



2021 5th African Union/NANHRI Policy Dialogue on the State of NHRIs in Africa

Theme:

The Role of the African NHRIs in Promoting Arts, Culture and Heritage as Catalysts for Socio-Economic Transformation

Addis Ababa, Ethiopia [Virtual], on 8-9 November 2021

DECLARATION AND PLAN OF ACTION

1. The Africa Policy Dialogue on the State of the National Human Rights Institutions in Africa, which takes place annually at the Headquarters of the African Union in Addis Ababa, Ethiopia, is a joint initiative by the African Union Commission (AUC), the AU-Permanent Representative Committee (AU-PRC), the Network of African National Human Rights Institutions (NANHRI), with the support of the United Nations Office of the High Commissioner for Human Rights (OHCHR), the Raoul Wallenberg Institute for Human Rights and Humanitarian Law (RWI) and the UNDP Regional Service Centre for Africa.
2. The aim of the Policy Forum is fostering dialogue among key actors towards strategic collaborations and insights that inform policy decisions and lead to actionable steps with regard to implementation of human rights commitments in Africa.
3. The 2021 5th African Union/NANHRI Policy Dialogue on the State of NHRIs in Africa took place virtually on 8-9 September 2021 under the theme *The Role of the African NHRIs in Promoting Arts, Culture and Heritage as Catalysts for Socio-Economic Transformation*.
4. The Policy Forum participants included members of the African Union Permanent Representatives Committee, Representatives of relevant African Union and Regional Economic Communities Organs, Representatives of African National Human Rights Institutions, Representatives of relevant UN bodies, experts, academicians, civil society organisations and development partners.
5. The theme specifically drew inspiration from the AU Agenda 2063, as a shared strategic framework and blueprint for inclusive growth and sustainable Development. Aspiration 5 of the Agenda envisages “*An Africa with a strong*

cultural identity, common heritage, values and ethics". This Aspiration is premised on the understanding that strengthening the African cultural identity, values and ethics is a critical factor for Africa's recognition and appreciation at the global stage.

6. During the Forum, the participants discussed, among other things; the relationship between human rights and cultural heritage, and the challenges faced by the National Human Rights Institutions in establishing priorities between them; and the role of NHRIs in promoting the enjoyment of cultural rights through cultural heritage among other sub-themes.

Preamble

7. ***Remembering*** the past AU decisions that included culture in major development blue prints, such as the Lagos Plan of Action (1980-2000) and the Agenda 2063, as well as in other various instruments adopted on culture, including the Cultural Charter for Africa (1978), the Charter for African Cultural Renaissance (2006), the Statute of the African Audio-Visual and Cinema Commission (2019) and the African Union (AU) Model Law on the Protection of Cultural Property and Heritage (2018), and the Assembly/AU/Dec. 772(XXXIII) which calls on Member States to allocate at least 1% of their national budget to the arts, culture and heritage sector by 2030. among others;
8. ***Recognising*** that under Aspiration 5 of the AU Agenda 2063, the African Union envisions "*an Africa with a strong cultural identity, common heritage shared values and ethics*", which acknowledges the fundamental role played by culture in shaping African societies hence the need to leverage on cultural practices that do not undermine human rights;
9. ***Convinced*** that Pan-Africanism and the common history, destiny, identity, heritage, respect for religious diversity and consciousness of African peoples' and her diaspora's will be entrenched, and that Pan-African ideals will be fully embedded in all school curricula and Pan-African cultural assets (heritage, folklore, languages, film, music, theatre, literature, festivals, religions and spirituality.);
10. ***Drawing inspiration*** from the African Union 2021 Annual Theme which celebrates African arts, culture and heritage as levers for building the "Africa We Want", and thus providing an opportunity for constructive discussions about the role of African women in the socio-economic and cultural development of Africa, and in particular the African indigenous women;

11. **Inspired** by the standard set by Article 27 of the Universal Declaration of Human Rights (UDHR), which guarantees the right of “everyone” to participate in the cultural life of the community;
12. **Noting with appreciation** African context-specific treaties such Article 17 of the African Charter on Human and Peoples’ Rights, which safeguards the right of every individual to take part in the cultural life of his (or her) community; Article 22 of the African Charter which recognises the collective nature of the African peoples, by guaranteeing the right of all peoples to cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind among other things; and Article 2 of the Maputo Protocol, which requires State Parties to modify the social and cultural patterns of conduct with a view to the elimination of harmful/discriminatory cultural and traditional practices.
13. **Recalling** that Article 11 of the African Charter in the Rights and Welfare of the Child provides that the education of the child shall be directed to “the preservation and strengthening of positive African morals, traditional values, and cultures.
14. **Admiring** the decision¹ of the African Commission on Human and Peoples' Rights relating to the *Endorois* community; and the decision² of the African Court on Human and Peoples’ Rights relating to *the Ogiek* community as both cases set an important jurisprudence on indigenous peoples’ rights in the continent; and other general comments and guidelines on the right to culture and positive cultural practices developed by African regional mechanisms.
15. **Conscious** that in order to build the Africa we want, we must tap into Africa’s rich heritage and culture to ensure that the creative arts are major contributors to Africa’s growth and transformation; restore and preserve Africa’s cultural heritage, including its objects of art and of daily use, architecture, places – and intangible culture – customs, practices, artistic expressions, values, religious practices, languages, innovations, and the dignity of its peoples.
16. **Further acknowledging** that, despite existence of a comprehensive legal and policy framework, several of Africa’s women and children are subjected to negative cultural contexts and harmful cultural/traditional/religious practices that have entrenched discrimination in our communities;

¹ 276/03 Centre for Minority Rights Development (Kenya) and Minority Rights Group (on behalf of Endorois Welfare Council) / Kenya

² Application 006/2012 African Commission on Human and Peoples' Rights V. Republic of Kenya

17. **Determined** to eliminate such harmful practices and to preserve only those practices that recognise the fact that women and youth shall play an important role as drivers of change in Africa's cultural renaissance;
18. **Concerned** that that an overwhelming majority of Sub-Sahara Africa's material cultural legacy is outside of the continent; thus, **determined** to put at Africa's disposal all intellectual and other resources to ensure that Africa's stolen culture, heritage and artefacts are fully repatriated, safeguarded and/ compensated.
19. **Reaffirming** the important role that NHRIs play in promoting and protecting arts, culture and heritage in the context of socio-economic transformation by advising and/ holding states accountable to the implementation of human rights standards, including cultural expression, through complaints handling, providing advice in the formulation of policies and legislation, conducting research and training on cultural rights, monitoring compliance with international human rights treaties;
20. **Recalling** the theme of the 4th policy forum on **"National Human Rights Institutions' Contribution to 'Silencing the Guns' in Africa"**; and that it is impossible to promote art, culture, and heritage without peace and security;

We, the participants of the 2021 5th Policy Forum, adopt the following Action Plan on Role of African NHRIs in Promoting Arts, Culture and Heritage as Catalysts for Socio-Economic Transformation:

Hereby resolve to:

- a) Urge all states to strengthen the capacity of NHRIs where they exist and establish them where they don't exist; and support them to fulfil their mandate in accordance with the Paris Principles.
- b) Urge all States to adopt a human rights-based approach to the promotion and protection of arts, culture and heritage on the continent as a human rights issue based on applicable human rights treaties;
- c) Encourage NHRIs to take a keen interest in promoting and protecting socio-economic rights, including right to practice one's culture as much as they have done civil and political rights;
- d) Urge States to accelerate efforts to adopt and implement legislative and other measures to eradicate harmful traditional/cultural/religious practices on the continent such as FGM, forced marriage, widow inheritance, deprivation of inheritance/succession rights, burning of elderly women on allegations of practicing witchcraft etc.;

- e) Advocate for the inclusion of NHRIs, civil society organisations (CSOs), and other human rights defenders in the design and implementation of national strategies to promote artistic and cultural expression as part of durable solutions to poverty alleviation;
- f) Enhance the capacity of States, NHRIs and other stakeholders in research, data collection and analysis with a view to identifying and locating Africa's stolen culture, heritage and artefacts around the world;
- g) Put at Africa's disposal all intellectual and other resources required to ensure that Africa's stolen culture, heritage and artefacts are fully repatriated, safeguarded and/ compensated through advocating for the domestication/ratification and implementation of using the AU Model Law on the Protection of Cultural Property (2018), the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970) and the UNDROIT Convention on Stolen or Illegally Exported Cultural Objects (1995);
- h) Work to create spaces for artists to flourish and opening up possibilities for new thinking in line with freedom of expression as provided in most constitutions of African states;
- i) Urge NHRIs to play their role of bringing different stakeholders to the drawing table to adopt strategies in novel areas such as intellectual property in the context of patenting of traditional creations and knowledge such as medicines and copyrights for artists;
- j) Urge the PRC to take the lead in ensuring States receive and implement in good faith decisions of African Union and United Nations human rights bodies that seek to protect the rights of indigenous people in Africa in order to address historical injustices that came about through landmark events such as colonisation and mass evictions;
- k) Encourage NHRIs to take the lead role in helping states address continued dispossession, displacement, and lack of restitution/reparations for indigenous communities/populations;
- l) Urge States to address lack of decent work and social protection for Africans working in the arts/creative sector including the negative impact of the pandemic on earning opportunities in the sector particularly during the COVID-19 pandemic;



- m) Urge NHRIs to participate in formulating and implementing strategies to address exclusion and discrimination of women and girls from leadership & the full participation in public affairs on the grounds of patriarchy;
- n) Urge States to adopt measures to identify instances of development-induced destruction of cultural heritage monuments and sanctuary places for purposes of infrastructural development.
- o) Urge NHRIs to take leading role in advocating for the national level ratification, implementation, and domestication of AU cultural instruments/policy documents such as the Charter for African Cultural Renaissance (2006) and the Statute of the African Audio-Visual and Cinema Commission (AACC).
- p) Urge NHRIs to advocate infusion and mainstreaming of cultural studies in school curriculum; promote the holding of national cultural events and heritage; and promote the recognition of all languages spoken in their territories and promote their development through teaching;
- q) Urge NHRIs to cooperate with CSOs, states, the African Union Commission & other regional bodies with a cultural mandate; the United Nations Educational, Scientific and Cultural Organization (UNESCO) UNESCO & other international bodies with a cultural mandate including development partners for the attainment of the resolutions enumerated herein.

Adopted in Addis Ababa, Ethiopia, on 9 November 2021.