

NGO Observer Status No. 334

Statement under Agenda Item 3: Human Rights Situation in Africa

**71st Ordinary Session of the African Commission on Human and Peoples' Rights
21 – 30 April 2022**

Dear Hon. Chairperson, Hon. Commissioners.

The Dullah Omar Institute for Constitutional Law, Governance and Human Rights welcomes the opportunity to make this submission to the 71st Ordinary Session of the African Commission on Human and Peoples' Rights. This submission focuses on pandemic measures and its impact on the poor and marginalised and the lack of accountability of law enforcement officials who brutally enforced COVID-19 measures on citizens.

It has been just over two years since the global outbreak of the COVID-19 pandemic. States across the world and the African continent had to adopt various measures such as lockdowns and curfews, as well as regulations which limited the enjoyment of fundamental rights and freedoms, including the freedom of movement. Unfortunately, the poor bore the brunt of these measures, as their inability to freely move around impacted on their livelihoods and the possibility of providing for their families.

We acknowledge that states' duty to reduce the spread of COVID-19 necessitated the adoption of some temporary measures. We are nonetheless concerned that the enforcement of these measures was frequently done in a violent and brutal manner, resulting in a number of injuries and even deaths of citizens at the hands of law enforcement officials.

Police and law enforcement officials often used excessive force to harass, threaten, arrest and detain people suspected of violating these regulations. Several examples of the brutal enforcement measures such as torture and killings are noted across the continent, notably, in Kenya, Uganda, Nigeria and South Africa.¹ This was done despite recommendations by the United Nations that governments not flout the rule of law through the use of emergency powers in the name of fighting the virus.²

There appears to be a general failure to bring perpetrators of human rights violations to justice. More than two years after the onset of the pandemic, there is little indication that law enforcement officials implicated in serious human rights violations against citizens have been held accountable by authorities. This

¹ "COVID-19: Security forces in Africa brutalizing civilians under lockdown" *Democracy Works*, 20 April 2020
<https://www.dw.com/en/covid-19-security-forces-in-africa-brutalizing-civilians-under-lockdown/a-53192163> (Accessed 23 April 2022)

² "COVID-19: States should not abuse emergency measures to suppress human rights – UN experts" *Office of the United Nations High Commissioner for Human Rights*, 16 March 2020
<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25722&LangID=E> (Accessed 23 April 2022);
"COVID-19: Exceptional measures should not be cover for human rights abuses and violations – Bachelet," *Office of the United Nations High Commissioner for Human Rights*, 27 April 2020
<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25828&LangID=E> (Accessed 23 April 2022).

constitutes a denial of victims' right to justice and redress, and undermines public trust in the justice system. The lack of accountability perpetuates a situation of *de facto* impunity, as perpetrators feel free to continue acts of violence against citizens without fear of reprisal and punishment.

Against this backdrop, we call on governments to ensure that officials implicated in rights violations in the context of a COVID-19, and generally, are held accountable for their actions. Moreover, we call on the African Commission:

1. To remind State Parties of their obligations to ensure that all emergency powers and COVID-19 containment measures and their enforcement uphold human rights.
2. To remind States Parties that the prohibition of torture is absolute and carries the status of a peremptory norm under international law, and violators must be prosecuted.
3. State Parties are to monitor and evaluate their responses to the COVID-19 pandemic, and where necessary, take corrective actions to prevent rights violations and strengthen compliance with the African Charter on Human and Peoples' Rights.
4. To remind State Parties to ensure that their law enforcement officials are trained to adhere to human rights standards when policing as provided by the Luanda Guidelines, especially under unusual circumstances such as States of Emergency and/or States of Disaster and within public health contexts.
5. Finally, we call on National Preventive Mechanisms and National Human Rights Institutions mandated to ensure the protection of human rights in their respective countries, to ensure that state officials implicated in human rights violations during the pandemic are held accountable.

Submitted by the Dullah Omar Institute:

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26 April 2022

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