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66TH Ordinary Session of the African Commission of Human and People's Rights 13 July – 7 August 2020 Virtual Session via Webinar

Agenda 8 – Activity Report of the Members of the Commission and Special Mechanisms – Special Rapporteur on Human Rights Defenders in Africa and Reprisals Focal Points

Honourable Chairperson and Vice Chairperson of the African Commission on Human and People's Rights

Honourable Members of the African Commission on Human and People's Rights
Distinguished State Delegates
Representatives of National Human Rights Institutions
Civil Society Organisations
Colleagues Ladies and Gentlemen

Thank you, Special Rapporteur on Human Rights Defenders in Africa and Reprisals Focal Point, for your comprehensive presentation highlighting a gloomy picture of human rights defenders in Africa, particularly the increased risk in performing their human rights functions under the new environment of COVID19 in their countries.

COVID19 has intensified enforcement of restrictive legislative frameworks for associations to operate in conducive environments for independent functioning without fear of reprisals, intimidation, harassment and arbitrary arrests. They face hostilities in playing roles in public awareness raising, particularly in raising questions about COVID 19, protection of health workers, advocating for provision of humanitarian aid, exposing corruption, protesting against gender based violence / femicide, monitoring and documenting of human rights

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violations committed by law enforcement. In South Africa, law enforcement assaulted and arbitrarily arrested tertiary students for documenting police misconduct and excessive use of powers during enforcement of lockdown regulations. Their rights as accused persons were disregarded and spent a night in awaiting trial without legal representation or provided reason of their arrest. They were released the next day and police threatened them with a further arrest should they press criminal charges against them. In Zimbabwe, systematic abductions, torture, inhumane and degrading treatment, arbitrary arrests is used by the state security agents to target citizens, human rights defenders, opposition for holding assemblies, protests, pickets. Three members of the MDC opposition had been arrested and denied bail for protesting against hunger in the country. Human rights defenders were arbitrarily arrested for picketing at the Ministry of Justice, renouncing the Constitutional Amendment Bill. Health workers were also arrested for protesting against the risk of contacting coronavirus due to the shortage of personal protection gear.

In Swaziland, the repressive laws of the country impeding on freedom of association, assembly and expression have further increased hostility to citizens in exercising their human rights. A lawyer was attacked and assaulted by security agents for consulting with his client even when doing so in respects COVID19 protocols. He sustained injuries on his ribs which security agents found him in breached of the lockdown regulations and insisted taking alcohol. The lockdown regulations have continuously been used as a pretext to prevent the spread of COVID 19 embarrassing people in need of medical health care or to replenish their supply of (anti retro rivals) ARVs at hospitals. A civil society activist for minority groups was attacked and had to return back home after attempting to buy bread at shops. He was further refused on the following day to consult a medical practitioner and report the violation of human rights.

These violations of human rights in the context of COVID19 have also increased gender based violence disproportionately leading to demonstrations conducted by women groups with a view of increasing prevention and prosecution of suspects. In South Africa, Human rights defenders including women, LGBTI +Q, Gender Based Violence actively campaigning against violence were met with police brutality during protests. This is in spite of the Constitutional Court's unanimous judgement that re-emphasised the guaranteed right to protest - whether permission is obtained or not as per the Regulation of Gathering Act. Furthermore, women human rights defenders working on land and environmental issues and LGBTI activists are frequently targeted in the country and more needs to be done to ensure their safety from violence by state and non-state actors.

The emergence of strategic law suit against public participation – (Slapp) by multinational companies has threaten to silence critics of land and mining rights activists and academia in South Africa. Freedom of association, expression is guaranteed in the African Charter ((Article 9 & 10). The state is also bound to protect citizens with legislation against exploitation by

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foreign companies (Article 21 (5)). It is the duty of the state to ensure prevention of abuse of citizens by multinational companies, including forcing citizens abandon their criticisms and advocacy action protecting communities against exploitation.

In light of these, and many other concerns, we call the African Commission on Human and people's Rights to urge Member states to do the following:

- Ensure CSOs, HRDs across the country function in enabling environment and perform their duties independently in free civic space and without fear of reprisals, through enactment of mechanism for promotion & protection of human rights defender's
- Enact legislation to prevent public participation, as well as freedom of associations to freely express themselves, conduct their human rights independently and without fear.
- Implementation of ACHPR guidelines of Freedom of Association and Assembly for holding assemblies in campaign, awareness raising, advocacy against human rights violations
- With immediate effect and unconditionally release human rights defenders, journalists, dissenting voices and members of opposition
- Arrest and prosecute law enforcement officers for abusing their powers in maintenance of law and order and promote solidarity, unity, especially in vulnerable communities and reduce budgets for armaments in favour of curbing COVID19.
- Follow up progress to end forced disappearances, extra judicial killings and violence against women human rights defenders, ensuring arrest, prosecution, conviction and sentencing of suspects.

I thank you for providing me this opportunity to present this statement

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