

**81ST ORDINARY SESSION OF THE AFRICAN COMMISSION ON
HUMAN AND PEOPLE'S RIGHTS**

REPORT

Presented by

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Commissioner and Special Rapporteur on Human Rights Defenders

Focal Point on Retaliation in Africa

Focal point on the independence of the Judiciary

Country Rapporteurs for: Algeria, Cameroon, Côte d'Ivoire, Mali and Togo.

Banjul, 17 October to 6 November 2024

INTRODUCTION

1. The present report is submitted in accordance with Articles 25(3) and 64 of the Rules of Procedure (2020) of the African Commission on Human and Peoples' Rights (the Commission) and gives an account of the activities undertaken for the promotion and protection of human rights during the intersessional period since the 79th Ordinary Session, held in Banjul, The Gambia from 14 May to 3 June 2024.
2. The report is divided into five main parts. The first covers the activities carried out in our capacity as Focal Point on the Independence of the Judiciary, in accordance with Resolution ACHPR/Res.570 (LXXVII) 2023 on the appointment of a Focal Point on the Independence of the Judiciary in Africa, adopted by the Commission at its 77th Ordinary Session.
3. The second concerns initiatives taken as Country Rapporteur in charge of monitoring the human rights situation in Algeria, Cameroon, Côte d'Ivoire, Mali and Togo.
4. The third part outlines the activities carried out under the mandate of Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa (the Special Rapporteur) established by Commission Resolution ACHPR/69(XXXV)04. This mandate was expanded by Resolution ACHPR/Res.273 (LV)2014 to include the issue of reprisals. It was renewed by Resolutions ACHPR/Res.83(XXXVIII)05, ACHPR/Res.125(XXXXII)07, ACHPR/Res.149(XLVI)09, ACHPR/Res.202(L)2011, ACHPR/Res.248(LIV)2013, ACHPR/Rés.315(LVII)2015, ACHPR/Rés.381(LXI)2017, ACHPR/Rés.425 (LXV) 2019, ACHPR/Rés.451 (LXVI) 2020 and ACHPR/Rés.526 (LXXIII) 2022.
5. The fourth presents a brief analysis of the situation of human rights defenders, freedom of association and assembly, and reprisals in Africa.
6. The final part contains recommendations for the various actors interacting with the mandate of the Special Rapporteur.

PART I
ACTIVITIES AS FOCAL POINT ON THE INDEPENDENCE OF THE
JUDICIARY

7. A number of initiatives and activities have been carried out. Sending urgent appeals (A) and participation in the African Summit of Judges and Lawyers (B)..

A. Urgent Appeal Letters on alleged violations of the independence of the judiciary.

- **Joint urgent appeal letter on the forced enlistment of magistrates in security operations in Burkina Faso**
8. Together with the Commissioner responsible for monitoring the human rights situation in Burkina Faso, the Honourable Commissioner Idrissa Sow, we sent an urgent appeal letter to the High Authorities of Burkina Faso on 19 August 2024. We expressed our concern about the call-up on 9 August 2024 of magistrates (four Prosecutors, two Deputy Prosecutors and one Investigating magistrate) to "participate in operations to secure the territory" for a "renewable" period of three months, between 14 August and 13 November 2024 . This requisition would be in response to acts committed within the scope of their duties that were not pleasing to the country's political authorities.
9. To this end, we have called on the authorities of Burkina Faso to respect and protect the separation of powers and the independence of magistrates in the exercise of their duties, and to comply with the decisions of the national courts condemning the requisitions, while putting an end to all forced recruitment of magistrates and civilians.
- **Urgent appeal letter concerning interference by high authorities in the administration of justice in the Republic of Zambia**
10. On 18 October 2024, I sent a letter of urgent appeal to the high authorities of Zambia concerning allegations of interference by some of the country's authorities in the administration of justice in Zambia, in particular the suspension of three Constitutional Court judges. I also expressed my concern about allegations of politicization of the judiciary in the run-up to the 2026 elections. In this context, I

asked the Zambian authorities to inform the Commission in particular about the legislative, institutional and policy measures taken to guarantee the independence of the judiciary and to avoid its politicization, in order to ensure effective compliance with the provisions of Articles 7 and 26 of the African Charter, which concern in particular the right to a fair trial and the independence of the courts.

Outcome 1: The authorities of Burkina Faso and the Republic of Zambia have been alerted to the need to prevent and combat the forced recruitment of judges and the interference of the executive in the administration of justice.

Recommendation 1:

- Return the magistrates forcibly recruited by the Burkina Faso authorities to their respective posts.
- Strictly respect the separation of powers and guarantee the independence of the judiciary for the proper administration of justice.

B. Participation in the All African Judges and Jurists Summit in Nairobi, Kenya on 17 September 2024

11. During the period under review, the Commission, represented by the Honourable Commissioner, Dr. Litha Musyimi-Ogana, participated in the All African Judges and Jurists Summit organized by the African Judges and Jurists Forum (AJJF).
12. The main objective of the Summit, organized under the theme: "Judges at the service of Africa's transformation into a world power for the future", was to assess and discuss ways of strengthening the role of the judiciary in the implementation of Aspiration No. 3 of the African Union's Agenda 2063 on "An Africa of good governance, democracy and respect for human rights".
13. Details can be found in the report presented by the Honourable Commissioner Dr. Litha Musyimi-Ogana, who represented us.

PART II
ACTIVITIES AS COMMISSIONER COUNTRY RAPPORTEUR

14. In my capacity as Commissioner Rapporteur responsible for monitoring the human rights situation in the States Parties: Algeria, Cameroon, Côte d'Ivoire, Mali and Togo, I have undertaken a number of activities concerning the following States Parties:
15. With regard to **the People's Democratic Republic of Algeria**, together with the Honourable Selma Sassi-Safer, Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa, we issued, on 15 July 2024, a press release on the discovery of 12 bodies of migrants, including children, who died in the Algerian desert not far from the border with Libya, and other bodies of sub-Saharan migrants, including a woman, found in the desert near the border with Mali in the Ain Salah region.
16. The Commission reiterated its deep concern at the continuing disappearances of migrants in various circumstances. It reminded States Parties of their obligations to take all necessary measures to ensure the safety and protection of all migrants.
17. With regard to the **Republic of Mali**, I sent a joint urgent appeal letter with the Honourable Commissioner Ourveena Geereesha Topsy-Sonoo, Special Rapporteur on freedom of expression and access to information in Africa, following the arrest and detention of 13 opposition leaders in May, June and July 2024.
18. On that occasion, we expressed our concern about the numerous measures that undermine the openness of civic space, in particular the suspension of political parties and civil society organizations and the ban on media coverage of their activities. To this end, we have called for an investigation into the circumstances of their arrest and for their release if no charges are brought against them. We also called for the repeal, as soon as possible, of the decrees that prevent political actors from exercising their rights to freedom of expression, association and assembly, and from participating freely in the public affairs of their country.
19. With regard to **the Republic of Togo**, I sent an urgent appeal letter concerning allegations of a narrowing of civic space in that country. I expressed my concern at the many reported cases of the authorities prohibiting the legitimate exercise of

freedom of assembly. On that occasion, I called for a review of Law No. 2019-010 of 12 August 2019 amending Law No. 2011-010 of 16 May 2011 laying down the conditions for the exercise of freedom of assembly and peaceful public demonstrations, to ensure that its provisions are in line with Articles 10 and 11 of the African Charter and other regularly ratified human rights instruments and international standards on respect for and protection of civic space; and to ensure that administrative practice regarding the regime for declaring demonstrations is in line with the relevant legal provisions.

20. With regard to the **Republic of Cameroon**, we sent an urgent appeal, together with the Special Rapporteur on freedom of expression and access to information, on the situation of journalists and freedom of expression in the country. On that occasion, we reaffirmed the indispensable role of the media, in particular by taking all necessary measures to provide journalists and other media professionals with an environment conducive to the exercise of freedom of expression, without unjustified interference or fear of reprisals from State and non-State actors.
21. I also sent urgent appeals on the arrest and detention of 13 people, including LGBTQI+ community activists, in the **Republic of Cameroon**, and on threats and attacks against leaders and members of the LGBTQI+ community in the **Republic of Côte d'Ivoire**. With regard to the latter country, in my opening speech I personally asked the Ivorian authorities to take the necessary measures to stop the campaign against the "Woubis". Similarly, the Ministry of Justice in the Democratic Republic of Congo (DRC) should be asked to tone down its rhetoric against the community in question, which has been identified with an expression borrowed from the mathematics of "Twice-twice". The authorities of this country should also be reminded of the urgent need to stop threatening the defenders of this community. While recalling the Commission's consistent doctrine that there is no right to homosexuality in the African Charter, the Commission has always indicated that this community does indeed benefit from all the material rights guaranteed by the African Charter.
22. At this point, it is very important to remind the authorities of the said States, of Resolution ACHPR/Res.275 (LV) 2014 on "Protection against violence and other human rights violations against persons on the basis of their real or imputed sexual orientation or gender identity", which urges States parties to ensure that human rights defenders carry out their activities in an enabling environment, free

from stigmatisation, reprisals or criminal prosecution for their activities in defence of human rights, including the rights of the LGBTQI+ community. I further recalled ACHPR Resolution/Res. 376 (LX) 2017 on the situation of human rights defenders in Africa, which calls on States Parties to take specific legislative measures aimed at recognizing the status of human rights defenders, protecting their rights, the rights of their collaborators, relatives and families, including those working on issues related to sexual orientation and gender identity.

Outcome 2: High-level authorities in these countries (Algeria, Mali, Cameroon and Côte d'Ivoire) have been sensitized.

Recommendation 2:

- Urge Algeria to take appropriate measures to protect migrants on its territory;
- Urge Cameroon and Togo to adopt a specific law on the protection of human rights defenders ;
- Invite Mali, Cote d'Ivoire and the Democratic Republic of Congo, which have already adopted these laws, to put them into practice .

PART II I
ACTIVITIES AS SPECIAL RAPPORTEUR ON HUMAN RIGHTS DEFENDERS
AND FOCAL POINT ON REPRISALS IN AFRICA

A. PROMOTIONAL ACTIVITIES

I. Academic visit to the Republic of Angola, 4-5 July 2024

23. Together with Ms. Gina Paola Romero Rodrigues, UN Special Rapporteur on Freedom of Assembly and of Association, we participated in an academic visit organized by the NGOs KUTAKESA, MOSAIKO and the Journalists' Union..

24. During this visit, we held a meeting with representatives of civil society organizations, with whom we exchanged views on the situation of human rights and human rights defenders in Angola and the Southern African region; the African and UN human rights systems, their subsidiary mechanisms/special procedures, and in particular our respective mandates. We also discussed

priorities and strategies for improving the effectiveness of our mechanisms. The meeting also served as a forum for reflection on restrictive legislation that could threaten and compromise the work of NGOs and human rights defenders in Angola, Mozambique, Zimbabwe and South Africa.

25. At the beginning of this visit, we had a working meeting with the Ombudsman, who presented his institution and the main achievements in the promotion and protection of human rights in Angola. Although the two UN and African mechanisms are not yet in a position to interact adequately with the Ombudsman, it is important for this category of human rights defenders to know how to situate the Ombudsman's structure in the national and international institutional environment, for the benefit of the population on whose behalf it was established by the national (Angolan) authorities, as an independent structure.
26. The visit was also marked by a public lecture on the African and UN human rights systems, delivered to some thirty students of the Human Rights Master's Programme at the University of Lusíadas, Angola.
27. I would like to take this opportunity to thank the NGO KUTAKESA and its partners for organizing and facilitating this visit. I would also like to thank the competent Angolan authorities for allowing this mission to take place, in particular Her Excellency Minister Anne Céleste Januario.

Output 3: Update on the situation of human rights defenders and the work of the Special Mechanism, and make recommendations to protect and restore civic space in Angola.

Recommendation 3: We encourage civil society organizations to initiate academic visits by the mechanism to gain first-hand knowledge of the situation of human rights defenders in different countries. We invite the Mechanism to cooperate with the Ombudsman organization, which is also committed to the promotion and protection of human rights in Africa.

II. Virtual consultation with Kenyan civil society organizations, 23 August 2024

28. I participated in a virtual consultation with representatives of Kenyan civil society organizations, facilitated by DefendDefenders (the East and Horn of

Africa Human Rights Defenders Project) and AfricanDefenders (the Pan-African Human Rights Defenders Network).

29. On this occasion, they gave us a general overview of the human rights and governance situation in Kenya. The poor working environment in which the human rights defenders have been operating in Kenya since the protests broke out in June 2024 was discussed. Cases of flagrant human rights violations during peaceful demonstrations were reported, including murders and/or killings (39 cases), enforced disappearances (32 cases), arbitrary arrests (627 cases) and sometimes collective arrests, abductions, excessive use of force, restrictions, assaults, repression, targeted harassment of leaders and activists who support freedom of assembly and demonstration, torture, online surveillance, summary and extrajudicial executions, etc.

Outcome 4: Issued a press release and sent of a joint urgent appeal expressing our concern with recommendations to the Kenyan authorities.

Recommendations 4 :

- Continue to monitor the particular situation of all human rights defenders in Kenya.
- Take appropriate measures to put an end to human rights violations.

III. Participation in regional training for West African journalists on reporting and interactions with the Commission, 1st to 3 July 2024, Porto Novo, Benin

30. I participated virtually in the regional training of West African journalists on reporting and engagement with the Commission organized by the Réseau des Femmes Leaders pour le Développement (RFLD) in collaboration with DefendDefenders and CIVICUS. The overall aim of the training programme was to build the capacity of journalists to better understand human rights principles, the role of the African Commission and the Special Rapporteur on Human Rights Defenders in promoting transparency and effectively advocating for the protection of human rights defenders in West Africa.

31. The training covered several topics, including: the growing threats and challenges to civic space in West and Central Africa, strategies for reporting on gender-based violence, the role, responsibility and impact of journalists in reporting, advocacy

and mobilization for civic space, effective advocacy strategies to defend civic space, and collaboration between journalists and civil society actors to strengthen civic space. To this end, I made a presentation on the mandate of the African Commission on Human and Peoples' Rights and its role in protecting civic space.

32. The training enabled participants to share experiences, challenges and best practices in promoting civic space and human rights in Africa. It also highlighted the need for increased cooperation and capacity building to address the challenges faced by journalists and civil society organizations in the West African region .

Outcome 5: An inventory of the situation of journalists in West Africa and capacity-building for reporting on human rights issues.

Recommendation 5: Multiply capacity-building initiatives for journalists and human rights defenders to work in synergy and improve their interaction with regional and international human rights mechanisms.

IV. Participation in the commemoration of the 10th anniversary of Resolution 275, 28-29 August 2024 in Johannesburg, South Africa

33. We participated together with the Honourable Commissioner Zachariah Mudford Mwandenga in the Commemoration of the 10th Anniversary of Resolution ACHPR/Res.275 (LV) 2014 on protection against violence and other human rights violations against persons on the basis of their real or imputed sexual orientation or gender identity, adopted at the 55th Ordinary Session of the Commission held in Luanda, Angola from 28 April to 12 May 2014.
34. The theme of the commemoration was "Advancing the rights of LGBTIQ+ people in Africa". On this occasion, I delivered the opening speech of the event, in which I highlighted the existence in some countries of punitive laws and restrictive policies and practices that sometimes legitimize human rights violations committed against LGBTIQ+ people, the persistence of cultural and religious burdens, patriarchal norms, the politicization and instrumentalization of sexual orientation and gender identity, the exclusion and marginalization of LGBTIQ+ human rights defenders, and the absence of policies and programmes for the sexual and reproductive health rights of LGBTIQ+ people.

35. In this regard, I recalled the obligations of States Parties under Resolution 275, which calls upon them to protect human rights defenders and civil society organizations from all forms of persecution because of their work on issues related to sexual orientation and gender identity, and to take appropriate measures by enacting legislation, investigating and prosecuting cases of violence or abuse against persons on the basis of their real or imputed sexual orientation or gender identity.

Outcome 6: Raise awareness of the implementation of Resolution 275 in Africa.

Recommendation 6: Prevent and combat human rights violations in general, and those based on sexual orientation and gender identity, in particular.

V. Joint Declaration on the Protection of the Right to Freedom of Association in the Context of "Foreign Agent" and "Foreign Influence" Laws , 13 September 2024

36. As part of the commemoration of the International Day of Democracy, celebrated every year on 15 September, and at the initiative of the UN Special Rapporteur on the Rights to Freedom of Assembly and of Association, we have joined forces with the Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights (IACHR), the Special Rapporteur on Human Rights Defenders of the IACHR, the Representative of Indonesia to the ASEAN Intergovernmental Commission on Human Rights (AICHR) and the Office for Democratic Institutions and Human Rights of the and the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE), we adopted on 13 September a joint declaration for protecting and preventing the stigmatization of the right to freedom of association in the face of the proliferation of the term "foreign agent"/"foreign influence" and laws with similar effects .

37. In particular, the Declaration underlined the concern of the Mechanisms at the proliferation in all regions of legislative initiatives and bills with similar effects that impose unnecessary, disproportionate and discriminatory obligations, restrictions or prohibitions on associations that fall within the broad definition of "foreign agent" or "foreign influence" or similar laws.

38. On this occasion, the mechanisms underlined the scope of the Joint Declaration. They also recalled the general principles that should guide States in the implementation of the right to freedom of association and the measures to be taken to protect associations from unjustified restrictions and stigmatization resulting from "foreign agent" or "foreign influence" laws and legislative initiatives.

Outcome 7: Awareness of the general principles applicable to the exercise of the right to freedom of association and of the obligations of States to respect and fulfil this right.

Recommendation 7: Continue and expand cooperation with the special mechanisms under the Addis Ababa Roadmap.

VI. Participation in an interactive dialogue with human rights defenders from the East and Horn of Africa sub-region, 1st to 4 October 2024, in Kampala, Uganda.

39. I participated in the interactive dialogue between human rights defenders from the East and Horn of Africa and the UN and African human rights mechanisms, organized from 1^{er} to 3 October 2024 by DefendDefenders (East and Horn of Africa Human Rights Defenders Project) and AfricanDefenders (Pan-African Human Rights Defenders Network).

40. The main objective of the meeting was to build the capacity of human rights defenders in the East and Horn of Africa region to strengthen synergies, improve access and stimulate engagement with regional and international human rights systems. It provided us with an opportunity to exchange views on the mandates and roles of the various mechanisms, and to identify strategies for strengthening engagement and cooperation between HRDs and regional and international mechanisms for the promotion and defence of human rights.

41. I also had the opportunity to meet with representatives of Ugandan civil society, with whom I exchanged views on a range of issues, including emerging human rights trends in Uganda in general and issues related to civic space and the protection of human rights defenders in particular.

Outcome 8: Capacity-building for human rights defenders to improve their cooperation with regional and international human rights mechanisms.

Recommendation 8: Replicate such initiatives in other parts of Africa.

B. PROTECTION ACTIVITIES

I. Urgent appeals

42. During the reporting period, the mechanism received complaints concerning alleged violations of the rights of human rights defenders, which it followed up according to the specific needs of each case. Thus, during the period under review, twelve (12) urgent appeals were sent to the following States Parties: Cameroon (2), Côte d'Ivoire (2), Ethiopia (1), Equatorial Guinea (1), Kenya (1), Mali (1), Uganda (1), the Democratic Republic of Congo (2) and Togo (1).

43. These complaints relate to allegations of human rights violations, in particular, concerning:

- Arrest and arbitrary detention of human rights defenders and political opponents;
- Threats and attacks against leaders and members of the LGBTQI+ community;
- Judicial harassment, reprisals and intimidation of human rights defenders ;
- Murder, abduction, enforced disappearance, torture and inhuman or degrading treatment of human rights defenders;
- Irregularities and provisions restricting civic space in adopted laws, decrees and regulations ;
- Restrictions on freedom of association, assembly and peaceful demonstration ;

44. I also issued press releases, either individually or jointly with other mechanisms, notably the press release on the situation of human rights defenders in Kenya. On that occasion, I expressed the Commission's concern at allegations of a resurgence of various forms of State-sponsored violence in a climate of impunity for law enforcement and security forces. I recalled the important role played by Kenyan civil society in the peaceful assertion of legitimate rights vis-a-vis the Government, which is its main and only enforcer. I therefore recommended that the Government and civil society respect the African Charter and its Protocols as well as other regional and international human rights instruments, in all their actions, without exception.

II. State responses

45. The mechanism has not received any response from the States Parties concerned, some of which are still within the deadline for submitting their replies.

Outcome 9: Draw the attention of the States Parties concerned to the need to take appropriate measures to remedy the alleged violations, should they prove to be true.

Recommendation 9: Respond to the urgent appeals sent by the mechanism and take appropriate measures to prevent and combat human rights violations.

PART IV ANALYSIS OF THE SITUATION OF HUMAN RIGHTS DEFENDERS IN AFRICA

46. A favourable national legal framework is a necessary element in guaranteeing a safe and conducive environment for the work of human rights defenders, as provided for in many international and regional instruments provide, including the absence of laws and practices that restrict and criminalize their work, and the adoption and effective implementation of laws and measures that guarantee their support and protection.

47. The situation of human rights defenders has evolved positively in some countries, while in others it continues to deteriorate. In the following lines, we take stock of the situation of human rights defenders, freedom of association and assembly, freedom of demonstration and the issue of reprisals in a number of countries.

A. FREEDOM OF ASSOCIATION AND ASSEMBLY IN AFRICA

48. Freedom of association, assembly and peaceful demonstration are essential to collective expression and the defence of all human rights.

49. With regard to positive developments, the Mechanism noted in particular:

- The initiative and political will of the Government of Gabon to adopt a law on the protection of human rights defenders;
- Cameroon's commitment, made during its appearance before the Universal Periodic Review, to revise Law N° 2014-28 of 23 December 2014 on the repression of acts of terrorism in order to bring it into line with international human rights obligations;
- The increasing participation of human rights defenders in the public sessions of the Commission;
- Organization of workshops and seminars to popularize and disseminate laws on the protection of human rights defenders, in particular in Côte d'Ivoire, Mali, Burkina Faso and the Democratic Republic of Congo;
- Holding of a meeting to discuss and adopt the preliminary draft decree on the conditions of application of the law on the protection and liability of human rights defenders in the Democratic Republic of the Congo.
- Exchanges between national mechanisms for the protection of human rights defenders and civil society organizations, particularly in Côte d'Ivoire and Mali.

50. Areas of concern identified by the mechanism include:

- Increased repression of human rights defenders opposing the lifting of the moratorium on the death penalty in the DRC;
- The arrest and detention of environmental rights activists in Tanzania, Uganda and the DRC;
- The arrest and detention of migrants' rights defenders in the Republic of Tunisia and the defamation campaigns against them;
- Repeated attacks on human rights defenders working on sexual minorities and gender identity issues, particularly in Côte d'Ivoire and Cameroon;
- The arrest of more than 300 demonstrators during recent protests against a tax bill in Kenya ;
- The repression and excessive use of force, sometimes lethal, to quell demonstrations in some countries, sometimes resulting in loss of life, injuries and mass arrests of demonstrators;
- The continued requirement in some countries of prior authorization for all demonstrations, despite the existence of a declaratory system to regulate the exercise of this freedom;

- The banning of demonstrations, particularly by opposition political parties and other dissenting voices, especially during election periods;
- Administrative delays in the legal registration of human rights associations and NGOs in certain countries;
- The persistence of legal frameworks and legal restrictions that severely hamper the work of civil society associations and organizations in certain States, despite the obligation of States parties to respect and guarantee human rights without discrimination;
- The politicization of civil society organizations and the work of human rights defenders ;
- The absence of specific legislation and other legal mechanisms for the protection of human rights defenders in most countries opens the door to violations of the rights of HRDs and increases their vulnerability;
- Continued use by some states of emergency health or security measures to unduly restrict freedom (rights) of association and assembly, particularly for opposition political actors, civil society and human rights defenders ;

51. The Commission recalls its Guidelines on Freedom of Association and Assembly in Africa, which it adopted to assist States Parties, including policy makers, law drafters and legislators, ensure that legislation, policies and administrative practices are in line with best practices and international standards, and that measures do not unjustifiably infringe on the right to freedom of association and assembly.

52. We encourage States to make use of these Guidelines, and note in particular the important role played by national courts in guaranteeing freedom of association and assembly. We also call on national human rights institutions and NGOs to disseminate these guidelines widely, to monitor their implementation and to share information relevant to our mandate.

B. THE ISSUE OF REPRISALS ON THE MAINLAND

53. Acts of reprisal are still rife and take various forms, including killings, assassinations, systematic harassment, undue restrictions on access to meetings of human rights bodies, various threats, physical violence and other abuses, unjustified restrictions on the activities of civil society organizations, espionage,

burglary of the headquarters of organizations and associations, defamation, suspension of accreditations, arbitrary arrests and detentions, and repeated trials.

54. These cases of retaliation are virtually common throughout the continent, although their severity varies from country to country. These include

- The assassination of Dolly Ibefo Mbunga, "voice of the voiceless" activist in the DRC;
- The assassination of Elvino Dias, lawyer, human rights defender and opposition figure in Mozambique;
- The abduction and murder of Me Gontrand Somé and Me Christian Kaboré, lawyers and human rights defenders in Burkina Faso, on the Dédougou-Bobo Dioulasso road, and the lifeless bodies of the two lawyers have just been discovered today, 12 October 2024.

55. We call on States to investigate threats and acts of intimidation against human rights defenders, and to ensure that the alleged perpetrators are brought to justice, and that rights holders and victims receive justice and adequate reparation.

56. In accordance with the mandate given to the mechanism on reprisals, we will continue our efforts to prevent and combat reprisals against human rights defenders who cooperate or attempt to cooperate with the African Commission.

C. OPENING UP CIVIC SPACE ON THE AFRICAN CONTINENT

57. For some years now, the restriction of civic space has been a common feature of several States parties to the Charter. And yet, no one disputes the positive impact of the work of human rights defenders at the national and international levels. It is therefore important to find new ways of freeing up civic space so that it can flourish. We have two options:

58. For the first, at the international level, we propose three solutions:

- a) Functional empowerment of the Fong (NGO Forum) to enable it to adopt its own tools and recommendations to States, the Commission and other actors. The main idea is that the opinion of African civil society is autonomous and deserves to be respected as such.

- b) The use of the Freedom of Association and Assembly in Africa Tracker to pursue advocacy on the basis of a transparent and objective tool made available to the public by the Special Rapporteur, thanks to the technical support of its Support Group for the promotion and monitoring of the effective implementation of the Guidelines on Freedom of Association and Assembly in Africa.
- c) Documentation and regular publication of all outcomes of the NGO Forum, as well as the adoption by the Commission of the draft African Declaration on the promotion of the role of human rights defenders and their protection in Africa.

59. For the second option, a number of actions can be taken at the national level:

- a) Limiting the use of laws that impede the emergence and flourishing of civic space, ostensibly to combat terrorism or the circulation of illicit financial flows.
- b) Continue efforts to adopt laws to protect human rights defenders, following the example of Cote d'Ivoire, Burkina Faso, Mali and Niger in West Africa, and the DRC in Central Africa.
- c) Give free rein to demonstrations by using the technique of "dedicated spaces", as in the case of the Place des Nations in Geneva, Switzerland. Every State must promote freedom of assembly by all available means, and there is no shortage of areas in which to do so.
- d) Encourage the associative movement and avoid the bureaucratic obstacles to registration that prevent citizens from benefiting from the advantages offered by the African Charter.

D. EMBLEMATIC CASES

60. The Special Rapporteur on Human Rights Defenders is concerned about the emblematic cases of the following human rights defenders:

- i. Burkina Faso: Ms. Binta Sidibe-Gascon of the Kisal Observatory
- ii. Mozambique: Mr. Elvinio Dias, Mr. Paulo Lambe and Dr. Wiker de Assis de Souza Dias, Executive Director of the DECIDE platform.
- iii. Zambia: Judges Annie Sitali, Mungeni Mulenga, and Palan Mulonda
- iv. Democratic Republic of Congo: Lawyers and human rights defenders who opposed the lifting of the moratorium on the death penalty. These include Michel Kalemba and Guylain Kongolo of ACAT RDC.

61. The Special Rapporteur calls on these States to clarify their respective situations.

PART V. CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS

62. We continue to deplore the alarming situation of human rights defenders on the continent. The number of complaints received by the mechanism remains stable, but some countries more than others are the subject of regular complaints, the veracity of which we endeavour to verify before contacting the State concerned. In this regard, we would like to emphasize that the follow-up to our urgent appeals remains a major challenge, both in terms of the actual reception by States and the implementation of our recommendations.

63. In terms of its activities, the Mandate continues to work with States on various issues, including :

- The proper application of human rights norms and standards with respect to human rights defenders, in particular through recommendations on State reports, country visits, fact-finding missions, urgent appeals and other means;
- The adoption of legislation on the protection of human rights defenders and in this regard, reiterates its willingness to accompany them in the various stages of the adoption of such legislation;
- The implementation of the various soft law standards relating to the promotion and protection of the rights of human rights defenders.

64. The Mechanism will also continue to develop the study to assess the level of compliance of national legislation with the Guidelines on Freedom of Association and Assembly in Africa. A detailed report on legislation and policies that impose restrictions on public freedoms and limit the role and scope of civil society actors will be presented in due course.

65. The Mechanism will also pursue its consultations with various stakeholders to gather their contributions and views on the draft African Declaration on the Promotion of the Role of Human Rights Defenders and their Protection in Africa.

66. To this end, the Mechanism continues to play its leading role in the drafting of the African Declaration on the Promotion and Protection of Human Rights Defenders.

B. RECOMMENDATIONS

67. The recommendations made in our previous reports remain valid. The Mandate would like the States Parties and the various stakeholders, including civil society, to take them on board and work towards their effective implementation.

⌘ To the States Parties :

- i. Develop, adopt and implement more robust and adequate national legislation, policies and programmes for the protection of human rights defenders;
- ii. Raise awareness of the law on human rights defenders among administrative, judicial and security authorities with a view to eliminating all forms of restrictions on the work of human rights defenders;
- iii. Ensure that mechanisms established for the protection of human rights defenders are inclusive and include civil society representatives in their membership;
- iv. Ensure that draft legislation on the protection of human rights defenders complies with regional and international standards and the Model Law on the Recognition and Protection of Human Rights Defenders, in order to create a legal environment conducive to their work;
- v. Ensure that the revision of counter-terrorism legislation complies with relevant regional and international standards and the Principles and Guidelines on Human and Peoples' Rights in Countering Terrorism in Africa, adopted by the Commission in 2015;
- vi. Refrain from adopting liberticidal legislation aimed at restricting civic space and the legitimate activities of human rights defenders in the promotion and defence of human rights;
- vii. Adopt special legislation to address the protection of human rights defenders in environmental, health, security and other continental or global crises;

- viii. Raising awareness and building the capacity of various actors, including human rights defenders, with regard to laws and regulations for the promotion and protection of human rights;
- ix. Take all appropriate measures to ensure that defenders can carry out their activities in conditions of safety, free from all threats to their physical and moral integrity;
- x. Pay particular attention to the situation of women human rights defenders, which remains a constant concern for the Special Rapporteur mechanism;
- xi. Refrain from deregistering NGOs and civil society organizations active in the promotion and protection of human rights, and strengthen civic and democratic space by promoting freedom of expression, association and peaceful assembly for all human rights defenders;
- xii. Ensure that measures taken by States to combat terrorism are consistent with the African Commission's Declaration of Principles on Freedom of Expression in Africa and the Principles and Guidelines on Human and Peoples' Rights in the Fight against Terrorism in Africa;
- xiii. Establish adequate mechanisms for reparation of damages suffered by human rights defenders in the course of their work;
- xiv. Engage in dialogue and consultation with human rights defenders, and publicly recognize and support their work through communication and information campaigns;
 - x. Encourage and promote the organization of the work of defenders into associative networks at the national, sub-regional and continental levels;
 - xi. Respond more proactively to allegations of violations of defenders' rights by my Mechanism and other Commission mechanisms.

⌘ To the African Union and other regional and sub-regional bodies :

- i. Recognize the essential role of human rights defenders in the effective implementation of democratic principles, the rule of law, good governance and sustainable development in Africa;
- ii. Encourage Member States and African Union organs to conduct awareness-raising campaigns on the fundamental role played by human rights defenders;
- iii. Create a space for dialogue between States, human rights defenders and other key actors on challenges, good practices and progress in the protection of human rights defenders;

- iv. Promote and support full cooperation between national, regional and international human rights mechanisms.

⌘ To national human rights institutions :

- i. Fully exercise their promotion and protection mandates to hold States accountable for violations committed against human rights defenders, and intervene in support of defenders who are victims of human rights violations;
- ii. Establish internal mechanisms for the protection of human rights defenders within the institution and ensure that they are adequately resourced and actively work with all human rights defenders;
- iii. Continue the initiatives related to the regular holding of the NHRI Forum as a prelude to the sessions of the Commission.

⌘ To civil society organizations :

- i. Continue to cooperate with national, regional and UN mechanisms for the promotion and protection of human rights, in order to prevent and respond to human rights violations committed against populations and human rights defenders;
- ii. Avoid focusing solely on the fulfilment of certain human rights (e.g. the right to freedom of assembly) to the detriment of others (e.g. the right to life; economic, social and cultural rights; and collective rights), and to seek to maintain the balance necessary to ensure that the fulfilment of certain rights does not lead to the destruction of others;
- iii. Establish and strengthen networks of national and regional advocates to promote collaboration and cross-sectoral approaches that build alliances with diverse groups;
- iv. Develop innovative approaches to involve the general public, political actors and other opinion leaders, including the media, in the work of human rights defenders;
- iv. Respect the existing laws and regulations and conduct their activities in accordance with relevant international, regional and national texts;
- iv. Avoid the political instrumentalization of their activities and contribute to the mutual strengthening of each other's capacities;
- v. Pursue their activities for the promotion and defence of human rights, and engage in constructive dialogue with the various stakeholders.

⌘ To the media

- i. Engage in dialogue with all human rights defenders and support their efforts to promote human rights, the rule of law, social change and development;
- ii. Work in solidarity with human rights defenders to enable them to inform themselves and the public properly.

⌘ To religious and traditional leaders

- i. Strive to eliminate obstacles to the work of human rights defenders and civil society organizations, in particular access to communities ;
- ii. Work to prevent negative practices that discriminate against women defenders and human rights defenders working with people who are criminalized and/or discriminated against, such as sex workers, people living with HIV and people of diverse sexual orientations and identities.

⌘ Technical and financial partners

- i. I thank them for their steadfast support and encourage them to continue to assist the Mechanism, States Parties, national institutions and civil society in their efforts to better promote and protect the rights of human rights defenders.