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**Declaration and Action Plan on the Role of National Human Rights Institutions in promoting the realization of indigenous women’s rights in Africa adopted at the National Human Rights Institutions’ Forum ahead of the 68th Ordinary Session of the African Commission on Human & Peoples’ Rights held virtually on 8 – 9 April 2021**

The Network of African National Human Rights Institutions (NANHRI) held the National Human Rights Institutions’ (NHRIs) Forum on 8 – 9 April 2021 (virtually) ahead of the 68<sup>th</sup> Ordinary Session of the African Commission on Human & Peoples’ Rights. The NHRIs Forum was organised in partnership with the African Commission on Human & Peoples’ Rights, Office of the United Nations High Commissioner for Human Rights, the Raoul Wallenberg Institute of Human Rights and Humanitarian Law and the Swedish Development Cooperation.

The Forum focused on the role of NHRIs in promoting the realization of the rights of indigenous women in Africa, under the theme of the African Union "Year of Arts, Culture and Cultural Heritage". Particular attention was paid to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, known as the Maputo Protocol.

The objective of the Forum was to increase the capacities and resources of African NHRIs to monitor, control and influence the implementation of the Maputo Protocol and regional decisions relating to the rights of women in general and indigenous women in particular. This was aimed at contributing to the broader outcome of enhancing the capacity of African NHRIs to monitor and influence the implementation of regional human rights commitments, as well as increasing interaction NHRIs with national and regional institutions and information available in the region on the means and mechanisms to support the implementation of human rights commitments in the region.

The NHRIs Forum was attended by 69 representatives of African National Human Rights Institutions, 3 representatives of Specialised National Institutions, 4 representatives of the African Commission on Human & Peoples’ Rights, 3 representatives of the African Union Commission, 9 representatives of the Office of the United Nations High Commissioner for Human Rights and other UN bodies, 15 representatives of CSOs, 5 representatives of development partners and the Secretariat of NANHRI. A further disaggregated list is included in the annex to this declaration and action plan.

Preamble:

***Drawing inspiration*** from the African Union 2021 Annual Theme which celebrates African arts, culture and heritage as levers for building the “Africa We Want”, and thus providing an opportunity for constructive discussions about the role of African women in the socio-economic and cultural development of Africa, and in particular the African indigenous women;

***Recognising*** that under Aspiration 5 of the Agenda 2063, the African Union envisions “an Africa with a strong cultural identity, common heritage shared values and ethics”, which acknowledges the fundamental role played by culture in shaping African societies hence the need to leverage on cultural practices that do not undermine the respect for women’s rights generally and indigenous women in particular;

***Drawing*** further inspiration from the adoption of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, by the Assembly of the African Union at its 2nd Ordinary Session on 11 July 2003, with a view to providing more specific protection to the women. In its preamble, the Maputo Protocol recognises that women play a crucial role "in the preservation of African values based on the principles of equality, peace, freedom, dignity, justice, solidarity and democracy". On this basis, the Maputo Protocol is a reflection of the political will, translated into a legally binding human rights instrument to ensure that the rights of women, including the cultural rights of indigenous women are duly promoted and protected;

***Underscoring*** the importance of the Maputo Protocol in reinforcing and expounding on specific and unique experiences of African women besides setting the standards for women's rights in Africa which includes among others: right to dignity; right integrity of the person; elimination of harmful practices; elimination of early/ forced marriages; access to justice and equal protection before the law; right to participation in the political and decision-making process; protection of women in armed conflicts; economic and social welfare rights; and right to live in a positive cultural context among others

***Noting*** that Article 17 of the African Charter on Human and Peoples' Rights safeguards the right of every individual to take part in the cultural life of his (or her) community; and that Article 22 of the Charter recognises the collective nature of the African peoples, by guaranteeing the right of all peoples to cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind among other things;

***Recalling*** that Article 27 of the Universal Declaration of Human Rights (UDHR) guarantees the right of "everyone" to participate in the cultural life of the community;

***Further recalling*** that Article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) adopted in 1966 elaborates on the right of everyone to take part in cultural life. General Comment No. 21 of the Committee on Economic, Social and Cultural Rights (CESCR) further makes specific reference to the rights of indigenous peoples 'who have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms' recognised at international level, as expressed also in the 2007 Universal Declaration on the Rights of Indigenous Peoples;

***Recognising*** that Pillar 4 of the African Union Strategy on Gender Equality and Women's Empowerment promotes the rewriting of the African narrative to acknowledge the contributions that African women have made to Africa's development. The African continent is endowed with outstanding women whose gallant and valiant deeds should be woven in the tapestry of the history of the nations of Africa;

***Considering*** that the prevailing narrative about African women and cultural rights is often skewed towards the negative where the lesser status is ascribed to women by some traditions and customs which are used as justification to discriminate and violate women's rights. Thus there is need to take proactive actions to eliminate practices which create grounds for the violation of women's rights;

***Bearing in mind*** the Beijing Platform for Action encouraging the measures taken for the establishment of policies and laws and an institutional framework aimed at achieving gender equality, the United Nations Economic and Social Council resolution 90/15 and the United Nations 2030 Agenda, whose guiding principle is to "leave no one behind";

***Acknowledging*** that ordinary Africans have used culture for centuries to liberate themselves from the yoke of oppression, and that women have played a key role in ensuring the justiciability

of freedom through rich manifestations of culture embedded in their everyday forms of life via theatre arts, musical performances and political activism;

**Noting** that indigenous women have played a significant role in preserving African cultural values, through the transmission of languages and history, knowledge of local medicines, traditional knowledge about childbirth, oral traditions, traditional costumes (clothing), designs (including ancient symbols) that are applied in the visual arts, ceramics and textiles amongst others;

**Cognizant** of the various resolutions adopted by the African Commission on Human and Peoples' Rights which have laid a solid framework for addressing women's rights. These include Resolution 283 on the Situation of Women and Children in Armed Conflict, Resolution 262 on Women's Right to Land and Productive Resources; and Resolution 409 on the Need to Adopt Legal Measures for the Protection of Women Human Rights Defenders in Africa. The Commission has further developed General Comments and Guidelines on specific topics to provide interpretative guidance to member states on the provisions of the Maputo Protocol and the required states' responses on women and girls' rights;

**Reaffirming** the important role that NHRIs play in promoting and protecting rights of women by holding states accountable to the implementation of human rights standards, through complaints handling, providing advice in the formulation of policies and legislation, conducting research and training on women's rights, monitoring compliance with international human rights treaties and advocating for equal opportunities, respect for the rights of women and girls, among other functions;

We, the participants of the NHRIs Forum, adopt the following action plan to contribute to the realization of indigenous women's rights in Africa:

**I. Research, advocacy, human rights education and awareness raising**

- Document the experiences and contributions of indigenous African women to ensure young women and men of Africa learn from their contributions;
- Promote the preservation of memory by building historic sites and monuments under the names of women to honour them;
- Continue challenging the narrative about the role of women and profile them as agents of transformative culture in Africa, using indigenous women of Africa as an example of resilience and whose knowledge and experiences need to be preserved;
- Promote awareness of the emerging jurisprudence at the regional and international levels regarding the rights of indigenous peoples';
- Support the review of national policy and legislation as well as practice relating to indigenous peoples' to bridge the gap between international standards and national laws, policies and practices;
- Debunk certain beliefs, attitudes and practices regarding cultural rights of indigenous peoples' including indigenous women;
- Undertake capacity building for state and non-state actors involved in human rights and wider governance sector to enhance the appreciation of the dynamic nature of culture

and promote good cultural practices that are not harmful in line with the African Charter on Human and People's Rights and the Maputo Protocol;

- Conduct trainings and other capacity building activities for relevant government bodies to promote ratification of Maputo Protocol;
- Encourage positive cultural practices that place women centrally in the communities while at the same time discouraging practices that are harmful to women such as FGM, early/forced marriages, wife inheritance, etc;
- Leverage on cultural celebrations organized by different communities including indigenous communities, to educate/sensitize members of the public on human rights and culture;
- Coordinate, facilitate and participate in the review of relevant human rights proposed legislation, to ensure compliance with international human rights principles, standards and best practices and the integration of traditional and indigenous knowledge;
- Continuously advocate for the recognition of culture as a human right and the existence of an enabling environment for the practice of cultural practices, including land tenure rights of indigenous people (and indigenous women);
- Advise governments on implementation of decisions made in favour of the indigenous peoples by the African Commission on Human and Peoples Rights, the African Court on Human and Peoples Rights and other international human rights bodies;
- Encourage states to allocate sufficient resources to programs that promote the realisation of indigenous women's rights;
- Identify strategic issues relating to women rights for advocacy towards ratification of the Maputo Protocol;
- Undertake activities to build capacities of NHRIs to work on the rights of indigenous women; and
- Proactively engage governments on ending impunity relating to violations on the rights of indigenous women.

## **II. Complaint handling and facilitating redress**

- Support the identification of human rights concerns relating to indigenous women in their cultural context and the formulation of strategies to address the concerns identified;
- Facilitate remedies in the event of violations, including the use of culture such as traditional justice systems to promote and protect indigenous women's rights;
- Seek judicial remedies such as through public interest litigation and where relevant support court actions seeking to assert indigenous women rights to culture, including by availing to the court the expertise of the NHRI as *amicus curiae*, to advance human rights friendly jurisprudence for the realization of the rights of indigenous women; and
- Support and work with traditional justice actors, to among other things, ensure the representation of women and their participation in the dispute resolution processes.

### **III. Strengthening partnerships for the promotion and protection of indigenous women rights**

- Create platforms for women and the civil society to communicate, collaborate and build relationships with relevant actors, as well as with members of the private and public sectors;
- Encourage creation of networking and mentoring platforms for indigenous women;
- Strengthen engagements with gender desks in government ministries and other institutions towards the promotion and protection of indigenous women's rights;
- Strengthen communication and coordination among the different actors working on the rights of women such as land rights and others, to enhance synergy among the stakeholders;
- Advocate for the adoption and implementation of the Maputo Protocol Scorecard and Index which provides an evidence-based feedback mechanism on the implementation of the Protocol, and also provides advocacy opportunities for CSOs and NHRIs in supporting member states' efforts and holding them accountable to the commitments made;
- Mobilise journalist networks and human rights defenders to denounce violations on women's rights;
- Establish dialogue and strengthen engagements with leaders in all sectors including parliamentary committees responsible for women's rights, religious leaders, traditional leaders, and other bodies that can support in advocacy for the rights of indigenous women;
- Ensure involvement of the indigenous women in the discourses relating to the human rights situation;
- Advocate for the establishment and strengthening capacities of central units within governments for reporting to regional human rights mechanisms;
- Partner with African Union and United Nations bodies to undertake advocacy activities in countries that have not ratified the Maputo Protocol, among other regional human rights treaties, to accelerate the ratification; and
- Strengthen cooperation with African Commission on Human and Peoples' Rights Working Group on Indigenous Populations/Communities and Minorities in Africa and the Special Rapporteur on the Rights of Women.

### **IV. Reporting on implementation of this action plan**

- Develop and share reports with NANHRI and other stakeholders annually, on the implementation of this action plan, for compilation of progress made and good practices.

**Done on April 09, 2021 (online)**

**Annex I: Disaggregated number of participants of the National Human Rights Institutions' Forum ahead of the 68th Ordinary Session of the African Commission on Human & Peoples' Rights held virtually on 8 – 9 April 2021**

<b>Stakeholder category</b>	<b>Number of female participants</b>	<b>Number of male participants</b>	<b>Total</b>
National Human Rights Institutions	38	31	69
Specialised National Institutions	3	0	3
African Commission on Human & Peoples' Rights, and the African Union Commission	5	2	7
Civil Society Organisations	8	7	15
Office of the United Nations High Commissioner for Human Rights	6	3	9
Development Partners	2	0	2
NANHRI Secretariat	2	4	6
<b><u>Total</u></b>	<b><u>64</u></b>	<b><u>47</u></b>	<b><u>111</u></b>