Final Communique of the 10th Ordinary Session of the African Commission on Human and Peoples' Rights


3. The session was attended by the following members:-

i) Dr. Ibrahim Ali Badawi El-Sheikh
ii) Mr. Alioune Blondin Beye
iii) Mr. Ali Mahmoud Buhedma
iv) Mr. Robert Habesh Kisanga
v) Mr. Moleleki d. Mokama
vi) Mr. Sourahata B. Semega Janneh
vii) Mr. Chama L.C. Mubanga-Chipoya
viii) Mr. Isaac Nguema
ix) Prof. U.O. Umozurike

4. The opening ceremony was presided over by Prof. Umozurike, the outgoing chairman of the Commission and His Excellency, the President of the Republic of The Gambia was represented by the Honourable Hassan b. Jallow, Attorney General and Minister of Justice.

5. After the welcome address by Professor Umozurike other speeches were made by:

- The Honourable Hassan B. Jallow, Attorney General and Minister of Justice representing the President of the Republic of The Gambia.

- Mr. Robinson, chairman of the Inter-American commission on Human Rights;

- Mr. Falk, representing the United Nations Under-Secretary General for Human Rights;

- Mr. Adama Dieng, Secretary General of the I.C.J. and

- Mr. N. Mutsinzi, the Secretary to the African Commission on human and Peoples’ Rights representing the secretary General of the O.A.U.

6. In his statement the honourable Hassan B. Jallow assured the Commission of the enduring commitment of the Gambian Government to the facilitation of the work of the Commission by providing the necessary assistance to enable it achieve its objectives.

7. On commencement of their formal deliberations, the recently re-elected members of the Commission, at the 27th Ordinary Session of the Assembly of Heads of state and Government, took their oath of office.
The newly re-elected members are:
- Mr Robert Habesh Kisenga
- Mr. Chama L.C. Mubanga-Chipoya
- Prof. U.O. Umozurike

8. Following the expiry of the two year term of office for Umozurike and Gabou elected on 24th November, 1989 as Chairman and vice-Chairman, respectively, the Commission in conformity with Rule 17 of the rules of Procedure elected as Chairman: Dr. Ibrahim Ali El-Sheikh and as Vice-chairman: Mr. Chama L.C. Mubanga-Chipoya.

9. The Commission deliberated, in particular, on the following topics:
   i. Observers:
      a. Requests for observer status;
      b. Consideration of the conclusions of the workshop Organised by the ICJ and the African Centre for Democracy and Human Rights on NGO participation in the work of the African Commission
   ii. Matters arising from the preceding Session:
      a. Report of the Chairman;
      b. Reports of the members of the Commission;
      c. Report of the Secretary
   iii. Activities of the Commission:
      a. Protective activities;
      b. Promotional Activities;
   iv. Consideration of Period Reports.
   vi. Consideration of the rule of Procedure.
   vii. Report of the activities of the OAU relevant to the Commission
   viii. date, venue and agenda of the 11th Session.
   ix. Adoption of the report of the 10th Session;
   x. Final Communique

10. Following consideration of their requests the Commission granted observer status to the following NGOs;
    1. International Human Rights Law Group;
    2. Minesota Lawyers International Human Rights Committee;
3. Federation Internationale de l’Action des Chretiens pour l’abolition de la Torture (FIACAN);
4. African Union of Lawyers;
5. Groupe d’Etude et de Recherche sur la Democratie et la Developpement economique et social;
6. Anti-Slavery International for the Protection of Human Rights;
7. Congressional Human Rights Foundation;
8. La ligue Ivoirienne des droits de l’Homme;
9. L’Association des Juristes Africains (AJA);
10. L’Association pour la promotion de l’etat de droit (APED);
11. Recontre Africaine pour la defense des Droits de l’homme (BADDHO);
12. the Decade of Human Rights Education, INC (DHRE);
13. Marangopoulos foundation for Human Rights (MFHR);
14. Legal Research and Resource Development Centre;
15. Organisation mondiale contre la torture;
16. International service for Human Rights;
17. International League for Human Rights;
18. Groupe d’etude et de Recherche sur le Democratie et la Developpement Economique et Social;
19. L’Association Nationale des Droits de l’Homme (GABON)

The following were given observer status subject to their presentation of their basic documents.

11. On obtaining observer status the NGOs expressed the gratitude to the Commission and reaffirmed their respective commitment to the promotion and protection of human Rights in Africa.

12. Commission learned from the statement of Chairman of the Inter-American Commission who cited examples of measures which the African Commission could utilize to enhance its own performance. Measures such as, inter alia, possibility of carrying out investigations in states Parties; the possibility of undertaking actions and adopting interim measures in order to avoid irreparable prejudice to victims of human rights violations; measures to be taken to counter delaying tactics used by some member states to impede settlement of cases presented to the Commission; and, the possibility of visiting prisons, preparing special reports on human rights situations in a given country and exempting local complainants from stipulations governing the exhaustion of local procedures for approval.

13. On the role of the commission and the NGOs in the discharge of their protective and promotional functions the NGOs emphasized:
- The need for members of the commission to enjoy full diplomatic immunity while engaged in these activities even in their own countries;

- The need to simplify the rules of procedure resulting in the reduction of delays in settling communications thereby enabling the Commission to intervene with greater efficiency in emergency situations;

- The need for the Commission to act with greater audacity in carrying out its assigned functions.

- The need to improve the effectiveness of the Secretariat of the Commission by developing dynamic methods in discharging its functions and making maximum use of the efforts of the members of the Commission.

14. The newly elected Chairman, Dr. Badawi, the commissioners and the Secretary submitted their reports on their respective activities in the inter session period. The fruitful discussions on these reports led to various observations and suggestions.

15. The Commissioners agreed to a reorganisation of the list of countries for each member for the purpose of their direct promotion and protection activities in these countries, an exercise first enunciated at the 8th ordinary session.

16. The continuing decline of the resources allocated to the Commission by the OAU, brought about by the difficulties encountered by the OAU in recovering the total amount of budget contributions, remains a source of great worry to the Commissioners. In this regard the Commission received with gratitude grants from organisations such as the UN Centre for Human Rights:

- UNESCO
- EEC
- DANIDA
- The Raoul Wallenberg Institute of Human Rights and Hummanitarian Law.

17. The Commission appreciated a Commissioner to work out ways of systematic utilization of the funds made available to it and to establish an appropriate and reliable machinery for hiring personnel to help it acquire equipment for use as its headquarters and whenever it might hold its sessions. Another Commissioner was requested to indicate additional ways to which the DANIDA fund could be put towards the efficient fulfilment of its promotional activities.

18. Among other seminars and discussions the members of the Commission may hold or attend in their promotional activities, the Commission decided to send a representative to the seminar to be held from 29 November to 2nd December 1991 in Tunis organised by the Arab Institute for Human Rights and the Tunisian League for defence of Human Rights on Criminal Law and Penal Reform, who are to provide lodge and boarding free of charge.

19. Continuing with their direct contact efforts in their promotional and protection work the Commission considered complaints from parties other than states, which consisted of:

- Cases already declared admissible;
- New cases coming in for the first time.
Regarding the new cases, the Commission decided to treat them according to article 55 of the Charter and directed that the communicates should be brought to the knowledge of the states concerned requesting them to respond within two months, simultaneously, the authors of the complainants are to be asked whether they exhausted local remedies.

In appropriate complainants, when all the other considerations justify such a step, article 58(3) of the Charter requiring that the Chairman of the Assembly of Heads should be addressed, has been evoked. In, yet, other cases Rule 109 of the Rules of procedure has been utilized to approach the Head of state concerned.

20. The subject of revising the Rules of Procedure was also tackled and a Commissioner appointed to consolidate what suggested improvements have been made for a full debate of the matter at the coming season.

21. Mindful of the need to monitor the Human and Peoples’ Rights situations in the State Parties and to establish a dialogue with them, the Commission vigorously tackled the matter of periodic reports from states. The Commission formally directed a number of questions to the states concerned in an effort to lay out a foundation on which to build this work according to Guidelines already prepared. It has also been indicated to the states concerned on which dates their reports would be considered at the next session.

22. Ever mindful of the situation of apartheid in South Africa and since the Commission has received reports of the continuing violence in that country and noting with sadness from these reports much of the violence appears to be sponsored, encouraged or supported by the government. And following the recent signing of the National Peace Accord, by organisations including the African National Congress, the Inkatha Freedom Party and the South African government, intended to end this violence.

The Commission:

a. Condemns the use of violence to settle disputes by anybody in south Africa and in particular, the recent massacre of 18 people in Thokoza near Johnannesburg.

b. We appeal to the government to comply with its undertakings under the National Peace accord;

c. We call on the government to accede to the demands of the majority of South Africans for the establishment of an interim government and a constituent assembly;

d. In keeping with the preamble of the Charter of the organisation of African Unity requiring total commitment to the elimination of apartheid, we call upon the Heads of States of the OAU to consider carefully the Human Rights conditions prevailing in South Africa before forging any links with the government of that country.

e. We recommend to the ICJ to send another fact finding mission to south Africa to monitor the Human Rights situation and to investigate in particular the recurrent violence.
25. The Commission decided to hold its 11th Session from 2 to 9 March 1992 in a country to be named and that, in future, ordinary sessions will be held during the first half of March and the second half of October each year.

DONE IN BANJUL 15 OCTOBER, 1991