



HUMAN RIGHTS AT SEA

## **HUMAN RIGHTS AT SEA**

### **WEST AFRICA**

#### **Introduction**

African states, including those in West Africa have signed, ratified and implemented a wide range of charters, international human rights' and related conventions<sup>1</sup>. A core issue is identifying whether or not the established national legislative instruments have real effect in supporting individual human rights in the maritime environment against a background of limited or no human rights' legislative provisions specifically dealing with abuses or related offences off the coast of West Africa.

One of the current limiting factors for identifying effectiveness of legislative provisions is the lack of co-ordinated monitoring and overt reporting of human rights' abuses by West African States. This is otherwise invariably left to independent national and international civil society organisations such as Amnesty International<sup>2</sup>, Human Rights Watch<sup>3</sup> and Save the Children.<sup>4</sup>

In terms of the protection of Human Rights at Sea (HRAS), the challenges which individuals or communities face in West Africa are firstly, the lack of information or awareness of their existing rights and secondly, the lack of assistance in pursuing these rights. Legal costs also play a significant role in preventing the majority of those affected from seeking redress through the established courts and commissions. The fact that there are not specific and explicit legislative provisions for the protection of 'Human Rights at Sea' makes obtaining a successful remedy even more of a restricting factor in promoting human rights in the maritime environment throughout West Africa.

In considering West Africa, there are various documentary examples originating from government ministries, UN reports, court judgements and civil society Non-Government Organisations (NGOs) as to the current state of affairs in respect to human rights' awareness, access and abuses. There are also limited studies and reports specifically relating to human rights abuses at sea, though more recently, awareness appears to be increasing in respect to issues relating to fishing communities, piracy, child trafficking, abandonment and crew conditions on unseaworthy commercial vessels.

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<sup>1</sup> These include but are not limited to, the Charter of the United Nations (1945); Vienna Conventions on the Law of Treaties; Universal Declaration of Human Rights; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (1984); Convention on the Rights of the Child (1989) and its optional protocols (2000); International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).

<sup>2</sup> See [www.amnesty.org](http://www.amnesty.org), select "In your country/Choose a country".

<sup>3</sup> See [www.hrw.org](http://www.hrw.org), select "Publication/Reports/Country".

<sup>4</sup> See [www.savethechildren.org](http://www.savethechildren.org) select "News/By Country/Africa"



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The current challenges for West African states in combating human rights abuses are that the constabulary, judicial and political systems in place tend not to be trusted by those who need to rely upon them. There are often perceived as being ineffective and mired by alleged corrupt practices that prevent justice being done. Additionally, most West African legislative systems, although now amended and updated, are based upon previous colonial criminal and civil codes and which often fail to reflect local customs and traditions relating to available remedies.

Set against this background, the development and availability of protections and remedies for human rights abuses at sea currently appears limited in West Africa.

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## West Africa

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## **1. Nigeria**

### **References:**

- A. **Constitution:** The Constitution of the Federal Republic of Nigeria, 1999
- B. **Legislation References:** Nigerian Merchant Shipping Act 2007
- C. **Additional Reference:** The African Charter on Human and Peoples' Rights; the National Agency for the Prohibition of Traffic in Persons (NAPTIP); the Nigerian Maritime Administration and Safety Agency (NIMASA)

1. Constitution. Nigeria's Constitution, at Chapter IV, ss 33 - 46 affords fundamental rights to compensation for property compulsorily acquired and to private and personal life. ss 33 – 36. International human rights treaties are only applicable when enacted into domestic law by the National Assembly, sec 12. Along with the constitution, the National Human Rights Commission has been established to protect and report on rights of the individual. Nigeria has ratified the African Charter on Human and Peoples' Rights, which has a continental court established by African countries to ensure protection of human and peoples' rights in Africa<sup>5</sup>.

2. Legislation. In terms of legislation enacted to protect human rights at sea, the Nigerian Merchant Shipping Act 2007, ss 118 – 124 deals with distressed seamen, however there are no provision specifically dealing with human rights and abuses. Sections 216 – 218 further deal with the safety of life at sea. Along with the Nigerian army and navy, there are agencies that are relevant to maritime matters, the National Agency for the Prohibition of Traffic in Persons (NAPTIP) <http://www.naptip.gov.ng/> and The Nigerian Maritime Administration and Safety Agency (NIMASA) <http://www.nimasa.gov.ng/>.

NIMASA and the military are increasing steps to protect Nigerian interests both commercially and socially. They are developing initiatives to prevent abuses and attacks in their territorial waters.

***“The Nigerian maritime domain has been characterised in recent times with sporadic piracy and sea robbery attacks. The trend may well become a disincentive to commercial shipping in Nigeria, if not checked on time. The daunting task for the maritime safety administration is to develop a framework that seeks to harness human, financial and technical capacities against the surging trend”***, Director-general, NIMASA, Mr Ziakede Patrick Akpobolokemi At The Joint Presentation Of The Memorandum Of Understanding Between Nimasa And The Nigerian Air Force, On August 26 2013.

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<sup>5</sup> The Court was established by virtue of Article 1 of the Protocol to the African Charter on Human and People's Rights on the Establishment of an African Court on Human and Peoples' Rights, see [www.african-court.org](http://www.african-court.org)



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Furthermore there are initiatives with neighbouring states to also reduce cross-border abuses. Colonel Austin Anyalechi, of the Nigerian Army Engineers and the defense attaché to Cotonou, Benin states that ***"It will make our maritime domain safe and secure, because its benefits come with economic growth and national development,"..... "Without security we cannot talk about development, so maritime security should be a concern for any nation that is being disturbed by the activities of pirates and sea-borne criminals. And I believe that at the end of this seminar a very fruitful deliberation would have been made that would give us the directions to actually combat this menace."***

In respect of violence and abuses in Nigeria territorial waters, it is well know that the oil rich nation has had a long history of difficulties. The violence attributed to Nigeria's Movement for the Emancipation of The Niger Delta rebels has not only been linked to violent campaigns towards oil producer and the military <http://www.economist.com/node/12267373>, Kenneth Roth, Executive Director of Human Rights Watch <http://www.hrw.org/our-people> states that, ***"The oil companies can't pretend they don't know what's happening all around them. The Nigerian government obviously has the primary responsibility to stop human rights abuse. But the oil companies are directly benefiting from these crude attempts to suppress dissent, and that means they have a duty to try and stop it."***

There is no specific law legislating for Human Rights at Sea in Nigeria. In respect of human rights abuses, the legislation does not distinguish between land and sea. Any abuses of human rights may fall within existing legislation, criminal, penal codes and rules.

## **2. Ghana**

### **References:**

- A. **Constitution:** The Constitution of the Republic of Ghana, 1992
  - B. **Legislation references:** the Courts Act, 1993; Criminal Code, 1960 (as amended by the 2003 Act); Criminal Procedure Code 1960; Ghana Civil Aviation Act, 2004; Ghana Shipping Act, 2003
  - C. **Additional references:** Constitution, the Commission on Human Rights and Administrative Justice; 1958 High Seas Convention; Violence on Aircraft - 1963 Tokyo Convention; Hijacking Aircraft- 1970 Hague Convention
1. Constitution: Chapter 5 of the Ghana Constitution deals with the Fundamental Human Rights and Freedoms, however there is no specific article dealing with rights at Sea. Ghana has recently, received a lot of praise



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for their adherence and to the principles of human rights. "***Ghana's progress on human rights is commendable, but it will have little meaning if left as an isolated example,***" said Georgette Gagnon, Africa director at Human Rights Watch, 9<sup>th</sup> July 2009, following President Obama visit to Ghana <http://www.hrw.org/news/2009/07/08/ghana-obama-visit-should-highlight-rights> .Under the Constitution, the Commission on Human Rights and Administrative Justice <http://www.chrajghana.com> was established. It is a national institution set up for the protection and promotion of fundamental rights and freedoms and administrative justice in Ghana. Richard Quayson, Deputy Commissioner of the CHRAJ recently stated in a Report on the State of Human Rights in Ghana December 10 2013, "***Although we have made solid progress in promoting human rights over the past 20 years since the coming into force of the 1992 Constitution, Ghana still has a long road to travel to advance human rights, administrative justice and integrity in the country***".

2. **Legislation:** In respect of abuses at sea, in general, the Courts Act, sec 56, 1993, provides the right of Courts to exercise territorial jurisdiction over crimes and torts that occurred in the Ghanaian territory, this includes in its territorial sea or on board one of its ships or aircraft. The Ghana Shipping Act, 2003, ss110 & 111 deal with disciplinary and criminal offences by Seafarers and s251 applies SOLAS.

In Ghana, as in Nigeria and other West African states, there does not appear to be a specific civil wrong or human rights offences at Sea. However, in respect of crimes at sea, legislation does make particular provisions, such as the Criminal Code, 1960 (as amended), s40 (use of force on a vessel), and in the Criminal Procedure Code at s46 and 118 (*offences at sea and in territorial waters*).

Additionally, Ghana has enacted in its Criminal Code, ss193 – 194, the international convention, Piracy - 1958 High Seas Convention. Other than piracy and other criminal acts, there are no particular laws on violence or human rights abuses at Sea unlike the Ghana Civil Aviation Act, 2004 (Act 678), which enacts s39 Violence on Aircraft - 1963 Tokyo Convention and the Hijacking Aircraft- 1970 Hague Convention.

### **3. Togo**

References:

- A. **Constitution:** Le Constitution de La IVe Republique de Togo, 1992 (revisee 2002)
- B. **Legislation references:** Articles 11 – 35 of the Constitution



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C. **Additional references:** Human Rights Watch Report on Togo 2013; U.S. State Department, Country Reports on Human Rights Practices for 2001

1. Constitution: Similar to most of the West African states constitutions, Togo's Constitution at Articles 50 and 140 expressly provides for the people of Togo an "attachment to human rights", and international legal instruments protecting human rights. It subscribes to the Universal Declaration of Human Rights and other international human rights instruments ratified by Togo.

Chapter II of the Constitution identifies various human rights, which include;

- equal treatment (art. 11 (1) (2));
- freedom from discriminatory treatment based upon any grounds whatsoever (art. 11 (3));
- right to life and to physical and mental integrity (article 13);
- right to liberty and security of person (art. 15);
- rights to freedom of movement (art. 22);
- freedom of thought, conscience, religion, cult, opinion and expression (art. 25);
- freedom of the press (art. 26);
- freedom of association and peaceful demonstration (art. 30);
- Furthermore, the Constitution grants some economic, social and cultural rights, such as, inter alia, the right to health (art. 34), the right to education for children (art. 35), the right to work (art. 37), and the right to strike (art. 39).

**(Assistance obtained from the UN Special Rapporteur Report on Togo for the translation and understanding of the Constitutional sections, particularly dealing with Human Rights matters)**

The Country has ratified the African Charter on Human and Peoples' Rights in 1998, including its Protocol on the establishment of an African Court on Human and Peoples' Rights. It is a party to the African Charter on the Rights and Welfare of the Child, and has signed the Protocol to the Charter on Human and Peoples' Rights on the Rights of Women in Africa.

Additionally, it is a member State of the International Organization of the Francophone (IOF). Article 4 (D) (23) requires members of the IOF to commit to "***establish, generalize and strengthen national institutions of promotion of human rights, consultative or not, and to support the creation within national administrations structures dedicated to human rights.***" Togo is also a party to the Geneva Conventions of 12 August 1949 and to the Additional Protocols I and II, however the Country is not a party to the Rome Statute of the International Criminal Court.



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A trend that has received a lot of attention has stemmed from the abuse of children and women, particular in the coastal and maritime region as a whole. Human Rights Watch reports that “A recent study of AIDS-affected families in Togo’s Maritime region, funded by the World Bank and implemented by the NGO CARE-Togo, observed that children orphaned by AIDS spend less time in school because of an inability to pay school fees, face prohibitions from attending public school and, in some cases, withdraw from school entirely. **A.Y. Akolatse and K.T. Djonoukou, “Analyse de la situation des orphelins, veuves et familles affectées du SIDA dans la Region maritime en vue de la réalisation d’un programme de prise en charge,” IDF/RIPPET project (Lomé: CARE/World Bank, 2001), p. 37.**”

Human Rights Watch further reported that they interviewed forty-one girls who said they were trafficked to, from or within Togo to work as housemaids or market vendors, **Human Rights Watch Report on Togo 2013.**

**“Girls’ descriptions of being recruited, transported, received and exploited revealed a pattern of abuse resembling child slavery. They reported being handed over by their parents to known or unknown intermediaries, sometimes for a price, and told they would be receiving formal education, professional training or paid work abroad. When they arrived, sometimes after life-threatening sea journeys, they were housed with employers who ordered them to perform housework and to assist with commercial enterprises.”**

The report further states that **“Girls who were trafficked outside of Togo had particularly harrowing stories to tell, especially those who had faced a sea journey to Gabon.”** Birgit Schwarz, a German journalist who interviewed several trafficked children in Togo, told Human Rights Watch **“she interviewed girls who, while waiting for their boat to arrive, were raped, prostituted themselves, and sold their belongings to survive. All were reportedly abandoned by their intermediaries; the women who promised not only to accompany them to Gabon but also to find them work or send them to school. Girls recalled that after a period in Nigeria, boats arrived and helmsmen directed them on-board. They described the boats as wooden barks lacking any navigational equipment or sanitation facilities.**

Human Rights Watch corroborated this account with nine other survivors of the same incident, **“the tragedy was also reported by the BBC, which stated that sixty-eight “child slaves” had been rescued from a sinking ship. “Child Slaves Returned to Togo,” BBC News, September 24, 2001, at**

[http://news.bbc.co.uk/1/hi/english/world/africa/newsid\\_1560000/1560392.stm](http://news.bbc.co.uk/1/hi/english/world/africa/newsid_1560000/1560392.stm) (accessed 19 February 2014). In Nigeria’s *This Day* newspaper reported that about 20 per cent of children bound for Gabon from Nigeria die in open seas due to boat mishaps, about 150 children in 2001 alone, **Child Trafficking—Another Shock from Libreville,” This Day, April 2, 2002.** According to the U.S. State Department, the Togolese government reported 700 drownings of trafficked



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children, half of them Togolese, in two separate incidents in March 2001, **U.S. State Department, Country Reports on Human Rights Practices for 2001.**

From an initial analysis, there is currently, no conclusive evidence that there is political or any other form of action to stop this reported Human Rights abuses, and this, like other States, is due to the fact that, although the Constitution, laws and statutes make provisions for the protection of Human Rights for every single citizen, in practice, the mechanisms to effect the protections do not work.

### **4. The Gambia**

References:

- A. **Constitution:** Constitution of the Republic of The Gambia, 1997 (reprinted 2002)
- B. **Legislation references:** Chapter IV sections 17 – 36 of the Constitution
- C. **Additional references:** a National Human Rights Commission; the 51<sup>st</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, Banjul, Gambia

1. Constitution: The Constitution of Gambia provides fully for the protection of fundamental rights and freedoms of all persons in Gambia. Chapter IV sections 17 – 36 provides an extensive protection for the universal rights and freedom accepted by most national States.
2. The Government of The Gambia has also commenced consultations on the establishment of a National Human Rights Commission with the assistance of the Commonwealth Secretariat. ***“It is hoped that this process will be expedited and the Gambia will soon be part of some African States that have a functional independent National Human Rights Commission.....the Government of The Gambia has taken steps in ensuring that The Gambia complies with its reporting obligations under all regional, sub regional and international Human Rights treaties that it is a party to. To this end a newly constituted taskforce has been created to mobilize Government departments and other stakeholders to ensure that the Gambia complies with its reporting obligations”.*** Attorney General and Minister of Justice of the Republic of the Gambia Hon. Justice Lamin A.M.S. Jobarteh, Opening Address on the 51<sup>st</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, Banjul, Gambia



## **5. The Republic of Guinea-Bissau**

### References:

- A. Constitution: The Constitution of the Republic of Guinea-Bissau 1984 (amended 1991,1993, 1996)
  - B. Legislation references: Part II (Articles 24 – 57) of the Constitution
  - C. Additional references: International Tribunal of the Law of the Sea (ITLOS), The M/V "Virginia G" Case (Panama/Guinea-Bissau)
1. Constitution: The Constitution at Part II provides the basis for fundamental rights and duties, which are enshrined by the law of the State.
  2. In the recent case at the International Tribunal of the Law of the Sea (ITLOS), The M/V "Virginia G" Case (Panama/Guinea-Bissau) (the “**ITLOS Case**”) (public hearing 2<sup>nd</sup> September 2013), an element of abuse of a crews human rights was pleaded. The underlying case concerned a Panamanian flagged oil tanker *Virginia G* (the “**vessel**”) been arrested by the authorities of the Republic of Guinea-Bissau in the Exclusive Economic Zone of Guinea-Bissau, whilst carrying out refuelling activities.

The vessel was detained for 14 months and the situation for the crew on board was said to have been one of “*stress and anxiety, as they felt captured or imprisoned at the hands of the authorities of Guinea Bissau*”(pleadings of **the Panama Agent, Counsel Mr Ramon Garcia-Gallardo, Memorial of the Republic of Panama, in the ITLOS Case**).

It was alleged that the armed soldiers boarded the vessel, violently and threatened the captain to berth the vessel so that the cargo of gas oil on board could be discharged. It was further alleged that the captain and the crew, at certain points were unable to take soundings or seek advice prior to unloading of the products on the vessel or moving the vessels. The Captain of the vessel stated:

*“...high level of fear and stress, especially since the assailants were unidentified, and unidentifiable and we thought they were pirates or hijackers.....we remained at gun point, after the Guinea Bissau (FISCAP) authorities had identified themselves.....Also forced to sign a document written in Portuguese, a language he did not understand, under threat and duress....”* **Extracted from the Statement of Captain Eduardo Blanco Guerrero in the ITLOS Case.**

It was said that the living conditions on board the vessel deteriorated quickly and severely. At Para 234 of pleadings of the Panama Agent, further details



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were provided, along with Annexes and reports to describe the situation on board;

*“the situation on board the vessel became arduous and inhumane...This caused serious problems for breadwinner crew members, whose families depending entirely on the money sent to them for subsistence in their home country....Provisions had to be heavily rationed, and there were days when there was no food and potable water on board. Rain water would be used...for washing cleaning and even cooking. It was collected in plastic containers, previously used for refuse.....The area was infested with mosquitoes, causing several of the crew to contract malaria...Ship owners and those with direct commercial interest in the vessel’s operation lost their income and experienced sudden liquidity problems”*

Further, during examination in the ITLOS Case between the Agent of Panama, Mr Garcia-Gallardo and the Chief Mate of the vessel, Chief Officer Mr Fausto Ocana Cisneros more detail was revealed:

**Mr Garcia-Gallardo:** *Thank you, Mr President. Members of the Tribunal, I will continue with the examination of the witness, Mr Ocaña Cisneros. We were discussing the conditions. What happened over the next days following the detention in Bissau?*

**Mr Cisneros:** *(Interpretation from Spanish): In the days after the detention of the vessel when the vessel reached the port at Bissau our material conditions really decreased – drinking water, supplies, medicines. This is a rainy season of the year, so there are many more insects. Two crew members even contracted malaria. We felt as if we were in prison, and even worse than that, because we reached a moment when drinking water became exhausted and we had to look for ways of finding supplies, especially finding them on the ground, trying to find them by ourselves; and this, of course, largely affected the mind set, the behaviour I would say, of the crew, just to speak symbolically.*

**Mr Garcia-Gallardo:** *Were you accused of any crime or any fault? What was the reason to retain your passport?*

**Mr Cisneros:** *(Interpretation from Spanish): No, no, no. I repeat that when the captors of the vessel disembarked on the 22nd they withdrew the vessel’s documents and took away all our crew passports. They sent me from pillar to post.*

**Mr Garcia-Gallardo:** *I have just a couple of questions. How did the circumstances of the arrest that you have explained today in this room affect the captain?*

**Mr Cisneros:** *(Interpretation from Spanish): The captain, in spite of being a highly experienced and seasoned person – well, all of this affected him very negatively. In fact, on some occasion he told me that he couldn’t forget, he couldn’t erase from his mind all of these events. He really lost a little bit of his mind. All of*



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*this affected his state of mind and he rejected his food even. Nothing – he didn't like anything – he couldn't sleep well at night. The captain unfortunately died recently, not because of this incident but we, the crew members, believe that these events affected him very deeply, and the events might have had something to do with his death.*

**Comment:** As is evident from such a ship arrest, the crew on the vessel are not the only ones whose rights may be infringed. The rights of their families may also be severely affected by their inability to receive financial support by the family's main breadwinner.

This raises several questions that would need further consideration, such as where does one seek redress whilst ship arrest procedures and disputes are taking place? What were the fundamental rights of the crew, who may have no direct involvement with a particular crime of dispute that has caused a vessel to be arrested?

## **6. Sierra Leone**

References:

- A. Constitution: The Constitution of Sierra Leone, 1991
- B. **Legislation references:** Merchant Shipping Act 2003; Human Rights Commission of Sierra Leone Act (No. 9), 2004
- C. **Additional references:** The Human Rights Commission of Sierra Leone; Bumbuna Inquiry Report 2012

1. **Constitution:** Chapter III of the Constitution of Sierra Leone provides for the right that every person in Sierra Leone is entitled to the fundamental human rights and freedoms of the individual. As an assumption, this may cover rights of those within the territorial waters of Sierra Leone.
2. **Legislation:** There are a few sections in the Merchant Shipping Act 2003 (the "**2003 Act**"), which deals with certain rights. Section 131, like most States, provides for the protection of child rights. Therefore, there is a restriction on employment of persons under the age of sixteen years. Section 145 provides for the Protection of seaman's rights and remedies. Part XVII of the 2003 Act further provides for safety of life at sea, which mirrors some of the internationally accepted rules of safety at sea.

Like other West African States, Sierra Leone has a Human Rights Commission. The Human Rights Commission of Sierra Leone (the "**HRCSL**") is an independent institution established by the Human Rights Commission of



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Sierra Leone Act (No. 9), 2004 with the mandate to protect and promote human rights nationwide.

The HRCSL, recently held a public inquiry the Bumbuna Inquiry Report 2012. The report followed the “Public Inquiry into Alleged Gross Violations of Human Rights in Bumbuna, Tonkolili district, in relation to the events of 16<sup>th</sup>, 17<sup>th</sup> and 18<sup>th</sup> April, 2012”.

In his letter Rev. Moses B. Khanu, Chairperson, HRCSL wrote to the President of Sierra Leone stating;

***“The Commission strongly believes that the protection and promotion of human rights, good governance and the consolidation of peace are prerequisites for sustained democracy and development in Sierra Leone.....HRCSL therefore urges Government and all other state bodies to implement the recommendations contained herein which the Commission believes will go a long way in combating violence and impunity and safeguarding the human rights of all in mining communities, especially Bumbuna.”***

From the report there was several Recommendations made, one particular one was:

### **“Recommendations - To the Sierra Leone Police**

***47. Strengthen and use Human Rights-based approaches to policing. In particular, the police should take immediate steps to mainstream the UN Basic Principles on the Use of Force and Firearms for Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials.”***

As per the comments of the Chairperson of the Bumbuna Inquiry, protection and promotion of human rights can be prerequisite for sustain the ideals of democracy and development in communities, with on the coastal regions or inland.

These sentiments are what must be considered when drawing up or considering local guidelines in respect of Human Rights at Sea.



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7. Guinea	<b>Pending</b>
8. Burkina Faso	<b>Pending</b>
9. Liberia	<b>Pending</b>
10. Mali	<b>Pending</b>
11. Niger	<b>Pending</b>
12. Cote D'Ivoire	<b>Pending</b>
13. Cape Verde	<b>Pending</b>
14. Benin	<b>Pending</b>
15. Senegal	<b>Pending</b>

### **16. AU and Continent-Level Human Rights Concerns**

There are several examples that can be characterised as Continent-wide concerns. These are highlighted by some of the open-source comments and recorded observations as below.

***“The African Commission has over the years no doubt, been striving to promote and protect human rights in Africa and I wish to recognize the fundamental contribution the African Commission has made in tackling human rights issues on the Continent.....While appreciating the efforts in safeguarding our beloved Africa, as a continent we are still facing a number of challenges that disrupt our progress towards development; such as internal conflicts in Somalia, Democratic Republic of Congo, Central African Republic, assisting in the identification of proceeds of suspicious criminal conduct and the combating of money laundering and other terrorist financing....Other parts of Africa have also witnessed positive progress and developments in the promotion and protection of human rights; there have been peaceful presidential election in Senegal, Sierra Leone, Ghana and most recently in Kenya. Some African States have adopted laws to fulfil their human rights obligations under various regional and international instruments. Others have adopted various strategies to implement the United Nations Millennium Development Goals.*”**

The following extract was from the opening statement by the Attorney General and Minister of Justice of the Republic of the Gambia Hon. Justice Lamin A.M.S. Jobarteh at the 53rd Ordinary Session of the African Commission on Human and Peoples’ Rights. Additionally, Gnénéma Mamadou Coulibaly, Minister of Justice, Republic of Cote D’Ivoire stated at the same 53rd Ordinary Session, **“As I deliver**



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***this statement, many Africans continue to ask questions and are still wondering whether Human Rights do exist on our continent. Whether this is a legitimate question or not, it is nonetheless a topical issue. Various examples illustrate this assertion. For instance yesterday it was Côte d'Ivoire, Guinea-Bissau and the North of Mali, and today it is the Central African Republic. All of this bears testimony to the fact that fighting for civil, political, social and cultural rights is still a concern on the African continent”.***

**Comment:** This is a recognition at a high level that local implementation of laws to protect and promote human rights in African can states are not always effective. It is not only recognised by a single state minister, however, as the below senior African Court on Human and People’s Rights judge, the Honourable Justice Sylvain Ore, states

***“.....It should be recalled that up to date, 26 countries have ratified the Protocol to the African Charter on the establishment of the African Court. Only six of them have already made the special declaration of recognition of the jurisdiction of the Court”.***

***“I, therefore, seize this opportunity to urge the States which have not yet ratified the Protocol to the African Charter on Human and Peoples’ Rights to do so. I have no doubt that the members of the delegations gathered here which have not yet done so, including the States, will intercede with their governments in favour of this solemn request in order to ensure a better protection of their fellow citizens”.***

***“I cannot end my speech without commending the African Commission for the efforts it continues to make to ensure that human rights become a reality on the African continent.”***

**Comment:** The question is left open as to why only six out of the twenty-six ratified States, have actually made the declaration of recognition of the jurisdiction of the Courts. There can be several reasons. Firstly, once the ministers or heads of State return to their countries, they do not provide the reports or do not follow the systems (that may or may not be) in place to proceed to the next level of recognition. Secondly, the parliamentary system may delay such implementation. Finally, whether with a change of Government and/or national disturbance, all such processes are not adhered to and in essence the ratification at international level never makes it into the statute books of a State.

### **NGOs statement at the 53rd Ordinary Session of the African Commission on Human and Peoples’ Rights**

It should be stated that the role of the African Union has been and remains crucial in strengthening the continental framework to promote and protect human and peoples’ rights in Africa and has spurred the pursuit of human rights, which is evidently a shared responsibility. The increased involvement of civil society



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organizations in the consultative processes are indeed commendable and have enhanced the partnerships in the various processes by the African people.

In spite of these developments, the Forum noted with concern that Africa continues to face grave human rights challenges characterized by conflict, insecurity and violence. Poverty, disease, underdevelopment, internal political strife, the taking up of arms by rebel groups, arbitrary detention and extrajudicial killings; harassment of journalists and human rights defenders continue to bring untold hardships to the majority of citizens of the affected countries, most especially the women and children. Moreover, globalization has brought to the fore the increased threat of terrorism and transnational organized crime impeding protection of human rights. This phenomenon has not ceased to undermine even the most resilient state. The eroding respect for and observance of human rights in many an African state therefore, remain a cause for concern, including continuing conflict in Mali; sexual crimes in Sudan; the Boko Haram attacks in Nigeria. The human rights situation in Angola, Eritrea, Guinea, Mali, Kenya, Sudan, Swaziland and Zimbabwe deserved special mention.