



Spotlight Initiative
To eliminate violence against women and girls

Guide and Guidelines on the
PROTECTION OF WOMEN HUMAN RIGHTS

Defenders in Africa



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Photo cover: Julienne Lusenge, human rights defender recognized for advocating for survivors of wartime sexual violence in Africa. Credits©: UN Women/Ryan Brown

Model Guide and Guidelines on the

PROTECTION OF WOMEN HUMAN RIGHTS

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Equality Now



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Introduction

A. About the Guide and Guidelines

Women human rights defenders work tirelessly to uphold, promote, and secure the rights of women and girls, and society as a whole. They have greatly contributed to the progress made so far in achieving gender equality and the enjoyment of human rights. A safe and enabling work environment for women human rights defenders is necessary for their work to be impactful.

Human Rights Defenders (HRDs) are generally at risk of having their rights violated. In addition to the risks HRDs face, women human rights defenders (women HRDs) face disproportionate levels of sexual and gender-based violence, sexual violence, and harassment. The violence women HRDs experience reinforces gender stereotypes and patriarchal myths about women. These stereotypes and myths are, in turn, propagated through the media through literature, news, television and radio, social media and the internet. Women HRDs need specific and enhanced protection measures at local, national, regional, and international levels that consider the unique and gendered ways in which they experience violations and challenges due to their gender and the nature of their work.

States are obligated to protect women human rights defenders and provide them with a safe and conducive work environment for them to conduct their activities. To fulfil this obligation, States are required to adopt legislative, administrative, judicial, and other measures.

African States have committed to international and regional human rights instruments that require them to ensure the rights of human rights defenders are protected and that a conducive and safe work environment is provided to them. However, despite their embrace of these commitments, only a handful of African States have taken steps to develop concrete protection measures for human rights defenders. Even in the few countries with these measures, significant gaps remain due to the failure to address the specific protection needs and challenges of women human rights defenders.

This publication acts as an information resource and sets out the legal and policy framework that guarantees the rights of women human rights defenders and establishes obligations to respect, promote and fulfil these rights by African States. Importantly, it sets out opportunities and approaches that African States and the African Union human rights institutions could apply nationally and in regional deliberations and engagements to strengthen legal frameworks on the protection of women human rights defenders. It provides practical advice on steps that can lead to the adoption of effective measures for the protection of women human rights defenders through holistic, gender-responsive legislative, policy and administrative measures.

It is hoped that States can use the information provided in these Guide and Guidelines to design their own country-specific legal and administrative measures and strategies to fulfil their commitments to protect human rights defenders.

In addition, the Guide also serves as a tool for human rights defenders and those who support their work, protection, and safety to inform their advocacy strategies to promote the implementation of State obligations towards the rights of women human rights defenders.

Considering the ever-increasing closing civic space globally, reprisals against human rights of women and other vulnerable groups, and the increase in restrictions, these Guide and Guidelines set out practical guidance to spur States to initiate the necessary processes for the adoption of measures needed for a holistic legal framework for the protection of women human rights defenders. The Guide and Guidelines include information on where support and cooperation with the African Union, regional mechanisms, international partners, and civil society can be leveraged to achieve their obligations under international and regional human rights law.

B. Definitions

i. Human Rights Defender

There is no universal definition of a human rights defender (HRD). Still, the term is used to describe people who, individually or with others, act to promote, protect, or strive for the protection and realization of human rights and fundamental freedoms through peaceful means such as by documenting and calling attention to violations or abuses by governments, businesses, individuals, or groups.¹

This broad definition varies based on a person's activities and the context in which they work. It includes individuals working in non-governmental and intergovernmental organizations and can in some cases extend to government officials, civil servants, and members of the private sector.² As a result of this work and many more activities they undertake, human rights defenders are recognized as essential actors in the fulfilment of human rights.

ii. Women Human Rights Defenders

Women human rights defenders (hereafter referred to as women HRDs) are generally women engaged in the promotion and protection of human rights. The group can also include persons of all genders working on women's rights and gender issues.³

As outlined in the United Nations (UN) Resolution on Women Human Rights Defenders adopted in 2013⁴ (hereafter UN Resolution on women HRDs) while all principles included in the 1998 UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (hereafter the UN Human Rights Defenders Declaration) apply to them, women human rights defenders experience violence in differentiated ways because of the work they do, and who they are, as women.⁵

C. Risks and Challenges faced by Women HRDs

The UN Special Rapporteur on the situation of human rights defenders reports that women defenders often face additional and different risks and obstacles that are gendered, intersectional and shaped by entrenched gender stereotypes and deeply held ideas and cultural norms about who women are and how women should be.⁶

Many economic, social, cultural, and geographical factors affect how women HRDs experience a violation, including religion, age, language, sexual orientation, location, race, and ethnicity.⁷ The UN Resolution on women HRDs calls for specific gendered protection measures and for women's HRDs to be consulted in their design and implementation.

Challenges and threats faced by women HRDs may be greater and different than those faced by male HRDs. Some human rights defenders face more risks and vulnerabilities since they occupy and embody multiple, overlapping, and intersecting identities, meaning that they experience numerous and concurring forms of discrimination, harassment, and marginalization.

Indigenous and minority women and human rights defenders engaging in the promotion and protection of sexual reproductive health rights (SRHR), environmental rights, and land rights tend to be more vulnerable to risks than other HRDs. HRDs interviewed and consulted while preparing this publication emphasized that women in rural areas face more risks centered around gender than those in urban areas. The severity was higher if the women were operating in rural settings where the communities were highly patriarchal and relied heavily on discriminatory customary practices.⁸

¹ See General Assembly Resolution A/RES/53/144, Article 1 of the UN Declaration on Human Rights Defenders, accessible at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/770/89/PDF/N9977089.pdf?OpenElement>

² Stimson, Protecting those who protect human rights: Opportunities and Risks for Action at the UN p. 16, accessible at <https://www.stimson.org/2022/protecting-those-who-protect-human-rights-opportunities-and-risks-for-action-at-the-un/>

³ There is no specific definition on who can be a human rights defender. Human rights defenders can be any person or group working to promote human rights, ranging from intergovernmental organizations to individuals working within their local communities. Many professionals that do not involve human rights work may occasionally be linked to the defense of human rights, for example, journalists, lawyers, teachers, trade unionists etc. In addition, others, such as students, can be regarded as HRDs even if their activities are not conducted in a professional capacity. Similarly, reference to women human rights defenders considers not only women and girls who work to defend human rights but also men who promote women's rights and rights relating to gender equality.

⁴ See General Assembly Resolution A/RES/68/181, accessible at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N13/450/31/PDF/N1345031.pdf?OpenElement>

⁵ AWID, Our Right to Safety: Women Human Rights Defenders' Holistic Approach to Protection, p.5 https://www.awid.org/sites/default/files/atoms/files/Our%20Right%20To%20Safety_FINAL.pdf

⁶ UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights defenders, Situation of women human rights defenders, A/HRC/40/60 (10 January 2019).

⁷ Ibid

⁸ Interviews conducted on 2 May 2022

One interviewee from Uganda shared:

“The grassroots women defender is at more risk because the national one is more exposed and often, they will have built networks that they can easily reach out to when at risk. However, there are also national women HRDs who will still be at risk, for example, sexual minorities, those championing climate and environmental rights, and political activists are at high risk.”⁹

Multiple women HRDs consulted during the preparation of this publication identified challenges related to cultural settings, gender norms and traditions. Gender norms in most African countries are considered a threat to women seeking to participate actively in human rights work and political leadership. Tech-facilitated gender-based violence (TFGBV) continues to rise, with the internet being weaponized to send threats of harm toward women HRDs, some of which have been actualized. The resulting mental and physical health effects of TFGBV force women HRDs to leave online platforms, effectively silencing them.

The difficult environment in which women HRDs conduct their work in Africa is often characterized by arbitrary arrests and detentions, harassment, violence, threats and other forms of intimidation, summary and extra-judicial executions and torture. For example, sexual violence is increasingly used against women activists participating in protests in Sudan in 2019, 2021 and 2022.

Women HRDs also face additional gender-specific threats and violence in both public and private spheres, such as gender-based violence, gendered verbal abuse (online and offline), sexual harassment, rape, and sexual violence, which also leads to further violations such as stigmatization. People supporting or close to women HRDs, including family members, may be specifically targeted. Attacks against women HRDs often focus on their reputation or their sexuality as non-conforming with dominant stereotypes of “appropriate” behaviors by women and men, including certain conservative narratives that relegate a woman’s role to the family and procreation.¹⁰

Women HRDs consulted in the development of this publication identified that some families feel put at risk by their activities. In some instances, women HRDs have been forced to tone down their activism, while others have faced rejection and harassment by family members, and some women HRDs have chosen to discontinue their activism as a result¹¹. Women and adolescent girls are particularly vulnerable due to prevalent gender and cultural norms that justify using violence as punishment.

D. Need for Strengthened Protection for Women HRDs in Africa

Threats, intimidation, attacks, and restrictions against women HRDs are increasing globally. Front Line Defenders have recorded an increase in the killings of women HRDs since 2015. 2021 recorded 65 killings,¹² 44 in 2017, 40 in 2016 and 30 in 2015.¹³ Resultantly, standards for the protection of HRDs have been strengthened over the years, with the last decade witnessing considerable recognition of the weaknesses in taking a general approach to the protection of human rights defenders without identifying the specific gendered needs of women HRDs.

⁹ Interview with WM conducted on 2 May 2022

¹⁰ OHCHR, Information Series on SRHR, p.1 https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/SexualHealth/INFO_WHRD_WEB.pdf

¹¹ HRW “Good Girls Don’t Protest” Repression and Abuse of Women Human Rights Defenders, Activists and Protestors in Sudan, (2016), accessible at <https://www.hrw.org/report/2016/03/23/good-girls-dont-protest/repression-and-abuse-women-human-rights-defenders>

¹² Frontline Defenders Global Analysis, p. 5 accessible at https://www.frontlinedefenders.org/sites/default/files/2021_global_analysis_-_final.pdf

¹³ UN: Increasingly under attack, women human rights defenders need better back up, (2018), accessible at <http://unwo.men/NfsK50N3rcZ>

The UN and the African Union have led in highlighting concerns regarding systemic and structural discrimination and violence faced by women human rights defenders and have called on States to “take all measures necessary to ensure their protection and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defense of human rights.”¹⁴

The challenges and violations that women HRDs face call for public support and recognition, gender-specific responses and protection measures that create a safe and enabling environment for women HRDs, both online and offline, as well as the building of solidarity between and within diverse, inclusive, and strong human rights and gender equality movements.¹⁵

The primary responsibility for ensuring effective protection of women HRDs and a safe enabling environment for them to work lies with the State. These Guide and Guidelines therefore explore the possibilities of States working closely with women HRDs and other institutions and mechanisms to strengthen legal, administrative, and other institutional frameworks to ensure effective protection and a safe and enabling environment for women HRDs in African countries.

¹⁴ UNGA Resolution 68/181, December 2013, Human Rights Council Resolution A/HRC/ RES/22/6, April 2013, UNGA Resolution 70/161, December 2015, UN resolution on the Elimination of Discrimination Against Women and Girls, A/HRC/35/L.41, June 2017 African Commission Resolution ACHPR/Res.336(EXT.OS/XIX)2016, on Measures to Protect and Promote the work of Women Human Rights Defenders, African Commission Resolution ACHPR/Res.376(LX)2017, on the Situation of Human Rights Defenders in Africa, African Commission Resolution ACHPR/Res.409(LXII)2018, on the Need to Adopt Legal Measures for the Protection of Women Human Rights Defenders in Africa, African Commission Report of the Study on the Situation of Women human Rights Defenders in Africa.

¹⁵ OHCHR, Information Series on SRHR, p.1



Photo: Helen Mayelle/Spotlight Initiative Liberia

Legal Framework for the Protection of Women HRDs

States are bound by national, regional, and international human rights standards to promote, protect, respect, and fulfil the rights of women HRDs, and establish conducive conditions for them to carry out their work.¹⁶

1 **PROMOTE:** The obligation to promote requires States to ensure a culture of human rights and address beliefs that run counter to the rights of women HRDs through education, public awareness and other means while also ensuring access to information and knowledge on measures and protection mechanisms in place, that can be used to strengthen the enjoyment of rights by women HRDs.

3 **RESPECT:** States must refrain from interfering with or curtailing the enjoyment of human rights. They should refrain from criminalizing and stigmatizing women HRDs. Public recognition of the legitimacy of the work of women HRDs is a first step to preventing or reducing threats and attacks against them.

2 **PROTECT:** The obligation to protect requires States to exercise due diligence in preventing, punishing, and redressing the harm caused by private parties, which includes ensuring that women defenders can access justice and receive protection from harassment, threats, retaliation, and violence.

4 **FULFIL:** States should provide a safe and enabling environment for women HRDs to be able to do their work. In consultation with women HRDs, state authorities should establish effective and gender-sensitive protection mechanisms to facilitate their work.

While these Guide and Guidelines focuses on strengthening the rights of women HRDs, it is important to note that these rights are deeply inter-connected to the existing human rights frameworks, therefore a foundation exists for States to build on, while considering the setting up national protection framework for women HRDs.

In this section, the relevant legal frameworks for the protection of women HRDs are set out, including the specific rights of human rights defenders and state obligations.

A. Key Treaties and Instruments for the Protection of Women Human Rights Defenders

i. *International Human Rights Framework*

The United Nations has created several instruments that are essential for the work of human rights defenders. The normative framework on which human rights defenders ground their work is the United Nations Declaration on Human Rights Defenders. It is the first UN instrument that affirms that

¹⁶ Frontline Defenders: Toolkit for the European Union on Women Human rights defenders, p.11 accessible at https://www.frontlinedefenders.org/sites/default/files/whrd_toolkit_en.pdf

everyone has the right to defend human rights and recognizes the importance and legitimacy of the work of human rights defenders, as well as their need for better protection from disruptions of their work, reprisals, and security threats.¹⁷

The UN Declaration on Human Rights Defenders establishes that States “shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.”¹⁸

State obligations to protect defenders also derive from their primary responsibility and duty to protect all human rights, as established in numerous legally binding treaties, including the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenant on Civil and Political Rights.

Key international documents and instruments that provide for the protection of WHRDs include:

- The Universal Declaration of Human Rights
- The UN Declaration on Human Rights Defenders
- The Core International Human Rights Instruments, including:¹⁹
 - The Convention on the Elimination of All Forms of Discrimination against Women
 - The International Covenant on Civil and Political Rights and
 - The International Covenant on Economic, Social and Cultural Rights, and their monitoring bodies.

ii. The African Human Rights Framework

In the last two decades, Africa has developed its human rights framework, which provides protection for the human rights of all and is relevant for women HRDs.

Relevant African human rights treaties include:

- The African Charter on Human and Peoples’ Rights
- The African Charter on the Rights and Welfare of the Child
- The Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of the African Court on Human and Peoples’ Rights
- The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa

¹⁷ The Norwegian Human Rights Fund: Guidelines on Security Protection for Grantees in the Field, p. 9 accessible at https://nhrf.no/assets/documents/NHRF-SECURITY_GUIDELINES-Interactive-Final-18-May.pdf

¹⁸ Art. 12 (2) of the UN Declaration on Human Rights Defenders, accessible at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/770/89/PDF/N9977089.pdf?OpenElement>

¹⁹ Information on all the core international treaties can be found here <https://www.ohchr.org/en/core-international-human-rights-instruments-and-their-monitoring-bodies>

B. Rights and Protections accorded to Women Human Rights Defenders

The rights of women HRDs and State obligations to fulfil them are enumerated below, with examples of how the State can fulfil the obligations.²⁰

State Core Duty or Obligation	Examples of how the State can fulfil the Duty
Protect, promote, and implement all human rights	<ul style="list-style-type: none"> - Ensure all persons under a State's jurisdiction can enjoy all social, economic, political, and other rights and freedoms in practice. - Adopt intersectional legislative, administrative, and other measures needed to ensure effective implementation of rights and freedoms. - Respect and support the activities of human rights defenders, including women human rights defenders. - Promote public understanding of civil, political, economic, social, and cultural rights. - Promote and facilitate the teaching of human rights at all levels of formal education and professional training.
Defend the rights of individuals (working alone or with others) to promote human rights in their countries and globally	<ul style="list-style-type: none"> - Create a safe environment for women HRDs, safeguard civic space, and combat impunity for violations committed against women HRDs. - Monitor efforts are taken to implement the Declaration and strengthen data collection, analysis, and reporting about women HRDs. - Ensure the protection of women HRDs and integrate a gender perspective in State efforts aimed at creating a safe and enabling environment for the defense of human rights. - Ensure legislation affecting women HRD activities and its application is consistent with regional and international human rights law, and that defenders' work is not criminalized or otherwise unduly restricted. - Assist human rights defenders working or living abroad who have been or may be subject to intimidation or reprisal on the grounds of or in association with their immigration status, activities, or work as a human rights defender.
Recognize the important and legitimate role of women human rights defenders	<ul style="list-style-type: none"> - Publicly acknowledge the important and legitimate role of women HRDs in national and local statements, laws, policies, and programs. - Consult with women HRDs when developing policies and laws and in the establishment of institutions on women HRDs. - Partner with HRD networks to set up or support mechanisms for annually honoring outstanding women HRDs. - Publicly condemn violence, discrimination, intimidation, and reprisals against women HRDs, avoid stigmatization of their work, and respect the independence of their organizations. - Ensure those that are implicated in committing violations against women HRDs are held to account and remedies are awarded to the victims. - Take an active role, including "appropriate, robust and practical steps" to protect women human rights defenders.
Ensure and support the creation and development of independent national institutions such as national human rights institutions [NHRIs]	<ul style="list-style-type: none"> - Support NHRIs to monitor existing legislation, provide input on draft legislation, and consistently inform the State about its impact on the activities of women HRDs. - NHRIs and their members and staff may sometimes require protection; the State should ensure effective protection mechanisms are established and operationalized to support women HRDs and members and staff of NHRIs.
State Duty to Protect and Promote Specific Rights in Relation to Women HRDs	
Right to form associations and non-governmental organizations.	<ul style="list-style-type: none"> - Ensure that any procedures governing the registration and operation of civil society organizations are transparent, accessible, non-discriminatory, expeditious, inexpensive, allow for the possibility to appeal and avoid requiring re-registration, and conform with international human rights law.

²⁰ Stimson, Protecting those who protect human rights: Opportunities and Risks for Action at the UN, p. 9-10 <https://www.stimson.org/wp-content/uploads/2022/03/Stimson-HRD-Issue-Brief.pdf>

State Core Duty or Obligation	Examples of how the State can fulfil the Duty
Right to solicit, receive, and utilize resources	<ul style="list-style-type: none"> - Refrain from discriminatorily imposed restrictions on HRDs regarding potential funding sources and avenues for utilizing resources they have received, including restricting sectors or themes that can be funded by non-governmental resources. - Refrain from establishing restrictive tax regimes that impact the work of women HRDs.
Right to meet or assemble peacefully	<ul style="list-style-type: none"> - Guarantee that in exercising this right, the right to life is secured, and no person is subject to excessive and indiscriminate use of force; arbitrary arrest and detention; torture and other cruel, inhuman, or degrading treatment or punishment; enforced disappearance, extra-judicial executions; and the abuse of criminal and civil proceedings, or threats of such acts.
Right to seek, obtain, receive, and hold information relating to human rights	<ul style="list-style-type: none"> - Ensure transparent, clear, and expedient laws and policies that provide for a general right to request and receive information held by public authorities, including on human rights violations.
Right to submit to authorities criticism and proposals and make complaints about official policies and Acts	<ul style="list-style-type: none"> - Take the measures necessary to safeguard space for public dialogue on state policies and programs. - Form partnerships and collaboration between states, NHRIs, women HRDs, civil society, and other stakeholders to address established human rights violations.
Right to develop and discuss new human rights ideas and principles and advocate for their acceptance	<ul style="list-style-type: none"> - Ensure legislation does not target activities of individuals and associations defending the rights of persons espousing minority beliefs and that dissenting views can be expressed.
Right to provide legal assistance and attend or monitor public hearings, proceedings, and trials	<ul style="list-style-type: none"> - Ensure women HRDs are not harassed or prosecuted for playing their valuable role in mediation efforts and supporting victims in accessing effective remedies.
Right to communicate with nongovernmental and intergovernmental organizations (such as the UN and AU) without any restriction	<ul style="list-style-type: none"> - Refrain from, and ensure adequate protection from, acts of intimidation or reprisals against those who cooperate, have cooperated, or seek to cooperate with international institutions, including their family members and associates. - Bring perpetrators to justice and provide effective remedies for victims.
Right to an effective remedy	<ul style="list-style-type: none"> - Conduct prompt, effective, and impartial investigations of alleged violations of human rights and hold perpetrators to account, including public officials. - Put procedural safeguards under international human rights law in place to ensure the independence of the judiciary, protect the fair trial rights of women HRDs, and avoid using unreliable evidence, unwarranted investigations, and procedural delays. - Ensure the effective implementation of decisions by judicial and quasi-judicial tribunals granting remedy to women HRDs.
Right to effective protection under national law	<ul style="list-style-type: none"> - Take all necessary measures to ensure the protection of women HRDs, online and offline, against any violence, threats, retaliation, adverse discrimination, pressure, or any other arbitrary action because of their activities. - Refrain from using surveillance and information technologies against women HRDs in a manner that is not compliant with international human rights law. - In meaningful consultation with women HRDs, consider developing comprehensive, sustainable, appropriately resourced and age- and gender-responsive public policies or programs that comprehensively support and protect women HRDs at risk or in vulnerable situations. - Take timely and effective action to respond to attacks or threats against women HRDs, including through early warning and rapid response systems. Protection measures should be holistic and respond to the protection needs of individuals and the communities in which they live. Measures should address the causes of attacks.



Photo: Equality Now

Guidelines for States on Strengthening Protection for Women Human Rights Defenders

States have the primary duty to uphold the rights of women human rights defenders, to ensure they undertake their work in safety.²¹ To achieve these, they must adopt legislative, administrative, judicial, and other measures needed to ensure effective implementation of the rights and freedoms of women HRDs and their organizations.

States should recognize the key role played by women human rights defenders in protecting and promoting human rights and strengthening the rule of law, often at great risk to themselves, their families, communities, and to the organizations and movements they represent.

This section sets out practical steps that African States can take to put in place measures and mechanisms for the protection of women human rights defenders in their territories and beyond.

A. Establish a Holistic Legal Framework that Promotes and Protects the Rights of Women Human Rights Defenders

By instituting a responsive legal framework, States ensure legal recognition of women HRDs and their activities, while providing them with a supportive framework within which they can emerge and promote the advancement of human rights for all humanity.

The approaches that States can take to establish a holistic and gender-responsive legal framework for the protection of women HRDs are explained below.

1. *Adopt a Legal and Policy Framework on the Protection of Women Human Rights Defenders*

1.1. *National Legislation*

To ensure the full and effective implementation of the African Charter and the UN Declaration on Human Rights Defenders, States are encouraged to enact a specific national law on the protection of HRDs.

The African Union, its predecessor – the Organization of African Unity (OAU) and the African Commission on Human and Peoples' Rights have historically called on States to take steps to implement the UN Declaration on Human Rights Defenders. This commitment has been affirmed in the 1999 Grand Bay (Mauritius) Declaration and Plan of Action,²² as well as the 2003 Kigali Declaration.²³

By enacting national legislation that offers legal recognition and protection to human rights defenders, States would be taking an important step towards fulfilling their obligation to create an enabling environment that is free from attacks and restrictions for the promotion and protection of human rights. The legislation enacted ought to also establish mechanisms that are accessible and effective for the protection of those who find themselves at risk because of standing up for human rights.

²¹ ISHR, Legal obligation of States and the UN to address reprisals <https://academy.ishr.ch/security/your-right-to-be-secure-as-a-human-rights-defender>.

²² Where the first Ministerial conference of the Organization of African Unity (OAU) called on Member States to take appropriate steps to implement the UN Declaration on Human Rights Defenders in Africa.

²³ Adopted by the first African Union Ministerial Conference on Human Rights in Africa, where it recognized the important role that human rights defenders play in the promotion and protection of human rights in Africa.

Important points to note:

1

There is emerging acknowledgment that early efforts to establish and strengthen legal frameworks for human rights defenders have not been responsive to the specific challenges and needs of women HRDs, which require specific legal provisions to guarantee their protection from all forms of violence and discrimination, in addition to a safe working environment.

2

In some instances, national legislation adopted, including by African States (as demonstrated below), has failed to include specific protections to guarantee that women HRDs – who face challenges – can operate in a safe and enabling environment, or even access support that is appropriate for them.

3

To remedy these, it is essential that any national laws, policies, and related implementation mechanisms adopted include specific and practical provisions for the recognition and protection of women HRDs.

Useful Resource: Model Law on the Recognition and Protection of Human Rights Defenders

In 2018, a Model Law on the Recognition and Protection of Human Rights Defenders was developed by the International Service for Human Rights (ISHR) in consultation with human rights defenders, experts, and jurists. The law has been used by several States, such as Burkina Faso, the Democratic Republic of Congo, the Philippines, and Mexico to prepare their national legislation on human rights defenders.

The Model Law can be accessed here: <https://ishr.ch/defenders-toolbox/model-law/>

A legal and policy framework which recognizes women HRDs and which reflects international and regional standards can have important normative, educative, preventive and punitive effects – legislatively recognizing the value of defenders’ work, establishing mechanisms for their protection, and providing legal remedies for victims and accountability for perpetrators.²⁴ More broadly, it also contributes to the overall goals of upholding human rights and promoting democracy, sustainable development and respect for the rule of law.

At the time of compiling these Guide and Guidelines, some African Countries had enacted explicit legal protections for HRDs, including national legislation on human rights defenders. They are all in the West Africa region - namely, Côte d’Ivoire, Burkina Faso, and Mali, while Sierra Leone, Niger, Togo, and the Democratic Republic of Congo are in the process of developing their legal protection frameworks for HRDs.

African States with national legislation on the Protection of Human Rights Defenders

1. Côte d’Ivoire

- In 2014, Cote d’Ivoire passed the Law on the Promotion and Protection of human rights defenders Law No. 2014-388 of 20 June 2014, becoming the first African Country to pass legislation dedicated to the protection of HRDs in Africa, which also includes provisions on special protections for women HRDs.

2. Burkina Faso

- In 2017, Burkina Faso became the second country in West Africa to adopt a national law, (LOI N° 039-2017/AN) for the protection of human rights defenders. This law does not have specific protections to guarantee protections and support services to women HRDs.

3. Mali

- In January 2018, Mali became the third African country to enact a law on human rights defenders, referred to as Law No. 2018-003. This law has provisions for women HRDs and HRDs with disability.

²⁴ ISHR Submission to the Special Rapporteur on HRDs annual thematic report for March 2021, accessible at https://www.ohchr.org/sites/default/files/Documents/Issues/Defenders/CFI_killings/submissions/civil-societies/cso-ishr-eng-y.docx

Good Practice: Collaboration in formulating laws for the protection of HRDs with Human Rights Organizations protecting and working with HRDs

Civil Society Organizations (CSOs) have worked collaboratively with governments to formulate laws for the protection of HRDs. Some notable actions by CSOs in supporting governments to strengthen their legal frameworks in Africa include:

- a. Uganda, with support from Civil Society Organizations, has developed a model law for the protection of HRDs which was presented in Parliament as a private bill (Human Rights Protection Bill) in 2020.²⁵ The bill lapsed with the term of the last Parliament and has not been re-introduced by the current parliament
- b. In the Democratic Republic of Congo, five pieces of legislation on the protection of human rights defenders have been developed. Protection International, in collaboration with local CSOs, and working with county governments of North and South Kivu, developed regional-level laws for the protection of HRDs and journalists. These contain some rights in the Model Law. The process of adopting a national law is at the committee stage in Parliament.²⁶ This law recognizes rights in the Model Law but also includes several restrictions. A draft bill developed by the NHRI closely mirrors the Model Law but has not been taken up by Parliament or the Senate.²⁷

1.2. National Policy

Depending on the approach by a State, the process of setting up a legal framework could require the development of a policy that either sets the stage for the adoption of the legislation if developed before the legislation or gives full effect to provisions of the legislation by setting out in detail the rules and standards required to ensure the enjoyment of specific rights by defenders. The State might have to adopt policy and regulatory initiatives, in addition to legislation, to comply with provisions requiring “appropriate measures” to be taken.

Model Human Rights Defenders Policy and Action Plan

- In 2017, the Kenya National Commission on Human Rights, developed and submitted to parliament a Model Human Rights Defenders Policy and Action Plan. The Policy was meant to give effect to a regional protection framework on HRDs proposed by the East African Community (EAC) at their joint meeting with NHRIs in Rwanda where it was agreed that NHRIs would work jointly with their governments to develop National action plans on the protection of human rights defenders. All the other East African Countries are yet to develop policies for the protection of HRDs.

2. Establish a Protection Mechanism under the National Law on Human Rights Defenders

National legislation ought to have provisions for a protection mechanism that, when established, will give full effect to the provisions of the law by ensuring the guarantees set out in the law are made real in practice. Defenders in Côte d’Ivoire, Burkina Faso and Mali have been advocating for the establishment of these protection mechanisms with some success.

²⁵ Uganda, Human Rights Defenders Bill 2020, accessible at <https://parliamentwatch.ug/wp-content/uploads/2021/07/Human-Rights-Defenders-Protection-Bill-2020.pdf>

²⁶ DRC – South Kivu law on the Protection of HRDs and Journalists, accessible at <https://www.protectioninternational.org/news/drc-new-legal-framework-for-the-protection-of-human-rights-defenders-in-south-kivu/>

²⁷ Summary of DRC laws accessible at <https://ishr.ch/defenders-toolbox/national-protection/democratic-republic-of-the-congo/>

For instance, in November 2021, Côte d'Ivoire established its national mechanism that will be responsible for the protection of defenders and, more broadly, the implementation of the law on the protection of defenders' rights.²⁸ Concerns have, however, been raised that human rights defenders had been excluded from participating as the implementing team of the mechanism.²⁹ For protection mechanisms to be credible and responsive to the issues affecting women HRDs, they should ensure WHRDs are represented in the bodies established to operationalize the protection mechanisms.

Because the risks and violations that women's HRDs face are different, their protection needs are also different. One of the weaknesses of current protection schemes is that they do not adapt to the different roles that women HRDs play in the workplace, their families, their organizations and movements, and their communities. Most protection programs provide a set of common measures for all defenders at risk without considering how factors such as gender or ethnicity, among other grounds, impact the experience of a violation.³⁰ For protection mechanisms to be credible and responsive to the issues affecting women HRDs, they should ensure women HRDs are consulted in the design stage and represented in the implementation unit of the mechanisms.

Good Practice: Anchoring the Protection Mechanism within National Human Rights Institutions (NHRIs)

The Model Law on the recognition and protection of human rights defenders recognizes that the establishment of protection mechanisms for human rights defenders can be pursued through different pathways, one of which could be through hosting of this mandate within the National Human Rights Institution of any given country, given that they are mandated to promote and protect human rights. NHRIs are considered a good host for national HRD protection mechanisms as they already have a mandate that allows them to monitor the situation of HRDs, for example, the handling of public demonstrations and documenting police abuse when it occurs. NHRIs can also gather concerns raised by national CSOs and put them forward in regional and international mechanisms to secure accountability for these concerns. Where their mandate allows, NHRIs receive and investigate complaints of violations, through which they can identify and raise systemic concerns with the judiciary and other national institutions. As such, they have the power to facilitate the adequate protection of HRDs.

Some of the HRD laws developed in West Africa have adopted this approach, such as Côte d'Ivoire, where the implementation decree (which was required to operationalize the HRD Protection Law fully) stipulates that the NHRI will act as the host of the national human rights defenders protection mechanism, and Sierra Leone, where the Human Rights Commission of Sierra Leone has been identified in the draft law as the body to host the protection mechanism.³¹ Similar proposals are also being developed in Burkina Faso and Mali, where the national laws of these countries did not include clear stipulations on the implementation mechanism and in Niger and Togo, where draft HRD protection laws are under development.

A useful resource

On this issue is a recent publication - The Potential of National Human Rights Institutions to serve as Protection Mechanisms for Human Rights Defenders by the International Service for Human Rights (ISHR). It explores the extent to which National Human Rights Institutions could act as national protection mechanisms, as part of the implementation of national human rights defender protection laws in selected West African countries.

²⁸ Through the Inter-ministerial Order N°972/MJDH/MEMD/MIS of November 10 2021 the mechanism for the protection of human rights defenders was created, accessible at <https://ln5.sync.com/dl/948d5c3c0/zra523yn-ni5pckb5-cjwp8z9e-zjkts32b/view/default/8635794430000>

²⁹ ISHR, Statement made at the 71st Session of the African Commission on Human and Peoples' Rights, <https://ishr.ch/latest-updates/achpr71-states-in-africa-must-guarantee-the-effectiveness-of-human-rights/>

³⁰ AWID, Our Right to Safety: Women Human Rights Defenders' Holistic Approach to Protection p.10

³¹ ISHR, The Potential of National Human Rights Institutions to serve as Protection Mechanisms for Human Rights Defenders, p. 5 https://ishr.ch/wp-content/uploads/2021/04/ishr_nhri_west_africa_web.pdf

3. Adopt National Guidelines on Supporting Human Rights Defenders with Specific Provisions on Women Human Rights Defenders

In 2004, the European Union (EU) developed Guidelines³² on its aspirations and role in supporting human rights defenders. Several countries have since then followed the EU Guidelines by adopting national guidelines setting out their approaches to protect and support human rights defenders. The United Kingdom, the United States and Canada have also adopted guidelines to assist their diplomatic missions in supporting the protection of women HRDs. Some of the existing guidelines are illustrated further below.

By adopting specific guidelines, a country sets out its commitment to supporting the work of women human rights defenders and providing them with a conducive environment for their work, both in the country and in other territories where support can be offered through its diplomatic missions.

The guidelines provide the basis for a country's approach to the protection of human rights defenders and offer practical advice to specific duty bearers involved in ensuring the effective implementation of the approach.

For the guidelines to be holistic and appropriately responsive, they should take a feminist and intersectional approach tailored to consider the context and specific risks and needs of vulnerable groups, including women human rights defenders, as well as defenders operating in urban and rural contexts.

Explanation of Intersectional Approach:

An intersectional approach to feminism requires an understanding of the many ways women human rights defenders are affected by barriers and discrimination beyond their gender.

Using an intersectional lens means recognizing the historical contexts surrounding an issue. Long histories of violence and systematic discrimination have created deep inequities that disadvantage some from the outset. These inequalities intersect, for example, poverty, caste systems, racism, and sexism, denying people their rights and equal opportunities. The impact extends across multiple generations.

Demonstration of the importance of taking a feminist and intersectional approach.

During the consultations that led to the development of the Guide and Guidelines, several human rights defenders that were consulted expressed the need for protection frameworks for human rights defenders to recognize that the challenges of urban and rural based women human rights defenders may differ, especially in societies where discriminatory customary practices against women are deeply entrenched in the society. The human rights defenders called attention to the fact that the elite groups in urban areas are more aware of their rights and how to enforce them than defenders in rural areas, who are often more likely under the control of their families, husbands, or communities. The need to therefore tailor responses to be effective to the heightened vulnerabilities of grassroots women HRDs was emphasized. This example is illustrative of the need for States to remain cognizant of the need to address the variety of vulnerabilities that women may face, such as ethnic minority status, class, indigenous status, and even the challenges brought about by the rights that the HRDs are agitating, for example, women HRDs working on environmental rights are often more vulnerable to violence due to their work.

³² The EU Guidelines were updated in 2008.

Some examples of Guidelines on protection and support to HRDs include:

- EU Guidelines on Human Rights Defenders
- The Organization for Security and Co-operation in Europe (OSCE) Guidelines on the Protection of Human Rights Defenders
- Voices at Risk: Canada's Guidelines on Supporting Human Rights Defenders
- Norway's Efforts to Support Human Rights Defenders: Guide for the Foreign Service
- Swiss Guidelines on Human Rights Defenders <http://unwo.men/32kA50N3rpq>
- Finland's Guidelines on Protecting and Supporting Human Rights Defenders

4. Review and Repeal of Repressive Laws that Unduly Restrict Activities of Human Rights Defenders and their Organizations

Beyond the establishment of a legal framework that offers protections to women HRDs stipulated above, it is necessary that States go a step further to initiate the process of reviewing and revising existing laws and regulations that may have provisions that are often used to silence the freedom of expression of the public, and especially that of human rights defenders.

Laws often used to repress human rights action may include those relating to counterterrorism, management of public order, security and intelligence gathering, as well as digital security, NGO registration and financing etc.³³

Depending on the circumstances and the actors involved, threats and risks against women human rights defenders often take gender-specific forms, including gendered verbal abuse, street harassment, as well as sexual violence, including rape.³⁴ For example, women who participated in protests in Sudan in 2019 and more recently in 2021 and 2022 reported experience of sexual violence.³⁵ Similarly, at protests in Egypt's Tahrir Square in 2014, almost 100 women protesters were sexually assaulted or raped.³⁶

Other forms of attacks might include, attacks targeting children and families of women HRDs, surveillance, sexual harassment, stigmatization, criminalization, restrictions on organizing, protesting, funding and registration as non-governmental organizations (NGOs), arbitrary arrest and detention, spurious investigations, fabricated charges, unfair trials, kidnapping, torture, ill-treatment, and killings.³⁷

In Egypt, the State's targeting of HRDs has led to the shrinking of civic space. For example, since 2014, investigative judges have been conducting a criminal investigation into the work and the sources of foreign funding of local NGOs and have issued asset freezes against seven organizations and 10 human rights defenders in a case that has become known as Case 173. Authorities have banned at least 31 human rights defenders and NGO staff from traveling abroad for five years. Courts have rejected several appeals by human rights defenders against the restrictive measures placed against them.³⁸ Since 2016, the authorities have summoned for interrogation dozens of members of non-government groups, mostly human rights organizations, and placed over 30 of them on arbitrary travel ban lists and frozen the assets of over a dozen organizations and individuals. Women's rights

³³ Peace Brigades International, Criminalization of Human Rights Defenders, accessible at https://www.peacebrigades.org/fileadmin/user_files/groups/uk/files/Publications/Crim_Report.pdf

³⁴ AWID, Our Right to Safety: Women human Rights Defenders' Holistic Approach to Protection p.10

³⁵ Sudan: End and Investigate Rape of Women Protesters, March 2022 available at <https://ishr.ch/latest-updates/sudan-end-and-investigate-rape-of-women-protesters/>

³⁶ The Situation of Human Rights Defenders in Egypt, <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=1087&file=EnglishTranslation>

³⁷ Karen Bennett, Danna Ingleton, Alice M. Nah & James Savage (2015) Critical perspectives on the security and protection of human rights defenders, *The International Journal of Human Rights*, 19:7, 883-895, DOI: 10.1080/13642987.2015.1075301

³⁸ Amnesty International press release available at <https://www.amnesty.org/en/latest/press-release/2021/07/egypt-crackdown-on-human-rights-defenders-continues-amid-ongoing-foreign-funding-investigation/>

defenders Mozn Hassan, Azza Soliman, and human rights lawyer Hoda Abdelwahab have each had the scope of their human rights work limited after being handed down bans on foreign travel in connection with the ‘illegal foreign funding case,’ which began in early 2016.³⁹

In Morocco, the situation is similar. The UN Special Rapporteur on the Situation of Human Rights Defenders has previously decried the situation of HRDs in Morocco, further noting that human rights defenders working on issues related to human rights in Western Sahara have been subjected to “intimidation, harassment, death threats, criminalization, physical and sexual assault, threats of rape and surveillance.”⁴⁰

It is therefore important that specific attention be given to laws specifically designed to exclude and intimidate women from actively participating in public advocacy.

Ethiopia: 2009 Repressive law limiting the operation of NGOs

In 2009, Ethiopia passed the Ethiopian Charities and Societies Proclamation, which placed excessive restrictions on the work of human rights organizations operating in the country. The law greatly impacted the working environment for HRDs. The leading women’s rights organization, Ethiopia Women Lawyers Association (EWLA), was forced to cut 70% of its staff and by 2011, it was barely functioning.

Sudan: 2019 Repeal of Repressive Laws Targeting Women HRDs

For over 30 years, state-sanctioned discrimination was practiced using repressive laws targeting women in Sudan. The Public Order Acts – implemented at the state level and the Criminal Act operating nationally, were used as tools to repress women’s rights and freedoms – and often selectively applied to crush women’s activism. Under these laws, women were targeted, arrested, and detained because of the way they dressed. The laws also provided for the public flogging of women found guilty of the vague offences described in the Criminal Act as ‘gross indecency.’ These laws were repealed in December 2019, ushering in a new dawn for women in Sudan.

Sudan’s Muslim Personal Law Act of 1991 was repealed in 2020. The law required women in Sudan to seek the consent of their husbands or a male guardian before travelling outside the country. This law was weaponized against women HRDs who needed to travel for work.

It is also important that States go further and identify reasonableness and necessity in actions taken by government institutions, such as the police, to limit certain rights and whether those grounds are appropriate. The Special Rapporteur observed that “Government or police officials may themselves share the prevailing conservative and patriarchal views of the community in general towards women defenders and those working on women’s rights or gender issues, and thus may have little or no enthusiasm to intervene effectively for their protection in spite of their obligation to do so.”⁴¹

Administrative safeguards should be put in place to ensure that women human rights defenders are not discriminated against in the administration of justice, be it through the handing down of disproportionate sentences, the unreasonable prolongation of criminal or other trials, or any other means.

³⁹ HRW ‘Egypt: Renewed Judicial Harassment of Rights Defenders,’ (2021), accessible at <https://www.hrw.org/news/2021/07/31/egypt-renewed-judicial-harassment-rights-defenders>

⁴⁰ Morocco: UN human rights expert decries “clampdown” on human rights defenders, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27244&LangID=E>

⁴¹ Report of the Special Rapporteur on the situation of human rights defenders (A/HRC/16/44). 20 December 2010, para. 96

5. Resource and Budgetary Allocations for the HRD Protection Mechanism and Human Rights Institutions

In line with the principle of maximal application of resources to further the realization of human rights, States should make a budgetary allocation to human rights institutions toward the promotion and protection of the rights of human rights defenders.⁴² These resources should be channeled through the institution that hosts the HRD protection mechanism. The resource allocation process should ensure a clear demarcation of resources for general HRD protection, with allocation made specifically for women HRDs. Funds allocated for women HRDs should be deployed to specifically respond to the needs of women HRDs, as they are intended.

The State can work on modalities to diversify sources of funding for the work of HRDs. For instance, corporations and other private entities can be given tax incentives for funding HRD organizations. As noted in the section above, States should repeal or otherwise remove legislation that attempts to limit or restrict the funding of NGOs and women's rights activism.⁴³

6. Ratification of Human Rights Instruments that Strengthen the Protection of Women's Rights

Resolution 376 of 2017 of the ACHPR and the UN RES/68/181 outline key international and regional human rights instruments that enhance the rights and protections for women HRDs. States ought to ensure they initiate and conclude ratification and domestication of these instruments, in particular the Maputo Protocol, which gives enhanced protections for women in Africa, the Convention on the Discrimination of All forms of Discrimination against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR).

B. Enhance Collaborative Relationships with Diplomatic Missions and Multilateral Institutions

As indicated above, several European States, the United Kingdom, the United States and Canada have adopted guidelines that provide direction on how their diplomatic missions should support the protection of women HRDs. As discussed in section 2.0(a) above, the United Nations bodies and the African Union human rights mechanisms have also made declarations and established procedures signaling their commitment to the support of the work of women HRDs. UN Human Rights Council and the African Commission's Special Mechanisms that support HRDs are discussed in more detail below.

States should strengthen collaboration and engagement with representations from other countries and multilateral institutions that have a presence in their countries to complement the provision of protection and support services to women human rights defenders. Such collaboration can be a major asset in improving the protection services of women HRDs and bolstering the enabling environment for their work. This may involve sharing information, coordinating efforts towards the protection and promotion of the rights of women HRDs, or joint action such as investigating violence against women HRDs and supporting the allocation of resources for women HRD protection initiatives.

⁴² Council for Europe, Commissioner for Human Rights, State Budgets reveal whether government is committed to human rights, accessible at <https://www.coe.int/en/web/commissioner/-/state-budgets-reveal-whether-the-government-is-committed-to-human-righ-1>, and University of Oxford, Human Rights and Human Rights Budgeting Policy, accessible at <https://www.law.ox.ac.uk/research-subject-groups/human-rights-and-budgeting>

⁴³ KNCHR, Model Human Rights Defenders Policy and Action Plan, p. 20 accessed at https://www.knchr.org/Portals/0/CivilAndPoliticalReports/Human%20Rights%20Defenders%20Policy%20and%20Action%20Plan_B5_L_22-1-18.pdf?ver=2018-06-06-191138-293

C. Support the Establishment, Registration and Strengthening of National Women HRD Coalitions, and Networks

States should support the establishment of national women HRD coalitions or networks. The last two decades have seen a steady rise in the establishment of national, regional, and sub-regional HRD coalitions and networks in Africa. These coalitions have spearheaded many of the protection initiatives and law reforms for the protection of defenders in their countries and regions. National HRD coalitions have been established in Burundi, Ethiopia, Kenya, South Sudan, Tanzania, Somalia, and Uganda. Having been the first coalition to be established, Kenya's National Coalition for HRDs has been the model for other coalitions in the region. The Kenya National Coalition for HRDs has greatly contributed to strengthening the capacity of Human Rights Defenders (HRDs) to work effectively and to reduce their vulnerability to the risk of persecution by advocating for a favorable legal and policy environment. In the last five years, in conjunction with the diplomatic community, the coalition has spearheaded an annual recognition and award ceremony for outstanding HRDs, which has helped raise awareness and acceptance of the work of HRDs.

With the increased attention on the challenges and needs of women HRDs, the consensus has more recently started to build on the necessity for more women HRD coalitions to be established to drive advocacy and action on addressing the unique issues faced by women HRDs.

Good Practice: A Sub-Regional Women Human Rights Defenders Network for Southern Africa

The Southern Africa sub-regional network that works towards the protection and promotion of human rights defenders at risk – the Southern Africa Human Rights Defenders Network (SAHRDN), is currently incubating the Southern Africa Women Human Rights Defenders Network (SAWHRDN), which seeks to strengthen protection, resilience, influence, and capacity of women HRDs in Southern Africa.

D. Collaboration with African Human Rights Mechanisms, RECs, and UN Human Rights Mechanisms.⁴⁴

1. African Human Rights Mechanisms

The African Commission on Human and Peoples' Rights

The African Commission has established several mechanisms to promote and protect the rights of human rights defenders. They include the mandate of the Special Rapporteur on Human Rights Defenders in Africa. Two other special mechanisms complement the Special Rapporteur on HRDs: the Special Rapporteur on the Freedom of Expression and Access to Information in Africa and the Special Rapporteur on the Rights of Women in Africa. The mandate of the Special Rapporteur on Human Rights Defenders was established in 2004.⁴⁵ In 2014 the mandate was modified to that of Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa.⁴⁶

Member States ought to collaborate and engage in constructive dialogue with these mandates to fulfil their obligations to respect and protect the rights of women human rights defenders. Cooperating with the African human rights system enables States to demonstrate their commitment to respecting and promoting human rights.

⁴⁴ Interview with a member of the Southern Africa Defenders Network (SAHRDN) on 5 May 2022

⁴⁵ The mandate was established through Resolution CHPR/Res.69(XXXV) 04.

⁴⁶ ACHPR/Res.273 (LV) 14 on the extension of the mandate of the Special Rapporteur on the Situation of human rights defenders in Africa to cases of reprisals.

The mandate of the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa

Requires the Rapporteur to:

- Seek, receive, examine, and act upon information on the situation of human rights defenders in Africa;
- Submit at every Ordinary Session of the ACHPR a report about human rights defenders in Africa;
- Cooperate and engage in dialogue with States Parties to the Charter, National Human Rights Institutions, relevant intergovernmental bodies, regional and international mechanisms, human rights defenders and other stakeholders;
- Raise awareness and promote the implementation of the United Nations Declaration on Human Rights Defenders;
- Collect information and provide effective response in the event of reprisals against human rights defenders;
- Document cases of reprisals received by the Mechanism and maintain a database on all them;
- Develop and recommend strategies to better protect human rights defenders and follow up on their recommendations;
- Advise the Commission on urgent measures to be taken to address specific cases of reprisals;
- Present a report on cases of reprisals at every Ordinary Session of the Commission as part of activity reports of the Special Rapporteur.

Activities of the Special Rapporteur include:

- Receives information on violations perpetrated against human rights defenders;
- Engages in dialogue with States Parties by submitting confidential communications which others refer to as allegation letters;
- Publishes press releases on individual cases of violations reported to her;
- Undertakes promotion missions to assess the situation of human rights defenders in the State Parties to the Charter;
- Organizes consultations, conferences, and seminars as part of capacity building for human rights defenders, either through her own initiative or at the invitation of States, National Human Rights Institutions and civil society organizations;
- Makes recommendations on how the States can implement the United Nations Declaration on the Situation of Human Rights Defenders and takes part in meetings and conferences dedicated to enhancing awareness and action on the human rights defender.

2. Regional Economic Communities

Regional Economic Communities (RECs) have also progressively defined State obligations to promote and protect human rights for their Member States. Some RECs have developed strategy documents and action plans for the protection of human rights defenders. The East African Community developed an action plan on the protection of HRDs whose recommendations informed the process adopted by Kenya's NHRI in developing the *Model Human Rights Defenders Policy and Action Plan*.

Considering their important role in developing guiding documents aimed at implementing international human rights treaties on the issue, RECs remain critical in shaping the development of laws and policies to guide Member States on the protection of women HRDs.

3. UN Human Rights Mechanisms

UN Special Rapporteur on Human Rights Defenders

On April 26, 2000, the post of a Special Representative for Human Rights Defenders was created by the UN Human Rights Council.⁴⁷ In 2008, while renewing the mandate, its title was revised to that of a Special Rapporteur rather than a Special Representative of the UN Secretary-General.⁴⁸

The Special Rapporteur is specifically mandated to gather information on the situation of women HRDs across the world. Therefore, states must collaborate with this mandate in advancing and protecting the rights of women defenders in Africa.

The mandate of the UN Special Rapporteur involves:

- Studying developments and challenges on the right to promote and protect human rights and seeking, receiving, examining, and responding to information on the situation of human rights defenders;
- Establishing cooperation and conducting a dialogue with governments and other interested stakeholders on the promotion and effective implementation of the UN Declaration on Human Rights Defenders;
- Recommending effective strategies to protect human rights defenders better and following up on these recommendations; and
- Integrating a gender perspective and paying particular attention to women human rights defenders.

The UN Special Rapporteur's activities include:

- Receiving information provided by human rights defenders, including complaints regarding violations of their rights, and using this information to determine the issues and questions to be raised with the countries concerned. When presenting a report, the special rapporteur may submit:
 - Letters of 'urgent measures' used to provide information about a violation already occurring or about to, so that the State may take action in time.
 - Letters of complaint which are used to inform the State about violations already committed, currently ongoing, or likely to occur if no action is taken.
- Maintaining periodic contact with States and establishing more specific bilateral contacts in meetings or writing. The Special Rapporteur shall use these means to raise specific issues with the counties which are a matter of concern and to ask them to take action.

⁴⁷ HRC Resolution E/CN.4/RES/2000/6182

⁴⁸ Protection of Human Rights Defenders: best practices and lessons learnt p.3, accessible at <http://unwo.men/Mgi350N3tan> The Special Rapporteur presents annual reports <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders/annual-thematic-reports> to the UN Human Rights Council and the General Assembly on particular topics, undertakes country visits and raises individual cases of concern with governments.



4

Photo: Equality Now

Advocacy Guide on Effective Strategies for Advancing Protection and Rights of Women HRDs

Great progress has been made in the last two decades in recognizing human rights defenders and their role in building more democratic and just societies. The last decade has also seen a growing number of actions that acknowledge that past protection approaches on HRDs have failed to address the challenges and needs that women HRDs experience. Much of this progress has resulted from pressure on States to adhere to their obligation to respect and protect the right to defend human rights under international human rights law. These efforts have largely been driven by HRDs and CSOs operating at the country level, international NGOs, and diplomatic missions that have adopted guidelines on the protection of HRDs, the African Union and the United Nations (UN) human rights institutions.

HRDs have worked closely with the AU and UN human rights systems to build upon the UN Declaration on Human Rights Defenders and strengthen the framework for a safe and enabling environment for the defense of human rights in their countries.

This section focuses on strategic approaches and opportunities for women HRDs to advocate in African countries, as well as at the specific bodies within the AU and UN human rights system and judicial and quasi-judicial bodies that they can engage with and seek support from in advancing their rights.

A. National Advocacy on Legal Protection Frameworks for Women Human Rights Defenders

Advocacy at the national level can influence the country's policy process to effect change on the protection of the rights of women HRDs and those they represent. Many African Countries have not adopted legislative and other measures to give effect to the rights and guarantees afforded to human rights defenders under the UN Declaration on Human Rights Defenders. The few that have adopted policies or legislation are yet to implement them effectively.

A woman HRD from Burkina Faso that was interviewed stated:

“I was involved in the advocacy for preparation of and adoption of a law for the protection of human rights defenders, and the law contains a few specific provisions on women defenders, including those who are pregnant, but this does not satisfy me, I am fighting for a review of this law so that it includes specific provisions for the protection of all women human rights defenders, not only those that are pregnant.”⁴⁹

⁴⁹ Interview with FO held on 15 May 2022

Useful resources:

Model Law for the Recognition and Protection of Human Rights Defenders

<https://ishr.ch/defenders-toolbox/resources/model-law/>

Model Human Rights Defenders Policy and Action Plan

<https://www.knchr.org/Publications/Thematic-Reports/Civil-and-Political-Rights/Freedom-of-Association>

It is therefore imperative that women HRDs strategically engage and collaborate with the relevant decision-makers to initiate policy and legislative processes that would ensure State compliance with obligations under international and regional instruments on the protection of HRDs. This is important for the creation of an enabling environment for the defense of human rights.

During the consultations developing this Guide, it was recommended that women HRDs take the initiative to develop laws and propose them for adoption because this approach would ensure that the specific needs of women HRDs were addressed by the proposed legislation, as opposed to addressing shortcomings of legislation developed by the State, by requesting for amendments. An example was the Burkina Faso process, where HRDs pushed for amendments after the law was already in place.

NHRIs are instrumental in advocating for the enactment of legislative protection frameworks for HRDs. NHRIs from Côte d'Ivoire, DRC and Kenya who participated in the consultations during the drafting of this publication all explained how they had worked closely with civil society in developing and advocating for protection mechanisms for HRDs in their respective countries. In Côte d'Ivoire, the advocacy had borne fruit, and the law and its implementing decree are discussed in section A 1 (1.1) above. In DRC, a draft law exists, and the NHRI has been involved in developing and advocating for it, while in Kenya, a draft Model Policy for HRDs and National Action Plan were spearheaded by the NHRI in partnership with the National Defenders Coalition.⁵⁰ These examples illustrate the impact collaboration with NHRIs can have when HRDs advocate for a strengthened national legal framework.

B. Strengthening Networks and Solidarity Forums for Women Human Rights Defenders

Some of the greatest achievements made in securing the rights of women in Africa have been successful due to concerted solidarity and action advocacy driven through formidable networks. The steady emergence of networks and coalitions dedicated to women HRDs globally is a sure avenue for strengthening advocacy for the work of women HRDs and their protection. Opportunities, therefore, exist for women HRDs to establish or engage with existing women HRD networks that operate at the grassroots, national and regional levels. These networks form a platform for building solidarity among women HRDs, where their numbers and united voice are impactful in pushing for action when the rights of women HRDs are violated, raise the visibility, recognition and push for legitimization, and a safe work environment women HRDs. Cross-border partnerships are equally important in building the regional and continent-wide recognition of women HRDs, promoting and strengthening collective action for protection, including the establishment of solidarity and protection networks, the promotion of self-care, and advocacy and mobilization for the safety of WHRDs.

Through the networks and solidarity forums women HRDs ought to follow up to ensure effective implementation of legislation and policies on the protection of women HRDs that may be adopted nationally. Experts consulted while these Guide and Guidelines were being prepared emphasized on the need for legislative advocacy by women HRDs having a long-term view that follows up to ensure implementation of the HRD laws.

⁵⁰ Interviews with NHRI's from Côte d'Ivoire, DRC, and Kenya

Examples of international and regional women HRDs networks that can be tapped into include:

1. Women Human Rights Defenders Network - Uganda
2. The Coalition for Women Human Rights Defenders Tanzania
3. The East African Women Human Rights Defenders Network
4. Malawi Women Human Rights Defenders Coalition
5. Southern Africa Women Human Rights Network
6. Ethiopian Women Human Rights Defenders Network
7. Women Human Rights Defenders Network Sierra Leone
8. Women Human Rights Defenders Hub - Kenya
9. Women Human Rights Defenders International Coalition EU Guidelines on Human Rights Defenders
10. The Organization for Security and Co-operation in Europe (OSCE) Guidelines on the Protection of Human Rights Defenders
11. Voices at Risk: Canada's Guidelines on Supporting Human Rights Defenders
12. Norway's Efforts to Support Human Rights Defenders: Guide for the Foreign Service
13. Swiss Guidelines on Human Rights Defenders
14. Finland's Guidelines on Protecting and Supporting Human Rights Defenders

C. Strengthening Collaboration and Solidarity with NGO's dedicated to improving the plight of Human Rights Defenders

Non-governmental organizations (NGO's) have been instrumental in the advancement and recognition of the work of HRDs. Women HRDs can therefore benefit greatly by building solidarity with NGOs with programs dedicated to supporting the advancement of the rights of HRDs and supporting those who may face risks and reprisals in the course of their work. Some of these organizations have programs dedicated to advancing the rights of HRDs and have advocacy targets not only national decision makers but also regional and international actors.

Examples of NGO's dedicated to HRD protection

1. AWID
2. International Service for Human Rights (ISHR)
3. Frontline Defenders
4. Defend Defenders
5. Protection International

D. Promoting and Protecting the Rights of Women HRDs in the African Human Rights System

The African human rights system provides significant opportunities for achieving greater recognition, protection, and enforcement of the rights of women HRDs. Human rights defenders who represent or advocate on behalf of victims of human rights abuses can use African human rights mechanisms as a complementary advocacy forum where national efforts to change government policies or practices have proven ineffective or insufficient or where domestic law is less protective of rights than African human rights standards on the protection of women HRDs.⁵¹

⁵¹ IJRC, *Advocacy before the African Human Rights System: A Manual for Attorneys and Advocates* p. 4, accessible at <https://ijrcenter.org/wp-content/uploads/2016/11/Advocacy-before-the-African-Human-Rights-System.pdf>

Two independent organs of the African Union have been highly relevant for advocacy and norm-setting on human rights defense work: the African Commission and the African Court. Opportunities and strategies for WHRDs in engaging the two organs are discussed below.

Advocacy Opportunities at the African Commission on Human and Peoples' Rights:

- Periodic State and shadow reporting processes
- Submission of Communications
- Participation in the sessions of the ACHPR, including delivery of NGO Statements during the session
- Contribution to the General Comments drafting process
- Amicus curiae briefs
- Cooperating with the Commission in its fact-finding missions
- Participating in ACHPR promotional visits

1. African Commission on Human and Peoples' Rights

Since its creation in 1987, opportunities for civil society engagement with the African Commission have positively evolved. As the body mandated to promote and protect human and peoples' rights in Africa, as well as to interpret the provisions of the African Charter, it is highly relevant for women human rights defenders working in Africa to participate in and engage with the African Commission effectively.⁵²

The mandate of the African Commission

- Interpret the African Charter
- Promote human and peoples' rights
- Protect human and peoples' rights
- Perform any other task assigned to the Commission by the AU Assembly

Civil society plays a pivotal role in the activities of the ACHPR and can engage with the commission in a range of ways to further advocate on issues of concern for women HRDs:

- Alert the Commission to violations of the African Charter;
- Submit communications/complaints on behalf of women HRDs whose rights have been violated;
- Monitor governments' compliance to their obligations under the African Charter and other human rights instruments, such as the UN Declaration on Human Rights Defenders;
- Collaborate with the African Commission's Special Mechanisms to raise human rights cases and situations that need to be brought to the attention of the State for redress;
- Attend the African Commission's ordinary sessions, and where invited participate in its private sessions;
- Submit shadow or alternative reports as part of the Member State periodic reporting process;
- Publicize and conduct advocacy about the African Commission's concluding observations, and recommendations; and
- Increase awareness about the African Commission's activities.
- Participate in promotion and fact-finding missions organized by the Commission.

⁵² S. Hassan, Pan-African Human Rights Defenders Network Good practices for CSO Participation at the African Commission on Human and Peoples' Rights Hassan Shire Pan-African Human Rights Defenders Network, available at <https://www.civicus.org/images/Good%20practices%20on%20CSO%20participation%20at%20the%20African%20Commission.pdf>

Participation in the sessions of the African Commission

Participation at the African Commission Sessions provides an important opportunity for women HRDs. Any civil society actor can attend the sessions, and NGOs that have been granted observer status with the Commission may participate actively in these sessions. They can bring to the Commission's attention the human rights situations in their area of focus. Women HRDs can also influence the Commission's resolutions from the session by sharing information with the Commission or participating in the NGO pre-sessions, where resolutions on the human rights situation in Africa are adopted and communicated to the Commission.⁵³

Steps for obtaining Observer Status before the African Commission

NGOs can apply for observer status before the African Commission to have greater access for advocacy on the issues affecting women human rights defenders. Observer Status gives the NGO formal recognition and authority in engaging with the Commission. Resolution 361 sets out the criteria for granting and maintaining observer status to NGOs working on human and peoples' rights in Africa. Which requires the NGO:

- To submit a written application at least three months before the ordinary session;
- Its objectives and activities should align with the fundamental principles and objectives of the AU Constitutive Act, the preamble to the African Charter, and the Maputo Protocol;
- Be an NGO working in the field of human rights in Africa; and
- Declare their financial resources.

Details on how NGOs can obtain observer status before the African Commission can be found on page 50 of this publication: <https://ijrcenter.org/wp-content/uploads/2016/11/Advocacy-before-the-African-Human-Rights-System.pdf>

Contributing to the drafting process of General Comments

When the African Commission drafts General Comments, they may call for public comments, with participation from persons willing to participate in the consultative process. Usually, the call for comments will be posted on the website of the African Commission (<http://www.achpr.org/>), and it will include information on who, what, when, and how to provide comments and contributions.⁵⁴

Women HRDs can contribute to developing General Comments that relate to the issues or violations they work on. They can present information, analysis and even data that may be useful to the ACHPR in developing the General Comment in question. Additionally, women HRDs may also provide their recommendations to go into the General Comments, directly contributing to specific instructions or guidance that the ACHPR provides to states.

Special Mechanisms

One of the effective ways for Women HRDs to engage with the African Commission in addressing human rights violations or issues affecting them is through the Special Mechanisms established by the Commission, which include the Special Rapporteurs, Committees and Working Groups.

⁵³ Ibid

⁵⁴ Women Enabled International, Africa Regional Human Rights System Advocacy Guide, accessible at <https://womenenabled.org/reports/wei-atk-african-regional-human-rights-system-advocacy-guide/>

Special Mechanisms are mandated by the African Commission to:

- Collect information and research on specific human rights issues
- Investigate human rights violations through fact-finding missions and
- Develop recommendations and strategies, engage in dialogue with States and raise awareness of human rights.

The Special Rapporteurs and Committees focus on monitoring and awareness-raising, while the Working Groups are tasked to develop principles, guidelines, and strategies on certain issues. These mechanisms report to the African Commission during its sessions. Section D (i) above discusses the mandate of the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa. HRDs can partner with the Special Mechanisms to promote the Commission's work by collaborating in studies, conferences, seminars, and workshops. Special mechanisms often undertake joint projects with CSOs working in relevant areas.⁵⁵

Women HRDs who would like the African Commission to respond to the violation of their rights can also provide the Special Rapporteurs with information requesting that the mandate either issue a press statement, a specific resolution, or an urgent letter of appeal to the State raising concern on human rights violations observed and urging corrective action.

Special Mechanisms relevant to Women and Human Rights Defenders

1

The Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals In Africa works with States and defenders to raise awareness and promote implementation of the UN Declaration on Human Rights Defenders in Africa, and to ensure compliance with the African Charter.

2

The Special Rapporteur on Rights of Women in Africa works with States to ensure compliance with the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

3

The Special Rapporteur on Freedom of Expression and Access to Information that works to promote and protect the realization of freedom of expression and access to information.

Other thematic special mechanisms may also address rights of women and HRDs, and information on them can be accessed here [Special Mechanisms of the African Commission](#)

Fact Finding Missions

The African Commission often conducts fact-finding missions to Member States to investigate human rights concerns. During the mission, the African Commission meets with a broad range of government representatives, national human rights institutions, and civil society organizations. They may also visit prisons, refugee camps, and other sites.⁵⁶

⁵⁵ AFHR, Advocacy at Regional Human Rights Mechanisms, P.80, accessible at, <https://www.theadvocatesforhumanrights.org/res/byid/9041>
⁵⁶ Ibid p.279

Women HRDs and civil society groups can participate in the country visit process by:

1. Requesting the Commission to conduct a fact-finding mission to a State
2. Providing information, reports, and advice on places to visit and people to contact ahead of the visit. NGOs can also assist by raising awareness about country visits with local NGOs, media, and relevant stakeholders.
3. Provide information on the country's human rights situation and specific violations of the rights of women HRDs.
4. Participating in civil society consultations during the visit and submitting written information to the Commission as it prepares its report on the visit.
5. Raising awareness of the contents of the Mission Report by the Commission and advocating for the implementation of the recommendations made.

State Reporting

Women HRDs are encouraged to participate in the periodic State reporting procedures. States are required to submit periodic reports every two years detailing legislative and other measures taken to bring to effect rights guaranteed under the African Charter, the Maputo Protocol, and other instruments such as the UN Declaration on Human Rights Defenders. The African Commission encourages States to consult with national civil society during the State report drafting process.⁵⁹

It is therefore strategic for women HRDs to engage with the State and the African Commission before, during and after the Commission's consideration of the country's report to complement the information in the State Report on the human rights situation, as well as to provide alternative perspectives on the human rights situation in the country.⁶⁰

For HRDs or organizations participating in the State reporting procedure, registration for observer status is not required.

⁵⁷ Requests for country visits can be channeled through the Secretary of the Commissioner in charge of the country or the relevant Special Rapporteur or Working Group.

⁵⁸ Ibid

⁵⁹ ACHPR State Reporting Procedures and Guidelines accessible at <https://www.achpr.org/statereportingproceduresandguidelines>

⁶⁰ Women Enabled International, Africa Regional Human Rights System Advocacy Guide, P. 12

Key strategies for HRDs engaging in the State reporting process

1. Identify the Commissioner responsible for the country targeted for advocacy, as they lead promotional activities to the country and are also the lead for the State reporting process. In addition, identify the Commissioners for the relevant Rapporteur mandates and Working Groups as they are also well placed to raise questions during the consideration of the report.
2. Build collaborative relationships with these Commissioners throughout the reporting process.
3. Engage with the State and the African Commission before, during and after the Commission's consideration of the country's report. Engaging the State before reporting can help ensure they do not delay in submitting their reports and provide an opportunity to bolster the relationship between the government on the one hand and CSOs and women HRDs on the other.
4. Prepare a shadow report that details issues relating to women HRDs that ought to be brought to the attention of the Commission. The shadow report can include recommendations and questions that the Commissioners should consider when preparing for the in-person dialogue with the Member State and when they retreat to draft their concluding observations and recommendations.
5. Submit the shadow report well in advance before the public session during which the consideration of the government's report takes place – the Commission's timeline is pegged at two months before the session.
6. After the process is concluded, follow up with the State on implementing the recommendations in the Concluding Observations of the Commission. HRDs also play an important role in ensuring that the Commission is updated on progress made on its recommendations before the next State reporting cycle.

Useful resources:

A template for shadow reports can be accessed at

https://www.theadvocatesforhumanrights.org/Res/app_p.pdf

10 steps for writing a shadow report

https://www.theadvocatesforhumanrights.org/Res/app_m.pdf

Roadmap for Civil Society Engagement: State Reporting Procedure of the ACHPR accessible at

https://ishr.ch/sites/default/files/article/files/roadmap_english.pdf

Submission of Communications

Another powerful form of advocacy before the African Commission is the submission of complaints or communications. Defenders can submit a communication to the African Commission for consideration concerning an alleged human rights violation under the African Charter. If the African Commission determines that one or more violations have taken place, it may issue recommendations to the State to make reparations.⁶¹

For example, in *Egyptian Initiative for Personal Rights and Interights v Arab Republic of Egypt*,⁶² the Commission emphasized the responsibility of States to protect women human rights defenders from violence, finding that Egypt had failed in its obligation to protect women against sexual violence during a demonstration in 2005. Four women had been physically, verbally, and sexually assaulted at the demonstration site while protesting undemocratic amendments to the Egyptian Constitution. In its ruling on the case, the African Commission recommended that Egypt amends its laws to bring them in line with the African Charter on Human and Peoples' Rights; directed it to pay EP 57,000 as compensation to each of the women – Nawal, 'Abir, Shaimaa and Iman. The Commission also urged Egypt to investigate the complaints filed by Nawal, 'Abir, Shaimaa and Iman and bring the perpetrators to justice.

To file a communication before the African Commission, defenders and their organizations do not need to have observer status.

Useful resources:

Litigating Before the African Commission on Human and Peoples Rights: A Practice Manual

Complainants' Manual for Filing a Communication before the ACHPR (2013) can be accessed at <http://www.icj-kenya.org/index.php/media-centre/news/552-complainants-manual-for-filing-a-communication-before-the-african-commission-on-human-and-peoples-rights>

A sample complaint can be found at: https://d3n8a8pro7vhmx.cloudfront.net/equalitynow/pages/303/attachments/original/1527598602/Manual_on_Protocol_on_Women_Rights_in_Africa_EN.pdf

Submission of Amicus Curiae Briefs

NGOs can submit amicus curiae briefs to the Commission concerning a communication filed before it. Amicus curiae briefs are submissions by individuals or organizations who are not parties to a case but would like to offer additional information or arguments before the Commission to help it decide on certain issues. The procedure to follow in submitting Amicus briefs is set out under rules 104 and 105 of the African Commission Rules of Procedure.⁶³

Rule 104 provides that:

1. The Commission may invite or grant leave to an amicus curiae to intervene in a case by making written or oral submissions to assist the Commission in determining a factual or legal issue.
2. Any third party may submit a request to intervene as amicus curiae in any communication before the African Commission.

⁶¹ University of Bristol, Providing Reparation for Human Rights Cases: A Practical Guide for African States, p.11, <https://www.bristol.ac.uk/media-library/sites/law/documents/Guide.pdf>

⁶² *Egyptian Initiative for Personal Rights v. Egypt*, Decision, Comm. No. 323/2006 (ACmHPR, Dec. 2011)

⁶³ Rules of Procedure of the African Commission on Human and Peoples' Rights, 2020 accessible at https://www.achpr.org/public/Document/file/English/Rules%20of%20Procedure%202020_ENG.pdf

3. Requests to intervene as amicus curiae are addressed to the Commission and are required to:

- a. Be in writing to the Secretariat of the African Commission;
- b. Indicate the authors of the request, contact details, the communication(s) to which the amicus relates, and the contribution the proposed amicus submission can make in assisting the African Commission; and
- c. Be no longer than ten pages.

Rule 105 sets the procedure for intervention for amicus curiae

1. The African Commission considers the parties' views to a Communication in deciding whether the application for an amicus intervention should be granted.
2. The Commission communicates its decision to the parties in the Communication and the applicant seeking to intervene as amicus curiae.
3. If the application to become amicus curiae is granted, the Commission:
 - a. Shares the parties' pleadings with the amicus curiae;
 - b. Requires the amicus curiae to file an amicus brief within thirty (30) days, and
 - c. Shares the amicus brief with the parties and requires them to file their responses within thirty (30) days.
4. The amicus curiae are required to respect the confidentiality of the parties' pleadings in accordance with Article 59 of the African Charter.
5. During the hearing of a communication in which an amicus curiae brief has been filed, the Commission may permit the author of the brief to address the Commission.
6. Amicus briefs admitted by the African Commission may be published on its website.

2. African Court on Human and Peoples' Rights

The African Court on Human and Peoples' Rights (African Court) has judicial and advisory functions. For human rights defenders to file claims against countries that are signatories to the African Court Protocol, they will need to show that the country in question has deposited an article 34(6) declaration giving the court jurisdiction over cases brought by individuals and non-governmental organizations.

The African Court complements the mandate of the African Commission in promoting compliance with the African Charter and its additional protocols, including the Maputo Protocol.⁶⁴

Women HRDs whose countries have signed the Article 34 (6) declaration of the African Court Protocol that allows individuals or NGOs to access the African Court may file cases concerning the interpretation and application of the African Charter and other relevant human rights instruments ratified by the State concerned. After deciding a case on the merits, the African Court makes appropriate orders to remedy the violation, including recommendations on how the decision should be implemented effectively, payment of fair compensation or reparation.⁶⁵

The advisory function of the Court is another avenue for NGOs to use in achieving their aims, as the court issues an advisory opinion on specific legal questions that relate to the African Charter or any other "relevant" human rights instrument. Access to seek advisory opinions before the Court is limited to AU Member States, AU organs or any African organization recognized by the AU - meaning an African organization which is granted Observer Status by the AU (as opposed to the ACHPR) or has signed a Memorandum of Understanding with the AU.⁶⁶

Women HRDs can partner with organizations that meet the African Court Protocol's requirements and seek advisory opinions on issues that touch on their work or security and protection.

⁶⁴ Women Enabled International, Africa Regional Human Rights System Advocacy Guide p.9

⁶⁵ Ibid.

⁶⁶ African Court Law Report Volume 2, 583-584 (2017-2018)

3. Opportunities for Advocacy at sub-Regional Communities – Human Rights Mechanisms

Regional Economic Communities (RECs) also offer opportunities for women HRDs to advance the promotion and protection of human rights.

One of the ways in which women HRDs can influence decisions that reinforce the RECs' commitment to supporting women HRDs is to advocate for the adoption of policies on the protection of women HRDs. For instance, the East Africa Community has adopted a policy on the protection of HRDs, which inspired Kenya's NHRI to develop a *Model National Human Rights Defenders Policy and Action Plan* and propose it for adoption by the National Assembly.

Women HRDs can also file cases before the REC Courts. The courts have been effectively used to challenge the violation of rights of human rights defenders. The judicial organ of the Economic Community of West African States, the ECOWAS Court of Justice, is charged with resolving disputes related to the Community's treaty, protocols, and conventions. The ECOWAS Community Court of Justice *has the competence to hear individual complaints of alleged human rights violations*.⁶⁷ The ECOWAS Court of Justice decisions have been instrumental in advancing Women's Rights in West Africa. *The East African Court of Justice (EACJ)*, the judicial organ of the East African Community (EAC), is tasked with resolving disputes involving the Community and its Member States. The East African Court of Justice *does not have the competence to hear individual complaints of alleged violations of human rights law*.⁶⁸ However, over the years, the Court has deliberated on cases that offend the rule of law with a close co-relation to human rights while relying on articles 6(d) and 7(2) of the EAC Treaty to create scope for human rights matters to be brought before it.⁶⁹ The Southern Africa Development (SADC) Tribunal was suspended by SADC Member States in 2010 and remains inoperative to date.

E. UN Human Rights System Protection Mechanisms for Women Human Rights Defenders

The UN human rights system promotes and protects the rights of HRDs under two categories of bodies: UN Charter bodies and Treaty Bodies. Charter bodies are human rights bodies and mechanisms established by resolutions and decisions of the UN system. Examples are the Human Rights Council (HRC), the Universal Periodic Review Working Group (UPR) and the Advisory Committee. Treaty bodies, on the other hand, are established by legally binding human rights treaties, such as the *Committee on the Elimination of Discrimination against Women (CEDAW)*, the *Committee against Torture (CAT)*, and the *Committee on the Rights of the Child (CRC)*. The sections below examine how relevant Treaty and Charter bodies offer for advocacy on the rights of women HRDs.

1. Human Rights Council

The Human Rights Council (HRC) is mandated to strengthen the global promotion and protection of human rights and to address human rights violations and situations of concern.

Advocacy targeted at the HRC is one of the most effective tools for raising human rights concerns and holding states accountable for their obligations related to protecting the rights of women HRDs.

⁶⁷ Economic Community of West African States Court of Justice, accessible at <https://ijrcenter.org/regional-communities/economic-community-of-west-african-states-court-of-justice/>

⁶⁸ East African Court of Justice, accessible at <https://ijrcenter.org/regional-communities/east-african-court-of-justice/>, The jurisdictional requirements of the EACJ are set out in articles 27 and 30 of the EAC Treaty, accessible at <https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/2487/download>

⁶⁹ Article 6(d) states: "The fundamental principles that shall govern the achievement of the objectives of the Community by the Partner States shall include: good governance including adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, as well as the recognition, promotion and protection of human and peoples' rights in accordance with the provisions of the African Charter on Human and Peoples' Rights." And Article 7(2) states: "The Partner States undertake to abide by the principles of good governance, including adherence to the principles of democracy, the rule of law, social justice and the maintenance of universally accepted standards of human rights."

Key highlights about the HRC

- *The HRC convenes three ordinary sessions per year in Geneva, as well as special sessions on crises and emergencies. Human rights defenders can write to the Council to request a special session be convened with respect to a particular country in crisis.*
- *It oversees both the Universal Periodic Review, which reviews the human rights record of Member States in four-year intervals and makes recommendations on areas to be addressed.*
- *It also oversees the work of Special Procedures (the UN's independent human rights experts).*

1.1. Universal Periodic Review

The Universal Periodic Review (UPR) is a peer-review mechanism under the UN Human Rights Council that examines the record of all UN member states. Reviews occur through an interactive discussion between the State under review and all other Member States, who can raise questions or comments and make recommendations.

Advocacy opportunities for Women HRDs in the UPR Process:

Women HRDs can organize to participate in a country's UPR process. They can convene other defenders to review the state of implementation of recommendations from the previous review process and collate information on current human rights issues affecting the country, following which a stakeholders (CSOs) report is developed and submitted to the HRC. Women HRDs can work closely with national human rights institutions to collate their information on the human rights situation in their countries. Women HRDs can also follow up on the implementation of recommendations with the relevant government agencies after the UPR process is completed to ensure implementation.

Women HRDs, through their NGOs, can participate in a Human Rights Council Session as observers and submit written and oral statements. To participate as an observer, an NGO must be registered with the United Nations Economic and Social Council (ECOSOC). Organizations without ECOSOC status can still participate by partnering and collaborating with those with status to register them for participation and for any oral statements to be made.

NGOs with Observer Status can:

- *Attend and observe all proceedings of the Council except for the Council deliberations under the Complaints Procedure;*
- *Submit written statements to the Human Rights Council;*
- *Make oral statements/interventions to the Human Rights Council;*
- *Participate in debates, interactive dialogues, panel discussions and informal meetings; and*
- *Organize "parallel events" on issues relevant to the work of the Human Rights Council.*

Useful resource:

Detailed information can be found in the *Practical Guide for NGO Participants - UN Human Rights Council*

https://academy.ishr.ch/upload/resources_and_tools/OHCHR_PracticalGuideNGO_en.pdf

1.2. The Special Procedures ⁷⁰

The Human Rights Council has established a wide range of Special Procedures in the form of Independent Experts, Special Rapporteurs and Working Groups. The mandate and activities of the Special Rapporteur on the Situation of Human Rights Defenders have been discussed in a previous section D (iii) above. These bodies focus on thematic issues, a specific group of rights-holders, or a country with ongoing human rights issues. Besides producing reports, Special Procedures can undertake country visits to examine issues of concern.⁷¹

Three UN mandate holders and one Working Group are particularly relevant to women human rights defenders:

- *The Special Rapporteur on the situation of human rights defenders;*
- *The Special Rapporteur on the rights to freedom of peaceful assembly and of association;*
- *The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and*
- *Working Group on discrimination against women and girls.*

2. The UN Special Rapporteur on the Situation of Human Rights Defenders

The UN Special Rapporteur on the situation of HRDs⁷² receives cases of human rights violations committed against defenders from various sources, including from human rights defenders themselves.

Once the Rapporteur ascertains that the violation possibly occurred, they will formally request the Government to take all appropriate action to investigate and address the alleged events and to communicate the results of its investigation and actions back to the Special Rapporteur.

The mandate of the UN Special Rapporteur on the situation of human rights defenders is complemented closely by that of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Working Group on discrimination against women and girls. These complementary mandates are important as they often cut across the thematic issues women HRDs experience or work on.

Women HRDs can transmit information on cases of violations to the UN Special Rapporteur for them to be raised with the relevant State. Where the violations in question can be related to the mandates of other special rapporteurs or working groups, the information being transmitted ought to be tailored so that joint action can be requested from the various mandates. One way to ensure this takes place is by categorizing recommendations and calls to action according to the mandates to which one is addressing the joint action.

Special Rapporteurs periodically call for information or input into reports or country situation assessments they are undertaking. Women HRDs can leverage such opportunities to transmit information on the situation of Women HRDs or specific cases of human rights violations affecting women or Women HRDs.

Useful resource:

For more information about UN Special Procedures, visit here. *Special Procedures of the HRC*
<https://www.ohchr.org/en/special-procedures-human-rights-council>

⁷⁰ OHCHR A Practical Guide for NGO Participants: United Nations Human Rights Council, p.3 accessible at https://academy.ishr.ch/upload/resources_and_tools/OHCHR_PracticalGuideNGO_en.pdf

⁷¹ DIHR, Securing an Enabling Environment for Human Rights Defenders, p. 5 <https://www.humanrights.dk/sites/humanrights.dk/files/media/document/Human%20Rights%20Defenders.pdf>

⁷² The mandate was established in 2000 as a special procedure to support the implementation of the 1998 Declaration on human rights defenders.

3. UN Treaty Bodies

Treaty Bodies are committees of independent experts who monitor the implementation of human rights treaties and guide their implementation. State Parties periodically report to these Treaty Bodies, and civil society organizations may also submit shadow reports. In addition to the State reports, Treaty Bodies also consider a wide range of information on the implementation of the treaties from UN bodies, National Human Rights Institutions, and civil society organizations.⁷³

After considering the reports, Treaty Bodies make concluding comments and recommendations on how the State Party can improve its compliance with its treaty obligations. These concluding comments and recommendations may provide an opportunity for advocacy by providing concrete steps the State could take to enhance the promotion and protection of women HRDs.

Women HRDs can communicate information on violations relating to rights provided for in the relevant treaty that establishes the committee. Some treaty bodies have an additional mandate allowing them to receive and consider complaints from individuals who allege they are victims of human rights violations by a State.

Treaty Bodies that have the power to hear complaints are:

- *The Human Rights Committee;*
- *The Committee on the Elimination of Racial Discrimination;*
- *The Committee against Torture; and*
- *The Committee on the Elimination of Discrimination Against Women.*

Women HRDs ought to review the mandates of the various treaty bodies to identify those that might be important for their advocacy depending on the human rights issues to be addressed.

The following are the Treaty Bodies established to supervise the implementation of treaty obligations by State Parties;

Committee on the Elimination of Racial Discrimination	- Monitors State Parties compliance to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
Human Rights Committee	- Monitors State Parties compliance with the International Covenant on Civil and Political Rights (ICCPR)
Committee on Economic, Social and Cultural Rights	- Monitors State Parties compliance with the International Covenant on Economic, Social and Cultural Rights (ICESCR)
Committee against Torture	- Monitors State Parties compliance with the Convention against Torture (CAT)
Committee on Migrant Workers	- Monitors State Parties compliance with the International Convention on the Protection of the Rights of Migrant Workers and Families
Committee on the Elimination of Discrimination against Women	- Monitors State Parties compliance with Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
Committee on the Rights of the Child	- Monitors State Parties compliance with the Convention on the Rights of the Child (CRC)

⁷³ DIHR, Securing an Enabling Environment for Human Rights Defenders, p. 6



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