


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي <i>African Commission on Human & Peoples' Rights</i>		UNIÃO AFRICANA <i>Commission Africaine des Droits de l'Homme & des Peuples</i>
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Final Communiqué of the 61st Ordinary Session of the African Commission on Human and Peoples' Rights

Banjul, The Gambia
1st – 15 November 2017

1. The African Commission on Human and Peoples' Rights (the Commission) held its 61st Ordinary Session in Banjul, The Gambia, from 1st to 15 November 2017.
2. The Commission celebrated on this occasion the 30th Anniversary of its operationalisation which coincided with the Session.
3. The opening ceremony was graced by the presence of a Delegation of the host country of the Commission led by His Excellency Mr Adama Barrow, President of the Republic of The Gambia, who declared the Session open. The Delegation included Her Excellency Mrs Fatoumata Tambajang, Vice-President and Minister of Women's Affairs; Her Honourable Mrs. Mariam Denton, Speaker of the National Assembly; His Lordship Mr Hassan Bubacar Jallow, Chief Justice; Honourable Abubacarr Marie Tambadou, Attorney-General and Minister of Justice and other Ministers and senior officials.
4. The ceremony was also attended by the representative of the Chairperson of the AUC, representatives of AU Organs, representatives of the EU and other members of the diplomatic corps; etc
5. The outgoing Commissioners Honourable Commissioner Pansy Tlakula, Honourable Commissioner Alapini Gansou, and Honourable Commissioner Med Kaggwa attended the opening ceremony.
6. In accordance with Article 38 of the African Charter on Human and Peoples' Rights (the Charter), the newly elected Commissioners were sworn in at the opening ceremony of the Session. They are Honourable Commissioner Hatem Essaiem, Honourable Commissioner Remy Ngoy Lumbu and Honourable Commissioner Maria Teresa Manuela. Honourable Commissioner Maya Sahli-Fadel who was re-elected was also sworn in.

7. The Commission elected its new Bureau which shall serve for two years. The Bureau is composed of Honourable Commissioner Soyata Maiga as Chairperson and Honourable Commissioner Lawrence Murugu Mute as Vice Chairperson.
8. The following Members of the Commission participated in the Ordinary Session:
 - i. Honourable Commissioner **Soyata Maiga**, Chairperson;
 - ii. Honourable Commissioner **Lawrence Murugu Mute**, Vice Chairperson;
 - iii. Honourable Commissioner **Kayitesi Zainabo Sylvie**;
 - iv. Honourable Commissioner **Lucy Asuagbor**;
 - v. Honourable Commissioner **Maya Sahli-Fadel**;
 - vi. Honourable Commissioner **Jamesina Essie L. King**;
 - vii. Honourable Commissioner **Solomon Ayele Dersso**;
 - viii. Honourable Commissioner **Hatem Essaïem**;
 - ix. Honourable Commissioner **Maria Teresa Manuela**; and
 - x. Honourable Commissioner **Remy Ngoy Lumbu**.
9. Honourable Commissioner **Yeung Kam John Yeung Sik Yuen** was absent with apologies.
10. Speaking on behalf of the NGO Forum Steering Committee, Mrs. Hannah Foster, Executive Director of the African Centre for Democracy and Human Rights Studies, , reported that in keeping with the celebration of the thirtieth anniversary of the establishment of the Commission this year, the Forum also adopted the theme '*celebrating 30 years of the African Commission*'. She enumerated key achievements of the Commission over its thirty years of operation. She noted that the participation and consultation of civil society organizations in all activities of the Commission enhanced partnerships and ownership. She acknowledged positive developments regarding the

human rights situation on the continent, and made proposals or recommendations to address the human rights violations identified by the Forum.

11. Mrs Susan Chivusia Chatika, delivering a speech on behalf of the Network of African National Human Rights Institutions (NANHRI), acknowledged the continuing support of the Commission to NANHRI in its efforts to ensure that all African States have a National Human Rights Institution compliant with the Paris Principles in order to enable such bodies to play their full role in the promotion and protection of human rights.
12. Speaking on behalf of AU Member States, His Excellency Cheikh Tourad Ould Abdel Malik, Commissioner for Human Rights and Humanitarian Action of the Islamic Republic of Mauritania, paid tribute to His Excellency Sir Dawda Jawara for being instrumental in both the adoption of the Charter and the effective operationalisation of the Commission. He therefore commended the Commission for its initiative to present an award of recognition to him on the occasion of the 30th Anniversary of the Commission. His Excellency Cheikh Tourad Ould Abdel Malik also underscored the outstanding work done by the Commission and indicated his optimism for the future of human rights on the continent despite the existing challenges.
13. In his address, Mr. Stavros Lambrinidis, European Union Special Representative for Human Rights, applauded the ongoing collaboration on human rights issues between the African Union's Human Rights System and the European Union; of which the most recent development is the latest round of the AU-EU dialogue conducted on the margins of this 61st Ordinary Session and celebrations of the 30th Anniversary of the establishment of the Commission.
14. Mr. Mahamane Cissé Gouro, Head of Africa Division at the Office of the United Nations (UN) High Commissioner for Human Rights (OHCHR), speaking on behalf

of Mr. Zeid Ra'ad Al Hussein, UN High Commissioner for Human Rights, paid tribute to past and present Commissioners of the Commission as well as to staff of the Secretariat for the work done over the years despite challenges related to limited resources. He indicated that the AU ten years Action Plan and the Addis Ababa Roadmap which set up a platform for cooperation between the Special Mechanisms of the UN and those of the Commission are the main frameworks of collaboration between the OHCHR and the Commission.

15. Honourable Justice Maria Mapani, Vice President of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), talking about the achievements of the Commission over its thirty years of existence, noted the rich jurisprudence of the Commission. She equally spoke about the collaboration between the ACERWC and the Commission.
16. Honourable Justice Bensaoula Chafika, representing Honourable Justice Sylvain Oré, the President of the African Court on Human and Peoples' Rights (the Court), recalled the statutory complementarity between the Court and the Commission and opined that the 30th Anniversary of the Commission is an opportunity to evaluate the work done up to now and devise strategies and plans for improvement where necessary.
17. In her opening statement, the outgoing Chairperson of the Commission, Honourable Commissioner Pansy Tlakula, noted the historic attendance to a Session of the Commission by the President of the Republic of The Gambia; and indicated that by gracing the event, His Excellency Adama Barrow demonstrated his commitment to human rights. She then warmly welcomed all participants to the 61st Ordinary Session. She gave a brief narration of the steps towards the establishment of the Commission from the entry into force of the Charter on 21st October 1986, to the inaugural Session held in Ethiopia in June 1989.

18. In taking stock of the work of the Commission since her appointment as Commissioner in 2005, she highlighted key elements, including the creation of six additional Special Mechanisms raising the special procedures of the Commission to 14 as of today; and the adoption of soft law instruments (Principles, Guidelines, General Comments, Declarations, Model Laws, etc.) adopted by the Commission pursuant to article 45(1)(b) of the Charter.

19. Speaking about the gains regarding general human rights situation in Africa over her term at the Commission, she noted the ratification of important regional and international human rights instruments by an increased numbers of States Parties, the collaboration between States Parties and the Commission, the establishment of human rights institutions by States Parties as well as their adoption of legal frameworks favourable to human rights; the birth in 2011 of a newest nation, South Sudan, which recently also became a State Party to the African Charter and the readmission of the Kingdom of Morocco into the African Union.

20. Regarding challenges, she cited the human rights violations stemming from the ongoing conflict in Africa's newest nation, South Sudan; contemporary challenges such as the rise in violent extremism and terrorism as well as the proliferation of terrorist attacks in Africa, increasing youth unemployment, climate change and related unpredictable weather patterns, increased strains on natural resources such as arable land and potable water, destabilizing election periods, disruption of internet and telecommunication services, the HIV pandemic. She also referred to the continued harassment, arrest, arbitrary detention of human rights defenders, journalists, trade union and opposition members, and LGBTI persons in the States Parties, which are of extreme concern to the Commission. In addition to these, she mentioned new emerging human rights challenges which she urged the Commission to consider; namely the independence of the judiciary, data protection and cyber security. She also urged the government of the Kingdom of Morocco to ratify the

African Charter. The outgoing Chairperson finally paid tribute to all her colleagues and expressed appreciation to the Secretariat for its support during her mandate as Commissioner.

21. Delivering the statement of His Excellency Mr Moussa Faki Mahamat, Chairperson of the AUC, Her Excellency Mrs Minata Samate Cessouma, Commissioner for Political Affairs of the AUC, commended the commitment of the Government and the people of the Republic of The Gambia to the African Union Human Rights Agenda as clearly demonstrated by hosting the Commission. She equally commended the Commission for its work and for the meticulous way in which this 61st Ordinary Session has been organized.
22. She stated that the participation of the African Union Commission's leadership in this Session and the celebrations of the 30th Anniversary of the Commission is an indication of its full support to all human rights organs and bodies of the Union as well as to all other stakeholders striving for the protection of human rights in Africa.
23. She recalled the commitment of African leaders to human rights who have dedicated the last three years and 2018 to human rights themes which correspond to the seven Aspirations in Agenda 2063 and its ten years Action Plan. Following the declaration, in June 2016, of the Human and Peoples' Rights Decade in Africa, she stated that the AUC, in cooperation with all African human Rights Organs and Bodies, is actively coordinating the development of an action plan to be soon presented to the AU Policy Organs for consideration and adoption. She also referred to the ongoing processes within the AU of creating critical mechanisms like the Transitional Justice Policy and the establishing of the Pan African Institute for Human Rights as per the adopted African Human Rights Strategy.

24. She noted with regret failures to address or prevent gross human rights violations which are ongoing or have occurred in the past such as the Rwanda genocide. She urged all stakeholders to be vigilant in order to ensure that similar violations do not ever happen again in Africa. She equally called upon States Parties to domesticate the various human rights instruments which they have ratified and put a stop to impunity by making the Declaration enabling direct access to the Court by individuals. She also insisted on the utmost need to invest in the youth as to ensure that they are assets to achieving Agenda 2063. She finally pledged the support of the African Union to His Excellency Mr. Adama Barrow and the People of The Gambia in their efforts to build a truly democratic society.

25. His Excellency Mr. Adama Barrow, President of the Republic of The Gambia, welcomed participants to the 61st Ordinary Session of the Commission and the celebrations of the 30th Anniversary of the Commission's establishment. He expressed the pride of his country to host the Commission and that his Government is committed to construct a permanent structure to house the headquarters as per the Host Agreement. He acknowledged with appreciation the fact that the Commission has remained committed to the protection of human rights in The Gambia despite the then existing challenges. He equally extended appreciation to international organisations and NGOs who supported Gambians' struggle towards democracy. He also made an overview of some achievements of the Commission since its establishment and spoke about human rights developments in Africa with specific reference to recent efforts made by the Government of The Gambia in implementing its human rights obligations. He called on Member States to join his country in supporting the work of the Commission. He wished delegates fruitful deliberations and declared open the 61st Ordinary Session of the Commission.

26. Honourable Commissioner Soyata Maiga gave a vote of thanks to outgoing Commissioners. She highlighted their key accomplishments, and she wished them well in their future endeavours.
27. Honourable Commissioner Soyata Maiga and Honourable Commissioner Lawrence M. Mute presided over the deliberations during the Ordinary Session, in their capacity as Chairperson and Vice Chairperson of the Commission.
28. A total of six hundred and nineteen (619) delegates participated in the Session: one hundred and twenty-five (125) representing twenty four(24) Member States, twelve (12) representing AU Organs, twenty (20) representing National Human Rights Institutions (NHRIs), five (5) representing International and Inter-Governmental Organizations, two hundred and seventy-one (271) representing African and International Non-Governmental Organisations (NGOs), forty-two (42) representing other observers and twenty-two (22) representatives from the media.
29. As key activities of the celebrations of the 30th Anniversary, four panels were held, that dealt with the past, present and future of the work of the Commission, as well as the work of the Commission in relation to the youths. The themes of each of these panels were respectively as follows:
- i. Panel on the Past “Reflections on the Commission’s Beginnings and Work”;
 - ii. Panel on the Present “Taking Stock of the Present”;
 - iii. Panel on the Future “The Way Forward”; and
 - iv. Panel on the Youth “What are the views of the Youth on the work of the Commission”.
30. These panels featured speakers and panellists including current Commissioners, former Commissioners, delegates from State Parties, as well as resource persons from

the academia, NHRIs, the NGO sector and other partners of the Commission. These panel discussions also involved extensive interactive discussions with the plenary during the first three days of the public session of the Commission.

31. The outcome document capturing resolutions and recommendations deriving from the deliberations of these activities would be made public by the Commission in due course and the necessary follow up mechanisms set up accordingly.
32. Participants to the 61st Ordinary Session and the celebrations of the 30th Anniversary of the Commission observed a solemn minute of silence in memory of all former Commissioners who had passed away.
33. The celebrations of the 30th Anniversary of the Commission included a gala dinner at which an award was presented to His Excellency Sir Dawda Kairaba Jawara, for his instrumental role in the adoption of the Charter and the establishment of the Commission. The award was received by his representative.
34. The celebrations also included an exhibition of its work and specific publications from the Commission and its partners were released.
35. Representatives of the following seventeen (17) State Parties made statements on the human rights situation in their respective countries: Mauritania, Lesotho, Cameroon, Tunisia, Mali, South Africa, Niger, Burkina Faso, Egypt, Kenya, Angola, Ethiopia, Algeria, Malawi, Togo, Nigeria and Eritrea.
36. Representatives of the African Peer Review Mechanism, the AU Office in Geneva and the International Committee of the Red Cross made statements highlighting the collaboration between the Commission and their respective Offices in promoting and protecting human rights.

37. Two (2) representatives of NHRIs also made statements on the human rights situation in their respective countries, namely:

- i. The National Human Rights Commission of Nigeria;
- ii. and
- iii. The National Human Rights Institution of Niger.

38. A total of sixty-five (65) NGOs with Observer Status with the Commission made statements on the human rights situation in Africa.

39. The Commission did not examine any application for Affiliate Status from NHRIs in accordance with the Resolution on the Granting of Affiliate Status to NHRIs in Africa. Thus, the total number of NHRIs with Affiliate Status with the Commission remains twenty-seven (27).

40. The Commission granted Observer Status to four (4) NGOs, in accordance with the Resolution on the Criteria for Granting and Enjoying Observer Status to Non-Governmental Organisations Working in the Field of Human and Peoples' Rights, namely:

- i. The African Child Policy Forum;
- ii. The Gender, Health & Justice Research Unit;
- iii. Reprieve; and
- iv. The Centre for Citizen's Participation on the African Union.

41. This brings the total number of NGOs with Observer Status with the Commission to five hundred and fifteen (515).

42. In accordance with Article 62 of the African Charter, the Commission considered the periodic reports of the following three (3) State Parties:

- i. The Republic of Rwanda
- ii. The Republic of Niger; and
- iii. The Democratic Republic of Congo;

43. Members of the Commission presented the following reports of activities undertaken during the inter-session period as Commissioners and within the framework of their various Special Mechanisms:

- i. Outgoing Chairperson of the Commission;
- ii. Chairperson of the Working Group on Death Penalty, Extrajudicial, Summary or Arbitrary Killings in Africa;
- iii. Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa;
- iv. Outgoing Special Rapporteur on Freedom of Expression and Access to Information in Africa;
- v. Special Rapporteur on the Rights of Women in Africa;
- vi. Outgoing Special Rapporteur on Human Rights Defenders in Africa;
- vii. Outgoing Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa;
- viii. Chairperson of the Committee on the Protection of the Rights of People Living with HIV and those at Risk, Vulnerable to and Affected by HIV;
- ix. Chairperson of the Working Group on Communications;
- x. Chairperson of the Working Group on Indigenous Populations/Communities in Africa;
- xi. Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;
- xii. Chairperson of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa;
- xiii. Chairperson of the Committee for the Prevention of Torture in Africa; and

- xiv. Chairperson of the Working Group on the Rights of Older Persons and People with Disabilities in Africa.
44. In accordance with paragraph 25 of the APRM Base Document NEPAD/HSGIC/03-2003/APRM/MOU/Annex II; the Commission considered the APRM Reports of the Republic of Chad and the Republic of Djibouti.
45. The Commission effected a reallocation of its Special Mechanisms and countries amongst its members. This reallocation would be made available on the website of the Commission.
46. The Commission launched the following three (3) documents and studies during the 61st Ordinary Session:
- i. Study on Extractive Industries, Land Rights and Indigenous Populations/Communities Rights;
 - ii. Guidelines on Freedoms of Association and Assembly;
 - iii. Guidelines on Combatting Sexual Violence and Its Consequences in Africa;
47. The following panels were also held during the Session:
- i. Stakeholders' Consultation on Draft Guidelines for State Reporting on Extractive Industries, Human Rights and the Environment;
 - ii. Panel on the protection of sacred natural sites and ancestral lands across Africa.
 - iii. Panel on the Abolition of the Death Penalty in Africa; and
 - iv. Panel Discussions on African Conflicts, Transitional Justice and the African Charter: Role for the Commission.

48. The Commission held meetings with representatives of the Directorate of Strategic Planning of the AUC with which it had consultations on the AUC Medium Term Plan 2018-2023; and with the Permanent Representative Council of the African Union who attended the Session.
49. The Commission considered and adopted the following documents with amendments:
- i. The Draft Study on “HIV, the Law and Human Rights in the African Human Rights System: Key Challenges and Opportunities for Rights-Based Responses to HIV”;
 - ii. The Draft Guidelines on Access to Information and Elections for Africa; and
 - iii. Principles on the Decriminalisation of Petty Offences;
50. The Commission considered and made recommendations on The General Comment on Article 7 of the Maputo Protocol.
51. The Commission considered and adopted the following:
- i. The Report of the Secretary;
 - ii. The Report on Finance and Budgetary Matters; and
 - iii. The 2018 Annual Work Plan.
52. The Commission also considered and made recommendations on urgent issues which could not be made public as per the confidentiality of certain matters provided under the Charter.
53. The Commission deferred consideration of the following:
- i. Report of the Promotion Mission to the Republic of Nigeria;
 - ii. Concluding Observations on the Periodic Report of the Islamic Republic of Mauritania and of the Republic of Côte d’Ivoire;

- iii. Draft of its Revised Rules of Procedures;
- iv. The Report of the First Regional Seminar on Implementation of the Commission's Decisions as well as the Minutes of its Evaluation Meeting;
- v. The Revised Guidelines on the Format of Reports on Promotion Missions of the Commission; and
- vi. The update on PANAF.

54. The Commission adopted the following Resolutions:

- i. Resolution on the Renewal of the Mandate of the Special Rapporteur on Asylum Seekers, Refugees, Migrants and IDPs in Africa;
- ii. Resolution on the Renewal of the Mandate of the Special Rapporteur on the Rights of Women in Africa;
- iii. Resolution on the Appointment of the Special Rapporteur on Prisons and Conditions of Detention in Africa;
- iv. Resolution on the Appointment of the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa;
- v. Resolution on the Appointment of the Special Rapporteur on Freedom of Expression and Access to Information in Africa;
- vi. Resolution on the Appointment of the Chairperson, Renewal of the Mandate and Reconstitution of the Working Group on Specific Issues relevant to the Work of the Commission;
- vii. Resolution on the Appointment of the Chairperson, Renewal of the Mandate and Reconstitution of the Working Group on Communications;
- viii. Resolution on the Appointment of the Chairperson, Renewal of the Mandate and Reconstitution of the Committee on Resolutions;
- ix. Resolution on the Appointment of the Chairperson, Renewal of the Mandate and Reconstitution of the Committee for the Prevention of Torture in Africa;

- x. Resolution on the Appointment of the Chairperson, Renewal of the Mandate and Reconstitution of the Advisory Committee on Budgetary and Staff Matters;
- xi. Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa;
- xii. Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on Indigenous Populations/Communities in Africa;
- xiii. Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on Death Penalty, Extrajudicial, Summary or Arbitrary Killings in Africa;
- xiv. Resolution on the Renewal of the Mandate of the Committee on the Protection of the Rights of People Living with HIV (PLHIV) and those at Risk, Vulnerable to and Affected by HIV;
- xv. Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on Economic, Social and Cultural Rights in Africa and Renewal of the Appointment of its Chairperson and Members; and;
- xvi. Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on the Rights of Older Persons and Persons with Disabilities in Africa.

55. Eighteen (18) Communications were tabled as follows:

- i. Fourteen (14) Communications on Seizure, of which one was seized and decisions regarding thirteen (13) were deferred;
- ii. Two Communications at Admissibility stage, for which the Commission deferred their consideration;
- iii. One (1) Communication on the Merits, for which the Commission deferred its consideration; and
- iv. One (1) Communication for referral to the Court for which the Commission deferred its consideration.

56. The Commission further considered and provided guidance on three (3) Communications.
57. The Commission considered and adopted its 43rd Activity Report, which will be submitted to the 32nd Ordinary Session of the Executive Council of the AU during the 30th Summit of the Assembly of Heads of State and Government.
58. The Commission proposed to hold the joint meeting of the Bureaux of the Court and of the Commission in January 2018 on the margins of the upcoming Summit of the African Union in Addis Ababa, Ethiopia.
59. The Commission decided to hold its 23rd Extraordinary Session from 13 to 22 February 2018 in Banjul, The Gambia.
60. The Commission decided to hold its 62nd Ordinary Session from 25 April to 9 May 2018 in Nouakchott, Mauritania.
61. The Commission expresses its sincere gratitude to the Government and people of the Republic of The Gambia for the warm welcome and hospitality extended to participants. The Commission also expresses its sincere appreciation to the Republic of The Gambia for all the resources and facilities made available to the Commission, which contributed to the smooth conduct and success of the Session and the celebrations of the 30th Anniversary.
62. The closing ceremony of the Session was held on 15 November 2017 in Banjul, The Gambia.

Done in Banjul, Republic of The Gambia, on 15th November 2017