



SIXTH AFRICAN UNION/NANHRI POLICY DIALOGUE ON THE STATE OF NHRIS IN AFRICA

Theme:

Championing A Human Rights Based Approach in the Implementation of the AfCFTA: The Role of NHRIs and Key Stakeholders

DECLARATION AND CALL TO ACTION

BACKGROUND

1. The African Union/NANHRI Policy Dialogue (Policy Dialogue) on the State of 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 of the African Union Commission (AUC), the AU-Permanent Representatives Committee (AU-PRC) and the Network of African National Human Rights Institutions (NANHRI), with the support of the African Commission on Human and Peoples' Rights (ACHPR), the United Nations Office of the High Commissioner for Human Rights (UNOHCHR), the Raoul Wallenberg Institute for Human Rights and Humanitarian Law (RWI) and the German Development Cooperation (GIZ).
2. The aim of this initiative is to foster dialogue among key actors on the continent to initiate and maintain strategic collaborations and insights that would lead to concrete actions regarding implementation of human rights commitments in Africa.
3. The Sixth Edition of the Policy Dialogue took place from 15-17 May 2023 under the theme "***Championing A Human Rights Based Approach in the Implementation of the AfCFTA: The Role of NHRIs and Key Stakeholders***".
4. The Policy Dialogue participants included members of the AU-PRC, Representatives of relevant AU and Regional Economic Communities (RECs), Representatives of African National Human Rights Institutions (NHRIs), African Union (AU) organs with human rights mandate, Representatives of relevant UN human rights bodies, experts, academics, civil society organisations (CSOs), human rights defenders, and development partners.



5. The theme drew inspiration from the Decision of the AU Assembly of the Heads of State and Government (AU Assembly) at its 35th Ordinary Session held in Addis Ababa, Ethiopia from 5-6 February 2022. At that meeting the AU Assembly adopted "*Acceleration of AfCFTA Implementation*" as the AU theme of the Year 2023.¹
6. The African Continental Free Trade Area (AfCFTA) is one of the flagship projects under the AU Agenda 2063 and a manifestation of African Renaissance, focusing on economic renewal of Africa. It is a long-term development blueprint for transforming the continent into a global economic powerhouse, covering trade in goods and services, investment, intellectual property rights and competition policy.
7. During the Dialogue, participants deliberated upon among other things on the status of NHRIs in Africa in relation to their establishment and operationalization in the context of the 30th Anniversary of the Paris Principles and on the role of NHRIs and other stakeholders in championing a human rights-based approach to the implementation of the AfCFTA. They drew inspiration from two key studies NANHRI conducted, namely, the *Baseline Assessment and Stakeholder Mapping of National Human Rights Institutions' and Other Actors' Involvement in the African Continental Free Trade Area (AfCFTA) processes* (the Baseline Assessment); and the *Guiding Framework on Mainstreaming Human Rights in the AfCFTA Processes* (the Guiding Framework).

Preamble

We, the Participants of the Sixth Policy Dialogue, adopt the following *Action Plan on the Role of African NHRIs in Championing a Human Rights Based Approach*:

8. **RECALLING** the obligations that African Union Member States have subscribed to under the African Charter on Human and Peoples' Rights (African Charter) and the confirmation of their responsibility in the Constitutive Act of the African Union, namely, to promote and protect human and peoples' rights on the African continent.
9. **RECALLING FURTHER** that Article 21(1) of the African Charter on Human and Peoples' Rights, which provides that "*All peoples shall freely dispose of their wealth and natural resources*" and Article 26 provides that "*States parties to the present*

¹ https://au-afcfta.org/wp-content/uploads/2023/02/Statement-on-the-Theme-of-the-AU-for-the-Year-2023_Final-version.pdf



Charter shall have the duty to guarantee the independence of the Courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter”.

10. **CONSIDERING** the *Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights* (the Paris Principles) and their importance as guidelines for the establishment and operationalisation of NHRIs.
11. **NOTING** that the right to participation is implied in Article 22(1) and (2) of the African Charter, which provides that: *"All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind"* and that *"States shall have the duty, individually or collectively, to ensure the exercise of the right to development"*, respectively;
12. **NOTING FURTHER** that the right to participation is also implied in Article 24 of the African Charter which states that, *"All peoples shall have the right to a general satisfactory environment favourable to their development"*;
13. **CONSIDERING** the requirements to ensure increased and beneficial participation in the operationalisation of the AfCFTA Agreement as spelt out in article 7 thereof, and that article 7 (c) provides specifically that State Parties shall *"accord special consideration to the provision of technical assistance and capacity-building through continental support programmes"*;
14. **RECALLING** that the AfCFTA is one of the flagship projects of the African Union Agenda 2063, a policy framework adopted to deliver the "Africa We Want";
15. **NOTING** that the following three of the seven aspirations of the Agenda 2063 emphasize inclusion and participation: Aspiration (1) - a prosperous Africa based on inclusive growth and sustainable development; Aspiration (3) - an Africa of good governance, democracy, respect for human rights, justice and the rule of law and Aspiration (6) - an Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children;
16. **APPRECIATING** that more than twenty African countries have already set up national strategies to implement the AfCFTA Agreement;
17. **CONSIDERING** the paramount importance of protecting the rights of vulnerable populations during the roll-out of these national strategies.
18. **BEARING IN MIND**, that Article 27 (Technical Assistance, Capacity Building and Cooperation) of the AfCFTA Agreement provides that *"State Parties recognize the importance of technical assistance, capacity building and cooperation in order to complement the liberalization of services, to support State Parties' efforts to*



strengthen their capacity in the supply of services and to facilitate implementation and attainment of the objectives of this Protocol;"

19. **NOTING** that business enterprises are currently the major beneficiaries of the operationalization of the AfCFTA Agreement; and therefore, must be considered as key stakeholders whose role is essential in the implementation of the AfCFTA Agreement.
20. **CONSIDERING** the critical role that NHRIs play in promoting and protecting human rights in their respective countries by advising governments on their international human rights obligations as provided in international and regional treaties to which they are parties;
21. **STRESSING** that the promotion and protection of human rights and the implementation of the AU Agenda 2063 and its aspirations are interrelated and mutually reinforcing;
22. **RECOGNIZING** that the AU Agenda 2063 envisages respect and promotion of human rights and human dignity, the rule of law, justice, equality and non-discrimination and that the principle of "Leaving No One Behind" must guide the operationalization of the AfCFTA Agreement to build the "Africa We Want" based on inclusive growth and sustainable development.
23. **APPRECIATING** the role of NANHRI in supporting NHRIs to fulfil their mandates in the context of implementation of international and regional commitments and frameworks.
24. **APPRECIATING FURTHER** the NANHRI Reports entitled *Baseline Assessment and Stakeholder Mapping of NHRIs, and Other Actors Involvement in African Continental Free Trade Area (AfCFTA) Processes*; and the *Guiding Framework on Mainstreaming Human Rights in the AfCFTA Processes* particularly the recommendations appended thereto.
25. **RECALLING** the Resolution of the NANHRI Fifth Policy Dialogue delivered to the 73rd Ordinary Session of the African Commission on Human and Peoples' Rights stressing the need for "*A Human Rights Based-Approach to the Implementation and Monitoring of the African Continental Free Trade Area Agreement*" and the subsequent adoption of the "Resolution on a Human Rights-Based approach to the Implementation and Monitoring of the African Continental Free Trade Area Agreement"² adopted by the African Commission on Human and Peoples Rights at its 74th Private Ordinary Session;

National Human Rights Institutions shall:

- a) Impress upon Member States of the African Union to establish NHRIs where they have not yet done so or strengthen the capacity of NHRIs where they are already

² ACHPR/Res.551 (LXXIV) 2023.



established and support them to fulfil their mandate in accordance with the Paris Principles.

- b) Support NHRIs operating in fragile contexts such as conflict situations to transition to democracy and stability and in particular in addressing challenges faced by citizens human mobility within and across borders mobility and access and ensure availability of basic socio-economic services and goods.
- c) Call on Member States of the African Union to adopt a human rights-based approach to the implementation of the AfCFTA Agreement through embedding among other things, the principles of inclusion among others, participation, legality, accountability, empowerment, non-discrimination, international cooperation and solidarity as protected by the African Charter on Human and Peoples Rights and its constituent instruments including the Protocols protecting the rights of women, older persons and persons with disabilities; as well as the African Youth Charter, and the African Charter on the Rights and Welfare of the Child.
- d) Enhance capacities and support Member States of the African Union to give greater prominence to human rights concerns by ensuring that NHRIs are consulted by government ministries, departments, and agencies involved in developing and implementing AfCFTA policies.
- e) Further enhance the capacities of NHRIs in monitoring and evaluating implementation of national strategies.
- f) Urge Member States of the African Union to regularly share information through traditional and social media on the status of ratification and/or implementation of the AfCFTA Agreement in official and vernacular languages.
- g) Support Member States of the African Union to take measures to eliminate stereotypes that hinder certain vulnerable groups' participation in trade; ensure representation of vulnerable groups and integration of their concerns within national AfCFTA Agreement policymaking, implementation, and monitoring and evaluation processes; and develop mechanisms to protect vulnerable groups to the greatest extent possible from prejudice on their human rights resulting from the AfCFTA Agreement on their human rights.
- h) Advocate for the ratification by Member States of the African Union and implementation of the Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment to accelerate the attainment of the Vision of a Visa Free Africa as envisioned in Agenda 2063 as well as complement the accelerated implementation of the AfCFTA Agreement as goods and services cannot move without people.
- i) Generate knowledge, raise awareness and popularization of free movement of persons as critical to realization of the AfCFTA among AU Member States, African



citizens, and private sector. In so doing support the AU, RECs and Member States to debunk myths, misperceptions, misapprehensions of free movement through evidence-based analysis, knowledge, capacity strengthening including training and use of traditional as well as new media and communication tools and resources.

- j) Support Member States of the African Union to mainstream climate change issues including land degradation, into the implementation of the AfCFTA Agreement by advancing climate resilient development, through several pathways such as renewable energy and transformative green industrialization; agriculture, food and nutrition security and climate change adaptation; strengthening its development finance institutions; engaging in multilateral forums and; contributing to a compact on a global green new deal that advances Africa's interests on climate resilient development.
- k) Facilitate regular dialogue and exchanges as well as systematic documentation of comparable lessons learnt with the AU, RECs, other NHRIS and critical national and regional stakeholders on progress and opportunities of mainstreaming human rights in the implementation of the AfCFTA.

Stakeholders and partners shall:

- l) Support NHRIs to map out and strengthen coordination and collaboration with government ministries, departments, and agencies involved in AfCFTA Agreement processes in order to identify entry points for greater engagement at the national level.
- m) Support NHRIs to accomplish the following 10 core human rights principles in the implementation of the AfCFTA as provided in the NANHRI Guiding Framework:
 - 1) Enhancing compliance of businesses with human rights standards.
 - 2) Promoting transparency and accountability of agreements.
 - 3) Promoting free movement of persons.
 - 4) Promoting environmental rights.
 - 5) Promoting labour rights.
 - 6) Promoting non-discrimination.
 - 7) Promotion and protection of the right to health.
 - 8) Promotion and protection of the right to education.
 - 9) Protecting the right to food, and
 - 10) Realisation of the right to housing and adequate standards of living.
- n) Facilitate and support NHRIs to conduct awareness-raising and other activities on the AfCFTA Agreement that not only sensitize the public, but also bring greater visibility to the NHRIs so that they can more effectively carry out their mandate.



- o) Promote and support NHRIs to develop compelling, evidence-based analysis and a broader strategy to counter two detrimental narratives, namely, that (1) trade and human rights are separate, and that (2) human rights hinder trade liberalization.
- p) Support NHRIs to prioritize engagement with members of vulnerable groups to design and routinely conduct activities aimed at raising awareness of the AfCFTA Agreement among these groups and the general public; provide clear, accessible avenues for members of vulnerable groups to lodge complaints regarding violations of human rights in relation to the implementation of the AfCFTA Agreement.
- q) Support NHRIs to partner with members of vulnerable groups to monitor the impact of the AfCFTA Agreement on them.
- r) Support NHRIs to advocate for the ratification and implementation of the Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment; and report on its implementation when reporting to UN and AU treaty bodies.
- s) Support NHRIs to advocate for the mainstreaming of climate justice in the implementation of the AfCFTA Agreement particularly through the infusion of climate change and environmental perspectives into investigations of complaints.
- t) Encourage NHRIs to support individuals who are negatively impacted by climate change or mitigation measures to have an effective access to remedy and advocating for the protection of environmental human rights defenders in accordance with the 2018 Marrakech Declaration on *Expanding the civic space and promoting and protecting human rights defenders, with a specific focus on women: The role of national human rights institutions*.
- u) Promote, support and strengthen cooperation between and among NHRIs with CSOs, HRDs, academic institutions, the private Sector, Member states, AUC, ACHPR, ACERWC, AfCHPR, AfCFTA Secretariat, RECs and other regional and international bodies with a trade and or human rights mandate as well as development partners with the objective to achieve resolutions contained in this Declaration supported by adequate financial and other resources.

Adopted in Addis Ababa, Ethiopia, on 17 May 2023.