


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>
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**CLOSING STATEMENT OF THE CHAIRPERSON OF THE AFRICAN  
COMMISSION ON HUMAN AND PEOPLES' RIGHTS**

**HONOURABLE COMMISSIONER SOLOMON AYELE DERSSO**

**DELIVERED AT THE CLOSING CEREMONY OF THE 68<sup>th</sup> ORDINARY  
SESSION**

**4 MAY 2021**

**Honourable Members of the African Commission on Human and Peoples' Rights;**

**Distinguished Representatives of States Parties to the African Charter on Human and Peoples' Rights;**

**Representatives of National Human Rights Institutions;**

**Representatives of International Organizations;**

**Representatives of Civil Society Organisations;**

**Distinguished invited Guests;**

**Ladies and Gentlemen;**

Good morning and good afternoon.

It is my pleasure to welcome you all to the Closing Session of the 68<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights (the Commission).

I wish to thank you all for joining us today from your various locations across the continent and from around the world.

This ordinary session provided us with the opportunity of taking stock of the state of human rights on the continent since our last session in December 2020. As a platform that is unique in the African Union system, this ordinary session brought together for frank and constructive exchange of views on the human rights issues of the intersession period all the various stakeholders of the African Commission, namely States Parties to the African Charter on Human and Peoples' Rights (the African Charter), National Human Rights Institutions, Civil Society Organizations and other continental and international partner organizations.

Although we convened this session virtually, as we did previous two ordinary sessions, with all the challenges this presents for sustained participation, I wish to express the Commission's deep appreciation to all our stakeholders who accompanied us and participated in this 68<sup>th</sup> Ordinary Session.

We are in particular most grateful to those who made statements and intervened during the various sessions including States Parties to the African Charter, namely, Algeria, Angola, Egypt, Eritrea, Ethiopia, Malawi, Mozambique, Niger and Tanzania.

Given that States Parties are the primary duty bearers of the rights and freedoms enshrined in the African Charter, the level of their participation during this concluding 68<sup>th</sup> session leaves a lot to be desired. Participation of stakeholders, particularly states, in the session of the Commission is critical to create rich understanding on the situation of human rights of individual states. We therefore look forward to more participation from States Parties during the upcoming 69<sup>th</sup> Ordinary

Session of the Commission, expected to take place in Kigali, Rwanda in November 2021.

One of the important activities that is undertaken during the ordinary session of the Commission is the receipt and review of the periodic reports of States Parties to the African Charter, the Maputo Protocol and the Kampala Convention on the status of implementation of their obligations under these instruments. In this regard, I would like to extend the Commission's appreciation to two States Parties namely

- the Republic of Malawi, which presented its Combined 2<sup>nd</sup> & 3<sup>rd</sup> Periodic Report (2015 - 2019) on the implementation of the African Charter and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), and
- the Republic of Niger, which presented its 15<sup>th</sup> Period Report on the implementation of the African Charter.

During the reporting period, both Niger and Malawi have achieved progress in the consolidation of the democratization process. I wish to applaud both countries for registering a democratic transfer of power, which is more remarkable coming at a time when the continent, as the rest of the world, is witnessing regression in democratic governance.

Not surprisingly, there remain various human rights issues in both States requiring attention. With respect to Niger, we express our concern about the death, mayhem, and displacement of civilians resulting from recurring attacks of terrorist insurgents and the indiscriminate use of force in counter insurgency operations of Nigerian security forces.

I wish to reiterate the considered view of the Commission that the State bears ultimate responsibility for the protection of its citizens. This responsibility does not begin and end with the deployment of security responses. It necessitates multidimensional political, social, economic and local governance measures beyond security heavy counter terrorism measures.

With respect to Malawi, we express concern about the pervasive lack of access to socio-economic rights and the attendant alarming rate of child and maternal mortality rate in the country. Commission remains concerned about the persistence of attacks against persons with albinism.

As we welcome the submission of these reports and the receipt by the Commission, during the inter-session period of the Periodic Reports of the Republics of Kenya, eSwatini, Namibia, and Seychelles, which we look forward to review during a forthcoming Session of the Commission, I wish to call on other States Parties to follow the example of these states and fulfil their reporting obligations under Article 62 of the African Charter, Article 26 of the Maputo Protocol and Article 14 of the Kampala Convention.

**Distinguished delegates, ladies and gentlemen**

From deliberations and engagements of the participants of this 68<sup>th</sup> Ordinary Session, the Commission has taken cognizance of some of the most concerning human rights challenges that are currently afflicting our continent, and once again heard further examples of how the COVID19 pandemic has exacerbated the already precarious condition of the most vulnerable segments of our societies.

The Commission has taken note of the following:

While the Commission welcomes positive developments reported during this session including the improvement of the participation of women in decision-making structures in Angola, Niger and Tanzania, the Commission remains concerned about the deplorable state of oppression and violence to which women and girls in many parts of the continent are subjected. These include restrictions on access to sexual and reproductive care, the ban of pregnant girls and teenage mothers from attending school in Tanzania, and increase in gender based and domestic violence, in child marriage as reported in Malawi and pregnancy of girls and the attendant disruption of their access to education as reported in Rwanda and Malawi.

We are in particular distressed by the reports received about sexual violence in conflict situations including reports of use of rape as weapon of war. Of concern in this respect, highlighted in a number of statements including from the Ethiopian Human Rights Commission, is the plight of women and girls who are caught up in the ongoing conflict in the Tigray region of Ethiopia. The Commission joins those who intervened during the session in condemning these atrocious acts and urges that all those implicated in these brutal violations including Eritrean forces are investigated and held accountable. In this respect, the Commission welcomes the commitment expressed by the delegation of Ethiopia for facilitating the investigations of the reports of violations and expresses its expectation that the investigations lead to the institution of appropriate accountability measures and adoption of measures for providing redress for victims.

As has been repeatedly observed in all our previous sessions during 2020, we continue to witness acts of *excessive use of force by security forces* in a number of States Parties to the African Charter. It is with distress that the Commission received reports of death and injury on account of incidents of excessive use of force in context of public demonstrations in Angola, Benin, Chad, Cote d'Ivoire, Guinea, Senegal, South Africa, Niger, Togo, Tunisia and Uganda. The Commission accordingly urges these States and others Party to the African Charter to investigate all reports of excessive use of force by security forces for holding those responsible accountable and institute relevant reforms on the use of force by security forces as outlined in Resolution 449 of the African Commission on Human and Peoples' Rights.

It is with great alarm that the Commission also heard about incidents of *extra-judicial and arbitrary executions and killings*. Security forces in a number of countries including Kenya, where 26 cases of such killings have been reported, Uganda, Mozambique, Cameroon, in the Tigray region of Ethiopia, Niger, Nigeria, Burkina Faso and Mali have reportedly perpetrated extra-judicial or arbitrary executions and killings. We urge all these states to review their laws and practices in order to ensure

that security forces do not engage in extra-judicial or arbitrary executions and killings and to ensure investigations into the reports of extra-judicial or arbitrary executions and killings and hold those responsible accountable.

*We remain concerned about the worsening of the democratic governance deficit including the shrinking of the civic space in many countries, which has been compounded by the chilling effects of the COVID19 regulation measures on freedom expression, association and assembly and the abusive application of cyber security and data protection laws as well as legislations on terrorism. In this respect, the Commission in particular deplores the reports it received during the session about arbitrary detention, assault and intimidation against journalists, civil society actors, human rights defenders, and leaders and members of opposition parties in many countries including Zimbabwe, Zambia, Kenya, South Sudan, Mali, Ethiopia, Tanzania, Egypt, Algeria, Benin, and Togo.*

In its **Panel on Human Rights Defenders and Reprisals in Africa**, the Commission was able to appreciate the nature and extent of reprisals on our continent, which is indeed extremely concerning. We have seen that human rights defenders are not only subjected to physical abuse and arbitrary detention, but they are also restricted through more subtle means, such as campaigns to discredit them.

The Commission reaffirms that freedom of expression and civic participation are indispensable to an open and democratic society, and that the stifling of dissent is nothing short of a recipe for instability and conflict. I therefore wish to pay tribute to all those who engage in defending and exercising these rights of free expression and participation, often at the risk of losing their liberties and at times even their lives.

### **Honourable colleagues, distinguished participants**

During the session, the Commission also deliberated on *the plight of migrants* who suffer various conditions of violations and abuse including physical and sexual abuse, forced labour, deprivation of liberty and extortion at the hands of smugglers, militias, private establishments and state authorities when undertaking their perilous journey, with particular focus on migrant women and the situation of migrants and refugees who end up missing with debilitating consequences to their families and communities. While we underscore the need for addressing the structural conditions of political oppression, lack of socio-economic opportunities and insecurity that push people into the dangerous path of irregular migration, we reiterate the responsibility of states to take steps for safeguarding migrants in their jurisdiction from being subjected to such abuses and violations.

Similarly, the Commission continues to be alarmed by the continuing scale of displacement of people in many parts of the continent. It is with anguish that we learned during this session about the spike in levels of displacement in Cabo Delgado province of Mozambique, where the number of people forcibly displaced by violence reached the one million mark, and the displacement of even more people in the Tigray region of Ethiopia.

The questions that I raised during the last session of the Commission remain no less pertinent as these conditions of displacement clearly attest. 'How is it that in 2020 as in the 1990s we have the conditions forcing 'millions of our people, including women and children, into a drifting life as refugees and internally displaced persons, deprived of their means of livelihood, human dignity and hope'?

How can this be possible unless states are failing to shoulder their responsibilities? How can this be possible unless those entrusted with managing the affairs of our societies are betraying the trust of the public in pursuit of their own narrow self-interest thereby perpetuating the vicious cycle of misgovernance and authoritarianism? It cannot be that we continue to have millions of our brothers and sisters forcibly displaced in states with even the most basic attributes of statehood, in societies with responsible leadership and in a continent with effectively functioning institutions.

### **Dear brothers and sisters, fellow Africans**

The Commission continues to condemn the highly securitized and even militarized approach to compliance with COVID19 regulation measures that are resulting in arbitrary deprivation of life and liberties. In a condition in which millions of people suffer from the adverse consequences of the pandemic, the misuse of the COVID19 regulation measures for stifling the civic space, for attacking opposition politicians and journalists, for disrupting the economic activities of petty traders in the informal sector is not in accord with the standard of behaviour of a responsible government worthy of the confidence of its public and is utterly deplorable.

With respect to the COVID19 pandemic, the session of the Commission highlighted once again the vulnerability of the peoples of this continent to be completely left behind in access to vaccine. This is a result of the lack of investment by governments of the continent on strategic health care infrastructure, which has left the continent to be completely dependent on unreliable supply from outside the continent. In part, it is also a result of the failure of the international system to apply the rules that apply to patents for vaccines in cases of extraordinary emergency situations.

The point that I made in my opening remark that the threat of COVID 19 can only be fully addressed when equitable distribution and access to COVID19 vaccines are guaranteed has been buttressed in the various submissions made during this session. While underscoring the necessity for African states to prioritize investment in health care infrastructure including in the strategic area of vaccines research and pharmaceutical manufacturing, the session underscored the need for African States and the AU to increase the campaign for the temporary waiver of patent protection relating to COVID19 vaccines and the global sharing of COVID19 vaccine components, know-how and technology for ending the prevailing artificial scarcity that is leading many people, including the already inadequate health care work force, needlessly succumb to the pandemic for lack of vaccination.

The Commission is however concerned by reports of nepotism and corruption in the administration and roll out of the already limited number of vaccines, as reported during this session in respect to Uganda.

The Commission also received statements highlighting the challenge of increased poverty and deepening inequality. We remain alarmed about the consequences of the pandemic on the enjoyment of socio-economic rights in Africa as highlighted in statements made in respect to Angola and Zambia, among others. Our main concern is the huge lack of access to the basic necessities of life by the masses of our people on the continent that this situation has compounded.

As the deliberations during this session highlighted, it is concerning that there is inadequate and declining investment for expanding access to social, economic and cultural rights in Africa and this is going to get worse as countries face further fiscal strains resulting from the pandemic. It is unconscionable that the exclusion of masses of the public from access to socio-economic rights is worsened by the trends of commodification of the provision of health care, education, water etc premised on market-based supply of such basic necessities in lieu of public options, leading to exposing the poor and most vulnerable for being exacted exorbitant prices and low-quality services.

The Commission underscores that ensuring access to socio-economic rights is not only a legal requirement under the African Charter but also an existential imperative for which states bear the primary responsibility. It is not in accord with the African Charter for States Parties to transfer the responsibility for supplying access to these basic necessities to the private sector as primary provider. Private sector can only supplement and never replace the primacy of the responsibility of the state to finance and supply access to socio-economic rights.

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

On the subject of instability, the Commission expresses its alarm about reports it received during this session on the ongoing situations of unrest and conflict in many parts of our continent. In this regard, the Commission is alarmed by the killings and displacement of civilians due to conditions of violence in parts of Burkina Faso, Cameroon, Central African Republic, Chad, Democratic Republic of Congo, Ethiopia, Mali, Mozambique, Niger, Somalia and the Sudan. Also of concern are the recurrent incidents of attacks against schools and abduction of students in parts of Nigeria, including the recent the recently reported abduction of thirty-nine (39) students of the Federal College of Forestry Mechanisation in Kaduna State.

It is indeed very troubling that at a time when the AU has been campaigning for ending conflict under its flagship project silencing the guns, the conditions of insecurity not only persist in parts of the continent affected by existing conflicts but also witness alarming expansion with the eruption of new sounds of guns. What is

more disturbing is the fact that civilians bear much of the brunt of these conflicts and crises.

These conditions are certainly an indictment of the failure of States Parties to the African Charter on whose territories these conditions of violence are taking place and of national and continental institutions. This state of affairs should indeed make all of us feel deeply troubled and ashamed and call for States on the continent to change course in political and socio-economic governance of their countries in full compliance with the rights and freedoms enshrined in the African Charter. It is in this context that the African Commission launched during this session **the drafting of the proposed General Comment on Article 23 of the African Charter**, which establishes the right to national and international peace and security.

### Ladies and Gentlemen

Amidst some of these distressing situations, the Commission is also pleased to observe progress in certain areas.

The Commission welcomes, among others,

- adoption of a new Media Law in Ethiopia on 2 February 2021, ratification of the Convention on the Protection of All Persons from Enforced Disappearance by the Government of Sudan, adoption of the Miscellaneous Amendments Act No. 2 of 2021 by the Parliament of Tanzania, officially making Kiswahili the legal language of the Court and of writing legislation; new Constitution Algeria strengthening protection of human rights including the right to life; a national law protecting the rights of indigenous Pygmy peoples and local communities on 7 April 2021 by the National Assembly of the DRC;
- The first peaceful and democratic transfer of power in Niger;
- the ongoing process of adoption of the first national human rights strategy by Egypt and the rolling out of the National Human Rights Plan in Angola;
- the decision by the High Court of Kenya to uphold the ban on FGM and the release of the Marikana Massacre investigation report in South Africa;
- the efforts of Niger in improving the percentage of women in its National Assembly from approximately 15% to 26% and the increase in the representation of women in Tanzania to 36 %.
- The criminalization of torture and ill-treatment in the criminal procedure act of Angola and in the amendment of the criminal procedure act of Sudan;

The Commission has noted that many States Parties are now either *de jure* or *de facto* abolitionists of the death penalty. This progress is worthy of praise, and the Commission encourages the remaining States Parties to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights and *de jure* abolish the death penalty.



## **Fellow Africans, sisters and brothers**

The African Union Theme of Year for 2021 is the “The AU Year of the Arts, Culture and Heritage: Levers for Building the Africa We Want”.

As expressed to you in my opening remarks for the Session, “culture, arts and heritage give content to our essence as human beings...”, such that it is impossible to realize the values of dignity, freedom and equality without due consideration for the culture and heritage of a society.

In recognition of the Theme of Year, the Commission hosted a **Panel on Human and Peoples’ Rights aspects of Arts, Culture and Heritage**, to reflect on the relationship between culture and human and peoples’ rights. The Panel furthermore sought to identify some of the challenges to the protection of culture, arts and heritage in African and the resultant deprivation of Article 17 (2) of the African Charter.

The Panel reaffirmed the symbiotic relationship between culture, human dignity and freedom. The Panel also understood that in addition to their intrinsic value, culture and heritage also afford great economic benefits when harnessed properly including for creating employment opportunity by tapping into the huge potentials of the creative industries and the tourism sector.

However the theft of African arts and music, the illicit trafficking of African artefacts and cultural property and the attack and the destruction of cultural, religious and historical heritage sites during conflicts and the non-return of Africa’s cultural and artistic properties looted during colonial times have been identified during the Panel as serious threats to Africa’s arts, culture and heritage.

While commending the initiatives of the African Union, such as the flagship project to establish the Great Museum of Africa, the Commission takes this opportunity to call on African States to develop a comprehensive strategy to galvanize stakeholders in the fight against the illicit trafficking of African cultural property and for the return of looted African artifacts decorating the museums of former colonial countries.

## **Dear friends, fellow brothers and sisters**

To all of you, who participated in this 68<sup>th</sup> Ordinary Session, I wish to thank you for your contributions to the work of the Commission, which greatly enrich and inform the actions of the Commission.

To my Muslim brothers and sisters, I once again wish you blessings for the remainder of the holy month of Ramadan.

I also wish to express my appreciation to the National Human Rights Institutions (NHRIs) of our continent, including the NHRIs that participated in the Session. The full potential of NHRIs remains undeveloped, and we encourage NHRIs to seek greater visibility and impact. In this regard, the Commission commends the holding of the 2<sup>nd</sup> NHRI Forum on 8<sup>th</sup> and 9<sup>th</sup> April with “**The role of NHRIs in promoting**

**the realization of indigenous women's cultural rights in Africa"** as its theme. We also take this opportunity to call on States Parties to fully support the work of NHRIs, in line with Article 26 of the African Charter.

I also wish to extend the Commission's gratitude to civil society organizations who play critical roles in supporting the Commission in the promotion and protection of human and peoples' rights including through bringing to light human rights issues which would otherwise have not been detected.

Finally, I wish to extend my appreciation to Members of the Commission for their commitment and dedication towards fulfilling the mandate of the Commission. In the same vein, I also wish to express my deepest gratitude to the Acting Executive Secretary, staff of the Secretariat and all of the interpreters, whose tireless work makes it possible for us to meet our responsibilities.

I wish you all good health and hope to see you soon for the upcoming 69<sup>th</sup> Ordinary Session, which is scheduled to be held in person in the beautiful city of Kigali, the Republic of Rwanda.

**Ladies and Gentlemen, I thank you all for your kind attention.**