


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي <i>African Commission on Human & Peoples' Rights</i>		UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples
No. 31 Bijilo Annex Lay-out, Kombo North District, Western Region, P. O. Box 673, Banjul, The Gambia Tel: (220) (220) 441 05 05 /441 05 06, Fax: (220) 441 05 04 E-mail: achpr@achpr.org ; Web www.achpr.org		

Speech by Honourable Bahame Tom Mukirya Nyanduga, the Acting Chairperson of the African Commission on Human and Peoples' Rights, at the Opening Ceremony of the 46th Ordinary Session of the African Commission on Human and Peoples' Rights

Banjul, The Gambia

- My Lord the Honourable Chief Justice of the Republic of The Gambia,
- Honourable Speaker of the National Assembly of the Republic of the Gambia,
- Honourable Mrs Theres Sarr-Toupan, representing Honourable Marie Saine Firdaus, Minister of Justice and Attorney General of the Republic of the Gambia,
- Distinguished Delegates of African Union Member States,
- Honourable Members of the African Commission on Human and Peoples' Rights,
- Excellencies, Members of the Diplomatic and Consular Corps accredited to The Gambia,
- Distinguished Representatives of International and Inter Governmental Organisations,
- Distinguished Representatives of National Human Rights Institutions,
- Distinguished Representatives of Non-governmental Organisations,

- **Distinguished invited Guests, members of the Media, Ladies and Gentlemen**

On behalf of the African Commission on Human and Peoples' Rights, the Secretariat, and my own behalf, allow me to welcome you all to the 46th Ordinary Session. I wish to thank you for sparing time, from your very busy schedules, to come and lend support to the African Commission, during its 46th Ordinary Session. You have come from the four corners of this vast continent, and beyond, to join us to reflect and brainstorm on some of the burning human rights issues on our continent. Your presence here today, in spite of the odds and challenges of travelling in our continent, and the difficulties associated with the organisation of this session, testify your commitment, dedication and the sacrifices you are prepared to make, to ensure that Africa realises the promise of the African Charter on Human and Peoples' Rights, and the Universal Declaration of Human Rights. By being part of this session, I believe that we are rededicating ourselves to the collective resolve to protect the individual and collective rights and freedoms, promulgated in these lofty instruments.

I therefore wish to welcome you all, once again to this session, and hope that you will share your experiences and perspectives on the human rights situation on the continent.

Karibuni sana.

**Your Excellencies,
Distinguished Guests
Ladies and Gentlemen**

A major part of this session shall be devoted to auditing the human rights situation on the continent, during the past six months. The objective of this session is, as has always been the case, to gauge the human rights situation in our state parties, and evaluate the various measures taken by governments and the impact by various human rights actors, including increasingly non state actors, on the enjoyment of human and peoples' rights in Africa. The discussions we are going to engage in during the 46th session must therefore be seen in that light. They provide a kind of score card, litmus test, or yardstick, with which to measure our successes, and in some cases retrogression.

If, in the course of our deliberations, we are confronted with the realities of retrogression, we should not be ashamed to say so, but should take measures to address such retrogression. I believe that, like the first step of a child learning to walk, stumbling does not discourage it from continuing to learn how to walk. Instead, it lifts itself up, with the encouragement of its parents, and continues to learn how to walk until such time it can walk tall and proud as a mature member of society.

The African Commission is now 22 years old. It has come a long way, since its formative years. We have been learning to walk together during this period. I have witnessed the African Commission mature

into a very dynamic organ of the African Union, notwithstanding the challenges of a weak institutional structure, a very small operational budget for most of those 22 years, and skeleton staff. Yet it has managed to achieve remarkable results, identifying critical human rights issues, and formulating various declarations setting out key legal principles in elaboration of the African Charter

During this session, the Commission will examine State Reports, from the Democratic Republic of Congo, the Republic of Congo, The Federal Republic of Ethiopia, the Republic of Cameroon, and the Republic of Botswana. The increasing reporting under article 62 of the African Charter is sensitisation conducted by Commissioners whenever undertaking missions and interacting with the respective state parties. I can testify that my interaction with the government of Botswana during the last six years has contributed to the submission of the Botswana State Report. I wish to congratulate those State parties that have submitted their reports, and encourage those with outstanding reports to do the same.

The Commission shall also adopt reports on promotional mission conducted in Burkina Faso, Republic of Congo, Namibia, Nigeria, and the United Republic of Tanzania. Indeed this is a clear testimony that there is increasing dialogue between the Commission and the States parties, and such increased dialogue can only help improve the human rights situation on the continent.

The Commission will also examine a number of reports and draft documents on key human rights issues, such as the report of the Working Group on Economic, Social and Cultural Rights, the Conclusions of a sub regional conference for East, Central and Southern Africa on the Question of the Death Penalty, the paper on Sexual Orientation, the proposed extension of Universal Jurisdiction of the African Court, and the impact or effects of the Extractive Industry and Human rights Abuse in Africa.

Some of these papers are long over due. The issues being addressed vary in scope and impact on the enjoyment of rights, but remain important and relevant, whether they affect massive violations as is the case of international criminal justice and universal jurisdiction issues, or the rights of minorities. They are likely to attract positive as well as negative attention of various stakeholders. Yet as the main human rights body on the continent, the Commission has no choice but to examine them, and provide, as is required by article 45 (1) (b) of the African Charter, “.....*principles and rules aimed at solving legal problems relating to human and peoples’ rights and fundamental freedoms upon which African Governments can base their legislations.*”

These are not my words, but the words of the African Charter. The African Commission is mandated to interpret African Charter and make recommendations to the state parties on various legal problems for implementation.

The African Commission has over the years been doing a lot of good work on the continent. Unfortunately, one of its weaknesses is the lack of visibility of its work, and the inadequate implementation of its recommendation. The African Commission is devising a strategy for strengthening its follow up mechanisms, but also appeals to states parties to implement its recommendations. Yet I must acknowledge that, increasingly the work of the Commission continues to receive the attention by the States Parties, and in particular, the Assembly. The presence of a large number of States Parties today is testimony to that fact. During the last three years, the African Union Assembly has increased the Commission's budget substantially. In that respect let me take this opportunity to thank the States Parties, the PRC, the Executive Council and the Assembly for their support.

Distinguished Ladies and Gentlemen,

Allow me to express appreciation to the African Union Commission, in particular, the Commissioner for Political Affairs, The Director and Staff of the Department for Political Affairs for the support they have continued to give to the African Commission. These sentiments should also be conveyed to the Offices of the Chairperson and Vice Chairperson, the Administration and Finance Department, the Peace and Security Council, Women and Gender Directorate, the Office of the Legal Counsel, and all other AUC Departments, which continue to support, in one or the other, the work of the African Commission.

The Third Conference of the African National Human Rights Institution, which was organised by the Department for Political Affairs of the African Union Commission, in the last three days, brought together members of NHRIs, the African Commission, and representatives of OHCHR, and UNAMID. Most of the participants to that conference are here today. I wish to laud the cooperation and coordination, which is envisaged as an important outcome of that conference. The forthcoming conference in Arusha, Tanzania, to discuss the comprehensive strategy for human rights in Africa, is another major step in ensuring that all human rights actors work together towards the greater realisation of human rights on the continent.

I am glad that a good number of officials from Addis Ababa involved in all these initiative are here today. Thank you very much for your continued support.

**Your Excellencies,
Distinguished Guests
Ladies and Gentlemen**

As we finish the first decade of another century, there have been important developments in many parts of the world. Africa in particular, has witnessed unprecedented expansion of the democratic space and major social economic changes and reforms. The African people have continued to agitate for the right to determine how they are governed. Major strides have been made in this regard, although there are still a few setbacks which we must address together. We

must continue to highlight the synergy between democracy, peace and security, development and human rights seriously, if we want to achieve prosperity and the fullest enjoyment of human and peoples' rights in the medium to long term.

In that regard the African Commission has been in the vanguard for an unrelenting search for solutions to the many human rights problems and challenges confronting the African continent.

Your Excellencies, Ladies and Gentlemen

As we meet during the 46th Session, it is incumbent upon me to call the attention of states parties to the challenges in Africa, since we held the 45th Ordinary Session, here in Banjul. There is seemingly reversal in the democratic gains and the enjoyment of certain fundamental and basic rights and freedoms in a number of State parties. The conflict in the Kivu province in eastern DRC continues to cause massive violations in particular against women and children. Displacement of the civilian population has continued unabated in spite of the presence of MONUC and the recent Rwanda Congo rapprochement. The root causes of conflict in eastern DRC must be addressed comprehensively, including the arrest and prosecution of all of those who have committed grave and massive violations of war crimes and crimes against humanity, without exception.

The situation concerning the enjoyment of freedom of expression in the Gambia is a matter of grave concern to the Commission. Guinea

and Niger have continued to grab international headlines for the wrong reasons. The events in these countries in recent months have been a matter of concern to the Commission, and remind all of us of the need to be vigilant in preserving the democratic processes.

The rights to freedom of expression, association, and peaceful assembly are important aspect of any democratic dispensation. Without these fundamental freedoms, democracy is deprived of its meaning. The African Commission can only engage the respective governments and make pronouncements as we have done recently by adopting Resolutions on the Human Rights situation in the Gambia and Guinea. We look forward to continuing our engagement with State Parties concerned in order to ensure that the human and people's rights enshrined in the African Charter are guaranteed and protected.

I cannot finish my assessment of the human rights situation in our beloved continent, without lamenting the continuing conflicts in Darfur and Somalia. Peace continues to elude these two conflict zone. The situation in Somalia is extremely tragic. The civilian population is constantly been under attack, their human rights remain illusory. The TFG which should guarantee those rights is under constant attack of the Al Shabab Islamist movement. The AMISOM peace keepers are increasingly coming under attack. Let me take this opportunity once again to commend Burundi and Uganda for shouldering the burden of sustaining the fragile government under very extreme conditions. The Somali people have suffered enough

over the last twenty years. I urge the AU and the international community not to let the Somali people down. AMISOM requires more support. I am sure that the AU will continue in its efforts to mobilise international public opinion regarding this catastrophe.

Your Excellencies, Ladies and Gentlemen,

I would like to address the impact of climate changes, and environmental degradation to poverty, food production, and peace and security issues on the continent. Many African nations are realizing the threats posed by climate change and environmental degradation, but do not have the capacity to deal with the consequences. No nation, however large or small, wealthy or poor, can escape the impact of climate change. Rising sea levels are threatening many coastal states, small island states and communities in Africa. Powerful storms and floods continue to wreak havoc, in many countries across the continent, as was witnessed in some West African countries recently. Drought has affected almost 20 million people in East and the Horn of Africa. Somalia is suffering a multiple tragedy of conflict, drought, and the consequential displacement of the civilian population. The advent of the rain season is not likely to bringing any respite to the region. Floods are reported in some parts of East Africa due to the El Nino weather factor.

I commend African States for the steadfast stance taken during the Bangkok and Barcelona preparatory Conferences, prior to the Copenhagen Climate Change Conference. Africa must continue to

accord climate and environmental issues, the seriousness they deserve. Unless Africa and the international community adopt policies and programmes to combat the negative effects of climatic and environmental changes, we risk to witness massive violations of human rights of huge populations in Africa, through the loss of livelihood of the peasantry across Africa, who continue to rely on rain fed agriculture, the marginalised communities of pastoralists, and hunter gatherers, otherwise referred to as indigenous peoples, whose livelihoods depend on the environment around them. Inaction is therefore not an option.

**Your Excellencies,
Distinguished Guests
Ladies and Gentlemen**

As has been customary prior to every session of the African Commission, this session was preceded by the Forum for the Participation of NGOs to the Session of the African Commission and the 20th African Human Rights Book Fair. The NGO Forum is indeed proving a very important event on the African Human Rights Calendar. It continues to grow in strength. The Forum discusses pertinent human rights issues on the continent. I have suggested that the Steering Committee of NGO Forum and the African Commission consider reviewing the best way to ensure that recommendations adopted by the NGO Forum are given broader visibility than is currently the case, including a better coordination with ECOSOCC.

The NGO Forum, under the dynamic coordination of the African Centre for Democracy and Human Rights Studies, has been making efforts to improve the human rights landscape in Africa. Let me take this opportunity to once again to congratulate the African Centre for Democracy and Human Rights Studies in Africa for its 20th anniversary, in June this year, and for coordinating and hosting the NGO Forum, under the able leadership its Executive Director, Madame Hannah Forster.

Distinguished Delegates, Ladies and Gentlemen,

Allow me a little bit of your time, to express my utmost appreciation to my fellow Commissioners, and the Staff of the Secretariat of the Commission, past and present, for their support during my tenure, and in particular, during the last six months. I am gratified to report that the last six month have been marked with momentous achievements. In July and October 2008, the African Commission held a joint session with the African Court on Human and Peoples’ Rights to harmonise their respective Rules of Procedure on their complementary relationship, as prescribed under the Protocol establishing the African Human Rights Court. The said rules were adopted in October 2009, in Dakar, Senegal.

The African Commission hopes to adopt its Interim Rules of Procedure soon, in order to enhance its protection mandate under the African Charter. I therefore urge all State Parties that have yet to done so, to ratify the Protocol establishing the African Human Rights

Court and make the relevant declaration under Article 34 (6) of the Protocol as a matter of priority to ensure that the African Court fully discharges its mandate. Otherwise, it is my very strong opinion, that the failure to submit the declaration sends a wrong message regarding Africa's commitment to fight impunity, at a time Africa is talking of extending the universal jurisdiction of the African Court.

The adoption of the African Union Convention on the Protection and Assistance of Internally Displaced Person in Africa, otherwise known as the Kampala Convention, on 23 October 2009, must also be recognised as an achievement for the Commission. The Convention has institutionalised the role of the Special Rapporteur on Refugees, Asylum Seekers, IDPs and Migrants in Africa, in ensuring that the rights of IDPs are protected within the African Commission mechanism.

Your Excellencies, Ladies and gentlemen,

Finally, as is customary, let me take this opportunity to extend my sincere appreciation, on behalf of the African Commission on Human and Peoples' Rights, to the Government and People of the Republic of the Gambia, for hosting yet another Session of the Commission. A word of gratitude also goes to all those who have in diverse ways contributed to the holding of this Session. While appreciating the traditional hospitality of the people and the Government of the Republic of the Gambia, let me call on other States Parties to share

this privilege and honour of hosting the African Commission, in subsequent sessions.

I have had a wonderful six years with all of you. Time has come for me finally bid you farewell. I have enjoyed your friendship, and wise counsel. Together we have moved Africa further in the direction of hope and dignity. Let us not allow ourselves to slide backwards. Six years is a very long time in the lifetime of an individual. This is the time in many of our countries, that it takes a child from its birth to start school. Being a student of African affairs, I have learnt a lot about this beautiful continent, in these six years. I take with me home fond memories of the African Commission, and the African continent. It has been an honour and privilege to serve the African people, such a rare honour, accorded to 11 personalities from across the continent at a time. It is in this regard that I welcome to the Commission, a great son of Africa, Commissioner Mohamed Fayek of Egypt. Commissioner Fayek, is living legend. One of the forefathers of the African Liberation struggle. He fought imperialism, first hand, along side the great Pan Africanist President Abdel Gamal Nasser. I am sure he will enrich the deliberations of the Commission.

Commissioner Khaffala, *mon frere*; needs no introduction to many of us. Only six months ago, he was agitating for human rights on the other side of the isle. I am very sure that your experience from your days in the NGO community will bring an extra dimension to the deliberations of the Commission. You are so much welcome.

Your Excellences,

Ladies and gentlemen,

What remain for me is to wish all of you a very successful deliberation. I have been bidding farewell to all and sundry during the last six months. Now this is for real. Today, this is the mother of all farewells. Let me just say it simply, Au Re voir, or, as we say in Kiswahili, Kwa heri ya Kuonana. As I stated in May, a Kiswahili proverb says that, "Mountains never meet, but human beings will always meet."

I look forward to seeing you in future.

Muito Obligado, Muchos gracias, merci beacoup, thank you very much, Jerre jeff, Asanteni sana.

Banjul, The Gambia.