

# **Ending intimidation and reprisals against those who cooperate with the African Human Rights System**

**Submission to the Focal Point on Reprisals of the  
African Commission on Human and Peoples' Rights**

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## I. INTRODUCTION

ISHR is pleased to make the following submission to the Focal Point on Reprisals of the African Commission on Human and Peoples Rights (ACHPR) to inform his annual report to be presented at the ACHPR in October 2020.

This submission addresses the applicable legal framework and provides details of cases of intimidation and reprisals that ISHR was made aware of during the reporting period (12 May 2014 - 12 May 2020), as well as our understanding of how these cases have been addressed by relevant States.

ISHR works to bring cases of alleged intimidation and reprisals to the attention of relevant international and regional bodies and mechanisms in an effort to press for effective preventative measures and responses to alleged cases of reprisals.<sup>1</sup> ISHR is committed to raising awareness about the issue of reprisals and encouraging a robust and consistent response from the ACHPR, which, together with the African Court on Human and Peoples' Rights (AfCHPR) and the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), are the primary human rights organs of the African Union.

Several of the individual cases of intimidation and reprisals described below have taken place in a context of systematic harassment, threats and attacks against human rights defenders. Abuses come in many forms, including the use and abuse of laws to criminalise the work of human rights defenders, the initiation of arbitrary legal proceedings intended to hinder such work, defenders having their activities unreasonably restricted and their organisations unfairly scrutinised, being spied on or defamed, denied access to funding, or being subject to arbitrary arrest, physical violence, and death. In addition to being used punitively, reprisals often take place as a deterrent measure.

Preventing and addressing cases of intimidation and reprisals is closely associated with States' obligations to ensure a safe and enabling environment for human rights defenders and other civil society actors to carry out all aspects of their work. The issue of intimidation and reprisals against individuals who seek to or have communicated or cooperated with human rights representatives, bodies and mechanisms is one of the central challenges facing regional and international human rights systems. Such reprisals violate human rights and fundamental freedoms that regional and international systems are obliged to promote and protect. They also seriously impede bodies and mechanisms' abilities to discharge their mandates effectively, threaten their integrity, and undermine the credibility of their work in the field of human rights.

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<sup>1</sup> See for example, 'Ending intimidation and reprisals against those who cooperate with the UN in the field of human rights, Submission to the UN Secretary-General on recent developments, cases and recommendations', May 2020, available at: [https://www.ishr.ch/sites/default/files/documents/ishr\\_submission\\_to\\_sg\\_reprisals\\_report\\_2020\\_final.pdf](https://www.ishr.ch/sites/default/files/documents/ishr_submission_to_sg_reprisals_report_2020_final.pdf)

## II. THE PROTECTION OF INDIVIDUALS WHO COOPERATE WITH THE AFRICAN HUMAN RIGHTS SYSTEM

The right of individuals to communicate or cooperate with regional and international human rights bodies, including the African human rights system, is derived from international human rights law and, in particular, the rights to freedom of expression and association.<sup>2</sup> The right of effective access to such bodies requires that States take all appropriate measures to protect individuals from reprisals for such communication or cooperation and from all forms of intimidation to prevent or hinder such communication or cooperation.

The right of all individuals to unhindered access to and communication with international bodies with general or specific competence to receive and consider communications on matters of human rights is specifically recognised by the United Nations Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (the Declaration on Human Rights Defenders).<sup>3</sup>

The Declaration on Human Rights Defenders further recognises the right of individuals who seek to or have communicated or cooperated with international human rights bodies to protection from reprisals for such communication or cooperation.<sup>4</sup> The right to be free from reprisals that threaten an individual's life or physical liberty can also be an aspect of

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<sup>2</sup> The Universal Declaration on Human Rights (Articles 13, 19, 20), the International Covenant on Civil and Political Rights (Articles 12, 19, 22), the International Covenant on Economic, Social and Cultural Rights (Article 8, Optional Protocol Article 13), the Convention on the Elimination of All Forms of Racial Discrimination (Article 5(d)(i), (viii)), the Convention on the Elimination of All Forms of Discrimination against Women (Article 7, Optional Protocol Article 11), the Convention on the Rights of the Child (Article 13), the European Convention on Human Rights (Articles 10, 11, Article 2 to Protocol No 4), the African Charter on Human and Peoples' Rights (Articles 9, 10, 12), the American Convention on Human Rights (Articles 13, 16, 22), the Arab Charter on Human Rights (Article 28), the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (Article 13, Optional Protocol Article 15), the Convention No 87 on Freedom of Association and Protection of the Right to Organise of the International Labour Organisation (Article 2); and UNGA Resolution 53/144 on the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, 8 March 1999, UN Doc A/RES/53/144, Annex, Articles 5, 6. See also, United Nations, *Commentary to the Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms*, July 2011, p 48.

<sup>3</sup> UNGA Resolution 53/144 on the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, 8 March 1999, UN Doc A/RES/53/144, Annex, Articles 5(c), 9(4).

<sup>4</sup> UNGA Resolution 53/144 on the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, 8 March 1999, UN Doc A/RES/53/144, Annex, Articles 2(1), 9(1), 12(2). In this submission, the term "reprisal" is used to denote any form of violence, threats, retaliation, de facto or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of a individual's attempted or actual communication or cooperation with an international human rights body that amounts to a violation of that individual's human rights.

the protection afforded by other international human rights, such as freedom from arbitrary arrest, detention or deprivation of liberty; torture; cruel, inhuman and degrading treatment; and arbitrary deprivation of life where, as is too often the case, acts of reprisal amount to violations of such freedoms.<sup>5</sup> ISHR further notes that international human rights jurisprudence establishes that States that confiscate passports, issue travel bans or prevent human rights defenders or representatives of NGOs from attending international meetings may contravene the right to freedom of movement under Article 12 of the International Covenant on Civil and Political Rights.<sup>6</sup>

States have the primary responsibility for protecting and enforcing the rights of individuals who seek to or have communicated or cooperated with international human rights bodies.<sup>7</sup> As subjects of international law, international organisations such as the ACHPR and the AU may also be bound by these obligations.<sup>8</sup>

### **III. DEVELOPMENTS WITHIN THE AFRICAN HUMAN RIGHTS SYSTEM**

In May 2014, the ACHPR created a monitoring mechanism by extending the mandate of the Special Rapporteur on Human Rights Defenders to include the role of Focal Point on Reprisals following the ‘grave concern’ expressed by the ACHPR in the face of frequent and serious reprisals against civil society activists, particularly human rights defenders.<sup>9</sup>

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<sup>5</sup> The Universal Declaration on Human Rights (Articles 3, 5, 9, 10, 11); the International Covenant on Civil and Political Rights (Articles 4, 7, 9, 14); the European Convention on Human Rights (Articles 2, 3, 5, 6); the African Charter on Human and Peoples’ Rights (Articles 4, 5, 6, 7); the American Convention on Human Rights (Articles 4, 5, 7, 8); the Arab Charter on Human Rights (Articles 5, 8, 12, 13, 14); and the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (Articles 1, 2).

<sup>6</sup> Human Rights Committee, ‘Concluding Observations: Morocco’, UN Doc CCPR/CO/82/MAR, 1 December 2004, §18. Freedom of movement is also protected under Article 12 of the African Charter on Human and Peoples’ Rights.

<sup>7</sup> UNGA Resolution 53/144 on the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, 8 March 1999, UN Doc A/RES/53/144, Annex, preambular para 7, Article 2; UNGA Resolution 66/164 on the Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, 19 December 2011, UN Doc A/RES/66/164, preambular para 15. For the manner in which human rights treaties link States’ obligations to ensure respect for human rights and the exercise of territorial control and jurisdiction, see, eg, the International Covenant on Civil and Political Rights, Article 2(1)–2(3).

<sup>8</sup> *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt (Advisory Opinion)* [1980] ICJ Rep 73, pp 89–90. See also *Reparation for injuries suffered in the service of the United Nations (Advisory Opinion)* [1949] ICJ Rep 174, pp 179–180. For the purpose of being a “subject” of international law, international organisations include their subsidiary organs in the same manner that State organs form part of the State for the purpose of its status as a subject of international law.

<sup>9</sup> ACHPR/Res.273 (LV) 14 of 12 May, 2014.

In order to operationalise the mandate of the Focal Point on reprisals and contribute effectively to the prevention and fight against reprisals, the then Focal Point on reprisals, Commissioner Reine Alapini Gansou, organised a regional meeting with civil society actors in February 2015 to brainstorm on appropriate strategies to be adopted in order to adequately address the issue of reprisals. Three important documents were adopted at the end of that meeting: a procedural guide for communication between the Focal Point, alleged victims and States parties; a form to collect and transmit information relating to allegations of reprisals and intimidation; and a briefing and guidance note on communication with the African Commission focal point on reprisals.<sup>10</sup>

In October 2019, at the 65th session of the ACHPR, Mr. Rémy Ngoy Lumbu, the Special Rapporteur on human rights defenders and Focal Point on reprisals in Africa, launched the mandate's working documents. This includes a Policy and Information Note on how to communicate with the mandate regarding incidents of reprisals.<sup>11</sup> Shortly thereafter, the Focal Point issued a call for submissions for an annual report that will summarize main trends and contain a selection of cases brought to the attention of the Focal Point.<sup>12</sup>

#### **IV. UNDUE RESTRICTIONS ON ACCESS TO ACHPR SESSIONS**

The free engagement of individuals and groups with the ACHPR is critical to its efficiency and effectiveness. In that regard, the sessions of the ACHPR as well as the NGO Forum that precedes each ordinary session are crucial for creating space for robust conversations on the overall state of human rights in Africa and the various human rights issues that have emerged inter-sessionally.

The UN Declaration on Human Rights Defenders reaffirms the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies. Actions that hinder or restrict the ability of individuals and organizations to cooperate with the ACHPR violate this right, undermine the ACHPR's effectiveness and credibility, and amount to an attack on the African System itself. By becoming a party to African Charter on Human and Peoples' Rights, a State undertakes to cooperate with the ACHPR in good faith and to exercise due diligence in doing so.

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<sup>10</sup> Mandate of the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa, End Of Mandate Report, presented by Madam Reine Alapini-Gansou, Commissioner and Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa, November 2017

[http://www.achpr.org/files/sessions/61st/inter-act-reps/295/comm\\_gansou\\_srhrrd\\_61\\_act\\_report\\_eng.pdf](http://www.achpr.org/files/sessions/61st/inter-act-reps/295/comm_gansou_srhrrd_61_act_report_eng.pdf).

<sup>11</sup> French:

[https://www.achpr.org/public/Document/file/French/ACHPR%20Fact%20Sheet%201%20on%20Reprisal%20in%20Africa\\_FRE.pdf](https://www.achpr.org/public/Document/file/French/ACHPR%20Fact%20Sheet%201%20on%20Reprisal%20in%20Africa_FRE.pdf); English:

<https://www.achpr.org/public/Document/file/English/Fact%20Sheet%20N%C2%B01%20on%20Reprisals%20in%20Africa.pdf>

<sup>12</sup> <https://www.achpr.org/announcement/detail?id=74>

The States that host sessions of the ACHPR are under an obligation to allow free and unhindered access to the ACHPR and the NGO Forum. However, as the cases illustrate below, this obligation has not been met by recent hosts, including **Mauritania** and **Egypt**.

## V. UNDUE RESTRICTIONS ON ACCREDITATION

NGOs play a crucial role in the activities of the ACHPR. They draw the attention of the ACHPR to violations of the Charter, bring communications on behalf of individuals, monitor States' compliance with the Charter, and help to increase awareness about the ACHPR's activities. NGOs participate in the ACHPR's public sessions and engage with the reporting procedure by submitting shadow reports and popularising concluding observations. Since 1988, the ACHPR has been granting 'observer status' to NGOs.<sup>13</sup>

Observer status is an official recognition that allows NGOs to participate in ACHPR activities and to access the African Court on Human and Peoples' Rights. Observer status is a prerequisite for some forms of participation in the ACHPR's activities, e.g. to make oral statements during a session and to propose additions to the session agenda.<sup>14</sup> NGOs with observer status are invited to the openings and closings of all ACHPR sessions, have access to non-confidential ACHPR documents that deal with issues relevant to the NGO's interests, and may be invited to be present at closed ACHPR sessions that deal with issues that are of particular interest at which they may be authorized to make a statement on issues that concern the NGO.<sup>15</sup>

### Coalition of African Lesbians

The Coalition of African Lesbians (CAL) is a feminist, activist and pan Africanist network of 14 organisations in 10 countries in sub-Saharan Africa committed to advancing freedom, justice and bodily autonomy for all women on the African continent and beyond. CAL is based in Johannesburg. CAL was granted observer status with the ACHPR on 25 April 2015,<sup>16</sup> following the submission of a new application by CAL in August 2014. The re-submission of the application followed a process spanning seven years from CAL's initial application in 2008 and the rejection of that application in October 2010. At the time, the ACHPR wrote: "*The ACHPR decided, after a vote, not to grant Observer Status to the Coalition for African Lesbians (CAL), South Africa, whose application had been pending*

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<sup>13</sup> <https://www.achpr.org/ngos>

<sup>14</sup> ACHPR Resolution on the Criteria for Granting and Enjoying Observer Status to Non-Governmental Organizations Working in the field of Human and Peoples' Rights, Resolution 33, 5 May 1999, chapter II, paras. 5-6

<sup>15</sup> ACHPR Resolution on the Criteria for Granting and Enjoying Observer Status to Non-Governmental Organizations Working in the field of Human and Peoples' Rights, Resolution 33, 5 May 1999, chapter II, paras. 1(a), 2-4.

<sup>16</sup> [https://www.achpr.org/public/Document/file/English/56thos\\_final\\_communique\\_en.pdf](https://www.achpr.org/public/Document/file/English/56thos_final_communique_en.pdf)



*before it. The reason being that, the activities of the said Organisation do not promote and protect any of the rights enshrined in the African Charter.”* A major Africa-wide campaign calling for the ACHPR to reconsider the decision followed from the October 2010 session of the ACHPR to the 2015 session when CAL was granted observer status.<sup>17</sup>

CAL is the only regional, membership-based organisation that works specifically to advance the rights of lesbians and women’s rights more broadly in their diversity in Africa. CAL has used its observer status to make statements before the ACHPR that shed light on a wide range of human rights violations experienced by women. CAL has also worked with member organisations to prepare shadow reports during country reviews, collaborated with Commissioners of the ACHPR on thematic reports including focusing on the denial of abortion and post abortion care as torture, as well as a groundbreaking report on the situation of women human rights defenders in Africa.

In 2015, the African Union (AU) Executive Council decision directed the ACHPR to withdraw CAL’s observer status.<sup>18</sup> CAL and the Centre for Human Rights of the University of Pretoria filed a joint request for an advisory opinion before the ACtHPR in November 2015, seeking an interpretation of the scope of the supervisory powers of the political organs of the AU vis-à-vis the ACHPR. In the meantime, the ACHPR postponed taking any action on CAL’s observer status until the opinion was rendered. Also in the meantime, the AU Executive Council requested the ACHPR review its criteria for granting observer status to NGOs.<sup>19</sup> In September 2017, the ACtHPR ruled that it could not render an opinion on the matter because CAL and the Centre for Human Rights did not have the legal status to file requests for advisory opinions before the Court.<sup>20</sup>

The ACHPR explained in its 43rd Activity Report submitted to the AU Executive Council in January 2018, that it could not withdraw CAL’s observer status as it was properly granted and that it is duly mandated under the African Charter to promote and protect the rights of everyone without any form of distinction.<sup>21</sup> However, the AU Executive Council asserted in a January 2018 decision that CAL’s observer status must be withdrawn.<sup>22</sup> A retreat was convened from 4-5 June 2018 in Nairobi between the ACHPR and the AU Permanent Representatives’ Committee (PRC), which resulted in ‘an ultimatum’ to the

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<sup>17</sup> <http://www.pambazuka.net/en/category.php/features/68953>

<sup>18</sup> Decision on the 38th Activity Report of the African Commission on Human and Peoples’ Rights, EX.CL/Dec.887(XXVII), adopted during the 27th Ordinary Session of the AU Executive Council, 7-12 June 2015, Johannesburg, South Africa.

<sup>19</sup> [https://au.int/sites/default/files/decisions/29513-ex\\_cl\\_dec\\_898\\_-\\_918\\_xxviii\\_e.pdf](https://au.int/sites/default/files/decisions/29513-ex_cl_dec_898_-_918_xxviii_e.pdf) at para 7.

<sup>20</sup> Request for Advisory Opinion by the Centre for Human Rights of the University of Pretoria and the Coalition of African Lesbians, ACtHPR No. 002/015, Advisory Opinion, 28 September 2017.

<sup>21</sup> 43rd Activity Report of the African Commission on Human and Peoples’ Rights, para. 51.

<sup>22</sup> Decision on the African Commission on Human and Peoples’ Rights, EX.CL/Dec.995(XXXII), adopted during the 32nd Ordinary Session of the AU Executive Council, 25-26 January 2018, Addis Ababa, Ethiopia.

ACHPR to withdraw CAL's observer status before 31 December 2018.<sup>23</sup> On 8 August 2018 the Secretariat of the ACHPR communicated the decision to withdraw CAL's observer status, citing compliance with the AU Executive Council's decisions of 2016<sup>24</sup> and 2018.<sup>25</sup>

The AU's directives run counter to the spirit and letter of Article 42(2) of the African Charter which empowers the ACHPR to independently lay down its rules of procedure. The ACHPR's decision also violates the rights of freedom of expression and association of CAL and its members on discriminatory bases, and sets a dangerous precedent. Furthermore, the decision violates the right enshrined in the Declaration on Human Rights Defenders to unhindered access to and communication with international bodies. The AU and ACHPR must ensure apolitical, fair and transparent consideration of all NGO applications for consultative status.

## VI. CASES OF INTIMIDATION AND REPRISALS

### ANGOLA

Lusophone defenders who attended the 65th session of the ACHPR in Banjul in October 2019, reported being harassed by the Angolan representative, the Angolan Ambassador to Nigeria, Eustaquio Quibato. Quibato approached human rights defenders several times, claiming they were 'tarnishing' Angola's image.<sup>26</sup>

On 23 October 2019, **Nelida Sousa** delivered a statement on behalf of the 'Grupo Lusofono' (a coalition of Lusophone human rights defenders), regarding human rights violations in the five lusophone countries (Angola, Cape Verde, Guinea-Bissau, Mozambique and São Tomé e Príncipe). Shortly after delivering the statement, she was accosted by the Angolan Ambassador during a break, who was aggressive in his tone

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<sup>23</sup> Decision on the Report of the Joint Retreat of the Permanent Representatives' Committee (PRC) and the African Commission on Human and Peoples' Rights, EX.CL/Dec.1015(XXXIII), adopted during the 33rd Ordinary Session of the AU Executive Council, Nouakchott, Mauritania.; The State of African Regional Human Rights Bodies and Mechanisms 2018-2019, Amnesty International, October 2019, <https://www.amnesty.org/download/Documents/AFR0111552019ENGLISH.PDF>

<sup>24</sup> [https://au.int/sites/default/files/decisions/29513-ex\\_cl\\_dec\\_898\\_-\\_918\\_xxviii\\_e.pdf](https://au.int/sites/default/files/decisions/29513-ex_cl_dec_898_-_918_xxviii_e.pdf) at para 7. The AU Executive Council's decision of 2016 (EX.CL/938(XXVIII)) requested the ACHPR review its criteria for granting observer status to NGOs.

<sup>25</sup> [https://au.int/sites/default/files/decisions/34717-ex\\_cl\\_dec\\_1008\\_-1030\\_xxiii\\_e.pdf](https://au.int/sites/default/files/decisions/34717-ex_cl_dec_1008_-1030_xxiii_e.pdf) at para 8. The AU Executive Council's decision of 2018 (EX.CL/Dec.1015 (XXXIII)) explicitly directed the ACHPR to withdraw CAL's observer status at the ACHPR. <http://www.cal.org.za/2018/08/17/women-and-sexual-minorities-denied-a-seat-at-the-table-by-the-african-commission-on-human-and-peoples-rights/>

<sup>26</sup> <https://mosaiko.op.org/representante-de-angola-intimida-defensores-de-direitos-humanos/>

and accused her of favouring international agendas by tarnishing the image of the country when these matters should only be dealt with at the national level. On the same day, the Angolan Ambassador also intimidated four of Nelida's colleagues in a similar fashion, including **João Malavindele** of Omunga, who had delivered a statement denouncing the illegal arrests of refugees and asylum seekers in Angola.

In response, **Delma Monteiro** of the Gender Observatory (ASSOGE) made a statement on 28 October 2019, denouncing the intimidation. Commissioner Lucy Asuagbor made it clear that 'the whole idea of intimidation is addressed in our resolutions and I am sure that States have a clear responsibility to avoid any kind of reprisals against people who are involved with the ACHPR'.

In 2014, Angola hosted the 55th Ordinary session of the ACHPR. **Abdelrahman Gasim**, a Sudanese lawyer, arrived at the airport in the capital, Luanda with a valid travel document, a letter from the African Union, and round-trip tickets. He was arrested at the airport and placed in a secret detention center, not far from the airport. He spent more than eight hours in detention. As he did not speak Portuguese he was not able to understand what the officers were telling him. He was refused a free phone call. One of the officers sold him a sim card for a large sum which he used to call his colleagues, who in turn addressed the government of Angola and he was released. At the time, ISHR reported that Angolan civil society did not feel safe participating in the 55th session of the ACHPR as the environment in Angola was not conducive to human rights defenders, nor expressions of dissent. ISHR reported that there was open antagonism between States and NGOs at the session, particularly on the issues of sexual orientation and gender identity, and civil society space. There were also attempts by some States to prevent NGOs from speaking by claiming that they had not satisfied the conditions for being granted observer status. States had done this in the past by refusing to provide NGOs with written evidence of their official domestic registration or existence, which is necessary in order to apply for observer status. Commissioner Alapini-Gansou criticised Angola in this regard, but she noted that it was becoming widespread. She stated that the African Commission would grant observer status even without this document in order to ensure NGOs can engage with the Commission.<sup>27</sup>

## **BURUNDI**

The **Episcopale Commission for Justice and Peace (CEJP)** is a faith-based organisation based in Bujumbura, Burundi. It works to promote a culture of law, justice, reconciliation and active non-violence for the spiritual, moral and material development of every human being, in the light of the Gospel and Social Teaching of the Church, especially in the context of the crisis which started in the country following the election of President Pierre Nkurunziza for a third mandate.

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<sup>27</sup> [https://www.ishr.ch/sites/default/files/article/files/ishr\\_kumulika\\_55\\_eng\\_web.pdf](https://www.ishr.ch/sites/default/files/article/files/ishr_kumulika_55_eng_web.pdf)

In order to implement decision PSC/PR /COMM.(DLI)<sup>28</sup> adopted during the 551th meeting of the Peace and Security Council of the African Union, which called on the ACHPR to urgently undertake an in-depth investigation into the violation of human rights and other abuses against civilian populations in Burundi, a delegation of ACHPR Commissioners visited Burundi from 7 to 13 December 2015<sup>29</sup>. During this fact-finding mission the ACHPR met with **Gervais Nibigira**, project officer at the CEJP, and two of his colleagues to discuss the numerous human rights violations committed in the country, and more specifically the existence of mass graves as reported by many national and international organisations at the time. Following this meeting, in January 2016, M. Nibigira was informed that the National Intelligence Services (SNR) was building a case against the CEJP and some of its employees and that they had him under surveillance. The SNR accused the CEJP of supporting the insurrection movement since the beginning of the crisis. The SNR also alleged that the meetings with the ACHPR were organised under the leadership of the Coordinator of the CEJP, which collaborates with organisations that have had their status suspended in Burundi and that shared information with ACHPR and UN delegations that visited Burundi regarding the resolution of the crisis.

On 10 Mars 2016, Nibigira was informed that the SNR had been gathering information against him and two of his colleagues and they were ready to make an arrest. The informant implored him to leave the country as he had information that following his arrest he might be disappeared. The same day, Nibigira received a summons from the General Prosecutor's Office requesting him to present himself to his office the next day. Conscious of the risks, he and a colleague immediately left the country. The next day he received information that the SNR was planning to kill them.

This situation led the remaining CEJP colleagues to close the office for a few weeks during which they noticed several SNR officers passing by the building. Other employees of the CEJP also left the country in the following weeks. Nibigira has been in exile ever since.

## CAMEROON

The Network of Human Rights Defenders in Central Africa (Réseau des Défenseurs des Droits Humains de l'Afrique Centrale (REDHAC)), is a human rights defenders network based in Douala, Cameroon. REDHAC regularly contributes to the work of the ACHPR, including through public statements. During the 64th and 65th sessions of the ACHPR, REDHAC made public statements. During the 64th session, which took place in Egypt in April/May 2019, **Maximilienne Ngo Mbe**, the Executive Director of REDHAC, made a statement<sup>30</sup> in which she spoke about the security challenges, IDPs, violations of

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<sup>28</sup> <http://www.peaceau.org/uploads/psc.551.burundi.17.10.2015.pdf>

<sup>29</sup> <https://www.achpr.org/news/viewdetail?id=198>

<sup>30</sup> [Déclaration publique du REDHAC à la 64e session CADHP](https://africandefenders.org/wp-content/uploads/2019/05/De%CC%81claration-publique-du-REDHAC-a%CC%80-la-64e-session-CADHP-1.docx), available at <https://africandefenders.org/wp-content/uploads/2019/05/De%CC%81claration-publique-du-REDHAC-a%CC%80-la-64e-session-CADHP-1.docx>

fundamental freedoms (association, assembly, expression, opinion), arbitrary arrests, the use of military courts to judge defenders, and forced disappearances of defenders. The statement made several concrete recommendations, in particular regarding the Democratic Republic of the Congo (DRC), the Republic of Congo, and the Republic of Gabon. Regarding Cameroon, the statement noted the issue of defenders in danger, the arrests of journalists, forced disappearances, and conflict resolution. REDHAC reminded the government of Cameroon to respect regional and international instruments it freely ratified for the promotion and protection of human rights, in particular Communication No. 423/12 Mack-kit-MoukokoPriso/State of Cameroon. REDHAC also urged the ACHPR to come to a decision on the communication it had sent regarding articles 6 and 7 of the African Charter in relation to the so-called Anglophone Crisis.

In addition, during the 64th ordinary session of the ACHPR a coalition of NGOs, which REDHAC was a part of, published an open letter calling on the government of Cameroon to adequately respond to the gross and systematic violations of human rights in the country's far North, North and South-West regions.<sup>31</sup>

Following the session, upon returning to Cameroon, Ngo Mbe was detained and searched by immigration services at Douala airport. They accused her of destabilizing and tarnishing the country and its image at the international level through her work.

REDHAC and Ngo Mbe have long been the target of harassment, intimidation and attacks related to their work to promote and protect human rights at the regional level. Several recent incidents include:

- On 3 June 2019 police officers tried to prevent a press conference on fundamental freedoms in Cameroon and the situation in the North-West and South-West regions from taking place at REDHAC headquarters. The press conference had been organised jointly with other NGOs.
- On 8 May 2019, upon returning from an international peace conference on Cameroon organised by the University of Toronto, Ngo Mbe was questioned by the immigration services who catalogued her as a drug trafficker due to the frequency of her travel. It took an intervention from REDHAC's legal counsel to avoid being detained.
- On 16 August 2019, on the instruction of the Minister of Territorial Administration, Mr. Atanga Nji, Ngo Mbe was summoned via Alice Nkom, Chairperson of the Board of REDHAC, by Mr. Mache Njouonwet Joseph Bernard, the former prefect of Wouri in the Littoral region. With a threatening air, he declared that 'it has been 2 years since I took office as prefect and you [Ngo Mbe] have never come to see'. Ngo Mbe responded that all invitations had gone unanswered by his staff. He then pointed out to Mbe and Nkom that the purpose of the conversation is that they must share the

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<sup>31</sup> <https://www.ishr.ch/news/achpr-64-cameroon-must-collaborate-regional-mechanisms-guarantee-protection-human-rights>

motivations that underlie REDHAC's work and information on sources of financial support because *'you are very obstinate. We must ensure you cannot cause harm'*.

- On 28 August 2019, Ngo Mbe was physically assaulted including sexual touching by a stranger who said 'it was only a warning'. The assault took place in the Akwa district of Douala. A complaint was filed and an exchange took place with the Chief Commissioner of the Douala Judicial Police at REDHAC's offices.
- On 5 December 2019, during a conference in Yaounde organised by the Friedrich Ebert Stiftung (FES), Professor James Mouangue Kobila, Vice-President of the National Commission on Human Rights and Freedom made false statements about Ngo Mbe: *'There are civil society organisations that play a dangerous role. It is not known whether they are civil society or political parties. For example, Ms. Alice Nkom and Mrs. Maximilienne Ngo Mbe of REDHAC came to see me and I wrote a letter to the police to protect them. Afterwards they invited me to a planning meeting to plan activities to destabilise Cameroon and the President'*.
- On 26 January 2020, the REDHAC offices were burned down by arsonists, the security camera having been disabled.
- On 9 March 2020, the Minister of Territorial Administration of Cameroon, Mr. Paul Atanga Nji, made a statement saying *'some NGOs and associations based in Africa and operating in conflict zones, have hidden agendas. These structures through their acts and operations therefore infringe on the sovereignty of the State. However, the Minister of Territorial Administration may dissolve any association and NGO that goes beyond its objective and those whose activities seriously undermine public order, state security and the security of Cameroonian citizens. The Ministry has thus noted that in the three years that the crisis has been going on in the NOSO regions, these various structures have deliberately deviated from the objectives and missions for which they were approved by the Minister. On a daily basis, they convey false information, most of which is erroneous, concerning the management of the so-called Anglophone Crisis.'*<sup>32</sup> The Minister said in his statement to the media that 'these NGOs under orders have received the sum of 5 billion CFA francs, coming from occult networks inside and outside the country for various reasons.' The Minister cited a number of NGOs, including REDHAC, as organisations that conspire against the security forces and the State of Cameroon.
- On 10 March 2020, Ngo Mbe received a phone call from the new Prefect of the Wouri Department, Mr. Benjamin Mnbutou, who threatened to arrest her if she continued to talk about the Minister. He said 'if you continue, I will take my responsibilities'. The phone call lasted an hour and took place before an American diplomat who was at REDHAC offices.

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<sup>32</sup> [http://minat.gov.cm/phocadownload/Telechargements/pdf\\_2020/mars2020/declaration\\_en.pdf](http://minat.gov.cm/phocadownload/Telechargements/pdf_2020/mars2020/declaration_en.pdf)



- On 19 March 2020, Ngo Mbe received a summons from the Divisional Commissioner, Mr. Mathieu Manga Onana of the Wouri Central Commission for General Intelligence. The reason for the summons was '*in order to allow me to conduct a serene investigation concerning you.*' Ngo Mbe and Nkom have asked it be postponed due to the Covid-19 pandemic.

## EGYPT

ISHR is one of a number of organisations that chose to engage in the 64th Ordinary Session, despite the concerns raised by a number of NGOs, including ISHR, regarding the decision to allow Egypt to host the ACHPR in view of the current violations taking place in the country.<sup>33</sup> Egypt, under the rule of President Sisi, is in the throes of the most widespread and brutal crackdown on human rights committed by any Egyptian government in modern history. In the end, the free and effective participation of Egyptian and non-Egyptian civil society organizations during the 64th Ordinary Session was not respected.

Despite timely applications for visas submitted by civil society delegates to the 38th NGO Forum and the 64th Session, and in spite of full assurances received from representatives of the Government of Egypt, a number of prospective delegates were not granted visas. More than 70 activists from a number of countries (including Ghana, Malawi, Mauritania, Morocco, Tunisia and Uganda amongst others) were either denied visas or were only granted visas on or after their indicated travel dates. One of many examples is **Abdelrahman Gasim**, a Sudanese lawyer, who was refused a visa to travel to Egypt for the session, despite having received an invitation letter to attend.<sup>34</sup>

In addition, identification badges for NGOs participating in the 64th session were issued by Egyptian officials rather than the secretariat of the ACHPR, as is the customary practice. This move undermined the independence of the ACHPR and had a negative effect on the participation of NGOs from Egypt, who were intimidated from participating. Defenders from other countries, including Sudan, South Sudan and Tanzania also experienced difficulties acquiring badges. In some cases, these difficulties amounted to direct threats to human rights defenders, and the physical assault of two women human rights defenders by the Egyptian registration officials.

Finally, the Conference Centre where the ACHPR took place, and hotels within the vicinity of the Conference Centre, denied meeting space to organisations and delegates to the NGO Forum. The free engagement of individuals and groups with the ACHPR is critical to its efficiency and effectiveness. In that regard, the NGO Forum that precedes each session of the ACHPR is crucial for creating space for robust conversations on the overall state of human rights in Africa and the various human rights issues that have emerged

<sup>33</sup> [https://www.ishr.ch/sites/default/files/documents/petititon\\_of\\_protest\\_final\\_24-4-2019.pdf](https://www.ishr.ch/sites/default/files/documents/petititon_of_protest_final_24-4-2019.pdf)

<sup>34</sup> <http://sudanconsortium.org/2019/04/19/iapl-4-sudanese-lawyers-denied-visas-by-egypt-for-african-commission-for-human-peoples-rights-session/>

inter-sessionally. As the host of the 64th Session of the African Commission, Egypt was under an obligation to allow free and unhindered access to the ACHPR and the NGO Forum.

**Hoda Abdul Moneom Aziz**, is an Egyptian lawyer who worked at the Egyptian Cassation Court for many years and was a former member of the National Council for Human Rights in 2012-2013. Since 2014, she has worked as a legal counsel at The Egyptian Coordination for Rights and Freedoms (ECRF), an Egyptian human rights organization that provides legal advice for families of victims of enforced disappearances, challenges arbitrary arrests, and documents human rights abuses in Egypt. Abdul Moneom Aziz also participated in several conferences in Egypt addressing the issues of enforced disappearances. Abdul Moneom Aziz, in her capacity as a member of and legal counsel for ECRF advising political detainees, was providing Dalia Lotfy, a litigant before the ACHPR and a member of INTLawyers (a swiss-based NGO), with case files and contacts of families of victims of human rights abuses with the knowledge that these would be used in communications before the ACHPR. According to her family, Abdul Moneom Aziz received anonymous calls threatening her to stop documenting enforced disappearance cases and participating in any human rights conferences. In late October 2018, the Egyptian National Security Agency launched a mass arrest campaign, arresting at least 40 human rights workers, lawyers and political activists, and forcibly disappearing some of them, including Abdul Moneom Aziz.

Abdul Moneom Aziz was taken to an unknown location for 21 days during which her family sent several complaints to the Public Attorney and Ministry of Interior inquiring about her fate and location. They further looked for her at different police stations but all denied she was arrested and the family never received any responses to their complaints. On 21 November 2018, Abdul Moneom Aziz was officially interrogated by the State Security Prosecution who failed to document her incommunicado detention for 21 days and renewed her pre-trial detention for 15 days. According to her family she appeared before Court wearing the same clothes, her face was pale, she seemed to have lost some weight, she was shaking and her voice was quivering. The family alleges that she remained in secret detention until 31 January 2019. She would appear before her prosecution and then return to an undisclosed location. When she briefly spoke to her lawyers, she complained of being cuffed and blindfolded most of the time, held in inhumane conditions, subjected to ill-treatment and psychological torture. She was charged with joining and funding a terrorist group and incitement to harm national security in a case listed as 1552/2018. On 31 January 2019, she was admitted to Al Qanater Female Prison.

Abdul Moneom Aziz describes her condition of detention as inhuman and degrading. She is held in a dirty and badly ventilated cell with seven other prisoners whom the authorities deem to be "Most Dangerous Prisoners". The cell is infested with cockroaches and overlooks the garbage site. She has no regular access to clean water. The conditions of her detention in general are designed to cause physical and mental suffering. Prior to her arrest, she suffered from hypertension, deep vein thrombosis, and tricompartmental knee



osteoarthritis. Due to these conditions, she was provided with blood thinner drugs, instructed by doctors to wear compression stockings and avoid standing for long periods to prevent occurrences of further clots, and warned that there is a risk that the blood clots can travel to the lungs. Since her arrest, she has been deprived of visits from her family and lawyers.

On 5 November 2018, following the wave of arrests targeting NGOs, including key members of the ECFR, the ECRF announced that it was unable to operate, provide assistance to victims of human rights abuses and decided to freeze its activities.

**INTLawyers** is an NGO registered in Switzerland. As a result of advocacy at the ACHPR, **Dalia Lotfy**, a representative of INTLawyers, has been frequently subjected to *ad hominem* attacks by the Egyptian delegation at sessions of the ACHPR since 2017. This began after a representative of INTLawyers, Dr. Curtis Doebbler, filed a communication before the ACHPR on behalf The people of Egypt alleging that the unconstitutional change in government in 2013 violated Art 13 of the African Charter, the right to participate in government.

At several sessions, including most recently on 28 October 2019, the representative of Egypt took the floor in exercising a right of reply, and said Lotfy was working for a 'notorious' organisation, and 'has nothing better to do in life than come up with bedtime stories and blatant lies', and that the ACHPR needs to consider the credibility of organisations that have the right to speak before it. On 22 October 2019, the same representative repeated false allegations made several times before that INTLawyers is funded by the 'Muslim Brotherhood terrorist group', and asking the ACHPR to 'deal' with the organisation's right to take the floor, which INTLawyers took as a threat to their consultative status with the ACHPR. Also at the October 2019 session of the ACHPR, the representative from Egypt referred in his right of reply to the fact that Lotfy studied law in Egypt, which is information that isn't published anywhere and which Lotfy took as a signal that the Egyptians have intelligence on her. This continued harassment and intimidation has previously been reported to the Chairperson of the ACHPR.

## **MALAWI**

**Dr. Billy Mayaya** is the chairperson of the Human Rights Defenders Coalition for the Central Region of Malawi (HRDC) and a well-known human rights activist. Mayaya regularly participates in sessions of the ACHPR and submits situational reports. On 25 September 2019, during demonstrations against Malawi Electoral Commission Chairperson, Jane Ansah, Mayaya was brutally attacked in Blantyre by suspected Democratic Progressive Party (DPP) cadets, alongside four others, namely **Masauko Thawe**, **Henderson Mhango**, **Luke Tembo** and **Madalitso Banda**. Mayaya was heavily

beaten with a metal bar and stoned. He sustained major injuries with multiple and deep lacerations, and he and the four others were hospitalised with life threatening injuries.

**Timothy Mtambo** is the chairperson of HRDC, the executive director of the Centre for Human Rights and Rehabilitation (CHRR) and the vice chairperson of Southern African Human Rights Defenders Network. **Happy Mhango** is a National leadership member of the HRDC. On 7 October 2019, HRDC submitted [a report to the UN on Government Sponsored Violation of the Right to Assemble and Demonstrate](#). Mhango and Mtambo attended the 65th session of the ACHPR in October 2019. In late November 2019, President Peter Mutharika made a statement at a political rally in Mangochi district that was aired on national television, in which he asked the youth wing of his political party to 'deal with' HRD leaders who portray a bad image of the country at international level. Following this, Mhango and Mtambo were assaulted by a Democratic Progressive Party (DPP) cadet and his team on their way to the airport to South Africa to attend the Southern Africa HRD Summit (27-30 November 2019). The cadet told them Malawi was 'going to be hell' for them if we continue painting the President as a bad person. Mhango and Mtambo attended the session nonetheless and gave an oral update of the human rights situation in Malawi.

**Gift Trapence** is the deputy chairperson of HRDC. **Reverend Macdonald Sembereka** coordinates the Human Rights Consultative Committee (HRCC). Trapence, Sembereka, also and Mtambo, who are all regular participants at the Ordinary Sessions of the ACHPR, were arbitrarily arrested in March 2020 on trumped up charges and are currently on bail.<sup>35</sup>

The **NGO Act Amendment Bill, 2018**, which was gazetted on 9th November 2018, imposes heavy fines and prison sentences on NGOs and their directors should they breach the law. NGOs in Malawi view the Bill as a clear attempt to close down civic space while the government says it largely seeks to amend the NGO Act so it complies with constitutional standards. The bill also establishes an NGO Authority and authorises it to suspend and deregister organizations that stand against corruption or challenge the establishment.

NGOs were successful in getting a court injunction to stop parliament from tabling the Bill. It has not been passed yet and no NGO has been deregistered. However, NGOs in Malawi fear that if passed, the law will be used to deregister NGOs that are seen to be critics of the government. Given recent statements by the President of Malawi stigmatizing defenders working at the regional and international levels, NGOs fear that

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<sup>35</sup><https://www.aljazeera.com/news/2020/03/malawi-police-arrest-activists-call-anti-gov-protests-200311103823439.html>

<https://times.mw/gift-trapence-macdonald-semberaka-arrested-after-peter-mutharikas-threats/>

<https://times.mw/hrdc-trio-out-on-bail/>

<https://www.dailymaverick.co.za/article/2020-03-09-top-civil-society-leaders-arrested-in-malawi-crackdown/>

those defenders will be targeted in particular. Three UN Special Rapporteurs sent a communication to the government of Malawi expressing serious concerns about the Bill.<sup>36</sup>

## MAURITANIA

During the 61st ordinary session of the ACHPR, on 2 November 2017, **Minority Rights Group International (MRG)** in collaboration with **SOS-Esclaves** organised a side event on the eradication of slavery in Mauritania. On 7 November 2017, SOS-Esclaves was due to host a launch event of a joint EU-funded project in Nouakchott. However, on 3 November 2017, following the side event, SOS-Esclaves was informed by the Prefect of the region of West Nouakchott that the event was banned. The authorities also warned members of SOS-Esclaves that if employees of MRG attempted to travel to the country, they would either be arrested or deported. In light of this, MRG employees who were due to travel to Nouakchott via Dakar for the launch event were forced to cancel their travel.

On 11 November 2017, the offices of SOS-Esclaves in Nema and Bassiknou were informed by the regional authorities that SOS-Esclaves activities in the regions were no longer authorised. These activities included neighbourhood awareness raising meetings, support visits to victims of slavery, economic activities for slavery survivors, and literacy classes for slavery survivors and other illiterate Haratine children and adults. The authorities told SOS-Esclaves that they had not been providing sufficient information about their planned activities. While this is not a legitimate reason for prohibiting the activities of an organization, SOS-Esclaves is now attempting to address this by committing to fully informing them in advance of all project activities. However, SOS-Esclaves is concerned that the underlying motive is to restrict the scope of activities. Indeed, it is important to note that SOS-Esclaves always informs the national authorities, in this case the Ministry of Interior, of all activities it conducts in Nouakchott and in the regions and has always invited them to official project events such as launches or training workshops.

In April 2018 Mauritania hosted the 62nd ordinary session of the ACHPR in Nouakchott. The session was marked by the refusal of authorities to grant civil society actors access to the opening session, and in some cases to the whole session, despite invitations having been previously issued. During the session, despite compliance with the mandatory registration measures, several Mauritanian human rights defenders were refused entry to the International Conference Centre (*Palais des Congrès*) where the session was held. Their names were removed from the attendance list and military forces were brought in to control the access of participants to the Conference Centre. Among the defenders refused access were: **Aminetou Mint El Moctar** president of Association des Femmes Chefs de Famille (AFCF), **Balla Touré** and **Dah Boushab** of **The Initiative for the**

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<sup>36</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=24270>

## **Resurgence of the Abolitionist Movement (IRA-Mauritania) and retired Colonel Oumar Ould Beibacar.<sup>37</sup>**

**Séniya Yarahallah**, is the President of l'Association des femmes éducatrices pour la promotion des droits de l'homme (AFEPDH) in Mauritania. Yarahallah attended the 65th session of the ACHPR in Banjul in 2019. Upon returning to Mauritania, she found herself the subject of a complaint by Mohamed ould M'Barek, the President of the "Initiative d'opposition au discours extrémiste", a GONGO (government organised NGO) who is sent to the NGO Forum of the ACHPR and the ACHPR to monitor the activities of Mauritanian NGOs.<sup>38</sup> Yarahallah was arrested and threatened and brought before the court, and continues to be regularly summoned to the Directorate of National Security. The government also attempted to close the centre she runs for children in difficult situations.

## **VII. RECOMMENDATIONS**

### **Recommendations to the ACHPR**

- The ACHPR should seek assurances from prospective host States that they will guarantee free and unhindered access of civil society to the sessions of the ACHPR and the NGO Forum. This includes, but is not limited to, ensuring unhindered access to the host country, to the spaces in which the ACHPR and NGO Forum are being held, and to meeting spaces in which to hold side events and other meetings.
- The ACHPR should recognise and act in conformity with its obligation to respect and protect the right of all persons to communicate with it in all aspects of its work and should take all necessary steps to prevent, protect against, and promote accountability for any alleged acts of intimidation or reprisals.
- The ACHPR should be explicit regarding its condemnation of intimidation and reprisals against those who seek to cooperate, and cooperate with it.
- The ACHPR should work together with the Focal Point on reprisals to coordinate and strengthen the prevention of reprisals as well as ensure effective follow up to allegations.
- Where States fail to adequately investigate and ensure accountability in relation to credible allegations of intimidation and reprisals, the ACHPR should ensure an

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<sup>37</sup> <https://www.fonadh.org/declaration-soutien-aux-defenseurs-des-dh/>

<sup>38</sup> <http://www.lecalame.info/?q=node/9465>

independent investigation into the case, including through the Focal Point on reprisals.

- The ACHPR should encourage all States to develop and implement stronger domestic policies and practices for the protection of human rights defenders and the investigation of threats and intimidation.

### **Recommendations to the African Union**

- The AU should provide sufficient resources to the Focal Point on reprisals to effectively implement ACHPR resolution 273.<sup>39</sup>
- The AU should respect the spirit and letter of Article 42(2) of the African Charter which empowers the ACHPR to independently lay down its rules of procedure, including regarding the granting of observer status to NGOs.
- The AU should refrain from any actions that undermine the right to unhindered access to and communication with international bodies.

### **Recommendations to the Focal Point on Reprisals**

- The Focal Point on Reprisals should ensure that the mandate is visible and accessible to rights holders.
- The Focal Point on Reprisals should ensure that rights holders and victims are kept regularly apprised of the status of their case.
- The Focal Point on Reprisals should actively seek inputs and information on allegations of reprisals from the bodies and mechanisms of the African human rights system.
- The Focal Point on Reprisals should compile and maintain a publicly accessible database of cases and correspondence (with the consent of rights holders and victims), bringing greater visibility to cases and enabling follow-up by NGOs and States.
- The Focal Point on Reprisals should use the presentation of the report to the ACHPR to ensure adequate attention to the report and to share good practices, challenges and lessons learned and effectively hold States accountable.
- The Focal Point on Reprisals should uphold the moral authority and values of the African human rights system by speaking out strongly and consistently against attacks on defenders and restrictions on civil society space and in support of vibrant,

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<sup>39</sup> [https://au.int/sites/default/files/decisions/34717-ex\\_cl\\_dec\\_1008\\_-1030\\_xxxiii\\_e.pdf](https://au.int/sites/default/files/decisions/34717-ex_cl_dec_1008_-1030_xxxiii_e.pdf) recalling para.7.(i)

independent civil society at the ACHPR. Such statements are important to show solidarity with defenders, and increase public awareness and support for their work.

- The Focal Point on Reprisals should ensure that all ACHPR staff understand and champion the legitimate and important work of human rights defenders and provide all necessary protection and support to defenders at risk.
- The Focal Point on Reprisals should ensure that the annual report on reprisals, and the presentation thereof, includes all open or unresolved cases, including those in which the State has not responded or provided any follow up information. This is crucial to ensure that States do not avoid responding in the knowledge that if they remain silent long enough the case will no longer be included in the report.
- The Focal Point on Reprisals should resist State pressures to censor or expunge any critique from reports or statements.

### **Recommendations to States**

- States must refrain from intimidation and reprisals against those who cooperate or seek to cooperate with the African human rights system.
- States must investigate and ensure that any allegations of such acts, whether perpetrated by State or non-State actors, are subject to a full, independent and impartial investigation, and ensure that perpetrators are held accountable and victims are provided with effective remedies.
- States should develop and implement a comprehensive suite of measures to ensure that all persons are able to exercise, individually or in association with others, the right of unhindered access to, and communication with, regional and international human rights bodies and mechanisms and ensure protection from any form of intimidation or reprisal associated with such cooperation, including by: (a) adopting legislative provisions that specifically enshrine this right and prohibit intimidation or reprisals; and (b) reviewing and repealing legislative provisions that may hinder, restrict or impair the enjoyment of this right.
- States should consistently and publicly acknowledge the vital role played by human rights defenders in establishing and safeguarding democratic institutions and processes, as well as the rule of law, and in the promotion and protection of human rights.
- States that host the ACHPR and the NGO Forum for the ACHPR must guarantee free and unhindered access of civil society to the sessions of the ACHPR and the NGO Forum. This includes, but is not limited to, ensuring unhindered access to the host

country, to the spaces in which the ACHPR and NGO Forum are being held, and to meeting spaces in which to hold side events and other meetings.

- States should cooperate fully, substantively and promptly with the Focal Point on Reprisals in cases of alleged intimidation or reprisals, including by providing good faith undertakings to prevent and investigate cases and to report back to the ACHPR as to investigative, protective, prosecutorial and remedial steps taken.
- States should hold other States accountable by raising specific cases of intimidation and reprisals at the ACHPR. In particular, States should use the presentation of the activity report of the Focal Point on reprisals to ensure adequate attention is focused on the report and to share good practices, challenges and lessons learned and effectively hold other States accountable when the report is presented to the ACHPR.
- States that use intimidating tactics to deter cooperation with the ACHPR need to be more thoroughly investigated and held accountable. This accountability needs to look beyond the high-profile severe attacks and reprisals, and the visible actions States take at sessions of the ACHPR. States also need to be called to account for quieter approaches they are using inside their country every day to sustain an atmosphere of fear and inhibition.
- All States should issue standing invitations to Commissioners of the ACHPR and facilitate country visits, and they should encourage other States to do so as well. States should be held accountable whenever they prevent access to such visits, or impede contacts with the experts on the ground.<sup>40</sup>

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<sup>40</sup> [https://au.int/sites/default/files/decisions/34717-ex\\_cl\\_dec\\_1008\\_-1030\\_xxxiii\\_e.pdf](https://au.int/sites/default/files/decisions/34717-ex_cl_dec_1008_-1030_xxxiii_e.pdf) recalling para. 7(v)