



THEMATIC RESOLUTIONS ADOPTED AT THE NGOs FORUM PRECEDING THE
75th ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN
AND PEOPLES' RIGHTS
29TH -1ST MAY, 2023 – HYBRID

TRES/001/05/23: RESOLUTIONS ON WOMEN'S RIGHTS IN AFRICA

We, the participants in the Forum on NGO Participation in the 75th Ordinary Session of the African Commission on Human and Peoples' Rights held in Banjul, The Gambia, from 29 April to 1 May 2023,

Recalling the mandate of the African Commission on Human and Peoples' Rights (ACHPR) to promote and protect human rights under the African Charter on Human and Peoples' Rights (African Charter), in particular it Article 18.3 guaranteeing the protection of women's rights;

Recalling the provisions of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), adopted 20 years ago, which commits States Parties to adopt specific measures to combat violence against women, including sexual violence (Article 3 (4) ; Article 4; Article 5; Article 6; Article 11 (3); Article 22 (b); Article 23 (b)), and allow medical abortion in cases of sexual assault, rape, incest and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the fetus (Article 14 (2) (c));

Recalling the *Guidelines on Combating Sexual Violence and its Consequences in Africa*, adopted by the Commission during its 60th session held on 8 to 22 May 2017, which calls on States Parties to harmonize the provisions of their domestic law with the Maputo Protocol, and enforce their obligations to prevent sexual violence by raising awareness of its causes and consequences in order to discourage the commission of

such acts and to reduce the harmful stigmatization of victims, to protect victims by providing all necessary assistance and support measures, including safe abortion services for women victims of rape, and to also investigate and prosecute the perpetrators of such violence by providing effective, adequate and prompt remedies for the victims;

Considering that 43 African States have ratified the Maputo Protocol and have therefore committed themselves to incorporating into their domestic legislation guaranteeing women's rights, with most States committing to the fight against sexual violence and safe abortion in instances such as those cited above-mentioned;

Deeply concerned by restrictive legislation existing in some Members States which do not provide for protection measures or, safe abortion in cases of sexual assault, rape, incest and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the fetus;

Recalling the Maputo Plan of Action 2016-2030 on sexual and reproductive rights, which notably calls on Member States to adopt policies and legal frameworks to reduce cases of unsafe abortion;

Recalling General Comment No. 2 of Article 14.1 (a), (b), (c) and (f) and Article 14.2 (a) and (c) to the Maputo Protocol, which sets out the obligation of States Parties to ensure that women are not criminally prosecuted and do not incur legal sanctions for having recourse to medical abortion in the cases set forth in the Maputo Protocol;

Noting the additional trauma to the physical and mental health of a woman who is forced to continue a pregnancy as a result of sexual assault, rape, incest or a situation endangering the health or life of both the mother and her fetus;

Concerned also by the increase in sexual and gender-based violence across of Africa, both in conflict or crisis situations and in times of peace;

Recalling the Resolutions adopted by the Commission on the fight against sexual violence and its consequences, in particular Resolution ACHPR/Res.111(XXXXII) 07 of 28 November 2007 on the right to a remedy and reparation for women and girls victims of sexual violence;

Reminding States of their obligation to prevent all forms of sexual violence by eliminating all the root causes of that violence, notably by conducting awareness-raising campaigns to combat gender stereotypes and prejudices;

Noting the urgent need to strengthen the efforts of African states to better ensure access to all forms of assistance required by victims of sexual violence, including the establishment of medical and psychological care centers;

Denouncing the endemic impunity that perpetrators of such violence continue to benefit in many African countries, and the ineffective access to justice, and effective and accessible reparation programmes for victims of sexual violence;

We, the participants in the Forum on NGO Participation in the 75th Ordinary Session of the African Commission on Human and Peoples' Rights held in Banjul, The Gambia, from 29 April to 1 May 2023, call on the Commission to adopt a resolution on women's rights in Africa to:

- **Call on** the African States to comply with their regional and international obligations in relation to the rights of women in Africa by incorporating them into their domestic law, and by repealing all legislation or regulations that are counter these progressive laws;
- **Urge** Member States of the African Union that have not yet ratified the Maputo Protocol to immediately ratify this instrument without reservation;
- **Call on** the African States that have ratified the Maputo Protocol to ensure its effective implementation in all its dimensions, in particular by taking all necessary measures to combat sexual violence and by decriminalizing medical abortion in cases of sexual assault, rape and incest and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the fetus;
- **Invite** States Parties with reservations to the Protocol, including on safe abortion, to carefully review these reservations, and to remove them so as to ensure women can fully exercise their rights;
- **Call on** the Member States of the African Union to take all necessary measures to implement the provisions of the *Guidelines on combating sexual violence and its consequences in Africa*, and that the rights and obligations contained therein are guaranteed in law and in fact;

Done at Banjul, 1st May 2023

TRES/001/05/23: RÉSOLUTIONS SUR LES DROITS DES FEMMES EN AFRIQUE

Nous, participants au Forum sur la participation des ONG à la 75ème session ordinaire de la Commission africaine des droits de l'homme et des peuples, tenu à Banjul, en Gambie, du 29 avril au 1er mai 2023,

Rappelant le mandat de promotion et de protection des droits humains dont est investie la Commission africaine des droits de l'Homme et des Peuples (CADHP) en vertu de la Charte africaine des droits de l'Homme et des peuples (Charte africaine) en particulier son article 18.3 garantissant la protection des droits des femmes ;

Rappelant les dispositions du Protocole à la Charte africaine des droits de l'Homme et des Peuples relatif aux droits de la femme en Afrique (Protocole de Maputo), adopté il y a 20 ans, et qui engagent les États parties à l'adoption de mesures spécifiques pour lutter contre les violences à l'égard des femmes, notamment les violences sexuelles (Article 3 (4) ; Article 4 ; Article 5 ; Article 6 ; Article 11 (3) ; Article 22 (b) ; Article 23 (b)), et à autoriser l'avortement médicalisé en cas d'agression sexuelle, de viol, d'inceste et lorsque la grossesse met en danger la santé mentale et physique de la mère ou la vie de la mère ou du fœtus (Article 14 (2) (c)) ;

Rappelant les *Lignes directrices pour lutter contre les violences sexuelles et leurs conséquences en Afrique*, adoptées par la Commission au cours de sa 60ème session du 8 au 22 mai 2017, qui appellent les États parties à harmoniser les dispositions de leur droit interne avec le Protocole de Maputo, et rappellent leurs obligations de prévenir les violences sexuelles en sensibilisant la population à leurs causes et conséquences afin de dissuader la commission de tels actes et de réduire la stigmatisation préjudiciable des victimes, de protéger celles-ci en mettant en place toutes les mesures d'assistance et de soutien nécessaires incluant des services d'avortement médicalisé pour les femmes victimes de viol, et d'enquêter et de poursuivre les auteurs de ces violences en mettant en place des recours effectifs, suffisants et rapides pour les victimes ;

Considérant que 43 États africains ont ratifié le protocole de Maputo et se sont donc engagés à intégrer dans leur législation nationale des garanties relatives aux droits des femmes, la plupart des États s'engageant à lutter contre les violences sexuelles et à pratiquer des avortements sans risque dans des cas tels que ceux cités plus haut ;

Profondément préoccupé par les législations restrictives existant dans certains États membres qui ne prévoient pas de mesures de protection ou d'avortement sûr en cas d'agression sexuelle, de viol, d'inceste et lorsque la poursuite de la grossesse met en danger la santé mentale et physique de la mère ou la vie de la mère ou du fœtus ;

Rappelant le Plan d'action de Maputo 2016-2030 sur les droits sexuels et reproductifs qui appelle notamment les États parties à adopter des politiques et des cadres juridiques afin de réduire les cas d'avortement à risque ;

Rappelant l'Observation générale n° 2 de l'Article 14.1 (a), (b), (c) et (f) et de l'Article 14.2 (a) et (c) au Protocole de Maputo qui énonce l'obligation pour les États parties de s'assurer que les femmes ne fassent pas l'objet de poursuites pénales et n'encourent pas de sanctions juridiques pour avoir eu recours à l'avortement médicalisé dans les cas prévus par le Protocole ;

Notant le traumatisme supplémentaire qui affecte la santé physique et mentale d'une femme obligée de poursuivre une grossesse résultant d'une agression sexuelle, d'un viol, d'un inceste ou d'une situation de danger tant pour la santé ou la vie de la mère que de son fœtus ;

Préoccupée également par l'augmentation de la violence sexuelle et sexiste dans toute l'Afrique, tant dans les situations de conflit ou de crise qu'en temps de paix ;

Rappelant les Résolutions adoptées par la Commission en matière de lutte contre les violences sexuelles et leurs conséquences notamment la Résolution CADHP/Rés.111(XXXII) 07 du 28 novembre 2007 sur le droit à un recours et à une réparation pour les femmes et les filles victimes de violences sexuelles ;

Rappelant aux États leur obligation de prévenir toutes les formes de violences sexuelles en éliminant toutes les causes profondes de ses violences, notamment en menant des campagnes de sensibilisation afin de combattre les stéréotypes et préjugés basés sur le genre ;

Notant la nécessité impérieuse de renforcer les efforts des États africains pour mieux garantir l'accès à toutes formes d'assistance requises par les victimes de violences sexuelles, notamment la création de centres de soins médicaux et psychologiques ;

Dénonçant l'impunité endémique dont continue de bénéficier, dans de nombreux pays africains, les auteurs de ces violences, et l'absence d'accès effectif à la justice et de

programmes de réparation efficaces et accessibles pour les victimes de violences sexuelles ;

Nous, les participants au Forum sur la participation des ONG à la 75e session ordinaire de la Commission africaine des droits de l'homme et des peuples tenue à Banjul, en Gambie, du 29 avril au 1er mai 2023, demandons à la Commission d'adopter une résolution sur droits de la femme en Afrique pour :

- **Exiger** que les États africains se conforment à leurs obligations régionales et internationales en matière de droits des femmes en les transposant dans leur droit interne, et en abrogeant toutes les législations ou réglementations qui y seraient contraires ;
- **Appeler** instamment les États membres de l'Union africaine n'ayant pas ratifié le Protocole de Maputo à le faire, sans réserve et dans les plus brefs délais ;
- **Exhorter** les États africains ayant ratifié le Protocole de Maputo à assurer son implémentation effective dans toutes ses dimensions, notamment en prenant toutes les mesures nécessaires pour lutter contre les violences sexuelles et en dépenalisant l'avortement médicalisé en cas d'agression sexuelle, de viol et d'inceste et lorsque la grossesse met en danger la santé mentale et physique de la mère ou la vie de la mère ou du fœtus ;
- **Inviter** les États parties qui ont émis des réserves au protocole, notamment sur l'avortement sans risque, à réexaminer attentivement ces réserves et à les lever afin que les femmes puissent exercer pleinement leurs droits ;
- **Appeler** les États membres de l'Union africaine à prendre toutes les mesures nécessaires pour mettre en application les dispositions des *Lignes Directrices pour lutter contre les violences sexuelles et leurs conséquences en Afrique*, et que les droits et obligations qu'elles prévoient soient garantis en droit et en fait ;

Fait à Banjul, le 1^{er} mai 2023

**TRES/002/05/23: RESOLUTIONS ON THE HUMAN RIGHTS SITUATION
IN SAHEL**

We, the participants in the Forum on NGO Participation in the 75th Ordinary Session of the African Commission on Human and Peoples' Rights held in Banjul, The Gambia, from 29 April to 1 May 2023,

Recalling the African Commission on Human and Peoples' Rights (ACHPR) mandate to promote and protect human rights under Article 45 of the African Charter on Human and Peoples' Rights (African Charter);

Recalling the Constitutive Act of the African Union requiring "respect for democratic principles, human rights, the rule of law and good governance" (Article 4.m) ;

Recalling the obligations of the Sahel countries (**Mali, Burkina Faso, Chad, Niger and Mauritania**) under the African Charter, the African Charter on Democracy, Elections and Governance and other regional and international human rights instruments duly ratified by these States;

Recalling the relevant provisions of the African Charter that guarantee the right to life (Article 4), liberty and security of the person (Article 6), the right to freedom of expression and access to information (Article 9), the right to freedom of association (Article 10), and the right to freedom of assembly (Article 11);

Recalling Articles 2, 6 and 19 of the International Covenant on Civil and Political Rights (ICCPR), emphasising respect for rights, including the freedom to hold opinions and to freely express them by all persons, and prohibiting arbitrary arrest and detention and promoting the release of accused persons pending trial;

Recalling in particular Articles 1, 4, 5, 7 and 9 of the **Malian** Constitution of 25 February 1992, which respectively guarantee the right to life, the rights to freedom of opinion and expression, freedom of association, assembly, procession and demonstration, freedom of the press, and the presumption of innocence, ...;

Recalling in particular the **Burkina Faso** Transition Charter of 14 October 2022, which promotes respect for fundamental rights and freedoms in its preamble and Article 1?

Recalling the **Chad** Transitional Charter of April 2021, which guarantees in its articles 6, 8, 10, 12, 22 and 33 fundamental rights and freedoms, including the right to life, the

right to a fair trial, the right not to be subjected to cruel treatment, and the freedoms of opinion, expression, press, association and demonstration;

Recalling the relevant provisions of Articles 9, 11, 30 and 32 of the **Nigerien** Constitution of 25 November 2011 enshrining the right to life, security, freedom of expression, opinion, assembly and demonstration;

Recalling the provisions of the amended **Mauritanian** Constitution of 1991, in particular Articles 10 and 13 (new), which enshrine the right to life, freedom of opinion, thought, expression and association;

Recalling also Resolution N°54 of 2001 of the ACHPR on Freedom of Expression which, noting with *"concern the frequent violation of this right by States Parties to the African Charter through the harassment, arbitrary arrest and detention of journalists, the persecution of media organs deemed critical of the established order, the inadequate legal frameworks for the regulation of the electronic media, in particular broadcasting, as well as civil and criminal law that inhibit the right to freedom of expression"* and recognising that *"freedom of expression is an essential attribute of human existence in all spheres of life and that the cardinal role of freedom of expression in human development is now globally recognised"*;

Recalling further the previous resolutions of the ACHPR on the situation in **Mali**, and in particular its Resolution No. 441 of 7 August 2020, adopted at its 66th ordinary session, deploring *"the violation of many rights guaranteed by the Charter, including the right to freedom of association and assembly, freedom of expression, as well as protection against arbitrary arrest and detention"* and requesting *"the competent authorities to authorise a fact-finding mission in Mali"*;

Recalling also the press releases issued by the ACHPR on **Mali** on 26 May 2021, 18 August 2020, 14 July 2020, in particular urging *"all parties to calm down and to guarantee a respectful climate for the human rights of the Malian population (...)"* and *"inviting the security forces to respect human life, physical integrity, freedom of assembly and demonstration, and the right to property as protected by the African Charter on Human and Peoples' Rights and other relevant instruments"*;

Recalling the ACHPR press release of 9 February 2023 on the attack on Nigerian pilgrims travelling to eastern **Burkina Faso**, calling on *"the highest authorities of Burkina Faso to step up efforts to ensure the civilian population's security throughout the national territory as well as the protection of the right to life and physical integrity, as guaranteed by Article 4 of the African Charter on Human and Peoples' Rights"*;

Deeply concerned about the human rights situation in Sahel countries, a region plagued by several years of security and institutional crisis resulting in massive human

rights violations on the one hand, and a manifest hardening of the regimes in place on the other, of which the repression of human rights defenders is one of the main aspects, notably in **Mali, Burkina Faso** and **Chad**;

Particularly concerned that the post-coup transitional governments in **Mali, Burkina Faso** and **Chad** are restricting democratic space, with repeated violations of the freedoms of opinion, expression, demonstration and the press, through intimidation, judicial harassment, arbitrary arrests and other forms of threats and pressure on people expressing opinions critical of the transitional authorities;

Deplore in particular the restrictions on the right to information and freedom of the press, manifested by the authorities' increased control of the media, the progressive practice of self-censorship by journalists and the media in **Mali** and **Burkina Faso**;

Condemning the abuses and human rights violations that could qualify as war crimes and crimes against humanity perpetrated by all parties to the conflict, including jihadist groups, national armed forces, militias and paramilitary partners, against the civilian population in central **Mali**, where the latest attack during Eid against civilians caused 10 deaths;

Condemning also the alarming deterioration of the human rights situation in **Burkina Faso** as evidenced by the multiplication of violations committed by all parties to the conflict, including the national defence and security forces, the Kogweologo self-defence militia and the *Volontaires de Défense pour la Patrie* (VDP), regularly involved in atrocities, including those that occurred in Dori in April 2023 and in Karma on 21 April of the same year, which resulted in at least 60 civilian deaths;

Particularly concerned by the reign of impunity for the perpetrators of these serious crimes in **Mali** and **Burkina Faso**, where international crimes proceedings have made little progress or are at a standstill, while victims are still demanding justice and truth, while fearing reprisals, in the absence of adequate protection measures;

Concerned by the existence in **Niger** of several repressive laws that impose a pre-authorisation system for the organisation of marches and the arbitrary and discriminatory selection of movements authorised to protest, as well as by the harassment, arbitrary arrests and abusive prosecutions of human rights defenders who denounce violations committed by State representatives

Condemning in particular the arbitrary detention of **Mr. Abdoulaye Seydou**, coordinator of the M62 Movement and the Pan-African Network for Peace, Democracy and Development (REPPAD), detained in **Niger** since 23 January 2023, tried and sentenced to nine months' imprisonment in April in the first instance for "*producing and*

disseminating information likely to disturb public order" after he denounced abuses committed by the Nigerien armed forces in Tamou last January¹ ;

Condemning on one hand the judicial harassment, threats and acts of intimidation in **Mali** against **Mrs Aminata Dicko**, vice-president of the Observatoire Kisal, and **Mr Malick Konaté**, journalist and activist, both forced into exile; and the arbitrary detention of the Chronicler **Mohamed Youssef Bathily** alias Rasbath and the activist against the high cost of living in Mali, **Mrs Sidibé Rokia Doumbia**, both imprisoned for having criticised the Transitional authorities, in violation of due process and the right to a fair trial; as well as the recurrent kidnappings, sequestrations and extra-judicial detentions by Mali's general intelligence services called "SE", the latest being the case of the Journalist **Aliou Touré**;

Particularly concerned by the hate messages, incitement to violence, attacks on privacy and repeated attacks against defenders in **Burkina Faso**, notably in January following a serious incident in Mouna, of defenders **Dr Daouda Diallo** and **Binta Sidibé**;

Deploring the systematic and persistent criminalisation of **Chadian** civil society defending human rights since April 2021, resulting in the judicial harassment of human rights NGO leaders, in particular the arbitrary arrests and unconcealed surveillance of several Chadian civil society defenders and figures, as well as the threats against them, since the peaceful demonstrations of May 2022 and October 2022, whose repression resulted in 6 and 128 deaths respectively;

Condemning the murder, last February, of **Souvi Ould Jibril Ould Cheine**, Mauritanian activist and blogger who died in the police station N°2 of Dar Naim, Nouatchott, following his arrest by the police;

We, the participants in the Forum on NGO Participation in the 75th Ordinary Session of the African Commission on Human and Peoples' Rights held in Banjul, The Gambia, from 29 April to 1 May 2023, call on the Commission to adopt a resolution on women's rights in Africa to:

- **Call** for a definitive return to constitutional governance through civilian rule in all states under military transitional governance and in accordance with the timetable established in common agreement with the sub-regional institutions
- **Stop** all infringement and restriction of fundamental freedoms, to guarantee the respect of human rights and to establish all conditions for a free, inclusive, democratic and peaceful political and social dialogue;

¹ <https://www.fidh.org/fr/themes/defenseurs-des-droits-humains/niger-condamnation-d-abdoulaye-seydou>

- **Recall** the Sahelian authorities obligation to respect the rights of human rights defenders at all times and to guarantee the necessary conditions for an environment favourable to their legitimate action to promote and defend rights, and to cease all forms of pressure on civil society;
- **Call** on the **transitional authorities** of the above-mentioned countries to immediately cease the repression and human rights violations committed against citizens, human rights defenders, journalists, the media and civil society, with particular reference to **Mali, Burkina and Chad**;
- **Encourage** the **five countries' authorities** to recognise human rights defenders and use all available means to enable them to carry out their legitimate activities without hindrance or fear of reprisals
- **Call** on the **transitional authorities** of the concerned countries to release immediately and unconditionally all detainees of conscience and to guarantee the right to demonstrate as a means of peaceful expression in a democracy;
- **Call** on all actors, including the Sahel country authorities and their supporting groups, to immediately cease intimidation, judicial harassment, attacks or reprisals against defenders and their families;
- **Call** on the **Malian and Nigerien authorities** to amend their cybercrime legislation to comply with international and regional human rights standards, particularly those relating to freedom of expression;
- **Call** on the **Chadian authorities** to investigate and prosecute the perpetrators of serious human rights violations in Chad, including those committed in May and October 2022;
- **Call** on the **Malian authorities** to pursue the current judicial investigations and prosecute the perpetrators of human rights violations, including war crimes such as the Moura massacre;
- **Call** on the **Burkinabe authorities** to provide adequate judicial responses to the various civilian massacres such as those in Djibo, Dori, Karma..;
- **Decide** to hold human rights promotion missions to the **Republics of Mali, Burkina Faso and Chad**, composed of the President of the Commission, the Rapporteur in charge of the human rights situation in Mali, and the relevant special rapporteurs, in order to meet with the national authorities, the political opposition and civil society to work for the promotion and protection of human rights in the country;

Done at Banjul, 1st May 2023