


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي <i>African Commission on Human & Peoples' Rights</i>		UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples
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**FINAL COMMUNIQUE OF THE 47th ORDINARY SESSION OF THE
AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS
HELD IN BANJUL, THE GAMBIA
FROM 12 TO 26 MAY 2010**

1. The African Commission on Human and Peoples' Rights (African Commission), held its 47th Ordinary Session in Banjul, the Republic of The Gambia, from 12 to 26 May 2010.
2. Honourable Commissioner **Reine Alapini Gansou, Chairperson** of the African Commission, chaired the deliberations of the Session.
3. The following Members attended and participated in the Session:
 - Commissioner **Mumba Malila – Vice Chairperson;**
 - Commissioner **Catherine Dupe Atoki;**
 - Commissioner **Musa Ngary Bitaye;**
 - Commissioner **Mohamed Bechir Khalfallah;**
 - Commissioner **Mohamed Fayek;**
 - Commissioner **Soyata Maiga;**
 - Commissioner **Kayitesi Zainabou Sylvie**
 - Commissioner **Pansy Tlakula;**
 - Commissioner **Yeung Kam John Yeung Sik Yuen.**

4. Ninety two (92) delegates representing thirty (30) States Parties, nine (9) National Human Rights Institutions, five (5) International and Inter-Governmental Organisations and forty one (41) African and International NGOs were represented at the 47th Ordinary Session of the African Commission. Altogether five hundred and twenty three (523) delegates participated at the 47th Ordinary Session.

5. Several parallel meetings were held in Banjul, The Gambia, namely:
 - Panel Discussion organised by the African Centre for Democracy and Human Rights Studies, Femmes Africa Solidarité and the United Nations Office for West Africa on 8 May 2010;
 - Panel Discussion convened by People Opposing Women Abuse (POWA) on the implementation of the Protocol on the Rights of Women in Africa in relation to the right to health and the right to be protected from HIV/AIDS on 8 May 2010;
 - Meeting of the Working Group on Indigenous Populations / Communities in Africa held from 8 to 10 May 2010, organized by the Working Group on Indigenous Populations/Communities in Africa;
 - Meeting of African Union Organs on the Human Rights Strategy for Africa held from 10 to 12 May 2010, organised by the African Union Commission;
 - Discussion organised by the Centre for Housing Rights and Evictions in collaboration with the Centre for Reproductive Rights, held on 11 May 2010;
 - Official Launch of the Guidelines on State Reporting under the Protocol to the African Charter on the Rights of Women in Africa, held on 13 May 2010.

6. As customary, the Session was preceded by the Forum of Non-Governmental Organizations (NGOs), organized by the African Centre for Democracy and Human Rights Studies, which was held from the 8 to 11 May 2010.

7. In her opening statement, the Chairperson of the African Commission, Honourable Commissioner **Reine Alapini Gansou**, on behalf of the Members of the African Commission, and on her own behalf, expressed sincere appreciation to the Government and People of the Republic of The Gambia for not only graciously accepting to host another Session of the Commission, but for the conducive environment

and excellent facilities provided to ensure the success of this 47th Session.

8. In her opening remark, **Commissioner Gansou** said that in her address at the end of the deliberations of the 46th Ordinary Session of the African Commission, she had indicated that Africa needs to commit its collective conscience to resolving its urgent human rights problems, especially those related to democratic governance, rule of law and free and fair elections.
9. She recognised that though democracy has varying interpretations, she was of the view that democracy is a political system that should be underpinned by the rule of law. She emphasised that for there to be peace in Africa, States must adhere to those fundamental principles that make democracy works. She stated that there is no doubt that Africa has, through the African Union, taken full stock of what is at stake by taking decisions on the need to get States Parties to adopt the democratic route. She urged States Parties not only to ratify the Charter on Democracy, Elections, Governance, but also to implement the AU Decision on 'Unconstitutional Change of Government'.
10. The Chairperson underscored that Africa cannot speak of respect for or promotion of human rights in a context of bad governance, in a context of electoral violence or of truncated elections flawed by serious and massive human rights violations. She stressed that one cannot speak of respect for human rights in a context of the exploitation of the wealth of the people. She also said that there cannot be good governance where arbitrary arrests, torture in custody, problems of gender based discrimination and other forms of violations are the order of the day; or where the most basic of fundamental freedoms are muzzled and are replaced by restrictive rights.

11. She noted that unfortunately, that the human rights violations about which the African Commission is usually called upon to act, emanate most often from the contexts of bad governance, from the systematic denial of democratic change and the refusal to recognize the fundamental rights of the human being as well as the unacceptable reversal of constitutional order, with no regard for the rights of the populations.

12. She recalled that 2010 has been declared the Year of Peace and Security by the Assembly of Heads of State and Government during the 14th Summit of Head of States and Government. She thus underscored the need for Africans to give an account on what they are doing to promote peace and democratic values in their various communities. She concluded by informing the 47th Ordinary Session that the African Commission has received the Torch of Peace from the AU Executive Council and called upon the Secretary to the Commission to ignite it.

13. Speaking on behalf of the African Union Commission, **H. E. Mrs Julia Joiner**, Commissioner of the Political Affairs Department of the African Union Commission, noted that as Africa moves into the second decade of the 21st century, it stands witness to a simple and irreversible reality – that Africans are establishing, expressing and asserting their human rights more than ever before. She informed the audience of the 47th Session that as Africa grapples with the continuing human rights challenges, it needs to take a step back and look at the journey travelled and the progress registered.

14. **Commissioner Joiner** stated that as Africa articulates its achievements and seek to build a more consolidated human rights path, it is imperative that it builds on those organisations which have succeeded in putting human rights to the fore, the most significant of which are the African Commission and the African Court on Human and Peoples' Rights.

15. **Commissioner Joiner** stated that the promotion and protection of human rights in Africa is a collective effort. She said that whilst human rights activists have a propensity to emphasise the role and responsibility of States Parties, they should not forget to remind themselves that human rights success stories hinges on building wider ownership and ensuring that the burden of responsibilities and actions is shared across all sectors of societies. She said that in as much as our humanism is best reflected in our interactions with others, exercise of rights must also be predicated on our respect for the rights of others, as this might go a long way in building the rights culture all our instruments and mechanisms are seeking to establish.

16. Speaking on behalf of the AU Member States, **H. E. Victor Toupanou**, Keeper of the Seal and Minister of Justice, Legislation and Human Rights and Government Spokesperson for the Republic of Benin recognised the important role of the African Commission's Sessions. He said that the agenda of the Session included many pertinent human rights issues on the continent, giving the various stakeholders the opportunity to exchange views in an open manner. He said that it also gave participants the opportunity to take stock of the recent progress on the implementation of the rights and freedoms guaranteed by the African Charter on Human and Peoples' Rights.

17. Referring to the human rights situation of Benin, he said that Benin is doing all it can to promote good governance and an open democratic system and to actively collaborate with the African Commission. In that regard, he said that Benin submitted, at the 45th Session of the African Commission its consolidated Periodic Report for 2000-2008 on the programmes and policies it has adopted to guarantee the promotion and protection of the rights and freedoms guaranteed by the Charter. He informed the Session that one of the priorities of the Government of Benin and of its Leader, **President Boni YAYI** is to guarantee equal

access for all the citizens to basic social services and the implementation of their rights, with no discrimination.

18. He concluded by stating that Benin is committed to implementing the ideals of the African Charter. He also re-affirmed his Government's commitment to supporting the work of the African Commission. He said that to achieve that objective, Benin will not only continue to welcome visits by the Members of the African Commission, but also ready to supply the African Commission information on how Benin is implementing its international obligations.
19. The Regional Representative of the Office of the High Commissioner for Human Rights (OHCHR) in West Africa, **Mr. Mahamane Cisse-Gouro**, representing Her Excellency, **Navi Pillay**, UN High Commissioner for Human Rights stated that the African Commission has consistently refined and strengthened its method of work in promoting and protecting human rights. He said that the OHCHR is therefore proud to work with the African Commission and to lend it its support. He thanked the Bureau of the African Commission for meeting the UN High Commissioner to discuss strengthened cooperation between the two institutions. He commended the African Commission for its work on the death penalty.
20. Commenting on the comprehensive human rights strategy currently being developed in accordance with UNGA Resolution 61/296, **Mr. Mahamane Cisse-Gouro**, said that the OHCHR is proud to be a strategic partner in the development of the strategy, which is one of the main tasks of the sub-cluster on human rights, justice and reconciliation under the AU-UN 10-year capacity building programme. He stated that the strategy is of utmost importance for an effective implementation of the African Charter, especially as it will assist in coordinating the work of the AU organs and Regional Economic Communities with a human rights mandate. He said that the OHCHR is looking forward to the next meeting

in November at the fringe of the 48th Ordinary Session where the Draft Strategy is expected to be presented.

21. **Mrs. Hannah Forster**, Director of the African Centre for Democracy and Human Rights Studies, gave a statement on behalf of participants of the Forum of NGOs to the 47th Ordinary Session of the African Commission. In reviewing the human rights situation in Africa for the last six months, she concluded that it was characterised by ongoing human rights violations and concerns. She informed the Session that migrants, refugees and Internally Displaced Persons, human rights defenders, journalists, the elderly, women and children and indigenous populations face serious human rights challenges in Africa.

22. She called attention to human rights challenges in countries like Burundi, Cameroon, DRC, Ethiopia, Guinea Conakry, Niger, Rwanda, Somalia, Sudan, Uganda and Zimbabwe that are of concerns to the Forum. She said that the intention of the Forum is not to name and shame, but a call for action to the African Commission to address potentially deteriorating situation of human rights in those countries. She said that in Burundi, Malawi, Rwanda and Uganda, there are reports of increased intimidation, harassment and homophobic attacks directed at people of different sexual orientation. She called on the African Commission to continue its investigative mandates in all countries where human rights are under threat, but also to conduct fact finding missions to those countries.

23. She also highlighted the continuing depletion of Africa's natural resources as well as the deterioration of the environment due to lack of transparency in investment and corporate policies of some organisations. She stated that while it was commendable for the African Commission to set up a Working Group under this theme, it was necessary to consider the formulation of mechanisms to protect

vulnerable people from exploitation in its various forms. In connection with this threat, she also highlighted the human rights dimension of climate change as another disturbing threat to the enjoyment of human rights on the continent. She said that many African nations are realizing that the threats from climate change are serious and urgent.

24. In conclusion she said that though some of the news coming out of Africa has not been very good, there has been some real and positive development. She cited the spirit of good will and cooperation of the Government of Kenya to implement the recommendation of the African Commission relating to the Endorois Peoples and the increasing trend of collaboration between state and non-state actors for human rights in Africa.

25. The Representative of the African National Human Rights Institutions (NHRIs), **Mr Laurence Mushwana, Vice Chair of the Network of African Human Rights Institutions** in his statement expressed appreciation to the African Commission for its tireless efforts to make human rights a reality on the continent, despite being confronted with multiple challenges. He also recognised the courage and zeal with which human rights defenders and NHRIs in Africa have acted to improve the human rights situation in the continent despite the difficulties.

26. He noted with concern that the 47th Session was being held at a time when the situation of human rights defenders in Africa has deteriorated considerably due to political and social instability, while violence in the context of elections, civil wars, ethnic and xenophobic attacks have been witnessed in different parts of the continent. In that regard, he called for cooperation with regional intergovernmental human rights organisations in the struggle to protect human rights defenders. He said that as a first step, African states should create, develop or improve strategies and

programmes for the physical protection of defenders in their respective countries.

27. In conclusion, **Mr Laurence Mushwana** said that National Human Rights Institutions in Africa are conscious of the various challenges in the continent and pledged that they shall play their role in addressing them, especially in helping to strengthen the regional human rights infrastructure, promoting the rule of law and monitoring governance structures. He said that the **Network of African Human Rights Institutions** will nurture existing NHRIs and encourage more African nations to form these institutions in line with the international normative standards, the *Paris Principles* so that they can be better able to promote and protect human rights.

28. The 47th Ordinary Session was officially opened by **Honourable Mr. Edward Gomez**, Attorney General and Minister of Justice of the Republic of The Gambia. He welcomed the Members of the African Commission and the participants to Banjul, The Gambia.

29. He stated that within the last six months many changes have taken place in Africa in the area of democracy, good governance and human rights. He stated that in 2010, Africa witnessed plenty of unrests, which continue to violate the rights of many Africans. He urged the African Commission to continue working diligently with Member States to carry out its mandate, which is to monitor, promote and protect human rights.

30. He reiterated the commitment of the Government of The Gambia to collaborate with and support the activities of the African Commission in the promotion and protection of human rights. He also stated that in the process of discharging their mandates true promoters and protectors of human rights should act responsibly and not make misleading and

unsubstantiated claims of alleged human rights violations or statements founded on ulterior motives.

31. During the Session, statements were made by State Delegates from [Algeria](#), [Angola](#), [Burkina Faso](#), [Cameroon](#), [Cote d'Ivoire](#), [Egypt](#), [Ethiopia](#), [Kenya](#), [Libya](#), [Mauritania](#), [Mozambique](#), [Namibia](#), [Nigeria](#), [Rwanda](#), [Sahrawi Arab Democratic Republic](#), [Senegal](#), [South Africa](#), [Sudan](#), [Swaziland](#), [Tanzania](#), [Togo](#), [Tunisia](#) and [Zimbabwe](#) on the human rights situations in their respective countries.

32. Statements were also heard from the National Human Rights Institute of Mauritania; National Human Rights Commission of Burkina Faso, National Human Rights Commission of Rwanda and the South African Human Rights Commission.

33. A total of **forty-four (44)** Non-Governmental Organisations (NGOs), having Observer Status with the ACHPR also made statements on the human rights situation in Africa.

34. In conformity with Article 62 of the African Charter on Human and Peoples' Rights, the Periodic Reports of the Republic of Cameroon and the Republic of Rwanda were presented to the African Commission.

35. Members of the African Commission presented Reports of the activities they undertook as Members of the Commission, as well as Reports of activities undertaken during the inter-session in the context of their various special mechanisms. The Reports of the various Special Rapporteurs on the Rights of Women; on Human Rights Defenders; on Prisons and Conditions of Detention; on Freedom of Expression and Access to Information; on Refugees, Asylum Seekers and Internally Displaced Persons, were presented, as were the

Reports from the Chairpersons of the Committee for the Prevention of Torture in Africa; the Working Group on the Death Penalty; the Working Group on Indigenous Peoples and Communities; the Working Group on Specific Issues Relevant to the Work of the Commission and the Working Group on the Rights of Older Persons and People with Disabilities in Africa.

36. The African Commission considered applications for Observer Status from nine (9) NGOs. It granted the said Status to eight (8) NGOs in accordance with Resolution ACHPR/Res.33 (XXV) 99 on the Criteria for Granting and Enjoying Observer Status to Non-Governmental Organisations Working in the Field of Human and Peoples' Rights.

37. The following NGOs were granted Observer Status:

- Collectif pour la defense du Droit a l'Energie (CODDAE), Niger;
- Association MIBEKO, Congo, Brazaville;
- The Association of the Defence of Women and Children's Rights (HAGURUKA) Kigali, Rwanda;
- The Association for Media Development in Southern Sudan;
- Union National de la Femme Tunisienne, Tunisie;
- The General Forum for Arab-African Non Governmental Organisations, Libya;
- Organisation Tunisienne des Meres, Tunis, Tunisie;

38. This brings the total number of NGOs with Observer Status before the African Commission to **four hundred and twelve (412)**.

39. The African Commission decided to defer the application for Observer Status of the Open Society Initiative for Southern Africa (OSISA)), based in South Africa, to the next Ordinary Session, for lack of adequate information.

40. The African Commission considered the application for Affiliate Status and granted Affiliate Status to the National Human Rights Commission of Mauritania. This brings the number of NHRIs with Affiliate Status with the African Commission to **twenty two (22)**.

41. The African Commission examined and adopted the following Reports and Papers:

- Report on Challenges in Handling Communications
- Report of the Secretary to the African Commission
- Report of the 8th Extra-ordinary Session
- Report of the Promotion Mission to Namibia
- Report of the Promotion Mission to Tanzania
- Report of the Promotion Mission to Nigeria
- Report of the Promotion Mission to Algeria
- Report of the Promotion Mission by the Special Rapporteur on the Rights of Women in Africa to Ethiopia
- Report of the Promotion Mission by the Chairperson of the Committee for the Prevention of Torture in Africa to Uganda
- Paper on Mission Report Format
- Paper on Editorial Guidelines on Communications
- The African Commission examined the Draft Paper on Sexual Orientation.

42. The African Commission discussed and finally adopted its Rules of Procedure which will come into effect three months from the end of the 47th Ordinary Session.

43. The African Commission adopted Concluding Observations on the Periodic Report of the Republic of Botswana, the Republic of Cameroon, the Federal Democratic Republic of Ethiopia and Republic of Rwanda.

44. The African Commission adopted the following Resolutions:

- Resolution on the Establishment of a Committee for the Protection of the Rights of People Living with HIV/AIDS and those at Risk;
- Resolution on the 2010 Elections in Africa;
- Resolution on the Protection and Prevention of Women and Child Trafficking and Sexual Exploitation in South Africa During the 2010 World Cup;
- Resolution on the Deteriorating Situation of Freedom of Expression and Access to Information in Africa.

45. The African Commission considered 81 Communications: it was seized with 5; it considered 57 on Admissibility; 18 on the Merits and 1 for Review. 74 Communications were deferred to the 48th Ordinary Session, for various reasons, including time constraints and lack of response from one or both parties.

46. The African Commission adopted its Twenty Eighth (28th) Activity Report which will be submitted to the 17th Ordinary Session of the Executive Council of the African Union and the 15th Summit of the Assembly of Heads of State and Government of the African Union, which is scheduled to take place in July 2010 in Kampala, Uganda.

47. The African Commission [decided to hold an Extra-ordinary Session from **23 August to 1 September** to discuss in Banjul, The Gambia, urgent and outstanding matters.](#)

48. The African Commission decided to hold its 48th Ordinary Session from 10 to 24 November 2010 [at a venue to be decided later.](#)

49. It also decided to hold future Sessions starting 2011 in April and October.

50. The African Commission expresses its sincere appreciation and profound gratitude to the Government and People of the Republic of The Gambia for the facilities placed at its disposal, and for the warm welcome and hospitality accorded to the participants, all of which contributed to the excellent outcome and success of the deliberations of its 47th Ordinary Session.

51. The closing ceremony of the 47th Ordinary Session took place on 26 May 2010 in Banjul, The Gambia.

52. The Chairperson of the African Commission, Her Excellency **Commissioner Reine Alapini Gansou** held a Press Conference after the closing ceremony.

Done in Banjul, Republic of The Gambia, 26 May 2010