


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي African Commission on Human & Peoples' Rights		UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples
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Final Communiqué of the 65th Ordinary Session of the African Commission on Human and Peoples' Rights

Banjul, The Gambia, 21 October to 10 November 2019

1. The African Commission on Human and Peoples' Rights (the Commission) held its 65th Ordinary Session from 21 October to 10 November 2019 in Banjul, Republic of The Gambia.
2. The Opening Ceremony was graced by the presence of the Vice President of the Republic of The Gambia, H.E. Dr. Isatou Touray, who declared the Session open. The Vice President was accompanied by a Delegation, which included Honourable Abubacarr Tambadou, the Attorney-General and Minister of Justice of the Republic of The Gambia.
3. The Commission elected its new Bureau which shall serve for two years. The Bureau is composed of **Honourable Commissioner Solomon Ayele Dersso** as Chairperson and **Honourable Commissioner Rémy Ngoy Lumbu** as Vice Chairperson.
4. The following Members of the Commission participated in the Session:
 - i. Honourable Commissioner **Solomon Ayele Dersso**, Chairperson;
 - ii. Honourable Commissioner **Rémy Ngoy Lumbu**, Vice Chairperson;
 - iii. Honourable Commissioner **Yeung Kam John Yeung Sik Yuen**;
 - iv. Honourable Commissioner **Soyata Maïga**;
 - v. Honourable Commissioner **Kayitesi Zainabo Sylvie**;
 - vi. Honourable Commissioner **Lucy Asuagbor**;
 - vii. Honourable Commissioner **Maya Sahli-Fadel**;
 - viii. Honourable Commissioner **Lawrence Murugu Mute**;
 - ix. Honourable Commissioner **Jamesina Essie L. King**;
 - x. Honourable Commissioner **Hatem Essaiem**; and
 - xi. Honourable Commissioner **Maria Teresa Manuela**.
5. Speaking on behalf of the NGO Forum Steering Committee, Mrs. Hannah Foster reported that eight country resolutions, four thematic resolutions and three thematic recommendations were adopted during the Forum. She also highlighted the following issues of concern regarding the human rights situation on the continent: violations of freedom of assembly and association; restrictions of freedom of expression and the internet, in addition to criminalization of bloggers; corruption; the systematic harassment and targeting of human rights defenders and closing of civic space; torture and the lack of access to justice for victims of torture; and overcrowding in prisons.
6. Hon. Mwamba Mushikonke Mwamus, President of the National Human Rights Commission of the Democratic Republic of Congo, delivering a statement on behalf of the Network of African National Human Rights Institutions, lauded the entry into force of the African Continental Free Trade Area, the initiative of the Republic of Rwanda of hosting migrants from Libya, and the operationalization of the National Human Rights Commission of The Gambia. He called for effective protection of

human rights defenders, as stipulated in the Marrakesh Declaration which was adopted during the 13th International Conference of the Global Alliance of NHRIs.

7. Mr. Pacharo Kayira, the Chief State Advocate in the Ministry of Justice and Constitutional Affairs of the Republic of Malawi, representing African Union (AU) States Parties, observed that great strides had been made since the birth of an independent Africa sixty or so years ago. He noted that the vision of Africa's founding fathers was not only for political independence but also for an Africa free from poverty, disease and neo-colonialism, noting that the dream of realizing this vision was captured in Agenda 2063. Mr. Kayira concluded that the time has found Africans, to decide on the kind of Africa they wanted to leave for their children and grandchildren.
8. Mr. Eamon Gilmore, the European Union (EU) Special Representative for Human Rights, noted that like the AU, the EU was founded to foster peace and prosperity. Mr. Gilmore noted that during the 15th AU-EU Dialogue, which was held on 19 October 2019, discussions focused on the fundamental importance of a safe and enabling environment for civil society.
9. Mr. Mahamane Cissé-Gouro, speaking on behalf of the United Nations High Commissioner for Human Rights (OHCHR), noted that the Commission and OHCHR had signed a Memorandum of Understanding in September 2019, which formalized their longstanding partnership for the promotion and protection of human and peoples' rights in Africa. He commended the declaration of 2019 as the Year of Refugees, Returnees and IDPs, noting that the OHCHR would work with the Commission and the AU to find lasting solutions to forced displacement.
10. Mr. Sekone Phillipe, speaking on behalf of the Chairperson of the African Committee of Experts on the Rights and Welfare of the Child, reported that in spite of the entry into force of the African Charter on the Rights and Welfare of the Child in 1999, a number of AU Member States had not ratified it. Further, several States had not yet submitted a report to the Committee on the measures taken to implement it, and only 11 Communications had been received, with 44 organizations having observer status. He concluded that next year will mark the 30th anniversary of the Children's Charter, and called on all stakeholders to join the Committee and the children of Africa to celebrate this anniversary.
11. Honourable Justice Sylvain Oré, the President of the African Court on Human and Peoples' Rights (the Court), observed that there can be no sustainable peace without justice, and without sustainable peace, development would be compromised. He reported that to strengthen the complementarity relationship between the Court and the Commission, both organs had established a reflection committee on the review of their respective Rules of Procedures.

12. In her opening statement, the outgoing Chairperson of the Commission, Honourable Commissioner Soyata Maiga, noted that the Commission's Sessions are an opportunity to assess the human rights situation on the continent. On areas of concern, she noted: the pervasive instances of terrorism occurring in the Sahel countries, with the attendant loss of lives of civilians and soldiers, cases of kidnapping and destruction of property; the deplorable acts of xenophobia perpetrated against foreigners residing in South Africa; disturbing violations against children; violations committed by multinational corporations; repression of demonstrations; harmful practices and discrimination against women; and the impact of extractive industries on indigenous communities. She welcomed the initiatives made on the continent, including organization of the Grand National Dialogue to address the situation in the English-speaking regions of Cameroon, in addition to the establishment of a transitional government in The Sudan. She commended H.E. Dr. Abiy Ahmed, Prime Minister of Ethiopia, on his award of the 2019 Nobel Peace Prize in recognition of his peace efforts with Eritrea.
13. In closing, she observed that this was her last opportunity to address the Session as the Chairperson. She highlighted the achievements of the Commission during her tenure as the Chairperson, including the adoption of 12 documents interpreting various rights in the African Charter. She thanked all stakeholders who had contributed to fulfilment of her mandate, in addition to the outgoing Vice Chairperson, Members of the Commission and Secretariat who worked tirelessly alongside her to fulfil the Commission's mandate.
14. Delivering the statement of H.E. Mrs Minata Samate Cessouma, Commissioner for Political Affairs of the AU Commission, Ambassador Salah Sidig Hammad recalled that the African continent has witnessed decades of numerous human rights challenges, and noted that against this background the AU Member States of the then OAU resolved to promote and safeguard freedom, justice, equality and human dignity in Africa by putting instruments in place to enforce these values. He called on the Commission to support the declaration of 2020 as the "Year of Silencing the Guns in Africa."
15. H.E. Dr. Isatou Touray, the Vice-President of the Republic of The Gambia, welcomed participants to the 65th Ordinary Session and conveyed warm greetings from H.E. Mr. Adama Barrow, President of the Republic of The Gambia. She observed that the scourge of refugees and IDPs continued to be a great concern to all Africans. She noted that unresolved conflicts posed serious challenges for the continent, and stressed the importance of addressing the deep rooted causes of conflict in order to find durable solutions.
16. The Vice President highlighted developments in The Gambia, such as: including human rights as a priority area of the National Development Plan of 2018 to 2021; the Constitutional Review Commission which was on track to deliver a first draft of a new Constitution before the end of 2019; the recent diaspora tour conducted by the

Truth, Reconciliation and Reparations Commission to engage with victims of human rights violations living outside The Gambia; the contribution of fifty million dalasi to the Victims Fund by the Government; the establishment of the National Human Rights Commission in line with the Principles relating to the Status of National Institutions; and the efforts to mainstream gender in the country's security services. She also highlighted the increase of private radio stations and newspapers, the process of drafting a freedom of information bill, and recent efforts to review existing draconian media laws.

17. **Honourable Commissioner Solomon Ayele Dersso** and **Honourable Commissioner Rémy Ngoy Lumbu** presided over the deliberations during the 65th Ordinary Session, in their capacities as Chairperson and Vice Chairperson of the Commission.
18. The Commission celebrated the African Human Rights Day on 21 October 2019 on the African Union theme: **“Refugees, Returnees and Internally Displaced Persons: Towards Sustainable Solutions to Forced Displacement in Africa.”**
19. The following two panels were held as part of the celebrations:
 - Panel on Refugees, Returnees and Migration in Africa: Challenges and Solutions; and
 - Panel on Promotion and Protection of the Rights of Internally Displaced Persons, 10 Years after the Adoption of the Kampala Convention.
20. The Commission also paid tribute to the former President of The Gambia, Sir Dawda Kairaba Jawara, who passed away on 27 August 2019, lauding his immense contribution to the development and adoption of the African Charter on Human and Peoples' Rights (the African Charter).
21. A total of **five hundred and ninety-nine (599)** delegates participated in the Session: **one hundred and twenty-one (121)** representing thirty-one (31) States Parties, **eighteen (18)** representing AU Organs, **forty-four (44)** representing National Human Rights Institutions (NHRIs), **nine (9)** representing International and Inter-Governmental Organizations, **three hundred and seventy-eight (378)** representing African and International Non-Governmental Organizations (NGOs), **ten (10)** representing other observers and **nineteen (19)** representatives from the media.
22. The Commission launched the following documents:
 - i. General Comment No.5 on the African Charter on Human and Peoples' Rights: The Right to Freedom of Movement and Residence [Article 12(1)];
 - ii. Addressing Human Rights Issues in Conflict Situations: Towards a more systematic and effective role for the African Commission on Human and Peoples' Rights;

- iii. The Pilot Study on Migration and Respect for Human Rights;¹
- iv. The Working Group on Extractive Industries Newsletter; and
- v. The Police and Human Rights Newsletter.

23. The following panel discussions were held during the Session:

- i. Panel on reviewing the Beijing Declaration and Platform for Action of 1995;
- ii. Panel on enforced disappearances;
- iii. The importance of civic space/participation in the 2030 and 2063 Agendas;
- iv. Panel on the protection of human rights defenders with a focus on protection laws;
- v. Panel on the background study on extractive industries, environment and human rights;
- vi. Panel on the ratification of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa;
- vii. Panel on extra-judicial killings in Africa; and
- viii. Panel on the implementation of Resolution 275 on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity.

24. Representatives of the following **twenty-one (21)** States Parties made statements on the human rights situation in their countries: Algeria; Angola; Burkina Faso; Cameroon; Cote d'Ivoire; Democratic Republic of Congo; Egypt; Eritrea; Eswatini; Gabon; Guinea Bissau; Kenya; Lesotho; Malawi; Mali; Mauritania; Nigeria; Rwanda; Sahrawi Arab Democratic Republic; South Africa; and Tanzania.

25. Representatives of the following **ten (10)** NHRIs also made statements on the human rights situation in their countries: the National Human Rights Commission of Algeria; the National Commission on Human Rights of Cameroon; the National Commission for Human Rights of Mauritania; the National Commission for Human Rights of Niger; the Sahrawi National Commission for Human Rights; the National Human Rights Commission of South Sudan; the Nigeria National Human Rights Commission; the National Commission for Human Rights of The Sudan; Zimbabwe Human Rights Commission; and Commission for Gender Equality of South Africa.

26. A total of **forty-eight (48)** NGOs with Observer Status with the Commission also made statements on the human rights situation in Africa.

¹ The People's Democratic Republic of Algeria disassociated itself from the launch of the Pilot Study on Migration and Respect for Human Rights (the Study). Algeria was concerned by a footnote on page 29 of the study quoting the United Nations Special Rapporteur on the Human Rights of Migrants which implied that the UN Special Rapporteur had visited Algeria, whereas the Ministry of Foreign Affairs of Algeria indicated that he had not.

27. The Commission reported on the status of its relationship and cooperation with NHRIs and NGOs, and gave an update on the status of submission of activity reports by NHRIs and NGOs.
28. The Commission granted Observer Status to **four (4)** NGOs, in accordance with the **Resolution on the Criteria for Granting and Maintaining Observer Status to Non-Governmental Organizations working on Human and Peoples' Rights in Africa**, namely:
 - i. Steward-Women;
 - ii. TRIAL International;
 - iii. Paralegal Advisory Service Institute; and
 - iv. Zimbabwe Environmental Law Association.
29. This brings the total number of NGOs with Observer Status with the Commission to **five hundred and twenty-three (523)**.
30. The Commission gave an update on the status of submission of periodic reports by State Parties.
31. In accordance with Article 62 of the African Charter and Article 26 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), the Commission considered the Periodic Reports of the following two (2) State Parties:
 - i. Combined 2nd to 9th Periodic Report of the Republic of Chad, 1998 to 2015;
 - ii. Combined 11th to 15th Periodic Report under the African Charter on Human and Peoples' Rights, 2007 to 2019 and Initial and Combined 1st to 4th Report under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2008 to 2019, of the Republic of Zimbabwe.
32. In accordance with Paragraph 25 of the African Peer Review Mechanism (APRM) Base Document which provides that APRM Reports should be formally and publicly tabled in key regional and sub-regional structures, the Commission received the "Africa Governance Report: Promoting African Union Shared Values" presented by the APRM Secretariat.
33. The following members of the Commission presented their intersession reports highlighting the activities undertaken in their capacities as Commissioners and mandate holders of Special Mechanisms:
 - i. The outgoing Chairperson reporting on her activities as the Chairperson of the Commission;
 - ii. The Chairperson of the Working Group on Indigenous Populations/Communities in Africa;

- iii. The Special Rapporteur on Freedom of Expression and Access to Information in Africa;
 - iv. The Special Rapporteur on the Rights of Women in Africa;
 - v. The Special Rapporteur on Human Rights Defenders in Africa and Focal Point on Reprisals;
 - vi. The Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa;
 - vii. The Special Rapporteur on Refugees, Asylum Seekers, Internally-Displaced Persons and Migrants in Africa;
 - viii. The Chairperson of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa;
 - ix. The Chairperson of the Working Group on Death Penalty, Extrajudicial , Summary or Arbitrary Killings and Enforced Disappearances in Africa;
 - x. The Chairperson of the Committee for the Prevention of Torture in Africa;
 - xi. The Chairperson of the Committee for the Protection of the Rights of Persons Living with HIV and Those at Risk, Vulnerable to and Affected by HIV;
 - xii. The Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa;
 - xiii. The Chairperson of the Working Group on the Rights of Older Persons and People with Disabilities in Africa; and
 - xiv. The Chairperson of the Working Group on Communications.
34. The presentations of these Reports generated reactions, contributions and questions from delegates.
35. The Commission considered and adopted the following documents with amendments:
- i. Concluding Observations on the Periodic Report of the Federal Republic of Nigeria;
 - ii. Concluding Observations on the Periodic Report of the Democratic Republic of the Congo;
 - iii. Strategy to Improve the Working Modalities of the ACHPR;
 - iv. Policy on Internship, Volunteership, Research Fellowship and Secondments;
 - v. Media Relations and External Communication Policy of the ACHPR;
 - vi. Implementation Plan for the Media Relations and External Communication Strategy;
 - vii. Standard Operating Procedures for the Use of Online Mass Communication Platforms by the ACHPR, its Followers and other Users;
 - viii. General Comment on Article 7(d) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa; and
 - ix. Declaration of Principles on Freedom of Expression and Access to Information in Africa.

36. The Commission considered the following:

- i. Report on Follow-up Actions;
- ii. Report on PANAF and Regional Seminar;
- iii. Communications Audit Report;
- iv. Draft Concept Note for the Joint Retreat of the Permanent Representative Committee of the African Union and the African Commission on Human and Peoples' Rights;
- v. Draft Annual Work Plan 2020; and
- vi. Standard Operating Procedures on the Establishment and Operation of Special Mechanisms of the ACHPR.

37. The Commission considered **eighteen (18)** Communications as follows:

- i. Two (2) Communications on the Merits, of which one (1) was deferred;
- ii. Five (5) Communications on Admissibility, of which four (4) were declared inadmissible and one (1) deferred;
- iii. Six (6) Communications on Seizure, with Provisional Measures granted in two (2) Communications;
- iv. One (1) Communication which was struck-out;
- v. One (1) Communication whose request for withdrawal was granted;
- vi. One (1) update on an oral hearing which was held during the 26th Extra-Ordinary Session;
- vii. One (1) Decision on a Request for Recusal; and
- viii. One (1) Decision on an Application for Review.

38. The Commission adopted the following **nine (9)** Resolutions:

- i. Resolution on the Renewal of the African Commission on Human and Peoples' Rights' Special Mechanisms' mandates;
- ii. Resolution on the Appointment of Expert Members of the Committee for the Prevention of Torture in Africa;
- iii. Resolution on use of expertise of former Commissioners to advance the Work of the African Commission on Human and Peoples' Rights;
- iv. Resolution on the Human Rights Situation in the Republic of South Sudan;
- v. Resolution on the Human Rights Situation in the Federal Democratic Republic of Ethiopia;
- vi. Resolution on the Recognition, Promotion and Protection of Indigenous Languages;
- vii. Resolution on Elections in Africa;
- viii. Resolution on the Drafting of an African Declaration on the Promotion of the Role of Human Rights Defenders and their Protection in Africa; and
- ix. Resolution on the Right to Food and Nutrition in Africa.

39. The Commission held consultations with a delegation from the AU Advisory Board on Corruption.

40. The Commission considered and adopted its 47th Activity Report, which will be submitted to the 36th Ordinary Session of the AU Executive Council and the 34th Ordinary Session of the AU Assembly of Heads of State and Government.
41. The Commission decided to hold its 27th Extraordinary Session from 19 February to 4 March 2020 in Banjul, The Gambia.
42. The Commission decided to hold its 66th Ordinary Session from 22 April to 12 May 2020.
43. The Commission extends its gratitude to H.E. Mr. Adama Barrow, President of the Republic of The Gambia, for granting an audience to the Bureau of the Commission on Friday 8 November 2019, and for the firm assurance he gave regarding the construction of the Headquarters of the Commission, which he indicated is a priority of his administration.
44. The Commission expresses its sincere gratitude to the Government and People of The Gambia for the warm welcome and hospitality extended to the participants and for creating a congenial atmosphere for the smooth conduct of its Session.
45. The closing ceremony of the 65th Ordinary Session took place on 10 November 2019, in Banjul, The Gambia.

Done in Banjul, Republic of The Gambia, on 10 November 2019