



African Union
Reforms Engagements

CIVIL SOCIETY ORGANISATIONS' PROPOSALS FOR REFORMING THE AFRICAN HUMAN RIGHTS SYSTEM



initiatives for
human rights



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A. INTRODUCTION

1. This paper presents civil society organizations' proposals for the reform of the African human rights system. It is submitted to the Chairperson of the African Union Commission for the attention and consideration of the Reform Unit.
2. This Paper, authored by a collective of national, regional, and international civil society organisations, think tanks, and academic institutions, reflects over two decades of experience engaging with the African Union, especially its human rights system. The authors meticulously examined proposals for reforming the African human rights system from the Reform Unit and AU Organs with human rights and governance mandates. Also, the authors conducted multiple consultation meetings with stakeholders to validate the reform options discussed in this Paper.
3. This Paper assesses the African human rights system, spotlighting its strong points and shortcomings while pinpointing necessary reforms. It suggests comprehensive, feasible, and effective measures to enhance the African human rights system's robustness, adaptability, and sustainability. These proposals are designed to ensure the system's growth and flexibility to adapt to future changes, thereby fostering the sustained advancement of human rights in Africa.
4. The CSO proposals aim to constructively engage with the reform unit and the different AU member states with two objectives:
 - a) To emphasise procedural nuances that ensure the reform process is transparent, comprehensive, inclusive, and resonates with the continent's diverse perspectives.
 - b) To underscore crucial enhancements that could render the African Human Rights System more effective, agile, and aligned with international benchmarks.
5. In its engagement with the reform process, the CSOs would want to emphasise and seek to achieve four key outcomes from the reform process of the African human rights system. As civil society organisations, we expect the reform of the African Human Rights System to address six main and interrelated aspects:
 - 1) The reform should result in enhanced promotion and protection of human and peoples' rights rather than diminished protection.

- 2) The reform Strengthen the capacity and credibility of the African Human Rights System (resources- and competency).
 - 3) The reform should expand access by African citizens and by CSOs to the mechanisms of the African Human Rights system (standing).
 - 4) The reform should further strengthen the Union's capability and resources to implement and enforce the norms, decisions, and recommendations of the African human rights system.
 - 5) The reform should increase transparency in the decision-making processes and operational procedures of the African human rights system's mechanisms.
 - 6) The reform process should enable a meaningful CSOs access, engagement and participation in the AU processes.
6. This Paper comprises three sections: The first section examines the overall and specific contexts for reform within the African Union (AU) and its human rights system. The second section concisely evaluates the reform process from a civil society organisation (CSO) viewpoint, including an assessment of various proposals to strengthen the African human rights system. The third section presents CSOs' reform recommendations for the Reform Unit's consideration.

B. THE CONTEXT OF THE REFORM OF THE AFRICAN HUMAN RIGHTS SYSTEM: REOCCURRING NEEDS FOR REFORM

1. The Organisation of African Unity (OAU) was established in 1963 to promote unity, defend sovereignty, eradicate colonialism, and foster international cooperation.¹ By the end of the 1970s, there was a consensus to 're-examine the provisions of the Charter (of the OAU) in light of the changing realities in Africa'.² As a result, In the year 2000, the OAU underwent a significant transformation, culminating in the establishment of the African Union (AU).
2. However, by 2007, it was evident that the AU required substantial reforms to fulfill its objectives effectively. Consequently, a high-level panel led by Professor Adebayo Adedeji was convened to evaluate the structure and functions of the African Union Commission (AUC) to improve the AUC's effectiveness in carrying out its responsibilities.³
3. A decade later, in 2017, the AU entrusted President Paul Kagame with the responsibility of leading a comprehensive reform of the Union.⁴ The 2017 Kagame Reforms focused on:
 1. Streamline the AU's priorities to four core areas: peace and security, political affairs, economic integration, and global representation.
 2. Overhaul the organization's institutions to effectively address these priorities.
 3. Implement strategies to attain financial independence.
 4. Administer the AU with effectiveness and efficiency.⁵
4. While the ongoing need for reform within the Union is a sign of its dynamism, it also suggests that past reform efforts may have been insufficient in addressing the root causes of the challenges facing the Union.

¹ Legum, Colin. "The Organisation of African Unity-success or failure?." *International Affairs* (Royal Institute of International Affairs 1944-) 51.2 (1975): 208-219.

² Chekol, Yayew Genet. "African Union institutional reform: Rationales, challenges and prospects." *Insight on Africa* 12.1 (2020): 29-44.

³ Union, African. "Audit of the African Union." Addis Ababa (2007): 1.

⁴ Kagame, Paul. "The imperative to strengthen our Union." Report on the Proposed Recommendations for the Institutional Reform of the African Union 29 (2017).

⁵ Kagame, n4 above.

5. The insufficient emphasis on the African human rights system in previous reforms processes serves as a conspicuous example of this inadequate reform efforts. Despite its significance as the bedrock of Africa's integration, the human rights system frequently received scant or delayed consideration, despite the urgent necessity for reform
6. The African human rights system comprises the African Charter on Human and Peoples' Rights, its Additional Protocols, and the African Commission on Human and Peoples' Rights (ACHPR), a supervisory body. This system also includes the African Charter on the Rights and Welfare of the Child, overseen by the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), and the African Court on Human and Peoples' Rights (the Court).
7. The urgent reform needs of the African human rights system include addressing the challenges of overlapping mandates, poor quality of mandate holders, restricted CSO access to the judicial organs, resource duplication, inefficient use, and poor implementation of treaty body recommendations and decisions.⁶

⁶ Heyns, Christof. "The African regional human rights system: In need of reform." *Afr. Hum. Rts. LJ* 1 (2001): 155; Gutto, Shadrack. "The reform and renewal of the African regional human and peoples' rights system." *Afr. Hum. Rts. LJ* 1 (2001): 175; Zouapet, Apollin Koagne. "From 'puzzling' to comprehensible and efficient: Reform proposals to the African human rights framework through a 'system' lens." *African Human Rights Law Journal* 23.1 (2023): 1-29.

C. THE STATE OF THE AU REFORM

The current reform efforts is overly concentrated on the Commission

8. The state of the implementation of the AU reform has to be assessed against its stated aims. According to President Kagame's Report, the AU reform was meant to address fragmentation, inefficient operations, financial dependence, and inadequate coordination with Regional Economic Communities.
9. So far, the AU reform, has significantly concentrated on reform of the structure of the African Union Commission, recruitment to the new structure and some of the working methods of AU policy organs such as the summit of the AU and coordination meeting with Regional Economic Communities.⁷
10. The Commission's structure was revised to include a total of eight members, and a Director-General position was created to lead operational coordination. In addition, the selection process for senior leadership positions was overhauled to enhance transparency and meritocracy, including measures like public debates and vision presentations for candidates. The selection process for the senior leadership of the African Union Commission will be guided by the following key principles: Equitable regional representation and gender parity, predictable inter and intra-regional rotation, attracting and retaining Africa's top talent, accountable and effective leadership and management, transparent and merit-based selection and ensuring the selection process is open, fair, and based solely on merit and qualifications.
11. As commendable as the reform of the Commission is, it is important to note that "reform does not start with the Commission. It starts and ends with the leaders, who must set the right expectations and tempo;"⁸ unfortunately, so far not so much has been done with respect to the normative basis, composition, proper segregation, and alignment of powers of different AU policy and treaty organs that would enable the AU to effectively and efficiently lead and drive integration agenda.⁹

The current reform efforts suffer from Inadequate consultation.

⁷ Chekol, Yayew Genet. "African Union institutional reform: Rationales, challenges and prospects." *Insight on Africa* 12.1 (2020): 29-44 and Okeke, Jide Martyns. "Ambition versus Realism: Evaluating the Prospects of Success of the African Union Institutional Reform Agenda." *A Wind of Change? The Institutional Reform of the African Union and Africa's Security Provision* (2018): 6-20.

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⁹ Kagame, n 4 above.

12. The AU's ongoing reform process, while inclusive of consultations, remains predominantly state-led and state-centric. This approach may contribute to a persistent cycle of reform needs, as it may not adequately engage or reflect the diverse perspectives and needs of all stakeholders, including civil society, the private sector, and other non-state actors. To truly center citizens within the Union, reform efforts must expand to include these varied voices comprehensively.
13. It may be argued that once ECOSOCC was consulted, CSOs' perspective was incorporated into the reform process. It is important to note the advisory-only status of ECOSOCC and its constraining membership criteria.

D. REFORMING THE AFRICAN HUMAN RIGHTS SYSTEM

Context of reform of the African Human Rights System

14. The Kagame Report mentions 'human rights' only twice and this is only as part of the title of the human rights treaties and only with reference to the judicial organs. The Kagame Report then recommends "The roles of the African Union's judicial organs - the Court of Justice of the African Union, the African Court of Human and Peoples' Rights, and the Pan-African Parliament should be reviewed and clarified, while assessing progress to date."¹⁰
15. The failure to include the reform of the human rights system as part of the reform of the AUC and policy organs may have substantial ramifications for the Union's reform initiative. Considering the fundamental connection between governance and human rights to the broader mandates of the AU, postponing the reform of human rights organs could potentially result in an incoherent strategy for implementing and enforcing policies throughout the Union. The implementation of these reforms in a sequential fashion has the potential to introduce inconsistencies that may compromise the overall efficacy of the African Union's human rights initiatives. Placing human rights organs at the forefront of the reform process would probably yield a more comprehensive results, ensuring that every organ is in harmony with the Union's overarching goals.
16. In addition to these omissions, the AU is undertaking reforms of the African human rights system when the continent navigates a labyrinth of complex challenges. The situational analysis of Africa's current human rights context reveals several layers the AU must consider, ensuring the reformed system is practical and progressive.
 - a) **Toxic geopolitical environment:** The geopolitical landscape in Africa is marked by volatility, with power struggles and conflicts affecting the human rights situation. External influences and interests often exacerbate internal tensions, leading to governance crises that undermine human rights.
 - b) **Rise of conservative and anti-rights forces:** A surge in conservative political ideologies and movements, some resistant to universal human rights norms, threatens protecting and promoting human rights. These

¹⁰ Kagame, n 4 above.

groups often challenge the legitimacy of human rights mechanisms, creating an environment of hostility towards human rights defenders and activists.

- c) **Diminishing resources:** Human rights mechanisms often rely on international funding, which is declining. This scarcity of resources limits the ability of these mechanisms to operate effectively and to respond promptly and efficiently to human rights violations.
 - d) **Capacity deficits:** Many African human rights institutions face challenges regarding expertise, infrastructure, and support, which hinder their ability to enforce human rights standards and hold violators accountable.
 - e) **Legitimacy deficits:** There is a growing perception that human rights institutions are either too weak to confront powerful violators or are being used as tools for political ends, leading to a legitimacy crisis.
 - f) **Pandemic and economic impacts:** The COVID-19 pandemic has not only posed direct health challenges but also exacerbated economic inequalities, leading to a spike in rights violations, such as the right to health, education, and an adequate standard of living.
 - g) **Technology and rights:** While technology offers new avenues for promoting human rights, it also presents unique challenges, such as digital surveillance, which can infringe on privacy and freedom of expression.
 - h) **Environmental issues:** Climate change and environmental degradation pose significant threats to the rights to health, access to water, and livelihood, particularly for vulnerable communities.
17. In reforming its human rights system, the AU should focus on creating a robust framework capable of withstanding these challenges. The reformed system must be resilient against political pressures and have sustainable funding mechanisms less reliant on external sources. It should also invest in capacity building to ensure institutions are well-equipped with the necessary tools and expertise to uphold human rights standards.
18. Moreover, the AU must ensure that the reformed system is reactive and proactive, with the ability to anticipate and respond to emerging human rights challenges, including those posed by technology and environmental change. It should also work to enhance the legitimacy of human rights mechanisms by ensuring they are impartial and effective in holding violators accountable.

19. Finally, the reformed system must be inclusive, engaging with civil society, human rights defenders, and the wider public to build a culture of respect for human rights across the continent. This approach will help the system be fit for purpose and forward-looking, capable of navigating the complexities of the current and future human rights landscape in Africa.
20. The goals of the AU reform process are focusing AU's interventions on a few policy issues with continental scope, improving operational effectiveness and efficiency, institutional alignments to reduce duplication of efforts, ensuring sustainable financing for AU's efforts and enabling popular participation in AU and its processes. These parameters will inform how the reform unit approaches African human rights challenges and its proposed solutions.
21. There are several options that the reform of the African human rights system could take. This options could include:
 - 1) **Enhancing the current framework:** This option focuses on fine-tuning the current African human rights system, preserving its mission and mandate. It recognizes the system's unique ability to reflect African values and addresses a range of human rights issues. The proposals suggest increasing the system's autonomy, establishing a full-time chair and vice-chair, and improving resources. This options calls for streamlining the complaint mechanism and reinforce the enforcement of decisions. Additionally, the special mechanism system should be made autonomous of the treaty mechanisms and the secretariats of the African human rights bodies should be restructured to bolster their effectiveness.
 - 2) **Merging human rights bodies:** The second option proposes a merger of the African Commission on Human and Peoples' Rights (ACHPR), the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), and possibly the African Union Commission on International Law (AUCIL) into one entity. This consolidation aims to simplify the human rights mechanism, enhance cooperation, and optimize resource use. However, it may lead to the dilution of specialized focus, especially on children's rights, and introduce bureaucratic challenges and conflicting priorities.
 - 3) **Clear division of responsibilities:** The third option advocates for a distinct separation of mandates among the ACHPR, ACERWC, and the Court, each focusing on specific areas of human rights. This would involve mandate clarification, referral mechanisms, complementarity in operation, coordinated reporting, and improved communication.

For instance quasi-judicial organs could be mandate with promotion mandates and judicial bodies with protection mandates. The advantages include specialized focus and clear jurisdictions. However, it risks creating a fragmented system with potential duplication of efforts and communication barriers. Also, removing complaints procedure as a protection tool from the ACHPR and ACERWC without simultaneously deleting article 34(6) and broadening the definition of 'recognition' in article 4(1) of the protocol establishing the Court could adversely affect human rights protection in Africa.

22. Each option has implications for the structure, efficiency, and effectiveness of the African human rights system. Decisions will need to balance the benefits of specialized expertise against the risks of fragmentation, the potential for greater resource optimization against the possible loss of focused attention on specific human rights issues, and the desire for autonomy against the need for integrated cooperation across different human rights entities.
23. The reform process represents a crucial step towards strengthening the African human rights system's ability to address current and future challenges. The choices made will shape the system's capacity to protect human rights across the continent effectively. It is essential to consider the trade-offs of each option carefully, ensuring that the path chosen aligns with the overarching goal of a robust, responsive, and resilient human rights framework for Africa.

E. CIVIL SOCIETY ORGANISATIONS' PROPOSAL FOR THE REFORM OF THE AFRICAN HUMAN RIGHTS SYSTEM

24. Civil society organisations, including ours, have historically led human rights advocacy, acting as watchdogs, educators, and advocates for the marginalised. We acknowledge the intricacies of reforming a system catering to nations with varied cultural, political, and socioeconomic backgrounds. Yet, this diversity underscores the necessity for a resilient and inclusive human rights framework.
25. The AU, with its roots in fighting colonialisation, overcoming apartheid and building a democracy founded on justice and equality, must use the reform process to strengthen rather than weaken its human rights architecture. AU's leadership and commitment to its regional human rights system often set a precedent for other regional human rights systems.
26. The African human rights framework is at a pivotal juncture, requiring a transformation to improve its relevance and efficiency. Initially shaped by the African Charter, the framework has developed haphazardly, leading to a fragmented collection of institutions and norms. For the system to truly protect and promote human rights, a systematic and deliberate reform is necessary. This includes addressing the current disjointed nature of the framework, which has resulted in a dense network of human rights instruments and a proliferation of institutions at various levels, all of which lack the required coherence and interconnectivity.
27. To address some of these challenges, the CSOs calls on AU member states to ensure that:
 - 1) The reform should result in enhanced promotion and protection of human and peoples' rights rather than diminished protection.
 - 2) The reform Strengthen the capacity and credibility of the African Human Rights System (resources- and competency).
 - 3) The reform should expand access by African citizens and by CSOs to the mechanisms of the African Human Rights system (standing).
 - 4) The reform should further strengthen the Union's capability and resources to implement and enforce the norms, decisions, and recommendations of the African human rights system.

- 5) The reform should increase transparency in the decision-making processes and operational procedures of the African human rights system's mechanisms.
- 6) The reform process should enable a meaningful CSOs access, engagement and participation in the AU processes.

A. More and not less protection

28. Reforming the African human rights system has immense potential for positive and negative outcomes. One of the primary concerns is the risk that the reform process could potentially be used to undermine the robust normative framework within the African human rights system. It's crucial that the reform process not only preserves but also enhances the protections offered by the African human rights system:
 - a) **Human rights as a universal standard:** Human rights are founded on universal applicability. These rights are inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. The reform should uphold this universality, ensuring no group is discriminated against.
 - b) **Progressive realization of rights:** The African human rights system has made significant strides in recognizing and protecting various rights. Diminishing these rights in the name of reform would be a regressive step. Instead, reforms should aim at the progressive realization of rights, continually expanding and enhancing the scope of protections.
 - c) **Inclusivity and diversity:** Africa's strength lies in its diversity. A reformed human rights system should reflect this diversity, respecting and protecting the rights of all individuals, including those from marginalized communities. This inclusivity is essential for fostering social cohesion and national unity.
 - d) **International obligations and reputation:** Many African countries are signatories to international human rights treaties. Backtracking on human rights commitments through the reform process could harm Africa's standing in the global community. The AU needs to align its reforms with international human rights standards.
 - e) **Economic and social development:** There is a strong link between the protection of human rights and socio-economic development. A system

that robustly protects human rights encourages investment, promotes social stability, and fosters development. Reforms that weaken human rights protections could have adverse economic and social impacts.

- f) **Legacy and future generations:** Today's decisions will shape the legacy left for future generations. The reform process must strengthen, rather than diminish, the human rights framework, ensuring a just and equitable society for future Africans.
29. In summary, the reform of the African human rights system should be approached to strengthen and enhance the existing framework. This ensures the protection of universal human rights, promotes inclusivity, aligns with international standards, supports socio-economic development, and secures a just legacy for future generations.

B. Increase resource allocation to the African human rights system

30. The African human rights system is grappling with significant challenges due to insufficient resources and limited capacity, impacting its effectiveness in safeguarding human rights. These challenges include inadequate funding, which affects the system's ability to conduct comprehensive investigations, support victims, and respond effectively to violations. Additionally, a shortage of skilled personnel limits the system's capacity to manage complex cases and provide necessary and timely legal support. The lack of proper infrastructure, particularly technology, hampers efficient case management and justice delivery. Consequently, these resource constraints lead to a reduced impact and credibility of the system, undermining the confidence of the African populace in its ability to protect their rights, which is crucial for its legitimacy and effectiveness.
31. The reform process of the African Union (AU) should introduce creative methods for securing sufficient financial resources to support the African human rights system's operations. Beyond relying on the regular budget allocations from the AU, the reform should consider establishing avenues for voluntary contributions within the Union to fund human rights initiatives. This could include forming partnerships with both international allies and the African private sector to enhance the system's financial stability and capacity for human rights activities.

C. Improving the quality of mandate holders

32. The integrity of the African Human Rights System hinges on the quality of its 33 mandate holders, including judges, commissioners, and experts responsible for upholding human rights standards. Despite legal qualifications specified by relevant charters, political influences often compromise the selection process, leading to a lack of qualified personnel. Reform efforts should focus on establishing transparent and robust procedures for the nomination, vetting, and election of these officials to ensure their high competency and moral integrity. Also, the staff of the secretariat are instrumental in the effective operation of human rights treaty bodies, tasked with various administrative and technical duties. Their competence directly affects the system's efficiency, necessitating a focus on enhancing their professional abilities and technical skills. Moreover, their embodiment of human rights principles is vital for maintaining the system's integrity and fostering trust among stakeholders.
33. Improving the quality of mandate holders should start with improving the process of nomination and selection of candidates for election into the African human rights system at national and continental levels are extremely important to ensure quality and competency. To achieve this, the CSOs offer the following recommendations to AU and its member states:

1. Nomination Process:

- a) *Public Call for Nominations:* Announce nominations publicly, detailing eligibility requirements and disseminating the call across various networks to reach a diverse pool of candidates.
- b) *Transparent Selection Criteria:* Develop and publish criteria outlining professional qualifications, experience in international law, and high moral character.
- c) *Consultation and Involvement:* Engage with national legal entities like the highest courts and legal academies to nominate candidates.
- d) *Public Commentary Period:* Allow for a period where the public and civil society can submit feedback on candidates.

2. Vetting Mechanisms:

- a) *Independent Vetting Committees:* Establish national and continental vetting committees comprising legal professionals and civil society representatives, tasked with reviewing applications and conducting interviews.

- b) *Background Checks and Misconduct Allegations*: Implement a due diligence framework for extensive background checks and a confidential channel for misconduct allegations.
- c) *Operational Transparency*: Ensure the vetting process is transparent, with clear procedures and confidentiality protocols.

3. Due Diligence Process:

- a) *Standardized Framework*: Create a standardized due diligence framework, including a checklist for necessary background checks.
- b) *Confidential Reporting Mechanism*: Develop a secure channel for misconduct allegations.
- c) *Comprehensive Background Checks*: Mandate thorough background checks, including contacting previous employers and relevant bodies.

4. Vetting Committee Operations:

- a) *Formation and Training*: Form vetting committees with diverse composition and provide specialized training in investigative techniques and international human rights law.
- b) *Accountability and Reporting*: Introduce accountability measures for vetting committees, requiring documentation and justification of decisions.
- c) *Feedback and Appeals Process*: Establish a feedback mechanism for unsuccessful candidates and an appeals process for those contesting the vetting outcomes.

5. Outcome and Reporting:

- a) *Communication of Outcomes*: Publicize vetting results, including the rationale for candidate selection or rejection.
- b) *Merit-Based Elections*: Advocate for merit-based elections without vote trading.
- c) *Gender Parity and Diversity*: Commit to achieving gender parity and diversity in nominations.
- d) *Monitoring and Continuous Improvement*: Set up mechanisms for ongoing candidate performance monitoring and regular review of the vetting process.

6. Vacancy Advertisement and Stakeholder Engagement:

- a) Open Calls and Regular Updates: Publicize calls for applications through various channels and provide regular updates on the nomination and vetting progress.
- b) Inclusive Postings and Balanced Panels: Ensure vacancy postings are inclusive and selection panels are demographically balanced.
- c) Diversity Metrics Reporting and Stakeholder Engagement: Publish reports on diversity metrics and engage stakeholders in the nomination process.
- d) National Legal Framework and Reporting: Establish a national legal framework for nominations, ensuring transparency and merit-based selections, and mandate regular reporting by national authorities.

7. Advisory Committee on Nominations:

AU member states should establish formal Advisory Committees on nomination. The roles of these committees include thorough reviews of candidates' qualifications and the transparency of the nomination process, with a mandate to produce comprehensive public reports.

D. EXPAND ACCESS TO THE AFRICAN HUMAN RIGHTS SYSTEM (STANDING)

34. The requirement in article 34 (6) of the Court Protocol for CSOs to obtain a separate declaration from their countries after ratifying the protocol to access the African Court presents a significant challenge, as it limits their ability to seek justice and hold governments accountable. This legal anomaly hampers the effectiveness of the African Court in protecting human rights and maintaining the rule of law, as it faces reduced accessibility due to political and bureaucratic barriers, undermining its authority and the public's trust. To address these issues, it's proposed that the protocol be amended to remove the need for a separate declaration, simplifying the process for CSOs to submit cases and empowering them to effectively utilize the court, strengthening justice, accountability, and human rights across the continent.
35. Also, the African human rights system is grappling with problems due to confusing and inconsistent interpretations of its norms and standards, making it difficult for people to understand and use the system effectively. For example, there are issues surrounding the participation of CSOs in the African Court on Human and Peoples' Rights' advisory opinion process. According to Article 4 (1) of the Protocol that establishes the Court, an African organization recognized by the African Union is eligible to request an advisory opinion from the Court. However, the Court's interpretation of "recognition" does not include recognition by organs of the African Union, which is arbitrary and ambiguous since the Court fails to offer clear and concrete guidance about how to obtain such recognition. Furthermore, the Court's decisions have added to the confusion by not considering observer status as a form of recognition.¹¹ This lack of clear definition confuses CSOs about their eligibility for court engagement, undermining their ability to contribute effectively to human rights advocacy. The restrictive interpretation by the Court can also discourage CSOs from participating in the system, particularly those working on contentious issues, thus limiting the scope of human rights discourse and protection. To address these challenges, the reform process should:

¹¹ See the decision of the African Court in "A request for Advisory Opinion by the Centre for Human Rights, University of Pretoria, Federation of Women's Lawyers, Kenya, Women's Legal Centre at el (2017) No. 001/2016.

- a) Clarify the definition of "recognition" within the protocol, outlining specific criteria or statuses, such as observer status, that qualify CSOs for Court engagement.
- b) Enhance transparency around the criteria and processes for obtaining recognition and the rights that come with it, ensuring CSOs are well-informed and can actively participate in the African human rights system.
- c) Create more inclusive and consistent policies that allow a broader range of CSOs, including those advocating for minority rights, to access advisory opinions and contribute to the human rights dialogue in Africa.
- d) Simplify Access Procedures: Recommend simplifying legal processes and guidelines for accessing human rights mechanisms. Clear and non-technical language should be used, and these guidelines should be translated into multiple local languages to ensure comprehensibility and broader reach.

E. ESTABLISH MECHANISM FOR FOLLOW-UP AND ENFORCEMENT OF THE DECISIONS AND RECOMMENDATIONS FROM THE AFRICAN HUMAN RIGHTS SYSTEM.

36. The AU is struggling to enforce decisions and recommendations from its human rights bodies, significantly impairing the human rights system in Africa. This challenge stems from member states' lack of compliance, often due to limited political will or resources, and their reluctance to accept decisions they perceive as threats to their sovereignty or national interests. Weak enforcement mechanisms within the AU further complicate the situation. This crisis undermines the legitimacy and credibility of Africa's human rights system, leading to a loss of trust among both the African populace and the international community. The ineffective implementation of decisions can disillusion victims of human rights abuses and civil society organizations, potentially fostering a culture of impunity and raising questions about the authority of the AU's human rights institutions. To address this crisis, a coordinated effort is needed to strengthen the AU's enforcement capabilities, increase political commitment, and build capacity within member states to implement human rights decisions effectively. Without these actions, the human rights system in Africa risks becoming ineffective, posing long-term challenges to human rights protection on the continent.
37. For the AU to strengthen its capability to implement and enforce human rights norms, decisions, and recommendations, it could establish a compliance and follow-up mechanism within the powers of the Assembly and directly linked to article 23 of the Constitutive. This unit within the AUC could be tasked with monitoring the implementation of decisions and recommendations, issuing regular reports on member states' compliance, and providing technical assistance to ensure that these are carried out.
38. An inter-ministerial committee should be established within the Executive Council with the mandate to ensure effective follow-up and implementation of the African human rights system's recommendations and decisions. This committee should be required to report regularly to the Assembly and recommend actions for the Assembly to consider, to ensure compliance with the decisions and recommendations of the system's mechanisms.

F. THE REFORM PROCESS SHOULD ENABLE A MEANINGFUL CSOS ACCESS, ENGAGEMENT AND PARTICIPATION IN THE AU PROCESSES

39. The AU has increasingly faced criticism for restricting civil society organizations (CSOs) and citizen engagement despite its Constitutive Act emphasizing citizen-centric integration. This pattern emerges through various decisions and interpretations by AU policy organs and treaty bodies, which collectively hinder the active participation and access of CSOs to the AU framework.
- a) **Policy organ decisions:** Several decisions of AU policy organs place stringent restrictions on which CSO should or should not be allowed to participate in the AU human rights process. Imposing strict criteria or procedural hurdles limits the scope for CSOs to contribute effectively to the AU's agenda.
 - b) **Restrictive membership criteria for ECOSOCC:** The ECOSOCC of the AU, intended to be a platform for civil society engagement, has been hampered by restrictive membership criteria. These limitations prevent diverse CSOs from contributing their perspectives and expertise.
 - c) **Interpretation of Article 59(3) of the Banjul Charter:** The ACHPR's interpretation of this provision to mean complete secrecy of complaints proceedings effectively leads to a blackout of processes, constraining CSOs' ability to access important mechanisms for human rights protection and advocacy within the AU system.
40. This pattern is problematic as it contradicts the AU's foundational principles of citizen-centric governance and undermines the effectiveness of its human rights system. Civil society plays a crucial role in representing diverse interests, providing checks and balances, and ensuring that the AU's policies and actions are grounded in the realities of its citizens.
41. Several key recommendations are proposed to address the pattern of restricting CSOs in the AU. Firstly, the AU Policy Organs should ease the participation of CSOs by simplifying application processes and criteria for observer status that are inclusive. Secondly, there should be a reform in the membership criteria of the ECOSOCC to allow a broader range of CSOs to participate, ensuring diverse representation. Thirdly, treaty provisions such as Article 59(3) of the Banjul Charter need a liberal interpretation to enhance

transparency and credibility of the complaints mechanism and facilitate CSO engagement in human rights processes. Lastly, the AU should implement transparency and accountability measures to enable CSOs to monitor and evaluate policy implementation effectively, ensuring the organization's actions align with its foundational principles and goals.



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