

Cotonou Declaration on strengthening and expanding the protection of all Human Rights Defenders in Africa



Adopted at the 2nd International Symposium on Human Rights Defenders in Africa – Johannesburg
+18

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We, representatives of civil society organisations, National Human Rights Institutions and governments from across Africa, working to ensure the promotion and protection of all human rights at local, national and regional levels, meeting in Cotonou, Benin from 27 March to 1st April 2017, under the auspices of the African Commission on Human and Peoples' Rights, as human rights defenders and stakeholders working on various human rights issues including the rule of law, development, health and social transformation, do hereby adopt the following Declaration:

Preamble

Reaffirming the importance of human rights defenders in promoting and protecting human rights in Africa, and in consolidating democracy, the rule of law and sustainable development on the continent;

Noting with appreciation the work of the Special Rapporteur on Human Rights Defenders in Africa and that of the Study Group on Freedom of Association and Assembly in Africa, as well as the work of the UN Human Rights Mechanisms in protecting human rights defenders in Africa, in particular the contribution of the UN Special Rapporteur on the situation of human rights defenders and the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association;

Emphasising the importance of all human rights, including the right to life, dignity, equality, non-discrimination, the right not to be subjected to torture, inhuman and degrading treatment, the right to freedom of association and of assembly, the right to freedom of expression;

Recalling the urgent need to respect, protect, promote and implement these rights for the benefit of all human rights defenders;

Concerned about the various forms of serious human rights violations to which human rights defenders in Africa generally fall victim, and further alarmed by the human rights violations targeting some specific groups of human rights defenders, including women human rights defenders, human rights activists working in conflict and post conflict States, on issues related to land, health, HIV, sexual orientation and gender identity and expression, as well as sexual and reproductive health rights;

Recognising the creativity and innovation of human rights defenders as well as their resilience in the face of these violations;

Do hereby draw attention to the numerous challenges faced by human rights defenders and the dominant trends that are detrimental to their rights as follows:

1) Use of terrorism legislation and related practices against Human Rights Defenders

In order to address the security, social and development threats posed by terrorism and violent extremism, several African countries have adopted counter-terrorism laws, regulations and many other

measures which contain provisions that seriously undermine human rights and fundamental freedoms. These include the possibility of imposing the death penalty as a possible punishment that allows for long and arbitrary pre-trial detention periods. Freedom of association and assembly are also seriously limited by some of these laws.

In many countries, these laws, policies and measures are enforced without any judicial scrutiny or with limited judicial oversight. Counter-terrorism measures are being increasingly used to curtail the activities and work of human rights defenders who have been unduly referred to and targeted as terrorist groups when they challenge the adverse impact of the fight against terrorism or when they make demands for good governance, democracy or for the protection of human rights in general.

2) Restrictions of the rights to freedom of association and access to financing

These restrictions include general prohibitions and restrictions on the ability to create, register, and operate non-governmental organisations or to hold meetings and other gatherings that are often punished by criminal sanctions against human rights defenders who are members of these organisations or who exercise their right to freedom of assembly. The use of financing restrictions by States is a marked trend used to subvert the significant role played by civil society, and such actions are carried out through laws, regulations or other requirements that prohibit or restrict the possibility of organisations receiving funding from foreign and external sources.

3) Extra-judicial killings, enforced disappearances, torture, inhuman or degrading treatment, violence and arbitrary detentions.

Several reports have documented extra-judicial killings, enforced disappearances, acts of torture and inhuman and degrading treatment, violence and arrests as well as arbitrary detentions of human rights defenders in several African States. Human rights defenders and their families are often subjected to death threats and intimidations. These threats reinforce the fear and suspicion in the environment in which these human rights defenders live, with all its serious mental and psychological effects endured by the activists. The lack of appropriate and effective police or judicial response to these different situations creates a climate of impunity that encourages and perpetuates these violations.

4) Reprisals against human rights defenders

Reprisals or threats of reprisals against human rights defenders who communicate or cooperate with sub-regional, regional and universal human rights mechanisms have been documented in various African States. These reprisals include personal threats or threats against family members of rights defenders, smear campaigns, death threats, physical attacks, kidnappings, judicial harassments, murders, other forms of police harassment or intimidation, as well as travel bans. These measures which aim at silencing human rights defenders and at preventing them from expressing themselves are human rights violations that must be addressed.

5) Specific challenges faced by certain categories of human rights defenders

Various political, social and contextual factors such as patriarchy, gender stereotypes, heteronormativity, militarization, religious and other forms of extremism and globalization undermine the activism and work of certain categories of human rights defenders including women human rights defenders, activists working on the right to land, in conflict and post conflict States, on issues related to health, HIV, sexual orientation and gender identity and expression as well as sexual and reproductive health rights. Addressing the underlying and structural causes of human rights violations affecting these human rights defenders should be prioritised since it requires repeal of legislation, removal of policies and practices that create or reinforce violence, discrimination and stereotypes.

In light of the foregoing, we make the following recommendations to key stakeholders:

To the African Commission on Human and Peoples' Rights to:

- Fully utilize its dual mandate of protecting and promoting human rights in order to monitor States' compliance with all relevant human rights norms and standards in respect of human rights defenders, and to make recommendations on State reports, country promotion visits, fact-finding missions, urgent appeals and through other means.

- Continue to systematically monitor and denounce violations including reprisals against human rights defenders in Africa, publish an annual update on the issue and implement a mechanism to address any such reprisals, including against human rights defenders who collaborate with or participate in meetings of the African Commission.
- Monitor and ensure the effective implementation of the Principles and Guidelines on Human Rights and Terrorism in Africa adopted by the African Commission on Human and Peoples' Rights.
- Review legislation and policies that impose restrictions on public liberties and curtail the role and operational space of civil society actors.
- Develop guidelines on the protection of women human rights defenders as a follow-up to the study on women human rights defenders, with indicators for tracking and monitoring actions taken by States.
- Develop a study on the situation of defenders working on health, sexual and reproductive health, sexual orientation and gender identity and expression in Africa.
- Continue and reinforce collaboration and dialogue with all human rights defenders to discuss the challenges, good practices and progress on the civic space in Africa.

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

- Recognise the critical role of human rights defenders in promoting human rights, democracy, the rule of law and sustainable development in Africa and encourage Member States and African Union Organs to undertake awareness raising campaigns on the fundamental role played by human rights defenders.
- Create opportunities for dialogue between States, human rights defenders and other key stakeholders on challenges, good practices and progress on the protection of human rights defenders.
- Encourage and support full collaboration with national, regional and international human rights mechanisms and refrain from undue interferences in the work of these mechanisms.
- Commit to improving the political environment for the work of human rights defenders; by improving avenues for their effective participation in regional policy development and decision-making processes, and providing them with access to information in a timely and accessible manner.

To States,

- Adopt effective measures to prevent violations of the rights of HRDs and, where necessary, address the harm suffered by the activists and refrain from criminalizing or taking other adverse actions against these rights defenders, including reprisals and restrictions.
- Ensure that responses to terrorism do not lead to undue restrictions of civil society space and are conducted in compliance with the Principles and Guidelines on Human Rights and on Terrorism in Africa.
- Repeal punitive and restrictive laws, policies and practices that infringe upon the rights to freedom of association and of assembly that stigmatise and discriminate against specific categories of human rights defenders on the basis of sex, health status, sexual orientation and gender identity and expression or any other statuses.
- Engage in dialogue and consultation with human rights defenders and publicly recognize and support their work through communication and information campaigns.

To National Human Rights Institutions

- Effectively use their promotion and protection mandates to hold States accountable for violations committed against human rights defenders, and to intervene in the interest of defenders who may fall victim to human rights violations.

- Establish focal points on human rights defenders and ensure that they are adequately resourced and actively collaborate with all human rights defenders.
- Give special attention to human rights defenders facing increased risks.

To civil society organisations

- Continue to collaborate with national, regional and UN human rights mechanisms to prevent and respond to human rights violations perpetrated against human rights defenders.
- Set up and reinforce national and regional defenders networks to promote collaboration and intersectoral approaches that establish alliances with different groups such as women, young people and human rights defenders working on issues, among others, such as health, HIV, sexual orientation and gender identity and expression as well as sexual and reproductive health rights.
- Develop innovative approaches in order to involve the general public, all branches of government and other opinion leaders, including the media in the work of human rights defenders.

To the UN Human Rights Protection Mechanisms and UN Agencies,

- Continue to use the mandate of the UN Human Rights Protection Mechanisms to prevent, document, denounce and seek redress for the human rights violations suffered by human rights defenders, including reprisals.
- Disseminate key universal and regional instruments relating to human rights defenders including the Declaration on the Rights and Responsibilities of individuals, groups and civil society organisations in promoting and protecting universally recognized human rights and fundamental liberties (United Nations Declaration on Human Rights Defenders) and the relevant reports of UN and African human rights mechanisms on human rights defenders in Africa through the various institutions and the regional and country offices;
- Develop training and information initiatives for State officials in order to raise their awareness of the role of rights defenders in promoting and protecting human rights.
- All UN agencies to open up safe space for dialogue with human rights defenders at the country level.

To the media, religious and traditional leaders

- Engage in dialogue with all human rights defenders and support their efforts in order to promote human rights, the rule of law, social change and development.
- The media should refrain from inciting hatred against human rights defenders or civil society organisations and must promote responsible reporting that promotes the work of human rights defenders.
- Traditional and religious leaders are to remove barriers against the work of human rights defenders and civil society organisations, particularly by providing access to communities and preventing negative practices that cause discrimination against women human rights defenders and defenders working in specific thematic areas and especially with people who have been stigmatized such as sex workers, persons discriminated against because of their sexual orientation and persons living with HIV.

Cotonou, 1st April, 2017