


AFRICAN UNION		UNION AFRICAINE
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42ND ACTIVITY REPORT OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

**Submitted in Accordance with
Article 54 of the African Charter on Human and Peoples' Rights**

I. INTRODUCTION

1. This 42nd Activity Report of the African Commission on Human and Peoples' Rights (the Commission), covers the period of January to May 2017 and includes, among other events, excerpts of proceedings of the Commission's 21st Extraordinary Session and its 60th Ordinary Session, and is presented in accordance with Article 54 of the African Charter on Human and Peoples' Rights (the African Charter).

II. AU POLICY ORGANS MEETINGS AND STATUTORY MEETINGS DURING REPORTING PERIOD

2. The Commission participated in the African Union Policy Organ Meetings that were held in Addis Ababa, Ethiopia from 22 - 31 January 2017.
3. Two (2) statutory meetings were held during the reporting period, namely: (i) the 21st Extra-Ordinary Session of the Commission, held in Banjul, The Gambia from 22 February - 4 March 2017 and the 60th Ordinary Session of the Commission held in Niamey, Niger from 8 - 22 May 2017.

(i) 28th African Union Summit, Addis Ababa-Ethiopia on 22- 31 January 2017

4. The Chairperson of the Commission, **Hon. Commissioner Pansy Tlakula** led a delegation to the AU Summit comprising: the Vice-Chairperson **Hon. Commissioner Soyata Maiga**; the Special Rapporteur on the Rights of Women in Africa **Hon. Commissioner Lucy Asuagbor**; resident Commissioner in Ethiopia, **Hon. Commissioner Solomon Dersso**; **Hon. Commissioner Yeung Kam John Yeung Sik Yuen**; and the Secretary to the Commission **Dr. Mary Maboreke**. The delegation was supported by staff of the Secretariat.
5. On 23 January 2017, the Chairperson of the Commission, **Hon. Commissioner Pansy Tlakula** presented the 41st Activity Report of the Commission during the 33rd Ordinary Session of the Permanent Representatives Committee (PRC). The presentation was followed by discussions on Reports by State Parties, during which the Ambassador of the Republic of Chad and Chairperson of the PRC, **Mr. Cherif Mahamat Zene** reiterated the decision taken during the 27th AU Summit in Kigali in June 2016, where it was decided that the PRC did not have the mandate to amend the reports of the AU Organs, including that of the Commission. Accordingly, he proposed that State Parties focus on consideration of the Commission's draft decision.

6. Other interventions to the 41st Activity Report of the Commission came from the delegations of (i) the Kingdom of Swaziland; (ii) the State of Eritrea; (iii) the People's Democratic Republic of Algeria; and (iv) the Federal Democratic Republic of Ethiopia. The Chairperson of the Commission, Hon. Commissioner Pansy Tlakula, provided answers, clarifications and insights on various issues and concerns related to the execution of the work of the Commission raised by the respective interveners.
7. As it has become the practice, the 41st Activity Report was not presented before the 30th Ordinary Session of the Executive Council that held from 25 to 27 January 2017, but the Report was discussed within the framework of the PRC's Report to the Council. The publication of the 41st Activity Report of the Commission was authorized by the 30th Meeting of the Executive Council through Decision EX.CL/Draft/Dec.10(XXX).
8. The Bureau of the Commission and members of the delegation held several side meetings on the margins of the Summit. These were the following:
 - (i) The Pre-Summit Consultative Meeting on Gender Mainstreaming in the African Union and the 9th African Union Gender Pre-Summit Meeting. Honorable Commissioner Lucy-Asuagbor, in her capacity as the Special Rapporteur on the Rights of Women in Africa led the Commission's delegation at this meeting;
 - (ii) Meeting of the Bureau with the Eritrean delegation led by **Ambassador Araia Desta**, the Permanent Representative of the State of Eritrea to the African Union and United Nations Economic Commission for Africa (UNECA);
 - (iii) Meeting of the Bureau with the Danish Minister for Equal Opportunities and Nordic Cooperation, **H.E. Karen Elleman** and her delegation;
 - (iv) Meeting of the Chairperson of the Commission with **Mr. Denis Atemnkeng** of the Southern Cameroon National Council (SCNC);
 - (v) Meeting of the Bureau with the delegation from the African Peer Review Mechanism (APRM), which included **Hon. Brigitte Mabandla**, the APRM Panel of Eminent Persons and Professor Eddy Maloka, the CEO of the APRM Secretariat and members of the APRM Secretariat;
 - (vi) Meeting of the Bureau with **Mr. Mahamane Cisse-Gouro**, the Chief of the Africa Branch in the Office of the High Commissioner for Human Rights (OHCHR);

- (vii) Meeting of the Bureau with **Ambassador Ranieri Sabatucci**, the new Head of the European Union (EU) Delegation to the African Union;
- (viii) The 29th GIMAC Consultative Meeting, which is a platform of NGO networks promoting gender equality and accountability for women’s rights in Africa.

(ii) 21st Extra-Ordinary Session - Banjul, The Gambia, 23 February to 4 March 2017

9. The Chairperson **Hon. Commissioner Pansy Tlakula** opened and presided over this Session.
10. The order of business for the Extra-Ordinary Session included consideration of the following documents which were approved by the Commission: (i) Guidelines for the Policing of Assemblies by Law Enforcement Officers in Africa; (ii) General Comment on the Right to Redress for Victims of Torture and other Cruel, Inhuman and Degrading Punishment or Treatment under Article 5 of the African Charter; (iii) the Banjul Declaration of the 59th Ordinary Session of the African Year of human rights with particular focus on the rights of women under the theme “women’s rights our collective responsibility”; All these documents are available on the Commission’s website. The Commission resolved that the Guidelines on the Implementation of the Right to Water in Africa be further reviewed, posted on the website for comments from the general public.
11. The Commission considered and made comments on the following documents for further review by its Secretariat: (i) draft Guidelines on Freedom of association and assembly in Africa; (ii) draft Guidelines on Combatting Sexual Violence and its Consequences in Africa; (iii) draft review of the Rules of Procedure; (iv) draft memorandum of understanding with the APRM; (v) Report of the Political and human rights situation in The Gambia and Proposed Plan of Action; (vi) Report of the Status Of Preparedness for the 60th Ordinary Session scheduled for Niamey-Niger from the 8 to 22 May 2017; and (vii) Briefing Paper on Commemorative Activities for the 30th Anniversary of the Commission to be organized during the 61st Ordinary Session.
12. At this same Session, the Commission considered and noted budgetary and administrative matters. These were: (i) the Status Report of the Secretariat on Follow-up Actions from the 59th Ordinary Session; (ii) the Project Implementation Plan under the EU-PANAF fund; (iii) the 2017 Annual Work Plan; (iv) the Quarterly Report on AU Budget execution; (v) the Submission to the AUC for the Review of

Emoluments of Elected Officials of the ACHPR; (vi) the Review of the Organogram of the Commission.

13. During the course of the Session, the Commission paid a courtesy call on the newly elected president of The Gambia, **H.E Adama Barrow**. Central to this engagement was a high-level discussion on the human right situation in The Gambia following the post-election crisis in this country. The Commission also held a working meeting with the Minister of Foreign Affairs of The Gambia, **Mr. Ousainou Darboe** to take some of the more functional elements of the discussion with the President forward.
14. Related to the human rights situation in the Gambia, the Commission received the World Bank Mission to the Gambia on a Fragility Assessment of the Gambia as well as the United Nations Mission on the Human Rights Assessment to the Gambia. In the engagement with the UN, the Commission was represented by the Vice-Chairperson, Hon. **Commissioner Soyata Maiga** and **Hon. Commissioner Reine Alapini-Gansou** and the UN was represented by the Under-Secretary for Political Affairs, **Mr. Jeffrey D. Feltman**, and the Special Representative of the UN Secretary General for West Africa and the Sahel, **Dr. Mohamed Ibn Chambas**.
15. The Commission also held a working session with a delegation of the African Development Bank (AfDB) and the World Bank on mission in The Gambia to assess the general situation of the country.
16. On 28 February in Banjul, the Commissioner in charge of monitoring human rights in The Gambia, **Hon. Commissioner Jamesina King**, and the Vice-Chairperson of the Commission represented the ACHPR at a meeting convened and co-chaired by the UN Under-Secretary General for Political Affairs, to follow up and consolidate the outcomes of the High Level meeting with the UN mission held on 21 February 2017. Other participants at the meeting included the UN Special Representative for West Africa as well as other UN officials. In addition to the ACHPR, the Ambassadors of the United States, European Union and African countries accredited to the Government of the Republic of The Gambia also participated in these discussions.
17. The key objective of the Under Secretary General was to obtain a comprehensive view of the situation as well as the needs and challenges facing the new Government with a view to putting forward concrete and relevant recommendations to both his institution and the highest authorities in The Gambia

with whom he was scheduled to meet and discuss several urgent matters, including the organization of parliamentary elections in April 2017.

18. With a view to forging relations with other AU organs with similar mandates, the Commission also held a working session with a delegation of the African Peer Review Mechanism which discussed the content of a Memorandum of Understanding as well as possible joint activities that could be undertaken in future towards promoting human rights and good governance in Africa.

(iii) 60th Ordinary Session - Niamey, Niger, 8 May to 22 May 2017

19. The 60th Ordinary Session of the Commission held in Niamey, Niger following the generous offer of the Government of Niger to host this Session.
20. The Opening Ceremony was graced by the presence of **H.E. Issoufou Mahamadou**, President of the Republic of Niger, who declared the Session open.
21. The Session was attended by a total number of five hundred and thirty-nine (539) representatives; with ninety-six (96) delegates representing twenty (20) State Parties, four (4) delegates representing AU Institutions, thirty (30) delegates representing NHRIs, six (6) delegates representing international and inter-governmental organisations, three hundred and twenty-five (325) delegates representing African and international NGOs, as well as seventy-eight (78) representatives of the media and other observers.
22. During the Session, Members of the Commission and Special Rapporteurs presented their respective Activity Reports and engaged in interactive discussions with participants on the reflections and recommendations arising from the Activity Reports.
23. Also, the Commission launched the General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and other Cruel, Inhuman or Degrading Punishment or Treatment (Article 5); Compilation of Documents on Torture Prevention; 7th Edition Africa Torture Watch Newsletter; Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa; and Newsletter Number 9 on Police and Human Rights in Africa.
24. For the first time, the Commission held interactive discussions in plenary on African Peer Review Mechanism (APRM) Review Reports of the Republic of Senegal and Uganda, in line with paragraph 25 of the APRM Base Document

NEPAD/HSGIC/03-2003/APRM/MOU/Annex II, which provides that “[s]ix months after the report has been considered by the Heads of State and Government of the participating Member countries, it should be formally and publicly tabled in key regional and sub-regional structures such as the African Commission on Human and Peoples’ Rights.” This practice seeks to strengthen information exchange and collaboration between AU Organs concerned with human rights on the continent.

25. During its Private Session, the Commission adopted the reports of three (3) human rights promotion missions undertaken to the Republic of Djibouti, the Republic of Cabo Verde and the Kingdom of Swaziland; Concluding Observations on the 6th, 7th and 8th Combined Report of the Republic of Mauritius; Guidelines on Combatting Sexual Violence and its Consequences; Guidelines on Freedom of Association and Assembly in Africa; Joint General Comment of the African Commission on Human and Peoples’ Rights and the African Committee of Experts on the Rights and Welfare of the Child on Child Marriage; Framework Agreement on Cooperation between the Organisation Internationale de la Francophonie and the African Commission on Human and Peoples’ Rights. The Commission also considered and adopted the following reports and working tools: The Report of the Secretary to the Commission and the Report of the Working Group on Communications.
26. Furthermore, the Commission undertook a review of its Rules of Procedure. Amongst other things, this review was aimed at re-formulating the Rules in order to reduce the timelines for the resolution of human rights communications, introduce mechanisms for the follow-up of decisions and recommendations of the Commission with member states, and enhancing the linkages between the Commission and the Court, on the one hand, and the Commission and the Assembly of Heads of State and Government, on the other hand, with respect to the promotion of human rights in the continent.
27. Finally, the Commission paid 2 (two) courtesy calls on their Excellencies **President Issoufou Mohamadou** and **Prime Minister Brigi Rafini**, during which the Commission thanked the Republic of Niger for hosting its Session and exchanged perspectives with their Excellencies on human rights advancements and challenges that relate to the Republic of Niger, as well as opportunities for strengthening human rights protection and promotion.

III. STATE REPORTING

28. In accordance with Article 62 of the African Charter, the Commission considered the Combined 10th, 11th, 12th, 13th and 14th Islamic Periodic Report of the Islamic Republic of Mauritania, covering the period 2006 to 2014.

29. The status of submission of Periodic Reports to the Commission by Member States as at the 60th Ordinary Session stands as follows:

Status	State Party
Up to date: 12	Algeria, Burkina Faso, Côte d'Ivoire, Democratic Republic of Congo, Kenya, Mali, Mauritania, Mauritius, Namibia, Niger, Rwanda, South Africa;
1 Report overdue: 11	Cameroon, Djibouti, Ethiopia, Gabon, Malawi, Mozambique, Nigeria, Sahrawi Democratic Arab Republic, Senegal, Sierra Leone, Uganda;
2 Reports overdue: 5	Angola, Liberia, Libya, The Sudan, Togo;
3 Reports overdue: 2	Botswana, Burundi;
More than 3 Reports overdue: 17	Benin, Cape Verde, Central African Republic, Chad, Republic of Congo, Egypt, The Gambia, Ghana, Guinea Republic, Kingdom of Lesotho, Madagascar, Seychelles, Swaziland, Tanzania, Tunisia, Zambia and Zimbabwe;
Never submitted a Report: 7	Comoros, Equatorial Guinea, Eritrea, Guinea Bissau, Sao Tome and Principe, Somalia and South Sudan.

IV. RESOLUTIONS ADOPTED BY THE COMMISSION

The Commission adopted the following Resolutions during the reporting period:

Session	Resolutions adopted
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21st Extra-Ordinary Session	<p>A. Thematic Resolutions</p> <p>(i) Resolution on Developing Guidelines on Combatting Sexual Violence and its Consequences in Africa and</p> <p>(ii) Resolution on the Need to Develop Principles on the Declassification and Decriminalisation of petty Offences in Africa</p>
Session	Resolutions adopted
60th Ordinary Session	<p>B. Thematic Resolutions</p> <p>i. Resolution on the Right to Life in Africa</p> <p>ii. Resolution on the Right to Food and Food Insecurity in Africa</p> <p>iii. Resolution on the Protection of Sacred Natural Sites and Territories</p> <p>iv. Resolution on the Situation of Internally Displaced Persons in Africa</p> <p>v. Resolution on the Granting of Affiliate Status to National Human Rights Institutions and specialized human rights institutions in Africa</p> <p>vi. Resolution on Implementation of the Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa</p> <p>vii. Resolution on the Niamey Declaration on Ensuring the Upholding of the African Charter in the Extractive Industries Sector</p> <p>viii. Resolution on the Regional Action Plan on Albinism in Africa</p> <p>ix. Resolution on the situation of Human Rights Defenders in Africa</p> <p>x. Resolution on the implementation of the New York Declaration for Refugees and Migrants</p>

V. HUMAN RIGHTS COMPLAINTS BEFORE THE COMMISSION

a) Communications

30. There are 222 (Two Hundred and Twenty-Two) Communications currently pending before the Commission. Communications considered during the reporting period were the following:

Session	Communication - Name, Phase
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**21th
Extra-
ordinary
Session**

I. Seizure

a. Seized

- ✓ *Communication 642/16 – Maison Shalom Burundi v. The Republic of Burundi*
- ✓ *Communication 643/16 – Famille Shabani Bin Mkosa (represented by the NGO Via-Volonte) v. The Republic of Burundi*
- ✓ *Communication 644/16 – Gaafar Khidar Al-faki (African Centre for Justice and Peace Studies) v. The Republic of The Sudan*
- ✓ *Communication 646/16 – Mahmoud Abdel Atty Majeed v. The Arab Republic of Egypt*
- ✓ *648/16 – Human Rights Defenders Network – Sierra Leone (HRDN-SL) and West African Human Rights Defenders’ Network (WAHRDN) v. The Republic of Sierra Leone;*
- ✓ *Communication 649/17 – Mouhamadou Moctar Mbaye v. Senegal*
- ✓ *Communication;*

b. Seized and Provisional Measures Issued

- ✓ *Communication 645/16 – Abu Bakar Abdul Majeed v. The Arab Republic of Egypt;*
- ✓ *Communication 647/16 – Mahmoud Zakaria Amin Abdel Rehim v. The Arab Republic of Egypt;*
- ✓ *Communication 650/17- Kum Bezeng and 75 Others (represented by Professor Carlson Anyangwe) v. The Republic of Cameroon.*

**60th
Ordinary
Session**

I. Seizure

a. Seized

- ✓ *Communication 651/16: Elevage Promotion Afrique (EPA) SARL (represented by Mr. Azangue Bernard) v. Cameroon;*
- ✓ *Communication 653/16: Desmond Nunugwo v. Federal Republic of Nigeria;*

b. Seized and Provisional Measures Issued

- ✓ *Communication 652/17: Franck Diongo Shamba (represented by All4Rights) v. Democratic Republic of Congo;*
- ✓ *Communication 654/17: Ahmed Abdul Wahab Al Khateeb v. Arab Republic of Egypt;*
- ✓ *Communication 655/17 – Les femmes de Lieke Lesole parties civiles dans l'affaire Basele Lututula, alias colonel Thom's et autres (représentées par Action Contre l'Impunité pour les Droits Humains) c. République Démocratique du Congo;*
- ✓ *Communication 656/17: Anas Ahmed Khalifa v. Arab Republic of Egypt.*

II. Admissibility

a. Review of Admissibility Decision

- ✓ *Communication 489/14: v. Peter Odiwour Ngoge and Francis Gichuki Macharia v. Republic of Kenya;*

III. Struck-Out for Lack of Diligent Prosecution

- ✓ *Communication 412/12 - Journal Echos du Nord v. Republic of Gabon;*
- ✓ *Communication 503/14 - Harad v. Republic of Djibouti;*
- ✓ *Communication 594/15 – Mohammed Ramadan Mahmoud Fayad Allah v. Arab Republic of Egypt;*

✓ *Communication 612/16 – Ahmed Mohammed Aly Subaie v. Arab Republic of Egypt.*

31. From the table above, it shows that during the period under review, the Commission was seized of fifteen (15) Communications; issued eight (8) Provisional Measures; One (1) Communication was reviewed and decided at admissibility level and four (4) Communications were struck out for lack of diligent prosecution. The Commission also provided guidance on five (5) Communications on which the Secretariat had sought guidance.

VI. APPLICATIONS FOR OBSERVER AND AFFILIATE STATUS

a) NGOs granted Observer status

32. During the 60th Ordinary Session, the Commission considered 7 (Seven) applications for the grant of Observer Status, and granted observer status to the following NGOs: (i) Centre d'Information et de Formation en Matière de Droits Humains en Afrique (CIFDHA) of Burkina Faso; (ii) Association pour le Développement de la Promotion des Droits Humains (ADPDH) of Mauritania; (iii) Coalition Mondiale contre la Peine de Mort of France; (iv) Ensemble contre la Peine de Mort of France; (v) Centre for Human Rights Education Advice and Assistance of Malawi; (vi) Help Age International of Kenya; and (vii) Association Angola 2000 of Angola.

33. The current number of NGOs with Observer Status as at the 60th Ordinary Session of the Commission is 511 (Five Hundred and Eleven).

b) Applications by NHRIs for Affiliate Status

34. The Commission received only one application during the reporting period. This was from the National Human Rights Institution of the Republic of Zimbabwe. The Commission granted this NHRI Affiliate Status, bringing the total number of NHRIs with Affiliate Status to 27 (Twenty-Seven) as at the end of the reporting period.

VII. STATE COMPLIANCE WITH THE COMMISSION'S DECISIONS, REQUEST FOR PROVISIONAL MEASURES AND LETTERS OF URGENT APPEAL

35. The Commission noted that State compliance with its Decisions, Requests for Provisional Measures and Letters of Urgent Appeal is relatively low, as reflected by the information reaching the Commission regarding State compliance which was as follows:

a) Implementation of the Commission's Decisions

The Commission would like to indicate that during the reporting period and in accordance with Rule 112 of its Rules of Procedure of 2010, it received information from Parties as reflected below:

- **Communication 288/04 - Gabriel Shumba v. Zimbabwe:** The Complainant sent correspondence to the Commission on 15 April 2017, indicating that the State has not yet implemented the recommendations contained in the decision of the Commission.
- **Communication 507/15 - Andargachew Tsege and Others (Represented by Reprieve and REDRESS) v. Ethiopia:** The Complainant sent correspondence to the Commission on 24 February 2017, indicating that the State has not yet implemented the Provisional Measures issued by the Commission.
- The Commission continues to lament the low compliance rate of State Parties with decisions of the Commission, and encourages States to acknowledge receipt of the Commission's correspondence and implement its recommendations.

b) Requests Provisional Measures

During the reporting period, a total of 7 (seven) Requests for Provisional Measures were issued by the Commission as indicated in the table on Communications in paragraph 31 above. The Commission would like to receive responses from State parties on the measures taken to implement these provisional measures.

c) Letters of Urgent Appeal

36. There were 4 (four) Letters of Urgent Appeal sent to State Parties during the reporting period, regarding human rights issues alleged to have occurred in their respective countries, as reflected in the table hereunder:

State	Date of Letter	Issue warranting Urgent Letter of Appeal	Status of Implementation
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1. United Republic of Tanzania (1)	14 March 2017	This letter concerned the alleged forced evictions of certain indigenous people in Tanzania, most of whom were women and children.	The State is yet to respond.
2. Republic of South Africa (1)	17 March 2017	The letter dealt with the alleged xenophobic attacks on foreign nationals in South Africa.	The State is yet to respond.
3. Republic of Sudan (1)	1 March 2017	The letter was related to the alleged prolonged detention and unfair trial of Centre for Training and Human Rights Development (TRACKS) staff members and another from an affiliate organisation.	The State has since tried and sentenced the detainees.
4. Republic of Kenya (1)	21 May 2017	The letter is related to the alarming trends of extra-judicial killings implicating the Police in Kenya as well as the lack of investigation and prosecution of such cases.	The State has acknowledged receipt and indicated that the letter was forwarded for action.

VIII. LETTERS OF APPRECIATION

37. During the reporting period two (2) letters of appreciation were sent to Heads of State and Government:

State	Date of Letter	Positive development warranting Letter of Appreciation
1. United Republic of Tanzania (1)	22 February 2017	This letter commended the United Republic of Tanzania for the adoption and signing into law of the Access to Information Act.
2. Republic of Malawi (1)	25 February 2017	The letter commended the adoption and signing into law of the Access to Information Act.

IX. PRESS STATEMENTS

38. The Commission issued ten (10) Press Statements/Releases during the reporting period, which are available, *inter alia*, on the website of the Commission.

X. PROMOTION MISSIONS AND ADVOCACY VISITS

39. Within the framework of its protection and promotion mandate under Articles 45 and 58 of the African Charter, the Commission undertook the following missions during the reporting period:

- a) Promotion Mission to the Federal Republic of Nigeria from 21 to 30 November 2016;
- b) Promotion Mission to Mauritania from the 15 to 21 December 2016;
- c) Promotion Mission to Namibia from 24 to 29 April 2017;
- d) Promotion Mission to the Republic of The Gambia from 21 to 26 April 2017

XI. ACTIVITIES OF COMMISSIONERS

40. Activities undertaken by Commissioners in their capacities as Members of the Commission and as Members of Special Mechanisms are available on the website of the Commission on www.achpr.org. These activities consist of participation in statutory meetings of the Commission, promotion missions, seminars, conferences, workshops and meetings organised by the Commission and its Special Mechanisms, and also those organised by human rights stakeholders such as State Parties, the United Nations system and civil society.

XII. THE HUMAN RIGHTS SITUATION ON THE CONTINENT

41. This section was introduced pursuant to Executive Council Decision EX.CL/Dec.639 (XVIII) calling upon the Commission to brief the Policy Organs on the human rights situation on the continent. The practice of the Commission is to draw the content of this section from the interactions of the Commission with State Parties and NGOs with observer status with the Commission during Ordinary Sessions of the Commission, supplemented by information gathered as the Commission monitors the human rights situation in the various States Parties during the intersession period.

a) Positive developments

42. The Commission notes with appreciation some of the key positive human rights developments observed during the reporting period:

- i. The coming into power of the democratically elected Government in the Gambia, with the able assistance of the Economic Community of West African States (ECOWAS);
- ii. The peaceful, free and fair election process in the Republic of Ghana;
- iii. The release of 82 Chibok schoolgirls who had been held captive by the terrorist group Boko Haram;
- iv. The passing into law of the Access into Information Law in the Republics of Tanzania and Malawi;
- v. The passing into law of a legal framework for Human Rights Defenders in the Republics of Tanzania, Mali, Burkina Faso, the DRC, Cote d'Ivoire and Sierra Leone;
- vi. The signing into law of a Prevention of Torture Bill, criminalizing torture in accordance with CAT, by the Government of Kenya;
- vii. The declaration of Tunisia under Article 34 (6) of the Protocol Establishing the African Court to enable individuals and non-governmental organisations to have direct access to the Court;

- viii. The proclamation by the AU of 2017 as the year for “Harnessing the Demographic Dividend through Investment in Youth”.

b) Areas of concern

43. The Commission notes with concern some of the following human rights challenges observed during the reporting period:

- i. The dire situation of conflict, humanitarian crisis, and internal displacement of people in South Sudan;
- ii. Conflict and internal displacement of people in DRC, Nigeria, Libya, Mali, Egypt and Somalia, which disproportionately affects women and children;
- iii. Hunger and food insecurity in Nigeria, South Sudan and Somali;
- iv. Deaths of African migrants, including children, in the Mediterranean seas;
- v. Xenophobic attacks against foreign nationals in the Republic of South Africa;
- vi. Allegations of forced evictions of indigenous populations to give way to development projects in Ethiopia, Tanzania and Kenya;
- vii. Allegations of acts of violence, discrimination, stigma and social exclusion directed at persons with albinism in the Republic of Tanzania, Uganda and other parts of Africa;
- viii. Allegations of arrests and harassment of journalists and human rights defenders in Cameroon, Burundi, Eritrea, Sudan and South Sudan;
- ix. The declaration of states of emergency in Ethiopia and Tunisia, and reported acts of torture, cruel and degrading treatment of persons in Ethiopia and Tunisia during this period;
- x. Reports of overcrowding, poor conditions of detention and sanitary conditions, lack of medical facilities, the incarceration of accused and convicted inmates in the same cells, the incarceration of minors and children in the same cells, in some Member States;
- xi. the lack of transparency in relation to the negotiation and terms of concessionary contracts and the receipt and use of revenues;
- xii. the low respect of human and peoples’ rights in the extractive industries sector resulting in extensive individual and collective human rights violations;
- xiii. the increasing destruction with impunity of the environment and ecosystems resulting from poorly regulated activities of the extractive industries in Africa;
- xiv. The non-ratification of the Maputo Protocol by a number of State Parties.

XIII. ADMINISTRATIVE AND FINANCIAL SITUATION

a) Funding

44. The Commission continues to rely on partners to fund some of its key activities such as Extraordinary Sessions, which are devoted mainly to the consideration of Communications. Such a situation is not desirable for an AU Organ dealing with such important and sensitive matters.
45. The insufficient funding of the Commission from the member state budget also impedes the Commission's capacity to follow-up on implementation as it prevents the Commission from developing effective follow up of its findings during country visits, and recommendations arising from its findings, resulting in the overall weakening of the effectiveness of the Commission.
46. Therefore the situation needs to be reviewed so that State Parties shoulder their responsibilities in this regard.

b) Emoluments of Elected Officials

47. Commissioners, Special Rapporteurs and Working Groups of the Commission, including the Bureau, hold a part-time tenure and undertake much of their thematic mandate and oversight over the Secretariat during the inter-session period. This adversely impacts on the ability of the Commission to carry this workload as it competes with equally important commitments of Commissioners in their home countries.
48. It would therefore be desirable for the Bureau of the Commission to be appointed on full-time basis, and for the Emoluments of elected officials to be reviewed in a manner that is commensurate with the inter-session obligations of officials. The Commission has already made a formal submission with regard to the review of its emoluments.

c) Governance

49. The Commission has reviewed its Organogram with a view to optimise the governance arrangements between the Commission and its Secretariat, as well as clarifying the management functions of its Secretary and the Deputy Secretary.

d) Staffing

50. The recruitment process is on-going and efforts are underway to fill a number of vacant posts, both at the professional and general services levels. The Commission calls for recruitments for the Commission to be prioritised and fast-tracked, particularly the appointment of a Public Relations and Information Officer, Human Resource Officer, Legal Officers (Protection), Communications and Database Officer and Arabic and Portuguese Revisers and Interpreters, to enable the Commission to work, produce and communicate its work in all the official languages of the AU.
51. The personnel establishment should also be reviewed to establish a fully-fledged Unit in charge of implementation of the decisions of the Commission on Communications. This Unit should be equipped with the necessary human and operational capacity to deliver on its mandate.
52. The ACHPR has experienced an unprecedented leadership crisis at its Secretariat, which if not urgently addressed will render it completely dysfunctional. This crisis is occasioned by serious governance and accountability lapses. All the members of the ACHPR serve on a part time basis and none of them, including the Bureau, are based in Banjul. This makes it difficult for them to effectively address these lapses.
53. The situation is compounded by the secondment of the Deputy Secretary of the ACHPR to the Office of the Chairperson of the AUC. She assumed her new position on 2 June 2017. The members of the ACHPR learnt about this secondment through a circular which was published on the website of the African Union.
54. The ACHPR was not consulted on the secondment as required in the Staff Rules of Procedure of the African Union. To date, members of the Commission have not been officially informed of this secondment by the office of the Chairperson of the AUC. Obviously this does not auger well for good governance and good working relationship between the AUC and the ACHPR as organs of the AU.

e) Construction of the Headquarters of the Commission

55. The Commission appreciates the positive engagements that it has had with the new Government of the Republic of the Gambia regarding the construction of Headquarters for the Commission. The Commission hopes that the new

Headquarters of the Commission can be handed over to the Commission during its 30 year celebratory 61st Ordinary Session which will be held in Banjul the Gambia in November, 2017.

XIV. DATES AND VENUE OF THE 22ND EXTRAORDINARY SESSION AND THE 61ST ORDINARY SESSION OF THE COMMISSION

56. The 22nd Extraordinary Session of the Commission will take place from 29 July to the 7 August, 2017 in Dakar, the Republic of Senegal. The 61st Ordinary Session of the Commission will take place from 1 - 15 November, 2017 in the Republic of The Gambia.
57. The Commission expresses its appreciation to the Republic of Niger for hosting the 60th Ordinary Session, to State Parties that have already hosted Sessions of the Commission and to the Republic of Sudan for offering to host the 62nd Ordinary Session of the Commission. The Commission also seizes this opportunity to urge State Parties that have never hosted Ordinary Sessions of the Commission to consider doing so.

XV. RECOMMENDATIONS

58. In light of the foregoing, the Commission recommends as follows:

- a) **State Parties to:**
- i. address the human rights issues identified in their respective countries;
 - ii. continue to engage stakeholders at the national level on reported human rights violations, including through active participation at the sessions of the African Commission, engagements with Expert Mechanisms of the Commission, and by authorising country visits;
 - iii. comply with Requests for Provisional Measures, decisions and recommendations of the Commission, as set out in the Communications to which they are parties and inform the Commission of the measures taken in line with Rule 112 of the Commission's Rules of Procedure;
 - iv. respond to Letters of Urgent Appeals sent by the Commission;
 - v. implement recommendations made by the Commission arising out of the Banjul Declaration on of the 59th Ordinary Session of the African Year of human rights with particular focus on the rights of women under the theme "women's rights our collective responsibility";
 - vi. ratify and implement the Maputo Protocol;

- vii. establish or designate Independent National Bodies mandated to undertake regular visits to Prisons and grant requests for prison visits from independent and non-governmental stakeholders;
- viii. implement the Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa as well as the Luanda Guidelines.

b) AUC to expedite:

- i. recruitment of essential staff of the Secretariat of the Commission, to enhance the capacity of the Commission to deliver on its mandate and;
- ii. review the emoluments of elected officials of the ACHPR to bring them in line with the emoluments of other AU organs.
- iii. the meeting of Chairperson of the AUC and the Bureau of the ACHPR in order to urgently address the governance and accountability concerns at the leadership of the Secretariat of the ACHPR;
- iv. advertisement and recruitment process of the position of Deputy Secretary.