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**EXECUTIVE COUNCIL  
Eighth Ordinary Session  
16 – 21 January 2006  
Khartoum, SUDAN**

**EX.CL/236 (VIII)**

**REPORT OF THE AFRICAN COMMISSION ON HUMAN AND  
PEOPLES' RIGHTS**

**THE NINETEENTH ACTIVITY REPORT**  
**OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS**

**SECTION I****Period Covered by the Report**

1. The present Nineteenth Activity Report covers the period from July to December, 2005.
2. It is to be recalled that the Eighteenth Annual Activity Report of the African Commission on Human and Peoples' Rights (African Commission) was adopted by the 5<sup>th</sup> Ordinary Session of the Assembly of Heads of State and Government of the African Union, held from 4<sup>th</sup> to 5<sup>th</sup> July, 2005, in Sirte, Libya, in July, 2005. This followed the examination of the Report by the Executive Council.

**SECTION II****Holding of the 38<sup>th</sup> Ordinary Session**

3. Since the adoption of the Eighteenth Annual Activity Report in July, 2005, the African Commission has held one Ordinary Session, the 38<sup>th</sup> Ordinary Session, which took place from 21<sup>st</sup> November to 5<sup>th</sup> December, 2005 in Banjul, The Gambia. The agenda of that session is attached to the present report as annex one (1).
4. The 38<sup>th</sup> Ordinary Session was preceded by an NGO Forum whose aim was to prepare towards the deliberations of the said 38<sup>th</sup> Ordinary Session. The NGO Forum took place from the 18<sup>th</sup> to 20<sup>th</sup> November, 2005, in Banjul, The Gambia.
5. All the under-listed members of the African Commission participated in the deliberations of the 38<sup>th</sup> Ordinary Session:-

- Commissioner Salamata Sawadogo, Chairperson;
- Commissioner Yassir Sid Ahmed El Hassan, Vice-Chairperson;
- Commissioner Kamel Rezag-Bara;
- Commissioner Musa Ngary Bitaye;
- Commissioner Reine Alapini-Gansou;
- Commissioner Mumba Malila;
- Commissioner Angela Melo;
- Commissioner Sanji Mmasenono Monageng;
- Commissioner Bahame Tom Mukirya Nyanduga; and
- Commissioner Faith Pansy Tlakula.

6. In conformity with Article 39 of the African Charter on Human and Peoples' Rights and Rule 16 of the Rules of Procedure of the African Commission, the following

Members of the African Commission, newly-elected by the Assembly of Heads of State and Government, took their oath of office:

- Commissioner Reine Alapini-Gansou;
- Commissioner Musa Ngary Bitaye;
- Commissioner Mumba Malila; and
- Commissioner Faith Pansy Tlakula.

### **Re –election of the Bureau**

7. In accordance with Article 42 of the African Charter on Human and Peoples' Rights and with Rules 17 and 70 of the Rules of Procedure of the African Commission, Commissioners Salamata Sawadogo and Yasir Sid Ahmed El Hassan were re-elected Chairperson and Vice-Chairperson respectively.

### **Appointments of Special Rapporteurs and Members of Working Groups**

8. During the 38<sup>th</sup> Ordinary Session, the following appointments were also made-:

#### **Special Rapporteurs**

- Commissioner Faith Pansy Tlakula - The Special Rapporteur on Freedom of Expression in Africa;
- Commissioner Mumba Malila - The Special Rapporteur on Prisons and Conditions of Detention in Africa; and
- Commissioner Reine Alapini-Gansou - The Special Rapporteur on Human Rights Defenders in Africa.
- In addition, the mandate of Commissioner Angela Melo, the Special Rapporteur on the Rights of Women in Africa, was renewed.

#### **Members of Working Groups**

- Working Group on Indigenous Populations/Communities in Africa: Commissioners Rezag Bara (Chair), Musa Bitaye; and Marianne Jensen, Naomi Kipuri, Mohammed Khattali and Zephyrin Kalimba;
- Working Group on Death Penalty: Commissioners Yassir Sid Ahmed El Hassan (Chair) and Bahame Tom Nyanduga; and 5 Experts to be nominated later;
- Working Group on Specific Issues Relevant to the Work of the African Commission on Human and Peoples' Rights: Commissioners Angela Melo, Abdellahi Babana and Pansy Tlakula; and Open Society Initiative, INTERIGHTS and African Institute for Human Rights and Development.
- Commissioner Mumba Malila was appointed to sit on the Follow- Up Committee on the Robben Island Guidelines.

## Attendance

9. Delegates of the following twenty-three (23) Member States attended and made statements: Algeria, Burkina Faso, Burundi, Cameroon, Central African Republic, Democratic Republic of Congo, Cote d'Ivoire, Egypt, Eritrea, Ethiopia, Gambia, Guinea Bissau, Libya, Mali, Mauritania, Mozambique, Nigeria, Senegal, Republic of South Africa, Sierra Leone, Sudan, Tunisia and Zimbabwe.

10. A representative of the AU Commission attended the session.

11. Representatives of the Office of the High Commissioner for Human Rights, Office of the High Commissioner for Refugees, UN Permanent Forum on Indigenous Issues and the Organisation Internationale de la Francophonie (OIF) were also present.

### Submission by States Parties of Initial and Periodic Reports

12. It is to be recalled that all the Member States of the African Union are States Parties to the African Charter on Human and Peoples' Rights. Under Article 62 of the African Charter on Human and Peoples' Rights, every State Party undertakes to present every two years, starting from the date of entry of the African Charter, a report on the legislative and other measures taken to give effect to the rights and freedoms recognised and guaranteed by the said Charter.

13. The status of presentation by State Parties of their initial and periodic reports is as follows:

A. There are 18 States which have not submitted any reports:

- |                             |                           |
|-----------------------------|---------------------------|
| 1. Botswana                 | 10. Guinea Bissau         |
| 2. Central African Republic | 11. Kenya                 |
| 3. Comoros                  | 12. Liberia               |
| 4. Cote d'Ivoire            | 13. Madagascar            |
| 5. Djibouti                 | 14. Malawi                |
| 6. Equatorial Guinea        | 15. Sao Tome and Principe |
| 7. Eritrea                  | 16. Sierra Leone          |
| 8. Ethiopia                 | 17. Somalia               |
| 9. Gabon                    | 18. Zambia                |

B. There are 17 States which have submitted one report but owe more:

- |                        |  |
|------------------------|--|
| 1. Angola              | 10. Mali                                 |
| 2. Burundi             | 11. Mauritius                            |
| 3. Cameroon            | 12. Mozambique                           |
| 4. Cape Verde          | 13. Nigeria                              |
| 5. Chad                | 14. Saharawi Arab Democratic<br>Republic |
| 6. Congo (Brazzaville) | 15. Swaziland                            |
| 7. Congo (DRC)         | 16. Tanzania                             |
| 8. Guinea (Rep)        | 17. Uganda                               |
| 9. Lesotho             |  |

C. There are 9 States which have submitted two or more reports but owe more:

- |            |             |
|------------|-------------|
| 1. Algeria | 6. Namibia  |
| 2. Benin   | 7. Togo     |
| 3. Gambia  | 8. Tunisia  |
| 4. Ghana   | 9. Zimbabwe |
| 5. Libya   |             |

D. There is one state which has submitted its report but has not yet presented it.

1. Seychelles

E. There are 8 States which have submitted and presented all their reports and are, therefore, up to date:

- |                 |                 |
|-----------------|-----------------|
| 1. Burkina Faso | 5. Rwanda       |
| 2. Egypt        | 6. Senegal      |
| 3. Mauritania   | 7. South Africa |
| 4. Niger        | 8. Sudan        |

14. The African Commission continues to urge Member States that have not yet done so, to submit their initial and periodic reports. Member States are also reminded that they can combine all the overdue reports into a single report for submission to the African Commission.

15. During its 38<sup>th</sup> Ordinary Session, the African Commission examined the periodic report of the Republic of South Africa and adopted Concluding Observations thereto. The African Commission was satisfied with the discussions that it held with the delegation from the Republic of South Africa.

16. The Republic of Seychelles had been scheduled to present its Initial Report during the 38<sup>th</sup> Ordinary Session of the African Commission. However, the African Commission was not able to examine the said report as there was no delegate from the Republic of Seychelles to present it.

17. The African Commission decided to remind Seychelles to send its representatives to present its Initial Report at the 39<sup>th</sup> Ordinary Session. Seychelles was also informed that if no State Delegate is present at the 39<sup>th</sup> Ordinary Session, the Report would be examined in Seychelles' absence.

### **Distribution of States Parties Among Members of the African Commission**

18. During the session, Members of the African Commission agreed on the distribution of States Parties among themselves, for purposes of undertaking promotional activities. This is contained in annex two (2) of the present report.

### **Adoption of Reports on Missions**

19. During the session, the African Commission adopted the following Reports:-

- a. *Reports of Promotional Missions to Central African Republic, Mauritania, Sao Tomé and Príncipe, Guinea Bissau, Seychelles and Botswana;*
- b. *Report of the Fact-finding Mission to the Democratic Arab Republic of Saharawi on the issue of African migrants to Europe;*

- c. *Reports of the Missions of the Special Rapporteur on the Rights of Women in Africa to Djibouti and Sudan;*
- d. *Interim Report of the Fact-finding Mission of the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa to Senegal; and*
- e. *Reports of the Missions of the Working Group on Indigenous Populations/Communities to Botswana and Namibia.*
- f. *Reports of the 35<sup>th</sup>, 36<sup>th</sup>, 37<sup>th</sup> and 38<sup>th</sup> Ordinary Sessions.*

### **Organization of Seminars**

20. The African Commission decided that funds permitting, it would organise seminars on the following topics in the course of 2006 -:

- Terrorism and Human Rights in Africa;
- Islam and Human Rights;
- Contemporary Forms of Slavery; and
- Refugees and Internally Displaced Persons in Africa.

21. At its 38<sup>th</sup> Ordinary Session, the African Commission adopted the following seventeen (17) resolutions -:

- Resolution on the Renewal of the Term of the Special Rapporteur on the Rights of Women in Africa;
- Resolution on the Composition and Operationalisation of the Working Group on the Death Penalty;
- Resolution on the Renewal of the Mandate and the Composition of the Working Group on Specific Issues Relevant to the Work of the African Commission on Human and Peoples' Rights;
- Resolution on the Composition and Extension of the Mandate of the Working Group on Indigenous Populations/Communities in Africa;
- Resolution on the Nomination of a Special Rapporteur on Prisons and Conditions of Detention in Africa;
- Resolution on the Nomination of a Special Rapporteur on Human Rights Defenders in Africa;
- Resolution on the Nomination of a Special Rapporteur on Freedom of Expression in Africa;
- Resolution on the Status of Women in Africa and the Entry into Force of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;
- Resolution relating to the Operationalisation of an Independent and Effective African Court on Human and Peoples' Rights;

- Resolution on Ending Impunity in Africa and on the Domestication and Implementation of the Rome Statute of the International Criminal Court;
- Resolution on the Protection of Human Rights and the Rule of Law while countering Terrorism;
- Resolution on the Situation in the Democratic Republic of Congo;

22. The full texts of the Resolutions on the status of women in Africa; the operationalisation of the African Court Human and Peoples' Rights; ending impunity in Africa and the domestication and implementation of the statute of the international criminal court; the protection of human rights and the rule of law, while countering terrorism; the situation in the Democratic Republic of Congo, are all attached to the present report as annex three (3).

23. During the session, the African Commission discussed its cooperation with national human rights institutions and non- governmental organisations. The African Commission appealed to States Parties that had not yet done so, to establish national human rights institutions and strengthen the capacities of existing ones, in compliance with the Paris Principles and its own resolution on these institutions.

24. During the 38<sup>th</sup> Ordinary Session, the African Commission granted Observer Status to the following twelve (12) Non-Governmental Organisations -:

- Association des Femmes Chefs de Famille (Mauritania);
- Community Law Centre (South Africa);
- Mbororo Social and Cultural Development Association (Cameroon);
- Civic Aid International Organisation (CIAO) (United Kingdom and the Sudan);
- Association Burkinabè pour la Survie de l'Enfance (ABSE) (Burkina Faso);
- Association Congolaise de lutte contre les Violences à l'Égard des Femmes et Filles (ACOLF) (Congo Brazzaville);
- Kataliko Action for Africa/Kataliko Action pour l'Afrique (Democratic Republic of Congo);
- Franciscans International (Switzerland);
- Access to Justice (Nigeria);
- Association for the Reconstruction and Development of the Mokooh Peoples of Cameroon (Cameroon);
- Global Network for Good Governance (Cameroon); and
- Sudan Organisation Against Torture (SOAT) (Sudan and the United Kingdom).

25. This brings the total number of non-governmental organizations that have observer status with the African Commission to three hundred and forty-two (342).

### **SECTION III**

#### **Promotional Activities**



### **Inter-Sessional Promotional Activities of the Chairperson and the Members of the African Commission**

26. As members of the Bureau of the African Commission, the Chairperson, Commissioner Salamata Sawadogo, and the Vice Chairperson, Commissioner El Hassan, worked to oversee the functioning of the African Commission during the intersession. The Chairperson, Commissioner Sawadogo, addressed several urgent appeals to a number of African Heads of State on various human rights matters.

27. Due mainly to the unavailability of funds, Members of the African Commission were unable to undertake promotional missions to Member States during the period under review. However, they were generally able to undertake other promotional activities, including participating in workshops and seminars at the invitation of partners of the African Commission.

28. From 18<sup>th</sup> to 22<sup>nd</sup> July, 2005, the Chairperson of the African Commission participated in the 4<sup>th</sup> Cycle on the Prohibition and Prevention of Torture in Africa, organized by FIACAT in collaboration with its partners in Ouagadougou, Burkina Faso. She made a presentation on 'Activities undertaken by the African Commission for the Prohibition and the Prevention of Torture, Cruel, Inhuman or Degrading Punishment and Treatment in Africa'. From 29<sup>th</sup> September to 1<sup>st</sup> October 2005, at the invitation of the Organisation Internationale de la Francophonie, (OIF), she participated in the 'Meeting on the Constitutional and Political Practices in Africa; the Recent Dynamics.' The meeting brought together representatives from the Commission of the African Union, OIF, experts, political activists, university students, participants from human rights institutions of Francophone and Portuguese-speaking countries.

29. For his part, the Vice Chairperson conducted consultations with the Special Rapporteur on the Rights of Women in Africa, Commissioner Melo, regarding her efforts in ensuring the quick ratification of the Protocol on the Rights of Women in Africa within Member States that have Islam as a dominant religion. This was done in his capacity as an expert on some issues relating to Sharia. On the 13<sup>th</sup> of July, 2005, he participated in a Panel Discussion organized in Khartoum, The Sudan, by the Geneva Institute for Human Rights and Civic Aid International Organization, in collaboration with the Sudanese Newspaper Al-Sahaffa. The theme of the panel discussion was 'The Regional Mechanisms for the Protection of Human and Peoples' Rights'. Between 18<sup>th</sup> and 22<sup>nd</sup> July 2005, with the collaboration of the government of Mauritania, the Office of the UNDP in Nouakchott, and with assistance from the Secretariat of the African Commission, he designed and conducted a training course on human rights in Nouakchott, Mauritania, for about 30 high-ranking law enforcement officials and security officers, judges, university professors and members of the NGO community. Commissioners Rezag-Bara and Babana of the African Commission also participated in the training course as resource persons.

30. On 28<sup>th</sup> July 2005, Commissioner El Hassan participated in a conference in the Sudan where he made a presentation on the 'Functioning of the International Human

Rights System, including the African System'. The Conference was attended by about 20 Sudanese human rights activists. From 29<sup>th</sup> to 31<sup>st</sup> of August, 2005, he participated in a workshop organized in Khartoum, the Sudan, by the Max Planck Institute for International and Comparative law (Germany) in collaboration with the Ministry of Justice; while from the 5<sup>th</sup> to 11<sup>th</sup> September 2005, as one of the experts representing the Sudan, he participated in the 3<sup>rd</sup> Technical Thematic Task Force Meeting (TTTF) held in Nairobi, Kenya. This was sponsored by the United Nations and the African Union Joint Secretariat of the International Conference on the Great Lakes Region. The meeting was attended by experts from a number of African countries, as well as experts from the UN and the African Union Joint Secretariat, UNDP, OHCHR, OCHA, ECA. Participants from the Group of Friends, other United Nations Agencies and Specialized Institutions, and the Special Representative of the Secretary General of the UN to the Great Lakes Region, were also in attendance. While in London to attend the second meeting of the Working Group on Economic, Social and Cultural Rights, held in London in October, 2005, Commissioner El Hassan had meetings with NGOs that have observer status with the African Commission.

31. For his part also, Commissioner Rezag-Bara participated as a resource person in the above-mentioned training course on human rights organized in Nouakchott, Mauritania, in collaboration with the Government of Mauritania and the Office of the UNDP in Nouakchott. From 28<sup>th</sup> October to 3<sup>rd</sup> November, 2005, he also undertook a Fact-finding Mission to the Liberated Territories of the Saharawi Arab Democratic Republic, in order to assess the situation regarding more than 100 Sub-Saharan migrants who had been expelled by the Moroccan authorities. The report of that mission was submitted for consideration and subsequently adopted by the African Commission during its 38<sup>th</sup> Ordinary Session. (see paragraph 18 above). On 8<sup>th</sup> November, 2005, he held a meeting with the Minister for Foreign Affairs of Algeria and former President of the International Court of Justice, Judge Mohammed Bedjaoui. Judge Bedjaoui has been entrusted with the task of chairing the meeting of government experts for drafting the instrument on the merger of the African Court of Justice and the African Court on Human and Peoples Rights. From 19<sup>th</sup> to 20<sup>th</sup> November, 2005, Commissioner Rezag-Bara participated as a resource person in the workshop of the NGO Forum which preceded the 38<sup>th</sup> Ordinary Session of the African Commission.

32. For his part, Commissioner Nyanduga participated in an international conference in Dakar, Senegal, organized jointly by the Council for the Development of Social Research in Africa (CODESRIA), and the Globalization Studies Network (GSN), a network of research institutions and universities from all over the world. The theme of the Conference was 'Globalization: Overcoming Exclusion, Strengthening Inclusion'. He participated in the panel discussion on the human rights implications of globalization. Between 5<sup>th</sup> and 10<sup>th</sup> September, 2005, the Commissioner took part in the proceedings of the African Human Rights Moot Court Competition and the International Conference on Human Rights at the University of Johannesburg, South Africa. The 2005 African Human Rights Moot Court Competition was organized by the Centre for Human Rights of the University of Pretoria and brought together members of faculties of law and students from universities across Africa. The moot court competition simulates the African Court on Human and Peoples' Rights.

33. In September 2005, he assisted the Legal and Human Rights Centre in providing advice to several Tanzanian NGOs in respect of the process of applying for observer status before the African Commission. On 10<sup>th</sup> October, 2005, he participated in a workshop which was part of the global campaign to abolish the death penalty. The workshop was organized by the Legal and Human Rights Centre, a Tanzanian NGO that has observer status with the African Commission. The workshop discussed in detail, the legal position on the question of the death penalty in Tanzania as well as the political and institutional failures in the administration of the criminal justice system, as highlighted by an October, 2004 FIDH Fact-Finding mission to Tanzania. 34. On 20<sup>th</sup> October, 2005, he attended a conference in Accra, Ghana, organized by Africa Legal Aid, under the theme 'Emerging Trends in Human Rights Issues of Special Significance to Africa.' The conference was organized on the occasion of the 10<sup>th</sup> Anniversary of Africa Legal Aid, and the commemoration of Africa Human Rights Day, on 21<sup>st</sup> October 2005. On 19<sup>th</sup> November 2005, he attended the NGO Forum preceding the 38<sup>th</sup> Ordinary Session of the African Commission and participated in group discussions on the situation of refugees and Internally Displaced Persons in Africa.

34. For her part, Commissioner Monageng was unable to undertake a promotional mission to Zimbabwe because, prior to travelling, she was informed that the Government of Zimbabwe had withdrawn the authorization for the mission. On 16<sup>th</sup> to 7<sup>th</sup> October, 2005, at the invitation of the Centre for Human Rights in Botswana (DITSHWANELO), Commissioner Monageng participated in a seminar on the Death Penalty which took place in Gaborone, Botswana. From 14<sup>th</sup> to 15<sup>th</sup> September, 2005, she attended a seminar on Documenting Human Rights Violations, at the invitation of the Centre for Ethics and Law at Brandeis University in Boston, USA. She also presented a paper on how the African Commission documents human rights violations, and gave lectures at the University of Boston, Brandeis University and various human rights institutions.

### **Inter-sessional Activities of the Special Mechanisms**

35. As the Special Rapporteur on the Rights of Women in Africa, Commissioner Melo lobbied and advocated for the speedy ratification of the Protocol on the rights of women in Africa by Member States. She widely disseminated the Protocol as well as a simplified version of it; and she drafted a section on the promotion and protection of women's rights, for inclusion in the Guidelines provided to states on State Reporting. Further, she undertook a mission to Cape Verde. During the period, she commenced work on the development of a Directory of partners working in the field of human rights of women; as well as on the development of a project geared towards lobbying Muslim States to lift their reservations on the Protocol.

36. As the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons, Commissioner Nyanduga participated in the Humanitarian and Security Assessment Mission to the Darfur Region of Sudan from 2<sup>nd</sup> to 4<sup>th</sup> June, 2005, at the invitation of the African Union. The main objective of the mission was to make an

assessment of the humanitarian and security situation in the Darfur region, following the deployment of the African Union Military Observer Force there.

37. Following the launch of operation Murambatsvina in Zimbabwe on 24<sup>th</sup> June, 2005, he wrote an urgent appeal to the Government of Zimbabwe, through the Minister of Foreign Affairs, Hon. Mumbengengwi of Zimbabwe and the Minister of Justice, Legal and Parliamentary Affairs, Hon. Patrick Chinamasa, requesting the Government Zimbabwe “. . . to halt the eviction and demolition exercise, and assist the victims of the operation, by providing them with humanitarian assistance in the form of temporary shelter, accommodation, water, food, medicines and other forms of assistance, while looking for an amicable solution to the illegal settlements and squatter problem in a manner that upholds the dignity of the individuals and the families, which have become victims of the . . . operations,”

38. In respect of Operation Murambatsvina, he was requested by the Commission of the African Union to undertake a Fact-finding Mission to Zimbabwe between 30<sup>th</sup> June and 4<sup>th</sup> July 2005. The Special Rapporteur travelled to Zimbabwe on 30<sup>th</sup> June, 2005. Negotiations were conducted to enable the Special Rapporteur carry on with the Mission but they proved unsuccessful; and on 6<sup>th</sup> July, 2005, the Ministry of Foreign Affairs of the Republic of Zimbabwe requested the Special Rapporteur to leave Harare.

39. From 16<sup>th</sup> to 17<sup>th</sup> August, 2005, he attended a meeting of the Steering Group, established by the Representative of the UN Secretary General on Human Rights of IDPs. The Steering Group comprises among others, representatives of the UNHCR, OCHA, ICRC, the Brooking Institute-Bern University IDP Project and other international experts on IDP issues. The Steering Group is developing a manual for use by legislators and governments. From 16<sup>th</sup> to 17<sup>th</sup> November, 2005, he attended the second meeting of the Steering Group on the Legislators' Manual on internally displaced persons in Geneva, Switzerland.

40. From 24<sup>th</sup> to 26<sup>th</sup> August, 2005, he participated in a Regional Seminar on Internal Displacement in the SADC region, held in Gaborone, Botswana. The seminar was jointly organized by the UNHCR, the Representative of the Secretary General of the UN on the Human Rights of IDPs, and the Brookings Institution-Bern University IDP Project and hosted by the Government of Botswana. It brought together government officials responsible for refugees and IDP issues from SADC Member States, the Humanitarian and Refugee Coordination Department within the Commission of the African Union and NGOs dealing with IDP issues.

41. From 29<sup>th</sup> August to 3<sup>rd</sup> September, 2005, he undertook a Fact-finding mission to Senegal to investigate the situation of Mauritanian refugees in Senegal. The mission to Senegal was part of a process being undertaken by the Special Rapporteur, which will also involve undertaking missions to Mali and Mauritania in the course of 2006. This is with a purpose to facilitating a durable solution to the Mauritanian refugee problem. A report of the mission was presented before the African Commission and adopted during the 38<sup>th</sup> Ordinary Session. (see paragraph 18 above)

42. The **Working Group on Economic, Social and Cultural Rights in Africa** held two meetings, from 4<sup>th</sup> to 5<sup>th</sup> August 2005, in Pretoria, South Africa and from 6<sup>th</sup> to 7<sup>th</sup> October 2005, in London. During these meetings, the Working Group discussed the draft Guidelines on the Implementation of Economic, Social and Cultural Rights in Africa.

43. **The Working Group on Indigenous Populations/ Communities in Africa** undertook a mission to the Republic of Botswana from 15<sup>th</sup> to 23<sup>rd</sup> June, 2005. The Working Group met government officials and civil society organizations, academic institutions and indigenous communities. It also undertook a mission to the Republic of Namibia from 26<sup>th</sup> July to 5<sup>th</sup> August, 2005. The Working Group held meetings with government officials, civil society organizations and indigenous communities. In August and September, 2005, it undertook information/research visits to Libya and the Democratic Republic of Congo, respectively. The Working Group also held a Coordination Meeting from 18<sup>th</sup> to 20<sup>th</sup> November, 2005, in Banjul, The Gambia. It distributed the Report of the Working Group to governments, NGOs, and international institutions including the UN and the ILO, and academics, across Africa, Europe and the USA.

44. The **Working Group on the Death Penalty in Africa** held its first meeting on 20<sup>th</sup> November, 2005, in Banjul, The Gambia. The Working Group had agreed to hold at least two meetings during the intersession; but owing to resource constraints, it was only able to hold that one -day meeting, with financial assistance from Federation Internationale des Droits de l'Homme (FIDH). Among other issues, the meeting discussed a draft position paper on the death penalty; and agreed on the need to involve the public in debating the matter.

45. The **Working Group on Specific Issues Relevant to the Work of the African Commission** held two meetings between July and November, 2005. During these meetings, the Working Group considered and reviewed the rules of procedure of the African Commission, and proposed major changes in that regard. Additionally, the Working Group considered the role of the African Commission in all the African Union structures; and in this regard, the Members of the Working Group met and held discussions with senior officials of various departments of the Commission of the African Union.

46. **The Working Group on the Implementation of the Robben Island Guidelines** was unable to undertake any activities during the intersession, due mainly to lack of funds. It is to be noted that all the activities that the Working Group has undertaken so far have been funded by a member of that Working Group, namely the Association For The Prevention of Torture (APT). However, the APT is unable to continue giving this assistance because of the difficulties it is itself encountering.

### **Other Promotional Activities**

47. In keeping with its Strategic Plan of 2002 to 2006, the African Commission had decided to organise several seminars and conferences as part of its promotional

activities. However, during the period under review, the Commission was unable to organise any seminars or conferences, mainly because of lack of funding.

## **SECTION IV**

### **Protection Activities**

48. During the 38<sup>th</sup> Ordinary Session, the African Commission considered fifty-four (54) Communications, including thirteen (13) decisions on seizure and four (4) decisions on admissibility. It further considered and decided to remove two (2) Communications from its list of Communications. The reference numbers and the names of the parties of the Communications, are attached to the present report as annex four (4). For various reasons, the rest of the Communications were deferred to the 39<sup>th</sup> Ordinary Session for further consideration.

## **SECTION V**

### **Entry Into Force of the Protocol to the African Charter on the Rights of Women in Africa**

49. It would be recalled that the Protocol to the African Charter on the Rights of Women in Africa was adopted by the 2<sup>nd</sup> Ordinary Session of the Conference of Heads of State and Government of the African Union on 11<sup>th</sup> July, 2003, in Maputo, Mozambique.

50. On 25<sup>th</sup> November, 2005, the Protocol to the African Charter on the Rights of Women in Africa entered into force, thirty (30) days after the deposit of fifteen (15) instruments of ratification. The African Commission, in collaboration with the African Centre on Democracy and Human Rights Studies, and with support from Action-Aid – The Gambia, held celebrations to mark the entry into force of the Protocol. The occasion was marked with statements and sharing of experiences. In attendance were Members of the African Commission, the Attorney General and Secretary of State of the Republic of The Gambia, Hon. Sheik Tijan Hydera, members of the diplomatic corps accredited to the Gambia, representatives of local NGOs and participants attending the 38<sup>th</sup> Ordinary Session.

51. To date, sixteen (16) Member States have deposited their instruments of ratification. They are the following:

- |               |                  |
|---------------|------------------|
| 1. Benin      | 9. Malawi        |
| 2. Cape Verde | 10. Mauritania   |
| 3. Comoros    | 11. Namibia      |
| 4. Djibouti   | 12. Nigeria      |
| 5. Gambia     | 13. Rwanda       |
| 6. Libya      | 14. South Africa |
| 7. Lesotho    | 15. Senegal      |
| 8. Mali       | 16. Togo         |

52. The African Commission invites those Member States that have not yet done so, to ratify the said Protocol as soon as possible.

## **SECTION VI**

### **Administrative And Financial Matters**

53. Under Article 41 of the African Charter, the Commission of the African Union is responsible for meeting the costs of the African Commission's operations, including the provision of staff, financial resources and services. However, the work of the Secretariat of the African Commission continues to be severely compromised due to lack of funding. Even for its staffing requirements, the African Commission continues to depend more on extra-budgetary resources than on the AU for funding. These extra-budgetary resources, notwithstanding, the staffing situation still remains inadequate, given the increasing workload of the African Commission. There is the urgent need to recruit more staff of all categories to ensure the smooth running of the Commission. It is to be noted also, as already indicated in paragraph 27 above, that regarding the discharge of its mandate, under article 45 of the African Charter, the African Commission was unable to carry out several promotional and protection missions to Member States during the period under review, due to lack of funding.

54. In order to supplement the limited resources allocated to it by the African Union, the African Commission continues to seek financial and material assistance from external partners.

55. During the period under review, the African Commission benefited from such financial and material support from the following partners -:

#### **a) Danish Human Rights Institute**

56. The Secretariat of the African Commission received extra-budgetary resources from the Danish Human Rights Institute (former Danish Human Rights Centre) to finance the post of a Policy Phasing and Resource Mobilisation Officer, as well as research activities.

#### **b) Government of the Netherlands**

57. The Ministry of Foreign Affairs of the Netherlands continued to support posts in the documentation centre, the public relations section and the legal section of the Secretariat of the African Commission. This project comes to an end on 31<sup>st</sup> December 2005 and the Government of the Netherlands has indicated that it will not renew it.

#### **c) Rights and Democracy**

58. The Canadian NGO--Rights and Democracy--made a subvention to the African Commission for the following specific activities -:

- Campaign for the Ratification of the Protocol to the African Charter dealing with the creation of an African Court of Human and Peoples Rights;
- Ratification of the Protocol to the African Charter dealing with Women's Rights in Africa;
- Meeting on democracy and elections in Africa; and
- The services of an Assistant to the Special Rapporteur on Women's Rights in Africa.

**d) Danish International Development Agency (DANIDA)**

59. DANIDA continues to support activities of the Working Group on Indigenous Populations/Communities. This support will continue until 2007.

**e) The Office of the UN High Commissioner for Human Rights (OHCHR)**

60. The OHCHR continues to finance the activities of the Special Rapporteur on Human Rights Defenders in Africa.

61. The African Commission expresses its profound gratitude to all donors and partners, whose financial, material and other contributions have enabled it to discharge its mandate during the period under review.

**SECTION VII**

**Adoption Of The Nineteenth Activity Report**

62. The African Commission submits the present Nineteenth Activity Report to the Executive Council for its consideration and transmission to the 6<sup>th</sup> Ordinary Session of the Assembly of the African Union, meeting in Khartoum in January, 2006. This is with a view to enabling the Assembly to adopt it and authorize its publication.