

**REPORT OF ACTIVITIES OF BAHAME TOM MUKIRY NYANDUGA,
ACTING CHAIRPERSON OF THE AFRICAN COMMISSION, FOR THE
PERIOD MAY TO NOVEMBER 2009.**

During the period under review, following my election as Acting Chairperson of the African Commission, after the departure of the Former Chairperson, Justice Sanji Monageng; I continued to steer the work of the Commission.

1. My first task was to ensure that the 45th Ordinary Session finalises its work including the adoption of decisions to long standing Communications, such as **Kevin Ngumne and Others versus the Republic of Cameroon**, on the rights by the people of Southern Cameroon within the Republic of Cameroon, **CEMIRIDE versus the Republic of Kenya**, on the land rights of the Endorois, an indigenous community, in Kenya, **COHRE versus the Republic of Sudan**, on displacement and evictions in Darfur and **Curtis Dobbler versus Sudan**, on the rights of Ethiopian refugees in Sudan, and the effect of the UNHCR cessation clause.
2. At the beginning of June 2009, I participated in a conference convened by IIRI and other NGOs in Nairobi Kenya, to discuss strategy following allegations that Ministers for Justice representing States parties to the Rome Statute, convening in Addis Ababa, were considering withdrawing from the Rome Statute. The meeting adopted recommendations, *inter alia*, calling upon the ICC Prosecutor and the international community to address the issue of selectivity of referrals, which is a matter of concern to African States. The meeting however underlined the fact that, except for the Darfur referral, all other ICC investigations in Africa were referred by African states themselves, namely Central Africa, Republic, DRC, Cote D' Ivoire and Uganda.
3. Between 26 June to 4 July 2009, I participated in the meetings of the PRC, the Executive Council, and the African Union Assembly in Sirte, Libya. On the 29th June, I presented the 26th Activity Report of the African Commission, to the Executive Council. The Assembly subsequently endorsed the 26th Activity Report, and the election of Honourable Mohammed Fayek and Honourable Khaffala, as new members of the African Commission.
4. On or about 29 June 2009, I addressed an urgent appeal to H.E. President Joseph Kabila of the DRC. Following allegations that government had expelled thousands of Angolan immigrants. I urged the government of DRC and the Republic of Angola, to engage in mutual

negotiations with a view of providing a mechanism to address the property rights of migrants instead of mutual expulsion, which is prohibited under Article 12 of the African Charter.

5. Between 14 and 17 July 2009, I participated in the Joint session of the African Court on Human and Peoples' Rights and the African Commission, to deliberate the harmonisation of the Rules of Procedure of the two institutions. The joint session explored the common understanding of the principle of complementarity. The African Commission concluded that the question of enforcement mechanism of its decisions still requires strengthening, since the Court itself does not have the powers to enforce its own decisions, since this power is reserved to the Executive Council.
6. Between 31 August and 3 September 2009, I presented lectures to the Summer Human Rights School, organised by the Faculty of Law, of the University of Lueven, Belgium, on comparative analysis of the African Human Rights System, the Inter American, and European Human Rights systems.
7. On or about 9 September 2009, I sent an Urgent Appeal for provisional measures to Brother Leader Muammar Al-Gaddafi, the head of the Great Socialist Arab Libyan Jamahiriya, concerning allegations that a number of Nigerians held in various prisons were due to be executed, pending the determination of a Communication sent to the Commission by a Nigerian NGO, SERAP.
8. Between 9 and 11 September 2009, I participated in an International Conference organised by the MacArthur Foundation, The Hauser Centre of Harvard University, The International Centre for Transitional Justice, and the International Criminal Court on International Criminal Justice, in New York. I made a presentation, as one of the panellists, on the role of international and regional judicial and quasi judicial institutions, relative to the accountability for international crimes. While noting that the African Commission's mandate is limited to human rights violations under the African Charter and other regional human rights instruments, I highlighted the dilemma posed by the position taken by the African Union to reconsider its cooperation with the ICC, in view of the indictment of President Bashir. I reiterated the view that the African Union must demonstrate the capacity to deal with perpetrators of grave crimes, for instance, by ensuring the prosecution of Hisne Habre, cooperating with the ICC, and empowering the African Court on Human and Peoples' Rights through the ratifications, and submission of declaration under article 34(6) of the Protocol, if the expressed intention of extending the jurisdiction of the African Court is to become a reality.

9. Between 5 and 10 October 2009, I participated in the 7th Extra Ordinary Session of the African Commission to finalise the Interim Rules of Procedure of the African Commission, and to prepare for the 2nd Joint session between the African Commission and the African Court in Dakar, Senegal.
10. Between 12 and 16 October 2009, I participated in the 2nd Joint Session between the African Commission and the African Court on Human and Peoples' Rights, in Dakar, Senegal to harmonise their rules of procedure. The Joint Session finalised and adopted the Rules of the African Commission on complementarity. The African Court will continue to refine its rules in order to harmonise them with the rules adopted by the joint meetings in Arusha and Dakar.
11. On or about 20 October 2009, I sent an urgent appeal to H.E. President Jacob Zuma of the Republic of South Africa, concerning allegations that the government of South Africa was reviewing police powers regarding the use of force when executing powers of arrest, including the right to shoot to kill.
12. Between 7 and 9 November 2009, I participated in the Forum of NGOs prior to the 46th Session and the African Human Rights Book Fair, held at the Kairaba Hotel, Banjul, the Gambia. I made speeches during the opening and closing ceremonies, in which I commended the NGOs for their work.
13. I condemned the resurgence of coups on the continent, and the abuse of coalition arrangements adopted to diffuse critical violations of human and peoples' rights, by some parties to national unity governments. I cautioned against the emerging trend of institutionalising the eminence of first families in democratic transitions, as an abuse and reversal of the democratic gains which the continent has achieved in the last two decades. I called on the participants to continue urging states to ratify the African Charter on Democracy, Elections, and Good Governance.
14. I also called on the Steering Committee of the NGO Forum and the Commission to reconsider how best to disseminate the Resolutions of the NGO Forum, because many of them end up without much publicity. They indeed remain the intellectual property of the NGO Forum, except for those which are considered and adopted by the Commission.
15. Between 8 and 10 November 2009, I participated in the 3rd Conference of The Network of African Human Rights Institutions, organised jointly, with the Department for Political Affairs of the African Union, at the Senegambia Hotel, Banjul, the Gambia. I emphasised two main points, namely the need to strengthen the coordination and collaboration between

the African Union Commission, the African Commission, the NHRIs and other organs which have a human rights mandate on the continent. Secondly, I made a suggestion that the Resolution for granting Affiliate Status to NHRI, which was adopted in 1998, needs review in order to take into accounts developments and concerns expressed by NHRIs.

16. On 11 November 2009, I formally opened the 46th Ordinary session. This day also coincided with the end of my tenure as a member of the African Commission.

I thank you all for your attention and the warm send off accorded me.

God Bless You all.

Banjul, The Gambia.