**Cotonou Declaration on strengthening and expanding the protection of all human rights defenders in Africa**

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

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Cotonou, Benin

We, the representatives of civil society and non-governmental organisations working to ensure the promotion and protection of all human rights at local, national and regional level from across Africa have gathered in Cotonou Benin from 27 March to 1st April 2017.As human rights defenders working on diverse human rights, rule of law, development, health and social transformation issues do adopt the following declaration:

**Preamble**

Re-affirming the importance of human rights defenders for the promotion and protection of human rights in Africa

Noting that human rights defenders are actors for the promotion and consolidation of the democracy, rule of law and sustainable development

Acknowledge the work of the Special Rapporteur on HR Defenders and that of the Study Group on Freedom of Association and Assembly of the African Commission and UN Human Rights mechanisms…

Welcoming the adoption of the first ever legislation on human rights defender in Africa by Cote d’Ivoire which is the result of the work of human rights defenders in the country and their allies at regional and global levels, and calls on the government of Côte d’Ivoire to ensure the effective implementation of this law.

Emphasising the importance of all human rights, including life, dignity, equality, non-discrimination, freedom from torture, inhuman and degrading treatment, freedom of association and assembly,freedom of expression and the urgent need torespect, protect, promote and fulfil these rights for all human rights defenders.

Expressing concerns with the various form of serious human rights violations faced by human rights defenders in Africa.

Recognising the resilience, creativity and innovation of human rights defenders in the face of these violations.

*Would like to call urgent attention to the following concerning challenges and trends:*

1. **Use of terrorism legislation and practices against Human Rights Defenders**

In response to the security, social and development threats posed by terrorism and other forms of violent extremisms, many African countries have adopted counter-terrorism laws, regulations and other measures. Between the end of 2014 and beginning of 2015, some eight African countries modified their national legislation to include counter-terrorism provisions thus increasing the number of countries in the region with such laws to 15.

While the objective of these laws is to counter terrorism, they sometimes contain provisions that seriously undermine human rights and fundamental freedoms. An analysis of the 15 counter-terrorism laws currently in force in Africa shows that 11 of them mention death penalty as a possible punishment and 7 of them set the pre-detention period to more than 12 days. Freedom of association and assembly are also seriously limited by some of these laws in countries. Counter-terrorism measures are also being increasingly used to curtail the activities and work of human rights defenders who have been unduly qualified and targeted as terrorists groups when raising their voice against the adverse impact of the fight against terrorism or when raising demands for good governance, democracy or for the protection of human rights in general.

The blanket and overly broad use of counter-terrorism measures serious impact human rights defenders as well as journalists and other civil movements. In many countries, these laws, policies and measures are used with no or limited judicial control as a tool to prevent and punish any form of dissent or human rights activism. In response to these challenges, the African Commission on Human and Peoples’ Rights issued the Principles and Guidelines on Human and Peoples’ Rights while Countering Terrorism in Africa adopted by the African Commission on Human and Peoples’ Rights during its 56th Ordinary Session in Banjul, Gambia in May 2015. These guidelines should urgently be implemented by all States to limit the negative human rights and social impact of laws, regulations, policies and other measures and actions used in the fight against terrorism and to ensure that these measure comply with human rights standards.

1. **Restriction to freedom of assembly and association including the ability to access funding and restrictions**

In spite of the wide recognition of the right to freedom of association and assembly in the constitutions and national laws of states across the continent, the effective enjoyment of these rights remain elusive and contested for many individual and groups and particularly human rights defenders. Key challenges include blanket prohibitions and restrictions to the ability to create, register, and operate non-governmental organisations or to hold meetings and other gathering. These prohibitions are often supported by sanctions including criminal penalties against human rights defenders who are member of these organisations or exercise their right to freedom of assembly.

Restrictions to freedom of association are further compounded by a marked trend across the continent in which states are increasingly using funding restrictions as a means to subvert the essential role of civil society. Some countries have introduced laws, regulations or other requirements that ban or restrict organisations receiving certain amount of funds from foreign sources. These restrictions have effectively led to the closing of several organisations or the suspension of their important human rights work.

1. **Extra-judicial killings, enforced disappearances torture, violence and arbitrary detentions of human rights defenders**

Several reports have documented extra-judicial killings, enforced disappearances torture, violence and arbitrary detentions of human rights defenders across the continent. Human rights defenders have been the victims of killings as direct response to their human rights work. They have been abducted by unidentified persons and sometimes by confirmed members of security forces and later been found dead or made to disappear completely. Assassination attempts have left defenders seriously injured and requiring hospitalization and surgery. In several countries, death threats are used widely as a means of threatening and intimidating human rights defenders into stopping their work. These threats are made by various means and are often anonymous thus reinforcing an environment of fear and suspicion with serious mental and psychological consequences for human rights defenders. In many instance, threats are made by persons known to the defenders, but who are not investigated or charged by the police. The lack of effective police or judicial response to killings and death threats creates a climate of impunity that encourages and perpetuates these violations.

Human rights defenders are sometimes kidnapped, for short or long periods, and beaten during their captivity. Military personnel, police and security force officials have resorted to severe beatings in an attempt to torture defenders into making false confessions or in reprisal for a defender’s denunciation of violations committed by security forces.

Arbitrary arrest and detention of human rights defenders are common, and most often conducted without arrest warrants and in the absence of any official charge. Periods of preventive detention, without any judicial review, are sometimes very long and occur in very poor conditions of detention. Human rights defenders can be particularly vulnerable to beatings, ill-treatment and torture while in detention.

1. **Impunity for human rights violations and abuses committed against human rights defenders**

Impunity for violations committed against human rights defenders is a serious and growing concern that has multi-faceted impact on the work. Too often, complaints by human rights defenders about alleged violations of their rights are not investigated or are shelved. Failure by a States’ to investigate and redress these human rights violations may be seen as condoning the behaviour of the perpetrators of attacks and may nurture an environment where further attacks are perceived as being tolerated.

Ending impunity is an essential condition for ensuring the protection and safety of human rights defenders. It requires prompt and independent actions by States on all violations against defenders and the prosecution of alleged perpetrators, regardless of their status. They should also ensure that victims of violations have access to just and effective remedies, namely judicial and administrative or quasi-judicial mechanisms, and appropriate compensation. Investigation and prosecution should be underpinned by an effective and independent judiciary.

1. **Reprisals against human rights defenders**

Reprisals or the threat of reprisals against human rights defenders who communicate or cooperate, or who seek to communicate or cooperate with sub-regional, regional and the universal human rights mechanisms has been documented in various countries across Africa. These reprisals include personal threats or threats against members of defenders’ families, smear campaigns, death threats, physical attacks, kidnapping, judicial harassment, murder and other forms of police harassment or intimidation. These affect human rights defenders working on various issues. They aim to muzzle and silence human rights defenders and prevent them from speaking out.

These reprisals or threats of reprisals constitute human rights violations and abuse and must be ended. States, African and universal human rights mechanisms have a critical role to play in preventing and responding to the serious human rights challenges posed by reprisals.

1. **Specific challenging faced by certain categories of human rights defenders**

Various political, social and contextual factors affect the activism and work of certain categories of human rights defenders including women human rights defenders and human rights defenders working on issues such as health, HIV, sexual orientation and gender identity and expression, and sexual and reproductive health and rights. These factors relate to the global phenomena of patriarchy, heteronormativity, militarization, religious and other forms of extremism and globalization. All these phenomena have adverse effects on these categories of human rights defenders and their ability to conduct their work to advance human rights, the rule of law, social change and development.

Addressing the underlying and structural causes of human rights violations affecting these human rights defenders should be prioritised and requires removing laws, regulations, policies and practices that create or reinforce gender-based violence, discrimination and stereotypes or that discriminate on the basis of health status and sexual orientation and gender identity, among others.

*In light of these human rights violations and challenges we make the following recommendation to key stakeholders:*

**To the African Commission**

* Fully utilize the protection and promotion mandates to monitor State compliance with all relevant human rights norms and standards relating to human rights defenders including through the recommendations on state reports, country visits, fact-finding missions, urgent appeals and other means.
* Systematically monitor, disclose and denounce all human rights violations including reprisals against human rights defenders in Africa and publish an annual update on the issue.
* Monitor and ensure the effective implementation of the Principles and Guidelines on Human and Peoples’ Rights while Countering Terrorism in Africa adopted by the African Commission on Human and Peoples’ Rights.
* Develop guidelines on the protection of women human rights defenders in 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 human rights defenders working on health, sexual and productive health, HIV, sexual orientation and gender identity and expression in Africa.
* Work in close collaboration and engage in regular consultations and dialogue with all human rights defenders to discuss the challenges, good practices and progress on civic space in Africa.

**To the African Union and other political bodies**

* Recognise the role of human rights defenders as key actors for human rights, democracy, rule of law and sustainable development.
* Create opportunities for dialogue between States, human rights defenders, national 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 and regional human rights mechanisms and refrain from undue interventions and interferences in the work of these mechanisms.

**ToStates**

* Create an enable legal and social environment for the promotion and protection of all human rights including by effectivelyimplementing all of the relevant regional and international standards relating to human rights defenders.
* Remove punitive and restrictive laws, policies and practices that infringe upon the rights to freedom of association and assembly and that stigmatise and discriminate against particular categories of human rights defenders on the basis of sex, health status, sexual orientation and gender identity and expression or other status.
* Ensure that responses to terrorism are conducted in compliance with the Principles and Guidelines on Human and Peoples’ Rights while Countering Terrorism in Africa and do not lead to undue restrictions of civil society space.
* Publicly recognize and support the work of defenders through publicity campaigns and specific communication and information initiatives.
* Remove the obstacles that some domestic laws place on the legitimate activities of defenders engaged in promoting and protecting human rights, including by ensuring respect for the rights to freedom of peaceful assembly and freedom of association.
* Take effective measures including through law reform and sensitisation campaigns to address the underlining social and contextual factors such as patriarchy, heteronormativity, militarization, religious and other forms of extremism that negatively impact the work of certain categories of human rights defenders, including women human rights defenders and human rights defenders working on issues such as health, HIV, sexual orientation and gender identity and expression, and sexual and reproductive health and rights.
* Refrain fromcriminalizing or taking other adverse actions against defenders including reprisals.
* Take effective actions to address the stigmatization of the work of human rights defenders by public officials or the media and adopt effective measure to prevent and redress murder, violence and other human rights violations against these defenders, particularly by non-State actors and those acting in collusion with them, by ensuring prompt and impartial investigations into allegations and appropriate redress and reparation to victims. These measures should also include appropriate training of members of the criminal justice system, including judges, on the role and rights of human rights defenders.
* Engage in dialogue and consultation with human rights defenders on human rights, social, health, political and development issues of relevance to their work and support their efforts for promoting transparency and accountability.

**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 support of defenders who may face human rights violations.
* Develop plans and ensure sufficient resources are allocated for documenting, monitoring and addressing violations experienced by all human rights defenders and that such reports are made publicly available.
* Ensure the effective promotion of regional and universal norms and instruments relating to the protection of human rights defenders.
* Establish focal points on human rights defenders within the institution and ensure they are adequately resourced and actively engage with all human rights defenders in the country.
* Give special attention to human rights defenders facing heightened risks including women human rights defenders, defenders working on the right to land, in conflict and post conflict States, on issues related to criminalized identities such as sex workers, people living with HIV and sexual orientation and gender identity.
* Ensure the inclusion of information relating to the challenges, barriers and progress relating to the situation of human rights defenders in the information submitted to regional and UN human rights mechanisms.

**To civil society organisations**

* Develop innovative measures to familiarize the general public with the work of defenders
* Participate actively in promoting gender equality and combating all forms of discrimination against women human rights defenders, defenders working on the right to land, in conflict and post conflict States, on issues related to criminalized identities such as sex workers, people living with HIV and sexual orientation and gender identity.
* Continue to send information to the regional and UN mechanisms relevant to the protection of human rights defenders including the Special rapporteur on the situation of human rights defenders and the UN Special rapporteur on human rights defenders.
* Help to develop national and regional defender networks and to strengthen existing networks
* Reinforce partnership and collaboration across civil society organisations and prioritise intersectional approaches that build alliances with diverse groups such as women, young people andhuman rights defenders working on issues such as health, HIV, sexual orientation and gender identity and expression, and sexual and reproductive health and rights, and effectively use these alliances to support human rights defenders in distress at the national, regional and international level.
* Engage diverse supportive constituencies in support of their efforts including in parliament, the judiciary, key ministries such as those responsible for youth, women, health and development, among others.

**To UN human rights mechanisms and UN agencies**

* Further promote the universal and regional human rights instruments relating to the protection of human rights defenders.
* Continue to document and alert the international community to the numerous reprisals against defenders who cooperate with the United Nations
* Develop a database to monitor the implementation of resolutions and laws that have an impact on the situation of defenders;
* Disseminate the key universal and regional instruments relating to human rights defenders including the Declaration on Human Rights Defenders and pertinent report by UN and African human rights mechanisms on human rights defenders in Africa through the various institutions and the regional and country offices, and develop training and information initiatives for State officials in order to raise their awareness of the role of defenders in the promotion and protection of human rights.
* Engage with States and national authorities on the critical role of all human rights defenders and the importance of preventing and redressing any human rights violations against them.

**To the media, religious and traditional leaders**

* Engage in dialogue and collaboration with all human rights defenders and support their efforts to advance 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 advances the cause and important work of human rights defenders.
* Traditional and regional leaders should remove all barriers against the work of human rights defenders and civil society organisations, particularly access to communities and preventing patrichacialand other practices that cause discrimination against women human rights defenders and defenders working with people with criminalized identities such as sex workers, people living with HIV and sexual orientation and gender identity.