Final Communique of the 12th Ordinary Session of the African Commission on Human and Peoples' Rights

Banjul, The Gambia - 21 October 1992


2. This Session was preceded by the meeting of a workshop jointly organized in The Gambia from 9 to 11 October, 1992 by the International Commission of Jurists and the African Centre for Democracy and Human Rights Studies on the following themes:

   i. the need to revise the rules of procedure of the Commission;

   ii. the need to formulate guidelines on the exhaustion of national remedies;

   iii. the Right to development;

   iv. the rights of women especially the appointment of women commissioners.

3. This Session was attended by the following commissioners:

   - Dr. Ibrahim A. Badawi EL-SHEIKH - Chairman
   - Mr Sourahata B.S. JANNEH - Vice Chairman
   - Mr Alioune Blonndin BEYE
   - Mr Ali Mahmoud BUHEDMA
   - Justice Robert Habesh KISANGA
   - Mr. Youssoupha NDIAYE
   - Mr. Isaac NGUEMA
   - Professor U.O. UMOZURIKE
   - Dr. Mohammed H. Ben SALEM

4. The Commission observed a minutes’ silence in memory of the victims of Civil War, internal conflicts, drought and famine raging in Somalia and many other parts of Africa and the martyrs of acts of violence in South Africa. During its third sittings the members of the Commission and NGO representatives also observed a minutes’ silence in memory of the victims of the recent earthquake in Egypt.

5. the opening Session was held on 12 October 1992 at 10am at the Kombo Beach Hotel NOVOTEL in the presence of the Attorney General and Minister of Justice, Honourable Hassan JALLOW and the following dignitaries:

   - Ambassadors and Heads of Diplomatic Mission;
   - Representatives of International and African NGOs;
   - Representatives of the Press and other invitees.
6. In his introductory speech, Dr. Badawi EL-SHEIKH stated that the Commission is confronted with the task of addressing the serious human rights situation in Africa. Furthermore, the Chairman stated that the OAU has demonstrated its willingness to promote and protect rights by its Resolution on the African Commission adopted at its 28th Ordinary Session held in Dakar, Senegal. In his speech, Dr. Badawi noted that the Commission is facing a certain number of constraints such as an inadequate secretariat and limited financial resources. The Commission has however managed to attain some of its objectives.

7. The proceedings of the Commission mainly focused on four major issues, viz:

1. adoption of a programme;
2. consideration of periodic reports;
3. consideration of complaints;
4. administrative and financial matters;
5. consideration of the right to development.

8. At the beginning of its proceedings, the Commission heard, on the one hand, a certain number of statements and, on the other hand, the conclusions of the workshop organized by the forum of NGOs before the Sessions.

9. In their interventions, the representatives of governmental and inter-governmental organisations underscored the resolve of their organisations to help and assist in the functioning of the Commission to enhance the promotion and protection of human rights in Africa. These were the essence and thrust of the statements made notably by:

- Mr. Christopher HALL of Amnesty International;
- Mr. Salim A. SALIM of the Libyan Arab League;
- Mrs. Iris ALMEIDA of the International Centre for Human Rights and “Democratic Development”;
- Dr. Amin M. MEDANI of the Sudan Human Rights Organization
- Salem MEZHOUD of Anti Slavery International;
- Dr. Tunji ABAYOMI of Human Rights Africa;
- Dr. S. GUTTO of Network on Integrated Human Rights in Africa (NARIHRA)

10. In presenting the report of the workshop organized by the International Commission of Jurists and the African Centre for Democracy and Human Rights Studies, Mrs Mona RISHIMAURI and Dr. Philip AMOAH of the ICJ thanked the Commission for accepting its offer to explore ways of initiating a preliminary study on the question of women’s rights and peoples’ rights. He stated that NAHAHRA will consult women’s organisations and NGOs in observer status with the Commission in carrying out the exercise. The representative called on the Commission to address the problems of structural adjustment and to organise a seminar on the subject. He also stated that his Organisation will conduct a preliminary investigation on the subject and make proposals to the Commission. The representative of Amnesty International reported on the measures adopted by his Organisation to assist the Commission in the discharge of its functions.
11. Dealing with its programme of action and New Methods of Work, the Commission drew up a calendar of seminars it intends to organize either on its own or jointly with other international organization. In this regard, the Commission, reiterated its will to organize:

i. A Seminar on “How the African Charter on Human and Peoples’ Rights has been received in the Legal system of States Parties to the African Charter: (Banjul from 26 to 30 October 1992).

ii. A Seminar on the role of the African Media in the promotion and protection of Human Rights; (Tunis 31st December to 1st January 1993);

iii. A Seminar on Africa Refugees and Internally Displaced Persons;

iv. A Seminar on Popular Participation and Informal Education;

v. A Seminar on Post-Apartheid South Africa (early January 1993);

vi. A Seminar on the right to Fair Trial;

vii. A Seminar on the Role of Women under the African Charter;

viii. Meeting of the Inter-sessional working group of the African Commission on Human and Peoples’ Rights; (Banjul, mid January 1993).

Regarding its methods of work, the Commission decided as follows:

- adoption of an organizational chart for the Secretariat and the need to recruit the necessary staff;

- the publication of the fifth annual activity report of the Commission and the edition of the Review of the Commission;

- the publication of annual reports and other documents of the Commission including the periodic report.

12. During its deliberations, the Commission examined the periodic reports submitted by the Republic of Senegal (initial report and report No. 1), the Republic of Zimbabwe (initial report) and the Republic of The Gambia (initial report).

The purpose of the consideration of these reports is to asses the legislative and other measures taken by the States to give effect to the rights and liberties recognised and guaranteed by the African Charter on Human and Peoples’ Rights.

13. The commission expressed satisfaction of the usefulness and relevance of the constructive dialogue established between the Commission and States concerned and thanked the Governments of the Republic of Senegal, the Republic of Zimbabwe and the Republic of The Gambia for their reports and their willingness to cooperate with the Commission.

14. It appealed to state who have not yet submitted their reports to do so as soon as possible.

15. Regarding complaints pertaining to allegations on Humans Rights violation in some African Countries the Commission examined 24 old communications and 10 new communications. After
taking the appropriate decisions in each case the Commission deplored the administrative delays encountered in the consideration of complaints.

16. Under promotional activities, the Commission received the report of Commissioner NDIAYE on the mission sent to Mali to monitor the Presidential Elections. This mission was a success and the elections free and fair.

17. The Chairman also informed the Commission that its annual report was well received by the Assembly of Heads of State and government of the OAU. In this regard, the Assembly adopted a resolution requesting that the Commission be provided with the requisite resources for the implementation of its programme of activities.

18. The Commission learnt with consternation the death of Mr. Orton CHIRWA whilst in detention together with his wife for their political beliefs.

The Commission recalls that this regrettable incident occurred whilst it has been seized with this case and one of its members was carrying out appropriate on-the-spot investigations.

The commission expresses to the family of the deceased its most profound sympathy and reiterates its alarming concern about the fate of the spouse who is still in detention.

19. On the last day of its session the Commission noted with stupefaction the recent mass expulsion of Nigeria Nationals living in Gabon. The Commission reminds State Parties to the Charter on Human and Peoples’ Rights that these measures coming in the wake of others taken recently constitute a flagrant violation of the relevant provisions of Article 12 paragraph 5 which expressly stipulates as follows:

“The Mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups”.

20. As regards the venue of the 13th Session, the commission agreed to wait till end of December for the response of the Government of Botswana. Otherwise the 13th Session will be held in Banjul during the first fortiethnight of April 1993.

DONE IN BANJUL, ON 21 OCTBER 1992