

AFRICAN UNION		UNION AFRICAINE
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AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES		

Statement by Hon. Lady Justice Imani D Aboud, President of the African Court on Human and Peoples' Rights delivered on the occasion of the Opening Ceremony of the 73rd Ordinary Session and the 35th Anniversary of the African Commission on Human and Peoples' Rights

Banjul, The Gambia

20 October 2022

Hon. Chairperson of the African Commission on Human and Peoples' Rights

Excellency Representatives of the Government of the Gambia

Excellency Representative of the Chairperson of the African Union Commission

Honourable Members of the African Commission and the Committee on the Rights of the Child

Distinguished partners, guests and participants,

All protocol observed

I feel greatly honoured to be part of this twin ceremonies – the 73rd ordinary session and 35th Anniversary of the operationalisation of the African Commission on Human and Peoples’ Rights. I would have loved to be with you in person, but unfortunately, due to other prior and equally important commitments, it is not possible. Accept, all the same, warm greetings from all the Judges and staff of your sister institution, the African Court on Human and Peoples’ Rights

Excellencies, distinguished ladies and gentlemen

It is quite **amazing** that these two events are taking place on the eve of, 21 October, a very important day in the human rights calendar of our continent. As we all know, 21 October 1986 marks the entry into force of the African Charter on Human and Peoples’ Rights – what we consider the human rights constitution of the continent. Hon. Chairperson, we would not have been commemorating 21 October if not of the African Commission. It is the African Commission that has made this day what it is today. It is the Commission that in 1989, just two years after its operationalisation, during its Fifth Ordinary Session in Benghazi, Libya, adopted *Resolution ACHPR/Res.1(V)89 on the celebration of an African Day of Human Rights*. It is that resolution that you adopted some 33 years ago that continues to galvanise the human rights community each year to reflect on where we come from, where we are, and where we are going to, in the human rights discourse on the continent.

Admittedly, the Resolution called for celebrations, and rightfully so. Africa has the right to celebrate, if we look back to our history on human rights. Africa has the right to celebrate the gains we have made in human rights. Yes, Africa has the right to celebrate even the future of human rights as encapsulated in many of our instruments, including Agenda 2063.

In the Resolution, the African Commission was:

convinced that the celebration of the anniversary of the coming into force of the African Charter on Human and Peoples’ Rights would involve the

peoples of the world in general and the African peoples in particular, in the activities of the African Commission on Human and Peoples' Rights in the field of human and peoples' rights and promote, as well, at the level of the African community in particular, the actual exercise and enjoyment of human and peoples' rights and of the basic freedoms.

To this end, it invited "the O/AU Member States and all organisations concerned, to adopt the 21st of October of every year as an African Day of Human Rights"

Excellencies, ladies and gentlemen,

It was based on this singular act by the Commission that today, Member States of the African Union and all Africans, commemorate 21 October of each year as the African Human Rights Day. The commemoration of Africa Human Rights Day, among other things, gives us the opportunity to take stock, reflect on and recommit to the solemn declaration by the peoples and leaders of Africa on the promotion and protection of human and people's rights on the Continent.

On behalf of the African human rights family and on my personal behalf as President of the African Court, I wish today, even as we grapple with many human rights challenges, thank the African Commission for the institutionalisation of this day.

Excellencies, distinguished ladies and gentlemen

Today, we also celebrate a milestone, thirty five years of the existence of the African Commission. No one can and should dispute the place of the African Commission in the human rights history of the continent. From promotional missions, fact-finding missions, consideration of State Reports, special mechanisms, and more importantly, its very rich human rights jurisprudence, the African Commission, over the past three and a half

decades, has cemented its place by reshaping the human rights landscape on the continent.

Like many other institutions on our continent, the Commission faces enormous challenges, but the determination, passion and love for continent is the engine that drives the Commissioners and staff to soldier on.

On this solemn but celebratory occasion, we salute the current Commissioners and staff and recognise those who were there before them, for the sacrifices and efforts you've put in to improve the enjoyment of human rights in Africa.

Excellencies, distinguished ladies and gentlemen

We commemorate the 35th Anniversary of the African Commission, the 73rd Ordinary Session of the Commission, and of course the 2022 edition of African Human Rights Day (which comes tomorrow), barely two weeks after the Court and the Commission concluded a Joint Retreat on the question of complementarity, at the Headquarters of the African Union in Addis Ababa, Ethiopia. As you all know, the Court and the Commission are joined together by statute (the Protocol establishing the Court), so we don't have a choice, but to work together.

However, since the establishment of the Court, more than 16 years ago, I do not believe we have worked as envisaged in the Protocol. Yes, the two organs have had meetings on several occasions, yes, they have a staff exchange programme in place, they exchange information and other resources on a regular basis, and contribute to the development of each other's Rules, etc, however, when it comes to judicial complementarity, the one envisaged in the Protocol, the record has been disappointing. For 16 years, the Court has transferred only 4 cases to the Commission and the Commission has seized the Court with only 3 cases. This, in my view, is unacceptable.

The Commission and the Court have not effectively played the role required of them to enhance the protection of human rights on the continent. As a result, we have robbed African citizens of the human rights protection they so dearly need. This, in my view, must stop, and we must look ahead with renewed hope and determination to serve the African people better.

It was this spirit of optimism and dedication that characterised our five day retreat. I want to use this platform to inform the African human rights community that at the end of the retreat we came up with concrete, realistic and time bound measures to be put in place to enhance complementarity, and work towards improving the protection of human rights of our people. No one institution can boast to have monopoly in the promotion and protection of human rights. We must work together, and that's why we agree with the African Commission's mantra that *the protection of human rights is our collective responsibility*.

It is in that light that during our retreat, we reaffirmed our desire to see the amendment of Article 5 of the Protocol for the African Committee of Experts on the Rights and Welfare of the Child, one of the three AU organs with exclusive human rights mandate, to be included as one of the entities that can access the Court directly. We believe statutory complementary between the trio can further enhance the protection of human rights on the continent.

We therefore, through this platform, call on the AU to finalise the process of amending Article 5 of the Protocol, an initiative launched by the Court since 2017. We further call on Member States of the African Union, other AU organs, Civil Society Organisations, and all other human rights stakeholders on the continent, to work with us to strengthen complementarity and entrench the culture of human rights in Africa.

Allow me, before ending my remarks, to congratulate my good brother, Professor Lumbu, the Chairperson of the African Commission, for his cooperation and leadership. Since his ascension to the helm of the Commission, I have had very close interactions with him to discuss how our two institutions can work closely. His commitment to the

cause of human rights is unwavering. The organisation of the Retreat, two weeks ago, between our two institutions, is testimony of this. I also wish to thank all the Commissioners, staff and participants at this 35th Anniversary, the 73rd ordinary session, all taking place as we prepare to ~~celebrate the 33rd Anniversary of African human Rights~~ Day.

Deleted[Dr. Robert Eno]:

Long Live the African Commission

Long Live the African Court

Long Live Africa

I thank you for your attention.

Imani Daud Aboud