

**STATEMENT OF VICE CHAIRPERSON OF AFRICAN COMMISSION ON
HUMAN AND PEOPLES' RIGHTS DURING CLOSING CEREMONY OF 63RD
ORDINARY SESSION OF AFRICAN COMMISSION ON HUMAN AND PEOPLES'
RIGHTS**

Commissioner Lawrence M Mute
13 November 2018

Honourable Abubacarr M. Tambadou, Attorney General and Minister of Justice of the Republic of The Gambia;

Distinguished representatives of State Parties to the African Charter on Human and Peoples' Rights;

Distinguished Members of the Diplomatic and Consular Corps;

Distinguished Representatives of National Human Rights Institutions and Civil Society Organisations;

Honourable colleagues, Members of the African Commission on Human and Peoples' Rights; Ladies and Gentlemen;

All protocols observed.

The 63rd Ordinary Session of the African Commission on Human and Peoples' Rights is coming to an end today, after 21 days of intense and fruitful deliberations by the Commission and between the Commission and yourselves, our stakeholders.

This 63rd Ordinary Session has provided an apposite forum for debating, considering and deciding on Africa's most notable human rights successes as well as its most pressing challenges.

From the outset, I wish to commend Angola, Botswana and Togo for presenting their periodic reports before us in terms of Article 62 of the African Charter on Human and Peoples' Rights (African Charter) and, in respect of Angola and Togo, also in terms of Article 26 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

I also wish to exhort the Commission's state and non-state stakeholders to make good use of the soft-law instruments which we launched during this session, notably:

1. The Principles on Decriminalisation of Petty Offences in Africa;
2. State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment; and

3. Arabic and Portuguese versions of the Guidelines on Access to Information and Elections in Africa.

Distinguished delegates, excellencies, ladies and gentlemen,

During the public part of the Session, many of you raised your deep concerns about the importance of ensuring the continued effective implementation of the critical work which the Commission plays in monitoring respect for human and peoples' rights in Africa.

I, for example, recall the statement of the distinguished delegate of Burkina Faso who stated his earnest conviction that the Commission is the best African forum for discussing human rights and that it behoves states to engage robustly with the Commission.

I also recall numerous statements by national human rights institutions (NHRIs) and nongovernmental organisations (NGOs) which raised their deep concerns about the Commission's independence and autonomy.

Distinguished delegates,

In the course of the private part of this Session, the Commission has continued to reflect deeply on the important functions which it plays. As Commissioners, we recall that we made the solemn declaration to carry our duties well and faithfully in all impartiality.

The African Charter establishes negative obligations as well as positive obligations which all states should implement. By the necessary dictates of the African Charter, executing the Commission's mandate means that from time to time we do call out states which in our assessment may be violating their obligations under the Charter.

That is our remit; that is our responsibility which we may not shirk!

In this sense:

1. The Charter does not allow us to stay quiet while Africa's children are kidnapped and held ransom by whomsoever;
2. The Charter requires us to speak when sexual violence is meted out on Africa's women;
3. We have no choice but to speak when a human being is hunted down and killed for her organ parts just because she has albinism;
4. The Charter requires us to raise questions when the resources of Africa's people are pillaged or when Africans are prohibited from expressing themselves or participating in politics or when their rights to association or conscience are limited unfairly;
5. The Charter requires us to make pronouncements to support the full exercise of economic, social and cultural rights by Africans;
6. The Charter requires us to speak firmly when Africa's youth are killed extra-judicially and indeed when torture is used under any circumstance or when stigma, discrimination or violence is perpetrated on an individual on account of their sexuality.

Yet, distinguished delegates, it is also our responsibility and duty to affirm and support all states to ensure their better respect for human and peoples' rights. To affirm, never to negate.

That is why we affirm states which ensure representation of women in political offices. That is why we commend states which implement free basic education, and those that outlaw female genital mutilation, capital punishment or indeed criminal defamation, or states that ensure equal opportunities for persons with disabilities.

That is why, distinguished ladies and gentlemen, the vision of the African Commission is ‘an Africa characterized by respect for and observance of human rights, where the rights guaranteed by the Charter are known and advocated for by African people; and promoted, protected, respected and fulfilled by the State Parties and African people’.

This vision resonates with the African Union’s Agenda 2063 which aspires towards ‘an Africa of good governance, respect of human rights, justice and the rule of law’, ‘a peaceful and secure Africa’, ‘a prosperous Africa based on inclusive growth and sustainable development’, and ‘an Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children’.

Distinguished delegates, ladies and gentlemen,

The protective mandate of the Commission is established in Article 45 of the Charter. The Charter enjoins us to use the Communications procedure to adjudicate and provide redress to victims of human rights violations, whether they be individuals, groups or indeed states.

In the same vein, the interpretive mandate of the Commission, which again is established in Article 45 of the Charter, commands the Commission to formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples’ rights and fundamental freedoms upon which African governments may base their legislation. And so that is what we do.

Distinguished delegates,

The African Commission was established as Africa’s principal human rights institution. To date, all members of the African Union but one, are parties to the Charter. The Commission’s protective and interpretive mandates therefore cover the whole continent.

Distinguished delegates,

I cannot overemphasize the importance of the access which the Commission provides to Africa’s citizens. Our quasi-judicial jurisdiction applies universally to all, across the Continent, thereby serving the aim of establishing a people-centred Union.

Hence, as we close this 63rd Ordinary Session, speaking on my own behalf and on behalf of the members of the Commission, our humble appeal and trust is that all parties to the Charter and indeed the Policy Organs of the African Union will:

1. Recommit to their cardinal obligation under the African Charter to give effect to the rights, freedoms and duties enshrined in the African Charter;
2. Continue respecting the normative standards and institutional frameworks established by the Charter, including by supporting the Commission to continue promoting, protecting and interpreting the rights in the Charter;

3. Continue supporting the complimentary relationship between the African Commission and the African Court on Human and Peoples' Rights, to ensure full access to justice for Africans; and
4. Ensure that the on-going reforms process of the Union preserves and enhances the independent, distinct and specialized mandates of each Organ, while creating frameworks for improving their collaboration and effectiveness, to strengthen the overall human rights and governance framework on the continent.

Distinguished delegates,

I may not conclude this statement without commending the South Sudan Human Rights Commission and HAKI Africa for their grant by the Commission, respectively, of NHRI affiliate status and NGO accreditation.

I wish to assure all our non-state stakeholders that the Commission's aspiration is to remain an inclusive and accessible organ where Africa's citizens and interlocutors may approach, dialogue, recommend and indeed litigate.

Again, that is what the Charter requires us to do.

Distinguished delegates,

I wish to thank all the delegates who participated in this Ordinary Session. I also wish to thank all the state and non-state stakeholders who have in any way engaged with the Commission during this inter-session.

I also wish to thank the Government and the people of the Gambia for hosting this Session and for indeed hosting the Commission's headquarters. We never ever take your support as for-granted. Needless to say, the Commission looks forward to concrete steps towards realisation of the Government's commitments to provide us with our very own headquarters.

I thank all the technicians and interpreters who have facilitated this Session so well.

Finally, I cannot complete this statement without acknowledging the Commission's Chairperson, my colleagues - members of the Commission, and our very own true heroes and heroines, the hard-working staff of our Secretariat.

I wish you all well.

Thank you.