


<b>AFRICAN UNION</b>		<b>UNION AFRICAINE</b>
<b>الاتحاد الأفريقي</b> <b>African Commission on Human &amp; Peoples' Rights</b>		<b>UNIÃO AFRICANA</b> <b>Commission Africaine des Droits de l'Homme &amp; des Peuples</b>
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**PANEL DISCUSSION ON INCREASING AWARENESS FOR  
EFFECTIVE IMPLEMENTATION OF THE GUIDELINES ON  
FREEDOM ON ASSOCIATION AND ASSEMBLY IN AFRICA**

*Organised by the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa and the Support Group for the Promotion and Monitoring of the Effective Implementation of the Guidelines on Freedom of Association and Assembly in Africa.*

**75<sup>th</sup> Ordinary Session of the ACHPR  
DAY 6: Monday, 08 May 2023 | 14:30 – 16:00  
Banjul, the Gambia**

**Concept Note**

**A. CONTEXT AND JUSTIFICATION**

1. Gathering and demonstrating (marching in groups) are prima facie seemingly benign actions. Far from it, they are at the heart of several issues between the public authorities and the civil society. In this area, there are hardly any nations that are more civilized than others. All of them are in the same situation of barbaric repression, if recent history in the 5 continents is to be acknowledged. The cases of violently repressed demonstrations in the United States, Brazil, Argentina, France, China, Russia and several African countries are still fresh in the collective memory (South Africa, Tunisia, Algeria, Senegal, Democratic Republic of Congo, etc.).
2. Article 45, 1 (B) of the African Charter on Human and Peoples' Rights stipulates that the African Commission on Human and Peoples' Rights (African Commission or the Commission) has the mandate to formulate and develop, as a basis for the adoption of legislation by African governments, principles and rules for the settlement of legal issues relating to the enjoyment of human and peoples' rights and fundamental freedoms. In line with this mandate, the Commission adopted the Guidelines on Freedom of Association

and Assembly in Africa (the FoAA Guidelines) during its 60<sup>th</sup> Ordinary Session held in May 2017 in Niamey, Niger.

3. Although considered "soft law," the FoAA Guidelines are the first of their kind on the continent to deepen the understanding of the Right to freedom of association and assembly guaranteed by Articles 10 and 11 of the African Charter.
4. They provide a barometer for the Commission to assess member states' compliance with their obligations to incorporate the African Charter into their domestic law in order to give effect to the freedoms protected. Similarly, the Guidelines are a powerful political and advocacy tool for African civil society organizations to cooperate with the African Commission.
5. Bearing in mind the importance of promoting and monitoring the effective implementation of the Guidelines, the Commission adopted **Resolution ACHPR/Res.406 (LXIII) 2018**, establishing a Support Group to the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa (Support Group) to this effect.
6. Six years have passed since the adoption of the FoAA Guidelines, the Support Group and Civil society organizations have been instrumental in accelerating the implementation of the Guidelines at continental level. Their collaborative initiatives include popularizing the FoAA Guidelines, raising awareness, building capacity, developing advocacy tools, and conducting studies (research). These activities have helped the African Commission to carry out its Mandate through a pragmatic perspective while making recommendations to governments for the adoption and enactment of laws that ensure respect for the rights enshrined in the African Charter and other international and regional human rights instruments.
7. The Guidelines provide a framework for improving the promotion and protection of freedom of association and assembly, which facilitates the recognition and enforcement of other human rights. However, the human rights landscape in most parts of the continent contrasts with the FoAA Guidelines; a witness of that are the stringent containment regulations imposed during the COVID-19 pandemic.
8. However, the African Commission explicitly affirmed the need to place human rights protection at the heart of government responses to crises, discouraging governments from weaponizing the pandemic and attacking civic space, harassing civilians, and suppressing human rights defenders as

stipulated in its Resolution 449. This indicates that the enforcement of the FoAA remains outstanding.

9. Civil Society Organizations face more danger in antagonised environments characterised by restrictive legislation, which curtails their ability to achieve their promising goals. Law enforcement and security agents continue to use excessive force to suppress civil society organisations and human rights defenders, subjecting them to reprisals, intimidation, life threats, extrajudicial killings and abductions. The brutal murder of Thulani Maseko, a renowned lawyer and human rights defender whom we are paying tribute to today, is an evidence of such atrocities.
10. The Support Group members, such as the Human Rights Institute of South Africa (HURISA), collaborated with the International Centre for Non-for-Profit Law (ICNL) in facilitating human rights initiatives for popularising the FoAA Guidelines among lawyers, university students, civil society organizations and human rights defenders, in some countries such as Kenya and South Africa.
11. A standardised monitoring framework was designed as a tool to assess the status of implementation of the right to freedom of association and assembly and view whether policies and practices at the domestic level meet FoAA Guidelines standards. It is available in three official languages of AU (English, French and Portuguese) and has been used in a pilot research project in SADC countries, including DRC, Lesotho, Malawi, and South Africa. The research findings present a wealth of lessons that offer positive contributions to efforts improving the enforcement of FoAA Guidelines on the continent.
12. Civil society organizations and human rights defenders operate in precarious environments that restrict freedom of association and assembly, especially those working on land rights, the environment, and sexual orientation. This is in spite of the strong cooperation with African and UN human rights systems that most of these associations maintain.
13. It is expected that the monitoring and research project will be replicated in other parts of the continent for evidence based gathering purposes. It will also offer practical advocacy and further citizens enjoyment of freedom of association and assembly in the region. Facilitation of peaceful protests and assemblies is a cornerstone of healthy democracies and the realisation FoAA Guidelines by States. This includes picketing by associations, human rights defenders, journalists, youths, and trade unions, among others. It also

encourages healthy relationships among state security agents, municipal police and non-state actors.

## **B. Objectives**

14. The main objective of this Panel is to enhance awareness about the FoAA Guidelines with a view to encouraging States and relevant stakeholders to effectively implement them.

15. The specific objectives are as follows:

- to popularise the FoAA Guidelines and the tool developed for monitoring States compliance with the Guidelines;
- to sensitize on the importance of implementing the FoAA Guidelines in Africa;
- to strengthen the role of national human rights institutions and civil society organizations in the implementation of the FoAA Guidelines;
- to exchange lessons on the impact of the tools that were used to monitor and conduct the pilot research study.

## **C. Expected Outcome**

16. The expected outcomes of the panel are:

- Increased awareness of the importance of the FoAA Guidelines;
- The standardised monitoring framework for assessing the status of implementation of freedom of association and assembly will be disseminated;
- States Parties' delegations will be sensitized and committed to take appropriate measures to implement the FoAA Guidelines at national level;
- Challenges, lessons, good practices and strategies for the implementation of the Guidelines will be identified and shared;
- National Human Rights Institutions and Civil Society Organizations will commit to using the tool for the monitoring and implementation of the FoAA Guidelines.

## **D. Format, date and venue**

17. The Panel will bring together the ACHPR's Chairperson and Special Rapporteur on Human Rights Defenders in Africa and Reprisals Focal Point, (also Chairing the ACHPR Support Group), FoAA Guidelines Support Group Members, States and NHRIs.

18. It is scheduled to take place during the 75<sup>th</sup> Ordinary Session organized from 3<sup>rd</sup> to 23<sup>rd</sup> May 2023, in Banjul, The Gambia, on **Monday, 08 May 2023, from 14:30 to 16:00 (GMT/Banjul time)**.

#### **E. Modalities**

- Duration: 1 hour and 30 minutes
- Presentations: 50 minutes
- Plenary discussions and closing remarks: 40 minutes

#### **F. Program**

**14:30-14:35 - Hon. Rémy Ngoy Lumbu**, *Chairperson of the Commission and Special Rapporteur on Human Rights Defenders and Focal Point on Retaliation in Africa*- Opening remarks and introduction of the Panel and Panellists (5 minutes)

**14:35-14:45 - Ms Irene Petras**, *Senior Legal Advisor - Africa, The International Center for Not-for-Profit Law (ICNL)* -The ACHPR Guidelines on Freedom of Association and Assembly in Africa – What are they and why are they important? (10 minutes)

**14:45-14:52 - Counselor Lepeli Moeketsi**, *Program officer, Seinoli Legal Centre* - The Role of CSOs in Promoting the FoAA Guidelines in Africa (7 minutes)

**14:52-15:02 - Ms Corlett Letlojane**, *Executive Director, Human Rights Institute of South Africa*, the Standardised monitoring Framework and Country Experiences resulting from using the tool in the SADC Region (10 minutes)

**15:02-15:09 - Mr. Diane HASSANE**, *Secretary General, National Human Rights Council of Cote d'Ivoire* - the Role of National Human Rights Institutions in Promoting the FoAA Guidelines for their effective implementation in Africa (7 minutes)

**15:09-15:16- Mr Mike Chinoko**, *Director, Malawi Law Commission* - Strategies for an effective implementation of the FoAA Guidelines at national level (States Parties' perspective) (7 minutes)

**15:16-15:56:** Interaction with participants (40 minutes)

**15:56-16:00** - Closing remarks by Hon. Rémy Ngoy Lumbu (4 minutes)