


<b>AFRICAN UNION</b>		<b>UNION AFRICAINE</b>
الاتحاد الأفريقي <b>African Commission on Human &amp; Peoples' Rights</b>		<b>UNIÃO AFRICANA</b> <b>Commission Africaine des Droits de l'Homme &amp; des Peuples</b>
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**FINAL COMMUNIQUE OF  
THE 45<sup>th</sup> ORDINARY SESSION OF  
THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS  
HELD IN BANJUL, THE GAMBIA,  
FROM 13 to 27 May 2009**

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1. The African Commission on Human and Peoples' Rights (the African Commission), held its 45<sup>th</sup> Ordinary Session in Banjul, Republic of The Gambia, from 13<sup>th</sup> to 27<sup>th</sup> May 2009. The Session was chaired by the Chairperson of the African Commission, Commissioner **Sanji Mmasenono Monageng**.
  
2. In the absence of the Vice-Chairperson, Commissioner Angela Melo, Commissioner Bahame Tom Mukirya Nyanduga was elected as Acting Vice-Chairperson for the 45<sup>th</sup> Ordinary Session of the African Commission. In the absence of the Chairperson, who had to leave before the end of the Session, Commissioner Bahame Tom Mukirya Nyanduga was elected Acting-Chairperson and Commissioner Reine Alapini-Gansou as Acting-Vice Chair.
  
3. The following Members attended and participated in the 45<sup>th</sup> Ordinary Session:
  - Commissioner **Sanji Mmasenono Monageng**, Chairperson
  - Commissioner **Bahame Tom Mukirya Nyanduga**, Acting Vice Chairperson
  - Commissioner **Catherine Dupe Atoki**;
  - Commissioner **Musa Ngary Bitaye**;
  - Commissioner **Reine Alapini-Gansou**;
  - Commissioner **Soyata Maiga**;
  - Commissioner **Mumba Malila**;
  - Commissioner **Kayitesi Zainabo Sylvie**;

- Commissioner **Pansy Tlakula**; and
- Commissioner **Yeung Kam John Yeung Sik Yuen**.

4. The 45<sup>th</sup> Ordinary Session was preceded by a three-day meeting of Non-Governmental Organisations (NGOs) between 9 to 11 May 2009 organised by the African Centre for Democracy and Human Rights Studies.
5. The Government of the Republic of The Gambia was represented by Mrs Awa Bah, Acting Solicitor General who delivered an opening statement on behalf of Mrs. Marie Saine, Honourable Attorney General and Secretary of State for Justice of the Republic of The Gambia.
6. In her welcoming statement, the Chairperson of the African Commission, Her Excellency Commissioner Sanji Mmasenono Monageng, expressed her profound gratitude to the Government of The Gambia, on behalf of the Members of the African Commission, and on her own behalf, for once again hosting the Ordinary Session of the African Commission, and welcomed the participants to the Session.
7. The Chairperson of the African Commission recalled that it was only six months ago when the Commission met in Abuja, Federal Republic of Nigeria, to review the human rights situation on the continent. She regretted that the results achieved by States Parties to the Charter were not satisfactory during this period. She lamented that millions of Africans continue to suffer chronic poverty in dehumanising conditions, living with hunger, HIV and AIDS and isolated from adequate public services and social security systems. She suggested that without strengthening people's capacity to access and effectively utilise established democratic systems and processes - at the local, national and international levels - to further the goals of social justice, the continent's vision of a united democratic Africa will continue to be elusive. Speaking under the theme of '**Strengthening the Rule of Law in Pursuit of Justice and Democracy**', the Chairperson reminded the Session that many African communities have been battered by war and torn asunder by conflicts, and many of the perpetrators of some of the most heinous crimes of war have seemingly gone unpunished! She said that these communities need not only peace, but they need justice as well!

8. Commissioner Monageng reminded civil society and other human rights actors that they have a duty to hold governments up to the standards that they have subscribed to. She reminded the African human rights family to continue in the difficult struggle for the realisation of the promises of the Charter and the Universal Declaration on Human Rights.
9. The representative of the Republic of Tunisia, Mr. Wadie Ben Cheikh, delivered a statement on behalf of State Parties present at the 45<sup>th</sup> Ordinary Session. After having expressed his gratitude to the People and Government of The Gambia, the Honourable representative reminded the participants, that the African Charter on Human and Peoples' Rights places responsibility on State Parties to ensure the promotion and protection of human rights on the continent. He however said that the protection of human rights in Africa can only be realised with the participation of all, including Member States, international partners, National Human Rights Institutions and NGOs. Mr. Wadie Ben Cheikh stated that the Sessions of the African Commission provide all those who fight for the cause of human rights with an opportunity to engage in frank and constructive dialogue.
10. He stated that Tunisia has made human rights one of the priorities in its policy. He further stated that it is in pursuance of this objective that several initiatives have been made particularly in presenting the consolidated Periodic Report of Tunisia on the implementation of the African Charter covering the period 1995-2006. He added that the Government of Tunisia has welcomed, with high degree of satisfaction, the Concluding Observations adopted by the African Commission. He concluded by commending the African Commission for the work it was doing in the area of human and peoples' rights.
11. On behalf of the National Human Rights Institutions in Africa, the Executive Secretary of the Network of African National Human Rights Institutions, Dr. Gilbert Sebihogo stated that the 45<sup>th</sup> Ordinary Session is taking place at a time when the continent is faced with many challenges including conflicts, violence, poverty, and bad governance.

He noted that the situation of children on the continent is dire with many subjected to sexual exploitation in times of peace, but especially so armed conflicts.

12. Dr. Sebihogo affirmed the importance of a collective approach to the promotion and protection of human rights as depicted by the African Commission's slogan "*Human Rights our Collective Responsibility.*" He also made reference to the principles of the African Charter, the Universal Declaration of Human Rights and the Paris Principles which provide an effective basis for legislations, so as to ensure the functioning and effectiveness of human rights institutions. He concluded by stating that the fight for human rights is a continuous struggle, requiring determination and the contribution of all actors.

13. The Executive Director of the African Centre for Democracy and Human Rights Studies, Mrs Hannah Forster, made a statement on behalf of NGOs. She said the NGO Forum was held prior to the Session to discuss the situation of human rights on the continent. While applauding some positive developments that have taken place on the continent in the area of free and fair elections, Mrs Forster lamented the fact that Africa continues to face serious human rights challenges, including widespread use of torture and the application of the death penalty. She noted that women and children continue to suffer the most serious human rights violations. She called on the African Commission, the African Committee of Experts on the Rights and Welfare of the Child, and other organs of the AU, to come up with effective strategies to effectively promote and protect human rights in Africa. Mrs. Hannah Forster also highlighted the discrimination faced by Lesbians, Gays, Bisexual, Transgendered and Intersex (LGBTI) peoples, and urged the African Commission to call on State Parties to repeal laws that discriminate against them.

14. In her opening statement, Mrs. Awa Bah, the Acting Solicitor General and Legal Secretary, on behalf of His Excellency, Professor, Alhagie, Doctor, Yahya A. J. J. Jammeh, the President of the Republic of The Gambia, the people of The Gambia, and on behalf of the Attorney General and Minister of Justice, welcomed all the participants and delegates to the 45<sup>th</sup> Ordinary Session of the African Commission.

15. The Deputy Solicitor General congratulated the African Commission for finalising the Rules of Procedure at the 44<sup>th</sup> Ordinary Session in Abuja and making them available on the website for comments from Member States and other partners, before it is harmonized with those of the African Court. She stated that through the collaborative efforts of civil society and States Parties in promoting and protecting human rights, a lot has been achieved, though much more needs to be done. The Acting Solicitor General underscored the need to focus and reflect on the promotion of gender equality and mainstreaming women's rights at all levels, as well as preventing and protecting women against violence.
16. She stated that, there is need for more creativity in the implementation of human rights approach. She affirmed that it is imperative to move beyond the confines of justiciability to more innovative and relevant implementation mechanisms that would ensure an equitable international order, which will be favourable to the development of Africans as true partners in the global village. The Acting Solicitor General, later declared the 45<sup>th</sup> Ordinary Session of the ACHPR officially open.
17. During the Session, the African Commission heard statements relating to the human rights situation in Africa from several Delegates of State Parties. Statements were heard from delegates from the Republic of Algeria, Republic of Burkina Faso, Republic of Congo, Republic of Cote d'Ivoire, the Arab Republic of Egypt, Republic of Ethiopia, Republic of Mali, Libya Arab Jamahiriya, the Federal Republic of Nigeria, Sahrawi Arab Democratic Republic (SADR), the Republic of Senegal, the Republic of South Africa, the Republic of South Africa, Kingdom of Swaziland, United Republic of Tanzania, Republic of Sudan and Republic of Zimbabwe.
18. The African Commission also heard statements from representatives of African and International Organisations. Statements were also heard from representatives of various National Human Rights Commissions and Non Governmental Organisations.
19. Thirty three (33) State Parties, eight (8) National Human Rights Institutions, twenty (20) African and International Organisations and Intergovernmental Organisations and one hundred and thirty five (135) African and International NGOs were

represented at the Session of the African Commission. Altogether a total of four hundred and nineteen (419) participants attended the Session.

20. The Republic of Benin, the Republic of Mauritius and the Republic of Uganda presented their Periodic Reports, in conformity with Article 62 of the African Charter on Human and Peoples' Rights. The African Commission examined the said State Reports and adopted Concluding Observations relating thereto. A status of submission of Initial and Periodic Reports was given by the African Commission. The African Commission also considered and adopted the Concluding Observations on the Periodic Report of the Republic of Sudan.

21. The Chairperson and Members of the African Commission, as well as the various Special Rapporteurs and Chairpersons of the Working Groups of the African Commission presented reports of the activities that they had undertaken during the inter-session.

22. The African Commission granted Observer Status to eleven (11) NGOs -:

- International Baby Food Action Network (IBFAN), Swaziland;
- Tanganyika Law Society (TLS), Tanzania ;
- Plan International, INC
- Society Studies Center, Sudan;
- CLEEN Foundation, Nigeria;
- Réseau ouest Africaine des défenseurs des droits de l'homme, Togo;
- La voix des sans voix pour les droits de l'homme, DRC;
- Centre d'accompagnement des autochtones pygmées et minoritaires vulnérables (CAMV);
- Associacao Direitos Humanos em Rede (Connectas Human Rights), Brazil;
- Association pour la liberté la tolérance, l'expression et le respect des personnes de nature indigentes, vulnérables ou exclues sociales du Cameroun (ALTERNATIVE Cameroon), Cameroon;
- Community Research and Development Services (CORDS), Tanzania.

23. This brings the number of NGOs with Observer Status before the African Commission to four hundred and three (403).

24. The Commission deferred the application of Coalition of African Lesbians (CAL), based in South Africa. This application was deferred to the 46<sup>th</sup> Ordinary Session of

the African Commission to allow the Commission to discuss a paper entitled *Sexual Orientation in Africa*, during its private Session. ’

25. The African Commission considered and adopted the following Reports:

- (a) Report of the Promotional Mission to the Republic of Seychelles;
- (b) Report of the Promotional Mission to the Great Socialist Peoples’; Libya Arab Jamahiriya
- (c) Report on the Promotional Mission to Republic of Liberia;
- (d) Report of the Promotional Mission to the Republic of Benin;
- (e) Report of the Promotional Mission to Tunisia;
- (f) Report of the Promotional Mission to Togo;
- (g) Report of the Promotional Mission to Ethiopia.

26. The African Commission considered and adopted a report of the Working Group on the rights of indigenous populations relating to an Information and Research Visit to the Republic of Gabon.

27. Following the presentation of the Overview Report on the “Promotion of indigenous peoples’ rights in Africa through the principles of ILO Convention 169 and the African Charter on Human and Peoples’ Rights”, the African Commission decided to adopt the Overview Report and amended the title to read “the Overview Report of the Research Project by the ILO and the ACHPR on the Constitutional and Legislative protection of the rights of indigenous peoples in 24 African countries:”

28. The African Commission considered a draft paper on Sexual Orientation in Africa and decided to defer further consideration to its 46<sup>th</sup> Ordinary Session.

29. The African Commission adopted its 26<sup>th</sup> Activity Report and the Reports of the 43<sup>rd</sup>, 44<sup>th</sup>, 45<sup>th</sup> Ordinary Sessions. It also adopted the Report of the 6<sup>th</sup> Extra-ordinary Session.

31. The African Commission adopted the following Resolutions:

- (i) Resolution on the Establishment of a Committee on Budgetary and Staff Matters.
- (ii) Resolution on the Change of Focal Person on the Rights of Older Persons in Africa into a Working Group on the Rights of Older Persons and Persons with Disabilities in Africa;

(iii)Resolution on the Cooperation between the African Commission and the Committee on the Rights and Welfare of the Child.

32. The African Commission considered (79) communications. It was seized with (5) new communications and considered (21) on the Merits and (53) on Admissibility and one review.

33. The African Commission considered the Report of the Secretary to the African Commission, relating to the financial and administrative situation of the Secretariat. The Commission also examined the report of the committee on budget and staffing matters and instruct both the committee and the Secretariat to prepare the 2010 budget;

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34. The African Commission decided to hold its 46<sup>th</sup> Ordinary Session from 11 – 25 November 2009 at a venue to be determined.

35. The African Commission expresses its sincere appreciation and profound gratitude to the Government of The Gambia for the facilities placed at its disposal and for the warm welcome and hospitality accorded to the participants, all of which contributed to the excellent outcome and success of the deliberations of its 45<sup>th</sup> Ordinary Session.

36. The closing ceremony of the 45<sup>th</sup> Ordinary Session took place on the 27<sup>th</sup> May 2009 in Banjul, Republic of The Gambia.

37. The Acting Chairperson will hold a Press conference after the closing ceremony held a Press Conference after the closing ceremony.

**Done in Banjul, The Gambia, 27<sup>th</sup> May 2009**