

GOOD PRACTICES FOR CSO PARTICIPATION AT THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

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INTRODUCTION

Established by the African Charter on Human and Peoples' Rights, the African Commission on Human and Peoples' Rights (referred to here for brevity as the African Commission) recently celebrated its 25th anniversary. Since its creation in 1987, opportunities for civil society engagement with the African Commission have changed beyond all recognition. As the body mandated to promote and protect human and peoples' rights in Africa, as well as to interpret the provisions of the Charter, it is highly relevant for human rights defenders working in Africa to participate in the African Commission. Civil society organisations (CSOs) with observer status at the African Commission have a wide range of ways to engage.

In fulfilling its mandate, the African Commission carries out a variety of activities. As well as its activities to promote respect of the rights contained in the Charter, such as promotional and fact-finding missions to member states, the African Commission also has a protective mandate and acts as a quasi-judicial mechanism to hear and decide on complaints submitted to it. Since the African Court on Human and Peoples' Rights was established in 2004, the two organs have harmonised their rules of procedure¹ for better consultation and referral of cases to each other. The key role the African Commission plays in the protection of human and peoples' rights in Africa also makes it central for any consultation on human rights issues in Africa by the African Union (AU) and other subsidiary bodies. A recent example would be consultations around the establishment of the AU Commission of Inquiry on South Sudan.²

SPACE FOR CIVIL SOCIETY

One major factor in the opening of space for civil society at the African Commission has been the growth of the Forum on the Participation of NGOs (more commonly known as the NGO Forum), first held in 1990. As one of the main avenues to facilitate civil society actors' access the African Commission, the NGO Forum has been organised by the African Centre for Democracy and Human Rights Studies since 2000, with input from a Steering Committee of NGO representatives

from the five different subregions of Africa as well as from the African diaspora. The Forum's influence has steadily grown, with hundreds of activists attending each session.

The NGO Forum exists to foster closer collaboration and cooperation among CSOs – and with the African Commission – for the promotion and protection of human rights in Africa; to provide a discussion platform for organisations working on democracy and human rights issues in the continent; and to promote networking between organisations and across regions.

The Pan-African Human Rights Defenders Network (PAHRDN) brings together the five subregional human rights defenders networks in Africa.³ All of the networks are active at the Commission and most are also members of the Steering Committee of the NGO Forum. Over the years, its members have built up a wealth of experience of how to participate effectively at the African Commission and collaborate with it. Some of the good practices developed are explored in more detail below.

FIVE GOOD PRACTICES FOR CIVIL SOCIETY

1. Invest time and effort in networking

Formally and informally, networking is essential to effective participation by civil society at the African Commission. The NGO Forum provides a great opportunity to meet with

other human rights defenders working on a whole range of issues across the continent and to develop synergies between different areas of work.

At the more formal level, CSOs can organise panel discussions for the Forum on human rights issues that are relevant to CSOs across the whole of Africa. This is an opportunity for sharing ideas and experiences from across the continent. During the Forum, CSOs can also discuss and agree upon the burning issues that they want to take to the African Commission as a collective voice and ask them to address. Usually this is done in the form of resolutions or recommendations adopted by the NGO Forum. In many cases, their concerns are taken up by the African Commission in their own resolutions, which may also use language suggested by CSOs.

PAHRDN formally engaged with the African Commission to launch the first African Human Rights Defenders Award in 2013. Technical support from the African Commission came in the selection process and the organisational process.

More informally, networking on the sidelines of the African Commission sessions and at the NGO Forum itself is where some of the most successful civil society advocacy ideas have been born. Hundreds of civil society participants attend the NGO Forum, so it is a good place to make new connections and

to reinforce existing partnerships, particularly on thematic issues. Working groups of CSOs focusing on specific areas have formed somewhat organically at the African Commission, such as the group of litigants for strengthening the protective mandate of the African Commission. These groups have a very open and welcoming approach to new participants. Ad hoc groups of CSOs working at the African Commission are frequently formed around pressing issues.

Where states parties fail to respond to an African Commission inquiry to visit a country, CSOs often find a way to invite commissioners to attend conferences and other activities in their country to address some issues in a more informal way. This approach was successful in Burundi⁴ and Angola.

Resource-Complainants' Manual for Filing a Communication before the ACHPR (2013)

The litigants group compiled a manual for newcomers to the Commission to explain and clarify the basic procedural steps to follow when submitting complaints (“communications”) to the African Commission: <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>

There is also a need for CSOs to network and build relationships with individual commission-

ers. Making connections with individual commissioners and their staff that are relevant to their specific country and thematic areas is one of the best ways to make a meaningful impact on the work of the Commission.

For example, members of PAHRDN have taken part in a number of joint initiatives with the African Commission’s Special Rapporteur on Human Rights Defenders (HRDs) in Africa, including the Study Group on Freedom of Association and Assembly in Africa and the Advisory Group on Women Human Rights Defenders. Other CSOs partner closely with the relevant mandate-holders on their different areas of expertise, developing, for example, the Model Law on Access to Information, which was adopted by the Commission in 2013,⁵ and the African Commission Principles and Guidelines on Economic, Social and Cultural Rights.⁶

2. Work together

Unsurprisingly, the African Commission’s agenda is packed and there are limited opportunities to engage with the 11 Commissioners on a one-to-one basis. To increase chances of making an impact, it is a good idea for like-minded CSOs to work together and seek joint meetings with the relevant commissioners or to organise joint side events. Not only is this a more efficient use of time, but joint efforts are likely to attract a larger audience and to generate stronger recommendations through drawing on the expertise of a larger group.

Civil society groups from Cameroon shared their experiences of working collaboratively at the 54th ordinary session of the African Commission in October 2013, when Cameroon's State Report was examined. Two joint alternative reports were presented on rights issues related to sexual orientation and gender identity and on the human rights situation in general in Cameroon. Representatives from groups of CSOs responsible for the two initiatives met for strategy meetings during the Commission session and for joint advocacy meetings with the commissioners. However, as one of the participants noted, the collaboration was somewhat limited, and for future sessions all interested CSOs should meet together to strategise in-country well before the African Commission session.



Cases referred by CSOs to the Special Mechanisms of the African Commission highlighting human rights violations are included in the activity report of the African Commission, with an explanation of steps taken by the African Commission to address these issues with states parties named, including investigation and measures taken to protect the rights as enshrined in the Charter.

As the Cameroonian civil society groups found in 2013, strategising in advance of the session with other CSOs with similar advocacy objectives is important in order to be as effective as possible. Practically, this sort of planning also allows CSOs to make meeting requests and communicate key messages with commissioners in advance of the sessions.

3. Do your research

Even for those who have been participating in the African Commission for some time, its structure and rules can be confusing to navigate. A good practice is therefore for CSOs to ensure that they are informed as thoroughly as possible before and while engaging the Commission.

The resources shared in this article are a good place to start.

In addition to understanding the role and mechanisms of the African Commission, it is also a good idea to map out who does what (i.e. the country and thematic responsibilities of the different commissioners, as well as the CSOs active in different areas), what advocacy campaigns are already under way and what actions have been taken successfully and unsuccessfully in the past. This of course links

in to the point above about networking as extensively as possible: different CSOs bring different expertise, and the vast majority are happy to share their knowledge, know-how and contacts.

Resource - Roadmap for Civil Society Engagement: State Reporting Procedure of the ACHPR

In 2011, the Association for Justice, Peace and Democracy (Angola), Conectas Human Rights (Brazil) and the International Service for Human Rights (Switzerland) published a Roadmap for Civil Society Engagement in the State Reporting Procedure of the African Commission on Human and Peoples' Rights. This useful resource can be accessed in English and French here: <http://www.ishr.ch/news/road-map-african-commission-human-and-peoples-rights>

There are many different ways to engage with the African Commission, including submitting alternative country reports, drafting NGO Forum resolutions, presenting oral statements, writing public and private letters, holding briefing meetings with commissioners, organising side events, submitting complaints ("communications") to the African Commission (e.g. on cases of strategic interest), informing the African Commission of situations requiring their urgent action and carrying out media work offline and online. Background research will help CSOs identify

which combination of activities is likely to be most effective for participation at the Commission.

4. Make connections

Another good practice is to locate engagement with the African Commission within a broader campaign strategy. For example, the East and Horn of Africa Human Rights Defenders Project with its network member Human Rights Concern - Eritrea has been advocating for many years for greater attention to the dire situation in Eritrea. While the main focus of this advocacy work has recently been the successful campaign for the establishment of a UN Special Rapporteur on Eritrea, engagement with the African Commission has also been valuable in a number of ways. Most notably perhaps, the fact that Eritrea had ignored two decisions made by the African Commission on the cases of journalists and former government officials detained incommunicado was a key factor in convincing states to take up the issue at the UN level. Through networking at the African Commission and NGO Forum, a number of joint advocacy initiatives by African CSOs took place in solidarity with Eritrean HRDs. New ideas for campaign initiatives were also sparked by discussions at the African Commission – for example, the suggestion to raise the issue of Eritrea with the African Union around its 50th anniversary in 2013.

The NGO Forum encourages these connections between CSO participants at different advocacy forums, with a discussion on relevant developments at the UN Human Rights Council as one of its standing agenda items. This civil society initiative also links in well with the ongoing process of strengthening cooperation between the African Commission and the UN Special Procedures.

5. Innovate!

This article has presented some good practices for participation at the African Commission, but it is still a relatively young institution, and its practices continue to develop over time. It is important therefore that civil society continues to encourage the Commission to interpret its mandate as broadly and effectively as possible and to innovate in its own approaches to participation at the Commission.

Further resources:

Rules of Procedure of the African Commission on Human and Peoples' Rights (2010): <http://www.achpr.org/instruments/rules-of-procedure-2010/>

A Human Rights Defender's Guide to the African Commission on Human and Peoples' Rights (2012): <http://www.ishr.ch/news/new-guide-human-rights-defenders-launched-african-commission>

¹The Rules of Procedure were adopted by the African Commission on Human and Peoples' Rights during its 2nd ordinary session held in Dakar, Senegal, from 2 to 13 February 1988, revised during its 18th ordinary session held in Praia, Cape Verde, from 2 to 11 October 1995, and approved by the African Commission on Human and Peoples' Rights during its 47th ordinary session held in Banjul, The Gambia from 12 to 26 May 2010.

²A Commission of Inquiry was appointed by the African Union Commission on 7 March 2014 to investigate human rights violations and other abuses committed during the armed conflict that broke out in South Sudan in mid-December 2013. The Commission of Inquiry will be headed by former Federal Republic of Nigeria President Olusegun Obasanjo.

³The Pan-African Human Rights Defenders Network (PAHRDN) was established as a result of the Johannesburg +10 All Africa Human Rights Defenders Conference in 2009, bringing together five subregional human rights defenders networks in order to share good practices and improve the protection of HRDs in Africa. The member networks are the Central Africa HRD Network (REDHAC), West African Human Rights Defenders Network (WAHRDN/ROADDH), East and Horn of Africa Human Rights Defenders Network, Cairo Institute for Human Rights Studies (for North Africa) and the Southern Africa Human Rights Defenders Network, chaired by International Commission of Jurists (ICJ)-Africa. The East and Horn of Africa Human Rights Defenders Project, based in Kampala, Uganda, acts as PAHRDN's secretariat.

⁴Ms Lucy Asuagbor, the Special Rapporteur on human rights defenders of the African Commission participated in a panel discussion on the protection of human rights defenders in Burundi on 19 July 2011 during an informal visit to the country, facilitated by CSOs that include International Service for Human Rights, EHAHRDP and Forum pour le Renforcement des Organisations de la Société Civile (FORSC).

⁵A model law for AU member states on access to information was prepared under the auspices of the Special Rapporteur on Freedom of Expression and Access to Information in Africa in partnership with The Centre for Human Rights, University of Pretoria.

⁶In November 2010, the African Commission, at its 48th ordinary session, adopted the Principles and Guidelines on the Interpretation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights. This was drafted and presented by a group of CSOs under the auspices of the Chairperson of the Working Group of the ACHPR on of Economic, Social and Cultural Rights.

HOW TO MAINTAIN THE INDEPENDENCE OF A HUMAN RIGHTS BODY WITHIN AN INTERGOVERNMENTAL STRUCTURE: THE CASE OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS IN THE ORGANIZATION OF AMERICAN STATES

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INTRODUCTION

The Inter-American Commission on Human Rights (IACHR) – a political and quasi-judicial body of the Inter-American Human Rights Protection System (IAHRS)¹ – has faced serious threats to its independence over the past two years. What became known as the Process for Strengthening the IAHRS, which began in mid-2011, and which was

not the first such process, demonstrated the challenges faced by a body that is intended to protect and promote human rights, but that is also a part of an intergovernmental structure. This makes it subject to the shifting circumstances of the member states of the organisation – in this case, of the Organization of American States (OAS).

A principal and autonomous organ of the OAS, the Commission is the only institution with a mandate to promote and protect human rights all around the American hemisphere. Such mandate is rooted in the OAS Charter and complemented by dispositions contained in the American Convention on Human Rights, the latter applicable only to state parties. Since its inception, the Commission has evolved from an imminently promotional body to an organ with a wide scope of action, including thematic reports, on-site visits and an individual petition system. The IACHR had an important role as a last judicial remedy in many Latin American states ruled by military dictatorships during the 1970s and 1980s and has also been a protagonist during ongoing processes of transitional justice in countries such as Argentina, Peru and Uruguay.

Notwithstanding, even this role has been changing. Victor Abramovich claims that the change in the Commission's form of action – from a last recourse to justice for victims, to effectively influencing the quality of dem-

ocratic processes² – in recent decades has impacted on the public human rights policies of OAS countries, not least because civil society in those countries have access to transnational legal activism as an instrument of transformation.³ The establishment of standards on the right of freedom of expression,⁴ the compilation of a legal framework regarding the right to access to information⁵ and reports on the human rights of persons deprived of liberty in the Americas⁶ are illustrative of how the IAHRS has had an impact on improving the quality of democratic processes.

RESULTS OF THE RECENT PROCESS

Despite initially being linked to the emergence of the OAS – having been created in 1959 at an ad hoc meeting of Ministers of Foreign Affairs⁷ – the IACHR has, since the approval of its first statute in 1960, been recognised as an autonomous body of the OAS, with the primary function of promoting the observance and defence of human rights in the 35 member states of OAS.⁸

Although the debate on the need to strengthen and reform the IACHR is not new,⁹ the recent attempt by member states to reform it and restrict its autonomy was particularly striking, particularly in its attempt to eliminate Chapter IV of the IACHR's annual report, which covers the human rights situ-