STATEMENT ON BEHALF OF PARTICIPANTS OF THE FORUM OF NGOs
AT THE OFFICIAL OPENING OF THE
59TH ORDINARY SESSION OF THE AFRICAN COMMISSION ON
HUMAN AND PEOPLES’ RIGHTS,
21ST OCTOBER 2016
KAIRABA BEACH HOTEL, BANJUL, THE GAMBIA

Honourable Attorney General and Minister of Justice of the Republic of The Gambia, Mrs. Mama Fatima Singateh, representing the Vice President and Minister of Women’s Affairs, Dr. Isatou Njie-Saidy;

Honourable Susan Shabangu, Minister of Women in the Presidency of the Republic of South Africa, speaking on behalf of African Union Member States;

Your Excellency, Madame Aicha L. Abdulahi, Commissioner for Political Affairs, African Union Commission representing Dr. N. Dlamini-Zuma; Dr. Khabele Matlosa, Director for Political Affairs and other members of the AU/DPA Delegation;

Honourable Chairperson of The African Commission on Human and Peoples’ Rights (ACHPR), Madame Pansy Faith Tlakula; Hon. Vice Chairperson, Madame Soyata Maiga and Honourable Members of the African Commission on Human and Peoples’ Rights;

My Lord, Honourable Justice Sylvain Ore, President, African Court on Human and Peoples’ Rights; Hon. Members of the African Court on Human and Peoples’ Rights (AfCHPR);

Honourable Joseph Ndayisenga, Second Vice-President and Members of the Committee of Experts on the Rights and Welfare of the Child;

Hon. Brigitte Mabandla, Member of the African Peer Review Mechanism Panel

Mr. Joseph Chilengi, Returning Officer, ECOSOCC, African Union Commission

Honourable David Makiese, Acting Chairperson, African Union Commission on International Law;

Hon Daniel Batidam, Chairperson, African Union Advisory Board on Corruption; Hon. Members of the African Union Organs here present;

Heads of Delegations, Representatives of African Union Member States;

Mme. Madlene Nirera representing Members of the Network of National Human Rights Institutions;

Hon. Justice Emmanuel Fagbenle, Chief Justice of the Islamic Republic of The Gambia,

Your Excellencies, The Dean and Members of the Diplomatic and Consular Corps;

Honourable Ministers of The Islamic Republic of The Gambia,

Honourable Members of the National Assembly;

Distinguished Members of the African Centre for Democracy and Human Rights Studies Governing Council;
Distinguished Members of the NGO Forum Steering Committee;
Distinguished State Representatives;
Venerable Religious and Traditional Leaders;
Representatives of National Human Rights Institutions;
Representatives of National and International NGOs;
Representatives of the Press;
Distinguished Ladies and Gentlemen;
All protocols respectfully observed

Thirty years is indeed a milestone! It is an important time in the life of any institution to take stock and allow oneself to celebrate success and look back on those moments you could have changed the hands of time, given the opportunity. It is also a time to make a sober plan for the future to which the experience of the past can only add value.

On this historic African Human Rights Day which marks the 30th Anniversary of the entry into force of the African Charter on Human and Peoples’ Rights, it is indeed an honour to deliver this statement on behalf of my colleagues of the Forum on the Participation of NGOs in the 59th Ordinary Session of the African Commission on Human and Peoples’ Rights. Allow me at the onset, to congratulate the Chairperson and Members of the African Commission and to thank them for affording all the participants this singular opportunity to join in celebrating this auspicious occasion.

Your Excellencies, Distinguished Ladies and Gentlemen

On behalf of The Forum, I would wish also to convey our gratitude to the Government and people of The Gambia for facilitating the activities of the 59th Ordinary Session and to express the appreciation of the Forum of NGOs for the hospitality and warmth accorded them since their arrival on the soil of the smiling coast of Africa.

Your Excellencies, Distinguished Ladies and Gentlemen,
The Forum on the Participation of NGOs in the 59th Ordinary Session on the African Commission on Human and Peoples’ Rights (The Forum) and the 33rd African Human Rights Book Fair, organised and facilitated by the African Centre for Democracy and Human Rights Studies in collaboration with the African Commission on Human and Peoples’ Rights, and the CSO Forum for the Committee of Experts on the Rights and Welfare of the Child (The CSO Forum) was held at the Paradise Suites Hotel from 17th - 19th October, 2016. It should be noted that this is first time that the two Forums have come together considering their common goal in the promotion and protection of human rights Africa. I would like to take this opportunity to pay tribute to Dr. Abiola Tilley-Gyado of Plan International one of the main sponsors and founders of The CSO Forum.

About 200 representatives from 28 African countries participated including participants from Denmark, France, Ireland, Switzerland, The United Kingdom, and The United States of America.

In keeping with the celebration of thirty years since the entry into force of the African Charter on Human and Peoples’ Rights this year, the Forum also adopted the theme ‘Women’s Rights – Our Collective Responsibility’.

The African Charter on Human and Peoples’ Rights is the forerunner of many human rights instruments in the region, whose compliance have established mechanisms which have contributed to the building of jurisprudence and made laudable contributions to international human rights law in its communications.

As witnesses of this momentous session of the African Commission, the Forum would like to take this opportunity to congratulate all Commissioners, all Member States and most especially the people of Africa for whom the Charter and the body of law it represents continues to bring hope for the realization of human and peoples’ rights.
The Forum **applauds the role of the African Union Commission** as it continues to strengthen the regional framework by situating the Human Rights Strategy for Africa at the heart of the African Governance Architecture. We have also noted, with satisfaction, the development and adoption of Agenda 2063 which provides the roadmap towards ‘the Africa we want’. Furthermore, the marked participation of civil society organisations in these activities and consultations have enhanced partnerships and promoted ownership of the various processes.

Honourable Members of the African Commission

The Forum will be forwarding a copy of the full report including the adopted resolutions and recommendations to your distinguished body, as our contribution to your deliberations at this 59th Session.

Allow me, therefore, to present a few highlights of the said deliberations.

The Forum acknowledged **The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa** (The Protocol) as a landmark treaty ratified by 38 states parties and has brought in its wake, much optimism for the realisation of the rights of women on the continent. In many countries, the marked difference between law, policy and practice is evident. We call on the African Commission to urge states to ratify, domesticate and implement the African Women’s Protocol, as to provide women the conducive framework for the enjoyment of their rights.

The Forum while acknowledging, with disappointment that many countries including Kenya, Rwanda, Tanzania and Uganda still have reservations on Article 14(2,C) opined that criminalisation of abortion impacts negatively on the rate of unsafe abortion in Africa. It also noted that while Malawi has developed a ‘Safe Termination of Pregnancy Bill’, Sierra Leone is yet to enact into law the ‘Safe Abortion Bill’ overwhelmingly passed by Parliament. We therefore, call on the African Commission to urge States to amend
and or repeal criminal abortion laws, to remove all administrative, legal and medical barriers to safe, legal abortion and those that have set national standards and guidelines for safe abortion to fully implement them.

In reviewing the situation of human rights and democracy on the continent, the Forum acknowledged that there were some positive developments, including the criminalisation of torture, the banning of female genital mutilation, the campaign against early and or forced child marriage and the Campaign on the Decriminalization of Abortion in Africa, among others.

While the successful conduct of elections is heartening, emphasising that democracy can be achievable if efforts are harnessed towards this common goal, there were challenges which caused concern especially in Burundi, DRC and Gabon. The Forum asserted that a lot more needs to be done as many African countries continue to face challenges before, during and post elections. Reports on the increasing threats of conflict; insecurity; disease; poverty; corruption; food insecurity; discrimination of marginalized groups; high unemployment; arbitrary detention and extrajudicial killings; violence; torture; attacks on human rights defenders (HRDs), especially women HRDs; access to information; the freedom of expression, religion, association and assembly coupled with rise in terrorist attacks on innocent citizens and many other human rights violations have undeniably brought untold suffering and even death to the citizenry of the concerned countries, particularly to the women and children.

The treatment of women, victims of sexual violence, extremism, or harmful traditional practices was also raised. The Forum therefore, welcomes the development of the Guidelines on Combating Sexual Violence and its consequences in Africa with much optimism and sincerely hope that it will respond to the urgent needs of female victims. The Forum was privileged to receive testimonies of victims of sexual violence, thereby substantiating the fact that these social ills abound and the culture of silence had sustained its anonymity. The Forum agreed that the unmasking of this ugly

phenomenon needs to be as brutal as the crime and ensure that victims have the courage to absolutely unveil these cruel and harmful acts of wickedness mostly done to women. The Forum noted the complacency of some States in dealing with these issues and therefore call on the African Commission to urge States, that have not yet signed the Declaration to the Protocol to the African Court which allows individuals and other groups access in order to seek justice for many such victims.

Distinguished Guests
Conflict is rife and the attendant casualties, of mostly the women and young girls bear the brunt of such fatalities as is manifest in many countries including Burundi, Central Africa Republic, DRC, Nigeria and Sudan. The Forum reiterated its call to the African Commission to convene an open panel and interactive session on conflicts and human rights in Africa in order to open up space for wider constructive consultation and discussion on strategies and to make recommendations aimed at collectively responding to conflicts in Africa; and to use its powers under Article 58 of the African Charter on Human and Peoples’ Rights to ensure that these cases are brought to the attention of the Assembly of Heads of State and Government.

Madame Chairperson, Your Excellencies, Distinguished Ladies and Gentlemen
The Forum also noted with concern that women with albinism were particularly vulnerable and suffer double jeopardy, with multiple violations, by virtue of the fact that they are women and are also in groups that are socially oppressed. Reports of persons with albinism being mutilated for their body parts, raped to cure perpetrator of HIV/AIDS were rife in many African countries especially in East Africa, particularly in Tanzania. The Forum calls on the African Commission to urge States to provide protection for these marginalised groups while engaging with organisations working on these issues to create opportunities for dialogue and a better understanding on the human rights situation.

Distinguished Guests
Reports highlighting the continuing human rights violations and abuse experienced by **lesbian, bi-sexual and transwomen**, especially in Burundi, Kenya, Nigeria, Senegal, Sudan, Tanzania and Uganda is a real cause for concern. The social construct and value system placed on women by law and religion has had an adverse effect and as a result these women face discrimination, social injustice and violations ranging from rape, blackmail, extortion, sexual harassment, among others. The Forum would wish to call on the African Commission to encourage more exchanges with these groups to create a better understanding of the situation of this marginalised group.

Furthermore, the Forum asserted that the **threat of terrorist and violent extremism** is real and remains a frightening and very disturbing phenomenon that has traumatised the African civilians, particularly the women and the children. It is an open secret that many African countries have become victims of such circumstance and are struggling to address the security challenges it generates, as a result.

Reports and indeed case studies in Cameroon, Chad, Djibouti, Kenya, Niger and Nigeria have indicated that **countering terrorism** strategies in some countries has unfortunately done more harm than good and has led to grave violations of human rights and the rule of law. Moreover, counter terrorism is used as a pretext to limit the work of civil society, violating the freedom of association, among others thus curtailing the effective contribution of civil society in these countries. The Forum, therefore, recommends that the African Commission on Human and Peoples’ Rights undertake a fact finding mission to the countries in question, with a view to determine the extent to which States have or have not adhered to the Principles and Guidelines on Human and Peoples’ Rights while Countering Terrorism in Africa.

Following a moving testimony of a survivor of the **death penalty** in an African country, The Forum while recalling Resolutions 42 (1999) and to 136 (2008) of the ACHPR urging States Parties to the African Charter to consider a moratorium on the death penalty and to ratify the Second Optional Protocol to the International Covenant on Civil
and Political Rights, aiming at the abolition of the death penalty, note that 20 AU Member States have abolished the death penalty in law. A moving testimony from a survivor of the death penalty confirmed the argument that the death penalty has no deterrent effect, is irreversible and constitutes a serious infringement to the right to life. What would have happened to this survivor if the death penalty was executed?. The participants therefore, applaud the African Commission on the efforts made to develop and submit a draft Protocol on the Abolition of the Death Penalty to the African Union for adoption. It is imperative that it is given all the support that it deserves.

Under the circumstance, The Forum reiterates its call to the African Commission to urge States that still retain the death penalty to observe a moratorium on death sentences and executions as a first step towards de jure abolition of the death penalty for all crimes in accordance with the abovementioned resolutions. Furthermore, the discussion on the adoption of the draft Protocol should be revived with a view to raise awareness of the importance and to vote in favour when it comes for consideration.

The Forum noted, with concern, that violations related to Freedom of Expression and Access to Information still abounds. The existence of draconian laws which curtails the enjoyment of rights of citizens, censorship and cyber laws institutionalizing internet restrictions and blockages especially in countries that host African Union mechanisms remain disconcerting. The African Commission is urged to call on States to remove or amend laws that are not in compliance with protection guaranteed in national constitutions and under regional and international law. Moreover, the attention of States should be brought to the access to information model law developed by the African Commission and urged to widely disseminate the process on how citizens can access information.

Women and children constitute the largest group of victims in any armed conflict particularly in Africa when peace and security is threatening. It is disheartening to note that they are victims of rape, torture, summary executions and sexual violence from
armed groups, security forces and other parties to the conflict. Although 19 countries have adopted and developed action plans in accordance with United Nations Security Council Resolution 1325, there is a discrepancy between law and practice as the level of implementation is not evident. Moreover, the emphasis placed on the preservation of rights of women and children and the provision of reparation in cases of sexual violence in Resolutions 1820 and 1888 needs to be disseminated as widely as possible. The Forum therefore, calls on the African Commission to encourage States that have developed Action Plans and yet to implement to do so as soon as is possible, while those that yet to develop their Action Plans to accelerate the process and to actively promote the greater participation of women and youth in all negotiation, development and implementation of peace accords in Africa. The Forum believed that national reconciliation processes should preserve access to justice and reparation for victims of conflict related violations, especially women and children.

The Forum recommended that the African Commission urge States to promote more citizen participation in the formulation of policies and to ensure that women have access to information and services, with the necessary resources which will enable them to contribute more effectively.

The Forum maintained that access to and management of resources remains a challenge, especially for women. In States where extractive industries flourish, corruption, lack of accountability and poor management of natural resources thrive. It is an understatement that these challenges are often accompanied by widespread abuse of women and girls in the concerned communities. The Forum calls on the Commission to resuscitate its Working Group on Extractive Industries and to urge States to promote transparency of mining contracts, while providing protection for women in mining communities.
Furthermore, it was recommended that States should also be encouraged to prohibit early and forced marriage and female genital mutilation, investing more in accessible, affordable quality education and the provision of jobs, especially for the youth.

The non-recognition of indigenous populations by other ethnic groups in many African countries has led to discrimination which has affected their right to land. Minority rights groups have had to struggle to claim space at the national level, many times without success. According to reports at the Forum, identified cases of where they are most affected include Cameroon, Democratic Republic of Congo, Kenya, Liberia and Nigeria.

The precarious situation of human rights defenders affected by restrictions on freedom of Association and Assembly in Africa was reviewed. Participants gave case studies of target of HRDs; legal restriction restricting freedom of expression, criminalization of criticism of the government via social media e.g. including the Anti Terrorism Proclamation (Ethiopia, 2009), Cybercrimes Act (Tanzania) have grossly violated their rights. Artists, HRDs or opposition party members that speak out are subjected to arbitrary arrests, killing of protesters, and reprisals. Reports of police actions against HRDs working on environmental issues; intimidation and stringent restrictions sometimes leading to political instability, especially with planned elections in over 19 countries including Angola, Benin, Burundi, Cameroon, Central African Republic, Democratic Republic of Congo, Egypt, Ethiopia, Gambia, Ghana, Guinea Bissau, Lesotho, Liberia, Mauritania, Morocco, Nigeria, Swaziland (Terror and Sedition Laws), Tanzania, Zimbabwe

Women HRDs are particularly stigmatized and their situation is precarious. The primary challenge of fighting the negative stereotyping of HRDs as synonymous with the political opposition is an uphill task in many of these countries.

From reports received at the Forum, **Freedom of Assembly and Association** are well articulated in law, yet remain an illusion in practice. Consequently, the Forum calls on the African Commission to encourage States to put in place enabling legislation for HRDs, including journalists and artists. While the Forum commended the African Commission for instituting the Study Group on Freedom of Association and Assembly within the African Commission, it is recommended that a permanent Working Group be created to ensure that attention is maintained on these critical issues and to address the need for follow up of recommendations from the Study Group.

A positive development noted by participants is the passing of **anti-torture legislature** as well as the establishment of national preventive mechanisms (NPMs) as required by the Optional Protocol to the Convention against Torture (OP/CAT) by some States. The Forum would like to take this opportunity to call on the African Commission to encourage States to undertake legislative reforms to combat torture and to urge those that have not ratified the Optional Protocol to the CAT and yet to set up NPMs to do so and proceed to domesticate.

The Forum commends the African Commission for the work done through the Committee on the Prevention of Torture (CPTA) and its partners towards the formulation of Guidelines for Redress for Victims of Torture.

The situation of **prisons and places of detention with special reference to its female inmates** also came under scrutiny. It was noted that imprisonment rates for women offenders increased by 50% since 2000 compared to overall prison population growth of 18%. Despite this growth, women and girls in prison remain ignored as a population within the penal system, with little focus on the gender specific consequences of abuses of women prisoner’s rights. Consequently, the Forum calls on the African Commission to urge States to address the gender specificities of women in prison and in places of detention and conditions for their imprisonment.
Finally, The Forum adopted 9 country resolutions as follows: Burundi, DRC, Eritrea, Ethiopia, Gabon, Gambia, Mauritania, South Sudan and Sudan,

Madam Chairperson, Your Excellencies, Distinguished Ladies and Gentlemen

The Forum, commended those States that have ratified, domesticated and or implemented various human rights instruments at the regional and international levels and continue to appeal to States, which are yet to ratify, to speedily usher in the harmonisation and implementation process.

The Forum would like to take this opportunity to congratulate Cote D’Ivoire and Mauritius for the submission of their State reports for review by the African Commission during the 59th Session. We would therefore, wish to urge other States who have not yet fulfilled this obligation to emulate this example as soon as is feasible.

Your Excellencies, Distinguished Ladies and Gentlemen

Permit me to reiterate the profound gratitude of the Forum to the African Commission for the collaboration and support in the organisation and facilitation of the NGO Forum over the years.

As we accompany you in celebrating the Year for Human Rights, with a focus on the Rights of Women, we reaffirm our readiness to accompany the African Commission and State Parties in this celebratory and stock taking process.

Madam Chairperson, Distinguished Commissioners,

The Forum congratulates each Commissioner for the number of missions, activities and achievements registered during the last thirty years and especially the preceding intersession, and for the institutionalisation of the extraordinary sessions to deal with urgent matters relating to human rights on the continent. In the same vein, the Forum would like to reaffirm the availability and willingness as your partners, particularly those NGOs with Observer Status to continue to work in collaboration with the African

Commission and its partners in a bid to complement your efforts to promote and protect human rights and fundamental freedoms, rule of law and good governance in Africa.

Madam Chairperson
To conclude, the African Centre for Democracy and Human Rights Studies and indeed The Forum would like to acknowledge the various contributions and support received from the African Commission on Human and Peoples’ Rights (ACHPR); The Office of the High Commissioner for Human Rights (OHCHR); the United Nations Office for West Africa and the Sahel (UNOWAS) and IPAS which subsidized and impacted positively the organisation of this flagship programme.

Madam Chairperson
On behalf of the participants of the Forum on the Participation of NGOs in the Work of the 59th Ordinary Session of the African Commission, I wish you, and all the members of the Commission, a successful celebratory session.

Happy 30th Anniversary to the Charter!

Your Excellencies,
Madam Chairperson,
Hon. Members of ACHPR,
Distinguished Ladies and Gentlemen,

I thank you for your kind attention.

Banjul, The Gambia
October, 2016

Ends