

**CELEBRATING THIRTY YEARS OF THE AFRICAN COMMISSION ON  
HUMAN AND PEOPLES' RIGHTS (1987-2017): THE OUTCOMES**

**Adopted by the African Commission on Human and Peoples' Rights at its 62<sup>nd</sup>  
Ordinary Session held in Nouakchott, Mauritania from 25 April to 9 May 2018**

## Table of Contents

Table of Contents.....	2
I. Introduction.....	3
a. Background.....	3
b. Objectives.....	3
II. Methodology.....	4
III. Summary of Messages.....	5
a. Panel on the Past.....	5
b. Panel on Present.....	7
c. Panel on the Future.....	9
d. Panel on the Youth.....	10
IV. Assessment of the Commission’s work.....	12
a. Successes.....	12
b. Challenges.....	14
V. Conclusions and recommendations.....	15
a. Conclusions.....	15
b. Recommendations.....	16
VI. Annexures.....	21
A. Opening Statement of the Vice Chairperson of the ACHPR.....	21
B. Keynote Papers.....	21
C. Programme.....	21

## **I. Introduction**

### **a. Background**

2. The African Commission on Human and Peoples' Rights (the Commission) celebrated 30 years of its existence in 2017. Pursuant to Article 30 of the African Charter on Human and Peoples' Rights (the African Charter), the Commission was launched on 2 November 1987 in Addis Ababa, Ethiopia, after the election of its members in July of the same year by the 23rd Assembly of Heads of State and Government.
3. The Commission decided to use its 61<sup>st</sup> Ordinary Session held in Banjul, The Gambia from 1 to 15 November 2017, as a platform for commemorating this important milestone.
4. Thirty years marked an important high point in the growth and development of the Commission, and celebration of this anniversary provided an occasion for assessing the work of the Commission: - its achievements, challenges and prospects for the future. The celebrations also raised the Commission's visibility and promoted more understanding of its work and processes.
5. Further, this was an opportunity for the Commission to demonstrate its appreciation to all stakeholders who have worked for and with the Commission over the past 30 years in ensuring that the Commission's mandate is fulfilled.

### **b. Objectives**

6. The overall objective of the celebrations was to assess the significance/impact of the Commission's work since its establishment as well as to track its successes, challenges, lessons and good practices, so as to devise new strategies for enhancing its work and advancing the continental human rights agenda.
7. The specific objectives of the celebrations were to:
  - a) assess the work of the Commission since its establishment and evaluate its impact;
  - b) Raise awareness and improve knowledge of the Commission's mandate, work and processes over the past 30 years;
  - c) Contribute to the understanding of the achievements, challenges, prospects and perspectives of the Commission vis-à-vis its monitoring role as laid down in the African Charter;
  - d) Provide a forum for constructive engagement between the Commission and the various stakeholders working on human and peoples' rights in Africa;

- e) Reflect on and define ways and means of building a more cohesive future for the Commission and enhancing its response to issues of human and peoples' rights in accordance with the African Charter; and
  - f) Present the Commission's work through its different publications.
8. The Commission would also prepare an action plan for the full realization of human and peoples' rights for the people of Africa.

## II. Methodology

9. The highlight of the celebrations were three days set aside for keynote addresses and Panel Discussions reflecting on 30 years of the Commission's work.
10. The Panel discussions were centred on three thematic timelines which reflected significant milestones in the operations of the Commission as follows:
- a) **The Past (1987-2010)** - being the period from the inauguration of the Commission as the sole human rights body on the Continent, the evolution of the implementation of the African Charter under the old rules of procedure of the Commission up until the adoption of the 2010 Rules of Procedure, and the beginnings of the operationalization of its redefined role under the new African human rights architecture following the harmonization of its Rules with the African Court on Human and Peoples' Rights (the Court) and the definition of its relationship with other African Union (AU) Organs with similar mandates.
  - b) **The Present (2010 -to date)** covering the period following the adoption of the 2010 Rules of Procedure of the Commission, and characterized by better clarified and improved working methods and procedures of the Commission; the definition of its new position and role within the African human rights architecture and the wider AU processes; and new strategies vis-à-vis the current trend of human rights issues and stakeholders on the continent; and
  - c) **The Future-** covering the period from 2017. The discussions entailed projections for the future of the Commission, including how it could better position itself and be more relevant and effective in the discharge of its mandate.
  - d) **Panel on the Youth** - In line with the AU theme for 2017 - *'Harnessing the Demographic Dividend through the Youth'*.

11. Each Panel was followed by an interactive session with the audience who also gave their views, comments and observations on the various issues discussed by the Keynote Speakers and the Panellists.
12. The Celebration and all debates of the public session were live streamed for the first time on the website of the Commission.

### **III. Summary of Messages**

13. In his remarks introducing the celebrations, the Vice Chair of the Commission, Commissioner Lawrence Mute, welcomed the participants to the 30<sup>th</sup> Anniversary celebrations and thanked them for honouring the Commission's invitation. He then took participants through the Commission's journey over the last 30 years commencing from its humble and difficult beginnings to being Africa's premier human rights body today. He highlighted some of the remarkable successes registered by the Commission and challenges encountered over the years. He also paid tribute to all the stakeholders, partners and sponsors that walked this 30-year journey with the Commission. Thereafter, he broadly set out the objectives and expectations of the various keynote papers, panel and plenary discussions and call on participants to engage in the stock taking exercise and contribute effectively to the discussions with a view to enable the Commission to have a solid basis upon which to launch its next thirty years.

#### **a. Panel on the Past**

14. Justice Sanji Monageng, former Chairperson of the African Commission, Professor Alioune Tine, Amnesty International Regional Director for West and Central Africa and Mr. Wilson Kipkazi of the Endorois Welfare Council of Kenya.
15. Dr. Odinkalu presented a paper on "The Evolution of the African Commission on Human and Peoples' Rights, Its Work and Processes." He recalled the Commission's inaugural Session in Ethiopia, in November 1987, and the level of scepticism at the time on its ability/capacity to address the challenges of promoting and protecting human rights on the continent. Despite this scepticism, the Commission evolved into a significant institution over time and spawned a complex regional human rights system.
16. The address also explored the independence and composition of the Commission, the Commissions' protection mandate, the evolution of the Commission's special procedures, the Commission's reporting obligation to the AU Policy Organs, collaboration with the Commission and its stakeholders, including the States Parties and Non- Governmental Organizations (NGOs), and finally the

development of jurisprudence and other soft laws by the Commission. He concluded that the Commission had come a long way, forged significant alliances, taken opportunities and also encountered obstacles. The work of the Commission faced new challenges, including: electoral legitimacy impinging on the right to participation in Article 13 of the African Charter; information technology, new media and the politics of digital expression presenting complex challenges for free expression, privacy rights and hate speech in fragile societies in Africa; and reproductive and sexual health rights, including the protection of sexual minorities. He concluded that as the Commission advances further into the future, there was a lot in its history for which the pioneering generation of Members of the Commission should be proud of, and to whom the current membership of the Commission owes an eternal debt.

17. Justice Monageng, former Chairperson and Member of the Commission, recalled concerns on the impartiality of the Commission's Membership, the contentious relationship with the AU Policy Organs, the challenge in getting some Commissioners to work in contentious special mechanisms such as the one on the death penalty, extra-judicial and summary executions, the lack of funding for extra-ordinary sessions, absence of insurance for Commissioners, and the absence of legal aid for indigents.
18. Professor Tine noted that civil society organizations (CSOs) developed their advocacy initiatives based on their initial engagements with the Commission which led to the establishment of the Forum of NGOs. He also highlighted the evolution in the composition of the members of the Commission, from being all-male in the early years to a more gender sensitive Commission now.
19. Mr. Kipkazi, of the Endorois Welfare Council, highlighted the commitment of NGOs in engaging the Commission through its Complaints mechanism and the challenges encountered regarding the active involvement of State Parties. He noted that the Endorois decision against Kenya was a landmark ruling which impacted on the lives of indigenous peoples around the world. Finally, he lamented the lack of an effective mechanism for implementation of the Commission's decisions and proposed that the Commission should develop a mechanism to ensure that its decisions are implemented by the State Parties for the benefit of victims.
20. The following notable feedback arose from plenary responses:
  - The Commission to clearly address the relationship between individual and collective rights, to increase its country visits in order to enhance its credibility

and the need for National Human Rights Institutions (NHRI) to assist the Commission in obtaining the necessary authorization for such promotion and other country visits, to focus and lay emphasis on implementation of socio-economic rights at the national level. The following were also highlighted: the failure of many State parties to implement decisions of the Commission, the continuous harassment of human rights defenders, the need for States Parties to give more resources to institutions at the national level, the need for CSOs to review their working methods and responsibilities towards the Commission and other stakeholders and the commitments of Angola to assist the Commission in addressing the capacity challenges regarding its working languages.

#### **b. Panel on Present**

- This panel comprised Ms. Sheila B. Keetharuth, UN Special Rapporteur on Eritrea as Keynote Speaker and Commissioner Solomon Ayella Dersso-ACHPR, Ambassador Lazhar Soualem- of Algeria, Ms. Hannah Forster- Executive Director of the African Centre for Democracy and Human Rights Studies and Professor Rachel Murray- Researcher, University of Bristol.
21. In assessing the performance of the African Commission over the period 2010 to 2017, Ms. Keetharuth indicated that the period revealed a mixed bag of achievements, some powerful advances and others less, as well as some setbacks. She highlighted the examination of state reports pursuant to the African Charter as an important part of the Commission's work as well as its limitations. She also addressed the important collaborative and mutually-beneficial relationship that exists between the Commission and civil society pursuant to its promotional mandate, including the development of soft law instruments as well as the challenges in the relationship and called for more engagement with and commitment to the Commission as well as more professionalization in this space.
22. With respect to its protective mandate, the Communications procedure was show cased as one of the Commission's most effective tools, which has rendered its work tangible to the public and increased its visibility. Another important feature was the balancing act performed by the Commission over the years in a progressive manner, which entailed reading into the African Charter 'missing rights' despite its claw back clauses as well as the willingness of the Commission to grant specific reparations to victims when there was an explicit request to that effect in the pleadings. The complementarity between the Commission and the Court in protecting human rights was also mentioned. The creation of fifteen (15) Special Mechanisms to cover an array of different thematic issues was lauded. However, the Commission was called upon to carefully think through the thematic areas it deems pressing to respond to the needs on the continent in terms of human rights and in doing so, it should also bear in mind funding for these thematic areas and the possibility of appointing external Special Rapporteurs. She

concluded by highlighting some of the major challenges of the Commission including the lack of sufficient visibility of its existence, its work as well as its status as an independent, autonomous treaty body and called on the Commission to ensure that people are aware of its existence and its important work as well as to remain that body which provides reparations and hope to people on the African Continent when their rights are violated.

23. Commissioner Dersso noted the important work done by the Commission including norm elaboration and the analysis and reasoning in communications. He also emphasised the need to continue to operationalise the provisions of the African Charter to cover the whole gamut of rights and freedoms provided therein, and to deal with the emerging issues such as human rights and conflict situations, the environment, extractive industries and sexual minorities, as well as the institutional, capacity, relationship and formal legal challenges encountered by the Commission.
24. Ambassador Soualem pointed out the active participation of the People's Republic of Algeria in the work of the Commission over the years, the need for State Parties to recognise the common and collective responsibility they have in the promotion and protection of human rights in Africa and to support the work of the Commission including provision of financial and technical support and secondment of High level staff to the Commission. He also noted that the Commission has not been very visible on the continent. He concluded by calling upon the Commission to be more visible and interact more with the citizens, to engage in preventive advocacy and to be dynamic in dealing with emerging issues such as corruption and terrorism in Africa.
25. Professor Murray stated that the Commission should operate with independence and expertise to eliminate criticism. It should also work in an open and participatory approach/manner. With respect to communications, she indicated that the Commission should be more accurate, relevant and precise in its decisions and also adhere to timelines. It should also ensure that it is more visible by undertaking activities to enhance its visibility and by translating its documents in all the AU languages and by posting them on its website.
26. Mrs. Forster elaborated on the collaborative relationship between the NGOs with observer status and the Commission over the years and reinforced the need to continue to support the work of the commission. She also highlighted challenges such as lack of communication and information flow from the Commission to NGOs, delay in uploading state reports and harassment of NGOs during sessions.
27. The following notable feedback arose from plenary contributions: The lack of compliance with Article 26 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) by many State Parties, the absence of standing invitations to facilitate promotion missions, the need for State parties to develop coordinating bodies responsible for



preparing reports and to appoint focal points at the national level to engage with CSOs, the need to review the criteria for granting observer status, the need for Experts to be seconded to the Commission, the need for better engagement between the Commission and African Union Member States (AUMS) including consultations with member states in drafting General Comments/soft law, the need for the Commission to validate and authenticate sources of information received on human rights issues, the need for the Commission to invite the members of the Permanent Representatives Committee (PRC) to participate at its sessions to bring them to the same level of information, and the need to develop a policy on secondment.

### **c. Panel on the Future**

28. The Panel on the Future comprised Prof. Barney Pityana, former Chairperson of the ACHPR, from the Thabo Mbeki Foundation as Key Note Speaker, Pansy Tlakula, former Chairperson of the ACHPR, Mr. Yibekal Gizaw, Federal Republic of Ethiopia, Commissioner Shatikha Suzanne Chivusia, Kenya National Commission on Human Rights, Ms. Bellinda R. Chinowawa of the Zimbabwe Lawyers for Human Rights, and Prof. Michael Addo, of the United Nations Working Group on Business and Human Rights.
29. Professor Pityana explored the difficult environment in which the ACHPR operated in the 90s, characterized by massive human rights violations by one party dictatorial regimes and the people of Africa clamoring for the respect of their civil, political and economic rights. He stated that the establishment of the ACHPR therefore lifted the spirits of the Continent and raised the levels of confidence in Africa's ability to genuinely attend to the problems associated with human rights in Africa, despite skepticism about the Commission and its ability to hold repressive regimes to account. He also highlighted the difficult but fulfilling journey of the Commission during the first decade and some of the positive developments during the second decade such as the arduous task of establishing jurisprudence that gave rigour and substance to the rights enshrined in the African Charter. It also improved its jurisprudence by legal reasoning with a view to ensure that the African Charter was not utilized to undermine its express intent.
30. In highlighting the future for the Continent in the midst of its many human rights challenges and violations, he stated that it is the AU that has to be the hope of Africa and for it and Africa to realise that hope, it is imperative that the nations of the Continent invest in younger leadership, in high morality, idealism and vision as well as honour the instruments that have been established to promote the well-being of society. He encouraged the ACHPR to seize the opportunity provided by the International Criminal Court and to continue to be inspired by lessons and best practices from other human rights bodies and mechanisms. He concluded by challenging the African Commission to seek new and innovative ways of exercising its mandate.

31. Pansy Tlakula observed that after 30 years of operationalization of the ACHPR, it was time to pause, reflect, and do a re-evaluation of what the ACHPR has accomplished. She recommended that the ACHPR should pay more attention on its autonomy, its human resource capacity, good governance on the continent, and it should not shy away from controversial issues relating to its mandate, including calling on states to implement some Articles of the Charter as well as all decisions emanating from it.
32. Mr. Yibekal highlighted that notwithstanding the positive strides made by the ACHPR in promoting and protecting human and peoples' rights and overcoming the evils of colonialism on the continent for the past three decades, the issues of poverty, lack of democracy and good governance, corruption, youth unemployment, climate change and the emergence of terrorist groups would pose a huge challenge to the ACHPR's mandates. He encouraged collaborative efforts between states and the ACHPR in ensuring that the ACHPR becomes a more effective and stronger force in battling the systemic gaps by curing the disease and not just treating the symptoms, in the promotion and protection of human rights on the continent.
33. Ms. Chivusia dwelled on the collaborative role played by NHRIs in the execution of ACHPR's mandate and stressed on more synergy between the ACHPR, NHRIs and other stakeholders. She encouraged the ACHPR to adopt the Paris principles as the guiding requirement to grant affiliate status to NHRIs and as a means of getting states to effectively implement the African Charter.
34. Ms. Chinowawa's presentation focused on the role of Civil Society Organization in the realization of human rights on the continent. While hailing the recognition of this role by the ACHPR, she advocated for the institutionalization of an emergency response mechanism with its main focus on responding to urgent and grave situations of violations on the continent as well as a reconsideration of the period for state reporting and enhancement of the relationship between the ACHPR and civil society organization.
35. Professor Addo encouraged the ACHPR to focus and reflect on the gains made so far and, on its strengths, and to make more efforts to enhance them. He advocated for more collaboration between the ACHPR and other human rights bodies like the UN as reflected in the AU-UN Roadmap and between the AHCHP, NGOs and Civil Society Organizations.

#### **d. Panel on the Youth**

36. The Panel on the Youth consisted of Commissioner Jamesina E.L. King, Mr. John Ikubaje, Department of Political Affairs, Ms. Haddy Jonga, of the National Youth Council, The Gambia, Mr. Kokou Djagadou, AU Youth Division, Ms. Salimatou

Fatty, a Youth Leader from the Gambia and Mr Vasco Masseh, African Youth Parliament.

37. Commissioner King highlighted some of the major challenges facing the African youth which include lack of access to quality education and training, lack of access to job opportunities, inadequate access to sexual and reproductive health information and services and child marriages across the continent. She also emphasised the fact that both the African Charter and the Maputo Protocol contain provisions to protect the youth from those violations. She indicated the Commission's efforts in the past two years to engage more directly with the Youth and with issues affecting them including adoption of the Resolution on Human Rights issues affecting African Youth, the Commission's internship programme as well as the adoption of the Banjul Declaration of the 59th Ordinary Session of the Commission which recommended that the Commission should establish a focal point on the youth. In conclusion, she called for the designation of a Focal Point on Youth within the Commission; the raising with State Parties of the specific concerns in their countries that affect the youth during the consideration of State Reports; increased cooperation with the African Committee on the Rights and Welfare of the Child; and encouraging NHRIs to intensify their efforts in promoting and protecting the rights of the youth and to deepen their engagement with them.
38. Mr. Ikubaje noted the urgent need to protect the rights of youth on the continent and empowering them today to meet the challenges of tomorrow through education. The Commission should put in place programmes to allow youth to participate in the promotion and protection of human rights and for the Commission to draw inspiration from the African Governance Architecture (AGA) youth engagement strategy. The youth should be brought on board to look at corruption and socio-economic rights on the continent in line with the 2018 theme.
39. Ms. Jonga noted the 58<sup>th</sup> Ordinary Session side event on the Youth Charter as a positive example of how the Commission has engaged the youth. She requested the Commission to improve accountability in terms of the African Charter, particularly with regard to safe and healthy living conditions for young people and to hold governments accountable for providing opportunities to the youth with a view to address the issue of illegal migration, address challenges to the fulfilment of sexual and reproductive health rights and violent extremism which affect many of the youth.
40. Mr. Djagadou noted the lack of implementation of the Africa Youth Charter by State Parties at the national level and stressed the importance of the AU Roadmap to guide implementation of the AU theme of the year beyond 2017. He also noted the AU Youth Volunteer programme and the Youth Pre-Summit to the AU-EU Summit as an important way in which the youth can contribute to the work of the AU. He emphasised the importance of technical training as an alternative to

academic training for youth and suggested that the Commission should use social media to reach out to the youth and popularize the African Charter.

41. Ms. Fatty noted that education of youth is key to national development and young people can ensure education for all. Not many people are aware of the existence of the Commission, the African Charter or the African Youth Charter, and the Commission should hold regional seminars for the youth in order to increase its visibility and engagement with the youth. The Commission and the AU should focus on illegal migration, by organizing a seminar for youth from West and North Africa, as being the two regions most affected by this phenomenon as well as focus on the right to education, including through working with State Parties to ensure that early pregnancy does not lead to school dropout.
42. Mr. Maseh noted that the youth can be a greater force than it currently is as well as a source of innovation if AU Member States allocate 30% of seats in decision-making bodies such as Parliament to the youth, and the Commission should engage State Parties on this issue. One of the ways in which to end the migration of youth to Europe is through encouraging entrepreneurship and investing more in education and skills development. The Commission should work with the AU Youth Parliament to address the issues above as well as other concerns affecting the youth.

#### **IV. Assessment of the Commission's work**

43. During the Panel presentations and Discussions, which took delegates on a journey of the Commission's past, present and future, the key successes registered, and challenges encountered during the period under review were highlighted.

##### **a. Successes**

44. The Commission has:

##### **Promotion**

- Adopted three hundred and seventy-six (376) thematic, country specific and administrative Resolutions;
- Considered over seventy-nine (79) State Reports;
- Completed more than eighty-five (85) Promotion Missions to State Parties;

##### **Protection**

- Received six hundred and sixty-three (663) individual and inter-State Communications;

- Undertaken more than six (6) fact finding and protection Missions to State Parties, including African Union-mandated fact-finding missions;
- Championed the creation of the African Court on Human and Peoples' Rights to complement its protective mandate;
- Clarified its relationship with the Court, including through the harmonization of their respective Rules of Procedure;
- Delivered in some decisions over time constituting rich jurisprudence on human rights issues on the Continent and beyond including landmark decisions such as Communication 155/96 - Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v Nigeria and Communication 276/03- Centre for Minority Rights Development (Kenya) and Minority Rights Group ( On behalf of the Endorois Welfare Council) v Republic of Kenya.

#### **Norm elaboration**

- Adopted at least twenty (20) supplementary human rights instruments such as Rules, Guidelines, Resolutions, General Comments, Declarations, Model Laws, and other 'soft' law instruments to interpret, clarify and elaborate the provisions of the African Charter.

#### **Institutional/Internal issues**

- Ensured that it is gender sensitive in its composition and leadership positions;
- Established twelve (12) Special Mechanisms to deal with various thematic issues of human rights of concern to the continent and three (3) administrative subsidiary mechanisms to address crucial aspects of its work.

#### **Collaboration with AU Bodies with a human rights mandate**

- Improved collaboration with AU Organs with a human rights mandate through the AGA Platform.

#### **Collaboration with NHRIs, NGOs and other stakeholders**

- Granted Affiliate Status to twenty-seven (27) National Human Rights Institutions and Observer Status to five hundred and eleven (511) Non-Governmental Organizations;
- Attended thirty-two (32) meetings with the NGO Forum over the 16 years of the existence of the said Forum;
- Improved collaboration with other human rights bodies such as the UN under the auspices of the Addis Ababa Roadmap;

- Maintained diversity and openness with its stakeholders;
- Established Thematic Working Groups with External Membership.

## **b. Challenges**

45. The Commission has encountered the following challenges:

### **Promotion**

- Non-compliance with reporting obligations under Article 62 of the African Charter and Article 26 of the Maputo Protocol by many State Parties;
- Absence of standing invitations which impacts on the effective functioning of the Commission's Promotion mandate;
- Lack of capacity and resources to publish the Commission's documents in all four AU languages;
- Lack of sufficient information and understanding of human rights amongst the African youth.

### **Protection**

- Non- implementation of decisions of the Commission by many State Parties;
- Delays in the processing of Communications;
- Non- adherence to time lines in the prosecution and consideration of Communications;
- Lack of precision in the Commission's recommendations on Communications to facilitate understanding and implementation;
- Unavailability of Legal aid to indigent litigants;
- The Commission's urgent response mechanisms (urgent appeals, press releases and fact-finding missions) have limitations and sometimes they do not provide succour to victims;
- Inability to effectively deal with emerging human rights issues such as corruption and terrorism in Africa;
- Lack of ratification of the Court Protocol and the making of the Declaration pursuant to Article 34(6) by State Parties.

### **Norm elaboration**

- Non-interpretation of major Articles of the African Charter such as Articles 8, 10, 11, 13, 18, 20, 26, and 59.

### **Institutional/Internal issues**

- Inadequate human, material and financial resources and capacity to execute its mandate including the transfer of cases to the African Court;

- Problems relating to issues of governance and autonomy of the Commission;
- Negative reaction shown, or displeasure expressed by some State Parties based on the perception that the Commission is unduly reliant on NGOs;
- Unavailability of a permanent headquarters for the Commission.

### **Visibility**

- Lack of visibility of the Commission and its work to the general public, state parties and other stakeholders;
- Non-publication of the Commission's decisions and important documents timeously;
- Difficulty in accessing information from the Commission.

### **Collaboration with NHRIs, NGOs and other Stakeholders**

- Lack of follow up and interaction between Stakeholders and the Commission;
- Lack of Political will by State Parties;
- Lack of feedback on resolutions and Recommendations submitted to the Commission;
- Continuous harassment of NGOs and/or human rights defenders by agents of some State Parties including during sessions of the Commission;
- Absence of a permanent focal point for NGOs at the ACHPR Secretariat leading to lack of proper coordination of NGO matters at the level of the Commission.

## **V. Conclusions and recommendations**

### **a. Conclusions**

- 46.** The following key conclusions arose from the three days of presentations and discussions:
- i. All state and non-state stakeholders have one overarching objective: to ensure the human rights of all individuals and peoples in Africa in terms of the African Charter, and all must therefore work together to address common challenges and they must take account of the views of rights-holders;
  - ii. The Commission should ensure that people across Africa are aware of its existence and its important work;
  - iii. The Commission should remain that body which provides reparations and hope to people on the African Continent when their rights are violated;

- iv. Implementation of the Commission's decisions is not an event, but a process and the Commission has used different means or tools to follow up on its decisions;
- v. Adoption of soft law is an important function of the commission, the effect of which gives flesh to the rights and freedoms enshrined in the African Charter;
- vi. Involvement of the youth in the promotion and protection of human rights on the continent including the African Charter and the African Youth Charter is essential;
- vii. The State is the primary implementer of human rights treaties and conventions but the role of CSOs in this regard needs to be recognised and encouraged.

**b. Recommendations**

47. The three days elicited recommendations which the African Commission and other actors should consider.

**48. Regarding promotion, the Commission should:**

- i. Introduce an optional simplified reporting procedure to reduce the burden of report-writing while giving more focus to issues of particular concern;
- ii. Put in place programmes to enable the youth to participate in promotion and protection of human rights;
- iii. Organise a panel to review the Youth Charter and its implementation; and to look at Youth within the context of the 2018 AU theme on corruption;
- iv. Increase its use of social media in order to reach the Youth;
- v. Engage intensively with the issues of migration of African Youth, violent extremism, and sexual and reproductive rights;
- vi. Focus on socio-economic rights, with emphasis on implementation at the national level.

**49. Regarding protection, the Commission should:**

- i. Request the Executive Council, as one of the key political organs of the Union, to oversee execution of the Commission's decisions and to report regularly to the Assembly on this;
- ii. Provide appropriate briefings to other Union processes, including the African Peer Review Mechanism (APRM), and the Pan-African Parliament (PAP) to support implementation of its decisions;
- iii. Maintain a Cause List as a public register of all Communications in the interest of transparency and accountability;
- iv. Establish a Friendly Settlement Group to support alternative dispute resolution which may involve promotion aspects. This alternative dispute



- settlement approach may encourage dialogue and may be more effective in settling cases expeditiously in comparison with contentious cases;
- v. Establish procedures for ensuring that it consolidates and draws on its full body of standards and work while making determinations and while developing new normative standards;
  - vi. Ensure precision in the Commission's recommendations to allow concerned states to know their obligations and to facilitate implementation;
  - vii. Establish a mechanism to provide Legal Aid to indigent litigants;
  - viii. Set up a dedicated rapid response mechanism to deal with emergency human rights issues/situations as quickly as they arise;
  - ix. Develop early-warning systems to prevent existing human rights situations escalating into fully-fledged conflicts;
  - x. Engage in preventive advocacy and be dynamic in dealing with emerging issues such as corruption and terrorism in Africa;
  - xi. Encourage ratification of the Court Protocol and the making of the Declaration pursuant to Article 34(6) by State Parties.

**50. Regarding norm Elaboration, the Commission should:**

- i. Address the relationship between individual and collective rights, including the rights under Articles 8, 10, 11 and 13 (within the context of democracy and electoral legitimacy) of the African Charter;
- ii. Continue to operationalize the provisions of the African Charter including interpretation of the duties under the African Charter and other provisions such as Articles 18, 20, 25 and 26 with a view to unpacking and scrutinizing the above provisions during the state reporting process;
- iii. Settle the interpretation of Art 59 of the Charter by way of an advisory opinion to put to rest the issue of the independence of the Commission.

**51. Regarding institutional/Internal issues, the Commission should:**

- i. Review its organizational structure to include Senior Litigation Lawyers to prosecute matters before the African Court;
- ii. Recruit Portuguese and Arabic Legal Officers and Translators forthwith in order to cater for the needs of all users/beneficiaries as well as ensure effective implementation of the Commission's mandate;
- iii. Develop a policy on secondment of staff by Member States to the Commission;
- iv. Establish a system of monitoring and assessing the impact of its activities;
- v. Ensure more efficiency in the work of the Commission;

- vi. Invite PRC Members to participate at the Ordinary Sessions with a view to bringing them to the same level of information and facilitate understanding of the Commission's work;
- vii. Strike a balance between its promotion and protection mandates in fulfilling the expectations of all users, beneficiaries and stakeholders respectively;
- viii. Ensure that State Parties are sufficiently consulted in developing soft law;
- ix. Consider/look into situations where a State Party to the African Charter cannot meet its obligations due to conflict, political instability and lack of functional government;
- x. Align its activities towards ensuring good governance and democracy in line with the African Charter on Democracy, Elections and Governance in Africa;
- xi. Operationalise the recommendations in the Banjul Declaration to designate a Focal Point on the Youth within the Commission, to mainstream youth in the work of the Commission;
- xii. The best interest of the citizens of Africa to be the Commission's Guiding Principle in taking decisions;
- xiii. Work with the African Union Commission(AUC) and the host country to implement the decisions of the Executive Council on the construction of a permanent headquarter.

**52. Regarding Visibility, the Commission should:**

- i. Enhance its visibility by ensuring that its work is availed to the public on a consistent basis, including concluding observations, publication of decisions of communications, and mission reports;
- ii. Improve information flow by providing concluding observations, reports of missions and other reports within the shortest possible time;
- iii. Protect and expand space for the participation of various and diverse stakeholders in its work, including in its session and inter-session work, in its procedures, and by holding activities in states across the continent;
- iv. Increase country visits to enhance respect for human rights;
- v. Publish and share the list of promotional visits with an indication of the dates for CSO consultations.

**53. Regarding collaboration with Other AU bodies with a human rights mandate, the Commission should:**

- i. Utilize effectively synergies that exist within the other AU organs with a human rights mandate to work on, and improve upon the level of implementation of its decisions;
- ii. Increase the Commission's cooperation with the African Committee on the Rights and Welfare of the Child in the area of youth engagement, as well as increase its cooperation with the AUC and AU Youth Parliament;
- iii. Increase the Commission's collaboration with the PAP and the APRM.

**54. Regarding collaboration with NHRIs and NGOs, the Commission should:**

- i. Ensure a more structured engagement between the Commission and NHRIs with a view to collaborate more effectively in promoting and protecting human rights in the Continent;
- ii. Support the strengthening of NHRIs by ensuring that they conform with the Commission's resolutions on NHRIs, notably Resolution 370 on the granting of affiliate status to NHRIs and Specialised Human Rights Institutions in Africa, and the Paris Principles;
- iii. Provide feedback on the reports submitted by NHRIs;
- iv. Encourage NHRIs to intensify their efforts in promoting and protecting the rights of the Youth and to deepen their engagement with them;
- v. Establish a dedicated Focal Point or NGO Desk /Unit to facilitate the sharing and exchange of information with the stakeholders;
- vi. Ensure more collaboration with NGOs situated where human rights are violated;
- vii. Review the perception that the Commission relies a lot on NGOs.

**55. The AU and other AU organs should consider the following recommendations:**

- i. AU and its other Organs should continue to have a robust engagement/relationship with the Commission;
- ii. The AU should ensure the full autonomy and financial independence of the Commission;
- iii. The AU should ensure that there is a body responsible for the implementation and monitoring of the African Youth Charter.
- iv. The AU should make available funds for the protection of youth;
- v. AU organs should play an active role in advocating for youth representative in policy making.

**56. State parties should consider the following recommendations:**

- i. Construct the Seat of the African Commission on Human and Peoples Rights by the Host Country;
- ii. Assist in providing the resources at the level of AU to obtain the necessary staff complement;

- iii. Assist in making the case for the Commission to get additional resources and to expedite the recruitment of staff for the commission;
- iv. Provide adequate resources to Special Mechanisms, which are a very good source of information;
- v. Periodic Reports of State Parties to be more focused and informed by previous concluding observations;
- vi. Develop coordinating bodies responsible for preparing of State Reports;
- vii. Implement decisions of the Commission and report on the measures taken within the period specified;
- viii. Establish Centres of human rights in African Universities to educate and train students on the African human rights system and to generally popularise the rights and Freedoms contained in the African Charter as required under Article 25;
- ix. Ensure that the youth have a substantial voice in policy and decision-making bodies, e.g. by allocating 30% of positions to youth representatives;
- x. Youth rights and development should be mainstreamed across all programmes and policies and implemented at national level;
- xi. Recognize the rights of all its citizens;
- xii. Appoint focal points at the national level to engage with CSOs working on human rights issues;
- xiii. Provide more resources to institutions at the national level.

**57. NHRIs should consider the following recommendations:**

- i. Assist the Commission in obtaining the necessary authorization for promotion and other missions in their respective States;
- ii. Use advocacy to popularize the soft law developed by the Commission;
- iii. Organize their own forum regularly with the aim of supporting the work of the Commission;
- iv. Play a role in facilitating implementation of Commission decisions.

**58. NGOs should consider the following:**

- i. Promote greater awareness of the African Charter, the African Commission, its role, procedures, as well as reporting requirements under the African Charter;
- ii. Work closely with the Commission at the national level where decisions are being made;
- iii. Submit annual reports of their activities to the Commission.

## **VI. Annexures**

**A. Opening Statement of the Vice Chairperson of the ACHPR**

**B. Keynote Papers**

**C. Programme**