where extractive industries flourish, corruption, lack of accountability and poor management of natural resources thrive. It is an understatement that these challenges are often accompanied by widespread abuse of women and girls in the concerned communities.

HRD including Women HRDs are particularly stigmatized and their situation is precarious. The primary challenge of fighting the negative stereotyping of HRDs as synonymous with the political opposition is an uphill task in many of these countries.

The situation of prisons and places of detention with special reference to its female inmates also came under scrutiny. It was noted that imprisonment rates for women offenders increased by 50% since 2000 compared to overall

prison population growth of 18%. Despite this growth, women and girls in prison remain ignored as a population within the penal system, with little focus on the gender specific consequences of abuses of women prisoner's rights.

III. CONCLUSION

In reviewing the situation of human rights and democracy on the continent, the Forum acknowledged that there were some positive developments, including the criminalisation of torture, the banning of female genital mutilation, the campaign against early and or forced child marriage and the Campaign on the Decriminalization of Abortion in Africa, among others.

Democratic regime changes such as that in The Gambia, the adoption of parity laws in Tunisia following the democratic transition, the adoption of laws on the protection of human rights defenders in Côte d'Ivoire, Burkina Faso and Mali are encouraging signs in the process of democratization.

However, despite these few improvements, a lot more needs to be done as many African countries continue to face challenges before, during, and after elections. Reports on the threats of conflict, insecurity, disease, poverty, corruption, food insecurity increase by the day. The list is unending as people suffer from discrimination of marginalized groups, high unemployment, arbitrary

detention and extrajudicial killings, violence, torture, attacks on human rights defenders (HRDs), especially women HRDs, lack of access to information and freedom of expression. Adherents to religion are not spared as are those who wish to associate and assemble. The rise in terrorist attacks on innocent citizens and many other human rights violations have undeniably brought untold suffering and even death to the citizenry of the concerned countries, particularly to the women and children.

I suggest that each report should have its own introduction. Currently it looks like the same introduction has been used for all the reports.

IV. SUB-REGIONAL REPORTS

NGOs Forum and 64th ordinary session of the African Commission of Human and Peoples' Rights (ACHPR) - April, 2019

Central Africa

At the Forum in Banjul, The Gambia, from October 20-23, 2018, REDHAC presented its report with particular emphasis on the "challenges of democratic alternation, respect for fundamental freedoms and socio-political crises" in the DRC, Gabon and Cameroon.

There were some progress marked in democratic alternation in the DRC after the elections of December 30, 2018. Civil society in the Central African Republic (CAR) was involved in the signing of the peace agreement between the government and the armed groups on February 6, 2019, in Khartoum. This was followed by the establishment of the Truth, Justice and Reconciliation Commission.

Parliament in Cameroon in April 2009 in April 2019 voted to have the President of the Republic assent to the ratification of the African Charter of Values and Principles of Decentralization, Local Governance and Local Development.

The ACHPR adopted Resolutions 395 (LXII) 18 and 405 (LXIII) 2018 on the situation of human rights and the continuing violations of human rights in the Republic of Cameroon calling for dialogue between the parties;

The press release of the African Commission of Human Rights of March 06, 2019 called on the Government of Cameroon to respect the principles and directives of the Commission on the right to a fair trial, thus avoiding the trial of civilians in military courts.

Even so, the security challenges that plague Central Africa, Cameroon, Chad, and the DRC remain worrying because some states that are signatory to the Charter were using the pretext linked to security challenges to reduce the civic space by flagrant violations of the provisions of the Charter and other relevant instruments. The situation is similar in Equatorial Guinea and Gabon which operate outside the African human rights system.

These conditions have generated not only significant flows of refugees and internally displaced persons, but also exacerbate illegal actions against fundamental freedoms such as of association, meeting, expression, opinion, press freedom, and access to the Internet.

These flagrant acts included arbitrary arrests and detentions, the use of military courts to try activists and journalists, threats and reprisals against defenders, forced and massive exile of defenders, with disgusting impunity.

These countries remain encompassed in endemic corruption which plunges their people into extreme poverty with the young people pushed into delinquency, unemployment and search beyond their borders for Eldorado.

The following cases stood out:

Security challenges, and figures for refugee and internally displaced persons:

In the DRC, the Office of the High Commissioner for Refugees recorded that 4.5 million internally displaced persons and 4,300 refugees from neighboring countries in in 2018.

In the CAR, the same High Commission reported in the same period a 70% increase (669,997) in internally displaced persons and at least 590,610 refugees.

In the far north of Cameroon, there were 238,099 internally displaced persons and 31,681 refugees according to the Organization for Immigrants and Migrants (OIM). In the northwestern and southwestern regions of the country, at least 30,000 refugees (gone to Nigeria), , more than 1,000,000 internally displaced, and at least 1.6 million were involved in humanitarian emergencies.

Added to these figures is the phenomenon of sexual abuse of women and girls, refugees or internally displaced.

The organizations working in these areas feel that the situation is worse than what the UN is portraying. Their estimates would be twice those figures. Therefore, those workers on the ground sense an obvious risk of a humanitarian catastrophe, especially in Cameroon and the DRC.

The restriction of the civic space: Freedoms of association and demonstration, arrests and cut of the Internet connection.

Gabon

On November 23, 2018, the Ministry of the Interior issued a banning order on the opposition to hold a rally demanding the resignation of the president of the Constitutional Court.,

A cyber journalist and a human rights defender (a woman) was arrested in February 2019. Thanks to the intervention of the Office of the Special Rapporteur of the Defenders, two other HRDs, victims of the post-election crisis, were able to go into exile.

Chad

On December 2, 2018 the Alliance of Civil Associations were : banned from marching in N'Djamena to protest President Idriss Déby's visit to Israel. For the next one year, the authorities cut off their Internet connection. Equatorial Guinea :

On March 19, 2019, the authorities stopped Alfredo Okenve Ndoho of the NGO CEID (Center for Studies and Initiatives for Development) and member of REDHAC, from attending the ceremony organized to present him with the Franco-German Prize 2nd Edition. He was , arrested at the airport in Malabo and placed under house arrest.

DRC

On 19 December 2018, journalist Rodrigue Ndakazieka was arrested, detained, and tortured for streaming a live broadcast of a meeting of a presidential candidate Martin Fayulu.

Internet connectivity

Gabon, the DRC, Cameroon, and Chad are notorious for cutting of the Internet connections and social networks as a weapon against activists. They have adopted a new trend of online

surveillance of HRDs. It has been a year since the Government of Chad cut the facilities, causing much economic and social loss to advocates and preventing them from doing their job and to have access to funding.

Cameroon

In view of the deterioration of the situation of the socio-political crisis in the North West and South West regions on the one hand, and the events related to the post-electoral crisis of October 7, 2018 on the other, this report focuses on the specific of this country.

Socio-political crisis in the North West and South West regions:

Arbitrary arrests and detentions

Since 2016 to date, more than 4,600 activists and demonstrators were arbitrarily detained in Yaoundé, Bamenda, and Buea prisons and kept under inhumane and degrading conditions and made to appear before military courts.

Two journalists, Mimi Mefo and Biem Tong, were arrested in **October 2018** and jailed by the military court for "hostility against the fatherland" and for making "apologies for terrorism." Thanks mobilization at home and abroad they were released but Mimi was forced into exile.

Reprisals, threats, enforced disappearances, online surveillance and suspension of the Internet connections

On January 16, 2019, three human rights defenders, Magdaline Agbor (of CHAMEG), Frieda Ebaï (of BAWAL), both of them

from Buea South West, and Sally Maforchi Ndeh (of COMAGENG) from No in Bamenda, were threatened with death and their offices burgled.

Connections to workers in those areas were cut off at least twice a week and their supporters from outside these areas were targeted and had their connectivity severed too. They were also put under physical as well as online surveillance.

Since August 6, 2018, Franklin Mohwa, president of the association Frontline Fighters, and who was on investigation missions in Kumba /South West Cameroon, went missing. Despite urgent appeals and other alerts from NGOs, appeal to regional and international mechanisms such as the National Commission for Human Rights and Freedoms, the Government of Cameroon has remained silent.

The proliferation of armed groups, summary and / or extra-judicial executions, and prohibition of access to areas in conflict

Many sources are in agreement that at least six armed groups have formed in the areas mentioned above. Thus, thousands of summary and / or extra-judicial executions of civilians, the Bororo people, about ten religious personalities, and hundreds of administrative and traditional figures.

NGO workers are prohibited from accessing these two regions both by the government and by the terror meted out by the armed groups in the areas. This makes it difficult to document violations.

1. Post electoral crisis and human rights violations

Restriction of civic space:

Since October 7, 2017, the date announced for the Presidential Election, no civil society association or opposition political party was able to hold a meeting, a private demonstration, much more public ones. Defenders working on the elections carried on under threat, their offices placed on surveillance by the intelligence services. Our organization REDHAC and another "Un Monde Avenir", were victims.

On January 26, 2019, a ban was placed on the peaceful march of the political party Cameroon Renaissance Movement (CRM). The march went ahead and the security forces responded with a disproportionate use of force, and several people were wounded by *white* bullets.

A similar ban was issued on March 5, 2019: to stop a seminar on "Human Rights and Civil Liberties" under the aegis of the NGO "Nouveaux Droits de l'Homme" (NDH).

Arbitrary arrests and detentions, and use of military courts

Since October 2018, at least 200 people, including women and young people, were arrested. . They were members of the party for the Cameroon Renaissance movement (CRM), or their sympathizers and allies. To date, about 10 have been released on bail, among them journalist Joseph Olinga, and have been seen in public.

Since January 2019, Pr. Maurice Kamto who pooled in at second place in the Presidential Election of October 2018, and his allies C. Penda Ekoka, Albert Ndzongang, Paul Eric Kingue, the

musician Philippe GP Abbe (Valsero), and other comrades of his Alain Fogue, Tedom Paul, Cyrille Momo Assolefack, and the lawyer Ndoki Michelle, the group's vice president, were imprisoned in r degrading and inhuman conditions. The military court refused all requests for their provisional release.

REDHAC congratulated the African Commission under the leadership of the Chairperson Hon. Commissioner Maiga Soyata for effective collaboration with civil society organizations.

However, the following remain concerns for the organization:

- The latest attack by the Government of Cameroon on the institutions of the African Union for a statement issued on March 6 reminding the government to respect their commitments as a signatory State Party to the African Charter.
- The situation in the DRC where there has been no sign since the elections of December 30, 2018, that the government was according the people all their benefits due them. The situation can only encourage and maintain corruption.

In view of the above, REDHAC requested that the NGO Forum put forward the following recommendations to the African Commission to:

1. Condemn the settlement of conflicts by military means in the Central Africa sub-region, and to ask the African Union to take concrete measures for the protection of immigrants and internally displaced persons, especially female minors and women.

2. Condemn the recurrent attacks on fundamental freedoms, and to encourage the states of Central Africa to adopt guidelines and laws that effectively guarantee these freedoms;
3. Urge states to recognize the work and status of human rights defenders by adopting laws for their protection.

DRC:

4. Request the government to proceed with the establishment of institutions to ensure the well-being of the people.

Cameroon

5. Adopt a resolution in view of the deteriorating situation and (a) demand that the Government of Cameroon release immediately and unconditionally the 4,600 activists and protesters arrested in the context of the crisis in the North West and South West, while insisting that the journalist BBx Mancho and his colleagues who have been detained since 2016 be freed, (c) Pr. Maurice Kamto, all 150 of his allies and comrades to be released.

6. Urge the African Union to take measures without delay to obtain an immediate ceasefire by the various parties to be able the setting up of an independent and impartial mission to establish the Truth, Justice, and Reconciliation Commission.3. Request and remind the Government of Cameroon to respect the instruments promotional and protective of regional and international human rights, as well as the decisions of the African Commission, in particular that of the 19th Extraordinary Session of February 2016 in Banjul relating to communication N 423/12 Mack-Kit-Moukoko Priso / State of Cameroon.

NGOs Forum and 65th ordinary session of the African Commission of Human and Peoples' Rights (ACHPR) - October, 2019

Central Africa

At the moment in Africa, especially in Central Africa especially the countries covered by REDHAC are in total chaos, it is characterized by various armed, rebel and terrorist groups that sow terror.

A multitude of armed groups are emerging from day to day, creating a climate of instability that endures. Although some of them are instrumentalized according to the political interests of both, some driven by a spirit of radicalism and other groups revolted by the evil governance of power in place to the detriment of populations and especially young people. This situation is a prelude to the presidential elections in these countries.

In the Central African Republic, the period under review was marked by the start of the implementation of the Political Agreement for Peace and Reconciliation, signed in Bangui on 6 February 2019, facilitated by the African Union between the Central African Government and fourteen armed groups. Eight months after the signing of a peace agreement, its implementation remains incomplete. While the security situation has improved somewhat in some parts of the country, the humanitarian situation remains dire.

In the Republic of Cameroon, the Islamic sect Boko haram continues to increase the number of deaths in these conflict zones. Five years later, despite the heavy military resources invested, the threat has not yet been eliminated.

Local media are turning more to the English-speaking crisis in Cameroon, the flagrant and systematic violations of human rights in the North-West and South-West regions, which is causing the proliferation of armed groups, the massive displacement of refugees and internally displaced persons with an increase in cases of sexual abuse and inhuman and degrading treatment of women and girls under 18; the tense socio-political climate, resulting from the current post-election crisis of 07 October 2018, with the arbitrary arrests of some leaders of political parties incarcerated in prisons. Following pressure from REDHAC and the international community, the President of the Republic of Cameroon launched a call for dialogue with Anglophones in a speech to the nation on Tuesday, September 10, 2019, a major dialogue regarding the deadly conflict between separatist groups in the English-speaking minority and the security forces.

l) Restriction of civic space: Freedom of association and demonstration, arbitrary arrests and detentions.

a) Freedom of Association and Manifestation:

i) Civil Society Organization

CAR: On 15 June 2019, the Mouvement «E zingo biani» which means in local language, Wake up definitively announced the holding of their meeting to demand the repeal of the decrees appointing the leaders of armed groups in the high offices of the State, a march that was banned by the Minister of the Interior;

CAR: On 30 September 2019, the Mouvement «E zingo biani» called for a march to denounce the persistent violences in the country, an unauthorized march.

ii) Journalists (Cameroon):

Cameroon: On 02 August 2019, Samuel Wazizi the private music channel CMTV was arrested by police in Muea in the southwest, he is accused of collaborating with secessionists.

Defenders victims of reprisals (Cameroon)

Cameroon: On 16 September 2019, Losha Géraldine, is threatened by separatists who erupted in her home and took the mobile phones, lap top and a sum of 100,000 cfa francs to the north-west of Cameroon.

Socio-political crisis in the North West and South West regions.

Arbitrary arrests and detentions: Since 2016 to the present day, some activists and demonstrators are still in detention in the prisons of Yaoundé, Bamenda, Buea; in inhuman and degrading conditions and appear before the military courts.

From 30 September to 4 October, the great national dialogue took place in Yaoundé at the Palais des Congrès with the aim of resolving the deadly conflict that is tearing up the English-speaking regions.

Civil society organizations working in the field of the promotion of human rights, the protection and security of human rights

defenders, of Participatory Democracy welcomes the fact that their appeal to the Dialogue launched since the beginning of the socio-political crisis in 2016 in the North West and South West regions was heard by the Head of State.

They take note of the "large and non-exclusive" character of the Head of State. They nevertheless point out that the President accedes to their claim after the socio-political situation of these two regions has become disastrous with direct effects in several other regions of the country and outside. This includes, but is not limited to:

- Several thousand in casualties according to many reliable sources (civilians, soldiers, traditional, administrative and religious authorities);
- Enrolment of child soldiers, rape of minors, internally displaced by hundreds of thousands to other parts of the country and in other neighbouring countries;
- Destruction of schools (all sources speak at least 4000) with a 2019 – 2020 school year not effective in these two regions;
- Economic losses are invaluable. Several enterprises closed with the consequence of unemployment; small craftsmen and traders were forced to leave the regions leaving families in disarray. In 2018, according to the GICAM, the socio-political crisis in the north-west and south-west regions is costing the Cameroonian economy more than FCFA 270 billion and putting nearly 6,500 jobs at risk.

To this is added the restriction of individual and collective freedoms exploited and imposed on the one hand by the

separatists and on the other by the curfews decided by the administration.

In addition to the above, the Civil Society Organizations welcome the consideration of other challenges such as:

- The post-electoral crisis of 07 October 2018;
- The rise of identity withdrawal;
- The rise of hate speech in the media, especially social media;
- Bad governance;
- Corruption; etc.

Enforced disappearances and abductions

Cameroon: We wish to recall the disappearance of Mowha Franklin, despite the efforts of REDHAC and other Non-governmental Organization (NGO);

On 19 September 2019, FOU DA ETABA Benoit Nicaise sub-prefet of Mbengwui, chief town of the department of Momo was kidnapped by armed separatists in Bamenda;

On 30 September 2019, Mrs Ayafor Florence, guard at the Bamenda Central Prison was kidnapped and her body was found headless.

Some Recommendations to the African Commission on Human and Peoples' Rights:

Recommendations:

- 1) To encourage and support the Government of Cameroon in the establishment of a framework conducive to a cease-the immediate fire in order to create the conditions for the establishment of the Truth Justice and Reconciliation

Commission for a Cameroon of security for all, fair justice, sustainable peace, and sustainable development;

- 2) To examine on the merits, the communication of REDHAC against the State of Cameroon for violation of provisions 6 and 7 of the African Charter in the socio-political crisis in Cameroon;
- 3) To encourage respect for fundamental freedoms through the effective implementation of the Guidelines on Freedom of Association, Assembly and Demonstration in Africa, particularly within civil society, police and administrative authorities;
- 4) To request the State of Cameroon to submit to an independent and international fact-finding mission concerning serious allegations of human rights violations and abuses in the North West and South West, without forgetting the extreme north of Cameroon.

NGO Forum Preceding the 64th Session of the African Commission on Human and Peoples' Rights – April, 2019

Northern Africa

Report under the Theme of the African Union 2019: Refugees, returnees, displaced persons and asylum seekers: Towards sustainable solutions to forced displacement in Africa

Over the last 10 years crises of all origins and conflicts have led to a high rate of displacement of populations across the continent. The situation of refugees, returnees, displaced persons and asylum seekers in the North Africa sub-region remains one of the most critical to date.

Algeria: Rights of refugees or migrants

Between April and June a group of 25 Syrian refugees, including 10 children, remained stuck in the buffer zone between the Moroccan desert and Algeria. In June, the Algerian authorities announced that they would allow the refugees to enter Algeria and allow the Office of the United Nations High Commissioner for Refugees (UNHCR) to help them. However, that decision was quashed, as announced by the Interior Ministry and the refugees were not allowed to enter at an unofficial crossing point. They remained stuck in the desert until Morocco gave them protection.

Between August and December, the authorities carried out the arbitrary arrest by ethnic profiling of more than 6,500 migrants from various countries in sub-Saharan Africa and forcefully evicted them to the neighboring states of Niger and Mali. In February, 27 people, including Algerian nationals, who tried to leave Algeria by sea were convicted of illegal exit by an Annaba court. They were fined 20,000 Algerian dinars each (approximately US \$ 180).

Libya: Displaced persons

As many as 40,000 former residents of Tawargha town, not far from Misratah, had been internally displaced for six years already. In June, a political agreement was signed by the mayor of Misratah in the local council of Tawargha and the president of the Misratah-Tawargha Reconciliation Commission, in the presence of Prime Minister Fayez Sarraj, with the stated aim of allowing the former inhabitants of this city to return.

However, this agreement did not contain any provision regarding accountability for past actions. Three days later, a group of Tawargha families tried to return to the city, but they were threatened and intimidated at a checkpoint held by residents of Misratah, and had to return to Tripoli. By the end of the year, no progress had been noted regarding the return of the Tawarghas or the implementation of this agreement.

Migrants, refugees or asylum seekers

Migrants, refugees and asylum seekers were routinely and systematically subjected to serious human rights abuses in detention centres and at the hands of the Libyan coast guards, smugglers, and armed groups. Some were detained after being intercepted at sea by the Libyan coast guard as they tried to cross the Mediterranean to reach Europe.

It was estimated that some 20,000 people were held in detention centres run by the Directorate for Combating Illegal Migration (DCIM), a branch of the GUN Ministry of the Interior. Conditions of detention were appalling, with extreme overcrowding, lack of medical care and food, and systematic torture and other ill-treatment, including sexual violence, beatings, and extortion.

DCIM controlled between 17 and 36 official centres, but several thousand unlawful places of detention throughout the country were being run by armed groups and criminal gangs that were involved in the lucrative trafficking of human beings. In November 2019, the broadcast by the American television channel CNN of a video showing apparently a sale of enslaved migrants caused a wave of indignation around the world.

Libyan legislation continued to criminalize illegal entry and stay in the country, as well as the illegal exit of the territory by foreigners, and still did not contain provisions governing the right of asylum. In November, the Office of the United Nations High Commissioner for Refugees

(UNHCR) announced that it had reached an agreement with the Libyan authorities providing for the temporary accommodation of people from a transit centre who needed international protection.

However, no progress had been noted with respect to the memorandum of understanding that would lead to official recognition of UNHCR's activities in Libya. The International Organization for Migration (IOM) counted 416,556 migrants in Libya at the end of September. UNHCR reported that as of December 1st 2019, 44,306 people were registered as refugees or asylum-seekers in Libya. However, the actual number of refugees was probably much higher. The IOM continued its programme of support for "voluntary return" and 19,370 people, often from detention centres, were able to return to their country of origin during the year. Of important note is the fact that the UNHCR began evacuating refugees and asylum seekers and 25 people were transferred to Niger for resettlement in France in November, and 162 in Italy in December.

Egypt: Rights of refugees or migrants

This year, asylum seekers and refugees were again arrested, detained and expelled for entering or leaving the country illegally. Between January and April, the immigration services returned at least 50 asylum seekers including adults and young children from Eritrea, Ethiopia and Sudan, to their country of origin without the

benefit of legal assistance or contact with the Office of the UNHCR. The forcible return of Eritrean asylum-seekers, similar to that of the Ethiopians or Sudanese nationals who had genuine fear of persecution in their country, constituted "repression".

In July 2019, the authorities carried out a roundup among Chinese students, targeting mainly those belonging to the Uyghur ethnic minority and arrested at least 200 of them. They deported at least 21 men and one woman back to China in violation of Egypt's obligations against "refoulement", the forcible return to a country where they are at risk of serious human rights violations.

Morocco and Western Sahara: Rights of refugees or migrants

Morocco does not have any asylum legislation but still allowed refugees access to basic rights and basic services, including education. Refugee claimants and refugees registered with the UNHCR have received documents protecting them against "refoulement", without a decision being taken on their final status.

Twenty-five Syrian refugees were abandoned for three months in the buffer zone on the border with Algeria, before the authorities granted them protection in July. Security forces continued to participate in summary deportations of migrants and asylum seekers from the Spanish enclaves of Ceuta and Melilla to Morocco, as well as to use excessive or unjustified force against them.

Migrants, some of whom had taken steps to regularize their situation, were imprisoned for entering, staying in, or leaving the country illegally. They have been tried with legal representation. In September, two Burkinabe died as a result of the use of tear gas by Moroccan security forces against migrants attempting to enter the Spanish enclave of Melilla.

Mauritania: Rights of refugees or migrants

In its March report, the UN Special Rapporteur on Torture expressed concern over the various expulsions of migrants and irregular refugees, who were often abandoned just at the border with Senegal in the south of the country. Such expulsions could contravene the principle of "non- refoulement". During a visit to Nouakchott the UN Rapporteur found that the 20 to 30 detainees in a place of detention for irregular migrants there were no sanitary facilities or enough room for them to lie down or even to sit to sleep.

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NGO Forum Preceding the 65th Session of the African Commission on Human and Peoples' Rights – October, 2019

Northern Africa

Theme: The Year of Refugees, Returnees, and Internally Displaced Persons: Towards Durable Solutions for Forced Displacement in Africa - From Rhetoric to Action

Algeria: For more than four months the Algerian people steadfastly demonstrated firm courage to put an end to a militarized authoritarian system imposed on them since independence. Throughout the country, on every Friday, the people reaffirmed their demands for the establishment of the social justice, the rule of law guaranteeing individual and collective freedoms which in themselves promote the equality of citizens, including that between women and men.

Many Algerian citizens have spent months in custody already, charged with violating the integrity of the territory for having brandished the Amazigh flag which crime is punishable by 10 years in prison. Every Friday in over 35 weeks police have set up road blocks in the streets of central Algiers and on roads leading to the capital in their attempt to limit the number of protesters.

Meanwhile, the prosecution of journalists and activists of the protest movement increased, at times just for simply

posting material on social media. Many Algerians in the Diaspora have mobilized for silent marches wherever they are around the world to alert international opinion and humanitarian organizations about abuses against human rights in at home. Algerian security have also conducted the rounding up of thousands of migrants of different nationalities from sub-Saharan Africa, including women and children and expelled them from the country.

Libya: The most fundamental of rights continue to be violated, especially against IDPs, migrants and refugees. Many cases of torture, arbitrary detention, sexual and gender-based violence, as well as attacks on freedom of expression, association and peaceful assembly continue to be reported. And most often the victims are unable to obtain legal redress.

The fight against impunity remains one of the ways to resolving the conflict. The prosecution and condemnation of the perpetrators of these crimes is necessary for the long-term reconstruction and restoration of a democratic life. Support for the establishment of independent and strong judicial institutions is a guarantee of stability for Libya.

Regarding the case of migrants, the UN urged the National Accord Government (GAN) to launch immediately an independent investigation into missing persons. It also called on the Libyan authorities and the international community to ensure that migrants and

refugees detained in these detention centres are released immediately.

The transfer of migrants intercepted at sea by Libyan coastguards to official and unofficial detention centres continues to cause serious concern. The centres would be overcrowded already with no adequate ventilation, sanitation, food, clean water, or health care. Detainees are subjected not only to arbitrary and indefinite confinement but also to serious human rights violations such as torture and ill-treatment, extortion, sexual abuse and exploitation, trafficking and smuggling.

On July 2nd 2019, an air raid against a detention centre holding 600 migrants in Tajoura left 53 dead and 87 wounded. As of June 2019, some 3,400 migrants and refugees were still being held in Tripoli, and that apart from 654 in the Zintan Detention Centre alone.

UNHCR note that more than 2,500 Libyans were forced to flee their homes following heavy rains that caused severe flooding in the town of Ghat, about 1,300 km southwest of Tripoli.

According to the Libyan coastguard hundreds of people have been sent, since April 30th, to a facility in Al-Khoms and placed under the control of the Department of Combating Illegal Migration. As many as 203 people were sent there on May 23rd. However, the centre indicated that there were currently only 30 migrants being held there.

For the services of High Commissioner Bachelet, this situation is particularly worrying given reports that migrants are being sold into forced labour or to smugglers who promise transit to Europe. There were reports that some women were sold for the purposes of sexual exploitation.

The lasting resolution of these challenges lies in seeking a political solution to the on-going Libyan crisis.

Egypt: In the last six months, former Egyptian President Mohamed Morsi died without taking action on the people's demands. This occurred in the face of years of ill- treatment, prolonged solitary confinement, inadequate medical care and deprivation from family visits and interviews with their lawyers. The current government is failing to provide adequate medical care for prisoners, much more allow for family visits. Every (sudden) death in prison must be followed by a prompt, impartial, thorough and transparent investigation by an independent body to shed light on the cause.

Medical neglect is only a small part of the widespread violations of the rights of thousands of political prisoners in Egypt. According to human rights reports, at least 66,000 detainees and political prisoners, mostly supporters of the Muslim Brotherhood, have been arrested since July 2013. The question of prisoners is now one of the main priorities of the Egyptian opposition, all political forces combined. Thus, the importance of political and civil

rights, and the denial of serious violations suffered by political detainees and prisoners, is increasingly firmly anchored in the consciousness of the Egyptians.

President Sissi was accused by NGOs of serious violations of human rights. The President has applied almost 89% of the amendments to the Constitution voted for in April by the Parliament without a real public debate and in the absence of dissonant voices in the media.

The reform also allowed the former Marshal, in charge of the country since 2013, and under whose watch the army removed Islamist President Mohamed Morsi, to extend his current term from four to six years and to present himself for a third term in office in 2024.

Since July 2019, a 15-year-old girl has remained in detention at a juvenile centre, accused of stabbing a minibus driver who tried to rape her; she had used the same weapon with which the driver had threatened her. For her, no doubt, this was self-defence. But not for the Egyptian police who made her undergo a virginity test. This test, criticized by human rights defenders as well as feminist associations, is legal in Egypt. It is systematic when filing a complaint for rape or attempted rape.

In a press release issued on Friday, September 27, 2019, Hafez said the statement from the High Commission was based on unreliable information that did not correspond

to reality, stating that all legal proceedings against any person were correct and by law transparent.

The Foreign Ministry spokesman said no Egyptian citizens were arrested or prosecuted for carrying out legitimate activities or criticizing the Egyptian Government; all convictions were for committing crimes punishable by law. *The right to peaceful protest was ensured in accordance with the constitution and the law but on the condition that it is exercised in accordance with the necessary legal procedures, as in many countries of the world, to notify the authorities concerned without intimidating citizens.*

Morocco and Western Sahara: From April to June, small groups of Saharawi civilians in the refugee camps near Tindouf (Algeria) demonstrated regularly against the rules adopted by the Polisario Front to control the crossing points between the refugee camps and the Mauritanian territory and points to pass east of the sand wall. The Polisario systematically restricted the civic space in the Tindouf camps and have arbitrarily detained three bloggers, Aba Bouzid, Mahmud Zedan, and El fadel Braika whose severe torture at Tindouf witnesses had reported.

On June 8th 2019, the Front addressed a letter to the Security Council, the under-secretaries-general for Political Affairs and Peacebuilding and for Peace Operations of the UN, and MINURSO to condemn the excessive use of the force that young Saharawis suffered at

the hands of the Moroccan security forces in Smara while celebrating the release of "political prisoner" Salah Labseer. On June 17th 2019, about 70 people demonstrated peacefully in Rabouni against alleged human rights abuses in Smara, west of the Sandy Wall.

While denouncing the behaviour of the Moroccan police and paramilitary agents, they demanded for the monitoring of human rights in the Territory.

On July 19th 2019, there was shooting when Moroccan law enforcement clashed in Laayoune with populations celebrating Algeria's victory in the African Cup of Nations. A young woman was reported to have died of her injuries after being knocked down by a vehicle of the auxiliary forces vehicle dispatched to the scene of the shooting. According to various media, there were 21 wounded and more than a hundred people arrested. According to a statement by local authorities in the Laayoune-Sakia El Hamra region published by the media, Laayoune had been the scene of "acts of sabotage" committed by a group of people who had taken advantage of the celebrations to engage in looting, compelling the police to intervene to protect public and private property.

In August 2019, the National Council for Human Rights (CNDH) handed over *Dirhams*87 million (€8.1 million) to more than 600 victims of human rights violations committed between 1956 and 1999. Among those receiving this compensation were 80

civilians who had been abducted by the Polisario Front, 39 beneficiaries described as “whose files were incomplete and who presented the missing documents“, and 28 other “victims whose fate was unknown and who submitted the necessary documents for the finalization of their files.”

As we report, persistent discrimination against the Amazigh communities further underlines the legal shortcomings. These Aboriginal groups are victims of discrimination, structural exclusion and racist stereotyping because of their language and culture. Amazigh women have reported that they face multiple and intersecting forms of discrimination because of their (Amazigh) gender and identity.

More reforms are also needed to ensure that migrants and refugees have the right to racial equality and the right to racial non-discrimination.

In October 2019, in a statement from the Moroccan Ministry of Justice, journalist Hajar Raissouni, sentenced on September 30 by a court in Rabat to one year in prison for illegal abortion and non-marital sex, was being pardoned by the king of Morocco to "preserve the future of the two fiancés who planned to found a family in accordance with the religious precepts and the law, despite the error that they would have committed and which led to this lawsuit."

Mauritania: At least 100 people were arrested in June 2019 on the side-lines of protests across Mauritania. Authorities say it is mostly of "foreigners" who had joined in to contest the results of the first round of the presidential election.

Various reports obtained said there was no evidence of foreigners involved. It was Mauritians and Africans, victims of [electoral] injustice who came to claim their rights. People were intimidated before the elections, during the elections, and even after the voting.

The Mauritanian authorities restricted freedom of expression and assembly, especially when independent activists protested against racism and ethnic discrimination, the persistence of slavery and other sensitive issues.

In addition to social pressures, various national policies and laws that penalize adultery and crimes of morality make it difficult and risky for women to report sexual assault to the police, making them vulnerable to gender- based violence.

Mauritanian laws impose the death penalty for various offenses, including, under certain conditions, blasphemy, adultery, and homosexuality.

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NGO Forum Preceding the 64th Session of the African Commission on Human and Peoples' Rights - *April, 2019*

Southern Africa

Report on the State of Human Rights and Democracy in the SADC Sub-region on the “The Year of Refugees Detainees Internally Displaced Persons: “Working toward durable solution to forced displacement in Africa.”

Overview on the AU Theme

Major challenges remain for the attainment of this theme declared by the African Union for 2019 in relation to the aspiration of Agenda 2063¹⁶. More than a third of the world's forcibly displaced people are in Africa, including 6.3 million refugees and asylum-seekers and 14.5 million internally displaced people¹⁷.

The Year 2019 marks the 50th Anniversary of the 1969 OAU Convention on Refugees and the 10th Anniversary of the 2009 AU Convention on IDPs (Kampala Convention). These milestone achievements provide the impetus to find the root cause of migration and displacement in Africa and solutions to address this difficult problem. The AU Convention on Refugees endeavours to attain peace and

¹⁶ Mr Awful Ronny Mike – Policy Officer AU Department of Political Affairs, Two day meeting held on AU 2019 Theme in Morocco, August 2019

¹⁷ Bonobo Makgale Democracy Transparency and Digital Rights Unit – CHR Dialogue Action Week on Xenophobia 2 October 2019.

unity in Africa. It calls for measures to guarantee the rights of women, ethnic minorities, migrants, and people with disabilities, refugees, displaced persons, and other marginalised groups. This is in line with the AU Constitutive Act¹⁸.

The search for economic opportunity and fear of reprisals, environmental degradation and climate change contribute to the mass movement of people leading to the infamous and traumatic journeys embarked through the Mediterranean Sea. This theme has come at a critical time when our generation is demanding focus to be given on forced displacement and the psychosocial impact it has on people and the regression of development plans of the continent. It calls for multi-pronged strategies and innovative approaches for comprehensive and sustainable address.

In the Southern Africa sub-region, the SADC Protocol on Freedom of Movement stands for regional for integration and unity ¹⁹. It is a pillar which encourages leaders to prioritise this issue to accelerate economic development and regional integration. However, due to revision of the words such as ‘*Freedom*’ being replaced with ‘*Facilitation*’

¹⁸ African Union Constitutive Act 2002 , the preamble: GUIDED by our common vision of a united and strong Africa and by the need to build a partnership between governments and all segments of civil society, in particular women, youth and the private sector, in order to strengthen solidarity and cohesion among our peoples;

¹⁹ Adopted in 1997

of movement, the effects can be seen in the way asylum seekers, refugees and migrants are being treated in the region. They are prevented from accessing basic fundamental rights such as freedom of movement, right to residence and right not to be expelled from a host country, as safeguarded in the African Charter on Human and People's Rights and the AU Convention on Specific Aspects of Refugees Problems in Africa²⁰.

In Botswana the government without any consultation imposed forced repatriation affecting over 800 Namibian refugee families. This is in direct conflict with AU Convention on Refugees which promotes the right against *refoulement* and discourages forced repatriation as well as situations that will put migrant lives at risks in their country of origin including. It is also in conflict with the provisions against the uprooting of migrants from family structures they had established ²¹. Forced repatriation perpetuates stigma, inhumanity, poverty and displacement.

²⁰ Article 12 of the African Charter, Article VI of OAU Convention on Specific Aspects of Refugee Problems in Africa (1969-1974)

²¹ Their children were discontinued from attending school in Botswana, Alice Mogwe, Ditshwanelo Executive Director. Ditshwanelo has called for dialogue on the matter, particularly on the plight of children who were removed from schools. But efforts to engage both governments has hit a snag. The Namibian government has said it is safe for the refugees to return, but it has vowed to deal with those who identify themselves as separatists.

While South Africa grapples with a problem of xenophobia as displayed in the recent attacks in some parts of Johannesburg CBD, Marabastad-Pretoria, and Durban Kwazulu Natal Province. These attacks have claimed the lives of innocent people, the looting of merchandise, burning and malicious damage to property, the threatening of livelihoods. Although the South African president condemned these violent attacks (and some suspects having been apprehended), it is heart-breaking that these attacks are being described as criminal elements and not as xenophobia. More time has been spent debating what to call this phenomenon rather than dealing with the issue. The proponents of this school of thought are disconnected from the realities on the ground.

The Commission has been made aware of the emergence of xenophobia in South Africa since 2008 when more than 60 people were killed. South Africa was urged to protect the lives and properties of migrants and prosecute the perpetrators of these crimes²². Unfortunately these attacks have recurred with impunity under the gaze of law enforcement.

The Commission has further passed Resolution 304 which reinforced implementation of Resolution 131. It has also issued several press statements condemning the violent attacks committed in early September 2019. These violent

²² ACHPR Resolution 131 & ACHPR Resolution 304

attacks committed by African people on other African people is shameful and in breach of the AU vision in the objectives expressed under Agenda 2063.

Therefore the theme, calls for more concerted efforts in Africa from all the stakeholders, including opposition, faith-based organizations, traditional leaders, business sector, national institutions, and civil society work together to prevent this scourge from happening.

Retaliation played out in other parts of the continent in acts of looting, break-ins, and damage to South African business in Nigeria and Zambia as examples, the repatriation of people from countries in retaliation only exacerbated hatred and further division among African peoples.

Indeed, there are several human rights mechanisms adopted on the continent but the besetting issue is the implementation of them due to the lack of political will. Africans should all embrace the spirit of unity, solidarity, and social cohesion through expressions in the arts and culture and hospitality as encrypted in the AU Constitutive Act and African Charter on Human and People's Rights.

State of Human Rights and Democracy in the Southern Africa Region

The constitutional frameworks of most Members States enshrine international and regional human rights

principles, including economic, cultural, social and political rights. The SADC Treaty and Protocols enshrines progressive provisions aiming for the enhancement and consolidation of democracy, poverty alleviation and economic empowerment. The roles of citizens is recognized as an important key factor for attainment of regional integration. However, there is lack of mechanism for citizen engagement with the leaders in order to voice their concerns and participate in the processes of regional integration.

The Summit of Heads of States and Government largely remains a regular gathering of brotherhood that is still intolerant of voices from the ground. The recent SADC Summit held in Tanzania, was an example of the deep hostility held by leaders against the people of the sub- region. The case in evidence was the searches, harassment, and intimidation wreaked on human rights defenders and civil society activists by the Tanzanian security agents²³. Another classic case is the arrest in South Africa of a former minister of Finance for corruption in the embezzlement of humanitarian aid to the poor Mozambicans by the USA government.

Poverty and corruption compromise efforts of human rights defenders and public participation. The 2019 SADC Summit concluded with several agreements ready to be

²³ HRDs attending the SADC CSO Forum in August, held in Arusha, Tanzania

signed to pave the way for extradition policies to allow offenders of criminal offences to be extradited and to serve sentences in their countries of origin and to contribute to social reintegration, amongst other things.²⁴

Statelessness

The right to be recognized as a citizen is irrevocably linked to the right to dignity. The African Union and the African Commission on Human and Peoples' Rights have recognized this fact in many decisions and publications.²⁵ The ACHPR has confirmed that the current international and domestic legal framework does not provide for adequate protection for persons deprived of the right to a nationality. Following the ACHPR study on this right, the

²⁴ PROTOCOLS TO BE SIGNED AT THE 2019 SUMMIT NEW PROTOCOLS TO BE SIGNED

1. Agreement Amending the Protocol on Extradition The objective behind the Amendment is to align the Protocol with international best practice which requires that authentication of documents pertaining to extradition matters be done in accordance with the domestic laws of the Requested States to ensure that the documents meet the admissibility requirements in the courts of law of the Requested States.

2. Agreement Amending the Protocol on Mutual Legal Assistance in Criminal Matters The objective behind the Amendment is to have States Parties' laws on authentication of public documents dealing with mutual legal assistance in criminal matters harmonized and aligned in line with international best practices by providing that authentication of documents shall be done in accordance with the laws of a Requested State.

3. Protocol on Industry The objective of the Protocol is to promote the development of a diversified, innovative and globally competitive regional and national industrial bases to enable the Region to achieve sustainable and inclusive industrial development.

4. Protocol on the Inter-State Transfer of Sentenced Offenders The objective of the Protocol is to allow for the transfer of sentenced offenders to serve their sentences in their home countries in order to contribute towards the social reintegration of citizens who are sentenced offenders as a result of criminal offences they committed in foreign countries in the Region.

²⁵ Southern African Nationality Network (SANN) & Lawyers for Human Rights (LHR)

AU has approved the drafting of the Protocol to the African Charter on Specific Aspects of the Right to Nationality and the Eradication of Statelessness in Africa. The African Court has recently handed down judgment against the Republic of Tanzania on the arbitrary deprivation of citizenship of one of its citizens. The court found that arbitrary deprivation of citizenship is a violation of the individual's right to administrative justice. This judgement has still not been implemented and the applicant lives in Uganda as a refugee to this day.

Courts in **South Africa** have made the same observations on the arbitrary “blocking” of identity documents in the country. In Botswana the courts have recognized the right of the single father to register his child. But, regardless of these positive developments in jurisprudence, there is still large-scale violations of the right to nationality and the lack of due process, especially with deprivation. We need a continent-wide movement to support access to the right to a nationality.

Governance and civic space

Election periods are notorious for the enforcement of arbitrary laws mostly through obstruction of associations,

and deterring civil society and human rights defender's from performing their functions²⁶.

In **Malawi** the results of the May 2019 Election were much criticised for being associated with political manipulation in favour of the ruling party. The life of the chairperson of the Coalition of Human Rights Defenders has been intimidated and his threatened for performing advocacy duties in calling for the removal of the chairperson of Malawi Electoral Commission.

Protests have continued with increased political instability, together with a petition initiated by the SADCHRD Network to the African Commission on Human and People's Rights. Over and above this, there is a proposed NGO Bill that has been pushed asking Parliament to adopt restrictive measures to limit independent functioning and voices of associations and HRDs. Should this bill pass in its current form, associations and HRDs will be compelled to undergo registration to establish governance structures that will have government officials sitting in their committees. This will compromise autonomy and effectiveness of the HRDs

²⁶ "In Mozambique, challenging the government comes with devastating consequences, including abductions, arbitrary detentions and physical attacks. You speak out at your own risk," said Deprose Muchena, Amnesty International's Regional Director for Southern Africa.

in carrying out their activities.

In **South Africa** the Constitutional Court as reaffirmed in a judgement to protect convenors of protests to enjoy this right as enshrined in the national Constitution. The Court held that “it is simply too important to countenance the sort of limitation introduced by section 12(1)(a) of Regulations of Gatherings Act.” It also underscored the primacy of Section 17 of the Constitution which guarantees the right of everyone “peacefully and unarmed, to assemble, demonstrate, to picket and to present petitions... and to express their frustrations, aspirations, or demands.”

In **Zambia** there has been an outcry against the intention of the ruling party to amend the Constitution which would obliterate fundamental rights therein safeguarded. The ruling party seeks to gain unfettered powers to govern the country with impunity, especially in its actions towards the judiciary, CSOs, HRDs, journalists and those upholding anti-Christian sentiments.

CSOs and HRDs have condemned the unconstitutional behaviour of the ruling party and called the SADC leaders to end the impunity, protect HRDs and uphold and domesticate the ‘Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized

Human Rights and Fundamental Freedoms,²⁷ of the UN General Assembly Resolution A/RES/53/144.

Presently, public order laws, NGO laws, regulation of journalism and online spaces are being used as legal or policy measure which governments of countries in the SADC region are using to restrict and reduce the civic space. This is in breach of the ACHPR Guidelines on Freedom of Association and Assembly adopted in 2016.

Mozambique has continued to reflect intolerance with impunity in acts against CSOs, HRDs, as well as journalists who face serious risk and threats for challenging government. This is concerning especially in the context of the 2019 October Presidential Elections²⁸. Dr

²⁷ Consortium of Civil Society organizations in Southern Africa: AfiA Mama ASBL (Democratic Republic of Congo), Alliance for Community Action (Zambia), Catholic Commission for Justice and Peace (Zambia), Centre for Strategic Litigation (Tanzania), Chipata DFA (Zambia), DIMACHIBS (Democratic Republic of Congo), NDT Translators (Democratic Republic of Congo), Fumba Chama – Artist and Activist, Legal and Human Rights Centre (Tanzania), Lewis Mwape – Human Rights Defender, Linda Kasonde – Lawyer and Activist, Maiko Zulu – Artist and Activist, McDonald Chipenzi, Sara Longwe – Feminist and Activist (Zambia), Stella Mwiza Chintu, Youth Development Organisation (Zambia), YWCA Mongu (Zambia), Zambia Council for Social Development (ZCSD) and Zitukule Consortium (Zambia).

²⁸

“Municipal Elections took place in October 2018 (municipal elections took place in October 2018). Additionally, since October 2017, there have been attacks on villages in the northern province of Cabo Delgado, killing people and looting villages, by perpetrators believed to be members of an extremist group known as ‘Al-Shabaab’, and security officers have been accused of abuses against people they suspect of belonging to the group”. David Kode CIVICUS , Advocacy and Campaigns Manager

Anastacio Matael, the chairman of Vuka Ally, had engaged in the election observation was reported to have been assassinated by at least four police officers.

Several cases of violations of freedom of expression and association have been reported. Examples can be found in the arrest of journalists reporting on the attacks in Cabo Delgado where Amade Abubacar was arrested in January 2019 and held in pre-trial detention for nearly 100 days. In December 2018, security officers detained Estacio Valoi, an investigative journalist, and David Matsinhe, researcher for Amnesty International. They were held incommunicado for two days. Police surrounded the offices of the CSO Centre for Public Integrity (CIP) in Maputo in January 2019 and demanded that people remove CIP's campaign T-shirts, and that employees stop distributing the shirts in a campaign that was against the repayment of illegal debts and secret loans amounting to more than US\$2 billion.

Associations and organizations face restrictive policies that obstruct them from performing their functions. There is a lack of capacity compounded by regulatory frameworks which prevent organizations from accessing external funding. Further, various states attempt to control CSO mandates through policies which are difficult to understand or comply with. The state uses this as a

weapon to close down associations on the basis of failure to follow procedures²⁹

In **Angola** there has been a slight change in the enjoyment of civil rights since João Lourenço became president in September 2017. However this is not the case in certain regions such as Cabinda and the Lundas where civic space is severely restricted.

But nothing has been done to transform restrictive laws, which are still in store and often used against dissenting voices, including HRDS and journalists, such as the Law 23/10 of December 3, 2010 on Crimes against the Security of the State. The situation in Cabinda is of particular concern. Protests are systematically banned and criminalized, while HRDs are subject to intimidation and harassment.

Earlier this year between January 28, 2019 and February 1, 2019, security forces arrested at least 62 people, including activists from the Independence Movement of Cabinda, in relation to a planned protest, on February 1, 2019, to commemorate the 134th anniversary of the signing of the Treaty of Simulambuco. At least 10 of them are still in prison and face criminal charges³⁰. The protestors were

²⁹ Lusophone Training Workshop 2-5 October 2019 in Maputo, Mozambique by African Centre for Democracy and Human Rights Studies, in conjunction with partners.

³⁰ Lucia de Silveira, AJPD August meeting 2019.

also calling for the independence of the enclave of Cabinda.

While **Zimbabwe** has not come out of repression, especially since the November 2017 military coup that ousted the former and now late president, Robert Mugabe, the human rights situation has continued to deteriorate. In fact, key state institutions have been militarized and in the process worsened the constitutional crisis in the country.

Although the state has submitted its periodic report to the ACHPR, the document was prepared without the open process which needs to involve consultation with the public, CSOs, and with human rights defenders that cooperate with the Commission. The submission of the report did not comply with the African Commission Rules of Procedures for filing to be done 60 days before the Commission sitting. This meant that there was not sufficient time to allow NGOs to prepare and submit a shadow report.

The economy continues in severe crisis, including power outages, abnormally high inflation, and a shortage of hard currency and fuel. Living in Zimbabwe has become almost an impossibility. The state has not taken account of the murder of six civilian and the many left injured by the

army after the firing of live ammunition during protest against the delayed announcement of presidential results. There has been no peace since the election in a situation further exacerbated by the 150% increase in fuel prices which has led to citizens taking to the streets in protest in January 2019 which left 17 people dead.

Anarchy and mayhem has continued to be order of the day, with atrocities committed on citizens, including human rights defenders, and journalists reporting or speaking about the state of human rights in the country. The government continues to use forced disappearances and abduction of those standing against violations of human rights. This tactic of intimidation has further closed the civic spaces. The abduction of Dr Peter Magombeyi, by some unknown assailants on September 14, 2019 was cause for further outrage in the region³¹. Dr Magombeyi was recently found with severe injuries resulting from the beating he received from unknown assailants.

Zimbabwe is notorious for the abductions, detention and torture of dissenters and human rights defenders. The abduction of Itai Dzamara has remained an unsolved mystery, despite investigations called by HRDs.

Independence of the Judiciary

³¹ Roselyn Hanse, ZLHR & Blessing Gorejena, ZiHR-NGO Forum.

The region lacks a court to adjudicate human rights violations. The SADC introduced a new protocol creating an interstate forum with no other objective than to deny citizen's access to justice. South Africa has deposited its bid to recall its withdrawal from the Protocol on the SADC Tribunal during the recent SADC Summit. This is positive and should encourage all SADC Members States to reinstate the SADC Tribunal and accord citizens' direct access to the courts.

It appeared none of the leaders condemn human rights violations experienced by their citizens and seem only to be interested in seeking measures to undermine prosecution, conviction and sentencing of suspects' human rights violations. It was demonstrated clearly during the SADC NGO meeting held in Tanzania where the authorities intimidated and harassed HRDs for acting in solidarity with the South African observing the annual commemoration of the Marikana Massacre.

Most judiciaries in the region find it extremely difficult to function independently without fear or favour and without facing sanctions. This includes the appointment of judges which falls within powers of Judicial Service Commissions, which pass recommendations for appointment of judges by the sitting president.

However, the JSC have been seen as a rubber stamp in some countries, unlike Botswana which stood out a good example where the Law Society challenged then-President Kgama's rejection of the JSC short-listed candidate qualified for appointment and had the Court order him consequently to appoint the candidate.³².

In the welcome transformation taking place in some legal systems in the region, Botswana is an example again where the judiciary passed ground-breaking judgment for respect and recognition of LGBTI rights. This has brought end to stigma, criminalization of same sex marriages and restored the right to privacy, dignity and equality. The same was for Angola where the adoption of a new Penal Code in January 2019 which led to the first legal registration of an LGBTI organization, Associação Iris Angola³³.

However, in Mauritius, where the legal frame work such as in the Equal Opportunities Act prohibits discrimination on ground of sex, LGBTI activists have taken legal action against the country's anti-gay law. They demand that the government abolish anti-sodomy law which the Mauritius Law Commission had recommended for repeal 12 years

³² Kaajal Ramjathan-Keogh, SALC –Centre for Human Rights & ICNL FoAA Maters Short Course Training 30.

³³ Kaajal Ramjathan-Keogh.

Freedom of expression and shutdown of the Internet

The Internet has become a source of information, knowledge and also provides a platform for job opportunities especially for the poor, with over 50% of the world population using it. In most instances the SADC sub-region states have abused this right by the issuing of warrants to shut down the facility.

In Zimbabwe shutdown of the Internet in January 2019 affected the whole country and the intolerance of protests against the denial left more than 17 people dead at the hands of the police firing live ammunition.

The other online platforms on social media such as Facebook and Twitter, along with other websites, are targeted because of the government's desire to limit social communication and public participation in politics.

In Malawi the intention of government to shut down the Internet was unsuccessful due mainly to advocacy pressure. In DRC, there were a number of shutdowns with text messaging, telecommunication, and radio to which the security apparatus added road blocks to the

³⁴ Sheila Keetharuth, former UN Special Rapporteur on situation of human rights in Eritrea and ACHPR Member of Working Group on Human Rights & Extractive Industry.

restrictions of citizens, especially during the election when pressure mounted for Kabila to step down³⁵.

Recommendations

To use the opportunity of the 50th anniversary of the OAU / AU Convention on Refugees to assist state parties on reporting guidelines as well as to implement and accelerate AU free movement and Agenda 2016, as well as ratification of the Kampala Protocol on IPS

1. To find sustainable solutions to end xenophobia, discrimination, inequality, and related intolerance and call on South Africa to implement Resolution 131 and 304.
2. To Implement the SADC Freedom of Movement of People.
3. To repeal or amend restrictive laws that close civic space and to enable environments within which associations can function without fear, interference with their governance structures, programme, policies and funding models.
4. To adopt laws that support civic space, HRD and media freedoms.

³⁵ Kaajal Ramjathan-Keogh.

5. To promote and protect the independence of the judiciary and withdraw from the new SADC Tribunal Protocol
6. To end reprisals and persecution of CSOs, HRDs and dissenting voices by the implementation of ACHPR resolution.
7. To develop progressive laws for the security of the Internet in order to prevent arbitrary shutdown
8. That the African Union expedite the process of presentation of the draft Protocol on Statelessness for adoption in 2020.
9. To encourage the adoption of Regional Action Plans to combat statelessness within the various regional economic communities, as inspired by the Abidjan Declaration in West Africa.

Reference

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3. Collection of information and reports of human rights and democracy through facilitation at CIVICUS , HURISA CSRV training workshop on FoAA, May 30– June 3, 2019.
4. Engagements and meetings with Zimbabwe Human Rights Network and Zimbabwe Lawyers for Human Rights, May 2019 and October 2019.
5. Collection of information and reports of human rights and democracy through facilitation at Training CIVICUS, CSVR and Oxfam on FoAA, September 3- 5, 2019.
6. Participation at SADC CSO Forum, Arusha Tanzania, August 13-17, 2019
7. Human Rights Institute of South Africa 25th Anniversary of Human Rights & Democracy in South Africa 13-17 , August 2019
8. Human Rights Institute of South Africa - Press Statements on Xenophobia in South Africa, September 2019
9. Facilitation at Centre For Human Rights Master's Human Rights Training, September 30 - October 4, 2019

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11. Facilitation at Training Workshop for Lusophone, Maputo, Mozambique, October 5, 2019.
12. Facilitation of regional CSO on Xenophobia in South Africa and participation at the Pan-African Parliament, October 12, 2019, Midrand, South Africa.
13. Human Rights Institute of South Africa, Centre for Human Rights, and International Trade Union Congress (ITUC), NGO Shadow Report on Zimbabwe, October 2019.
14. Human Rights Institute of South Africa Regional Meeting for participation at 65th Session of ACHPR and the NGO Forum Preceding the 65th Session of ACHPR, October 2019.
15. Heyns & Killander (2016 Edition) Compendium – Key Human Rights Documents of the African Union.

NGO Forum Preceding the 64th Ordinary Session of the African Commission on Human and Peoples' Rights – April 2019

Western Africa

The presenter made it clear that there would be no genuine peace in the West African sub-region until all human rights defenders receive recognition and maximum protection by the authorities.

Nevertheless, the West African Human Rights Defenders Network (WAHRDN) highlighted the substantial efforts made by States in the sub-region, before addressing some of the setbacks that are of concern to the population and, naturally, to human rights defenders.

Best practices: The Network reported that in most West African countries the constitution guarantees freedom of association; the declarative regime is practised, and the international conventions on human rights regularly ratified by the States are an integral part of the constitutions.

Mauritania released MP and anti-slavery activist Biram dah ABEID on 31st December, 2018.

Togo restored the Ministry of Human Rights in its new Government and considered that this act expresses the will of this State to better protect human rights and human rights defenders.

In **Burkina Faso** the Women Human Rights Defender Safiatou LOPEZ, was arrested on 29 August, 2018 for possible involvement in an attempt to help detainees escape from the Military Detention Centre and Correctional Facility. She was released provisionally, pending trial. Another good practice registered in this country was the cancellation of the draft law on the online press, a bill that purportedly sanctions those guilty of disclosing information on the operations of the Military.

Nigeria showed evidence of democracy in practice when presidential elections were followed by successful gubernatorial and regional assembly elections.

The Network honored advances made by the Republic of **Ghana** which resulted in the adoption of the draft law on the right to information.

In **The Gambia** there was marked improvement in the rights of its citizens and civil society compared to the past. The Government instructed the Office of the Ombudsman to examine cases of human rights violations. Complainants and victims can file complaints with the Ombudsman for redress. Advocacy was more peaceful. The five Officers responsible for the deaths of three environmental rights protesters in Faraba Bantang, resulting in several injuries were arrested and are currently in custody, although human rights defenders are worried about the slowness of the processing of their case by the Gambian justice system. At one point, human rights

activists urged the authorities to try the Officers involved in the killing and refuted claims that they had withdrawn from the case against the five Officers charged. The President set up a Commission to examine the circumstances that led to the murder of the three young demonstrators and the Commission presented its findings to the President of the Republic.

In mid-March 2019 The Gambia established for the first time a National Human Rights Commission headed by a prominent lawyer, described as a respected religious leader who has championed human rights and is a well-known advocate for human rights and the rights of the child.

The coming to power of the new President also facilitated the reopening of murder cases in The Gambia, including those of the young West African migrants wantonly murdered in The Gambia.

The launching of the "Senegambia Bridge" which will greatly facilitate transport between **Senegal** and the **Gambia** and promote easier access to Cassamance, was also recorded as a great step for the development of economic, social and cultural rights.

Setbacks

ROADDH deplores the abuses and other violations committed by the self-defence groups in **Burkina Faso** and **Mali**. In mid-March 2019, at least 217 Peuhls were

murdered in Burkina Faso, and the international community did not even mention it. This massacre was virtually repeated in northern Mali, causing more than 160 deaths targeting the same people. The drama is all the more profound as the killings appeared to have targeted males aged twelve and over.

Rape and sexual violence against women and children under 1 year of age in **Sierra Leone**, the state of emergency extended in some countries and the general context of intimidation of human rights defenders in West African countries.

With regard to the human rights defenders arrested during the peaceful demonstration of 25 March 2018 in **Niger**, ROADDH welcomes the judgment and the acquittal of some of their members; however, the network deplores the sentencing of Mr. Lirwana Abdourahamane to 24 months in prison, 12 of which suspended and a fine of 1 million CFA francs, as well as the arbitrary detention of Mr. Ibrahim Diori and Mr. Maikoul Zodi. The territory of Niger remains a crossing point for hundreds of migrants facing the desert, hoping to cross the Mediterranean regardless of the risks of being enslaved in Libya.

In Togo a human rights defender was sentenced to 18 months in prison of which 06 to be served for "spreading false news" and "insulting public authorities". He was recently released on 5 April, 2019 after serving his

sentence. As for the second, namely Folly Satchivi, charged with "rebellion", "apology for crimes and offences" and "aggravated disruption of public order", he was sentenced to 36 months in prison with 12 months suspended and is still in prison.. The freedom of public and peaceful demonstration is experiencing a worrying decline in Togo. A call to protest peacefully launched by the Pan-African National Party in 10 Togolese cities has been authorized to be held in 03 cities, although the Togolese law of 2011 has established a declaration regime. Even at this stage, demonstrations have been the subject of violent repression, resulting in several arrests, injuries and harm to the life of citizens. As a result, the home of the president of this political party was ransacked.

In **Mauritania** peaceful demonstrators were severely beaten by the police and 27 protesters, including a large number of women, were admitted in hospital. The demonstration was organized by the *Coordination IRA* of Nouakchott, Boghé and Mbout on 20 December, 2018 to denounce the continued arbitrary detention of Biram Dah Abeid an MP and president of the IRA. On Friday, 22 March, 2019, bloggers Abderrahmane Weddady and Sheikh Ould Jiddou were arrested and taken into custody by the Prosecutor's Office of Nouakchott charged with giving information about alleged malpractices orchestrated at the highest level of the State on their facebook pages.

Online activist in **Côte d'Ivoire**, Soro Tangboho *alias* Carton Noir, was arrested on November 8, 2018 in Korhogo following the live broadcast of a Facebook video of police officers extorting money from motorists. There was enough evidence to suggest that he was the victim of torture by police officers. In January 2019, MP Alain Lobognon (a politician with close ties to the former Speaker of the National Assembly Guillaume Soro) was arrested and charged following a tweet that was said to give false news and inciting revolt. The man who has views contrary to those of the ruling party was sentenced to one year in prison. In this country, there is a media war in progress between opposing political leaders and sometimes their militants on the ground. With the approach of the Presidential Election 2020, the tension is more and more worrying and the situation is worsening.

Human rights NGOs in **Sierra Leone** are constantly threatened, suspended, or are denied registration if their activities are considered to be against the interests or programmes of the government. Legitimate protests are restricted and the State takes upon itself to declare arbitrarily a protest as unlawful or a threat to public order.

Generally, these decisions are not subject to judicial review. The new NGO Bill waiting to pass will undermine the integrity and independence of civil society organizations and allow the government to regulate and monitor the work of human rights defenders. The latter, particularly those working on issues related to the rights

of LGBTI people, the environment, extractive industries and tax justice, are often targeted and defamed by the authorities as criminals and as people who undermine social and economic progress. Currently 18 members of the Malen Land Owners Association (MALOA) have been charged and are being tried for the murder of two civilians whose killers remain unknown. This case is a good illustration of the climate in which human rights defenders operate in Sierra Leone.

In **Benin**, a peaceful demonstration organized in Cotonou on April 4, 2019 by the opposition leaders protesting against their exclusion from the legislative elections of April 28, was violently repressed. Four people were wounded. On April 19, 2019, at a related demonstration, two former presidents, one of them accompanied by his visually impaired wife, were victims of a tear gas attack by law enforcement and security forces. Several people were arrested. While human rights defender Thérèse Waounwa has been fortunate enough to be released, others are still being held. During that week, journalist Casimir Kpedjo and two political party activists were arrested.

ROADDH condemns any attempt to restrict the enjoyment of human rights, including the right to democracy by the people of Benin, which has for many years been one of the West African beacons of democracy.

Freedom of the press is still in danger in **Nigeria**. Journalists from the *Daily Trust* were arrested in

Maiduguri and Abuja and their activities in Lagos disrupted for publishing articles about Boko Haram's activities. They had reported killings during presidential and local elections.

Tensions generated by periodic terrorism in **Niger, Mali, Burkina Faso** and **Nigeria** have increasingly degenerated into open clashes between nomadic Peulhs and indigenous peoples. In this context where the Fulani farmers consider the Peuhl herders as jihadists their conflict has been feeding on inter-communal land disputes and in places ethnic extermination is being perpetrated against Fulani populations.

The authorities in **Liberia** have ignored the appeal of national and international organizations made in early April 1976 to prosecute the perpetrators of war crimes in the country.

The Gambia is still silent on the killing of the three environment protesters. The President of the Republic established a commission that submitted a report to the government but which has not yet been made public. This is worrying for victims and human rights defenders.

Human rights defenders in the field of environmental protection face challenges in Gunjur, a fishing village that has witnessed several protests against a Chinese fishing company that has been polluting their land and environment for years. Chief ecologist Amadou Scattred Janneh was arrested along with others and charged with

incitement and destruction of private property. He was accused of destroying a pipeline that dumped dirty water from the factory into the sea and rice fields nearby. The case is still pending before the courts.

The families of the victims of the abuses of the regime of former President Yahya Jammeh, including those of young West African migrants executed in cold blood during this period, are still waiting for justice.

Despite its existence, the office of the Ombudsman is taking longer than expected to process files and publish findings and issue orders on cases. Invariably, the Ombudsman's reports are submitted to the Head of State, a process that takes time before declarations or public findings are published.

In conclusion, efforts have been made generally to promote and protect human rights and human rights defenders in West Africa but there are still major challenges ahead.

To this end, the Network is requesting the NGO Forum to submit the following recommendations to the African Commission on Human and Peoples' Rights:

The Gambia:

- To adopt a law protecting human rights defenders inclusive of civil society.

- To adopt a law on freedom of assembly and peaceful protest in accordance with the guidelines on freedom of assembly and peaceful demonstration
- To publish the report on the killing of the three (03) environmental rights defender demonstrators.
- To heed the call for an independent international commission of inquiry to establish the truth about the attacks on life and enforced disappearances that occurred in the country and, if necessary, simplify the functioning of the Office of the Ombudsman.

Togo:

- To release human rights defender Folly Satchivi and all those arrested in the exercise of their political activities or public freedoms, including peaceful demonstrations.
- To respect the African Charter on Human and Peoples' Rights and guidelines on the freedom of demonstration and assembly of the African Commission on Human and Peoples' Rights.

Côte d'Ivoire

- To respect the freedoms of expression and opinion, and release people who are abusively detained

- To take all necessary measures to safeguard social peace while respecting human rights.

Mauritania

- To immediately release and protect the blogger Mohamed Ould Mohamed Mkhaitir who is still detained despite serving his sentence.

Sierra Leone

- To adopt the Protection of Human Rights Defenders Act (already in draft form) to enable them to operate in a safe and conducive environment.

Benin

- To take appropriate measures in respect of human rights to preserve the democracy won by the people of this country after a hard struggle.

Burkina Faso and Mali

- To adopt adequate human rights measures to protect the Fulani people against ethnic extermination.

Thank you

Reference

ROADDH / WAHRDN Members

- *Coalition des Défenseurs des Droits Humains- Benin (CDDH-Benin), BENIN*
- *Coalition Burkinabè des Défenseurs des Droits Humains (CBDDH), BURKINA FASO*
- *Coalition Ivoirienne des Défenseurs des Droits Humains (CIDDH), COTE D'IVOIRE*
- *Coordination des Organisation Guinéenne des Défenseurs des Droits Humains (CODDH GUINEE), GUINEE CONAKRY*
- *Human Rights Defenders in Liberia (HRDL), LIBERIA*
- *Coalition Malienne des Défenseurs des Droits Humains (COMADDH), MALI*
- *Réseau Nigérien des Défenseurs des Droits de l'Homme (RNDDH), NIGER*
- *Coalition Sénégalaise des Défenseurs des Droits de l'Homme (CoSeDDH), SENEGAL*
- *Coalition Togolaise des Défenseurs des Droits Humains (CTDDH), TOGO*
- *Associação de solidariedade e promoção dos direitos humanos - Zé Moniz, CABO VERDE*

- *Colgação Das Organizações Of Defesa Dos Direitos Of Criança Na Guiné-Bissau, GUINEA BISSAU*
 - *Network of Human Rights Journalists (NHRJ), GAMBLIA*
 - *POS Foundation, Focal Point, GHANA*
 - *Forum des Organisations Nationales des Droits de l'Homme (FONADH), MAURITANIE*
 - *Partnership For Justice (PFJ), NIGERIA*
-
- **The media** including online
 - **The partners**

Western Africa

October 2019

Report presented by the West African Human Rights Defenders Network to the NGO Forum preceding the 65th Session of the African Commission on Human and Peoples' Rights, October 2019, held in Banjul, The Gambia.

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The West African Human Rights Defenders Network (WAHRDN) is pleased to present the situation of human rights and human rights defenders in our sub-region.

We note that despite the particularly difficult situation we, to note some progress in the promotion and protection of human rights and the rights of human rights defenders. A new trend toward the adoption of laws protecting HRDs has begun, even though its pace still varies from country to country.

The advances

WAHRDN was delighted with the release on October 16, 2019 of the activist Foly SATCHIVI by the State of Togo. The WAHRDN and its partners ROADDH welcome this sign of progress made in Togo and encourages the State to go all the way in adopting and implementing laws protecting human rights defenders. We welcomed Sierra Leone's repeal of the criminal and seditious defamation Act passed in 1965 clearly to suppress press freedom.

In Mali and Burkina Faso, peaceful demonstrations have been held to denounce what is called the "presence of imperialist troops." We welcome the release of Blogger Mohamed Ould Cheikh Mkhaitir, even though the network deplores the abusive and arbitrary detention of someone who was who was just doing his job blogging.

In the sub-region there is a tendency for states to collaborate with human rights defenders, although this

collaboration sometimes happens only when the government was wanted to look credible in the eyes of international partners.

Setbacks

On May 31, 2019, the family of human rights defenders in West Africa was devastated by the horrific murder of **Cisse Fahadou** and **Balima Hama**, active members of the Democratic Youth Organization of Burkina Faso (*Organisation Démocratique de la Jeunesse du Burkina Faso* (ODJ) who were killed in cold blood on their way to a summons from the High Commissioner of Yagha, a province in the Sahel region. While a reason for such assault on human life was yet to be explained the president of the Consumers League of Burkina, Kadiogo section, **Bambara Serge Horace**, was shot and killed on September 7th in the same region, Soum.

These events occurring within a few months of each other, yet again characterizes the vulnerability of human rights professionals in a worrying security context.

Terrorism haunts the people of Burkina Faso and takes a heavy toll on their lives. A traumatic dilemma exists in which people, particularly in the north of the country, are often caught between jihadist attacks and the army's anti-terrorist actions that invariably ignore human rights approaches. Cases of summary executions have been reported among the Peulh populations.

Several countries in the sub-region are preparing for elections in 2020. Ghana is poised for presidential and legislative elections; Togo, Guinea, and Côte d'Ivoire for presidential, and Niger for municipal. Tensions were already palpable in all of these countries.

The right to the freedom for peaceful protest, the crux of all other rights, is severely tested. What is the rule of law without the unrestricted enjoyment of all rights by all individuals in society?

As much as the people in Togo were being repressed during peaceful demonstrations and gatherings, especially by the members of the Pan-African National Party (PNP), even where those took place at the party headquarters, current tensions in Guinea are also worrying..

On October 14th the mere fact of citizens peacefully demonstrating to say NO to a third term in office for the Guinean head of state led to the arrest of Abdourahamane Sano, Sékou Koundouno, Ibrahima Diallo, Abdoulaye Oumou Sow, Mamadou Bailo Barry, Mamadou Sano, Alpha Souma (*alias* Bill de Sam), Sheikh Sakho, Badara Kone Toure, Ousmane Moriah Kaba, Ousmane Camara and Elie Kamano.

On the day of the demonstration there were at least seven attacks which left several people injured as well as 29 people (six women included) arrested according to announcements put out by the Prosecutor's Office.

The spectre of bloodshed witnessed by the people of Guinea Conakry could have been replaced by peaceful demonstrations that would have shown evidence of respect for democracy and human rights. Instead, injury, arrest, and the risk of death played out while the citizens of Guinea were still waiting for answers to the massacres of September 28, 2009.

Impunity becoming widespread in the sub-region is increasingly a matter of concern. Citizens traditionally assigned to serve the people turn against them with impunity.

Since the public protests broke out in 2017, Togo has been putting in place measures ranging from the adoption of laws on internal security, cybercrime, to making revisions to the law on peaceful demonstrations.

The new law on demonstrations in Togo has been denounced by human rights defenders and by the United Nations Special Rapporteurs for its repressive nature, yet the minister of the Civil Service, Labour and Administrative Reform asserted as recently as this month of October that this law would not be changing the slightest.

These laws not only take away the citizens' long-standing gains from democratic struggles, but also contribute to reinforcing the self-censorship of human rights defenders who are now left muzzled.

The case of human rights defender Foly Satchivi is still alive in Togo. His court appearance was placed under police surveillance amidst serious violations of the standards for public hearings guaranteed by law. Satchivi was sentenced early this October to 28 months in prison with six months of it to pass as suspended. He was released on October 16th following a presidential pardon. The communiqué of the Presidency made it clear that Foly Satchivi had not applied for a pardon. But as good as all of that might have been the human rights defender had already spent 14 months in arbitrary detention.

The unfortunate facts remains that on the eve of the release of Satchivi, activists of the international campaign *Tournons La Page*, Maikoul Zodi, Kari Tanko and Alexandre Didier Amani, all ECOWAS citizens, who by law and treaty should have enjoyed the freedom of movement of people and goods as guaranteed, were denied permission to enter Togo.

For more than two months, Nigeria has closed its land borders with its neighbours in violation of the principle of free movement of people and goods in the ECOWAS region.

The question of the extension of the term of the current Gambian President Adama Barrow until 2021 also raises risks of crisis in this country.

We do not claim to have provided here an exhaustive presentation of the situation in the 16 countries in West

Africa. However, we would like the NGO Forum to recommend to the Commission to adopt resolutions asking:

- **Nigeria** to reopen its borders in order to avoid the erosion of the idea of a united Africa as envisioned by the founding fathers of the African Union;
- **Togo** to repeal its new and backward law on demonstrations and to abide by the guidelines on freedom of association and peaceful assembly in Africa.
- To repeal the laws on cybercrime and internal security, these being in contradiction to the domestic and international commitments of the State regarding the respect of privacy. Take steps to effectively combat impunity by concluding all open investigations into human rights violations.
- **Guinea** to lift all restrictions on the freedom of peaceful protest in accordance with the Guidelines on freedom of association and peaceful assembly in Africa.
 - To release all those arrested in connection with the organization of the demonstrations of 14 October 2019
 - To open an independent inquiry into the tragic events of 2009, as well as that of October 2019, in

order to apportion blame, punish perpetrators, and combat the climate of impunity in the country.

Reference

- Coalitions and Focal Points Members of ROADDDHJ / WAHRDN
- Media
- Partners

Pictorials from the April, 2019 NGOs Forum



High table at NGOs Forum in Cairo in April, 2019



Session on Sub-regional focal points updates



Participants in discussion at the April NGOs Forum

Pictorials from the October, 2019 NGOs Forum



Mrs. Hannah Forster, ACDHRS' Executive Director flanked by Commissioner Soyata Maiga of the ACHPR and Mr. Hussein Thomasi, Special Adviser to the Gambian Attorney General and Minister of Justice



Participants at the October NGOs Forum



Partners of the NGOs Forum