

AFRICAN COMMISSION ON HUMAN & PEOPLES' RIGHTS



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REPORT OF THE STUDY ON THE SITUATION OF WOMEN
HUMAN RIGHTS DEFENDERS IN AFRICA

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& PEOPLES' RIGHTS**



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Preface

I appreciate the efforts of the African Commission on Human and Peoples' Rights and its Special Procedures to push for the implementation of the provisions of the African Charter on Human and Peoples' Rights. This is an endeavor filled with challenges. This report is testament to the spirit and commitment of the Commission. It is my pleasure to write this preface as my contribution to the struggle of African women human rights defenders for an Africa free from violence.

It is true that in spite of the initiatives taken here and there, the situation of women rights defenders in Africa and in the world at large, still remains precarious. Women Human Rights Defenders continue to be victims, of deep inequality, discrimination and abuse. They are frequently the targets of social and political hostility. Specific women's rights legal instruments at the global and regional levels are designed to see the reform and eradication of norms and practices that create and facilitate such violations

This report highlights the work of women human rights defenders and their leading roles in protecting vulnerable and under-privileged groups. It highlights rights abuses suffered by women. The report speaks directly of those working on gender equality and of the work of women's rights activists in the area of sexual orientation and gender identity. But its scope goes far beyond mere recognition of a problem. It recommends to States Parties to the African Charter on Human and Peoples' Rights to be visionary and robust in their commitment to ensure the protection of women human rights defenders and the promotion of their work.

I therefore support the conclusions of this report, reflecting as they do the experience, insights, and analysis of women human rights defenders in Africa. The highly challenging environment in which women human rights defenders live and work across the continent, comes across powerfully in this report.

I hope this report will be widely disseminated and used as the basis for enhancing the effectiveness of women human rights defenders in Africa. I also hope that it will serve as a model for other human rights systems in their work for the protection of women defenders and the promotion of their work.

I recommend this report to States Parties to the African Charter on Human and Peoples' Rights and hope they will take steps to consider and implement the recommendations made to them.

Navi Pillay
Former United Nations High Commissioner for Human Rights

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The development of this study was made possible thanks to the information collected from various sources on the continent. To this end, the Special Rapporteur thanks the States, national human rights institutions, non-governmental organizations and any other organization or individual who responded to the information gathering questionnaire or through any other means.

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Foreword:

1. Women Human Rights Defenders (WHRDs) break norms and cultural taboos based on social inequalities when they take the risk to speak out and advocate for measures to ensure the respect of human rights. Promoting the work of women human rights defenders and protecting them in their work amounts to a secular struggle against inequalities and discrimination against women. Furthermore, the conclusions of numerous meetings on the state of implementation of legal instruments on women's rights in general show that little progress has been made in the field of violence and discrimination against women.

2. Our governments should therefore make an effort to create a safe, enabling and secure environment for women human rights defenders so that they can participate appropriately in the development of their countries. This involves among others consideration of the gender approach in efforts by States and of the experience of women human rights defenders.

3. This report is therefore part of the aim, well justified by the circumstances, of the African Commission on Human and Peoples' Rights (the African Commission), to assess the extent and degree of the difficulties routinely faced by women human rights defenders and is based on its resolution ACHPR/Res. 230 (LII), dated 12 October 2012.

4. The findings of this study are aimed at contributing to efforts that push for an improvement in the precarious working conditions of women human rights defenders in Africa.

¹ See Section III

5. In this report, the various instruments for the promotion and protection of the rights of women human rights defenders are reviewed.

6. The report also contains the contributions of women human rights defenders, representatives of non-governmental organizations (NGOs), national human rights institutions (NHRIs) and States. The activities of women human rights defenders in Africa have been analysed from different points of views, including the context of the factors that cause the deterioration of their working environment.

7. It is also my hope that the recommendations made to States and other stakeholders in this report on how best to implement effective protection measures for women human rights defenders will not be ignored.

8. Finally, I wish to express my deep gratitude to all those who generously contributed their time and expertise to this report. I am aware that a large number of women human rights defenders pay a heavy price for their faith in human rights and hereby wish to thank and pay them tribute.

9. The synergy of actions between political actors, national human rights institutions and all non-state actors involved in the promotion and protection of human rights remains a necessary strategy for the effective realization of the universality of human rights.

Introduction

10. In this report, the Special Rapporteur on Human Rights Defenders in Africa, Mme Reine Alapini Gansou, focuses on the laws that have a negative impact on the situation of women human rights defenders in Africa. The report highlights the discriminatory practices that aim to destroy the role of women human rights defenders in the promotion and protection of human rights on the continent.

A. Background and rationale

11. Since the establishment of mechanism of the Special Rapporteur on Human Rights Defenders of the United Nations, the African Commission has recognized the vital role played by human rights defenders in the promotion and protection of human rights for peace, security and democracy on the continent. Through a large number of resolutions, the African Commission, resolutions has urged, and continues to urge, States to fulfil their obligations to protect human rights defenders in their work. In this respect, the mechanism of the Special Rapporteur on Human Rights Defenders remains one of the organs for monitoring and promoting the situation of human rights defenders in Africa.

12. There has been significant progress made by human rights defenders in gaining recognition for their important work. However, the African Commission is well aware, thanks to its investigative methods and information it receives- including from victims of human rights violations- that the situation of women human rights defenders can be particularly precarious because of stereotypes. Women human rights

defenders are generally targeted because of their gender and because of their human rights activities. In addition to the types of violations and abuses they may suffer in line with those experienced by their male colleagues, women human rights defenders are also subjected to specific attacks due to their gender, including gender-based violence.

13. Many women human rights defenders in Africa are struggling to overcome patriarchy and heteronormativity by working on issues of gender discrimination, health, reproduction and sexuality. WHRDs continue to fight against the discriminating social, cultural and religious stereotypes, which expose them to a number of risks in the course of their activities.

14. The environment in which WHRDs operate is characterized in many countries by increasing and incessant arbitrary arrests and detention, including judicial harassment, threats, intimidation, summary and extrajudicial executions, torture, and inhumane and degrading treatment because of their activities.

15. The African context of the work of WHRDs is complex and the range of violations they experience is extensive, which means that ensuring effective protection of these targets will require actions and concrete and effective measures from the State.

B. Objectives

16. The main objectives of this report are twofold, in line

² The African Civil society played a crucial role before the African Commission through the Johannesburg conference of 1999 and for the adoption of the Declaration and Action Plan of Grand Bay of 1999 and the Declaration of Kigali of 2003.

with resolution ACHPR/Rés. 230 (LII) 12:

. To help improve the working conditions of women human rights defenders in Africa;

. To develop appropriate strategies to protect women human rights defenders on the continent.

17. Through this report, the African Commission shows its commitment to women human rights defenders on the continent.

18. Specifically, the report presents a number of measures necessary to promote and protect the work of WHRDs and makes appropriate recommendations to stakeholders (governments, civil society actors, national and international organizations, women human rights defenders and national human rights institutions) in order to better promote and protect WHRDs.

C. Methodology

19. For the drafting of this report, the Special Rapporteur setup an advisory committee that assisted in reviewing the literature and collecting the data and contributions. This committee of women human rights defenders was at the heart of the research for the preparation of this report. As WHRDs, they are the most capable of assessing the risks they and their families face.

20. The committee was composed of members of the African regional human rights networks and members of the Women Human Rights Defenders International Coalition. The Coalition is

committed to providing greater visibility to the experience of WHRDs and encourages States to fulfil their obligations with regard to women human rights defenders.

21. Strategically, a questionnaire was developed and distributed through the advisory committee in order to obtain the participation of the largest possible number of States, national human rights institutions and women human rights defenders - as individuals and those working for NGOs. The questionnaire was divided into two parts: the first was made up of nine questions aimed at identifying and evaluating the different types of risks and challenges faced by WHRDs, and another series of questions sought to address the challenges to the success of their work. The questionnaire also sought to identify existing protection measures whose formulation and development had involved women human rights defenders. The questionnaire was also sent to State Parties, the African Court, NHRIs and the African Union (AU).

22. A total of twenty-eight (28) responses were received from seventeen (17) African countries: Central Africa (Democratic Republic of Congo, Cameroon and Rwanda), North Africa (Egypt, Libya, and Algeria), West Africa (Nigeria, Togo, Mali, Niger, and Côte-d'Ivoire), East Africa (Kenya, Uganda, Ethiopia and Sudan) and Southern Africa (Malawi, Tanzania South Africa). Two (2) of the twenty-eight (28) responses were from States: the Ministry of Women, Children and Youth in Ethiopia and Côte-d'Ivoire. Two (2) other responses came from national human rights institutions (NHRIs), namely the National Commission on Human Rights in Algeria and the Commission on Human Rights in Malawi, and (1) answer came from an independent institution created by the State, the Egyptian Council for Women. Two (2) women human rights defenders

not belonging to any organization also responded.

23. The report's analysis is based on information provided in the questionnaire, communications received by the Office of the Special Rapporteur in 2012 and research reports produced by women human rights defenders in Africa on the basis of their experiences and those of their colleagues.

24. The examples provided by the respondents are cited to illustrate the main points mentioned in the report. The names or places of residence of individual respondents are not provided. The responses to the questionnaire, in terms of violations and existing protection measures, are consistent with results from other sources, including Communications sent to the Office of the Rapporteur. The questionnaire responses and other contributions may be considered as reliable sources on the experiences and trends described. Due to the similarity of the experiences in the regions, this report does not provide a breakdown by region, and only describes the trends.



II - AFRICAN AND INTERNATIONAL HUMAN RIGHTS LEGAL INSTRUMENTS RELATED TO THE PROMOTION AND PROTECTION OF THE RIGHTS OF WOMEN HUMAN RIGHTS DEFENDERS

25. African and international legal instruments for the promotion and protection of human rights clearly set out the rights of women human rights defenders to carry out their activities safely without discrimination and the obligation of States to take measures to respect, protect and give effect to those rights.

26. It should be noted that the observance of the principle of non-discrimination and the principle of equality is fundamental in terms of the ability of women human rights defenders to carry out their work without fear of being attacked or hindered regardless of the area in which they have chosen to operate.

27. International and regional human rights standards and commitments relating to the elimination of all forms of discrimination against women and the right to protect human rights are relevant to the protection and promotion of the work of women human rights defenders. The international legal framework.

28. These rights are enshrined in several international treaties, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

29. The equality of all in respect of rights - without distinction - is affirmed in Article 1 of the Universal Declaration of Human Rights (UDHR), which states that "all human beings are born free and equal in dignity and rights". The Declaration goes on to assert the right of all, without "distinction of any kind, such as [...] sex ... or other status" to enjoy the rights enshrined in the Declaration. These include freedom of expression, association and assembly and participation in public affairs. In addition, equal rights are affirmed in Articles 2 and 26 of the ICCPR and Article 2 of the ICESCR.

30. The Convention on the Elimination of All Forms of Discrimination Against Women is one of the legal instruments specifically dedicated to women's rights and its provisions logically apply to women human rights defenders. It is the first international legal instrument to recognize and articulate women's rights to freedom of expression, association, non-discrimination and non-violence. Article 1 establishes the principle of non-discrimination against women. In Article 7, CEDAW urges State Parties to: "take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, [...] ensure to women, on equal terms with men, the right [...] to participate in non-governmental organizations and associations concerned with the public and political life of the country".

31. Further, the Convention established a Committee which, under the Optional Protocol adopted in 1999, can be approached by women human rights defenders if they feel they are victims of a violation by a State Party of any of the rights mentioned in the Convention.

32. The 1998 United Nations Declaration on the Right and

Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (known as the United Nations Declaration on Human Rights Defenders) recognizes that the defence of human rights is a right in itself. It states that every human being has the right to promote and protect human rights and provides a framework for the protection of human rights defenders by States that is informed by the principles of universality, non-violence and non-discrimination.

33. Pursuant to Article 2 of the UN Declaration on Human Rights Defenders, every state has a: "responsibility and duty ... to [adopt] such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

34. The adoption of the Declaration by consensus by the UN member States was a clear recognition of the legitimate role of human rights defenders on the one hand, and the obligations of the State to promote their work and protect them, on the other hand. Pursuant to Article 3 of the United Nations Declaration, national law, by which human rights and fundamental freedoms are implemented and respected, should be compatible with the United Nations Charter and other international obligations of the State in the field of human rights and fundamental freedoms.

35. The United Nations Declaration on the Elimination of Violence Against Women, adopted on 20 December 1993, is part of

other UN declarations containing provisions relevant to the activities of women human rights defenders.

The African Legal Framework

36. Article 2 of the African Charter on Human and Peoples' Rights ("African Charter" or "Charter") states that "Every individual should be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind". This principle of non-discrimination and the obligation to work actively to promote this principle clearly applies to the situation of women human rights defenders.

37. The Charter guarantees the rights of human rights defenders and their equal protection under the law in Articles 3 and 4, as well as the respect for the life and integrity of every human being. Further, the right to liberty and security of every person is protected (Article 6), as is the right of everyone to receive information, express and disseminate opinions (Article 9), the rights to freedom of association and assembly (Articles 10 and 11) and the right to freedom of movement (art. 12).

38. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women (Maputo Protocol) adopted in 2003 imposes obligations that are highly relevant to women human rights defenders. These include the obligation of States to fight against all forms of discrimination against women through legislative, institutional and other means and through the integration of a gender perspective in their programs and legislation and "in all other spheres of life" Article 2 (1).

39. The Protocol contains several provisions relating to the elimination of harmful cultural, traditional and discriminatory practices Article 2 (2), the fight against all forms of exploitation, inhuman and degrading treatment, Article 4 (1). In Article 4 (2) (e), the Protocol requires State Parties to take all appropriate measures to punish the perpetrators of violence against women and implement programs for the rehabilitation of women victims. Article 9 refers specifically to the right to participate in political processes and decision-making, and paragraph (c) states that "women [should] be equal partners with men at all levels of development and implementation of State policies and development programs".

40. The entire protocol is designed to enable women to claim their rights, including the right to defence. However, while 46 State Parties to the African Charter have signed the Protocol, only 36 have ratified it to date.

41. In addition to these texts, the AU adopted statements that affirm the rights of human rights defenders in their activities.

42. Paragraph 19 of the Declaration of Grand-Bay (1999) notes that the adoption of the UN Declaration on human rights "marks a significant turning point" and called on African governments to take measures to implement the Declaration in Africa. It also recognizes that the "observance of human rights is a key tool for promoting collective security, durable peace and sustainable development" and emphasizes the vital role played by human rights defenders in the process leading to these goals.

43. The Kigali Declaration adopted by the Ministerial Conference of the African Union on human rights in Africa, 8 May, 2003, in paragraph 28 recognizes the role of human rights defenders, especially in the "promotion and protection of human rights in Africa" and calls on Member States and regional institutions to protect them.

44. Statements of the African Union also contain relevant articles on the elimination of discrimination against women and the confirmation of their role in society. The Kigali Declaration builds on the commitments and instruments to recognize women as actors with equal rights in public life in African societies. Further, the 2004 Solemn Declaration on Gender Equality in Africa notes that "low levels of women's representation in social, economic and political decision-making structures and feminisation of poverty impact negatively on women's ability to derive full benefit from the economies of their countries and the democratization process".

45. Regional economic communities have also created various instruments for the protection of women's rights, including in the field of protection of the right to defend these rights - such as the SADC Protocol on Gender and Development. This text echoes the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which requires in its Article 7 that all State Parties:

"take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, [...] ensure to women, on equal terms with men, the right [...] to participate in non-governmental organizations and associations concerned with the public and political life of the country".

46. A number of initiatives have been taken as part of the implementation of the above-mentioned instruments to support the rights of human rights defenders, both at international and regional levels. United Nations Initiatives.

47. In his report to the Human Rights Council in 2010, the UN Special Rapporteur on the situation of human rights defenders, Ms Margaret Sekaggya, gave a description of the situation of women human rights defenders in different parts of the world, including Africa, and concluded that it was very serious.

48. Before the publication of that report, her predecessor, MsHinaJilani, then Special Representative of the UN Secretary General, noted the relative invisibility of the experience of women human rights defenders, explaining that out of one hundred and sixty-one (161) human rights complaints addressed to States, seventy (70) were related to the experience of women human rights defenders. Similarly, about a third of communications sent to States by the UN Special Rapporteur on human rights between 2004 and 2009, including letters of allegations and urgent appeals were related to women human rights defenders.

49. Therefore, it was necessary to pay special attention to the situation of human rights defenders, including women. When renewing the mandate of the Special Rapporteur on human rights, the Human Rights Council asked for the inclusion of a gender perspective in its work and to give prominence to the situation of women human rights defenders. In its last report to the Human Rights Council, the Special Rapporteur on human rights defenders focused on the key elements required to enable defenders to operate in a safe and conducive

environment. In line with the gender perspective that the Special Rapporteur adopted in her work, a section of the report was devoted to the special attention required by the risks faced by WHRDs and the challenges they encounter while working on women's rights and gender issues.

50. In 2012, the Human Rights Council devoted its Annual Day of Discussion on Women's Rights to the situation of women human rights defenders. During the debate, two African countries, Algeria and Sudan, recognized women human rights defenders as agents of social change, while noting the existence of cultural constraints in their work. These countries also affirmed their commitment to fight against all forms of violence against WHRDs.

51. Since 2003, the General Assembly and the Human Rights Council have adopted, often by consensus, resolutions on the protection of human rights defenders and the promotion of their work.

52. More recently, in December 2013, the UN General Assembly adopted by consensus its first resolution on the protection of women human rights defenders. The resolution emphasizes that the historical and structural inequalities in power relations and various forms of extremism have direct implications on the status and treatment of women. It notes that the rights of women human rights defenders are violated and their work stigmatized because of discriminatory practices and social norms or models that condone violence against women or perpetuate practices involving such violence. The resolution mentions a series of violations that women human rights defenders are subjected to, including sexual violence, harassment, sexual abuse and character

assassination. It confirms that women human rights defenders are subjected to multiple aggravated or intersecting forms of discrimination.

53. In approving this resolution, States agree to adopt a series of measures to promote and protect women human rights defenders, including all the necessary measures to ensure the protection of women human rights defenders and the inclusion of a gender perspective in their efforts to create a safe and enabling environment for women to defend rights. States pledged to ensure that the promotion and protection of human rights are not criminalized or restricted; otherwise they would fail to fulfil their commitments under international human rights law. States were asked to ensure that all legal, administrative and political provisions affecting women human rights defenders, including those designed to protect public morality are clearly defined, determinable, non-retroactive and compatible with the relevant provisions of international human rights law.

Initiatives within the African system

54. Initiatives have also been taken by the African Commission for the implementation of the instruments protecting the rights of women human rights defenders in Africa. Several mechanisms of the African Commission are mandated to promote and protect human rights defenders. They include the mechanism of the Special Rapporteur on the Freedom of Expression and Access to Information in Africa, and

³ The resolution on "the protection of human rights defenders" (A/HRC/22/L.13) was adopted on 21 March 2013 during the 22nd Session of the United Nation Human Rights Council.

⁴ The resolution is titled "promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms". It was tabled by Norway and co- sponsored by 35 countries.

that of the Special Rapporteur on Women's Rights in Africa. Specially recognizing "the essential contribution of the work of human rights defenders to the promotion of human rights, democracy and the rule of law in Africa and concerned about the persistence of violations of their rights ", the Commission established the mandate of the Special Rapporteur on Human Rights Defenders in Africa in 2004.

55. The Special Rapporteur on HRDs in Africa's mandate is to develop and make recommendations and put in place effective strategies to better protect human rights defenders. The Special Rapporteur requests, receives, examines and acts on information she receives on the human rights situation across the continent. She cooperates with Member States of the African Union, national human rights institutions and international and regional mechanisms for the protection of human rights defenders. The Special Rapporteur helps raise awareness and promote the implementation of the United Nations Declaration on Human Rights Defenders in Africa.

56. The African Commission has adopted several otherre solutions relevant to the work of human rights defenders, including the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (2001) and the Declaration of Principles on Freedom of Expression in Africa. Furthermore, the African Commission's adoption, of a Model Law for AU Member States on Access to Information in April 2013 is a highly relevant initiative for human rights defenders.

57. The African Commission has also been developing its jurisprudence on issues related to the protection of HRDs. In 2003, it

⁵ ACHRP/Rés.41 (XXVI) 99.

took a clear position in favour of the right to defence in its Communication Ghazi Suleiman v Sudan. Here it upheld the right of Mr Suleiman to freedom of expression and the free exercise of his profession as a human rights defender. The Commission pointed out in this communication the added value of the work of human rights defenders and the special attention they deserve. During the same year, the Commission delivered a decision regarding violence against women in the exercise of their rights to participate in public life in its Communication, Egyptian Initiative for Personal Rights and Interights v Arab Republic of Egypt. In this case, the Commission noted that the State party, Egypt, failed in its obligation to protect women against sexual violence during a demonstration in 2005. For the first time, the Commission handed down a decision on the duty of States to protect women against violence, an important indication of the potential of the protective mandate of the Commission, including with regard to women human rights defenders.

58. During the opening ceremony of the 54th Ordinary Session of the African Commission, the honourable Minister of Human Rights and Civil Protection of the Republic of Burkina Faso, speaking on behalf of the Member States of the African Union, mentioned the importance of the role of women human rights defenders in maintaining peace and security, securing democratic processes and ensuring the protection of human rights

59. Promoting the work of women human rights defenders and protecting them so that they are able to carry out their activities requires concrete actions to fight against gender-based inequality and

⁶ACHPR/Rés.62(XXXII) 02
Comm. 228/99 - Law Offices of Ghazi v. Soudan (33rd Ordinary Session, Niamey, Niger)

discrimination. In addition, States have the responsibility to take specific actions to provide an environment for all human rights and appropriate measures to protect women human rights defenders in view of their experiences.

⁸ Comm. 323/06- Egyptian Initiative for Personal Rights and INTERIGHTS/ Egypt. (10th Extra-Ordinary Session - The Gambia).

III. WHO ARE WOMEN HUMAN RIGHTS DEFENDERS?

60. There is no precise definition of women human rights defenders in the international and regional legal instruments for the promotion and protection of human rights. However, in her report on the situation of women human rights defenders, the UN Special Rapporteur on the situation of human rights defenders refers to the activities of WHRDs and individuals involved in issues related to gender and sexuality, including those working on sexual orientation and gender identity. The Special Rapporteur describes human rights defenders as "a very heterogeneous group".

61. Based on its experiences in the field, the Special Rapporteur on human rights in Africa suggests, for her part, that WHRDs are "any women engaged, individually or in association with others, in the promotion and protection of human rights and all those working for women's rights and rights related to gender and sexuality, regardless of their sexual orientation. This includes those who work in human rights organizations and the activists of grassroots organizations".

62. Thus, in the absence of a doctrinal definition, or any readymade definition, these two mechanisms attempt a definition of their own in terms of the real-life experiences of women human rights defenders. These definitions will be fine-tuned in the course of time and developments in the field of human rights.

⁹ Sekaggya Margaret, A/HRC/13/22/Add.3, Report submitted by the UN Special Rapporteur on the situation of human rights defenders, 13th session of the Human Rights Council, 4 March 2010.

63. Women human rights defenders can suffer backlash because of their gender and the work they do in favour of human rights. Because they are identified as women and human rights defenders, they are perceived as a threat to the "status quo". Women human rights defenders draw more hostility than their male colleagues because they challenge cultural, religious or discriminatory social norms and work to increase respect for the role of women in society. Their work is considered contrary to the stereotypes and dominant social and cultural constructs. The hostility and repression they face can take a specifically gendered form, manifested through verbal abuse, sexual harassment and rape.

IV. THE WORK OF WOMEN HUMAN RIGHTS DEFENDERS IN AFRICA

64. Many individuals and organizations are striving to defend human rights and justice on the continent. This has contributed significantly to the changes observed at both the political and economic levels in institutions. The same is true at the local level, in households and interpersonal relationships where ideas are developed, shaped and nurtured.

65. Women human rights defenders in Africa play a key role in the promotion and protection of human rights and engage in a variety of activities to promote the wellbeing of populations.

66. WHRDs in Africa work with States and other stakeholders such as educators, religious and traditional leaders, the media, lawyers, etc. Issues on which they work are generally considered to be human rights priorities based on the realities of the contexts in which they operate. They contribute significantly to the operation of State and civil society in the field of human rights. They are involved in the development of laws and institutional policies, infrastructure development, the provision of basic social services and the facilitation of their access by populations. They also participate in public and civil society programs and projects.

67. WHRDs have a special role in protecting the rights of marginalized and disadvantaged groups, as well as individuals stigmatized and excluded from social and public life for various reasons, including prejudice and social and cultural stereotypes.

68. In some cases, the issues which WHRDs work on in Africa are considered a risk and may constitute a threat to the interests of the State, religious or traditional institutions or even the private sector. In such situations, the work of these women is often criminalized, particularly in the case of those who challenge anti-democratic and discriminatory practices and poor political, economic and legal governance that worsen the living and working conditions of poor and vulnerable groups.

69. For example, in Africa, WHRDs fight against patriarchy and its harmful effects, despite considerable threats against them. As discussed in Section V, patriarchy seeks to maintain the status of inferiority and subordination of women. One of the respondents to the questionnaire prepared for this report notes that "the weight of the family and its influence is such that women's opportunities for action are reduced compared to those of men".

70. WHRDs working in Africa to overcome patriarchy and heteronormativity also take up the issues related to sexuality, sexual orientation and gender identity. These sexuality and gender-related rights have to do with the issue of the exercise of choice and autonomy regarding a number of options, such as the choice of one's sexual partner, having children, choosing the number of children and when to have them. WHRDs working on sexuality also deal with complex and sensitive issues such as contraception, the right to abortion and access to appropriate and qualified services. They also deal with the rights of those who provide these services. One respondent to the questionnaire from West Africa specifically mentioned how "organizations working on the right to reproductive health and health issues in general suffer from attacks and smear campaigns and slander".

71. Women human rights defenders are also striving to draw attention to issues related to the sexuality of young women, including their free and informed consent, their age at marriage, and their right to sex education.

72. WHRDs also work on issues related to the vulnerability of women living with HIV who are often stigmatized and accused of "deliberate transmission of HIV". They also focus on the criminalization of sex work and mobilize to ensure that sex workers can speak for themselves in their struggle for public recognition of their work as a professional activity in its own right.

73. Women human rights defenders work on issues of sexual orientation and gender identity by raising public awareness and enabling communities to access services and have their basic needs met. In cases where individuals targeted by discrimination are forced to leave their families, schools, religious institutions, workplaces and other public and private spaces and institutions because of their sexual orientation or gender identity, WHRDs can act alongside policy and decision-makers to ensure the recognition, respect and appropriate response to the needs and rights to protection against violence and other violations of the rights of those suffering from discrimination. WHRDs work to put an end to the exclusion and isolation of these individuals or groups.

74. For their part, WHRDs, journalists and media operate in high-risk environments, because they deal with sensitive economic, political and even sociological questions. Indeed, they push for information to be made available and accessible to the public. Through their tenacity and determination, WHRDs promote transparency to ensure the enjoyment of freedom of expression and access to information.

75. WHRDs work on issues that include polygamy, inheritance rights, widowhood rights, marriage and female genital mutilation. WHRDs are activists who mobilize, influence laws and policies and develop and implement programs and projects to strengthen institutions that can provide quality services to women and all individuals.

76. WHRDs work in all sectors; they can be judges, lawyers, community leaders and anonymous civil servants. They are found in the organizations and movements promoting social justice, in academic institutions where they propose ideas and concepts often considered subversive but beneficial to the status of women.

77. In this regard, the UN Special Representative of the Secretary General on human rights defenders stated that:

"as professionals and as mothers, sisters, daughters, wives, partners and colleagues, women human rights defenders have led campaigns against "disappearances". They have campaigned tirelessly for more humane conditions of detention and have documented and exposed human rights violations. Women human rights defenders have among others affirmed the rights of ethnic and religious minorities and refugees and protested against widespread impunity in cases of violence against women; they have supported countless victims of human rights violations and their families in their quest for justice; they have implemented projects aimed at helping other women victims of sexual abuse to obtain reparation. As victims of human rights violations themselves, they have testified in court against alleged perpetrators. As union activists, they have defended the rights of workers; as lawyers, they have played an active role in the search for redress for victims of human rights violations and in the fight against impunity, and they have also campaigned for the

rights of human rights defenders. This list could go on as a testimony to their courage and their accomplishments."

78. African WHRDs are active on all fronts of the struggle for the respect of human rights, and at all levels. Thus, they are present at the local level across the entire continent as well as at the international level by participating in international networks, coalitions and global social movements where they position themselves as leading organizers in the forefront of the struggles for social justice for all.

79. WHRDs work on all human rights issues affecting them, their communities and the general population.

80. Like many others, women human rights defenders in Africa work daily to defend human rights standards and principles where justice for all is a reality, where the right to education, development and health are progressively realised and where the principles of dignity, to equality and freedom are recognized in all spheres of life.

81. These are key examples that illustrate the work of women human rights defenders. WHRDs work on complex and diverse issues, including the equitable distribution of resources and wealth, extractive industries, health and environment.



V. CONTEXTUAL FACTORS THAT CONTRIBUTE TO VIOLATIONS OF THE RIGHTS OF WOMEN HUMAN RIGHTS DEFENDERS

82. Various contextual factors affect the activism of women human rights defenders differently. We mention five (5) such factors in this report.

83. They are the global phenomena of patriarchy, heteronormativity, militarization, religious and other forms of extremism and globalization. All these phenomena have adverse effects on women's rights and constitute obstacles to the promotion and protection of WHRDs.

84. **Patriarchy** refers to relations where women are oppressed and exploited and male power dominates in society. Patriarchy is associated with a division of activities in both the public and private sphere and reinforces the belief that there are specific roles for women. Women who deviate from the preconceived norms and do not comply with the tasks assigned to their gender may bear the brunt of the "law" of the community and face severe punishment. Patriarchy is reinforced by restrictions on the sexual autonomy of women and the argument that violence against women is natural. These relations of superiority of the so-called stronger sex over the weaker sex result in the systematic violation of the fundamental rights of women. The 2010 Framework and Guidelines on Land Policy in Africa of African Union recognizes the negative impact of patriarchy on Women: "The system of patriarchy that dominates the social organization has tended to discriminate against women on issues of ownership and control of land resources".

85. Patriarchy is particularly relevant in understanding the activism of women human rights defenders, because the structural gender inequality and sexual division of labour partly explain the lack of protection and the non-recognition of the importance of the activities of WHRDs. While patriarchy is embedded in cultural beliefs, it is often codified and entrenched in the law.

86. The concept of heteronormativity is related to the sex roles defined by patriarchy. **Heteronormativity** is based on the assumption that desire, behaviour and heterosexual identity are the norm in culture, politics and society. Heteronormativity entails regulated practices that are accepted as the norm and are subtly expressed in the society through the media, legislation and other stakeholders. Hegemonic heterosexual norms separate individuals into male or female and lead to specific ideas about gender roles and activities appropriate to each sex.

87. Heteronormativity is also the basis of discrimination against single women, divorced women and widows. The concept is also the basis of discrimination against lesbians, bisexual women and transgender persons because it creates a hierarchy of "normal" and "abnormal" sexualities, which inevitably leads to human rights violations.

88. **Militarization** is a term that refers to the process by which the army - through its codes and behaviours - and its institutions play an increasingly powerful role in society through what is termed excessive power. Military presence in civilian life and decision-making structures is thus considered a normal situation. Militaristic states rely on their security forces to ensure stability. The process is also accompanied by the proliferation of weapons and the acceptance of violence as a common

method of social interaction. Militarization often reinforces patriarchal practices because of the predominance given to male authority.

89. Militarization is a process that has far-reaching consequences for women human rights defenders. The latter tend to be more vulnerable and their work is often not recognized. In situations of political instability, WHRDs can be targeted by paramilitary forces and state officials for their activism. This makes them particularly vulnerable and exposed to the risk of sexual violence.

90. **Fundamentalism** refers to political projects that use nationalistic, cultural, ethnic, religious rhetoric to gain and maintain power over communities. Fundamentalist actors often employ a selective reading of texts to create the notion of a single "authentic" identity. Any contestation of these ideologies is considered as "blasphemy." In these environments, women are often assigned a subordinate role, and women's rights are generally considered as a concept imposed by the West. Fundamentalists create a framework that reinforces the subordination of women and denies them control over their lives and bodies.

91. In such situations, women human rights defenders face many threats in the course of their work. This is partly because they defend human rights that are considered to be foreign ideas. In addition, as women they are subject to social and gender norms promoted by fundamentalists. These contribute to the backlash and reprisals women human rights defenders can frequently experience. The Special Rapporteur on human rights defenders in Africa noted in her report at the 45th Ordinary Session of the African Commission that she talked to human rights defenders who saw the "rise of religious fundamentalism"

as a permanent danger.

92. This situation is mentioned in one of the answers to the questionnaire:

"Women human rights defenders are facing serious challenges, particularly in certain regions of the country where Sharia law applies and [in areas] where traditional practices and customs are stronger". Another respondent, a woman defender from West Africa, stresses how seriously "Islamic fundamentalism [...] affects women's activism". The response also mentioned the effects on the laws, the protection of women human rights defenders and the high levels of violence and stigma they experience.

93. **Globalization** refers to a set of neo-liberal economic processes that focus on economic growth, liberalization of national economies, the privatization of public services and deregulation of trade and finance. These policies lead to changes in the availability and accessibility of basic services such as education and health. The implementations of these economic policies exacerbate the competition for scarce resources and, by extension, increase poverty and economic inequality, pushing more people below the poverty line. Multinational companies that thrive in this environment of privatization and profit maximization exploit the labour of local populations who are often displaced due to land acquisition for commercial purposes. This can cause social tensions in the poorest and most marginalized communities.

94. In this context, the struggle for economic, social and cultural rights is growing. Women human rights defenders work on a series of rights: economic, social and cultural rights, the rights of workers in

general and migrant workers in particular, the rights of indigenous populations, minority rights, health and reproductive health rights, to name but a few. In addition, they struggle against the abuses perpetrated by multinational and national companies, and State complicity towards this end.

95. Poverty and inequality resulting from austerity measures also affect women human rights defenders. Women generally have less access to employment and decent jobs, yet they paradoxically bear the greatest responsibilities for their families. WHRDs themselves, in these situations, are less able to perform their work as human rights defenders because of the difficult economic conditions of their families.

96. In the fight against major development projects, WHRDs run serious risks and face threats that are often carried out. This is the case when fighting from within these projects as employees, when campaigning outside in protest against the policies and practices of these institutions. Police forces are often sent against them, resulting in scenes of police brutality experienced by WHRDs who are sometimes forced to abandon demonstrations.

97. It is clear that knowledge of the factors of the violations against women human rights defenders mentioned above is essential to understand the risks and types of violations perpetrated against women human rights defenders. We should therefore fight structural and systemic discrimination, as well as attitudes and practices that result from them in order to ensure full protection for WHRDs.



VI. TYPES OF VIOLATIONS OF THE RIGHTS OF WOMEN HUMAN RIGHTS DEFENDERS

98. According to the analysis conducted by women human rights defenders themselves, the trends of violations, threats, risks and constraints experienced by WHRDs in Africa include general violations and gender-specific violations.

99. The types of risks and vulnerabilities for women human rights defenders are the same as those encountered by their male counterparts and are therefore inherent to human rights work.

100. However, women human rights defenders in Africa also face specific gender-based risks. Women human rights defenders are targeted because they are women. Attacks against WHRDs can sometimes be similar to those carried out against their male colleagues, but the consequences of the attacks are very different.

101. As mentioned by one of the respondents to the questionnaire:

"many women are considered by their communities to be an extension of the community itself. If a woman human rights defender is raped because of her human rights activities, [she] can be considered as bringing shame not only on her family members but the whole community. As a human rights defender, she has to bear the burden of the trauma of the rape and also of the fact that it was her human rights activities that brought shame on her family".

102. Women human rights defenders in Africa are exposed to risks and vulnerable situations due to the nature of their work for the

promotion and protection of women's rights and because they do not conform to the norms and cultural and religious stereotypes. It should be noted that men who work on rights issues relating to women's rights, equality and sexuality can also be the targets of intimidation and attacks.

103. The work and activism of women human rights defenders in Africa expose them to hostility and social, political and economic sanctions. These sanctions are designed to restrict their autonomy and commitment.

104. In 2012, the Office of the Special Rapporteur on human rights defenders in Africa received fifty (50) urgent appeals, fourteen (14) of which concerned women human rights defenders and nine (9) were filed by women. The communications were related to arbitrary arrests and detentions, two (2) cases involved threats of rape and murder and two (2) were related to intimidation and "judicial harassment". The appeals were related especially to women NGO leaders, human rights defenders dealing with sexual orientation and gender identity and members of women's organizations, human rights activists and journalists.

105. In 2013, the Office of the Special Rapporteur sent to the Member States twenty-eight (28) urgent appeals, including six (6) involving the situation of women human rights defenders. These six (6) urgent appeals were related to a total of thirty-one (31) cases of individual women human rights defenders.

106. It is clear from these figures that the amount of information reaching the Special Rapporteur on human rights in Africa regarding violations and abuses against women human rights defenders is still low.

107. The laws of different countries show that the reality of violations against women human rights defenders depends on whether or not there is a legal vacuum. This is the case in the transition countries of North Africa or in conflict or post-conflict situations, such as the Democratic Republic of Congo and Sierra Leone. National laws may allow violations to occur, sometimes in spite of other laws designed to prevent the violations.

108. None of the respondents mentioned laws, policies or programs specifically designed for the protection and defence of human rights defenders in accordance with the UN Declaration on human rights defenders.

109. Thus, there is a strong tendency to impunity on the continent, as evidenced by the failure of existing laws and policies, the release without trial of perpetrators of violence and rape, police records that disappear and deliberate delays in legal proceedings. The low conviction rate in respect of these harmful practices against women and women human rights defenders is an indicator of the persistence of the culture of impunity.

110. Below is a typology of violations, risks and constraints illustrated by examples mentioned by respondents and other sources:

111. **Violations of the right to life, physical and mental integrity** occur frequently and include murder and attempted murder, enforced disappearances, torture, cruel, inhuman and degrading treatment, rape, assault and sexual abuse, domestic violence (including psychological and physical violence) and excessive use of force.

112. The people approached in this study linked some deaths to cases of sexual assault or rape. One respondent noted that "some women human rights defenders have been physically assaulted in police stations while assisting victims of domestic violence. They were accused of destroying the harmony of households and causing disorder". One respondent from North Africa cited the case of a defender who was kidnapped by state agents and ended up with "as haved head and visible signs of physical and moral torture".

113. Another documented case is that of an activist working on sexual orientation and gender identity, founder and director of an association for the promotion and protection of the rights of homosexuals, Fannyann Eddy, who was found dead in her office in Freetown, Sierra Leone. The Criminal Investigation Division of the Police Department did not clearly establish that the motive was hatred against her activism in favour of the rights of lesbians and gays. A man was arrested for the murder but later escaped from prison. He is still at large.

114. Physical and psychological deprivation of liberty, another category of violations suffered by women human rights defenders in Africa, includes arbitrary arrests and detentions, which are common to all the sub-regions of the continent.

115. Cases of arbitrary arrests were cited by several women human rights defenders in their responses to the questionnaires. One respondent stated that during their detention, she and her colleagues "encountered difficulties with their personal hygiene and were not given any sanitary napkins despite their pleas. This was psychologically painful for many of them."

116. **Character assassination** occurs frequently and is reported by many women human rights defenders in various contexts across the continent, together with threats, warnings and ultimatums, bullying, blackmail and extortion, sexual harassment, "sexuality-baiting", slander, defamation, "labelling", categorization, smear campaigns, incitement to hatred, stigmatization, segregation and ostracism.

117. One respondent stated that: "As members of women's rights organisations, we have been labelled as bitter, divorced women aiming to destroy the institution of marriage, without any respect for the culture and place of women in society." Another noted that, because of their work in promoting human rights, "women have been called all sorts of names like 'impossibles' or 'tomboys'. Another respondent reported that women human rights defenders are considered as 'pariahs.'"

118. Violations of the right to privacy and personal relationships are also common. They include raids of offices or homes, confiscation of the working tools of WHRDs, attacks and intimidation by family members and the community, body searches and virginity tests.

119. Reports on violations of the rights of women human rights defenders in North Africa include cases of the arrests of several women following sit-in strikes like, for example, the case in Egypt. The press reported that an army general publicly admitted that army officers had conducted virginity tests on the arrested women. The officers asked the (virgin) girls to stand to one side and the (non-virgin) women to stand on the other side. Such an order is a threat in itself because of the stigma associated with unmarried and non-virgin women, which can lead to honour crimes. In this case, the girls were humiliated, beaten, insulted and tortured with electric shocks.

120. Several respondents to the questionnaire pointed out that attacks against the family are a strategy to discourage women human rights defenders. The families of defenders are often targeted to put pressure on women and force them to abandon their activism. In their response to the questionnaire, the members of a North African NGOs reported the case of a woman defender whose mother and sister were forced to flee their homes following constant threats. Other cases have also been reported.

121. **Certain laws and practices** reduce women's activism to its simplest expression. This is the case with the restrictive use of customary law and legal frameworks based on religion as well as laws restricting the work of NGOs, both financially and legally.

122. It was also stressed that in the absence of legal remedies, women human rights defenders are highly exposed to harassment and other risks such as enforced disappearances and death.

123. The Strategic Initiative for Women in the Horn of Africa (SIHA), in its information document focused on the effect of public order laws, which result in what is described as "unlimited authority, the scope of the interpretation of the public order laws and non-accountability of law enforcement officers." Due to the content and application of these laws, SIHA argued that violence against women is legitimized and several restrictions on women's rights limit the space of their human rights protection work.

124. **Violations of the right to freedom of expression, association and assembly** of women human rights defenders remain a challenge to be overcome. WHRDs face huge restrictions and

harassment when they want to register their organizations, receive funding, and access information necessary to manage their structures.

125. The Special Rapporteur on human rights defenders and the Special Rapporteur on Women's Rights, in their joint press release on the arrest and detention of women human rights defenders in Sudan in July 2012, expressed deep concern over the persecution, arbitrary arrests and detention of women human rights defenders in the country. These acts are considered by the Rapporteurs as "a serious violation of the right to dignity and physical integrity and freedom of opinion, expression and peaceful demonstration."

126. A response to the questionnaire indicated that the members of a Central African network of women human rights defenders that supports and informs young women and raises the awareness of communities on women's rights, particularly rights relating to sexual violence and rape, were attacked during the celebration of the International Day of Action for Women's Health, though they had in fact obtained the necessary authorization. The attack was described by one woman human rights defender who was a victim of the attack as: "A mass of human beings" with "hundreds of hands tearing at her clothes" and "violating her body with their fingers".

127. Another respondent stated "while they were doing their work as defenders, the women often saw police officers targeting sensitive parts of their bodies."

128. **Gender-based restrictions on freedom of movement** means that women are refused permission to travel beyond the borders or even to parts of the country, or they are denied visas or are deported.

129. The last category of violations is related to **the non-recognition of the violations against women human rights defenders**, the justification of these violations and impunity that prevails in Africa. In this regard, a woman HRD from the SADC who responded to the questionnaire stated "the police continue to believe that women HRDs who claim that they are victims of domestic violence are liars".

130. These main trends observed in the types of violations, legal frameworks and the issue of impunity are found in all the sub-regions of the continent (North, South, East, West and Central Africa). Similarly, the perpetrators of the violations are the same everywhere.

131. Different sources approached in the context of this report emphasize the fact that, among the perpetrators of the violations of the rights of women human rights defenders, the state is the principal violator and is strongly represented by the police, heads of the security and intelligence services, judges and politicians. Next are the non-state actors, including armed groups, family and friends, as well as members of the community.

132. One respondent from West Africa noted that the threats from non-state actors include "death threats by village or community elders and intimidation by traditional leaders." A South African organization mentioned that defenders of sexual rights "have had their offices and homes burned by alleged members of the ruling party." Another South African woman stated that "the violations are committed by non-state actors. However, the inability to address and eliminate the inequalities and vulnerabilities [we face] means that States are accomplices of these acts."

VII. THE IMPACT OF THE VIOLATIONS OF THE RIGHTS OF WOMEN HUMAN RIGHTS DEFENDERS

133. The human rights violations suffered by WHRDs certainly have a negative moral, physical and material impact.

134. Regarding the physical impact, women human rights defenders suffer bodily harm in violation of Article 4 of the African Charter which stipulates that "human beings are inviolable. Every human being should be entitled to respect for his life and the integrity of his person. No one should be arbitrarily deprived of this right." Human rights violations perpetrated against women human rights defenders may have lasting gender-specific consequences. For example, sexual abuse or rape can lead to pregnancy and sexually transmitted diseases, including HIV/AIDS. Pregnancies resulting from rape are clearly the result of gender-based human rights violations that call for a very specific understanding and response.

135. The moral impact on women human rights defenders is related to the stigma and criticism they suffer. This causes the loss of self-confidence, self-esteem and fear.

136. The material impact especially affects the work of women human rights defenders and remains a crucial factor of financial and economic destabilization. Just like the moral impact, the material impact should be seriously taken into account in measures put in place to support women human rights defenders.

137. Another significant negative impact that could be mentioned

is one that affects the whole community because it is the very absence of the work of WHRDs. This impact will slow down the progress of human rights and the development of laws and policies designed to promote a prosperous continent whose people live in dignity and freedom as provided for in the Constitutive Act of the African Union.

138. States are expected to support women human rights defenders and facilitate their work. However, the violations, the lapses in protection and the lack of redress for the violations described in this report send a negative message, suggesting that defending human rights is a punishable offence.

139. Nevertheless, one fact highlighted by this study is that despite the serious risks faced by WHRDs, they still believe in their activities. This courage should be honoured by the creation and implementation of adequate safeguards for their benefit.

VIII. MEASURES FOR THE PROTECTION OF WOMEN HUMAN RIGHTS DEFENDERS

State instruments for the protection of women human rights defenders

140. African and international human rights instruments recognize the rights of women human rights defenders to carry out their work without discrimination, as well as the need for States to ensure respect for and protection of these rights.

141. The various regional and international initiatives that focus on the challenges faced by women human rights defenders indicate a real concern about the violations and risks faced by women human rights defenders and the need for States to take measures to ensure their protection.

142. As noted above, Article 2 of the UN Declaration on Human Rights Defenders emphasizes the obligations of the State to protect defenders. It mentions that States may be accountable, either by "commission " or "omission" for violations against those engaged in human rights work and "should adopt legislative, administrative or other measures as may be necessary" to guarantee the rights and freedoms contained in the Declaration. Regarding the responses received by the Special Rapporteur, it is necessary to note that while legislative measures have been taken in some places, the question of their effectiveness and

¹⁰ Law No. 2014-388 of 20 June 2014 on the protection of defenders of human rights was adopted after the adoption of this study by the African Commission on Human and Peoples' Rights in its extraordinary session in March 2014. It grants in art 9 a specific protection for women human rights defenders against all forms of discrimination and violence.

applicability remains.

Legislative measures

143. These measures are relevant to the global legislative framework and that of women HRDs.

The global legislative framework

144. The study found generally that the legal framework for the protection of WHRDs is "inadequate" and indicates that existing laws are often incompatible with the human rights standards.

145. It is essential for the legal and judicial framework to enable women human rights defenders victims of violations and their families to take legal action, either individually or collectively.

146. When violations are committed against women human rights defenders, mechanisms should be able to ensure access to fair judicial proceedings under Article 7 of the African Charter. Any person or non-governmental organization with a legitimate interest in a case should be guaranteed the legal status necessary to seek judicial remedies for violations committed against them or their families and colleagues.

Legislation to protect human rights defenders, including women human rights defenders

147. This study found that some state actors (such as the Ministry of Foreign Affairs of Ethiopia) have adopted legislative measures,

particularly in the field of gender mainstreaming:

"Starting with the Constitution, the fundamental law of the nation, continuing with the ratification of international conventions and other human rights instruments dealing with the rights of women, the review of Federal and Regional Family Laws, and criminal law, the Government has done its best to mainstream gender in all activities related to the Law."

148. In Côte d'Ivoire, for example, there is still no legislation specifically designed to protect women human rights defenders, even though a bill on "human rights defenders" is being developed at the initiative of the Ministry of Justice and Human Rights. In Cote d'Ivoire, the Constitution also stipulates that "the State has the duty to protect individuals against the violation of their fundamental rights", "There may be laws, policies, strategies or specific programs or national institutions, including monitoring mechanisms".

149. In Côte-d'Ivoire, some civil society organisations recommend that the Ivorian legal framework be amended to comply with the rights contained in the 1998 UN Declaration on Human Rights Defenders. They also recommend the rapid adoption of the Law on the protection of HRDs and its enforcement.

150. The Algerian Human Rights Committee stated that "national legislation has established quotas for the representation of women in all elected assemblies to better defend their rights," but makes no reference to the existence of laws, policies or specific protection programs for women human rights defenders. The National Human Rights Commission of Malawi, for its part, explicitly stated that such provisions do not exist

in Malawi.

151. None of the women defenders who responded to the Rapporteur's questionnaire have noted the existence of mechanisms to protect women human rights defenders or human rights defenders in general.

152. One woman defender said:

"We believe that no specific measures for the promotion and protection of women human rights defenders exist. As a result, women human rights defenders, activists working on women's rights and gender issues are not taken into account in the design and implementation of measures against violations of the rights of women human rights defenders and other actors."

Laws restricting the work of human rights defenders, including women

153. A woman human rights defender from Central Africa responded as follows: "not only is there no law or regulation to support their work", "strict rules are [enforced] to limit the scope of that work."

154. There are also the Public Order Laws that sometimes confine and punish women human rights defenders. The necessary legislative reforms proposed should aim to remove legal provisions that limit the ability of women human rights defenders to carry out their activities. The law should serve and protect everyone without discrimination. It should be impersonal and general.

155. Women defenders are also particularly vulnerable to "emergency" legal measures. Although these emergency legal measures do not necessarily target women defenders specifically, the authorities often use them through backward sexist behaviours to bully WHRDs in public.

National mechanisms for the protection of women human rights defenders

156. Although the question was asked, none of the women defenders who answered mentioned any mechanisms put in place at national level to protect WHRDs. Some respondents indicated that their national human rights institutions do not have a specific mandate on women human rights defenders and therefore have no protection programs for them. A woman defender from South Africa mentioned that despite the existence of the National Human Rights Commission and the Commission for Gender Equality (both institutions provided by the Constitution) the high rate of rape reported in the country is an indicator of the poor performance of these commissions due to the lack of material or financial means and even the "traditional perception of the status of women based on their gender".

Emergency response mechanisms financed by the State

157. Clearly, States have the primary responsibility to protect human rights defenders and women defenders. The latter face specific violations because of their physical status and place assigned to them by society.

158. Among the mechanisms that can be developed by States, it is necessary to put in place an early warning mechanism whose design and method of operation remain to be defined.

159. A former Special Representative of the UN Secretary General on the situation of human rights defenders stated that:
"Certain categories of defenders are more likely to be targeted during certain periods [...] based on the political agendas in their country [...]. These "seasonal" changes in the vulnerability of human rights defenders could be the basis for the adoption of protective strategies that are particularly active for the benefit of certain defenders during the relevant periods of vulnerability."

160. Best practices for the protection of human rights have been identified in some countries including Colombia and Guatemala. Protection programs developed in these countries include an evaluation of the main risks based on an analysis of the likelihood of aggression and its impact. The risk assessment is followed by a risk management phase, which involves strategic decisions on how best to deal with the different levels of risk. It is important to note that the protection programs do not focus on strictly objective risk measurements, but on an interpretation from the defender's perspective.

Ending impunity for human rights violations

161. States also have the special responsibility to end impunity for acts of violence against women human rights defenders. This assumes that all stakeholders including teachers at all levels, lawyers, law enforcement officers, military personnel and civil servants, etc. are

sensitized, informed and educate others. In other words, it is necessary to include human rights in educational curricula and training programs. State representatives should publicly pledge to end impunity and ensure that human rights violations, including those committed against women human rights defenders, are investigated and perpetrators prosecuted in accordance with international standards.

Other measures:

162. States have the responsibility to promote, protect and ensure respect for human rights. This requires the creation of an enabling environment among other things for the work of WHRDs because they contribute to the development of their community. It is also necessary to facilitate their participation in decision-making and adopt measures, including relevant laws and policies.

163. The State has the duty to create institutions and ensure their accessibility to ensure the effective protection of the work of women human rights defenders, including prosecuting those who violate their rights, and establishing adequate judicial remedies at the local level.

164. In 2005 in Colombo, an International Consultation on women human rights defenders led to the creation of the Women Human Rights Defenders' International Coalition to raise awareness about the situation of WHRDs. Indeed, WHRDs worldwide can, as this study reveals, face serious challenges, and it is therefore necessary for strong and appropriate solutions to be recommended at the international, regional and national level to enable them to devote themselves fully to the service of humanity.

165. In Africa, several countries, after Liberia, Sierra Leone and Togo, have continued this campaign and have focused their actions on the work of WHRDs, the violence they suffer and the risks they face in their social and professional environment.

166. However, it should be noted that, although the specific mechanisms promoted by the States for the protection of women are virtually non-existent, a number of mechanisms exist for the benefit of African women, set up by women and associations for the protection and promotion of women's rights, which is one of the best practices that can be cited. In South Africa, for example, women's participation in the demonstrations of 9 August 1960 against the unjust policy that dehumanized and violated the dignity of women, led to the establishment of "Women's Month," an initiative to mark women's struggle for their political rights in the country every August. Other promising initiatives have been conducted by women in Togo, Benin and Malawi with the creation of shelters and counselling centres for women victims of violence.

167. These mechanisms often make up for the weakness of the state in this area. This shows the unconditional commitment of women human rights defenders to their work despite the lack of specific instruments to promote and protect their rights.

168. The significant contribution of women human rights defenders and various stakeholders to the preparation of this report has made it possible to draw the following conclusions and make recommendations.

IX. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

169. With the completion of this study, we can conclude that Africa is still developing: politically, economically, socially and culturally, as well as in regard to the respect of human rights. The respect of human rights is critically important. Persons deprived of liberty, suffering from hunger and poverty, constrained by social and cultural prejudices cannot make a meaningful contribution to the sustainable development of the continent.

170. Women human rights defenders work to ensure that all Africans and people around the world enjoy all their human rights. This fight should encourage all stakeholders to work in positive synergy to create the necessary conditions for the promotion of all human rights.

171. In this regard, States Parties to the African Charter on Human are the primary duty bearers. Nevertheless, the international community, the African Commission, the national human rights institutions, human rights defenders and civil society should contribute to the protection and promotion of women human rights defenders.

B. Recommendations

172. In light of our analysis and given the serious challenges faced by women human rights defenders on the African continent, the

African Commission recommends urgent and sustained action by all parties under the strong leadership of States and national human rights institutions.

173. These recommendations are presented first to the States that have the primary responsibility and duty to promote and protect the human rights and fundamental freedoms of all persons within their territories. Recommendations are made to the national human rights institutions, which play a key role in monitoring and calling to account those who abuse and/or violate the human rights of others.

174. We include recommendations to the African Commission, as part of its mandate and that of the Special Rapporteur on human rights defenders in Africa.

175. Finally, recommendations are addressed to civil society and women human rights defenders as well as to the donors who support the work of women human rights defenders and the efforts of States.

176. Although these recommendations are related to specific protection measures provided for women human rights defenders, the Special Rapporteur wishes to remind all State Parties of their obligations to protect all m human rights defenders and to create a conducive environment for their work.

RECOMMENDATIONS TO STATE PARTIES

1. National framework

a) *Political commitment*

177. State Parties should demonstrate their political commitment by fulfilling their obligations and commitments to protect and defend women human rights defenders at the local and national levels.

b) *Responsibility*

178. State Parties should demonstrate leadership and responsibility by monitoring the situation of women human rights defenders and filling the gaps in political, institutional, legislative and administrative measures to ensure their protection.

c) *A safe and conducive environment*

179. State Parties should take political, administrative and legislative measures to ensure that the environment in which women human rights defenders operate is enabling to the protection of all human rights, including women's rights. These measures should provide a response to the religious and cultural norms that subjugate women in general and women human rights defenders in particular. They may include an open dialogue with leaders and groups of traditional and cultural institutions, religious institutions, educational institutions and the media.

180. State Parties should publicly affirm the legitimacy of the work of WHRDs, denounce attacks against WHRDs and affirm the commitment of the State to protect the work of WHRDs.

d) *Urgent Measures to address the issue of violence against women human rights defenders*

181. State Parties should take immediate steps to end all forms of violence suffered by women human rights defenders, end impunity and hold the perpetrators accountable..

2. Legislative reform

a) A) *Enabling legislation and national policies*

182. State Parties should adopt a specific law to promote and protect the work of human rights defenders in a broader framework for protecting and promoting all human rights, with specific provisions for the recognition and protection of women human rights defenders. This law should be consistent with the principles contained in the UN Declaration on human rights defenders 1998, the Declaration of Grand Bay and the Kigali Declaration respectively.

b) *Ratification and domestication of human rights instruments*

183. State Parties should sign and ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the "Maputo Protocol", to demonstrate their commitment to end discrimination, inequalities and violations of women's rights as an important step for the promotion and protection of the rights of women human rights defenders in Africa.

c) *Elimination of legal and political obstacles*

184. State Parties should take immediate steps to identify and eliminate all legal and political obstacles to the right to equality of women and the full and effective participation in public and political life.

3. Protection mechanisms

a) Mechanisms to guarantee protection of Women Human Rights Defenders

185. State Parties should establish and maintain a mechanism to coordinate, monitor and evaluate the measures that aim to prevent and address violations and discrimination against women human rights defenders and their families. This mechanism should be developed and implemented with the full participation of women human rights defenders, national human rights institutions and any other appropriate organisation. The mechanism could, for example, be backed by an NHRI.

b) Financing National Human Rights Institutions

186. State Parties should ensure the adequate funding of national human rights institutions in order to enable them to fully discharge their mandate of planning, implementation, monitoring and evaluation of initiatives designed to protect women human rights defenders.

c) Access to the protection of women human rights defenders

187. State Parties should ensure the provision of emergency response and protection mechanisms for women human rights defenders who are attacked or threatened, at risk or in imminent danger.

d) Meaningful participation of women human rights defenders

188. State Parties should ensure the participation, protection and safety of women human rights defenders in the development of these national mechanisms and policies that respond to the specific needs of the women human rights defenders.

e) Protection of the families of women human rights defenders

189. State Parties should ensure that appropriate and relevant protection measures are available for the family members of women human rights defenders and make them available at national and community levels.

f) Communication on measures and remedies for women human rights defenders

190. State Parties should ensure that measures to protect women human rights defenders are clearly and regularly communicated between national human rights institutions and women human rights defenders and their families.

4. Ending impunity for the violations against women human rights defenders

a) Recognition of the situation of women human rights defenders

191. State Parties should recognize, document and investigate the violations and discrimination against women human rights defenders and commit to ending impunity for these violations.

b) Institutionalization of the protection of women human rights defenders by the State

192. State Parties should develop plans and allocate resources to support the criminal courts in order to ensure that the rights of women human rights defenders in particular are respected and protected.

c) Effective and comprehensive investigations

193. State Parties should ensure prompt, impartial and thorough investigations into discrimination and human rights violations against women human rights defenders.

d) Right to access remedies

194. State Parties should guarantee the right to effective remedies for women human rights defenders victims of serious violations, including the right to reparation.

e) Jurisdiction and immunity

195. State Parties should ensure that government officials and members of the security forces do not enjoy immunity from prosecution. Ordinary national courts should have jurisdiction in cases where violations are committed by military personnel.

f) Disclosure of the findings of investigations

196. State Parties should ensure full disclosure of the findings of investigations into violations of the rights of women human rights defenders, including in all cases of torture, sexual abuse, especially rape committed by agents of the State.

g) Awareness and capacity building of State officials

197. State Parties should ensure that state officials, including the judiciary, the police and security forces are sensitized and understand the rights of women human rights defenders and undergo training so that they can implement the policies and frameworks put in place to

protect women human rights defenders.

RECOMMENDATIONS TO THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

1. Guidelines on the protection of the rights of women human rights defenders in Africa

198. The African Commission on Human and Peoples' Rights should establish guidelines to set the standards for the protection of women human rights defenders in Africa. The Commission should establish indicators for monitoring and ascertaining the measures taken by States to ensure the protection of women human rights defenders on the basis of these guidelines.

2. Monitoring compliance

199. The Commission should ensure compliance with the State's obligations to protect women human rights defenders through existing processes, such as state periodic reports to the Commission, country visits, the adoption of resolutions and communication on the situation of women human rights defenders and engage in a dialogue with States on progress, obstacles, plans and other measures to ensure the effective protection of women human rights defenders.

3. Obligations of States to end impunity

200. The African Commission should take active measures to hold State Parties accountable for their obligations to end impunity for

violations against women human rights defenders.

4. Response to reprisals

201. The African Commission should ensure the systematic monitoring, communication and reporting of any reprisals committed against women human rights defenders who collaborate with it.

5. Dialogue and engagement with women human rights defenders

202. The African Commission should work closely with women human rights defenders in a sustainable and systematic manner to ensure that WHRDs are heard and consulted and that their experiences are shared.

203. The African Commission should promote the sensitization of all the mechanisms available to women human rights defenders, including communication procedures among themselves.

6. Approach to the participation of women human rights defenders

204. The African Commission should ensure that its own monitoring and response to human rights violations, including reprisals against those who collaborate with the Commission, are sensitive to the experience of women human rights defenders.

7. Dialogue with stakeholders

205. The African Commission should work with all stakeholders on the continent to institutionalize formal processes of dialogue with women human rights defenders and develop concrete protection and monitoring mechanisms at national and regional levels.

RECOMMENDATIONS TO NATIONAL HUMAN RIGHTS INSTITUTIONS

1. Systematization and responsibility for the protection of the rights of women rights defenders

206. National human rights institutions should develop plans and allocate resources to ensure that they are able to document, monitor and deal with violations of the rights of women human rights defenders. They should ensure that the plans are implemented, monitored and evaluated, and that the results of these evaluations are shared with WHRDs, States and the public.

2. Monitoring the implementation of the Guidelines on the Protection of the rights of Women Rights Defenders in Africa

207. National human rights institutions should monitor the situation of the rights of women human rights defenders on the basis of the Guidelines and Indicators on the Protection of the Rights of Women Human Rights Defenders in Africa to be established by the African Commission.

3. Focal point and working group staff

208. National human rights institutions should establish focal points consisting of staff, Commissioners and women human rights defenders to guide the work of the institutions on women human rights defenders, especially defenders in danger.

4. Standards for focal point staff

209. National human rights institutions should ensure that the focal points are allocated sufficient resources are familiar with the role played by women human rights defenders and the specific challenges they face. National human rights institutions should ensure that their staffs consult women human rights defenders so that they can promptly respond to violations, abuse and discrimination against them.

5. Women human rights defenders are faced with greater risks

210. National human rights institutions should pay particular attention to women human rights defenders in particularly difficult situations in their countries, including, but not limited to, poor women defending their rights to land, inheritance and other resources, women defending rights in connection with major development projects, women media professionals, those working in conflict and post-conflict situations and in failed States, as well as those working on issues and contexts of criminalized identities, such as the rights of sex workers, women living with HIV accused of deliberate transmission and sexual orientation and gender identity.

6. Women human rights defenders, criminalized because of

who they are and their human rights activities

211. National human rights institutions should pay special attention to the work of women human rights defenders working on issues that are criminalized in their countries. These defenders face constraints as women and human rights defenders, but also suffer from being considered and treated as criminals.

RECOMMENDATIONS TO WOMEN HUMAN RIGHTS DEFENDERS

1. Networking and sharing

212. Women human rights defenders should strengthen networking at national, regional and international levels in order to share and exchange information and experiences in defending women's rights and rights related to sexuality and gender. Where appropriate and where relevant, women human rights defenders should consider the establishment of national and regional networks for the same purpose.

2. Lobbying for ratification

213. Women human rights defenders should continue to bring pressure to bear on States to ratify human rights instruments, particularly the Maputo Protocol.

3. Sensitization

214. Women human rights defenders should continue to raise

the awareness of populations on the rights of WHRDs to defend human rights in accordance with the UN Declaration on human rights defenders, the Great Bay declarations and the Kigali Declaration.

4. Lobbying States on the situation of women human rights defenders

215. Women human rights defenders should bring pressure to bear on governments and national human rights institutions so that they ensure that WHRDs have access to protection and support services.

5. Documentation and Research

216. Women human rights defenders should continue to provide documentation and research on violations and discrimination against women human rights defenders and use it to put pressure on government authorities and institutions national human rights.

6. Engaging the African Commission

217. Women human rights defenders should strengthen the use of all available mechanisms within the African Commission, including the Communications procedure of the African Commission as a remedy when States fail to take action regarding violations of the rights of women human rights defenders.

7. Model law its adoption by countries

218. Women human rights defenders should push for the

development of a model law that addresses issues specific to women human rights defenders within a broader law on human rights defenders and the adoption of these laws at the national level.

RECOMMENDATIONS TO DONORS AND PARTNERS

1. Risks related to the work of women human rights defenders

219. Donors should ensure that all grants and funding provided to States, national human rights institutions and women human rights defenders provide for, anticipate, plan and budget the negative consequences and risks associated with human rights work.

2. Gendered analysis

220. Donors should undertake their own gendered analysis of the work of human rights defenders in order to understand the specific challenges and risks faced by women human rights defenders and those working on issues related to sexuality and sexual and reproductive rights.

3. Priorities for resource allocation

221. Donors should consider the recommendations of this report to identify priorities for allocating grants to WHRDs, their organizations and networks, national human rights institutions and States.



Postface

In this, the first-ever report by the African Commission on Human and Peoples' Rights, we are given a clear and chilling view of the situation of women human rights defenders across the African continent.

I warmly congratulate the Special Rapporteur on human rights in Africa, Mme Reine Alapini Gansou and the Commission on their bold step in highlighting the continuing discriminatory practices that impede the work of these vital defenders and make their task an ordeal. It is truly alarming to recognize the extent to which the provisions of the African Charter on Human and Peoples' Rights are being violated with impunity.

This report highlights the work of women human rights defenders and their leading role in protecting vulnerable and under-privileged groups, including those working on rights associated with sexual orientation and gender identity. It urges States Parties to the African Charter on Human and Peoples' Rights to be visionary, and to consider women defenders as partners in securing respect for human rights.

I recommend this report to all who wish to understand better the many challenges faced by women human rights defenders. I very much hope it will be widely disseminated and used as the basis for protecting women human rights defenders in Africa, and enhancing the effectiveness of their work.

I also hope that other human rights mechanisms will be inspired to focus similarly on the situation of women defenders.

The situation of women rights defenders in Africa and in the world at large remains precarious. They continue to experience institutionalized inequality and structural violence and discrimination, as well as a range of more direct threats and attacks from State and non-State actors. The study alarmingly shows that women defenders experience existing legislation as limiting their activity rather than supporting them.

Who will defend the defenders? Ultimately the obligation for the protection of women defenders lies with States. I hope that States Parties to the African Charter on Human and Peoples' Rights will use the recommendations contained in this report to take concrete steps to ensure that women human rights defenders are able to work without fear of threat or attack.

I am very pleased to add my voice to those calling urgently and loudly for effective protection of all those struggling to achieve an Africa free from social, physical and psychological violence. Women human rights defenders are in the front lines of that struggle and must have our full and explicit support.

Ms Phumzile Mlambo-Ngcuka, Executive Director, UN Women



AFRICAN COMMISSION ON HUMAN & PEOPLES' RIGHTS

