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Centre for Human Rights
Faculty of Law

STATEMENT BY THE CENTRE FOR HUMAN RIGHTS, FACULTY OF LAW, UNIVERSITY OF PRETORIA, OBSERVER STATUS NO 116

TO

**AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS,
AT ITS 75TH ORDINARY SESSION, BANJUL, THE GAMBIA, MAY 2023,
ON THE SITUATION OF HUMAN RIGHTS IN AFRICA**

Chairperson of the African Commission on Human and Peoples' Rights (African Commission),
members of the African Commission, everyone attending this hybrid session,

The Centre for Human Rights, Faculty of Law, University of Pretoria, (the Centre) would like to draw the attention of the Commission, state parties and everyone present to the following issues.

1. Shrinking civic space in African Countries

The Centre expresses its deep concern over the rapid contraction of civic space across African countries.

There is an observable trend of implicit criminalisation of human rights advocacy and public participation in African countries. An increasing number of restrictive laws, often justified under the pretext of public interest, are being implemented. The justifications for these measures include measures introduced to ensure public safety during the COVID-19 pandemic from 2020 to 2022, as well as combatting cybercrime, terrorism, and maintaining public order. This has led to grave infringements of rights by states and private actors, primarily targeting organizations and citizens.

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Three key examples of such restrictive laws are highlighted. The first is the targeting of civil society actors in Burundi by law enforcement agents, the second is the criminalisation of seditious singing and shouting under Article 497 of Togo's penal code, and the third is defamation against a public official in Tunisia as per Article 128 of the penal code of Tunisia. These examples illustrate the pervasive violation and restriction of civil and political rights in Africa. This situation not only threatens the health of democracy in Africa but also the welfare of human rights across the continent.

African countries where civic space is under threat are often signatories to the African Charter on Human and People's Rights and the International Covenant on Civil and Political Rights. Consequently, these restrictive laws and the resulting abuses are contrary to the obligations of these countries under these treaties. We urge the African Commission to among other measures issue statements against these restrictive state laws and actions and urge African states to comply with their obligations to protect and promote civil and political rights.

2. Conflict and instability in Ethiopia, Sudan, Eswatini and Zimbabwe

The Centre for Human Rights wishes to bring attention to the ongoing conflict situations in Ethiopia, Sudan, Eswatini and Zimbabwe.

In Ethiopia, we commend the ceasefire agreement between the factions involved in the Northern Ethiopia armed conflict. The ceasefire agreement is a crucial step towards consolidating peace and ending a conflict that has claimed hundreds of thousands of lives and affected millions in the Afar, Amhara, and Tigray regions. Despite this progress, we remain deeply concerned about the ongoing displacement of millions of Ethiopians and the deteriorating human rights situation, particularly in the Oromia and Amhara regions. The rise in ethnically motivated attacks against regional minorities in Oromia, with indiscriminate targeting of children, women, and the elderly, is alarming. Furthermore, the Centre is concerned by the Oromia Regional government's widespread forced evictions and home demolition campaigns in the newly established Seger City. In the Amhara region, protests against the government have escalated into mass arrests, curfews, and extrajudicial killings.

In Sudan, the conflict between the Sudanese Armed Forces and the Rapid Support Forces (RSF), which began in mid-April, has escalated into a full-blown conflict. This has resulted in numerous human rights violations and has negatively affected the country's transitional democratic processes. The attendant effect of the conflict is widespread human rights violations including destruction of property, personal harm, loss of lives, and an increase in sexual and gender-based violence. Reports indicate a rising crisis of starvation, as food supplies are cut off, along with the breakdown of healthcare and other critical

institutions, such as police services, airports and prisons. Millions, including refugees and internally displaced persons (IDPs), are caught in this conflict, with many seeking refuge in neighbouring countries like Egypt, South Sudan, and Chad. The situation is further exacerbated by the flight of humanitarian agencies due to escalating violence. In Zimbabwe and Eswatini the authorities have used the security forces and the criminal justice system to persecute political and civil society activists.

Considering these crises, the Centre urges the African Commission to join the AU in condemning the political crises and associated human rights violations in Ethiopia and Sudan. We implore the African Commission to stress the importance of accountability and justice for the millions who have suffered from these conflicts. We urge the African Commission to conduct a fact finding mission to Eswatini on extra-judicial killings, including the assassination of Thulani Maseko. We call on the African Commission to urge Zimbabwe authorities to stop using the criminal justice system to persecute political activists and release Job Sikhala and Jacob Ngarivhume. We urge the African Commission to continue monitoring the situation in the four countries, guiding stakeholders towards necessary measures to end the conflict, protect human rights, and ensure accountability for these severe violations.

3. The Mischaracterisation of Intersex Persons

The Centre commends the African Commission for the expedient adoption of Resolution 552 on the Promotion and Protection of the Rights of Intersex Persons in Africa during the 74th private Ordinary Session on 7 March 2023. Resolution 552 recognises the complex challenges and realities of intersex persons in Africa particularly on non-consensual and unnecessary surgical and other genital normalisation procedures performed on intersex persons.

However, the Centre expresses its concerns about the dangers of pathologising intersex identities as an "inherent handicap at birth." Such a characterisation can inadvertently serve as justification for unwarranted and intrusive medical procedures on intersex persons without their consent. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa delineates the definition of disability, and it is imperative to acknowledge that intersexuality does not inherently confer any form of disability at birth.

The Centre is concerned that despite the progressive adoption of resolutions 275 and 552, we have noted regression and discriminatory denial of observer status to Alternative Cote D'Ivoire, Human Rights First Rwanda and Synergia Initiative for Human Rights. The denial violates freedoms of expression and association and non-discrimination as guaranteed under article 2 of the African Charter.

The commission itself has adopted the position that sexual orientation (and gender identity) are grounds on which discrimination under the African Charter cannot be tolerated.
