
1. The report was presented by the President of the African Commission on Human and Peoples’ Rights.

2. Following the presentation, the following observations were made:
   
   i) The Burundi delegation stated that it totally rejected the allegations contained in the report regarding the human rights situation in Burundi. It indicated that the inter Burundian dialogue is on-going and the security situation is gradually returning to normal and expressed regret that the report failed to mention some of the developments such as the attempted coup d’Etat and the military action by rebel forces, concluding that the Government has the duty to protect the country’s population and security institutions.

   ii) The Democratic Republic of Congo is committed to the promotion and protection of human rights. That is explains why it has credible and functional institution for the promotion of human rights. Six of such institutions are operational and autonomous. Furthermore, the President of the Republic, H.E. Joseph Kabila has included in his cabinet personal representative in-charge of the fight against gender violence and recruitment of child soldiers into the army. Also the Chairperson of the African Court of Human and Peoples’ Right acknowledged and congratulated the DRC for agreeing to welcome a promotion mission in August 2016. The trend should be reversed in favour of field-mission-based approach. The ACHPR should recognize the positive developments that have taken place in the DRC in recent months. It is therefore fair to remove the DRC from the countries on the list of situations of concern, pending the conclusions of the impending field mission;
iii) The Libyan delegation rejected the allegations of human rights violation in the country and argued that the human rights situation in Libya should be considered in the context of the fight against atrocities and threats posed by a small group belonging to the Islamic State. Consequently point Xb xxi dealing with human rights concerns in Libya should be deleted. It is rather Libya which is the victim of repeated attacks by IS;

iv) The Malawi delegation highlighted the affirmative action the Government of Malawi is undertaking against the perpetrators of the abduction, maiming and killing of persons with albinism. These measures include; inter alia, mass sensitisation of the general public to stop this vice; instituted a special task force to stop the vice; and amended its laws to allow for stiffer penalties for perpetrators of this vice which include life sentence for those found guilty;

v) The Ethiopian delegation explained that the Commission's assertion on paragraph 27-b(vi) which refers to the "violent repression of Oromo's demonstration in Ethiopia" as an area of concern, an assertion which the ACHPR has reached without any investigation, does not reflect the reality on the ground. The delegation further elaborated that the situation in the Oromia Regional State of Ethiopia returned to normal and an investigation into the unrest was conducted by the independent Ethiopian Human Rights Commission whose report will soon be transmitted to the ACHPR. Finally, the delegation requested an amendment of the language in a manner that reflected the actual situation.

vi) The Tanzania delegations highlighted a number a preventive, protective, legislative, security and sensitization measures undertaken by the Courts of Tanzania in addressing these challenges which are perpetrated by a few criminal elements.

vii) The Congo delegation disputed paragraph 27 b/ix who did not take into account the positive developments that have marked the recent political history of its country; and called on the ACHPR to show more objectivity;

viii) The Algerian delegation stated that the worrying situation in Western Sahara justified that it should be included in the list of areas of concern. The delegation further indicated that the issue of the fight against terrorism included in the recommendations addressed to the Assembly of Heads of State and Government should be put into contextualize to include de-radicalization and also take into account the fact that terrorism in itself a violation of human rights.
ix) The Saharawi Arab Democratic Republic delegation requested that the resolution on the human rights situation in its country should feature in the section of the report devoted to "Areas of concern, contending that the occupying power is guilty of serious human rights violations in the territory of its country;

x) The Eritrean delegation expressed the country’s readiness to strengthen its engagement with the ACHPR and informed that Eritrea is taking measures to submit its periodic reports to the Commission. The delegation requested the ACHPR to expedite the review of the process of granting observer status to NGOs and representation before the Commission.

xi) The Zimbabwean delegation provided detailed explanation on the criminalization of early marriages by the country’s Constitutional Court; the legal marriage age is 18 years and any marriage entered into before the said age limit is punishable by law;

xii) The Sudanese delegation requested that the administrative referendum held in April 2016 in Darfur should be included in the positive developments and proposed the wording of paragraph 27 (b) (vii) which did not take into account the positive peaceful development that have taken place in South Kordofan and Blue Nile.

xiii) The Egyptian delegation while welcoming the report, observed that most cases referred to the ACHPR were based on European oriented laws and that Africa must distance themselves from the Western world’s view of rights and its perception. Egypt values its cooperation with the ACHPR as the Charter, by submitting the necessary replies to the latter's queries, however the former believes that the ACHPR should direct all its requests to Egypt through the ordinary diplomatic channel and not to the President of the Republic.

xiv) The Equatorial Guinean delegation explained that his country’s report on the state of human rights has been finalized; it has not yet been sent to ACHPR for technical reasons related to the translation of the Spanish document to the AU working languages;

xv) The Rwanda delegation said that the ACHPR has nothing to be concerned about Rwanda’s decision as it is not a stepping back on the commitments of the Court or on the promotion or protection of human rights. Rwanda remains at the forefront of seeking for the granting of the criminal jurisdiction to the court. But in view of the Genocide against the Tutsis of 1994, where Rwanda and the whole
world lost 1 million people, Rwanda firmly believes that its court should never knowingly entertain a petition from a genocide convict or fugitive.

xvi) The Burkina Faso delegation said that the report failed to mention the coup in September 2015 which nearly undermined the transition process and rejected the recommendation made in paragraph 35/v demanding the repeal of defamation laws and others which limit freedom of expression; In actual fact Burkina Faso has decriminalized media offenses. This is a positive development that the report should have mentioned;

xvii) The Ghanaian delegation proposed the strengthening of dialogue between the ACHR and the Geneva based Human Rights so as not give room to those bent on demonizing African governments;

xviii) The Angolan delegation, while welcoming the quality of the report, expressed concern about the non-acknowledgment of its reports by the ACHPR.

3. The Chairperson of the PRC made the following general observations:

i) The ACHPR is an institution established and funded by the African Union to execute human rights mandate on the continent;

ii) Delegations have the right to make comments or to contest some allegations contained in the report;

iii) However, these observations should be measured by avoiding excessive statements which tend to suggest that the ACHPR is the appendix of foreign NGOs;

iv) It is advisable to make observations within the context of constructive criticisms aimed at improving the performance of the ACHPR.

4. The Chairperson of the ACHPR provided responses and clarifications as follows:

i) The ACHPR appreciated the high level of engagement and the constructive dialogue with State Parties ensuing from the consideration of its Report;

ii) The section of the Report of the ACHPR on the human rights situation on the continent was included pursuant to the decision of the Executive Council to that effect – EX.CL/Dec. 639(XVIII); and in reporting, the ACHPR includes both positive developments and areas of concern. This section is therefore included as
part of the ACHPR's responsibility to monitor the situation of human rights in Africa;

iii) The ACHPR collects information from various sources and tries to the best of its ability to verify the information. One of such sources are the statements made by national human rights institutions and non-governmental organizations during the ACHPR's bi-annual ordinary sessions, and State Parties always have the opportunity to exercise a right of response to such information being provided to the Commission;

iv) The ACHPR's fact-finding mission to Burundi as authorized by the PSC, was undertaken, utilizing the funds provided by the AU to the ACHPR. Also, the ACHPR could not access and meet with all the relevant stakeholders during the fact-finding mission to Burundi due shootings and ensuing lock-down that occurred in Bujumbura, on 11 December 2015;

v) The ACHPR welcomed and appreciated the steps being taken by Malawi and Tanzania to deal with the incidences of abduction, maiming and killing of persons with albinism in the respective countries;

vi) The ACHPR welcomed the authorization granted by the Democratic Republic of Congo to the ACHPR to conduct a Promotion Mission to the country in August 2016, which would help the ACHPR have a better appreciation of the human rights situation in the country, and to hold constructive engagement with the Government;

vii) The ACHPR appreciated the efforts being made by the Government of Ethiopia to investigate the matter reflected in paragraph 27(b)(vi) of the ACHPR Report, including by commissioning an investigation by the human rights Commission of Ethiopia, and requested the Government of Ethiopia to avail the report of the human rights Commission to the ACHPR, once the process is concluded;

viii) The comments by DRC, Libya and Kenya regarding paragraphs 27(b)(viii), (xxi) and (xii) of the Report, respectively, were addressed by the explanation regarding the sources of the ACHPR's information;

ix) In line with its practice, the ACHPR had informed Kenya by a Note Verbale about the decision in the Communication against Kenya; however, in line with Article 59 of the African Charter on Human and Peoples' Rights, the text of the decision would only be transmitted to Kenya after the authorization by the AU Assembly of this 40th Activity Report in which the decision is referenced;

x) The ACHPR welcomed the undertakings by Eritrea and Equatorial Guinea to submit their respective initial State Reports;
xi) The ACHPR took note of the request by Eritrea and Zimbabwe to expedite the process of the review of the criteria for granting observer status to NGOs, and further explained that the ACHPR is currently working on the review of the criteria;

xii) The ACHPR took note of the request by SADR to reflect its Resolution on the situation of human rights in SADR, under the areas on concern in the Report;

xiii) The ACHPR welcomed the clarification provided by Zimbabwe on the decision of the Constitutional Court of Zimbabwe on the illegality of child marriage;

xiv) The ACHPR took note of the request by The Sudan to include the administrative referendum that took place in Darfur in April 2016, under the areas of positive development in the Report; and also appreciated the update The Sudan provided on the improved situation in the Southern Kordofan and Blue Nile States;

xv) The ACHPR welcomed the observations of Congo on the Report, and called on the State to grant authorization requested by the ACHPR to undertake a promotion mission in the country;

xvi) The Chairperson clarified that it is the practice of the ACHPR to address Letters of Urgent Appeal and Requests for Provisional Measures to Heads of States, which are transmitted through the ministries of foreign affairs of the relevant countries, and that the ACHPR has not had any problem with this practice, as indeed, it had on some occasions received positive responses from Heads of States;

xvii) The Chairperson stated that whilst recognizing that accession to and withdrawal from the declaration under Article 34(6) of the Protocol establishing the African Court on Human and Peoples' Rights is voluntary, the ACHPR is concerned about the withdrawal of Rwanda from the declaration because it limits the access of NGOs and individuals in the country to the Court, given that the ACHPR has always advocated for the ratification of all human rights treaties, including the Court's Protocol and the declaration under Article 34(6), for the increased protection of human rights. It is against this background that the ACHPR requested Rwanda to reconsider its withdrawal;

xviii) The 2014 coup d'état in Burkina-Faso was outside the reporting period covered by the 40th Activity Report of the ACHPR, and was appropriately reported in the relevant activity report at that time;

xix) The ACHPR has a collaborative relationship with the UN Human Rights Council in Geneva, especially through the Office of the High Commissioner for Human Rights, but perhaps this relationship needs to be strengthened;
xx) The ACHPR clarified that Angola only has 2 outstanding State Reports;

xxi) Regarding the requests to make changes to the Activity Report of the ACHPR, the Chairperson explained that the Report she was presenting is the Report of the activities of the ACHPR during the reporting period which was adopted by the ACHPR as a collective, and that she only had the mandate to present it and not to change its contents. She added that, nonetheless, she had taken note of the concerns raised by the various State Parties, and would duly take them back to the collective that she leads;

xxii) The ACHPR Chairperson concluded by inviting State Parties to join in the commemoration of the African Year of Human Rights, with particular focus on the Rights of Women, which would take place during the 59th Ordinary Session of the Commission, scheduled to hold in Banjul, Islamic Republic of the Gambia, from 21 October – 5 November 2016.