

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

## **THE COVID-19 PANDEMIC AND THE DEFINING HUMAN RIGHTS ISSUES OF OUR TIME**

### **OPENING STATEMENT OF THE CHAIRPERSON OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS**

**HONOURABLE COMMISSIONER SOLOMON AYELE  
DERSO**

**DELIVERED AT THE OPENING CEREMONY OF THE 66<sup>th</sup>  
ORDINARY SESSION**

**13 JULY 2020**

**Good morning, good afternoon and good evening.**

**Thank you Acting Executive Secretary of the African Commission on Human and Peoples' Rights.**

**Excellencies, distinguished representatives of States Parties to the African Charter on Human and Peoples' Rights;**

**H.E., Cessouma Minata Samate, Commissioner for Political Affairs of the African Union Commission, representing H.E. Moussa Faki Mahamat, Chairperson of the African Union Commission;**

**Honourable Justice Sylvain Ore, President of African Court on Human and Peoples' Rights;**

**Honourable Benyam Dawit Mezmur, member of the African Committee of Experts on the Rights and Welfare of the Child;**

**Prof Fatma-Zohra Karadja, Chairperson of the African Peer Review Panel, African Peer Review Mechanism;**

**H.E. Ambassador Baye Moctar Diop, Chairperson of the PRC Sub-Committee on Governance, Democracy and Human Rights;**

**Mr. Mohamed Fayek, Chairperson of the Network of African National Human Rights Institutions;**

**Mrs. Hannah Forster, Representative of the NGO Steering Committee;**

**Representatives of National Human Rights Institutions;**

**Representatives of International organizations;**

**Representatives of Civil Society Organisations;**

**Distinguished invited Guests;**

**Ladies and Gentlemen;**

Allow me at the outset to welcome you all, on my own behalf and on behalf of the Members of the African Commission on Human and Peoples' Rights (the Commission) to this 66<sup>th</sup> Ordinary Session of the African Commission. As most of you would be aware, this Session was scheduled to take place in April of this year, at the seat of the Commission in the beautiful city of Banjul, The Gambia. We also intended to take the opportunity of this Session to invite the AUC Chairperson, His Excellency Mr. Moussa Faki Mahamat, to lay the foundation stone of the Headquarters of the Commission.

With the arrival and the slow but steady spread of the novel coronavirus (COVID-19), we were unable to proceed as initially planned. We announced the postponement of the session, signalling our plan to hold the session at some future time.

COVID-19 continues to spread. It became clear that the Commission could not hold its session physically in a short period of time. It has also become clear that the work of the Commission has become more urgent during this emergency than the pandemic triggered, than in normal times. Just like other similar institutions, the Commission took the decision to adjust the conduct of its functions to the limitations arising from the COVID-19 response measures adopted both continentally and globally. Accordingly, we moved our session to the virtual platform.

Two weeks ago, we held the 28<sup>th</sup> Extraordinary Session. We did this to administer in public the solemn declaration of the four new Members of the Commission. Our new Members have since assumed their offices as Members of the Commission. I wish to take this opportunity to once again extend to each of them a warm welcome and to wish them success during their stay at the African Commission.

It would be remiss of me if I do not also take this opportunity to express my profound appreciation to the four outgoing Members of the Commission. I would like to once again thank my predecessor, former Chairperson of the Commission, Commissioner Soyata Maiga, former Vice Chairperson of the Commission, Commissioner Lawrence Mute, former Special Rapporteur on the Rights of Women in Africa, Commissioner Lucy Assuagbor and former Chairperson of the Working Group on Older Persons and Persons with Disabilities, Commissioner Bernard Yeung Sik Yeun, for their enormous contribution to the promotion and protection of human and peoples' rights in Africa.

### **Excellencies, Ladies and Gentlemen**

We live in an unprecedented time and circumstances.

What we face today are not ordinary human rights issues requiring ordinary approaches. COVID-19 and its consequences have excavated and brought to the centre of our attention the most defining human rights issues of our time – deepening inequalities, widespread poverty, racism, sexism, crisis of democratic governance and the climate emergency.

COVID-19 laid bare the structural weaknesses and fragilities of our societies. It brought to the front of the public view the socio-economic deprivations afflicting the masses of our people, deprivations that have left those without access to basic necessities, including most notably water, sanitation, housing, education and sustainable employment, vulnerable to the scourge of COVID-19, thereby leaving the

entire society weak and vulnerable in mobilizing effective response to the pandemic. Because of COVID-19, the strongest among us is as strong as the weakest among us.

If the weakest among us are not protected, no one of us can be safe and secure. In this sense, COVID-19 can indeed be regarded as an equalizer.

COVID-19 is most importantly a magnifier of the fragilities of our societies in Africa. I would like to submit that while COVID-19 affects all of us, its impact is particularly dire on the most vulnerable among our societies – including people working in the informal sector, the majority of people in our societies, many of them women, those living in highly congested areas, those with no access to water and sanitation, people with underlying conditions, IDPs, refugees, migrants and asylum seekers and children.

These sections of our people are most affected in multiple ways.

- Because of lack of access to water and sanitation, their living conditions do not allow them to observe the hygiene requirements for protecting themselves from COVID-19;
- Because they live in highly congested spaces, they are unable to observe the social distancing measures;
- Because of the measures that have been taken in response to COVID-19, their livelihoods have been disrupted, exacerbating their already precarious life.

I wish to observe that these conditions of widespread vulnerabilities arising from the lack of provision of socio-economic rights in our continent is a result of:

- Major gaps in the social and economic policy of our States;
- The perpetuation of the legacies of colonialism and apartheid;
- Deficiencies in priority-setting in the development agenda of our Countries;
- The structure of our economies dependent on export of limited raw materials; and
- The economic development paradigm that our countries follow and the global financial and economic system champions.

In other words, the vulnerabilities of our societies that COVID-19 revealed are products of not only legacies of a historical past but importantly current and recent past wrong policy choices and governance failures on the part of our political and economic systems.

COVID-19 is also a human rights issue. It threatens the right to health and the right to life, the most fundamental of our rights. It is on this account that the African Commission issued the first statement of the AU human rights system on 28 February 2020. This has underscored the imperative and legal necessity within the framework

of Article 1 of the African Charter for States Parties to the African Charter to proactively take measures for protecting people from the threat that COVID-19 poses to their health and lives.

The nature of COVID-19 response measures and how States go about enforcing these measures have led to the emergence of a wide range of governance and human rights problems. The concern is that we face the danger of the COVID-19 pandemic descending into a human rights emergency.

We have noted in the course of this pandemic large number of human rights issues coming to the fore. These range from excessive use of force by security forces, the spike in gender based violence, and exclusion of refugees, IDPs, asylum seekers and migrants from protection measures. It is within this context that the African Commission issued a statement on 24 March 2020 providing detailed guidelines for ensuring that the response to COVID-19 comply with the standards and principles of the African Charter, seeking to address the various rights issues raised while States were responding to the pandemic.

For us in the African human rights system, it is not simply the human rights issues arising from the response measures that is a major preoccupation. One other major area of preoccupation is the severe socio-economic and humanitarian consequences of COVID-19 and the response measures adopted within the continent and globally.

It is not simply a health challenge. Even as a health challenge, for us it also essentially constitutes a pressing human rights issue. The morbidity and mortality that the virus causes, represent serious threats to the rights to health and life of people. Considering the poor state of the health systems of our Countries, our Commission in a statement it issued on 28 February 2020 urged States Parties to the African Charter to discharge their obligations under Article 1 of the Charter to safeguard the public from threats to their health and lives by instituting preventive measures proactively, making our Commission the first AU institution to respond to the threat of COVID-19.

More importantly, for us in the human rights community, COVID-19 and its consequences are transforming existing human rights issues in to the most serious and pressing human rights challenge of our time.

Supply chains have been disrupted. Demand for resources has fallen, creating revenue loss for a number of countries including South Sudan for whom oil accounts for 98% of total exports. Remittances have dropped sharply, affecting many countries on the continent for whom remittances constitute major sources of foreign currency. The airline and tourism sectors have been disrupted. The debt burden of the continent

reaching 64% of the continent's total GDP in 2020, has left limited or no fiscal policy space for taking mitigating measures.

According to the World Bank, in Sub-Saharan Africa, "the pandemic has sparked the region's first recession in 25 years, with economic growth projected to decline from 2.4% in 2019 to between -2.1 to -5.1%".<sup>1</sup> With up to 89 percent of those employed on the Continent being employed in the informal sector, lockdowns, curfews, closure of markets and banning of gatherings, have led to the loss of many livelihoods, which according to the OECD could "erase years of development gains".<sup>2</sup>

As African economies go into depression, millions of people face loss of jobs and livelihoods. Tens of millions of people are projected to be pushed to extreme poverty. World Food Program (WFP) warns that in the context of COVID-19 many people, particularly those in conflict affected countries especially women and children, face being pushed to the brink of starvation, with the specter of famine in regions affected by violence and conflict a very real and dangerous possibility. The youth, who constitute a sizable portion of the population on the continent, face not only loss of current opportunities but also a future with no or limited social and economic prospects.

It was against this background that myself and the High Commissioner for Human Rights, Ms Michelle Bachelet, issued a joint statement on 20 May. Highlighting the catastrophic impact of these widespread socio-economic consequences of COVID-19 on human and peoples' rights in Africa, our statement underscored that global solidarity involving economic relief measures by way of debt relief or restructuring measures is a human rights necessity.

I express the view of the Commission in saying that such global action together with national mitigation measures directed to strengthen Africa's health systems, maintain food supplies, avoid a financial crisis, support education, protect jobs, keep households and businesses afloat, and cushion the continent against lost income and export earnings, are the pre-requisite to prevent the socio-economic and humanitarian consequences of COVID-19 from becoming a human rights catastrophe for the continent.<sup>3</sup>

**Dear brothers and sisters, fellow Africans**

---

<sup>1</sup> <https://www.worldbank.org/en/events/2020/06/13/the-economic-impacts-of-covid-19-and-world-bank-support-to-africa-roundtable>

<sup>2</sup> <https://www.oecd.org/coronavirus/policy-responses/covid-19-and-africa-socio-economic-implications-and-policy-responses-96e1b282/#section-d1e115>.

<sup>3</sup> [https://mg.co.za/africa/2020-07-02-au-rights-leader-warns-of-human-rights-disaster/?utm\\_medium=Social&utm\\_source=Facebook#Echobox=1593779320](https://mg.co.za/africa/2020-07-02-au-rights-leader-warns-of-human-rights-disaster/?utm_medium=Social&utm_source=Facebook#Echobox=1593779320)

Over the course of the past many years, Africa's economic growth performance has been hailed, giving rise to the 'Africa rising' narrative. While there is no doubt about the GDP growth that large number of African countries registered over the years, this has been a growth that has not changed the lot of the masses of people on the continent languishing in poverty.

Indeed, the COVID-19 pandemic has exposed the hollowness of this growth narrative, the pervasive fragilities of the economies of the continent and the deep inequalities which pervade most African societies. The arrival of COVID-19 laid bare the pervasiveness of poverty, lack of social protection, limited access to water and poor sanitation, instability and conflict, expanding environmental degradation and lack of access to basic health care and decent housing.

This means that we have serious challenges awaiting us. These conditions would have catastrophic consequences for the rights of the most vulnerable in particular.

Both the structural vulnerabilities and the new emerging challenges that COVID-19 has triggered necessitate that we probe and put on trial the nature of our social and economic systems of governance and indeed the model economic development prevalent on the continent.

These conditions necessitate that we rethink the focus or target of our economic development efforts. There is a need for a shift from economic development whose primary focus is in securing GDP growth irrespective of its contribution to improvement in the standard of living of people to one that focuses on human development.

We need to change the policy orientation in which socio-economic rights are marginalized. We need to change the policy orientation leading to the commodification of access to socio-economic rights, removing the prospect of fulfilment of these rights for the poor and most vulnerable.

From the dusts of COVID-19, we need to articulate and develop social and economic development policy that invests in socio-economic rights, that affirms these rights and their public funding as collective public good and as fundamental rights.

This is not only a human rights necessity but also a smart policy.

Such social and economic development policy that affirms socio-economic rights as fundamental rights and as fundamental public goods demands that we revisit the role of the State. The rights enshrined in the African Charter demand and require a highly capable and accountable State. These rights demand a State that has the policy space

to make policy choices for crafting a development path that tackles the socio-economic and ecological vulnerabilities of our societies, the gendered and generational inequalities and racism that affect our people within and outside of the continent.

### **Excellencies, ladies and gentlemen**

The challenge before us is therefore: Can we seize the opportunity that this pandemic presents for rethinking development policy? For rethinking leadership and our systems of governance? For articulating and building constituency and mobilize funding for a new human-centered development paradigm? For redefining state-society relationship and for changing the highly dysfunctional social contract on which existing patterns of inequalities, mis-governance, and gender oppression are founded?

The window of opportunity for doing these is narrow. The forces of status quo will come back, and will do so with a vengeance to return the 'old normal' unless we create facts on the ground by articulating and mobilizing the masses of our people around a human centered development and governance paradigm drawing on the values and principles of the African Charter on Human and Peoples' rights.

Will we rise to the occasion and take appropriate action to change the fundamentals on the ground?

What is the hope that we should articulate to our people, the hope we should articulate to the masses of our youth?

It is on us, the human rights community, States Parties to the African Charter, civil society organizations, NHRIs and International organizations to take this challenge and respond very forcefully.

This is also a generational challenge that we should not fail to address. It is a challenge of developing and rolling out a people's agenda for a socially just and ecologically sustainable development for a post-COVID-19 Africa, which will address the various human rights issues that were highlighted by speakers who spoke before me.

Useful points of departure for developing the blueprint for this new approach that tackles head-on the human rights issues of our time is to be found in a report that Philip Alston, the UN Special Rapporteur on extreme poverty and human rights, submitted to the UN Human Rights Council on 2 July 2020. As he put it, "[t]he world is at an existential crossroads involving a pandemic, a deep economic recession, devastating climate change, extreme inequality, and an uprising against racist policies." The report accordingly proposes the following corrective measures "(i)

reconceiving the relationship between growth and poverty elimination; (ii) tackling inequality and embracing redistribution; (iii) promoting tax justice; (iv) implementing universal social protection; (v) centering the role of government; (vi) embracing participatory governance; and (vii) adapting international poverty measurement.”

### **Your Excellencies, Ladies and Gentlemen**

As you will have seen on the Agenda, in relation to the Item 3 on the Human Rights Situation in Africa, the Commission has exercised its prerogative to focus the discussion on an issue of specific concern. Therefore, the Special Focus of this engagement will be on Human and Peoples’ Rights and COVID-19.

We look forward to engaging with all stakeholders on the challenges which have arisen across the Continent in this context and to hear about some of the measures that have been taken to address and prevent such human rights violations from occurring and about the priorities that should inform policy making not only in relation to COVID-19 but also the human rights issues of our time – deepening inequalities, pervasive poverty, racism, sexism, the democratic governance crisis and the climate emergency post-COVID-19. Of course, at the African Commission we are also cognizant of the human rights issues that affect many people on our continent beyond COVID-19. These continue to be issues of continuing concern for the African Commission and we urge States to shoulder their obligations under the African Charter.

In conclusion, I would like to extend our gratitude to the various stakeholders of the Commission attending this Session, particularly given the difficult circumstances under which it is taking place, as well as the virtual nature of the Session. Your continued interest and support to the Commission is one of the main factors which has contributed to the success of its Sessions. I would also wish to thank my colleagues the Vice Chairperson, the members of the Commission, the Acting Executive Secretary and staff of the Secretariat for the great work that has been accomplished to put together this Session.

With this, I would like to thank all of you for your kind attention and look forward to a very productive and ground breaking session.

Thank you very much!