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TO: Ms. Mary Lawlor

United Nations Special Rapporteur on Human Rights Defenders

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CALS/R2P Submission: Call for input – Raising their voices: HRDs respond to the human rights crisis

Introduction and examples of our work

Being established under apartheid, the Centre for Applied Legal Studies (CALS) recognised early on, that the defence of human rights is not only essential but critical to ensuring that the injustices of the past are not repeated in our democratic dispensation. Since 1994, South Africa has continued to grapple with both legacy and contemporary issues that undermine human dignity and civic space. These include the targeted attacks on human rights defenders through detention, brutality, and even assassination.

In response to these challenges, the Right2Protest Project was established to safeguard the constitutional right to freedom of assembly and to protect human rights defenders who face victimisation, intimidation, or even the threat of death. In a country that

witnesses an average of twenty-seven (27) protests daily, human rights defenders have increasingly become targets of corrupt politicians and powerful corporate actors seeking to silence dissent.

Our work has been grounded in both legal advocacy and movement building.

For instance, we convene an annual gathering: Activist Symposium which brings together activists from across the African continent to build solidarity and share strategies to resist repression. We have also confronted the rise of SLAPP suits designed to silence activists, through the development of an Anti-SLAPP Model Law and by creating platforms for dialogue with affected communities, academics, and legal experts.

In addition, we have made submissions to the South African Human Rights Commission on the use of excessive force during protests and the accountability of private security companies, strengthening state oversight and accountability mechanisms.

These interventions reflect a deep motivation to not only defend human rights on paper, but to create safer and more enabling conditions for communities and activists who continue to struggle for justice. At its core, our commitment is driven by the belief that freedom of assembly, freedom of expression, and the right to human dignity are non-negotiable foundations of any democracy, and that defending these rights requires vigilance, solidarity, and collective action.

At CALS and R2P we firmly believe that our work contributes to the creation of a equal, just, and fair society. In South Africa, where the legacy of apartheid continues to shape structural inequalities, defending human rights is not only a legal obligation but a moral imperative. Our interventions seek to ensure that communities, particularly those most marginalised, can exercise their constitutional rights without fear, intimidation, or obstruction.

Through our legal advocacy, we have actively challenged practices that seek to restrict civic space and undermine human rights defenders. For example, R2P successfully

contested the **City of Johannesburg's protest fees**, affirming that financial barriers cannot impede the exercise of the fundamental right to assemble. Similarly, CALS intervened in the **recent North-West High Court case** to protect activists and protest organisers from undue legal harassment, reinforcing the principle that public participation in governance is a cornerstone of a democratic society. These victories are not merely legal wins; they safeguard the ability of communities to mobilise, demand accountability, and influence public decision-making.

Our work addresses both immediate violations and long-term structural inequities. By protecting defenders, safeguarding the right to protest, and holding powerful actors accountable, we contribute to a society in which human dignity is respected, voices are heard, and the principles of justice, equality, and non-discrimination are meaningfully realised. Every case we take and every activist we support is a step towards a society where fairness is not aspirational but operational.

The ability to protest, organise, and hold those in power to account is therefore not merely a political right but a safeguard against systemic violence, social exclusion, and the erosion of human dignity. It is precisely this space for civic engagement that has allowed South African society to resist totalitarian control, challenge structural injustice, and create openings for a more equitable, inclusive, and accountable democracy

Description of our work

Over the past 5 years, our focus has been on addressing the increasing trend on Strategic Litigation Against Public Participation (SLAPP) suits. Our work aims to shed light not only on the risk and threats of SLAPP suits that aim to deter activists from their work, but also on how to respond to these threats. This work has entailed developing a Model Law for the Protection from Strategic Litigation Against Public Participation, which builds upon the foundational understanding of SLAPP suits, offering a deeper exploration of the historical context in South Africa and how such lawsuits have been used to suppress activism and public participation. The model law is designed as an advocacy tool to push the legislature in South Africa to enact Anti-SLAPP legislation to ensure the protection of

human rights defenders, activists, and journalists from being silenced through litigation for the work they do.

Similarly we have developed an Anti-SLAPP toolkit developed with other partners, which includes several resources, guidance, and practical tools designed to support environmental rights defenders, particularly women defenders, in their advocacy efforts. The toolkit includes practical strategies for identifying and responding to SLAPP suits, case studies illustrating successful resistance tactics, legal resources outlining relevant laws and precedents, and advocacy tools for raising awareness and mobilizing support.

The funding landscape

Our work has certainly felt the impact of funding cuts, particularly in areas that require sustained community engagement, litigation, and research. Given the nature of our work, which involves supporting and strengthening human rights defenders, and tackling systemic issues like political repression, funding constraints directly affect our ability to provide consistent legal and advocacy support.

To mitigate these challenges, we have leaned into building strong partnerships with like-minded organisation. Furthermore, we are exploring other funding diversification methods, such as hosting paid accredited courses and research projects. We have also considered investment channels that provide good returns.

Institutional Risk

The biggest risk faced in our work is the limited funding, which restricts our ability to operate, respond to emergencies, and sustain activities aimed at protecting human rights defenders, leading to increased vulnerability for human rights defenders. Limited funding is a huge barrier for lawyers and organizations in the social justice space, especially when it comes to tackling human rights violations. Advocacy and legal action often require extensive resources, both for direct legal representation and for humanitarian assistance such as relocation, etc.

This lack of resources restricts our capacity to provide the crucial support, such as legal support, security measures, and relocation assistance, to human rights defenders in dire need of these, making them more susceptible to threats, persecution, and burnout

International human rights mechanisms and standards

International standards on human rights are not only relevant but also useful and effective. South Africa has ratified most of the international conventions on human rights. Resultantly, our domestic legislation and Constitution, the supreme law in our country have either incorporated rights protected through international conventions or refer to the Conventions to be used as a benchmark for the protection of human rights. Section 231-233 of our Constitution provides for International Law. Importantly, section 233 states-

“When interpreting legislation every court must prefer any reasonable of the legislation that is consistent with international law over any alternative interpretation that is inconsistent with international law”.

Furthermore, section 39 of the Constitution holds that when interpreting a right in the Bill of Rights, it must consider international law.

The abovementioned provisions are indicative of the significance of International Law and its standards in South African (domestic) law. When courts adjudicate rights, they must consider international law. International law is mandatory, and courts or tribunals are obliged to consider International Law, provided that it does not interfere with the Constitution. International standards, therefore play a crucial role not only in the adjudication of rights in South Africa they are also infused within domestic legislation such that courts need to prefer an interpretation of legislation that prioritises international standards.

When litigating cases on rights enforcement, CALS and R2P have relied on both sections 233 and section 39 of the Constitution to magnify the crucial role of international standards in our domestic system. We have relied on the provisions to ensure that the courts are aware of all the commitments South Africa has made to the international community, which have often been difficult to enforce with international forums. International standards remain relevant because our courts have been receptive to incorporating international standards, especially when litigating against the state when it either fails or is required to discharge its statutory and other duties.

International human rights mechanisms are effective in protecting and promoting the work of human rights defenders. We use the mechanisms to report human rights violations experienced by human rights defenders, more so when all internal/domestic mechanisms/platforms of reporting have failed or have not yielded the intended results. In the past, CALS and R2P have made contributions to the Universal Periodic Review (UPR) in collaboration with the South African Human Rights Commission (SAHRC). Furthermore, in collaboration with our partners, we have made submissions to the African Commission on the situation of Human Rights Defenders in South Africa and have demonstrated how this has resulted in the closure of the civic space with a detrimental effect on the exercise of constitutionally protected rights.

Most of the above mechanisms are easily accessible. The same cannot be said, however, for the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa. We have experienced challenges in accessing the Rapporteur, despite several attempts. In all email communication sent to the office, we have not received any responses or acknowledgment of receipts. We have therefore resorted to using the UN Rapporteur, who has not only been responsive and engaging, but has also been proactive in setting up dialogues with human rights defenders and civil society organisations working with defenders. We consider the special rapporteur holding a significant role in advancing the protection of human rights defenders in our country and on the continent. We therefore recommend that the office be responsive and available to address our correspondence.

Conclusion

Correspondence from the Special Rapporteurs is important because it is premised on investigations and evidence brought to the Rapporteur's attention. The communication exposes countries alleged to have violated the rights of human rights defenders to international scrutiny. However, it is common for governments either not to respond or to respond inadequately to such communications. This long-standing problem in the international human rights system undermines the effectiveness of the UN's mechanisms.

For example, in May 2025, the Special Rapporteur addressed the South African government regarding repeated threats and attempted killings targeting a human rights defender. Although the government formally responded, the threats and attacks did not cease. This situation reflects a broader pattern: many other human rights defenders in South Africa and globally continue to face violence and intimidation despite the Special Rapporteurs communication to the government of South Africa about the same issue. While these communications can raise the alarm and symbolically hold governments accountable for failing to protect defenders, the lack of political will often results in the denial of effective and meaningful protection.

The emergence of anti-democratic movements that target organizations dedicated to supporting human rights defenders and activists is an increasing source of alarm. These groups weaken the capacity of such organizations to fulfil their protective functions, especially in South Africa. Frequently portraying themselves as "patriotic" or acting on behalf of ordinary citizens, these factions directly threaten both civil society organizations and state entities responsible for upholding human rights. For instance, the South African Human Rights Commission has recently faced baseless criticism, being accused of favouring specific demographics while overlooking the broader populace. These smear campaigns, orchestrated by anti-democratic movements, are intentionally designed to diminish the legitimacy and effectiveness of human rights institutions and organisations.

If these movements continue to grow unchecked, the risks to the protection of human rights will increase significantly. In some countries, governments have even enacted restrictive laws regulating NGOs under the pretext of national security—a trend that has also been proposed in South Africa. These developments highlight a pressing danger: the shrinking of civic space and the erosion of institutional capacity to defend human rights and those who stand up for them.