

## **RECOMMENDATIONS BY PAN-AFRICAN PARLIAMENT CIVIL SOCIETY FORUM (PAP CSO FORUM)**

**presented to the Pan-African Parliament**

**on the occasion of the Parliamentary Dialogue between the PAP and the PAP CSO Forum,  
on 19 May 2023, as part of the Sixth Parliament,  
Midrand, South Africa**

**Recommendation 1: Formalised and deepened CSO engagement with PAP**

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**Recommendation 6: Africa Continental Free Trade Agreement and Free Movement of  
Persons, Right of Residence and Right of Establishment Protocol**

## **Recommendation 1: Formalised and deepened CSO engagement with PAP**

*Considering* that the African Union (AU) is anchored on the principle of ‘participation of the African peoples in the activities of the Union’ (art 4(c) of the Constitutive Act of the AU);

*Inspired by* Agenda 2063, which aspires to ‘an Africa whose development is people driven, relying on the potential of the African people’ (Aspiration 6);

*Recalling* that civil society has played a pivotal role in the struggle for independence, collaborating with citizen-led movements in the fights against colonial governments, advocating for human rights, and championing better treatment of people;

Noting that the AU Constitutive Act (art 17) established the Pan-African Parliament (PAP) to ‘ensure the full participation of African peoples in the development and economic integration of the continent’;

*Noting* the vision in the Preamble to the Protocol relating to the PAP that the PAP would ‘provide a common platform for African peoples and their grassroots organisations to be more involved in discussions and decision-making on the problems and challenges facing the continent’;

*Conscious* that as an organ of the AU, the PAP seeks to provide a formal platform for African people to participate fully and meaningfully in decision-making processes on matters affecting the continent in all spheres of life, including human rights, rule of law, good governance, democracy, peace and security, integration and development;

*Concerned* that to most Africans still know very little about this institution; and that for most of them, the AU and the PAP in particular, are largely invisible and inaccessible, causing the people to be disconnected from the Union and PAP in particular;

*Convinced* that civil society organisations still know very little about this institution; and that for most CSOs, the AU and the PAP in particular, are largely invisible and inaccessible

*Recognising* that CSOs are allowed opportunities to engage with PAP through public participation by way of petitions and memoranda, and inputting on legislative business. can initiate and support the adoption of model laws.

*Firmly convinced* that the mandate of the PAP as a representative of the people of Africa, cannot be implemented without engaging and involving citizens and civil society in the activities of the PAP;

*Recalling* that CSOs have since 2018 convened CSOs on the side-lines of the PAP Ordinary Session, and subsequently established the CSO Forum to foster closer collaboration between and among CSOs on PAP-related issues, on the one hand, and between CSOs and the PAP, on the other, to advance and promote the mandate of the PAP;

*Convinced* that by adopting a people-centred perspectives, acutely conscious of the problems from the grassroots, and drawing from the insights derived from national constituencies, the PAP would be able to better achieve good governance, accountability and transparency in the AU;

*Convinced* that civil society involvement will ensure that the PAP's agenda and activities are driven by the unfiltered lived experiences of all important stakeholders, including disadvantaged communities;

*Conscious* that civil society organisations from across Africa are committed and stand ready to constructively and sustainably work together on, and engage with, the PAP;

*Seriously concerned* about the increasing adoption and use by African States of national legislative and other measures that shrink and restrict the space in which civic society operates, thereby limiting their ability to hold states accountable;

*Noting with considerable concern* the lack of information about the PAP's activities, in particular a record of its deliberations (Hansard), its recommendations and resolutions, and information about its membership;

*Celebrating and expressing satisfaction* with the first-ever formal Parliamentary Dialogue between the PAP and the PAP CSO Forum on 19 May 2023;

***The PAP CSO Forum calls on the PAP:***

- 1 To create spaces and establish formal mechanisms to strengthen public participation and inclusion of African people's and organisations' voices and participation in the PAP, to allow African citizens to participate in the PAP processes, so as to maximize representation, consultation, accountability and transparency in the affairs of the continental Parliament.
- 2 To institutionalise the Parliamentary Dialogue between the PAP and the PAP CSO Forum as a regular feature of all PAP's sessions.
- 3 To develop and institutionalise other mechanisms and processes through which CSOs can meaningfully, constructively and consistently be engaged in the sessions and committee meetings of the PAP.
- 4 To facilitate its engagement with Africa's people, including CSOs, by enhancing its visibility and ensuring the wide and timely dissemination of information on its structures, mandate and activities, in particular a record of its deliberations (Hansard), and its recommendations and resolutions, to facilitate for increased understanding and meaningful engagement by African citizens in the work of the PAP.
- 5 To ensure that the PAP Secretariat has a robust external communication outfit, which provides relevant information on PAP; and on the short term, to instruct its

webmaster to without delay place the names and contact particulars of all Members of the PAP (MPAPs), per country, on the PAP's website, together with each MPAP's designation to relevant committees.

6 To ensure that all publicly accessible information about the PAP is made proactively available, on the PAP website, and enable the wide and easy use of such information; and put in place standards and policies for proactive publication of its roles and functions as well as information generated through legislative processes.

7 To conduct a review of national legislative and other measures that restrict the space in which civic society operates; and call on national Parliaments to refrain from adopting laws restricting civic space and amend these laws where they exist/ have been adopted

8 To put measures in place that allow for monitoring and the extent to which States are implementing the recommendations, resolutions and declarations adopted by the PAP.

## **Recommendation 2: African regional human rights**

*Noting* that only one AU member state has not yet become a party to the African Charter on Human and Peoples' Rights;

*Noting* that the Protocol to the African Charter on the Rights of Women in Africa (Maputo Protocol), which in 2023 marks 20 years since its adoption in 2003, has to date been ratified by 42 states;

*Noting* with concern that none of the three Protocols to the African Charter adopted since 2016 has been ratified by the required number of 15 state parties to secure its entry into force;

*Noting* that only 34 State parties to the African Charter have become party to the Protocol to the African Charter on the Establishment of the Court on Human and Peoples' Rights (African Court Protocol);

*Concerned* that only 8 states parties have accepted direct access to the African Court under by making their optional declaration under article 34(6);

*Further noting* the imperatives of AU reform agenda covering priority areas such as operational efficiency and effectiveness, requiring a review of the structure and staffing needs of the organisation; sustainable financing; the need to review the structure and operations of the AU and ensure institutional realignment for better service delivery; and the need to connect the AU with the African citizenry, including by establishing women and youth participation, and inclusion;

### **The PAP CSO Forum calls on the PAP:**

- 1 To encourage all State parties to the African Charter that have not yet done so, to ratify the following AU human rights treaties: the African Charter; Maputo Protocol; Protocol to the African Charter on the Rights of Older Person in Africa; Protocol to the African Charter on the Rights of Persons with Disabilities in Africa; and the Protocol to the African Charter on the Rights of Citizens to Social Protection and Social Security.
- 2 To encourage National Parliaments to systematically review national legislation to ensure that the treaties ratified by the State are effectively domesticated.
- 3 To encourage State parties to the African Charter that have not yet done so, to ratify or accede to the African Court Protocol and to make the optional declaration under article 34(6).
- 4 To scrutinise the AU reform process so as to assure that it does not detract from the established role of the three African human rights bodies (the African Court, the African Commission on Human and Peoples' Rights and the African Committee of Experts on the

Rights and Welfare of the Child) to promote and protect human rights of all Africans, and to ensure that accountability mechanism for human rights are in place.

### **Recommendation 3: Malabo PAP Protocol**

*Noting* that the ultimate aim of PAP is to evolve into an institution with a fully-fledged legislative mandate whose members run for office and are elected by universal adult suffrage;

*Noting* further that, at present, the PAP does not have full ‘law-making powers’;

*Noting* the adoption, in June 2014, of the Protocol to the Constitutive Act of the African Union relating to the Pan-African Parliament (Malabo PAP Protocol);

*Noting* that the Malabo PAP Protocol aims to transform the PAP into the AU’s most democratic organ, empowered with the unequivocal legislative authority to enact Model Laws applicable to the entire continent;

*Noting* that a simple majority of the AU’s 55 member states (28 states) would have to ratify the Malabo PAP Protocol and deposit their instruments of ratification with the AU before the Malabo PAP Protocol enters into force;

*Noting* that, until 28 ratifications have been secured, the PAP will only exercise consultative and advisory functions non-binding resolutions and recommendations;

*Concerned* that only 14 states ( Benin, Cameroon, Chad, Equatorial Guinea, Gambia, Ghana, Madagascar, Mali, Morocco, Rwanda, the Sahrawi Arab Democratic Republic, Sierra Leone, Somalia and Togo) have to date deposited an instrument of ratification or accession to the Malabo PAP Protocol;

### **The PAP CSO Forum calls on the PAP:**

- 1 To make full use of its present mandate an advisory and consultative body to adopt normative guidance to African States.
- 2 To work with African CSOs to further the goals of PAP transforming into a legislative body with full legislative powers within the next 10 years, as part of its 20<sup>th</sup> Anniversary celebrations in 2024, and as a vision for the third decade of its existence.
- 3 To devise and implement a comprehensive advocacy strategy for the accelerated ratification of the PAP Malabo Protocol.
- 4 To call on States that have not yet done so to ratify the Malabo PAP Protocol.
- 5 To call on National Parliaments to stimulate national debate towards the ratification the Malabo PAP Protocol.

## **Recommendation 4: The state of peace and security in Africa**

*Recalling* the Assembly/AU/Dec.842(XXXVI) on the Report on the activities of the Peace and Security Council (PSC) and state of peace and security in Africa;

*Applauding* the commitments made in that decision in addressing governance, peace and security challenges in 2022 and beyond towards the continued efforts, mainly supporting countries in transition and those under suspension to facilitate their timely return to constitutional order;

*Noting* the grave concern over the persistence of conflict, as well as terrorism and violent extremism on the continent;

*Emphasising* the need for a robust response and collective security approaches, particularly inter-state and cross-border coordination and cooperation, to effectively address the intensity and transboundary nature of the threats to peace, security and stability of Africa;

*Further noting* the concerns over the persistence of multiple and complex challenges that still undermines the achievement of silencing the guns in Africa, particularly gaps in governance and democracy; terrorism and violent extremism; the surge of Foreign Terrorist Fighters and mercenaries; illicit circulation of arms/weapons; corruption; transnational organized crimes, drug trafficking, human trafficking, illicit financial flows and illegal exploitation of natural resources; foreign political and military interference; outbreaks of epidemics and pandemic; the impact of climate change and slow process of ratification of AU instruments, amongst others continue to hamper efforts to achieve the aspirations of Agenda 2063;

*Noting* that the Guns in Africa are not falling silent;

*Echoing* the call by the AU Assembly for Member States and RECs/RMs to report on their actions and activities to silence the guns in the relevant dimensions within the five aspects of the AUMR for experience sharing and cross-learning to address the security challenges squarely;

*Recognising* the role that the Pan African Parliament should play in contributing towards peace and security in Africa and assist in silencing the guns;

### **The PAP CSO Forum calls on the PAP:**

1 To support the mandate of the High Level Representative on Silencing the Guns in Africa and ensure that state compliance is adhered to and the principles and norms that aim to foster peace, security and sound democratic practice in Africa, particularly the implementation of the African Charter on Democracy, Elections and Governance (CDEG) are respected.

2 To use its moral authority as an advisory body, and lead by example, in ensuring that the trend of term elongation and constitutional tampering is halted at national levels;



Use its authority to ensure that conflicts, especially ones that threaten regional stability (Sahel, Grate Lakes-Eastern DRC, Cabo Delgado, Sudan -The Horn) are addressed urgently in a holistic manner – instead of a military approach- to bring about lasting peace in these theatres of war.

3 To support the clarion call by African citizens in solidarity with the people of Sudan to halt the war in that country, and ensure that the leaders of the warring factions (General Burhan -Sudanese Armed Forces, and General Mohamed Hamdan Dagalo (Hemeti) subject themselves to peace talks, (under the mediation of the AU and IGAD) immediately- thus delivering on the mantra of African solutions for African problems.

4 To further support the call made by African Human Rights Defenders at the 75th Ordinary Session of the African Commission on Human and Peoples’ Rights, held in Banjul on 3-13 May, 2023, to trigger article 58 of the African Charter on Human and People’s Rights, as the loss of life, property and critical infrastructure meets the threshold for such interventions to be taken in Sudan, which also threatens the stability of the entire region as well an already fragile refugee protection system.

5 To support the call for larger budgets and sustainable funding for peace fund, which surpassed the optimal target of \$400 million (2020) to \$655 million.

6 To ensure that convening around peace and security matters are held annually, starting with an emergency sitting on ‘The Horn of Africa’ at the next Speaker’s Conference.

7 To ensure that the African Governance Architecture (AGA) platform is supported, by working closely with the African Commission on Human and Peoples’ Rights, which chairs the platform for the period 2023 to 2025.

## Recommendation 5: Human rights situation in the SADC region

*Commending* SADC Heads of State and Government for taking a stand in support of the constitutionally guaranteed rights and liberties of the people of the Democratic Republic of Congo. This follows the Extra-Ordinary Summit of Organ Troika, Plus SADC Troika and Force Intervention Brigade Troop Contributing Countries Heads of State and Government, that was held earlier this month, in Windhoek, Namibia;

*Strongly commending* the Windhoek Communique resolutions 10 and 11 which “approved the deployment of a SADC Force within the framework of the SADC Standby Force as a regional response in support of the DRC to restore peace and security in Eastern DRC, and approved a SADC Common Position to have a more coordinated approach, given the multiple deployments under multilateral and bilateral arrangements in the Eastern DRC, and urged the Government of the DRC to put in place the necessary conditions and measures for effective coordination amongst sub-regional forces and bilateral partners operating in the DRC”;

*Convinced* that deepened SADC collaboration with the United Nations, African Union, regional and national bodies is critical to the resolution of growing conflicts in the region;

*Concerned* about SADC’s reliance on military instruments to tackle crisis hotspots in the region and urge the transformation of SADC’s security and governance architecture to facilitate the pursuit of a just and sustainable peace. A just and sustainable peace in the SADC region must be centred on measures to address the root causes of violent conflicts, especially the unrestrained competition for natural resources and the weakening of democratic conditions;

*Remaining concerned* about the decline in human rights standards, increased polarisation of society, lack of accountability and rule of law, lack of commitment to standards and norms, endemic corruption, lack of independence of judiciaries, militarisation of politics, electoral management bodies and parliaments abuse of natural resources and threats of insecurity in the region;

*Further concerned* that the Kingdom of Eswatini has been facing increasing waves of pro-democracy protests which have been met by brute force from the King Mswati III monarchy, the Internet has been switched off and citizens are being attacked by the security forces without much publicity to the rest of the world;

*Concerned* about the unlawful arrests of journalists (like Eugen Dube who criticised the government’s mishandling of COVID-19, the assassination of Swazi human rights lawyer, Thulani Maseko and the most recent killing of Lesotho’s Ts’enolo FM Radio journalist Ralikonelo Joki) for exposing corruption and dictatorship;

*Concerned* that in Zimbabwe there has been a renewed assault on human rights including the right to freedom of expression in recent months, especially targeting journalists, civil society activists, lawyers and human rights defenders who have spoken out against alleged corruption, suppression and dictatorship have faced judicial persecution. These include Job Sikhala, Fadzai Mahere, Tsitsi Dangarembwa, Jacob Ngarivhume;

*Concerned* about political pressure on national judiciaries, parliaments and electoral management bodies and that the Pan African Parliament has not expressed itself on the situation in Zimbabwe and Eswatini;

*Deeply concerned* about the demise of the SADC Tribunal by SADC states, led by Zimbabwe, leaving SADC as the only sub-region in Africa without a regional court of human rights and justice;

**The PAP CSO Forum calls on PAP:**

- 1 To call upon SADC leaders to demonstrate fortitude towards resolving the conflicts that are happening in some parts of the region, in particular Eswatini and Zimbabwe. Upcoming elections in these conflicted countries present serious risks for the enjoyment of human rights and fundamental freedoms by citizens and dissenting voices.
- 2 To urge SADC leaders to do more to ensure adherence to SADC's own principles and guidelines governing democratic elections and the African Charter on Human and People's Rights. This includes the callous murder of Advocate Thulani Maseko in January 2023. A human rights advocate, Maseko was the Chairperson of the Swaziland Multistakeholder Forum when he was brutally murdered at his home by alleged state hit men. Following the assassination, the SSADC Organ Chairperson, Namibian President, His Excellency Dr Hage Geingob issued a statement on January 23 2023 urging the Eswatini administration to ensure justice in the killing of Maseko but four months later, no arrests have been made.
- 3 To call on SADC to conduct an independent and timeous investigation in the political, human rights and rule of law situations in Eswatini and Zimbabwe.
- 4 To call on governments and mechanisms for human rights protection to bring perpetrators of egregious human rights violations and crimes against humanity to book.
- 5 To call on national Parliaments and electoral management bodies to protect their independence and ensure fairness, transparency in electoral processes and to articulate the needs and decisions of the people to the executive arm of governments.
- 6 To call on national judiciaries in all SADC countries to adopt a human-rights based approach for fair trials, equitable justice and the rule of law as a priority in order to have the protection of human rights and civic spaces.
- 7 To call on SADC States to restore the SADC Tribunal as well as rule of law and democracy at the regional level.
- 8 To respectfully demands that States on the continent fund peace building initiatives, hold each other accountable on human rights, rule of law and democracy.
- 10 To consolidate peace and security initiatives and continued engagement of civil society.

- 11 To formalise the Civil Society Organisations (CSOs) and PAP relationship and continue direct engagement and participation with civil society on human rights, and peace and democracy on the continent.
- 12 To conduct a public hearing on the role of multinational corporations and how they influence conflicts on the continent.
- 13 To utilise data and information from civil society.
- 14 To institutionalise an annual engagement of AU Human rights protection mechanisms, Peace and Security Council and the Pan African Parliament.

## **Recommendation 6: Africa Continental Free Trade Agreement and Free Movement of Persons, Right of Residence and Right of Establishment Protocol**

*Taking note* of the speedy ratification of the Africa Continental Free Trade Agreement (AfCTA) by 47 member states, to date;

*Applauding* the adoption of the Ministerial Regulations on Special Economic Arrangements/Zones so as to enable goods produced in SEZs to be treated as originating goods;

*Further applauding* the adoption of the Protocol to the Agreement Establishing the African Continental Free Trade Area on Intellectual Property Rights (IPR);

*Appreciating* the challenges in operationalising the laudable aspirations of AfCTA;

*Recognising* that limitations of the implementation of the AfCTA without the acknowledgement that the Agreement must be people centred is a stumbling block to full implementation of the Agreement;

*Further recognising* that the free movement of people in Africa is a major challenge;

*Aware* that the Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment was adopted on 29 January 2018;

*Expressing grave concern* that the ratification levels remain low, with only four countries having ratified and deposited their ratification treaty to the AU (Mali, Niger, Rwanda and Sudan);

### **The PAP CSO Form calls on the PAP:**

1 To use its mandate as the organ charged with driving speedy alignment and ratification of AU treaties, and champion a ratification campaign in collaboration with their respective constituents, from whom they derive their direct authority, to ensure that the required ratifications are obtained to bring the Free Movement of Peoples Protocol into force by 2024.

2 To ensure that member states embrace the philosophy of free and safe movement of Africans within Africa, a principle enshrined in our integration aspirations, which remains a distant reality for most African citizens, particularly women, children, youth and economically challenged people.

3 To advocate and legislate at the national level, laws that comply and compliment regional migration protocols that facilitate the safe and free movement of African citizens within artificial borders and thus, create the possibilities of intra- Africa trade, job creation, innovation and prosperity for all.

4 To lead the call to action for all member states to embrace the principles of a borderless Africa, that is at peace with its self and the world, and one which espouses cooperation instead of competition, unity of purpose instead of division and suspicion, othering and xenophobic policies.

5 To deploy its diplomatic and political assets and powers of persuasion, to convince AU Assembly members, captains of industry and African business leaders that without a people centred Free trade regime, the vision and mission of the AcFTA will be handicapped and prevented from achieving its full ambitions.