

RECOMMENDATIONS AND RESOLUTIONS ADOPTED BY THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

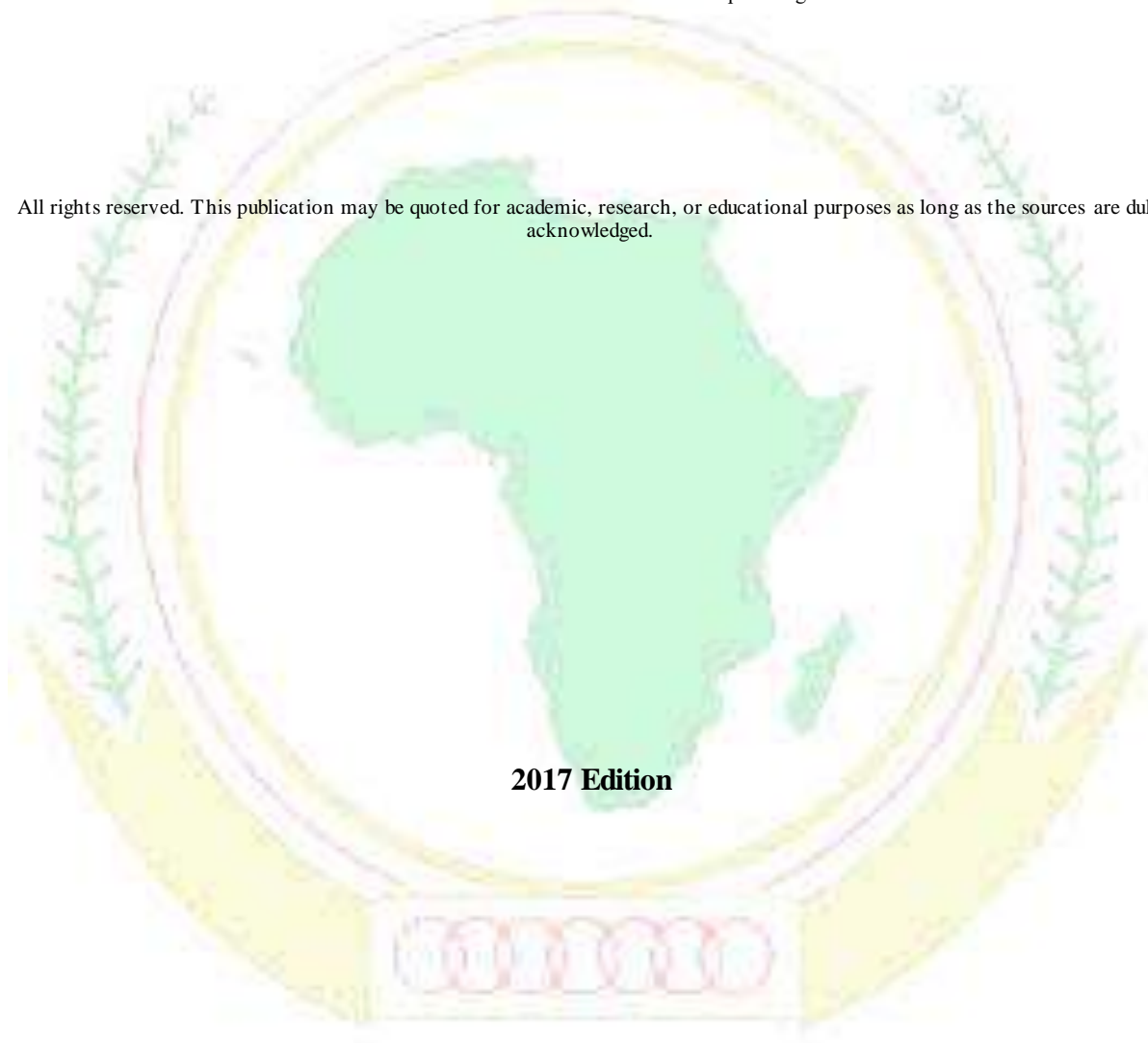


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211	ACHPR/RES.211 (EXT.OS/XI) 2012	Resolution on the Human Rights Situation in Nigeria
212	ACHPR/RES.212 (EXT.OS/XI) 2012	Resolution on the Mandate of the Working Group on Communications of the African Commission on Human and Peoples' Rights
213	ACHPR/Res.213 (LI) 2012	Resolution on the Unconstitutional Change of Governments
214	ACHPR/Res.214 (LI) 2012	Resolution on the Human Rights Situation in Nigeria
215	ACHPR/Res.215 (LI) 2012	Resolution on the Renewal of the Mandate of Expert Members of the Working group on Extractive Industries, Environment and Human Rights Violations in Africa
216	ACHPR/Res.216 (LI) 2012	Resolution on the Human Rights Situation in the Kingdom of Swaziland
217	ACHPR/Res.217 (LI) 2012	Resolution on the Situation in the North of Mali
218	ACHPR/Res.218 (LI) 2012	Resolution on the Human Rights Situation in Ethiopia
219	ACHPR/Res.219 (LI) 2012	Resolution on the Situation between Sudan and South Sudan
220	ACHPR/Res.220 (LI) 2012	Resolution on the Extension of the Mandate of the Committee on the Protection of the Rights of People living with HIV (PLWHIV), and those at risk, vulnerable to and affected by HIV in Africa
221	ACHPR/Res.221 (LI) 2012	Resolution on the attacks against Journalists and Media Practitioners in Somalia
222	ACHPR/Res.222 (LI) 2012	Resolution to Modify the Declaration of Principles on Freedom of Expression to include access to Information and Request for a Commemorative Day on Freedom of Information
223	ACHPR/Res.223 (LI) 2012	Resolution on the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights
224	ACHPR/Res.224 (LI) 2012	Resolution on a Human Rights-based approach to Natural Resources Governance
225	ACHPR/Res.225 (LII) 2012	Resolution on the Expansion of the Mandate of the Working Group on Communications and modifying its Composition
226	ACHPR/Res.226 (LII) 2012	Resolution on the Ratification of the Protocol to the

		African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights
227	ACHPR/Res.227 (LII) 2012	Resolution on the Expansion of the Mandate of the Working Group on Death Penalty in Africa
228	ACHPR/Res.228 (LII) 2012	Resolution on the need to Develop Guidelines on Conditions of Police Custody and pre-trial Detention in Africa
229	ACHPR/Res.229 (LII) 2012	Resolution on the Extension of the Deadline for the study on Freedom of Association in Africa
230	ACHPR/Res.230 (LII) 2012	Resolution on the need for a study on the Situation of Women Human Rights Defenders in Africa
231	ACHPR/Res.231 (LII) 2012	Resolution on the Right to Adequate Housing and Protection from Forced Evictions
232	ACHPR/Res.232 (EXT.OS/XIII) 2013	Resolution on Elections in Africa
233	ACHPR/Res.233 EXT.OS/XIII) 2013	Resolution on the Reconstitution of the Working group on Specific Issues relevant to the Work of the Commission and Modifying its Mandate and Composition
234	ACHPR/Res.234 (LIII) 2013	Resolution on the Right to Nationality
235	ACHPR/Res.235 (LIII) 2013	Resolution on Transitional Justice in Africa
236	ACHPR/Res.236 (LIII) 2013	Resolution on Illicit Capital Flight from Africa
237	ACHPR/Res.237 (LIII) 2013	Resolution Appointing Expert Members for the Working Group on Indigenous Populations/Communities in Africa
238	ACHPR/Res. 238 (EXT.OS/XIV) 2013	Resolution on the Political Situation in the Republic of Mali
239	ACHPR/RES 239 (EXT.OS/XIV) 2013	Resolution on the 2013 Elections in Africa
240	ACHPR/RES 240 (EXT.OS/XIV) 2013	Resolution on the Human Rights Situation in the Arab Republic of Egypt
241	ACHPR/Res. 241 (EXT.OS/XIV) 2013	Resolution on the Human Rights Situation in the Democratic Republic of Congo (DRC)
242	ACHPR/Res 242 (EXT.OS/XIV) 2013	Resolution on the Human Rights Situation in the Republic of Guinea
243	ACHPR/Res. 243 (EXT.OS/XIV) 2013	Resolution on the Human Rights Situation in the Central African Republic

244	ACHPR/Res.244 (LIV) 2013	Resolution on the Renewal of the Mandate of the Special Rapporteur on Prisons and conditions of detention in Africa
245	ACHPR/Res.245 (LIV) 2013	Resolution on the Renewal of the Mandate of the Special Rapporteur on the rights of Women in Africa
246	ACHPR/Res.246 (LIV) 2013	Resolution on the Renewal of the Mandate of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa
247	ACHPR/Res.247 (LIV) 2013	Resolution on the Renewal of the Mandate of the Special Rapporteur on Freedom of Expression and Access to Information in Africa
248	ACHPR/Res.248 (LIV) 2013	Resolution on the Renewal of the Mandate of the Special Rapporteur on Human Rights Defenders in Africa
249	ACHPR/Res.249 (LIV) 2013	Resolution on the Renewal of the Mandate of the Working Group on Indigenous Populations/Communities in Africa
250	ACHPR/Res.250 (LIV) 2013	Resolution on the Renewal of the Mandate of the Working Group on the Rights of Older Persons and People with Disabilities in Africa
251	ACHPR/Res.251 (LIV) 2013	Resolution on the Renewal of the Mandate of the Chairperson and Members of the Working Group on the Death Penalty, Extrajudicial, Summary and arbitrary killings in Africa
252	ACHPR/Res.252 (LIV) 2013	Resolution on the Renewal of the Mandate of the Working Group on Economic, Social and Cultural Rights in Africa
253	ACHPR/Res.253 (LIV) 2013	Resolution on the Renewal of the Mandate of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa
254	ACHPR/Res.254 (LIV) 2013	Resolution on the appointment of the Chairperson and renewal of the mandate of the Members of the Committee for the Prevention of Torture in Africa
255	ACHPR/Res.255 (LIV) 2013	Resolution on the renewal of the mandate of the working group on communications
256	ACHPR/Res.256 (LIV) 2013	Resolution on the appointment of the chairperson and renewal of the mandate of the members of the advisory committee on budgetary and staff matters
257	ACHPR/Res.257 (LIV) 2013	Resolution calling on the republic of Kenya to implement the Endorois decision
258	ACHPR/Res.258 (LIV) 2013	Resolution on summary execution and enforced disappearance in Mali
259	ACHPR/Res.259 (LIV) 2013	Resolution on police and human rights in Africa

260	ACHPR/Res.260 (LIV) 2013	Resolution on involuntary sterilisation and the protection of human rights in access to HI services
261	ACHPR/Res.261 (LIV) 2013	Resolution on the extension of the deadline for the study on Freedom of Association and Assembly in Africa
262	ACHPR/Res.262 (LIV) 2013	Resolution on Women's right to land and productive resources
263	ACHPR/Res.263 (LIV) 2013	Resolution on the prevention of attacks and discrimination against Persons with Albinism
264	ACHPR/Res.264 (EXT.OS/XV) 2014	Resolution on Attacks against Journalists and Media Practitioners in the Federal Republic of Somalia
265	ACHPR/Res.265 (EXT.OS/XV) 2014	Resolution on the Human Rights Situation in the Republic of South Sudan
266	<u>ACHPR/Res.266 (EXT.OS/XV) 2014</u>	Resolution on the human rights situation in the Central African Republic
267	<u>ACHPR/Res.267 (EXT.OS/XV) 2014</u>	Resolution on the human rights situation in the Federal Republic of Nigeria
268	<u>ACHPR/RES.268 (LV) 2014</u>	Resolution appointing expert members for the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa
269	ACHPR/Res.269 (LV) 2014	Resolution Appointing an Expert Member for the Working Group on the Rights of Older Persons and People with Disabilities in Africa
270	ACHPR/Res.270 (LV) 2014	Resolution appointing Expert Members of the Working Group on Death Penalty and Extrajudicial, Summary or Arbitrary killings in Africa
271	ACHPR/Res.271 (LV) 2014	Resolution on Climate Change in Africa
272	ACHPR/Res.272 (LV) 2014	Resolution on the 2014 Elections in Africa
273	ACHPR/Res.273 (LV) 2014	Resolution on Extending the Scope of the Mandate of the Special Rapporteur on Human Rights Defenders in Africa
274	ACHPR/Res.274 (LV) 2014	Resolution on the Drafting of Guidelines on Human Rights and the fight against Terrorism
275	ACHPR/Res.275 (LV) 2014	Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity
276	ACHPR/Res.276 (LV) 2014	Resolution on Terrorist Acts in Africa

277	ACHPR/Res.277 (LV) 2014	Resolution on the drafting of a Protocol to the African Charter on Human and Peoples' Rights on the Right to Nationality in Africa
278	ACHPR/Res.278 (LV) 2014	Resolution on the extension of the deadline for the Study on Transitional Justice in Africa
279	ACHPR/Res.279 (LV) 2014	Resolution on the Extension of the Mandate of the Committee on the Protection of the Rights of People living with HIV, and those at Risk, Vulnerable to and affected by HIV in Africa
280	ACHPR/Res.280 (LV) 2014	Resolution on the Extension of the Mandate of the Working Group on Specific Issues relevant to the Work of the Commission
281	ACHPR/Res.281 (LV) 2014	Resolution on the Right to Peaceful Demonstrations
282	ACHPR/Res.282 (LV) 2014	Resolution on the situation in the Sahrawi Arab Democratic Republic
283	ACHPR/Res.283 (LV) 2014	Resolution on the Situation of Women and Children in Armed Conflict
284	ACHPR/Res.284 (LV) 2014	Resolution on the Suppression of Sexual Violence against Women in the Democratic Republic of Congo
285	ACHPR Res. 285 (EXT.OS/XVI) 2014	Resolution Appointing an Expert Member for the Committee on the Protection of the Rights of People Living with HIV (PLHIV), and Those at Risk, Vulnerable to and Affected by HIV in Africa
286	ACHPR/Res.286 (EXT.OS/XVI) 2014	Resolution on Freedom of Expression in the Kingdom of Swaziland
287	ACHPR/Res.287 (EXT.OS/XVI) 2014	Resolution on Human Rights Abuses in Egypt
288	ACHPR/Res.288 (EXT.OS/XVI) 2014	Resolution Condemning the Perpetrators of Sexual Assault and Violence in the Arab Republic of Egypt
289	ACHPR/Res.289 (EXT.OS/XVI) 2014	Resolution on the Food Crisis in Somalia
290	ACHPR Res. 290 (EXT.OS/XVI) 2014	Resolution on the Need to Conduct a Study on HIV, the Law and Human Rights
291	ACHPR/Res.291 (EXT.OS/XVI) 2014	Resolution on the UN World Conference on Indigenous Peoples
292	ACHPR/Res.292 (EXT.OS/XVI) 2014	Resolution on the Need to Conduct a Study on Child Marriage in Africa
293	ACHPR/Res.293 (EXT.OS/XVII)	Resolution on 2015 Elections in Africa

	2015	
294	ACHPR/Res.294 (EXT.OS/XVII) 2015	Resolution on Good Governance at the African Commission on Human and Peoples' Rights and its Secretariat
295	ACHPR/Res.295 (EXT.OS/XVII) 2015	Resolution on Meetings of the Working Group on Communications
296	ACHPR/Res.296 (EXT.OS/XVII) 2015	Resolution on the Appointment of Expert Members of the Working Group on Economic, Social and Cultural Rights in Africa
297	ACHPR/Res.297 (EXT.OS/XVII) 2015	Resolution on the Deteriorating Human Rights Situation in the Arab Republic of Egypt
298	ACHPR/Res.298 (EXT.OS/XVII) 2015	Resolution on the Human Rights Situation in the Federal Republic of Nigeria
299	ACHPR/Res.299 (EXT.OS/XVII) 2015	Resolution on the Human Rights Situation in the Republic of The Gambia
300	ACHPR/Res.300 (EXT.OS/XVII) 2015	Resolution on the Obligations on the Right to Water
301	ACHPR/Res.301 (EXT.OS/XVII) 2015	Resolution on the World Bank's draft Environmental and Social Policy (ESP) and associated Environmental and Social Standard (ESS)
302	ACHPR/Res.302 (LVI) 2015	Resolution on terrorist acts in the Republic of Kenya
303	ACHPR/Res.303 (LVI) 2015	Resolution on the Right to Rehabilitation for Victims of Torture
304	ACHPR/Res.304 (LVI) 2015	Resolution condemning the Xenophobic Attacks in the Republic of South Africa
305	ACHPR/Res.305 (EXT.OS/XVIII) 2015	Resolution on Accessibility for Persons with Disabilities
306	ACHPR/Res.306 (EXT.OS/ XVIII) 2015	Resolution on the Expansion of the Mandate of the Special Rapporteur on Prisons and Conditions of Detention in Africa
307	ACHPR/Res.307 (EXT.OS/ XVIII) 2015	Resolution on the Development of Guidelines on Access to Information and Elections in Africa
308	ACHPR/Res.308 (EXT.OS/ XVIII) 2015	Resolution on the Extension of the Deadline for the Study on HIV, the Law and Human Rights
309	ACHPR/Res.309 (EXT.OS/XVIII) 2015	Resolution on the Human Rights Situation in Burundi
310	ACHPR/Res.310 (LVII) 2015	Resolution on the urgency for undertaking Fact-finding Mission to Burundi
311	ACHPR/Res.311 (LVII) 2015	Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on Specific Issues Related to the Work of the Commission
312	ACHPR/Res.312 (LVII) 2015	Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on the Rights of Older Persons and People with Disabilities in Africa

313	ACHPR/Res.313 (LVII) 2015	Resolution on the Renewal of the Mandate and Reconstitution of the Advisory Committee on Budgetary and Staff Matters
314	ACHPR/Res.314 (LVII) 2015	Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on Communications
315	ACHPR/Res.315 (LVII) 2015	Resolution on the Renewal of the Mandate of the Special Rapporteur on Human Rights Defenders in Africa
316	ACHPR/Res.316 (LVII) 2015	Resolution on the Appointment of the Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa and Renewal of the Mandate of its Members
317	ACHPR/Res.317 (LVII) 2015	Resolution on the Renewal of the Mandate of the Chairperson and Members of the Working Group on Death Penalty, Extrajudicial, Summary or Arbitrary Killings in Africa
318	ACHPR/Res.318 (LVII) 2015	Resolution on the Renewal of the Mandate of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa
319	ACHPR/Res.319 (LVII) 2015	Resolution on the drafting of Guidelines on Freedom of Association and Assembly in Africa
320	ACHPR/Res.320 (LVII) 2015	Resolution on the Renewal of the Mandate of the Special Rapporteur on Freedom of Expression and Access to Information in Africa
321	ACHPR/Res.321 (LVII) 2015	Resolution on the Appointment of the Chairperson and Reconstitution of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa and Renewal of its Mandate
322	ACHPR/Res.322 (LVII) 2015	Resolution on the Renewal of the Mandate and Reconstitution of the Committee for the Prevention of Torture in Africa
323	ACHPR/Res.323 (LVII) 2015	Resolution on the Renewal of the Mandate of the Working Group on Indigenous Populations/Communities in Africa
324	ACHPR/Res.324 (LVII) 2015	Resolution on the Renewal of the Mandate of the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa
325	ACHPR/Res.325 (LVII) 2015	Resolution on the Appointment of the Chairperson of the Committee on the Protection of the Rights of People Living with HIV (PLHIV) and those at Risk, Vulnerable to and Affected by HIV
326	ACHPR/Res.326 (LVII) 2015	Resolution on the Appointment of a new Commissioner

		for the Transitional Justice Study in Africa
327	ACHPR/Res.327 (LVII) 2015	Resolution on the Appointment of the Special Rapporteur on the Rights of Women in Africa
328	ACHPR/Res. 328 (EXT.OS/XIX) 2016	Resolution on the Modification of the Mandate of the Working Group on Specific Issues relevant to the Work of the Commission
329	ACHPR/Res. 329 (EXT.OS/XIX) 2016	Resolution on the Appointment of Expert Members of the Working Group on Indigenous Populations/Communities in Africa
330	ACHPR/Res. 330 (EXT.OS/XIX) 2016	Resolution on the Appointment of a New Expert Member of the Working Group on the Rights of Older Persons and Persons with Disabilities in Africa
331	ACHPR/Res. 331 (EXT.OS/XIX) 2016	Resolution on Elections in Africa
332	ACHPR/Res. 332 (EXT.OS/XIX) 2016	Resolution on Human Rights in Conflict Situations
333	ACHPR/Res. 333 (EXT.OS/XIX) 2016	Resolution on the Situation of Migrants in Africa
334	ACHPR/Res. 334 (EXT.OS/XIX) 2016	Resolution on Indigenous Populations /Communities in Africa
335	ACHPR/Res. 335 (EXT.OS/XIX) 2016	Resolution on the Situation of Internally Displaced Persons in Africa
336	ACHPR/Res. 336 (EXT.OS/XIX) 2016	Resolution on Measures to Protect and Promote the Work of Women Human Rights Defenders
337	ACHPR/Res. 337(LVIII) 2016	Resolution on the Extension of the Deadline for the Study on Transitional Justice in Africa
338	ACHPR/Res. 338(LVIII) 2016	Resolution on the Establishment of a Resolutions Committee
339	ACHPR/Res. 339(LVIII) 2016	Resolution on the Human Rights Situation in the Republic of Congo
340	ACHPR/Res. 340 (LVIII) 2016	Resolution on the Human Rights Situation in the Sahrawi Arab Democratic Republic
341	ACHPR/Res. 341(LVIII) 2016	Resolution on the human rights situation of the abducted Chibok girls and other abducted victims in Nigeria
342	ACHPR/Res. 342(LVIII) 2016	Resolution on Climate Change and Human Rights in Africa
343	ACHPR/Res. 343(LVIII) 2016	Resolution on the Right to Dignity and Freedom from Torture or Ill-Treatment of Persons with Psychosocial Disabilities in Africa
344	ACHPR/Res. 344(LVIII) 2016	Resolution on the fight against impunity in Africa
345	ACHPR/Res. 345(LVIII) 2016	Resolution on the Situation of Human Rights Defenders in Africa

346	ACHPR/Res. 346 (LVIII) 2016	Resolution on the Right to Education in Africa
347	ACHPR/Res. 347(LVIII) 2016	Resolution on the Human Rights issues affecting the African Youth
348	ACHPR/Res. 348(LVIII) 2016	Resolution on the Collaboration between the African Commission on Human and Peoples' Rights and Partners on Promoting The revised United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)
349	ACHPR/Res. 349 (EXT.OS/XX) 2016	Resolution on the Attacks on Persons with Albinism in Malawi
350	ACHPR/Res. 350 (EXT.OS/XX) 2016	Resolution to Revise the Declaration of Principles on Freedom of Expression in Africa
351	ACHPR/Res. 351 (EXT.OS/XX) 2016	Resolution to Renew the Mandate of the Focal Point between the African Commission on Human and Peoples' Rights and the African Peer Review Mechanism
352	ACHPR/Res. 352 (EXT.OS/XX) 2016	Resolution on the Renewal of the Mandate of Expert Members of the Committee on the Protection of the Rights of People Living with HIV and Those at Risk, Vulnerable to and Affected by HIV
353	ACHPR/Res. 353 (EXT.OS/XX) 2016	Resolution on the Renewal of the Mandate of the Expert Members of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa
354	ACHPR/Res. 354(LIX) 2016	Resolution on the Appointment of an Expert Member of the Working Group on Indigenous Populations/Communities in Africa
355	ACHPR/Res. 355(LIX) 2016	Resolution on the Appointment of an Expert Member of the Working Group on Economic, Social and Cultural Rights in Africa
356	ACHPR/Res. 356(LIX) 2016	Resolution on the Human Rights Situation in the Federal Democratic Republic of Ethiopia
357	ACHPR/Res. 357(LIX) 2016	Resolution on the Human Rights Situation in the Republic of Burundi
358	ACHPR/Res. 358(LIX) 2016	Resolution on the Human Rights Situation in the Democratic Republic of Congo
359	ACHPR/Res. 359(LIX) 2016	Resolution on the Human Rights Situation in Gabonese Republic
360	ACHPR/Res. 360(LIX) 2016	Resolution on the Human Rights Situation in the Islamic Republic of The Gambia

361	ACHPR/Res. 361(LIX) 2016	Resolution on the Criteria for Granting and Maintaining Observer Status to Non-Governmental Organizations working on Human and Peoples' Rights in Africa
362	ACHPR/Res. 362(LIX) 2016	Resolution on the Right to Freedom of Information and Expression on the Internet in Africa - ACHPR/Res. 362(LIX) 2016
363	ACHPR/Res. 363(LIX) 2016	Resolution on the Need to Develop Guidelines on Policing and Assemblies in Africa
364	ACHPR/Res. 364(LIX) 2016	Resolution on Developing Reporting Guidelines with Respect to the Extractive Industries
SECTION G Resolutions adopted during the 21st Extra-Ordinary Session - 65th Ordinary Sessions (2017-21)		
365	ACHPR/Res. 365 (EXT.OS/XXI) 2017	Resolution on Developing Guidelines on Combatting Sexual Violence and its Consequences
366	ACHPR/Res. 366 (EXT.OS/XXI) 2017	Resolution on the Need to Develop Principles on the Declassification and Decriminalization of Petty Offences in Africa
367	ACHPR/Res. 367 (LX) 2017	Resolution on the Niamey Declaration on Ensuring the Upholding of the African Charter in the Extractive Industries Sector
368	ACHPR/Res. 368 (LX) 2017	Resolution on Implementation of the Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa
369	ACHPR/Res. 369 (LX) 2017	Resolution on the Situation of Internally Displaced Persons in Africa
370	ACHPR/Res. 370 (LX) 2017	Resolution on the Granting of Affiliate Status to National Human Rights Institutions and specialized human rights institutions in Africa
371	ACHPR/Res. 371 (LX) 2017	Resolution on the Implementation of the New York Declaration for Refugees and Migrants
372	ACHPR/Res. 372 (LX) 2017	Resolution on the Protection of Sacred Natural Sites and Territories
373	ACHPR/Res. 373 (LX) 2017	Resolution on the Regional Action Plan on Albinism in Africa (2017-2021)
374	ACHPR/Res. 374 (LX) 2017	Resolution on the Right to Food and Food Insecurity in Africa
375	ACHPR/Res. 375 (LX) 2017	Resolution on the Right to Life in Africa
376	ACHPR/Res. 376 (LX) 2017	Resolution on the Situation of Human Rights Defenders

		in Africa
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Preface

This publication contains recommendations and resolutions of the African Commission on Human and Peoples' Rights (ACHPR) since its establishment in 1987 on very important issues adjudged to be pertinent to its operations as the implementation body of the African Charter on Human and Peoples' Rights. The decision to publish and publicise these recommendations and resolutions is in line with the Commission's commitment to openness and continuing desire to minimise or remove confidentiality, with regard to the work and proceedings of the Commission. This publication thus introduces to the public, other mechanisms by which the Commission tries to enhance its effectiveness as it strives to ensure implementation of the African Charter.

The publication is also in furtherance of the recognition that publicity is essential for the promotion of human and peoples' rights. For instance, some of the recommendations and resolutions obligate States Parties to the Charter to accomplish stated objectives seen as facilitative of the Commission's work. Most of these obligations, such as provided for in the resolutions for the integration of articles 1-29 of the Charter; international humanitarian law

into domestic legislation; inclusion in the training of all law enforcement officers, civil and military and in the educational curriculum for all schools, private and public, at all levels, are yet to be fulfilled by many State Parties. It is therefore hoped that this publication will serve as a reminder to defaulting States and all concerned or involved in the promotion and protection of human and peoples' rights that there is much work yet to be done.

The recommendations and resolutions contained in this pamphlet are in the main, consequential rules borne out of the experiences of the Commission since its establishment. They entail essential details necessary to give practicality and eliminate confusion from the broad formulae sometimes offered by the African Charter. The resolution on State Party reporting, for instance, empowers the Commission to give guidelines for the preparation of State reports and to examine them. The recommendations and resolutions also serve as useful guidelines intended to give operational effect to certain Charter provisions and consequently the expectations that can, with the benefit of clarity, be placed on the African Commission.

The publication of the recommendations and resolutions of the African Commission shall be continued as part of the evolving process of rendering the workings and work of the Commission a matter of public record. The Commission hopes by this, to generate and benefit from attendant public debates and positive contributions.

Most importantly, however, is the fact that it gives the Commission the opportunity to keep the peoples of Africa, for which it was established, and others concerned with the promotion and protection of human rights in Africa, informed of its internal dynamics and programmes of action undertaken and/or yet to be undertaken.

1st – 19th Extra-Ordinary Sessions
3rd – 60th Ordinary Sessions

- **5 Recommendations**
- **362 Resolutions**

Total Number of Recommendations and Resolutions= 367



1. ACHPR/Recom.1(III)88: RECOMMENDATION ON THE HEADQUARTERS OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

The African Commission on Human and Peoples' Rights, meeting at its Third Ordinary Session in Libreville, Gabon, from 18 to 28 April 1988;

Recalling that the African Charter on Human and Peoples' Rights which entered into force on 21 October 1986, established a Commission whose members were elected on 29 July, 1987 by the OAU Assembly of Heads of State and Government and which held its First Session in Addis Ababa;

Noting that the Charter does not contain any formal provision indicating that the Headquarters of the Commission be established at the Headquarters of the OAU;

Noting indeed that Article 30 of the Charter specifies only that an African Commission on Human and Peoples' Rights is established within the OAU, charged with promoting human and peoples' rights and ensuring their protection in Africa;

Noting also that Article 64 of the Charter stipulates that the OAU Secretary-General will convene the first meeting of the Commission at the Headquarters of the Organisation and that subsequently the Commission will be convened whenever necessary and at least once every year by its Chairman;

Bearing in mind the quasi-legislative nature of the Commission and its need for a full-time Secretariat, it is not desirable to have the Headquarters of the Commission where the political and administrative organs of the OAU are located;

Convinced that the Headquarters of the Commission can only be hosted by a State which has ratified the Charter and which offers to the Commission substantial material and human resource facilities for its establishment, work and research;

1. **RECOMMENDS** to the OAU Assembly of Heads of State and Government to establish the Headquarters of the African Commission on Human and Peoples' Rights in a country other than the one hosting the political and administrative organs of the OAU;
2. **RECOMMENDS ALSO** to the Assembly of Heads of State and Government to choose, in order to establish the Headquarters of the Commission, a country which has ratified the African Charter on Human and Peoples' Rights and which offers to the Commission substantial material and human resource facilities for its establishment, work and research.

2. ACHPR/Recom .2(III)88: RECOMMENDATION ON THE FINANCIAL RULES AND REGULATIONS GOVERNING THE FUNCTIONING OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

The African Commission on Human and Peoples' Rights, meeting at its Third Ordinary Session in Libreville, Gabon, from 18 to 28 April 1988;

Considering that the African Charter on Human and Peoples' Rights adopted in Nairobi on 28 June 1981, entered into force on 21 October 1986, and that members of the African Commission on Human and Peoples' Rights set up to apply it, were elected on 29 July 1987, and installed on 2 November 1987;

Reaffirming their duty to ensure the promotion and protection of human and peoples' rights and freedoms, duly taking into account, the primordial importance traditionally attached to these rights and freedoms in Africa;

Conscious of the fundamental role of the African Commission on Human and Peoples' Rights to assist States Parties to the African Charter of Human and Peoples' Rights in the promotion and protection of human and peoples' rights and freedoms;

HAS AGREED THAT:

1. The Financial Rules and Regulations of the OAU dated 4 March 1979, apply to the African Commission on Human and Peoples' Rights, without prejudice to the following rules;
2. The Organisation of African Unity shall bear the financial cost of the Commission, pursuant to the relevant provisions of the OAU Charter and of the African Charter on Human and Peoples' Rights, Article 41 of which stipulates:

“The Secretary-General of the Organisation of African Unity shall appoint the Secretary of the Commission. He shall provide the staff and services necessary for the effective discharge of the duties of the Commission. The Organisation of African Unity shall bear the cost of the staff and services.”

And Article 44 of which stipulates:

“Provision shall be made for the emoluments and allowances of the members of the Commission in the Regular Budget of the Organisation of African Unity”.

3. The Commission's budget shall form part of the Regular Budget of the Organisation of African Unity, but this budget shall be distinct and managed separately.

The Secretary-General of the OAU shall be the Accounting Officer and, in this capacity, shall be responsible for its management. He may however delegate all or part of his powers to the Chairman of the Commission for application of the financial rules and regulations of the OAU and the relevant provisions of the Rules of Procedure of the Commission.

The Accountant of the OAU shall be responsible for keeping the accounts. He shall be responsible for receiving financial resources and making relevant payments. He may,

following the exigencies of the service, delegate all or part of his powers to a staff member of the Secretariat of the Commission, in consultation with the Commission.

4. The Secretary-General of the OAU shall prepare and submit for consideration to the Advisory Committee on Administrative, Budgetary and Financial Matters, the OAU Programme of Action which shall include the programme of action of the Commission and the budgetary appropriations including those of the Commission.
 5. The following are expenditure codes necessary for the effective execution of the tasks assigned to the Commission pursuant to the provisions of Article 27 of the Financial Rules and Regulations of the OAU, to cover:
 - the emoluments and allowances for the members of the Commission, as provided for in Article 44 of the Charter;
 - staff costs of the Secretariat of the Commission;
 - cost of facilities and activities of the Commission.
 - 6□ As regards additional resources to the financial contribution of the OAU to the Commission, the latter may accept in consultation with the OAU Secretary-General, grants, bequests and other donations compatible with the objectives of the African Charter on Human and Peoples' Rights.
 - 7□ If the budgetary appropriations of the Commission have not been approved or are inadequate or if new expenses are to be incurred as a result of financial implications of approved decisions after the Regular Budget of the OAU had been adopted, the Secretary-General of the OAU shall, in consultation with the Commission, submit to the Advisory Committee or sub-Advisory Committee, a rectified additional programme and budget for consideration. He shall subsequently submit the same to the Council of Ministers for approval. This would enable the Commission to carry out its task effectively.
- The Secretary-General may also identify new financial sources by drawing from the overall balances available under some codes after the normal closing of the financial year.
- 8□ If the budgetary estimates of the Commission are not adopted before 1 June, one-twelfth of the previous budget shall be released in accordance with Article 34 of the OAU Financial Rules and Regulations.
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3. ACHPR/Recom.3(III)88: RECOMMENDATION ON PERIODIC REPORTS

The African Commission on Human and Peoples' Rights, meeting at its Third Ordinary Session in Libreville, Gabon, from 18 to 28 April 1988;

Having carefully examined the African Charter on Human and Peoples' Rights and, particularly, its Article 62 which stipulates:

“Each State Party shall undertake to submit every two years, from the date the present Charter comes into force, a report on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognised and guaranteed by the present Charter”,

Considering that this provision of the Charter contains only the obligation which is that of a State Party to submit the report;

Considering that the Charter does not stipulate to which authority or body the periodic report should be directed;

Considering that the Charter has not specifically entrusted to the Commission with the responsibility to consider the periodic reports on Human Rights;

Considering further that it is difficult to see which other organ of the OAU could accomplish this work;

Considering that the African Commission on Human and Peoples' Rights is the only appropriate organ of the OAU capable not only of studying the said periodic reports, but also of making pertinent observations to States Parties, after providing them with general guidelines on the form and contents of the reports which they should submit, pursuant to Article 62 referred to above:

RECOMMENDS that the Assembly of Heads of State and Government:

1. Mandate the General Secretariat of the OAU to receive the said reports and communicate them to the Commission without delay;
2. Specifically entrust it with the task of examining the periodic reports submitted by the States Parties pursuant to Article 62 and other relevant provisions of the African Charter on Human and Peoples' Rights;
3. Authorise it to give the States Parties general guidelines on the form and the contents of the said periodic reports.

4.ACHPR/Recom.4(V)89: RECOMMENDATION ON MODALITIES FOR PROMOTING HUMAN AND PEOPLES' RIGHTS

The African Commission on Human and Peoples' Rights, meeting at its Fifth Ordinary Session in Benghazi, Libya, from 3 to 14 April 1989;

Taking into account Resolution AHG/Res.176 (XXIV) adopted by the Twenty-fourth Ordinary Session of the Assembly of Heads of State and Government held in Addis Ababa, Ethiopia, in May 1988, approving the Activity Report of the Commission, its programme and the attached recommendations:

RECOMMENDS that the Assembly of Heads of State and Government of the OAU adopt the following recommendations:

“The Assembly of Heads of State and Government of the OAU meeting

Recalling that the African States “firmly convinced of their duty to ensure the promotion and protection of human and peoples' rights and freedoms, duly taking into account the primary importance traditionally attached to these rights and freedoms in Africa” adopted in Nairobi on 28 June 1981, the African Charter on Human and Peoples' Rights which came into force on 21 October 1986;

Taking into account Resolution AHG/Res. 176 (XXIV) adopted by the 24th Ordinary Session of the Assembly of Heads of State and Government held in Addis Ababa, Ethiopia, in May 1988, approving the Activity Report of the Commission, its programmes and the attached recommendations;

Aware of the fact that ignorance is the main obstacle to the respect for human and peoples' rights and that consequently it is necessary to promote the knowledge and the science of these rights and freedoms in the interest of the African people pursuant to Article 45 paragraph 1 (a) of the African Charter on Human and Peoples' Rights:

RECOMMENDS that African States parties to the African Charter on Human and Peoples' Rights:

- (i) introduce the teaching of human and peoples' rights at all levels of their educational systems (higher, secondary, primary, general, technical, professional, etc.);
- (ii) periodically broadcast, with the help of the African Commission on Human and Peoples' Rights, radio and television programmes on human rights in Africa;
- (iii) establish national and regional institutes of human and peoples' rights responsible for conducting studies and researches in co-operation with the African Commission on Human and Peoples' Rights, and for disseminating the knowledge and information on human and peoples' rights.

5. ACHPR/Recom.5(EXT.1)89: RECOMMENDATION OF THE COMMISSION ON HUMAN AND PEOPLES' RIGHTS

The African Commission on Human and Peoples' Rights, meeting at its First Extraordinary Session in Banjul, The Gambia, on 13 and 14 June 1989;

Considering that by its Resolution AHG/Res. 176 (XXIV), the Twenty-fourth Ordinary Session of the Assembly of Heads of State and Government reaffirmed its determination to ensure the promotion and protection of human and peoples' rights in Africa,

Recalling the autonomous nature and the specific role of the Assembly of Heads of State and Government meeting in its Twenty-fourth Ordinary Session had conferred on the African Commission on Human and Peoples' Rights by adopting the specific financial rules and regulations of the Commission,

Considering that the appropriations voted for the Commission under the 1989/90 budget are inadequate for the realisation of the task assigned to the Commission by the African Charter on Human and Peoples' Rights,

Considering that the components of the emoluments approved for the members of the Commission are not commensurate with their actual responsibilities,

Considering that the Commission has no administrative staff to carry out human rights promotion and protection tasks as assigned to it by the Charter and that, pending the next financial year's allocations, it is urgent to provide the Commission with:

- a legal officer responsible for matters relating to human rights promotion;
- a legal officer responsible for human rights protection;
- a documentalist;
- a French/English translator,

1. **REAFFIRMS** the commitment of the Members of the Commission to do everything possible to carry out missions assigned to them by the Charter;
2. **PROPOSES** that the emoluments of the Members of the Commission now fixed at US\$250 for each day of meeting be raised to US\$300;
3. **REQUESTS** the Assembly of Heads of State and Government to grant the Commission an additional budget, until the next financial year, to enable it to carry out successfully its human rights promotion activities and to appoint the staff needed for the realisation of the above-mentioned promotion and protection task.

Part Two

Section A

**Resolutions adopted during the 5th – 16th Ordinary
Sessions**

(1989 – 1994)

1. ACHPR/Res.1 (V) 89: RESOLUTION ON THE CELEBRATION OF AN AFRICAN DAY OF HUMAN RIGHTS

The African Commission on Human and Peoples' Rights, meeting at its Fifth Ordinary Session from 3-14 April 1989, in Benghazi, Libya;

Recalling that the African Charter on Human and Peoples' Rights, adopted by the 18th Assembly of Heads of State and Government, in June 1981, in Nairobi (Kenya), entered into force on 21 October, 1986, in accordance with the provisions of its Article 63;

Recalling that, as a safeguard measure, the Charter established an African Commission on Human and Peoples' Rights, under the provisions of the Article 30, which was seated on 2 November 1987, after the election of its members, in July, 1982;

Considering that the United Nations Organisation which has always endeavoured to establish regional arrangements for the promotion and protection of human rights, has welcomed the adoption of the Charter and its entry into force;

Considering that the UNO has always encouraged the celebration of anniversaries in the field of human rights,

Conscious of the fact that these celebrations make it possible to widely disseminate the regional or international instruments, and the human rights and fundamental liberties they proclaim, and revive interest in these rights and liberties as well as promote a better awareness thereof;

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, as well as at the level of the African community in particular, the actual exercise and enjoyment of human and peoples' rights and of the basic freedoms:

INVITES the OAU Member States and all organisations concerned to adopt the 21st of October of every year as an African Day of Human Rights:

- to celebrate on that Day the coming into force of the African Charter on Human and Peoples' Rights;
 - to intensify their efforts to enable Africa to achieve new progress in that field.
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2.ACHPR/Res.2(V)89: RESOLUTION ON THE ESTABLISHMENT OF COMMITTEES ON HUMAN RIGHTS OR OTHER SIMILAR ORGANS AT NATIONAL, REGIONAL OR SUB-REGIONAL LEVELS

The African Commission on Human and Peoples' Rights, meeting at its Fifth Ordinary Session from 3-14 April 1989, in Benghazi, Libya;

Considering that the establishment of Committees on Human Rights or other similar organs at the national , regional or sub-regional level, as means by which to ensure respect for and as wide a promotion as possible of human rights has always been of interest to the various organs of the United Nations since the setting up of the Organisation;

Considering in particular Resolution 33/46 of 14 December, 1978, adopted by the UN General Assembly, and Resolution 24 (XXXV) of 14 March, 1979, adopted by the Human Rights Commission, which approved the guiding principles advocated by the Seminar, held in Geneva on 18 and 19 September, 1978, as regards national or local institutions for the promotion and protection of human rights;

Considering that it is desirable that the mission aimed at promoting human and peoples' rights sent by the African Commission on Human and Peoples' Rights, by virtue of its Charter, under Article 45, would be carried out through the assistance and support of national and regional committees established for that purpose, and composed of eminent personalities, which should also help governments solve their national or local problems relevant to human rights, thus promoting a better awareness of issues related to human rights:

1. **INVITES** all the States, parties to the Charter, where no national institutions as yet exist for the promotion and protection of human rights, to take appropriate measures to establish such institutions;
 2. **CALLS ON THE STATES**, parties to the Charter, to take due account, when establishing national institutions, of those guiding principles, in planning their structure and functioning, born of the Seminar on national and local institutions for the promotion and protection of human rights, held in Geneva from 18 to 29 September 1978;
 3. **REQUESTS** the OAU Secretary General to submit a detailed report on existing national institutions.
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3. ACHPR/Res.3(V)89: RESOLUTION ON THE INTEGRATION OF THE PROVISIONS OF THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS INTO NATIONAL LAWS OF STATES

The African Commission on Human and Peoples' Rights, meeting at its Fifth Ordinary Session in Benghazi, Libya from 3 to 14 April 1989.

Considering that its mission to promote human and peoples' rights includes the promotion and formulation of principles and rules which will enable the African States to solve their legal problems relating to the enjoyment of human and peoples' rights and fundamental freedoms in conformity with Article 45, paragraph 1, sub-paragraph (b) of the African Charter on Human and Peoples' Rights;

Bearing in mind the fact that the reception of international law is not uniform in all States Parties:

REQUESTS the Assembly of Heads of State and Government to adopt the following recommendation:

"The Assembly of Heads of State and Government, meeting

Recalling that African States solemnly declared in the OAU Charter, their duty to unite by harmonising their general policies and ensuring the well-being of their peoples, by furthering the legitimate aspirations to freedom, equality, justice and dignity;

Bearing in mind Resolution AHG/Res. 176 (XXIV) adopted by the Assembly of Heads of State and Government of the OAU at its Twenty-fourth Ordinary Session in Addis Ababa, Ethiopia, in May 1988 approving the Commission's Activity Report, its programme and recommendations appended;

RECOMMENDS that Member States of the OAU, parties to the African Charter on Human and Peoples' Rights;

INTRODUCE the provisions of Articles 1 to 29 of the African Charter on Human and Peoples' Rights in their Constitutions, laws, rules and regulations and other acts relating to human and peoples' rights."

4. ACHPR/Res.4(XI)92: RESOLUTION ON THE RIGHT TO RECOURSE AND FAIR TRIAL

The African Commission on Human and Peoples' Rights, meeting at its Eleventh Ordinary Session, in Tunis Tunisia, from 2 to 9 March 1992;

Conscious of the fact that the African Charter on Human and Peoples' Rights is designed to promote and protect human rights in accordance with the provisions contained in the Charter and recognised international human rights standards;

Recognising that the right to a fair trial is essential for the protection of fundamental human rights and freedoms;

Bearing in mind that article 7 of the African Charter on Human and Peoples' rights;

1. Considers that every person whose rights or freedoms are violated is entitled to have an effective remedy;
2. Considers further that the right to fair trial includes, among other things, the following:
 - a. All persons shall have the right to have their cause heard and shall be equal before the courts and tribunals in the determination of their rights and obligations;
 - b. Persons who are arrested shall be informed at the time of arrest, in a language which they understand, of the reason for their arrest and shall be informed promptly of any charges against them;
 - c. Persons arrested or detained shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or be released;
 - d. Persons charged with a criminal offence shall be presumed innocent until proven guilty by a competent court;
 - e. In the determination of charges against individuals, the individual shall be entitled in particular to:
 - i). Have adequate time and facilities for the preparation of their defence and to communicate in confidence with counsel of their choice;
- ii) Be tried within a reasonable time;
- iii) Examine or have examined, the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;
- iv) Have the free assistance of an interpreter if they cannot speak the language used in court;
3. Persons convicted of an offence shall have the right of appeal to a higher court;

4. Recommends to States Parties to the African Charter on Human and Peoples' Rights to create awareness of the accessibility of the recourse procedure and to provide the needy with legal aid;
5. Decides to continue to be seized with the right to recourse procedures and fair trial with the view of elaborating further principles concerning this right.



5.ACHPR/Res.5(XI)92: RESOLUTION ON THE RIGHT TO FREEDOM OF ASSOCIATION

The African Commission on Human and Peoples' Rights, meeting at its Eleventh Ordinary Session, in Tunis, Tunisia, from 2 to 9 March 1992;

Taking into consideration all rights stipulated in the Universal Declaration of Human Rights, with special reference to articles 20, 23 guaranteeing the right to freedom of peaceful assembly and association;

Recalling article 22 of the international Covenant on Civil and Political Rights, and article 8 of the International Covenant on Economic, Social and Cultural Rights assuring that everyone shall have the right to freedom of association with others;

Highly evaluating the UN Sub-Commission on the Prevention of Discrimination, Resolution No. 13 (XXXIII) on the 11th of September 1980 which adopted the right to freedom of association;

Taking into consideration the provisions of the African Charter on Human and Peoples' Rights, in particular article 10(1), guaranteeing every individual the right to free association provided that he abides by the law;

CONSIDERS THAT:

1. The competent authorities should not override constitutional provisions or undermine fundamental rights guaranteed by the constitution and international standards;
 2. In regulating the use of this right, the competent authorities should not enact provisions which would limit the exercise of this freedom;
 3. The regulation of the exercise of the right to freedom of association should be consistent with State's obligations under the African Charter on Human and Peoples' Rights.
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6. ACHPR/Res.6(XIV)93: RESOLUTION ON HUMAN RIGHTS EDUCATION

The African Commission on Human and Peoples' Rights meeting at its Fourteenth Ordinary Session in Addis Ababa, 1 - 10 December, 1993;

Acknowledging that education in human and peoples' rights is a prerequisite for the effective implementation of the African Charter on Human and Peoples' Rights and other international human rights instruments;

Bearing in mind that the African Charter on Human and Peoples' Rights provides in Article 17(1) for the right to education and that Article 25 of the African Charter calls upon States parties to the Charter to promote human and peoples' rights through teaching, education and publication;

Recalling the Resolution on the African Commission on Human and Peoples' Rights, AHG/Res. 227 (XXIX), published in the Commission's 6th Annual Activity Report, 1992 - 1993, which all States parties are requested to "ensure among other things (a) that human rights are included in the curriculum at all levels of public and private education and in the training of all law enforcement officials, and (b) that education for human rights and democracy should involve every organ of the society as well as the media";

Taking note of the UNESCO Plan of Action adopted at the International Congress on Education for Human Rights and Democracy in Montreal, 8-11 March 1993, which laid the foundation for the recommendation adopted at the World Conference on Human Rights in Vienna for a Decade of Human Rights Education to be declared;

Noting also the Declaration at the World Conference on Human Rights, Vienna 1993, encouraging all governments to include in the formal sector, curricula on the study of human rights in primary, secondary and tertiary institutions as well as those in the administration of justice, and for governments to be encouraged to undertake the promotion of human rights in the informal sector;

Taking into consideration the Programme of Activities of the African Commission on Human and Peoples' Rights, 1992 - 1996, adopted at its 11th Ordinary Session held 2-9 March 1992;

Recognising the importance of education as an active vehicle of inculcating the values and corresponding behaviours in a civil society based on full respect for human and peoples' rights, democracy, tolerance and justice;

Emphasising the importance of propagating the principle of human rights law as well as international humanitarian law;

Taking into consideration further the great efforts made by the African Non-Governmental Organisations to promote and implement human and peoples' rights through education on both formal and informal levels, using popular participatory methods and through the media;

Having considered the item on human rights education upon the request of a number of Non-Governmental Organisations:

1. **REITERATE** its request for States parties to include the study of human and peoples' rights in the curriculum at all levels of public and private education, including law schools to ensure, *inter alia*, that education and information regarding human and peoples' rights are included in the training of law enforcement personnel, civil or military, as well as medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment;
 2. **DECIDES** to intensify the co-operation between the African Commission and the African Non-Governmental Organisations on human and peoples' rights education, bearing in mind in particular the activities contained in the Commission's Programme of Activities, 1992 - 1996;
 3. **UNDERLINES** the importance of education, through appropriate means and techniques, being geared among other things, to the need of specific groups such as women, children, refugees and internally displaced persons, victims of armed conflicts and other disadvantaged groups;
 4. **ENCOURAGES** Governments to take advantage of the activities of the Non-Governmental Organisations to organise a workshop on human and peoples' rights education with a special reference to popular participation and non-formal education during 1994, and any further initiatives which would strengthen the long term activities of the African Commission and Non-Governmental Organisations in the field of human rights education.
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7. ACHPR/Res.7(XIV)93: RESOLUTION ON THE PROMOTION AND RESPECT OF INTERNATIONAL HUMANITARIAN LAW AND HUMAN AND PEOPLES' RIGHTS

The African Commission on Human and Peoples' Rights meeting at its Fourteenth Ordinary Session in Addis Ababa, from 1 - 10 December, 1993:

Considering that human rights and international humanitarian law (IHL) have always, even in different situations, aimed at protecting human beings and their fundamental rights,

Noting the competence of the International Committee of the Red Cross (ICRC) to promote respect for international humanitarian law,

Recalling the resolution CM/Res. 1059 (XLIV), adopted at the 44th Ordinary Session of the Council of Ministers of the OAU which reaffirmed the determination of the OAU to support the ICRC in its activities and to grant it the necessary facilities to carry out its mandate,

Recalling also the conclusions of the seminar held in Banjul, The Gambia, 26-30 October 1992, following the 12th Session of the African Commission on Human and Peoples' Rights on the national implementation of the African Charter on Human and Peoples' Rights, which underscored the need to disseminate and implement the provisions of international humanitarian law applicable in time of armed conflicts,

Considering the Resolution on Human and Peoples' Rights Education adopted by the African Commission on Human and Peoples' Rights at its 14th Ordinary Session held 1 – 10 December 1993,

Recognising the need for a close co-operation in the field of dissemination of international humanitarian law and human and peoples' rights:

1. **INVITES** all States Parties to the African Charter on Human and Peoples' Rights to adopt appropriate measures at the national level to ensure the promotion of the provisions of international humanitarian law and human and peoples' rights;
2. **STRESSES** the need for specific instruction of military personnel and the training of the forces of law and order in international humanitarian law and human and peoples' rights respectively;
3. **STRESSES FURTHER** the importance of regular exchange of information between the African Commission on Human and Peoples' Rights, the International Committee of Red Cross and human rights non-governmental organisations, on teaching and dissemination activities undertaken on the principles of human and peoples' rights and international humanitarian law, in the schools, universities and all other institutions;
4. **DECIDES** to participate, as much as possible, in the seminars, conferences or technical sessions organised by the ICRC on questions of mutual interest and urges the ICRC to reciprocate for the activities of the Commission.

8. ACHPR/Res.8(XV)94: RESOLUTION ON THE SITUATION IN RWANDA

The African Commission on Human and Peoples' Rights meeting at its Fifteenth Ordinary Session in Banjul, The Gambia, from 18 - 27 April, 1994:

Deeply concerned about the alarming human rights situation in Rwanda characterised by serious and massive human rights violations,

Noting the OAU Secretary General's very energetic condemnation of the wanton killing of civilians and heinous acts perpetrated in this country,

Bearing in mind the recommendations made by the UN Special Rapporteur on Extra-judicial, Summary or Arbitrary Executions following his visit to Rwanda in 1993:

1. CONDEMNS very strongly the cycle of violence and the massacre of innocent civilians by the different armed factions;
 2. URGES the parties to the conflict to immediately cease hostilities and work towards a peaceful settlement through dialogue between all the peoples of Rwanda;
 3. CALLS ON all parties to respect the African Charter on Human and Peoples' Rights, the principles of International Humanitarian Law as well as the activities of humanitarian organisations operating in the field;
 4. INVITES the Special Rapporteur on Extra-judicial Summary or Arbitrary Executions to pay special attention to the situation in Rwanda and report back to the 16th Ordinary Session.
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9. ACHPR/Res.9(XV)94: RESOLUTION ON SOUTH AFRICA

The African Commission on Human and Peoples' Rights meeting at its Fifteenth Ordinary Session in Banjul, The Gambia, from 18 - 27 April, 1994;

Noting the violence that has taken place in South Africa and the loss of lives that has assumed alarming proportions;

Reiterating the importance of protecting human lives and creating a climate conducive to free and fair elections;

Welcoming the positive developments that have emerged towards a consensus for holding the forthcoming election:

1. URGES all parties concerned to cease the violence and create a peaceful atmosphere;
2. URGES the concerned parties in South Africa to take all necessary steps to create an atmosphere conducive for free and fair elections;
3. URGES all political parties and others concerned in South Africa to accept the results of the election if it is declared to be substantially free and fair by the Independent Electoral Commission;

URGES the new government to ratify the African Charter on Human and Peoples' Rights and to ensure the protection of the human rights of all South Africans in accordance with the said African Charter and other relevant treaties and standards.

10. ACHPR/Res.10(XVI)94: RESOLUTION ON THE MILITARY

The African Commission on Human and Peoples' Rights meeting at its Sixteenth Ordinary Session held from 25 October to 3 November, 1994 in Banjul, The Gambia;

Recalling the intervention in African States by the military during the past three decades, and the fact that only very few states have escaped this phenomenon,

Affirming that the best government is one elected by, and accountable to, the people,

Aware that the trend world-wide and in Africa in particular is to condemn military take-overs and the intervention by the military in politics,

Recognising that the forcible take-over of government by Army, civilian or military group contravenes Articles 13(1) and 20(1) of the African Charter on Human and Peoples' Rights,

Considering that such interventions stultify political development and antagonise relations between national groups:

1. CALLS UPON African military regimes to respect fundamental rights.
 2. REMINDS them that they are entrusted with the national armouries solely for the purpose of national defence and the maintenance of internal order under the direction of the legitimate authorities;
 3. CALLS UPON incumbent military governments to handover political power to democratically elected governments without prolonging their incumbencies and unnecessarily delaying the return to democratic civilian rule;
 4. ENCOURAGES states to relegate the era of military interventions in government to the past in the interest of the African image, progress and development, and for the creation of an environment in which human rights values may flourish.
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11. ACHPR/Res.11(XVI)94: RESOLUTION ON NIGERIA

The African Commission on Human and Peoples' Rights meeting at its Sixteenth Ordinary Session held from 25 October to 3 November, 1994 in Banjul, The Gambia;

Recalling that Nigeria has ratified the African Charter on Human and Peoples' Rights,

BELIEVES that the restoration of democracy in Nigeria will be a positive step in African development,

REGRETS the annulment of the 12 June 1993 presidential election which was adjudged free and fair by national and international observers,

CONDEMNS the gross violations of human rights as evidenced in:

1. the exclusion of the African Charter on Human and Peoples' Rights from the operation of decrees adopted by the military regime;
2. the detention of pro-democracy activists and members of the press;
3. the exclusion of the jurisdiction of courts over decrees;
4. discarding of court judgements;
5. the promulgation of laws without proper procedure of penal laws with retroactive effect;
6. the closure of newspaper houses.

CALLS UPON the Nigerian military government to respect the right of free participation in government and the right to self-determination and hand over the government to duly elected representatives of the people without unnecessary delay;

RE-AFFIRMS the decision to send a delegation of Commission members to meet with the Nigeria Head of State, to express concern of the Commission about the gross violations of human rights and express the need for the Nigeria military government to urgently transfer power to a civilian government.

12. ACHPR/Res.12(XVI)94: RESOLUTION ON RWANDA

The African Commission on Human and Peoples' Rights meeting at its Sixteenth Ordinary Session held from 25 October to 3 November, 1994 in Banjul, The Gambia;

Considering the appointment at the 15th Ordinary Session of the Vice-Chairman of the African Commission as Special Rapporteur on extra-judicial executions,

Considering the report of the United Nations Special Rapporteur indicating that genocide and massive human rights and international humanitarian law violations have been committed in Rwanda,

Considering the preliminary report of the UN Experts' Committee on Rwanda and its findings corroborating those of the UN Special Rapporteur,

Considering the UN Security Council's decision to approve the establishment of an international tribunal on Rwanda,

Considering the pledge of the Government of Rwanda and the International Community as expressed in the Hague Declaration of 18th September, 1994 to try the authors of the atrocious crimes committed in Rwanda:

1. **CONDEMNS** the inhuman and heinous crimes committed in Rwanda during the recent conflict;
2. **EXPRESSES** its support for the establishment of an international tribunal by the UN to try those responsible for the crimes;
3. **CALLS FOR** the convening by the OAU over the next few months in collaboration with African and international NGOs, a meeting of African and international experts to study long-term solutions to the problem of impunity in Africa with special reference to the case of Rwanda, and to formulate appropriate recommendations;
4. **CALLS ON** the OAU to explore ways and means of encouraging African jurists to participate in the process of reconstruction of the judicial machinery in Rwanda;
5. **URGES** the Government of Rwanda to prevent the perpetration of acts of reprisals and vengeance by the rapid establishment of a new police force and a local administration respectful of human rights and composed of members of all ethnic groups of Rwanda.
6. **EXHORTS** the Government of Rwanda to ensure the rapid deployment of national and international human rights monitors as well as the strengthening of the interceding peace-keeping forces throughout Rwanda.
7. **URGES** international institutions and NGOs in general and African NGOs in particular to contribute to the effort of International solidarity and assist in the rapid reconstruction of Rwanda through the provision of technical and financial assistance especially by facilitating the resumption of the activities of local Human Rights NGOs in Rwanda.

13. ACHPR/Res.13(XVI)94: RESOLUTION ON THE GAMBIA

The African Commission on Human and Peoples' Rights meeting at its Sixteenth Ordinary Session held from 25 October to 3 November, 1994 in Banjul, The Gambia;

Recalling the military take-over of the reins of government of the Gambia on the 22nd of July 1994 which brought an end to an elected government and threatened the respect for human rights and the rule of law in that country.

Reaffirming the fundamental principle that all governments should be based on the consent of the people freely expressed by them and through their chosen representatives and that a military government is a clear violation of this fundamental principle of democracy,

Drawing attention to the provisions of article 13 of the Charter which provides, *inter alia*, that "Every citizen shall have the right to freely participate in the government of his country, either directly or through chosen representatives in accordance with the provisions of the law",

Convinced that the introduction of military rule is a clear setback to the cause of democracy and democratic development in The Gambia and Africa generally:

1. **REITERATES** that the military coup in The Gambia is a flagrant and grave violation of the right of the Gambian people to freely choose their government;
 2. **REQUESTS** the Armed Forces Provisional Ruling Council to transfer power to freely elected representatives of the people;
 3. **CALLS UPON** the military authorities to ensure that:
 - (i) the Bill of Rights contained in the Gambian Constitution remains supreme over all other legislation emanating from the Ruling Council;
 - (ii) the dependence of the judiciary is respected;
 - (iii) during the transition period, the rule of law, as well as the recognised international standards of fair trial and treatment of persons in custody are observed;
 - (iv) all detainees should either be charged with the commission of offences or released forthwith and that meanwhile the rights of detainees to have access to their lawyers and members of their families are scrupulously respected.
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14. ACHPR/Res.14(XVI)94: RESOLUTION ON THE SITUATION OF HUMAN RIGHTS IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its Sixteenth Ordinary Session held from 25 October to 3 November, 1994 in Banjul, The Gambia;

Acknowledging that the human rights situation in many African countries is characterised by the violations of economic, social, cultural, civil and political rights;

Alarmed by the possible resurgence of the illegal seizure of the reins of government in Africa;

Expressing concern over the persistent situation of refugees and internally displaced persons affecting the African Continent,

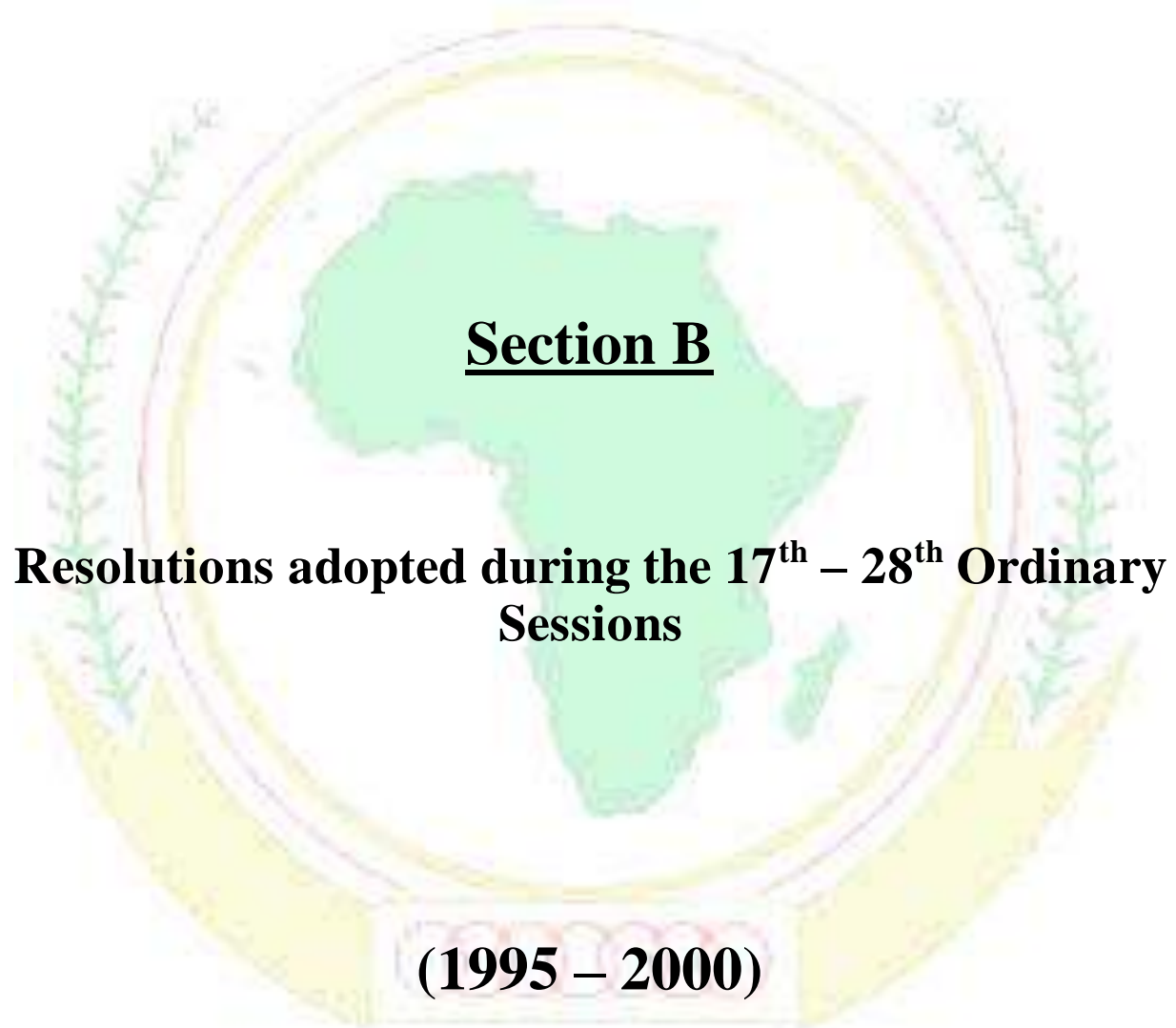
Seriously concerned with the continuous restrictions imposed on the right of freedom of expression by the arrest of journalists and the closure of newspapers in some African countries;

Considering that the persistent economic crisis in Africa has aggravated the human rights situation of vulnerable groups in African societies, in particular women and children;

Also concerned with the consequences of persistent wars in several African States, on the civilian population, which prevent the realisation of the right to development;

Bearing in mind its role under the African Charter on Human and Peoples' Rights, to ensure the protection of Human and Peoples' Rights:

1. **CONDEMNS** the planning or execution of *Coup d'Etats* and any attempt to seize power by undemocratic means;
2. **CALLS UPON** all African Governments to ensure that elections and electoral processes are transparent and fair;
3. **URGES** all African countries to adopt appropriate means to stop the phenomenon of refugees and internally displaced persons affecting the continent;
4. **CONDEMNS** all attempts at restricting the right to freedom of expression;
5. **CALLS UPON** all African Governments to adopt legislative and other measures to protect vulnerable groups of society, in particular women and children, against the consequences of the persistent economic crisis in Africa;
6. **URGES** all those parties engaged in war on the African continent, to abide by the provisions of International Humanitarian Law, particularly with regard to the protection of civilians and to undertake all efforts to restore peace.



15. ACHPR/Res.15(XVII)95: RESOLUTION ON SUDAN

The African Commission on Human and Peoples' Rights meeting at its Seventeenth Ordinary Session held from 13 to 22 March 1995 in Lomé, Togo;

Recalling that Sudan is legally bound to comply with international human rights and international humanitarian law treaties it has ratified, including the African Charter on Human and Peoples' Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Slavery Convention, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, the Convention on the Rights of the Child and the four Geneva Conventions of 1949,

Considering the consistent reports from United Nations experts, non-governmental organisations and others of continuing gross violations of human rights committed by the Government of Sudan,

Further considering that such reports also document gross abuses committed by factions of the Sudan Peoples' Liberation Army (SPLA) and the South Sudan Independence Army (SSIA),

Mindful that the need for large scale humanitarian aid in parts of Sudan is principally a result of the continuing war and gross human rights abuses,

Alarmed by the large number of internally displaced persons and the continuing exodus of refugees, mainly from Southern Sudan and the Nuba Mountain region:

1. **EXPRESSED DEEP CONCERN** at the continuing human rights abuses in Sudan;
2. **CALLS** on the government to take immediate steps to respect all human rights, including bringing law and practice in line with international human rights standards, carrying out prompt, impartial and independent investigations into reports of human rights violations and bringing to justice those responsible;
3. **FURTHER CALLS** on the Government of Sudan to give all detainees prompt and regular access to their family, lawyers and doctors;
4. **CALLS** on all parties to the armed conflict to immediately cease using military force to interfere with the delivery of humanitarian assistance to the civilian population and to allow such assistance to be delivered unhindered;
5. **FURTHER CALLS** on all factions of the SPLA and the SSIA to respect international humanitarian law, particularly Article 3 common to the four Geneva Conventions of 1949, including ending deliberate and arbitrary killings and the torture of detainees;
6. **APPEALS** to the Government of the Sudan to support negotiations for a settlement to the conflict and ensure that any agreement includes strong guarantees for the protection of human rights;

7. **CALLS** for human rights monitors to be placed in Sudan and other locations to facilitate the monitoring and assessment of the human rights situation throughout the country.



16. ACHPR/Res.16(XVII)95: RESOLUTION ON NIGERIA

The African Commission on Human and Peoples' Rights meeting at its Seventeenth Ordinary Session held from 13 to 22 March 1995, Lomé, Togo;

Guided by the African Charter on Human and Peoples' Rights and other international human rights instruments to which Nigeria is a party;

Reaffirming that all States Parties including Nigeria have the duty to fulfil the obligations they have undertaken under the various international human rights instruments, particularly the African Charter on Human and Peoples' Rights;

Recalling the resolution passed by the African Commission at its 16th Ordinary Session in Banjul, The Gambia, in November 1994, which condemned the gross violations of human rights in Nigeria by the military government;

Deeply Concerned about the political, social, economic and general situation in Nigeria and the consequences that may result therefrom;

Condemns the continued gross and massive violations of human rights in Nigeria and particularly:

- (i) the arbitrary arrests and detention of human rights and pro-democracy activities, critics and opponents of military rule;
- (ii) severe restriction on the right to freedom of expression, including the banning of several newspapers and newsmagazines;
- (iii) circumscribing the independence of the judiciary and setting up military tribunals lacking independence and due process to try persons suspected of being opposed to the military regime;
- (iv) the abolition of *habeas corpus* with respect to political detainees;
- (v) restrictions on the right to leave the country;
- (vi) restrictions on the right to freedom of association;
- (vii) promulgation of decrees and laws ousting the application of the African Charter on Human and Peoples' Rights and preventing the Courts from intervening in cases of human rights violations.

CALLS UPON the military government in Nigeria to ensure respect for human rights and the rule of law, and in particular to release all political prisoners, reopen all closed media and respect freedom of the press, lift arbitrarily imposed travel restrictions, allow unfettered exercise of jurisdiction by the courts and remove all military tribunals from the judicial system.

URGES the military government in Nigeria to respect the rights of minorities and all religions and ensure full respect for the right of association.

AGAIN CALLS UPON the military government in Nigeria to take immediate steps to return Nigeria to democratic rule.

17.ACHPR/Res.17(XVII)95: RESOLUTION ON THE GAMBIA

The African Commission on Human and Peoples' Rights meeting at its Seventeenth Ordinary Session held from 13 to 22 March 1995, Lomé, Togo;

Recalling the condemnation of the 22 July 1994 *coup d'Etat* in The Gambia by the African Commission on Human and Peoples' Rights and the international community and the consequence of the military *coup d'Etat* on the principles of democracy and the rule of law,

Taking note of the continued presence of the military in power in The Gambia, despite calls for an immediate handing over to a civilian government, as expressed in the resolution on The Gambia by the ACHPR during its 16th Ordinary Session held in Banjul in October 1994,

Taking note with great concern that there are allegations of serious violations of human rights in the period of military rule:

1. **NOTES** the reduction of the timetable of transition to civilian rule by the Armed Forces Provisional Ruling Council from 4 to 2 years and therefore recommends strongly that the international Donor Community lift the economic sanctions imposed on The Gambia;
 2. **INSISTS** on the need for an independent judiciary and due process of law in The Gambia under all circumstances;
 3. **RENEWS** its demands on the AFPRC to accelerate the process of transition to constitutional rule and to abolish all decrees that infringe the freedom of The Gambia people individually and collectively, including the freedom of expression, the press, and the right of association and assembly;
 4. **CALLS UPON** the AFPRC to set up an independent commission of inquiry to investigate all allegations of violation of human rights.
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18. ACHPR/Res.18(XVII)95: RESOLUTION ON ANTI-PERSONNEL LAND MINES

The African Commission on Human and Peoples' Rights meeting at its Seventeenth Ordinary Session held from 13 to 22 March 1995, Lomé, Togo;

Recalling the 1980 United Nations Convention on the use of certain conventional weapons which may be deemed to be excessively injurious or to have indiscriminate effects;

Considering Resolution CM/Res. 1726 (LX) adopted at the Sixtieth Session of the OAU Council of Ministers in Tunis (6-11) June 1994), calling upon Member States to ratify the above Convention and considering the holding of its next Review Conference in Vienna from 25 September to 13 October 1995;

Noting with regret the extremely limited number of African States parties to this Convention;

Considering the significant ravages caused by the indiscriminate use of anti-personnel mines, particularly in Africa where more than 30 million mines are scattered;

Noting with concern the consequences of the proliferation of mines in African countries, particularly the failure of efforts of rehabilitation in the affected areas and of reconstruction, in countries which emerged from wars,

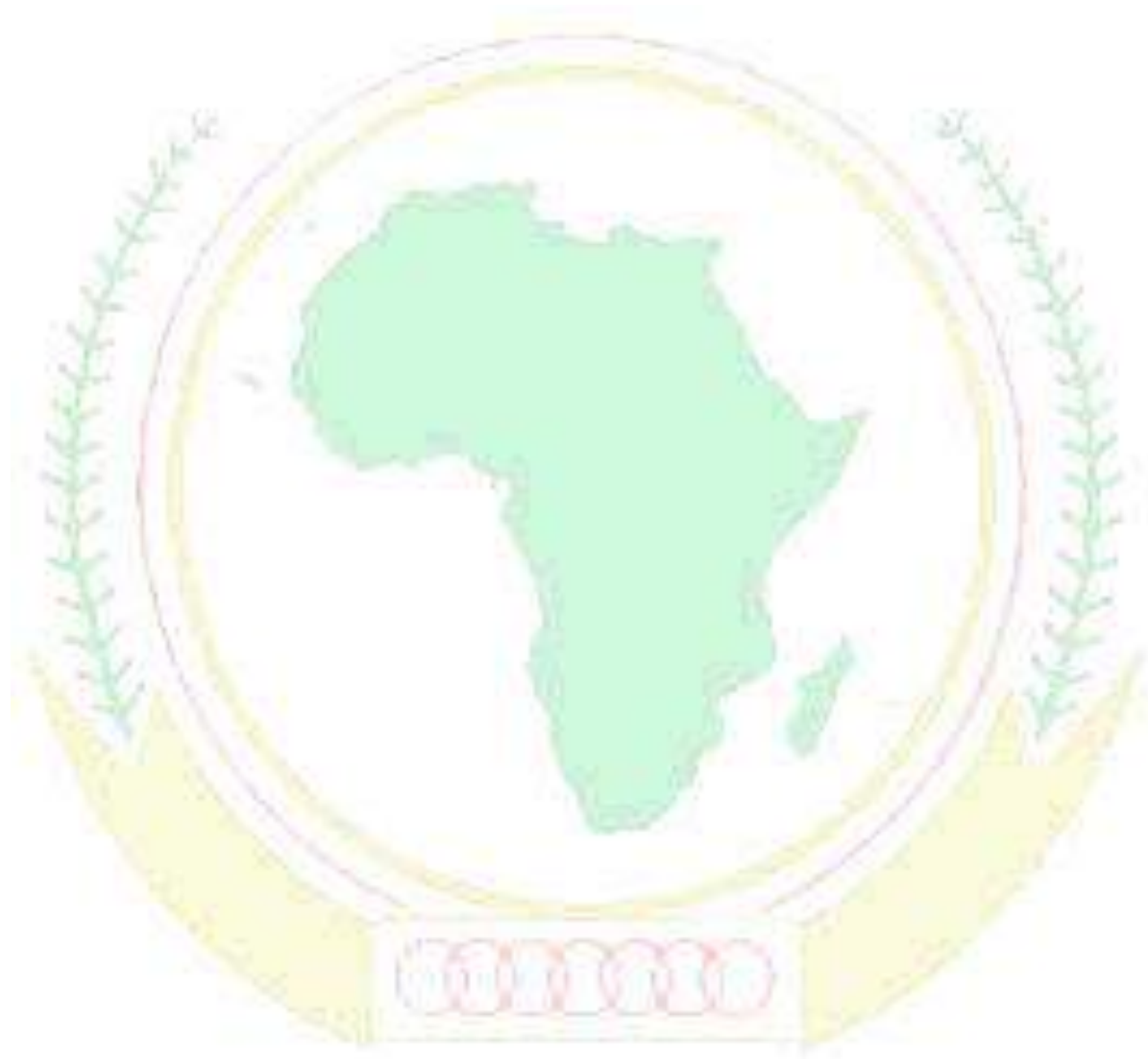
Considering that this phenomenon constitutes a flagrant violation of the provisions of the African Charter on Human and Peoples' Rights and, more specifically, of its article 4,

Further considering that one of the most adequate means to combat this calamity would be the extension of the 1980 United Nations Convention to situations of internal conflicts and, the adoption of effective provisions for the implementation of this Convention particularly aiming at the prohibition or restrictions on the use of mines;

Recognising the importance of the NGOs in highlighting public awareness and the need to strengthen their capacity in assisting mine victims:

1. **ENCOURAGES** African States to ratify, within the shortest possible time, the 1980 United Nations Convention on prohibition or restriction on the use of certain conventional weapons which may be deemed to be excessively injurious or to have indiscriminate effects;
2. **URGENTLY REQUESTS** African States to participate in large numbers in the review conference to press for the introduction of a clause on the prohibition or restriction of the use of mines in that Convention;
3. **RECOMMENDS** that concrete and effective steps be urgently taken to prohibit the manufacture of anti-personnel mines and to ensure that existing stocks are destroyed and an international control mechanism is set up;
4. **APPEALS** to the manufacturers of anti-personnel mines so that they may be conscious of the dangers and destruction caused by the use of their products;

5. **REQUESTS** that the provisions of the above Convention be extended to situations of internal conflicts;
 6. **CALLS UPON** Member States to closely associate NGOs with the implementation of the present resolution, and particularly with the conception and execution of consciousness raising and mine victims rehabilitation programmes.
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19. ACHPR/Res.19(XVII)95: RESOLUTION ON PRISONS IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its Seventeenth Ordinary Session held from 13 to 22 March 1995, Lomé, Togo;

Guided by the African Charter on Human and Peoples' Rights and, in particular, Article 45 of the Charter which defines the mandate of the Commission,

Considering that the rights established and guaranteed under the African Charter on Human and Peoples' Rights extend to all categories of persons including prisoners, detainees and other persons deprived of their liberty,

Considering also the leading role played by African States in the establishment of international norms and standards for the protection of human rights of prisoners including the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the United Nations Standard Minimum Rules for the Treatment of Prisoners, among others, and that an overwhelming majority of the States Parties to the African Charter on Human and Peoples' Rights subscribe to the principles and rules contained in these international norms and standards,

Aware of Resolution 1984/87 of the United Nations Economic and Social Council which requests States to "inform the Secretary-General of the United Nations every five years of the progress made with the application of the Standard Minimum Rules for the Treatment of Prisoners and of the factors and difficulties, if any, affecting their implementation",

Concerned that the conditions of prisons and prisoners in many African countries are afflicted by severe inadequacies including high congestion, poor physical health and sanitary conditions; inadequate recreational, vocational and rehabilitation programmes, restricted contact with the outside world, large percentages of persons awaiting trial, among others,

Conscious that States assume responsibilities to look after the welfare of persons who have been deprived for their liberty including prisoners and detainees,

Mindful of the obligation of the States Parties to the African Charter on Human and Peoples' Rights to improve prison conditions and protect the human rights of prisoners, detainees and persons deprived of their liberty in Africa and efforts undertaken;

HEREBY:

1. **RESOLVES THAT** prison conditions in many African countries do not conform with the articles of the African Charter on Human and Peoples' Rights and to the international norms and standards for the protection of the human rights of prisoners including the International Covenant on Civil and Political Rights and the United Nations Standard Minimum Rules for the Treatment of Prisoners, among others;
2. **URGES** States Parties to the African Charter on Human and Peoples' Rights to include in the reports submitted to the Commission under Article 62 of the Charter information on human rights affecting the human rights of prisoners;

CALLS UPON States Parties to the African Charter on Human and Peoples' Rights to comply with Resolution 1984/877 of the United Nations Economic and Social Council to submit periodic reports to the Secretary-General of the United Nations in compliance with the Standard Minimum Rules for the Treatment of Prisoners.

20. ACHPR/Res.20(XIX)96: RESOLUTION ON LIBERIA

The African Commission on Human and Peoples' Rights meeting at its Nineteenth Ordinary Session held from 26 March to 4 April 1996 in Ouagadougou, Burkina Faso;

Recalling the Abuja Agreement signed by all the parties to the Liberian conflict under which the Heads of the Warring Factions were allocated seats on the Governing Council of State in the hope that such an arrangement would facilitate and ensure disarmament of their fighters, a prerequisite for free and fair elections,

Taking note that the Council of State of the Liberian Transitional Government, created in pursuance of the Abuja Agreement, has been installed into office and that the government, including the judiciary and the legislature has been freely constituted and is now functional,

Considering however, that notwithstanding the establishment of the Council of State, the Warring Factions have refused to disarm, and that Liberia, contrary to the Abuja Agreement, still remains fragmented and partitioned among warring factions, and hostilities still exist, all of which have the potential to derail the peace process and prolong the suffering of the Liberian people and the strain on the West African sub-region,

Considering further that if peace is to be restored to Liberia, a civil government installed through a free and fair elections, and democratic institutions established with respect for human rights and the rule of law, Liberians themselves, and with the support of the international community, must exert efforts to cease all hostilities, disarm their combatants, have them encamped, demobilised and re-integrated into civil society,

Endorses the Abuja Peace Accord as the best means for the cessation of hostilities and the restoration of peace to Liberia and calls upon all parties to this Agreement to co-operate in good faith in its implementation,

Calls upon the Warring Factions to take all necessary steps to disarm their fighters, co-operate with the West African Peace Keeping Forces (ECOMOG) and the United Nations Observer Mission to Liberia (UNOMIL) and have fighters encamped, demobilised and re-integrated into civil society so as to pave the way for a free and fair general elections,

Calls also upon the Council of State to extend its authority over the whole of Liberia and to guarantee genuine respect for the rights and liberties of all its citizens and residents, and in this regard to observe the independence of the judiciary,

Further calls upon the Council of State to take all necessary measures to fight against impunity and ensure that all perpetrators of crimes against the Liberian people are brought to justice,

Appeals to the international community, especially the United Nations, to facilitate Liberia's transition from war to peace by enhancing the capacity of the West African Peace Keeping Force to encamp all combatants and to keep the peace through the provision of financial and logistic support; and to alleviate the suffering and the daily struggle of the Liberian people for survival through the provision of humanitarian relief and medical supplies.

21.ACHPR/Res.21(XIX)96: RESOLUTION ON THE RESPECT AND THE STRENGTHENING OF THE INDEPENDENCE OF THE JUDICIARY

The African Commission on Human and Peoples' Rights, meeting at its Nineteenth Ordinary Session held from 26 March to 4 April 1996 in Ouagadougou, Burkina Faso;

Noting that justice is an integral part of human rights and a necessary condition for democracy,

Considering the importance and the role of the judiciary, not only in the quest for the maintenance of social equilibrium, but also in the economic development of African countries,

Recognising the need for African countries to have a strong and independent judiciary enjoying the confidence of the people for sustainable democracy and development,

Considering the need to train lawyers in human rights in order to enable them apply judiciously international human rights instruments:

1. CALLS UPON African countries to:

- repeal all legislation which are inconsistent with the principles of respect of the independence of the judiciary, especially with regard to the appointment and posting of judges;
- provide, with the assistance of the international community, the judiciary with sufficient resources in order to enable the legal system fulfil its function;
- provide judges with decent living and working conditions to enable them maintain their independence and realise their full potential;
- incorporate in their legal systems, universal principles establishing the independence of the judiciary, especially with regard to security of tenure;
- refrain from taking any action which may threaten directly or indirectly the independence and the security of judges and magistrates.

2. URGES African judges to organise nationally and regionally, periodic meetings in order to exchange experience and evaluate efforts undertaken in various countries to bring about an efficient and independent judiciary.

22. ACHPR/Res.22(XIX)96: RESOLUTION ON THE ROLE OF LAWYERS AND JUDGES IN THE INTEGRATION OF THE CHARTER AND THE ENHANCEMENT OF THE COMMISSION'S WORK IN NATIONAL AND SUB-REGIONAL SYSTEMS

The African Commission on Human and Peoples' Rights, meeting at its Nineteenth Ordinary Session held from 26 March to 4 April 1996 in Ouagadougou, Burkina Faso;

Noting the central role that lawyers play in advocacy, judicial and other adjudicative processes in national legal systems and considering further how such roles can be used to promote reference to and reliance on the Charter in the Judicial and other adjudicative processes,

Considering the mandate and judicial competence of judges to base their reasoning and judgements on all relevant human rights instruments, either as applicable authoritative laws or as persuasive aids to interpretation of constitutional and legislative provisions on fundamental rights, freedoms and duties,

Recognising the importance of specialised and continuing training in human and peoples' rights for legal practitioners, judges, magistrates and the commissioners,

Appreciating the initiative of Commonwealth judges to incorporate and further develop human rights instruments and principles in their work:

1. **URGES** Judges and magistrates to play a greater role in incorporating the Charter and future jurisprudence of the Commission in their judgements thereby promoting and protecting the rights and freedoms guaranteed by the Charter;
 2. **CALLS UPON** lawyers to place greater reliance on the Charter and other international and regional human rights instruments in their various legal advocacy roles;
 3. **URGES** law societies, legal and human rights Non-governmental Organisations with observer status with the Commission, associations or organisations of judges and magistrates, to initiate specialised and comprehensive training for judicial officers, lawyers at national and sub-regional levels.
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23. ACHPR/Res.23(XIX)96: RESOLUTION ON ELECTORAL PROCESS AND PARTICIPATORY GOVERNANCE

The African Commission on Human and Peoples' Rights, meeting at its Nineteenth Ordinary Session held from 26 March to 4 April 1996 in Ouagadougou, Burkina Faso;

Having taken note of the report on recent elections in the Republic of Benin,

Taking note of the report on the smooth organisation of elections in the Comoros Islands,

Further noting the satisfactory manner in which the Presidential Elections were held in the Republic of Sierra Leone:

1. **ASSERTS** that elections are the only means by which the people can elect democratically the government of their choice in conformity with the African Charter on Human and Peoples' Rights;
 2. **COMMENDS** the governments and the peoples of the Republic of Benin, the Comoros and the Republic of Sierra Leone for having organised successfully, free and fair elections and hopes that their example will encourage and motivate other countries in transition to democratic rule;
 3. **EMPHASISES** that it is the duty of State Parties to the Charter to take the necessary measures to preserve and protect the credibility of the electoral process. This measures should include the presence of national and international observers during the elections and guarantee access to the electoral process and personal safety to enable them to fulfil their mission and prepare their report on elections in a proper manner;
 4. **FURTHER EMPHASISES** it is the responsibility of State Parties to provide electoral commissions and other organs entrusted with the task of organising elections in their countries with adequate material resources and any items necessary for the preparation and holding of elections;
 5. **REAFFIRMS** the importance of African countries and institutions to participate in observation of elections in State Parties; and reasserts its willingness to place at the disposal of States Parties and other institutions its expertise and that of its members in observing elections.
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24. ACHPR/Res.24(XIX)96: RESOLUTION ON BURUNDI

The African Commission on Human and Peoples', meeting at its Nineteenth Ordinary Session held from 26 March to 4 April 1996 in Ouagadougou, Burkina Faso;

Extremely concerned with the serious human rights violations and abuses occurring in Burundi, especially extra-judicial executions by some members of the security forces, armed gangs and militias,

Considering that impunity is one of the main causes of the worsening human rights situation in Burundi,

Considering that the independence of the judiciary is the corner stone of the effective struggle against human rights violations in general and impunity in particular,

Concerned with the plight of refugees and displaced persons and their vulnerability to human rights violations and abuses,

Considering that the Burundi crisis is made worse by the hate media and that the high point of the massage of hatred was reached with the launching of "*Radio Démocratie la voix du peuple*",

1. **URGES** the government of Burundi to:

- a) conduct transparent and impartial investigations into all human rights violations and abuses;
- b) take the necessary steps to guarantee the independence of the judiciary by ensuring, *inter alia*, that there is no interference in its functioning by the executive and that judges and magistrates are protected in the carrying out of their duty;
- c) ensure that persons accused of human rights violations and abuses are tried in compliance with international fair trial standards;
- d) improve the living conditions of refugees and displaced persons, ensure their safety and security and create conditions to enable them to return to their homes in collaboration with International Governmental and Non-Governmental Organisations;
- e) allow the Mission International d'Observation au Burundi (MIOB), human rights monitors and Special Rapporteurs from the United Nations, African Commission on Human and Peoples Rights and other international bodies freedom of movement throughout the country and take adequate and effective steps to guarantee their

safety and security without compromising their independence;

2. **FURTHER URGES** the government of Burundi and the concerned political parties to respect the spirit and letter of the Agreement which they signed in 1994 in the supreme national interest of Burundi;
 3. **CALLS UPON** the OAU to strengthen MIOB and include human rights monitoring in its mandate;
 4. **REQUESTS** the UN to provide adequate resources to enable its Commission of inquiry sent to Burundi to function efficiently and to complete its task as soon as possible;
 5. **CALLS UPON** the international community to assist the government of Burundi and neighbouring countries to rid the region of media which propagate hatred and fuel communal conflict in Burundi especially the Radio Station “*Radio Démocratie la voix du Peuple*” or “*RUTOMORANGINGO*”;
 6. **DECIDES** to involve itself more in efforts to resolve the crisis affecting Burundi by, among other things, sending a mission to Burundi and participating actively in the process of national reconciliation.
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25. ACHPR/Res.25(XXI)97: RESOLUTION ON THE PROTECTION OF THE NAME, ACRONYM AND LOGO OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

The African Commission on Human and Peoples' Rights, meeting at its Twenty - First Ordinary Session in Nouakchott, Mauritania, from 15 to 24 April 1997;

Recalling the relevant provisions of the African Charter on Human and Peoples' Rights, particularly Articles 30 and 45;

Noting with satisfaction the enthusiasm demonstrated by the civil society in Africa in the promotion of human and peoples' rights;

Considering however, the misuse by some NGOs of the name, logo and acronym of the Commission;

Recalling the need to avoid any confusion which may result in an uncontrollable use of names, acronyms, logos or other external signs bearing resemblance to those belonging to the African Commission on Human and Peoples' Rights;

Calls upon States Parties to do everything, in collaboration with the OAU Secretariat, to ensure the protection of the name, acronym and logo of the Commission throughout their countries;

Calls on States Parties to refuse granting registration to NGOs whose names, acronyms or symbols could cause confusion prejudicial to the Commission;

Furthermore Calls upon organisations concerned to proceed to make the necessary rectification in conformity with the present resolution.

26. ACHPR/Res.26(XXIV)98: RESOLUTION ON THE RATIFICATION OF THE CONVENTION ON ANTI-PERSONNEL MINES

The African Commission on Human and Peoples' Rights, meeting at its Twenty – Fourth Ordinary Session from 22 to 31 October 1998 in Banjul, The Gambia,

Taking Note of the various international and regional meetings ushering in the coming into force of the Ottawa Convention as September 1998, prohibiting the production, use, transfer and stockpiling of anti-personnel mines,

Emphasising that to date only five African countries have ratified this Convention, and that more than 15 African Countries are yet to sign it,

Noting that the African continent remains the most heavily mined region of the world;

Observing that anti-personnel mines continue to kill and mutilate vast populations including a great number of women and children.

CALLS on African States to sign and ratify without delay the Ottawa Treaty on the prohibition, production, use, transfer, stockpiling of anti-personnel mines.

WELCOMES the International campaign against anti-personnel mines urged by human rights activists and contribute to the implementation of the various action plans against the use, production, transfer and stockpiling of anti-personnel mines.

27. ACHPR/Res.27(XXIV)98: RESOLUTION ON THE RATIFICATION OF THE TREATY ON THE INTERNATIONAL CRIMINAL COURT

The African Commission on Human and Peoples' Rights, meeting at its Twenty-Fourth Ordinary Session from 22 to 31 October 1998 in Banjul, The Gambia,

Considering that the 67th Ordinary Session of the OAU Council of Ministers, meeting in Addis Ababa in February 1998, adopted the Dakar Declaration on an International Criminal Court;

Considering that the 34th Assembly of Heads of State and Government of the OAU, meeting in Ouagadougou, Burkina Faso, 8 -10 June 1998, also adopted the Dakar Declaration on an International Criminal Court;

Considering that around 43 Member States of the OAU participated in the Diplomatic Conference on the International Criminal Court (ICC) in Rome, Italy, 15 June to 17 July 1998, and that African countries supported the creation of a permanent, independent, impartial and effective ICC;

Considering that the statute of the ICC was adopted in Rome, Italy on 16 July 1998 by 120 States, of which more than 40 were African Countries;

Considering that 19 African States have signed the statute, demonstrating the will of African countries to create an effective ICC;

Considering the serious and troubling situation of human rights in Africa, especially in zones of armed conflict, and taking note of the universal consensus to end impunity for crimes which shock the conscience of humanity;

CALLS ON all States Parties to the African Charter on Human and Peoples' Rights to carry out all the appropriate constitutional procedures to sign and ratify the Rome Treaty on the International Criminal Court; and

INVITES THEM to take all necessary legislative and administrative steps to bring national laws and policies in conformity with the Statute.

28. ACHPR/Res.28(XXIV)98: RESOLUTION ON NIGERIA'S RETURN TO A DEMOCRATIC SYSTEM

The African Commission on Human and Peoples' Rights, meeting at its Twenty-Fourth Ordinary Session from 22 - 30 October 1998 in Banjul, The Gambia.

Considering paragraph two of the preamble to the African Charter on Human and Peoples' Rights which stipulates that "freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples",

Recalling the firm conviction of the States Parties to the African Charter on Human and Peoples' Rights of their duty "...to promote and protect human and peoples' rights and freedoms, taking into account the importance traditionally attached to these rights and freedoms in Africa";

Notes with satisfaction the positive evolution in the field of human rights, the promises and democratic advances made by the Nigerian Government since the end of June 1998;

WELCOMES the release of the Ogoni prisoners and other detainees previously held in the Port Harcourt central prison and the gradual return to the country of numerous political exiles in favour of democratic transition in Nigeria;

EXHORTS the Government of Nigeria to persist in its efforts toward the course of democracy, respect for, and protection of human rights;

ASSURES the Government of its total support and readiness to help it in its task of rebuilding in Nigeria a democratic society which respects human rights.

29. ACHPR/Res.29(XXIV)98: RESOLUTION ON THE RATIFICATION OF THE ADDITIONAL PROTOCOL ON THE CREATION OF THE AFRICAN COURT ON HUMAN AND PEOPLE'S RIGHTS

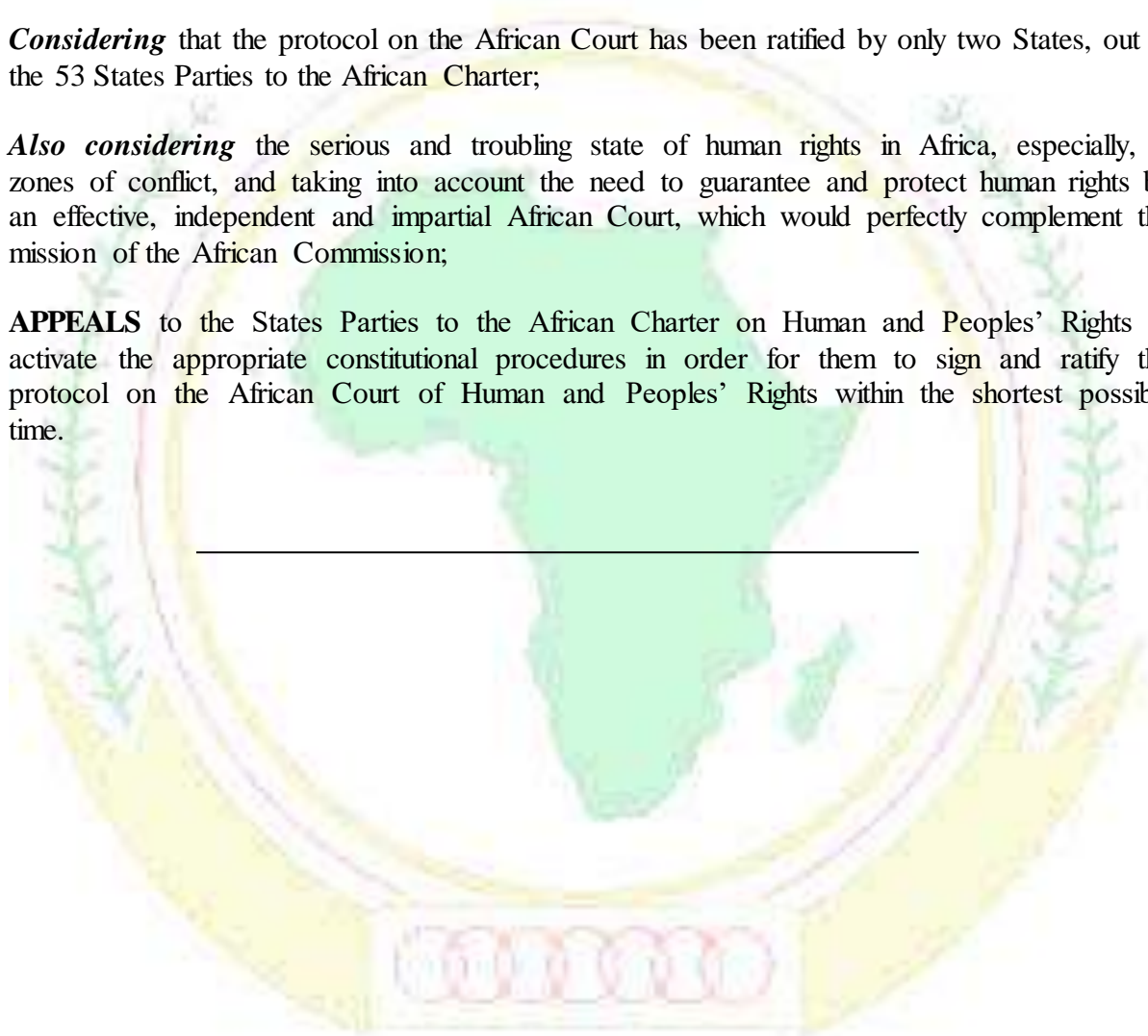
The African Commission on Human and Peoples' Rights, meeting at its Twenty-Fourth Ordinary Session from 22 - 30 October 1998 in Banjul, The Gambia.

Recalling the adoption of the protocol by the 34th Ordinary Session of the Assembly of Heads of State and Government of the OAU, held from 8 - 10 June 1998, in Ouagadougou, Burkina Faso, and its signature by 32 African countries;

Considering that the protocol on the African Court has been ratified by only two States, out of the 53 States Parties to the African Charter;

Also considering the serious and troubling state of human rights in Africa, especially, in zones of conflict, and taking into account the need to guarantee and protect human rights by an effective, independent and impartial African Court, which would perfectly complement the mission of the African Commission;

APPEALS to the States Parties to the African Charter on Human and Peoples' Rights to activate the appropriate constitutional procedures in order for them to sign and ratify the protocol on the African Court of Human and Peoples' Rights within the shortest possible time.



30. ACHPR / Res.30 (XXIV)98: RESOLUTION ON THE CO-OPERATION BETWEEN THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS AND NGOS HAVING OBSERVER STATUS WITH THE COMMISSION

BACKGROUND

1. Article 45 of the African Charter on Human and Peoples' Rights sets out the mandate of the Commission as follows:
 - i) to promote human rights;
 - ii) to protect human rights;
 - iii) to interpret provisions of the African Charter;
 - iv) any other tasks that may be referred to the Commission by the OAU.
2. In the performance of its tasks and to enhance its efficiency, the Charter also makes provision for the Commission to work with other partners in the field of human rights. Article 45 (1) (c) of the African Charter on Human and Peoples' Rights provides that the Commission shall co-operate with other African and International Institutions concerned with the promotion and protection of human and peoples' rights. In accordance with this article, the African Commission on Human and Peoples' Rights has since its inception granted observer status to 231 human rights NGOs.
3. The granting of this status enables the NGOs to participate directly in the Commission's activities. Rules 75 and 76 of the Rules of Procedure of the African Commission ensure this participation in the Commission's Sessions by requesting the Secretary to the Commission to inform all NGOs with observer status of the days and agenda of the forthcoming Session, at least four weeks before the Session. NGOs with observer status can then authorize their representatives to attend and participate in the public Sessions of the Commission and its subsidiary bodies. Participation can be in either written or oral forms.
4. Apart from participating in the sessions, all documents such as final communiqués of the session and other relevant documents have to be sent by the Secretariat to all NGOs with observer status.
5. Another benefit enjoyed by NGOs with observer status is the preparation of 'shadow' reports on the human rights situation in their countries. These 'shadow' reports enable the Commission to have a constructive dialogue with a State representative when that country's periodic report is being considered.
6. During its 11th Ordinary Session held in Tunis, Tunisia, the Commission reiterated its desire to co-operate with NGOs in the promotion and protection of human and peoples' rights on the continent. In order to encourage and ensure reciprocal commitment on the part of its NGO partners, it was decided that all NGOs that have observer status with the Commission should submit their activity reports once every two (2) years from the date the said status was granted.
7. The Commission's readiness to co-operate with national, regional and international Human Rights NGOs is further emphasized, and its importance stressed in the Mauritius Plan of Action 1996 - 2001, which was adopted at the Commission's 20th Ordinary Session. The

said Plan proposes the creation of an exchange and communication network, especially with regards to NGOs operating in Africa, to establish an appropriate mechanism for promotional and protective activities in Africa. This network is intended to enhance co-operation amongst NGOs and the Commission concurrently.

8. The present status of submission of the activity reports of NGOs in compliance with the decision taken at the 11th Ordinary Session of the Commission leaves much to be desired. Out of 231 NGOs that had been granted observer status by October 1998, 197 were expected to have submitted all due and overdue reports. Out of this number, only 26 have submitted all their reports up to date, 48 have submitted some of the reports and 114 have submitted none at all. This clearly shows the extent of the lack of commitment on the part of these NGOs.
9. It is also clear that the Commission continues granting observer status to NGOs, while it is not adequately informed by most of them about what work they are doing in the sphere of human rights or how they are helping to promote and/or protect human rights in Africa. The very essence of having NGOs as partners in creating a culture of recognition of and respect for human rights on the African continent is thereby betrayed.
10. Note must also be taken of the fact that some of these NGOs on occasion, have been found to use their granted status to raise funds which is sometimes totally misused, or is used for purposes other than the promotion and protection of human rights. The fear, therefore, that some of them may have either changed their mandate or shifted their focus to issues other than human rights becomes legitimate.
11. To address this situation, it is hereby recommended that the Commission revise its criteria for granting and enjoying observer status.
12. The Conference of the Heads of States and Governments of the Organization of Africa (OAU), as its Thirty-Fourth Ordinary Session [AHG/Dec. 126 (XXXIV) para. 3], requested the African Commission to review its criteria for granting and enjoying observer status to NGOs.

Therefore,

The African Commission on Human and Peoples' Rights, meeting at its Twenty-Fourth Ordinary Session from 22 to 31 October 1998, in Banjul, The Gambia,

Recalling that the African Charter on Human and Peoples' Rights, which entered into force on 21 October 1986, mandates the African Commission on Human and Peoples' Rights under Article 45 (1)(c) to co-operate with other African national and international institutions concerned with the promotion and protection of human and peoples' rights;

Recalling further its decision taken during its Second Ordinary Session held in Dakar, Senegal, in February 1988, to grant observer status to NGOs working in the field of human rights in Africa;

Also recalling Rules 75 and 76 of the Commission's Rules of Procedure which further emphasise this co-operation;

Aware of the Mauritius Plan of Action which emphasises the importance of co-operation with NGOs,

Convinced that such co-operation will provide NGOs with the support and opportunity to work closely with the Commission, and recognising the invaluable role institutions such as NGOs can play in the enhancement of human rights in Africa;

Further convinced that for any meaningful co-operation to take place, there has to be commitment and reciprocity on the part of all parties;

Bearing in mind the decision taken at its 11th Ordinary Session requiring all NGOs having observer status to submit their activity reports to the Commission at least once every two years;

Convinced that the submission of activity reports by NGOs is a way of enhancing the protection of human rights, and the co-operation between the Commission and NGOs;

Firmly convinced that the said reports can be very invaluable not only to the Commission, but also to the ever increasing number of human rights workers around the world;

Considering the request of the Conference of Heads of State and Government of the OAU to review the criteria for granting observer status to NGOs;

EXPRESSES its profound appreciation to those NGOs which have submitted their reports regularly;

NOTES WITH CONCERN the fact that the majority of NGOs whose reports are due have not submitted their reports, and have ceased communicating with the Commission;

DECIDES that representatives of NGOs that have applied for observer status should be present to be interviewed during the consideration of their application;

DECIDES ALSO to review, in conformity with the Decision AHG/Dec.126 (XXXIV) by the Conference of the Heads of State and Government, the criteria for obtaining and enjoying observer status with the Commission;

INVITES NGOs which have observer status with the Commission but which have not yet submitted their overdue reports, to do so before the 27th Ordinary Session of the Commission.

DECIDES FINALLY to revoke observer status of any NGO that does not submit any activity report at the 27th Ordinary Session.

REQUESTS the Secretary to the Commission to submit a report on the implementation of this resolution at each Session.

31. ACHPR/Res.31 (XXIV)98: RESOLUTION ON GRANTING OBSERVER STATUS TO NATIONAL HUMAN RIGHTS INSTITUTIONS IN AFRICA

BACKGROUND

In the preamble of the African Charter on Human and Peoples' Rights adopted at the Eighteenth Conference of Heads of State and Government in Nairobi in June 1981, Member States of the Organization of African Unity reaffirmed

"their adherence to the principles of human and peoples' rights and freedoms contained in the declarations, conventions and other instruments adopted by the Organization of African Unity, the Movement of Non-Aligned Countries and United Nations."

In the same preamble, African Countries pledged to "...coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa and to promote international cooperation having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights."

With the aim of concretizing this commitment, Article 26 of the African Charter on Human and Peoples' Rights stipulates that :

"States Parties to the present Charter shall have the duty to guarantee the independence of the Courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter."

The use of the word "allow" suggests not just encouraging and promoting the establishment of National Institutions but also developing a mutually cooperative relationship in order to "promote and ensure, through teaching, education and publication, respect for the rights and freedoms contained in the present charter ..." (Article 25).

National Institutions, therefore, are an essential partner in the implementation of the Charter at National Level. It is noted that the Mauritius Plan of Action (1996-2001) envisages workshops on national institutions as one of its promotion activities. It also seeks the cooperation of national institutions in fulfilling its mandate of promoting and protecting human and peoples' rights.

Finally, the 2nd Seminar of Ambassadors of African States to the OAU held in Addis Ababa from 8 to 9 September 1998, recognized the importance of National Institutions and urged Governments to accord them appropriate support.

African States in general and the African Commission on Human and Peoples' Rights in particular took an active part in the deliberations of the World Conference on Human Rights which was held in Vienna in June 1993. The Vienna Conference's Declaration and Programme of Action reaffirmed:

"the important and constructive role played by national institutions for the promotion and protection of Human Rights, in particular in their advisory role to the competent authorities, their role at remedying human rights violations, in the dissemination of information and education in human rights."

The World Conference on Human Rights also encouraged:

"the establishment and strengthening of national institutions..." and recognized "... that it is the right of each State to choose the framework which is best suited to its particular needs at the national level..."

At this Conference a formal status was granted to the International Committee for Coordination of National Institutions as a statutory liaison instrument of the United Nations system. This Committee shall organize a biennial world meeting of national institutions.

At the International level, the United Nations Human Rights Commission approved by its Resolution 1992/54 of the 3rd of March 1992 under the heading "**Principles Relating to the Status of National Institutions**", also known as the Paris Principles, rules which define the mandate of such institutions. The General Assembly of the United Nations endorsed these principles in its Resolution 48/144 of 20th of December 1993.

The objective of these principles is to guarantee the independence of national institutions in their work and pluralism in their composition. The central mission of national institutions is to play an advisory role to the government, parliament and other relevant bodies and authorities involved in giving opinion and making recommendations on all issues related to the promotion and protection of human rights.

In Africa, the trend to establish national institutions has continued to develop especially after 1991. At present, Africa has more than twenty (20) national human rights institutions which are represented in the International Coordination Committee by Cameroon, Morocco, South Africa and Togo.

At the first conference of national human rights institutions in Africa held in Yaounde, Cameroon, from 5 to 7 February 1996, participants adopted the Yaounde Declaration which commended "...the creation of new National Institutions in Africa..." and expressed the hope that these institutions will be given "... a proper representative status on the African Commission." At the 2nd Conference of African National Institutions held in Durban from 1 to 3 July 1998, the need for a clear relationship and a unique status in the African Commission were reiterated.

Since the Mauritius Session, the issue of African national human rights institutions has always been included on the agenda of meetings of the Commission. A paper on this subject was presented by Commissioner K. Rezag-Bara at the 21st Ordinary Session of the Commission held in Nouakchott, Mauritania in April 1997. The Commission decided at its 22nd Ordinary Session held in Banjul in November 1997 to entrust Commissioners K. Rezag-Bara and N. Barney Pityana with the task of preparing a draft resolution on the advisory status of national institutions in the African Commission on Human and Peoples' Rights. The matter was deferred for finalization at the 24th Ordinary Session.

Therefore,

The African Commission on Human and Peoples' Rights, meeting at its Twenty-Fourth Ordinary Session from 22 to 31 October 1998, in Banjul, The Gambia, **Considering** the preamble of the African Charter on Human and Peoples' Rights which reaffirms the adherence of African States to "human and peoples' rights and freedoms contained in the

declarations, conventions and other instruments adopted by the organization of African Unity, the Movement of Non-Aligned countries and the United Nations”;

Considering that Article 26 of the African Charter on Human and Peoples' Rights stipulates that "States Parties to the present Charter shall have the duty to ... allow the establishment and the improvement of appropriate national institutions entrusted with the promotion and protection of rights";

Considering the recommendation adopted in the Programme of Action of the World Conference on Human Rights held in Vienna, Austria in June 1993 and United Nations resolutions on human rights, particularly resolution 1992/54 of 3 March 1992 of the Commission Human Rights and resolution 48/134 of 20 December 1993 of the United Nations General Assembly;

Considering the decisions, resolutions, recommendations and the final declaration adopted by the first conference of national human rights institutions in Africa held in Yaounde, Cameroon from 5 to 7 February 1996 and the 2nd Conference held in Durban, South Africa on 1 - 3 July 1998;

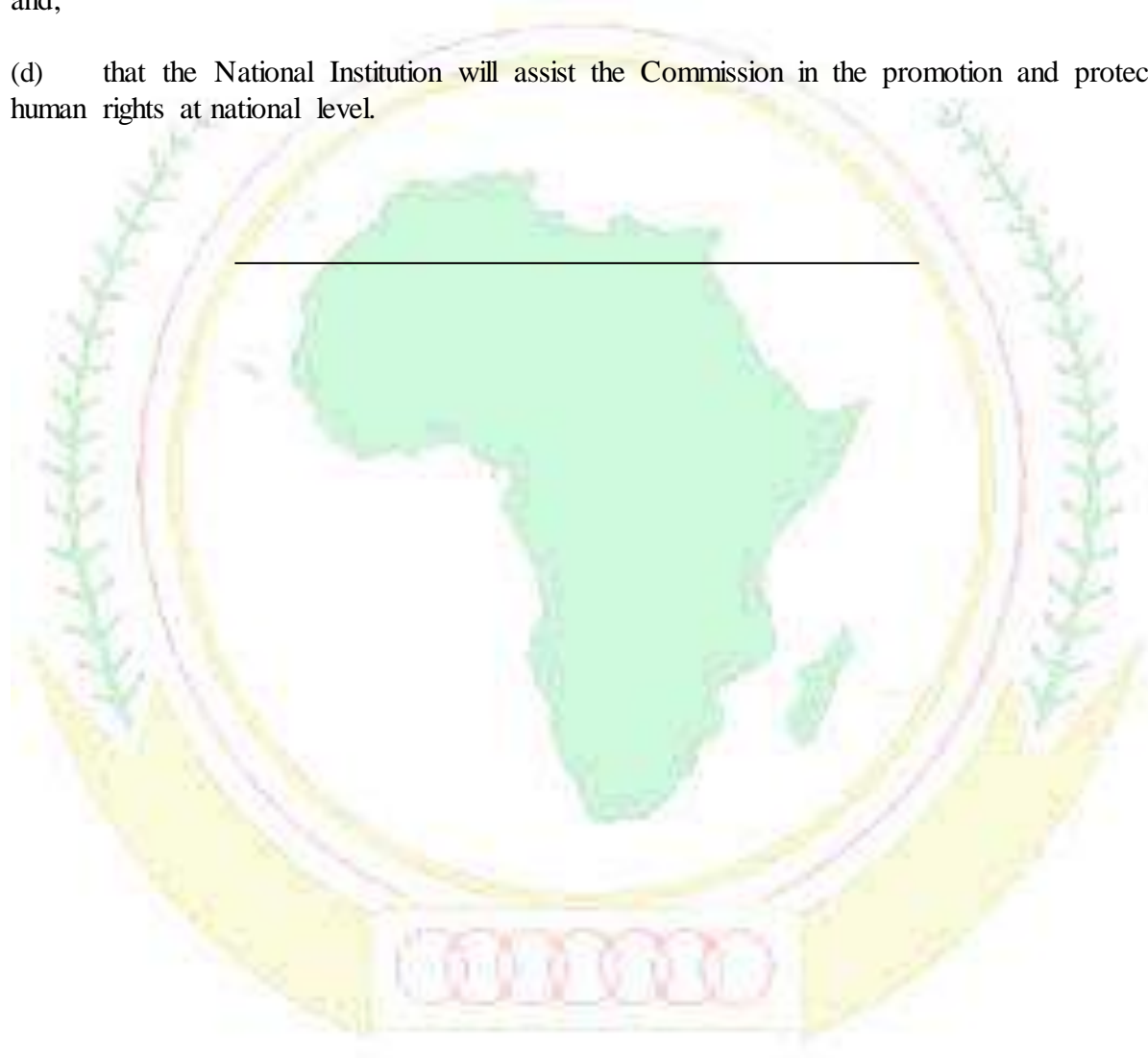
Convinced of the importance of the role of national institutions in the promotion and protection of human rights and in creating public awareness in Africa with regard to the institutional defense of human rights;

1. **COMMENDS** the increasing interests shown by African states in establishing and strengthening national institutions for the protection and promotion of human rights based on the principles of independence and pluralism.
2. **RECOGNIZES** that it is the right of each state to establish, according to its sovereign prerogatives and within the most appropriate legislative framework, a national institution charged with the promotion and protection of human rights according to internationally recognized norms.
3. **NOTES WITH SATISFACTION** the significant participation of African National Institutions in the deliberations of the sessions of the African Commission on Human and Peoples' Rights and registers positively the wish expressed by several institutions to be granted an observer status with the Commission.
4. **DECIDES** to grant special observer status to any African national institution established in Africa and functioning according to internationally recognized norms and standards.
 - (a) that the following criteria for the status of affiliated institution shall apply:
 - the national institution should be duly established by law, constitution or by decree;
 - that it shall be a national institution of a state party to the African Charter;
 - that the national institution should conform to the Principles relating to the Status of National Institutions, also known as the Paris Principles, adopted by the General Assembly of the United Nations under Resolution 48/144 of 20 December 1993.
 - that a National Institution shall formally apply for status in the African Commission.
 - (b) that such institutions shall have the following rights and responsibilities.

- be invited to sessions of the African Commission according to rule 6 of the Rules and Procedures,
- be represented in public sessions of the Commission and its subsidiary bodies,
- participate, without voting rights, in deliberations on issues which are of interest to them and to submit proposals which may be put to the vote at the request of any member of the Commission.

(c) that any national institution shall be required to submit reports to the Commission every two years on its activities in the promotion and protection of the rights enshrined in the Charter and;

(d) that the National Institution will assist the Commission in the promotion and protection of human rights at national level.



32. ACHPR/Res.32(XXIV)98: RESOLUTION ON THE PEACE PROCESS IN GUINEA BISSAU

The African Commission on Human and Peoples' Rights meeting at its Twenty-Fourth Ordinary Session in Banjul, The Gambia, from 22 to 31 October 1998.

Concerned by the situation prevailing in Guinea Bissau and especially by the numerous violations of human rights resulting from the situation of war (conflict) in this country since June 1998,

Noting with satisfaction the favourable evolution of the conflict towards direct dialogue between the belligerents,

RECOGNIZES the efforts initiated by the Economic Community of West African States (ECOWAS) and the Portuguese speaking countries community (PSCC) in order to find a peaceful settlement of the Guinea Bissau conflict,

COMMENDS the continuation of negotiations between parties to the conflict and pays tribute to H.E. Colonel (Rtd) Yahya Jammeh, President of the Republic of the Gambia for his mediation,

EXPRESSES ITS SUPPORT to the ongoing peace process and calls on parties to the conflict and Member States of the ECOWAS and PSCC to take necessary measures to ensure restoration of peace in Guinea Bissau.

33. ACHPR/Res.33 (XXV)98: RESOLUTION ON THE CRITERIA FOR GRANTING AND ENJOYING OBSERVER STATUS TO NON- GOVERNMENTAL ORGANISATIONS WORKING IN THE FIELD OF HUMAN AND PEOPLE'S RIGHTS

The African Commission on Human and Peoples' Rights, meeting at its Twenty-Fifth Ordinary Session, held in Bujumbura, Burundi, from 26 April - 5 May 1999.

Considering the provisions of article 45 of the African Charter on Human and Peoples' Rights, which establishes the competence and determines the mandate of the Commission;

Considering the Grand Bay (Mauritius) Declaration and Plan of Action, adopted at the 1st African Ministerial Conference on Human Rights (12-16 April 1999), which «recognises the contribution made by African NGOs to the promotion and protection of human rights in Africa ...»;

Considering the provisions of Chapter XIII (Articles 75 and 76) of the Rules of Procedure of the Commission regarding representation of, and consultation with NGOs by the African Commission on Human and Peoples' Rights;

Considering that since its establishment in October 1986, 231 African and international non-governmental organisations have been granted observer status with the African Commission on Human and Peoples' Rights;

Considering the Decision AHG/dec.126 (XXXIV) of the Assembly of Heads of State and Government which requests the African Commission on Human and Peoples' Rights to «undertake a review of the criteria for observer status with the Commission, with a view to enhanced efficiency and co-operation, and to suspend the granting of the said status until the adoption of the new criteria ...»;

Convinced of the need to strengthen its co-operation and partnership with NGOs working in the field of human rights;

ADOPTS the new criteria for granting and enjoying observer status, the text of which is annexed to the present resolution;

DECIDES that the new criteria shall immediately enter into force;

REQUESTS the Secretary to the Commission to report at each Ordinary Session on the implementation of the present resolution.

ANNEX - CRITERIA FOR THE GRANTING OF AND FOR MAINTAINING OBSERVER STATUS WITH THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

Chapter I

1. All Non-Governmental Organisations applying for observer status with the African Commission on Human and Peoples' Rights shall be expected to submit a documented application to the Secretariat of the Commission, with a view to showing their willingness and capability work for the realisation of the objectives of the African Charter on Human and Peoples' Rights.

2. All organisations applying for observer status with the African Commission shall consequently:
 - (a) Have objectives and activities in consonance with the fundamental principles and objectives enunciated in the OAU Charter and in the African Charter on Human and Peoples' Rights;
 - (b) Be organisations working in the field of human rights;
 - (c) Declare their financial resources.
3. To this effect, such an Organisation shall be requested to provide:
 - (a) A written application addressed to the Secretariat stating its intentions, at least three months prior to the Ordinary Session of the Commission which shall decide on the application, in order to give the Secretariat sufficient time in which to process the said application;
 - (b) Its statutes, proof of its legal existence, a list of its members, its constituent organs, its sources of funding, its last financial statement, as well as a statement on its activities.
4. The statement of activities shall cover the past and present activities of the Organisation, its plan of action and any other information that may help to determine the identity of the organisation, its purpose and objectives, as well as its field of activities.
5. No application for Observer Status shall be put forward for examination by the Commission without having been previously processed by the Secretariat.
6. The Commission's Bureau shall designate a rapporteur to examine the dossiers. The Commission's decision shall be notified without delay to the applicant NGO.

Chapter II: PARTICIPATION OF OBSERVERS IN PROCEEDINGS OF THE AFRICAN COMMISSION

1. a) All observers shall be invited to be present at the opening and closing sessions of all Sessions of the African Commission.
- b) An observer accredited by the Commission shall not participate in its proceedings in any manner other than as provided for in the Rules of Procedure governing the conduct of sessions of the African Commission.
2. All observers shall have access to the documents of the Commission subject to the condition that such documents:
 - a) shall not be of a confidential nature;
 - b) deal with issues that are of relevance to their interests.

The distribution of general information documents of the African Commission shall be free of charge; the distribution of specialised documents shall be on a paid-for basis, except where reciprocal arrangements are in place.

3. Observers may be invited specially to be present at closed sessions dealing with issues of particular interest to them.

4. Observers may be authorised by the Chairman of the African Commission to make a statement on an issue that concerns them, subject to the text of the statement having been provided, with sufficient lead-time, to the Chairman of the Commission through the Secretary to the Commission.
5. The Chairman of the Commission may give the floor to observers to respond to questions directed at them by participants.
6. Observers may request to have issues of a particular interest to them included in the provisional agenda of the African Commission, in accordance with the provisions of the Rules of Procedure.

Chapter III: RELATIONS BETWEEN THE AFRICAN COMMISSION AND OBSERVERS

1. Organisations enjoying observer status shall undertake to establish close relations of co-operation with the African Commission and to engage in regular consultations with it on all matters of common interest.
2. NGOs enjoying observer status shall present their activity reports to the Commission every two years.
3. Administrative arrangements shall be made, whenever necessary, to determine the modalities of this co-operation.

Chapter IV: FINAL PROVISIONS

1. The provisions of the General Convention on the privileges and immunities of the OAU and those of the Headquarters Agreement of the African Commission shall not apply to observers except as regards the granting of visas.
 2. The Commission reserves the right to take the following measures against NGOs that are in default of their obligations:
 - non-participation in sessions;
 - denial of documents and information;
 - denial of the opportunity to propose items to be included in the Commission's agenda and of participating in its proceedings.
 3. Observer status may be suspended or withdrawn from any organisation that does not fulfil the present criteria, after deliberation by the Commission.
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34. ACHPR/Res.34(XXV)99: RESOLUTION ON THE SITUATION IN COMOROS

The African Commission on Human and Peoples' Rights, meeting at its Twenty-Fifth Ordinary Session, in Bujumbura, Burundi, from 26 April – 5 May 1999;

Recalling the military *coup d'état* which took place on 30 April 1999 in Comoros, which resulted in the overthrow of the Government of the interim President, Mr. TADJEDDINE BENSAID by the Army Chief of Staff, Colonel AZALI ASSOUMANE;

Recalling its resolution on military regimes in Africa, adopted at its 16th Ordinary Session, held in Banjul (The Gambia), from 25 October – 3 November 1994;

Noting that the Declaration and Plan of Action of Grand Bay (Mauritius), adopted by the First Ministerial Conference on Human Rights in Africa (12 – 16 April 1999) recognises that the causes of human rights violations in Africa include unconstitutional changes of government;

Reaffirming the fundamental principle that for a government to be legitimate it must be freely chosen by the people and through democratically elected representatives;

Recognising that the take-over of power by force is contrary to the provisions of articles 13(1) and 20(1) of the African Charter on Human and People's Rights and that accession to power by military regimes through *coups d'état* constitutes an intolerable infraction of the democratic principles of the rule of law;

DECLARES that the military *coup d'état* in Comoros is a grave and unacceptable violation of the rights of the Comorian People to freely choose their government;

CALLS ON the *de facto* military authorities in this country to ensure that:

- 1) The fundamental rights and freedoms contained in the constitutional provisions of Comoros are given pre-eminence over any other form of legislation that may emanate from the authorities in place.
- 2) The independence of the judicial power, especially as regards its mission to guarantee inalienable human rights, is respected.
- 3) The reinstatement of democratically instituted civilian rule is initiated without delay.

35. ACHPR/Res.35(XXV)99: RESOLUTION ON THE SITUATION IN NIGER.

The African Commission on Human and Peoples' Rights, meeting at its Twenty-Fifth Ordinary Session, in Bujumbura (BURUNDI), from 26 April – 5 May 1999;

Recalling the military *coup d'état* which took place on 9 April 1999 in Niger, in which President IBRAHIM MAINASSARA BARE was assassinated and his Government overthrown by the Presidential Guard under the Command of Colonel WANKE;

Recalling its resolution on military regimes in Africa, adopted at its 16th Ordinary Session, held in Banjul (The Gambia), from 25 October – 3 November 1994;

Noting that the Declaration and Plan of Action of Grand Bay (Mauritius), adopted by the First Ministerial Conference on Human Rights in Africa (12 – 16 April 1999) recognises that the causes of human rights violations in Africa include unconstitutional changes of government;

Reaffirming the fundamental principle that for a government to be legitimate it must be freely chosen by the people and through democratically elected representatives;

Recognising that the take-over of power by force is contrary to the provisions of articles 13(1) and 20(1) of the African Charter on Human and People's Rights and that accession to power by military regimes through *coups d'état* constitutes an intolerable infraction of the democratic principles of the rule of law;

DECLARES that the military *coup d'état* in Niger is a grave and unacceptable violation of the rights of the Nigerian People to freely choose their government;

CALLS ON the *de facto* military authorities in this country to ensure that:

- 1) The fundamental rights and freedoms contained in the constitutional provisions of NIGER are given pre-eminence over any other form of legislation that may emanate from the authorities in place.
- 2) The independence of the judicial power, especially as regards its mission to guarantee inalienable human rights, is respected.
- 3) The reinstatement of democratically instituted civilian rule is initiated without delay.

36. ACHPR/Res.36 (XXV) 99: RESOLUTION ON THE RATIFICATION OF THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD

The African Commission on Human and Peoples' Rights, meeting at its Twenty-Fifth Ordinary Session, in Bujumbura, Burundi, from 26 April – 5 May 1999;

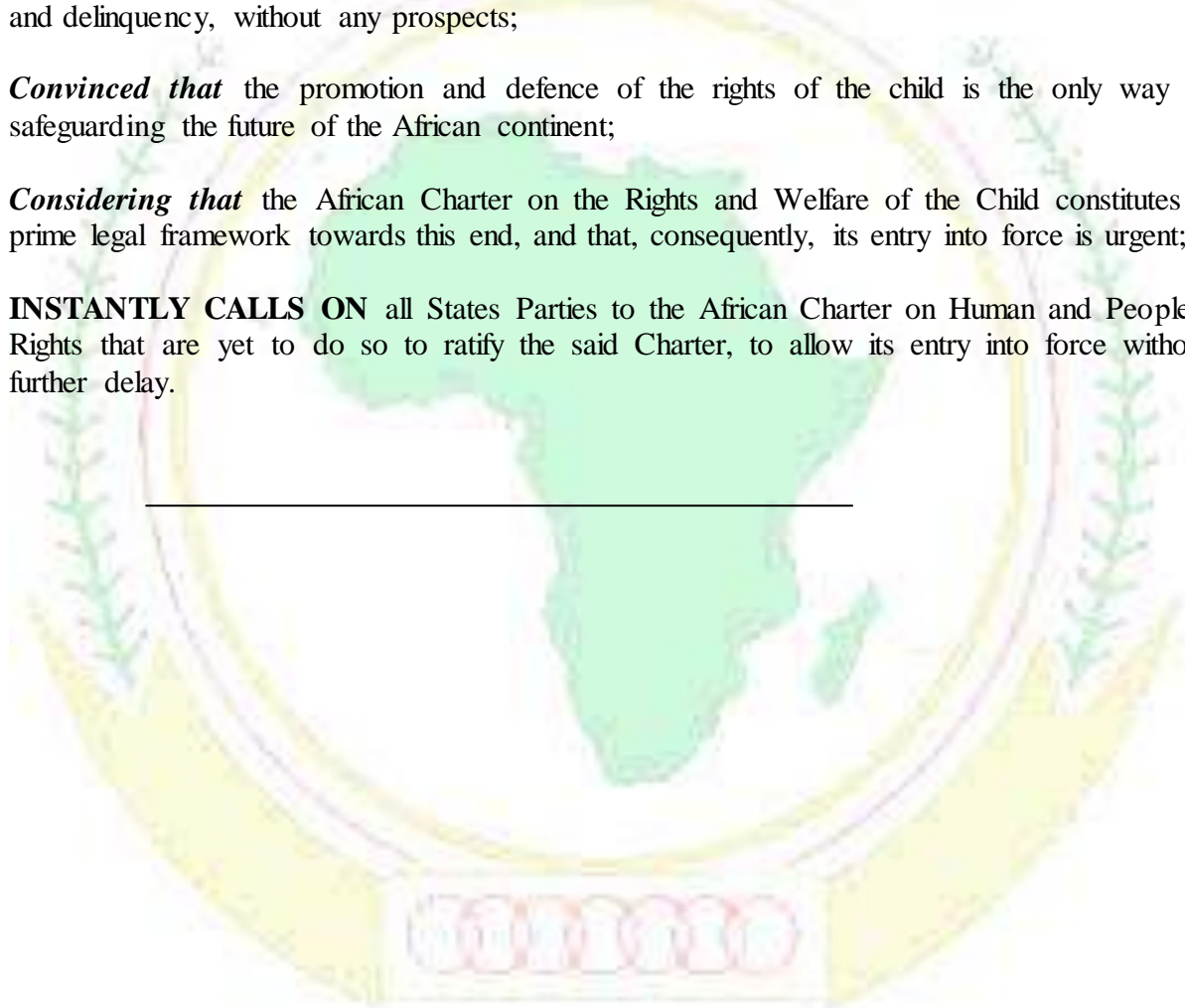
Taking note that the persistence of situations of war, famine and underdevelopment bring about particularly negative consequences for the African child population, especially their physical, intellectual and psychological development;

Considering that one of the consequences of this situation is manifested all over the continent, with thousands of displaced, refugee, handicapped, orphaned children, living in conditions of malnutrition, sickness, even misery, are obliged to do illegal labour, prostitution and delinquency, without any prospects;

Convinced that the promotion and defence of the rights of the child is the only way of safeguarding the future of the African continent;

Considering that the African Charter on the Rights and Welfare of the Child constitutes a prime legal framework towards this end, and that, consequently, its entry into force is urgent;

INSTANTLY CALLS ON all States Parties to the African Charter on Human and Peoples' Rights that are yet to do so to ratify the said Charter, to allow its entry into force without further delay.



37. ACHPR/Res.37 (XXV) 99: RESOLUTION ON THE EXTENSION OF THE MANDATE OF THE SPECIAL RAPPOREUR ON PRISONS AND CONDITIONS OF DETENTION IN AFRICA

The African Commission on Human and Peoples' Rights, meeting at its Twenty-Fifth Ordinary Session, in Bujumbura, Burundi, from 26 April – 5 May 1999,

Recalling its decision to designate Professor E.V.O. Dankwa to the post of Special Rapporteur on prisons and conditions of detention in Africa, taken at its 20th Ordinary Session;

Considering that the mandate of the Special Rapporteur is of two years' duration, subject to renewal;

Considering further that the initial term of two years of the Special Rapporteur comes to an end with the 24th Ordinary Session;

Emphasising the importance of the work of the Special Rapporteur as regards the search for solutions to the problems arising from the restriction of the freedom of the individual, in particular;

DECIDES TO EXTEND the mandate of the Special Rapporteur on prisons and conditions of detention in Africa for a period of two years, with effect from 31 October 1998.



38. ACHPR/Res.38 (XXV) 99: RESOLUTION ON THE DESIGNATION OF A SPECIAL RAPPORTEUR ON THE RIGHTS OF WOMEN IN AFRICA

The African Commission on Human and Peoples' Rights, meeting at its Twenty-Fifth Ordinary Session, in Bujumbura, Burundi, 26 April – 5 May 1999,

Recalling the United Nations Convention on the Elimination of all Forms of Discrimination against Women;

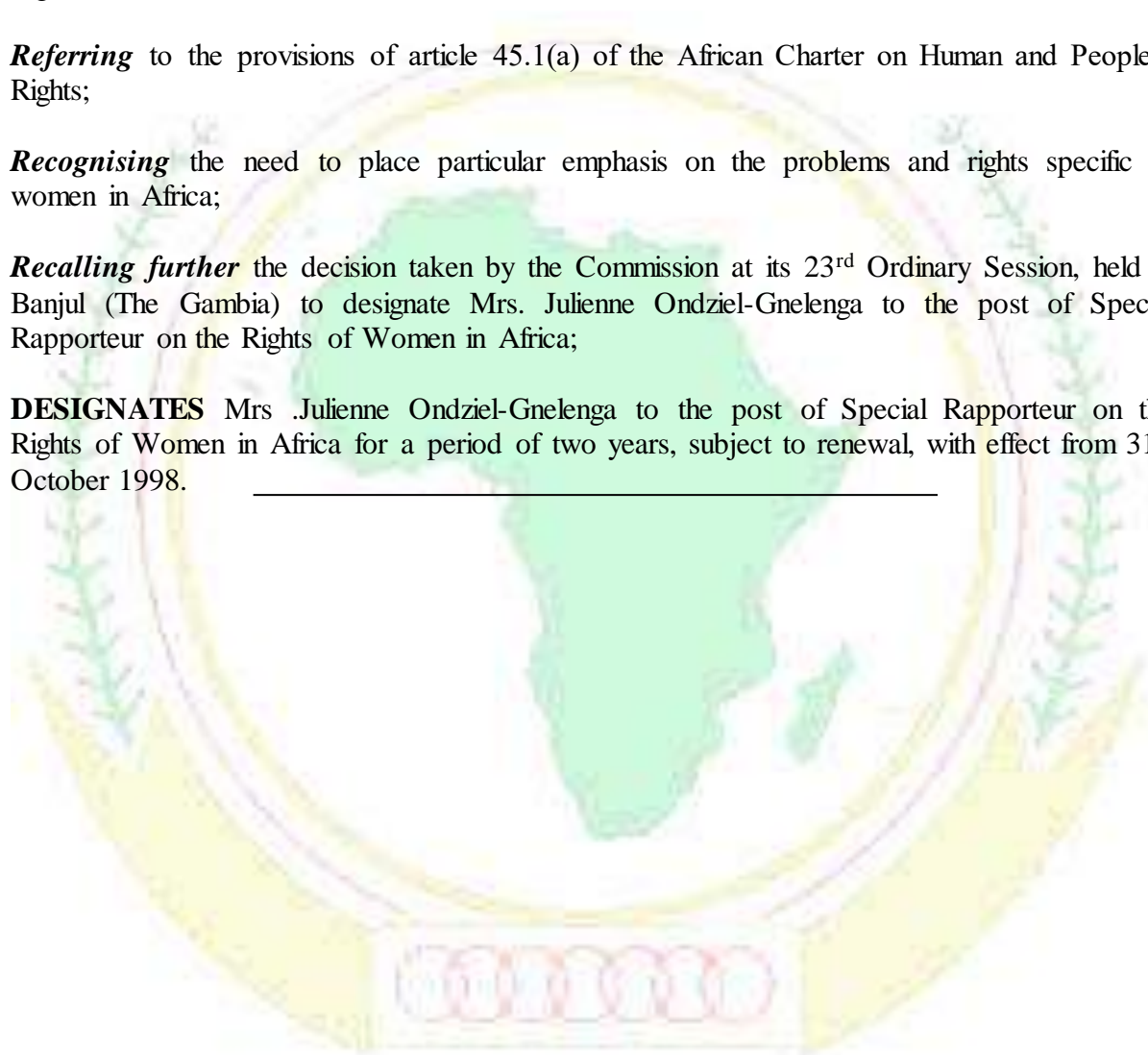
Recalling further the provisions of article 18.3 of the African Charter on Human and Peoples' Rights;

Referring to the provisions of article 45.1(a) of the African Charter on Human and Peoples' Rights;

Recognising the need to place particular emphasis on the problems and rights specific to women in Africa;

Recalling further the decision taken by the Commission at its 23rd Ordinary Session, held in Banjul (The Gambia) to designate Mrs. Julienne Ondziel-Gnelenga to the post of Special Rapporteur on the Rights of Women in Africa;

DESIGNATES Mrs .Julienne Ondziel-Gnelenga to the post of Special Rapporteur on the Rights of Women in Africa for a period of two years, subject to renewal, with effect from 31st October 1998.



39. ACHPR/Res.39(XXV)99: RESOLUTION CONCERNING THE REPUBLIC OF SEYCHELLES' REFUSAL TO PRESENT ITS INITIAL REPORT

The African Commission on Human and Peoples' Rights, meeting at its Twenty-Fifth Ordinary Session, in Bujumbura, Burundi, 26 April – 5 May 1999,

Considering that, in accordance with article 62 of the Charter, the Republic of Seychelles has been summoned, at several occasions, to present at its 17th session, its initial report submitted on September 1994;

Considering that the Republic of Seychelles, despite repeated demands made to its Government, has refused, on several occasions, to abide by the Commission's request, under the pretext that the resources to implement such an obligation were not provided by the State;

Considering that such a persistent behaviour represents a deliberate violation of the Charter to which the Republic of Seychelles is party;

Considering that the Commission, at its 25th ordinary session in Bujumbura, Burundi, firmly condemned this unspeakable behaviour on behalf of an OAU Member State, party to the Charter;

INVITES the Heads of State and Government Conference to be held in Algiers, in July 1999, to express their disapproval of such a persistent refusal that amounts to a deliberate violation of the Charter by the Republic of Seychelles

REQUESTS the Conference to invite Seychelles to abide by the Charter and to consider the appropriate measures to be taken against the Republic of Seychelles.

40. ACHPR/Res.40(XXVI)99: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN AFRICA

The African Commission on Human & Peoples' Rights, meeting at its Twenty-Sixth Ordinary Session held in Kigali, Rwanda, from 1-15 November 1999:

Inspired by the principles enshrined in the African Charter on Human & Peoples' Rights;

Noting with appreciation that all member states of the OAU are parties to the Charter;

Mindful of the fact that States Parties to the Charter undertook to adopt legislative or other measures to give effect to the rights, duties and freedoms enshrined in the Charter:

1. **WELCOMES** the commitment of States Parties to the promotion and observance of human rights obligations as expressed in the Grand Bay (Mauritius) Declaration and Plan of Action, subsequently endorsed by the 35th Ordinary Session of the OAU Assembly of Heads of State and Government and contained in the Algiers Declaration of July 1999;

However noting with regret, that the human rights situation in many States continues to cause concern;

2. **WELCOMES** the resumption of democracy in Nigeria and urges the new Nigerian government to speed up the process of repealing all decrees and laws enacted by previous regimes, which violated the Charter;
3. **DECIDES** to establish cooperation with the OAU Mechanism for Conflict Prevention, Management and Resolution as well as the OAU Secretary General's special representatives in the countries in conflict;
4. **EXPRESSES DEEP CONCERN** about the situation in the Great Lakes region, Ethiopia and Eritrea as well as in Sierra Leone;
5. **DECIDES TO SEND** a mission to Sierra Leone to seek information about the current situation in Sierra Leone, to undertake dialogue with the existing administrative, political and other structures in the country, and to make recommendations as appropriate.
6. **CALLS** upon the governments of Ethiopia and Eritrea to halt all hostilities, refrain from the tit-for-tat practice of forced deportations, observe the cease-fire agreement and make the necessary efforts at finding a peaceful resolution to the conflict;
7. **CALLS** for the resumption of the Arusha Peace process on Burundi and urges the belligerents to observe the rights and freedoms enshrined in the African Charter.
8. **FURTHERMORE DECIDES TO UNDERTAKE** a promotional goodwill visit to Kenya to, among other things, encourage Kenya, which witnessed the adoption of the African Charter in Nairobi on 26 June 1981 and ratified the Charter on 23 January 1992, to submit its initial country report as required by Article 62 of the Charter.
9. **INVITES** NGOs having observer status with the Commission as well as independent national institutions for the promotion and protection of human rights, to submit regular written reports on human rights situations in Africa in such a manner as would assist the Commission in the execution of its mandate.

41. ACHPR/Res.41 (XXVI) 99: RESOLUTION ON THE RIGHT TO A FAIR TRIAL AND LEGAL AID IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its Twenty-Sixth Ordinary Session, held in Kigali, Rwanda, from 1-15 November 1999;

Considering the provisions of the African Charter on Human and Peoples' Rights relating to the right to a fair trial, in particular Articles 7 and 26;

Recalling the resolution on the Right to Recourse and Fair Trial adopted by the Commission at its 11th Ordinary session in Tunis, Tunisia, in March 1992;

Recalling further the resolution on the Respect and the Strengthening of the Independence of the Judiciary adopted at the 19th Ordinary session held in Ouagadougou, Burkina Faso, in March 1996;

Noting the Recommendations of the Seminar on the Right to a Fair Trial in Africa held in collaboration with the African Society of International and Comparative Law and Interights, in Dakar, Senegal, from 9-11 September 1999;

Recognising the importance of the right to a fair trial and legal assistance and the need to strengthen the provisions of the African Charter relating to this right;

1. **ADOPTS** the attached Dakar Declaration and Recommendations on the Right to a Fair Trial in Africa;
2. **REQUESTS** the Secretariat of the Commission to forward the Dakar Declaration and Recommendations to Ministries of Justice and Chief Justice of all States Parties, Bar Associations and law schools in Africa and non-governmental organizations with observer status, and to report to the 27th Ordinary Session in this regard;
3. **DECIDES** to establish a Working Group on Fair Trial under the supervision of Commissioner Kamel Rezag-Bara and consisting of members of the Commission and representatives of non-governmental organizations;
4. **REQUESTS** the Working Group to prepare a draft of general principles and guidelines on the right to a fair trial and legal assistance under the African Charter and submit it to the 27th Ordinary Session of the Commission and for comments and observations by the Members of the Commission during the period between the 27th and the 28th Sessions;
5. **FURTHER REQUESTS** the Working Group to report to the 28th Ordinary Session on the final draft of the general principles and guidelines on fair trial and legal assistance for consideration;
6. **REQUEST** the Secretariat to provide the Working Group with all support and assistance needed to implement this mission.

42. ACHPR/Res.42(XXVI)99: RESOLUTION URGING STATES TO ENVISAGE A MORATORIUM ON THE DEATH PENALTY

The African Commission on Human and Peoples' Rights meeting at its Twenty-Sixth Ordinary Session held from 1-15 November 1999 in Kigali, Rwanda;

Recalling Article 4 of the African Charter on Human and Peoples' Rights which affirms the right of everyone to life and Article V(3) of the African Charter on the Rights and Welfare of the Child providing that Death Sentence shall not be pronounced for crimes committed by children;

Recalling UN Commission on Human Rights' resolutions 1998/8 and 1999/61, which calls upon all states that still maintain the death penalty to, *inter alia*, establish a moratorium on executions, with a view to abolishing the death penalty;

Recalling UN Sub-Commission on the Promotion and Protection of Human Rights' resolution 1999/4 which calls upon all States that retain the death penalty and do not apply the moratorium on executions, in order to mark the millennium, to commute the sentences of those under sentence of death on 31 December 1999 at least to sentences of life imprisonment and to commit themselves to a moratorium on the imposition of the death penalty throughout the year 2000;

Noting that three States Parties to the African Charter have ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aimed at abolition of the death penalty;

Noting further that at least 19 States Parties have *de facto* or *de jure* abolished the death penalty;

Considering the exclusion of capital punishment from the penalties that the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda are authorised to impose;

Concerned that some States Parties impose the death penalty under conditions not in conformity with the rights pertaining to a fair trial guaranteed in the African Charter on Human and Peoples' Rights;

1. **URGES** all States Parties to the African Charter on Human and Peoples' Rights that still maintain the death penalty to comply fully with their obligations under the treaty and to ensure that persons accused of crimes for which the death penalty is a competent sentence are afforded all the guarantees in the African Charter;
2. **CALLS** upon all States Parties that still maintain the death penalty to:
 - a) limit the imposition of the death penalty only to the most serious crimes ;
 - b) consider establishing a moratorium on executions of death penalty;
 - c) reflect on the possibility of abolishing death penalty.

43. ACHPR/Res.43(XXVI)99: RESOLUTION ON THE OBSERVANCE OF THE 30TH ANNIVERSARY THE OAU CONVENTION GOVERNING THE SPECIFIC ASPECTS OF REFUGEES IN AFRICA

The African Commission on Human & Peoples' Rights, meeting at its Twenty-Sixth Ordinary Session held in Kigali, Rwanda, 1-15 November 1999:

Noting that the OAU Convention Governing the Specific Aspects of Refugee problems in Africa was adopted by the Assembly of Heads of State at Addis Ababa on 10 September 1969;

Recalling the principles laid down in the Grand Bay (Mauritius) Declaration and Plan of Action that the high number of refugees, displaced persons and returnees in Africa constitutes an impediment to development as well as the link between human rights violations and population displacement;

Considering that African states bear the brunt of receiving and caring for refugee populations;

Concerned about the plight of more than 6 million refugees, asylum-seekers and internally displaced persons across the Continent;

Aware that current mechanisms for the protection of refugees and asylum-seekers appear to be inadequate and ineffective:

1. **CONGRATULATES** those states, which have spared no effort to honour their obligations under the Convention and continue to uphold solidarity with Africa's refugees and asylum-seekers;
2. **WELCOMES** the efforts by the United Nations High Commissioner for Refugees to integrate issues of refugee protection to human rights across Africa and to establish cooperation between the Commission and the field offices of UNHCR in Africa;
3. **DECIDES TO PARTICIPATE IN THE COMMEMORATION** of the 30th Anniversary of the OAU Convention Concerning Specific Aspects of Refugee Problems in Africa by supporting the proposed OAU/UNHCR Conference to be held in Guinea early 2000;
4. **DECIDES TO ESTABLISH A CLOSER COOPERATION** with the OAU Refugees Bureau in the spirit that violations of human rights are the prime causes of refugee outflows throughout the world.
5. **APPEALS** to State Parties to the Charter to:
 - i) take steps to ensure effective implementation of the provisions of the Convention;
 - ii) establish a legal and administrative environment in their countries to ensure the best possible protection of the rights of refugees and asylum-seekers; and
 - III) by their observance of the Charter, to address the root causes of refugee outflows and population displacement.

6. DECIDES TO MAINTAIN the agenda item on Refugees, Asylum Seekers and Displaced Persons in its Ordinary Sessions.

44. ACHPR/Res.44(XXVII)00: RESOLUTION ON THE PEACE PROCESS IN THE DEMOCRATIC REPUBLIC OF CONGO

The African Commission on Human and Peoples' Rights, meeting at its Twenty-Seventh Ordinary Session in Algiers, Algeria, from 27 April – 11 May 2000,

Considering the holding in Algiers, Algeria on 30 April 2000, of the Summit on the situation in the Democratic Republic of Congo (DRC) at the invitation of H.E. Mr. Abdelaziz BOUTEFLIKA, President of the Democratic and Popular Republic of Algeria and current Chairman of the Organization of African Unity (OAU);

Considering that the said Summit provided an opportunity for an exhaustive evaluation of the implementation of the Lusaka Accord, in the light of the latest developments in the peace process;

Noting with satisfaction the efforts of H.E. Mr. Abdelaziz BOUTEFLIKA, President of the Democratic and Popular Republic of Algeria and current Chairman of the OAU as well as those of the African Heads of State who participated at the Algiers Summit for a rapid and peaceful settlement of the conflict ravaging the Democratic Republic of Congo;

Concerned at the persistence of the state of conflict which has caused deep suffering for the civilian populace and grave violations of human rights on the territory of the DRC;

Noting however the significant progress recorded in the Great Lakes Region and in other forums, both regional and international, in the search for a solution to the conflict in the DRC;

1. **Expresses its profound appreciation** to H.E. President Abdelaziz BOUTEFLIKA for all the initiatives taken by him and strongly encourages him to pursue his laudable efforts in the search for a rapid settlement to the conflict in DRC;
 2. **Welcomes** the results achieved by the Algiers Summit of 30 April 2000 on the Democratic Republic of Congo and expresses its conviction that these results would represent a qualitative push forward for the peace dynamics in the Democratic Republic of Congo and the Great Lakes region;
 3. **Expresses its appreciation** for the encouraging results achieved in the implementation of the Lusaka Accord and calls on the concerned parties to respect the cease-fire and to contribute to a successful outcome to the ongoing peace dynamics;
 4. **Urges** all Member States of the OAU to give their full support to the peace process in DRC and to contribute actively to the restoration of peace and security to the Great Lakes Region.
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45. ACHPR/Res.45(XXVII)00: RESOLUTION ON THE WESTERN SAHARA

The African Commission on Human and Peoples' Rights, at its Twenty-Seventh Ordinary Session held in Algiers, from 27 April to 11 May 2000:

Considering the preamble to the African Charter on Human and Peoples' Rights which states that the Member States reassert their adherence to the human and peoples' rights and freedoms contained in the declarations, conventions and other instruments adopted by the Organisation of African Unity, the Non-Aligned Movement and the United Nations Organisation,

Considering Article 20 of the African Charter on Human and Peoples' Rights which stipulates that:

“All peoples shall have right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen”,

Recalling UN Security Council Resolution 658 (1990) by which it approved UN Secretary General's report S/21360 on the situation in the Western Sahara,

Recalling UN Security Council Resolution 690 (1991) in which the UN Security Council approved UN Secretary General's report S/22464 and decided to set up, under the latter's authority, the United Nations Mission on the Western Sahara (MINURSO),

Recalling paragraphs 5, 8, 9 and 10 of the general rules dated 8 November 1991 (S/126185, Appendix III) on the organisation of a referendum in the Western Sahara, which stipulated that the Saharawi people's referendum on self-determination must be free, regularly conducted and free of coercion,

Recalling the Algiers Appeal (adopted at the 35th Summit Meeting of OAU Heads of State and Government from 12 to 14 July 1999) which hails Africa's action in solidarity towards completion of the decolonisation process on the continent, and specifically implementation of the UNO/OAU peace plan for the Western Sahara,

In view of the delay registered in the process for the referendum on self-determination in the Western Sahara,

Calls for the organisation, within the allotted time, of the Saharawi people's referendum on self-determination, in a free, fair and regular manner, as desired by the International Community,

Calls for observance of the agreement concluded on 27 December 1997 at Houston between the two parties, Morocco and the Polisario Front, under the aegis of James Baker, special envoy of the UN Secretary General.

46. ACHPR/Res.46(XXVII)00: RESOLUTION ON THE PEACE PROCESS AND NATIONAL RECONCILIATION IN SOMALIA

The African Commission on Human and Peoples' Rights meeting in Algeria at its Twenty-Seventh Ordinary Session from 27 April to 11 May 2000:

Recalling articles 19 through 24 and other articles of the African Charter on Human and Peoples' Rights;

Considering the Charter of the OAU that stipulates that freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples;

Concerned at the fluid situation of statelessness prevailing in Somalia;

Convinced that paying attention to the right to development, civil and political rights and the right to national and international peace and security, necessitates the existence of a democratically elected government by all people in Somalia;

Welcoming the meeting of traditional leaders and members of the civil society in Somalia, which started in Djibouti since the 2nd of May 2000;

Appreciating the efforts of the government of Djibouti, the Inter-Governmental Authority on Development, the Arab League, the OAU and the UN in their endeavours to maintain and preserve the national unity of the Somali people and the integrity of the State of Somalia;

Welcomes the national reconciliation efforts currently taking place in the Djibouti Conference which started in Djibouti on 2 May 2000, initiated by the government of Djibouti and supported by IGAD, the Arab League, OAU, and United Nations;

Appreciates the efforts of H.E President Ismail Omar GUELLEH and the Government of Djibouti in bringing together the Somali people in order to consider the future of Somalia, and in guiding the negotiations towards successful results;

1. **Appeals** to the Somali members of the civil society, the people of Somalia, traditional and political leaders in Somalia to adhere to the peaceful settlement of their differences and to give priority to the national interest of maintaining the unity and integrity of Somalia;
2. **Encourages** all efforts aiming at achieving national peace and security and promoting and protecting the human rights of the Somali people.
3. **Calls upon** all Heads of State and Government of African countries parties to the African Charter on Human and Peoples' Rights and the International Community to support the on-going Somalia reconciliation process.

47. ACHPR/Res.47(XXVIII)00: RESOLUTION ON CÔTE D'IVOIRE

The African Commission on Human and Peoples' Rights meeting at its Twenty-Eighth Ordinary Session in Cotonou, Benin from 23 October to 6 November 2000,

Considering that Côte d'Ivoire is a party to the African Charter on Human and Peoples' Rights and other international human rights instruments;

Deploring the events of Wednesday 25 and Thursday 26 October 2000 in Côte d'Ivoire, which were marked by shootings, wounding and massacres of innocent civilians;

Welcoming with appreciation the Government's statement that it is going to set up a Commission of Enquiry;

1. **Urges** the OAU to set up an International Commission of Enquiry, which would involve the African Commission, to investigate all human rights abuses that occurred on or about Wednesday 25 October through to Friday 27 October 2000 and all consequences thereof;
2. **Urges** the Ivorian Government to co-operate closely with the Commission of Enquiry and give it all the necessary assistance;
3. **Calls** on the Ivorian Government to undertake to bring to justice all persons who would have been found to be involved in the human rights violations by the investigation;
4. **Further calls** upon the Ivorian Government to ensure full compliance with the provisions of the African Charter on Human and Peoples' Rights and other international human rights instruments.

48. ACHPR/Res.48(XXVIII)00: RESOLUTION ON THE SITUATION IN PALESTINE AND THE OCCUPIED TERRITORIES

The African Commission on Human and Peoples' Rights, meeting at its Twenty-Eighth Ordinary Session held in Cotonou, Benin, from 26 October to 6 November 2000;

- **Considering** the values and fundamental principles of the African Charter on Human and Peoples' rights and the commitment to the people of Africa and to the human and people's rights and freedoms contained in the Declarations, Conventions and other instruments adopted within the framework of the Organisation of African Unity, and the United Nations Organisation;
- **Noting** the status of the Palestine Liberation Organisation within the O.A.U. and the concerns that a prolonged state of conflict and instability in the Middle East will adversely affect a number of States Parties to the Charter;
- **Noting with deep indignation** the excessive and inconsiderate use of military force against civilians which has led since the beginning of the conflict to about 150 deaths, including the death of children, and to more than 3000 wounded;
- **Bearing in mind** the Resolution adopted during the Special Session of the United Nations Human Rights Commission held in Geneva from 17 to 19 October 2000 devoted to the situation of human rights in occupied Palestine;
- **Calls upon** the competent organs of the OAU. to:
 1. **Condemn** strongly the repression and the inconsiderate and disproportionate use of force by the army of Israel in Palestine and in the occupied territories which resulted in many deaths and injuries among the Palestinian civilians, especially children;
 2. **Support** the efforts of the International Community for the creation of an International Commission of Inquiry into the events that occurred in September 2000 and that led to the killings of Palestinian civilians, including children, by the Israel occupation forces.

49. ACHPR/Res.49(XXVIII)00: RESOLUTION ON COMPLIANCE AND IMMEDIATE IMPLEMENTATION OF THE ARUSHA PEACE AGREEMENT FOR BURUNDI

The African Commission on Human and Peoples' Rights meeting at its Twenty-Eighth Ordinary Session in Cotonou, Benin, from 23 October to 6 November 2000,

Considering the massacres of innocent people committed in Burundi since 21 October 1993;

Considering the effects of the protracted civil war on the economy and well-being of the people of Burundi;

Considering with concern that the on-going armed conflict between the rebels and the Government army has caused serious violations of human rights and freedoms of the people of Burundi;

- **Expresses** its support for the Arusha Peace Agreement for Burundi and urges the conflicting parties to conclude a cease-fire and immediately and unconditionally implement the Arusha Accord signed in Arusha on 28 August 2000;
- **Congratulates** former President Nelson Mandela for the progress achieved through his mediation and exhorts him to continue with his efforts towards achieving lasting peace in Burundi;
- **Calls upon** the rebel groups who have not yet signed the peace agreement concluded under the auspices of former President Nelson Mandela to do so urgently;
- **Makes an urgent appeal** to the Great Lakes countries to give their full support to the peace process and put pressure on all the belligerents to renounce violence;
- **Calls upon** the OAU and UN to take all appropriate measures to put a stop to the hostilities in Burundi and bring the belligerents to give greater importance to negotiation for the resolution of their dispute;
- **Urges** the International Community to support the peace process and settlement of the conflict that has rocked Burundi.

50. ACHPR/Res.50 (XXVIII)00: RESOLUTION ON THE WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

The African Commission on Human and Peoples' Rights, meeting at its Twenty-Eighth Ordinary Session in Cotonou, Benin, from 23 October to 6 November 2000,

Having considered the report on the UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance due to take place in South Africa from 31 August to 7 September 2001;

Noting that the African Commission and the OAU have not been adequately involved in the regional preparations for the World Conference;

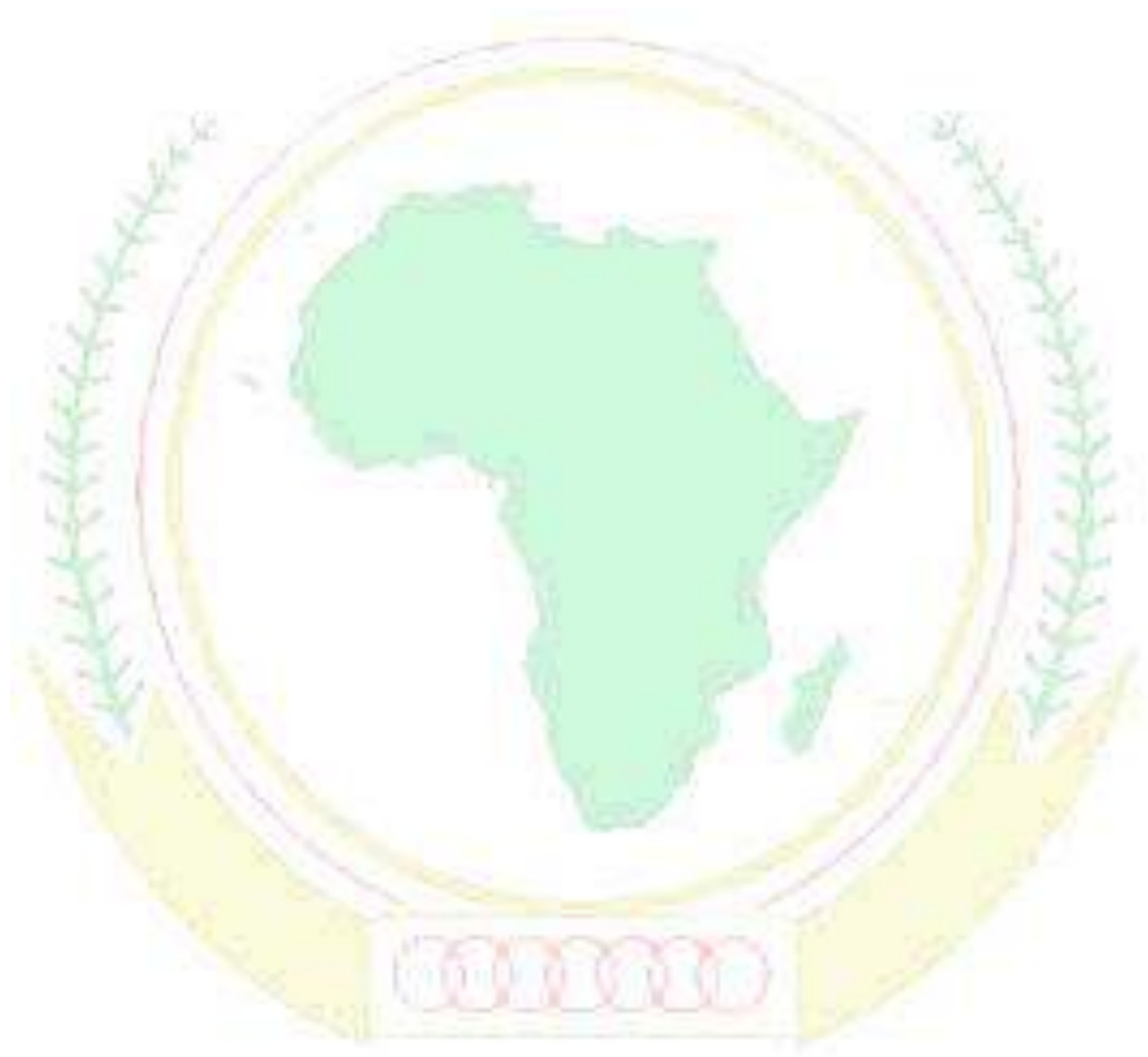
Noting further that a regional experts seminar in preparation for the World Conference was held in Addis Ababa, 4 to 8 October 2000 and that a regional preparatory Conference is scheduled to take place in Dakar, Senegal in January 2001;

Considering that it is critical that African States in general, including regional institutions and civil society be fully involved in the preparations for, and to influence the outcomes of the World Conference;

Recalling its decision to nominate Commissioner Jainaba Johm as the focal point for the preparation of this World Conference;

1. **Resolves** to seek observer status with the Preparatory Committee of the World Conference, the next session of which will take place in Geneva in May 2001;
2. **Nominates** a Committee of 4 members with the focal point as a convenor with the following mandate:
 - To represent the Commission in all matters relating to the preparation for the World Conference and invite the OAU to take an active part in the preparation and holding of the Conference ;
 - To prepare a document on the issues to be considered by the World Conference and propose a strategy for effective participation by the Commission;
 - To disseminate within Member States information materials likely to raise awareness of the World Conference;
 - To encourage State parties to the African Charter and civil society to organise national preparatory meetings and to engage in preparations for the World Conference with all diligence ;
 - To report on developments at the 29th Ordinary Session of the African Commission;
3. **Resolves** to have this item on the Agenda of its 29th and 30th Ordinary Sessions; of the African Commission;

4. **Requests** the Secretariat to make all appropriate arrangements for the implementation of this resolution and report to the 29th Session.
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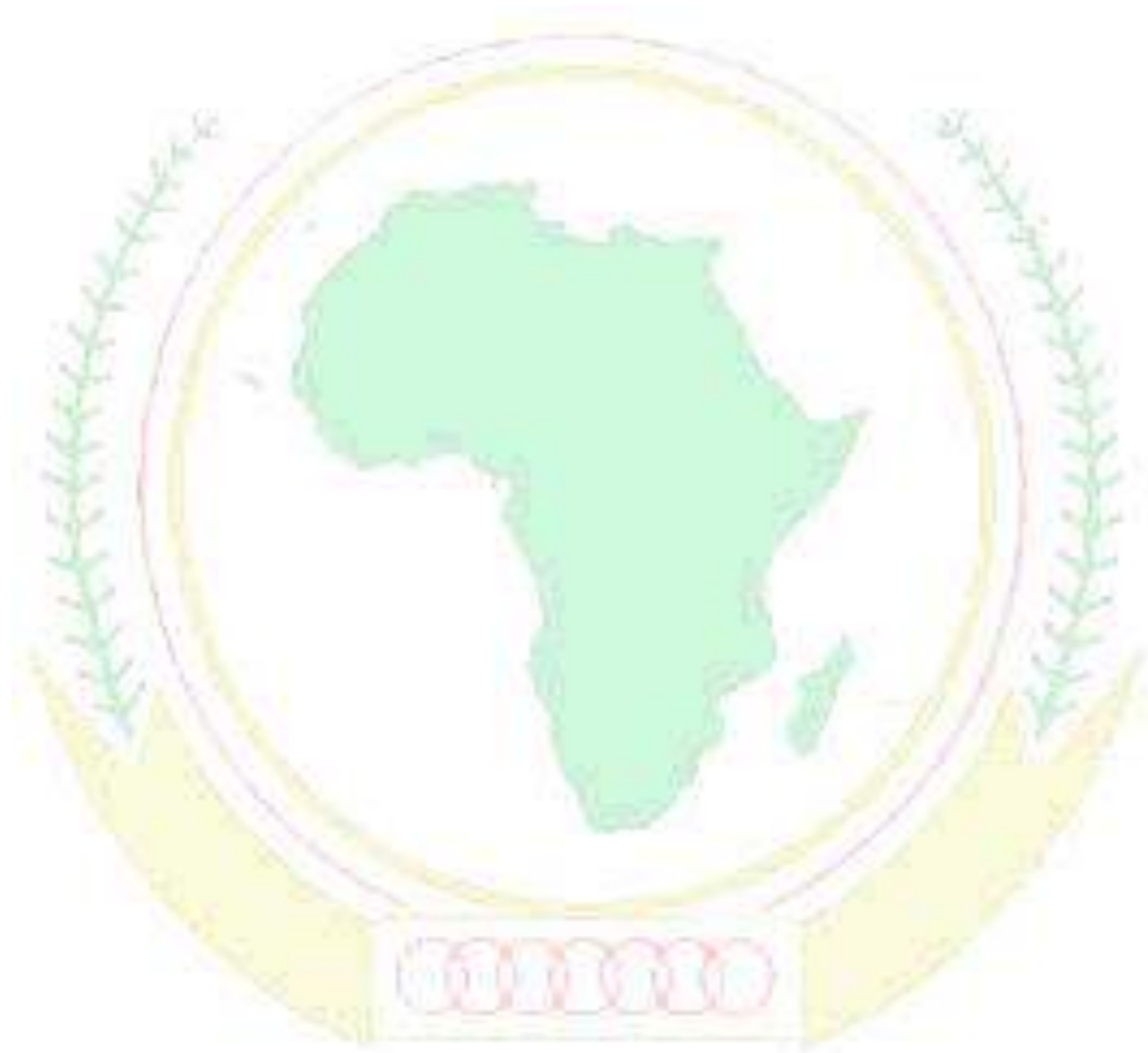
51. ACHPR/Res.51(XXVIII)00: RESOLUTION ON THE RIGHTS OF INDIGENOUS PEOPLES/COMMUNITIES IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its 28th Ordinary Session in Cotonou, Benin from 23rd October to 6th November 2000,


- ***Recalling*** that at its 26th Ordinary Session held in Kigali, Rwanda, it constituted a Committee made up of 3 Commissioners to further consider the issue of Indigenous People in Africa and advise accordingly;
- ***Having reconsidered*** the issue and its implications;

Resolves to:

1. ***Establish*** a working group of experts on the rights of indigenous or ethnic communities in Africa ;
2. ***Set up*** a working group constituted of 2 members of the African Commission, one of whom should be designated as convenor and 2 African experts in the field of human rights or indigenous issues;
3. ***Assign*** the following mandate to the working group:
 - a) Examine the concept of indigenous people and communities in Africa;
 - b) Study the implications of the African Charter on Human Rights and well being of indigenous communities especially with regard to:
 - *the right to equality (Articles 2 and 3);*
 - *the right to dignity (Article 5);*
 - *protection against domination (Article 19);*
 - *on self-determination (Article 20); and*
 - *the promotion of cultural development and identity (Article 22).*
 - c) Consider appropriate recommendations for the monitoring and protection of the rights of indigenous communities;
4. ***Have*** a funding proposal prepared with a view to raising donor funds to meet the costs of the work of the working group;
5. ***Submit*** a report at the 30th Ordinary Session of the Commission.



Section C

The logo of the African Commission on Human and Peoples' Rights (ACHPR) is a circular emblem. It features a green map of the African continent in the center. The map is surrounded by a yellow ring, which is further enclosed by a purple ring. The entire emblem is flanked by two green olive branches. At the bottom of the emblem, there is a banner with the text 'ACHPR' in red.

**Resolutions adopted during the
29th - 38th Sessions**

(2001 - 2005)

52. ACHPR/Res.52(XXIX)01: RESOLUTION ON THE AFRICAN UNION AND THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

The African Commission on Human and Peoples' Rights, meeting at its 29th Ordinary Session in Tripoli, Great Socialist People's Libyan Arab Jamahiriya, from 23rd April to 7th May 2001,

Recalling the Sirte Declaration of 9th September 1999, adopted during the 4th Extraordinary Session of the Assembly of Heads of State and Government of the Organisation of African Unity;

Recalling the adoption of the Constitutive Act of the African Union by the 36th Ordinary Session of the Assembly of Heads of State and Government of the OAU held in Lomé, Togo, from 10th to 12th July, 2000;

Noting that all Member-States have signed the Constitutive Act of the African Union and that the legal conditions for its entry into force are now met, after the deposit of the 36th instrument of ratification;

Recalling that one of the objectives of the African Union, aims at “promoting and protecting human and peoples’ rights in accordance with the African Charter on Human and Peoples’ Rights and other relevant human rights instruments” (Article 3 of the Constitutive Act);

Noting with satisfaction the substantial contributions made by the participants during the consideration of this agenda item at the 29th Ordinary Session;

Noting the need to initiate in-depth discussion on all the implications of the entry into force of the Constitutive Act of the African Union on the provisions of the African Charter on Human and Peoples’ Rights and on the functioning of the African Commission on Human and Peoples’ Rights;

1. **Expresses** its total adherence to the noble ideals, principles and objectives contained in the Constitutive Act of the African Union, in particular the commitment of States Parties “to promote and protect human and peoples’ rights, promote gender equality consolidate democratic institutions and culture, to ensure good governance and the rule of law, to promote the respect for the sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities as well as unconstitutional changes of governments;
2. **Decides to set up** a three-member working group of the Commission with a mandate to initiate an in-depth discussion on all the implications of the entry into force of the Constitutive Act of the African Union on the African Charter and the African Commission on Human and Peoples’ Rights;
3. **Requests** the working group to present an interim report at the 30th Session and a final report at its 31st Session;
4. **Requests** the Secretariat to provide the working group with the necessary means to carry out its mandate and decides to keep this issue on its agenda.

53. ACHPR/Res.53(XXIX)01 : RESOLUTION ON HIV/AIDS PANDEMIC – THREAT AGAINST HUMAN RIGHTS AND HUMANITY

The African Commission on Human and People's Rights, meeting at its 29th Ordinary Session in Tripoli, the Great Socialist Peoples' Libyan Arab Jamahiriya from 23rd April to 7th May 2001,

Noting the rampant escalation of the HIV/AIDS pandemic in Africa especially in sub-Saharan Africa where estimates show that some 9 million people have died and within the next decade some 25 million people will become infected;

Noting with satisfaction the convening of the Africa Summit on HIV/AIDS in Abuja, Nigeria, from 24th to 26th April 2001 where the crisis was declared and interventions of emergency proportions called for;

Welcoming the statement of the Abuja Summit and the emergency measures declared there especially the announcement by the Secretary General of the UN on the establishment of a US\$10 billion war chest to fight HIV/AIDS in Africa;

Welcoming the forthcoming UN General Assembly Special Session on HIV/AIDS to be held in June 2001 and trusting that it will increase awareness of the need for international action to fight the pandemic and devise strategies by international co-operation against HIV/AIDS;

Mindful of the mandate of the Commission in terms of the Charter to “promote human and peoples’ rights and ensure their protection in Africa” and especially in this regard allow the right of every individual to “enjoy the best attainable state of physical and mental health” (Article 16);

1. **Declares** that the HIV/AIDS pandemic is a human rights issue which is a threat against humanity;
2. **Calls** upon African Governments, State Parties to the Charter to allocate national resources that reflect a determination to fight the spread of HIV/AIDS, ensure human rights protection of those living with HIV/AIDS against discrimination, provide support to families for the care of those dying of AIDS, devise public health care programmes of education and carry out public awareness especially in view of free and voluntary HIV testing, as well as appropriate medical interventions;
3. **Calls** upon the international pharmaceutical industries to make affordable and comprehensive health care available to African governments for urgent action against HIV/AIDS and invites international aid agencies to provide vastly increased donor partnership programmes for Africa including funding of research and development projects.

54. ACHPR/Res.54(XXIX)01: RESOLUTION ON FREEDOM OF EXPRESSION

The African Commission on Human and Peoples' Rights meeting at its 29th Ordinary Session in Tripoli, the Great Socialist People's Libyan Arab Jamahiriya, from 23rd April to 7th May 2001,

Recalling Article 9 of the African Charter on Human and Peoples' Rights which guarantees the right to freedom of expression;

Recognising that freedom of expression is an essential attribute of human existence in all spheres of life and that there is now widespread international recognition of the cardinal role of freedom of expression in human progress;

Noting that freedom of expression is a potent and indispensable instrument for the creation and maintenance of a democratic society and the consolidation of development;

Concerned at the widespread violation of this right by States parties to the Charter through the harassment, arbitrary arrest and detention of journalists, victimisation of media houses deemed critical of the establishment, inadequate legal frameworks for regulating electronic media especially broadcasting, and criminal and civil laws that inhibit the right to freedom of expression;

Mindful of the potentially narrow scope of protection given by Article 9 of the African Charter on Human and Peoples' Rights;

Recognising the increasingly specialised nature of information technology and its impact on various aspects of the right to freedom of expression;

Recalling the recommendations of the Seminar on Freedom of Expression and the African Charter, it held in Johannesburg, South Africa, from 22nd to 25th November 2000;

Decides:

1. **To develop** and adopt, through a consultative process, a *Declaration of Principles on Freedom of Expression*, drawn from a comprehensive range of international standards and jurisprudence, to elaborate and expound the nature, content and extent of the right to freedom of expression provided for under Article 9 of the African Charter,
2. **To initiate** an appropriate mechanism to assist it review and monitor adherence to freedom of expression standards in general, the Declaration in particular to investigate violations and make appropriate recommendations to the Commission,
3. **To hold** periodic meetings with NGOs and African journalists to review progress in guaranteeing freedom of expression across the continent and in implementing the Declaration of Principles.

55. ACHPR/Res.55 (XXIX) 01: RESOLUTION ON THE IMMEDIATE LIFTING OF SANCTIONS IMPOSED ON LIBYA

The African Commission on Human and Peoples' Rights, meeting at its 29th ordinary session in Tripoli, the great socialist people's Libyan Arab Jamahiriya, from 23rd April to 7th May 2001;

Having considered the evolution of the Lockerbie case and in particular the fact that the Government of Libya has complied fully with the resolutions of the United Nations;

Bearing in mind that the sanctions imposed on Libya has seriously affected the enjoyment by the people of Libya of the rights enshrined in the African Charter on Human and People's Rights;

Taking note of the motion on the Lockerbie affair adopted by the Assembly of the OAU Heads of State and Government, meeting at its 5th Extraordinary Session held on 1st and 2nd March 2001 in Sirte, The Great Socialist People's Libyan Arab Jamahiriya ;

Bearing in mind the relevant OAU resolutions and decisions and those of other international and regional organisations;

1. **Notes with satisfaction** the motion on the Lockerbie affair adopted by the Extraordinary Session held on the 1st and 2nd March 2001 in Sirte, the Great Socialist People's Libyan Arab Jamahiriya.
 2. **Urges** the Security Council of the United Nations Organisation to consider the immediate lifting of sanctions imposed on Libya.
 3. **Decides** to monitor all further aspects of the legal proceedings initiated in the Lockerbie affair in conformity with the principles of the right to a fair trial.
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56. ACHPR/Res.56(XXIX)01: RESOLUTION ON THE SITUATION OF HUMAN RIGHTS DEFENDERS IN TUNISIA

The African Commission on Human and Peoples' Rights, meeting at its 29th Ordinary Session in Tripoli, Great Socialist People's Libyan Arab Jamahiriya, from 23rd April to 7th May 2001,

Considering that the Republic of Tunisia is a party to the African Charter on Human and Peoples' Rights;

Considering the relevant provisions of the African Charter on Human and Peoples' Rights, in particular articles 9(2), 10(1), 12(1) and 12(2);

Considering the provisions of other international and regional human rights instruments on freedom of conscience, freedom of movement, and right to association;

Considering the Declaration of 9th December 1998 of the United Nations General Assembly on the "rights and responsibilities of individuals, groups and organs of society to promote and protect universally recognised human rights and basic freedoms" and in particular Article 1 which states that "every individual has the right, individually, or in association with others, to promote the protection and the implementation of human rights and basic freedoms";

Concerned by the decision dated on 27th November 2000 suspending the activities of the Ligue Tunisienne de Défense des Droits de l'Homme (LTDH), one of the oldest human rights NGOs in Africa;

Welcoming with satisfaction the recent initiatives by Tunisian authorities to address the situation.

1. **Invites** the Chairman of the African Commission on Human and Peoples' Rights to write to the President of the Republic of Tunisia to express its concerns about the situation of human rights defenders in Tunisia;
 2. **Offers to send** a mission of good offices, if necessary, led by the Chairman of the Commission, in view of addressing the problem of the suspension of the Ligue Tunisienne de Défense des Droits de l'Homme.
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57. ACHPR/Res.57(XXIX)01: RESOLUTION ON THE RECENT VIOLENCE IN KABYLIA, ALGERIA

The African Commission on Human and Peoples' Rights, meeting at its 29th Ordinary Session in Tripoli, the Great Socialist People's Libyan Arab Jamahiriya, from 23rd April to 7th May 2001,

Noting the recent upsurge of violence in the Kabylia region of north-east Algeria where some 50 people are reported to have died and scores of others injured or arrested. The riots were sparked by the death of a student, Guermah Massinissa while held at a police station on 18th April 2001;

Encouraged by the announcement by President Abdelaziz Bouteflika on Monday 30 April 2001 of the establishment of a national commission of inquiry to bring light into the circumstances of the events and also the establishment of a Parliamentary Commission of Enquiry;

Mindful of its obligations in terms of the African Charter "to promote human and peoples' rights and ensure their protection" and especially conscious of the rights in the Charter to enjoy the rights and respect to economic, social and cultural development;

Recalling its Resolution on the rights of Indigenous Populations/Communities and the establishment of a Working Group to propose appropriate mechanisms for the promotion and protection of the rights of indigenous populations/communities in terms of the Charter;

Inspired by the leadership of President Abdelaziz Bouteflika in Africa and the hopes his democratic election aroused in 1998 for an end to sectarian violence, the establishment of human rights, good governance and security as well as the end to impunity especially within the security forces;

Satisfied that Algeria presented its periodic report, which was examined at the 29th Ordinary Session in Tripoli, the Great Libyan Jamahiriya and commending this country on the measures taken to give effect to the rights, duties and freedoms enshrined in the Charter.

1. **Requests** the Chairman of the Commission to write to the Government of Algeria and convey its deep concerns of the Commission at the recent events especially as it concerns a vulnerable community;
2. **Commends** the Government of Algeria on the speedy establishment of a National Commission of Enquiry and also a Parliamentary Commission of Enquiry and seeks the assurance that those responsible for human rights violations will be brought to justice;
3. **Offers** its good offices to help resolve the human rights problems underlying the disturbances and to send a fact-finding mission to Algeria at the earliest opportunity;
4. **Sends** condolences to the families of those who died during the tragic events.

58. ACHPR/Res.58(XXX)01: RESOLUTION ON THE CONSTRUCTION OF THE HEADQUARTERS OF THE AFRICAN COMMISSION ON HUMAN & PEOPLES' RIGHTS

The African Commission on Human and Peoples' Right meeting at its 30th Ordinary Session in Banjul, The Gambia, 13th –27th October 2001;

Noting that in 1989 the Republic of The Gambia and the OAU signed a solemn and binding Agreement to establish the seat of the African Commission on Human and Peoples' Rights in Banjul, and to provide adequate facilities for the Commission to execute its mandate in terms of the African Charter on Human and Peoples' Rights;

Noting with appreciation that the Government of the Republic of the Gambia has now resolved to construct the headquarters building to house the Secretariat of the Commission and towards that end has allocated a site on which such headquarters building is to be situated; and

Noting also that on 24th October 2001 to mark United Nations Day and African Human Rights Day (21st October), the Foundation Stone was laid during a ceremony on the site presided over by the Hon. Attorney General and Secretary of State for Justice and in the presence of the Chairman, other members of the Commission, the staff of the Secretariat and other dignitaries.

1. **Congratulates** the Government of the Republic of the Gambia on the provision of land and for the resolve to construct the headquarters of the African Commission;
 2. **Supports** the Government of the Republic of the Gambia in all fundraising efforts necessary to raise the necessary capital for the construction of the building;
 3. **Instructs** the Secretary to the Commission to report regularly on the progress of the appeal.
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59. ACHPR/Res.59 (XXXI) 02: RESOLUTION ON THE RATIFICATION OF THE STATUTE ON THE INTERNATIONAL CRIMINAL COURT BY OAU MEMBER STATES

The African Commission on Human and Peoples' Rights, meeting at its 31st Ordinary Session in Pretoria, South Africa, from 2nd to 16th May 2002;

RECALLING that the establishment of the International Criminal Court (ICC) represents an important development in the history of humanity and Universal jurisdiction and more specifically in the struggle against impunity for the more serious crimes as crimes of war, crimes against humanity and genocide;

RECALLING that the 60 ratifications necessary for the entry into force of the ICC Statute was reached in April 2002 and that the statute will subsequently enter into force on 1st July 2002;

NOTING WITH SATISFACTION the fact that among the 66 States who have presently ratified the ICC Statute, 14 are African countries: South Africa, Benin, Botswana, Gabon, Ghana, Lesotho, Mali, Mauritius, Niger, Nigeria, Central African Republic, Democratic Republic of Congo, Senegal, Sierra Leone ;

CAUTIONS that for the ICC to reflect universal jurisdiction and to receive universal credibility, as many countries as possible, from all regions of the world should ratify the Rome Statute;

RECALLING that the Assembly of States Parties will meet at the beginning of September 2002 in order to adopt the final texts necessary for the functioning of the ICC and to appoint and elect the judges;

NOTING that only the States party to the Statute will have the opportunity to present candidates for the position of judges;

CONVINCED that by dealing with crimes against humanity, war crimes, crimes of aggression, crimes of genocide and by putting an end to the tradition of impunity, the International Criminal Court will enhance and contribute sensitively to the protection of Human and Peoples' Rights;

URGES OAU Member States who have not yet done so to ratify the ICC Statute without delay;

CALLS upon the States that have ratified the ICC Statute to rapidly incorporate it into their domestic legislation in order to be able to fully cooperate with the ICC and implement the principle of complementarity with their national courts;

CALLS on OAU Member States to ensure the active participation of Africans in the functioning of the International Criminal Court;

60. ACHPR/Res.60(XXXI)02: RESOLUTION ON THE RATIFICATION OF THE PROTOCOL TO THE AFRICAN CHARTER ON THE ESTABLISHMENT OF AN AFRICAN COURT

The African Commission on Human and Peoples' Rights, meeting at its 31st Ordinary Session in Pretoria, South Africa, from 2nd to 16th May 2002;

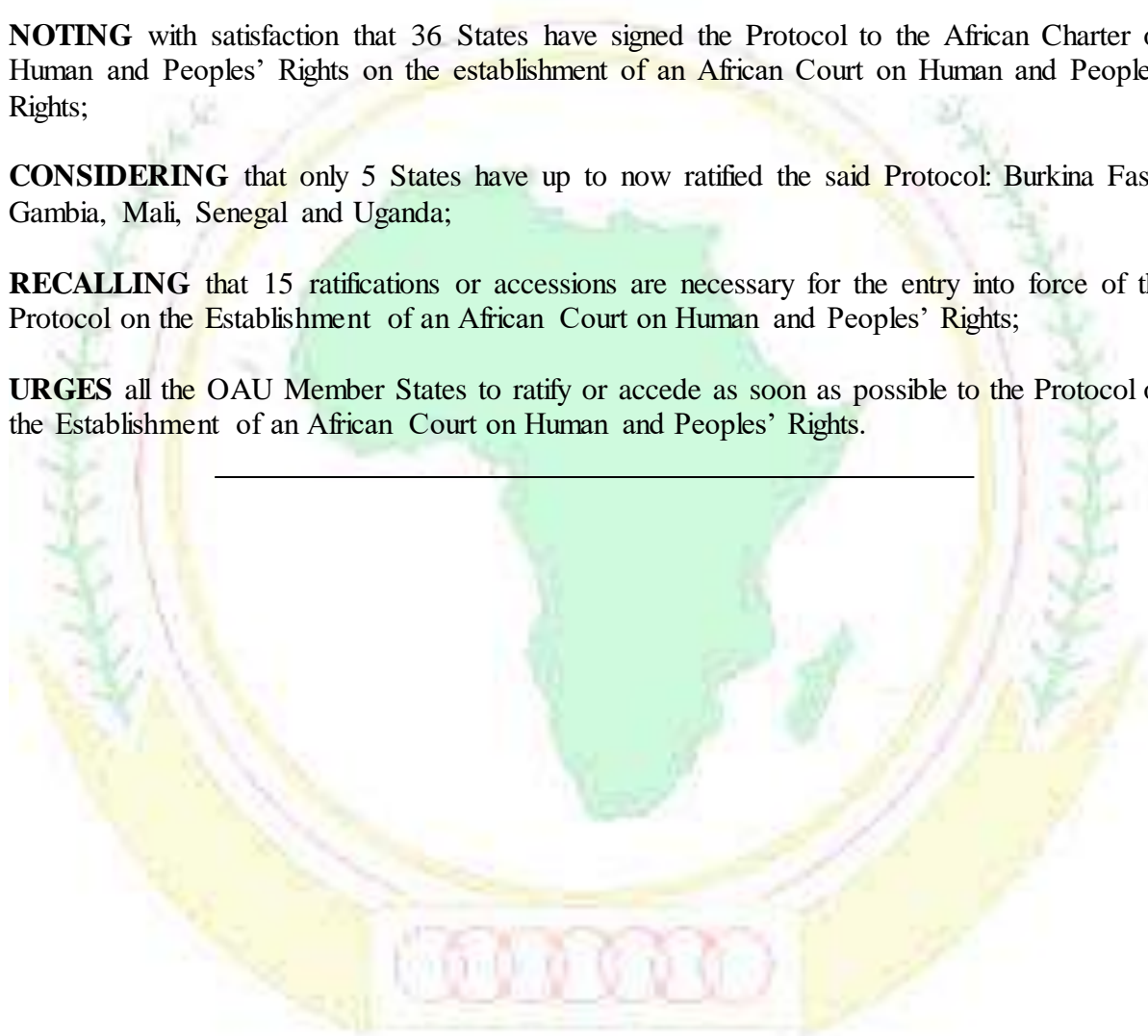
RECALLING that the Assembly of Heads of States and of Governments of the Organisation of African Unity (OAU) adopted the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights at its 19th Ordinary Session on 9 July 1998 in Ouagadougou, Burkina Faso;

NOTING with satisfaction that 36 States have signed the Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights;

CONSIDERING that only 5 States have up to now ratified the said Protocol: Burkina Faso, Gambia, Mali, Senegal and Uganda;

RECALLING that 15 ratifications or accessions are necessary for the entry into force of the Protocol on the Establishment of an African Court on Human and Peoples' Rights;

URGES all the OAU Member States to ratify or accede as soon as possible to the Protocol on the Establishment of an African Court on Human and Peoples' Rights.



61. ACHPR/Res.61 (XXXII) 02: RESOLUTION ON GUIDELINES AND MEASURES FOR THE PROHIBITION AND PREVENTION OF TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT IN AFRICA

The African Commission on Human and Peoples' Rights, meeting at its 32nd ordinary session, held in Banjul, The Gambia, from 17th to 23rd October 2002;

Recalling the provisions of -:

- Article 5 of the African Charter on Human and Peoples' Rights that prohibits all forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment;
- Article 45 (1) of the African Charter which mandates the African Commission to, inter alia, formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African Governments may base their legislations;
- Articles 3 and 4 of the Constitutive Act of the African Union wherein States Parties undertake to promote and respect the sanctity of human life, rule of law, good governance and democratic principles;

Recalling further its Resolution on the Right to Recourse Procedure and Fair Trial adopted during its 11th ordinary session, held in Tunis, Tunisia, from 2nd to 9th March 1992;

Noting the commitment of African States to ensure better promotion and respect of human rights on the continent as reaffirmed in the Grand Bay Declaration and Plan of Action adopted by the 1st Ministerial Conference on Human Rights in Africa;

Recognising the need to take concrete measures to further the implementation of existing provisions on the prohibition of torture and cruel, inhuman or degrading treatment or punishment;

Mindful of the need to assist African States to meet their international obligations in this regard;

Recalling the recommendations of the *Workshop on the Prohibition and the Prevention of Torture and Ill-treatment*, organised jointly by the African Commission and the Association for the Prevention of Torture, on Robben Island, South Africa, from 12th to 14th February 2002;

1. **Adopts** the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines).
2. **Establishes** a Follow-up Committee comprising of the African Commission, the Association for the Prevention of Torture and any prominent African Experts as the Commission may determine.
3. **Assigns** the following mandate to the Follow-up Committee -:

- To organise, with the support of interested partners, seminars to disseminate the Robben Island Guidelines to national and regional stakeholders.
 - To develop and propose to the African Commission strategies to promote and implement the Robben Island Guidelines at the national and regional levels.
 - To promote and facilitate the implementation of the Robben Island Guidelines within Member States.
 - To make a progress report to the African Commission at each ordinary session.
4. **Urges** Special Rapporteurs and Members of the African Commission to widely disseminate the Robben Island Guidelines as part of their promotional mandate.
 5. **Encourages** States parties to the African Charter, in their periodic reports to the African Commission, to bear in mind the Robben Island Guidelines.
 6. **Invites** NGOs and other relevant actors to widely disseminate and utilise the Robben Island Guidelines in the course of their work.

Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines)

Part I: Prohibition of Torture

A. Ratification of Regional and International Instruments

1. States should ensure that they are a party to relevant international and regional human rights instruments and ensure that these instruments are fully implemented in domestic legislation and accord individuals the maximum scope for accessing the human rights machinery that they establish. This would include:
 - a) Ratification of the Protocol to the African Charter of Human and Peoples' Rights establishing an African Court of Human and Peoples' Rights;
 - b) Ratification of or accession to the UN Convention against Torture, Cruel, Inhuman and Degrading Treatment or Punishment without reservations, to make declarations accepting the jurisdiction of the Committee against Torture under Articles 21 and 22 and recognising the competency of the Committee to conduct inquiries pursuant to Article 20;

- c) Ratification of or accession to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and the First Optional Protocol thereto without reservations;
- d) Ratification of or accession to the Rome Statute establishing the International Criminal Court;

B. Promote and Support Co-operation with International Mechanisms

2. States should co-operate with the African Commission on Human and Peoples' Rights and promote and support the work of the Special Rapporteur on prisons and conditions of detention in Africa, the Special Rapporteur on arbitrary, summary and extra-judicial executions in Africa and the Special Rapporteur on the rights of women in Africa.
3. States should co-operate with the United Nations Human Rights Treaties Bodies, with the UN Commission on Human Rights' thematic and country specific special procedures, in particular, the UN Special Rapporteur on Torture, including the issuance of standing invitations for these and other relevant mechanisms.

C. Criminalisation of Torture

4. States should ensure that acts, which fall within the definition of torture, based on Article 1 of the UN Convention against Torture, are offences within their national legal systems.
5. States should pay particular attention to the prohibition and prevention of gender-related forms of torture and ill-treatment and the torture and ill-treatment of young persons.
6. National courts should have jurisdictional competence to hear cases of allegations of torture in accordance with Article 5 (2) of the UN Convention against Torture.
7. Torture should be made an extraditable offence.
8. The trial or extradition of those suspected of torture should take place expeditiously in conformity with relevant international standards.
9. Circumstances such as state of war, threat of war, internal political instability or any other public emergency, shall not be invoked as a justification of torture, cruel, inhuman or degrading treatment or punishment.
10. Notions such as "necessity", "national emergency", "public order", and "ordre public" shall not be invoked as a justification of torture, cruel, inhuman or degrading treatment or punishment.

11. Superior orders shall never provide a justification or lawful excuse for acts of torture, cruel, inhuman or degrading treatment or punishment.
12. Those found guilty of having committed acts of torture shall be subject to appropriate sanctions that reflect the gravity of the offence, applied in accordance with relevant international standards.
13. No one shall be punished for disobeying an order that they commit acts amounting to torture, cruel, inhuman or degrading treatment or punishment.
14. States should prohibit and prevent the use, production and trade of equipment or substances designed to inflict torture or ill-treatment and the abuse of any other equipment or substance to these ends.

D.Non-Refoulement

15. States should ensure no one is expelled or extradited to a country where he or she is at risk of being subjected to torture.

E.Combating Impunity

16. In order to combat impunity States should:

- a) Ensure that those responsible for acts of torture or ill-treatment are subject to legal process.
- b) Ensure that there is no immunity from prosecution for nationals suspected of torture, and that the scope of immunities for foreign nationals who are entitled to such immunities be as restrictive as is possible under international law.
- c) Ensure expeditious consideration of extradition requests to third states, in accordance with international standards.
- d) Ensure that rules of evidence properly reflect the difficulties of substantiating allegations of ill-treatment in custody.
- e) Ensure that where criminal charges cannot be sustained because of the high standard of proof required, other forms of civil, disciplinary or administrative action are taken if it is appropriate to do so.

F.Complaints and Investigation Procedures

17. Ensure the establishment of readily accessible and fully independent mechanisms to which all persons can bring their allegations of torture and ill-treatment.

18. Ensure that whenever persons who claimed to have been or who appear to have been tortured or ill-treated are brought before competent authorities an investigation shall be initiated.
19. Investigations into all allegations of torture or ill-treatment, shall be conducted promptly, impartially and effectively, guided by the UN Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (The Istanbul Protocol)¹.

E. Part II: Prevention of Torture

A. Basic Procedural Safeguards for those deprived of their liberty

20. all persons who are deprived of their liberty by public order or authorities should have that detention controlled by properly and legally constructed regulations. Such regulations should provide a number of basic safeguards, all of which shall apply from the moment when they are first deprived of their liberty. These include:
 - a) The right that a relative or other appropriate third person is notified of the detention;
 - b) The right to an independent medical examination;
 - c) The right of access to a lawyer;
 - d) Notification of the above rights in a language, which the person deprived of their liberty understands;

B. Safeguards during the Pre-trial process

States should:

21. Establish regulations for the treatment of all persons deprived of their liberty guided by the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment ².
22. Ensure that those subject to the relevant codes of criminal procedure conduct criminal investigations.
23. Prohibit the use of unauthorised places of detention and ensure that it is a punishable offence for any official to hold a person in a secret and/or unofficial place of detention.

¹

Annexed to UN GA Res. A/55/89, 4 Dec. 2000, UN Publication No.8, HR/P/PT/8.

² UN GA/Res. 43/173, 9 Dec.1988

24. Prohibit the use of incommunicado detention.
25. Ensure that all detained persons are informed immediately of the reasons for their detention.
26. Ensure that all persons arrested are promptly informed of any charges against them.
27. Ensure that all persons deprived of their liberty are brought promptly before a judicial authority, having the right to defend themselves or to be assisted by legal counsel, preferably of their own choice.
28. Ensure that comprehensive written records of all interrogations are kept, including the identity of all persons present during the interrogation and consider the feasibility of the use of video and/or audio taped recordings of interrogations.
29. Ensure that any statement obtained through the use of torture, cruel, inhuman or degrading treatment or punishment shall not be admissible as evidence in any proceedings except against persons accused of torture as evidence that the statement was made.
30. Ensure that comprehensive written records of those deprived of their liberty are kept at each place of detention, detailing, inter alia, the date, time, place and reason for the detention.
31. Ensure that all persons deprived of their liberty have access to legal and medical services and assistance and have the right to be visited by and correspond with family members.
32. Ensure that all persons deprived of their liberty can challenge the lawfulness of their detention.

C.Conditions of Detention

States should:

33. Take steps to ensure that the treatment of all persons deprived of their liberty are in conformity with international standards guided by the UN standard minimum rules for the treatment of prisoners³.
34. Take steps to improve conditions in places of detention, which do not conform to international standards.
35. Take steps to ensure that pre-trial detainees are held separately from convicted persons.

³ UN ECOSOC Res. 663 C (XXIV), 31 July 1957, amended by UN ECOSOC Res. 2076 (LXII), 13 May 1977

36. Take steps to ensure that juveniles, women, and other vulnerable groups are held in appropriate and separate detention facilities.
37. Take steps to reduce over-crowding in places of detention by inter alia, encouraging the use of non-custodial sentences for minor crimes.

D.Mechanisms of Oversight

States should:

38. Ensure and support the independence and impartiality of the judiciary including by ensuring that there is no interference in the judiciary and judicial proceedings, guided by the UN Basic Principles on the Independence of the Judiciary.⁴
39. Encourage professional legal and medical bodies, to concern themselves with issues of the prohibition and prevention of torture, cruel, inhuman and degrading treatment or punishment.
40. Establish and support effective and accessible complaint mechanisms which are independent from detention and enforcement authorities and which are empowered to receive, investigate and take appropriate action on allegations of torture, cruel, inhuman or degrading treatment or punishment.
41. Establish, support and strengthen independent national institutions such as human rights commissions, ombudspersons and commissions of parliamentarians, with the mandate to conduct visits to all places of detention and to generally address the issue of the prevention of torture, cruel, inhuman and degrading treatment or punishment, guided by the UN Paris Principles Relating to the Status and Functioning of National Institutions for the Protection and Promotion of Human Rights⁵.
42. Encourage and facilitate visits by NGOs to places of detention.
43. Support the adoption of an Optional Protocol to the UNCAT to create an international visiting mechanism with the mandate to visit all places where people are deprived of their liberty by a State Party.
44. Examine the feasibility of developing regional mechanisms for the prevention of torture and ill-treatment.

⁴ UN Doc. E/CN.4/1995/39

⁵ UN A/Res/48/134, 20 Dec. 1993

D. Training and empowerment

45. Establish and support training and awareness-raising programmes which reflect human rights standards and emphasise the concerns of vulnerable groups.
46. Devise, promote and support codes of conduct and ethics and develop training tools for law enforcement and security personnel, and other relevant officials in contact with persons deprived of their liberty such as lawyers and medical personnel.

E. Civil Society Education and Empowerment

47. Public education initiatives, awareness-raising campaigns regarding the prohibition and prevention of torture and the rights of detained persons shall be encouraged and supported.
48. The work of NGOs and of the media in public education, the dissemination of information and awareness-raising concerning the prohibition and prevention of torture and other forms of ill-treatment shall be encouraged and supported.

Part III: Responding to the Needs of Victims

49. Ensure that alleged victims of torture, cruel, inhuman and degrading treatment or punishment, witnesses, those conducting the investigation, other human rights defenders and families are protected from violence, threats of violence or any other form of intimidation or reprisal that may arise pursuant to the report or investigation.
50. The obligation upon the State to offer reparation to victims exists irrespective of whether a successful criminal prosecution can or has been brought. Thus all States should ensure that all victims of torture and their dependents are:
 - a) Offered appropriate medical care;
 - b) Have access to appropriate social and medical rehabilitation;
 - c) Provided with appropriate levels of compensation and support;

In addition there should also be a recognition that families and communities which have also been affected by the torture and ill-treatment received by one of its members can also be considered as victims.

62. ACHPR/Res.62(XXXII)02: RESOLUTION ON THE ADOPTION OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION IN AFRICA

The African Commission on Human and Peoples' Rights, meeting at its 32nd Ordinary Session, in Banjul, The Gambia, from 17th to 23rd October 2002;

Reaffirming the fundamental importance of freedom of expression and information as an individual human right, as a cornerstone of democracy and as a means of ensuring respect for all human rights and freedoms;

Concerned at violations of these rights by States Party to the Charter;

Taking into consideration the 1991 Windhoek Declaration on Promoting an Independent and Pluralistic African Press, the Final Report of the African Conference of "The Journalist and Human Rights in Africa" held in Tunis, Tunisia from 31st October to 1st November 1992, the Resolution on Freedom of Expression adopted by the African Commission on Human and Peoples' Rights in Tripoli on 7th May 2001, the Statement of the Seminar on "Freedom of Expression and the African Charter" held from 23rd to 25th November 2000 in Johannesburg, South Africa and the first and second meetings of the Commission's Working Group on Freedom of Expression held in Cape town, South Africa from 10th to 11th February 2002 and in Pretoria, South Africa on 1st May 2002 respectively;

Decides to adopt and to recommend to African States the Declaration of Principles on Freedom of Expression in Africa annexed hereto;

Decides to follow up on the implementation of this Declaration.

Declaration of Principles on Freedom of Expression in Africa

Preamble

Reaffirming the fundamental importance of freedom of expression as an individual human right, as a cornerstone of democracy and as a means of ensuring respect for all human rights and freedoms;

Reaffirming Article 9 of the *African Charter on Human and Peoples' Rights*;

Desiring to promote the free flow of information and ideas and greater respect for freedom of expression;

Convinced that respect for freedom of expression, as well as the right of access to information held by public bodies and companies, will lead to greater public transparency and accountability, as well as to good governance and the strengthening of democracy;

Convinced that laws and customs that repress freedom of expression are a disservice to society;

Recalling that freedom of expression is a fundamental human right guaranteed by the *African Charter on Human and Peoples' Rights*, the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights*, as well as other international documents and national constitutions;

Considering the key role of the media and other means of communication in ensuring full respect for freedom of expression, in promoting the free flow of information and ideas, in assisting people to make informed decisions and in facilitating and strengthening democracy;

Aware of the particular importance of the broadcast media in Africa, given its capacity to reach a wide audience due to the comparatively low cost of receiving transmissions and its ability to overcome barriers of illiteracy;

Noting that oral traditions, which are rooted in African cultures, lend themselves particularly well to radio broadcasting;

Noting the important contribution that can be made to the realisation of the right to freedom of expression by new information and communication technologies;

Mindful of the evolving human rights and human development environment in Africa, especially in light of the adoption of the *Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights*, the principles of the *Constitutive Act of the African Union*, 2000, as well as the significance of the human rights and good governance provisions in the New Partnership for Africa's Development (NEPAD); and

Recognising the need to ensure the right to freedom of expression in Africa, the African Commission on Human and Peoples' Rights declares that:

I

The Guarantee of Freedom of Expression

1. Freedom of expression and information, including the right to seek, receive and impart information and ideas, either orally, in writing or in print, in the form of art, or through any other form of communication, including across frontiers, is a fundamental and inalienable human right and an indispensable component of democracy.
2. Everyone shall have an equal opportunity to exercise the right to freedom of expression and to access information without discrimination.

II

Interference with Freedom of Expression

1. No one shall be subject to arbitrary interference with his or her freedom of expression.
2. Any restrictions on freedom of expression shall be provided by law, serve a legitimate interest and be necessary and in a democratic society.

III *Diversity*

Freedom of expression imposes an obligation on the authorities to take positive measures to promote diversity, which include among other things:-

- availability and promotion of a range of information and ideas to the public;
- pluralistic access to the media and other means of communication, including by vulnerable or marginalized groups, such as women, children and refugees, as well as linguistic and cultural groups;
- the promotion and protection of African voices, including through media in local languages; and
- the promotion of the use of local languages in public affairs, including in the courts.

IV *Freedom of Information*

1. Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law.
2. The right to information shall be guaranteed by law in accordance with the following principles:
 - everyone has the right to access information held by public bodies;
 - everyone has the right to access information held by private bodies which is necessary for the exercise or protection of any right;
 - any refusal to disclose information shall be subject to appeal to an independent body and/or the courts;
 - public bodies shall be required, even in the absence of a request, actively to publish important information of significant public interest;
 - no one shall be subject to any sanction for releasing in good faith information on wrongdoing, or that which would disclose a serious threat to health, safety or the environment save where the imposition of sanctions serves a legitimate interest and is necessary in a democratic society; and
 - secrecy laws shall be amended as necessary to comply with freedom of information principles.
3. Everyone has the right to access and update or otherwise correct their personal information, whether it is held by public or by private bodies.

V *Private Broadcasting*

1. States shall encourage a diverse, independent private broadcasting sector. A State monopoly over broadcasting is not compatible with the right to freedom of expression.
2. The broadcast regulatory system shall encourage private and community broadcasting in accordance with the following principles:
 - there shall be equitable allocation of frequencies between private broadcasting uses, both commercial and community;

- an independent regulatory body shall be responsible for issuing broadcasting licences and for ensuring observance of licence conditions;
- licensing processes shall be fair and transparent, and shall seek to promote diversity in broadcasting; and
- community broadcasting shall be promoted given its potential to broaden access by poor and rural communities to the airwaves.

VI

Public Broadcasting

State and government controlled broadcasters should be transformed into public service broadcasters, accountable to the public through the legislature rather than the government, in accordance with the following principles:

- public broadcasters should be governed by a board which is protected against interference, particularly of a political or economic nature;
- the editorial independence of public service broadcasters should be guaranteed;
- public broadcasters should be adequately funded in a manner that protects them from arbitrary interference with their budgets;
- public broadcasters should strive to ensure that their transmission system covers the whole territory of the country; and
- the public service ambit of public broadcasters should be clearly defined and include an obligation to ensure that the public receive adequate, politically balanced information, particularly during election periods.

VII

Regulatory Bodies for Broadcast and Telecommunications

1. Any public authority that exercises powers in the areas of broadcast or telecommunications regulation should be independent and adequately protected against interference, particularly of a political or economic nature.
2. The appointments process for members of a regulatory body should be open and transparent, involve the participation of civil society, and shall not be controlled by any particular political party.
3. Any public authority that exercises powers in the areas of broadcast or telecommunications should be formally accountable to the public through a multi-party body.

VIII

Print Media

1. Any registration system for the print media shall not impose substantive restrictions on the right to freedom of expression.
2. Any print media published by a public authority should be protected adequately against undue political interference.
3. Efforts should be made to increase the scope of circulation of the print media, particularly to rural communities.

4. Media owners and media professionals shall be encouraged to reach agreements to guarantee editorial independence and to prevent commercial considerations from unduly influencing media content.

IX *Complaints*

1. A public complaints system for print or broadcasting should be available in accordance with the following principles:
 - complaints shall be determined in accordance with established rules and codes of conduct agreed between all stakeholders; and
 - the complaints system shall be widely accessible.
2. Any regulatory body established to hear complaints about media content, including media councils, shall be protected against political, economic or any other undue interference. Its powers shall be administrative in nature and it shall not seek to usurp the role of the courts.
3. Effective self-regulation is the best system for promoting high standards in the media.

X *Promoting Professionalism*

1. Media practitioners shall be free to organise themselves into unions and associations.
2. The right to express oneself through the media by practising journalism shall not be subject to undue legal restrictions.

XI *Attacks on Media Practitioners*

1. Attacks such as the murder, kidnapping, intimidation of and threats to media practitioners and others exercising their right to freedom of expression, as well as the material destruction of communications facilities, undermines independent journalism, freedom of expression and the free flow of information to the public.
2. States are under an obligation to take effective measures to prevent such attacks and, when they do occur, to investigate them, to punish perpetrators and to ensure that victims have access to effective remedies.
3. In times of conflict, States shall respect the status of media practitioners as non-combatants.

XII *Protecting Reputations*

1. States should ensure that their laws relating to defamation conform to the following standards:
 - no one shall be found liable for true statements, opinions or statements regarding public figures which it was reasonable to make in the circumstances;
 - public figures shall be required to tolerate a greater degree of criticism; and
 - sanctions shall never be so severe as to inhibit the right to freedom of expression, including by others.
2. Privacy laws shall not inhibit the dissemination of information of public interest.

XIII *Criminal Measures*

1. States shall review all criminal restrictions on content to ensure that they serve a legitimate interest in a democratic society.
2. Freedom of expression should not be restricted on public order or national security grounds unless there is a real risk of harm to a legitimate interest and there is a close causal link between the risk of harm and the expression.

XIV *Economic Measures*

1. States shall promote a general economic environment in which the media can flourish.
2. States shall not use their power over the placement of public advertising as a means to interfere with media content.
3. States should adopt effective measures to avoid undue concentration of media ownership, although such measures shall not be so stringent that they inhibit the development of the media sector as a whole.

XV *Protection of Sources and other journalistic material*

Media practitioners shall not be required to reveal confidential sources of information or to disclose other material held for journalistic purposes except in accordance with the following principles:

- the identity of the source is necessary for the investigation or prosecution of a serious crime, or the defence of a person accused of a criminal offence;
- the information or similar information leading to the same result cannot be obtained elsewhere;
- the public interest in disclosure outweighs the harm to freedom of expression; and
- disclosure has been ordered by a court, after a full hearing.

XVI *Implementation*

States Parties to the African Charter on Human and Peoples' Rights should make every effort to give practical effect to these principles.

63. ACHPR/Res.63(XXXIV)03: RESOLUTION ON THE RENEWAL OF THE MANDATE OF THE TERM OF THE SPECIAL RAPPORTEUR ON THE RIGHTS OF WOMEN IN AFRICA

The African Commission on Human and Peoples' Rights at its 34th Ordinary Session that took place from 6th to 20th November 2003 in Banjul, The Gambia,

Recalling the resolution it adopted at its 25th Ordinary Session that took place from 26th April to 5th May 1999 in Bujumbura, Burundi, in which it appointed a Special Rapporteur on the Rights of Women in Africa;

Recalling further the provisions of Article 18(3) of the African Charter on Human and Peoples' Rights;

Referring further the provisions of Article 45(1) A of the African Charter on Human and Peoples' Rights;

Recalling its decision taken at the 30th Ordinary Session, in October 2001 in Banjul, the Gambia, nominating Commissioner Angela Melo as the Special Rapporteur on the Rights of Women in Africa;

Considering the necessity to allow the Special Rapporteur to continue to carry out her mandate;

Decides to renew the mandate of Angela Melo as Special Rapporteur on the Rights of Women in Africa for a period of one (1) year;

Requests the Secretariat of the African Commission to enhance its efforts to mobilise resources that could assist the Special Rapporteur to carry out her mandate.

64. ACHPR/Res.64(XXXIV)03: RESOLUTION ON THE ADOPTION OF THE “OUAGADOUGOU DECLARATION AND PLAN OF ACTION ON ACCELERATING PRISON AND PENAL REFORM IN AFRICA”

The African Commission on Human and Peoples’ Rights meeting at its 34th Ordinary Session held in Banjul, The Gambia from 6 - 20 November 2003;

Recalling Article 30 of the African Charter on Human and Peoples’ Rights which mandates it to promote and protect human and peoples’ rights and to ensure their protection in Africa;

Recalling its resolution on prisons in Africa adopted by the African Commission at its 17th Ordinary Session held in Lomé, Togo in 1995;

Recalling further the appointment of the Special Rapporteur on Prisons and Conditions of Detention in Africa at its 20th Ordinary Session held in Grand Bay, Mauritius in 1996;

Considering the adoption of the Kampala Declaration on Prison Conditions in Africa in 1996 and the progress made in raising general prison standards in Africa since then;

Bearing in mind the various international instruments relating to the promotion of the rights of persons deprived of their liberty in general and penal reform in particular;

Reaffirming the necessity to promote and protect the rights of persons deprived of their liberty through penal reform;

Adopts the “Ouagadougou Declaration and Plan of Action on Accelerating Prison and Penal Reform in Africa”.

Decides to publish as soon as possible the “Ouagadougou Declaration and Plan of Action on Accelerating Prison and Penal Reform in Africa” and ensure its wide distribution to Member States of the African Union, Civil Society Organisations and decision makers in the field of penal reform and the administration of justice;

Request the Special Rapporteur on Prisons and Conditions of Detention in Africa to report on the implementation of this resolution at its 35th Ordinary Session.

65. ACHPR/Res.65(XXXIV)03: RESOLUTION ON THE ADOPTION OF THE “REPORT OF THE AFRICAN COMMISSION’S WORKING GROUP ON INDIGENOUS POPULATIONS/COMMUNITIES”

The African Commission on Human and Peoples’ Rights, meeting at its 34th Ordinary Session, in Banjul, The Gambia from 6th to 20th November 2003;

Recalling the provisions of the African Charter on Human and Peoples’ Rights which entrusts it with a treaty monitoring function and the mandate to promote human and peoples rights and ensure their protection in Africa;

Conscious of the situation of vulnerability in which indigenous populations/communities in Africa frequently find themselves and that in various situations they are unable to enjoy their inalienable human rights;

Recognising the standards in International law for the promotion and protection of the rights of minorities and indigenous peoples, including as articulated in the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the International Labour Convention 169 on Indigenous and Tribal Peoples in Independent Countries, the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child;

Considering the emphasis given in International law to self identification as the primary criterion for the determination of who constitutes a minority or indigenous person; and the importance of effective and meaningful participation and of non discrimination, including with regard to the right to education;

Considering that the African Commission at its 28th Ordinary Session held in Cotonou, Benin in October 2000, adopted the “*Resolution on the Rights of Indigenous Populations/Communities*” which provided for the establishment of a Working Group of Experts on the Rights of Indigenous Populations/Communities in Africa with the mandate to:

- Examine the concept of indigenous populations/communities in Africa;
- Study the implications of the African Charter on Human and Peoples Rights on the well being of indigenous communities;
- Consider appropriate recommendations for the monitoring and protection of the rights of indigenous populations/communities.

Noting that a Working Group of Experts comprised of three Members of the African Commission, three Experts from indigenous communities in Africa and one Independent Expert was established by the African Commission at its 29th Ordinary Session held in Tripoli, Libya in May 2001 and consequently held its first meeting prior to the 30th Ordinary Session held in Banjul, the Gambia in October 2001 where it agreed on developing a *Conceptual Framework Paper* as a basis for the elaboration of a final report to the African Commission, and where it agreed on a work-plan;

Noting further that the Working Group of Experts convened a Roundtable Meeting prior to the 31st Ordinary Session of the African Commission in April 2002 in Pretoria, South Africa where it discussed the first draft of the *Conceptual Framework Paper* with African human rights experts whose contributions were taken into account in the elaboration of the second draft of the *Conceptual Framework Paper* which was further discussed at a Consultative Meeting held in January 2003, in Nairobi, Kenya;

Emphasising that the Final Report of the Working Group of Experts is the outcome of a thorough consultative process involving various stakeholders on matters relating to indigenous populations/communities in Africa;

Reaffirming the need to promote and protect more effectively the human rights of indigenous populations/communities in Africa;

Taking into account the absence of a mechanism within the African Commission with a specific mandate to monitor, protect and promote the respect and enjoyment of the human rights of indigenous populations/communities in Africa;

Decides to:

Adopt the “*Report of the African Commission’s Working Group on Indigenous Populations/Communities*”, including its recommendations

Publish as soon as possible and in collaboration with International Working Group of Indigenous Affairs (IWGIA) the report of the Working Group of Experts and ensure its wide distribution to Member States and policy makers in the international development arena;

Maintain on the agenda of its ordinary sessions the item on the situation of indigenous populations/communities in Africa

Establish a Working Group of Experts for an initial term of 2 years comprising of -:

1. Commissioner Andrew Ranganayi Chigovera (Chair)
2. Commissioner Kamel Rezag Bara,
3. Marianne Jensen (Independent Expert)
4. Naomi Kipuri
5. Mohammed Khattali
6. Zephyrin Kalimba

for the promotion and protection of the rights of indigenous populations/communities in Africa and with the following Terms of Reference;

- With support and cooperation from interested Donors, Institutions and NGOs, raise funds for the Working Group’s activities relating to the promotion and protection of the rights of indigenous populations/communities in Africa;
- Gather, request, receive and exchange information and communications from all relevant sources, including Governments, indigenous populations and their communities and organisations, on violations of their human rights and fundamental freedoms;
- Undertake country visits to study the human rights situation of indigenous populations/communities;
- Formulate recommendations and proposals on appropriate measures and activities to prevent and remedy violations of the human rights and fundamental freedoms of indigenous populations/communities;

- Submit an activity report at every ordinary session of the African Commission;
 - Co-operate when relevant and feasible with other international and regional human rights mechanisms, institutions and organisations.
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66. ACHPR/Res.66 (XXXV)04: RESOLUTION ON THE SITUATION OF WOMEN AND CHILDREN IN AFRICA

The African Commission on Human and Peoples' Rights during its 35th ordinary session held from 21 May to 4 June 2004 in Banjul, The Gambia,

Recalling that the Assembly of Heads of State and Government of the African Union adopted the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa at its 2nd Ordinary Session held in July 2003 in Maputo, Mozambique;

Noting that the African Charter on the Rights and Welfare of the Child entered into force on 29th November 1989 and the Committee of Experts on the Rights of Child;

Considering that the situation of the women and children in Africa need to be thoroughly addressed;

Considering that women and children are victims of multiple human rights violations;

Considering deportation, slavery, child trafficking and the proliferation of street children in some countries of our continent;

Considering the persistence of traditional practices that are harmful to women and children in some African countries ("almoudou" children and genital mutilation);

Concerned about widespread poverty among women and the stigmatization of women and children with HIV/AIDS;

1. **Urges** member states of the African Union to ratify the Protocol to the African Charter on the Rights of Women in Africa in order to facilitate its entry into force;
2. **Urges** all AU member states to ratify the United Nations Convention against All Forms of Discrimination against Women, and member states that have ratified it with reservations to withdraw them;
3. **Launches** an appeal to Member States to incorporate the above-mentioned international instrument into their national laws;
4. **Urges** member states to set up a special protection mechanism for women and children in war zones;
5. **Appeals** to member states to disarm and demobilize child soldiers, and put in place a system for their social reintegration;
6. **Appeals** to Member States to implement programmes to fight against HIV/AIDS;
7. **Appeals** to Member States to devise a system to help women benefit from social security.

67. ACHPR/Res.67(XXXV)04: RESOLUTION ON CÔTE D'IVOIRE

The African Commission on Human and Peoples' Rights at its 35th Ordinary Session held in Banjul from 21st May – 4th June 2004, in Banjul, The Gambia;

Considering the provisions of the Constitutive Act of the African Union, the Charter of the United Nations, as well as those of the African Charter on Human and Peoples' Rights (African Charter), and other regional and international human rights and international humanitarian law treaties, to which the Republic of Cote d'Ivoire is a party;

Deploring the events of 24 – 26 March 2004, which were marked by shootings, wounding and massacres of innocent civilians;

Welcoming with appreciation the Government's statement that a Commission of enquiry will be set up;

Considering the findings of the Commission of Inquiry of the Office of the United Nations High Commission for Human rights which found the Government authorities responsible for the March 2004 gross human rights violations;

Considering the grave concerns expressed on 27 May 2004, by the Peace and Security Council of the African Union, at the situation prevailing in Cote d'Ivoire and its repercussions on peace and security, stability for the country and for the entire sub-region;

Deeply concerned over the deadlock in the implementation of the Linas-Marcoussis Agreement and the continuing deterioration of the situation in Côte d'Ivoire and the impunity enjoyed by perpetrators of gross human rights violations against civilians since 1999;

Recalling the missions carried out by the Commission in April 2 - 4, 2001 and April 24 - 26, 2003;

Considering the initiative of the United Nations High Commission for Human Rights to set up a Commissioner to investigate the human rights violations perpetrated since the beginning of the crisis in Côte d'Ivoire;

Noting the laudable role of ECOWAS in its efforts to bring peace to Côte d'Ivoire and the efforts of the President of the African Union Commission to facilitate an effective re-launch of the peace process in Côte d'Ivoire and, more particularly, to contribute to the promotion of dialogue and understanding among the leaders of the countries of the region;

1. **Deplores** the grave and rampant human rights violations committed against the civilian populations, such as summary and arbitrary executions, torture and arbitrary detention and disappearances;
2. **Requests** the President of the Republic of Cote d'Ivoire, National Reconciliation Government and all Ivorian political parties to implement the Linas-Marcoussis agreement;
3. **Urges** the Ivorian authorities to spare no efforts in ensuring that the perpetrators of the violation of human rights of March 24-26 2004 and any other violation perpetrated are brought to justice, the victims, their families are appropriately compensated;

4. ***Calls upon*** the Ivorian Government to ensure full compliance with the provisions of the African Charter on Human & Peoples' Rights and other international human rights instruments.
5. ***Undertakes*** to send a fact finding mission to investigate human rights violations committed in Cote d'Ivoire since the beginning of the crisis.



68. ACHPR/Res.68(XXXV)04: RESOLUTION ON DARFUR

The African Commission on Human and Peoples' Rights at its 35th Ordinary Session held in Banjul from 21st May – 4th June 2004, in Banjul, The Gambia

Considering the provisions of the Constitutive Act of the African Union, the Charter of the United Nations, as well as those of the African Charter on Human and Peoples' Rights (African Charter), and other regional and international human rights and international humanitarian treaties, to which the Sudan is a party;

Mindful that, Sudan, as a State Party to the aforementioned instruments, is legally bound to fully and effectively implement the provisions of these instruments and respect the human rights and fundamental freedoms set therein without discrimination on any grounds;

Recalling the report of the UN High Commissioner for Human Rights, Situation of Human Rights in the Darfur region of the Sudan, 7 May 2004;

Deeply concerned over the prevailing situation in Darfur, particularly the continuing humanitarian crisis and the reported human rights violations committed in that region since the beginning of the crisis such as the mass killings, sexual violence as a means of warfare and the abduction of women and children;

Alarmed by the large number of internally displaced persons and the continuing exodus of refugees mainly from Darfur;

Recalling the Resolution on Sudan adopted by the African Commission on Human and Peoples' Rights at its 17th Ordinary session in Lomé, Togo;

Recalling the decision on the crisis in the Darfur region of Sudan, adopted by the Peace and Security Council of the African Union on the 25th May 2004, urging the Parties to fully and scrupulously implement the Humanitarian Ceasefire Agreement signed on 8 April 2004, in N'djamena, Chad, between the Government of Sudan (GoS), the Sudan Liberation Movement / Army (SLM/A), and the Justice and Equality Movement (JEM);

Mindful of the mandate of the African Commission in terms of the Charter to "promote human and peoples' rights and ensure their protection in Africa" and especially in a situation of serious or massive violation of human and peoples' rights (article 58 (1));

1. **Deplores** the ongoing gross human rights violations in the Darfur region of Sudan;
2. **Calls upon** all parties to the armed conflict to immediately cease using military force to interfere with the delivery of humanitarian assistance to the civilian population and to allow such assistance to be delivered unhindered;
3. **Welcomes** the announcement by the Sudanese authorities of their decision to allow and facilitate access of humanitarian agencies and organizations and the deployment of observers from the African Union and the international community to Darfur, as well as to facilitate the return of IDPs and refugees;
4. **further welcomes** the announcement by the Sudanese Government of their decision to allow and facilitate access of a fact-finding mission of the African Commission;

Accepts to send a fact finding mission to Darfur to investigate reports on human rights violations in Darfur and to report back to it.

69. ACHPR/Res.69(XXXV)04: RESOLUTION ON THE PROTECTION OF HUMAN RIGHTS DEFENDERS IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its 35th Ordinary Session held from 21st May to 4th June 2004, in Banjul, The Gambia;

Recognising the crucial contribution of the work of human rights defenders in promoting human rights, democracy and the rule of law in Africa;

Seriously concerned about the persistence of violations targeting individuals and members of their families, groups or organisations working to promote and protect human and peoples' rights and by the growing risks faced by human rights defenders in Africa;

Noting with deep concern that impunity for threats, attacks and acts of intimidation against human rights defenders persists and that this impacts negatively on the work and safety of human rights defenders;

Recalling that it is entrusted by the African Charter on Human and Peoples' Rights with the mandate to promote human and peoples' rights and ensure their protection in Africa;

Reaffirming the importance of the observance of the purposes and principles of the African Charter for the promotion and protection of all human rights and fundamental freedoms for human rights defenders and all persons on the continent;

Bearing in mind the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders);

Mindful that in the Grand Bay (Mauritius) Declaration, the Organisation of African Unity called on Member States "to take appropriate steps to implement the UN Declaration on Human Rights Defenders in Africa";

Mindful that the Kigali Declaration recognises "the important role that the human rights defenders play in the promotion and protection of human rights in Africa"

Recalling its decision to include on its agenda the situation of human rights defenders and to nominate a focal point on human rights defenders;***Now decides to appoint*** a Special Rapporteur on human rights defenders in Africa for a period of two years with the following mandate:

- a. to seek, receive, examine and to act upon information on the situation of human rights defenders in Africa;
- b. to submit reports at every Ordinary Session of the African Commission;
- c. to cooperate and engage in dialogue with Member States, National Human Rights Institutions, relevant intergovernmental bodies, international and regional mechanisms of protection of human rights defenders, human rights defenders and other stake holders;

- d. to develop and recommend effective strategies to better protect human rights defenders and to follow up on his/her recommendations;
 - e. to raise awareness and promote the implementation of the UN Declaration on Human Rights Defenders in Africa;
1. **Further decides** to nominate Commissioner Jainaba Johm as the Special Rapporteur on Human Rights Defenders for the current duration of her mandate within this Commission;
 2. **Reiterates** its support for the work carried out by human rights defenders in Africa;
 3. **Calls upon** Member States to promote and give full effect to the UN Declaration on Human Rights Defenders, to take all necessary measures to ensure the protection of human rights defenders and to include information on measures taken to protect human rights defenders in their periodic reports;
 4. **Invites** its members to mainstream the issue of human rights defenders in their activities;
 5. **Urges** Member States to co-operate with and assist the Focal Point in the performance of his/her tasks and to provide all necessary information for the fulfilment of his/her mandate;
 6. **Requests** the African Union to provide adequate resources, assistance and support in the implementation of this Resolution.

70. ACHPR/Res.70 (XXXV) 04: RESOLUTION ON NIGERIA

The African Commission on Human and Peoples Rights at its 35th Ordinary Session held from 21st May to 4th June 2004, in Banjul, The Gambia.

Considering the provisions of the Constitutive Act of the African Union, the Charter of the United Nations, as well as those of the African Charter on Human and Peoples' Rights and other regional and international human rights and international humanitarian law treaties to which the Republic of Nigeria is a party;

Deeply concerned over the prevailing situation in the Northern States of Nigeria, particularly the recent ethnic and religious violence in Yelwa, Plateau State and Kano State respectively in May 2004;

Alarmed by the large number of internally displaced persons and enormous loss of life as a result of the recent ethnic and religious violence;

Recalling the declarations of the United Nations Secretary-General on May 10, 2004 urging the Nigerian Government to ensure the security of individuals and property and to promote reconciliation in conformity with the principles of the rule of law;

Mindful of the mandate of the African Commission in terms of the Charter to promote and protect human and peoples rights

1. **Deplores** the grave and rampant human rights violations committed against the civilian populations in the Northern part of Nigeria
2. **Urges** the Nigerian Government to bring the perpetrators of any human rights violation to justice, and to compensate victims and their families;
3. **Calls upon** the Nigerian Government to ensure full compliance with the provisions of the African Charter on Human and Peoples Rights and other international human rights instruments;
4. **Decides** to send a fact-finding mission to investigate all human rights violations committed in the northern part of Nigeria.

71. ACHPR/Res.71 (XXXVI) 04: RESOLUTION ON THE MANDATE AND APPOINTMENT OF A SPECIAL RAPPORTEUR ON FREEDOM OF EXPRESSION IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its 36th Ordinary Session held from 23rd November to 7th December 2004, in Dakar, Senegal;

Recalling the Resolution on Freedom of Expression adopted at its 29th Ordinary Session held from 23rd April to 7th May 2001, in Tripoli, Libya to initiate an appropriate mechanism to assist it review and monitor adherence to freedom of expression standards and to investigate violations and make appropriate recommendations to the African Commission;

Recalling the Declaration of Principles on Freedom of Expression in Africa adopted at its 32nd Ordinary Session held from 17th to 23rd October 2002, in Banjul, The Gambia;

Recalling further the decision taken at its 33rd Ordinary Session held in Niamey, Niger from 15 – 29 May 2003 to nominate a Focal Point responsible for overseeing any activity relating to the implementation of the Declaration of Principles on Freedom of Expression in Africa in line with the resolution adopting the Declaration;

Bearing in mind the recommendations of the Johannesburg Consultative Meeting on Freedom of Expression held in Johannesburg in August 2003 and the African Conference on Freedom of Expression held in Pretoria in February 2004;

Recalling the decision taken at its 35th Ordinary Session held from 21 May – 4 June 2004, in Banjul, The Gambia to postpone the appointment of a Special Rapporteur on Freedom of Expression pending the elaboration of an appropriate mandate;

Reaffirming the commitment of the African Commission on Human and Peoples' Rights to promote the right to freedom of expression and monitor the implementation of the Declaration of Principles on Freedom of Expression in Africa within Member States of the African Union;

1. **Decides** to appoint a Special Rapporteur on Freedom of Expression in Africa with the following mandate:

- (a) analyse national media legislation, policies and practice within Member States, monitor their compliance with freedom of expression standards in general and the Declaration of Principles on Freedom of Expression in particular, and advise Member States accordingly;
- (b) undertake investigative missions to Member States where reports of massive violations of the right to freedom of expression are made and make appropriate recommendations to the African Commission;
- (c) undertake country Missions and any other promotional activity that would strengthen the full enjoyment of the right to freedom of expression in Africa;
- (d) make public interventions where violations of the right to freedom of expression have been brought to his/her attention. This could be in the form of issuing public statements, press releases, urgent appeals;

- (e) keep a proper record of violations of the right to freedom of expression and publish this in his/her reports submitted to the African Commission; and
 - (f) submit reports at each Ordinary Session of the African Commission on the status of the enjoyment of the right to freedom of expression in Africa.
- (2) **Further decides** to appoint Commissioner Andrew Ranganayi Chigovera as Special Rapporteur on the Right to Freedom of Expression in Africa for the remainder of his mandate;
- (3) **Calls upon** Member States of the African Union to take all necessary measures to ensure the protection of the right to freedom of expression and to include information on measures taken to ensure the enjoyment of the right to freedom of expression in their periodic reports to the African Commission;
- (4) **Urges** Member States of the African Union to co-operate with and assist the Special Rapporteur in the performance of his tasks and to provide all necessary information for the fulfilment of his mandate;
- (5) **Invites** its Members to incorporate the issue of freedom of expression in their promotional activities to Member States;
- (6) **Requests** the African Union to provide adequate resources, assistance and support for the implementation of this Resolution.

Adopted at the 36th Ordinary Session of the African Commission on Human and Peoples' Rights in Dakar, Senegal, on 7th December 2004.

72. ACHPR/Res.72(XXXVI)04: RESOLUTION ON THE MANDATE OF THE SPECIAL RAPPORTEUR ON REFUGEES, ASYLUM SEEKERS AND INTERNALLY DISPLACED PERSONS IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its 36th Ordinary Session held from 23rd November to 7th December 2004, in Dakar, Senegal;

Mindful of the fact that the African Charter on Human and Peoples' Rights recognises and guarantees enjoyment, promotion and the protection of the rights and freedoms of every individual, without distinction of any kind, such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth, or other status;

Considering that the African Charter, while guaranteeing the freedom of movement and freedom of residence of every individual within a state subject to being law abiding, recognises that when persecuted, every individual shall have the right to seek and obtain asylum in other countries in accordance with the respective laws of the said countries, and international law,

Conscious of the fact that in spite of the adoption of the 1969 OAU Convention Governing the Specific Aspects of Refugees Problems in Africa, refugees in Africa continue to face untold suffering arising principally from the lack of respect of their basic and fundamental human rights as individuals, *inter alia*, women, children and the elderly being the most vulnerable among refugees,

Aware also that in the recent past the incidence of conflicts, and in certain cases, natural calamities have forced mass movement of people to seek refuge, thus causing a huge problem of internal displacement of populations within national borders,

Recalling the Memorandum of Understanding signed between the African Commission and the United Nations High Commissioner for Refugees on strengthening mutual cooperation in the effective promotion and protection of the human rights of refugees, asylum seekers, returnees and other persons of concern in Africa;

Recalling that the African Commission, during its 34th Ordinary Session designated a focal point on refugees and internally displaced persons, with a limited responsibility of monitoring developments concerning the plight of refugees and internally displaced persons in Africa, while the Commission reviewed its special rapporteur mechanism,

Recalling its decision to establish the position of Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa at its 35th Ordinary Session held from 21st May to 4 June 2004 in Banjul, The Gambia and decided to designate, for an initial period of two years, Commissioner Bahame Tom Nyanduga, as the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa;

Reaffirming the importance of the mechanism of the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa;

Noting the numerous problems faced by refugees, asylum seekers and internally displaced persons in Africa and the urgent need to develop appropriate strategies to ensure their protection;

7. **Decides that** the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa shall operate under the following mandate to -:
- f. seek, receive, examine and act upon information on the situation of refugees, asylum seekers and internally displaced persons in Africa;
 - g. undertake studies, research and other related activities to examine appropriate ways to enhance the protection of refugees, asylum seekers and internally displaced persons in Africa;
 - h. undertake fact-finding missions, investigations, visits and other appropriate activities to refugee camps and camps for internally displaced persons;
 - i. assist Member States of the African Union to develop appropriate policies, regulations and laws for the effective protection of refugees, asylum seekers and internally displaced persons in Africa;
 - j. cooperate and engage in dialogue with Member States, National Human Rights Institutions, relevant intergovernmental and non governmental bodies, international and regional mechanisms involved in the promotion and protection of the rights of refugees, asylum seekers and internally displaced persons;
 - k. develop and recommend effective strategies to better protect the rights of refugees, asylum seekers and internally displaced persons in Africa and to follow up on his recommendations;
 - l. raise awareness and promote the implementation of the UN Convention on Refugees of 1951 as well as the 1969 OAU Convention Governing the Specific Aspects of Refugees Problems in Africa;
 - m. submit reports at every ordinary session of the African Commission on the situation of refugees, asylum seekers and internally displaced persons in Africa;
8. **Calls upon** Member States to take all necessary measures to ensure the protection of refugees, asylum seekers and internally displaced persons and to include information on measures taken to that effect;
9. **Urges** Member States to co-operate with and assist the Special Rapporteur in the performance of his tasks and to provide all necessary information for the fulfilment of his mandate;
10. **Invites** its members to incorporate the issue of refugees, asylum seekers and internally displaced persons in their promotional activities;
11. **Requests** the African Union to provide adequate resources, assistance and support in the implementation of this Resolution.

73. ACHPR/Res.73(XXXVI)04: RESOLUTION ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its 36th Ordinary session held from 23rd November to 7th December 2004 in Dakar, Senegal.

Recalling that the African Charter enshrines economic, social and cultural rights, in particular in Articles 14, 15, 16, 17, 18, 21 and 22.

Considering regional and international human rights instruments that stress the indivisibility, interdependence and universality of all human rights, including the African Charter, the African Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the Universal Declaration of Human Rights, the Declaration on the Right to Development, the International Covenant on Economic, Social and Cultural Rights and the Convention for the Elimination of All Forms of Discrimination Against Women;

Recognising also that the objectives and principles of the Constitutive Act include a commitment to the promotion and protection of human and peoples' rights, respect for democratic principles, human rights, rule of law and good governance and the promotion of social justice to ensure balanced economic development;

Noting that despite the consensus on the indivisibility of human rights, economic, social and cultural rights remain marginalized in their implementation;

Concerned that there is inadequate recognition by States Parties of economic, social and cultural rights that results in the continued marginalization of these rights, which excludes the majority of Africans from the full enjoyment of human rights;

Appreciating the vast positive impact that information and communication technologies (ICTs), transfer of technology, economic and regional integration can have on the promotion, protection and realization of economic, social and cultural rights;

Recognising that there are several constraints that limit the full realisation of economic, social and cultural rights in Africa;

Deeply concerned by the ongoing and longstanding conflicts in the sub-regions of Africa, which impede the realization of economic, social and cultural rights;

Concerned Further by the lack of human security in Africa due to the prevailing conditions of poverty and under-development and the failure of African States to address poverty through development;

Further Recognizing the urgent need for human rights, judicial and administrative institutions in Africa to promote human dignity based on equality and to tackle the core human rights issues facing Africans including, food security, sustainable livelihoods, human survival and the prevention of violence;

- 1. Adopts** the attached *Declaration* of the Pretoria Seminar on Economic, Social and Cultural Rights in Africa, adopted on 17 September 2004, in Pretoria, South Africa;

2. **Requests** the Secretary to the African Commission on Human and Peoples' Rights to forward the Pretoria Statement to the Commission of the African Union, Ministries of Justice and Social affairs and Chief Justice, National Human Rights Institutions of all States parties, International institutions working in African and Regional economic communities, Bar Associations and Law Schools in Africa and civil society organizations including non-governmental organizations with observer status, and to report to the 37th Ordinary session;
3. **Urges** its members, its Special Rapporteurs and Working Groups to pay particular attention to economic, social and cultural rights during their missions and in the discharge of their respective mandates;
4. **Further decides** to establish a working group composed of Members of the African Commission on Human and Peoples' Rights and non-governmental organizations with a mandate to:
develop and propose to the African Commission on Human and Peoples' Rights a draft Principles and Guidelines on Economic, Social and Cultural Rights;
elaborate a draft revised guidelines pertaining to economic, social and cultural rights, for State reporting;
undertake, under the supervision of the African Commission on Human and Peoples' Rights, studies and research on specific economic, social and cultural rights;
make a progress report to the African Commission on Human and Peoples' Rights at each Ordinary session;
5. **Requests** the African Union to provide the Working group with all support and assistance needed to implement this mission.

Annex I

Pretoria Declaration on Economic, Social and Cultural Rights in Africa

In conformity with its mandate under Article 45 of the African Charter on Human and Peoples' Rights to promote and protect human and peoples' rights in Africa, the African Commission on Human and Peoples' Rights in collaboration with the International Centre for Legal Protection of Human Rights (Interights), the Cairo Institute for Human Rights Studies and the Centre for Human Rights, University of Pretoria, held a Seminar on Economic, Social and Cultural Rights in Pretoria, South Africa, from 13 – 17 September 2004. The participants at the workshop, who included members of the African Commission, representatives of 12 African States, civil society organizations, national human rights institutions, academics and representatives of UN organizations and Regional Economic Communities (RECs) adopted the following Statement, which is recommended for consideration and adoption by the African Commission on Human and Peoples' Rights at its 36th Ordinary Session:

Preamble

Recalling that the African Charter enshrines economic, social and cultural rights, in particular in its Article 14, Article 15, Article 16, Article 17, Article 18, Article 21 and Article 22;

Recognising the existence of regional and international human rights standards that stress the indivisibility, interdependence and universality of all human rights. Among these are the African Charter, the African Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the Universal Declaration of Human Rights, the Declaration on the Right to Development, the International Covenant on Economic, Social and Cultural Rights and the Convention for the Elimination of All Forms of Discrimination Against Women;

Recognising also that the objectives and principles of the Constitutive Act include a commitment to the promotion and protection human and peoples' rights, respect for democratic principles, human rights, the rule of law and good governance and the promotion of social justice to ensure balanced economic development;

Noting that despite the consensus on the indivisibility of human rights, economic, social and cultural rights remain marginalized in their implementation;

Concerned that there is resistance to recognizing economic, social and cultural rights that results in the continued marginalization of these rights, which excludes the majority of Africans from the enjoyment of human rights;

Appreciating the positive impact that information and communication technologies (ICTs) can have on the promotion, protection and realization of economic, social and cultural rights;

Recognising that there are several constraints that preclude the full realisation of economic, social and cultural rights in Africa;

Deeply disturbed by the ongoing and longstanding conflicts in the regions of Africa, which impede the realization of economic, social and cultural rights;

Concerned further by the lack of human security in Africa due to the prevailing conditions of poverty and under-development and the failure to address poverty through development;

Further recognizing the urgent need for human rights, judicial and administrative institutions in Africa to promote human dignity based on equality and to tackle the core human rights issues facing Africans including, food security, sustainable livelihoods, human survival and the prevention of violence;

The participants state that:

1. States Parties to the African Charter on Human and People's Rights have solemnly undertaken to respect, protect, promote and fulfill all the rights in the Charter including economic, social and cultural rights.
2. By doing so, States Parties have agreed to adopt legislative and other measures, individually or through international cooperation and assistance, to give full effect to the economic, social and cultural rights contained in the African Charter, by using the maximum of their resources. States parties have an obligation to ensure the satisfaction of, at the very least, the minimum essential levels of each of the economic, social and cultural rights contained in the African Charter.
3. States are therefore called upon to address with all appropriate measures their obligations in relation to the full realization of economic, social and cultural rights as well as tackling the following constraints:
 - Lack of good governance and planning and failure to allocate sufficient resources for implementation of economic, social and cultural rights;
 - Lack of political will;
 - Corruption, misuse and misdirection of financial resources;
 - Poor utilization of human resources and absence of effective measures to curtail brain drain;
 - Failure to ensure equitable distribution of income from natural resources;
 - Trafficking in women and children;
 - Continued outflow and existence of refugees and internally displaced persons;
 - Illiteracy and lack of awareness,
 - Conditionality of aid and unserviceable debt burdens,
 - Privatization of essential services
 - Cost recovery including access fees and charges for essential services;
 - Lack of support for and recognition of the work of civil society organizations;
 - Lack of implementation of obligations assumed under international law into national law,
 - Under development of social amenities;
 - Limited engagement with human rights on the part of some judges;
 - Lack of protection of African indigenous knowledge;
 - Failure to enforce some judicial decisions against the state;

- The adverse effects of globalization.
4. States Parties have also undertaken to eliminate all forms of discrimination, including all forms of discrimination against women, and to promote the equal enjoyment of all human rights. Non-discrimination and equal treatment are the key components of economic, social and cultural rights since vulnerable and marginal groups including refugees and internally displaced persons are disproportionately affected by a failure of the state to respect, protect and fulfill these rights.
 5. The right to property in Article 14 of the Charter relating to land and housing entails among other things the following:
 - Protection from arbitrary deprivation of property;
 - Equitable and non-discriminatory access, acquisition, ownership, inheritance and control of land and housing, especially by women;
 - Adequate compensation for public acquisition, nationalization or expropriation;
 - Equitable and non-discriminatory access to affordable loans for the acquisition of property;
 - Equitable redistribution of land through due process of law to redress historical and gender injustices;
 - Recognition and protection of lands belonging to indigenous communities;
 - Peaceful enjoyment of property and protection from arbitrary eviction;
 - Equal access to housing and to acceptable living conditions in a healthy environment.
 6. The right to work in Article 15 of the Charter entails among other things the following:
 - Equality of opportunity of access to gainful work, including access for refugees, disabled and other disadvantaged persons;
 - Conducive investment environment for the private sector to participate in creating gainful work;
 - Effective and enhanced protections for women in the workplace including parental leave;
 - Fair remuneration, a minimum living wage for labour, and equal remuneration for work of equal value;
 - Equitable and satisfactory conditions of work, including effective and accessible remedies for work place-related injuries, hazards and accidents;
 - Creation of enabling conditions and taking measures to promote the rights and opportunities of those in the informal sector, including in subsistence agriculture and in small scale enterprises activities;
 - Promotion and protection of equitable and satisfactory conditions of work of women engaged in household labour;
 - The right to freedom of association, including the rights to collective bargaining, strike and other related trade union rights;
 - Prohibition against forced labour and economic exploitation of children, and other vulnerable persons;
 - The right to rest and leisure, including reasonable limitation of working hours, periodic holidays with pay and remuneration for public holidays.

7. The right to health in Article 16 of the Charter entails among other things the following:
 - Availability of accessible and affordable health facilities, goods and services of reasonable quality for all;
 - Access to the minimum essential food which is nutritionally adequate and safe to ensure freedom from hunger to everyone and to prevent malnutrition;
 - Access to basic shelter, housing and sanitation and adequate supply of safe and potable water;
 - Access to reproductive, maternal and child health care based on the life cycle approach to health;
 - Immunization against major infectious diseases;
 - Education, prevention and treatment of HIV/AIDS, malaria, tuberculosis and other major killer diseases;
 - Education and access to information concerning the main health problems in the community including methods of preventing and controlling them;
 - Training for health personnel including education on health and human rights;
 - Access to humane and dignified care of the elderly and for persons with mental and physical disabilities;

8. The right to education in Article 17 of the African Charter entails among other things the following:
 - Provision of free and compulsory basic education that will also include a programme in psycho-social education for orphans and vulnerable children;
 - Provision of special schools and facilities for physically and mentally disabled children;
 - Access to affordable secondary and higher education;
 - Accessible and affordable vocational training and adult education;
 - Addressing social, economic and cultural practices and attitudes that hinder access to education by girl children;
 - Availability of educational institutions that are physically and economically accessible to everyone;
 - Development of curricula that address diverse social, economic and cultural settings and which inculcate human rights norms and values for responsible citizens;
 - Liberty of parents and guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down by the State, and to ensure the religious and moral education of their children in conformity with their own convictions;
 - Continued education for teachers and instructors including education on human rights and the continuous improvement of the conditions of work of teaching staff;
 - Education for development that links school curricula to the labour market and society's demands for technology and self-reliance.

9. The right to culture in Articles 17 and 18 of the African Charter entail among other things the following:
 - Positive African values consistent with international human rights realities and standards;
 - Eradication of harmful traditional practices that negatively affect human rights;

- Participation at all levels in the determination of cultural policies and in cultural and artistic activities;
- Measures for safeguarding, protecting and building awareness of tangible and intangible cultural heritage, including traditional knowledge systems;
- Recognition and respect of the diverse cultures existing in Africa;

10. The social, economic and cultural rights explicitly provided for under the African Charter, read together with other rights in the Charter, such as the right to life and respect for inherent human dignity, imply the recognition of other economic and social rights, including the right to shelter, the right to basic nutrition and the right to social security.

11. Having highlighted the core contents of economic, social and cultural rights under the African Charter, participants make the following recommendations:

a) States Parties should:

- i.* Ratify, if they have not done so, the treaties mentioned in the Preamble, especially the Protocol on the Rights of Women in Africa;
- ii.* Incorporate into domestic law and fully implement the provisions of regional and international treaties on economic, social and cultural rights;
- iii.* Establish constitutional protection of economic, social and cultural rights subject to non-discrimination and equality;
- iv.* Come up with National Action Plans, which set out benchmark indicators for the progressive realization of social economic and cultural rights;
- v.* Take effective measure to ensure budgetary processes are transparent and consultative;
- vi.* Involve civil society in meaningful consultations in policymaking and in the implementation of economic, social and cultural rights generally;
- vii.* Review all national policies, which undermine the realization of specific economic, social and cultural rights;
- viii.* Provide reports under Article 62 of the Charter on how far they have gone in making economic, social and cultural rights both accessible and non discriminatory;
- ix.* Adopt measures for the prudent use of resources, including the investigation of affordable alternatives for health drugs e.g. generic vs. patent medicines
- x.* Ensure effective citizen participation in government through credible electoral processes, liberalization of the mass media and in the formulation of legislation and policies;
- xi.* Adopt special measures for women and address the economic, social and cultural rights of vulnerable and marginalized groups including children, indigenous peoples, displaced persons, refugees, persons living with HIV/AIDS and the disabled;
- xii.* Develop mechanisms to hold non-state actors especially multi-national corporations and businesses accountable for violations of economic, social and cultural rights in such matters relating to child labour, industrial safety standards, protection against forced evictions and low wages, protection of the environment, including global warming and its impact on ecosystems, livelihood and food security;
- xiii.* Strengthen the capacity of State institutions to produce disaggregate data that would provide an accurate assessment of the implementation of economic, social and cultural rights;
- xiv.* Promulgate and implement comprehensive ICT policies and programmes;

- xv. Consult with civil society organisations in the nomination and election of members of the African Commission and judges of the African Court;
- xvi. Ratify the Protocol on the African Human Rights Court and make the declaration under Article 34(6) of the Protocol allowing individuals and non-governmental organisations to file cases, if they have not done so;
- xvii. Nominate and elect judges of the African Human Rights Court so that it may be established without further delay;
- xviii. Take necessary measures to reduce military spending significantly in favour of increasing spending on the implementation of economic, social and cultural rights;
- xix. Ensure that economic, social and cultural rights take primacy in the negotiations of bilateral and multilateral trade and economic agreements;
- xx. Create independent, impartial and well-resourced national human rights institutions and if they already exist to strengthen their independence and impartiality.

b) The African Union should:

- i. Urge Member States that have not done so, to ratify the human rights treaties mentioned in the Preamble, in particular the Protocol on the Rights of Women in Africa;
- ii. Provide sufficient funds for African human rights institutions to enable them to effectively fulfil their mandate;
- iii. Establish the African Court on Human and Peoples' Rights without further delay;
- iv. Urge Member States that have not done so to ratify the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights, and to make the necessary declaration under Article 34(6) of the Protocol;
- v. Establish the Human Rights Fund as recommended by the First AU Ministerial Conference on Human Rights held in Kigali, Rwanda, in May 2003;
- vi. Strengthen the Secretariat to enhance the functioning of the African Commission;
- vii. Urge the AU Peace & Security Council to adopt urgent measures to address the conflicts in Africa in order to create a conducive environment for the respect of economic, social and cultural rights;
- viii. Call upon the organs of the AU to encourage Member States to uphold economic, social and cultural rights and to hold them accountable for violations of economic, social and cultural rights;
- ix. Integrate the monitoring of economic, social and cultural rights into the work of relevant AU institutions as well as the CSSDCA Peer Review Mechanism and New Partnership for Africa's Development (NEPAD) African Peer Review Mechanism process;
- x. Follow up recommendations of the African Commission to ensure implementation of its decisions by Member States.

c) The African Commission should:

- i. Elaborate principles and guidelines on economic, social and cultural rights and establish a working group for this purpose;
- ii. Integrate economic, social and cultural rights into the mandates of existing Special Rapporteurs and Working Groups;
- iii. Urge States to duly submit their reports to the African Commission under Article 62 of the African Charter;

- iv. Address economic, social and cultural rights during the examination of State Reports under Article 62 during questions and concluding observations;
- v. Review its guidelines for state reporting pertaining to economic, social and cultural rights;
- vi. Consider alternative means of examining implementation of provisions of the Charter by a State that is in perpetual default of its reporting obligations under Article 62 of the Charter.
- vii. Provide substantive recommendations to the AU Assembly on economic, social and cultural rights;
- viii. Undertake studies and research under Article 45 on specific economic, social and cultural rights;
- ix. Pay special attention to economic, social and cultural rights during promotional visits to States;
- x. Ensure effective dissemination of relevant decisions and resolutions of the Commission in collaboration with relevant governmental and non-governmental national and sub-regional institutions;
- xi. Further elaborate the economic and social rights implicit in the African Charter;
- xii. Urge the AU to establish the African Human Rights Court without further delay and those States that have not done so, to ratify the Protocol establishing the Court and to make the necessary declaration under Article 34(6) of the Protocol.

d) *Civil Society should:*

- i. Play a more pro-active role in the nomination of and lobby for the election of candidates to the African Commission who are conversant with economic, social and cultural rights;
- ii. Advocate for States to ratify the Protocol of the African Human Rights Court and to make the declaration allowing NGOs and individuals to file cases;
- iii. Advocate for the African Human Rights Court to be established without further delay;
- iv. Prioritize monitoring of economic, social and cultural rights in their advocacy work;
- v. Play a role in raising public awareness of economic, social and cultural rights and the obstacles to fulfillment of these rights in particular harmful cultural practices;
- vi. Actively participate in the budgetary process, both in terms of formulation and analysis;
- vii. Develop partnerships with both the State and private sector, where possible, for the protection of economic, social and cultural rights;
- viii. Compile and submit to the African Commission shadow reports on economic, social and cultural rights;
- ix. Improve networking amongst NGOs and their support activities of the African Commission and its Special Rapporteurs and Working Groups;
- x. Bring more cases on economic, social and cultural rights to the African Commission, the African Committee on the Rights and Welfare of the Child, national courts, and the African Human Rights Court, when it is established;
- xi. Become involved in specific projects in the implementation of economic, social and cultural rights especially in the rural areas;
- xii. Advocate for comprehensive national and regional ICT policies and programmes, and to incorporate ICT training, provision and access in their work plans.

e) *National Human Rights Institutions should:*

- i. Undertake studies, monitor and report on economic, social and cultural rights;

- ii. Scrutinise existing laws and administrative acts and make submissions to Parliament on bills relating to economic, social and cultural rights;
- iii. Publish and distribute their reports on economic, social and cultural rights;
- iv. Establish regional networks /coalitions and involve NGOs in these coalitions;
- v. Apply for affiliate status with the African Commission, if they have not done so;
- vi. Raise awareness on economic, social and cultural rights among particular groups such as the public service, the judiciary, the private sector and the labour movement and encourage the Government to integrate human rights in the school curricula;
- vii. Examine complaints of infringements of economic, social and cultural rights and make recommendations on redress, and where possible file cases before national courts;
- viii. Conduct follow up activities in the implementation of recommendations of international treaty bodies and publicize their reports, especially on economic, social and cultural rights;
- ix. Advocate for States to ratify the Protocol of the African Human Rights Court and to make the declaration allowing NGOs and individuals to file cases;
- x. Advocate for the African Human Rights Court to be established without further delay;

f) International and regional entities should:

- i. Pay particular attention to African needs related to development and the realisation of economic, social and cultural rights;
- ii. Cancel the unserviceable debt burdens of African States;
- iii. Ensure that bilateral and multilateral trade and economic agreements conform to international treaty obligations relating to economic, social and cultural rights;
- iv. Play a role in the implementation of economic, social and cultural rights including through assistance and co-operation with African States;
- v. Take measures to regulate trade in extractive industries (such as oil, mining) that are exploitative, corrupt and fuel conflicts in Africa;
- vi. Co-operate with African countries in their efforts to repatriate money and cultural artefacts that have been unlawfully removed from African countries;
- vii. Ensure compliance with the principles of corporate social responsibility.

12. In conclusion, the African Union, its Member States, international and national organisations and non-state actors should fully recognise human rights as a fundamental objective of development and that development has to achieve the full realisation of all human rights. Economic, social and cultural rights should therefore be integrated into development planning and implementation so that African needs and aspirations are fully addressed.

74. ACHPR/Res.74(XXXVII)05: RESOLUTION ON THE SITUATION IN DARFUR,SUDAN

The African Commission on Human and Peoples' Rights meeting at its 37th Ordinary Session held from the 27th of April to the 11th of May 2005 in Banjul, The Gambia;

Considering the Human Rights situation in Africa generally and, *inter alia*, the situation of human rights in the Darfur Region of The Sudan;

Recalling the Resolution **ACHPR/Res. 68 - (XXXV) 04** adopted on 4 June 2004 by the African Commission on Human and Peoples' Rights during the 35th Session on the situation in the Darfur Region of The Sudan, and **Resolution E/CN/4/2005/L.36/Rev. 3** adopted by the UN Commission on Human Rights on the 21 April 2005 on the situation of human rights in The Sudan;

Considering the provisions of the Constitutive Act of the African Union, the African Charter on Human and Peoples' Rights, the Charter of the United Nations and other regional and international human rights and international humanitarian law instruments to which the Republic of The Sudan is a party;

Recalling numerous decisions of the Assembly of Heads of State and Government of the African Union, the Peace and Security Council of the African Union on the Darfur, in particular **Decisions AU/Dec.54 (III), AU/Dec. 68 (IV), and PSC/PR/Comm. (XIII) and PSC/PR/Comm. (XVII);**

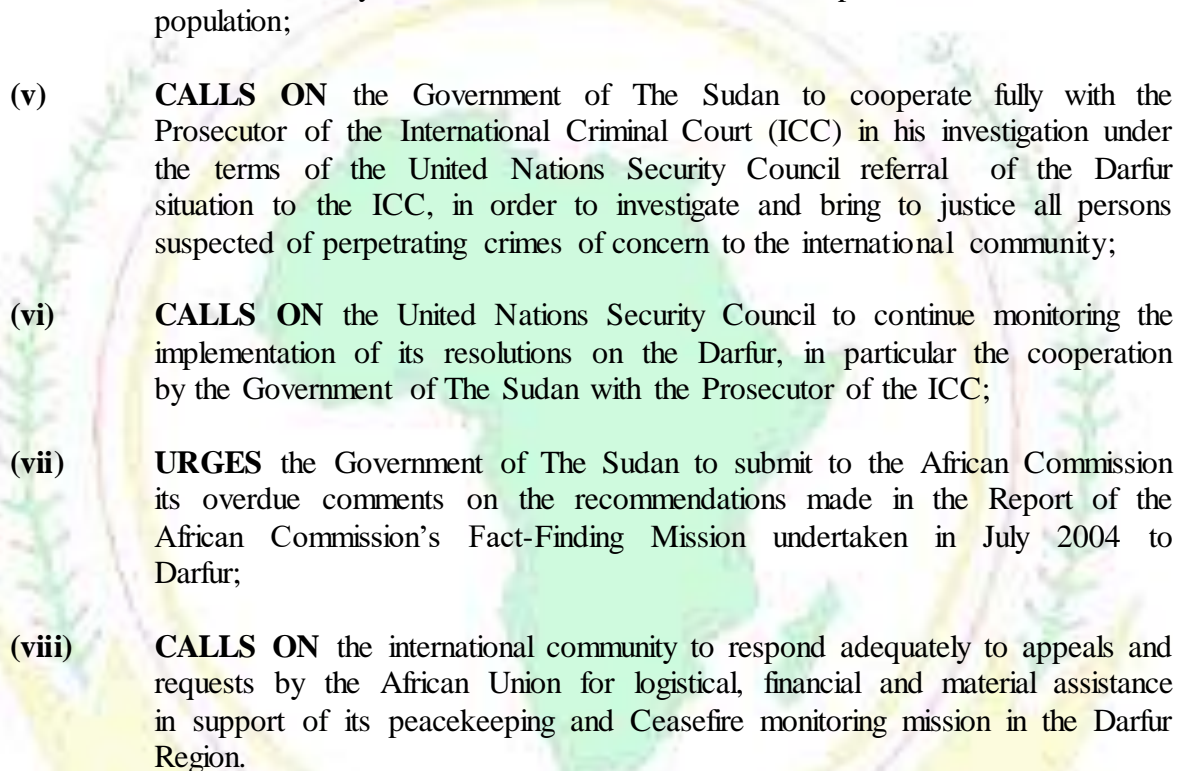
Commending the International Commission of Inquiry on Darfur for its investigation into the human rights situation in the Darfur and its recommendations regarding the violations of human rights and international humanitarian law in the Darfur contained in its report of January 25, 2005;

Welcoming the United Nations Security Council Resolutions **1556/2004, 1590/2005, 1591/2005 and 1593/2005** of March 2005 on the situation in The Sudan and Darfur;

Deeply concerned that in spite of the presence of African Union monitors and international humanitarian agencies in the Darfur Region, violations of human rights and international humanitarian law continue to occur;

NOW THEREFORE:

- (i) **CALLS ON** the Government of The Sudan to comply with its obligation under the Constitutive Act of the African Union, the United Nations Charter and the African Charter on Human and Peoples' Rights, and other relevant instruments to which Sudan is a State party;
- (ii) **CALLS ON** the parties to the conflict in the Darfur to observe the terms of the Ceasefire Agreements concluded in Ndjamena, Tchad, and to resume negotiations in Abuja, Nigeria, under the auspices of the current Chairman of the African Union, President Olusegun Obasanjo of the Federal Republic of Nigeria, with a view to finalize a permanent ceasefire and a Comprehensive Peace Agreement on the conflict in the Darfur;

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- (iii) **CALLS ON** all parties to the conflict to cease with immediate effect, all attacks against civilians in the Darfur, and particularly calls on the government of The Sudan and the Janjaweed militia to stop their campaign of forced depopulation of entire areas of the region through their indiscriminate attacks of villages, rape and sexual violence against women, girls and children, abduction of women and children, looting of livestock and foodstuff from villages in the Darfur Region;
 - (iv) **URGES** the Government of The Sudan to continue its cooperation with all international agencies and humanitarian organizations and to ensure their full, safe and unhindered access to the conflict affected areas of Darfur in order to facilitate delivery of humanitarian assistance and protection to the civilian population;
 - (v) **CALLS ON** the Government of The Sudan to cooperate fully with the Prosecutor of the International Criminal Court (ICC) in his investigation under the terms of the United Nations Security Council referral of the Darfur situation to the ICC, in order to investigate and bring to justice all persons suspected of perpetrating crimes of concern to the international community;
 - (vi) **CALLS ON** the United Nations Security Council to continue monitoring the implementation of its resolutions on the Darfur, in particular the cooperation by the Government of The Sudan with the Prosecutor of the ICC;
 - (vii) **URGES** the Government of The Sudan to submit to the African Commission its overdue comments on the recommendations made in the Report of the African Commission's Fact-Finding Mission undertaken in July 2004 to Darfur;
 - (viii) **CALLS ON** the international community to respond adequately to appeals and requests by the African Union for logistical, financial and material assistance in support of its peacekeeping and Ceasefire monitoring mission in the Darfur Region.

75. ACHPR/Res.75(XXXVII)05: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN TOGO

The African Commission on Human and Peoples' Rights meeting at its 37th Ordinary Session held from the 27th of April to the 11th of May 2005 in Banjul, The Gambia;

Recalling that following the death of the late Gnassingbe Eyadema, former President of the Republic of Togo, the country was plunged into a constitutional crisis;

Aware that following concerted efforts of the African Union, the Economic Community of West African States (ECOWAS) and the international community, the authorities in the Republic of Togo accepted to conduct free and fair presidential elections;

Concerned that events in Togo prior, during and after the presidential election were characterized by violence which resulted in the outflow Internally Displaced Persons (IDPs) and of refugees into neighbouring countries, instability and violation of fundamental and basic rights of individuals and citizens in Togo;

Concerned that the presidential election was characterized by irregularities which call to question the integrity of the electoral process and its results, both of which have created conditions for violation of human rights in the wake of the violence and its suppression by government security forces ;

Recalling that the current Chairperson of the African Union undertook consultations with some of the Togolese political leaders with a view to promoting respect for the outcome of the elections and the need to establish a government of national unity;

CALLS ON the newly elected President, Faure Gnassingbe, to form a government of national unity as agreed in Abuja on the 25 April 2005;

CALLS ON the Government of Togo to create conducive conditions for the voluntary return of Internally Displaced Persons (IDPs) and the more than 15,000 refugees who have fled to the neighbouring countries in the aftermath of the presidential elections;

DECIDES to send a fact-finding mission to Togo to investigate the violations of human rights which occurred prior, during and after the presidential elections.

76. ACHPR/Res.76(XXXVII)05: RESOLUTION ON THE ESTABLISHMENT OF AN EFFECTIVE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

The African Commission on Human and Peoples' Rights meeting at its 37th Ordinary Session held from the 27th of April to the 11th of May 2005 in Banjul, The Gambia;

Noting that the Protocol on the establishment of an African Court on Human and Peoples' Rights entered into force on 25 January 2004;

Noting the Decision of July 2004 of the Assembly of Heads of State and Government of the African Union to merge the African Court on Human and Peoples' Rights with the African Court of Justice of the African Union;

Considering that the two Courts have essentially different mandates and litigants;

Deeply concerned that the July 2004 AU Assembly decision, and the non-ratification by the majority of Member States of the African Union have a negative impact on the establishment of an effective African Court on Human and Peoples' Rights;

Noting that Decision **EX.CL/Dec.165 (VI)** of the Executive Council in January 2005 allows the operationalization of the Court notwithstanding the continuing discussions on the merger;

Welcoming the recommendations by the Executive Council of the African Union asking Member States of the AU which have not yet done so to ratify or accede to the Protocol establishing the African Court on Human and Peoples' Rights as soon as possible;

- (i) **CALLS ON** the Assembly of Heads of State and Government of the African Union to operationalize the African Court on Human and Peoples' Rights at the earliest through the election of Judges, determination of the seat of the Court and allocation of adequate resources;
- (ii) **URGES** the Assembly, when considering determination of the seat of the Court to, accord due consideration to easy accessibility by litigants and delegates, among other criteria, in particular entry visa requirement policies;
- (iii) **CALLS ON** Member States, which have not done so, to ratify or accede to the protocol without further delay;
- (iv) **CALLS ON** Member States, which have not done so, to make and deposit the declaration under Article 34 (6) of the Protocol, and those yet to ratify or accede to do so upon ratification or accession;
- (v) **CALLS ON** Member States to comply with the requirements specified under the African Union Commission Note Verbale to member states on the nomination of judges, by observing a transparent nomination process and respecting gender parity, among others;
- (vi) **CALLS ON** Member States to meet their financial obligation towards the African Union, and in particular to establish the Human Rights Fund and make regular voluntary contributions to the said Fund.

77. ACHPR/Res.77(XXXVII)05: RESOLUTION ON THE CREATION OF A WORKING GROUP ON SPECIFIC ISSUES RELEVANT TO THE WORK OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

The African Commission on Human and Peoples' Rights, meeting at its 37th Ordinary Session held from 27th April to 11th May in Banjul, The Gambia;

1. **Considering** the necessity for certain matters to be dealt with expeditiously;
2. **Bearing in mind** the creation of the African Union and the creation of various organs and institutions within the afore mentioned Union;
3. **Noting** the entry into force of the Protocol to the African Charter on the Establishment of an African Court on Human and Peoples' Rights and the complementary role of the African Commission and the aforementioned Court;
4. **Noting** also the delay in the finalization of certain issues including the follow-up to its recommendations and decisions;
5. **Noting** further Articles 42 (2) of the African Charter on Human and Peoples' Rights and Rule 121 of the Rules of Procedure of the African Commission on Human and Peoples' Rights on the modalities of amendment of the said Rules of Procedure;
6. **Noting** Rule 28 of the Rules of Procedure on the establishment of Committees and Working Groups;
7. **Decides** to establish a Working Group to deal with the following specific issues :
 - a. The review of the Rules of Procedure of the African Commission on Human and Peoples' Rights, ensuring that the following items are included:
 - The relationship between the Bureau and the Secretariat of the African Commission on Human and Peoples' Rights;
 - The relationship between the African Commission and its various partners;
 - The relationship between the African Commission and the various organs and institutions of the African Union; and
 - Any other relevant issues.
 - b. The mechanism and procedure on the follow-up on decisions and recommendations of the African Commission;
 - c. The structure of different reports of the African Commission;
 - d. The modalities for the establishment of a Voluntary Fund for Human Rights in Africa; and
 - e. The follow-up on the implementation of the recommendations of the Retreat of the African Commission in Addis Ababa of September 2003, the evaluation report on the work of the African Commission and the UPPSALA consultation of June 2004.

8. The Working Group will comprise 3 Members of the African Commission and 3 external experts from its partners Interights, Open Society Justice Initiative and the Institute for Human Rights and Development in Africa.
9. The Working Group shall have a mandate of six months.
10. The Working Group shall report to the African Commission at its 38th ordinary session.
11. The African Union is hereby requested to provide the Working Group with the necessary resources to successfully discharge its mandate.



78. ACHPR /Res.78(XXXVIII)05: RESOLUTION ON THE RENEWAL OF THE TERM OF THE SPECIAL RAPPOREUR ON THE RIGHTS OF WOMEN IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its 38th Ordinary Session that took place from 21st November to 5th December 2005 in Banjul, The Gambia;

Recalling the Resolution it adopted at its 25th Ordinary Session that took place from 26th April to 5th May 1999 in Bujumbura, Burundi, in which it appointed a Special Rapporteur on the Rights of Women in Africa;

Recalling further the provisions of Article 18(3) of the African Charter on Human and Peoples' Rights;

Referring further the provisions of Article 45(1) a of the African Charter on Human and Peoples' Rights;

Recalling the decision taken at the 30th Ordinary Session which took place in October 2001 in Banjul, the Gambia, regarding nominating Commissioner Angela Melo Special Rapporteur on the Rights of Women in Africa;

Recalling the Resolution it adopted at its 34th Ordinary Session that took place from 27 April to 11th May 2005 in Banjul, The Gambia, to renew the mandate of Commissioner Angela Melo as Special Rapporteur for a period of two (2) years;

Considering the important work done by the Special Rapporteur;

Considering the necessity of allowing the Special Rapporteur on the Rights of Women in Africa to continue her mandate;

Commends Commissioner Angela Melo, Special Rapporteur for the Rights of Women in Africa, for the work done;

Decides to renew the mandate of Commissioner Angela Melo as Special Rapporteur on the Rights of Women in Africa for a period of two (2) years;

Requests the Secretariat of the African Commission to enhance its efforts to mobilise resources that could assist the Special Rapporteur to carry out her mandate.

79. ACHPR /Res.79(XXXVIII)05: RESOLUTION ON THE COMPOSITION AND THE OPERATIONLISATION OF THE WORKING GROUP ON DEATH PENALTY

The African Commission on Human and Peoples' Rights meeting at its 38th Ordinary Session held in Banjul, The Gambia, from 21st November to 5th December 2005;

Considering the provisions of the *African Charter on Human and Peoples' Rights* which entrusts it with a treaty monitoring function and a mandate to promote human and peoples' rights and ensure their protection in Africa;

Recalling the Resolution adopted at its 26th Ordinary Session held from 1st to 15th November 1999 in Kigali, Rwanda, urging Member States to envisage a Moratorium on the Death Penalty;

Recalling the decision of the African Commission at its 37th Ordinary Session to appoint two Commissioners to work with the Special Rapporteur on Prisons and Conditions of Detention in Africa to improve the document on the Question of the Death Penalty in Africa;

Considering the trends in international law which encourage the abolition of the death penalty, in particular the *2nd Protocol to the International Covenant on Civil and Political Rights*, the *Statute on the International Criminal Court* and the Resolution of the UN Commission on Human Rights, 2005/59, on the Question of the Death Penalty and the debates and initiatives undertaken by civil society and other stakeholders on the question of the death penalty;

Recognising that 14 African Union Member States have already abolished the death penalty and 13 others are exercising a moratorium on its application;

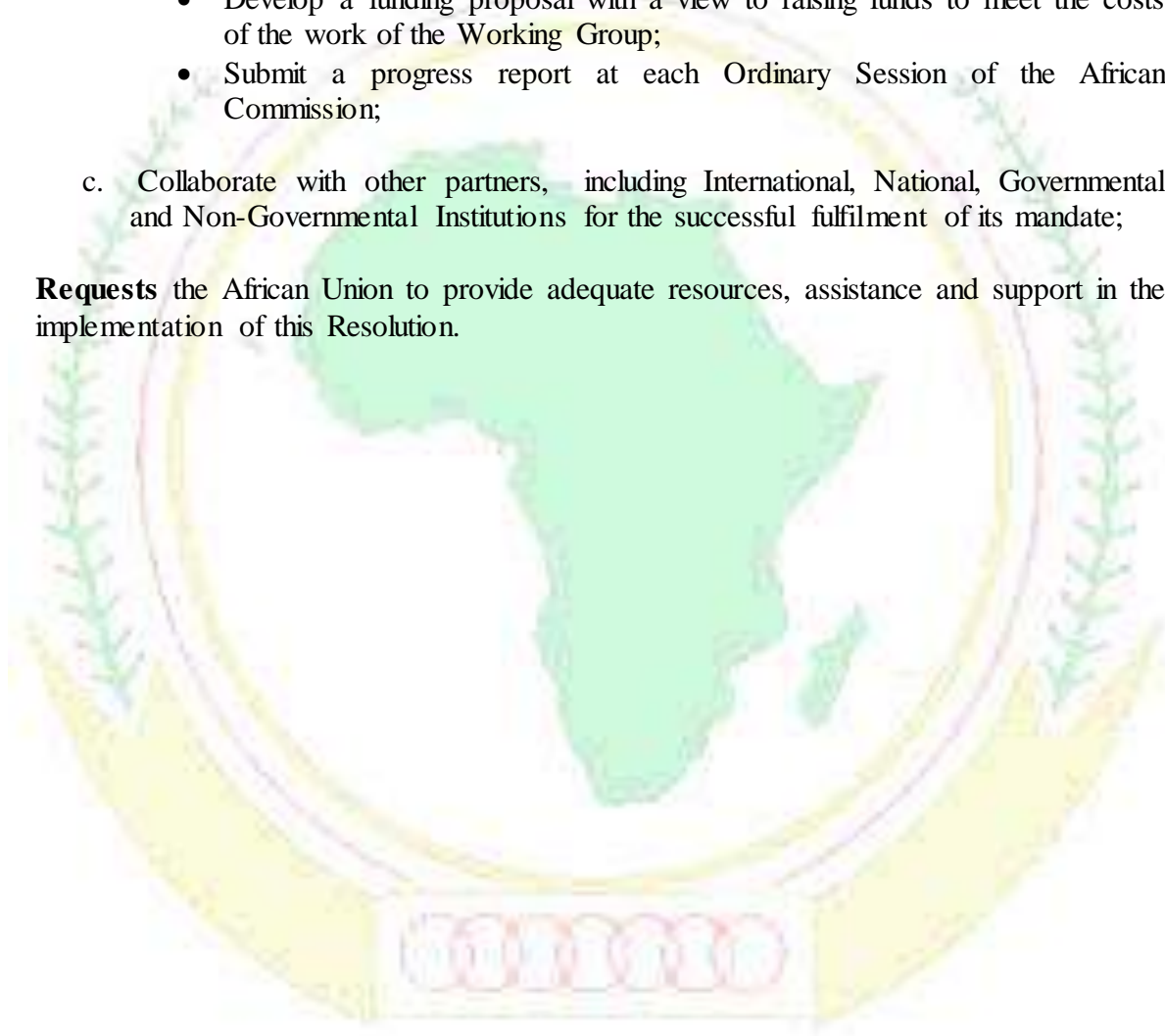
Calls upon Member States of the African Union that have abolished the death penalty *de jure* to encourage other Member States which still carry out the death penalty about the necessity of abolishing the death penalty;

Resolves to:

- a. Expand the composition of the Working Group to include:
 - two (2) Members of the African Commission on Human and Peoples Rights, namely Commissioner Yasser El Hassan and Commissioner Bahame Tom Nyanduga;
 - Five (5) experts chosen to represent the different legal systems and the different regions in Africa;

- b. Broaden the mandate of the Working Group in the following manner:-
- Elaborate further a Concept Paper on the Death Penalty in Africa;
 - Develop a Strategic Plan(s), including a practical and legal framework on the abolition of the Death Penalty;
 - Collect information and continue to monitor the situation of the application of the Death Penalty in African States;
 - Develop a funding proposal with a view to raising funds to meet the costs of the work of the Working Group;
 - Submit a progress report at each Ordinary Session of the African Commission;
- c. Collaborate with other partners, including International, National, Governmental and Non-Governmental Institutions for the successful fulfilment of its mandate;

Requests the African Union to provide adequate resources, assistance and support in the implementation of this Resolution.



80. ACHPR /Res.80(XXXVIII)05: RESOLUTION ON THE RENEWAL OF THE MANDATE AND COMPOSITION OF THE WORKING GROUP ON SPECIFIC ISSUES RELATING TO THE WORK OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

The African Commission on Human and Peoples' Rights meeting at its 38th Ordinary Session from 21st November to 5th December 2005 in Banjul, The Gambia,

Recalling the Resolution adopted at its 37th Ordinary Session that took place from 27th April to 11th May 2005 in Banjul, The Gambia, by which it created the Working Group on Specific Issues Relating to the Work of the African Commission on Human and Peoples' Rights;

Appreciating the work that the Working Group has done over the intersession period;

Considering the interim report of the Working Group;

Considering further the necessity to allow the Working Group to continue to carry out its mandate and address urgent pending issues falling within the said mandate;

Decides to renew the mandate of the Working Group for twelve (12) months;

Further decides that the composition of the Working Group will be as follows:

- a) Commissioner Mohamed Abdellahi Ould Babana;
- b) Commissioner Angela Melo;
- c) Commissioner Pansy Tlakula; and
- d) One (1) representative from each of the following Non Governmental Organisations:
 - The Institute for Human Rights and Development in Africa (IHRDA);
 - INTERIGHTS; and
 - Open Society Justice Initiative.

Requests the Working Group to deal as a matter of priority with the following matters and to report accordingly to the African Commission at its 39th Ordinary Session:

- a) The relationship between the African Commission and the African Court on Human and Peoples' Rights ;
- b) The relationship between the Bureau of the African Commission and the Secretariat of the Commission ;
- c) The relationship between the African Commission and the different organs and institutions of the African Union.

Further requests the Secretariat of the African Commission to intensify its efforts to mobilise resources that could assist the Working Group to carry out its mandate.

81. ACHPR /RES.81(XXXVIII)05: RESOLUTION ON THE COMPOSITION AND RENEWAL OF THE MANDATE OF THE WORKING GROUP ON INDIGENOUS POPULATIONS/COMMUNITIES IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its 38th Ordinary Session held in Banjul, The Gambia from 21 November to 5 December 2005;

Recalling its Resolution Ref. ACHPR/Res.65 (XXXIV) 03 on the adoption of the Report of the African Commission's Working Group on Indigenous Populations/Communities adopted at its 34th Ordinary Session held in Banjul, The Gambia from 6 to 20 November 2003;

Recalling that the African Commission established a Working Group composed of six members, amongst them, two Members of the African Commission;

Noting that the African Commission entrusted the Working Group with a mandate for an initial period of two years;

Considering that the initial term of two years of the Working Group comes to an end during the 38th Ordinary Session of the African Commission on Human and Peoples' Rights;

Commending the continuous assistance of the International Working Group on Indigenous Affairs (IWGIA) to the activities of the Working Group;

Appreciating the work undertaken by the Working Group during the past two years in the discharge of its mandate;

Recognising further the importance of the work of the Working Group in the promotion and protection of the rights of indigenous populations/communities in Africa and the necessity to allow the Working Group to continue to carry out its mandate;

Decides to:

- Extend the mandate of the Working Group for a period of two years with effect from 5 December 2005;
- Designate Commissioner Kamel Rezag Bara as Chairperson of the Working Group; and
- Appoint Commissioner Musa N Bitaye as Member of the Working Group.

82. ACHPR /Res.82(XXXVIII)05: RESOLUTION ON THE APPOINTMENT OF A SPECIAL RAPPORTEUR ON PRISONS AND CONDITIONS OF DETENTION IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its 38th Ordinary Session held from 21st November to 5th December 2005 in Banjul, The Gambia;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights;

Reaffirming the importance of the observance of the purposes and principles of the *African Charter* for the promotion and protection of the human rights of all, including those of detainees and prisoners;

Recalling its decision to establish the position of and appoint a Special Rapporteur on Prisons and Conditions of Detention in Africa as a prison monitoring mechanism taken at its 20th Ordinary Session held in Grand Bay, Mauritius in October 1996;

Considering that the term of Dr. Vera Mlangazuwa Chirwa as a Member of the African Commission along with her mandate as Special Rapporteur on Prisons and Conditions of Detention in Africa came to an end on 21st November 2005;

Appreciating the work that Dr. Chirwa has done as Special Rapporteur on Prisons and Conditions of Detention in Africa;

Emphasising the importance of the work of the Special Rapporteur as regards the search for solutions to the problems arising from the restriction of the freedom of the individual, in particular;

Decides to appoint Commissioner Mumba Malila as the Special Rapporteur on Prisons and Conditions of Detention in Africa for a period of two years effective 5th December 2005.

83. ACHPR /Res.83(XXXVIII)05: RESOLUTION ON THE APPOINTMENT OF A SPECIAL RAPPORTEUR ON HUMAN RIGHTS DEFENDERS IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its 38th Ordinary Session held from 21st November to 5th December 2005 in Banjul, The Gambia;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the *African Charter on Human and Peoples' Rights*;

Mindful that in the *Grand Bay (Mauritius) Declaration and Plan of Action*, the Organisation of African Unity (African Union) called on Member States "to take appropriate steps to implement the UN *Declaration on Human Rights Defenders* in Africa";

Reaffirming the importance of the observance of the purposes and principles of the *African Charter* for the promotion and protection of all human rights and fundamental freedoms;

Reaffirming the commitment of the African Commission on Human and Peoples' Rights in the promotion and protection of the rights of human rights defenders;

Recognising the crucial contribution of the work of human rights defenders in promoting human rights, democracy and the rule of law in Africa;

Recalling the Resolution adopted at the 35th Ordinary Session held from 21 May to 4 June 2004 in Banjul, The Gambia by which the African Commission appointed the Special Rapporteur on Human Rights Defenders in Africa;

Considering that the term of Mrs. Jainaba Johm as a Member of the African Commission came to an end along with her mandate as Special Rapporteur on the 21 November 2005;

Appreciating the work that Mrs. Jainaba Johm has done as Special Rapporteur for Human Rights Defenders;

Emphasizing the importance of the work of the Special Rapporteur as regards the search for solutions to the problems arising from the protection of human rights defenders;

Decides to appoint Commissioner Reine Alapini-Gansou as the Special Rapporteur on Human Rights Defenders in Africa for a period of two years effective 5th December 2005.

84. ACHPR/Res.84(XXXVIII)05:RESOLUTION ON THE APPOINTMENT OF A SPECIAL RAPPORTEUR ON FREEDOM OF EXPRESSION IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its 38th Ordinary Session held from 21st November to 5th December 2005 in Banjul, The Gambia;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights;

Recalling the Resolution on Freedom of Expression adopted at its 29th Ordinary Session held from 23rd April to 7th May 2001 in Tripoli, Libya, to initiate an appropriate mechanism to assist it in reviewing and monitoring adherence to standards of freedom of expression and to investigate violations and make appropriate recommendations to the African Commission;

Recalling the Declaration of Principles on Freedom of Expression in Africa adopted at its 32nd Ordinary Session held from 17th to 23rd October 2002 in Banjul, The Gambia;

Recalling further the Resolution on the Mandate and Appointment of a Special Rapporteur on Freedom of Expression in Africa adopted at its 36th Ordinary Session held from 23rd November to 7th December 2004 in Dakar, Senegal;

Reaffirming the commitment of the African Commission on Human and Peoples' Rights to promote the right to freedom of expression and monitor the implementation of the Declaration of Principles on Freedom of Expression in Africa within Member States of the African Union;

Considering that the term of Mr. Andrew Chigovera as a Member of the African Commission came to an end along with his mandate as Special Rapporteur on 21 November 2005;

Appreciating the work that Mr. Andrew Chigovera has done as Special Rapporteur on Freedom of Expression;

Decides to appoint Commissioner Faith Pansy Tlakula as the Special Rapporteur on Human Rights Defenders in Africa for a period of two years effective 5th December 2005.

85. ACHPR /Res.85(XXXVIII)05: 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

The African Commission on Human and Peoples' Rights meeting at its 38th Ordinary Session in Banjul, The Gambia from 21 November to 5 December 2005;

Recalling the commitments of the Heads of States and Governments in the Solemn Declaration on Gender Equality in Africa made during the 3rd Ordinary Session held in Addis Ababa, Ethiopia, from 6 – 8 July 2004;

Noting with appreciation the election in Liberia of the first female President in Africa;

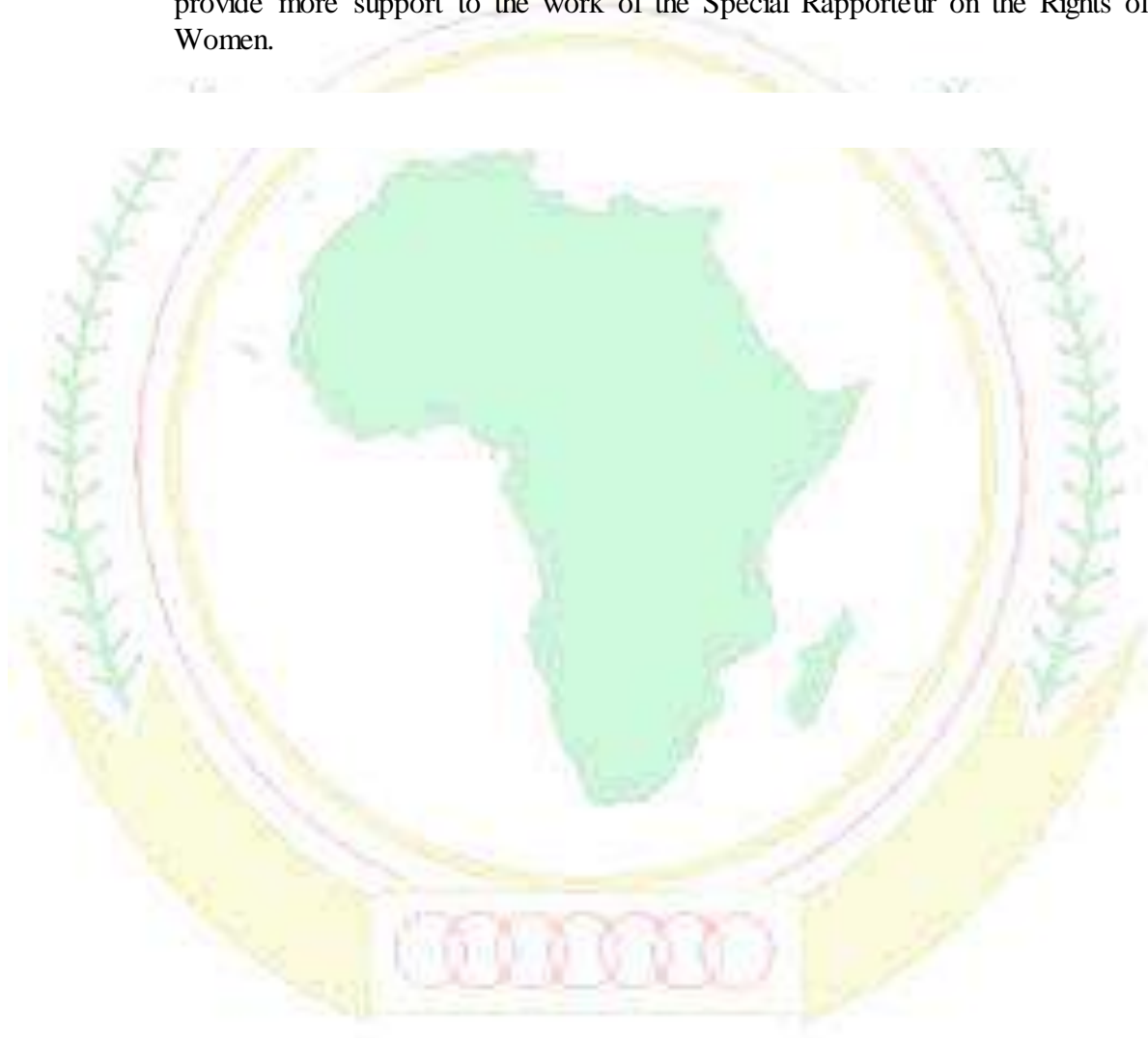
Further noting with appreciation the Member States of the African Union that have ratified the *Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa* which entered into force on 25 November 2005, namely Benin, Cape Verde, Comoros, Djibouti, Gambia, Libya, Lesotho, Mali, Malawi, Namibia, Nigeria, Rwanda, the Republic of South Africa, Senegal and Togo;

Recognizing that women in Africa continue to be subject to discriminatory laws and practices;

Reiterating its commitment to continue working to promote the rights of women in Africa;

1. **Congratulates** all women in Africa on the occasion of the historic and speedy entry into force of the *Protocol*;
2. **Congratulates** the Liberian people on the election, in November 2005, of the first female President in Africa, Ms. Ellen Johnson Sirleaf;
3. **Urges** Member States of the African Union that have not already done so to urgently ratify the *Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa* without reservations and to remove reservations where these have been included;
4. **Further urges** Member States that have already ratified this *Protocol* to immediately undertake measures for domestication, including the amendment of internal laws to conform with the provisions of the *Protocol*;
5. **Encourages** Member States to increase the participation of women in peacekeeping initiatives in the continent;

6. **Calls** on Member States to implement strategies, including affirmative action, to ensure that women can attain the highest levels of education and leadership in governance;
7. **Urges** Member States to respect their commitments under the CEDAW and the Beijing Platform of Action and urgently repeal or amend all laws and policies and eradicate all practices that are discriminatory against women;
8. **Urges** Member States, the African Union and international organisations to provide more support to the work of the Special Rapporteur on the Rights of Women.



86.ACHPR/Res.86(XXXVIII)05: RESOLUTION RELATING TO THE OPERATIONALISATION OF AN INDEPENDENT AND EFFECTIVE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS.

The African Commission on Human and Peoples' Rights meeting at its 38th Ordinary Session from 21st November to 5th December 2005 in Banjul, The Gambia;

Considering the terms of its *Resolution* of the 11th May 2005 on the creation of an effective African Court on Human and Peoples' Rights;

Favorably receiving the recommendations of the Executive Council of the African Union requesting its Member States that have not yet ratified the *Protocol* on the establishment of the African Court to do so;

Noting with appreciation the decision of the Assembly of Heads of State and Government of the African Union to elect Judges for the African Court on Human and Peoples' Rights;

1. **Urges** the Assembly of Heads of State and Government to operationalise the African Court on Human and Peoples' Rights by electing judges and allocating adequate resources to the African Court on Human and Peoples' Rights for its functioning;
2. **Urges** the African Union to include the African Commission on Human and Peoples Rights in the work and operationalisation process of the African Court on Human and Peoples' Rights;
3. **Urges** the Assembly of Heads of State and Government to consider putting in place a mechanism that will allow direct access for individuals to the African Court on Human and Peoples' Rights;
4. **Urges** the Member States of the African Union to take measures for the settlement of their financial obligations towards the African Union and to take concrete measures for eliciting voluntary contributions to the Human Rights Fund.

87. ACHPR/Res.87(XXXVIII)05: RESOLUTION ON ENDING IMPUNITY IN AFRICA AND ON THE DOMESTICATION AND IMPLEMENTATION OF THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT

The African Commission on Human and Peoples' Rights meeting at its 38th Ordinary Session held in Banjul, The Gambia from 21 November to 5 December 2005;

Recalling the *Resolution on the Ratification of the Treaty on the International Criminal Court* (the Rome Statute) by the African Commission on Human and Peoples' Rights, Banjul, 31st October 1998 and the *Resolution on the Ratification of the Statute of the International Criminal Court* by OAU Member States, Pretoria, 16 May 2002;

Noting with concern the numerous human rights abuses in parts of the African continent, most notably that men, women and children have been the victims of genocide, war crimes, crimes against humanity and other crimes recognised under international human rights law and international humanitarian law;

Noting that the perpetrators of these crimes are rarely brought to justice, while the victims are frequently denied an effective remedy;

Noting that the *Constitutive Act of the African Union*, Art. 3(h) and 4(o), expressly condemns and rejects impunity;

Further noting that 27 African states have ratified the Rome statute and that some of them have made efforts to give legal effect to the application of the Rome Statute nationally;

Deeply Concerned that some African governments that have ratified the Rome Statute have not taken the necessary measures to incorporate it at the national level;

Considering that, under the Rome Statute, the International Criminal Court has jurisdiction to try individuals suspected of having committed genocide, war crimes and crimes against humanity;

1. **Urges** the Member States of the African Union to ensure that the perpetrators of crimes under international human rights law and international humanitarian law should not benefit from impunity;
2. **Urges** Member States of the African Union that have not yet done so to ratify the Rome Statute and to adopt a national action plan for the effective implementation of the Rome Statute at the national level;
3. **Urges** African governments to withdraw from the Article 98 Bilateral Immunity Agreements and refrain from engaging in acts that would weaken the effectiveness of the Court in line with their international obligations;
4. **Calls** on civil society organizations in Africa to work in collaboration and develop partnerships in order to further respect for the rule of law internationally and to strengthen the Rome Statute;
5. **Encourages** the Assembly of Heads of State and Government of the African Union to urge its Members States to condemn and reject impunity.

88. ACHPR/Res.88(XXXVIII)05: RESOLUTION ON THE PROTECTION OF HUMAN RIGHTS AND THE RULE OF LAW IN THE FIGHT AGAINST TERRORISM

The African Commission on Human and Peoples' Rights, meeting at its 37th Ordinary Session held in from 21st November to 5th December 2005, Banjul, The Gambia,

Considering the preamble to the African Charter on Human and Peoples' Rights requesting Member States to re-affirm their support to human and peoples' rights and liberties contained in the Declarations, Treaties and other Instruments adopted within the framework of the United Nations and of the African Union;

Bearing in mind the provisions of the Constitutive Act of the African Union in Article 3(h), which enshrines the objective of the African Union to promote and protect human rights, and Article 4(o), which requires respect for the sanctity of human life, condemns impunity, political assassinations, acts of terrorism and subversive activities;

Taking into consideration Article 23 of the African Charter on Human and Peoples' Rights which guarantees the right of people to peace and security and prohibits States from allowing their territories to be used as bases for subversive or terrorist activities;

Considering also the fundamental importance of guaranteeing respect of all human and peoples' rights and the standards of the rule of law when legislating and implementing anti-terrorism laws;

Bearing in mind Articles 45 (1) and (2) of the African Charter on Human and Peoples' Rights mandating the African Commission on Human and Peoples' Rights to formulate and lay down principles on human rights issues upon which African Governments may base their legislation and requiring it to ensure the protection of human and peoples' rights as well as Article 60 permitting the African Commission on Human and Peoples' Rights to draw inspiration from international law on human and peoples' rights;

Recalling Article 22(1) of the Convention of the Organisation African Unity (OAU) on the Prevention and Combating of Terrorism that stipulates that no provisions of the Convention may be interpreted in a manner that derogates from the general principles of international law, particularly the principles of international humanitarian law and the African Charter on Human and Peoples' Rights;

Further recalling Article 3(k) of the Protocol to the OAU Convention on the Prevention and Combating of Terrorism under which States Parties commit themselves to outlaw torture and other degrading and inhuman treatment, including, discriminatory and racist treatment of terrorist suspects, which are inconsistent with international law;

Considering the role of the Peace and Security Council of the African Union as enshrined in the Protocol relating to the Establishment of the Peace and Security Council to coordinate and harmonise continental efforts in the prevention and combating of terrorism;

Considering further the role assigned to the African Commission on Human and Peoples' Rights in the Protocol relating to the Establishment of the Peace and Security Council of the African Union: *"to seek close cooperation with the Peace and Security Council and to draw the attention of the Peace and Security Council to all issues of relevance to its mandate"*;

Recalling Resolutions 1373 and 1456 of the United Nations Security Council, Resolutions 57/219 and 58/187 of the General Assembly, Resolutions 2003/68 and 2004/87 of the Human Rights Commission, Resolutions 2003/15 and 2004/14 of the Sub-Committee on the Promotion and Protection of Human Rights re-affirming that States should ensure that all measures taken to combat terrorism conform to their obligations under the terms of international law in general, and international human rights law, international humanitarian law and the rights of refugees in particular;

Deeply concerned by the increase in the number of terrorist acts perpetrated on the continent and legislations, measures and practices of States Parties, that may be inconsistent with the provisions of the African Charter on Human and Peoples' Rights;

Reaffirming the role of the African Commission on Human and Peoples' Rights in the implementation and monitoring of the respect for the provisions of the African Charter on Human and Peoples' Rights;

Recognising that the acts, methods and practices of terrorism in all its forms and manifestations are activities aimed at the destruction of human rights, fundamental liberties and democracy, constitute a threat to territorial integrity, the security of States and seek to destabilise legally constituted Governments;

1. **Calls on** all African States to take the necessary measures to reinforce their activities of cooperation in order to prevent and combat terrorism;
2. **Reaffirms** that African States should ensure that the measures taken to combat terrorism fully comply with their obligations under the African Charter on Human and Peoples' Rights and other international human rights treaties, including the right to life, the prohibition of arbitrary arrests and detention, the right to a fair hearing, the prohibition of torture and other cruel, inhuman and degrading penalties and treatment and the right to seek asylum;
3. **Undertakes to ensure** that all the special procedures and mechanisms of the African Commission on Human and Peoples' Rights consider within the framework of their mandates, the protection of human rights and fundamental freedoms in the context of measures aimed at preventing and combating terrorism and to coordinate their efforts, as appropriate, in order to promote a coherent approach in this regard;
4. **Decides** to organise a meeting of experts on the protection of human rights and the rule of law within the framework of the fight against terrorism in Africa;
5. **Appeals** to the relevant organs of the African Union and requests its other partners to provide the required assistance in the quest for resources and modalities to organise this experts' meeting;
6. **Instructs** the Secretariat to follow-up and coordinate this activity.

89. ACHPR/Res.89(XXXVIII)05: RESOLUTION ON THE SITUATION OF HUMAN RIGHTS IN ZIMBABWE

The African Commission on Human and Peoples' Rights meeting at its 38th Ordinary Session in Banjul, The Gambia from 21 November to 5 December 2005;

Considering that Zimbabwe is a Party to the *African Charter on Human and Peoples' Rights* and other international human rights instruments;

Recalling the recommendations to the government of Zimbabwe contained in the African Commission Report of the Fact-Finding Mission to Zimbabwe in June 2002;

Further recalling the recommendations to the government of Zimbabwe by the United Nations Special Envoy on Human Settlement Issues in Zimbabwe contained in her Report published on 22 July 2005;

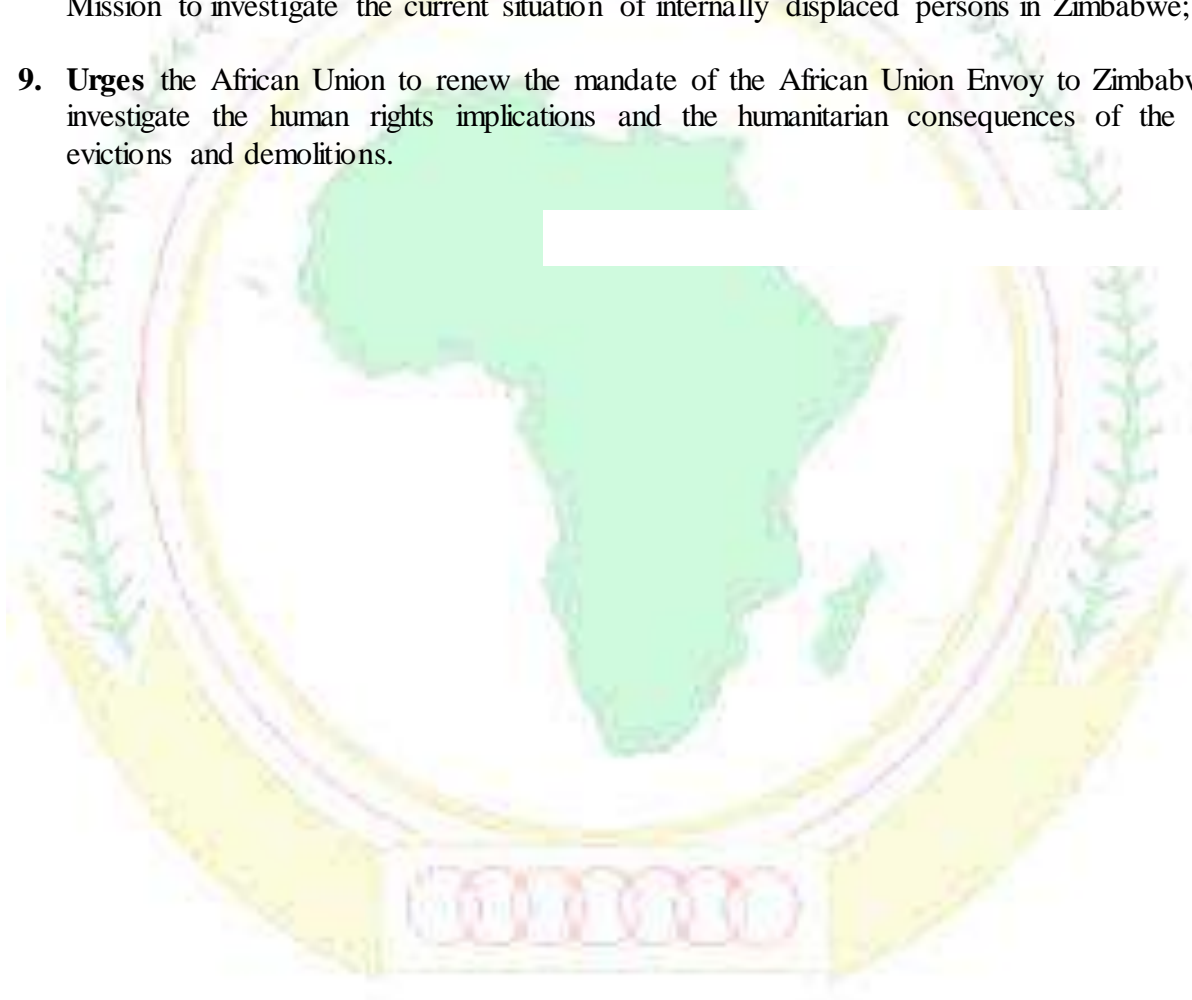
Deeply concerned by the continued undermining of the independence of the judiciary through defiance of court orders, harassment and intimidation of independent judges and the executive ouster of the jurisdiction of the courts;

Further concerned by the continuing human rights violations and the deterioration of the human rights situation in Zimbabwe, the lack of respect for the rule of law and the growing culture of impunity;

Alarmed by the number of internally displaced persons and the violations of fundamental individual and collective rights resulting from the forced evictions being carried out by the government of Zimbabwe;

1. **Condemns** the human rights violations currently being perpetrated in Zimbabwe;
2. **Urges** the government of Zimbabwe to cease the practice of forced evictions throughout the country, and to adhere to its obligations under the *African Charter on Human and Peoples' Rights* and other international human rights instruments to which Zimbabwe is a party;
3. **Urges** the government of Zimbabwe to implement without further delay the recommendations contained in the African Commission Report of the 2002 Fact-Finding Mission to Zimbabwe and the recommendations in the July 2005 Report of the UN Special Envoy on Human Settlement Issues, in particular to ensure full and unimpeded access for the provision of aid and protection to the victims of the forced evictions and demolitions by impartial national and international humanitarian agencies and human rights monitors, and to ensure that those responsible for the violations are brought to justice without delay;
4. **Calls** on the government of Zimbabwe to respect the fundamental rights and freedoms of expression, association and assembly by repealing or amending repressive legislation, such as the *Access to Information and Protection of Privacy Act*, the *Broadcasting Services Act* and the *Public Order and Security Act*;
5. **Calls** on the government of Zimbabwe to uphold the principle of separation of powers and the independence of the judiciary and urges the government of Zimbabwe to repeal or amend Constitutional Amendment (No.17) and provide an environment conducive to constitutional reform based on fundamental rights;

6. **Calls** on the government of Zimbabwe to cooperate with the African Commission Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa and other African Commission Special Mechanisms, including allowing a Fact-Finding Mission to investigate the current situation of internally displaced persons in Zimbabwe;
7. **Urges** the African Union to renew the mandate of the African Union Envoy to Zimbabwe to investigate the human rights implications and humanitarian consequences of the mass evictions and demolitions.
8. **Calls** on the government of Zimbabwe to cooperate with the African Commission Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa and other African Commission Special Mechanisms, including by allowing a Fact-Finding Mission to investigate the current situation of internally displaced persons in Zimbabwe;
9. **Urges** the African Union to renew the mandate of the African Union Envoy to Zimbabwe to investigate the human rights implications and the humanitarian consequences of the mass evictions and demolitions.



90.ACHPR/Res.90(XXXVIII)05: RESOLUTION ON THE SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO

The African Commission on Human and Peoples' Rights meeting at its 38th Ordinary Session in Banjul, The Gambia from 21 November to 5 December 2005;

Considering the two wars of 1996 and 1998 experienced by the Democratic Republic of Congo and their consequences in terms of serious violations of human rights and international humanitarian law;

Considering that the International Criminal Court has opened an inquiry into the crimes committed in the Democratic Republic of Congo from the 1st July 2002;

Recalling the Resolution 1592 (2005) adopted by the United Nations Security Council on the 30th March 2005 and its preceding Resolutions;

Disturbed by the continuing violence in the East of the Democratic Republic of Congo, in particular in the Provinces of the Northern and Southern Kivu and in the Ituri District, and by the serious human rights and international humanitarian law violations accompanying it;

1. **Calls on** the Government of National Unity and Transition to guarantee the security of civilians, including humanitarian personnel, by extending the authority of the State effectively over the entire national territory of the Democratic Republic of Congo;
2. **Requests** the Congolese government to bring to justice the perpetrators of crimes committed in Congolese territory and to cooperate fully with the organs of the International Criminal Court, most notably by adopting a law adapting the Statute of the International Criminal Court;
3. **Requests** the coordinators of the various transitional institutions in the Democratic Republic of Congo to achieve concrete progress for the effective holding of the elections, most notably by promoting the constitutional referendum and the adoption of an electoral law, as well as the registration of voters on electoral lists;
4. **Requests** MONUC to enforce its mandate relating to the enforcement of the process of disarmament, demobilisation, repatriation and reintegration of the rebel Congolese Armed Groups, as well as the protection of the civilian population;
5. **Calls** on the entire international community, in particular the countries of the Great Lakes region, to strictly implement the Arms Embargo in conformity with the various relevant Resolutions of the Security Council.

91. ACHPR/Res.91(XXXVIII)05: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN ERITREA

The African Commission on Human and Peoples' Rights meeting at its 38th Ordinary Session held in Banjul, The Gambia, from 21 November to 5 December 2005;

Considering that the State of Eritrea is a State Party to the *African Charter on Human and Peoples' Rights*;

Recalling that freedom of opinion and expression as well as the right to assembly are fundamental rights enshrined in international instruments ratified by Eritrea, and notably Articles 9 and 11 of the *African Charter on Human and Peoples' Rights*;

Recalling Article 7 of the *African Charter on Human and Peoples' Rights* which ensures the right to a fair trial and the *Guidelines and Principles on the Right to a Fair Trial and to Judicial Assistance in Africa* developed by the African Commission on Human and Peoples' Rights;

Considering Article 1 of the *African Charter on Human and Peoples' Rights* which stipulates that "the State Parties recognise the rights, duties, and freedoms enshrined in this Charter and shall undertake to adopt legislative or other measures to give effect to them";

Considering the provisions of the *Constitutive Act of the African Union*, the *United Nations Charter*, as well as the *African Charter on Human and Peoples' Rights* and other international human rights instruments to which Eritrea is a party and, consequently, that the State is legally bound to fully and effectively implement these same instruments without any discrimination whatsoever;

Deeply concerned about the arbitrary arrests and continued detention without trial for many years of several former cabinet ministers and government officials, members of opposition groups, journalists and media practitioners in violation of the provisions of the *African Charter on Human and Peoples' Rights*;

Recalling the decision of the African Commission, under Communication no. 250/2002, and the call addressed to the Government to comply with the recommendation of the former for the release of the detainees;

1. **Condemns** the continued detention of the former cabinet ministers, government officials, members of Parliament, journalists, media practitioners and others for many years;
2. **Calls** on the Government of Eritrea to fulfil its obligations in line with the *Constitutive Act of the African Union*, the *African Charter on Human and Peoples' Rights* and other pertinent instruments to which Eritrea is a party;
3. **Calls** on the Government of Eritrea to guarantee, at all times, the right to a fair trial, freedom of opinion and expression as well as the right to peaceful assembly;
4. **Calls** on the Government of Eritrea to immediately free the former cabinet ministers, government officials, members of Parliament, journalists, media practitioners and other individuals who have been arrested and detained without trial for many years;
5. **Calls** on the Eritrean Government to comply with the international instruments ratified by Eritrea, most notably the *African Charter on Human and Peoples Rights* (ACHPR), the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) and to cooperate with the African Commission on Human and Peoples' Rights.

92. ACHPR/Res.92(XXXVIII)05: RESOLUTION ON THE SITUATION OF HUMAN RIGHTS IN ETHIOPIA

The African Commission on Human and Peoples' Rights meeting at its 38th Ordinary Session held in Banjul, The Gambia from 21 November to 5 December 2005;

Considering that the Democratic Federal Republic of Ethiopia is a State Party to the *African Charter on Human and Peoples' Rights*;

Recalling that freedom of opinion and expression as well as the right to assembly are fundamental rights enshrined in international instruments ratified by Ethiopia, and notably Articles 9 and 11 of the *African Charter on Human and Peoples' Rights*;

Recalling Article 7 of the *Charter* which ensures the right to a fair trial and the Guidelines and Principles on the Right to a Fair Trial and to Judicial Assistance in Africa developed by the African Commission on Human and Peoples' Rights;

Deeply concerned about the situation going on in Ethiopia since June 2005 and notably the arbitrary arrests and other serious human rights violations directed at suspected members and supporters of opposition groups, students and human rights defenders;

Recalling that on 8th June and 1st November 2005 security forces killed and injured demonstrators during a demonstration protesting the results of the parliamentary elections in Addis Ababa and other towns;

Concerned by the arbitrary detention of opposition leaders and journalists in Ethiopia;

Noting the creation by the government of Ethiopia of a National Parliamentary Commission to investigate the facts concerning the acts of violence in the country;

- 6. Deplores** the killing of civilians during confrontations with security forces;
- 7. Requests** that the Ethiopian authorities release arbitrarily detained political prisoners, human rights defenders and journalists;
- 8. Calls** on the Ethiopian government to guarantee, for any accused individual, the right to a fair trial as provided by the *African Charter on Human and Peoples' Rights* and other relevant international human rights instruments, including the right to seek pardon or commutation of sentence;
- 9. Calls** on the Ethiopian government to ensure the impartiality, independence and integrity of the National Parliamentary Commission investigating the recent acts of violence in the country and to bring the perpetrators of human rights violations to justice;
- 10. Urges** the Ethiopian government to guarantee, at all times, freedom of opinion and expression as well as the right to hold peaceful demonstration and political assembly;
- 11. Requests** that the Ethiopian government guarantees, in all circumstances, the physical and psychological integrity of human rights defenders in compliance with international instruments especially the *Declaration of Human Rights Defenders* adopted by the U.N. General Assembly in December 1998;
- 12. Calls** on the Ethiopian government to comply with the international instruments ratified by Ethiopia, most notably the *African Charter on Human and Peoples' Rights* (ACHPR), the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).

93. ACHPR/Res.93(XXXVIII)05: RESOLUTION ON THE SITUATION OF HUMAN RIGHTS IN THE DARFUR REGION OF SUDAN

The African Commission on Human and Peoples' Rights meeting at its 38th Ordinary Session in Banjul, The Gambia from 21 November to 5 December 2005;

Considering the provisions of the *Constitutive Act of the African Union* (AU) and the *Charter of the United Nations Organisation* (UN), as well as those of the *African Charter on Human and Peoples' Rights* and other regional and international human rights instruments to which the Sudan is a State Party;

Recalling relevant Decisions and Communiqués adopted by the AU Assembly of Heads of State and Government and those of the Peace and Security Council on the situation in Darfur, most notably Decisions AU/Dec.54(III) and Assembly/AU/Dec.68 (IV) adopted at the 3rd and 4th Ordinary Sessions of the AU Assembly of Heads of State and Government respectively, as well as Communiqués PSC/PR/Comm.(XIII) and PSC/PR/Comm.(XVII) adopted by the AU Peace and Security Council at their 13th and 17th Meetings respectively;

Recalling Resolutions 1556/2004 of 30 July 2004 and 1590/2005, 1591/2005 and 1593/2005 adopted by the UN Security Council on the situation in Darfur, Sudan in March 2005;

Recalling also Resolution ACHPR /Res.74 (XXXVII) 05 adopted by the 37th Ordinary Session of the African Commission on Human and Peoples' Rights on 11th May 2005 on the situation in the Darfur region of Sudan and Resolution ACHPR/Res.68 (XXXV) 04 adopted by the 35th Ordinary Session on 4th June 2004, as well as Resolution E/CN.4/RES/2005/82 adopted by the UN Commission on Human Rights on 21st April 2005 on the situation of human rights in Sudan;

Deeply concerned about the continuing grave violations of human rights and international humanitarian law in Darfur committed by parties to the conflict, in particular the continued depopulation of vast areas in the region of their indigenous owners, threats of violence, intimidation and assault against UN agencies and humanitarian organizations, the targeting and killing of AU troops in Darfur, and the killing and abduction of staff members of national and international humanitarian organisations;

Concerned that the African Commission undertook a Fact-Finding Mission to the Darfur region of Sudan in July 2004 and dispatched its report to the government of Sudan but has not yet received a response;

1. **Calls** on the government of Sudan to submit its comments to the African Commission with respect to its report on the 2004 Fact-Finding Mission to Sudan;
2. **Calls** on the government of Sudan to comply with its obligations under the African Charter on Human and Peoples' Rights, the AU Constitutive Act, the UN Charter and other relevant instruments to which the Sudan is a State Party, and comply with the following:
3.
 - a. **Cease**, with immediate effect, all attacks against civilians in Darfur and end the grave violations of human and peoples' rights, in particular the forced de-population of entire areas in the region, rape and sexual violence against women and girls, abduction of women and

children, and to cease all support to the Janjaweed militiamen, including the provision of supplies.

b. Provide the necessary support to all international agencies and humanitarian organisations in order to ensure effective and full access to the war affected areas of Darfur and to facilitate delivery of humanitarian assistance to civilian populations.

c. **Fully and unconditionally** cooperate with the Office of the Prosecutor of the International Criminal Court in his efforts to investigate and bring to justice all persons suspected of perpetrating war crimes and crimes against humanity as prescribed in the report of the International Commission of Inquiry on Darfur.

d. **Take all appropriate measures** to ensure the effective implementation of the Resolutions 1556/2004 of 30 July 2004 and 1590/2005, 1591/2005 and 1593/2005 adopted on 29 and 31 March 2005 by the United Nations Security Council;

e. **Calls** on all parties to the conflict to return to negotiations and to cooperate with the international organs and humanitarian organisations.

94.ACHPR/Res.94(XXXVIII)05: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN UGANDA

The African Commission on Human and Peoples' Rights, meeting at its 38th Ordinary Session held in Banjul, The Gambia, from the 21st November to 5th December 2005.

Bearing in mind Article 45 of the African Charter on Human and Peoples' Rights which stipulates the mandate of the African Commission on Human and Peoples' Rights;

Considering that conflicts in many African countries, including the Republic of Uganda have been responsible for the violation of the Human Rights of civilian population, in particular vulnerable groups such as the elderly, women and children;

Concerned that the said conflict has been responsible for insecurity in Northern Uganda leading to displacement of an estimated 1.8 million people; among whom are young children who are constantly trekking between their villages and towns at night to avoid abduction;

Taking note of the previous concerted efforts by the Government of the Republic of Uganda to bring this conflict to an end;

Welcoming the investigations by the Office of the Prosecutor of the International Criminal Court and the subsequent issuance of arrest warrants in respect of the top leaders and commanders of the Lord Resistance Army (LRA);

Aware that the Republic of Uganda is committed to the independence of the Judiciary and legal profession in that country, as stipulated under Article 26 of the African Charter on Human and Peoples' Rights;

Recalling Article 7 of the African Charter and the Guidelines and Principles on the Rights to Fair Trial and to Judicial Assistance developed by the African Commission on Human and Peoples' Rights;

Deeply concerned and disturbed that the LRA has committed grave Human Rights violations against the civilian population in particular, the mutilation of their victims, abduction of young boys into its rebel forces as child soldiers and forces the young girls into sexual slavery;

Disturbed by recent events on 16th November 2005 threatening the judiciary and lawyers in Uganda;

1. **Calls on** the parties to the conflict to immediately open negotiation with a view to a conclusion of a ceasefire and peace agreement;
2. **Calls on** the LRA to free immediately all the child soldiers, young girls and women held by them and demobilize all combatants;
3. **Supports** the efforts of the Office of the Prosecutor of the International Criminal Court in its investigations against conduct and activities by the parties to the conflict deemed to be violations of the Rome Statute and to bring those responsible for war crimes in Northern Uganda to justice;

4. **Calls on** the international community to urge the parties to the conflict in Northern Uganda to find a peaceful and lasting resolution to the conflict;
5. **Urges** the international community to offer material support to take steps to demobilize the combatants of the LRA, and to assist the people of Northern Uganda in their rehabilitation after 19 years of conflict;
6. **Condemns** the recent incidents of violence in Uganda, which threatens the peace and stability of the country, in particular the threats to the independence of the judiciary and the legal profession in Uganda;
7. **Calls on** the Government of the Republic of Uganda to guarantee the independence of the Judiciary and the integrity of the members of the legal profession, in order to ensure impartiality in rendering justice, without intimidation or interference;
8. **Calls on** the Government of Uganda to undertake amendments to its laws and abolish the practice of bringing civilians before the Court Martial, and reserve its exclusive jurisdiction to matters affecting serving members of the military in Uganda;
9. **Urges** the Government of the Republic of Uganda to ensure that it guarantees the respect, promotion and protection of human and peoples' rights in Uganda.

Section D

**Resolutions adopted during the
39th - 46th Sessions**

2006 - 2009



95. ACHPR/Res.95(XXXIX)06: RESOLUTION ON THE RENEWAL OF THE TERM AND EXTENSION OF THE MANDATE OF THE SPECIAL RAPPORTEUR ON REFUGEES, ASYLUM SEEKERS, AND INTERNALLY DISPLACED PEOPLE IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its 39th Ordinary Session held from 11th to 25th May 2006 in Banjul, The Gambia,

Recalling its decision at its 35th Ordinary Session held from 21st May to 4th June 2004 in Banjul, The Gambia, to establish a Special Rapporteur mechanism in respect of Refugees, Asylum Seekers and Internally Displaced Persons in Africa;

Recalling further its decision at its 35th Ordinary Session to designate, Commissioner Bahame Tom Nyanduga, as the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa for an initial period of two years;

Bearing in mind its resolution taken at its 36th Ordinary Session held from 23rd November to 7th December 2004 in Dakar, Senegal, by which it delineated the mandate of the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa;

Reaffirming the importance of the mechanism of the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa;

Alarmed by the increase in the incidence, and number of migrants seeking to leave the territories of their State Parties, travelling through hazardous, dangerous and inhuman means and conditions, and the grave violations of the right to life, freedom of movement, right to liberty and dignity, among others faced by the migrants;

Considering the necessity of allowing the Special Rapporteur to carry on his mandate;

1. **Commends** Commissioner Bahame Tom Nyanduga, Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa for the work he has so far accomplished; in highlighting the plight of, and progress made in relation to refugees, asylum seekers and internally displaced persons in many parts of Africa;
2. **Decides** to renew the term of Commissioner Bahame Tom Nyanduga as a Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa, and extends the mandate to cover migration issues for a period of two years;
3. **Requests** the Commission of the African Union, in view of Article 41 of the African Charter on Human and Peoples' Rights, to provide adequate resources, assistance and support to facilitate the Special Rapporteur's efforts in discharging his mandate;
4. **Further requests** the Secretariat of the African Commission to enhance its efforts to mobilise resources that could assist the Special Rapporteur to carry out his mandate.

96. ACHPR/Res.96(XXXX)06: RESOLUTION ON THE ESTABLISHMENT OF A VOLUNTARY CONTRIBUTION FUND FOR THE AFRICAN HUMAN RIGHTS SYSTEM

The African Commission on Human and Peoples' Rights, meeting at its 40th Ordinary Session held in Banjul, The Gambia, from 15 - 29 November 2006,

Considering that article 45 of the African Charter on Human and Peoples' Rights provides the mandate for the promotion and the protection of human and peoples' rights in Africa;

Mindful of the fundamental objectives and principles provided for under the Constitutive Act of the African Union, which *inter alia*, enshrine the principles for the promotion and protection of human and peoples' rights in Africa;

Recalling that the African Court on Human and Peoples' Rights has been established under the terms of the Protocol to the African Charter on Human and Peoples on the establishment of the African Court on Human and Peoples' Rights,

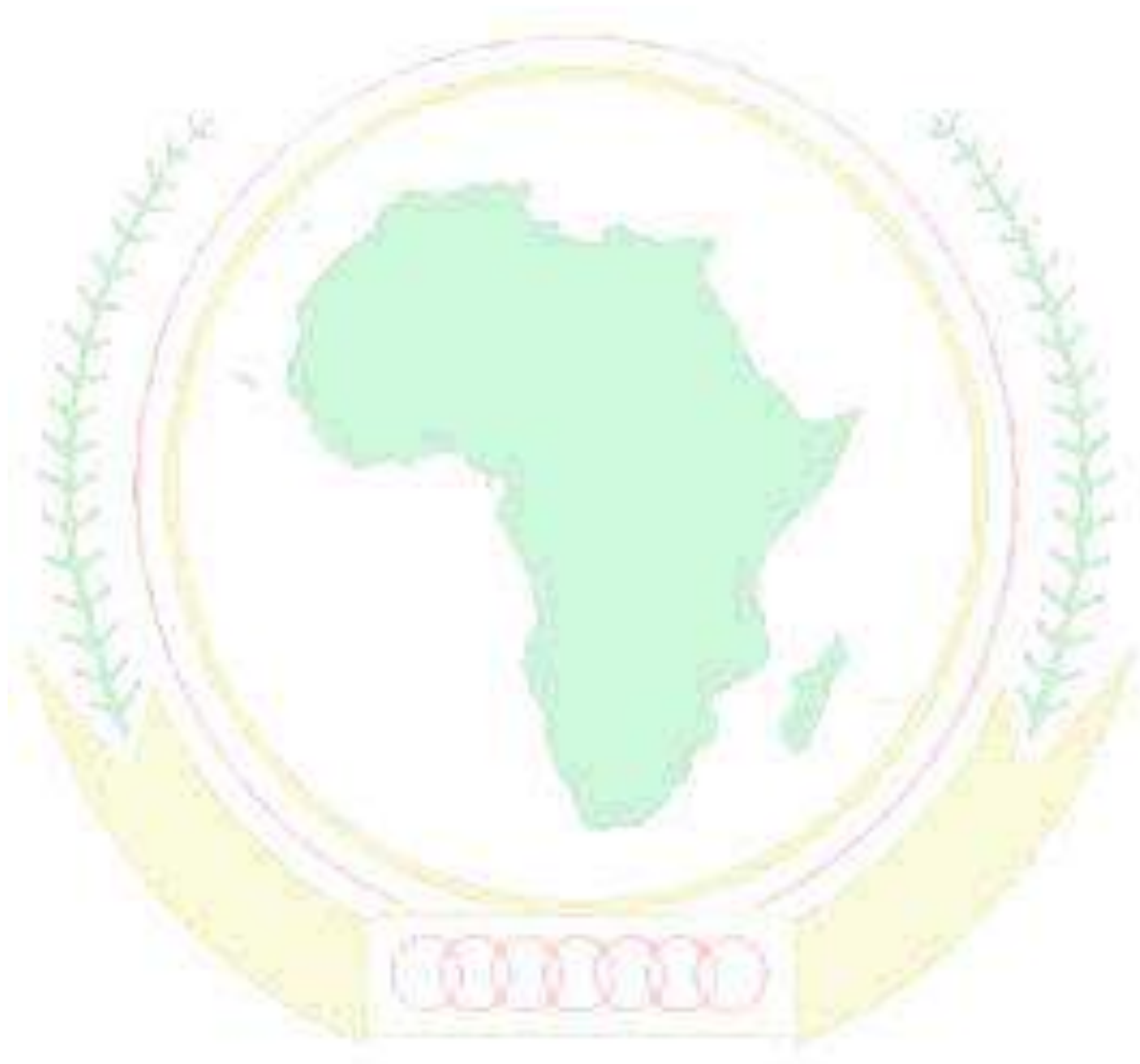
Bearing in mind that the African Charter on the Rights and Welfare of the Child establishes the Committee of Experts on the Rights and Welfare of the Child in Africa;

Recalling that the Grand Bay (Mauritius) Declaration and Plan of Action adopted at the 1st Ministerial Conference of the Organisation of African Unity on Human Rights on 16 April 1999, *inter alia*, states «the need to provide the Commission with adequate human material and financial resources»;

Noting the Kigali declaration adopted at the 2nd Ministerial Conference of the Organization of African Unity on Human Rights on 8 May, 2003 calls upon the AU policy organs to provide the African Commission on Human and Peoples' Rights with suitable headquarters, an appropriate structure and adequate financial and human resources for its proper functioning, including the establishment of a Fund to be financed by Voluntary Contributions from Member States and international and regional institutions;

1. **CALLS UPON** the competent organs of the Commission of the African Union to present to the executive council a draft decision for the establishment of a Fund to be financed by Voluntary Contributions for the African Commission on Human and Peoples' Rights with the following mandate;
 - to strengthen the human, material, technical and financial resources of the African Commission for the implementation of its mandate of promotion and protection of Human Rights in Africa;
 - to strengthen the activities of the special mechanisms set up by the African Commission on Human and Peoples' Rights;
2. **PROPOSES** that the fund be financed through contributions from Member States, Inter-Governmental, Regional, and International Institutions, as well as public and private donors;
3. **RECOMMENDS** that the fund have a seven member Board of Directors comprising of:
 - A representative of the African Union Commission ;
 - Members of the African Commission on Human and Peoples' Rights Bureau (Chairperson, Deputy-Chairperson) ;
 - The Secretary of the African Commission on Human and Peoples' Rights;

- A representative of the African Court on Human and Peoples' Rights;
 - A representative of the Committee of experts on the rights and welfare of the child;
 - An independent expert nominated by the African Union Commission;
4. **RECOMMANDS** that African Union Budgetary regulations govern the management of the said funds;
5. **REQUESTS** the Bureau of the African Commission on Human and Peoples Rights to follow up on this matter with the African Union Commission



97. ACHPR/Res.97(XXXX)06: RESOLUTION ON THE IMPORTANCE OF THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS BY STATES PARTIES

The African Commission on Human and Peoples' Rights, meeting at its 40th Ordinary Session in Banjul, the Gambia, from 15 - 29 November 2006,

Considering that the mandate of protection of human and peoples' rights entrusted to it by the African Charter on Human and Peoples' Rights implies *inter alia* the receipt and consideration of Communications in light of the provisions of the Charter and making findings on their violations or otherwise, with a view to safeguarding the enjoyment of human and peoples' rights and fundamental freedoms and providing redress for breaches thereof;

Considering also that in the process of achievement of the above-mentioned mandate deriving from the provisions of Articles 45(2) and 47-58 of the African Charter on Human and Peoples' Rights, the Commission makes recommendations on the basis of communications brought before it by individuals, groups of individuals and state parties alleging violations of human and peoples' rights;

Noting that State Parties in ratifying without any reservation, the African Charter on Human and Peoples' Rights have thus agreed to accept the authority and the essential role of the Commission in the promotion and protection of Human and Peoples' Rights throughout Africa;

Noting in addition that the member states of the African Union have solemnly reaffirmed their adherence to the principles enunciated by the Universal Declaration of Human Rights as well as to the African Charter on Human and Peoples' Rights and that the latter adherence was renewed through Articles 3d, g, h, k; 4h, l, m, o, p; 9(1) b, e & 23(2) of the Constitutive Act, establishing the African Union;

Noting further, by its Resolution AHG/Res. 198 (XV), of the Thirtieth Ordinary Session of the Assembly of Heads of State and Government (1994) reaffirmed the need for Member States to take concrete measures towards the effective implementation of the provision of the African Charter on Human and Peoples' Rights;

Recalling that the Vienna Declaration of 25 June 1993 and its programme of action – for which Member States of the African Union (then Organisation of African Unity) have actively participated in the elaboration and adhere to – calls upon the African Community to proceed in carrying human rights closer to their prime subject: the human being, and that the said process is the one followed by the African Commission on Human and Peoples' Rights by making recommendations to concerned States to provide remedies for the victims within their jurisdictions;

Convinced that compliance of State Parties to its recommendations will contribute to the enhancement of the work of the Commission as well as to the improvement of the conditions of the population under their jurisdiction and also contribute to the promotion and enhancement of the rule of law in Africa;

Recalling further that the Commission would not properly achieve its mission of promotion and protection of human and peoples' rights without the co-operation of state parties;

1. **CONGRATULATES** those State Parties who have complied with its recom-

mendations and encourage them to continue in the same way;

2. **CALLS UPON** all state parties to the African Charter on Human and Peoples' Rights to respect without delay the recommendations of the Commission;
3. **DECIDES** (without prejudice to the provisions of Articles 58 and 59 of the Charter) to submit at every session of the Executive Council a report on the situation of the compliance with its recommendations by the State Parties (annexed to its Annual Activity Report);
4. **REQUESTS** all State Parties to the African Charter on Human and Peoples' Rights to indicate the measures taken and/or the obstacles in implementing the recommendations of the African Commission within a maximum period of ninety (90) days starting from the date of notification of the recommendations.



98. ACHPR/RES.98(XXXIX)06: RESOLUTION ON THE APPOINTMENT OF A COMMISSIONER AS MEMBER OF THE WORKING GROUP ON INDIGENOUS POPULATIONS/COMMUNITIES IN AFRICA

The African Commission on Human and Peoples' Rights, meeting in its 40th Ordinary Session held in Banjul, The Gambia, from 15 to 29 November 2006,

Considering that at its 28th Ordinary Session held in Cotonou, Benin in October 2000, the African Commission on Human and Peoples' Rights adopted a Resolution on the Rights of Indigenous Populations/Communities in Africa providing for the establishment of a Working Group and defining its mandate;

Recalling the Resolution of the African Commission on Human and Peoples' Rights on the Adoption of the Report of the Working Group on Indigenous Populations/Communities in Africa, taken at its 34th Ordinary Session held in Banjul, The Gambia, from 6 - 20 November, 2003 on the composition of the Group and specifying its mandate;

Bearing in mind the Resolution on the Composition and the Renewal of the Mandate of the Working Group on Indigenous Populations/Communities in Africa, taken at the 38th Ordinary Session held in Banjul, The Gambia from 21 November - 5 December, 2005;

Taking into consideration the intensification of the activities of the Working Group and the need to boost its composition;

1. **APPOINTS** Commissioner **Mumba Mallila** as Member of the Working Group on Indigenous Populations/Communities in Africa.

99. ACHPR/Res.99(XXXX)06: RESOLUTION ON THE SITUATION OF FREEDOM OF EXPRESSION IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its 40th Ordinary Session, held in Banjul, The Gambia, from 15 - 29 November 2006,

Emphasizing that freedom of expression is a fundamental human right guaranteed on the one hand by Article 9 of the *African Charter on Human and Peoples' Rights* which provides that every individual shall have the right to receive information and express and disseminate his opinions within the law, and on the other hand, by the *Universal Declaration of Human Rights* (in particular, in its Article 19), the *International Covenant on Civil and Political Rights* (in particular, in its Article 19) and other treaties, resolutions, international instruments and national constitutions;

Recalling ACHPR/Res.62 (XXXII) 02 on the adoption of the *Declaration of Principles on Freedom of Expression in Africa* (2002) which elaborates on the nature and on the content and extent of the right to freedom of expression provided for under Article 9 of the *African Charter*;

Reaffirming the fundamental importance of freedom of expression and information as an individual human right, as a cornerstone of democracy and as a means of ensuring respect for all human rights and freedoms; as well as the need to ensure the full realization of the right to freedom of expression and information in Africa;

Concerned that, despite the adoption of the above-mentioned *Declaration of Principles on Freedom of Expression in Africa* and recent regional instruments, there has been a deterioration of the situation of freedom of expression in some parts of the African continent;

Concerned by recent reports of on-going and widespread violations of the right to freedom of expression by some States Parties to the Charter;

Concerned by the harassment, threats and intimidation of media practitioners, undue political interference with the media, victimisation of media houses deemed critical of government policies, seizure of publications and destruction of equipment, and the closure of private media establishments;

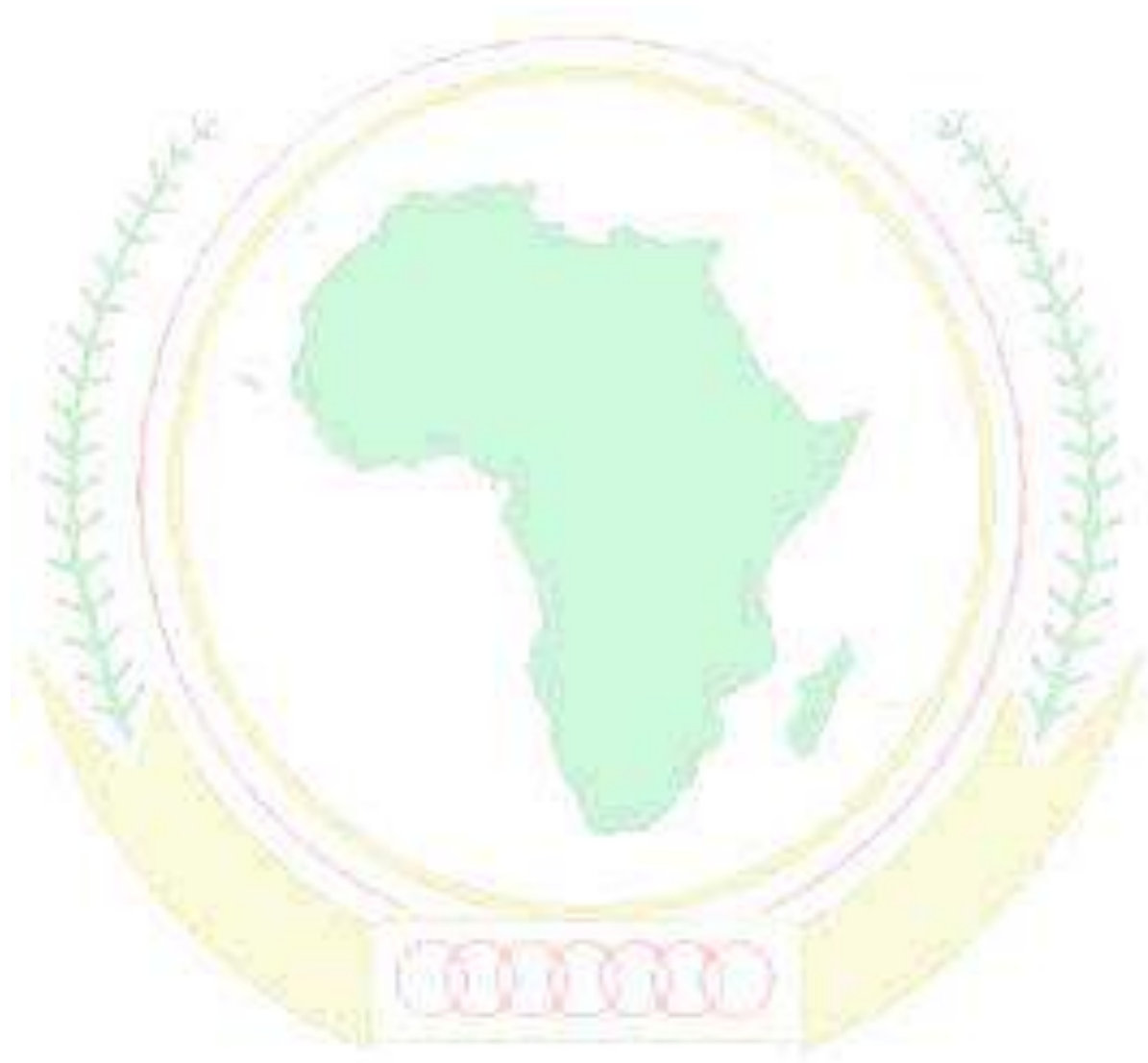
Concerned by the adoption of repressive laws or amendment to existing legislation that limit freedom of expression and the free flow of information;

Concerned by reports of disappearances, arbitrary arrests and detention of journalists and media practitioners, in some cases *incommunicado* and for extended period of time without charges or due process;

Particularly concerned about allegations of murder of journalists with impunity, torture and other forms of ill-treatment as well as death in custody of media practitioners;

1. CALLS ON Members States to take all necessary measures in order to uphold their obligations under the *African Charter on Human and Peoples' Rights* and other international instruments, including the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights* providing for the right to freedom of expression;

2. **CALLS ON** Members States to extend their full collaboration with the mandate of the Special Rapporteur on Freedom of Expression in Africa, in order to strengthen the right to freedom of expression on the African continent and work towards the effective implementation of the principles enshrined in the *Declaration of Principles on Freedom of Expression in Africa* and other applicable human rights standards in the region in order to achieve this goal.



100. ACHPR/Res.100(XXXX)06: RESOLUTION ON THE ADOPTION OF THE LILONGWE DECLARATION ON ACCESSING LEGAL ASSISTANCE IN THE CRIMINAL JUSTICE SYSTEM

The African Commission on Human and Peoples' Rights meeting at its 40th Ordinary Session, held in Banjul, The Gambia, from 15 - 29 November 2006;

Recalling its mandate under Article 45(b) of the African Charter on Human and Peoples' Rights (the Charter) "to formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African states may base their legislation";

Recalling Articles 7 and 26 of the Charter, which guarantee the right to a fair trial and legal counsel before independent courts;

Recalling its Resolution on the *Right to Recourse and Fair Trial*, adopted at its 11th Ordinary Session in Tunis, Tunisia in 1992;

Recalling further its resolution on the *Respect and Strengthening of the Independence of the Judiciary*, adopted at its 19th Ordinary Session in Ouagadougou, Burkina Faso in 1996;

Recognising its resolution on the *Right to Fair Trial and Legal Assistance in Africa*, adopted at its 26th Ordinary Session in Rwanda in 1999;

Recalling the *Principles and Guidelines on the Right to Fair Trial and Legal Assistance in Africa*, adopted in 2001;

Concerned with the continued lack of legal aid in most parts of Africa and its adverse impact on the right to access to justice in Africa;

1. **SUPPORTS** the *Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa*, adopted by the Conference on Legal Aid in Criminal Justice: the Role of Lawyers, Non-Lawyers and other Service Providers, Lilongwe, Malawi, November 2004;
2. **URGES** all stakeholders to make every effort to make these declarations widely known in Africa and invites State Parties to the Charter to take into account the principles in the Declaration when formulating policies and domestic legislation;
3. **APPEALS** to Member States to take all necessary measures in order to uphold their obligations under the Charter and other international instruments, including the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights* providing for the right to fair trial and access to justice;
4. **CALLS** on Members States to extend their full collaboration with the mandate of the Special Rapporteur on Prisons and Conditions of Detention in Africa in monitoring prisons and conditions of detention in Africa.

101. ACHPR/Res.101(XXXX)06: RESOLUTION ON THE COMPOSITION AND OPERATIONALISATION OF THE WORKING GROUP ON DEATH PENALTY

The African Commission on Human and Peoples' Rights meeting at its 40th Ordinary Session held in Banjul, the Gambia, from 15 - 29 November 2006;

Considering the provisions of the African Charter on Human and Peoples' Right which entrusts it with a treaty monitoring function and a mandate to promote human and peoples' rights and ensure their protection in Africa;

Recalling the decision of the African Commission at its 37th Ordinary Session to appoint two Commissioners to work with the Special Rapporteur on Prisons and Conditions of Detention in Africa to improve the document on the Question of the Death Penalty in Africa;

Considering the trends in international law which encourage the abolition of the death penalty, in particular the 2nd Protocol to the International Covenant on Civil and Political Rights, the Statute of the International Criminal Court and the Resolution of UN Commission on Human Rights, 2005/59, on the Question of the Death Penalty and the debates and initiatives undertaken by civil society and other stakeholders on the question of the death penalty;

Recognizing that fourteen (14) African Union Member States have already abolished the death penalty and thirteen (13) others are exercising a moratorium on its application;

Recalling its resolution 79/XXXVIII/05 on the composition and operationalisation of the working group on the death penalty adopted at its 38th Ordinary Session to expand the composition of the Working Group to include two members of the Commission and five independent experts and to broaden its mandate;

1. **DECIDES TO** increase the number of independent experts to six (6) in order to adequately represent the different geographical sub-regions, legal systems as well as gender;
2. **APPOINTS** the following members as experts:
 - ✓ Ms. Alya Cherif Chammari (Tunisia)
 - ✓ Ms. Alice Mogwe (Botswana)
 - ✓ Mr. Mactar Diallo (Senegal)
 - ✓ Prof. Philip Francis Iya (Uganda)
 - ✓ Prof. Carlson E Anyangwe (Cameroon)
 - ✓ Prof. Mohamed S. El-Awa (Egypt)
3. **REQUESTS** the African Union to provide adequate resources, assistance and support in the implementation of this Resolution.
4. **CALLS UPON** other partners to provide further assistance to the Working Group to fulfil its mandate.

102. ACHPR/Res.102(XXXX)06: RESOLUTION ON THE SITUATION IN DARFUR

The African Commission on Human and Peoples' Rights, meeting in its 40th Ordinary Session held in Banjul, The Gambia, from 15 to 29 November 2006,

Being aware of the grave human rights situation prevailing in the Darfur Region of Sudan since February 2003;

Recalling its Resolutions ACHPR /Res.68 (XXXV) 04, ACHPR /Res.74 (XXXVII) 05 and ACHPR/Res.93 (XXXVIII) 05 on the human rights situation in Darfur;

Noting with concern the human rights violations perpetrated by the parties to the conflict against the civilian populations, internally displaced persons in Darfur, and refugees who fled from Darfur;

Expressing satisfaction at the conclusion of the Darfur Peace Agreement in Abuja, Nigeria, in May, 2006;

Noting with regret the failure by some parties to the conflict to sign the Darfur Peace Agreement;

Concerned at the resurgence of the fighting and the violations of the human and peoples' rights of the civilian populations and the internally displaced persons in Darfur, and the deterioration of the humanitarian situation, in particular, the problems faced by humanitarian agencies in the Darfur;

Commending the agreement reached between the United Nations Secretary General, the African Union and the Government of the Republic of Sudan in Addis Ababa, Ethiopia, on 16 November 2006, on the logistical, financial support and the deployment of a joint United Nations/African Union Peacekeeping Operation in the Darfur;

Expressing satisfaction at the measures taken hitherto by the African Union Mission in Sudan to monitor the peace and protect the internally displaced persons and civilian populations in the Darfur, in spite of material and logistical constraints;

1. **CONDEMNS** the attacks on the civilian populations, the personnel of the African Union Mission in Sudan, and attacks suffered by humanitarian agencies perpetrated by various parties to the conflict;
2. **URGES** those parties to the conflict which have not done so, to sign the Darfur Peace Agreement and cease the armed conflict;
3. **URGES** the Government of the Republic of Sudan to implement the terms agreed to in Addis Ababa on 16 November 2006 for the deployment of a joint United Nations/African Union Peacekeeping force in the Darfur without further delay;
4. **COMMENDS** the African Union Mission in Sudan for the work it is doing in the Darfur, and recommends it to continue with its efforts towards the resolution of the conflict in the Darfur;
5. **URGES** the Government of Sudan to acknowledge the 2004 Report of the African Commission Mission to the Darfur and submit its response to the African Commission.

**103. ACHPR/Res.103(XXXX)06: RESOLUTION ON THE SITUATION OF WOMEN
IN THE DEMOCRATIC REPUBLIC OF CONGO**

The African Commission on Human and Peoples' Rights, meeting in its 40th Ordinary Session held in Banjul, The Gambia, from 15 - 29 November 2006,

Considering the armed conflicts which have been affecting the Democratic Republic of Congo since 1996 and which have ushered in a climate of insecurity and violence, particularly for women;

Noting the recent promulgation of two laws relating to sexual violence in the Democratic Republic of Congo;

Concerned by the fact that the Government of the Democratic Republic of Congo has not yet ratified the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*;

Concerned by the widespread and systematic nature of sexual violence and other forms of violence against women in the Democratic of Congo;

Concerned by the impunity enjoyed by the perpetrators of sexual violence committed against women;

Concerned by the incapacity of the Police Authorities of the Democratic Republic of Congo to guarantee the right to life, to physical integrity and the security of women by preventing crimes and arresting the perpetrators;

Conscious of the difficulties of obtaining evidence inherent in the indictment and legal proceedings for crimes of sexual violence before national and international criminal courts;

Concerned by the complaints alleging collective rape by organised gangs against young girls in Kinshasa which have been brought to the attention of the Commission;

Concerned also by the allegations of collective rape committed by the Agents of the National Armed Forces which have been brought to the attention of the Commission;

Noting that an urgent appeal pertaining to the security of the young girls in Kinshasa had been issued in July 2006 by the Special Rapporteur on the Rights of Women in Africa to the President of the Democratic Republic of Congo and that the same had not been responded to;

Noting also the letters of allegation and the urgent appeals sent by the United Nations Special Rapporteurs concerning the cases of sexual abuse in the Democratic Republic of Congo;

Concerned by the spread of the HIV/AIDS virus among the women victims of sexual violence;

1. **URGES** the Government of the Democratic of Congo to take the necessary measures to guarantee the security of young girls and women in the entire country;
2. **CALLS ON** the Government of the Democratic Republic of Congo to ratify the Protocol to the African Charter on Human and Peoples' Rights relative to the Rights

of Women in Africa and to take measures for the harmonisation of its national laws with the Protocol;

3. **ENCOURAGES** the Government of the Democratic Republic of Congo to facilitate the effective implementation of the new law on sexual violence;
4. **URGES** the Government of the Democratic Republic of Congo to grant the necessary resources to the Police Force to enable it prevent and control the acts of sexual violence;
5. **URGES** the Government of the Democratic Republic of Congo to ensure that medical and psychological assistance is provided to the women victims of sexual violence;
6. **CALLS ON** the Government of the Democratic Republic of Congo to initiate action towards the sensitisation and the education of the population on the causes and consequences of the HIV/AIDS virus, particularly by supporting the initiatives of civil society in this area;
7. **RECOMMENDS** that the Special Rapporteur on the Rights of Women in Africa undertakes a mission to promote the fundamental human rights of women in the Democratic Republic of Congo.



104. ACHPR/Res.104(XXXXI)07: RESOLUTION ON THE SITUATION OF HUMAN RIGHTS DEFENDERS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 41st Ordinary Session in Accra, Ghana, from 16 - 30 May 2007:-

Recalling the various human rights protection instruments, particularly the United Nations Declaration on Human Rights Defenders, the Grand Bay Declaration and Plan of Action, the Kigali Declaration, and the Principles and Guidelines on the Right to a Fair Trial and Legal Aid in Africa,

Also Recalling the obligations of States Parties to the African Charter on Human and Peoples' Rights (the African Charter) and to other regional and international human rights instruments for the protection of human rights, more especially, the obligation to guarantee the security of persons living in their own country, the freedoms of assembly association, and expression of human rights defenders, and their right to take part in the management and conduct of the public affairs of their countries,

Deeply Concerned by the situation of human rights defenders within the States Parties to the African Charter, who--as a result of their activities--have suffered multiple violations of their basic rights such as arbitrary arrests, illegal detentions, acts of torture, inhuman and degrading treatment, extra-judicial killings, lack of the right to counsel, and the refusal of medical care and food during the period of their detention,

Recognizing the insecurity that often characterizes post-election periods in Africa, more especially, as it affects human rights defenders, especially during election campaigns which take place in African countries:

1. **Urges** all States Parties to the African Charter to fulfill all their obligations as stipulated in the Charter, in the Principles and Guidelines on the Right to a Fair Trial and Legal Aid in Africa, in the United Nations Declaration on Human Rights Defenders, in the Grand Bay Declaration, in the Kigali Declaration, as well as in the other international and regional instruments to which they are parties;
2. **Urges** States Parties to take all the necessary measures to ensure the protection of all human rights defenders and ensure that they have an environment which allows them to carry out their activities safely, without suffering any acts of violence, threats, reprisals, discrimination, pressure and any arbitrary acts by State or non-State actors as a result of their human rights activities;
3. **Recommends** that States Parties to the Charter should take specific measures to ensure the physical and moral integrity of their peoples, especially those of human rights defenders, to enable the latter to fully play their role in the promotion and protection of human rights especially during election periods.

105.ACHPR/Res.105(XXXXI)07: RESOLUTION ON THE PREVENTION AND PROHIBITION OF TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 41st Ordinary Session in Accra, Ghana, from 16 to 30 May 2007:-

Considering the provisions of the African Charter on Human and Peoples' Rights which mandates the African Commission to promote human and peoples' rights and ensure their protection in Africa,

Bearing In Mind Article 5 of the Universal Declaration of Human Rights which stipulates that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, and that torturing a human being is an affront to human dignity and remains a crime under international law,

Recognising that the prohibition of torture and other cruel, inhuman or degrading treatment or punishment is also affirmed in Article 7 of the International Covenant on Civil and Political Rights, in the United Nations Convention against Torture (UNCAT), and, in particular, in the relevant regional instruments such as the African Charter on Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child, and the Protocol to the African Charter on Human and Peoples' Rights on the Right of Women in Africa,

Recalling the African Commission's Resolution on the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines), adopted at its 32nd Ordinary Session held in Banjul, The Gambia, from 17 to 23 October 2002, and the African Commission's continuous work towards the implementation of the Resolution by States Parties,

Further Recalling the Robben Island Guidelines and measures for the prohibition and prevention of torture and other cruel, inhuman or degrading treatment or punishment in Africa, which were endorsed by the 2nd Ordinary Session of the Assembly of Heads of States and Government of the African Union, held from 4 to 12 July 2003 in Maputo, Mozambique,

Recalling Also that the Robben Island Guidelines impose obligations on States to take measures to prevent torture, combat impunity and create mechanisms of oversight,

Considering Further that African States have recognised the absolute need to take concrete measures to further the implementation of existing provisions on the prohibition of torture and cruel, inhuman or degrading treatment or punishment, especially as enshrined in Article 5 of the African Charter on Human and Peoples' Rights, and in the Grand Bay Declaration and Plan of Action adopted by the 1st Ministerial Conference on Human Rights in Africa, on 16 April 1999, in Mauritius,

Noting that Articles 1 and 43 of the Robben Island Guidelines relate to the ratification of regional and international instruments, and invite States to ratify and implement the Optional Protocol to United Nations Convention Against Torture of 18 December 2002,

Deeply Concerned by the continued prevalence of acts of torture and other cruel, inhuman or degrading treatment or punishment in the region,

Further Recalling the Follow-up Committee to the Robben Island Guidelines set up by the African Commission, at its 32nd Ordinary Session held in Banjul, The Gambia, from 17 to 23 October 2002,

Affirming the importance of the Follow-up Committee to the Robben Island Guidelines established by the African Commission, and the Committee's determination to ensure full compliance by States,

Emphasizing the importance of African States to take action to prevent and combat torture and other cruel, inhuman or degrading treatment or punishment:

1. **CALLS** on all States Parties to ratify the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the Optional Protocol thereto, of 18 December 2002, without reservations;
2. **URGES** States Parties to implement the Robben Island Guidelines and Measures, and to ratify all regional and international instruments dealing with the prevention of torture;
3. **FURTHER URGES** States Parties to criminalise and penalise all acts of torture, promote and support cooperation with international mechanisms, establish complaints and investigation procedures, establish and support training and awareness-raising programmes for enforcement agents ;
4. **REQUESTS** States Parties to cooperate with, and fully assist, the Follow-up Committee in the performance of its mandate;
5. **REQUESTS** States Parties, when they submit their Initial and Periodic Reports in compliance with Article 62 of the Charter, to inform the African Commission of the concrete measures that they are taking to implement and operationalise the Robben Island Guidelines.

106. ACHPR/Res.106(XXXI)07: RESOLUTION ON THE RIGHTS OF OLDER PERSONS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 41st Ordinary Session in Accra, Ghana, from 16 to 30 May 2007:-

BEARING IN MIND the rapid rate at which the population of older persons is increasing throughout the world and that the most rapid increase is taking place in the developing world, with Africa alone projected to have between **204** and **210** million older persons by **2050**,

RECOGNIZING that, in Africa, the care and support by the family and community that were taken for granted in the past are declining because of changes in society associated with urbanization and development related programmes,

RECALLING the continental efforts to address the challenges resulting from an ageing population in Africa--which started at the **1999** Session of the Organization of African Unity (OAU)'s Labour and Social Affairs Commission held in Windhoek, Namibia,

CONSIDERING the African Union Policy Framework and Plan of Action on Ageing (the African Union Policy Framework), which was first considered and adopted during the 25th Ordinary Session of the OAU Labour and Social Affairs Commission in Ouagadougou, Burkina Faso, in April 2002, and subsequently received final approval during the 38th Ordinary Session of the Assembly of Heads of State and Government in Durban, South Africa,

RECALLING the African Union Policy Framework in which *"States Parties recognized the fundamental rights of older persons and committed themselves to abolishing all forms of discrimination based on age"* and undertook *"to ensure that the rights of older persons are protected by appropriate legislation, including the right to organize themselves in groups and the right to representation in order to advance their interest,"*

NOTING that the International Plan of Action agreed upon in Madrid, Spain, during the Second World Assembly on Ageing in **April 2002**, borrowed significantly from the African Union Policy Framework, thereby, outlining the concerns of Africa's older persons,

RECALLING FUTRHER that the African Union Member States undertook, *inter alia*, to ensure that the needs and rights of older persons are integrated into all existing and new policies in all sectors, and to enact legal provisions that promote and strengthen the role of the family and the community in the care of its older members,

CONSIDERING Article 18(4) of the African Charter on Human and Peoples' Rights which stipulates that: "The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs,"

FURTHER CONSIDERING Article 22 of the Protocol to the African Charter on the Rights of Women in Africa, which provides for special protection of elderly women and stipulates that *"The States Parties undertake to: provide protection to elderly women and take specific measures commensurate with their physical, economic and social needs as well as their access to employment and professional training; ensure the right of elderly women to freedom from violence, including sexual abuse, discrimination based on age, and the right to be treated with dignity,"*

HAVING CONSIDERED paragraph 20 of the Kigali Declaration which "***calls upon States Parties to develop a Protocol on the protection of the rights of people with disabilities and the elderly,***"

CONVINCED that only a Protocol to the African Charter on Human and Peoples' Rights on the rights of older persons in Africa ratified by all African Union Member States would ensure compliance of State Parties with the recommendations contained in the AU Policy Framework and Plan of Action on Ageing:

1. **REQUESTS** the African Union Commission to convene without delay a Committee of Experts composed of Members of the African Commission on Human and Peoples' Rights, independent experts (from the African Union Member States), and civil society organizations, with the view to drafting a Protocol to the African Charter on the Rights of Older Persons in Africa, bearing in mind all the recommendations made in the 2002 Policy Framework;

2. **REQUESTS FURTHER** the African Union Commission to provide all necessary resources to the Committee to enable it finalize the draft Protocol no later than the first quarter of 2008;

3. **CALLS UPON** the African Union Commission and Member States to convene a diplomatic conference with the view to finalizing the draft Protocol and submit it to the Assembly of Heads of State for consideration;

4. **DECIDES** to appoint a focal point on the rights of older persons in Africa to follow-up on the implementation of this Resolution.

107. ACHPR/Res.107(XXXI)07: RESOLUTION ON THE OPERATIONALIZATION OF THE “UNITED NATIONS -AFRICAN UNION COOPERATION: FRAMEWORK FOR THE TEN-YEAR CAPACITY BUILDING PROGRAMME FOR THE AFRICAN UNION”

The African Commission on Human and Peoples’ Rights (the African Commission), meeting at its 41st Ordinary Session in Accra, Ghana, from 16 - 30 May 2007:-

Recalling the signing, on 16 November 2006, of a Declaration on “Enhancing UN-AU Cooperation Framework for the Ten-Year Capacity Building Programme for the African Union” (the Framework), by H. E. Kofi Annan, former Secretary General of the United Nations, and H. E. Alpha Oumar Konare, Chairperson of the Commission of the African Union,

Noting that the Framework covers all aspects of the cooperation between the UN and the AU, including human rights, the rule of law, and assistance in institution-building,

Conscious of the fact that the African Commission on Human and Peoples’ Rights is one of the principal organs of the African Union responsible for the promotion and protection of human and people rights in Africa,

Noting the centrality of human and peoples’ rights in the promotion of peace, stability, good governance and sustainable development,

Recognising the necessity to enhance the capacity of the African Commission to enable it effectively discharge its mandate,

Cognizant of the importance of an effective African Commission in the promotion of human rights, the rule of law, peace, and good governance in Africa:

1. **Urges** the Secretariat of the United Nations and the Commission of the African Union to take the necessary measures to ensure the operationalization of the Framework;
2. **Further Urges** the Commission of the African Union to ensure that the operationalization of the Framework addresses the needs of the African Commission in the field of capacity building, and provides it with adequate resources as soon as possible;
3. **Decides** to create a focal point to follow-up on this matter.

108. ACHPR/Res.108(XXXI)07: RESOLUTION REITERATING THE IMPORTANCE OF COMPLIANCE WITH REPORTING OBLIGATIONS UNDER THE AFRICAN CHARTER

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 41st Ordinary Session in Accra, Ghana, from 16 – 30 May 2007:-

Recalling that Article 62 of the African Charter on Human and Peoples' Rights (the African Charter) provides that "Each State Party shall undertake to submit every two years, from the date the present Charter comes into force, a report on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognised and guaranteed by the present Charter,"

Recalling further its recommendation on Periodic Reports, in which it requested the Assembly of Heads of State and Government of the African Union (AU) then Organisation of African Unity (OAU) to entrust it with the mandate to examine the periodic reports of States submitted under Article 62 of the African Charter, taken at its 3rd Ordinary Session held from 18 – 28 April 1988 in Libreville, Gabon,

Considering that the Assembly of Heads of State and Government of the AU (the Assembly) at its 24th Ordinary Session, authorised the African Commission to examine State Reports submitted in accordance with Article 62 of the African Charter,

Recalling the African Commission's adoption, at its 4th Ordinary Session in October 1991, of the "Guidelines for States Periodic Reports," in which it outlined the form and content of periodic reports that States Parties are required to submit pursuant to Article 62 of the Charter,

Concerned that a large number of States Parties to the African Charter continue to lag behind in their reporting obligations under Article 62 of the African Charter,

Recalling further the African Commission's decision in November 1995 in which it recommended to States Parties to combine several overdue reports in one report with a view to facilitating compliance with the reporting obligation,

Reaffirming that all States Parties have the duty to fulfil the obligations they have undertaken under the African Charter,

Noting that, by its Resolution AHG/Res. 198 (XV), the 30th Ordinary Session of the Assembly of the AU (1994) reaffirmed the need for Member States to take concrete measures towards the effective implementation of the provisions of the African Charter,

Convinced that compliance by States Parties with their obligations under the African Charter and with the recommendations of the African Commission will enhance the work of the Commission, improve the conditions of the population under their jurisdiction, and contribute to the promotion of the rule of law in Africa,

Recognising that the promotion and protection mandate of the African Commission will not be achieved without the co-operation of State Parties:

1. **Congratulates** the following States Parties to the African Charter; which have complied and are up-to-date with their reporting obligations under Article 62 of the African Charter and encourages them to continue in the same way: Algeria, Cameroon, Central African Republic, Libya, Mauritania, Nigeria, Kenya, Rwanda,

Seychelles, South Africa, Uganda, Zambia, and Zimbabwe,

2. **Urges** the following States Parties to the African Charter, which have never submitted any Periodic Report to the African Commission since its inception, to honour their obligations under the African Charter to submit and present their respective Initial and/or Periodic Reports without any further delay: Angola, Botswana, Comoros, Cote d'Ivoire, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Guinea Bissau, Liberia, Madagascar, Malawi, Sao Tome and Principe, Sierra Leone, and Somalia,.
3. **Encourages** the following States Parties to the African Charter, which have submitted one or more Periodic Reports but still owe more reports, to submit their respective reports without any delay: Benin, Burkina Faso, Burundi, Cape Verde, Chad, Congo-Brazzaville, Democratic Republic of Congo, Egypt, Gambia, Ghana, Guinea, Lesotho, Mali, Mauritius, Mozambique, Namibia, Niger, Saharawi Arab Democratic Republic, Senegal, Sudan, Swaziland, Tanzania, Togo, and Tunisia,
4. **Decides** to submit, at every session of the Assembly, an updated report and list of States Parties to the African Charter that continue to default in their reporting obligations;
5. **Requests** all States Parties to the African Charter to endeavour to comply with the provisions of the African Charter and the recommendations of the African Commission;
6. **Calls on** the Assembly to urge those Member States who owe reports under Article 62 of the African Charter to submit the same to the African Commission;
7. **Requests** the Assembly to monitor closely the implementation of this Resolution.

109. ACHPR/Res.109(XXXI)07: RESOLUTION ON THE SITUATION IN SOMALIA

The African Commission on Human and Peoples' Rights, (the African Commission), meeting at its 41st Ordinary Session in Accra, Ghana, from 16 to 30 May 2007:-

CONSIDERING that the Democratic Republic of Somalia is party to the African Charter on Human and Peoples' Rights, and has adopted and domesticated the basic international and regional human rights and humanitarian instruments,

BEARING IN MIND Somalia's obligations under the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (the UN Declaration on Human Rights Defenders), particularly to ensure the rights of human rights defenders to assemble, associate, express themselves, participate in the government of the country, and the conduct of public affairs,

BEING AWARE of the grave human rights and humanitarian law violations that continue to prevail as a result of the civil war in Somalia for the past 16 years,

NOTING WITH CONCERN the recent human rights violations perpetrated by all parties to the conflict against the civilian populations, internally displaced people in Somalia, women, children, older persons, people with disability, and human rights defenders,

DEEPLY CONCERNED by the recent events in which human rights defenders have been subjected to arbitrary arrests, detention, torture, inhuman and degrading treatment, denial of access to medical treatment and food while in custody, and extra-judicial executions,

DEPLORING the continued human rights and humanitarian crisis caused in the course of the last seventeen (17) years in Somalia by all parties to the conflict,

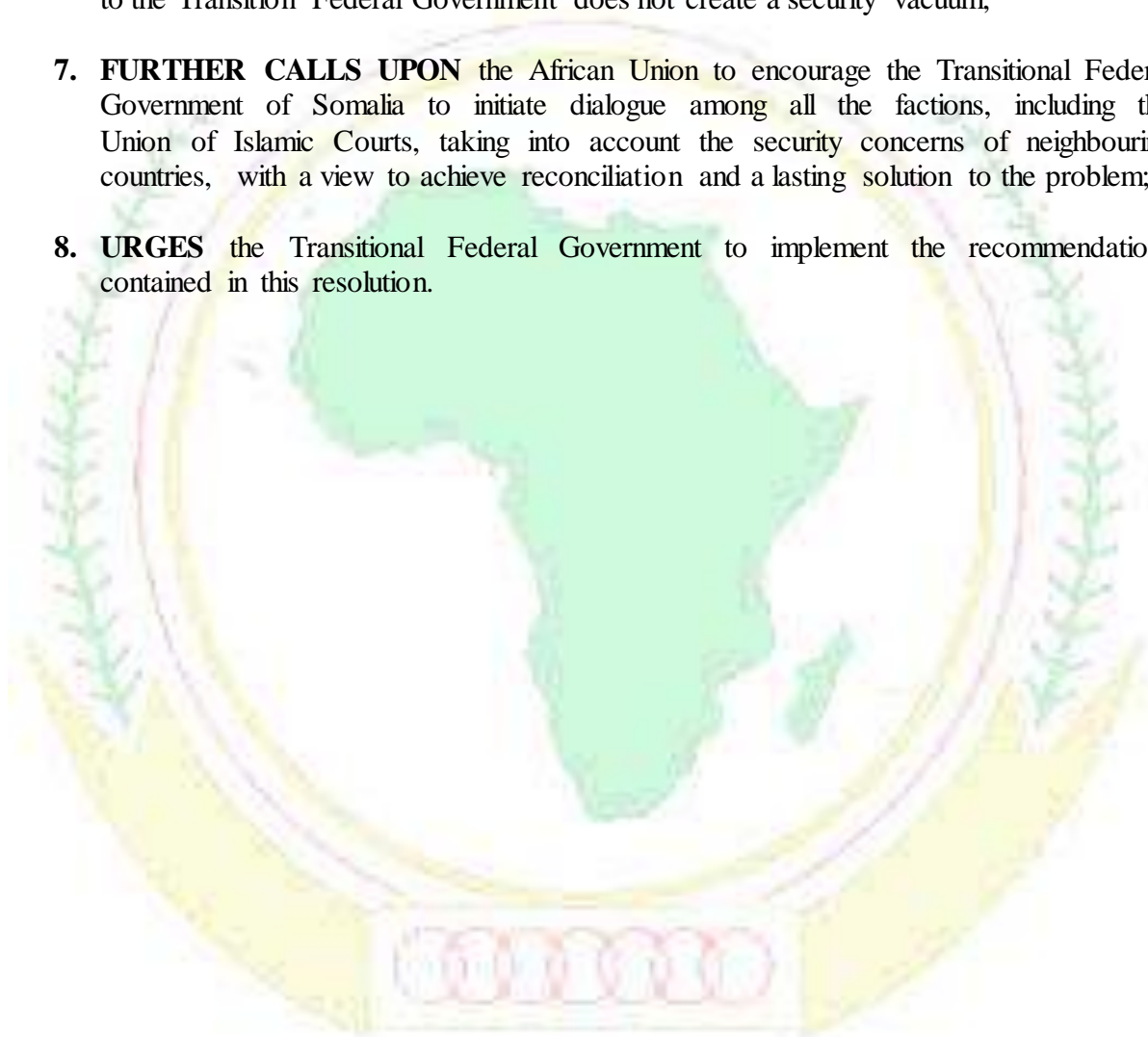
NOTING that the continued harassment and intimidation of human rights defenders in Somalia, including journalists, affects the free flow of information and has completely silenced the voices of the frontline human rights defenders,

NOTING FURTHER that the closing of borders to Somalia's refugees, displaced people, and asylum seekers constitutes a gross violation of human rights:

1. **WELCOMES** the installation of the internationally recognized Transitional Federal Government of Somalia;
2. **FURTHER WELCOMES** the decision of the African Union Member States to deploy peacekeeping forces to build and maintain peace and security in Somalia;
3. **APPEALS** to neighbouring countries to reopen their borders to asylum seekers from Somalia, to facilitate the humanitarian assistance, and to ensure the protection of refugees;
4. **URGES** all parties to comply with their obligations under the African Charter on Human and Peoples' Rights, the UN Declaration on Human Rights Defenders, and other international human rights and humanitarian law instruments, and **CALLS**

UPON all parties involved in the Somali conflict to desist from harassing, intimidating, arresting and detaining human rights defenders;

5. **APPEALS** to the international community to provide necessary assistance to the refugees, internally displaced persons and asylum seekers;
6. **CALLS UPON** the African Union and the international community to urgently provide required financial and material assistance towards the deployment of the African Union peace keeping forces in Somalia, in order to maintain peace and security in the country and ensure that the withdrawal of the Ethiopian troops--allied to the Transition Federal Government does not create a security vacuum;
7. **FURTHER CALLS UPON** the African Union to encourage the Transitional Federal Government of Somalia to initiate dialogue among all the factions, including the Union of Islamic Courts, taking into account the security concerns of neighbouring countries, with a view to achieve reconciliation and a lasting solution to the problem;
8. **URGES** the Transitional Federal Government to implement the recommendations contained in this resolution.



110. ACHPR/Res.110(XXXXI)07: RESOLUTION ON THE HEALTH AND REPRODUCTIVE RIGHTS OF WOMEN IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 41st Ordinary Session in Accra, Ghana, from 16 to 30 May 2007:-

Recalling the entry into force of the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* (the Protocol) on 25 November 2005,

Noting that only twenty (20) State Parties to the *African Charter on Human and Peoples' Rights* have ratified the Protocol,

Considering the inherent difficulties in implementing the Protocol, notably those regarding its domestication, as well as harmonisation of national laws with its content,

Recalling that Article 14 of the Protocol specifically protects the health and reproductive rights of women;

Concerned that female genital mutilation is a harmful practice which affects the reproductive health of women and continues to exist in some countries in spite of legislation outlawing it;

Further Concerned about the disproportionate impact of the HIV and AIDS pandemic on women, especially on the African continent;

Concerned Also about the problems relating to reproductive health care and the quality of services available to women in Africa, including the inability of existing healthcare institutions to provide adequate pre post-natal care for mothers and babies (especially in cases of complications), the high rate of maternal mortality in a number of African countries, and the prohibition of abortion except where necessary to save the woman's life:

1. **Congratulates** States which have ratified the Protocol, and urges them to take all the necessary measures to domesticate and harmonize their national laws in order to give full effect to the rights enshrined in the Protocol;
2. **Urges** States which have not yet ratified the Protocol to do so promptly and without reservations;
3. **Further Urges** States to protect the health and reproductive rights of women as stipulated in the Protocol;
4. **Congratulates** States which have adopted laws prohibiting female genital mutilation, and encourages them to implement specific programs to create awareness in all sectors of society and ensure eradication of this harmful traditional practice;
5. **Urges** those States that have not yet outlawed female genital mutilation to do so without delay;
6. **Calls On** States to take appropriate measures to protect women from sexually transmitted diseases, including HIV and AIDS;
7. **Requests** States to reduce the maternal mortality rate and to take adequate measures to provide effective access for women to reproductive health services, including access to lawful medical abortion in accordance with the Protocol.

111. ACHPR/Res.111(XXXXII)07: RESOLUTION ON THE RIGHT TO A REMEDY AND REPARATION FOR WOMEN AND GIRLS VICTIMS OF SEXUAL VIOLENCE

The African Commission on Human and Peoples' Rights (the African Commission or ACHPR), meeting at its 42nd Ordinary Session held in Brazzaville, Republic of Congo, from 15 - 28 November 2007;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Bearing in mind that the right to a remedy and reparation is notably affirmed by: Article 25 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa; Article 8 of the Universal Declaration of Human Rights; Article 2 of the International Covenant on Civil and Political Rights; Article 39 of the Convention on the Rights of the Child; and Articles 68 and 75 of the Rome Statute of the International Criminal Court;

Deploring all forms of sexual violence against women and girls;

Considering that rape in times of conflicts has been categorised as a crime against humanity and as a war crime in the founding statutes of the International Criminal Tribunal for the former Yugoslavia (Art 5 (g)), of the International Criminal Court (Arts 7 and 8) and of the Special Court for Sierra Leone (Art 2(g)); and considering furthermore that the International Criminal Tribunal for Rwanda has qualified rape in conflict situations as an act of genocide case No. ICTR- 96-4-T (Sept 1998) and the International Criminal Tribunal for the former Yugoslavia classified rape as amongst the most serious crimes of war by defining it as a breach of the Geneva Conventions in case No.IT-94-1-T (May 1997);

Reaffirming its Resolution ACHPR/Res.103 (XXXX) 06 on the Situation of Women in the Democratic Republic of Congo, adopted during its 40th Ordinary Session held in Banjul, The Gambia, on 29 November 2006;

Recalling the United Nations' Security Council Resolution 1325 (2000) on Women, Peace and Security;

Recalling also the provisions of the Fourth Geneva Convention on the protection of civilians in armed conflicts;

Recalling furthermore the United Nations' General Assembly Resolution A/RES/60/147 adopting 'Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law' in March 2006;

Noting with great concern the prevailing impunity for the perpetrators and accomplices of crimes of sexual violence and emphasising that a culture of impunity encourages the commission of such crimes;

Taking into consideration the legal and practical obstacles existing in many countries and preventing victims of sexual violence in particular in times of conflict, from accessing their rights to truth, justice and reparation, notably the lack of adequate training on sexual violence issues for actors of the judiciary and the lack of information on services and access to justice for victims;

Concerned by the extent of physical and psychological trauma that women and girls victims face as a result of sexual violence and by the necessity for them to receive adequate and accessible health care, including psychological support;

Acknowledging the civil society initiative creating the 'Nairobi Declaration of the Right to A Remedy and Reparation for Women and Girls Victims of Sexual Violence', which provides guiding principles

for the implementation of programmes intended to achieve reparation for crimes of sexual violence perpetrated in times of conflicts;

Convinced that participation of women at all stages of creation and implementation of reparation programmes is necessary to ensure efficient programmes and to achieve sustainable peace;

The African Commission on Human and Peoples' Rights:

13. **CONDEMNS** all forms of sexual violence against women and girls;

14. **URGES** States Parties to the African Charter on Human and Peoples' Rights to:

- Criminalise all forms of sexual violence, ensure that the perpetrators and accomplices of such crimes are held accountable by the relevant justice system;
- Ensure that police and military forces, as well as all the members of the judiciary receive adequate training on the principles of international humanitarian law, women's rights and the children's rights;
- Identify the causes and consequences of sexual violence and to take all necessary measures to prevent and eradicate it;
- Develop campaigns to raise public awareness on existing remedies for cases of sexual violence;
- Put in place efficient and accessible reparation programmes that ensure information, rehabilitation and compensation for victims of sexual violence;
- Ensure that victims of sexual violence have access to medical assistance and psychological support;
- Ensure participation of women in the elaboration, adoption and implementation of reparation programmes;
- Ratify without reservations and ensure the effective implementation of the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* and the *Convention on the Elimination of All Forms of Discrimination against Women* as well as its Optional Protocol;
- Ratify the *Protocol to the African Charter on Human and Peoples' Rights on Establishing an African Court on Human and Peoples' Rights* and make a declaration according to Article 34(6) of this Protocol, and ratify as well the *Rome Statute of the International Criminal Court*.

112. ACHPR/Res.112(XXXII)07: RESOLUTION ON THE RENEWAL OF THE MANDATE AND THE APPOINTMENT OF THE SPECIAL RAPPORTEUR ON THE RIGHTS OF WOMEN IN AFRICA

The African Commission, meeting at its 42nd Session which was held from 15th to 28th November 2007 in Brazzaville, Republic of Congo:

Recalling its Resolution ACHPR/Res.38 (XXV) 99, adopted at the 25th Ordinary Session, held from 26th April to 5th May 1999 in Bujumbura, Burundi, establishing the special Mechanism on the Rights of Women in Africa and appointing Julienne Ondziel Gnelenga as Special Rapporteur;

Recalling also Article 18(3) of the African Charter on Human and Peoples' Rights; Recalling also Resolutions: ACHPR/Res. (XXX) 01, passed at its 30th Ordinary Session which was held from 17th to 27th October 2001 in Banjul, The Gambia, by which it had appointed Commissioner Angela Melo Special Rapporteur on the Rights of Women in Africa; ACHPR/Res. 63 (XXXIV) 03, adopted at its 34th Ordinary Session held in Banjul, The Gambia, from 6th to 20th November 2003; and ACHPR/Res. 78 (XXXVIII) 05, adopted at its 38th Ordinary Session, held from 21st November to 6th December 2005 in Banjul, The Gambia, renewing Commissioner Melo's mandate for a period of two years;

Appreciative of the major task accomplished by Commissioner Melo as Special Rapporteur on the Rights of Women in Africa;

Considering that Commissioner Melo's mandate has now expired;

Taking into consideration that Commissioner Melo had been elected to the post of Vice-Chairperson of the Commission;

Recognizing the numerous challenges that Women continue to face on the African Continent in the struggle for recognition of their human rights:-

- DECIDE to appoint Commissioner Soyata Maiga as Special Rapporteur on the Rights of Women in Africa for a period of two years;
- CALLS ON the State Parties to the Charter to take the necessary measures to guarantee support for the Special Rapporteur in the execution of her duties.

113. ACHPR/Res.113(XXXII)07: RESOLUTION ON THE RENEWAL OF THE MANDATE AND THE APPOINTMENT OF THE CHAIRPERSON OF THE WORKING GROUP ON THE DEATH PENALTY

The African Commission on Human and Peoples' Rights (the African Commission or ACHPR), meeting at its 42nd Ordinary Session held in Brazzaville, Republic of Congo, from 15 - 28 November 2007;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.42 (XXVI) 99, adopted at its 26th Ordinary Session held at Kigali, Rwanda, urging States Parties to envisage a moratorium on the death penalty.

Recalling the decision of African Commission at its 37th Ordinary Session to appoint two Commissioners to work with the Special Rapporteur on Prisons and Conditions of Detention in Africa, to elaborate a concept paper on the Question of the Death Penalty in Africa;

Considering the trends in international law which encourage the abolition of the death penalty, in particular, the 2nd Optional Protocol to the International Covenant on Civil and Political Rights, the Statute on the International Criminal Court and the Resolution of the UN Commission on Human Rights, 2005/59, relating to the Death Penalty, the practices adopted by the States Parties to the UN Charter, and the debates and initiatives undertaken by civil society and other stakeholders on the question of the death penalty;

Recognizing that sixteen (16) State Parties to the African Charter have already abolished the death penalty, and thirteen (13) others have placed a moratorium on its application;

Recalling its Resolution 79/XXXVIII/05 on the Composition and Operationalisation of the Working Group on the Death Penalty adopted at its 38th Ordinary Session to expand the composition of the Working Group to include two members of the Commission and five independent experts and to broaden its mandate;

Noting that the term of office of one of the members of the Commission, Mr. Yasser Sid Ahmed El Hassan, who served as the Chairperson of the group, has come to an end;

Decides to appoint Commissioner Kayitesi Zainabo Sylvie as Chairperson, for a period of two years, starting on 28 November 2007

Appoints Commissioner Bahame Tom Mukirya Nyanduga, as well as the following experts, as members :

- ✓ Ms. Alya Cherif Chammari
- ✓ Ms. Alice Mogwe
- ✓ Mr. Mactar Diallo
- ✓ Prof. Philip Francis Iya
- ✓ Prof. Carlson E Anyangwe
- ✓ Prof. Mohamed S. El-Awa

Requests the African Union to provide adequate resources, assistance and support in the implementation of this Resolution;

Calls upon other partners to provide further assistance to the Working Group to fulfil its mandate.

114. ACHPR/Res.114(XXXII)07: RESOLUTION ON MIGRATION AND HUMAN RIGHTS

The African Commission on Human and Peoples' Rights (the African Commission or ACHPR), meeting at its 42nd Ordinary Session held in Brazzaville, Republic of Congo, from 15 - 28 November 2007;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Considering that Sub-Saharan African countries are experiencing population movements by a number of different categories of people: workers, refugees and internally displaced persons (IDPs), of whom one third of the estimated 200 million migrants worldwide are from Africa, a third of all refugees, and about half the IDPs in the world, are within Africa;

Concerned that women constitute 47% of all migrants within sub-Saharan Africa and that women and children constitute 70% of the refugees and IDPs on the continent;

Considering the scope of the violations of the rights guaranteed by the African Charter on Human and Peoples' Rights surrounding the question of migration, namely violation of the right to life, the right to free movement of the person, the obligation to protect civilians, discriminations, etc.;

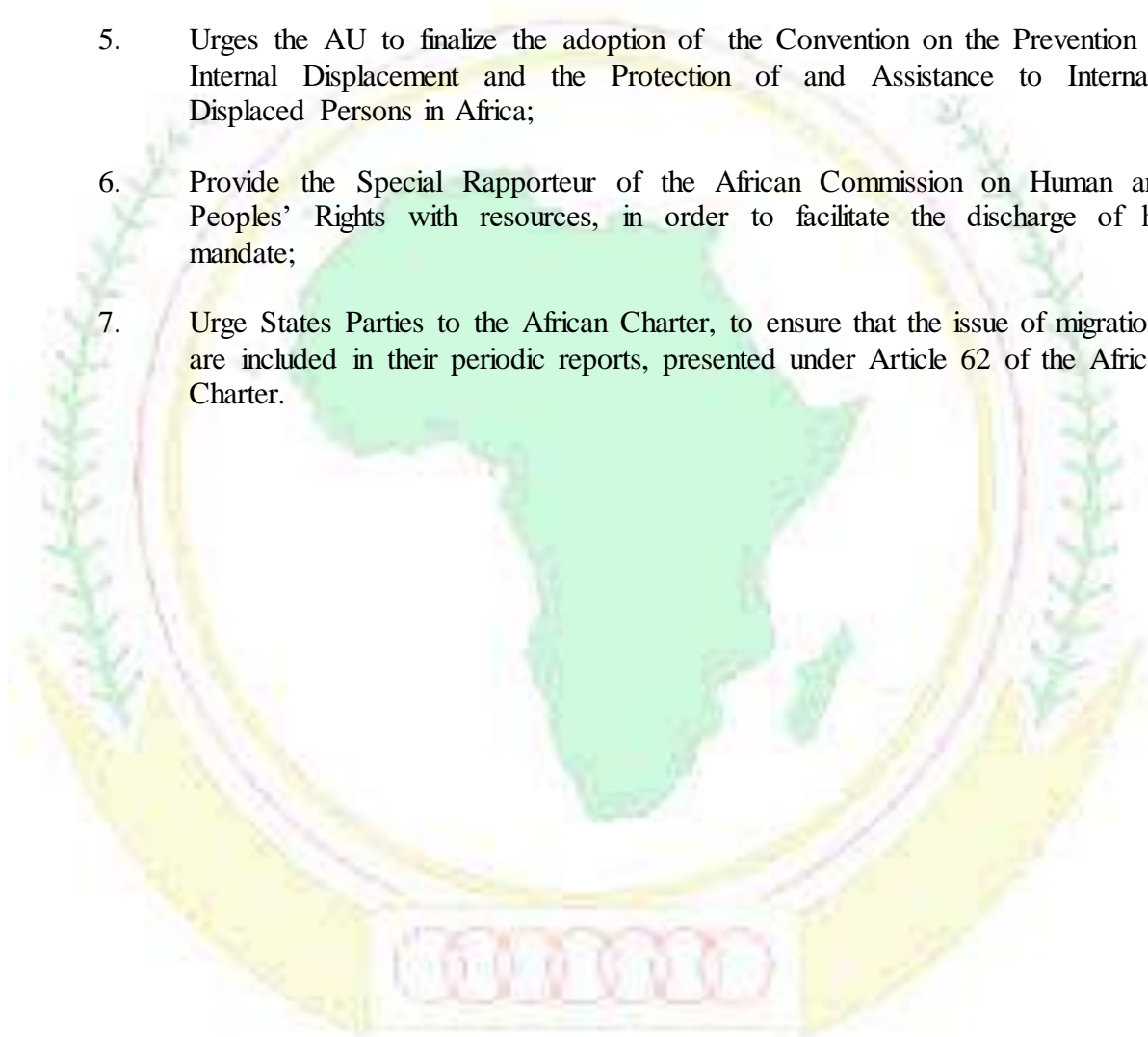
Recalling the appointment during the 34th Ordinary Session of the African Commission on Human and Peoples' Rights, of a Special Rapporteur on Refugees, Asylum Seekers and Internally displaced Persons in Africa, whose mandate was renewed during the 40th session, to cover migrant issues;

Recalling the experts' meeting organised by the African Union (AU), on migration and development in April 2006, in Algiers, and recalling the decision of the AU Executive Council held in January, 2007, calling for the organisation of a Special Summit on Refugees, Repatriated and Internally Displaced Persons in 2008;

Recommends to State Parties to the African Charter on Human and Peoples' Rights:

1. To recognize the importance of the human rights of all migrants, including refugees and IDPs, and to ensure that national legislation relating to migration issues is consistent with and does not conflict with international human rights standards and conventions;
2. Those States which have not done so, to ratify and implement the main regional and international instruments relating to migrants and refugees, in particular, the Geneva Convention relating to the Status of Refugees, the United Nations Convention on the Protection of the Rights of all Migrant Workers and Members of their families and the African Union Convention Governing the Specific Aspects of Refugee Problems in Africa; implement the Protocol to the African Charter on the Rights of Women, as well as the UN Convention on the Elimination of All Forms of Discrimination Against Women and its Additional Protocol allowing individual complaints or communications, in order to respect the rights of migrant women;

3. To respect the principle of customary international law of *non-refoulement*, to make legal requirements for entering a territory more flexible, in order to take into account the needs for asylum seekers; to revoke the notion of “safe third country”; to strengthen institutional structures for addressing and managing individual asylum requests; to respect the right of asylum seekers to contest rulings on asylum status; and to improve the reception structures and processes of refugees seeking asylum;
4. Commend the States of the Great Lakes Region, for adopting the Peace Pact in December, 2006, in particular, Burundi, Rwanda and DRC, for ratifying the Peace Pact and urge other State Parties to ratify the Peace Pact;
5. Urges the AU to finalize the adoption of the Convention on the Prevention of Internal Displacement and the Protection of and Assistance to Internally Displaced Persons in Africa;
6. Provide the Special Rapporteur of the African Commission on Human and Peoples’ Rights with resources, in order to facilitate the discharge of his mandate;
7. Urge States Parties to the African Charter, to ensure that the issue of migrations are included in their periodic reports, presented under Article 62 of the African Charter.



115. ACHPR/Res.115 (XXXXII) 07: RESOLUTION ON THE RATIFICATION OF THE AFRICAN CHARTER ON DEMOCRACY, ELECTIONS AND GOVERNANCE

The African Commission on Human and Peoples' Rights (the African Commission or ACHPR) meeting at its 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, Republic of Congo;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling Article 13(1) of the African Charter which provides that every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law;

Welcoming the adoption, at the 8th Ordinary Session of the Assembly of Heads of State and Government of the African Union (AU), held in Addis Ababa, Ethiopia, of the *African Charter on Democracy, Elections and Governance* (the *Charter on Democracy*), on 30 January 2007;

Noting that, in accordance with Article 2(10) of the *Charter on Democracy*, its objectives include the promotion of "the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs";

Noting that only ten (10) AU Member States have signed the *Charter on Democracy* since its adoption in January 2007, and that there has been no ratification yet, thus delaying the Charter from entering into force;

Appeals to Member States to ratify the *African Charter on Democracy, Elections and Governance* to accelerate its coming into force.

116. ACHPR/Res.116(XXXII)07: RESOLUTION ON THE RENEWAL OF THE MANDATE OF THE SPECIAL RAPPORTEUR ON REFUGEES, ASYLUM SEEKERS, INTERNALLY DISPLACED PERSONS AND MIGRANTS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission or ACHPR) meeting at its 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, Republic of Congo;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Aware that in the exercise of its mandate, the African Commission has established various thematic mechanisms for the promotion and protection of human and peoples' rights in Africa;

Recalling that at its 35th Ordinary Session held from 21 May - 4 June 2004 in Banjul, The Gambia, the African Commission adopted Resolution ACHPR/Res. 72(XXXV)04 providing for the establishment of the mechanism of Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons in Africa;

Cognisant of Resolution ACHPR/Res.72 (XXXVI) 04 adopted at Dakar during the 36th Ordinary Session which elaborated the mandate of the Special Rapporteur;

Recalling that at its 39th Ordinary Session held from 11 May to 25 2006 in Banjul, The Gambia, the African Commission adopted Resolution ACHPR/Res.95 (XXXIX)06 which extended the mandate of the Special Rapporteur to cover migration issues;

Noting with appreciation the accomplishments of the Special Mechanism's Rapporteur, Commissioner Bahame Tom Mukirya Nyanduga;

Considering the need to enable the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa to continue to carry out his mandate, and address urgent issues falling within this mandate;

1. Decides to renew the appointment of Commissioner Bahame Tom Mukirya Nyanduga as Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa for another period of two years, effective 28 November 2007;

2. Requests States Parties to the African Charter on Human and Peoples' Rights, and the African Union to extend their cooperation to the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa, and to provide the Special Rapporteur with adequate resources to enable him to undertake his mandate.

117. ACHPR/Res.117(XXXXII)07: RESOLUTION ON STRENGTHENING THE RESPONSIBILITY TO PROTECT IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission or ACHPR), meeting at its 42nd Ordinary Session held in Brazzaville, Republic of Congo, from 15 - 28 November 2007;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the principles under the Constitutive Act of the African Union and the Protocol establishing the Peace and Security Council, which provides that the African Union shall intervene, to prevent, in situation of genocide, war crimes and crimes against humanity, in a Member State of the African Union;

Recalling the report of the International Commission on Intervention and State Sovereignty (ICISS) of 2001, which set the foundation for governmental and civil effort in achieving international consensus on the Responsibility to Protect;

Taking into account the common African position on the proposed reform of the United Nations, otherwise known as the "Ezulwini Consensus", where the African Union at its 7th Extraordinary Session of the Executive Council of 1- 8 March 2005, in Addis Ababa, Ethiopia, adopted the principle of Responsibility to Protect ;

Aware of the United Nations Summit Declaration of September 2005, whereby the international community expressed its determination to act where national authorities are unwilling or unable to protect their population from genocide, war crimes, ethnic cleansing and crimes against humanity;

Re-affirming the call made in the September 2005 United Summit Declaration for cooperation between the United Nations and regional organisations, to help protect populations from those grave threats;

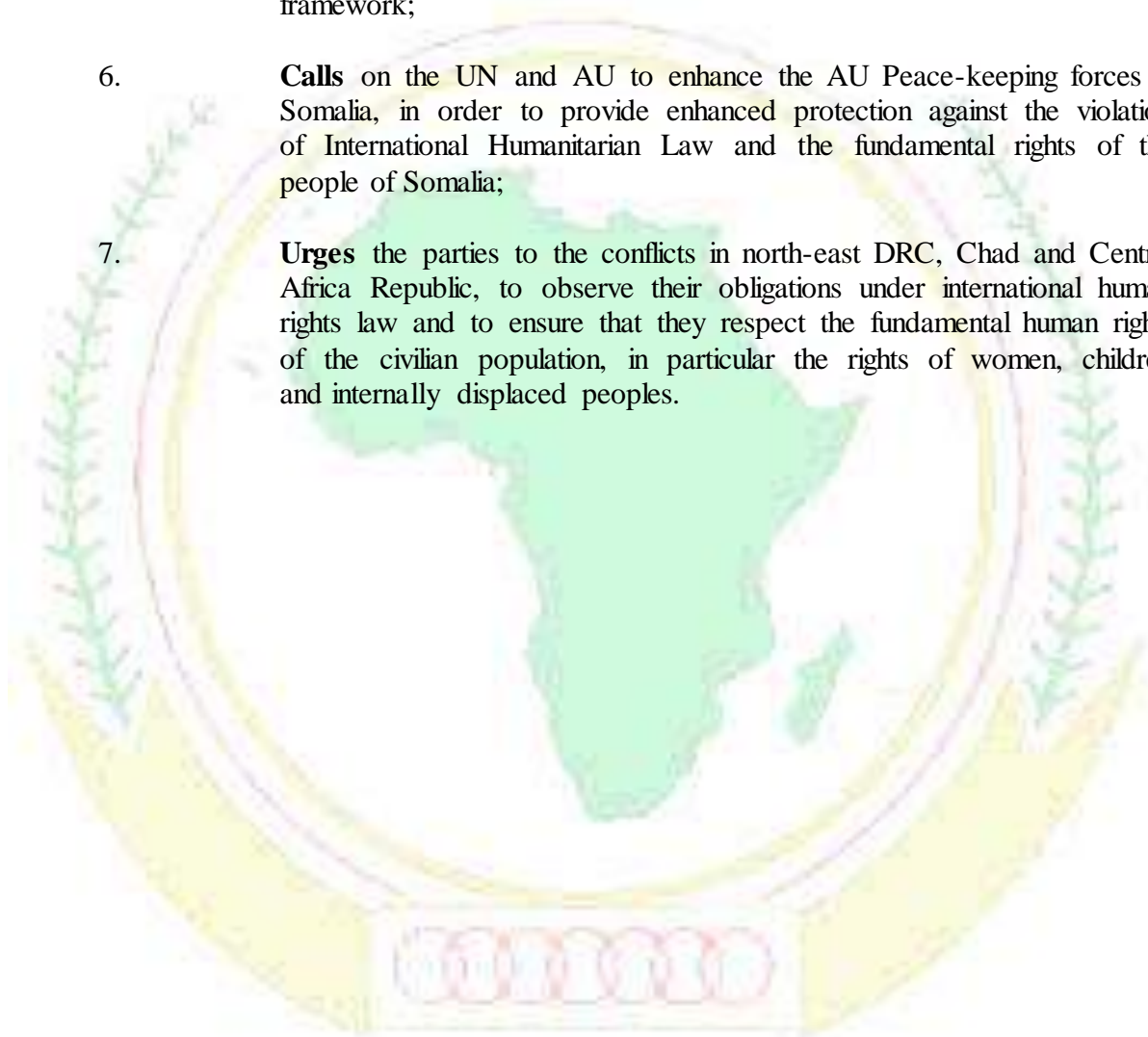
Deeply concerned that in the recent past, the international community has not responded quickly enough to situations of genocide, war crimes and crimes against humanity and the continued slow response to the allegations of genocide and crime against humanity;

Recalling the November 2006 Tripartite Decision between the Government of Sudan, the AU and the UN, in Addis Ababa, Ethiopia, to establish an AU / UN hybrid force operation in Darfur, in order to protect the civilian population in Darfur, Sudan;

Concerned that the re-emergence of the conflict in North East Democratic Republic of Congo and conflicts in Somalia, Chad and Central Africa Republic resulted in the violation of International Human Rights Law and the fundamental rights of the people of those counties:

1. **Commends** the States Parties to the African Charter, which have contributed troops to the African Union Mission in Sudan, AMIS, and the role of AMIS under difficult circumstances;
2. **Condemns** the armed rebel groups in the Darfur conflict for attacks on AMIS troops and the humanitarian relief agencies;

3. **Commends** the UN Security Council for its Resolution 1769 (2007) of 31st July, 2007, to establish the AU/UN Hybrid Operation in Darfur – UNAMID;
4. **Calls** on African States, African Union and the United Nations to expedite the operationalization of the UN-AU Hybrid operation in Darfur - UNAMID, by contributing troops to the said force;
5. **Calls** on all parties to the Darfur conflict to observe an immediate ceasefire and seriously pursue peace negotiation within the UN and AU framework;
6. **Calls** on the UN and AU to enhance the AU Peace-keeping forces in Somalia, in order to provide enhanced protection against the violation of International Humanitarian Law and the fundamental rights of the people of Somalia;
7. **Urges** the parties to the conflicts in north-east DRC, Chad and Central Africa Republic, to observe their obligations under international human rights law and to ensure that they respect the fundamental human rights of the civilian population, in particular the rights of women, children and internally displaced peoples.



118. ACHPR/Res.118(XXXXII)07: RESOLUTION ON THE ESTABLISHMENT AND APPOINTMENT OF A FOCAL POINT ON THE RIGHTS OF OLDER PERSONS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission or ACHPR) meeting at its 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, Republic of Congo;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution of 30 May 2007 on the Rights of Older Persons in Africa, adopted at its 41st Ordinary Session held from 16-30 May 2007, in Accra Ghana;

Bearing in mind the African Union Policy Framework and Plan of Action on Ageing in which it is recommended that "*Member States recognize the fundamental rights of older persons and commit themselves to abolish all forms of discrimination based on age,*" and "*that they undertake to ensure that the rights of older persons are protected by appropriate legislation, including the right to organize themselves in groups and the right to representation in order to advance their interest*";

Considering Article 18(4) of the African Charter on Human and Peoples' Rights, which stipulates that "*the aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs*";

Recalling Article 22 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa which highlights the special protection and needs of older women in Africa;

Considering also paragraph 20 of the **Kigali Declaration** adopted at the First African Union Ministerial Conference on Human Rights in Africa which "*calls upon State Parties to develop a Protocol on the Protection of the Rights of People with disabilities and the elderly*";

Convinced that a Protocol to the African Charter on Human and Peoples' Rights on the rights of older persons in Africa, ratified by all African Union Member States, will enhance compliance of State Parties with the recommendations contained in the AU Policy Framework and Plan of Action on Ageing;

Decides to establish a Focal Point on the Rights of Elderly Persons in Africa; and to appoint Commissioner **Yeung Kam John Yeung Sik Yuen** as the **coordinator** of the Focal Point, to be assisted by Commissioner Reine Alapini-Gansou, with Mr. Yaser Ahmad El-Hassan as an Expert.

Further decides that the Focal Point shall be tasked with the following mandate:

5. To liaise with the African Union Commission to convene an Experts Meeting composed of Members of the African Commission on Human and Peoples' Rights, Experts from the African Union Member States and civil society organizations, with a view to drafting a Protocol to the African Charter on the Rights of Older Persons in Africa, bearing in mind the recommendations in the 2002 Policy Framework;
6. To follow up with the African Union Commission, with a view to securing the resources required to enable the elaboration of the said Protocol;
7. To spearhead the process of drafting the Protocol for submission to the AU Policy Organs for, consideration and adoption as soon as possible.

119. ACHPR/Res.119(XXXII)07: RESOLUTION ON THE SITUATION OF HUMAN RIGHTS DEFENDERS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission or ACHPR) meeting at its 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, Republic of Congo;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the human rights protection instruments, particularly the United Nations Declaration on human rights defenders, the Grand Bay Declaration and its plan of action the Kigali Declaration, the Principles and Guidelines on the right to a fair trial and legal aid in Africa;

Cognizant of the obligations of States Parties to the African Charter on Human and Peoples' rights and under other regional and international human rights instruments for the protection of human rights, more especially the obligation to guarantee the security of persons living in their own country, as well as freedoms of assembly, association, of expression of human rights defenders and their rights to take part in the management and conduct of the public affairs of their countries;

Deeply concerned by the situation of Human Rights Defenders in Africa within the States Parties to the African Charter on Human and Peoples Rights, particularly those who, as a result of their activities, suffer multiple violations of their basic rights such as arbitrary arrests, illegal detentions, acts of torture, inhuman and degrading treatments, extra-judicial killings, lack of the right to counsel and the refusal of medical care and food during the period of their detention;

4. **Urges** all States Parties to the African Charter on Human and Peoples Rights to fulfill all their obligations as stipulated in the African Charter on Human and Peoples' Rights, the Principles and Guidelines on the right to a fair trial and legal aid in Africa, the United Nations Declaration on Human Rights Defenders, the Grand Bay Declaration, Kigali Declaration as well as other international and regional instruments to which they are party and are bound to protect;
5. **Urges** States Parties to take all the necessary measures to ensure to all human rights defenders an environment conducive to carrying out their activities without fear of any acts of violence, threats, reprisals, discrimination, pressure and any arbitrary acts by State or non State actors as a result of their human rights activities;
6. **Recommends** that States take specific measures to ensure the physical and moral integrity of their peoples, especially those of human rights defenders, to enable the latter to fully play their role in the promotion and protection of human rights.

120. ACHPR/Res.120(XXXII)07: RESOLUTION ON THE RENEWAL OF MANDATE AND APPOINTMENT OF THE CHAIRPERSON AND MEMBERS OF THE FOLLOW-UP COMMITTEE ON THE IMPLEMENTATION OF THE ROBBER ISLAND GUIDELINES

The African Commission on Human and Peoples' Rights (the African Commission or ACHPR) meeting at its 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, Republic of Congo;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.61 (XXXII)02 on the creation of the Follow-up Committee on the Implementation of the Robben Island Guidelines, adopted at its 32nd Ordinary Session from 17 - 23 October 2003 which took place in Banjul, The Gambia, and which also defined its mandate;

Recalling the Robben Island Guidelines and Measures for the prohibition and prevention of torture and other cruel, inhuman or degrading treatment or punishment in Africa which were endorsed by the Assembly of Heads of States and Government of the African Union in July 2002;

Further recalling Article 5 of the Universal Declaration of Human Rights (UDHR), Article 7 of the International Covenant on Civil and Political Rights (ICCPR) stipulating that no one shall be subjected to torture, inhuman or degrading treatment or punishment and Article 2 (1) and 16 (1) of the Convention Against Torture (CAT) calling upon each State to take effective measures to prevent acts of torture and other acts of cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction;

Noting with appreciation the accomplishment of the Follow-up Committee since the establishment of this mechanism;

Considering the necessity to allow the Follow-up Committee to continue to carry out its mandate and address urgent issues falling within this mandate;

Further considering that the mandate of the Chair of the Follow-up Committee, Commissioner Sanji Mmasenono Monageng came to an end on 28 November 2007;

Decides to appoint Commissioner Dupe Catherine Atoki as Chairperson of the Follow-up Committee for a period of two years effective 28 November 2007;

Further appoints the following experts as members for the same period of time:

- ✓ Mr Jean-Baptiste Niyizurugero – Vice Chairperson
- ✓ Mrs. Hannah Forster - member
- ✓ Ms. Leila Zerrougui – member
- ✓ Ms Karen McKenzie – member
- ✓ Mr Malick Sow - member

121. ACHPR/Res.121(XXXII)07: RESOLUTION ON THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

The African Commission on Human and Peoples' Rights (the African Commission or ACHPR) meeting at its 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, Republic of Congo;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its decision to establish a Working Group to examine the issue of Indigenous Populations and advise it accordingly, at the 28th Ordinary Session, in Benin, Cotonou;

Recalling further its Resolution Ref. ACHPR/Res.65 (XXXIV) 03 on the adoption of the Report of the African Commission's Working Group on Indigenous Populations/Communities adopted at its 34th Ordinary Session held in Banjul, The Gambia from 6 – 20 November 2003;

Noting with appreciation the immense work done by the Working Group in articulating the African Commission's position on the rights of Indigenous Populations/Communities;

Recalling the Advisory Opinion it adopted at the 41st Ordinary Session held in Accra, Ghana in May 2007 calling on Member States of the African Union to adopt the United Nations Declaration on the Rights of Indigenous Peoples;

Noting with satisfaction the adoption of the United Nations Declaration on the Rights of Indigenous Peoples on 13 September 2007 by the UN General Assembly;

Noting further that no State Parties to the African Charter on Human and Peoples' Rights voted against this Declaration;

Recognizing further the importance of enhancing the effort to foster the values and implement the principles enshrined in this Declaration;

Now, therefore, resolves:

1. To adopt the Communiqué annexed hereto on the adoption of the United Nations Declaration on the Rights of Indigenous Peoples;
2. To have this Communiqué read out during the Closing Ceremony of the 42nd Ordinary Session; and
3. To have it widely publicized and distributed to all stakeholders including State Parties during and after the said Session.

122. ACHPR/Res.122(XXXII)07: RESOLUTION ON THE EXPANSION OF THE MANDATE AND RE-APPOINTMENT OF THE SPECIAL RAPPORTEUR ON FREEDOM OF EXPRESSION AND ACCESS TO INFORMATION IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, Republic of Congo;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Emphasizing that the right to freedom of expression and information is a fundamental human right guaranteed *inter alia* by Article 9 of the African Charter;

Underlining that Article 9 of the *African Charter* provides for every individual's right to express and disseminate his opinions within the law but also encompasses the right to receive information;

Recalling the adoption of the *Declaration of Principles on Freedom of Expression in Africa*, at its 32nd Ordinary Session held from 17 - 23 October 2002, in Banjul, The Gambia, which elaborates on the nature, content and extent of the right to freedom of expression and access to information provided for under Article 9 of the *African Charter*;

Echoing Principle I (1) of the *Declaration of Principles on Freedom of Expression in Africa* which provides that 'freedom of expression and information, including the right to seek, receive and impart information and ideas, either orally, in writing or in print, in the form of art, or through any other form of communication, including across frontiers, is a fundamental and inalienable human right and an indispensable component of democracy';

Recalling Principle IV of the *Declaration* which elaborates on the right to freedom of information and sets a series of principles according to which the right shall be guaranteed by law;

Reaffirming the commitment of the African Commission to promote the right to freedom of expression and access to information and monitor the implementation of the *Declaration of Principles on Freedom of Expression in Africa* within Member States of the African Union;

Recalling the Resolution on the Mandate and Appointment of a Special Rapporteur on Freedom of Expression in Africa adopted at its 36th Ordinary Session held from 23 November - 7 December 2004 in Dakar, Senegal;

Considering that the term of Commissioner Faith Pansy Tlakula as Special Rapporteur on Freedom of Expression in Africa comes to an end on 5 December 2007 and the need for continuity;

Confirming that the right to access to information, which is a component of the fundamental right to freedom of expression, is indeed covered by the mandate of the Special Rapporteur;

Concerned that only a few African States have adopted legislation enabling the public and media access to information held by government and other public institutions or freedom of information laws;

DECIDES to renew the mandate of the Special Rapporteur on Freedom of Expression in Africa with the following amended title: ***Special Rapporteur on Freedom of Expression and Access to Information in Africa*** and to entrust the Special Rapporteur with the mandate to:

- analyse national media legislation, policies and practice within Member States, monitor their compliance with freedom of expression and access to information standards in general and the *Declaration of Principles on Freedom of Expression in Africa* in particular, and advise Member States accordingly;
- undertake fact-finding missions to Member States from where reports of systemic violations of the right to freedom of expression and denial of access to information have reached the attention of the Special Rapporteur and make appropriate recommendations to the African Commission;
- undertake promotional country Missions and any other activities that would strengthen the full enjoyment of the right to freedom of expression and the promotion of access to information in Africa;
- make public interventions where violations of the right to freedom of expression and access to information have been brought to her attention, including by issuing public statements, press releases, and sending appeals to Member States asking for clarifications;
- keep a proper record of violations of the right to freedom of expression and denial of access to information and publish this in her reports submitted to the African Commission; and
- submit reports at each Ordinary Session of the African Commission on the status of the enjoyment of the right to freedom of expression and access to information in Africa.

DECIDES FURTHER to re-appoint Commissioner **Faith Pansy Tlakula** as the *Special Rapporteur on Freedom of Expression and Access to Information in Africa* for a period of two years effective 28 November 2007.

123. ACHPR/Res.123(XXXXII)07: RESOLUTION ON THE COMPOSITION AND RENEWAL OF THE MANDATE OF THE WORKING GROUP ON INDIGENOUS POPULATIONS/COMMUNITIES IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission or ACHPR) meeting at its 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, Republic of Congo;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution Ref. ACHPR/Res.65 (XXXIV) 03 on the adoption of the Report of the African Commission's Working Group on Indigenous Populations/Communities adopted at its 34th Ordinary Session held in Banjul, The Gambia from 6 – 20 November 2003;

Recalling that the African Commission established a Working Group composed of six members, amongst them, two Members of the African Commission;

Noting that the African Commission entrusted the Working Group with a mandate for an initial period of two years;

Considering that the term of the Working Group comes to an end on 5th December 2007;

Considering further that the term of Ambassador Mohamed Kamel Rezag-Bara as a Member of the African Commission along with his mandate as a Member and the Chairperson of the Working Group have come to an end on 28 November 2007;

Appreciating the work that Ambassador Mohamed Kamel Rezag-Bara has done as a Member and Chairperson of the Working Group;

Commending the work undertaken by the Working Group during the past two years in the discharge of its mandate;

Recognizing the adoption by the UN General Assembly of the United Nations Declaration on the Rights of Indigenous Peoples on 13 September 2007;

Recognizing further the importance of the work of the Working Group in the promotion and protection of the rights of indigenous populations/communities in Africa and the necessity to allow the Working Group to continue to carry out its mandate;

Decides to:

- Extend the mandate of the Working Group for a period of two years with effect from 28th November 2007;
- Designate Commissioner Musa Ngary Bitaye as Chairperson of the Working Group;
- Designate Commissioner Mumba Malila as a member of the Working Group;
- Designate Commissioner Soyata Maiga as a member of the Working Group;
- Appoint Dr. Albert Barume and Mr. Melakou Tegegn as expert members of the Working Group; and
- Maintain the membership of the following experts:
 - o Mr. Mohammed Khattali;
 - o Ms. Marianne Jensen;
 - o Mr. Mr. Zephyrin Kalimba; and
 - o Dr. Naomi Kipuri.

124.ACHPR/Res.124(XXXXII)07: RESOLUTION ON THE APPOINTMENT OF THE CHAIRPERSON AND MEMBERS OF THE WORKING GROUP ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission or ACHPR) meeting at its 42nd Ordinary Session held from 14 – 28 November 2007, in Brazzaville, the Republic of Congo;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.73 (XXXVI)04 to establish a Working Group on Economic and Social Rights taken at its 36th Ordinary Session, held from 23 November - 7 December 2004 in Dakar, Senegal, and which also defined its mandate;

Noting with appreciation the work and accomplishment of members of the Working Group: Sanji Mmasenono Monageng, Yasser Sid Ahmed El-Hassan, and Mohamed Abdellahi Ould Babana;

Considering that the term of the Working Group came to an end on 14 November 2007;

DECIDES to appoint Commissioner Angela Melo as Chairperson of the Working Group on Economic and Social Rights in Africa for a period of two years, effective 28 November 2007.

And further appoints the following members for the same period of time,

- Commissioner Dupe Atoki – member
- Mr Ibrahima Kane – member (renewal)

125. ACHPR/Res.125(XXXII)07: RESOLUTION ON THE RENEWAL OF THE MANDATE OF THE SPECIAL RAPPORTEUR ON HUMAN RIGHTS DEFENDERS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission or ACHPR), meeting at its 42nd Ordinary Session held in Brazzaville, Republic of Congo, from 15 - 28 November 2007;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution **ACHPR/ 69(XXXV) 04** of 4 June 2004 on the protection of human rights defenders in Africa adopted at the 35th Ordinary Session held from 21st May - 4th June 2004, in Banjul, The Gambia;

Recalling its Resolution **83(XXXVIII) 05** of 5 December 2005 on the appointment of a special rapporteur on human rights defenders in Africa; adopted at the 38th Ordinary Session held from 21st November - 5th December 2005 in Banjul, The Gambia;

Bearing in mind its mandate to promote human and peoples' rights and ensure their protection in Africa under the *African Charter on Human and Peoples' Rights*;

Mindful that in the *Grand Bay (Mauritius) Declaration and Plan of Action*, the Organization of African Unity (African Union) called on Member States "to take appropriate steps to implement the *UN Declaration on Human Rights Defenders* in Africa";

Considering that the term of Mme Reine Alapini-Gansou as Special Rapporteur comes to an end on 5 December 2007;

Considering the report of the Special Rapporteur;

Noting with appreciation the work she has done as Special Rapporteur on Human Rights Defenders in Africa since her appointment in 2005,

Emphasizing The importance of the work of the Special Rapporteur as regards the search for solutions to the problems arising from the protection of human rights defenders;

Considering the necessity to allow the Special Rapporteur on Human rights Defenders in Africa to continue to carry out its mandate as contained in resolution **ACHPR/ 69(XXXV) 04**,

Decides to renew Commissioner Reine Alapini-Gansou as Special Rapporteur on Human Rights Defenders in Africa for a period of two (2) years effective 28 November 2007.

126. ACHPR/Res.126(XXXII)07: RESOLUTION ON THE RENEWAL OF THE MANDATE AND APPOINTMENT OF THE SPECIAL RAPPORTEUR ON PRISONS AND CONDITIONS OF DETENTION IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 42nd Ordinary Session held from 15 – 28 November 2007, in Brazzaville, the Republic of Congo;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Reaffirming the importance of observing the objectives and principles of the African Charter for the promotion and protection of the human rights of all, including those of detainees and prisoners;

Recalling its decision taken at its 20th Ordinary Session held in Grand Bay, Mauritius in October 1996 to establish the position of the Mandate, and to appoint a Special Rapporteur on Prisons and Conditions of Detention in Africa, as a prison monitoring mechanism;

Recalling further its decision taken at its 38th Ordinary Session held in Banjul, The Gambia in November/December 2005 to appoint Commissioner Mumba Malila as the Special Rapporteur on Prisons and Conditions of Detention in Africa;

Considering that the term of Commissioner Mumba Malila as the Special Rapporteur on Prisons and Conditions of Detention in Africa comes to an end on 5 December 2007;

Appreciating the work that Commissioner Malila has done as Special Rapporteur on Prisons and Conditions of Detention in Africa;

Emphasising the importance of the work of the Special Rapporteur and **calling on** all its partners to collaborate in his work in the search for solutions to the problems arising from the restriction of the freedom of the individual;

DECIDES to reappoint Commissioner Mumba Malila as the Special Rapporteur on Prisons and Conditions of Detention in Africa for a period of two years, effective 28 November 2007;

127. ACHPR/Res.127(XXXXII) 07: RESOLUTION ON THE RENEWAL OF THE MANDATE AND COMPOSITION OF THE WORKING GROUP ON SPECIFIC ISSUES RELEVANT TO THE WORK OF THE COMMISSION

The African Commission on Human and Peoples' Rights (the African Commission or ACHPR) meeting at its 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, Republic of Congo;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling Its Resolution Ref. **ACHPR/Res.77 (XXXVII)05** on the creation of a Working Group on Specific Issues relevant to the work of the African Commission adopted at its 37th session which took place from 27 April - 11 May 2005 in Banjul, The Gambia;

Noting with appreciation the accomplishments of the Working Group since the renewal of its mandate in 2005,

Considering the interim report of the Working Group;

Considering further the necessity to allow the Working Group to continue to carry out its mandate and address urgent pending issues falling within this mandate;

Decides to renew the mandate of the Working Group for twelve (12) months

Further decides that the composition of the Working Group will be as follows:

- 1) Commissioner **Angela Melo**
- 2) Commissioner **Pansy Faith Tlakula**
- 3) Commissioner **Kayitesi Zainabou Sylvie**
- 4) One (1) representative from each of the following Non Governmental Organizations
 - a) The Institute for Human Rights and Development in Africa
 - b) INTERIGHTS; and
 - c) Open Society Justice Initiative.

Request the Working Group to deal as a matter of priority with the following matters and to report accordingly to the African Commission at its **NEXT** Ordinary Session:

- a) The Relationship between the African Commission and the African Court on Human and Peoples' Rights
- b) The Relationship between the Bureau of the African Commission and the Secretariat of the Commission
- c) The Relationship between the African Commission and the different organs and institutions of the African Union

Further requests the Secretariat of the African Commission to intensify its efforts to mobilize resources that could assist the Working Group to carry out its mandate:

128. ACHPR/Res.128(XXXII)07: RESOLUTION ON FREEDOM OF EXPRESSION AND THE UPCOMING ELECTIONS IN ZIMBABWE

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 42nd Ordinary Session held from 15 - 28 of November 2007, in Brazzaville, the Republic of Congo;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling further Article 9 of the African Charter which provides that every individual shall have the right to receive information and to express and disseminate his opinions within the law;

Reaffirming the fundamental importance of freedom of expression and information as an individual human right, as a cornerstone of democracy and as a means of ensuring respect for all human rights and freedoms;

Emphasising that respect for the right to freedom of expression includes respect for a free press, freedom of association and access to information, which are pre-requisite for free, fair and credible elections;

Recalling the *OAU/AU Declaration on the Principles Governing Democratic Elections in Africa*, adopted on 8 July 2002 at the 38th Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Durban, South Africa,

Recalling the recommendations issued by the African Commission following its fact-finding mission to Zimbabwe in June 2002, in particular those underlining the need to create an environment conducive to democracy and human rights;

Noting with appreciation the statement made by the Zimbabwean delegate, on 16 November 2007, at the 42nd Ordinary Session of the African Commission, held in Brazzaville, Republic of Congo, that, as a result of the ongoing dialogue between the Government of Zimbabwe and opposition political parties, a number of laws are in the process of being amended;

Welcoming the adoption of the African Charter on Democracy, Elections and Governance (the Charter on Democracy), at the 8th Ordinary Session of the Assembly of Heads of State and Government of the African Union, held in Addis Ababa, Ethiopia, on 30 January 2007,

Noting that, in accordance with Article 2(10) of the Charter on Democracy, its objectives include the promotion of "the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs";

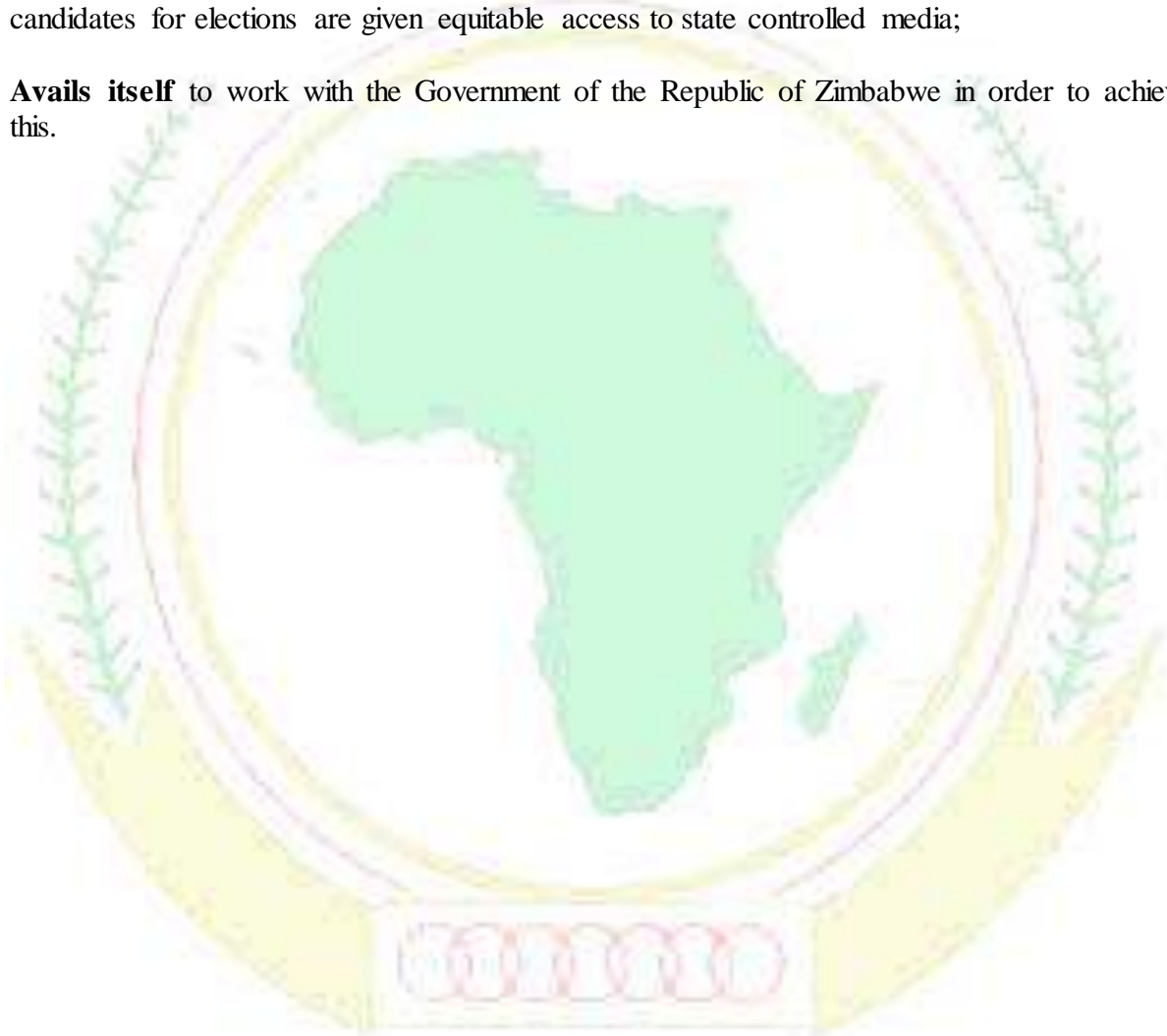
Underlining that, according to Article 17 (3) of the Charter on Democracy, by ratifying the latter, States Parties re-affirm their commitment to regularly hold transparent, free and fair elections in accordance with the OAU/AU Declaration on the Principles Governing Democratic Elections in Africa and, to this end, shall *inter alia* "Ensure fair and equitable access by contesting parties and candidates to state controlled media during elections";

Underlining further that Article 27 (7) and (8) of the Charter on Democracy provide that, in order to advance political, economic and social governance, States Parties shall commit themselves to the “Development and utilisation of information and communication technologies” and to “Promoting freedom of expression, in particular freedom of the press and fostering a professional media”;

Encourages the Government of the Republic of Zimbabwe to ensure that it creates conditions conducive to free, fair and credible elections, through, *inter alia*, pursuing the ongoing dialogue with opposition political parties on a number of laws that are in the process of being amended;

Requests the Government of the Republic of Zimbabwe to ensure that contesting parties and candidates for elections are given equitable access to state controlled media;

Avails itself to work with the Government of the Republic of Zimbabwe in order to achieve this.



129. ACHPR/Res.129(EXT.OS/IV)08: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN THE REPUBLIC OF SOMALIA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 4th Extra-ordinary Session in Banjul, The Gambia, from 17th to 23rd February 2008:

Pursuant to its mandate under Articles 30 and 45 of the African Charter on Human and Peoples' Rights (the African Charter), to promote and protect human and peoples' rights in Africa;

Taking into account Article 46 of the African Charter which allows the Commission to use any appropriate method of investigation in the execution of its mandate;

Considering that the Republic of Somalia is a party to the African Charter, and has thereunder committed itself to the promotion and protection of human and peoples' rights;

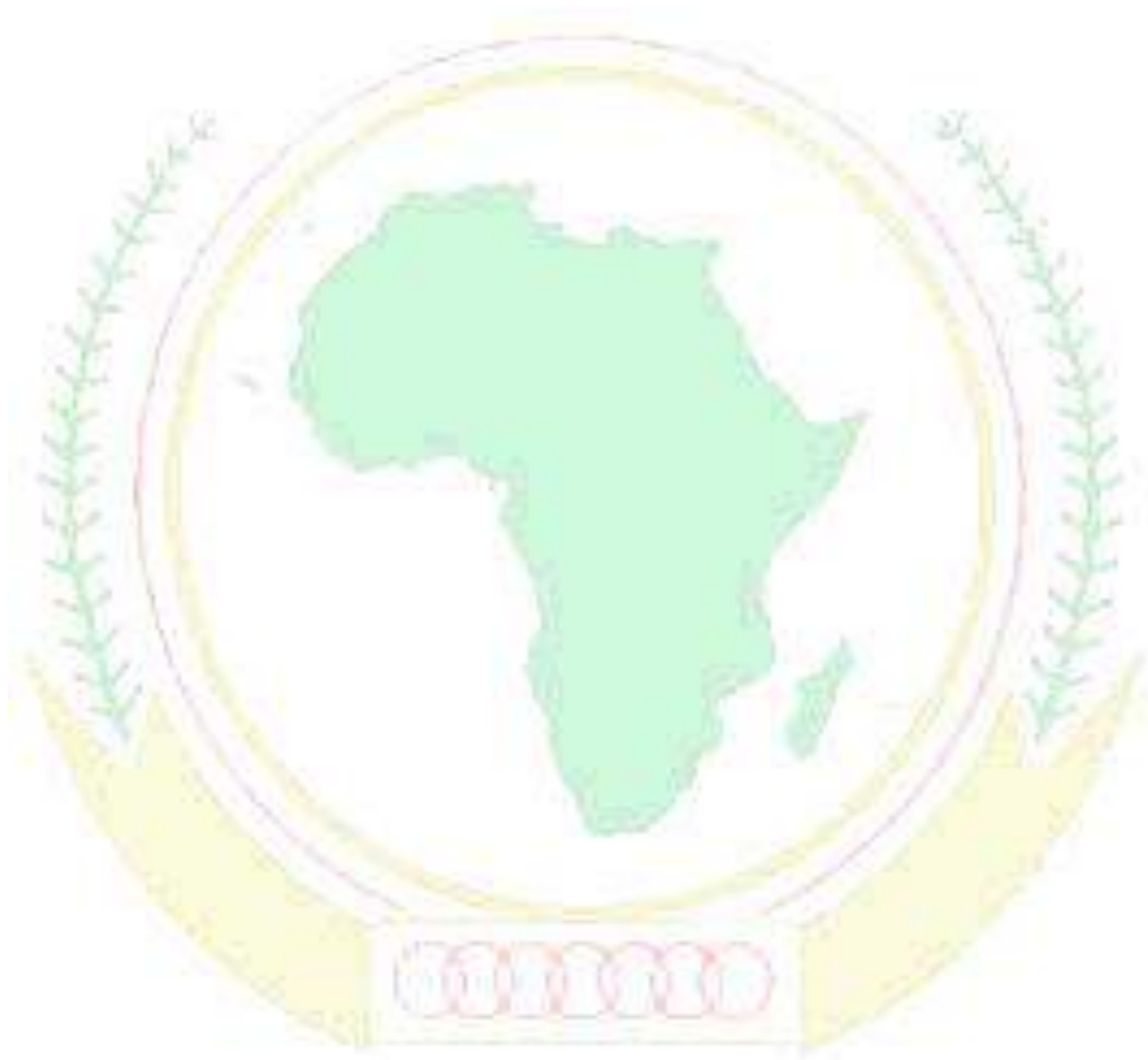
Considering further its Resolution ACHPR/Res.109 (XXXXI)07 on the Human Rights Situation in Somalia, adopted at the 41st Ordinary Session of the Commission, held in Accra, Ghana from 16th to 30th May 2007;

Deeply concerned that in spite of the deployment of the African Union Peacekeeping mission in Somalia, the human rights situation in the country continues to deteriorate;

The African Commission:

1. **Condemns** the violations of human rights that have been perpetrated during almost two decades of civil war in the country;
2. **Calls** on the parties to the conflict to observe their obligations under the African Charter, international humanitarian law and international human rights norms;
3. **Urges** the African Union (AU) and the international community to continue their support to the government and people of Somalia in the restoration of peace and democracy;

4. **Decides** to send a Fact-Finding Mission to the Republic of Somalia to investigate violations of human and peoples' rights in the country;
5. **Calls upon** all stakeholders including the Transitional Federal Government to cooperate with and extend all assistance to the Fact-finding Mission, to enable it to effectively undertake its work.



130. ACHPR/Res.130(EXT.OS/IV)08: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN KENYA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 4th Extra-ordinary Session in Banjul, The Gambia, from 17th to 23rd February 2008:

Pursuant to its mandate under Articles 30 and 45 of the African Charter on Human and Peoples' Rights (the African Charter), to promote and protect human and peoples' rights in Africa;

Taking into account Article 46 of the African Charter which allows the Commission to use any appropriate method of investigation in the execution of its mandate;

Considering that the Republic of Kenya is a party to the African Charter, and has thereunder committed itself to the promotion and protection of human and peoples' rights;

Considering further that, at the 41st Ordinary Session of the African Commission, held in Accra, Ghana from 16 to 30 May 2007, the Republic of Kenya submitted its Periodic Report in accordance with Article 62 of the African Charter in which it indicated the legislative and other measures taken to give effect to the African Charter in Kenya;

Recalling the Concluding Observations adopted by the African Commission pursuant to the examination of the said Periodic Report of Kenya;

Deeply concerned by the violence that followed the December 2007 Presidential and Legislative Elections in Kenya, and the deteriorating human rights situation resulting therefrom;

Welcoming the cessation of violence and the ongoing dialogue between the Government and the Orange Democratic Movement (ODM) facilitated by the African Union (AU) Envoy, the former United Nations Secretary General, H.E.Koffi Annan;

The African Commission:

1. **Condemns** the violations of human rights that have been perpetrated in the wake of the 27 December 2007 Presidential and Legislative Elections in Kenya;
2. **Expresses** its support to the mediation process facilitated by H.E.Koffi Attah Annan and his team;
3. **Calls** on the parties in the on-going dialogue to put the interest of the country above any other interest;
4. **Calls upon** the people of Kenya to exercise patience and give dialogue a chance;
5. **Decides** to send a Fact-Finding Mission to the Republic of Kenya, to among other things, investigate allegations of violations of human and peoples' rights that have occurred following the December 2007 elections;
6. **Urges** all stakeholders including the Government and the ODM, to cooperate with and extend all assistance to the Fact-finding Mission, to enable it to effectively undertake its work.

131. ACHPR/Res.131(XXXIII)08: RESOLUTION ON THE SITUATION OF MIGRANTS IN SOUTH AFRICA

The African Commission on Human and People's Rights 43rd Ordinary Session held in Ezulwini, Kingdom of Swaziland, on 7-22 May 2008.

Aware of its mandate under the African Charter on Human and Peoples' Rights to promote and protect human and peoples' rights in Africa,

Recalling its **Resolutions ACHPR/Res.95 (XXXIX)06** and **ACHPR/Res.116 (XLII)07**, which extended the mandate of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons in Africa to be responsible for migration issues,

Recognizing that the human rights of migrants are covered under general regional and international human rights instruments, unless they qualify for protection under national, regional and international refugee laws and instruments.

Being further concerned that the vast number of migrants in Africa originate from African states which are experiencing political instability and armed conflicts, which have in turn, undermined peace and economic conditions in those states.

Alarmed, by the attacks and violence against migrants from African countries in a number of townships in South Africa, which negate the principles of African Solidarity, The African Renaissance and African Charter on Human and Peoples' Rights.

1. **Condemns** the attacks and violence perpetrated against migrants in various townships in South Africa.
2. **Calls** on the South African government to investigate and prosecute those responsible for the attacks, and to institute further measures to ensure the protection of foreign migrants in South Africa, and their property.
3. **Urges** the South African government to which the African Commission had sought authorization for the Special Rapporteur to conduct a fact finding mission on the situation of migrants in that country, to grant the said authorization.

132. ACHPR/Res.132(XXXXIII)08: RESOLUTION ON THE FORTHCOMING RUN OFF ELECTION IN ZIMBABWE

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 43rd Ordinary Session in Ezulwini, the Kingdom of Swaziland from 7 – 22 May 2008;

Recognizing its mandate under the African Charter on Human and Peoples' Rights (the African Charter) to promote and protect human and peoples' rights in Africa;

Mindful of the important progress made by the African Union through its adoption in 2002 of the Declaration on the Principles Governing Democratic Elections in Africa which provides therein that 'the holding of democratic elections is an important dimension in conflict prevention, management and resolution';

Recalling its Resolution on Freedom of Expression and the Upcoming Elections in Zimbabwe adopted at its 42nd Ordinary Session held in Brazzaville, Republic of Congo, from 15 – 28 November 2007;

Recalling further the Statement on the Election Impasse in Zimbabwe, issued by the African Commission in April 2008 addressed to the government of the Republic of Zimbabwe, the leadership of the Zimbabwe African National Congress – Patriotic Front (ZANU/PF) and the Movement for Democratic Change (MDC);

Noting the release by the Zimbabwe Electoral Commission (ZEC) of the results of the Presidential elections held on 29 March 2008, which necessitated a second round run-off in terms of Zimbabwe law;

Noting the setting of dates for the second round run-off of the Presidential election;

Deeply Concerned by the human rights violations occasioned by the violence that followed the March 29 elections;

The African Commission hereby:

Calls on the government to take all necessary measures to ensure that Zimbabweans exercise their right to vote in a peaceful environment free of intimidation and violence;

Appeals to all political parties and their supporters to exercise tolerance and observe democratic rules during the campaign and after the elections;

Calls on the government to ensure that all contesting candidates have access to the state-owned media, in particular, the State broadcaster;

Further calls on the government to ensure that the media is allowed to cover all electoral processes;

Calls on the government to guarantee the protection of the rights of human rights defenders during the election process;

Requests the government to allow both national and international election observers to observe the entire electoral process, so as to enhance the credibility of the electoral process, and acceptance of the results of the elections by all contesting parties;

Requests the government to authorize a pre-election mission of the African Commission to Zimbabwe to discuss with government and other relevant stakeholders measures to be put in place to ensure the protection of human rights in the run up to and during the election;



133. ACHPR/Res.133 (XXXXIV)08: RESOLUTION ON ELECTIONS IN AFRICA

The African Commission on Human and Peoples' Rights, meeting at its 44th Ordinary Session held in Abuja, Federal Republic of Nigeria, from 10 to 24 November 2008;

RECALLING the obligation contained in the African Charter on Human and Peoples' Rights to take the sub-regional, regional and international human rights instruments into account;

CONSCIOUS of the important progress made by the African Union through the adoption in 2002 of the declaration on the principles governing democratic elections in Africa which stipulates that « *the holding of democratic elections constitutes an important dimension in the prevention, management and resolution of conflicts* »;

ENCOURAGED by the adoption of the African Charter on democracy, elections and governance in January 2007;

CONCERNED that only one country has ratified the African Charter on democracy, elections and governance to ensure its urgent entry into force;

PREOCCUPIED by the recent developments which culminated in the failure of the electoral and transitional process in several countries of the Continent;

DEEPLY CONCERNED by the serious deterioration of the human rights situation in certain African countries before, during, and after the election periods especially in respect of the humanitarian situation;

NOTING of the escalation of political violence and internal population displacements and their negative effects on the elections;

1. CALLS on the States Parties to:

- **Ratify** the African Charter on democracy, election and governance; and conform to their obligations under the terms of the African Charter on Human and Peoples' Rights, the African Charter on democracy, elections and governance, the AU declaration on the principles governing democratic elections in Africa and the other regional and national guidelines in the area of elections;
- **Recognise** the right to existence of the various political parties and the right to **multiparty** democracy;
- **Guarantee** the independence of the Institution responsible for the management of elections before, during and after the holding of any election;
- **Provide** sufficient resources for the strengthening of the national institutions responsible for elections management so as to guarantee their independence

and their **ability** to exercise their mandate without fear or favour;

- **Respect** the Rule of Law and the independence of the **judiciary** which is essential for the realization of free and fair elections in Africa.
2. **Urges** all political parties and candidates at every level of electoral process to respect the election laws and regulations including the legal process for challenging any election results.
 3. **Deplores** the emerging trends in establishing government of national unity, which in certain cases legitimize undemocratic elections.
 4. **Recommends** that, where necessary, the establishment of a government of national unity must be inclusive and reflective of the elections results.
 5. **Urges** leaders of political parties and candidates to put the general interest of the people at the center of the electoral process.



134. ACHPR/Res.134(XXXXIV)08: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN THE GAMBIA

The African Commission on Human and Peoples' Rights, meeting at its 44th Ordinary Session held in Abuja, Federal Republic of Nigeria, from the 10 – 24 November 2008;

Recognising its mandate under the African Charter on Human and Peoples' Rights (The African Charter) to promote and to protect human and peoples' rights in Africa;

Considering the provisions of the Constitutive Act of the African Union, the African Charter, as well as the provisions of other regional and international human rights instruments to which The Gambia is a State Party;

Strongly Condemning the attempted Coup d' etat of March 2006 in The Gambia and calling on all Africans to respect the provisions of the Constitutive Act of the African Union which in Article 4 (p) states as one of its principles, "condemnation and rejection of unconstitutional changes of government";

Deeply concerned by the **deterioration of the human rights situation** in the country owing to routine allegations of unlawful arrests and detentions, torture in detention, unfair trials, extrajudicial executions and enforced disappearances by State Security Forces, which target human rights defenders, journalists, and all persons suspected of involvement in the attempted coup to overthrow the Government of The Gambia

Recalling that since the March 2006 attempted Coup d' etat in The Gambia, there has been a severe deterioration in the **enjoyment of the right to freedom of expression** particularly **involving** attacks on the independent media which has led to several journalists **being arrested** or fleeing the country, thereby, violating the right of the people of The Gambia to the freedom of expression and access to information;

The African Commission hereby:

Condemns the continued human rights violations in the Republic of The Gambia and requests for the immediate and unconditional release of Chief Ebrima Manneh and Kanyie Kanyiba and all prisoners of conscience;

Calls on the Republic of The Gambia to immediately and fully comply with the 5 June 2008 judgement of the ECOWAS Community Court of Justice in respect of **the release of** Chief Ebrima Manneh from unlawful detention and pay the **damages** awarded by the Court.

Further Calls on the Government of The Gambia to investigate all allegations of acts of torture in detention and extrajudicial executions.

Urges the Government of The Gambia to provide organizations, families and friends of persons in detention, access to the detainees to enable an assessment of their health and living conditions;

Calls on the Government of The Gambia to **bring to an immediate end** the harassment and intimidation of independent media institutions and respect the rights of journalists and other

human rights defenders;

Urges the Government of The Gambia to fully comply with its obligations under the African Charter with regard to the right to liberty, freedom from torture, right to fair trial, freedom of expression and of association and to take all necessary measures to ensure its accountability for reported cases of human rights violations in the country;

Further Calls on the Government of The Gambia to immediately implement this Resolution.



135. ACHPR/Res.135 (XXXIV)08: RESOLUTION ON MATERNAL MORTALITY IN AFRICA

The African Commission on Human and Peoples' Rights Meeting at its 44th Ordinary session held in Abuja, Federal Republic of Nigeria, from 10 - 24 November 2008

RECALLING that women's rights and the principle of non discrimination have been recognised and guaranteed in all international human rights instruments, notably the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol, and all other international and regional conventions and covenants such as the African Charter on Human and Peoples' Rights relating to the rights of women;

RECALLING that women's rights to maternal health have been recognised and reaffirmed by the United Nations Plans of Action on Population and Development in 1994 and on Social Development in 1995 and have been enshrined in the Beijing Declaration and Platform for Action in 1995;

RECOGNISING that improving maternal and reproductive health is both a regional and international obligation enshrined in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and the Millennium Development Goals;

FURTHER RECALLING the commitments of the Heads of State and Governments in the Solemn Declaration on Gender Equality in Africa adopted during the 3rd Ordinary Session held in Addis Ababa, Ethiopia from 6-8 July 2004;

NOTING the commitments of the Heads of State and Governments in the Abuja Declaration on HIV/AIDS, Tuberculosis and Other Related Infectious Diseases made during the African Summit on HIV/AIDS, Tuberculosis and Other Infectious Diseases in Abuja, Nigeria from 24-27 April 2001 to allocate 15% of their national budgets to health ;

STANDING by our Declaration on Economic, Social and Cultural Rights in Pretoria during our 36th Session in December 2004 that lack of political will, privatisation of essential services, failure to allocate sufficient resources and brain drain amongst other factors are at the centre of the non-realisation of economic, social and cultural rights in Africa including the right to enjoy the best attainable state of physical and mental health;

DEEPLY disturbed that Africa currently has the worst records of maternal deaths in the world accounting for more than two hundred and fifty thousand deaths annually;

CONCERNED that most member states of the African Union are not making progress in reducing the maternal mortality rates in their respective countries;

NOTING with concern that maternal mortality destroys the very foundation of the African family which according to article 18 of the African Charter on Human and Peoples' Rights is the "natural unit and basis of the society" and "the custodian of morals and traditional values recognised by the community";

CONSIDERING that the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa makes provision in article 14 for health and reproductive rights and in particular, obliges states to "establish and strengthen existing pre-natal, delivery and post-natal health and nutritional services for women during pregnancy and while they are breast-feeding";

APPRECIATING the great role women play in securing the future of the society and that pregnancy being a natural occurrence, every society should seek to protect the life of the mother and the child from conception, to delivery and beyond;

CONVINCED that preventable maternal mortality is a violation of the rights to life, health and dignity of women in Africa;

FIRMLY convinced that only through effective health institutions as well as strategic and sustained funding to the health sector that the problem of maternal mortality will be managed and finally reduced in Africa;

1. **DECLARES** that preventable maternal mortality in Africa is a violation of women's right to life, dignity and equality enshrined in the African Charter on Human and Peoples' Rights and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;

2. **CALLS UPON** African Governments to individually and collectively address the issue of maternal mortality in accordance with the recommendations attached to this resolution.

136. ACHPR/Res.136 (XXXXIV)08: RESOLUTION CALLING ON STATE PARTIES TO OBSERVE THE MORATORIUM ON THE DEATH PENALTY

The African Commission on Human and Peoples' Rights, meeting at its 44th Ordinary Session held from 10th to 24th November 2008 in Abuja, Federal Republic of Nigeria:

RECALLING Article 4 of the African Charter on Human and Peoples' Rights, which recognises the right of everyone to life, and Article 5(3) of the African Charter on the Rights and the Welfare of the Child which guarantees the non-application of death penalty for crimes committed by children;

CONSIDERING ACHPR/Res 42 (XXVI) calling on States to consider observing a moratorium on the death penalty, adopted at the 26th Ordinary Session of the African Commission on Human and Peoples' Rights held from 1st to 15th November 1999 in Kigali, Rwanda;

RECALLING Resolution 62/149 of the General Assembly of the United Nations, adopted in 2007 calling on all States that still retain the death penalty to, *inter alia*, observe a moratorium on executions with a view to abolishing the death penalty;

BEARING IN MIND Resolution 2005/59 adopted on 20 April 2005 by the United Nations Human Rights Commission calling on all States that still retain the death penalty to totally abolish the death penalty and, in the meantime, to observe a moratorium on executions;

CONSIDERING Resolution 1999/4 of the United Nations Sub-Commission on the Promotion and the Protection of Human Rights calling on all States that still retain the death penalty and are not observing a moratorium on executions, as part of the celebration of the millennium, to at least commute death penalty sentences into life imprisonment by 31st December 1999, and to commit themselves to observe a moratorium on the execution of death sentences throughout the year 2000;

CONSIDERING the exclusion of the death penalty from the sentences that can be pronounced by the International Criminal Court, the Extraordinary Chambers of the Tribunals of Cambodia, the Special Court of Sierra Leone, the Special Juries for serious crimes in East Timor, the International Criminal Tribunal for the Former Yugoslavia, and the International Criminal Tribunal for Rwanda; and

NOTING that at least 27 State Parties to the African Charter on Human and Peoples' Rights have abolished the death penalty in law or *de facto*;

NOTING also that only six out of 53 State Parties to the African Charter on Human and Peoples' Rights have ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty;

NOTING further that some State Parties have so far failed to give effect to all the above resolutions relating to the observation of a moratorium on the death penalty, and others have observe the moratorium but have resumed the execution of death sentences or have expressed their intention to resume the execution of such sentences;

CONCERNED by the fact that some State Parties to the African Charter on Human and Peoples' Rights apply the death penalty under conditions not respectful of the right to a fair trial guaranteed under the African Charter on Human and Peoples' Rights and other relevant international norms:

1. **EXHORTS** State Parties to the African Charter on Human and Peoples' Rights that still retain the death penalty to:
 - a) Fully comply with their obligations under this treaty; and
 - B)** Guarantee that every person accused of crimes for which capital punishment is applicable, benefits from all the guarantees of a fair trial included in the African Charter and in other relevant regional and international norms and treaties.
2. **URGES** State Parties that still retain the death penalty to observe a moratorium on the execution of death sentences with a view to abolishing the death penalty in conformity with Resolutions ACHPR/Res 42 (XXVI) of the African Commission and 62/149 of the General Assembly of the United Nations;
3. **CALLS ON** all State Parties that have not yet done so, to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty;
4. **CALLS ON** State Parties to the African Charter to include in their periodic reports information on the steps they are taking to move towards the abolition of the death penalty in their countries; and
5. **IMPLORES** all State Parties to give their full support to the Working Group on the Death Penalty of the African Commission on Human and Peoples' Rights in its endeavour to work towards the abolition of the death penalty in Africa.

137. ACHPR/Res.137(XXXXIV)08: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN SOMALIA

The African Commission on Human and Peoples' Rights meeting at its 44th Ordinary Session held from 10th to 24th November, 2008 in Abuja, Federal Republic of Nigeria:

Concerned that the Human rights situation in Somalia has since 1991 remained precarious following the years of conflict, notwithstanding the establishment of the Transitional Federal Government in 2005,

Recalling its Resolutions ACHPR/Res.117 (XLII) 07 on Strengthening on the Responsibility to Protect in Africa, adopted during the 42nd Ordinary Session held in Brazzaville Republic of Congo and; **ACHPR/Res.129(Ext.OS/IV) 08** on the Human Rights situation in the Republic of Somalia adopted during its Extra Ordinary Session in Banjul , The Gambia from 17th to 23rd February 2008,

Recalling further its resolution ACHPR/Res.129(Ext. OS/IV) 08 of 23rd February 2008 on the decision to undertake fact finding mission to Somalia which has, hitherto not been authorized;

Being aware that various initiatives have been deployed by the African Union to find lasting peace in Somalia,

Taking note of the African Union Assembly Declaration on the Situation in Somalia, **Assembly/AU/DECL.2 (VII)** adopted on 2nd July, 2006 Banjul, The Gambia and decision **Assembly AU/Dec.142(VIII)** which *inter alia*, recognized the deployment of the military forces of Ethiopia in Somalia under African Union mandate,

Recalling that the Assembly's decision called on Member States of the African Union to contribute troops and material resources to AMISOM under the leadership of Inter-Governmental Authority on Development (IGAD) in order to avoid a security vacuum should Ethiopia troops withdraw,

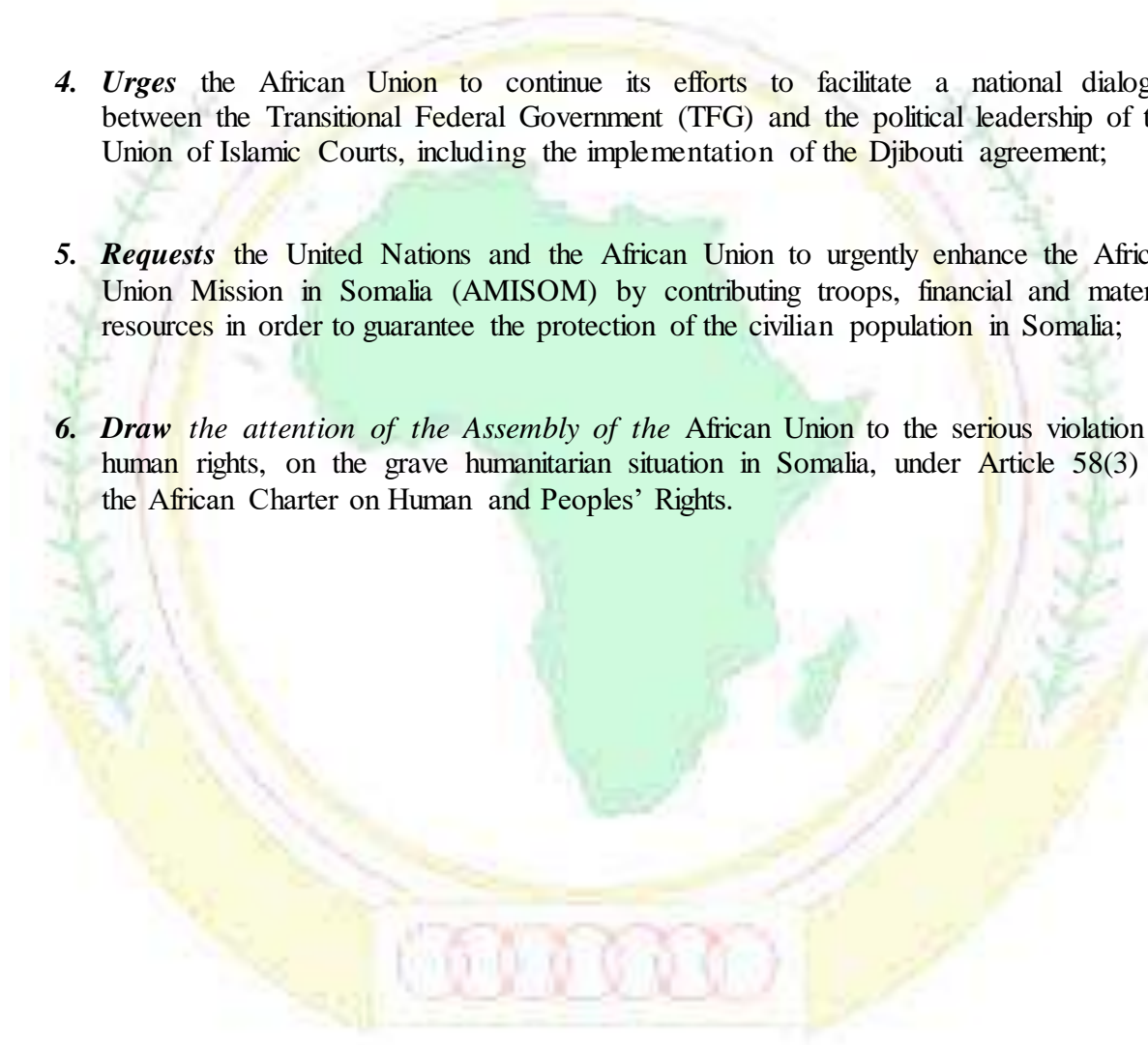
Commending the Republic of Uganda and the Republic of Burundi for contributing troops to AMISOM,

Being concerned that the African Union Member States and the International Community have not fully supported AMISOM as urged by the Assembly.

Expressing deep concern that the escalation in the armed conflict in Somalia continues to inflict massive and serious human rights violations on the civilian population which also constitute a violation of international humanitarian law;

Alarmed by the breakdown of the rule of law and the fragility of State institutions in Somalia, which have, *inter alia*, resulted in incidences of piracy in the territorial waters of Somalia, thereby, affecting vessels, including those carrying humanitarian assistance to the vulnerable Somali population

1. **Condemns** the massive violations of the human rights of the civilian population in Somalia, particularly in Mogadishu;
2. **Condemns** the killing of Ms. Aisha Ibrahim Duhulow, a 13 years old girl by stoning, as cruel, inhuman and degrading punishment, and calls for the punishment of those who were responsible;
3. **Calls** on the parties to the conflict in Somalia to respect the human rights of the civilian population, and their obligation under International Humanitarian Law;
4. **Urges** the African Union to continue its efforts to facilitate a national dialogue between the Transitional Federal Government (TFG) and the political leadership of the Union of Islamic Courts, including the implementation of the Djibouti agreement;
5. **Requests** the United Nations and the African Union to urgently enhance the African Union Mission in Somalia (AMISOM) by contributing troops, financial and material resources in order to guarantee the protection of the civilian population in Somalia;
6. **Draw the attention of the Assembly of the African Union** to the serious violation of human rights, on the grave humanitarian situation in Somalia, under Article 58(3) of the African Charter on Human and Peoples' Rights.



138. ACHPR/Res.138(XXXIV)08: RESOLUTION ON THE HUMAN RIGHTS AND HUMANITARIAN SITUATION IN ZIMBABWE

The African Commission on Human and Peoples' Rights meeting at its 44th Ordinary Session in Abuja in the Federal Republic of Nigeria from 10 to 24 November 2008 ;

RECALLING the provisions of the African Charter on Human and Peoples' Rights;

NOTING Resolution **ACHPR/Res.89(XXXVIII)05**, **ACHPR/Res.128(XXXII)07** and others, on different human rights and humanitarian law violations in Zimbabwe ;

RECALLING the provisions of the African Charter on Democracy and Good Governance in Africa;

NOTING that to date the political crisis in Zimbabwe continues and thereby impacting negatively to the lives of civilian population;

OBSERVING that the Global Political agreement signed on the 15th of September 2008 between the political parties namely, ZANU PF, and the MDC has not been fully implemented in spite of efforts made by regional organs to put an end to the situation;

CONCERNED about the repeated human rights violations, in particular those against human rights defenders, women defenders and journalists;

CALLS on political parties in Zimbabwe to give their full commitment with the view to implement the Global Political agreement without any further delay;

REQUESTS the African Union, and SADC to take appropriate measures with the view to ensure the resumption of humanitarian assistance by the international community in Zimbabwe and to cease all forms of violence against the media and human rights defenders, including women defenders;

URGES the Government of Zimbabwe to take all appropriate measures to ensure the effective implementation of economic, social and cultural rights in Zimbabwe, in particular the right to food, basic education, health and hygiene, the right to freedom of expression, freedom of movement and association.

139. ACHPR/Res.139(XXXXIV)08: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN DEMOCRATIC REPUBLIC OF CONGO

The African Commission on Human and Peoples' Rights, meeting at its 44th Ordinary Session held in Abuja in the Federal Republic of Nigeria from 10 to 24 November 2008 ;

RECALLING Resolution 1325 of the United Nations Security Council adopted on 31st October 2000 on Women, Peace and Security as well as Sexual Crimes in the DRC;

NOTING the Goma Peace Accord of January 2008;

BEARING IN MIND the Goma Declaration of 18 June 2008 against Sexual Violence and ending Impunity in the Great Lakes Region;

RECALLING the resolution adopted at the 42nd ordinary session in Brazzaville, Republic of Congo on sexual crimes against women in the DRC;

APPRECIATING the commitment of the DRC to respect the provisions of the African Charter on Human and Peoples' Rights;

CONCERNED about the renewal of hostilities in the East of DRC in particular in the Kivu regions since August 2008, and in particular the fighting currently going on in Goma between the Armed Forces of DRC (FARDC) and the militia acting under their control on the one hand, and the armed groups, particularly the National Congress for the Defence of the People (CNDP), on the other

CONCERNED FURTHER about the serious violations of the rights of human rights defenders, in particular women defenders working in North and South Kivu Province;

DEPLORING the serious human rights violations committed by all parties to the conflict against the civilian population, in particular summary executions, extra judicial killings, arbitrary detentions, torture, sexual crimes, the conscription of child soldiers, which constitute violation of International humanitarian Law ;

- **CONDEMNS** the serious violations of rights guaranteed by the African Charter on Human and Peoples Rights and acts that constitute international crimes ;
- **CALLS ON** all parties to the conflict to cease hostilities with immediate effect and end all human rights violations and violations against international humanitarian law;
- **CALLS ON** all parties to guarantee the physical integrity of the civilian population, their freedom of movement and access to humanitarian assistance;
- **CALLS ON** all parties to ensure that human rights Defenders and organizations working in the field of human rights are able to carry out their legitimate activities without fear of reprisals and free of all restrictions,

including harassment;

- **COMMENDS** the United Nations Security Council for adopting a Resolution S/RES/1843(2008) on 20 November 2008, to enhance the capacity of MONUC to deal with the insecurity in the conflict in DRC;
- **CALLS ON** the government of the DRC to take all necessary measures to investigate and institute legal proceedings against the perpetrators of the crimes inflicted on the DRC population;
- **URGES** all neighboring States to put an end to any form of support to the armed groups in the DRC ; and the illegal exploitation of the natural resources of the DRC;
- **URGES** the African Union and the United Nations to take all appropriate measures to ensure that all hostilities and serious human rights violations in the DRC are brought to an end.



140. ACHPR/Res.140(XXXXIV)08: RESOLUTION ON JOINT PROMOTIONAL MISSIONS

The African Commission on Human and Peoples' Rights, meeting in its 44th Ordinary Session held in Abuja, Federal Republic of Nigeria from 10 to 24 November 2008;

CONSIDERING the African Charter on Human and Peoples' Rights and the mandate of promotion and protection which it has entrusted to the African Commission;

RECALLING the Declaration on the political and socio-economic situation in Africa and the fundamental changes taking place in the world, adopted by the Assembly of Heads of State and Government of the OAU in 1990;

RECALLING the Declaration establishing, within the OAU, the Mechanism for the prevention, management and settlement of conflicts adopted by the Assembly of Heads of State and Government of the OAU in June 1993 in Cairo, (Egypt);

RE-AFFIRMING the principles dedicated in the Constitutive Act of the African Union, in particular the prohibition of genocide, of war crimes and crimes against humanity and determined to combat the ideology of genocide and all its symptoms;

ACKNOWLEDGING that observance of human rights is a key tool for promoting collective security, durable peace and sustainable development as enunciated in the Cairo Agenda for Action on re-launching Africa's socio-economic formation adopted by the extraordinary session of the Council of Ministers held in Cairo, Egypt, from 25 to 28 March, 1995;

RECALLING the Grand Bay Declaration and Plan of Action adopted by the OAU Ministerial Conference on Human Rights in Africa held in Grand Bay, Mauritius, from 12 to 16 April 1999, and reaffirming its commitment to the purposes and principles therein;

RECALLING the Kigali Declaration made at the end of the first Ministerial Conference of the African Union on Human Rights in Africa meeting on the 8th May 2003 in Kigali (Rwanda);

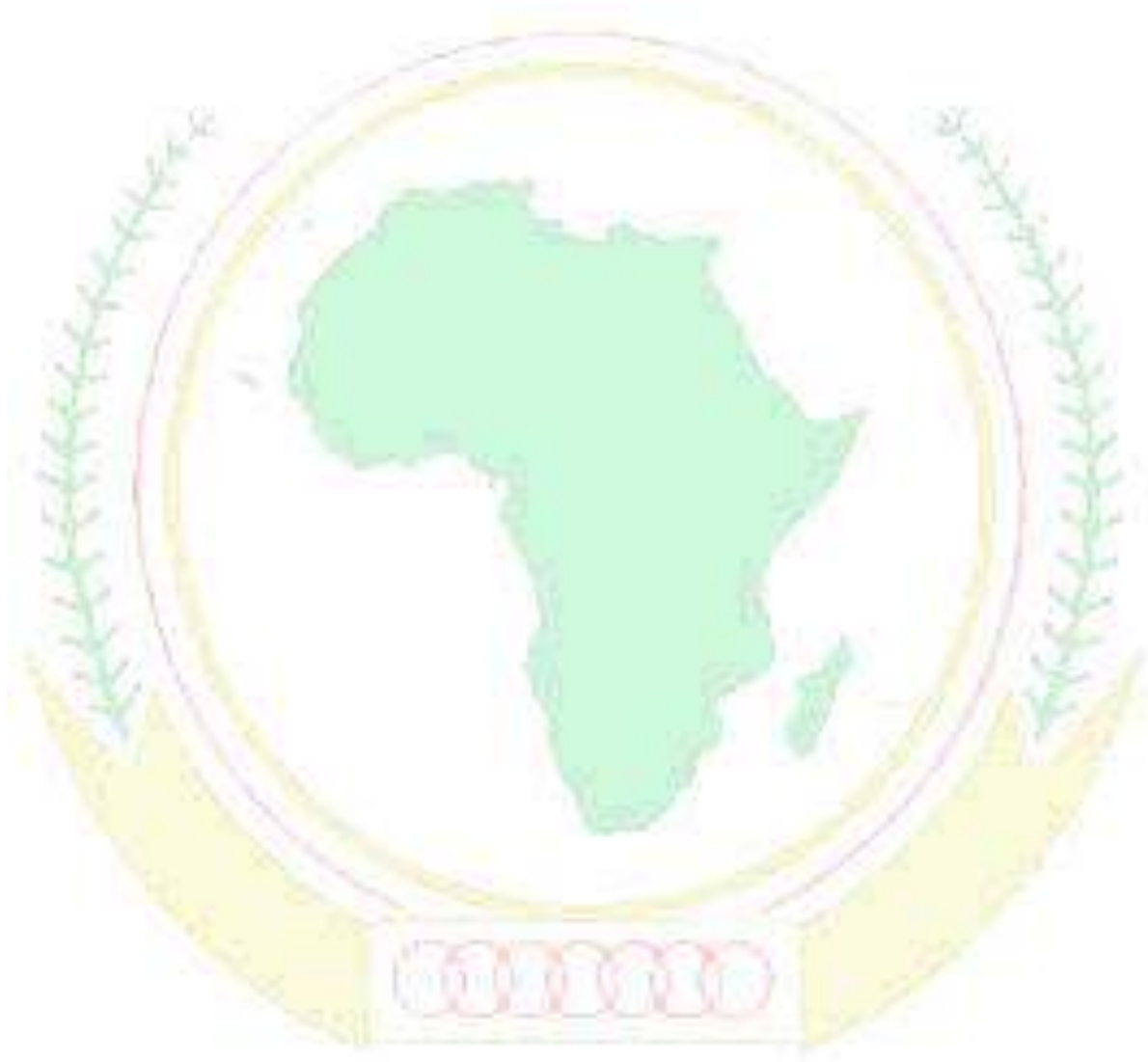
CONSIDERING that in the execution of the mission of promotion and protection of human rights, the African Charter imposes on the African Commission in its Article 45 to « *Cooperate with the other African or International Institutions which are involved in the promotion and protection of human and peoples' rights* ».

DECIDES that there is need to adopt a multi-pronged approach for the elimination of the causes of human rights violations in Africa through joint missions with other African or International Institutions working in the area of promotion and protection of human rights;

DECIDES to develop guidelines on the conduct of joint missions between African organizations, regional and international organs;

DECIDES that pending the drawing up of the guidelines, the joint missions can be fielded under the conditions agreed by the members of the Bureau.

REQUESTS that the terms of reference drawn by the African Union Commission be developed in the strict respect of the A.U rules.



141. ACHPR/Res.141(XXXIV)08: RESOLUTION ON ACCESS TO HEALTH AND NEEDED MEDECINES IN AFRICA

The African Commission on Human and Peoples' Rights, meeting at its 44th Ordinary Session held in Abuja, Federal Republic of Nigeria, from the 10th to 24th November 2008;

REAFFIRMING that Article 16 of the African Charter on Human and Peoples' Rights guarantees the right to enjoy the best attainable state of physical and mental health and that States must ensure that everyone has access to medical care;

ALARMED that essential medicine, were available in only 38% of all public and private health care facilities in Africa between 2001 and 2007;

STRESSING that the right to health is not confined to a right to health care but embraces all underlying aspects of health;

RECOGNIZING that access to needed medicines for treatment, prevention and palliative care is a necessary condition for leading a healthy and dignified life;

RECOGNIZING that access to needed medicines is a fundamental component of the right to health and that States parties to the African Charter have an obligation to provide where appropriate needed medicines, or facilitate access to them;

RECOGNIZING FURTHER that the United Nations Special Rapporteur on the Right to Health has explained that "access to medicines forms an indispensable part of the right to the highest attainable standard of health" and that, therefore, the right to health mandates that State promote "the realization of the right to medicines for all";

URGES States to guarantee the full scope of access to needed medicines, including:

- a. The *availability* in sufficient quantities of needed medicines, including existing medicines and the development of new medicines needed for the highest attainable level of health;
- b. The *accessibility* of needed medicines to everyone without discrimination, including
 - i. Physical accessibility of needed medicines to all;
 - ii. Economic accessibility (affordability) of needed medicines to all;
 - iii. Information accessibility about the availability and efficacy of medicines;

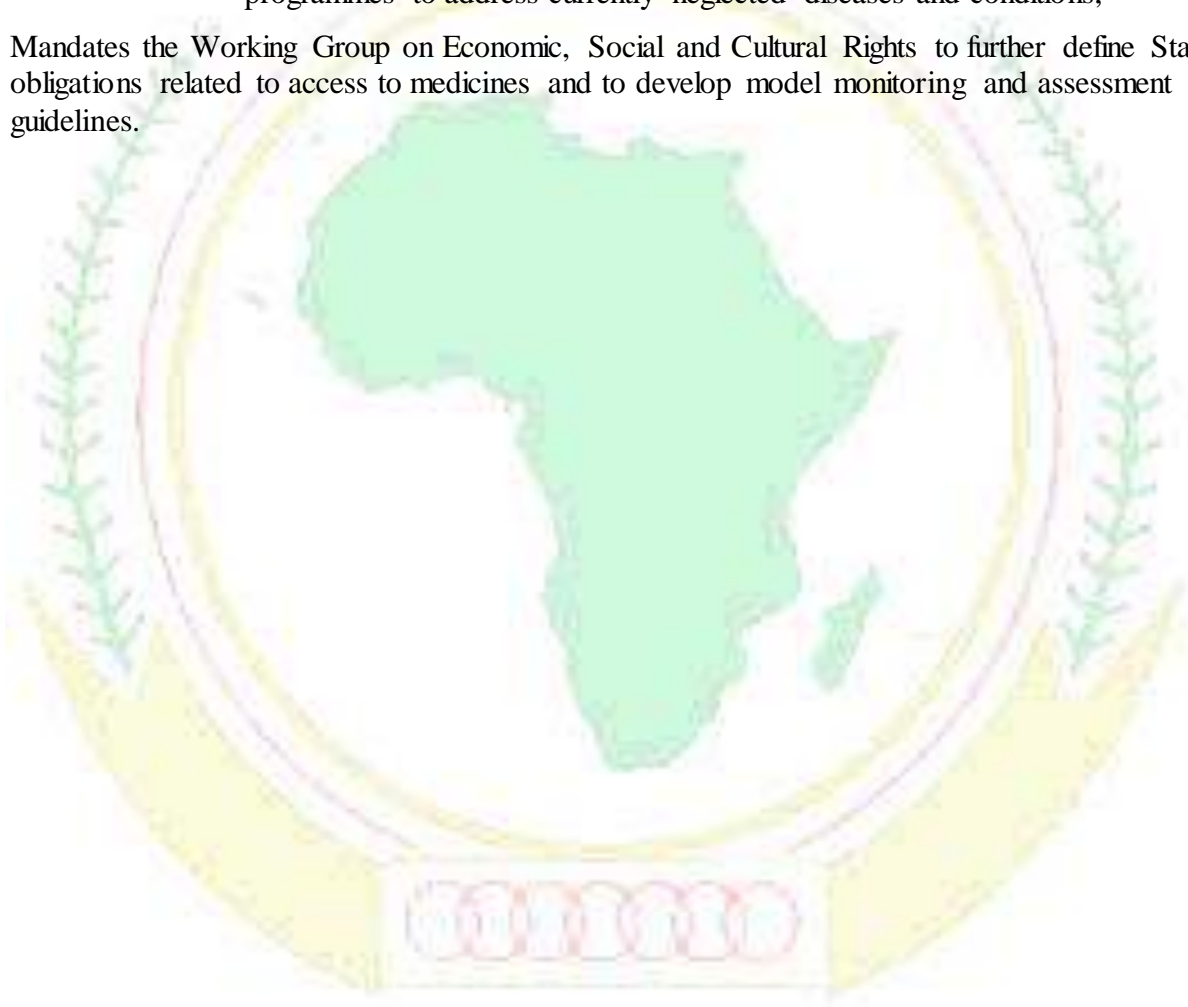
- c. The *acceptability* of medicine supplies, being respectful of cultural norms and medical ethics;
- d. The *quality* of medicine supplies, ensuring that available medicines are safe, effective and medically appropriate;

CALLING ON State to fulfill their duties with respect to access to medicines, in particular:

- a. **To promote** access to medicines by *refraining* from measures that negatively affect access, such as:
 - i. denying or limiting equal access to medicines for marginalized individuals or communities;
 - ii. prohibiting or impeding the use of traditional medicines and healing practices that are scientifically sound and medically appropriate;
 - iii. interfering with the provision of humanitarian aid that facilitates the supply of necessary medicines;
 - iv. implementing intellectual property policies that do not take full advantage of all flexibilities in the WTO Agreement on Trade Related Aspects of Intellectual Property that promote access to affordable medicines, including entering “TRIPS Plus” free trade agreements;
- b. **To protect** access to needed medicines from actions by third parties through regulatory systems that:
 - i. ensure that only medicines that have met scientifically appropriate standards for quality, safety and efficacy are available;
 - ii. promote the rational use of medicines, through treatment guidelines based on the best available evidence;
 - iii. prevent unreasonably high prices for needed medicines in both the public and private sectors, through promotion of equity pricing in which the poor are not required to pay a disproportionate amount of their income for access;
 - iv. ensure that medical practitioners and patients have ready access to reliable, complete and unbiased information on the safety and efficacy of medicines;
 - v. stimulate and Promote competition, intellectual property, consumer protection and other laws to promote access to medicines;
- c. **To fulfill** access to medicines by adopting all necessary and appropriate *positive measures* to the maximum of its available resources to promote, provide and facilitate access to needed medicines, including:
 - i. immediately meeting the minimum core obligations of ensuring availability and affordability to all of essential medicines as defined by the country’s essential medicines list and the WHO Action Programme on Essential Drugs;
 - ii. immediately creating a national medicine strategy monitoring systems to ensure compliance with human rights obligations;

- iii. promoting meaningful participation by affected individuals and groups in decisions that affect access to medicines, including regulatory, pricing and patent decisions;
- iv. creating systems in which patent information and registration status for medicines is readily and publicly accessible;
- v. expediting the regulatory review and registration of needed medicines and creating incentives for companies to register needed medicines expeditiously;
- vi. individually and together with other States and non-governmental entities, developing and implementing need-based research and development programmes to address currently neglected diseases and conditions;

Mandates the Working Group on Economic, Social and Cultural Rights to further define State obligations related to access to medicines and to develop model monitoring and assessment guidelines.



142. ACHPR/Res.142 (XXXXV) 09: RESOLUTION ON THE ESTABLISHMENT OF AN ADVISORY COMMITTEE ON BUDGETARY AND STAFF MATTERS

The African Commission on Human Peoples' Rights (the African Commission) meeting at its 45th Ordinary Session in Banjul, The Gambia from 13 – 27 May 2009:

Conscious of its mandate under the African Charter on Human and Peoples' Rights (the Charter) to promote and protect human & peoples' rights in Africa;

Aware of the vital role of its Secretariat in ensuring the effective discharge of its mandate and the importance of having an effective Secretariat;

Further conscious of the difficulties the Commission has had in the preparation, presentation and execution of its budget, and desirous of facilitating its budgetary preparation process;

Welcoming the decision of the Executive Council of the African Union to strengthen the human resources capacity of the Commission through the recruitment of 33 more staff over the next five years;

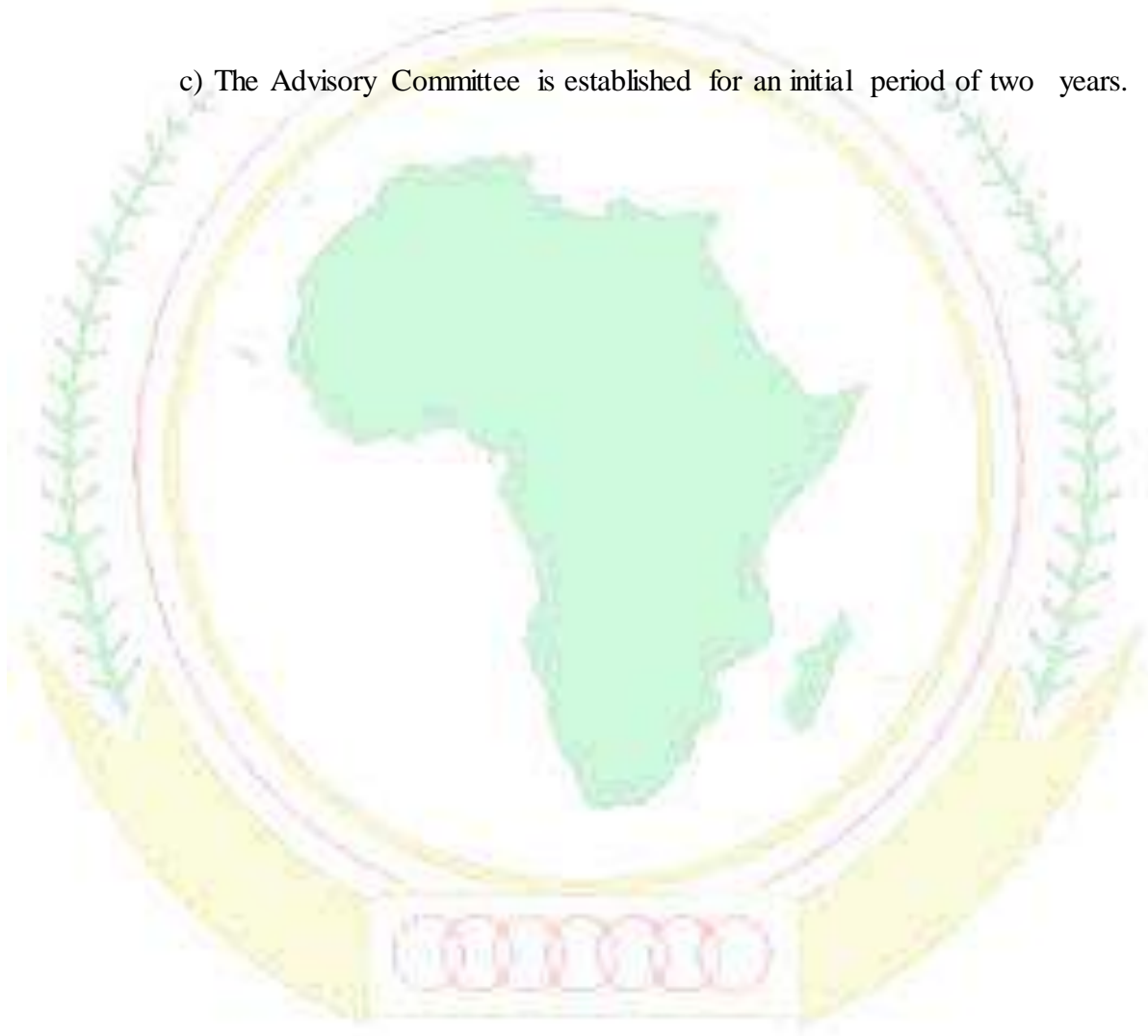
Recalling the decision at its 6th Extra Ordinary Session to establish an Advisory Committee to work with the Secretariat to prepare and present the Programs budget of the Commission;

Hereby resolves to:

- a) Establish an Advisory Committee entitled "Advisory Committee on Budgetary and Staff Matters", with the following mandate:
 - (i) To work with the Secretariat to identify activities from the 2008 – 2012 Strategic Plan of the ACHPR that would feature in the Commission's budget proposals;
 - (ii) To work with the Secretariat to prepare the programs budget of the Commission for presentation to the relevant Organs of the African Union;
 - (iii) To work with the Secretariat to ensure proper execution of the programs; and
 - (iv) To work with the Secretariat on the implementation of the approved new structure of the Secretariat of the Commission
- b) Appoint the following to the Committee:
 - (i) Commissioner Musa Ngary Bitaye
 - (ii) Commissioner Kaytesi Zainabou Sylvie
 - (iii) Commissioner Reine Alapini-Gansou
 - (iv) the Secretary to the Commission (ex-officio)
 - (v) 1 Senior Legal Officer (ex-officio)
 - (vi) the Admin and Finance Officer (ex-officio)

Further resolves that:

- a) The Advisory Committee shall work in conformity with these terms of reference, the Rules of Procedure of the African Commission, the provisions of the African Charter on Human and Peoples' Rights and the relevant African Union Rules and Regulations;
- b) The Advisory Committee shall report at the Ordinary Sessions of the Commission on the implementation of this Resolution;
- c) The Advisory Committee is established for an initial period of two years.



143. ACHPR/Res.143 (XXXV) 09: RESOLUTION ON THE TRANSFORMATION OF THE FOCAL POINT ON THE RIGHTS OF OLDER PERSONS IN AFRICA INTO A WORKING GROUP ON THE RIGHTS OF OLDER PERSONS AND PEOPLE WITH DISABILITIES IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 45th Ordinary Session in Banjul, The Gambia, from 13 to 27 May, 2009:

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Bearing in mind the African Union Policy Framework and Plan of Action on Ageing in which "*States Parties recognized the fundamental rights of older persons and committed themselves to abolish all forms of discrimination based on age,*" and also committed themselves "*To ensure that the rights of older persons are protected by appropriate legislation, including the right to organize themselves in groups and the right to representation in order to advance their interest;*"

Recalling the Resolution of the African Commission of 30 May 2007 on the Rights of Older Persons in Africa, adopted at its 41st Ordinary Session held from 16-30 May 2007, in Accra, Ghana;

Recalling further its Resolution on the Appointment of a Focal Point on the Rights of Older Persons in Africa, that was adopted at the 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, Republic of Congo;

Considering that its Resolution ACHPR/Res.118(XXXII)07: on the establishment and appointment of a focal point on the rights of older persons in Africa, adopted during its 42nd Ordinary Session did not take into consideration people with disabilities;

Considering that the African Charter makes specific provisions for the protection of these rights, under **Article 18(4)**, which stipulates that "*The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs;*"

Considering further paragraph 20 of the Kigali Declaration, which "*calls upon States Parties to develop a Protocol on the protection of the rights of the elderly and people with disabilities;*"

Bearing in mind the mandate of the Focal Point which includes, among others, "*Spearheading the process of drafting a Protocol on the Rights of Older Persons for submission to the AU Policy Organs for consideration and adoption as soon as possible;*"

Appreciating the work of the Focal Point in advocating for a rights-based approach towards protecting the rights of older persons;

Underscoring the need for a Working Group on the Rights of Older Persons and People with Disabilities, as recommended by the members of the Focal Point, to facilitate the process of drafting the Protocol on Ageing, and ensuring compliance by States Parties with the recommendations contained in the AU Policy Framework and Plan of Action on Ageing;

Hereby resolves to:

(a) Establish a Working Group on the Rights of Older Persons and People with Disabilities to replace the Focal Point for a two year period. The mandate of the Working Group shall be:

- i. To hold comprehensive brainstorming sessions to articulate the rights of older persons and people with disabilities;
 - ii. To draft a Concept Paper for consideration by the African Commission that will serve as a basis for the adoption of the Draft Protocol on Ageing and People with Disabilities;
 - iii. To facilitate and expedite comparative research on the various aspects of human rights of older persons and people with disabilities on the continent, including their socio-economic rights;
 - iv. To collect data on older persons and people with disabilities to ensure proper mainstreaming of their rights in the policies and development programmes of Member States;
 - v. Identify good practices to be replicated in Member States;
- Submit a detailed Report to the African Commission at each Ordinary Session.

(b) Appoint the following persons as members of the Working Group:

- i. **Commissioner Yeung Kam John Yeung Sik Yuen (Chairperson);**
- ii. **Commissioner Reine-Alapini Gansou (Member);**
- iii. **Mr. Tavengwa Machekano Nhongo (Member);**
- iv. **Mr. Papa Malick Fall (Member); and**
- v. **Ms. Nadia Abdel-Wahab El-Afify (Member)**

144. ACHPR/Res.144 (XXXXV) 09: RESOLUTION ON COOPERATION BETWEEN THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS AND THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD IN AFRICA

The African Commission on Human and Peoples' Rights, meeting at its 45th Ordinary Session held in Banjul, The Gambia, from 13 to 27 May 2009;

Considering Article 18(3) of the African Charter on Human and Peoples' Rights; the Protocol to the African Charter on the Rights of Women in Africa, in particular Articles 5,6,12, 13, 20 and 24; the African Charter on the Rights and Welfare of the Child; the AU Declaration on an Africa Fit for Children, and the Solemn Declaration on Gender Equality in Africa;

Recalling its Resolution No. **ACHPR/Res.38 (XXV) 99**, adopted at its 25th Ordinary Session held from 26th April to 5th May 1999, in Bujumbura, Burundi, on the Establishment of the Mechanism of the Special Rapporteur on the Rights of Women in Africa;

Taking note of the important work achieved by this Mechanism since its establishment;

Considering that the Protocol to the African Charter on the Rights of Women in Africa takes the situation of the girl child into account and complements the African Charter on Human and Peoples' Rights and the African Charter on the Rights and Welfare of the Child;

Being aware that to date, the Special Mechanism on the Rights of Women in Africa does not cover the Rights of the Child;

Concerned about the unremitting increase of serious violations against the rights of the child in Africa;

Given the need to promote and protect the fundamental rights of the child in Africa through enhanced cooperation between the African Commission and the African Committee of Experts on the Rights and Welfare of the Child:

Hereby resolves to:

(a) Establish a formal relationship between the African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child, with the view to enhancing cooperation between the two mechanisms;

(b) Designate the Special Rapporteur on the Rights of Women in Africa to collaborate closely with the States parties, Intergovernmental organisations, and Non Governmental Organisations working on the rights of the child in Africa;

Calls upon the Special Rapporteur on the Rights of Women in Africa to Report on the status of this cooperation during its Ordinary Sessions.

145. ACHPR/Res.145 (EXT.VII) 09: RESOLUTION ON THE DETERIORATING HUMAN RIGHTS SITUATION IN THE REPUBLIC OF THE GAMBIA

The African Commission on Human and Peoples' Rights (African Commission), meeting at its 7th Extraordinary Session in Dakar, Senegal, from 5 to 11 October 2009;

Conscious that the African Charter on Human and Peoples' Rights guarantees the basic rights and freedoms enshrined therein, and confers the African Commission with the mandate to monitor, promote and protect human and peoples' rights on the continent;

Recalling its Resolution, No. ACHPR/Res.13 (XVI)1994 adopted at its 16th Ordinary Session held in Banjul, The Gambia, from 25 October to 3 November 1994; Resolution No. ACHPR/Res. 17(VII)1995 adopted at its 17th Ordinary Session held in Lome, Togo, from 13 to 22 March 1995, and Resolution No. ACHPR/Res. 134(XXXXIV)2008 adopted at its 44th Ordinary Session held in Abuja, Nigeria, from 10 to 24 November 2008; all of which relate to the human rights situation in the Republic of The Gambia;

Considering that the African Commission has on several occasions brought to the attention of the Government of the Republic of The Gambia, concerns on human rights violations in The Gambia, in particular the right to life and the right to freedom of expression. These concerns relate to the alleged murder, unlawful arrest and detention, harassment, intimidation, prosecutions and disappearances of journalists and human rights defenders deemed to be critical of the Government;

Deeply concerned by allegations that on 21 September 2009, H.E. President Sheikh Professor Alhaji Dr. Yahya A.J.J. Jammeh allegedly stated in a national television broadcast that he would kill anyone, especially human rights defenders and their supporters, whom he considered to be sabotaging or destabilizing his Government;

Considering that the alleged threats undermine the safety and security of members and staff of the African Commission, and human rights defenders who participate in the activities of the African Commission, including in the 46th Ordinary Session scheduled to take place from 11 to 25 November 2009 in Banjul, The Gambia, whose Agenda will address the human rights situation in Africa;

Convinced that the alleged statement calls into question the commitment of the Republic of The Gambia to the fundamental principles and objectives of the Constitutive Act of the African Union, the African Charter and other regional and international human rights instruments;

Recalling that the Headquarters Agreement between the African Union and the Republic of The Gambia on the establishment of the Headquarters of the African Commission on Human and Peoples' Rights in The Gambia guarantees the inviolability of the members and staff of the African Commission and participants in the activities organized by the African Commission:

- (i) **CALLS** on the African Union to intervene with immediate effect to ensure that H.E. President Sheikh Professor Alhaji Dr. Yahya A.J.J. Jammeh withdraws the threats made in his statement;
- (ii) **FURTHER CALLS** on the African Union to ensure that the Republic of The Gambia guarantees the safety and security of the members and staff of the African Commission, human rights defenders, including journalists in The Gambia, and all participants in the activities of the African Commission taking place in The Gambia;
- (iii) **REQUESTS** the African Union to authorize and provide extra-budgetary resources to the African Commission to ensure that the 46th Ordinary Session is convened and held in Addis Ababa, Ethiopia, or any other Member State of the African Union, in the event that His Excellency the President of The Republic of The Gambia does not withdraw his threats and the Government cannot guarantee the safety and security of the members and staff of the African Commission and the participants of the 46th Ordinary Session;
- (iv) **REQUESTS** the African Union to consider relocating the Secretariat of the African Commission in the event that the human rights situation in the Republic of The Gambia does not improve;

- (v) **URGES** the Government of the Republic of The Gambia to implement the recommendations of its previous Resolutions, in particular, Resolution No. ACHPR/Res. 134(XXXXIV)2008, adopted during the 44th Ordinary Session held in Abuja, Nigeria, from 10 to 24 November 2008, and to investigate the disappearance and/or killing of prominent journalists Deyda Hydara and Ebrima Chief Manneh.



146. ACHPR/Res.146 (EXT.VII) 09: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN THE REPUBLIC OF GUINEA

The African Commission on Human and Peoples' Rights (African Commission), meeting in its 7th Extraordinary Session in Dakar, Senegal, from 5 to 11 October 2009;

CONSIDERING the relevant provisions of the African Charter on Human and Peoples' Rights (the African Charter), which guarantee the right to life, the dignity inherent in a human being; the security of the person; the right to free association; the right to freedom of Assembly; and the right to information and freedom of expression;

MINDFUL of the Declaration No. AHG/Decl.5(XXXVI) of 12 July 2000, on the Framework for an Organization of African Unity (OAU) Response to Unconstitutional Changes of Government;

RECALLING the relevant provisions of the African Charter on Democracy, Elections and Governance adopted in Addis Ababa on the 30th January 2007, which emphasize the significance of good governance, popular participation, the rule of law and human rights;

CONSIDERING the Constitutive Act of the African Union adopted in Lomé on the 11th July 2000 and in particular its Articles 3(h), 4(m)(p) and 30 on the promotion and the protection of human and peoples' rights, on the respect for democratic principles, on the condemnation and rejection of unconstitutional changes respectively;

CONSIDERING further the obligations of the States Parties to the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Protocol)*, guaranteeing the right to non discrimination against women, the right to dignity, life, integrity and security and, in particular, the right to special protection of elderly women;

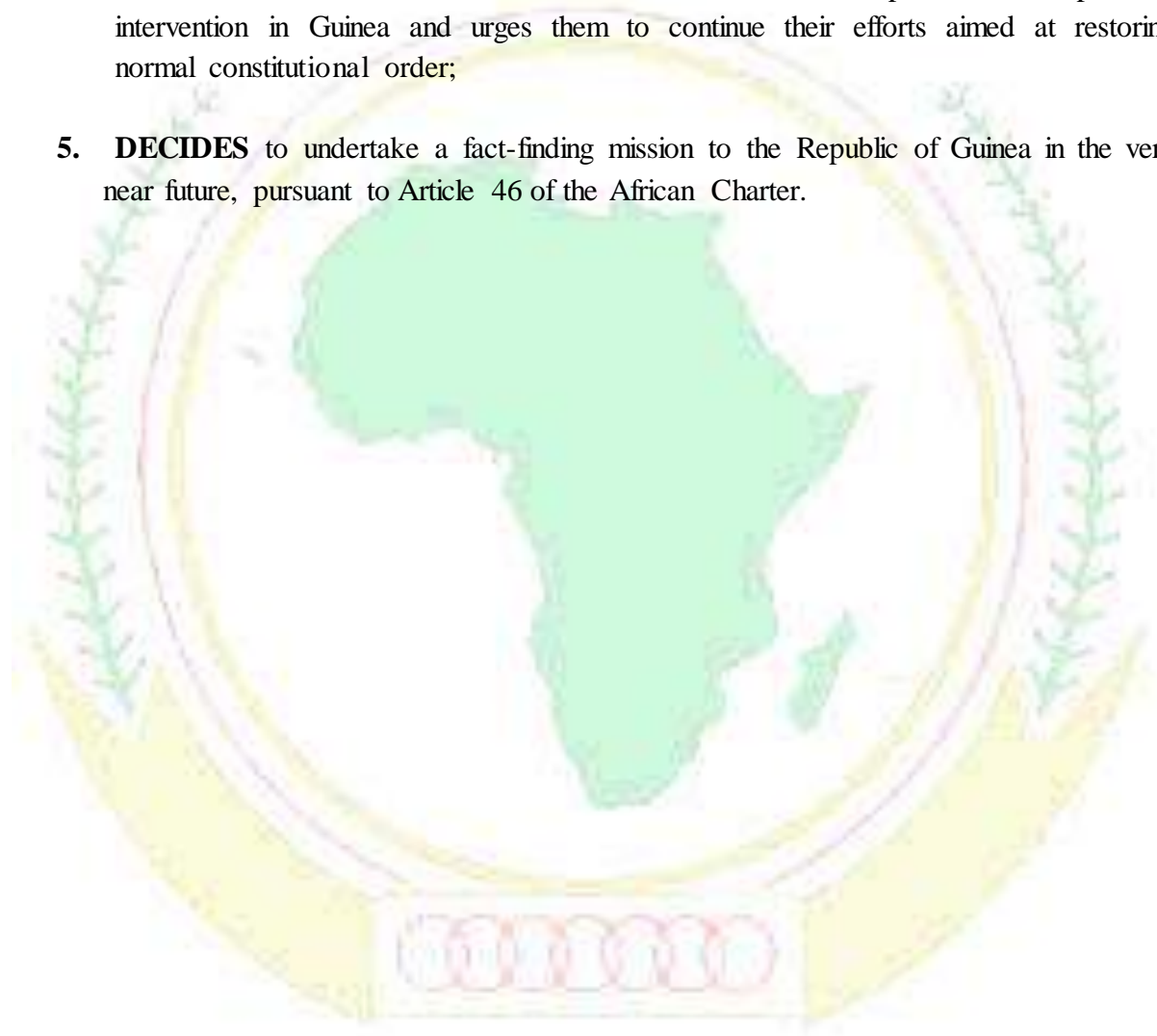
CONCERNED about the allegations of repression, by some members of the security forces, of a peaceful and legitimate assembly of Guinean citizens in the stadium, on 28 September 2009, culminating in the alleged deaths of more than 150 people and more than 1000 wounded, including the principal leaders of the political opposition parties;

CONSIDERING that the allegations further state that some members of the security forces publicly gang raped women inside the stadium and in some police stations in the capital city;

CONVINCED that such alleged acts constitute serious violations of the African Charter, (the Protocol) and other regional and international legal instruments officially ratified by the Republic of Guinea;

1. **EXPRESSES** grave concern and regret regarding the loss of lives, the injuries sustained, and the raping of women, which, if confirmed, constitute serious and massive violations of human rights enshrined within the African Charter;

2. **URGES** the authorities of the Republic of Guinea to conduct an impartial investigation on the alleged violations and to prosecute the perpetrators;
3. **REQUESTS** the authorities of the Republic of Guinea **to guarantee the security, the physical and psychological integrity of the citizens**, in particular the women and children, and the free exercise of the rights and freedoms as guaranteed by the African Charter;
4. **COMMENDS** the African Union and ECOWAS for their political and diplomatic intervention in Guinea and urges them to continue their efforts aimed at restoring normal constitutional order;
5. **DECIDES** to undertake a fact-finding mission to the Republic of Guinea in the very near future, pursuant to Article 46 of the African Charter.



147. ACHPR/Res.147 (XLVI) 09: RESOLUTION ON THE APPOINTMENT OF THE CHAIRPERSON AND THE RENEWAL OF MEMBERSHIP OF THE WORKING GROUP ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 46th Ordinary Session held from 11 – 25 November 2009, in Banjul, The Gambia;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.73 (XXXVI)04 to establish a Working Group on Economic and Social Rights taken at its 36th Ordinary Session, held from 23 November - 7 December 2004 in Dakar, Senegal, and which also defined its mandate;

Recalling further Resolution ACHPR/Res.124(XXXII)07 adopted at its 42nd Ordinary Session held from 14 – 28 November 2007, in Brazzaville, the Republic of Congo to renew the mandate of the Working Group;

Bearing in mind that Commissioner Catherine Dupe Atoki led the Working Group from 2008 to 2009 as Acting Chairperson;

Noting with appreciation the work and accomplishment of members of the Working Group through the finalization of the Principles and Guidelines on Economic, Social and Cultural Rights in Africa, which is the first part of its mandate;

Considering that the term of the Acting Chairperson of the Working Group Commissioner Catherine Dupe Atoki came to an end on 25 November 2009;

DECIDES to appoint Commissioners Mohamed Bechir KhalFallah and Commissioner Soyata Maiga respectively as Chairperson and member of the Working Group on Economic, Social and Cultural Rights in Africa for a period of two years, effective 25 November 2009;

And further reappoints the following members for the same period of time:

1. Mr Ibrahima Kane (OSISA)-----Member
2. INTERIGHT-----Member
3. Institute for Human Rights and Development in Africa-----Member
4. Centre for Human Rights of the University of Pretoria-----Member

148. ACHPR/Res.148 (XLVI) 09: RESOLUTION ON THE ESTABLISHMENT OF A WORKING GROUP ON EXTRACTIVE INDUSTRIES, ENVIRONMENT AND HUMAN RIGHTS VIOLATIONS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 46th Ordinary Session held in Banjul, The Gambia from 11th to 25th November 2009

RECALLING all relevant regional and international human rights instruments and, specifically Articles 21 and 24 of the African Charter on Human and Peoples' Rights, on the right of all peoples to freely dispose of their wealth and natural resources and to a general satisfactory environment favorable to their development;

RECALLING the unconditional responsibility of States Parties to prevent all forms of violations of human and peoples' rights including the violations of human and peoples' rights by Non-State Actors;

BEARING IN MIND the 2003 report of the African Commission's Working Group of Experts on Indigenous Populations/Communities and specifically the findings on the various violations of the rights of indigenous populations/communities;

DEEPLY CONCERNED by human rights violations by non-state actors in particular the sector of extractive industries, including mining, oil, gas, and timber extraction;

CONCERNED by the increasing rate of the destruction of the African environment and ecosystem by extractive industrial activities with impunity;

CONVINCED of the necessity of an improved protection of human rights through development of jurisprudence on holding non-state actors accountable for human rights violation in Africa;

HAVING authorized and considered a report on the preliminary study on: The Role of Non-State Actors in the Violation of Human and Peoples' Rights in Africa: The Quest for a New Paradigm;

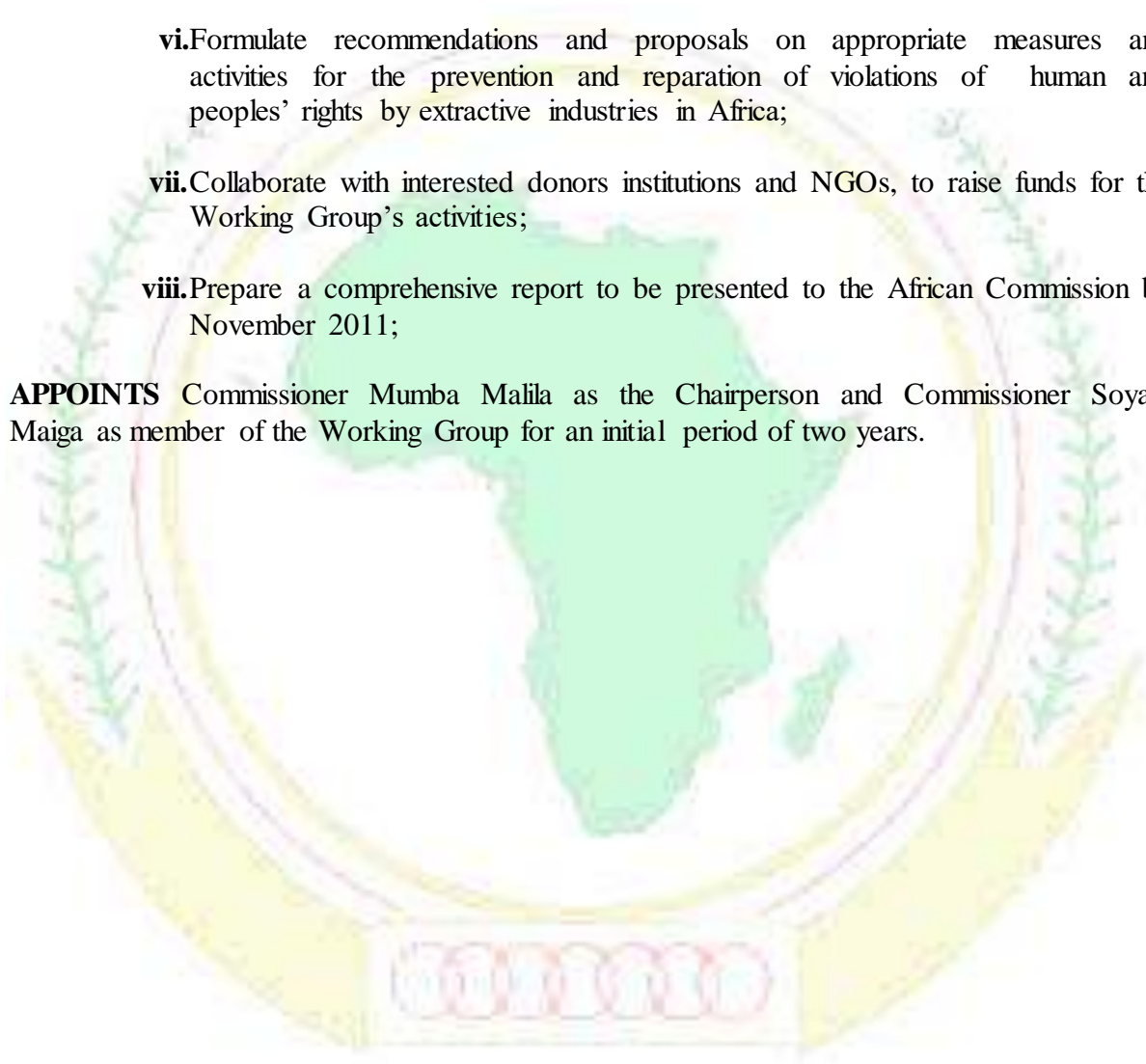
HAVING CONSIDERED ALSO a review of international law and jurisprudence on the violations of the rights of indigenous peoples by transnational and other business enterprises;

DECIDES to establish a Working Group on Extractive Industries and Human Rights Abuse in Africa with the following mandate:

- i. Examine the impact of extractive industries in Africa within the context of the African Charter on Human and Peoples' Rights;
- ii. Research the specific issues pertaining to the right of all peoples to freely dispose of their wealth and natural resources and to a general satisfactory environment favorable to their development;

- iii. Undertake research on the violations of human and peoples' rights by non-state actors in Africa;
- iv. Request, gather, receive and exchange information and materials from all relevant sources, including Governments, communities and organizations, on violations of human and peoples' rights by non-state actors in Africa;
- v. To inform the African Commission on the possible liability of non-state actors for human and peoples' rights violations under its protective mandate;
- vi. Formulate recommendations and proposals on appropriate measures and activities for the prevention and reparation of violations of human and peoples' rights by extractive industries in Africa;
- vii. Collaborate with interested donors institutions and NGOs, to raise funds for the Working Group's activities;
- viii. Prepare a comprehensive report to be presented to the African Commission by November 2011;

APPOINTS Commissioner Mumba Malila as the Chairperson and Commissioner Soyata Maiga as member of the Working Group for an initial period of two years.



149. ACHPR/Res.149 (XLVI) 09: RESOLUTION ON THE APPOINTMENT OF THE SPECIAL RAPPORTEUR ON HUMAN RIGHTS DEFENDERS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 46th Ordinary Session held from 11 – 25 November 2009, in Banjul, The Gambia;

CONSIDERING its mandate to promote human and peoples' rights in Africa and to ensure their protection in accordance with the African Charter on Human and Peoples' Rights;

RECALLING its Resolution **ACHPR/ 69(XXXV) 04** of 4 June 2004 on the protection of human rights defenders in Africa adopted at the 35th Ordinary Session held from 21st May to 4th June 2004, in Banjul, The Gambia;

BEARING IN MIND its resolution **83(XXXVIII) 05** of 5 December 2005 on the appointment of a Special Rapporteur on Human Rights Defenders in Africa; adopted at the 38th Ordinary Session held from 21st November to 5th December 2005 in Banjul, The Gambia;

CONSIDERING its Resolution **ACHPR/Res.125 (XXXXII) 07** on the renewal of the mandate of the Special Rapporteur on Human Rights Defenders in Africa, adopted at its 42nd Ordinary Session held in Brazzaville, Republic of Congo from 13 to 28 November 2007;

BEARING IN MIND that in the *Grand Bay (Mauritius) Declaration and Plan of Action*, the Organization of African Unity (African Union) called on Member States "to take appropriate steps to implement the UN *Declaration on Human Rights Defenders* in Africa";

CONSIDERING that the term of **Commissioner Reine Alapini-Gansou** as Special Rapporteur comes to an end on 5 December 2009;

NOTING with appreciation the work and accomplishment of Commissioner **Reine Alapini-Gansou** as Special Rapporteur on Human Rights Defenders in Africa since her re-appointment in 2007;

CONSIDERING the end of the mandate report of the Special Rapporteur;

EMPHASIZING the importance of the work of the Special Rapporteur regarding the search for solutions to the problems arising from the protection of human rights defenders;

CONSIDERING the necessity to allow the Special Rapporteur on Human Rights Defenders in Africa to continue to carry out its mandate as contained in resolution **ACHPR/ 69(XXXV) 04;**

DECIDES to appoint Commissioner **Mohamed Bechir Khalfallah** as Special Rapporteur on Human Rights Defenders in Africa for a period of two (2) years, with effect from 5th December 2009.

150. ACHPR/Res.150 (XLVI) 09: RESOLUTION ON THE APPOINTMENT AND COMPOSITION OF THE WORKING GROUP ON SPECIFIC ISSUES RELEVANT TO THE WORK OF THE COMMISSION

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 46th Ordinary Session held from 11 – 25 November 2009, in Banjul, The Gambia;

RECALLING its Resolution **ACHPR/Res 77 (XXXVII)05** on the creation of a Working Group on Specific Issues Relevant to the Work of the African Commission adopted at its 37th Ordinary Session held from 27 April to 11 May 2005 in Banjul, The Gambia;

BEARING IN MIND Resolution **ACHPR/Res.127(XXXXII) 07** on the renewal of the mandate of the Working Group adopted at the 42nd Ordinary Session held in Brazzaville, Republic of Congo from 13-28 November 2007;

CONSIDERING the report of the Chairperson of the Working Group;

NOTING with appreciation the work and accomplishment of the Working Group since the renewal of its mandate in 2007;

CONSIDERING the importance of allowing the Working Group to continue to carry out the remaining part of its mandate and address pending issues falling within this mandate;

CONSIDERING that the term of the Acting Chairperson of the Working Group, Commissioner Pansy Tlakula, comes to an end on 25 November 2009;

DECIDES to appoint Commissioner **Pansy Tlakula** as the **Chairperson** of the Working Group for two years, effective 25 November 2009;

FURTHER DECIDES that the composition of the Working Group will be as follows:

- 5) Commissioner **Kayitesi Zainabo Sylvie**
- 6) One (1) representative from each of the following Nongovernmental Organizations:
 - a) The Institute for Human Rights and Development in Africa
 - b) INTERIGHTS; and
 - c) Open Society Justice Initiative.

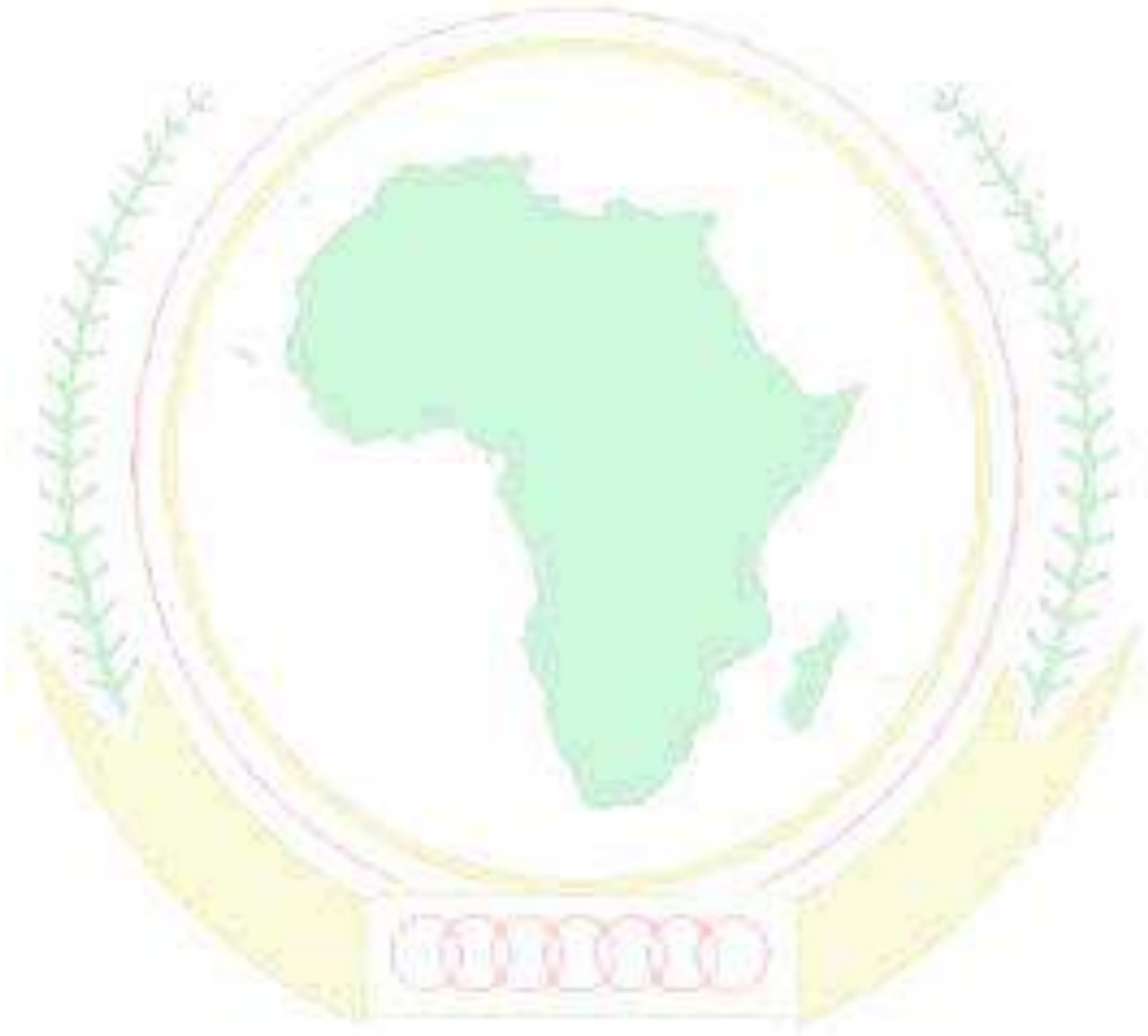
REQUESTS the Working Group to deal with the following remaining pending issues falling within its mandate as spelled out in the above Resolution **ACHPR/Res.77 (XXXVII) 05**:

- a. The finalization of the Rules of Procedure taking into consideration comments received from States Parties, National Human Rights Institutions, Non-Governmental Organizations and other stakeholders;
- b. The mechanism and procedure on the follow-up on decisions and recommendations of the African Commission;
- c. The structure of different reports of the African Commission;
- d. The modalities for the establishment of a Voluntary Fund for Human Rights in Africa; and

- e. The follow-up on the implementation of the recommendations of the Retreat of the African Commission in Addis Ababa of September 2003, the evaluation report on the work of the African Commission and the UPPSALA consultation of June 2004.

REQUESTS the Working Group to submit a progress report at each session of the Commission;

FURTHER REQUESTS the Secretariat of the African Commission to intensify its efforts to mobilize resources that will assist the Working Group to carry out its mandates:



151. ACHPR/Res.151 (XLVI) 09: RESOLUTION ON THE NEED FOR THE CONDUCT OF A STUDY ON THE FREEDOM OF ASSOCIATION IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 46th Ordinary Session from 11 to 25 November 2009, in Banjul, the Gambia

CONSIDERING the provisions of Article 9 of the African Charter on Human and Peoples' Rights on the acknowledgement to all persons the right to express and disseminate their opinions in accordance with the laws and regulations;

CONSIDERING that Article 10 of the African Charter recognizes that every person has the right to free association with other persons;

RECALLING that Article 25 of the African Charter makes it a binding duty of the States to promote and ensure the respect of the rights and freedoms contained in the Charter;

NOTING that Article 45(a) of the African Charter mandates the African Commission "to collect documents, undertake studies and researches on African problems in the field of human and peoples' rights" with a view to promote human and peoples' rights on the continent;

BEARING IN MIND the « Grand Bay Declaration and Action Plan » adopted by the first Ministerial Conference of the Organization of African Unity on Human Rights in Africa held from 12 to 16 April 1999 in Grand Bay (Mauritius) ;

RECALLING the « Kigali Declaration » adopted by the first Ministerial Conference of the African Union on Human Rights in Africa, held on 8th May 2003 in Kigali (Rwanda);

CONSCIOUS of the fact that the guarantee of the right to free association is the security for democracy and development for African countries;

REAFFIRMING that the guarantee of the freedom of association is intrinsically related to the right to assemble freely with others as stipulated in Article 11 of the African Charter and in other international and regional human rights instruments;

CONVINCED of the crucial role of human rights defenders in ensuring the maintenance of the principles of equality, peace, liberty, dignity, justice, solidarity and democracy in African societies;

CONVINCED ALSO that violations of the freedom of association of human rights defenders put democratic values at risk in our African societies, in particular the guarantee of the respect for the promotion and protection of human rights and fundamental freedoms in Africa;

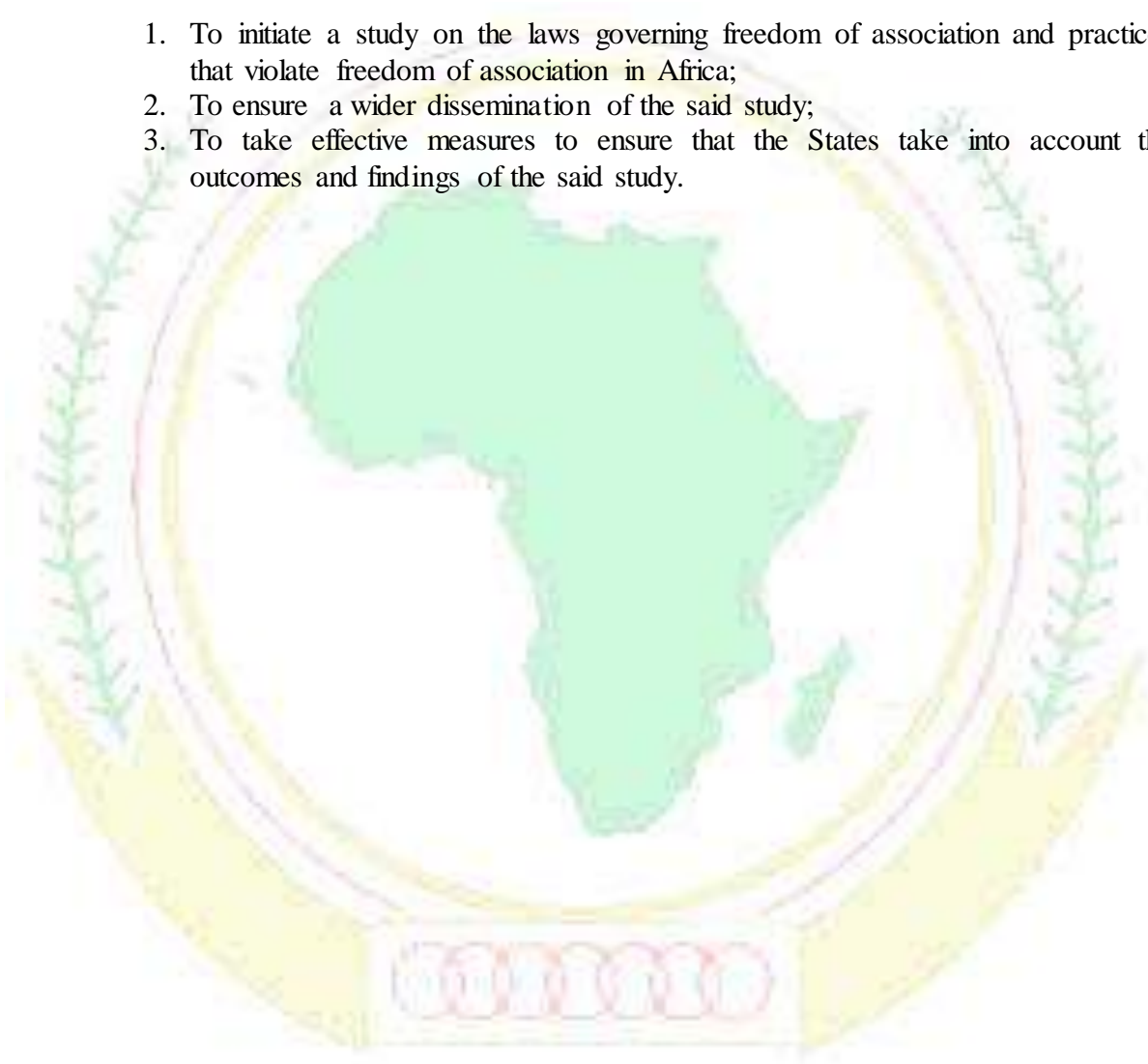
DETERMINED to ensure the promotion, the realization and protection of human rights with the view to safeguarding full and free enjoyment of human rights on the African continent;

UNDERSCORING the obligation of every African State to ensure the protection of all persons living under their jurisdiction;

CONVINCED that the conduct of a continent-wide study on the freedom of association in Africa shall contribute to the improvement of the precarious human rights situation on the continent;

DECIDES :

1. To initiate a study on the laws governing freedom of association and practices that violate freedom of association in Africa;
2. To ensure a wider dissemination of the said study;
3. To take effective measures to ensure that the States take into account the outcomes and findings of the said study.



152. ACHPR/Res.152 (XLVI) 09: RESOLUTION ON THE RENEWAL OF THE MANDATE OF THE CHAIRPERSON AND THE MEMBERS OF THE WORKING GROUP ON THE DEATH PENALTY IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 46th Ordinary Session held in Banjul, The Gambia, from 11 - 25 November 2009;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.42 (XXVI) 99, adopted at its 26th Ordinary Session held in Kigali, Rwanda, urging States Parties to envisage a moratorium on the death penalty.

Recalling further the decision of the African Commission at its 37th Ordinary Session to appoint two Commissioners to work with the Special Rapporteur on Prisons and Conditions of Detention in Africa, to elaborate a concept paper on the Question of the Death Penalty in Africa;

Considering the trends in international law which encourage the abolition of the death penalty, in particular, the 2nd Optional Protocol to the International Covenant on Civil and Political Rights, the Statute on the International Criminal Court, the Resolution of the UN Commission on Human Rights, 2005/59, relating to the Death Penalty and the practices adopted by the States Parties to the UN Charter, and the debates and initiatives undertaken by civil society and other stakeholders on the question of the death penalty;

Bearing in mind Resolution 62/149 of the General Assembly of the United Nations, adopted in 2007 calling on all states that still retain the death penalty to, *inter alia*, observe a moratorium on executions with a view to abolishing the death penalty;

Recalling its Resolution No. ACHPR/Res.136(XXXXIII).08, calling on State Parties to observe the moratorium on the death penalty adopted at its 44th Ordinary Session held in Abuja, Federal Republic of Nigeria from 10 – 24 November 2008.

Recognizing that sixteen (16) State Parties to the African Charter have already abolished the death penalty, and thirteen (13) others have placed a moratorium on its application;

Recalling its Resolution 79/XXXVIII/05 on the Composition and Odenationalization of the Working Group on the Death Penalty adopted at its 38th Ordinary Session to expand the composition of the Working Group to include two members of the Commission and five independent experts and to broaden its mandate;

Bearing in mind Resolution ACHPR/Res.113 (XXXXII)07 on the Renewal of the Mandate and the Appointment of Commissioner Kayitesi Zainabo Sylvie as the Chairperson of the Working Group on the Death Penalty adopted at the 42nd Ordinary Session held in Brazzaville, Republic of Congo, from 15 - 28 November 2007;

Reaffirming the commitment of the African Commission to promote the right to life and to encourage State Parties to abolish the death penalty ;

Considering that the mandate of the Chairperson comes to an end on 25 November 2009 and;

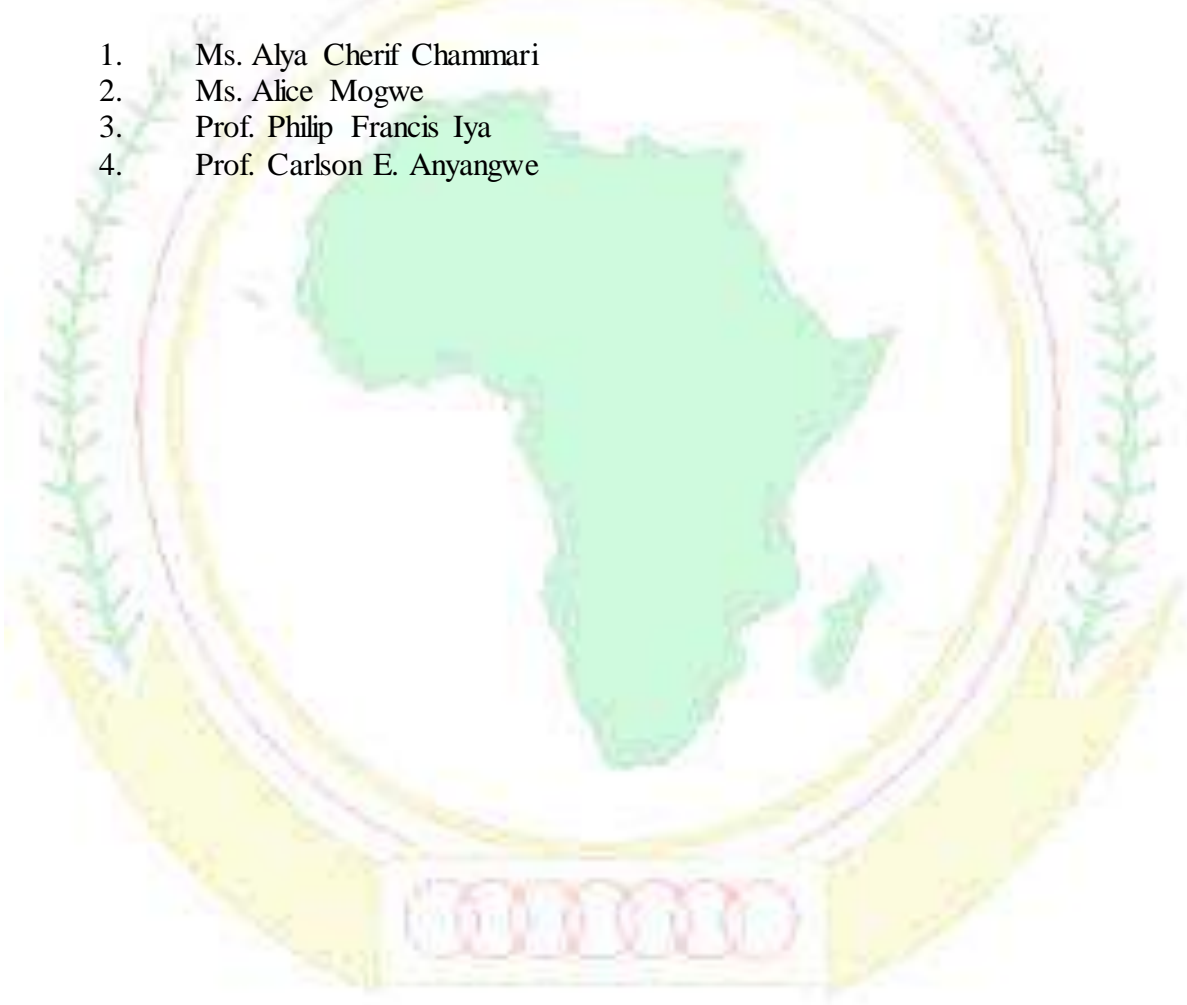
Noting with appreciation the work and accomplishment of the Chairperson of the Working Group, Commissioner Kayitesi Zainabo Sylvie ;

Considering the necessity to allow the Working Group to continue its mandate ;

Decides to re-appoint Commissioner Kayitesi Zainabo Sylvie as Chairperson of the Working Group for a period of two years, starting on 25 November 2009.

Appoints Commissioner Mumba Malila, as well as the following experts, as members:

1. Ms. Alya Cherif Chammari
2. Ms. Alice Mogwe
3. Prof. Philip Francis Iya
4. Prof. Carlson E. Anyangwe



153. ACHPR/Res.153 (XLVI) 09: RESOLUTION ON CLIMATE CHANGE AND HUMAN RIGHTS AND THE NEED TO STUDY ITS IMPACT IN AFRICA

The African Commission on Human and Peoples' Rights, (African Commission), meeting at its 46th Ordinary Session held from 11 to 25 November 2009 in Banjul, The Gambia,

Bearing in mind its mandate to promote human and peoples rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Considering the provisions of Articles 22 and 24 of the African Charter relating to the right of peoples to economic, social and cultural development and the right of peoples to a satisfactory environment favourable to their development;

Considering the provisions of the United Nations Declarations on the Rights of Indigenous Peoples, which recognises the rights of indigenous peoples and communities to their ancestral lands, cultures, lifestyles and a safe satisfactory environment;

Noting Article II of the African Convention on the Conservation of Nature and Natural Resources (Maputo Convention) of 11 July 2003, which among other things, provides for "socially acceptable development policies and programmes" guided by human rights principles, including the right to development and the right of all peoples to a satisfactory environment favourable to their development;

Recalling that the Convention on Biological Diversity urges states Parties thereto to "... respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities...protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements";

Noting further that African regional standards for the protection of the environment, management of natural resources and human rights are consistent with provisions of the Convention on Biological Diversity of 5 June 1992, to which more than 40 African States are parties;

Taking note that climate change is principally the result of emissions of greenhouse gases, which remain relatively high in developed countries;

Concerned that the negotiations on climate change leading to the Copenhagen Conference in December 2009, make no clear reference to human rights principles, such as the rights to traditional knowledge and intellectual property of local and indigenous communities, as well as the principle of free, prior and informed consent by communities, as enshrined in the Maputo Convention and other relevant African human rights instruments;

Concerned further that the lack of human rights safeguards in various draft texts of the conventions under negotiation could put at risk the life, physical integrity and livelihood of the most vulnerable members of society notably isolated indigenous and local communities,

women, and other vulnerable social groups;

The African Commission hereby:

1. **Urges** the Assembly of Heads of State and Government of the African Union to ensure that human rights standards safeguards, such as the principle of free, prior and informed consent, be included into any adopted legal text on climate change as preventive measures against forced relocation, unfair dispossession of properties, loss of livelihoods and similar human rights violations;
2. **Urges** the Assembly of Heads of State and Government to ensure that special measure of protection for vulnerable groups such as children, women, the elderly, indigenous communities and victims of natural disasters and conflicts are included in any international agreement or instruments on climate change;
3. **Calls on** the Assembly of Heads of State and Government to take all necessary measures to ensure that the African Commission on Human and Peoples' Rights is included in the African Union's negotiating team on climate change;
4. **Decides** to carry out a study on the impact of climate change on human rights in Africa.



154. ACHPR/Res.154 (XLVI) 09: RESOLUTION ON THE APPOINTMENT OF THE SPECIAL RAPPORTEUR ON THE RIGHTS OF WOMEN IN AFRICA

The African Commission, meeting at its 46th Ordinary Session held from 11th to 25th November 2009 in Banjul, The Gambia:

Recalling its Resolution ACHPR/Res.38(XXXVIII)99, adopted at the 25th Ordinary Session, held from 26 April to 5 May 1999 in Bujumbura, Burundi, establishing the Special Mechanism on the Rights of Women in Africa and appointing Commissioner Julienne Ondziel Gnelenga as Special Rapporteur;

Recalling also Article 18(3) of the African Charter on Human and Peoples' Rights;

Further Recalling the Commission's decision passed at its 30th Ordinary Session which was held from 17th to 27th October 2001 in Banjul, The Gambia, by which it appointed Commissioner Angela Melo as Special Rapporteur on the Rights of Women in Africa; ACHPR/Res.63(XXXIV) 03, adopted at its 34th Ordinary Session held in Banjul, The Gambia, from 6th to 20th November 2003; and ACHPR/Res.78(XXXVIII) 05, adopted at its 38th Ordinary Session, held from 21st November to 6th December 2005 in Banjul, The Gambia, renewing Commissioner Melo's mandate for a period of two years and Resolution No. ACHPR/Res.112(XXXII)07 adopted at the 42nd Ordinary Session held in Brazzaville, Republic of Congo, from 15th to 28th November 2007 on the renewal of the mandate of the Special Rapporteur on the Rights of Women in Africa for a period of two years;

Bearing in mind the adoption and entry into force of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;

Considering the need to pursue the advocacy towards the ratification of the Protocol and its effective implementation by the States Parties and all other parties involved in the promotion and protection of human rights of women;

Recognizing the numerous challenges that women continue to face on the African Continent for the recognition, exercise and the enjoyment of their human rights;

Recognizing the considerable amount of work accomplished by Commissioner Soyata Maiga as Special Rapporteur on the Rights of Women in Africa;

Considering that the mandate of Commissioner Soyata Maiga has come to an end 25 November 2009;

DECIDES to renew the mandate of Commissioner Soyata Maiga as Special Rapporteur on the Rights of Women in Africa for a period of two years, effective 25 November 2009.

155. ACHPR/Res.155 (XLVI) 09: RESOLUTION ON THE RENEWAL OF THE MANDATE OF THE WORKING GROUP ON INDIGENOUS POPULATIONS/COMMUNITIES IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 46th Ordinary Session held from 11 - 25 November 2009, in Banjul, The Gambia;

Considering its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution Ref. ACHPR/Res.65 (XXXIV) 03 on the Report of the African Commission's Working Group on Indigenous Populations/Communities adopted at its 34th Ordinary Session held in Banjul, The Gambia from 6 – 20 November 2003;

Bearing in mind Resolution ACHPR/Res.123 (XXXXII) 07 on the Composition and Renewal for a period of two years the Mandate of the Working Group on Indigenous Populations/Communities in Africa adopted at its 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, Republic of Congo;

Recalling that the African Commission established a Working Group composed of nine members, amongst them, three Members of the African Commission;

Noting with Appreciation the work that Commissioner Musa Ngary Bitaye has done as a Member and Chairperson of the Working Group;

Further Noting that the term of the Chairperson and members of the Working Group comes to an end on 5 December 2009;

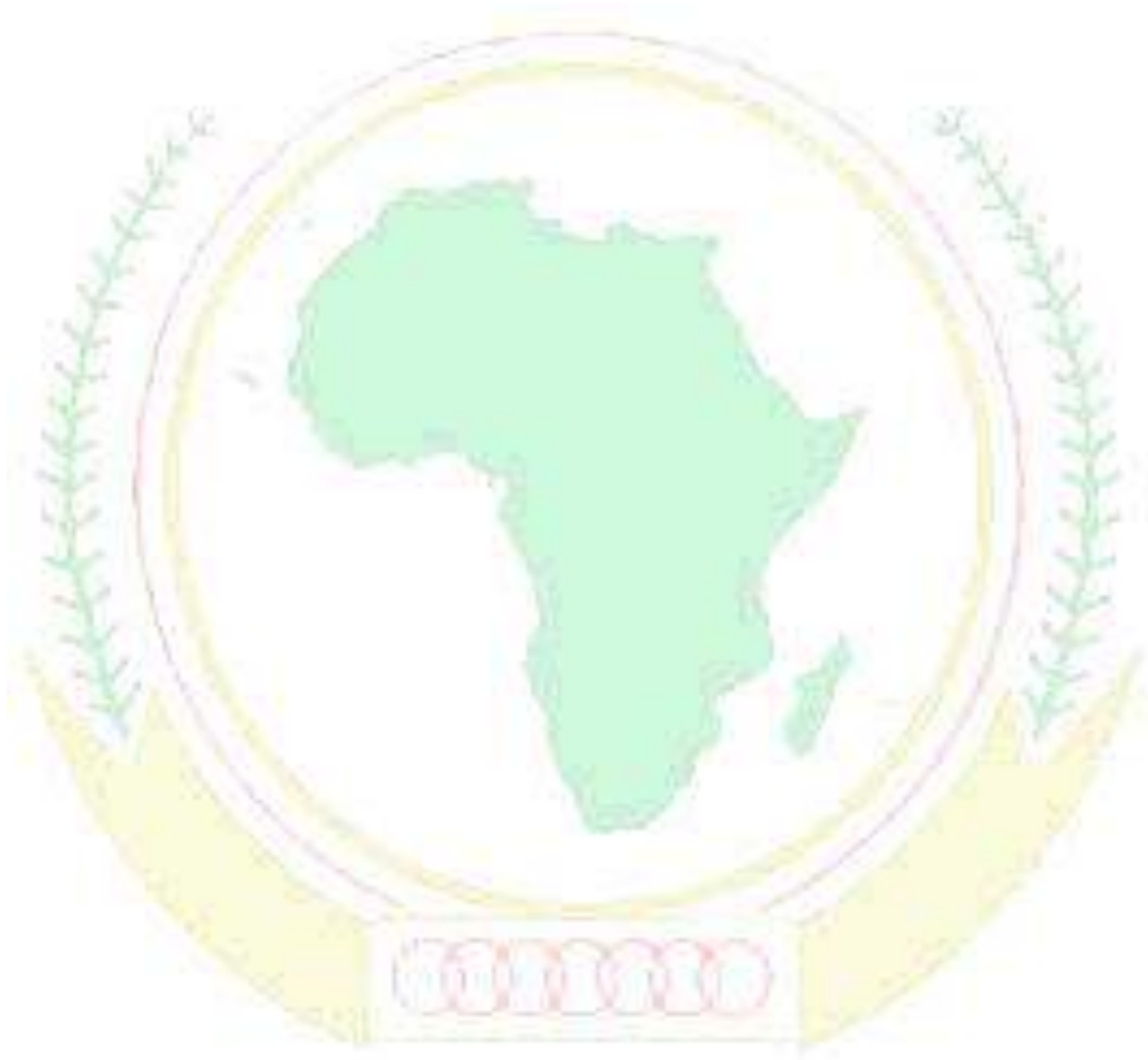
Commending the work undertaken by the Working Group during the past two years in the discharge of its mandate;

Recognizing further the importance of the work of the Working Group in the promotion and protection of the rights of indigenous populations/communities in Africa and the necessity to allow the Working Group to continue to carry out its mandate;

Decides to:

- i. Renew the mandate of Commissioner Musa Ngary Bitaye as Chairperson of the Working Group;
- ii. Renew the mandate of Commissioner Soyata Maiga as a member of the Working Group;
- iii. Renew the mandate of Commissioner Mumba Malila as a member of the Working Group;
- iv. Maintain the membership of the following experts:
 - o Mr. Mohammed Khattali;

- Ms. Marianne Jensen;
- Mr. Zephyrin Kalimba;
- Mr. Melakou Tegegn
- Dr. Naomi Kipuri.
- Dr. Albert Barume



156. ACHPR/Res.146 (XLVI) 09: RESOLUTION ON THE APPOINTMENT OF THE SPECIAL RAPPORTEUR ON PRISONS AND CONDITIONS OF DETENTION IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 46th Ordinary Session held from 11 – 25 November 2009, in Banjul, The Gambia;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Reaffirming the importance of observing the objectives and principles of the African Charter for the promotion and protection of the human rights of all, including those of detainees and prisoners;

Recalling its decision taken at its 20th Ordinary Session held in Grand Bay, Mauritius in October 1996 to establish the office and to appoint a Special Rapporteur on Prisons and Conditions of Detention in Africa, as a prison monitoring mechanism;

Recalling further its decision taken at its 38th Ordinary Session held in Banjul, The Gambia in November/December 2005 to appoint Commissioner Mumba Malila as the Special Rapporteur on Prisons and Conditions of Detention in Africa;

Bearing in mind Resolution ACHPR/Res.126 (XXXXII) 07 on the Appointment of the Special Rapporteur on Prisons and Conditions of Detention in Africa adopted at the 42nd Ordinary Session held from 15 – 28 November 2007, in Brazzaville, the Republic of Congo;

Considering that the term of Commissioner Mumba Malila as the Special Rapporteur on Prisons and Conditions of Detention in Africa comes to an end on 5 December 2009;

Noting with Appreciation the work that Commissioner Mumba Malila has done as Special Rapporteur on Prisons and Conditions of Detention in Africa;

Emphasising the importance of the work of the Special Rapporteur and calling on all its partners to collaborate in the search for solutions to the problems arising from the restriction of the freedom of the individual;

DECIDES to appoint Commissioner Catherine Dupe Atoki as the Special Rapporteur on Prisons and Conditions of Detention in Africa for a period of two years, effective 5 December 2009;

CONSIDERING its mandate to promote human and peoples' rights in Africa and to ensure their protection in accordance with the African Charter on Human and Peoples' Rights;

RECALLING its Resolution **ACHPR/ 69(XXXV) 04** of 4 June 2004 on the protection of human rights defenders in Africa adopted at the 35th Ordinary Session held from 21st May to 4th June 2004, in Banjul, The Gambia;

BEARING IN MIND its resolution **83(XXXVIII) 05** of 5 December 2005 on the appointment of a Special Rapporteur on Human Rights Defenders in Africa; adopted at the 38th Ordinary Session held from 21st November to 5th December 2005 in Banjul, The Gambia;

CONSIDERING its Resolution **ACHPR/Res.125 (XXXXII) 07** on the renewal of the mandate of the Special Rapporteur on Human Rights Defenders in Africa, adopted at its 42nd Ordinary Session held in Brazzaville, Republic of Congo from 13 to 28 November 2007;

BEARING IN MIND that in the *Grand Bay (Mauritius) Declaration and Plan of Action*, the Organization of African Unity (African Union) called on Member States “to take appropriate steps to implement the UN *Declaration on Human Rights Defenders in Africa*”;

CONSIDERING that the term of **Commissioner Reine Alapini-Gansou** as Special Rapporteur comes to an end on 5 December 2009;

NOTING with appreciation the work and accomplishment of Commissioner **Reine Alapini-Gansou** as Special Rapporteur on Human Rights Defenders in Africa since her re-appointment in 2007;

CONSIDERING the end of the mandate report of the Special Rapporteur;

EMPHASIZING the importance of the work of the Special Rapporteur regarding the search for solutions to the problems arising from the protection of human rights defenders;

CONSIDERING the necessity to allow the Special Rapporteur on Human Rights Defenders in Africa to continue to carry out its mandate as contained in resolution **ACHPR/ 69(XXXV) 04**;

DECIDES to appoint Commissioner **Mohamed Bechir Khalfallah** as Special Rapporteur on Human Rights Defenders in Africa for a period of two (2) years, with effect from 5th December 2009.

157. ACHPR/Res.157 (XLVI) 09: RESOLUTION ON THE GENERAL HUMAN RIGHTS SITUATION IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting in its 46th Ordinary Session, in Banjul, the Gambia, from 11-25 November, 2009;

CONSIDERING the provisions of the African Charter on Human and Peoples' Rights, the Constitutive Act of the African Union, and other regional and international legal human rights instruments;

RECALLING the mandate of the African Commission on Human and Peoples' Rights to promote and protect human rights in Africa;

CONSIDERING the objectives of the African Union, inter alia:

1. To promote peace, security, and stability on the continent;
2. To promote democratic principles and institutions, popular participation and good governance;
3. To promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;
4. To establish the necessary conditions which enable the continent to play its rightful role in the global economy and international negotiations;

CONCERNED at the climate of insecurity reigning in some African countries as a result of the persistent armed conflicts and the resurgence of fighting in others especially between rebel groups and armed forces, in Sudan, Chad, Central African Republic, Somalia, Eritrea, and in the Democratic Republic of Congo;

AWARE OF the political instability prevailing in certain parts of Africa as a result of the unconstitutional regime changes such as in the Republic of Guinea and in Guinea Bissau;

CONSIDERING that post election violence has led to human rights violations even in conflict free areas and that arbitrary and extrajudicial executions have persisted long after the elections in some countries;

CONCERNED at the crisis situation in the wake of the overthrow of constitutional rule leading to untoward situations in countries such as the Republic of Guinea and Guinea Bissau;

NOTING that in Kenya, despite the recommendations made by the Kriegler Commission of Enquiry on Elections and the Judge Waki Commission of Enquiry on post-election violence, the Government of National Unity is yet to implement the totality of the recommendations, to wit, the creation of a Special Court in Kenya to try perpetrators of the serious human rights violations committed during the post election violence;

DEEPLY CONCERNED at the situation in Eritrea where several cases of arbitrary arrests and protracted detentions without trial of former ministers, soldiers, members of the Government, members of opposition parties, journalists and media personnel have

been noted, in violation of the provisions of the African Charter on Human and Peoples' Rights;

CONDEMNING the persistent and serious human rights violations in conflict zones affecting the most vulnerable segments of society, women and children;

STRONGLY CONDEMNING human rights violations committed by rebel forces against the population in areas under their control, as well as the execution of civilians on the basis of summary judgements passed by special courts, the plundering of population's property and the practice of kidnapping ;

CONCERNED at the threats and harassment of human rights defenders and journalists are subjected to for denouncing human rights violations committed during conflicts, as well as the continued infringements on the freedom of expression ;

CONCERNED at the impunity reigning in these countries:

1. **CALLS ON** Member States to take legislative, material measures and provide human resources to put an end to the practice of impunity, as soon as possible;
2. **CONDEMNS** the human rights violations committed by all parties against the civilian population in times of peace and in times of war;
3. **URGES** the parties to the conflict to abide by principles of international humanitarian law and those enshrined in the African Charter on Human and Peoples' Rights and to immediately desist from launching attacks against the civilian population;
4. **URGES** the parties to the conflict to allow humanitarian organisations and United Nations Agencies to move around and to engage in their activities freely ;
5. **URGES** the Government of Kenya to implement the recommendations of the Kriegler Commission, the Waki Commission and the United Nations Special Rapporteur for Summary and Extrajudicial Executions ;
6. **CALLS ON** the National Council for Democracy and Development in Guinea (NCDD) to follow the mutually agreed timetable for the return to constitutional rule by the end of 2009 and to take measures to ease tensions in the country;
7. **CALLS ON** the Republic of Guinea authorities to pursue their collaboration with the African Union, ECOWAS, the European Union, and the international community at large to ease the tension in the country;
8. **URGES** the Government of Eritrea to fulfil its obligations under the African Charter on Human and Peoples' Rights, the Constitutive Act of the African Union and other relevant human rights instruments to which Eritrea is a party;

CALLS ON all the warring parties in Sudan, Chad, DRC, and in Somalia to cooperate with the international community in order to find a lasting solution to the conflict raging in these areas.



158. ACHPR/Res.158 (XLVI) 09: RESOLUTION ON THE CHANGE OF NAME OF THE “ROBBEN ISLAND GUIDELINES FOLLOW-UP COMMITTEE” TO THE “COMMITTEE FOR THE PREVENTION OF TORTURE IN AFRICA” AND THE REAPPOINTMENT OF THE CHAIRPERSON AND MEMBERS OF THE COMMITTEE

The African Commission on Human and Peoples’ Rights (THE African Commission), meeting at its 46th Ordinary Session, held in Banjul, The Gambia, from 11 to 25 November 2009;

Recalling the mandate to promote and protect human and peoples’ rights in Africa entrusted to the African Commission on Human and Peoples’ Rights in Article 45 of the African Charter on Human and Peoples’ Rights;

Considering the recognition by African States of the absolute and irrevocable nature of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment in Article 5 of the African Charter on Human and Peoples’ Rights;

Further recalling its Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture and Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines) adopted during its 32nd Ordinary Session, held in Banjul, The Gambia, from 17th to 23rd October 2002;

Recalling the establishment of the Robben Island Guidelines Follow-Up Committee in 2004 with the mandate to give effect to the promotion of Article 5 of the Charter;

Mindful of the difficulty of national, regional and international stakeholders and partners in associating the name “Robben Island Guidelines Follow-Up Committee” with its torture prevention mandate;

Recognising the need for all stakeholders to easily identify with the name of the Committee as a torture prevention mechanism;

Decides:

1. to change the name of the “Robben Island Guidelines Follow-Up Committee” to the “Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Committee for the Prevention of Torture in Africa)”;
2. **Assigns** to the Committee for the Prevention of Torture in Africa the same mandate as the one assigned to the Robben Island Guidelines Follow-Up Committee.

Noting with appreciation the work and the accomplishment of the Chairperson of the Committee for the Prevention of Torture in Africa, Commissioner Catherine Dupe Atoki, since her appointment in 28 November 2007;

Considering the necessity to allow the Committee for the Prevention of Torture in Africa to continue carrying out its mandate and address urgent issues falling within its mandate;

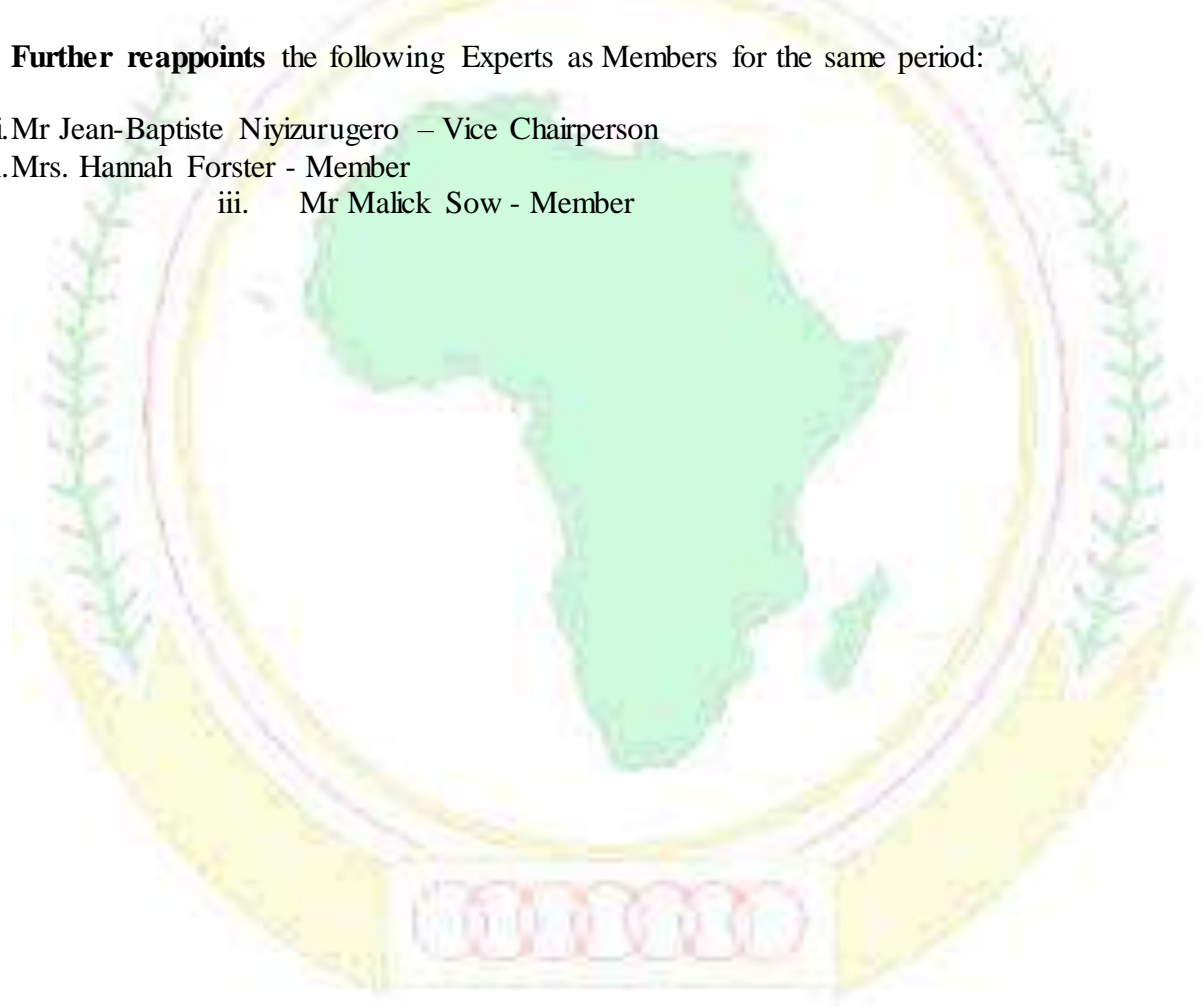
Bearing in mind Resolution ACHPR/Res.120 (XXXXII) 07 on the Appointment of the Chairperson and Members of the Committee for the Prevention of Torture in Africa adopted at its 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, Republic of Congo;

Considering that the mandate of the Chair of the Committee for the Prevention of Torture in Africa, Commissioner Catherine Dupe Atoki, comes to an end on 28 November 2009;

Decides to re-appoint Commissioner Catherine Dupe Atoki as Chairperson and to appoint Commissioner Musa Ngary Bitaye as member of the Committee for the Prevention of Torture in Africa for a period of two years, effective 28 November 2009;

Further reappoints the following Experts as Members for the same period:

- i. Mr Jean-Baptiste Niyizurugero – Vice Chairperson
- ii. Mrs. Hannah Forster - Member
- iii. Mr Malick Sow - Member



159. ACHPR/Res.159(XLVI) 09: RESOLUTION ON THE IMPACT OF THE ONGOING GLOBAL FINANCIAL CRISIS ON THE ENJOYMENT OF SOCIAL AND ECONOMIC RIGHTS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 46th Ordinary Session held from 11 to 25 November 2009, in Banjul, The Gambia;

Reaffirming that States Parties to the African Charter on Human and Peoples' Rights (the African Charter), have an obligation to recognise the rights enshrined therein, including social and economic rights as provided in Articles 14 to 22, and to adopt legislative or other measures to give effect to them;

Reaffirming the *Pretoria Declaration on Economic, Social and Cultural Rights in Africa*, adopted at the 36th Ordinary Session of the African Commission in Dakar, Senegal on 7 December 2004;

Considering that the objectives and principles of the Constitutive Act of the African Union include: a commitment to the promotion and protection of human and peoples' rights, respect for democratic principles, human rights, rule of law and good governance and the promotion of social justice, to ensure balanced economic development; the promotion of sustainable development at the economic, social and cultural levels as well as the integration of African economies;

Recognising the existence of regional and international human rights instruments which emphasise the indivisibility, interdependence and universality of all human rights;

Conscious that the realisation of economic and social rights *vis a vis* civil and political rights remain elusive to many on the African continent as a result of several factors such as persistent conflicts, lack of human and food security due to poverty and underdevelopment, corruption and lack of good governance;

Concerned by the ongoing global financial crisis which has the potential of decreasing global demand of basic commodities produced in Africa, reduce the volume of private and public capital flow into Africa and diminish the competitiveness of the economies of Member States;

Deeply Concerned that the ongoing global financial crisis has exacerbated the already poor enjoyment of social and economic rights, in particular, food security by vulnerable and marginalised groups in Africa such as the poor, women, children, refugees and displaced persons, indigenous peoples, the disabled and people living with HIV/AIDS;

Further Concerned about the impact of the international financial crisis in slowing down the achievement of the United Nations Millennium Declaration (Millennium Development Goals) adopted by the Heads of State and Government on 8 September 2000 in New York;

Recalling the *Declaration of the Abuja Food Security Summit* by the Assembly of Heads of State and Government, held on 7 November 2006, in Abuja, Nigeria, which *inter alia* affirmed the commitment of Member States to: take urgent measures to accelerate the development of strategic commodities and also to construct and maintain critical

infrastructure to facilitate the movement of strategic agricultural products across national boundaries at minimal cost;

Noting the establishment of the Extraordinary Conference of African Ministers of Economy and Finance (CAMEF) on the financial crisis and its impact on African Economies, during the Extraordinary Conference of African Ministers held in Tunis, Tunisia on 12 November 2008;

Noting also the *Addis Ababa Declaration on the International Financial Crisis* of the Assembly of Heads of States and Governments (**Assembly/AU/Decl.2(XII)**) of 3 February 2009;

Convinced that through the implementation of holistic policies, African States can alleviate the negative effects of the international financial crisis on individuals and vulnerable groups within its borders with due regard to their obligation to respect, protect, promote and fulfil social and economic rights in the African Charter;

Calls on States Parties to the African Charter to:

1. **Take steps** to ensure implementation of national policies aimed at tackling the peculiar effects of the global financial crisis on their economies within the framework of realising economic and social rights provided for and recognised by the African Charter, and to guarantee transparency and the participation of all relevant stakeholders in the process;
2. **Continuously** monitor the impact of the global financial crises on vulnerable groups like the poor, women, children, refugees and displaced persons, indigenous peoples, the disabled and persons living with HIV/AIDS;
3. **Strengthen** efforts to eradicate corruption, mismanagement of financial resources and all other similar vices in order to afford much needed transparency and accountability necessary for economic growth and external investment and to create a conducive environment for the reduction of poverty and underdevelopment through the adoption of principles of good governance;
4. **Intensify** existing cooperation efforts between Member States through the harmonisation of macro-economic policies, acceleration of economic integration within regional economic communities and strengthening of financial regulatory mechanisms and to ensure that the improvement in the enjoyment of economic and social rights by its citizens is central to any bilateral or multilateral trade and economic agreements entered into.

160. ACHPR/Res.160 (XLVI)09 : RESOLUTION ON THE APPOINTMENT OF THE SPECIAL RAPPORTEUR ON REFUGEES , ASYLUM SEEKERS, INTERNALLY DISPLACED PERSONS AND MIGRANTS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 46th Ordinary Session held from 11 - 25 November 2009, in Banjul, The Gambia

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Aware that in the exercise of its mandate, the African Commission has established various thematic mechanisms for the promotion and protection of human and peoples' rights in Africa;

Recalling that at its 35th Ordinary Session held from 21 May - 4 June 2004 in Banjul, The Gambia, the African Commission adopted Resolution ACHPR/Res.72(XXXV)04 providing for the establishment of the mechanism of Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons in Africa;

Cognisant of Resolution ACHPR/Res.72(XXXVI)04 adopted at Dakar during the 36th Ordinary Session which elaborated the mandate of the Special Rapporteur;

Recalling that at its 39th Ordinary Session held from 11- 25 May 2006 in Banjul, The Gambia, the African Commission adopted Resolution ACHPR/Res.95(XXXIX)06 which extended the mandate of the Special Rapporteur to cover migration issues;

Bearing in mind Resolution No. ACHPR/Res. 116(XXXXII) 07: adopted at the 42nd Ordinary Session held in Brazzaville, the Republic of Congo on the renewal of the Mandate of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;

Noting with appreciation the accomplishment of the Special Rapporteur, Commissioner Bahame Tom Mukirya Nyanduga;

Considering the need to enable the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa to continue to carry out its mandate, and address urgent issues falling within this mandate;

Decides to appoint Commissioner Mohamed Fayek as Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa for a period of two years, effective 25 November 2009;

161. ACHPR/Res.161 (XLVI)09 : RESOLUTION ON THE REAPPOINTMENT OF THE SPECIAL RAPPORTEUR ON FREEDOM OF EXPRESSION AND ACCESS TO INFORMATION IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 46th Ordinary Session held from 11 - 25 November 2009, in Banjul, The Gambia:

Recalling its mandate to promote human and peoples rights and ensure their protection in Africa under the African Charter on Human and Peoples Rights (the African Charter);

Aware that in the exercise of its mandate, the African Commission has established various mechanisms for the promotion and protection of human and peoples' rights in Africa;

Recalling the Resolution on the Mandate and Appointment of the Special Rapporteur on Freedom of Expression in Africa adopted at its 36th Ordinary Session held from 23 November - 7 December 2004 in Dakar, Senegal;

Emphasizing that the right to freedom of expression and access to information is a fundamental human right guaranteed inter alia by Article 9 of the African Charter.

Recalling the adoption of the Declaration of Principles on Freedom of Expression in Africa, at its 32nd Ordinary Session held from 17 - 23 October 2002, in Banjul, The Gambia, which elaborates the nature, content and extent of the right to freedom of expression and access to information provided for under Article 9 of the African Charter;

Reaffirming the commitment of the African Commission to promote the right to freedom of expression and access to information and monitor the implementation of the Declaration of Principles on Freedom of Expression in Africa within Member States of the African Union;

Recalling Resolution ACHPR/Res.84(XXXV)05, appointing Commissioner Faith Pansy Tlakula, as Special Rapporteur on Freedom of Expression in Africa adopted at the 38th Ordinary Session held from 21 November to 5 December 2005, in Banjul, The Gambia;

Further recalling Resolution ACHPR/Res.122(XXXII)07: on the Expansion of the Mandate and Re-appointment of the Special Rapporteur on Freedom of Expression and Access to Information in Africa adopted at the 42nd Ordinary Session held from 15 to 28 November 2007, in Brazzaville, Republic of Congo;

Considering that the term of Commissioner Faith Pansy Tlakula as Special Rapporteur on Freedom of Expression and Access to Information in Africa comes to an end on 5 December 2009 and the need for continuity;

Decides to renew the term of office of the Special Rapporteur on Freedom of Expression and Access to Information in Africa for a period of two years, effective 5 December 2009.

162. ACHPR/Res.162 (EXT.OSVIII)10: RESOLUTION ON THE POLITICAL SITUATION IN NIGER

The African Commission on Human and Peoples' Rights, meeting at its 8th Extra-Ordinary Session held in Banjul, The Gambia, from 22 February to 3 March 2010

Recalling its mandate under the African Charter on Human and Peoples' Rights (African Charter) to promote and protect human and peoples' rights in Africa, and the other relevant legal instruments such as the African Charter on Democracy, Elections and Governance (African Charter on Democracy);

Recalling its Resolution (ACHPR/Res.14 (XVI) 94) on the Situation of Human Rights in Africa adopted at its 16th Ordinary Session held from 25 October to 3 November, 1994 in Banjul, The Gambia, which condemned the planning or execution of coup d'états and any attempt to seize power by undemocratic means, as well its Resolution on Military Regimes in Africa, adopted during the same Session;

Reaffirming its commitment to the development of democracy in Africa, and recognizing that the principles of good governance, transparency and human rights are critical elements that contribute to the prevention of conflict, and build representative governments;

Recalling the ouster of the President of Niger, Mamadou Tandja, through a bloody coup d'état by the country's military junta on 18 February 2010 ;

Aware that coups d'état are, in essence, human rights violations, characterized by denial of civil and political rights as well as economic stagnation in the countries;

Considering that the State of Niger is a State Party to the African Charter;

Recalling that the enjoyment of rights and freedoms are fundamental human rights enshrined in international instruments ratified by Niger, and notably Article 2 of the African Charter;

Recalling the provisions of Article 4(p) of the Constitutive Act of the AU which condemns and rejects unconstitutional change of government;

Considering Article 13(1) of the African Charter which stipulates that "every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law";

Recalling Articles 2(4) and 25(5) of the African Charter on Democracy adopted by the Assembly of Heads of State and Governments of the AU during its 8th Summit meeting in Addis Ababa, Ethiopia from 29 to 30 January 2007;

Commends the Communiqué of the Chairperson of the AU Commission, Honourable Jean Ping on 19 February 2010 in Addis Ababa condemning the coups in Niger, and the sanctions imposed on the Republic of Niger by the Peace and Security Council of the AU;

Noting that 2010 was declared the Year of Peace and Security in Africa during the 14 th Ordinary Session of the Assembly on 3 February 2010 in Addis Ababa, Ethiopia;

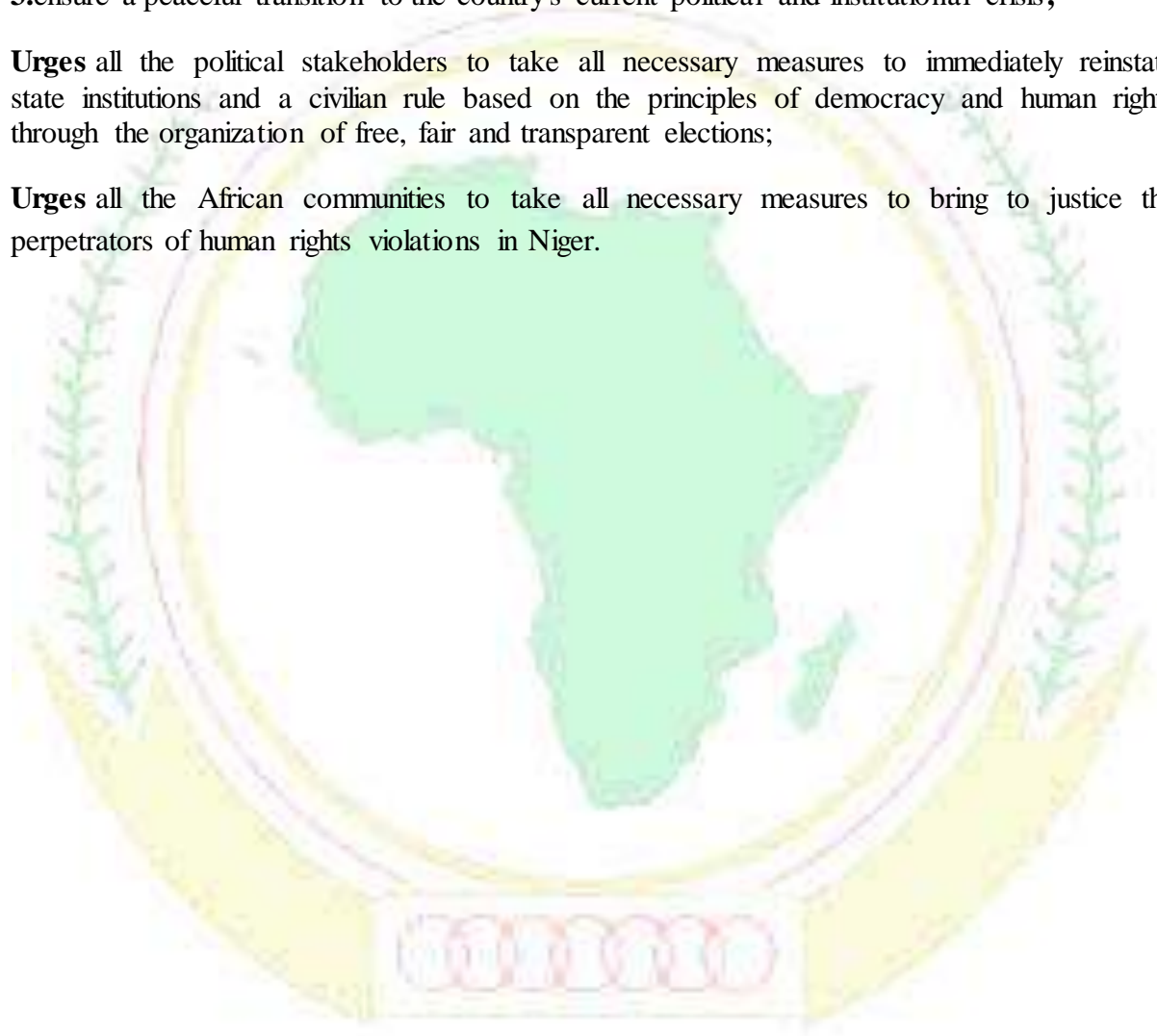
Condemns the military coup d'état in Niger which is a serious violation of the provisions of the Charter and other subsequent legal instruments;

Calls on the Military Junta in Niger to:

1. comply with the international and regional human rights instruments ratified by the country;
2. re-establish the Constitution of 9 August 1999 and respect the fundamental rights and freedoms contained therein;
3. ensure a peaceful transition to the country's current political and institutional crisis;

Urges all the political stakeholders to take all necessary measures to immediately reinstate state institutions and a civilian rule based on the principles of democracy and human rights through the organization of free, fair and transparent elections;

Urges all the African communities to take all necessary measures to bring to justice the perpetrators of human rights violations in Niger.





Section E

Resolutions adopted during the 47th - 49th Ordinary Sessions

2010 - 2011

163. ACHPR/Res.163 (XLV11) 10: RESOLUTION ON THE ESTABLISHMENT OF A COMMITTEE ON THE PROTECTION OF THE RIGHTS OF PEOPLE LIVING WITH HIV (PLHIV) AND THOSE AT RISK, VULNERABLE TO AND AFFECTED BY HIV

The African Commission on Human and People's Rights, meeting at its 47th Ordinary Session held in Banjul, The Gambia, from 12 to 26 May 2010

1. **Recognising** that the African Commission on Human and People's Rights has a fundamental role to protect the most vulnerable groups in Africa against human rights abuses;
2. **Recognising** also that a unique feature of the HIV pandemic is the overwhelming nature of the accompanying stigma;
3. **Nothing** that in circumstances where the rule of law and human rights are not respected as an integrated part of society, the most vulnerable groups within that society are often denied the level of protection they require and hence, are exposed to increased vulnerability;
4. **Recognising** that people living with HIV and those at risk are currently one of the most vulnerable groups exposed to serious violations of human rights in Africa.
5. **Recalling** the Resolution on the HIV/AIDS Pandemic – Threat against Human Rights and Humanity (2001) calling upon African governments, state parties to the African Charter to allocate national resources that reflect a determination to fight the spread of HIV/AIDS, to ensure human rights protection of those living with HIV/AIDS against discrimination and to take appropriate actions so that international pharmaceutical industries make affordable and comprehensive health care available for African governments;
6. **Recalling** commitments of the African Union Heads of States and Governments in the Tunis Declaration on AIDS and the Child in Africa (1994); Grand Bay (Mauritius) Declaration and Plan of Action (1999); Lome Declaration on HIV/AIDS in Africa (2000); Abuja Declaration on HIV/AIDS, Tuberculosis and Other Infections Diseases (2001); Maputo Declaration on HIV/AIDS, Tuberculosis, Malaria and Other Infections Diseases)2003); Gaborone Declaration on a Roadmap Towards Universal Access to Prevention, Treatment and Care (2005); Continental Framework for Harmonisation of Approaches among Member State and Integration of Policies on Human Rights and People Infected and Affected by HIV/AIDS in Africa (2005); Brazzaville Commitment on Scaling Up Towards Universal Access to HIV and AIDS Prevention, Treatment, Care and Support in Africa by 2010 (2006); Abuja Call for Accelerated Action Towards Universal Access to HIV and AIDS, Tuberculosis and Malaria Services in Africa (2006); and Africa's Common Position to the UN General Assembly Special Session on AIDS (2006).;

7. **Noting with deep concern** that of 33.4 million people living with HIV in the world 22.4 million are living in Sub-Saharan Africa and of 2 million AIDS related deaths 1.4 million occurred in Sub-Saharan Africa in 2008;
8. **Concerned** that AIDS related deaths result in an increase number of orphans and vulnerable children in Sub-Saharan Africa;
9. **Concerned further** that despite commitments undertaken by state parties and regional bodies, PLHIV and those at risk continue to face serious violations of their basic human rights;
10. **Deeply disturbed** by the growing trend by various state parties across Africa toward criminalisation and mandatory testing of PLHIV which leads to greater stigmatisation and discrimination.

Decides to establish a committee on the protection of PLHIV and those at risk for a period of 2 years with the following mandate:

- a) To seek, request, receive, analyse and respond to reliable information from a credible sources including individuals, community based organisations, non-governmental organisations, specialised agencies, inter-governmental organisations, and state parties, on the situation and rights of PLHIV and those at risk;
- b) To undertake fact-finding missions, where necessary, to investigate, verify and make conclusions and recommendations regarding allegations of human rights violations;
- c) To engage state parties and non- state actors on their responsibilities to respect the rights of people living with HIV and those proven to be vulnerable to these infections;
- d) To engage state parties on their responsibilities to respect, protect and fulfil the rights of people living HIV and those at risk;
- e) To recommend concrete and effective strategies to better protect the rights of people living HIV and those at risk;
- f) To integrate a gender perspective and give special attention to persons belonging to vulnerable groups including, women, children, sex workers, migrants, men having sex with men, intravenous drugs users and prisoners; and
- g) To report regularly to the African Commission on Human and Peoples' Rights.

164. ACHPR/Res.164 (XLVII) 10: RESOLUTION ON THE 2010 ELECTIONS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 47th Ordinary Session, held in Banjul, The Gambia, from 12 – 26 May 2010;

Recalling its mandate under *the African Charter on Human and Peoples' Rights* (African Charter) to promote and protect human and peoples' rights in Africa;

Considering Article 13(1) of the *African Charter* which stipulates that “every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law”;

Considering relevant provisions of article 9 of the Protocol to the African Charter on the rights of Women in Africa which exhorts States Parties to take positive measures to ensure that “women participate without any discrimination in all elections”;

Reaffirming its commitment to the development of democracy in Africa, and recognising that the principles of good governance, transparency, and human rights are critical elements that contribute to the achievement of peace and sustainable development in Africa;

Welcoming the adoption of *the African Charter on Democracy, Elections and Governance* (the African Charter on Democracy), at the 8th Ordinary Session of the Assembly of Heads of State and Government of the African Union(AU), held in Addis Ababa, Ethiopia, on 30 January 2007;

Recalling its Resolution *ACHPR/Res.133 (XXXXIII) 08* on Elections in Africa, adopted at its 44th Ordinary Session held in Abuja, Federal Republic of Nigeria, from 10 - 24 November 2008, which amongst others things, called on the ratification of the African Charter on Democracy by States Parties to the African Charter;

Noting with concern that though the African Charter on Democracy lays down principles aimed at achieving a democratic continent free from unconstitutional change of government and conflict, only four countries (Burkina-Faso, Ethiopia, Mauritania, and Sierra Leone) have ratified the said instrument;

Further aware that military *coups d'état* constitute unconstitutional change of government, which is a serious threat to peace, stability, and development, and also breach the provisions of Article 4(p) of the Constitutive Act of the AU, which condemns and rejects unconstitutional change of government;

Recalling the *AU Declaration on the Principles Governing Democratic Elections in Africa*, adopted on 8 July 2002 at the 38th Ordinary Session of the Assembly of Heads of State and Government of the AU, held in Durban, South Africa;

Noting that many countries on the continent are embracing multi-party systems of Government and other political and economic reforms, making it increasingly imperative that

the objectives and principles set out in the African Charter on Democracy should be respected and implemented;

Noting that the following countries will be holding elections in the later part of 2010; Burkina Faso, Burundi, Central African Republic, Chad, Côte d'Ivoire, Djibouti, Egypt, Ethiopia, Guinea, Madagascar, Mauritius, Namibia, Rwanda and Tanzania;

Concerned about the recurrent situation of election-related violence and other human rights violations in Africa, and stressing that the primary purpose of elections is to achieve participatory governance without violence;

Noting that 2010 was declared *the Year of Peace and Security in Africa* during the 14th Ordinary Session of the Assembly of Heads of State and Government of the AU on 3 February 2010 in Addis Ababa, Ethiopia;

Calls on States Parties to the African Charter holding elections in 2010 to:

1. Ensure that they create conditions conducive for free, fair and credible elections, and that contesting parties in particular opposition are given equitable access to state controlled media and resources;
2. Ensure that all participatory parties, in particular the opposition parties, are allowed to conduct their campaign freely without any violence and intimidation;
3. Ensure the participation of all citizens in the election processes without fear and intimidation;
4. Establish impartial and non-discriminatory procedures with respect to all voting processes;
5. Take all necessary measures to prevent, investigate and prosecute elections-related human rights violations and provide adequate redress to victims;
6. Ensure the protection of journalists, human rights defenders, election observers and monitors, before, during and after the elections from intimidation and other human rights abuses.

Reiterates its appeal to all States Parties to the African Charter who have not yet done so, to ratify the African Charter on Democracy and ensure its implementation without delay, as it contains the foundation upon which, free and fair elections can be achieved in Africa.

165. ACHPR/Res.165 (XLVII) 10: RESOLUTION ON THE PREVENTION OF WOMEN AND CHILD TRAFFICKING IN SOUTH AFRICA DURING THE 2010 WORLD CUP TOURNAMENT

The African Commission on Human and Peoples' Rights, meeting at its 47th Ordinary session held in Banjul, the Gambia, from 12 - 26 May 2010;

RECALLING that the right of women and children to be protected from trafficking has been explicitly recognized in Section 4 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Section 29 of the African Charter on the Rights and Welfare of the Child, Section 6 of the Convention on the Elimination of All Forms of Discrimination Against Women, and Section 35 of the Convention on the Rights of the Child;

RECALLING that the United Nations Convention against Transnational Organized Crime was adopted in 2000 and entered into force in 2003 to promote cooperation, as well as prevent and combat transnational organized crime more effectively and that, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, was adopted in 2000 and entered into force in 2003 to address all aspects of trafficking in women and children specifically;

RECOGNIZING that human trafficking is a global challenge that necessitates a global response and that the right to be protected from trafficking is also protected by other international and regional Conventions and Covenants which protect the rights to life, integrity and security of the person, and offer protection against slavery and forced labour;

CONCERNED that the 2010 World Cup in South Africa may increase the trafficking in women and children for sexual purposes and other forms of human rights abuses in South Africa and the neighboring countries;

RECALLING that South Africa ratified the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children in 2004;

WELCOMING the introduction of the Prevention and Combating of Trafficking in Persons Bill before the South African Parliament to combat trafficking in persons by prosecuting those involved in trafficking, providing appropriate sentences and measures for the prevention of trafficking and assistance of its victims;

NOTING that the South African law could be relied upon to prosecute trafficking in persons, including the Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007, the Children's Act of 2005, the Immigration Act of 2002, the Domestic Violence Act of 1998, the Prevention of Organized Crime of 1998, the Basic Conditions of Employment Act of 1997, the Intimidation Act of 1982, and common law prohibitions against rape, kidnapping,

indecent assault, abduction, murder, assault with intent to cause grievous bodily harm, common assault, and extortion;

URGES the Parliament of South Africa to expedite the enactment of the Prevention and Combating of Trafficking in Persons Bill and implement its provisions, in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;

URGES the Government of South Africa to increase awareness among all levels of government of their obligations under the provisions under domestic and international law;

CALLS ON the Government of South Africa to put into place mechanisms and prevention strategies to address commercial sexual exploitation and human trafficking of women and children;

CALLS ON the Government of South Africa to put into place and support initiatives aimed at assisting victims of trafficking and commercial sexual exploitation;

URGES the Government of South Africa to intensify cross-border cooperation with the neighboring countries and to ensure an integrated and efficient approach to prosecute traffickers.



166. ACHPR/Res.166 (XLV11) 10: RESOLUTION ON THE DETORATING SITUATION OF FREEDOM OF EXPRESSION AND ACCESS TO INFORMATION IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 47th Ordinary Session, held in Banjul, The Gambia, from 12 – 26 May 2010,

Recalling its mandate to promote and protect human and peoples' rights under *the African Charter on Human and Peoples' Rights* (the African Charter);

Underscoring that freedom of expression and access to information are fundamental human rights guaranteed by Article 9 of the *African Charter*, and other international and regional human rights treaties, with particular reference to Article 19 of the *Universal Declaration of Human Rights*, and Article 19 of the *International Covenant on Civil and Political Right*;

Recalling ACHPR/Res.62 (XXXII) 02 on the adoption of the *Declaration of Principles on Freedom of Expression in Africa* (2002) which elaborates on the scope of Article 9 of the *African Charter*;

Recalling further Resolutions on the Situation of Freedom of Expression in Africa: ACHPR/Res.54 (XXIX) 01, adopted at its 29th Ordinary Session in Tripoli, the Great Socialist People's Libyan Arab Jamahiriya, from 23 April to 7 May 2001; and ACHPR/Res.99 (XXXX) 06, adopted at its 40th Ordinary Session held in Banjul, The Gambia, from 15 to 29 November 2006, respectively;

Noting that freedom of expression and access to information are not only fundamental human rights, but also important components for the promotion of participation, accountability and democracy on the continent;

Concerned by the continuous violations of the right to freedom of expression and access to information on the continent, including: arbitrary arrests and detention, prosecution, kidnapping, imprisonment, harassment, intimidation, extra-judicial killings, disappearance, death threats, physical attacks and suspension of journalists and media practitioners; banning or destruction of media houses, and unlawful closure of newspapers that criticise the government;

Further concerned that many States Parties to the African Charter adopt repressive laws which impose unwarranted restrictions to publish materials, and encourage government interference with the Media. Consequently limiting the enjoyment of freedom of expression and access to information;

Deeply concerned about the deteriorating state of freedom of expression and access to information in Africa;

1. **Calls** on AU Members States, to take all necessary measures to uphold their obligations under the *African Charter* and other international instruments, including the *Universal Declaration of Human Rights* and the *International*

Covenant on Civil and Political Rights providing for the right to freedom of expression and access to information;

2. **Urges** AU Members States, to implement the *Declaration of Principles on Freedom of Expression in Africa*;
3. **Urges** AU Member States to adopt legislations that promote and protect the rights to freedom of expression and access to information, guided by international and regional standards which would act as a check to curtail undue violations of these rights;
4. **Appeals** to AU Member States to investigate allegations on violations of the rights of freedom of expression and access to information, particularly in relation to the death of detained journalists, and bring perpetrators to justice;
5. **Calls** on journalists and Media Practitioners to be professional, ethical, and accountable for their actions, so as to ensure credibility in their reporting and to avoid irreparable harm to the State and individuals;
6. **Ultimately urges** AU Members States, to collaborate with the Special Rapporteur on Freedom of Expression and Access to Information in Africa, to address and prevent restrictions to the right to freedom of expression and access to information, and realise a concerted move towards a continent, free from repressive media laws and conflict;
7. **Urges** AU Member States and Media Practitioners to engage in a dialogue, aimed at improving the situation of freedom of expression and access to information on the continent.

167. ACHPR/Res.167 (XLV111) 10: RESOLUTION ON SECURING THE EFFECTIVE REALISATION OF ACCESS TO INFORMATION IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 48th Ordinary Session, held in Banjul, The Gambia, from 10 – 24 November 2010;

Recalling its mandate to promote and protect human and peoples' rights under *the African Charter on Human and Peoples' Rights* (the African Charter);

Underscoring that the right of access to information is enshrined in Article 9 of the *African Charter*, and other international human rights instruments, including Article 19 of the *Universal Declaration of Human Rights*(UDHR), and the *International Covenant on Civil and Political Rights*(ICCPR);

Recognising that the right of access to information is an important tool for promoting accountability and transparency in Africa, and ensuring the effective realisation of all rights, in particular, socio-economic rights;

Aware that existing legislative provisions on the continent are used by governments, either directly or indirectly, to restrict the right of access to information in their countries;

Recalling ACHPR/Res.62 (XXXII) 02 on the adoption of the *Declaration of Principles on Freedom of Expression in Africa* (the Declaration) of 2002, which elaborates on the scope of Article 9 of the African Charter;

Underscoring Principle IV (1) of the Declaration, which provides that “public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law,” and Principle IV (2) which stipulates that “the right to information shall be guaranteed by law in accordance with the principles” set out in the Declaration;

Recalling Resolution ACHPR/Res.122 (XXXXII) 07, adopted during its 42nd Ordinary Session held from 15 to 28 November 2007, in Brazzaville, Republic of Congo, which expanded the mandate of the Special Rapporteur on Freedom of Expression in Africa, to include access to information;

Noting Article 9 of the AU Convention on Preventing and Combating Corruption (AU Convention on Preventing Corruption), adopted in Maputo, Mozambique on 11 July 2003 which provides that “each State Party shall adopt such legislative and other measures to give effect to the right to access to any information that is required to assist in the fight against corruption and related offences”;

Recalling that one of the objectives of the *African Charter on Democracy, Elections and Governance* (the African Charter on Democracy) adopted on 30 January 2007 is the “establishment of the necessary conditions to foster citizen participation, transparency,

access to information, freedom of the press and accountability in the management of public affairs”;

Cognizant of the absence of a model law in Africa, to guide States Parties in the development or revision of their access to information legislation;

Recognizing the need for such a model law, including guidelines on implementation, taking into consideration institutional, legal and structural differences in various States Parties;

Mindful of the constraints that may hamper the ability of States Parties to draft access to information legislation that meets with the global best practice;

Deeply concerned that of all the fifty-three (53) AU Member States in the continent, only a few have adopted access to information laws;

Commending countries that have adopted access to information laws, namely: the Republic of Angola; Republic of Ethiopia; Republic of Liberia; Republic of South Africa; Republic of Uganda; and Republic of Zimbabwe;

1. **Decides** to start the process of developing a model access to information legislation for Africa, including guidelines for its effective implementation through its Special Rapporteur on Freedom of Expression and Access to Information (the Special Rapporteur);
2. **Urges** States Parties, civil society and other stakeholders, to collaborate with the Special Rapporteur by contributing to the process of drafting the model law;
3. **Requests** the Special Rapporteur to report the progress made on the model law at its next Ordinary Session.

168. ACHPR/Res.168 (XLV111) 10: RESOLUTION ON THE COOPERATION BETWEEN THE AFRICAN COMMISSION ON HUMAN AND PEOPLE'S RIGHTS AND THE AFRICAN PEER REVIEW MECHANISM

The African Commission on Human and Peoples' Rights meeting at its 48th Ordinary Session, held in Banjul, The Gambia, from 10 – 24 November 2010;

Recalling its mandate to promote and protect human and peoples' rights under *the African Charter on Human and Peoples' Rights* (the African Charter);

Considering Article 45 (c) of the African Charter which requires the African Commission to co-operate with other African and international institutions concerned with the promotion and protection of human and peoples' rights;

Considering further the *New Partnership for Africa Development (NEPAD) Framework Document* and the *NEPAD Declaration on Democracy, Political, Economic and Corporate Governance*, which among other things, reaffirm the commitment of African states to the respect of various fundamental rights and freedoms enshrined in the African Charter;

Recalling that one of the key Indicators of the African Peer Review Mechanism of NEPAD (APRM) 'peer review' process is the respect for and protection of fundamental rights and freedoms;

Noting that Stage Five, requires that after the Report of the APRM has been considered by the Heads of State and Government of the participating countries, it should formally and publicly be tabled in key regional and sub regional structures, one of which is the African Commission;

Noting also that the African Commission mentioned as one of the Partner Institutions of the African Peer Review institutions that has the capacity to conduct technical assessment on matters relating to human rights, democracy and political governance during the peer review process;

Underscoring the need to pursue areas of cooperation between the APRM and the African Commission and its Special Mechanisms;

Emphasizing the need to explore ways and means of ensuring that these areas of cooperation are effectively utilised for purposes of synergizing human rights promotion and protection on the African continent;

Decides that the cooperation between the APRM, and the African Commission should be institutionalised through the appointment of a focal person within the African Commission to coordinate activities between the latter and the APRM;

Hereby appoints Commissioner Pansy Tlakula, as the focal point between the African Commission and the APRM for a period of one year to coordinate and enhance cooperation between the APRM and the ACHPR

169. ACHPR/Res.169 (XLV111) 10: RESOLUTION ON REPEALING CRIMINAL DEFAMATION LAWS IN AFRICA

The African Commission on Human and Peoples' Rights, meeting at its 48th Ordinary Session, held in Banjul, The Gambia, from 10 – 24 November 2010;

Reaffirming its mandate to promote and protect human and peoples' rights under *the African Charter on Human and Peoples' Rights* (the African Charter);

Noting that freedom of expression is a fundamental human right enshrined in regional and international instruments, including Article 9 of the *African Charter*, Article 19 of both the *Universal Declaration of Human Rights (UDHR)*, and the *International Covenant on Civil and Political Rights (ICCPR)*, Article 13 of the *American Convention on Human Rights (the American Convention)*; and Article 10 of the *European Convention on Human Rights (the European Convention)*;

Recalling the Resolution on Freedom of Expression adopted at its 29th Ordinary Session held from 23 April to 7 May 2001 in Tripoli, Libya, to initiate a mechanism to review and monitor adherence to standards of freedom of expression, investigate violations and make appropriate recommendations;

Aware of **ACHPR/Res.62 (XXXII) 02**, on the *Declaration of Principles on Freedom of Expression in Africa* of 2002 (the Declaration) which elaborates on the scope of Article 9 of the *African Charter*, in particular Principle II (1) of the Declaration which provides that “no one shall be subject to arbitrary interference with his or her freedom of expression;”

Noting Principle XII (1) of the Declaration which protects reputation by providing that “states should ensure that their laws relating to defamation conform to certain standards, including no one shall be found liable for true statements, opinions or statements regarding public figures which it was reasonable to make in the circumstances;”

Recalling the Resolution on the Mandate and Appointment of a Special Rapporteur on Freedom of Expression in Africa adopted at its 36th Ordinary Session held from 23 November to 7 December 2004 in Dakar, Senegal;

Noting the *Declaration of Table Mountain*, adopted by World Association of Newspapers and News Publishers and the World Editors Forum in 2007, which *inter alia* “calls on States Parties to repeal insult and criminal defamation laws, so as to promote the highest standards of press freedom in Africa;”

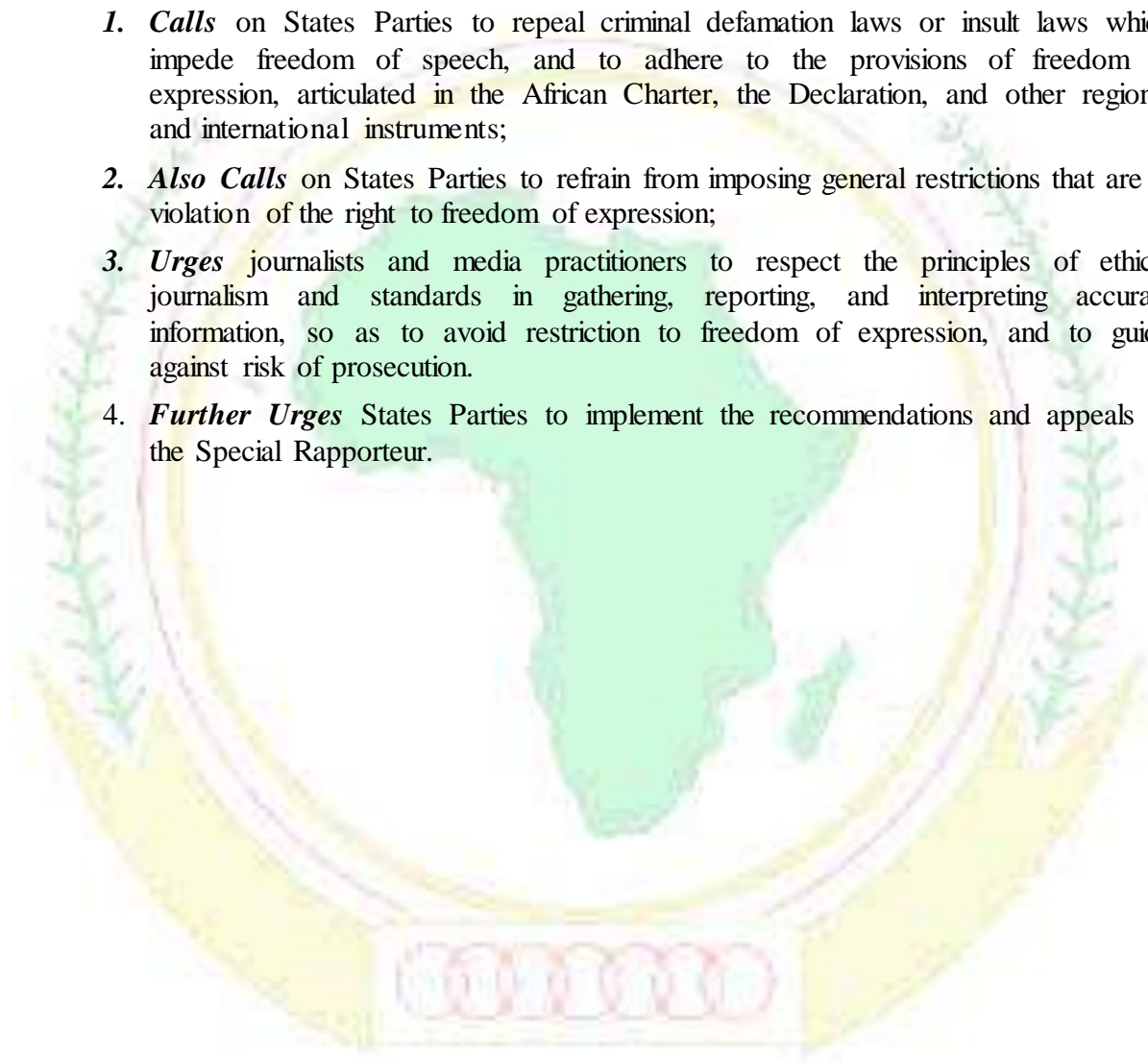
Noting further, the *Addis Ababa Declaration on Safety and Protection of Journalists*, adopted by the Regional Workshop on Safety and Protection of African Journalists on 3 September 2010;

Underlining that criminal defamation laws constitute a serious interference with freedom of expression and impedes on the role of the media as a watchdog, preventing journalists and media practitioners to practice their profession without fear and in good faith;

Expressing concern at the deteriorating press freedom in some parts of Africa, and in particular: restrictive legislations that censor the public's right to access information; direct attacks on journalists; their arrest and detention; physical assault and killings, due to statements or materials published against government officials;

Commending States Parties to the African Charter (States Parties) that do not have, or have completely repealed insult and criminal defamation laws;

1. **Calls** on States Parties to repeal criminal defamation laws or insult laws which impede freedom of speech, and to adhere to the provisions of freedom of expression, articulated in the African Charter, the Declaration, and other regional and international instruments;
2. **Also Calls** on States Parties to refrain from imposing general restrictions that are in violation of the right to freedom of expression;
3. **Urges** journalists and media practitioners to respect the principles of ethical journalism and standards in gathering, reporting, and interpreting accurate information, so as to avoid restriction to freedom of expression, and to guide against risk of prosecution.
4. **Further Urges** States Parties to implement the recommendations and appeals of the Special Rapporteur.



170. ACHPR/Res.170 (XLV111) 10: RESOLUTION TO INCREASE MEMBERS OF THE WORKING GROUP ON OLDER PERSONS AND PEOPLE WITH DISABILITIES IN AFRICA

The African Commission on Human and Peoples' Rights, meeting at its 48th Ordinary Session in Banjul, The Gambia, from 10 to 24 November, 2010:

Underscoring its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the Resolution **ACHPR/Res.106 (XXXXI) 07** of 30 May 2007 on the Rights of Older Persons in Africa, adopted at its 41st Ordinary Session held from 16-30 May 2007, in Accra, Ghana;

Recalling the Resolution **ACHPR/Res.118 (XXXXII)** on the Appointment of a Focal Point on the Rights of Older Persons in Africa, that was adopted at its 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, Republic of Congo;

Recalling further the Resolution **ACHPR/Res.143(XXXXV)09** on the Transformation of the Focal Point on the Rights of Older Persons in Africa, into a Working Group on The Rights of Older Persons and People with Disabilities in Africa(the Working Group), adopted at its 45th Ordinary Session held from 13 to 27 May 2009;

Considering the mandate assigned to the Working Group;

Seeking the efficiency required for the Working Group to successfully accomplish the mandate assigned to it;

Recognizing that the success of the Working Group depends on significant support from its members, including their expertise to achieve its specific mandate;

Noting the insufficient number of the members of the Working Group;

Decides to take all the necessary steps to appoint three more members to be part of the Working Group.

171. *ACHPR/Res.171 (XLVI/11) 10: RESOLUTION ON THE APPOINTMENT OF A SPECIAL RAPPORTEUR ON HUMAN RIGHTS DEFENDERS IN AFRICA*

The African Commission on Human and Peoples' Rights, meeting at its 48th Ordinary Session, held from 10 to 24 November 2010, in Banjul, in The Gambia;

Considering its mandate on the promotion of human and peoples rights and their protection in Africa pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/69(XXXV) 04 of 4th June 2004 on the protection of human rights defenders in Africa, its Resolution 83(XXXVIII) 05 of 5th December 2005 on the appointment of a Special Rapporteur on Human Rights Defenders, and its Resolution CADHP/ 125(XXXXII) 07 of 28th November 2007 on the renewal of the mandate of the Special Rapporteur on Human Rights Defenders in Africa;

Considering its Resolution CADHP/Res149(XLVI)09 of 25th November 2009 on the appointment of the Special Rapporteur on the situation of Human Rights Defenders in Africa adopted during its 46th Ordinary Session held in Banjul in the Republic of The Gambia from 11 to 25 November 2009;

Mindful of the fact that in the Grand Bay Declaration and Action Plan (Mauritius), the Organization of African Unity (AU) urges the Member States « to take necessary measures to implement the *United Nations Declaration on Human Rights Defenders in Africa* »;

Considering the need to split the dual mandate of Commissioner **Béchir Khalfallah**, in his capacity as Chairperson of the Working Group on Economic, Social and Cultural Rights and Special Rapporteur on Human Rights Defenders in Africa;

Noting with satisfaction the work accomplished by Commissioner **Béchir Khalfallah** in his capacity as Special Rapporteur on Human Rights Defenders in Africa;

Underscoring however the magnitude of the work of the Special Rapporteur in the quest for solutions to problems arising in the context of the protection of human rights defenders in Africa and to the challenges facing human rights defenders in Africa;

Considering the need to make the mechanism of Special Rapporteur on Human Rights Defenders in Africa more efficient, this in conformity with Resolution ACHPR/69(XXXV) 04;

DECIDES to appoint Commissioner **Lucy AYUK ASUAGBOR** as Special Rapporteur on Human Rights Defenders in Africa for a period of two (2) years with effect from 24 November 2010.

172. ACHPR/Res.172 (XLVI11) 10: RESOLUTION ON THE APPOINTMENT OF MEMBERS OF THE COMMITTEE ON THE PROTECTION OF THE RIGHTS OF PEOPLE LIVING WITH HIV (PLHIV) AND THOSE AT RISK, VULNERABLE TO AND AFFECTED BY HIV

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 48th Ordinary Session held in Banjul, The Gambia, from 10 - 24 November 2010;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Bearing in mind its Resolution *ACHPR/Res163 (XLVII) 2010* adopted at its 47th Ordinary Session on the Establishment of a Committee on the Protection of the Rights of People Living With HIV (PLHIV) and Those at Risk, Vulnerable to and Affected by HIV;

Recognizing that the success of the Committee depends on the strong commitment of its members, including their expertise to carry out its specific milestones and address urgent issues falling within this mandate

Decides to appoint the following experts, as members of the Committee for a period of two years effective 24 November 2010:

- | | |
|--|--------------------|
| 1) M. Alain Patrick Le Doux Fogue Dzutue ; | Cameroun |
| 2) Mme Agnès Atim ; | HRDI |
| 3) M. Christian Garuka Nsabimana ; | Rwanda |
| 4) M. Tope Ebenezer Durojaye ; | Nigeria |
| 5) Mme Nicolette Naylor Merle ; | SouthAfrica |
| 6) M. Patrick Eba Michel ; | UNAIDS |

Requests the Committee to present its activity report at each Ordinary Session.

173. ACHPR/Res.173 (XLVI11) 10: RESOLUTION ON THE CRIMES COMMITTED AGAINST WOMEN IN THE DEMOCRATIC REPUBLIC OF CONGO (DRC)

The African Commission on Human and Peoples' Rights, meeting at its 48th Ordinary Session held in Banjul, (Republic of The Gambia) from 10 to 24 November 2010;

Recalling the relevant provisions of the African Charter on Human and Peoples' Rights (African Charter), and those of the Protocol to the African Charter on the Rights of Women in Africa (Maputo Protocol);

Recalling also its Resolutions; Res.103(XXXX)06 of 29th November 2006, on the situation of women's rights in DRC; Res.111(XXXXII)07, on the right to appeal and to compensation for the victims of sexual abuses; and Res.139(XXXXIII)08 of 24th November 2008 on the human rights situation in DRC;

Paying tribute to the process of the ratification of the Protocol to the African Charter on the Rights of Women in Africa;

Paying tribute to the passing of two laws against sexual abuses by the DRC Government (Laws no 06/018 and 06/019) which criminalize various forms of sexual abuses which formerly had not been criminalized in the Criminal Code;

Bearing in mind the aims and objectives of the Constitutive Act of the African Union and the authority conferred on the Peace and Security Council (PSC);

Recalling Resolution 1325 of the United Nations Security Council of the 31st October 2000 on women, peace and security as well as the Goma Declaration of 18th June 2008 on the elimination of sexual abuse and the combat against impunity in the Great Lakes region;

Considering the Decision of the Assembly of Heads of State and Government of the African Union to declare the year 2010 « Year of peace and security in Africa » adopted during its 14th Ordinary Session;

Concerned by the persistence of the systematic and highly widespread practice of rape by armed groups against women and young girls in particular in the Eastern region of the DRC and the incapacity of the Congolese Authorities, to put an end to the impunity being enjoyed by the perpetrators of these odious crimes despite the existence of two laws on sexual abuse;

Mindful of the need to strengthen cooperation between the Organs and Institutions of the African Union in the combat against impunity and to coordinate our activities with those of the Peace and Security Council (PSC) of the African Union;

Strongly condemns the persistence of the serious human rights violations perpetrated against the civilian population in the context of the on-going armed conflict in Eastern DRC;

Calls on all the armed groups active in Eastern DRC to immediately put a end to the rape and all kinds of violence against women and children;

Urges the DRC Government to take all necessary steps for the effective implementation of the 2006 laws on sexual abuse, including the pursuit and punishment of the perpetrators of rape and other acts of violence against women;

Urges the DRC Government to accelerate the process of the ratification of the Maputo Protocol and also the establishment of a Compensation Fund for the victims of sexual abuse currently being created within the Ministry of Justice and human rights;

Decides to enter into immediate consultations with the Peace and Security Council (PSC) of the African Union to collaborate and send, in the very near future, an investigation mission on the sexual abuse being perpetrated against women in DRC in which the Special Rapporteur on the Rights of Women in Africa will participate and which will seek, among other objectives, to:

- Draw up an exhaustive inventory of the sexual abuse to which Congolese women in Eastern DRC are subjected;
- Identify the armed groups guilty of these serious violations of the African Charter on Human and Peoples' Rights and of international humanitarian law;

Also decides that the conclusions of this Investigation Report be carried forward jointly by the Peace and Security Council (PSC) of the African Union and the ACHPR so that appropriate and urgent measures can be taken to bring the actors of these odious crimes before the national, regional or/and international Courts;

Decides finally to submit report to the Assembly of Heads of State and Government of the African Union.

174. ACHPR/Res.174 (XLV111) 10: RESOLUTION ON ELECTIONS IN AFRICA

The African Commission on Human and Peoples' Rights, meeting at its 48th Ordinary Session, held in Banjul, The Gambia, from 10 to 24 November 2010;

Considering Article 13(1) of the African Charter on Human and Peoples' Rights (African Charter) which stipulates that “every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law”;

Recalling its mandate under Article 45 of the African Charter to promote and protect human and peoples' rights in Africa, as well as other relevant Articles of the African Charter;

Welcoming the adoption of the African Charter on Democracy, Elections and Governance at the 8th Ordinary Session of the Assembly of Heads of State and Government of the African Union (AU), held in Addis Ababa, Ethiopia, on 30 January 2007;

Considering relevant provisions of Article 9 of the Protocol to the African Charter on the Rights of Women in Africa which exhorts States Parties to take positive measures to ensure that “women participate without any discrimination in all elections”;

Further considering its commitment to take measures of affirmative action, in order to guarantee a better representation of women in elective positions;

Recalling its Resolutions on the matter of Elections; Resolution **ACHPR/Res.23 (XIX) 96** on Electoral Process and Participatory Governance; Resolution **ACHPR/Res.115 (XXXXII) 07** on the Ratification of the African Charter on Democracy, Elections and Governance; Resolution **ACHPR/Res.128 (XXXXII) 07** on Freedom of Expression and the Upcoming Elections in Zimbabwe; Resolution **ACHPR/Res.133 (XXXXIII) 08** on Elections in Africa, and Resolution **ACHPR/Res.164 (XLVII) 2010** on Elections in Africa;

Expressing concern that, despite the number of Resolutions adopted by the African Commission on Elections, the conduct of free and fair elections in some parts of the African continent remains a challenge;

Noting that the year 2010 is the year of Peace and Security in Africa (**SP/ASSEMBLY/PS/DECL.(I)**), and that the year 2011 will mark the 30th Anniversary of the African Charter.

Emphasizing the importance of the organization of peaceful, free, fair, and transparent elections and referenda and consequently the full respect of their results to maintain peace and security in the region;

Reaffirming its commitment to the development of democracy in Africa, and recognizing that the principles of good governance, transparency, and human rights are critical elements that contribute to the achievement of peace and sustainable development in Africa;

Expressing concern that though the *African Charter on Democracy, Elections and Governance* lays down principles aimed at achieving a democratic continent free from unconstitutional changes of government and conflict, the slow rate of its ratification still persists, and only four countries have ratified the said instrument;

Congratulate African countries that have held successful elections;

CALLS on States Parties to the African Charter (States Parties) holding elections and other forms of political participation processes to:

1. **Ensure** that they create conditions conducive for peaceful, free, fair, and transparent elections or referenda;
2. **Ensure** that contesting parties in particular opposition parties are given equitable access to state controlled media and resources;
3. **Ensure** that all participating parties, in particular, the opposition parties, are allowed to conduct their campaigns freely without any violence and intimidation;
4. **Ensure** the participation of all citizens in the election or referendum processes without fear or intimidation;
5. Take positive measures to guarantee a better representation of women in elective positions
6. **Establish** impartial and non-discriminatory procedures with respect to all voting processes;
7. **Take** all necessary measures to prevent, investigate and prosecute elections-related human rights violations and provide adequate redress to victims;
8. **Ensure** the freedom of movement and physical integrity of human rights defenders, journalists and other media practitioners in the run-up to and during, and after elections or referenda;
9. **Request** the authorities in all countries that will hold elections to invite and allow national and international monitors and observers for the duration of the elections or referenda processes.

REITERATES its appeal to all States Parties, who have not yet done so, to ratify the *African Charter on Democracy, Elections and Governance*, and ensure its effective implementation without delay, as it contains the foundation upon which free and fair elections can be achieved in Africa.

175. ACHPR/Res.175 (XLVIII) 10: RESOLUTION TO INCREASE THE MEMBERSHIP OF THE WORKING GROUP ON EXTRACTIVE INDUSTRIES, ENVIRONMENT AND HUMAN RIGHTS VIOLATIONS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 48th Ordinary Session held in Banjul, The Gambia from 10th to 25th November 2010

RECALLING its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (African Charter);

RECALLING ALSO its Resolution *ACHPR/Res148(XLVI)09*: adopted at its 46th Ordinary Session, held in Banjul, The Gambia, from 11 to 25 November 2009, on the Establishment of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa;

CONSIDERING all relevant regional and international human rights instruments and, specifically Articles 21 and 24 of the African Charter , on the right of all peoples to freely dispose of their wealth and natural resources and to a general satisfactory environment favorable to their development;

MINDFUL OF the 2003 report of the African Commission's Working Group of Experts on Indigenous Populations/Communities and specifically the findings on the various violations of the rights of Indigenous Populations/Communities;

CONVINCED of the necessity of an improved protection of human rights through development of jurisprudence on holding non-state actors accountable for human rights violations in Africa;

RECOGNISING that the success of the Working Group depends on the commitment of its members including their expertise to carry out its mandate and the importance for research, knowledge and capacity building to the Working Group;

DECIDES to appoint a representative of the Centre for Human Rights, University of Pretoria, as a member of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa.

176. ACHPR/Res.176 (XLV111) 10: RESOLUTION ON THE DETERIORATING SITUATION OF INDIGENOUS PEOPLE IN SOME PARTS OF AFRICA

The African Commission on Human and Peoples' Rights meeting at its 48th Ordinary Session held in Banjul, The Gambia, from 10 to 24 November 2010

Recalling its mandate under the African Charter on Human and Peoples' Rights (African Charter) to promote and protect human and peoples' rights in Africa;

Underscoring the principle of non-discrimination recognized under Article 2 of the African Charter and other international human rights instruments particularly the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights;

Underscoring further that peoples' rights, including indigenous peoples rights, are recognized and protected under Articles 19, 20(1), 21 and 22 of the African Charter and the UN Declaration on the Rights of Indigenous Peoples;

Recalling ACHPR/Res.121 (XXXXII) 07: Resolution on the United Nations Declaration on the Rights of Indigenous Peoples adopted during the 42nd Ordinary Session of the African Commission held from 15 to 28 November 2007; (include NUE)

Concerned with the increased and continued killings of the Batwa in Burundi and the intended eviction of the Ogiek in Kenya;

Deeply concerned with the decision (add the number of the decision) of the HIGH Court of Botswana that have denied the San Bushmen of the Central Kalahari Game Reserve their right to access water within their ancestral lands;

Further concerned with the displacement of indigenous pastoralists in Tanzania from their ancestral lands;

Noting with concern the harassment, intimidation, arbitrary arrest, illegal detention and the killing of indigenous communities and their advocates in Burundi and Tanzania:

- I. **Urges** the Governments of Burundi and Botswana to investigate the violation of human rights committed against indigenous people within their respective territories and bring those responsible to justice;
- II. **Urges** the Government of Kenya to stop the intended eviction of the Ogiek community from Mau Forest and to facilitate the mapping of Ogiek territories;
- III. **Calls** upon the Government of Tanzania to recognize and respect the rights of indigenous communities in Tanzania.

177. ACHPR/Res.177 (XLVIII) 10: RESOLUTION ON THE RATIFICATION OF THE PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE ESTABLISHMENT OF AN AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

The African Commission on Human and Peoples' Rights meeting at its 48th Ordinary Session, held in Banjul, The Gambia, from 10 – 24 November, 2010,

Recalling its mandate to promote and protect human and peoples' rights under *the African Charter on Human and Peoples' Rights* (the African Charter),

Considering Article 2 of the Protocol to the African Charter on the Establishment of an African Court on Human and Peoples' Rights (the Court Protocol), which provides that the Court shall complement the Protective mandate of the African Commission;

Recalling ACHPR/Res.29 (XXIV) 98, ACHPR/Res.60 (XXXI) 02 and ACHPR/Res.74 (XXXVII) 05, which among other things call on States Parties to ratify the Court Protocol and make the Declaration under article 36(4) of the Court Protocol to enable individuals and NGOs to have direct access to the Court;

Concerned about the perceived slowness on the part of some state parties to ratify the court protocol and make the Declaration under article 34 (6); which result that , only 25 states parties have ratified the Court protocol and that only four states have made the Declaration under article 36(4) of the Court Protocol;

Underscoring the importance of an effective and accessible human rights court to the protection of human rights in the African continent;

Appeals all states parties that have not done so to **ratify as is the case with the African Charter**, the Court Protocol;

Urges African states that have not done so, to make the Declaration under article 34 (6) of the Court Protocol in order to give due recognition and Competence to the African Court to receive petitions directly, from individuals and NGOs.

178. ACHPR/Res.178 (EXT.XIX) 11: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN TUNISIA

The African Commission on Human and Peoples' Rights, meeting at its 9th Extra-Ordinary Session, held in Banjul, The Gambia, from 23 February to 3 March 2011;

Recalling its mandate to promote and protect human and peoples' rights pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Recalling further the Resolutions on the Human Rights Situation in the Republic of Tunisia: Resolution ACHPR/Res: 56 (XXIV) 01, on the Situation of Human Rights Defenders in Tunisia, adopted during the its 29th Ordinary Session held from 23 April to 7 May 2001, in Tripoli, Great Socialist People's Libyan Arab Jamahiriya;

Considering the protests of the Tunisian Citizens which led to the establishment of a political transition process;

Nonetheless concerned by the persistent pockets of conflict which result in human rights violations and retaliatory attacks;

Concerned by the large scale displacements and migration of the population who fear for their lives and the social and humanitarian consequences of this state of affairs;

Urges the transitional Government and all the political actors to guarantee respect for the human rights and fundamental freedoms of the Tunisian citizens and to direct a peaceful political transition towards the establishment of democratic institutions responding to the aspirations of the Tunisian people;

Invites the African Union and the International Community to support the transitional Government and the Tunisian People in the realization of their common objectives and in their search for lasting peace.

179. ACHPR/Res.179 (EXT.XIX) 11: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN THE ARAB REPUBLIC OF EGYPT

The African Commission on Human and Peoples' Rights (The African Commission), meeting at its 9th Extra-Ordinary Session held in Banjul, The Gambia, from 23 February to 3 March 2011;

Recalling its mandate to promote and protect human and peoples' rights on the African Continent pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Considering that the Arab Republic of Egypt is a Party to the African Charter, and has committed itself to the promotion and protection of human and peoples' rights;

Recalling Resolution ACHPR/Res.14 (XVI) 94: **Resolution on the Situation of Human Rights in Africa**, adopted during its 16th Ordinary Session held in Banjul, The Gambia from 25 October to 3 November 1994;

Recognising the rights of citizens to participate in public affairs of the State, and to freely determine their political leaders;

Considering the peoples' claims in the Arab Republic of Egypt demanding the establishment of a political and democratic regime and the improvement of the social, economic and political conditions of the populations;

Deeply concerned by the human rights violations resulting from these events, in particular the arrests, the disappearances, and the arbitrary detentions, as well as the conduct of the political transition process by the Army;

Affirms its commitment to the principles of democracy, of good governance, transparency and respect for human rights, as essential elements for the prevention of conflict and the establishment of representative governments;

Calls upon the Transitional Authorities to accelerate the establishment of the Republican Institutions and to embark on appropriate reforms for the institution of constructive and inclusive dialogue towards the realization of sustainable peace in the Arab Republic of Egypt;

Invites the African Union and the International Community to continue to support all the efforts being deployed by all the political and civil society activists for the institution of genuine democracy in the Arab Republic of Egypt.

180. ACHPR/Res.180 (EXT.XIX) 11: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN ALGERIA

The African Commission on Human and Peoples' Rights, meeting in Extraordinary Session from 23 February to 3 March 2011 in Banjul, The Gambia;

Recalling its mandate of promotion and protection of human rights on the African Continent pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Recalling further its Resolutions: *ACHPR / RES.14 (XVI) 94* on the Human Rights Situation in Africa, adopted during its 16th Ordinary Session held in Banjul, The Gambia from 25 October to 3 November 1994; and *ACHPR/Res 55(XXIX) 01* on the Violence in Kabylie, Algeria, adopted at its 29th Ordinary Session held in Tripoli, Libya, from 23 April to 7 May 2001;

Deeply concerned by the human rights violations in North Africa in general and the deterioration of the political and human rights situation in Algeria in particular, following legitimate claims of the population, for greater freedom and better democratic governance;

Concerned by the arbitrary arrests and unconscionable detentions, the sustained suppression of the demonstrations and popular protest movements, the establishment of the curfew and the upsurge of violence in Algeria which gave rise to loss in human lives;

Strongly condemns the excessive and disproportionate use of force to suppress the will for reform and the aspirations to democracy and good governance legitimately expressed by the People of Algeria;

Reminds the Algerian Government that such acts constitute serious violations of the provisions of the African Charter and calls on it to immediately take the necessary measures to guarantee the inalienable rights of Algerian citizens;

Invites the Algerian Government to refrain from all excessive and disproportionate use of force during popular demonstrations and protest movements;

Sanctions the legitimate will and aspiration of the Algerian people for greater democracy, good governance and respect for human rights and fundamental freedoms;

Invites the Algerian Government to embark on appropriate reforms leading to constructive dialogue comprising of all the major actors in Algerian political life.

181. ACHPR/Res.181 (EXT.XIX) 11: ACHPR/Res.161(XLVI) 11: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN THE GREAT SOCIALIST PEOPLES' LIBYAN ARAB JAMAHIRIYA

The African Commission on Human and Peoples' Rights, meeting at its 9th Extra-Ordinary Session, in Banjul, The Gambia, from 23 February to 3 March 2011;

Recalling its mandate to promote and protect human and peoples' rights in Africa pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Recalling Resolution ACHPR/Res. (XVI) 94 on the Human Rights Situation in Africa adopted at its 16th Ordinary Session held in Banjul, The Gambia from 25 October to 3 November 1994;

Considering the grave events which are currently taking place in the Great Socialist Peoples' Libyan Arab Jamahiriya;

Deeply concerned about the alarming human rights situation that these events have engendered, characterized by serious and massive human rights violations resulting from the blind and indiscriminate use of force, in particular through aerial bombings, the recourse to mercenaries to suppress peaceful demonstrations and the legitimate protests of the citizens;

Concerned by the huge loss of lives and the wanton destruction of buildings and property in violation of the African Charter and other relevant judicial, regional, international human rights instruments and humanitarian law;

Further concerned about the massive displacement of the population afraid for their lives, and the humanitarian consequences on women, children and other vulnerable groups;

Strongly condemns the divisionist speeches of the Head of State, Mouammar El Kadhafi and the bloody reprisal by the Government of the Great Socialist Peoples' Libyan Arab Jamahiriya against its own population;

Invites the Government of the Great Socialist Peoples' Libyan Arab Jamahiriya to put an immediate end to the acts of violence and to all the forms of suppression perpetrated against the population and the destruction of property;

Calls on the responsibility of the African Union, the Peace and Security Council of the African Union, and the International Community to take all the necessary political and legal measures for the protection of the Libyan population and for the establishment of genuine democratic governance in the State Party.

182. ACHPR/182(EXT.OS/IX)11:RESOLUTION ON THE HUMAN RIGHTS SITUATION IN CÔTE D'IVOIRE

The African Commission on Human and Peoples' Rights, meeting at its 9th Extra-Ordinary Session, held in Banjul, The Gambia, from 23 February to 03 March 2011

Recalling its mandate of promoting and protecting human and peoples' rights on the African Continent pursuant to the *African Charter on Human and Peoples' Rights* (the African Charter);

Considering the provisions of the *United Nations Charter*, the *Constitutive Act of the African Union*, and those of the African Charter and of other regional and international human rights and international humanitarian law Conventions to which the Republic of Cote d'Ivoire is signatory;

Recalling its Resolution ACHPR/Res.14 (XVI) 94 on the human rights situation in Africa adopted during its 16th Ordinary Session held in Banjul, The Gambia, from 25 October to 3 November 1994 and ACHPR/Res. 67(XXXV)04 on the situation In Coted'Ivoire adopted during its 35th Ordinary Session held from 21 May to 4 June 2004 in Banjul, The Gambia;

Deeply concerned about the political deadlock following the proclamation of the results of the 28 November 2010 Presidential Elections and about the worsening of the violence marked by clashes between the civilian populations and the defence and security forces which, to date, have given rise to hundreds of deaths;

Recalling recommendations from the Peace and Security Council of the 27 December 2010 on the situation in Cote d'Ivoire, which calls for the search for an immediate and peaceful solution to the Ivorian crisis;

Acknowledging the noteworthy role played by ECOWAS in the effort to restore peace and stability in Cote d'Ivoire;

Appreciating the efforts deployed by the African Union to facilitate the restoration of peace in Cote d'Ivoire, as well as the decision taken to set up a panel comprising five Heads of State for the purpose of finding a peaceful solution to the crisis;

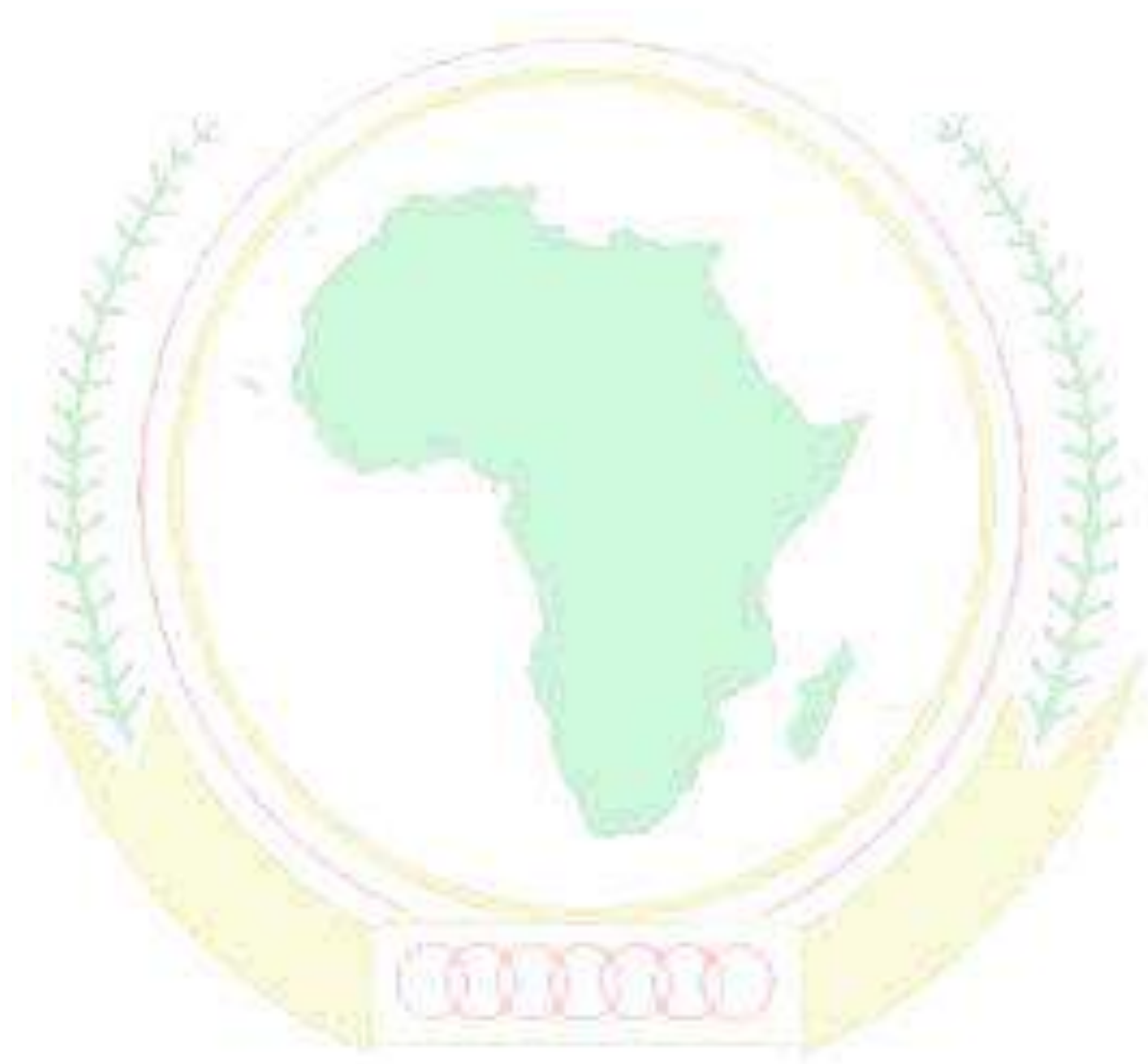
Deploing the humanitarian consequences of the conflict linked to the flood of Ivorian refugees to neighbouring States and the particularly disquieting situation of women and children;

Strongly condemns all threats and attempts at intimidation directed against the impartial Forces in Cote d'Ivoire, in particular the Forces of the United Nations Mission in Cote d'Ivoire (ONUCI), and strongly opposes the deliberate obstructions intended to hinder the fulfilment of its mission;

Calls on all Parties concerned to work towards the restoration of peace and security, and on the political actors to respect the verdict of the ballot box in the supreme interest of the country;

Urges the Panel of the Five Heads of State designated by the AU Heads of State and Governments, to reach a solution, as quickly as possible to put an end to the suffering of the Ivorian population;

Urgently Invites all the opposing Forces to respect the established cease fire and to refrain from all acts that seek to violate the arms embargo



183. ACHPR/Res.183 (EXT.XIX) 11: RESOLUTION ON THE ELECTORAL PROCESS AND PARTICIPATIVE GOVERNANCE IN THE REPUBLIC OF BENIN

The African Commission on Human and Peoples' Rights, (the African Commission), meeting in its 9th Extraordinary Session held from 23 February to 3 March 2011, in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights on the African continent pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Considering that elections represent the sole means by which every citizen can democratically express himself in conformity with the provisions of Article 13 of the African Charter which stipulates that: *Every citizen shall have the right to participate freely in the Government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law;*

Recalling its Resolutions: *ACHPR/Res.23(XIX)96* on the Electoral Process and Participative Governance in Africa, adopted at its 19th Ordinary Session, held from 26 March to 4 April 1996 in Ouagadougou, Burkina Faso; *ACHPR/Res.133 (XXXXIII) 08* on Elections in the African Countries adopted at its 44th Ordinary Session held from 10 to 24 May 2008 in Abuja, Nigeria; and *ACHPR/Res.164 (XLVII) 2010* on Elections in Africa, adopted at its 47th Ordinary Session held from 12 to 26 May 2008 in Banjul, The Gambia;

Considering the AU/OAU Declaration on the Principles Governing Democratic Elections in Africa, adopted on 8 July 2002 within the framework of the 38th Ordinary Session of the Assembly of Heads of State and Government of the OAU which was held in Durban, in South Africa;

Having taken note of the situation which prevails in the Republic of Benin regarding the current electoral process and the danger of the democratic achievements being called into question with the spectre of social conflicts;

Concerned about the restrictions noted by the citizens on their political rights and the current reluctance of the Authorities to embark on appropriate measures to remedy this situation;

Further concerned about the lack of collaboration between the political actors in the establishment of the institutions responsible for directing and supervising the next elections;

Invites the Government of Benin to guarantee the political right to vote and elect the leaders of their choice for all Beninese citizens;

Further invites the Government of Benin to take appropriate measures to preserve the credibility of the electoral process and social peace;

Invites all the political actors to show restraint and to engage constructive dialogue aimed at creating a conducive environment for credible, transparent and peaceful elections;

Calls on ECOWAS and the African Union to monitor the development of the political situation in Benin and to support the Government and other Beninese political actors in the successful organization of the elections.



184. ACHPR/Res.184 (EXT.XIX) 11: RESOLUTION ON ELECTORAL PROCESSES AND PARTICIPATORY GOVERNANCE IN AFRICA

The African Commission on Human and Peoples' Right (the African Commission) meeting at its 9th Extra-ordinary Session held in Banjul, The Gambia, from 23 February to 3 March 2011;

RECALLING its mandate under the African Charter on Human and Peoples' Rights (African Charter) to promote and protect human and peoples' rights in Africa;

CONSIDERING Article 13(1) of the African Charter which stipulates that "*every citizen shall have the right to participate freely in the government of his/her country, either directly or through freely chosen representatives in accordance with the provisions of the law*";

MINDFUL of the significant progress made by the African Union through the adoption in 2002 of the Declaration on the Principles Governing Democratic Elections in Africa which stipulates that "*the holding of democratic elections constitutes an important dimension in the prevention, management and resolution of conflicts*" and also by the adoption of the African Charter on Democracy, Elections and Governance in January 2007;

AWARE OF the decisions of the African Union on unconstitutional changes of government, notably the decisions of the Assembly: Assembly/AU/Dec.220 (XII); and Assembly/AU/Dec.253 (XIII), adopted during its twelfth and thirteenth Sessions held respectively in Addis Ababa from 1 to 4 February 2009, and in Sirte from 1 to 4 July 2009;

RECALLING Resolutions: *ACHPR/Res.133 (XXXXVIII) 08 on Elections in Africa* adopted at its 44th Ordinary Session held in Abuja, Federal Republic of Nigeria, from 10 to 24 November 2008; and Resolution *ACHPR/Res.164(XLVII) 10 on 2010 Elections in Africa*, adopted at its 47th Ordinary Session held in Banjul, the Gambia from 12 to 26 May 2010,

NOTING that the primary purpose of elections is to achieve participatory governance without violence;

NOTING that many countries on the continent are embracing multi-party systems of government and other political and economic reforms, making it increasingly imperative that the objectives and principles set out in the African Charter on Democracy, Elections and Governance should be respected and implemented;

DEEPLY CONCERNED by the resurgence of electoral fraud, unconstitutional changes of government and violence related to the electoral irregularities, and violence that have led to enormous loss of lives, as well as the intransigence of incumbent regimes to relinquish power in some countries in sub-Saharan Africa;

BEARING IN MIND that presidential elections are due in Benin, Cameroon, Chad, The Gambia, Liberia, Madagascar, Nigeria, Niger, Zambia and Zimbabwe;

CONDEMNS the unconstitutional changes of government which undermine the progress made in the democratization process on the continent and constitutes a threat to peace and security in Africa;

FURTHER CONDEMNS the irregularities surrounding electoral processes that can lead to the breakdown of democracy;

DEPLORES the new trends in the development of national unity governments, which in some cases, legitimise undemocratic elections and paralyze political life;

URGES States Parties to ratify the African Charter on Democracy, Elections and Governance and to respect its provisions and especially:

- **Recognize** the right of existence of various political parties and the right to a pluralist democracy in accordance with international protection of human rights instruments;
- **Ensure** the independence of the body responsible for the management of elections before, during and after the holding of any election;
- **Take** necessary measures to enable courts to respond independently to the right to justice and reparation for victims of violence related to elections;
- **Ensure** the independence of the judiciary bodies responsible for monitoring the legality of electoral processes;
- **Ensure** that they create conditions conducive for free, fair, transparent, democratic and credible elections, and that contesting parties in particular, opposition parties are given equitable access to state controlled media and resources.
-

FURTHER CALLS on States Parties of the African Union to condemn African leaders who lose elections and refuse to concede defeat and hand over power peacefully;

APPEALS to the authorities of the African Union, including the AU Peace and Security Council, and the Regional Economic Communities, to strengthen their ability to anticipate violations of democratic principles through more dynamic direct preventive action, with appropriate sanctions against any person departing from these principles.

185. (XLIX) 2011: RESOLUTION ON THE SAFETY OF JOURNALISTS AND MEDIA PRACTITIONERS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 49th Ordinary Session, held in Banjul, The Gambia, from 28 April – 12 May 2011;

Recalling its mandate to promote and protect human and peoples' rights pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Underscoring that freedom of expression and access to information are fundamental human rights guaranteed by Article 9 of the *African Charter*, and other international and regional human rights treaties;

Reaffirming its commitment to promote the rights of all peoples "to national and international peace and security" in line with Article 23 of the African Charter;

Further Reaffirming its commitment to protect the rights of journalists and media practitioners in Africa to freedom of expression and access to information;

Recalling Resolution ACHPR/Res.62 (XXXII) 02 on the adoption of the *Declaration of Principles on Freedom of Expression in Africa*, which elaborates on the scope of Article 9 of the *African Charter*; **Resolution ACHPR/Res.54 (XXIX) 01** on the Situation of Freedom of Expression in Africa; **Resolution ACHPR/Res.99 (XXXX) 06** on the Deteriorating Situation of Freedom of Expression and Access to Information in Africa;

Recalling the United Nations Security Council's Resolution 1738 (2006), which condemns attacks against journalists in conflict situations, and UNESCO Resolution 29(1997) on "Condemnation of Violence Against Journalists" adopted by the UNESCO General Conference ;

Noting that freedom of expression, press freedom and access to information can only be enjoyed when journalists and media practitioners are free from intimidation, pressure and coercion;

Concerned by the declining safety and security situation of journalists and media practitioners in some African countries;

Noting that killings, attacks and kidnapping of journalists, which are contrary to international humanitarian and human rights law, are often committed in an environment of impunity;

Deeply concerned about the frequency of allegations of the violations of killings and injury against journalists and media practitioners;

1. **Calls** on States Parties to the African Charter, to take all necessary measures to uphold their obligations under the *African Charter* and other international and regional instruments, providing for the right to freedom of expression and access to information;

2. **Urges** States Parties to the African Charter, to implement the principles enshrined in the *Declaration of Principles on Freedom of Expression in Africa*;
3. **Calls on** States Parties to the African Charter and concerned authorities to fulfil their obligation on preventing and investigating all crimes allegedly committed against journalists and media practitioners and also to bring the perpetrators to justice;
4. **Urges** all parties involved in situations of armed conflicts to respect the independence and freedom of journalists and media practitioners to exercise their profession and guarantee their safety and security in accordance with international humanitarian law;
5. **Finally urges** States Parties to African Charter, to cooperate with the Special Rapporteur on Freedom of Expression and Access to Information in Africa of the African Commission, in the execution of its mandate.



186. ACHPR/Res.186 (XLIX) 2011: RESOLUTION ON THE APPOINTMENT OF MEMBERS FOR A STUDY GROUP ON FREEDOM OF ASSOCIATION IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its 49th Ordinary Session held from 28 May to 12 June 2011, in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the Principles and Guidelines on the right to a fair trial and legal aid in Africa (1996) the United Nations Declaration on Human Rights Defenders(1998), the Grand Bay Declaration(1999) and its plan of action, the Kigali Declaration(2003);

Bearing in mind the commitment of the States Members of the African Union in the Grand Bay (Mauritius) Declaration to implement the provisions of the United Nations Declaration on Human Rights Defenders, and the decision of the 33rd Ordinary Session of the African Commission (May 2003) which considers that interference to the work of human rights defenders amounts to a violation of the African Charter on Human and Peoples' Rights;

Recalling Resolution **ACHPR/69(XXXV) 04** on the protection of human rights defenders in Africa, Resolution ACHPR/Res.119 (XXXXII) 07 on the Situation of Human Rights Defenders in Africa;

Recalling further Resolution *ACHPR/Res151 (XLVI) 09* on the need for the conduct of a study on the freedom of association in Africa;

DECIDES to appoint the following organisations to conduct, under the supervision of the Special Rapporteur on Human Rights Defenders in Africa , a study on the laws governing freedom of association and practices that violate freedom of association in Africa:

- 1. International Service for Human Rights;**
- 2. Institute for Human Rights and Development in Africa;**
- 3. West Africa Human Rights Defenders Network;**
- 4. East and Horn of Africa Human Rights Defenders Project;**
- 5. African Centre for Democracy and Human Rights Studies;**
- 6. Cairo Institute for Human Rights studies;**
- 7. Central Africa Human Rights Defenders Network;**
- 8. HURISA.**

Further decides that the Report of the study be submitted to the African Commission within a period of one (1) year.

187. ACHPR/Res.187 (XLIX) 2011: RESOLUTION ON THE APPOINTMENT OF THE SPECIAL RAPPORTEUR ON REFUGEES, ASYLUM SEEKERS, INTERNALLY DISPLACED PERSONS AND MIGRANTS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 49th Ordinary Session, held in Banjul, The Gambia, from 28 April – 12 May 2011

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Bearing in mind Resolution ACHPR/Res. 72(XXXV)04 on the establishment of the mechanism of Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons in Africa; Resolution ACHPR/Res. 72(XXXVI) 04 on elaborating the mandate of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons in Africa; and Resolution *ACHPR/Res160(XLVI)09* which appointed **Honourable Commissioner Mohamed Fayek** as Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;

Noting with appreciation the accomplishment of **Honourable Commissioner Mohamed Fayek** and acknowledging his resignation as a Member of the African Commission and Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons in Africa by a letter dated 7 April 2011;

Considering the need of the Special Mechanism on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa to continue to carry out its mandate;

Decides to appoint **Honourable Commissioner Kayitesi Zainabo Sylvie** as Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa for a period of two years, effective 12 May 2011;

188. ACHPR/Res.188 (XLIX) 2011: RESOLUTION ON THE RENEWAL AND EXTENSION OF THE MANDATE OF THE ADVISORY COMMITTEE ON BUDGETARY AND STAFF MATTERS

The African Commission on Human Peoples' Rights (the African Commission) meeting at its 49th Ordinary Session in Banjul, The Gambia from 28 April to 12 May 2011;

Recalling its mandate to promote and protect human and peoples' rights pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Aware of the vital role of its Secretariat in ensuring the effective discharge of the Commission's mandate and the importance of having an effective Secretariat;

Further conscious of the difficulties the African Commission faces in the preparation, presentation and execution of its budget, and desirous of facilitating its budgetary preparation process;

Welcoming the decision of the Executive Council of the African Union to strengthen the human resources capacity of the African Commission through the recruitment of 33 more staff over a period of five years, from 2010 to 2014;

Recalling its decision during the 6th Extra-Ordinary Session to establish an Advisory Committee on Budgetary and Staff Matters to work with the Secretariat to prepare the Programs budget of the Commission;

Recalling further Decision EX.CL/Dec.529 (XV) of the Executive Council which state that the African Union (AU) Commission, in consultation with the Permanent Representatives Committee (PRC), expedite the review of the honorarium and allowances of the Members of ACHPR in accordance with the Financial Rules and Regulations of the African Union;

Recalling further its **Resolution ACHPR/Res 142(XXXXV) 09**, adopted at its 45th Ordinary Session, Establishing an Advisory Committee on Budgetary and Staff Matters; with the following mandate:

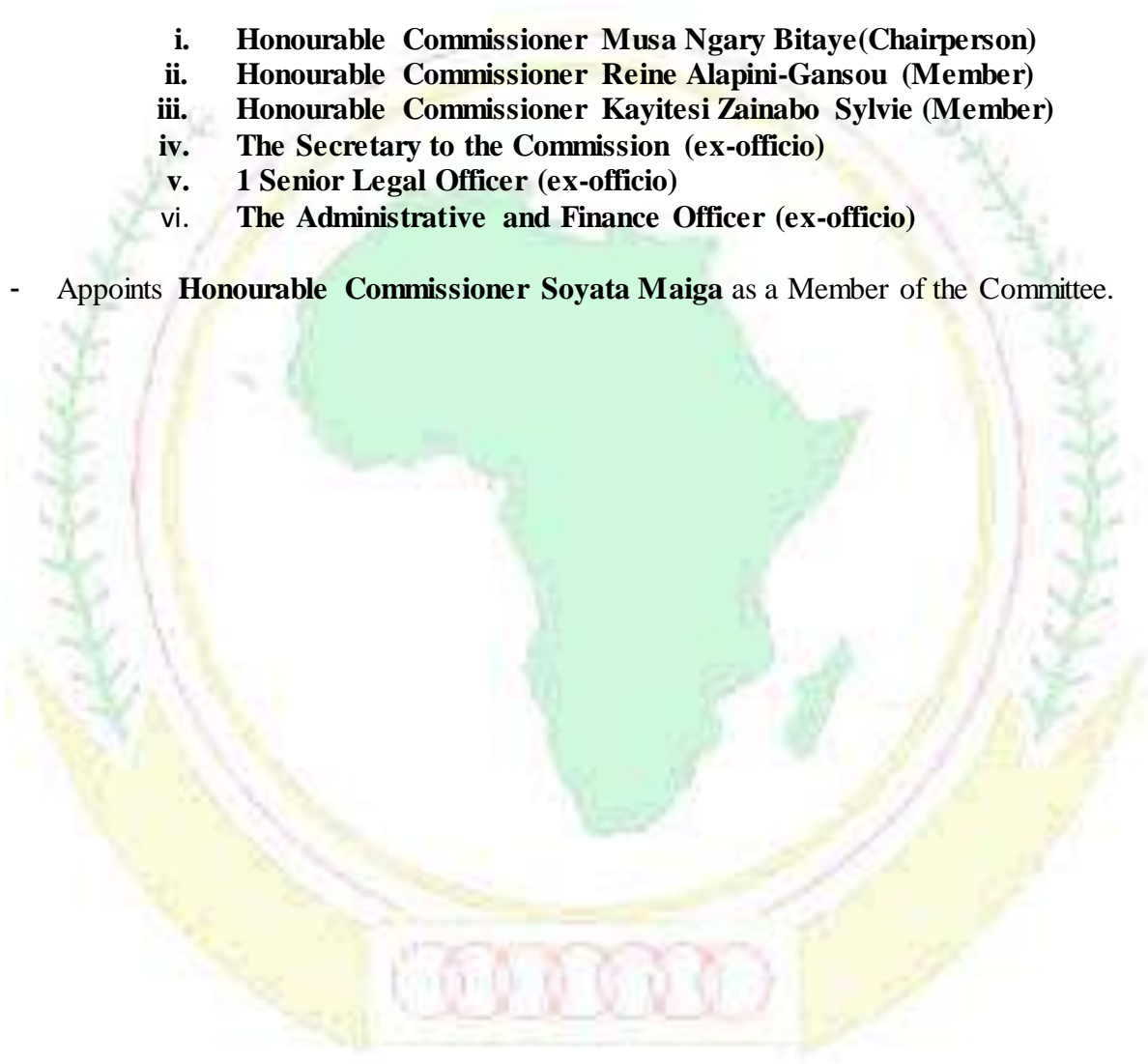
- (i) To work with the Secretariat to identify activities from the 2008 – 2012; Strategic Plan of the ACHPR that would feature in the Commission's budget Proposals;
- (ii) To work with the Secretariat to prepare the programs budget of the African Commission for presentation to the relevant Organs of the African Union;
- (iii) To work with the Secretariat to ensure proper execution of the programs; and
- (iv) To work with the Secretariat on the implementation of the approved new structure of the Secretariat of the African Commission;

Appreciating the work undertaken by the Advisory Committee during the past two years in the discharge of its mandate;

Recognizing the importance of the work of the Committee and the necessity to allow the Committee to continue to carry out its mandate;

Decides to:

- Renew the mandate of the Committee for a period of two years with effect from 12 May 2011;
- Review and follow up on issues relating to the working conditions of members of the Commission, including emoluments and honorariums.
- Renew the appointment of the following Members of the Committee:
 - i. **Honourable Commissioner Musa Ngary Bitaye (Chairperson)**
 - ii. **Honourable Commissioner Reine Alapini-Gansou (Member)**
 - iii. **Honourable Commissioner Kayitesi Zainabo Sylvie (Member)**
 - iv. **The Secretary to the Commission (ex-officio)**
 - v. **1 Senior Legal Officer (ex-officio)**
 - vi. **The Administrative and Finance Officer (ex-officio)**
- Appoints **Honourable Commissioner Soyata Maiga** as a Member of the Committee.



189. ACHPR/Res.189 (XLIX) 2011: RESOLUTION ON THE NOMINATION OF EXPERTS AS MEMBERS OF THE WORKING GROUP ON THE RIGHTS OF OLDER PERSONS AND PEOPLE WITH DISABILITIES IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 49th Ordinary Session held in Banjul, The Gambia from 28th April to 12th May 2011

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Considering that the African Charter makes specific provisions under **Article 18(4)**, for the protection of the rights of older persons and people with disabilities, which stipulates that *"The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs;"*

Considering further paragraph 20 of the Kigali Declaration, which *"calls upon States Parties to develop a Protocol on the protection of the rights of the elderly and people with disabilities;"*

Recalling its Resolution **ACHPR/Res.106 (XXXXI) 07** on the Rights of Older Persons; Resolution **ACHPR/Res.118 (XXXXII) 07** on the Appointment of a Focal Point on the Rights of Older Persons in Africa; Resolution **ACHPR/Res.143 (XXXXV) 09**, transforming the Focal Point on the Rights of Older Persons in Africa into a Working Group on the Rights of Older Persons and People with Disabilities;

Bearing in mind the mandate of the Working Group on the Rights of Older Persons and People with Disabilities, in particular to facilitate the process of drafting the Protocol on Ageing, ensuring compliance by States Parties with the recommendations contained in the AU Policy Framework and Plan of Action on Ageing;

Noting with appreciation the work already undertaken by the Working Group in elaborating a first Draft Protocol on the Rights of Older Persons which was submitted to the African Commission at its 49th Ordinary Session;

Recognizing the need to increase the number of experts of the Working Group to implement more efficiently its mandate;

Decides to appoint the following as Experts as the Members of the Working Group on Older Persons and People with Disabilities in Africa, for a period of two years, effective 12 May 2011:

I. Dr. Isabella Anika Gbemisola ABODERIN

II. Mr. Kudakwashe Dube; and

III. Mr. Lawrence Murugu Mute

190. ACHPR/Res.190 (XLIX) 2011: RESOLUTION ON THE PROTECTION OF THE RIGHTS OF INDIGENOUS WOMEN IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 49th Ordinary Session, held in Banjul, The Gambia, from 28 April to 12 May 2011;

Recalling its mandate to promote and protect human and peoples' rights pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Considering the relevant provisions of Articles 2 and 3 of the African Charter on Human and Peoples' Rights (the African Charter), which proclaims equality and prohibits all forms of discrimination;

Recalling the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa which prohibits discrimination against women, and the right to a positive cultural environment, whereby the States undertake to ensure protection for women from marginalized populations and to guarantee them a framework adapted to their conditions in relation with their physical, economic and social requirements;

Further recalling the international instruments which prohibit all forms of discrimination, in particular on the basis of race, ethnic grouping, colour, gender, language, religion, national or social opinion or origin, and specifically the United Nations Declaration on the Rights of Indigenous Populations, in its Articles 21 and 22 which calls on the States to pay particular attention to the Rights of Indigenous Women in the application of the said Declaration;

Considering the 1995 Beijing Declaration on Indigenous Women which urged the Governments and non-Government actors to adopt concrete measures to promote and strengthen national policies and programmes for the benefit of indigenous women pertaining specifically to their rights to good health, education and economic development;

Noting the indivisibility of the rights of indigenous women and those of the populations to which they belong and the fact that the respect for the rights of indigenous women passes necessarily through the respect for the collective rights of indigenous populations;

Recognizing the crucial role played by indigenous women in the protection and preservation of natural resources and in the protection, development and transmission of indigenous knowledge and culture;

Recalling that the rights of indigenous populations to property, to freely dispose of their wealth and natural resources, to practice their culture and their right to development as guaranteed in the African Charter and other pertinent international instruments;

Noting the persistence of violence and various forms of discrimination and marginalization faced by indigenous women in all areas of society;

Concerned by the fact that the expropriation of indigenous populations' ancestral lands and the prohibition of their access to the natural resources on these lands has a particularly serious impact on the lives of indigenous women;

Preoccupied by the high rate of maternal mortality of indigenous women and cases of illnesses affecting them, which could have been prevented if they had proper health care facilities;

Concerned by the absence of disaggregated data in several countries, which are important in the determination of required measures to develop adapted policies;

Urges States Parties to:

1. Collect disaggregated data on the general situation of indigenous women;
2. Pay special attention to the status of women in their countries and to adopt laws, policies, and specific programs to promote and protect all their human rights;

Requests to all other concerned actors, notable NGOs, technical and financial partners to support the efforts of States Parties in the implementation of policies and programmes in favour of indigenous women;



191. ACHPR/Res.191 (L) 11: RESOLUTION ON THE APPOINTMENT OF THE CHAIRPERSON AND RENEWAL AND EXTENSION OF MEMBERS OF THE ADVISORY COMMITTEE ON BUDGETARY AND STAFF MATTERS

The African Commission on Human Peoples' Rights (the African Commission) meeting at its 50th Ordinary Session in Banjul, The Gambia from 24th October to 5th November 2011:

Recalling its mandate to promote and protect human and peoples' rights pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Aware of the vital role of its Secretariat in ensuring the effective discharge of the Commission's mandate and the importance of having an effective Secretariat;

Further conscious of the difficulties the African Commission faces in the preparation, presentation and execution of its budget, and desirous of facilitating its budgetary preparation process;

Welcoming the decision of the Executive Council of the African Union to strengthen the human resources capacity of the African Commission through the recruitment of 33 more staff over a period of five years, from 2010 to 2014;

Recalling its decision during the 6th Extra-Ordinary Session to establish an Advisory Committee on Budgetary and Staff Matters to work with the Secretariat to prepare the programs budget of the Commission;

Recalling further Decision EX.CL/Dec.529 (XV) of the Executive Council which states that the African Union Commission (AUC), in consultation with the Permanent Representatives Committee (PRC), expedite the review of the honorarium and allowances of the Members of the Commission in accordance with the Financial Rules and Regulations of the African Union;

Recalling further its Resolution ACHPR/Res.188 (XLIX) 2011, adopted at its 49th Ordinary Session, renewing the mandate of the Advisory Committee on Budgetary and Staff Matters;

Appreciating the work good undertaken by the Commissioner Musa Ngary Bitaye as Chairperson of this Committee during the past two years;

Recognizing the importance of the work of the Committee and the necessity to allow the Committee to continue to carry out its mandate;

Decides to appoint the following for a period of 2 years:

- Commissioner Reine Alapini Gansou----- Chairperson,
- Commissioner Kayitesi Zainabo Sylvie-----Member;
- Commissioner Soyata Maiga-----Member; and
- Commissioner Med Kaggwa-----Member.

192. ACHPR/Res.192 (L) 11: RESOLUTION RE-APPOINTING THE CHAIRPERSON AND EXPERT MEMBERS OF THE COMMITTEE FOR THE PREVENTION OF TORTURE IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 50th Ordinary Session, held in Banjul, The Gambia, from 24th October to 5th November 2011;

Recalling the mandate to promote and protect human and peoples' rights in Africa entrusted to it in Article 45 of the African Charter on Human and Peoples' Rights (African Charter);

Considering the recognition by African States of the absolute and irrevocable nature of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment in Article 5 of the African Charter;

Further recalling its Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines) adopted during its 32nd Ordinary Session, held in Banjul, The Gambia, from 17th to 23rd October 2002;

Recalling the establishment of the Robben Island Guidelines Follow-Up Committee in 2004 with the mandate to give effect to the promotion of Article 5 of the Charter;

Further recalling resolution **ACHPR/Res158(XLVI)09**, that changes the name of the Robben Island Follow-up Committee to the **Committee for the Prevention of Torture in Africa (CPTA)**.

Noting with appreciation the work and the accomplishment of the Chairperson of the Committee for the Prevention of Torture in Africa, Commissioner Catherine Dupe Atoki, since her appointment in 28 November 2007;

Considering the necessity to allow the Committee for the Prevention of Torture in Africa to continue carrying out its mandate and address urgent issues falling within its mandate;

Bearing in mind Resolution **ACHPR/Res.120(XXXXII)07** on the Appointment of the Chairperson and Members of the Committee for the Prevention of Torture in Africa adopted at its 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, Republic of Congo;

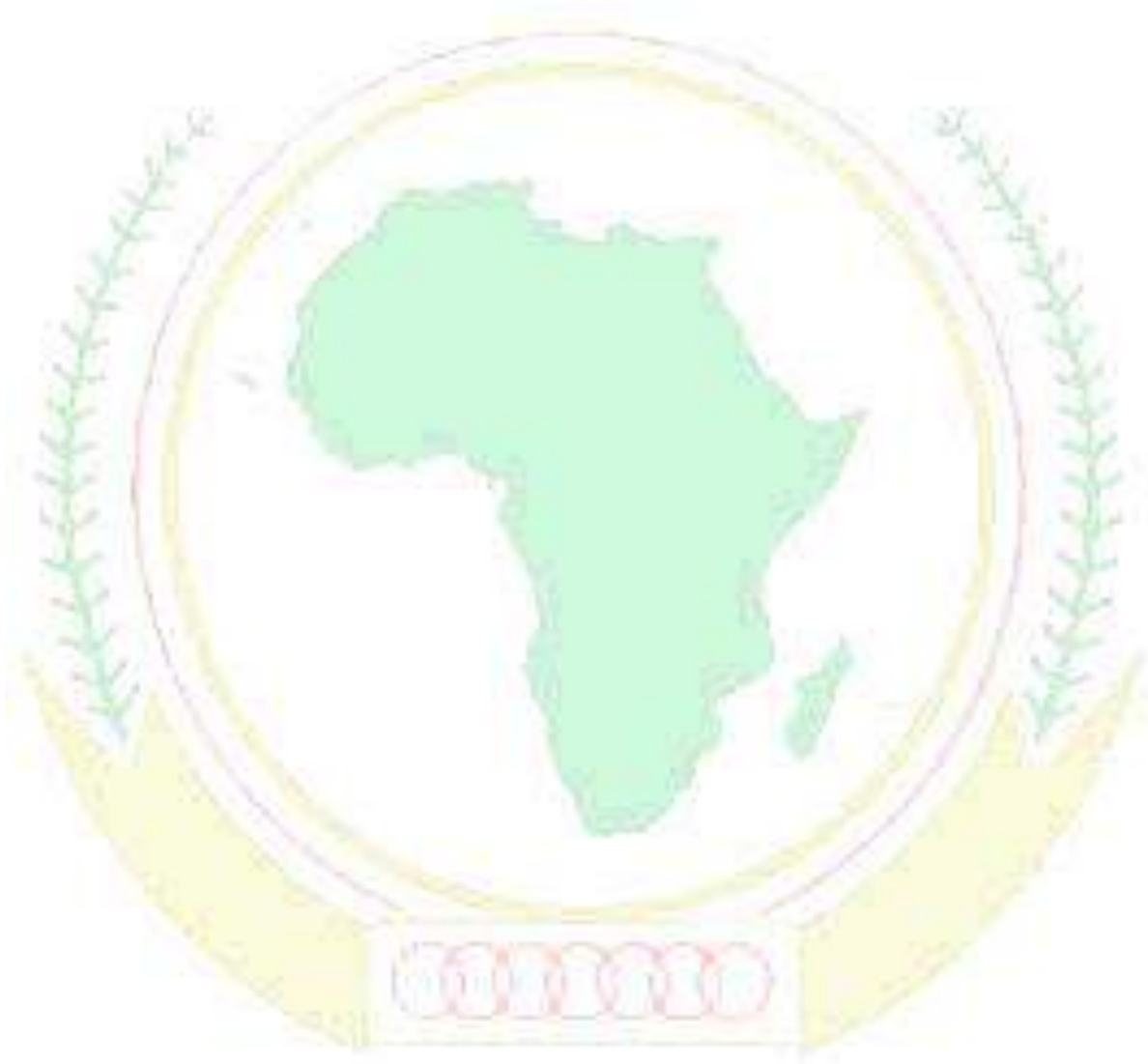
Considering that the mandate of the Chairperson of the Committee for the Prevention of Torture in Africa, Commissioner Catherine Dupe Atoki, comes to an end on 05 November 2011;

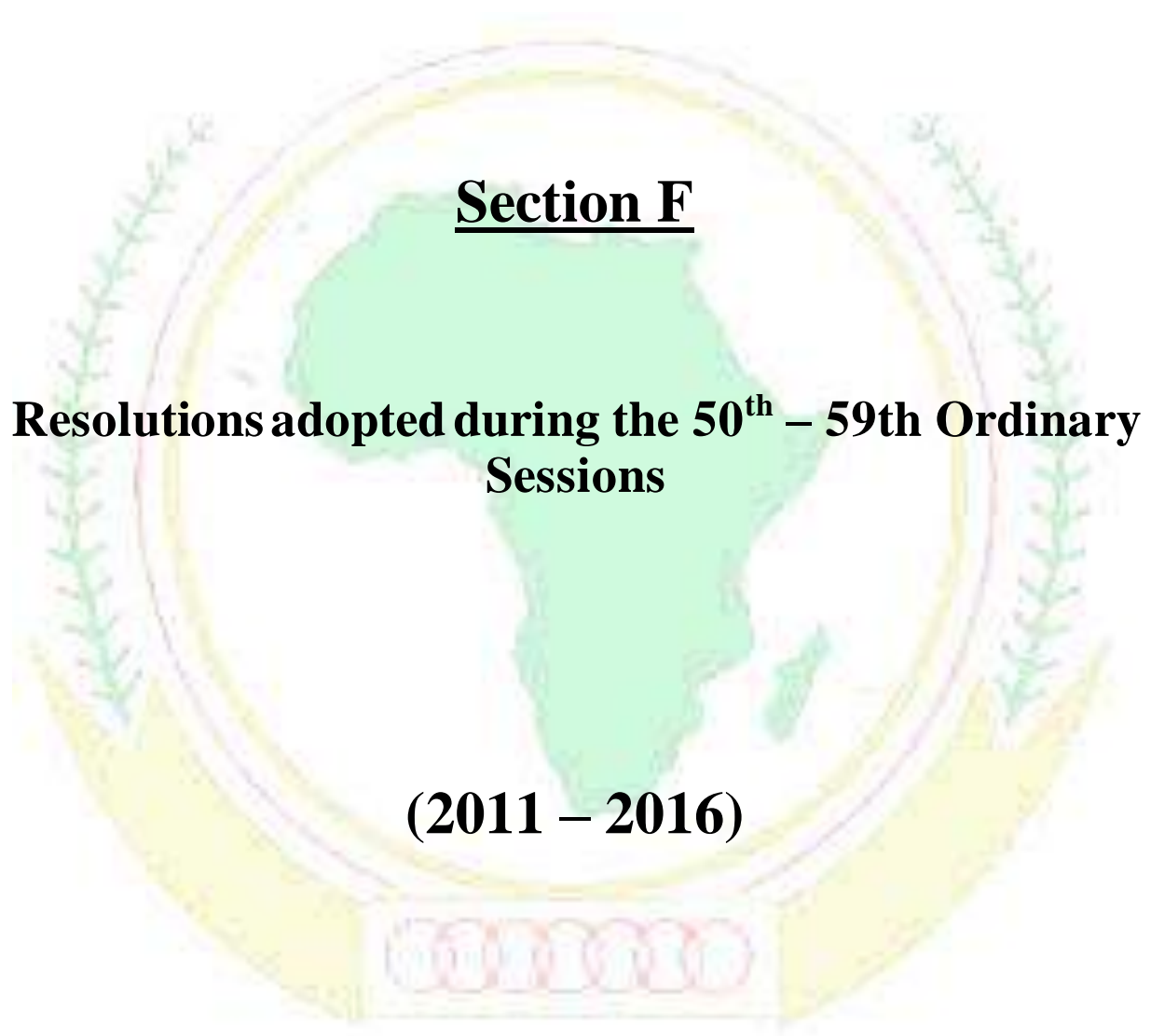
Decides to reappoint Commissioner **Dupe Atoki** as Chairperson and to appoint Commissioner **Med Kaggwa** as member of the Committee for the Prevention of Torture in Africa for a period of two years, effective 05 November 2011;

Further reappoints the following Experts as Members for the same period:

- Mr Jean-Baptiste Niyizurugero – Vice Chairperson
- Mrs. Hannah Forster - Member
- Mr Malick Sow – Member

Done In Banjul, The Gambia On 05 November 2011





193. ACHPR/Res.193 (L) 11: RESOLUTION ON THE RENEWAL OF THE MANDATE OF THE WORKING GROUP ON ECONOMIC SOCIAL AND CULTURAL RIGHTS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 50th Ordinary Session held from 24th October to 5th November 2011, in Banjul, the Gambia:

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.73 (XXXVI)04 to establish a Working Group on Economic and Social Rights taken at its 36th Ordinary Session, held from 23 November - 7 December 2004 in Dakar, Senegal, and which also defined its mandate;

Recalling further Resolution ACHPR/Res.124 (XXXXII) 07 adopted at its 42nd Ordinary Session held from 14 – 28 November 2007, in Brazzaville, the Republic of Congo to renew the mandate of the Working Group;

Bearing in mind that Commissioner Bechir Khalfallah M. led the Working Group from 2009 to 2011 as Chairperson;

Noting with appreciation the work and accomplishment of members of the Working Group through the finalization, and adoption of the Principles and Guidelines on the implementation of economic, social and cultural rights in the African Charter (Nairobi Principles) and the State Party Reporting Guidelines for economic, social and cultural rights (Tunis Guidelines) which is the first part of the Working Group's mandate;

Considering the launching at the Commission's 50th Ordinary Session of the Principles and Guidelines on the implementation of economic, social and cultural rights in the African Charter and the State Party Reporting Guidelines on Economic, Social and Cultural Rights in Africa;

DECIDES to renew the mandate of the Working Group to:

- i. Continue the remaining tasks assigned to it in Resolution 78. ACHPR/Res.73(XXXVI)04 of 7th December 2004 consisting in undertaking, under the supervision of the African Commission on Human and Peoples' Rights, studies and research on specific economic, social and cultural rights;
- ii. Perform any other tasks as arising from the consideration by the Working Group of the Principles(Nairobi) and state reporting guidelines(Tunis) on ESCR which includes but not limited to the Right to sustainable Development in Africa;

DECIDES to reappoint Commissioner **Mohammed Bechir Khalfallah** as Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa for a period of two years,

effective 5 November 2011, and to appoint Commissioners **Soyata Maiga** and Maya Sahli - Fadel as members of the Group, for the same period;

FURTHER DECIDES TO APPOINT the following members for the same period of time:

- A Representative of the UNOHCHR
- A Representative of the UNECA –GPAD
- A Representative of the INTERIGHTS
- A Representative of the Institute for Human Rights and Development in Africa
- A Representative of the Centre for Human Rights of the University of Pretoria

Done in Banjul, The Gambia, 5th November 2011



194. *ACHPR/Res.194 (L) 11: RESOLUTION ESTABLISHING A WORKING GROUP ON COMMUNICATIONS AND APPOINTMENT OF MEMBERS*

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 50th Ordinary Session held in Banjul, The Gambia, from 24th October to 5th November 2011;

Recognising its mandate to promote and protect human and peoples' rights pursuant to the *African Charter on Human and Peoples' Rights (the African Charter)*;

Noting its protective mandate which involves the consideration of Communications alleging human rights violations against Member States to the *African Charter* in terms of Articles 47 and 55 of the *African Charter*;

Considering Rule 23(1) of its Rules of Procedure which requires "*The Commission to create subsidiary mechanisms such as special rapporteurs, committees and working groups;*"

Further Considering Rule 97(2) of its Rules of Procedure which states that "*The African Commission may establish one or more working groups to consider questions of seizure, admissibility and the merits of any communication(s) and to make recommendations to the Commission;*"

1. ***Decides*** to establish a Working Group on Communications to meet twice a year during the intersession, and may also meet prior to the Sessions of the African Commission;
2. ***Appoints*** Commissioner Kayitesi Zainabo Sylvie as Chairperson of the Working Group for a period of two years, effective from 5 November 2011;
3. ***Further appoints*** Commissioner Reine Alapini-Gansou, and Commissioner Pacifique Manirakiza as Members of the Working Group;
4. ***Decides*** that paragraph three (3) notwithstanding, other Commissioners can participate in the activity of the Working Group subject to their availability;
5. ***Appoints*** the Secretary to the African Commission as a Member of the Working Group;
6. ***Further appoints*** Dr. Feyi Ogunade, Ms. Irene Desiree Mbengue Eleke and Mrs. Anita Bagona as the focal team of the Working Group at the level of its Secretariat;
7. ***Requires*** all Legal Officers at its Secretariat to provide assistance to the Working Group.

195. ACHPR/Res.195(L)11: RESOLUTION ON THE APPOINTMENT OF THE CHAIRPERSON AND MEMBERS OF THE COMMITTEE ON THE PROTECTION OF THE RIGHTS OF PEOPLE LIVING WITH HIV (PLHIV) AND THOSE AT RISK, VULNERABLE TO AND AFFECTED BY HIV

The African Commission on Human and Peoples' Rights, meeting at its 50th Ordinary Session held in Banjul, The Gambia, from 24th October to 5th November 2011

1. **Recognising** that the African Commission on Human and Peoples' Rights has a fundamental role to protect the most vulnerable groups in Africa against human rights abuses;
2. **Recognising** also that a unique feature of the HIV pandemic is the overwhelming nature of the accompanying stigma;
3. **Nothing** that in circumstances where the rule of law and human rights are not respected as an integrated part of society, the most vulnerable groups within that society are often denied the level of protection they require and hence, are exposed to increased vulnerability;
4. **Recognising** that people living with HIV and those at risk are currently one of the most vulnerable groups exposed to serious violations of human rights in Africa.
5. **Recalling** the Resolution on the HIV/AIDS Pandemic – Threat against Human Rights and Humanity (2001) calling upon African governments, state parties to the African Charter to allocate national resources that reflect a determination to fight the spread of HIV/AIDS, to ensure human rights protection of those living with HIV/AIDS against discrimination and to take appropriate actions so that international pharmaceutical industries make affordable and comprehensive health care available for African governments;
6. **Recalling** commitments of the African Union Heads of States and Governments in the Tunis Declaration on AIDS and the Child in Africa (1994); Grand Bay (Mauritius) Declaration and Plan of Action (1999); Lome Declaration on HIV/AIDS in Africa (2000); Abuja Declaration on HIV/AIDS, Tuberculosis and Other Infectious Diseases (2001); Maputo Declaration on HIV/AIDS, Tuberculosis, Malaria and Other Infectious Diseases (2003); Gaborone Declaration on a Roadmap Towards Universal Access to Prevention, Treatment and Care (2005); Continental Framework for Harmonisation of Approaches among Member State and Integration of Policies on Human Rights and People Infected and Affected by HIV/AIDS in Africa (2005); Brazzaville Commitment on Scaling Up Towards Universal Access to HIV and AIDS Prevention, Treatment, Care and Support in Africa by 2010 (2006); Abuja Call for Accelerated Action Towards Universal Access to HIV and AIDS, Tuberculosis and Malaria Services in Africa (2006); and Africa's Common Position to the UN General Assembly Special Session on AIDS (2006);
7. **Concerned** that AIDS related deaths result in an increase number of orphans and vulnerable children in Sub-Saharan Africa;

8. **Concerned further** that despite commitments undertaken by state parties and regional bodies, PLHIV and those at risk continue to face serious violations of their basic human rights;
9. **Deeply disturbed** by the growing trend of various State Parties across Africa toward criminalisation and mandatory testing of PLHIV which leads to greater stigmatisation and discrimination;
10. **Recalling** further resolution ACHPR/Res.163 (XLV11) 10, adopted during the 47th Ordinary Session, establishing and appointing the Chairperson and members of the Committee on the Protection of the Rights of People Living with HIV (PLHIV) and those at Risk, Vulnerable to and Affected by HIV;
11. **Recognising** the considerable amount of work done by Commissioner Reine Alapini Gansou in her capacity as the Chairperson of the Committee;
12. **Decides** to appoint Commissioner Lucy Asuagbor as Chairperson of the Committee, Commissioner Reine Alapini Gansou and Commissioner Soyata MAIGA as Members of the Committee on the Protection of the Rights of People Living with HIV (PLHIV) and those at Risk, Vulnerable to and Affected by HIV for a period of two years, effective 5 November 2011.

DONE IN BANJUL, THE GAMBIA ON 05 NOVEMBER 2011

196. ACHPR/Res.196 (L) 11: RESOLUTION ON HUMAN RIGHTS DEFENDERS IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its 50th Ordinary Session held from 24th October to 5th November 2011, in Banjul, The Gambia;

Recalling its Resolutions ACHPR/69(XXXV) on the protection of human rights defenders in Africa, Resolution ACHPR/Res.119 (XXXXII) 07 on the Situation of Human Rights Defenders in Africa;

Recalling the human rights protection instruments, particularly the United Nations [Declaration on Human Rights Defenders](#) in 1998, the Grand Bay Declaration and its plan of action adopted by the OAU Ministerial Conference on the promotion and protection of Human Rights in Africa in 1999, the Kigali Declaration African adopted by the African Union (AU) Ministerial Conference on Human Rights in Africa meeting in 2003;

Recalling the decision of the 33rd Ordinary Session of the African Commission (May 2003) which ruled such interference with human rights defenders' human rights work to be an express violation of the African Charter on Human and Peoples' Rights;

Bearing in mind the commitment of the States parties of the African Union in the Grand Bay (Mauritius) Declaration to implement the provisions of the United Nations Declaration on Human Rights Defenders;

Cognizant of the obligations of States Parties to the African Charter on Human and Peoples' Rights and under other regional and international human rights instruments for the protection of human rights, more especially the obligation to guarantee the security of persons living in their own country, as well as freedoms of assembly, of association, of expression of human rights defenders;

Deeply concerned about the difficult environment in which those who cooperate with african human rights system including human rights defenders in Africa are working in Africa which is characterized in several countries by the persistence of arbitrary arrests and detentions, acts of harassment including judicial harassment, threats and other forms of intimidation, of summary and extra-judicial executions and even acts of torture as a result of their activities;

Concerned by the impunity that the perpetrators of these acts of violence and reprisal against those who cooperate with african human rights system including human rights defenders continue to enjoy in a large number of African countries;

Recognizing the crucial contribution of the work of those who cooperate with african human rights system including human rights defenders in promoting human rights, democracy and the rule of law in Africa;

Strongly condemns all acts of violence against the activities of those who cooperate with african human rights system, including human rights defenders and condemns also all form of violence and reprisal against them;

Reminds all States parties of the African Charter of Human and Peoples' Rights of their commitment to the fundamental rights and freedoms as recognised by the African Charter and other regional and international instruments;

Calls on States to recognize the role of human rights defenders in the promotion and protection of rights and freedoms as recognised by the African Charter and other regional and international instruments;

Encourages States to adopt specific legislation on the protection of human rights defenders;

Urges the States to release the human rights defenders who are arbitrarily detained and to put an end to the judicial harassment and other acts of intimidation against human rights defenders;

Encourages the States to take all necessary measures to initiate independent investigations on cases of violations of the rights of human rights defenders so as to prosecute and judge the perpetrators.

Urges all States to prevent and refrain from all acts of intimidation or reprisal against individuals or groups who seize the African Commission on Human and Peoples' Rights.

Done at Banjul, 05 November 2011



197. ACHPR/Res.197 (L) 11: RESOLUTION ON THE PROTECTION OF INDIGENOUS PEOPLE'S RIGHTS IN THE CONTEXT OF THE WORLD HERITAGE CONVENTION AND THE DESIGNATION OF LAKE BOGORIA AS A WORLD HERITAGE SITE

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 50th Ordinary Session held from 24th October to 5th November 2011 in Banjul, The Gambia:

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Considering Article 22 of the African Charter which recognizes that all peoples have the right to their economic, social and cultural development and that States have the duty, individually or collectively, to ensure the exercise of the right to development;

Recalling its Decision on Communication 276 / 2003 - *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya* (Endorois Decision), adopted at the 46th Ordinary Session held from 11 – 25 November 2009 in Banjul, The Gambia;

Noting that this decision affirms the rights of ownership of the Endorois to their ancestral lands around Lake Bogoria and that these rights are protected by Art. 14 of the African Charter;

Noting Article 1 of the Constitution of the United Nations Educational, Scientific, and Cultural Organization (UNESCO) on the purposes and functions of the Organization, according to which UNESCO shall “further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations”;

Recalling the United Nations Declaration on the Rights of Indigenous Peoples, a universal international human rights instrument that has attained consensus among UN Member States, and reaffirming the African Commission's commitment to fostering the values and implementing the principles enshrined in this Declaration;

Bearing in mind Advice No. 2 (2011) of the UN Expert Mechanism on the Rights of Indigenous Peoples, which calls on UNESCO and the World Heritage Committee to establish robust procedures and mechanisms to ensure that indigenous peoples are adequately consulted and involved in the management and protection of World Heritage sites and that their free, prior and informed consent is obtained when their territories are being nominated and inscribed as World Heritage sites;

Noting with concern that there are numerous World Heritage sites in Africa that have been inscribed without the free, prior and informed consent of the indigenous peoples in whose

territories they are located and whose management frameworks are not consistent with the principles of the UN Declaration on the Rights of Indigenous Peoples;

Deeply concerned that the World Heritage Committee at its 35th session, on the recommendation of International Union for the Conservation of Nature (IUCN), inscribed Lake Bogoria National Reserve on the World Heritage List, without obtaining the free, prior and informed consent of the Endorois through their own representative institutions, and despite the fact that the Endorois Welfare Council had urged the Committee to defer the nomination because of the lack of meaningful involvement and consultation with the Endorois;

- 1. Emphasizes** that the inscription of Lake Bogoria on the World Heritage List without involving the Endorois in the decision-making process and without obtaining their free, prior and informed consent contravenes the African Commission's Endorois Decision and constitutes a violation of the Endorois' right to development under Article 22 of the African Charter;
- 2. Urges** the World Heritage Committee and UNESCO to review and revise current procedures and Operational Guidelines, in consultation and cooperation with the UN Permanent Forum on Indigenous Issues and indigenous peoples, in order to ensure that the implementation of the World Heritage Convention is consistent with the UN Declaration on the Rights of Indigenous Peoples and that indigenous peoples' rights, and human rights generally, are respected, protected and fulfilled in World Heritage areas;
- 3. Calls on** the World Heritage Committee to consider establishing an appropriate mechanism through which indigenous peoples can provide advice to the World Heritage Committee and effectively participate in its decision-making processes;
- 4. Urges** IUCN to review and revise its procedures for evaluating World Heritage nominations as well as the state of conservation of World Heritage sites, with a view to ensuring that indigenous peoples are fully involved in these processes, and that their rights are respected, protected and fulfilled in these processes and in the management of World Heritage areas;
- 5. Urges** the Government of Kenya, the World Heritage Committee and UNESCO to ensure the full and effective participation of the Endorois in the decision-making regarding the "Kenya Lake System" World Heritage area, through their own representative institutions;

Done in Banjul, The Gambia, 5 November 2011

198. ACHPR/Res.198 (L) 11: RESOLUTION APPOINTING THE CHAIRPERSON AND MEMBERS OF THE WORKING GROUP ON EXTRACTIVE INDUSTRIES, ENVIRONMENT AND HUMAN RIGHTS VIOLATIONS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 50th Ordinary Session held in Banjul, The Gambia from 24th October to 5th November 2011

RECALLING all relevant regional and international human rights instruments and, specifically Articles 21 and 24 of the African Charter on Human and Peoples' Rights, on the right of all peoples to freely dispose of their wealth and natural resources and to a general satisfactory environment favorable to their development;

RECALLING the unconditional responsibility of States Parties to prevent all forms of violations of human and peoples' rights including the violations of human and peoples' rights by Non-State Actors;

DEEPLY CONCERNED by human rights violations by non-state actors in particular the sector of extractive industries, including mining, oil, gas, and timber extraction;

CONCERNED by the increasing rate of the destruction of the African environment and ecosystem by extractive industrial activities with impunity;

CONVINCED of the necessity of an improved protection of human rights through development of jurisprudence on holding non-state actors accountable for human rights violation in Africa;

HAVING authorized and considered a report on the preliminary study on: The Role of Non-State Actors in the Violation of Human and Peoples' Rights in Africa: The Quest for a New Paradigm;

HAVING CONSIDERED ALSO a review of international law and jurisprudence on the violations of the rights of indigenous peoples by transnational and other business enterprises;

RECALLING Resolution ACHPR/Res.148 (XLVI) 09, establishing the Working Group on extractive Industries, Environment and Human Rights Violations in Africa, adopted during the 46th Ordinary Session held in Banjul, The Gambia from 11th to 25 November 2009;

RECALLING Resolution ACHPR/Res148(XLVI)09, adopted during the 46th Ordinary Session held from 11 to 25 November 2009 in Banjul The Gambia, establishing and appointing the Chairperson and members of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa;

RECOGNISING the considerable amount of work accomplished by Commissioner Mumba Malila as Chairperson and Members of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa;

CONSIDERING the mandate of the Chairperson and Members of the Working Group will end on 05 November 2011;

DECIDES to appoint the following for an initial period of two years:

- Commissioner Pacifique Manirakiza----- Chairperson;
- Commissioner Y K J Yeung Sik Yuen-----Member; and
- Commissioner Kayitesi Zainabo Sylvie--- Member.

Done in Banjul, The Gambia, 05 November 2011



199. ACHPR/Res.199 (L) 11: RESOLUTION ON THE RE-APPOINTMENT OF THE SPECIAL RAPPORTEUR ON FREEDOM OF EXPRESSION AND ACCESS TO INFORMATION IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 50th Ordinary Session held from 24th October to 5th November 2011, in Banjul, The Gambia:

Recalling its mandate to promote human and peoples rights and ensure their protection in Africa under the African Charter on Human and Peoples Rights (the African Charter);

Aware that in the exercise of its mandate, the African Commission has established various mechanisms for the promotion and protection of human and peoples' rights in Africa;

Recalling the Resolution on the Mandate and Appointment of the Special Rapporteur on Freedom of Expression in Africa adopted at its 36th Ordinary Session held from 23 November - 7 December 2004 in Dakar, Senegal;

Emphasizing that the right to freedom of expression and access to information is a fundamental human right guaranteed *inter alia* by Article 9 of the African Charter;

Recalling the adoption of *the Declaration of Principles on Freedom of Expression in Africa*, at its 32nd Ordinary Session held from 17 - 23 October 2002, in Banjul, The Gambia, which elaborates the nature, content and extent of the right to freedom of expression and access to information provided for under Article 9 of the African Charter;

Reaffirming the commitment of the African Commission to promote the right to freedom of expression and access to information and monitor the implementation of *the Declaration of Principles on Freedom of Expression in Africa* within Member States of the African Union;

Recalling Resolution ACHPR/Res.84 (XXXXV) 05, appointing Commissioner Faith Pansy Tlakula, as Special Rapporteur on Freedom of Expression in Africa adopted at the 38th Ordinary Session held from 21 November to 5 December 2005, in Banjul, The Gambia;

Recalling Resolution ACHPR/Res.122 (XXXXII) 07 on the Expansion of the Mandate and Re-appointment of the Special Rapporteur on Freedom of Expression and Access to Information in Africa adopted at the 42nd Ordinary Session held from 15 to 28 November 2007, in Brazzaville, Republic of Congo;

Further recalling Resolution ACHPR/Res161(XLVI) 09, renewing the mandate of the Commissioner Faith Pansy Tlakula, as Special Rapporteur, adopted during the 46th Ordinary Session held from 11 to 24 November 2009 in Banjul, The Gambia;

Noting with appreciation the work and accomplishment of Commissioner Faith Pansy Tlakula as Special Rapporteur of Freedom of Expression and Access to Information in Africa;

Considering the term of Commissioner Faith Pansy Tlakula as Special Rapporteur on Freedom of Expression and Access to Information in Africa will end on 5 November 2011;

Considering further the necessity to allow the Special Rapporteur on Freedom of Expression and Access to Information in Africa to carry out its mandate as contained in resolution ACHPR/Res.122 (XXXII) 07;

Decides to re-appoint Commissioner Faith Pansy Tlakula as Special Rapporteur on Freedom of Expression and Access to Information in Africa for a period of two years, effective 5 November 2011.

Done in Banjul, The Gambia, 05 November 2011



200. ACHPR/Res.200 (L) 11: RESOLUTION RE-APPOINTING AND APPOINTING THE CHAIRPERSON AND OTHER MEMBERS OF THE WORKING GROUP ON THE RIGHTS OF OLDER PERSONS AND PEOPLE WITH DISABILITIES IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 50th Ordinary Session held in Banjul, The Gambia from 24th October to 5th November 2011;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Bearing in mind the African Union Policy Framework and Plan of Action on Ageing in which "*States Parties recognized the fundamental rights of older persons and committed themselves to abolish all forms of discrimination based on age,*" and also committed themselves "*To ensure that the rights of older persons are protected by appropriate legislation, including the right to organize themselves in groups and the right to representation in order to advance their interest;*"

Recalling its Resolution **ACHPR/Res.106 (XXXXI) 07** of 30 May 2007, on the Rights of Older Persons in Africa, adopted at its 41st Ordinary Session held from 16-30 May 2007, in Accra, Ghana;

Recalling its Resolution **ACHPR/Res.118 (XXXXII)**, on the Appointment of a Focal Point on the Rights of Older Persons in Africa, that was adopted at the 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, Republic of Congo;

Recalling further its Resolution **ACHPR/Res.143 (XXXXV) 09**, transforming the Focal Point on the Rights of Older Persons in Africa into a Working Group on the Rights of Older Persons and People with Disabilities;

Considering that the African Charter makes specific provisions for the protection of these rights, under **Article 18(4)**, which stipulates that "*The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs;*"

Considering further paragraph 20 of the Kigali Declaration, which "*calls upon States Parties to develop a Protocol on the protection of the rights of the elderly and people with disabilities;*"

Bearing in mind the mandate of the Focal Point which includes, among others, "*Spearheading the process of drafting a Protocol on the Rights of Older Persons for submission to the AU Policy Organs for consideration and adoption as soon as possible;*"

Appreciating the work of the Focal Point in advocating for a rights-based approach towards protecting the rights of older persons;

Considering the mandate assigned to the Working Group on the Rights of Older Persons and People with Disabilities, and to facilitate the process of drafting the Protocol on Ageing,

ensuring compliance by States Parties with the recommendations contained in the AU Policy Framework and Plan of Action on Ageing;

Considering the Draft Protocol on the Rights of Older Persons presented by the Working Group on the Rights of Older Person and People With Disabilities in Africa to the African Commission during the 48th Ordinary Session held from 10 to 28 November 2010, in Banjul The Gambia;

Considering further the ongoing review work on the Draft Protocol on the Rights of Older Persons and the work undertaken so far on the rights of people with disabilities in Africa;

Recalling Resolution *ACHPR/Res.189 (XLIX) 2011* adopted during the 49th Ordinary Session held in Banjul, The Gambia from 28th April to 12th May 2011 increasing the number of experts of the Working Group to effectively implement its mandate;

Recognising the good work and achievement of the Chairperson and members of the Working Group, especially with regards to the Draft Protocol on Older Persons which is nearing completion;

Considering that the two year mandate of the Chairperson and other expert members of the Working Group on Older Persons and People With Disabilities in Africa has come to an end;

Considering the necessity to allow the Working Group on Older Persons and People With Disabilities in Africa to continue to carrying out its mandate and address the urgent issues falling within its mandate;

Decides the following;

- I. Re-appoints Commissioner Yeung Kam John Sik Yuen ----- Chairperson;
- II. Re-appoints Commissioner Reine Alapini Gansou -----Member;
- III. Appoints Commissioner Faith Pansy Tlakula-----Member;
- IV. Re-appoints Tavengwa Machekano Nhongo-----Member;
- V. Re-appoints Mr. Papa Malick Fall-----Member; and
- VI. Re-appoints Ms Nadia Abdel-Wahab El-Afify-----Member.

Done In Banjul, The Gambia On 05th NOVEMBER 2011

201. ACHPR/Res.201 (L) 11: RESOLUTION ON THE RE-APPOINTMENT OF THE CHAIRPERSON AND MEMBERS OF THE WORKING GROUP ON THE DEATH PENALTY IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 50th Ordinary Session held in Banjul, The Gambia, from 24th October to 5th November 2011;

Recalling its mandate to promote human and peoples' rights and to ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.42 (XXVI) 99, adopted at its 26th Ordinary Session held in Kigali, Rwanda urging States Parties to envisage a moratorium on the death penalty.

Recalling further the decision of the African Commission adopted at its 37th Ordinary Session to appoint two Commissioners to work with the Special Rapporteur on Prisons and Conditions of Detention in Africa, to prepare a concept paper on the Issue of the Death Penalty in Africa;

Considering the trends in international law which encourage the abolition of the death penalty, in particular, the 2nd Optional Protocol to the International Convention on Civil and Political Rights relating to the abolition of the death penalty, the Statute on the International Criminal Court, the Resolution 2005/59 of the United Nations Human Rights Commission on the death penalty and the practices adopted by the States Parties to the United Nations Charter, and the debates and initiatives undertaken by civil society and other stakeholders concerned by the issue of the death penalty;

Bearing in mind Resolution 62/149 of the United Nations General Assembly adopted in 2007 calling on, in particular all States that still retain the death penalty to observe a moratorium on executions with a view to abolishing the death penalty;

Recalling its Resolution 79/XXXVIII/05 on the composition and operationalization of the Working Group on the Death Penalty adopted at its 38th Ordinary Session to expand the composition of the Working Group to include two members of the Commission and five independent experts so as to broaden its mandate;

Bearing in mind Resolution ACHPR/Res.113 (XXXXII)07 on the Renewal of the Mandate and the Appointment of Commissioner Kayitesi Zainabo Sylvie as Chairperson of the Working Group on the Death Penalty adopted at the 42nd Ordinary Session held in Brazzaville, Republic of Congo, from 15 - 28 November 2007;

Recalling its Resolution No. ACHPR/Res.136(XXXXIII).08, calling on State Parties to observe the moratorium on the death penalty adopted at its 44th Ordinary Session held in Abuja, Federal Republic of Nigeria, from 10 – 24 November 2008.

Recognizing that seventeen (17) State Parties to the African Charter have already abolished the death penalty, and thirteen (13) others have placed a moratorium on its application;

Reaffirming the commitment of the African Commission to promote the right to life and to encourage State Parties to abolish the death penalty;

Noting with appreciation the work and accomplishment of the Chairperson of the Working Group, Commissioner Kayitesi Zainabo Sylvie, and considering the need to ensure the continuity of the Working Group;

Recognizing further the importance of the activities of the Working Group on the death penalty and the need to allow it to continue executing its mandate;

Noting also that the mandate of the Chairperson and the members of the Group has expired;

Decides to:

- i. Re-appoint Commissioner Kayitesi Zainabo Sylvie as Chairperson of the Working Group;
- ii. Appoint Commissioner Maya Sahli Fadel as member of the Working Group;
- iii. Appoint Commissioner Med Kaggwa as member of the Working Group;
- iv. Renew the mandate of the following Experts:
 - Mrs. Alya Cherif Chammari
 - Mrs. Alice Mogwe
 - Prof. Philip Francis Iya
 - Prof. Carlson E. Anyangwe
 - Moctar Diallo

The mandate of the Working Group is 2 years and shall take effect on 5 November 2011.

Done in Banjul, The Gambia, 5 November 2011

202.ACHPR/Res. 202 (L) 11: RESOLUTION APPOINTING SPECIAL RAPPORTEUR ON HUMAN RIGHTS DEFENDERS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 50th Ordinary Session held from 24th October to 5th November 2011, in Banjul, The Gambia;

CONSIDERING its mandate to promote human and peoples' rights in Africa and to ensure their protection in accordance with the African Charter on Human and Peoples' Rights;

RECALLING its Resolution ACHPR/ 69(XXXV) 04 of 4 June 2004 on the protection of human rights defenders in Africa adopted at the 35th Ordinary Session held from 21st May to 4th June 2004, in Banjul, The Gambia;

BEARING IN MIND its resolution 83(XXXVIII) 05 of 5 December 2005 on the appointment of a Special Rapporteur on Human Rights Defenders in Africa; adopted at the 38th Ordinary Session held from 21st November to 5th December 2005 in Banjul, The Gambia;

CONSIDERING its Resolution ACHPR/Res.125 (XXXXII) 07 on the renewal of the mandate of the Special Rapporteur on Human Rights Defenders in Africa, adopted at its 42nd Ordinary Session held in Brazzaville, Republic of Congo from 13 to 28 November 2007;

BEARING IN MIND that in the *Grand Bay (Mauritius) Declaration and Plan of Action*, the Organization of African Unity (African Union) called on Member States "to take appropriate steps to implement the UN *Declaration on Human Rights Defenders* in Africa";

Recalling Resolution ACHPR/Res149(XLVI)09, appointing Commissioner Lucy Asuagbor as Special Rapporteur on Human Rights defenders in Africa;

Noting with satisfaction the work accomplished by Commissioner **Lucy Asuagbor** in her capacity as Special Rapporteur of Human Rights Defenders in Africa;

Considering the needs of the mandate;

DECIDES to appoint Commissioner Reine Alapini Gansou as Special Rapporteur on Human Rights Defenders in Africa for a period of two (2) years, with effect from 5th November 2011.

Done in Banjul, The Gambia, 05 November 2011

203. ACHPR/Res.203 (L) 11: RESOLUTION APPOINTING THE SPECIAL RAPPOREUR ON REFUGEES, ASYLUM SEEKERS, INTERNALLY DISPLACED PERSONS AND MIGRANTS IN AFRICA

The African Commission on Human and Peoples' Rights meeting at its 50th Ordinary Session held from 24th October to 5th November, 2011 in Banjul, The Gambia,

Recalling its mission to promote and protect human and peoples' rights in Africa in accordance with the African Charter on Human and Peoples Rights (the African Charter);

Bearing in mind the adoption and entry into force of the 1951 Convention relating to the status of refugees and its 1967 Protocol and the 1969 OAU Convention governing specific aspects of refugee problems in Africa;

Recalling Resolution ACHPR/Res. 72(XXXV)04 adopted at its 35th Ordinary Session held from 21st May to 4th June 2004 in Banjul, The Gambia, to establish a Special Rapporteur for the Mechanism in respect of Refugees, Asylum Seekers and Internally Displaced Persons in Africa;

Bearing in mind its resolution ACHPR/Res. 72(XXXVI)04 adopted at its 36th Ordinary Session held from 23rd November to 7th December 2004 in Dakar, Senegal, by which it delineated the mandate of the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa;

Recalling its Resolution ACHPR/Res. 95(XXXIX) 06 which broadens the terms of reference of the Special Rapporteur to cover problems of migrants;

Alarmed by the increase in the number of migrants seeking to leave the territories of their State Parties, travelling through hazardous, dangerous and inhuman means;

Considering the worsening situation of Refugees, Asylum Seekers and Internally Displaced Persons;

Bearing in mind the adoption of the Convention on Internally Displaced Persons, Repatriated Persons and Refugees adopted by the African Union in Kampala in 2009;

Considering the necessity of continuing with advocacy for the signing and ratification of the Kampala Convention to ensure its entry into force and its implementation by the States Parties on the Continent;

Recalling Resolution ACHPR/Res.180 (XLIX)2011 relating to the appointment of Commissioner KAYITESI Zainabou Sylvie as Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa ;

Noting with satisfaction the work accomplished by Commissioner KAYITESI Zainabou Sylvie, Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;

Reaffirming the importance of the Mechanism of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;

Considering the necessity of allowing the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa to continue executing its mandate;

Decides to appoint **Commissioner Maya Sahli-Fadel** as Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa, for an initial period of two years with effect from 05 November, 2011.

DONE IN BANJUL, THE GAMBIA ON 05 NOVEMBER 2011



204. ACHPR/Res.204 (L) 11: RESOLUTION ON THE APPOINTMENT OF THE CHAIRPERSON AND MEMBERS OF THE WORKING GROUP ON INDIGENOUS POPULATIONS/COMMUNITIES IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 50th Ordinary Session held from 24th October to 5th November 2011, in Banjul, The Gambia;

Considering its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling that the African Commission established a Working Group composed of nine members, amongst them, three Members of the African Commission;

Recalling its Resolution Ref. ACHPR/Res.65 (XXXIV) 03 on the Report of the African Commission's Working Group on Indigenous Populations/Communities adopted at its 34th Ordinary Session held in Banjul, The Gambia from 6 – 20 November 2003;

Bearing in mind Resolution ACHPR/Res.123 (XXXXII) 07 on the Composition and Renewal for a period of two years the Mandate of the Working Group on Indigenous Populations/Communities in Africa adopted at its 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, Republic of Congo;

Recalling further ACHPR/Res.155 (XLV1) 09, adopted during the 46th Ordinary session of the African Commission held in Banjul, The Gambia, from 11th 25th November 2009, renewing the mandate the Working Group on Indigenous Population/Communities in Africa;

Noting with appreciation the work undertaken by the Working Group under the leadership of Commissioner Musa Ngary Bitaye during the past two years in the discharge of its mandate;

Noting further that the term of the Chairperson and members of the Working Group has come to an end;

Recognizing further the importance of the work of the Working Group in the promotion and protection of the rights of indigenous populations/communities in Africa and the necessity to allow the Working Group to continue to carry out its mandate;

Decides to:

- v. Appoint Commissioner Soyata Maiga as Chairperson of the Working Group;
- vi. Appoint Commissioner Lucy Aswagbor as a member of the Working Group;
- vii. Appoint Commissioner Pacifique Manirakiza as a member of the Working Group;
- viii. Maintain the membership of the following experts:

- Mr. Mohammed Khattali;
- Ms. Marianne Jensen;
- Mr. Zephyrin Kalimba;
- Mr. Melakou Tegegn
- Dr. Naomi Kipuri.
- Dr. Albert Barume

The mandate of the Working Group is 2 years and shall take effect on 5 November 2011

Done in Banjul, The Gambia, 05 November 2011



205. ACHPR/Res.205 (L) 11: RESOLUTION ON THE APPOINTMENT OF THE SPECIAL RAPPORTEUR ON THE RIGHTS OF WOMEN IN AFRICA

The African Commission, meeting at its 50th Ordinary Session held from 24th October to 5th November 2011 in Banjul, The Gambia:

Recalling its Resolution ACHPR/Res.38(XXXVIII)99, adopted at the 25th Ordinary Session, held from 26 April to 5 May 1999 in Bujumbura, Burundi, establishing the Special Mechanism on the Rights of Women in Africa and appointing Commissioner Julienne Ondziel Gnelenga as Special Rapporteur;

Recalling also Article 18(3) of the African Charter on Human and Peoples' Rights;

Further Recalling the Commission's decision passed at its 30th Ordinary Session which was held from 17th to 27th October 2001 in Banjul, The Gambia, by which it appointed Commissioner Angela Melo as Special Rapporteur on the Rights of Women in Africa; ACHPR/Res.63(XXXIV) 03, adopted at its 34th Ordinary Session held in Banjul, The Gambia, from 6th to 20th November 2003; and ACHPR/Res.78(XXXVIII) 05, adopted at its 38th Ordinary Session, held from 21st November to 6th December 2005 in Banjul, The Gambia, renewing Commissioner Melo's mandate for a period of two years and Resolution No. ACHPR/Res.112(XXXII)07 adopted at the 42nd Ordinary Session held in Brazzaville, Republic of Congo, from 15th to 28th November 2007 on the renewal of the mandate of the Special Rapporteur on the Rights of Women in Africa for a period of two years;

Bearing in mind the adoption and entry into force of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;

Considering the need to pursue the advocacy towards the ratification of the Protocol and its effective implementation by the States Parties and all other parties involved in the promotion and protection of human rights of women;

Recognizing the numerous challenges that women continue to face on the African Continent for the recognition, exercise and the enjoyment of their human rights;

Recognizing the considerable amount of work accomplished by Commissioner Soyata Maiga as Special Rapporteur on the Rights of Women in Africa;

Recalling Resolution ACHPR/Res154(XLVI)09, renewing the Mandate of the Commissioner Soyata Maiga, as Special Rapporteur, adopted during the 46th Ordinary Session held from 11 to 24 November 2009 in Banjul, The Gambia;

Considering that the mandate of Commissioner Soyata Maiga has come to an end;

DECIDES to renew the mandate of Commissioner Soyata Maiga as Special Rapporteur on the Rights of Women in Africa for a period of two years, effective 05 November 2011.

Done in Banjul, the Republic of Gambia, 05 November 2011

206.ACHPR/Res.206 (L) 11: RESOLUTION ON THE APPOINTMENT OF THE SPECIAL RAPPORTEUR ON PRISONS AND CONDITIONS OF DETENTION IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 50th Ordinary Session held from 24th October to 5th November 2011, in Banjul, The Gambia;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Reaffirming the importance of observing the objectives and principles of the African Charter for the promotion and protection of the human rights of all, including those of detainees and prisoners;

Recalling its decision taken at its 20th Ordinary Session held in Grand Bay, Mauritius in October 1996 to establish the office and to appoint a Special Rapporteur on Prisons and Conditions of Detention in Africa, as a prison monitoring mechanism;

Recalling further its decision taken at its 38th Ordinary Session held in Banjul, The Gambia in November/December 2005 to appoint Commissioner Mumba Malila as the Special Rapporteur on Prisons and Conditions of Detention in Africa;

Bearing in mind Resolution ACHPR/Res.126 (XXXXII) 07 on the Appointment of the Special Rapporteur on Prisons and Conditions of Detention in Africa adopted at the 42nd Ordinary Session held from 15 – 28 November 2007, in Brazzaville, the Republic of Congo;

Considering that the term of Commissioner Mumba Malila as the Special Rapporteur on Prisons and Conditions of Detention in Africa comes to an end on 5 December 2009;

Considering further Resolution ACHPR/Res156(XLVI)09, adopted during the 46th Ordinary Session held from 11 to 25 November 2011 appointing Commissioner Catherine Dupe Atoki Special Rapporteur of Prisons and Conditions of Detention in Africa;

Noting with appreciation the work Commissioners Mumba Malila and Catherine Dupe Atoki have done as Special Rapporteur on Prisons and Conditions of Detention in Africa;

Considering that the mandate of Commissioner Catherine Dupe Atoki has come to an end;

DECIDES to appoint Commissioner Med Kaggwa as the Special Rapporteur on Prisons and Conditions of Detention in Africa for a period of two years, effective 5 December 2011.

Done in Banjul, The Gambia, 05 November 2011

207. ACHPR/Res.207 (L) 11: RESOLUTION ON THE GENERAL HUMAN RIGHTS SITUATION IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting in its 50th Ordinary Session, in Banjul, the Gambia, from 24th October to 5th November 2011;

CONSIDERING the Constitutive Act of the African Union, the provisions of the African Charter on Human and Peoples' Rights, and other regional and international legal human rights instruments;

RECALLING the mandate of the Commission on Human and Peoples' Rights to promote human rights in Africa;

CONSIDERING among others, Article 1 of the African Charter which stipulates, «the member States of the Organization of African Unity, Parties to the African Charter, recognize the rights, responsibilities and freedoms enshrined in this Charter and undertake to adopt legislative or other measures to implement them»;

CONCERNED deeply by the impact of a climate of insecurity reigning in some African countries as a result of the persistent armed conflicts and the resurgence of fighting in others, in particular between rebel groups and Government armed forces, in Sudan, Chad, Central African Republic, Somalia, Eritrea, Mauritania and the Democratic Republic of Congo;

AWARE of severe infringements on the freedom of assembly, the arresting and intimidation of Journalists and human rights defenders as well as the extra-judicial killings and acts of violence against protesters demanding rights in several parts of Africa;

CONSIDERING that post election violence has led to human rights violations even in conflict free areas and that arbitrary arrests and detentions have persisted long after the elections in some countries like Guinea;

CONCERNED at the proliferation of conflicts and internal violence in the Nubian Mountains, in the Kordofan and Blue Nile regions in Southern Sudan, resulting in the indiscriminate aerial bombardment of civilian targets, and causing death among the populations, destruction of houses and the systematic displacement of civilian populations, destruction of habitat and purposeful displacement of civilian populations, extrajudicial killings and forced disappearances of members of the indigenous tribes of these regions;

CONCERNED further at the continuing grave violations of human rights and humanitarian law in Darfur despite numerous regional and international efforts;

NOTING the serious violations of international humanitarian law by the parties to the conflict, in particular the indiscriminate shelling of civilian areas, the arbitrary arrests and detentions, and the summary killings;

CONCERNED at the serious famine raging in the Horn of Africa and the humanitarian crisis resulting from the large scale displacement of thousands of Somalis including women and children compelled to flee their homes and their country;

DEEPLY CONCERNED at the situation in Eritrea where several cases of arbitrary arrests and protracted detentions without trial of former Ministers, members of the security service, members of opposition parties, Journalists and other media personnel, etc. have been noted, in violation of the provisions of the African Charter on Human and Peoples' Rights;

CONDEMNING the persistent and serious human rights violations affecting the most vulnerable segments of society, namely women and children;

STRONGLY CONDEMNING the human rights violations committed by the warring forces against the population living in the areas under their control, as well as the execution of civilians on the basis of summary judgements, the plundering and destruction of the population's property and the practice of kidnapping ;

1. **CALLS ON** Member States to take legislative and material measures and provide the required human resources to put an end, as soon as possible, to the practice of impunity;
2. **URGES** the parties to the conflict to abide by the principles of international humanitarian law and those enshrined in the African Charter on Human and Peoples' Rights and to immediately desist from launching attacks against the civilian population;
3. **URGES** the parties to the conflict, in particular in Darfur, to allow humanitarian organisations and United Nations Agencies to move around and to engage in their activities freely ;
4. **URGES** the Government of Malawi to respect its obligations under the African Charter and the international and regional human rights instruments to put an end to all acts of intimidation and harassment against civil society leaders, and human rights defenders;
5. **URGES** the Government of the State of Eritrea to release the political dissidents, human rights defenders and Journalists and all persons arbitrarily detained and to guarantee at all times, the right to a fair trial, to the exercise of the freedom of opinion and of expression as well as the right to assembly;
6. **CALLS ON** the Republic of Guinea to fulfil its obligations under the African Charter, particularly in its provisions on the principle of non-discrimination, to the right to security, the right to a fair trial the right to exercise the freedom of expression and of assembly;
7. **URGES** the Government of Eritrea to fulfil its obligations under the African Charter on Human and Peoples' Rights, the Constitutive Act of the African Union and other relevant human rights instruments to which Eritrea is a party;
8. **CALLS ON** the Government of Mauritania to strictly observe the provisions of the African Charter in particular, Article 2 on the principles of non-

discrimination and take all necessary measures to end all discriminatory practices;

9. **CALLS ON** the Government of Democratic Republic of Congo to take all necessary measures to end impunity and ensure that all perpetrators of crimes are brought before the courts and to ensure the physical and mental integrity of Human Rights Defenders in the country.
10. **CALLS ON** all the parties in situations of armed conflict in Sudan, Chad, DRC, the Central African Republic, Eritrea and in Somalia to cooperate with the international community in order to find a lasting solution to the conflict raging in these areas.

DONE IN BANJUL, THE GAMBIA, 5 NOVEMBER 2011



208. ACHPR/RES.208 (EXT.OS/XI)2012: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN SENEGAL

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 11th Extraordinary Session in Banjul, The Gambia, from 21 February to 1 March 2011;

RECALLING its mandate to promote and protect human and peoples' rights in Africa pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

CONSIDERING the Constitutive Act of the African Union, the African Charter on Human and Peoples' Rights, the African Charter on Democracy, Elections and Governance, the ECOWAS Protocol on Democracy and Good Governance, the other regional and international human rights instruments and the Constitution of the Republic of Senegal;

CONSIDERING, *inter alia*, Article 1 of the African Charter which stipulates that "The Member States of the Organization of African Unity, Parties to the present Charter shall recognize the rights, duties and freedoms enshrined in the Charter and shall undertake to adopt legislative or other measures to give effect to them";

CONCERNED by the serious violations of the right to demonstrate, of the freedom of opinion, of expression and of assembly;

DEEPLY CONCERNED by the atmosphere of insecurity characterized, on the eve of the presidential elections, by serious and repeated threats against the peace of civilians, by arbitrary arrests and acts of intimidation against the population in general and the Leaders of the Opposition in particular;

FURTHER CONCERNED by the use of force by law enforcement Officers who are firing live bullets at peaceful demonstrators resulting in the loss of lives;

CONCERNED about the current deteriorating human rights situation in Senegal which is likely to endanger the democracy, development and stability of the country;

THE AFRICAN COMMISSION

- **STRONGLY CONDEMNS** the persistent and serious human rights violations which are tarnishing the electoral campaign, and the use of force against peaceful demonstrators;
- **CALLS ON** the Senegalese Government to guarantee the right to freedom of opinion, of expression, of assembly and of peaceful demonstration in conformity with the Constitution of Senegal;

- **URGES** all the Parties to put an immediate end to the violence, and more particularly calls on the political Leaders, the presidential candidates and other stakeholders to refrain from all acts that may threaten public law and order;
- **CALLS ON** the Government and the Opposition to initiate dialogue towards the resolution of their differences so as to foster the holding of free, peaceful and transparent elections;
- **URGES** the Government of Senegal to guarantee, at this decisive moment in the history of the country, the security of all its citizens and that of the Leaders of the Opposition and to ensure that human rights and fundamental liberties are fully respected and guaranteed;
- **URGES** the Government of Senegal put an end to all acts of intimidation, to immediately and unconditionally release the demonstrators who were arbitrarily arrested, and to take all the necessary measures to put an end to impunity by ensuring that all perpetrators of acts of violence are brought to justice;
- **URGES** the Government of Senegal to honour its commitments under the African Charter, the Constitutive Act of the African Union and the other relevant human rights instruments to which Senegal is party;
- **FINALLY CALLS ON** the African Union and the entire International Community to lend their support to the peaceful conclusion of the current electoral process in Senegal.

Done in Banjul, The Gambia, 22 February 2012.

209.ACHPR/RES.209 (EXT.OS/XI)2012: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN THE NORTH OF MALI

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 11th Extraordinary Session in Banjul, The Gambia, from 21st February to 1st March 2012;

RECALLING its mandate of promotion and protection of human and peoples' rights in Africa pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

CONSIDERING that one of the objectives of the African Union, as outlined under Article 3 (f) of its Constitutive Act consists of "promoting peace, security and stability on the Continent";

CONSIDERING Articles 6, 22 and 23 of the African Charter which guarantee the rights to security, peace and development and other regional and international human rights instruments;

DEEPLY CONCERNED by the resumption of the conflict between the Touareg rebels and the Malian Armed Forces, since 17 January 2012, in violation of the 2009 Algiers Accord which had officially put an end to the Touareg rebellion;

WORRIED by the forced displacement of more than 60,000 Malians within the country and to Mauritania, Niger, Burkina Faso and Algeria as a result of the conflict between the Parties;

CONCERNED about the numerous cases of looting and aggression being perpetrated during the conflict;

CONCERNED about the humanitarian crisis caused by the conflict in the North of Mali;

1. CONDEMNS the current conflict between the Touareg rebels and the Malian Armed Forces;

2. CONDEMNS the forced displacement of Malians inside the country and to neighbouring countries;

3. URGES the Touareg rebels to put an immediate end to their attacks and calls upon the parties to initiate constructive dialogue for a settlement of the conflict;

4. URGES the Government of Mali to take the necessary measures to protect the rights of its citizens as guaranteed in the African Charter as well as other regional and international human rights instruments;

5. CALLS ON the African Union and the international community to give their support in the resolution of the conflict.

Done in Banjul, The Gambia, 25 February 2012

210. ACHPR/RES.210 (EXT.OS/XI) 2012: RESOLUTION ON REFUGEES AND INTERNALLY DISPLACED PERSONS FLEEING THE CONFLICT IN THE NORTH OF MALI

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 11th Extraordinary Session in Banjul, The Gambia, from 21 February to 1 March 2012;

Recalling its mandate to promote and protect human and peoples' rights in Africa pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Considering the Constitutive Act of the African Union, the African Charter on Human and Peoples' Rights, the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, the 2009 Kampala Declaration on Refugees, Returnees and Internally Displaced Persons in Africa, the 1951 Geneva Convention and its 1967 Protocol, as well as other human rights protection instruments;

Considering, *inter alia*, Article 1 of the African Charter which stipulates that "The Member States of the Organization of African Unity, parties to the present Charter shall recognize the rights, duties and freedoms enshrined in the Charter and shall undertake to adopt legislative or other measures to give effect to them";

Further recalling Article 2 (1) of the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa which stipulates that "Member States of the OAU shall use their best endeavours consistent with their respective legislations to receive refugees and to secure the settlement of those refugees who, for well-founded reasons, are unable or unwilling to return to their country of origin or nationality";

Deeply concerned by the renewed fighting in the North of Mali, since January 2012, between Tuareg rebels and the Malian armed forces in violation of the 2009 Algiers Accord which had officially put an end to the Tuareg rebellion;

Concerned by the forced and massive displacement of over 130,000 Malians some of whom are fleeing within the country away from areas of fighting, and others to seek refuge in neighbouring countries such as Algeria, Burkina Faso, Mauritania and Niger as a result of the rebellion in the North of Mali;

Also concerned by the potential risk of instability and insecurity in the region as a result of the displacement of populations fleeing from the conflict in the North of Mali;

The African Commission:

- **Strongly condemns** the renewed conflict in the North of Mali and **urges** the Tuareg rebels to put an immediate end to their attacks against innocent civilian populations;

- **Calls on** the Government of Mali and the Tuareg rebels to dialogue towards a peaceful resolution of the conflict, to ensure peace, security, stability and the territorial unity of Mali;
- **Appreciates** the commitment of the States (Algeria, Burkina Faso, Mauritania and Niger) that are already showing hospitality and solidarity with the Malian refugee populations;
- **Calls on** the States with refugees within their territories to take necessary measures towards guaranteeing their security and humanitarian needs, in spite of the difficult nature of such a task;
- **Further calls on** the host States to work closely with UNHCR and other international humanitarian organizations towards providing greater protection, material assistance and management of refugee camps with a view to meeting the needs of the refugee populations in their territories, paying special attention to women and children;
- **Urges** the Government of Mali to take all the necessary measures towards authorizing and facilitating the smooth passage of humanitarian aid to the internally displaced persons in the North of Mali;
- **Urges** the Government of Mali to take all the necessary measures to put an end to the displacement of populations and facilitate the repatriation of refugees and the return of internally displaced persons to their areas of origin once the conditions of security are restored;
- **Calls on** all African States to assist in bearing the costs resulting from the forced displacement of populations from the North of Mali in conformity with the principles of African solidarity and international cooperation as sanctioned by the 1969 OAU Convention;
- **Further calls on** all the Member States of the African Union that have not yet done so to ratify and implement the Kampala Convention for the Protection and Assistance of Internally Displaced Persons in Africa.

Done in Banjul, The Gambia, 29 February 2012

211.ACHPR/RES.211 (EXT.OS/XI) 2012: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN NIGERIA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 11th Extra-Ordinary Session in Banjul, The Gambia, from 21 February to 1 March 2012;

RECALLING its mandate to promote and protect human and peoples' rights in Africa pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

CONSIDERING Article 1 of the African Charter which calls on Member States to adopt legislative or other measures to give effect to the rights and freedoms enshrined therein;

FURTHER CONSIDERING Article 4 of the African Charter by virtue of which *human beings are inviolable, with every human being entitled to respect for his life and the integrity of his person;*

NOTING Article 3(f) and (h) of the Constitutive Act of the African Union (AU) which states that the objectives of the AU shall be to promote peace, security, and stability on the continent, as well as human and peoples' rights in accordance with the African Charter and other relevant human rights instruments;

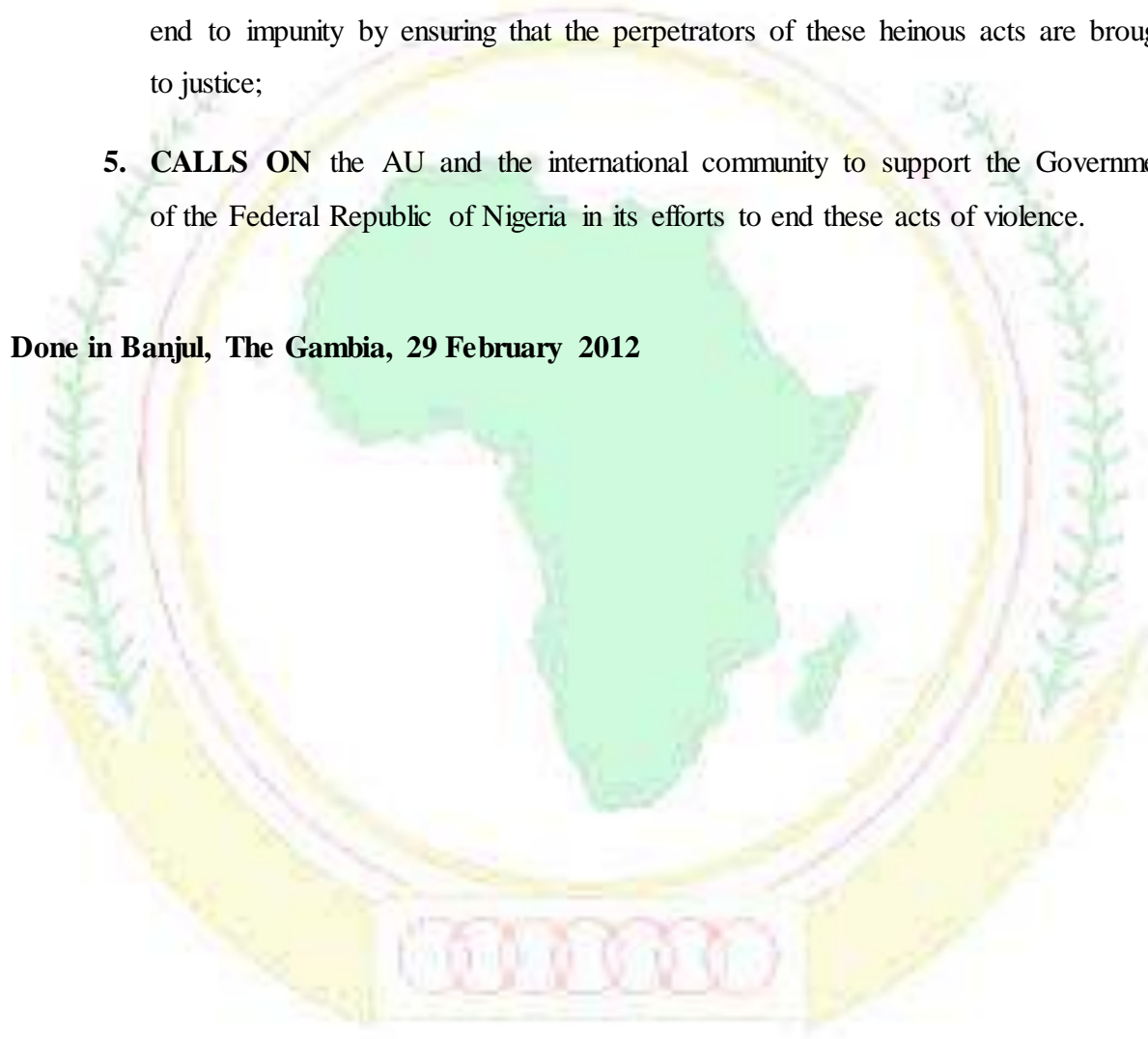
CONCERNED by the deteriorating human rights situation in the Federal Republic of Nigeria, as a result of the recent wave of acts of violence;

DEEPLY CONCERNED by the loss of hundreds of lives, injury caused and destruction of private and public property;

- 1. STRONGLY CONDEMNS** acts of violence targeting innocent civilians in the Federal Republic of Nigeria, in particular on government structures and places of worship, including the recent attacks which targeted a Mosque in Kano on 24 February 2012 and a Church in the city of Jos on 26 February 2012.

2. **CALLS** on the authors of such indefensible acts of violence to immediately stop their attacks against civilians;
3. **URGES** the Government of the Federal Republic of Nigeria to take all necessary measures to ensure the protection of its civilians in accordance with its regional and international human rights obligations;
4. **FURTHER URGES** the Government of the Federal Republic of Nigeria to put an end to impunity by ensuring that the perpetrators of these heinous acts are brought to justice;
5. **CALLS ON** the AU and the international community to support the Government of the Federal Republic of Nigeria in its efforts to end these acts of violence.

Done in Banjul, The Gambia, 29 February 2012



212.ACHPR/RES.212 (EXT.OS/XI) 2012: RESOLUTION ON THE MANDATE OF THE WORKING GROUP ON COMMUNICATIONS OF THE AFRICAN COMMISSION OF HUMAN AND PEOPLE'S RIGHT

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 11th Extra-Ordinary Session held in Banjul, The Gambia, from 21 February to 1 March 2012;

Recognising its promotion and protection mandate pursuant to the *African Charter on Human and Peoples' Rights (the African Charter)*;

Recalling the decision at its 50th Ordinary Session, held in Banjul, The Gambia from 24 October to 5 November 2011, to establish a Working Group on Communications in accordance with Rule 23(1) of its Rules of Procedure;

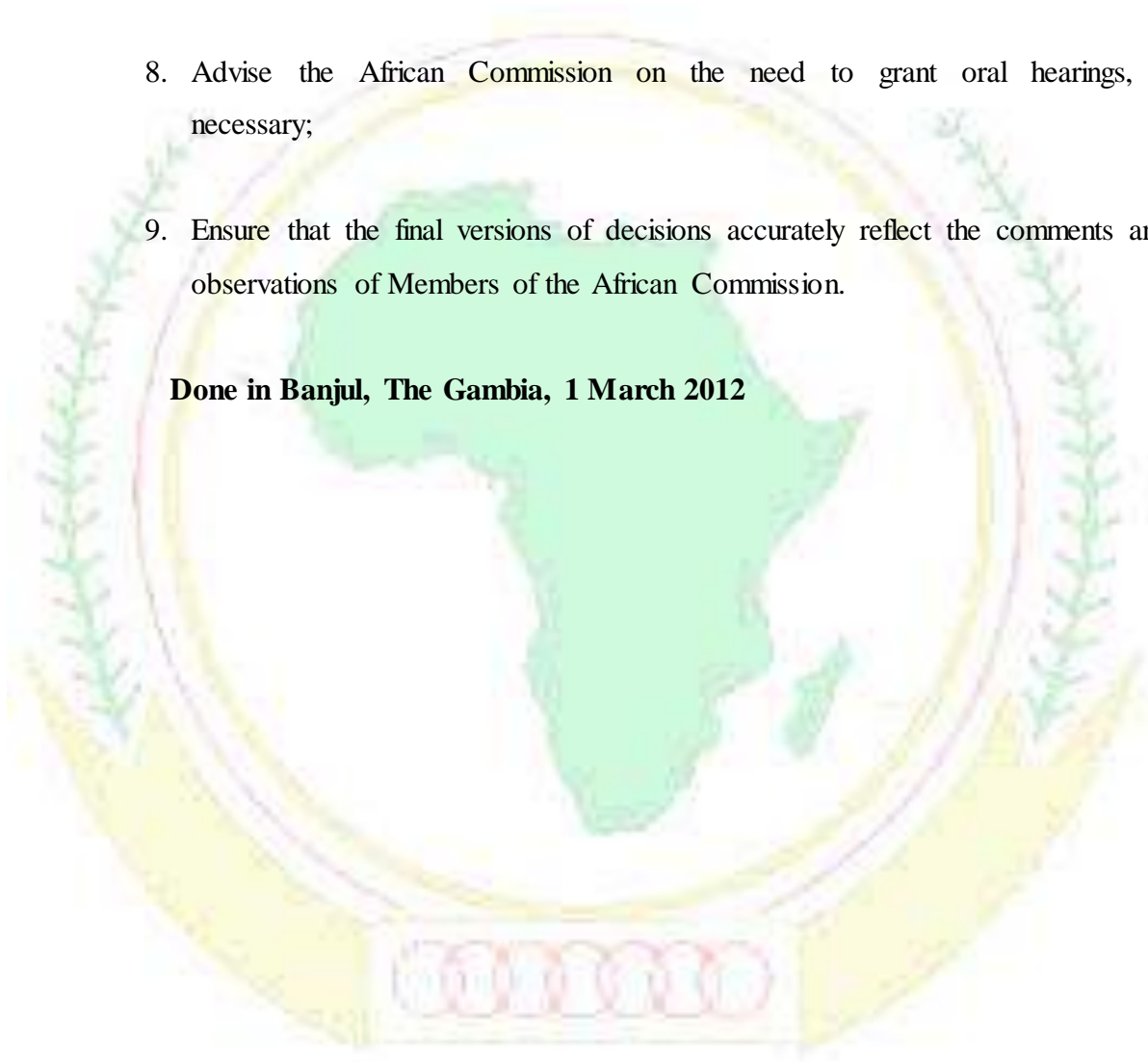
Noting Resolution ACHPR/Res.194 (L) 11: Establishing a Working Group on Communications and Appointment of Members, adopted at its 50th Ordinary Session; ;

Hereby decides that the mandate of the Working Group on Communications will be to:

1. Consider Communications at the level of Seizure and inform the African Commission;
2. Consider Communications on Admissibility, and formulate recommendations to the African Commission, and where necessary, consider Communications on Merits;
3. Inform the African Commission on the status of Communications at all stages of the procedure;
4. Inform the African Commission on the status of implementation of its decisions on Communications;
5. Examine Communications to be referred to the African Court on Human and Peoples' Rights and make recommendations to the African Commission;

6. Advise the Bureau of the African Commission on requests for Provisional Measures made by Parties , where necessary;
7. Advise the African Commission on the withdrawal or closure of Communications;
8. Advise the African Commission on the need to grant oral hearings, if necessary;
9. Ensure that the final versions of decisions accurately reflect the comments and observations of Members of the African Commission.

Done in Banjul, The Gambia, 1 March 2012



213. ACHPR/Res.213 (LI) 2012: RESOLUTION ON THE UNCONSTITUTIONAL CHANGE OF GOVERNMENTS

The African Commission on Human and Peoples' Rights (African Commission), at its 51st Ordinary Session held from 18 April to 2 May 2012 in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (African Charter);

Considering that one of the objectives of the African Union as stipulated in Article 3(f) of its Constitutive Act is to "promote peace, security, and stability on the continent";

Considering Article 4 of the Constitutive Act of the African Union which stipulates as a rule the respect for democratic principles, good governance, popular participation, the rule of law and human rights;

Noting the provisions of the African Charter on Democracy, Elections and Governance, and the ECOWAS Protocol on Democracy and Good Governance;

Further recalling the relevant provisions of the Algiers Decision AHG/142 (XXXV) of July 1999, the Lomé Declaration of July 2000 and the Protocol Relating to the Establishment of the Peace and Security Council of the African Union on the unconstitutional change of government;

Concerned by the unconstitutional change of governments, a situation which constitutes a threat to democracy, peace and security on the continent;

Deeply concerned by the recent military takeovers in Mali on 22 March 2012 and in Guinea-Bissau on 12 April 2012 by military juntas, acts that are in violation of the right to participate freely in the government of one's country, either directly or through freely chosen representatives as stipulated in Article 13 of the African Charter on Human and Peoples' Rights;

Further concerned by the serious humanitarian consequences and human rights violations, in particular the killings and arbitrary arrests which are as a result of the unconstitutional change of governments;

Strongly condemns the attempts at instituting autocratic regimes and the unconstitutional change of governments on the continent, acts which it considers to be a serious threat to stability, peace, security and development;

Deplores the setbacks recorded in Mali and Guinea-Bissau, compared with the significant strides made in fostering democracy and the rule of law on the continent in recent years;

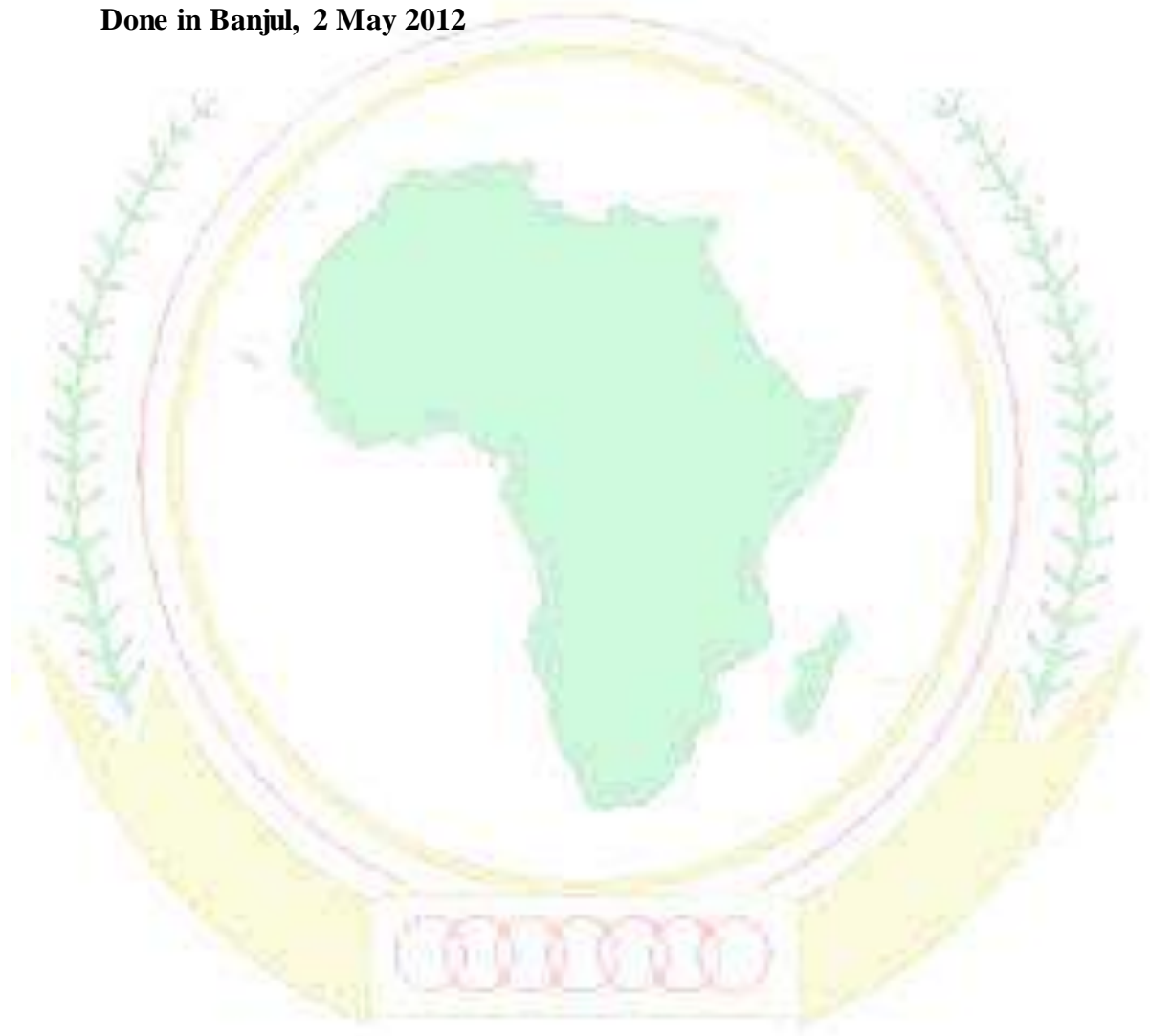
Urges all African States to comply fully with the provisions of the African Charter on Democracy, Elections and Governance;

Calls on African Governments to engage political and social dialogue with a view to promoting democratic practices and consolidating the culture of democracy and peace on the continent;

Urges the African Union and the international community to ensure that democratic governance is respected on the continent;

Further calls on all Member States of the African Union that have not done so to ratify and implement the African Charter on Democracy, Elections and Governance.

Done in Banjul, 2 May 2012



214. ACHPR/Res.214 (LI) 2012: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN NIGERIA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 51st Ordinary Session in Banjul, The Gambia, from 18 April to 2 May 2012;

Recalling its mandate to promote and protect human and peoples' rights in Africa pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Noting Article 3(f) and (h) of the Constitutive Act of the African Union (AU) which states that the objectives of the AU shall be to promote peace, security, and stability on the continent, as well as human and peoples' rights in accordance with the African Charter and other relevant human rights instruments;

Considering Article 1 of the African Charter which calls on Member States to adopt legislative or other measures to give effect to the rights and freedoms enshrined therein;

Further Considering Article 4 of the African Charter by virtue of which *human beings are inviolable, with every human being entitled to respect for his life and the integrity of his person;*

Recalling Resolution ACHPR/RES.211 (EXT.OS/XI) 2012 on the Human Rights Situation in Nigeria, which condemned acts of violence committed by armed groups against citizens in Nigeria, which resulted in loss of lives, injury and destruction of property;

Deeply Concerned by the acts of violence which have continued unabated;

1. **Strongly Condemns** recent acts of violence committed on 26 April 2012, in which the offices of This Day newspaper were attacked in Abuja and Kaduna, resulting in the death of several people and destruction of property;
2. **Also Condemns** the subsequent attack that occurred on 29 April 2012, in which gunmen attacked worship services at Bayero University campus in the city of Kano killing at least 16 people and wounding 22 others, and at the Church of Christ in Nigeria, in Maiduguri, killing at least 3 people;

3. **Calls** on the authors of such indefensible acts of violence to immediately stop their attacks against civilians;
4. **Urges** the Government of the Federal Republic of Nigeria to take all necessary measures to ensure the protection of its civilians in accordance with its regional and international human rights obligations; and
5. **Calls on** the ECOWAS, African Union, and the international community to support the Government of the Federal Republic of Nigeria in its efforts to end these acts of violence.

Done in Banjul, The Gambia, 2 May 2012



215.ACHPR/Res.215 (LI) 2012: RESOLUTION ON THE RENEWAL OF THE MANDATE OF EXPERTS MEMBERS OF THE WORKING GROUP ON EXTRACTIVE INDUSTRIES, ENVIRONMENT, AND HUMAN RIGHTS VIOLATIONS IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 51st Ordinary Session held in Banjul, The Gambia from 18 April to 2 May 2012;

Underscoring its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling all relevant regional and international human rights instruments and, specifically Articles 21 and 24 of the African Charter on the rights of all peoples to freely dispose of their wealth and natural resources, and to a general satisfactory environment favorable to their development;

Recalling Resolution ACHPR/Res148(XLVI)09, adopted at the 46th Ordinary Session, held from 11 to 25 November 2009, in Banjul, The Gambia, on the Establishment of a Working Group on Extractive Industries, Environment and Human Rights Violations in Africa (the Working Group);

Recalling Further Resolution ACHPR/Res Res198(L)2011, adopted at the 50th Ordinary Session, held from 24 October to 5 November 2011, in Banjul, The Gambia, appointing the Chairperson of the Working Group for an initial period of two years;

Recognizing that the success of the Working Group depends on significant support from its members, including their expertise to achieve its specific mandate;

Noting that the mandate of the members of the Working Group ended on 5 November 2011;

Decides to renew the mandate of the Expert Members of the Working Group:

- i. Ms. Valérie Couillard
- ii. Mr. Clément Nyaletsossi Voué
- iii. Mr. Samuel Nguiffo
- iv. Professor James Thuo Gathii
- v. Professor Danny Bradlow

Done in Banjul, The Gambia, 2 May 2012

216. ACHPR/Res.216 (LI) 2012: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN THE KINGDOM OF SWAZILAND

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 51st Ordinary Session, in Banjul, The Gambia, from 18 April to 2 May 2012;

Recalling its mandate to promote and protect human and peoples' rights in Africa pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Underscoring the provisions of the African Charter, in particular; Articles 9, 10, 11, 13, and 18(3), as well as other international human rights instruments, including the *Universal Declaration of Human Rights (UDHR)* the *International Covenant on Civil and Political Rights (ICCPR)*, and the *Protocol to the African Charter on the Rights of Women in Africa*;

Deeply Concerned about allegations of the violation of the right to freedom of expression, freedom of assembly, and freedom of association which, if true, may affect the conduct of free, fair and credible elections in 2013;

Further Concerned about the allegation of the violations of the rights of workers as seen in the de-registration of the recently formed Trade Union Congress of Swaziland (TUCOSWA) by the Office of the Commissioner of Labour acting on the advice of the Attorney General of the Swaziland Government;

Alarmed by the failure of the Kingdom of Swaziland to implement the decision of the African Commission in *Communication 251/2002- Lawyers for Human Rights v Swaziland*, and the recommendations in the report adopted by the African Commission following a promotional mission to the country in August 2006;

- i. *Calls* on the Government of the Kingdom of Swaziland to respect, protect and fulfil the rights to freedom of expression, freedom of association, and freedom of assembly as provided for in the *African Charter*, the *UDHR*, the *ICCPR* and other international and regional instruments;
- ii. *Calls on* the Government of the Kingdom of Swaziland to implement the decision of the African Commission in *Communication 251/2002- Lawyers for Human Rights v Swaziland* and submit a report on the status of implementation;
- iii. *Calls on* the Government of the Kingdom of Swaziland to implement the recommendations in the report adopted by the African Commission following a promotional mission to the country in August 2006;
- iv. *Further urges* the Government of the Kingdom of Swaziland to take all necessary measures to ensure the conduct of free, fair and credible elections in 2013;

Done in Banjul, The Gambia, 2 May 2012

217. ACHPR/Res.217 (LI) 2012: RESOLUTION ON THE SITUATION IN THE NORTH OF MALI

The African Commission on Human and Peoples' Rights (African Commission), at its 51st Ordinary Session held from 18 April-2 May 2012 in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (African Charter);

Considering that one of the objectives of the African Union as stipulated in Article 3(f) of its Constitutive Act is to "promote peace, security, and stability on the continent";

Considering Articles 22 and 23 of the African Charter which guarantee the right to security, peace and development, as well as other regional and international human rights legal instruments;

Recalling its Resolution ACHPR/RES.209 (EXT.OS/XI) 2012 on the Human Rights Situation in the North of Mali and Resolution ACHPR/RES.210 (EXT.OS/XI) 2012 on Refugees and Internally Displaced Persons Fleeing the Conflict in the North of Mali;

Considering the 6 April 2012 unilateral declaration of the independence of the north by the National Movement for the Liberation of Azawad (MNLA), a declaration that was not recognized by the regional governments and the international community;

Deeply concerned by the threat to democracy, peace and security in Mali following the attacks carried out against civilian populations and military camps in the north by the National Movement for the Liberation of Azawad (MNLA) and other armed Islamic groups;

Concerned by the current worsening human rights situation in the north of Mali marked by serious and massive human rights violations, in particular the summary execution of soldiers of the Malian army, rape of women and young girls in Gao and Timbuktu, massacre of civilians, and widespread looting of property belonging to the Government and individuals;

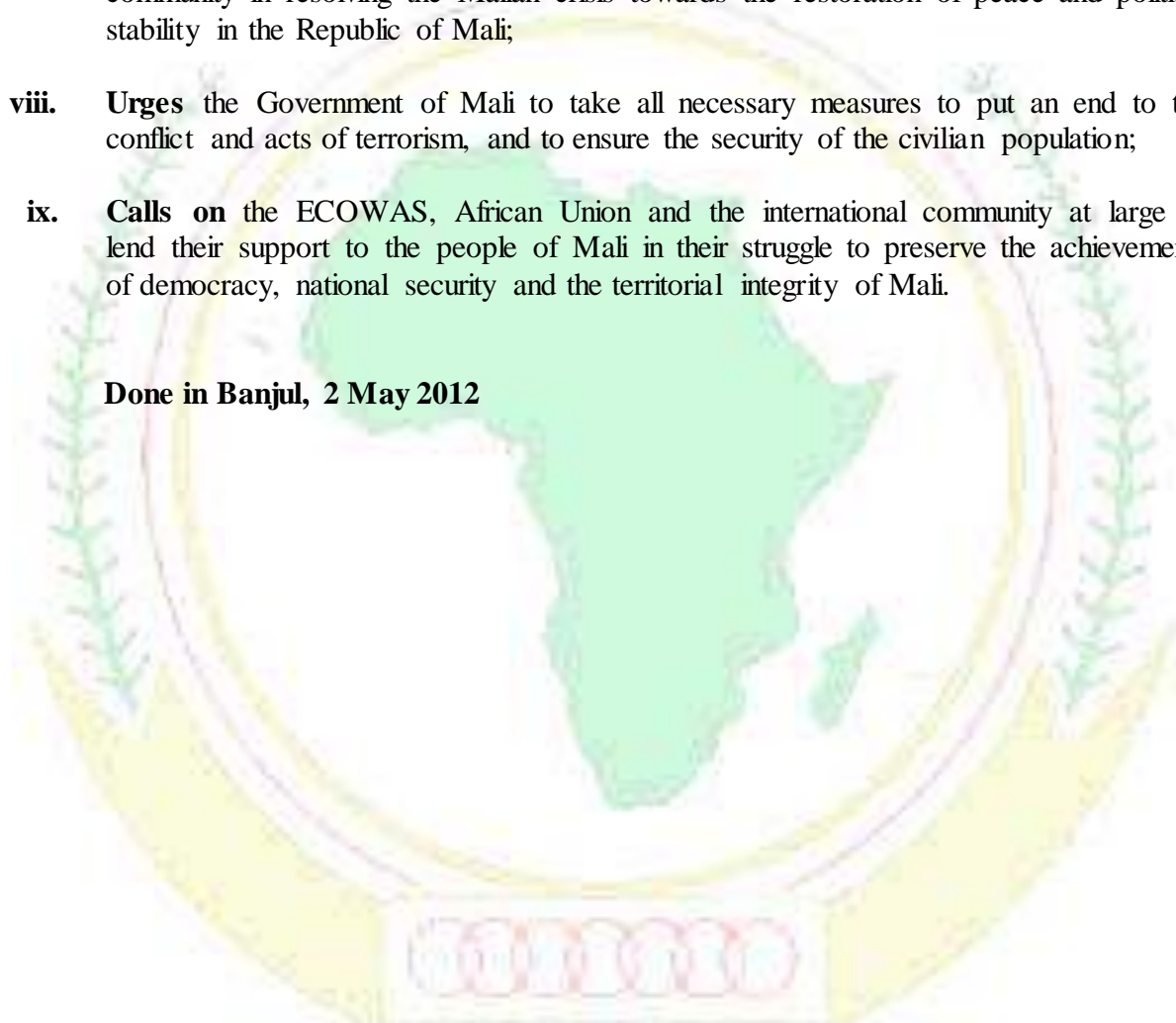
Further concerned by the humanitarian consequences of the massive and forced displacement of civilian populations to neighbouring countries as a result of the political instability and the growing threat of terrorism in the north of Mali;

Concerned by the abduction of foreigners in the region, including seven Algerian diplomats recently;

- i. **Condemns** the unilateral declaration of the independence of Azawad by the MNLA;
- ii. **Condemns** the attacks carried out by the MNLA, Ansardine, AQMI and Boko Haram against civilian populations and military camps in the north of Mali;
- iii. **Condemns** the continued conflict which is forcing the displacement of thousands of Malians living in the north of Mali;

- iv. **Further condemns** the illegal occupation of Kidal, Gao and Timbuktu by the various armed groups, and attempts at the balkanization of Mali which undermine the country's territorial integrity, national unity and social cohesion;
- v. **Condemns** all acts of looting and violence perpetrated against civilian populations;
- vi. **Condemns** the abduction of several foreigners in the region in the past months, including seven Algerian diplomats in Gao;
- vii. **Welcomes** the efforts made by ECOWAS, African Union, and the international community in resolving the Malian crisis towards the restoration of peace and political stability in the Republic of Mali;
- viii. **Urges** the Government of Mali to take all necessary measures to put an end to the conflict and acts of terrorism, and to ensure the security of the civilian population;
- ix. **Calls on** the ECOWAS, African Union and the international community at large to lend their support to the people of Mali in their struggle to preserve the achievements of democracy, national security and the territorial integrity of Mali.

Done in Banjul, 2 May 2012



218. ACHPR/Res.218 (LI) 2012: RESOLUTION ON HUMAN RIGHTS IN ETHIOPIA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 51st ordinary Session held in Banjul, The Gambia from 18 April to 2 May 2012

Recalling its mandate to promote and protect human and peoples' rights in Africa pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Considering Article 1 of the African Charter which calls on Member States to adopt legislative or other measures to give effect to the rights and freedoms enshrined therein;

Recalling the obligations of States Parties to the African Charter under Articles 5, 6, 7, and 9 of the African Charter as elaborated by the African Commission's *Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines)*; *Declaration of Principles on Freedom of Expression in Africa*; and *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*;

Deeply Concerned at the frequent allegations of the use of torture in pre-trial detention in Ethiopia, particularly in the Federal Police Crime Investigation and Forensic Department of Maikelawi in Addis Ababa, where political prisoners are detained, interrogated and frequently subjected to torture or other forms of cruel, inhuman or degrading treatment or punishment;

Further Concerned with the difficulties encountered by independent monitors, legal representatives and family members to visit prisoners and to access places of detention in Ethiopia, which increases the risk of being subjected to torture and other forms of ill-treatment;

Deeply concerned at the reported use of unofficial and ungazetted places of detention in Ethiopia, including military camps and private buildings, wherein torture is reported to take place, and the unofficial nature of which also increases the risk that detainees will be subjected to torture or other forms of ill-treatment;

Gravely alarmed by the arrests and prosecutions of journalists and political opposition members, charged with terrorism and other offences including treason, for exercising their peaceful and legitimate rights to freedom of expression and freedom of association;

Condemning the excessive restrictions placed on human rights work by the Charities and Societies Proclamation, denying human rights organizations access to essential funding, endowing the Charities and Societies Agency with excessive powers of interference in human rights organizations, further endangering victims of human rights violations by contravening principles of confidentiality;

CALLS ON the Government of Ethiopia to:

- i. Allow access to prisons and other places of detention to independent monitors, and grant all detainees and prisoners access to their families and legal counsel, and provide any medical treatment they may require, in accordance with Article 16 of the Charter;
- ii. Immediately move any detainees currently held in unofficial places of detention to a recognized detention center; and charge all of them with a recognizable criminal offence, and try them in a timely manner in trials which meet international standards of fair trial, or immediately and unconditionally release them;
- iii. Adopt strategies with a view to providing continuous training for the judiciary and prison administration on regional and international instruments for the promotion and protection of human rights, with particular focus on the rights to fair trial and the human rights of detainees, including the Robben Island Guidelines;
- iv. Amend the Charities and Civil Societies Proclamation in accordance with the UN Declaration on Human Rights Defenders;
- v. Remove restrictions on freedom of expression imposed on the Mass Media by the Access to Information Proclamation (2008) and the Anti-terrorism Proclamation (2009) that do not conform to rights of freedom of expression provided in international human rights law.

Done in Banjul, The Gambia, 2 May 2012

219. ACHPR/Res.219 (LI) 2012 : RESOLUTION ON THE SITUATION BETWEEN SUDAN AND SOUTH SUDAN

The African Commission on Human and Peoples' Rights (African Commission), at its 51st Ordinary Session held from 18 April - 2 May 2012 in Banjul, The Gambia:

Considering its mandate to promote human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (African Charter);

Considering that one of the objectives of the African Union as stipulated in Article 3(f) of its Constitutive Act is to "promote peace, security, and stability on the continent";

Considering that the States of Sudan and South Sudan are parties to the African Charter;

Recalling all the relevant international and regional human rights instruments, in particular Articles 20 and 23 of the African Charter relating to the right to existence, peace and security;

Taking Note of Communiqué PSC/MIN/COMM/3.(CCCXIX) of the Peace and Security Council of the African Union on the situation between Sudan and South Sudan issued in Addis Ababa on 24 April 2012;

Concerned by the current situation prevailing at the borders of the two countries, particularly in the Abyei region, which constitutes not only a serious threat to peace and security in the region but also undermines the economic viability of the two States and the right to the well-being of their respective citizens;

Deeply concerned by the humanitarian situation created by the armed conflict between the two countries, and the threat posed to the right of asylum and nationality of persons from South Sudan living in Sudan and vice-versa;

Particularly concerned by the renewed conflict in South Kordofan and the Blue Nile regions of Sudan and the resultant humanitarian tragedy;

Recognizing the efforts made as part of the regional and international initiatives of IGAD, the African Union and the UN to find a peaceful solution to the situation;

Condemns the destruction of economic infrastructures, in particular oil facilities as a result of the armed conflict and incitement to war and xenophobia instigated by both parties through the media;

Urges the two States Parties to put an end to the conflict and preserve the right to peace and security of the peoples of Sudan and South Sudan;

Calls on the States Parties involved in the conflict to ensure the preservation of the life and security of the non-combatant populations and economic infrastructures in accordance with universally-recognized humanitarian norms;

Recommends to the Governments of Sudan and South Sudan to take all necessary measures to ensure under all circumstances the right to peace and security of persons living in their territories, and the right to asylum of nationals of the other State involved in the conflict;

Calls on the African Union and other regional and international institutions involved in the search for a solution to the conflict between Sudan and South Sudan to continue their peace-making efforts towards the full and effective enjoyment of human rights in the two countries.

Done in Banjul, 2 May 2012



220. ACHPR/Res.220 (LI) 2012: RESOLUTION ON THE EXTENSION OF THE MANDATE OF THE COMMITTEE ON THE PROTECTION OF THE RIGHTS OF PEOPLE LIVING WITH HIV (PLWHIV), AND THOSE AT RISK, VULNERABLE TO AND AFFECTED BY HIV IN AFRICA

The African Commission on Human and Peoples' Rights (African Commission) at its 51st Ordinary Session held from 18 April - 2 May 2012 in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (African Charter);

Considering that as part of fulfilling its mandate, the African Commission established various mechanisms for the promotion and protection of human and peoples' rights in Africa;

Recognizing that the African Commission on Human and Peoples' Rights has the fundamental role to protect vulnerable groups in Africa from human rights violations;

Further recalling its Resolution ACHPR/Res.163 (XLVII) 10, adopted at the 47th Ordinary Session of the African Commission on the establishment of a Committee on the Protection of the Rights of People Living with HIV (PLWHIV), and Those at Risk, Vulnerable to and Affected by HIV;

Further recalling its Resolutions ACHPR/172 (XLVIII) 10 and ACHPR/Res.195 (L) 11 on the appointment of Members of the Committee and that of Commissioner Lucy Asuagbor as the Chairperson of the Committee on the Protection of the Rights of People Living with HIV (PLWHIV), and Those at Risk, Vulnerable to and Affected by HIV in Africa;

Noting with satisfaction the work accomplished by the Committee on the Protection of the Rights of People Living with HIV (PLWHIV), and Those at Risk, Vulnerable to and Affected by HIV in Africa;

Further noting that the mandate of the Committee on the Protection of the Rights of People Living with HIV, and Those at Risk, Vulnerable to and Affected by HIV/AIDS and that of its Members come to an end during this Session;

Bearing in mind the need for the Committee to continue with its activities and implement the action plan it adopted recently;

Decides to extend the mandate of the Committee and the following members for another term of two years with effect from 2 May 2012:

a) Commissioner members of the Committee :

1. Honourable Commissaire Lucy ASUAGBOR, the Chairperson ;
2. Honourable Reine ALAPINI GANSOU, Member ;
3. Honourable Soyata MAIGA, Member;

b) Experts Members of the Committee :

1. Mme Agnès ATIM APEA (Uganda);
2. M. Patrick Michael EBA (Côte d'Ivoire);
3. M. Patrick Le doux DUTZUE FOGUE (Cameroon) ;
4. M. Christian GARUKA NSABIMANA (Rwanda) ;
5. Mme Nicolette MERELE NAYLOR (South Africa) ;
6. M. Ebenezer TOPE DUROJAYIE (Nigeria);

Done in Banjul, The Gambia, 2 May 2012



221. ACHPR/Res.221 (LI) 2012: RESOLUTION ON THE ATTACKS AGAINST JOURNALISTS AND MEDIA PRACTITIONERS IN SOMALIA

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 51st Ordinary Session, held in Banjul, The Gambia, from 18 April to 2 May 2012;

Recalling its mandate to promote and protect human and peoples' rights pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Underscoring that freedom of expression and access to information are fundamental human rights guaranteed by Article 9 of the African Charter, and other international and regional human rights treaties;

Reaffirming its commitment to promote the rights of all peoples "*To national and international peace and security*" in line with Article 23 of the African Charter, and Article 3(f) of the Constitutive Act of the African Union (AU);

Recalling Resolutions ACHPR/Res.62 (XXXII) 02 on the adoption of the Declaration of Principles on Freedom of Expression in Africa, which elaborates on the scope of Article 9 of the African Charter; ACHPR/Res.54 (XXIX) 01 on the Situation of Freedom of Expression in Africa; ACHPR/Res.99 (XXXX) 06 on the Deteriorating Situation of Freedom of Expression and Access to Information in Africa; and ACHPR/Res.178 (XLIX) 2011 on the safety of journalists and media practitioners in Africa;

Recalling the United Nations Security Council's Resolution 1738 (2006), which condemns attacks against journalists in conflict situations, and UNESCO Resolution 29(1997) on "*Condemnation of Violence Against Journalists*" adopted by the UNESCO General Conference;

Aware of the UNESCO Plan of Action on the Safety of Journalists and the Issue of Impunity endorsed on 13 April 2012, which aims to create a free and safe environment for journalists and media workers in both conflict and non-conflict situations, with a view to strengthening peace, democracy and development worldwide.;

Noting the Communiqué of the 21st Meeting of the International Contact Group (ICG) from 5 to 6 February 2012, in Djibouti which strongly condemned all forms of violence and intimidation against Somali journalists, and media organizations, as well as urged the Somali authorities to end the impunity, investigate and prosecute those responsible;

Further noting the Communiqué of the London Conference on Somalia at Lancaster House on 23 Feb 2012 which emphasized *inter alia* that journalists must be able to operate freely and without fear;

Deeply Concerned by the murder of four (4) journalists from January to April 2012 in Mogadishu and Galkayo, Somalia, with the death toll now at more than thirty (30) journalists in three (3) years; and lack of investigation which leaves the perpetrators unpunished:

- i. *Condemns* the continued killings of journalists in the Somali Republic;
- ii. *Calls on* Somali authorities and all armed groups to end ongoing violations against journalists, media practitioners, and media organizations;
- iii. *Urges* Somali authorities to investigate the violations committed against journalists and media practitioners in Somalia;
- iv. ***Further urges*** the Transitional Federal Government of Somalia to review laws related to the guarantee of freedom of expression, in particular, the 2007 Media law and the Penal Code to ensure that they comply with international and regional standards on freedom of expression;
- v. *Appeals* to the Somali authorities including Somaliland and Puntland authorities to refrain from prosecuting journalists in retaliation of their independent and critical work of journalism;
- vi. *Calls on* Somali authorities, the AU and the international community to support the establishment of an Independent Commission of Inquiry to investigate the killings of journalists and other violent attacks against them, so as to end the culture of impunity.

Done in Banjul, The Gambia 2 May 2012

222. ACHPR/Res.222 (LI) 2012: RESOLUTION TO MODIFY THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION TO INCLUDE ACCESS TO INFORMATION AND REQUEST FOR A COMMEMORATIVE DAY ON FREEDOM OF INFORMATION

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 50th Ordinary Session held in Banjul, The Gambia, from 18 April to 2 May 2012;

Recognising its mandate to promote and protect human and peoples' rights pursuant to the *African Charter on Human and Peoples' Rights (the African Charter)*;

Underscoring that the right of access to information is enshrined in Article 9 of the *African Charter*, and other international human rights instruments, including Article 19 of the *Universal Declaration of Human Rights (UDHR)*, and the *International Covenant on Civil and Political Rights (ICCPR)*;

Underlining that access to information is essential for the recognition and achievement of every person's civil, political and socio-economic rights, and as a mechanism to promote democratic accountability, and good governance;

Recalling Resolution ACHPR/Res.62 (XXXII) 02 on the adoption of the *Declaration of Principles on Freedom of Expression in Africa (the Declaration)* of 2002, which elaborates on the scope of Article 9 of the *African Charter*;

Underscoring Principle IV (1) of the Declaration, which provides that “*public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law,*” and Principle IV (2) which stipulates that “*the right to information shall be guaranteed by law in accordance with the principles*” set out in the Declaration;

Recalling Resolution ACHPR/Res.122 (XXXXII) 07, adopted during its 42nd Ordinary Session held from 15 to 28 November 2007, in Brazzaville, Republic of Congo, which expanded the mandate of the Special Rapporteur on Freedom of Expression in Africa (the Special Rapporteur) to include access to information;

Noting ACHPR/Res.167 (XLVIII) 10: Resolution on Securing the Effective Realization of Access to Information in Africa adopted during its 48th Ordinary Session, held in Banjul, The Gambia, from 10 to 24 November 2010, which authorised the Special Rapporteur to develop a Model Law on Access to Information for African Union (AU) Member States to assist them in formulating, adopting or reviewing access to information legislations and their implementation;

Noting further the African Platform on Access to Information adopted by the Pan African Conference on Access to Information held from 17 to 19 September 2011 in Cape Town, South Africa;

Convinced that it is of critical importance that clear and comprehensive principles are established to guide the promotion and protection of the right of access to information in Africa through the adoption and effective implementation of appropriate national laws and regulations;

Recognising the work of the African Union Commission(AUC) to give practical effect to the various instruments of the AU on freedom of expression and access to information, through such initiatives as the Pan African Media Network, the media center, as well as its efforts to promote Information and Communications Technology (ICTs) in Africa;

Underlining the importance of setting aside a day to commemorate access to information as a way to raise awareness and emphasise the importance of this right, and promote the ideals of good governance and accountability;

Acknowledging that civil society organisations and government bodies around the world have adopted 28 September as ‘International Right to Know Day;

- i. **Authorises** the Special Rapporteur to initiate the process of expanding Article IV of the Declaration of Principles on Freedom of Expression in Africa to include access to information;
- ii. **Solemnly request** the AU to consider proclaiming 28 September as International Right to Information Day in Africa;
- iii. **Calls** on the AU to support the work of the Special Rapporteur by endorsing the Model Law on Access to Information following its adoption by the African Commission.

Done in Banjul, The Gambia, 2 May 2012

223. ACHPR/Res.223 (LI) 2012: RESOLUTION ON THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 51st ordinary Session held in Banjul, The Gambia from 18 April to 2 May 2012;

Recalling its mandate to promote and protect human and peoples' rights in Africa pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Further recalling that the African Charter guarantees economic, social and cultural rights;

Noting that economic, social and cultural rights are also guaranteed in the African Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa as well as by international instruments ratified by many African States and in particular the International Covenant on Economic, Social and Cultural Rights;

Noting also the adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on 10 December 2008 which allows the Committee on Economic, Social and Cultural Rights to receive communications from individuals;

Concerned with the lack of realization of economic, social and cultural rights across the African continent as well as with the lack of appropriate laws and mechanisms at the national level to protect economic, social and cultural rights;

Acknowledging the challenges and constraints that preclude the full realization of economic, social and cultural rights in Africa;

URGES States Parties to the African Charter that have not done so to ratify the International Covenant on Economic, Social and Cultural Rights, and the Optional Protocol to the ICESCR;

CALLS ON States Parties to take immediate steps, individually and through international assistance and cooperation, to protect the rights and respect and fulfill their obligations under these instruments subject to their available resources.

Done in Banjul, The Gambia 2 May 2012

224. ACHPR/Res.224 (LI) 2012: RESOLUTION ON A HUMAN-RIGHTS BASED APPROACH TO NATURAL RESOURCES GOVERNANCE

The African Commission on Human and Peoples' Rights (African Commission), at its 51st Ordinary Session held from 18 April to 2 May 2012 in Banjul, The Gambia;

Considering its mandate to promote human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling Articles 20, 21 and 24 of the African Charter as elaborated by *the 2011 Tunis Reporting Guidelines and the 2010 Nairobi Implementation Guidelines on Economic, Social and Cultural Rights*, particularly in protecting the rights of peoples to pursue their social and economic development in terms of policies they have freely chosen; to freely dispose of their natural resources in the exclusive interest of the people; and to generally satisfactory environment;

Noting the interdependence between human rights and development;

Recalling *Principle 2 of the 1992 Rio Declaration on Environment and Development* establishing State sovereignty over natural resources, read with Principle 1 providing that *"human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature"* and Principle 22 providing that *"local communities have a vital role in environmental management and development and, as a result, their identity, culture and interests must be protected"*;

Noting that there has recently been rapid progress in the definition of minimum international standards with respect to natural resources required to maintain life itself, in particular the recent recognition of the human right to food and the human right to water and sanitation;

Observing that current natural resources governance is gravely hampered by ill-planned development, misappropriation of land, corruption, bad governance and prevailing insecurities, amongst others;

Mindful of the disproportionate impact of human rights abuses upon the rural communities in Africa that continue to struggle to assert their customary rights of access and control of various resources, including land, minerals, forestry and fishing;

Calls upon States Parties to:

- i. **Reaffirm** that, in accordance with the Rio Declaration and African Charter principle of State sovereignty over natural resources, the State has the main responsibility for ensuring natural resources stewardship *with, and for the interest of*, the population and must fulfill its mission in conformity with international human rights law and standards;
- ii. **Confirm** that all necessary measures must be taken by the State to ensure

participation, including the free, prior and informed consent of communities, in decision making related to natural resources governance;

- iii. **Recommit** themselves to vigorously fighting corruption at all levels of decision making by strengthening and enforcing criminalization of corruption, decisively ending impunity and ensuring asset recovery and repatriation for illicitly expatriated capital;
- iv. **Ensure** that respect for human rights in all matters of natural resources exploration, extraction, toxic waste management, development, management and governance, in international cooperation, investment agreements and trade regulation prevails, and in particular:
 - Establish a clear legal framework for sustainable development as it impacts on natural resources, in particular water, that would make the realization of human rights a prerequisite for sustainability;
 - Strengthen regional efforts, such as the 2009 ECOWAS Directive on Mining and the African Commission's Working Group on Extractive Industries and Human Rights, to promote natural resources legislation that respect human rights of all and require transparent, maximum and effective community participation in a) decision-making about, b) prioritisation and scale of, and c) benefits from any development on their land or other resources. or that affects them in any substantial way;
 - Set up independent monitoring and accountability mechanisms that ensure that human rights are justiciable and extractive industries and investors legally accountable in the country hosting their activities and in the country of legal domicile;
 - Ensure independent social and human rights impact assessments that guarantee free prior informed consent; effective remedies; fair compensation; women, indigenous and customary people's rights; environmental impact assessments; impact on community existence including livelihoods, local governance structures and culture, and ensuring public participation; protection of the individuals in the informal sector; and economic, cultural and social rights.

Done in Banjul, The Gambia, 2 May 2012

225. ACHPR/Res.225 (LII) 2012: RESOLUTION ON THE EXPANSION OF THE MANDATE OF THE WORKING GROUP ON COMMUNICATIONS AND MODIFYING ITS COMPOSITION

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 52nd Ordinary Session held in Yamoussoukro, Cote D'Ivoire, from 9 to 22 October 2012;

Recognising its promotion and protection mandate pursuant to the African Charter on Human and Peoples' Rights;

Noting Resolution ACHPR/Res.194 (L) 11, adopted at its 50th Ordinary Session held in Banjul, The Gambia, from 24 October to 5 November 2011, which established, and appointed the members of a Working Group on Communications;

Further noting Resolution ACHPR/Res.212 (EXT.OS/XI) 12, adopted at its 11th Extra-Ordinary Session held in Banjul, The Gambia, from 21 February to 1 March 2012, which outlines the mandate of the Working Group on Communications;

Recalling the mandate of the Working Group on Communications, which includes *inter alia*, informing the Commission on the status of implementation of its decisions on Communications;

Referring to Rule 112 of its Rules of Procedure which obligates the Commission to establish a follow-up mechanism for its decisions on Communications;

Bearing in mind that follow-up of implementation entails an array of actions, including monitoring the measures taken by the State Party to give effect to the decisions of the Commission under Rule 112(5) of its Rules of Procedure;

Decides to expand the mandate of the Working Group on Communications, to entrust it with the mandate to:

1. Coordinate follow-up on decisions of the Commission on Communications, by concerned Rapporteurs;

2. Collect information on the status of implementation of the Commission's decisions.
3. Present a consolidated Report on the status of implementation of the Commission's decisions on Communications at each Ordinary Session, in line with Rule 112 (7) of its Rules of Procedure.

Further decides to modify the composition of the Working Group on Communications as follows;

1. Commissioner Kayitesi Zainabo Sylvie as Chairperson of the Working Group;
2. Commissioner Reine Alapini-Gansou, as Member of the Working Group; and
3. Commissioner Pacifique Manirakiza, as Member of the Working Group;
4. Support staff at the level of the Secretariat:
 - i. The Secretary to the Commission, as the Coordinator of the Support Staff;
 - ii. Two(2) Senior Legal Officers; and
 - iii. Two (2) Legal Officers.
5. All Legal Officers at its Secretariat to provide assistance to the Working Group, when necessary.

Adopted at the 52nd Ordinary Session of the African Commission on Human and Peoples' Rights in Yamoussoukro, Cote d'Ivoire, 9 to 22 October 2012

226. ACHPR/Res.226 (LII) 2012: RESOLUTION ON THE RATIFICATION OF THE PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE ESTABLISHMENT OF AN AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 52nd Ordinary Session, held in Yamoussoukro, Cote d'Ivoire, from 9 to 22 October 2012;

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter),

Considering Article 2 of the Protocol to the African Charter on the Establishment of an African Court on Human and Peoples' Rights (the Court Protocol), which provides that the African Court on Human and Peoples' Rights (the African Court) shall complement the protective mandate of the Commission;

Recalling Resolutions ACHPR/Res.29 (XXIV) 98, ACHPR/Res.60 (XXXI) 02, ACHPR/Res.74 (XXXVII) 05, and ACHPR/Res.177 (CLXXVII) 10, which amongst other things call on States Parties to ratify the Court Protocol and make the Declaration under Article 36(4) of the Court Protocol to enable individuals and Non-Governmental Organizations (NGOs) to have direct access to the African Court;

Concerned that only twenty-six (26) countries have ratified the Court Protocol, while only five (5) have made the Declaration in conformity with Article 34(6) of the Court Protocol;

Underscoring the importance of an effective and accessible human rights African Court to the protection of human rights on the continent and complementarity of the Commission's mandate;

Bearing in mind that non-ratification of the Court Protocol and reluctance of States to make the Declaration impede the protection of human rights in Africa;

Once again urges all States Parties that have not yet done so, to ratify the Court Protocol;

Urges States Parties that have not yet done so, to make the Declaration under Article 34 (6) of the Court Protocol in order to give due recognition and competence to the African Court to receive petitions directly, from individuals and NGOs.

Adopted at the 52nd Ordinary Session of the African Commission on Human and Peoples' Rights in Yamoussoukro, Cote d'Ivoire, 9 to 22 October 2012



227. ACHPR/Res.227 (LII) 2012: RESOLUTION ON THE EXPANSION OF THE MANDATE OF THE WORKING GROUP ON DEATH PENALTY IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 52nd Ordinary Session held from 9 to 22 October 2012, in Yamoussoukro, Côte d' Ivoire;

Recalling its mandate to promote human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.79 (XXXVIII) 05, on the Composition and Operationalisation of the Working Group on the Death Penalty adopted at its 38th Ordinary Session held in Banjul, The Gambia;

Reaffirming the commitment of the Commission to promote the right to life and human dignity as fundamental rights and to encourage States Parties to abolish the death penalty;

Emphasizing that the right to life is a fundamental human right guaranteed by Article 4 of the African Charter which enshrines the absolute prohibition of the arbitrary deprivation of life;

Concerned about the recent upsurge in extra-judicial, summary or arbitrary killings and aware of the need to eliminate the practice in Africa, which is a grave violation of the inherent right to life;

Recalling its Resolution adopted at its 18th Ordinary Session held in Praia, Cape Verde, from 2 to 11 October 1995 establishing the mandate of the Special Rapporteur on Extra-judicial, Summary or Arbitrary Killings in Africa;

Noting that the mandate of the Special Rapporteur on Extra-judicial, Summary or Arbitrary Killings in Africa has not been operational since the resignation of the Special Rapporteur, Commissioner Ben Salem, who tendered his resignation at the 29th Ordinary Session of the Commission held from 23 April to 7 May 2001 in Tripoli, Libya;

Committed to halting massive human rights violations on the continent, including extra-judicial, summary or arbitrary killings;

Decides to expand the mandate of the Working Group to include issues of extra-judicial, summary or arbitrary killings with the following amended title: *The Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary killings in Africa;*

Further decides to entrust the Working Group with the additional mandate to:

- I. Monitor situations relating to extra-judicial, summary or arbitrary killings in all its ramifications;
- II. Collect information and keep a database of reported instances of situations concerning extra-judicial, summary or arbitrary killings in Africa;
- III. Undertake studies on issues of relevance to extra-judicial, summary or arbitrary killings;
- IV. Advise the Commission on urgent measures to be taken to address situations of extra-judicial, summary or arbitrary killings that require immediate attention;
- V. Respond effectively to information that comes before it, in particular when an extra-judicial, summary or arbitrary killing is imminent or when such a killing has occurred;
- VI. Submit its findings, conclusions and recommendations on the situation of extra-judicial, summary or arbitrary killings to each session of the Commission.

Adopted at the 52nd Ordinary Session of the African Commission on Human and Peoples' Rights in Yamoussoukro, Cote d'Ivoire, 9 to 22 October 2012

228. ACHPR/Res.228 (LII) 2012: RESOLUTION ON THE NEED TO DEVELOP GUIDELINES ON CONDITIONS OF POLICE CUSTODY AND PRE-TRIAL DETENTION IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 52nd Ordinary Session, held from 9 to 22 October 2012 in Yamoussoukro Cote d'Ivoire;

Recalling its mandate to promote human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Noting Articles 4, 5, 6, 7, and 26 of the African Charter on the rights to life, dignity, security, fair trial, and the independence of the judiciary;

Noting further its mandate under Article 45(1)(b) of the African Charter "*to formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African states may base their legislation*";

Concerned by abusive recourse to police custody and pre-trial detention prevalent in several States Parties to the African Charter characterized by weak criminal justice system;

Acknowledging that individuals in police custody and pre-trial detainees in many African countries experience arbitrary limitations on their rights, poor health conditions and are subject to torture, inhumane and degrading treatment or punishment;

Noting that pre-trial detention disproportionately impacts the vulnerable and marginalised who are unlikely to have the means to afford legal assistance or to be released on bail;

Recognising that arbitrary arrest, detention and conditions of police custody in many African countries are characterised by lack of accountability; poorly paid and under-resourced police; mal-functioning of the administration of justice, including the lack of independence of the judicial service system; the excessive and disproportionate use of force by the police; the lack of registration and monitoring systems for keeping track of police detention; systemic corruption and the lack of resources resulting in the absence of the rule of law;

Concerned by the lack of respect of national legislations relating to police custody and pre-trial detention by the police and other law enforcements agents, and the ineffectiveness of monitoring mechanisms;

Recognising the need to formulate and lay down principles and guidelines to further strengthen the criminal justice system in States Parties with regards to police custody and pre-trial detention, and to ensure compliance with international norms and principles by the police and other law enforcement agents;

Decides to authorize the Special Rapporteur on Prisons and Conditions of Detention in Africa (the Special Rapporteur) to develop a Guideline on the Conditions of Police Custody and Pre-trial Detention in Africa (the Guidelines), including tools for its effective implementation ;

Calls upon States Parties, civil society and other stakeholders, to collaborate with the Special Rapporteur by contributing to the process of developing the Guidelines;

Request the Special Rapporteur to report the progress made in developing the Guidelines at its next Ordinary Session.

Adopted at the 52nd Ordinary Session of the African Commission on Human and Peoples' Rights in Yamoussoukro, Cote d'Ivoire, 9 to 22 October 2012

229. ACHPR/Res.229 (LII) 2012: RESOLUTION ON THE EXTENSION OF THE DEADLINE FOR THE STUDY ON FREEDOM OF ASSOCIATION IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 52nd Ordinary Session held from 9 to 22 October 2012 in Yamoussoukro, Côte d'Ivoire;

Recalling its mandate to promote and protect human and peoples' rights in Africa in accordance with the African Charter on Human and Peoples' Rights (the African Charter);

Recalling further Resolutions ACHPR/69(XXXV) 04 on the protection of human rights defenders in Africa, **ACHPR/Res.119 (XXXXII) 07** and **ACHPR/Res.196 (L) 11** on the Situation of Human Rights Defenders in Africa;

Recalling also Resolution ACHPR/Res151 (XLVI) 09 on the need to conduct a study on freedom of association and **Resolution ACHPR/Res.179 (XLIX) 11** on the appointment of members of the Study Group on Freedom of Association in Africa;

Noting that research on the study is being undertaken despite the lack of adequate resources;

Aware of the need to strengthen the expertise of the Study Group, consolidate its research on the ongoing study and gather as much information as possible;

Mindful of the need to consolidate and finalize the research undertaken as part of the study, and extend it to include freedom of peaceful assembly;

Considering that the one-year deadline fixed for conducting the study expired since May 2012;

Decides to:

- I. Extend the scope of the study to include freedom of peaceful assembly;
- II. Appoint Commissioner Lucy Asuagbor as a Member of the Study Group on Freedom of Association;
- III. Extend by one year the deadline for the study; and
- IV. Request that the report of the study be submitted for consideration by the Commission in October 2013.

Adopted at the 52nd Ordinary Session of the African Commission on Human and Peoples' Rights in Yamoussoukro, Cote d'Ivoire, 9 to 22 October 2012

230. ACHPR/Res.230 (LII) 2012: RESOLUTION ON THE NEED FOR A STUDY ON THE SITUATION OF WOMEN HUMAN RIGHTS DEFENDERS IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 52nd Ordinary Session held from 9 to 22 October 2012 in Yamoussoukro, Côte d'Ivoire;

Recalling its mandate to promote and protect human and peoples' rights in Africa in accordance with the African Charter on Human and Peoples' Rights (the African Charter);

Noting that Article 45(1)(a) of the African Charter gives the Commission the mandate to "collect documents, undertake studies and researches on African problems in the field of human and peoples' rights" with a view to promoting and protecting human and peoples' rights on the continent;

Noting further the *Grand Bay Declaration and Plan of Action* adopted by the first OAU Ministerial Conference on Human Rights in Africa held from 12 to 16 April 1999 in Grand Bay (Mauritius); and the *Kigali Declaration* adopted by the African Union Ministerial Conference on Human Rights in Africa held on 8 May 2003 in Kigali (Rwanda);

Reiterating the commitment made by Member States of the African Union in the Grand Bay Declaration to implement the provisions of the United Nations Declaration on Human Rights Defenders;

Noting Resolutions ACHPR/69(XXXV) 04 on the protection of human rights defenders in Africa, **ACHPR/Res.119 (XXXXII) 07** and **ACHPR/Res.196 (L) 11** on the situation of human rights defenders in Africa;

Further noting the duties of States Parties to the African Charter, in particular the duty to guarantee the security of persons living in their territories, and the freedoms of assembly, association and expression of human rights defenders;

Concerned about the difficult environment in which human rights defenders work notably women human rights defenders which is characterised in many countries by constant arbitrary arrest and detention, acts of harassment, including judicial harassment, threats and other forms of intimidation, summary and extrajudicial executions, and even acts of torture as a result of their activities;

Considering that women human rights defenders are victims of violence and discrimination which impacts on their ability to actively participate in the socio-economic and political processes in the countries in which they operate;

Concerned by the numerous obstacles on the activities of human rights defenders, including the trend of criminalizing their activities, in particular those who collaborate with regional and international human rights promotion and protection institutions;

Determined to ensure the promotion and protection of the rights of women human rights defenders in order for them to fully and freely play their role in promoting and protecting human rights on the continent;

Reaffirming the crucial role that women human rights defenders play in preserving the principle of equality, dignity, freedom, justice, peace, solidarity and democracy in African societies;

Convinced that the undertaking of a study on the situation of women human rights defenders and women working on issues of women's rights and gender equality will contribute to improving the precarious situation of the rights of women human rights defenders in Africa;

Further convinced that such a study will help in developing appropriate strategies for protecting women human rights defenders on the continent;

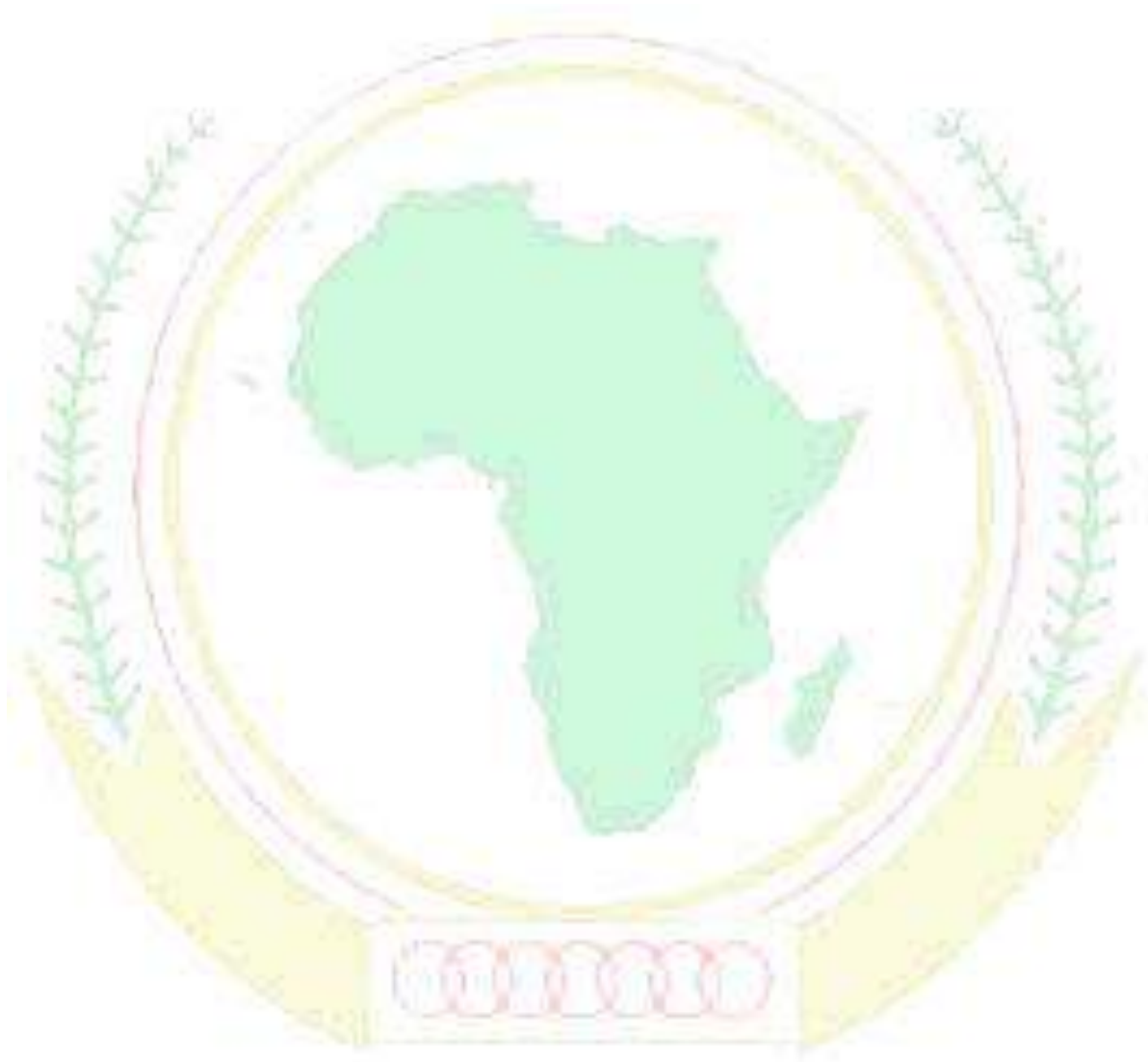
Decides:

- To task the Special Rapporteur on Human Rights Defenders with conducting a study on the situation of women human rights defenders in Africa, the laws governing them and discriminatory practices aimed at restricting their role in promoting and protecting human

rights on the continent; and

- That the Report of the study be submitted for consideration by the Commission in October 2013.

Adopted at the 52nd Ordinary Session of the African Commission on Human and Peoples' Rights in Yamoussoukro, Cote d'Ivoire, 9 to 22 October 2012



231. ACHPR/Res.231 (LII) 2012: RESOLUTION ON THE RIGHT TO ADEQUATE HOUSING AND PROTECTION FROM FORCED EVICTIONS

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 52nd Ordinary Session held from 9 to 22 October 2012 in Yamoussoukro, Côte d'Ivoire;

Considering its mandate to promote human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling that the right to housing is protected by the African Charter under Articles 14 (the right to property), 16 (the right to highest attainable standard of mental and physical health) and 18(1) (protection accorded to the family), as affirmed in the Commission's Principles and Guidelines to Interpret Economic, Social and Cultural Rights in Africa;

Further recalling Article 16 of the Protocol to the African Charter on the Rights of Women in Africa which obligates States to ensure access of women to adequate housing;

Noting that States obligations in relation to the right to adequate housing were affirmed in 2001 by the Commission in *Communication 155/96-Social and Economic Rights Actions Centre and the Centre for Economic and Social Rights (SERAC) v. Nigeria*;

Further noting that the right to adequate housing is protected under Article 11 of the International Covenant on Economic, Social and Cultural Rights, Article 17 of the International Covenant on Civil and Political Rights, Articles 16(1) and 27(4) of the Convention on the Rights of the Child, Art 5 (e) of the Convention on the Elimination of All Forms of Racial Discrimination, Article 14(2) of the Convention on the Elimination of All Forms of Discrimination against Women, and Articles 9 and 28 of the Convention on the Rights of Persons with Disabilities, and that forced evictions violate these provisions;

Bearing in mind that as part of their obligations to respect and protect the right to adequate housing, States Parties are required to refrain from and prevent forced evictions, including by private actors;

Recalling that the United Nations Commission on Human Rights has recognised that forced evictions constitute gross violations of a range of human rights, in particular the right to adequate housing;

Recognising that a minimum degree of security of tenure, including protection from forced evictions, is essential for people to realise their right of access to adequate housing to meet the basic need of a decent livelihood;

Concerned that each year hundreds of thousands of people in Africa are forcibly evicted from their homes by States and other non-state actors, without prior consultation and notice, adequate compensation or appropriate alternative housing solution;

Noting with concern that forced evictions also lead to violations of other economic, social and cultural rights, such as access to drinking water, stable employment, health care and education;

Further concerned **that woman, children and other vulnerable groups suffer disproportionately from forced evictions and their effects;**

Concerned by the inadequate reporting by Member States on the measures taken towards meeting their obligation to ensure the right to housing and legal protection of people from forced and arbitrary evictions;

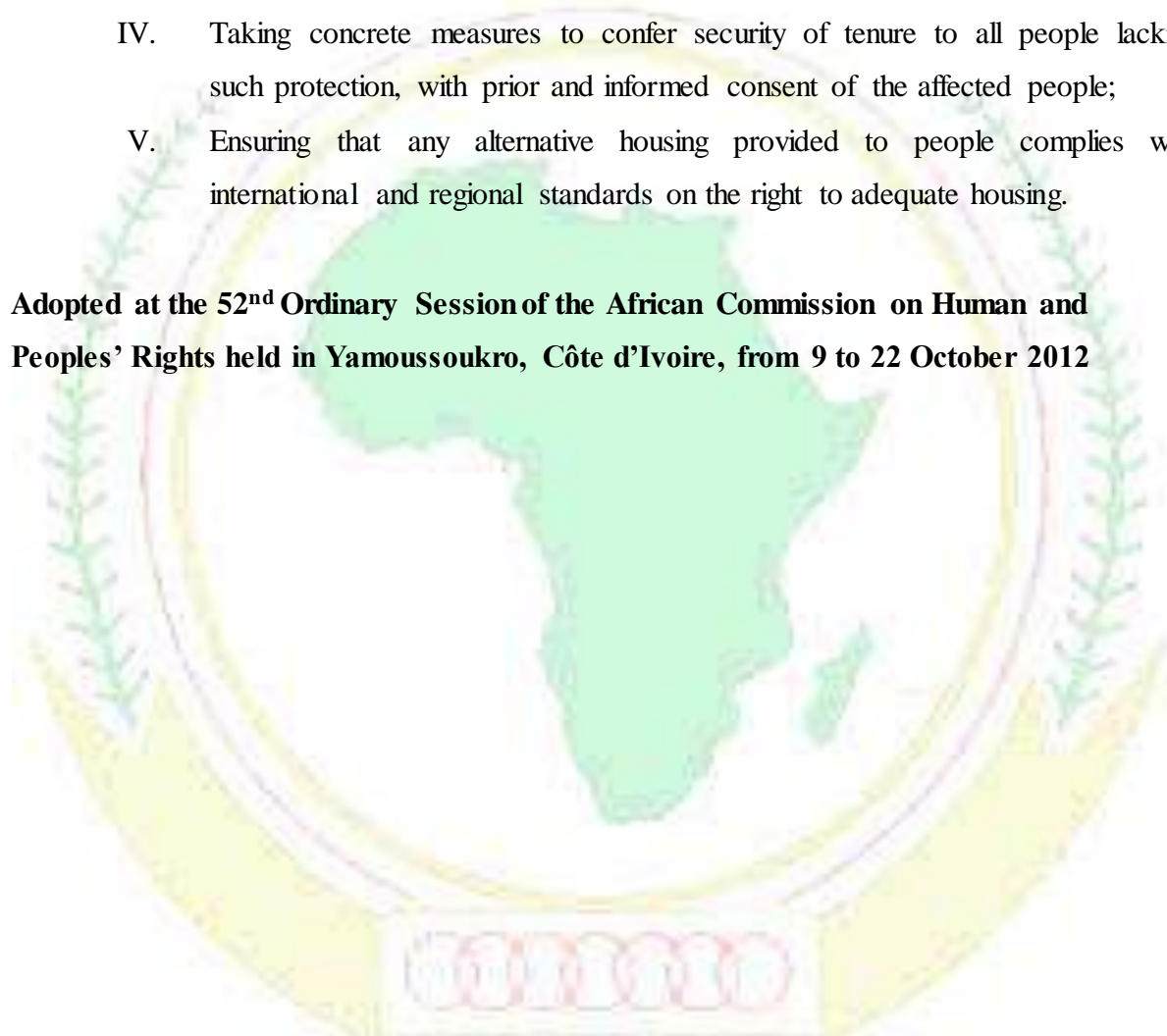
Condemns forced evictions;

Urges all States Parties to the African Charter to take appropriate steps to ensure respect, protection and realisation of the right to adequate housing, in particular by:

- I. Putting an end to all forms of forced evictions, in particular evictions carried out for development purposes;

- II. Ensuring that evictions are only carried out as a last resort after all alternatives to eviction have been provided and that all evictions comply with international and regional standards;
- III. Adopting legislative and other measures to ensure that legal procedures are complied with prior to any eviction and making available remedies that are likely to result in the right to reparation either in the form of *restitutio in integrum* or monetary compensation;
- IV. Taking concrete measures to confer security of tenure to all people lacking such protection, with prior and informed consent of the affected people;
- V. Ensuring that any alternative housing provided to people complies with international and regional standards on the right to adequate housing.

Adopted at the 52nd Ordinary Session of the African Commission on Human and Peoples' Rights held in Yamoussoukro, Côte d'Ivoire, from 9 to 22 October 2012



232. ACHPR/Res.232 (EXT.OS/XIII) 2013: RESOLUTIONS ON ELECTIONS IN AFRICA

The African Commission on Human and Peoples' Rights, meeting at its 13th Extra-Ordinary Session, held in Banjul, The Gambia, from 19 to 25 February 2013;

Recalling its mandate to promote human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling further Article 13(1) of the African Charter which stipulates that “*every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law;*”

Considering the African Charter on Democracy, Elections and Governance which emphasizes the importance of entrenching in the Continent, a political culture of change of power based on the holding of regular, free, fair and transparent elections conducted by competent, independent and impartial national electoral bodies;

Bearing in mind its previous Resolutions on the Electoral Process and Participatory Governance in Africa;

Emphasizing the importance of peaceful, free, fair and transparent elections and referenda, in addition to full respect of the results, to the maintenance of peace and security in the region;

Noting that elections will be held in the Republic of Kenya, the Republic of Mali and the Republic of Tunisia, and also that a referendum on the constitution will be held in the Republic of Zimbabwe in 2013;

Deeply concerned by the serious deterioration of the human rights situation in certain African countries before, during, and after the election periods and the irregularities surrounding electoral processes that can lead to the breakdown of democracy;

Calls upon State Parties to the African Charter holding elections in 2013 to:

1. Respect their obligations under the African Charter, in addition to other regional and international human rights conventions, and take all necessary measures to preserve and protect the credibility of the electoral process;
2. Ensure that all parties participating in the elections, in particular the opposition parties, are allowed to conduct their campaign freely;
3. Ensure that citizens exercise their right to vote in a peaceful environment free of intimidation and violence;
4. Urge political parties to ensure that their supporters do not engage in, or incite, acts of violence either before, during or after the elections;
5. Allow the participation of election observers to observe the entire electoral process;

6. Respect the independence of the institution responsible for the management of elections and provide sufficient resources to strengthen them;
7. Take all measures to prevent, investigate and prosecute human rights violations which occur during the election period, and provide adequate redress to victims.

Reiterates its appeal to all State Parties who have not done so, to ratify the African Charter on Democracy, Elections and Governance and to ensure its effective implementation without delay.

Done in Banjul, The Gambia, 25 February 2013



233. RES.233 (EXT.OS/XIII) 2013: RESOLUTION ON THE RECONSTITUTION OF THE WORKING GROUP ON SPECIFIC ISSUES RELEVANT TO THE WORK OF THE COMMISSION AND MODIFYING ITS MANDATE AND COMPOSITION

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 13th Extra-Ordinary Session held in Banjul, The Gambia, from 18 to 25 February 2013;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling Resolution Ref. ACHPR/Res.77 (XXXVII)05 on the creation of a Working Group on Specific Issues Relevant to the Work of the Commission (WGSI), adopted at its 37th session which took place from 27 April - 11 May 2005 in Banjul, The Gambia;

Recalling further Resolutions ACHPR/Res.124 (XXXXII) 07 adopted at its 42nd Ordinary Session held from 14 – 28 November 2007, in Brazzaville, the Republic of Congo, and Resolution ACHPR/Res.150 (XLVI) 09 adopted at its 46th Ordinary Session held from 11 – 25 November 2009, in Banjul, The Gambia; renewing the mandate of the Working Group;

Noting with appreciation the accomplishments of the Working Group since its establishment, and that it has since accomplished most of the tasks falling within its mandate;

Further Noting that the mandate of the WGSI came to an end in November 2011;

Bearing in mind Resolution ACHPR/Res.255 *on the Expansion of the Mandate of the Working Group on Communications and modifying its composition* adopted at its 52nd Ordinary Session held from 9 – 22 October 2012, in Yamoussoukro, Cote d'Ivoire, which expanded the mandate of the Working Group on Communications to include the coordination of follow-up on decisions of the Commission on Communications which hitherto fell within the mandate of the WGSI;

Considering the need for certain recent matters relevant to the work of the Commission to be dealt with expeditiously and the necessity to allow the WGSII to address these urgent pending issues;

Decides to renew the mandate of the WGSII for twelve (12) months;

Further Decides that the mandate of the WGSII be modified as follows:

- (i) to deal as a matter of priority with the monitoring and supervision of the development of the Strategic Plan of the Commission for the years 2014 – 2017 and the associated resource mobilization strategy;
- (ii) to deal with the mechanism and procedure for the follow-up on the recommendations and decisions of the Commission other than those relating to Communications or those provided for under the Commission's Rules of Procedure;
- (iii) continue to work together with other stakeholders to deal with the modalities for the establishment of a Voluntary Fund for Human Rights in Africa; and
- (iv) perform any other tasks which may be entrusted to it by the Commission.

Appoints the following Commissioners as the members of the WGSII:

- (i) Commissioner Faith Pansy Tlakula
- (ii) Commissioner Med Kaggwa
- (iii) Commissioner Soyata Maiga
- (iv) Commissioner Lucy Asuagbor

Also Appoints Commissioner Faith Pansy Tlakula as the Chairperson of the WGSII;

Requests the WGSII to report accordingly to each Ordinary Session of the Commission;

Further Requests the Secretariat of the African Commission to employ all necessary efforts to mobilize resources that would assist the WGSII to carry out its mandate.

Done at the 13th Extra-Ordinary Session of the African Commission on Human and Peoples' Rights, held from 18 to 25 February 2013, in Banjul, The Gambia, 23 February, 2013

234. ACHPR/Res.234 (LIII) 2013: RESOLUTION ON THE RIGHT TO NATIONALITY

The African Commission on Human and Peoples' Rights, meeting at its 53rd Ordinary Session held from 9 to 23 April 2013 in Banjul, The Gambia;

Recalling the provisions of Article 45(1) (b) of the African Charter on Human and Peoples' Rights which provides that the Commission shall “ formulate and lay down, principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African governments may base their legislation”;

Recalling Article 6 of the African Charter on the Rights and Welfare of the Child which provides that every child shall have the right from birth to a name, to be registered immediately after birth and to acquire a nationality, and that State Parties to the Charter shall “undertake to ensure that their Constitutional legislation recognize the principles according to which a child shall acquire the nationality of the State in the territory of which he has been born if, at the time of the child's birth, he is not granted nationality by any other State in accordance with its laws”;

Noting that the provisions of Article 2 of the African Charter and Article 6 (g) and (h) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa establish the equal right of men and women to acquire their partner's nationality;

Further recalling Article 15 of the Universal Declaration of Human Rights which stipulates that everyone has the right to a nationality and that no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality;

Noting the provisions of other international human rights treaties relating to nationality, including Article 5 (d)(iii) of the International Convention on the Elimination of All Forms of Racial Discrimination, Article 24(3) of the International Covenant on Civil and Political Rights, Articles 7 and 8 of the UN Convention on the Rights of the Child, Articles 1 to 3 of the UN Convention on the Nationality of Married Women, Article 9 of the Convention on the Elimination of All Forms of Discrimination against Women, and the UN Convention on the Reduction of Statelessness;

Recalling that persons arbitrarily deprived of nationality are protected by the Convention Governing the Specific Aspects of Refugee Problems in Africa, the UN Convention relating to the Status of Stateless Persons, the UN Convention relating to the Status of Refugees and the Protocol thereto;

Expressing its deep concern at the arbitrary denial or deprivation of the nationality of persons or groups of persons by African states, especially as a result of discrimination on grounds of race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status;

Regretting the failure of African states to ensure that all children are registered at birth;

Convinced that it is in the general interest of the people of Africa for all African States to recognise, guarantee and facilitate the right to nationality of every person on the continent and to ensure that no one is exposed to statelessness;

Reaffirms that the right to nationality of every human person is a fundamental human right implied within the provisions of Article 5 of the African Charter on Human and Peoples' Rights and essential to the enjoyment of other fundamental rights and freedoms under the Charter;

Calls upon African States to refrain from taking discriminatory nationality measures and to repeal laws which deny or deprive persons of their nationality on grounds of race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status, especially if such measures and laws render a person stateless;

Calls upon African States to observe minimum procedural standards so that decisions concerning the recognition, acquisition, deprivation or change of nationality do not contain any elements of arbitrariness, and are subject to review by an impartial tribunal in accordance with their obligations under Article 7 of the African Charter;

Also calls upon African States to adopt and implement provision in their constitutional and other legislation with a view to preventing and reducing statelessness, consistent with fundamental principles of international law and Article 6 of the African Charter on the Rights and Welfare of the Child, article 6 (g)(h) in particular by:

- a. Recognising that all children have the right to the nationality of the State where they were born if they would otherwise be stateless;
- b. Prohibiting arbitrary denial or deprivation of nationality;
- c. Reaffirming the equal rights of men and women and persons of any race or ethnic group in respect of nationality; and

Calls upon African States to ratify all relevant international and African human rights treaties, including the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness;

Requests African States to take the necessary measures to strengthen civil registration services to ensure the prompt registration of the births of all children on their territory, without discrimination;

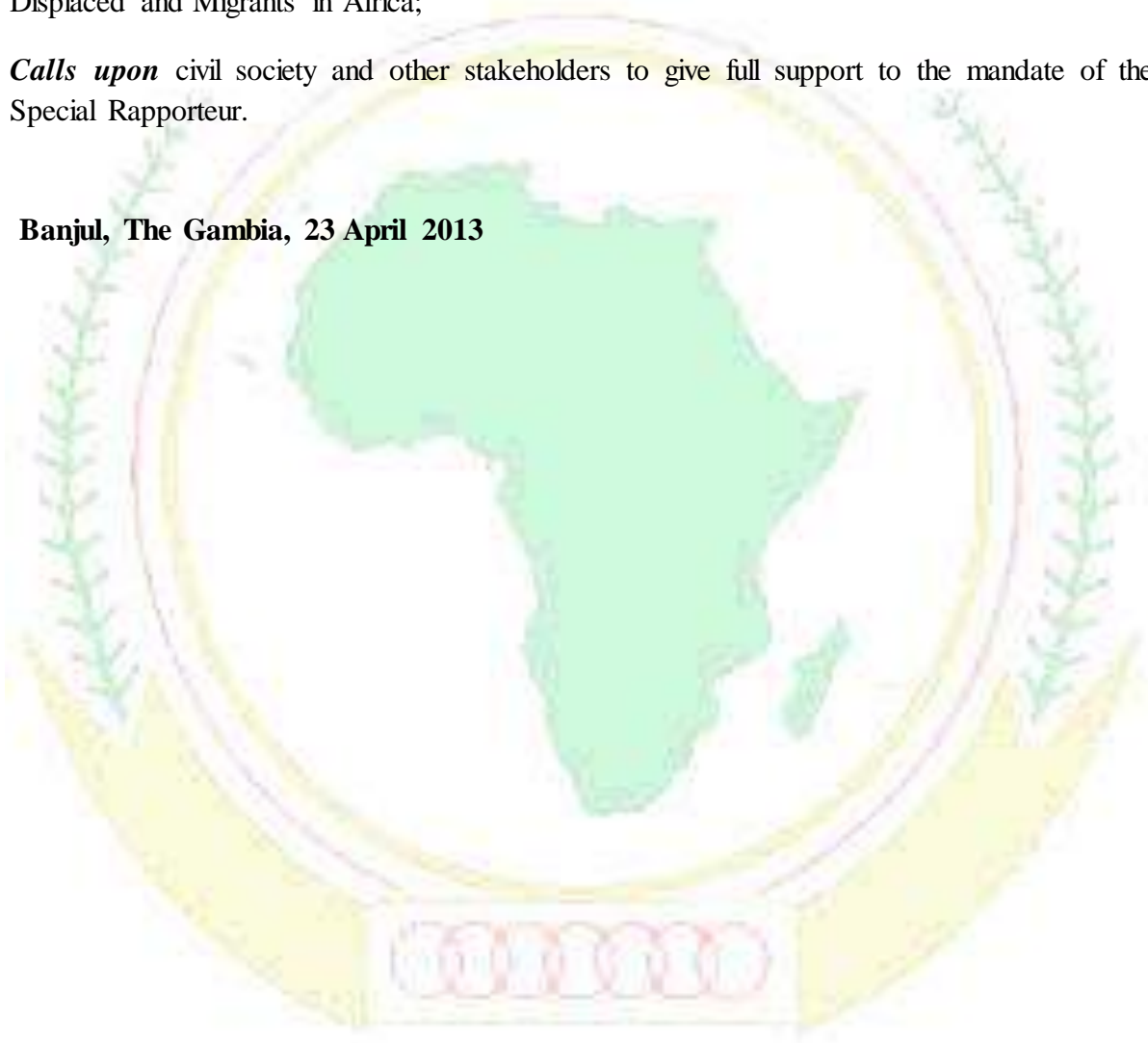
Requests African States to include information on the recognition, respect and implementation of the right to nationality in their periodic reports presented to the Commission under Article 62 of the African Charter and Article 26 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;

Considering the necessity to carry out an in-depth research on issues relating to the right to nationality:

Decides to assign the task to the Special Rapporteur on Refugees, Asylum seekers; Displaced and Migrants in Africa;

Calls upon civil society and other stakeholders to give full support to the mandate of the Special Rapporteur.

Banjul, The Gambia, 23 April 2013



235. ACHPR/Res.235 (LIII) 2013: RESOLUTION ON TRANSITIONAL JUSTICE IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 53rd Ordinary Session held from 9 to 23 April 2013 in Banjul, The Gambia;

Recalling its mandate to promote and protect fundamental human rights;

Deeply concerned by the scourge of armed conflicts and political crises in Africa, accompanied by serious and massive human rights violations, which are often characterised by impunity;

Considering that the various African legal instruments contain several norms and standards relating to transitional justice in Africa, including the Constitutive Act of the African Union, the African Charter on Human and Peoples' Rights and the African Charter on Democracy, Elections and Governance;

Considering new developments in Africa such as the development of a Transitional Justice Policy Framework by the African Union and the possibility of extending the mandate of the African Court on Human and Peoples' Rights to include international crimes;

Stressing the need to include human rights violations as part of a comprehensive effort to combat impunity and achieve lasting peace, the rule of law and governance;

Stressing the role played by transitional justice mechanisms in combating impunity and promoting reconciliation in countries emerging from political crises and violent armed conflicts, as well as the specific context of each post-conflict situation on the continent;

Convinced that the undertaking of a study on transitional justice in Africa will contribute to identifying the Commission's capacity and challenges in supporting transitional justice processes and mechanisms in Africa;

Decides to task Commissioner Pacifique Manirakiza with preparing a study on transitional justice in Africa, with the objective of:

- Identifying the various existing transitional justice mechanisms in Africa;
- Identifying the transitional justice legislative framework in Africa, in accordance with the Commission's mandate to promote and protect human rights in Africa;
- Determining the Commission's role in implementing the AU Transitional Justice Policy Framework;

- Analysing the opportunities and challenges of the Commission in encouraging and supporting transitional justice processes and mechanisms in Africa; and
- Analysing the possibility for the establishment by the Commission of a special mechanism on transitional justice in Africa;

The Commissioner responsible may request any form of assistance, including technical and logistical support, in order to complete the study within the required timeline.

Decides that a report on the study should be presented to the Commission for consideration in May 2014.

Banjul, The Gambia, 23 April 2013



236. ACHPR/Res.236 (LIII) 2013: RESOLUTION ON ILLICIT CAPITAL FLIGHT FROM AFRICA

The African Commission on Human and Peoples' Rights, meeting at its 53rd Ordinary Session held from 9 to 23 April 2013 in Banjul, The Gambia;

Recalling the provisions of Article 45 (1) (b) of the African Charter on Human and Peoples' Rights which provides that the Commission shall “ formulate and lay down, principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African governments may base their legislation”;

Taking into cognisance the establishment by the United Nations Economic Commission for Africa of a High-Level Panel on Illicit Financial Flows from Africa to determine the nature, pattern, scope and channels of illicit financial outflows from the continent; sensitize African governments, citizens, policy makers, political leaders and development partners to the problem; mobilize support for putting in place rules, regulations, and policies to curb illicit financial outflows; and influence national, regional and international policies and programmes on addressing the problem of illicit financial outflows from Africa;

Recognising that illicit capital flight undermines the capacity of State Parties to implement the African Charter on Human and Peoples' Rights and to attain the Millennium Development Goals;

Noting that illicit capital flight by both multinational companies and individuals from Africa leads to the loss of billions of US dollars every year;

Deeply concerned that Africa is embroiled in a vicious circle of poverty, malnutrition, diseases and death because its revenue potential is being drained by multinational companies and individuals through exploitation of the loopholes and weaknesses of laws and of the monitoring system;

Conscious that without adequate resources the respect, protection and implementation of human rights enshrined in the African Charter on Human and Peoples' Rights will remain illusory;

Conscious that foreign aid is a short-term, unsustainable and unreliable form of revenue, this requires State Parties to take measures to create a revenue base;

Recognising the need for State Parties to develop and implement robust and efficient tax collection systems;

Noting that human rights cannot be fully achieved without the availability of resources;

Concerned that State Parties have repeatedly invoked lack of financial resources to effectively implement charter based human rights;

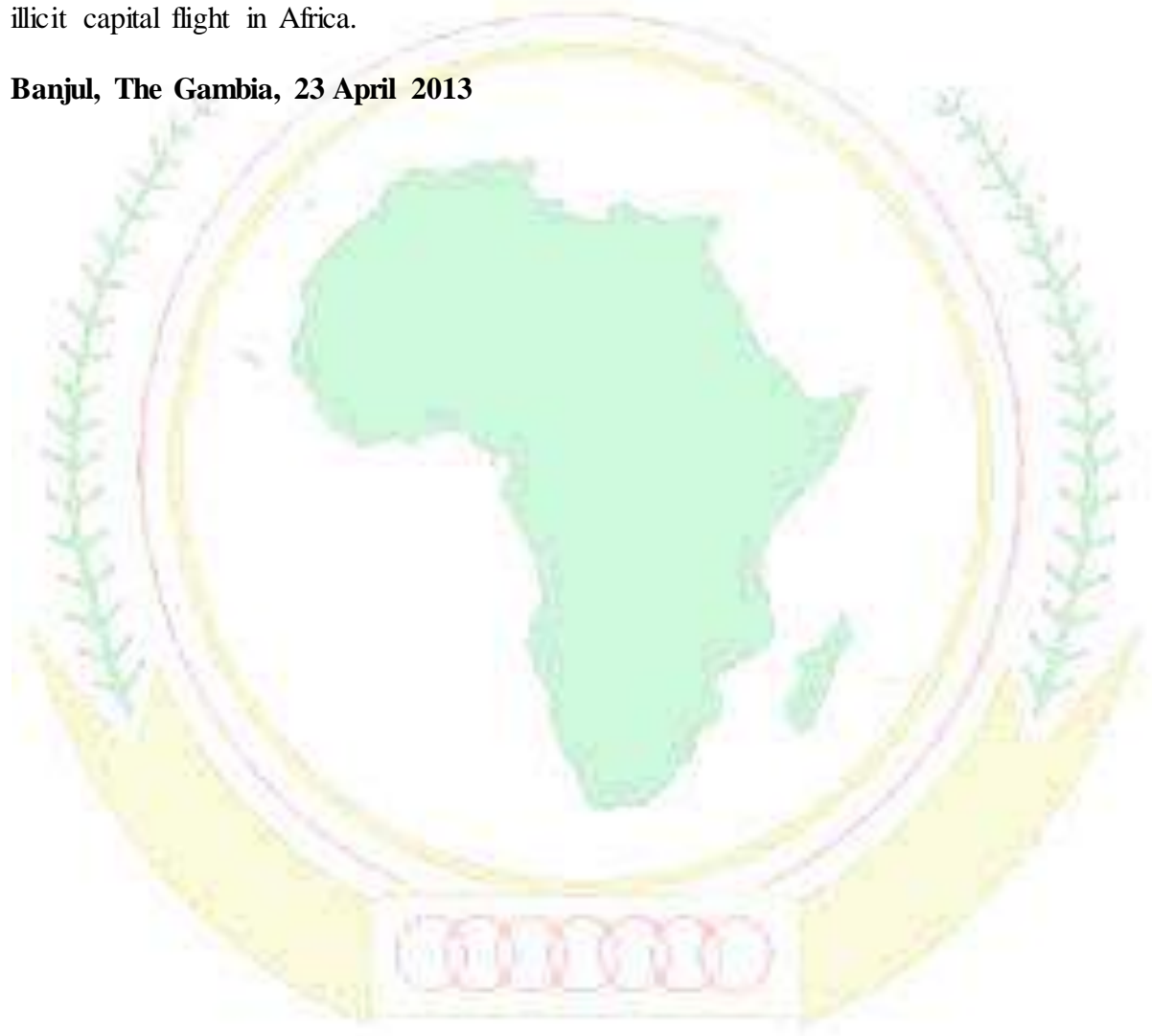
Convinced that the conduct of an in-depth study on the impact on human rights of illicit capital flight from Africa will contribute to the development of effective human rights-based measures and solutions;

Requests the Working Group on Economic, Social and Cultural Rights in Africa and the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa to undertake an in-depth study on the impact of illicit capital flight on human rights in Africa;

Calls upon civil society and other stakeholders to support the work of the Joint Study Group;

Calls on State Parties, to examine their national tax laws and policies towards preventing illicit capital flight in Africa.

Banjul, The Gambia, 23 April 2013



237. *ACHPR/Res.237 (LIII) 2013: RESOLUTION APPOINTING EXPERTS MEMBERS FOR THE WORKING GROUP ON INDIGENOUS POPULATIONS/COMMUNITIES IN AFRICA*

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 53rd Ordinary Session held from 9 to 23 April 2013, in Banjul, The Gambia;

Considering its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling that the Commission established a Working Group composed of nine members, amongst them, three Members of the Commission;

Recalling its Resolution *ACHPR/Res.65 (XXXIV) 03 on the Adoption of the "Report of the African Commission's Working Group on Indigenous Populations/Communities"* adopted at its 34th Ordinary Session held in Banjul, The Gambia, from 6 to 20 November 2003;

Bearing in mind Resolution *ACHPR/Res.123 (XXXXII) 07 on the Composition and Renewal of the Mandate of the Working Group on Indigenous Populations/Communities in Africa* adopted at its 42nd Ordinary Session held from 15 to 28 November 2007, in Brazzaville, Republic of Congo, renewing the mandate of the Working Group for two years;

Recalling Resolution *ACHPR/Res.155 (XLVI) 09 on the Renewal of the Mandate of the Working Group on Indigenous Populations/Communities in Africa* adopted during the 46th Ordinary Session of the Commission held in Banjul, The Gambia, from 11 to 25 November 2009, renewing the mandate of the Working Group for a period of two years;

Further Recalling Resolution *ACHPR/Res. 204 (L) 11: Resolution on the Appointment of the Chairperson and Members of the Working Group on Indigenous Populations/Communities in Africa* adopted during the 50th Ordinary Session of the Commission held in Banjul, The Gambia, 24 October to 4 November 2011;

Noting that Mr. Zephyrin Kalimba, a long-standing member of the Working Group, resigned in November 2012;

Cognizant of the need for the Working Group to expand its membership to continue to properly discharge its mandate;

Recognizing the importance of the work of the Working Group in the promotion and protection of the rights of indigenous populations/communities in Africa, and the necessity to allow the Working Group to continue to carry out its mandate;

Decides to Appoint, for a period of two years:

- I. Ms. Hawe Hamman Bouba (Cameroon) as a member of the Working Group to replace Mr. Kalimba; and

II. Ms. Lesle Jansen (South Africa) as an additional member of the Working Group.

Done in Banjul, The Gambia, on 23 April 2013



ACHPR/Res. 238 (EXT.OS/XIV) 2013: RESOLUTION ON THE POLITICAL SITUATION IN THE REPUBLIC OF MALI

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 14th Extraordinary Session held from 20 to 24 July 2013 in Nairobi, Kenya:

Recalling its mandate to promote and protect human and peoples' rights in Africa in accordance with the African Charter on Human and Peoples' Rights (the African Charter);

Further recalling the obligations of the Republic of Mali under the African Charter and other regional and international human rights instruments ratified by Mali;

Recalling Article 13(1) of the African Charter which stipulates that *"every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law"*;

Considering the African Charter on Democracy, Elections and Governance which underscores the need to establish on the continent a culture of political change of power based on the holding of free, fair and transparent elections organised by competent, independent and impartial national electoral institutions;

Reaffirming its commitment to promoting democracy in Africa and recognising that good governance, transparency and respect for human rights are fundamental principles that contribute to peace and development in Africa;

Bearing in mind its previous resolutions on the human rights situation in northern Mali and the relevant decisions on Mali of the AU Peace and Security Council and the Economic Community of West African States (ECOWAS);

Noting the Ouagadougou agreement of 18 June 2013 between the transitional Government of National Unity of the Republic of Mali and the National Movement for the Liberation of Azawad and the High Council for the Unity of Azawad, as well as the consensus among the Malian authorities and political parties regarding the holding of the presidential election on 28 July 2013;

Deeply concerned by the atmosphere of insecurity on the eve of the presidential election which is marked by recent violence in the Kidal region between the Tuareg community and the Songhaï and other communities, as well as the loss of human lives and destruction of property;

Particularly concerned by the abduction on 20 July 2013, in Tessalit in the Kidal region, of six people including 5 electoral officers and one local elected official by armed groups;

Strongly condemns the acts of violence and violations of human rights in the Kidal region, as well as the abduction of individuals;

Urges the transitional Government to take the necessary measures to put an end to human rights violations and acts of violence, and to ensure the security of the population throughout its territory;

Further urges the Malian authorities to take the necessary measures to put an end to impunity, including by ensuring that the perpetrators and accomplices of these acts of violence are brought to justice;

Calls on the Malian authorities to take the necessary measures to ensure the necessary conditions for all Malian citizens, including refugees and internally displaced persons, to exercise their political right to vote and elect the leaders of their choice;

Further calls on the Malian Government to take the necessary measures to preserve social peace towards creating the necessary conditions for credible, free, transparent and peaceful elections;

Urges all the parties to respect and effectively implement the Ouagadougou agreement of 18 June 2013 between the transitional Government of National Unity of the Republic of Mali and the National Movement for the Liberation of Azawad and the High Council for the Unity of Azawad;

Calls on the Economic Community of West African States (ECOWAS), the African Union (AU) and the international community to closely monitor political developments in Mali and to support the efforts of the Government and other Malian political stakeholders towards ensuring the smooth conduct of the polls;

Further calls on all political stakeholders to engage in constructive dialogue, to exercise restraint, and to respect the results of the polls towards restoring lasting peace and security, as well as trust and national unity in the Republic of Mali.

Nairobi, Kenya, 24 July 2013

ACHPR/RES 239 (EXT.OS/XIV) 2013: RESOLUTION ON THE 2013 ELECTIONS IN AFRICA

The African Commission on Human and Peoples' Rights, meeting at its 14th Extra-Ordinary Session, held in Nairobi, Kenya, from 20 to 24 July 2013;

Recalling its mandate to promote human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Considering the principles and objectives of the African Union enshrined in the Constitutive Act of the African Union;

Recalling further Article 13(1) of the African Charter which stipulates that *"every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law;"*

Further Considering the African Charter on Democracy, Elections and Governance which emphasizes the importance of entrenching on the Continent, a political culture of change of power based on the holding of regular, free, fair and transparent elections conducted by competent, independent and impartial national electoral bodies;

Bearing in mind its previous Resolutions on the Electoral Process and Participatory Governance in Africa including ACHPR/RES. 184 (EXT.OS/IX) 2011 and ACHPR/RES 232 (EXT.OS/XIII) 2013;

Recalling its previous Resolutions on Freedom of Expression in Africa, Freedom of Association in Africa and Human Rights Defenders in Africa, including ACHPR/Resolution 62 (XXXII) 02, ACHPR /Res.99 (XXXX) 06, ACHPR/Res. 151 (XLVI) 09 and ACHPR/Res.196 (L) 11;

Reaffirming the importance of peaceful, free, fair and transparent elections and other political participation processes, in addition to full respect of the results, to the maintenance of peace and security on the Continent;

Noting with Satisfaction the peaceful and transparent conduct of the recent election in the Republic of Kenya and referendum in the Republic of Zimbabwe;

Conscious of the fact that further Presidential elections are due to be held in other State Parties to the African Charter, including the Republic of Zimbabwe, the Republic of Mali, the Republic of Tunisia, the Federal Democratic Republic of Ethiopia, the Republic of Guinea-Bissau, the Republic of Mauritius and the Republic of Madagascar, in the year 2013;

Reiterating its deep concerns about the recurrent situations of election-related violence and other human rights violations, as well as irregularities in electoral processes in Africa;

Noting in particular that meaningful participation of citizens in electoral processes requires the guarantee of their fundamental freedoms of expression, association and assembly within the law;

Acknowledging the critical role that human rights defenders and civil society play in promoting and defending human rights in particular in an election context;

Calls upon State Parties to the African Charter holding elections and other forms of political participation processes to:

1. Ensure full compliance with their obligations under the African Charter and other regional and international human rights conventions, and take all necessary measures to preserve and protect the credibility of the electoral process;
2. Safeguard the human rights of all citizens including the freedom of movement, assembly, association and expression during the electoral processes, as well as equal access to media during campaign for all stakeholders;
3. Ensure that citizens exercise their right to vote in a peaceful environment free of intimidation, violence and any other impediment;
4. Respect and protect the rights of human rights defenders, journalists, civil society organisations and all stakeholders carrying out election-related activities;
5. Guarantee the independence of the institutions responsible for the organisation of elections and provide sufficient resources to them for the effective discharge of their mandates in the administration of efficient and transparent elections;
6. Allow the participation of national and international election observers in the entire electoral process;
7. Urge political parties to ensure that their supporters do not engage in or incite violence before, during or after the elections; and
8. Take all necessary measures to prevent and promptly investigate and prosecute any human rights violation which occurs within the framework of the elections, including those committed by law enforcement agents, and provide prompt, adequate and effective redress to victims.

Urges the leaders of political parties and candidates participating in the elections due to hold in the State Parties to put the general interest of the people at the centre of the electoral processes.

Reiterates its appeal to all State Parties who have not done so, to ratify the African Charter on Democracy, Elections and Governance and to ensure its effective implementation without delay.

Done in Nairobi, Kenya, 24 July 2013



ACHPR/RES 240 (EXT.OS/XIV) 2013: **RESOLUTION ON THE HUMAN RIGHTS SITUATION IN THE ARAB REPUBLIC OF EGYPT**

The African Commission on Human and Peoples' Rights, meeting at its 14th Extra-Ordinary Session, held in Nairobi, Kenya, from 20 to 24 July 2013;

Recalling its mandate to promote and protect human and peoples' rights on the African Continent pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Considering that the Arab Republic of Egypt is a Party to the African Charter and has committed itself to securing human and peoples' rights within its territory;

Having regard to its previous resolutions on the human rights situation in the Arab Republic of Egypt, in particular ACHPR/RES.14 (XVI) 94 and ACHPR/RES.179 (EXT.OS/IX) 2011;

Further Considering that the Arab Republic of Egypt is in a critical period of transition towards democracy and facing fundamental challenges in the fields of the rule of law, respect for human rights and fundamental freedoms, and social justice:-

Further Considering the relevant African Union (AU) instruments on unconstitutional changes of Government, notably the Lomé Declaration of July 2000 and the African Charter on Democracy, Elections and Governance of January 2007;

Recalling the removal from power of the democratically elected President Mohammed Morsi and the suspension of the Constitution;

Deeply concerned by the human rights violations resulting from these events, in particular arbitrary arrests, detention and the use of force and violence by the parties concerned;

Deeply concerned that the situation in the Arab Republic of Egypt threatens the stability of the country and the cohesion of its people, with far-reaching national and regional consequences;

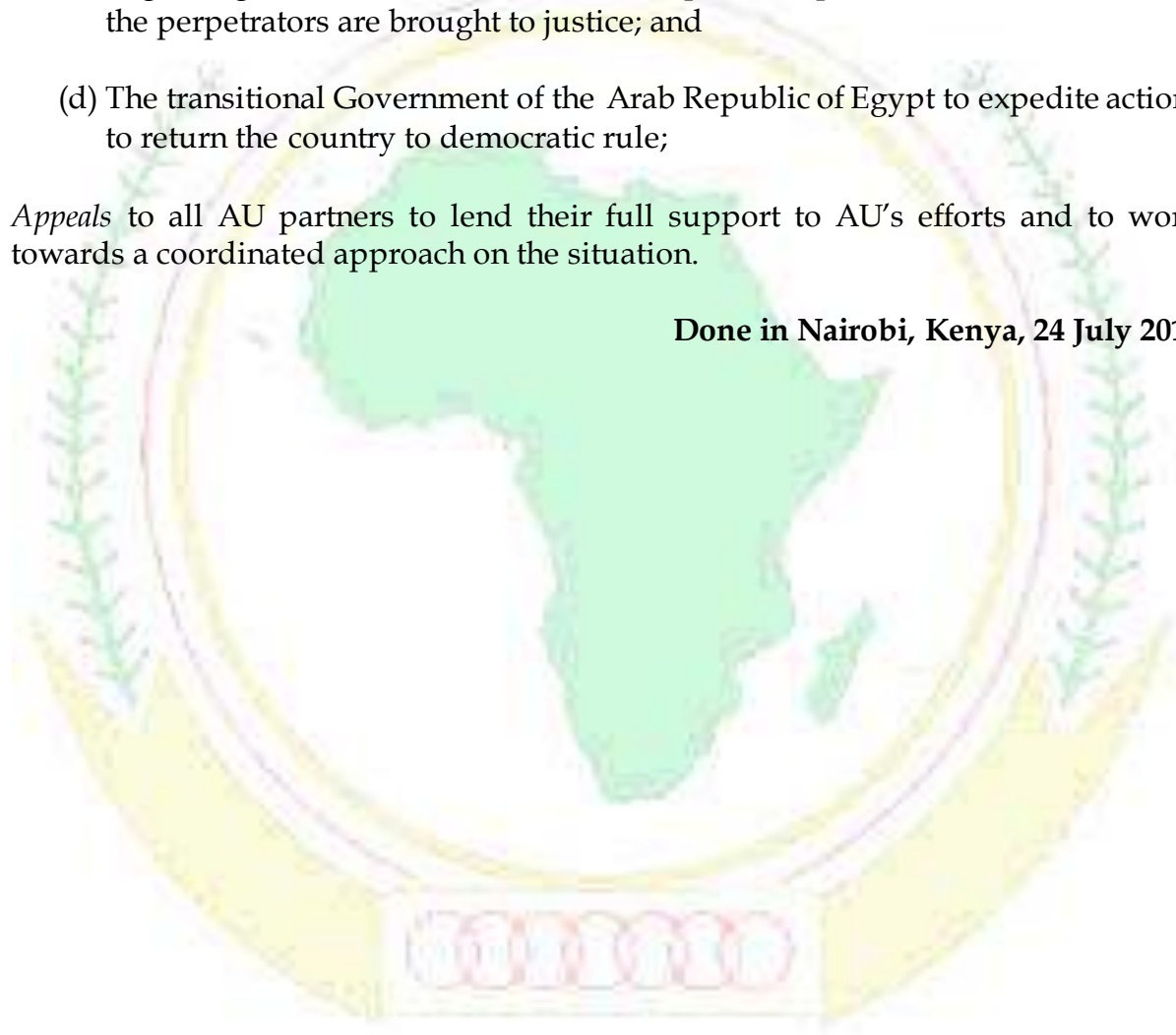
Considering that respect for human rights and freedoms, social justice, including space to freely participate in the political and economic affairs of the State by its citizens are critical elements of the transition towards an open, stable, democratic, free and prosperous Egyptian society;

Calls Upon:

- (a) All Egyptian stakeholders to embrace the spirit of constructive dialogue and to condemn and refrain from all acts of violence and vandalism against public and private property;
- (b) The Egyptian army and security forces to immediately end all acts of violence, repression, harassment, arbitrary arrests and detention;
- (c) The transitional Government of the Arab Republic of Egypt to conduct impartial and transparent investigations into all cases of death, torture, degrading treatment and harassment of peaceful protestors, and ensure that the perpetrators are brought to justice; and
- (d) The transitional Government of the Arab Republic of Egypt to expedite actions to return the country to democratic rule;

Appeals to all AU partners to lend their full support to AU's efforts and to work towards a coordinated approach on the situation.

Done in Nairobi, Kenya, 24 July 2013



**ACHPR/Res. 241 (EXT.OS/XIV) 2013: RESOLUTION ON THE HUMAN RIGHTS
SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO (DRC)**

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 14th Extraordinary Session held from 20 to 24 July 2013 in Nairobi, Kenya:

Considering that one of the objectives of the African Union as stipulated in Article 3 (f) of its Constitutive Act is to “promote peace, security and stability on the continent”;

Recalling its mandate to promote and protect human and peoples' rights in Africa in accordance with the African Charter on Human and Peoples' Rights (the African Charter);

Further recalling the obligations of the DRC under the African Charter and other regional and international human rights instruments ratified by the DRC;

Considering Articles 22 and 23 of the African Charter which guarantee the right to security, peace and development, as well as other regional and international human rights legal instruments;

Bearing in mind its previous resolutions on the human rights situation in the DRC, in particular Resolution 139 of 24 November 2008 and Resolution 173 of 24 November 2010;

Concerned by the renewed fighting, since 14 July 2013, between elements of the M23 rebel group and the Congolese military in Goma, North Kivu;

Concerned by the continued deterioration of the human rights situation in eastern DRC following several attacks carried out against the civilian population by the various armed rebel groups, including rape and other violence against women and children;

Deeply concerned by the humanitarian situation as a result of the massive and forced displacement of thousands of civilian populations following the persistent insecurity and serious and massive human rights violations committed by armed groups operating in eastern DRC;

Strongly condemns the renewed fighting between the regular army and the M23 rebel group and the acts of violence committed against the civilian population by the various armed groups involved in the conflict in eastern DRC;

Reiterates its call for all the parties to the conflict to put an immediate end to fighting and to promote dialogue towards a peaceful resolution of the conflict and the peace, security and stability of the country;

Reminds the Congolese Government of its responsibility to guarantee security across its territory and to ensure the protection of its citizens;

Calls on the Congolese authorities to take the necessary measures to put an end to the persistent conflict towards fully restoring the authority of the State in eastern DRC;

Urges the Congolese Government to take the necessary measures to put an end to impunity, including by ensuring that perpetrators of acts of violence are brought to justice;

Calls on the countries of the sub-region to effectively implement the Peace, Security and Cooperation Framework Agreement signed in Addis Ababa on 24 February 2013, the main objective of which is to restore peace in eastern DRC;

Calls on the International Conference on the Great Lakes Region, the African Union and the international community to continue their efforts towards a return to lasting peace in the DRC;

Further calls on the Congolese authorities to expedite the ratification of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention).

Nairobi, Kenya, 24 July 2013

**ACHPR/Res 242 (EXT.OS/XIV) 2013: RESOLUTION ON THE HUMAN RIGHTS
SITUATION IN THE REPUBLIC OF GUINEA**

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 14th Extraordinary Session held from 20 to 24 July 2013 in Nairobi, Kenya:

Recalling its mandate to promote and protect human and peoples' rights in Africa in accordance with the African Charter on Human and Peoples' Rights (the African Charter);

Further recalling the obligations of the Republic of Guinea under the African Charter and other regional and international human rights instruments ratified by Guinea;

Bearing in mind the presidential decree of 10 July 2013 which set the date for the presidential election for 24 September 2013, in accordance with the proposal of the National Independent Electoral Commission;

Noting the comprehensive political agreement aimed at ending the crisis in Guinea of 3 July 2013 and the commitment demonstrated by political parties towards fair and democratic elections by the signing, on 5 July 2013, of a code of good conduct for the legislative elections;

Concerned by the degrading security situation and the several cases of human rights violations related to the legislative elections, a situation which may jeopardise the country's development and stability;

Deeply concerned by the violent inter-ethnic clashes that occurred recently between members of the Konianké and Guerzé communities in the N'Nzérékoré and Beyla districts following the murder of a Konianké youth by Guerzé youths;

Particularly concerned by the several cases of death, high number of seriously injured people, and massive destruction of public and private property and buildings, including places of worship, as a result of these clashes;

Strongly condemns the acts of violence, killing and destruction of public and private property carried out in the N'Nzérékoré and Beyla districts in the Republic of Guinea;

Urges the parties to the conflict to put an immediate end to violence and to refrain from any act that may undermine public order and the peaceful coexistence of communities;

Urges the Government of Guinea to take the necessary measures to put an end to impunity and to ensure that the perpetrators and accomplices of these acts of violence are brought to justice;

Calls on the Government of Guinea to restore peace and national unity in the affected communities and to guarantee the right to life and human dignity of all citizens in accordance with Article 4 of the African Charter;

Reminds the people of Guinea of the need to preserve the achievements of peaceful cohabitation among the various communities;

Calls on the Guinean authorities to take the necessary measures to ensure the organisation of credible, free, transparent and peaceful elections and to ensure the necessary conditions for Guinean citizens to exercise their political right to vote and elect the leaders of their choice;

Urges all the parties to respect and effectively implement the comprehensive political agreement aimed at ending the crisis in Guinea and the code of good conduct for the legislative elections;

Calls on the African Union and the international community to closely monitor political developments in Guinea and to support the efforts of the Government and other political stakeholders towards a smooth conduct of the polls;

Further calls on all political stakeholders to engage in constructive dialogue, to exercise restraint, and to respect the results of the polls towards restoring lasting peace and security in the Republic of Guinea.

Nairobi, Kenya, 24 July 2013

ACHPR/Res. 243 (EXT.OS/XIV) 2013: Resolution on the Human Rights Situation in the Central African Republic

The African Commission on Human and Peoples' Rights meeting at its 14th Extraordinary Session held in Nairobi, Kenya, from 20 to 24 July 2013

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the obligations of the Central African Republic under the African Charter and other regional and international human rights instruments ratified by the country;

Deeply concerned by the serious deterioration of the human rights situation in the Central African Republic especially in respect of the humanitarian situation since the military coup of 24 March 2013 by the Seleka rebels;

Deeply concerned by the unprecedented food crisis following the persistent insecurity which resulted in farmers abandoning their plantations and the systematic looting of food stocks by rebels;

Concerned by the serious human rights violations perpetrated by the Seleka group during their offensive against the civilian population, in particular summary execution, rape and other forms of sexual violence, acts of torture, looting and other serious violations of international human rights and humanitarian law;

Recalling its statements of 27 March 2013 and 21 April 2013 in which the Commission strongly condemned "the pillaging and armed violence experienced by the people of the Central African Republic and underscored that "the perpetrators of these acts must be brought before the competent courts";

Recalling the Roadmap adopted by the 4th Extraordinary Summit of the Economic Community of Central African States (ECCAS) Heads of State and Government held in Ndjamena, on 18 April 2013;

Noting the establishment of a National Transition Council in charge of ensuring the democratic process;

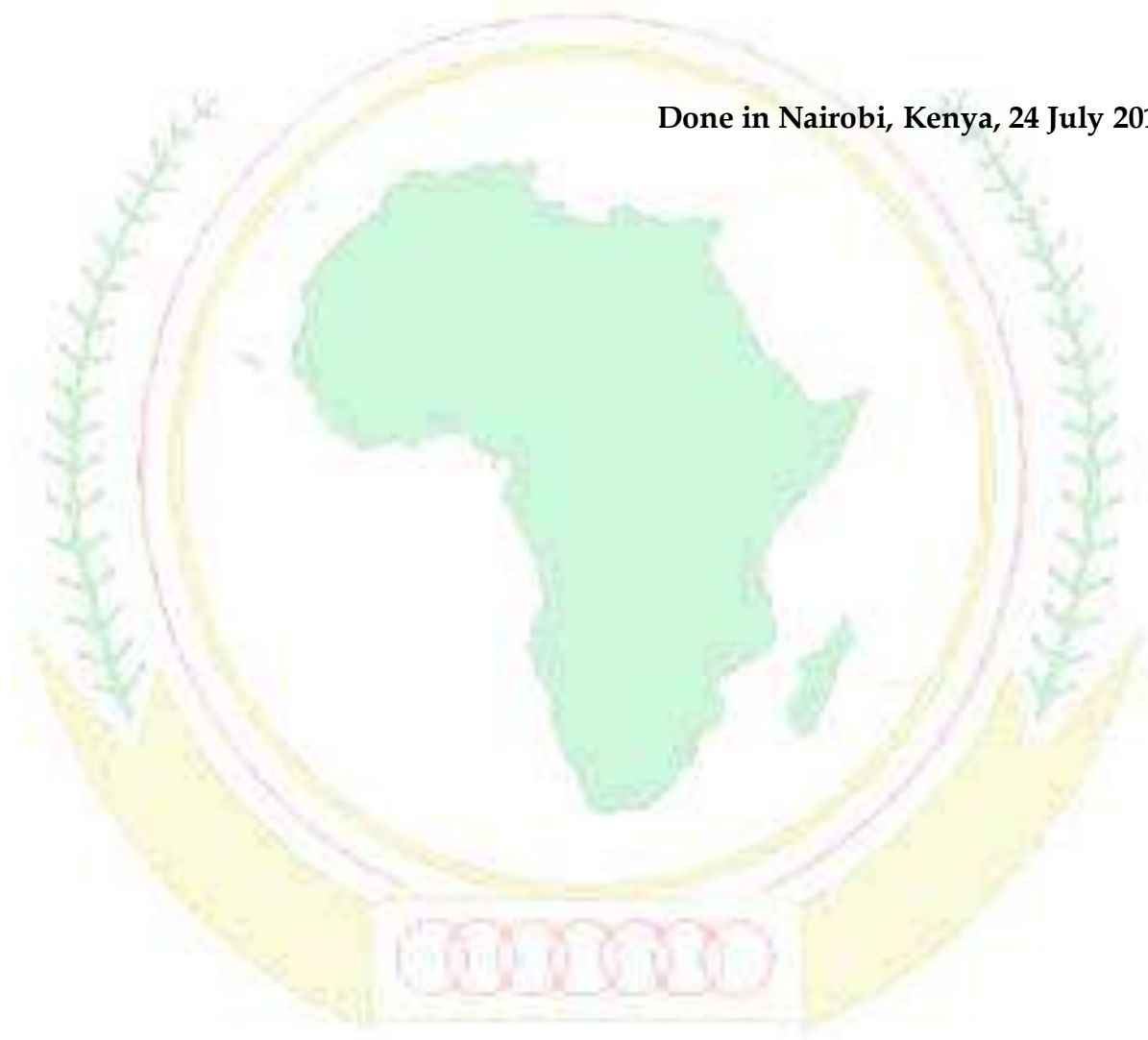
Calls on the National Transition Council to take the necessary measures to ensure respect for the fundamental rights of citizens across the country;

Calls on the National Transition Council to take all necessary measures to ensure an immediate end to all acts of violence against the civilian population throughout the national territory, and bring the perpetrators to justice;

Further calls for the restoration of constitutional order through the organization of free, pluralistic, transparent and secured elections, and that the contesting parties, in particular parties of the opposition, are given equitable access to state controlled media and resources;

Appeals to the African Union and the international community to remain seized of the situation in the Central African Republic.

Done in Nairobi, Kenya, 24 July 2013



**ACHPR/Res.244 (LIV) 2013: RESOLUTION ON THE RENEWAL OF THE
MANDATE OF THE SPECIAL RAPPORTEUR ON PRISONS AND
CONDITIONS OF DETENTION IN AFRICA**

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 54th Ordinary Session held from 22 October to 5 November 2013, in Banjul, The Gambia;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Reaffirming the importance of observing the objectives and principles of the African Charter for the promotion and protection of the human rights of all, including those of detainees and prisoners;

Recalling its decision taken at its 20th Ordinary Session held in Grand Bay, Mauritius in October 1996 to establish the office and to appoint a Special Rapporteur on Prisons and Conditions of Detention in Africa, as a prison monitoring mechanism;

Further recalling its decision taken at its 38th Ordinary Session held in Banjul, The Gambia in November/December 2005 to appoint the Special Rapporteur on Prisons and Conditions of Detention in Africa;

Bearing in mind Resolution ACHPR/Res.126 (XXXII) 07 on the Appointment of the Special Rapporteur on Prisons and Conditions of Detention in Africa adopted at the 42nd Ordinary Session held from 15 - 28 November 2007, in Brazzaville, the Republic of Congo;

Considering Resolution ACHPR/Res.156 (XLVI) 09, adopted during the 46th Ordinary Session held from 11 to 25 November 2011 appointing Commissioner Catherine Dupe Atoki Special Rapporteur of Prisons and Conditions of Detention in Africa;

Further considering Resolution ACHPR/Res.206 (L) 11 on the appointment of Commissioner Med Kaggwa as the Special Rapporteur on Prisons and Conditions of Detention in Africa, adopted at the 50th Ordinary Session held from 24 October to 5 November 2011, in Banjul, The Gambia;

Bearing in mind the Resolution ACHPR/Res.228 (LII) 2012 on the need to develop guidelines on conditions of police custody and pre-trial detention in Africa adopted at the 52nd Ordinary Session held from 9 to 22 October 2012, in Yamoussoukro, Côte d'Ivoire, which authorize the Special Rapporteur on Prisons and Conditions of Detention in Africa (the Special Rapporteur) to develop a Guideline on the

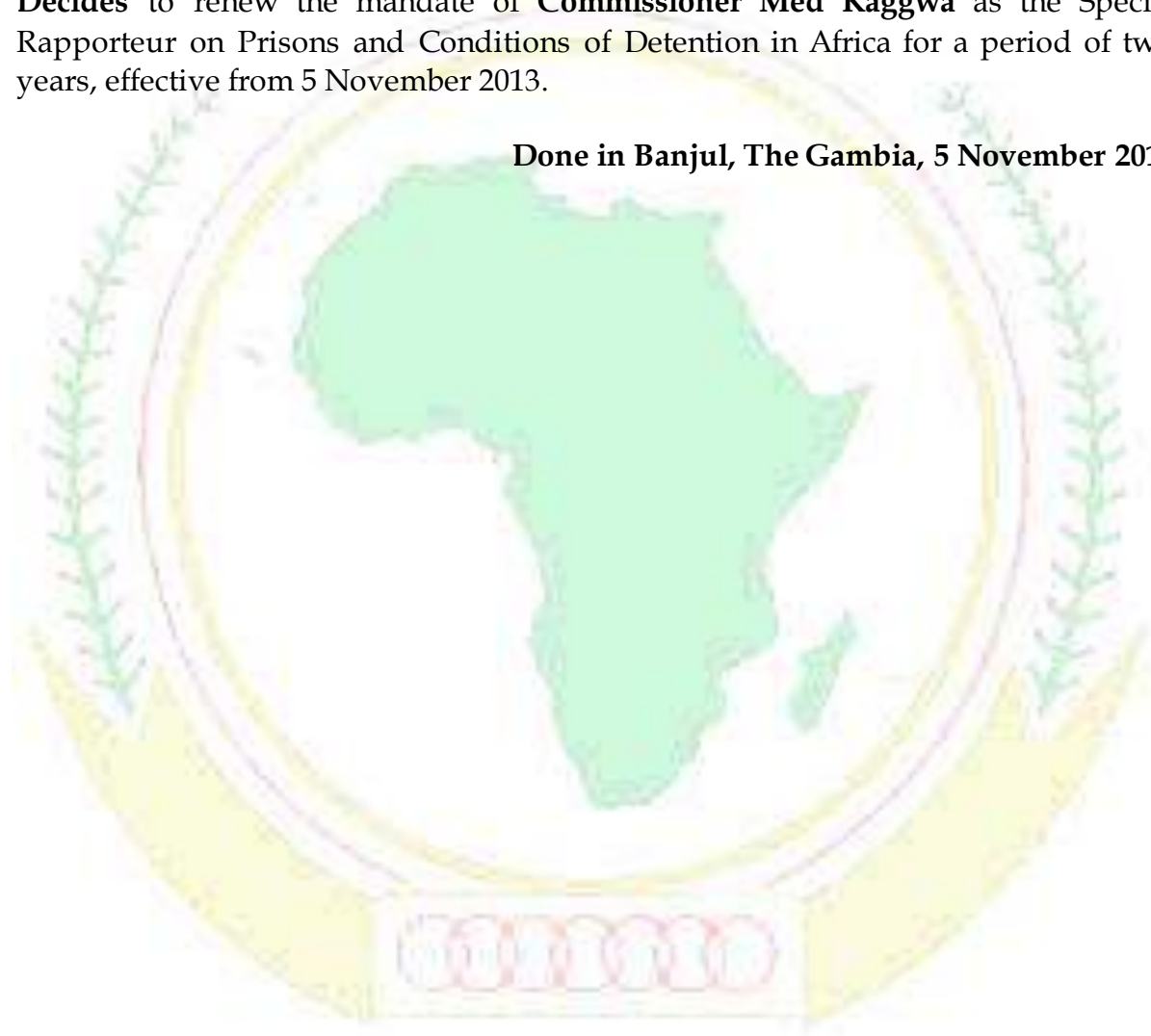
Conditions of Police Custody and Pre-trial Detention in Africa (the Guidelines), including tools for its effective implementation;

Noting with appreciation the work done by Commissioner Med Kaggwa as Special Rapporteur on Prisons and Conditions of Detention in Africa;

Considering that the mandate of Commissioner Med Kaggwa as the Special Rapporteur on Prisons and Conditions of Detention in Africa has come to an end;

Decides to renew the mandate of **Commissioner Med Kaggwa** as the Special Rapporteur on Prisons and Conditions of Detention in Africa for a period of two years, effective from 5 November 2013.

Done in Banjul, The Gambia, 5 November 2013



ACHPR/Res.245 (LIV) 2013: RESOLUTION ON THE RENEWAL OF THE MANDATE OF THE SPECIAL RAPPORTEUR ON THE RIGHTS OF WOMEN IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 54th Ordinary Session held from 22 October to 5 November 2013, in Banjul, The Gambia:

Recalling its mandate to promote human and peoples' rights under the African Charter on Human and Peoples' Rights;

Taking note of Resolution ACHPR/Res.38 (XXXVIII) 99, adopted at its 25th Ordinary Session, held from 26 April to 5 May 1999 in Bujumbura, Burundi, on the establishment of a Special Mechanism on the Rights of Women in Africa;

Further recalling its decision taken at its 30th Ordinary Session, held from 17 to 27 October 2001 in Banjul, The Gambia, to appoint the Special Rapporteur on the Rights of Women in Africa ; the Resolution ACHPR/Res.63(XXXIV) 03, adopted at its 34th Ordinary Session, held in Banjul, the Gambia, from 6 to 20 November 2003; the Resolution ACHPR/Res.78(XXXVIII) 05, adopted at its 38th Ordinary Session, held from 21 November to 6 December 2005 in Banjul, the Gambia, on the renewal of the Mandate of the Special Rapporteur for a period of two years and its Resolution ACHPR/Res.112(XXXII) 07 adopted at the 42nd Ordinary Session, held from 15 to 28 November 2007 in Brazzaville, Republic of Congo, on the renewal of the mandate of the Special Rapporteur on the Rights of Women in Africa;

Recalling its Resolution ACHPR/Res154 (XLVI) 09, on the renewal of the mandate of Commissioner Soyata Maiga as the Special Rapporteur, adopted at the 46th Ordinary Session, held from 11 to 24 November 2009 in Banjul, The Gambia;

Taking note of its Resolution ACHPR/Res.205 (L) 11 on the renewal of the mandate of the Special Rapporteur on the Rights of Women in Africa;

Bearing in mind the adoption and entry into force of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;

Considering the launching of the General Comments on Article 14(1) (d) and (e) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, which provide a better understanding of the Protocol and facilitates its use as an instrument to mitigate the disproportionate effects of HIV/ AIDS on women in Africa at the 53rd Ordinary Session, held from 9 to 23 April 2013 in Banjul, The Gambia;

Aware that many challenges confronting women on the African continent relate to the recognition, exercise and enjoyment of their human rights;

Recognizing the considerable amount of work done by Commissioner Soyata Maiga in her capacity as the Special Rapporteur on the Rights of Women in Africa;

Considering that the mandate of Commissioner Soyata Maiga has come to an end;

Decides to renew for two years the mandate of **Commissioner Soyata Maiga** as the Special Rapporteur on the Rights of Women in Africa, effective from 5 November 2013.

Done in Banjul, The Gambia, 5 November 2013



ACHPR/Res.246 (LIV) 2013: RESOLUTION ON THE RENEWAL OF THE MANDATE OF THE SPECIAL RAPPORTEUR ON REFUGEES, ASYLUM SEEKERS, INTERNALLY DISPLACED PERSONS AND MIGRANTS IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 54th Ordinary Session held from 22 October to 5 November 2013 in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Bearing in mind the adoption and entry into force of the 1951 Convention Relating to the Status of Refugees, its 1967 Protocol and the 1969 OAU Convention Governing Specific Aspects of Refugee Problems in Africa;

Mindful of the adoption in 2009 and entry into force in 2012 of the African Union Convention on Protection and Assistance to Internally Displaced Persons in Africa (the Kampala Convention);

Recalling its decision taken at its 35th Ordinary Session, held from 21 May to 4 June 2004 in Banjul, The Gambia, to establish a Special Mechanism on Refugees, Asylum Seekers and Internally Displaced Persons in Africa;

Bearing in mind Resolution ACHPR/Res.72(XXXVI) 04 adopted at its 36th Ordinary Session, held from 23 November to 7 December 2004 in Dakar, Senegal, determining the mandate of the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa;

Recalling Resolution ACHPR/Res. 95(XXXIX) 06, which extended the mandate of the Special Rapporteur to cover migration issues;

Recalling Resolution ACHPR/Res.180 (XLIX) 2011 on the Appointment of Commissioner KAYITESI Zainabo Sylvie as the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;

Further recalling its Resolution ACHPR/RES.203 (I) 11 on the appointment of Commissioner Maya Sahli Fadel as the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;

Concerned about the increase in the number of migrants seeking to leave the territory of their State Party and travel in dangerous and inhuman conditions;

Noting that the situation of Refugees, Asylum Seekers, Internally Displaced Persons and Migrants is worsening by the day;

Considering the need to continue to advocate for the ratification of the Kampala Convention and its effective implementation by State Parties on the Continent;

Bearing in mind Resolution ACHPR/Res.234 (LIII) 2013 on the right to nationality adopted at its 53rd Ordinary Session, held from 9 to 23 April 2013, assigning the task of conducting an in-depth study on the right to nationality to the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;

Reaffirming the importance of the Mechanism of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;

Noting with appreciation the work done by Commissioner Maya Sahli Fadel as the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;

Considering that the mandate of Commissioner Maya Sahli Fadel has come to an end;

Further considering the need for the Special Mechanism on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa to continue carrying out its mandate;

Decides to renew the mandate of **Commissioner Maya Sahli-Fadel** as the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa for a period of two years, effective from 5 November 2013.

Done in Banjul, The Gambia, 5 November 2013

ACHPR/Res.247 (LIV) 2013: RESOLUTION ON THE RENEWAL OF THE MANDATE OF THE SPECIAL RAPPORTEUR ON FREEDOM OF EXPRESSION AND ACCESS TO INFORMATION IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 54th Ordinary Session held from 22 October to 5 November 2013, in Banjul, The Gambia:

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Aware that in the exercise of its mandate, the Commission has established various mechanisms for the promotion and protection of human and peoples' rights in Africa;

Recalling the Resolution on the Mandate and Appointment of the Special Rapporteur on Freedom of Expression in Africa adopted at its 36th Ordinary Session held from 23 November to 7 December 2004 in Dakar, Senegal;

Emphasizing that the right to freedom of expression and access to information is a fundamental human right guaranteed *inter alia* by Article 9 of the African Charter;

Recalling the adoption of *the Declaration of Principles on Freedom of Expression in Africa (the Declaration)*, at its 32nd Ordinary Session held from 17 - 23 October 2002, in Banjul, The Gambia, which elaborates the nature, content and extent of the right to freedom of expression and access to information provided for under Article 9 of the African Charter;

Reaffirming the commitment of the Commission to promote the right to freedom of expression and access to information and monitor the implementation of *the Declaration* within Member States of the African Union;

Recalling Resolution ACHPR/Res.84 (XXXV) 05, appointing Commissioner Faith Pansy Tlakula, as Special Rapporteur on Freedom of Expression in Africa adopted at the 38th Ordinary Session held from 21 November to 5 December 2005, in Banjul, The Gambia;

Recalling Resolution ACHPR/Res.122 (XXXII) 07 on the Expansion of the Mandate and Re-appointment of the Special Rapporteur on Freedom of Expression and Access to Information in Africa adopted at the 42nd Ordinary Session held from 15 to 28 November 2007, in Brazzaville, Republic of Congo;

Recalling Resolution ACHPR/Res161 (XLVI) 09, renewing the mandate of the Commissioner Faith Pansy Tlakula, as Special Rapporteur, adopted during the 46th Ordinary Session held from 11 to 24 November 2009 in Banjul, The Gambia;

Further recalling Resolution ACHPR/Res.199 (L) 11, renewing the mandate of the Commissioner Faith Pansy Tlakula, as Special Rapporteur, adopted during the 50th Ordinary Session held from 24 October to 5 November 2011 in Banjul, The Gambia;

Noting with appreciation the work done by Commissioner Faith Pansy Tlakula as Special Rapporteur of Freedom of Expression and Access to Information in Africa;

Considering that the mandate of Commissioner Faith Pansy Tlakula as Special Rapporteur on Freedom of Expression and Access to Information in Africa will end on 5 November 2013;

Further considering the need to allow the Special Rapporteur on Freedom of Expression and Access to Information in Africa to carry out her mandate as contained in Resolution ACHPR/Res.122 (XXXXII) 07 on the Expansion of the Mandate and Re-appointment of the Special Rapporteur on Freedom of Expression and Access to Information in Africa;

Decides to re-appoint **Commissioner Faith Pansy Tlakula** as Special Rapporteur on Freedom of Expression and Access to Information in Africa for a period of two years, effective from 5 November 2013.

Done in Banjul, The Gambia, 5 November 2013

ACHPR/Res.248 (LIV) 2013: RESOLUTION ON THE RENEWAL OF THE MANDATE OF THE SPECIAL RAPPORTEUR ON HUMAN RIGHTS DEFENDERS IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 54th Ordinary Session, held from 22 October to 5 November 2013, in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/ 69(XXXV) 04 of 4 June 2004 on the protection of human rights defenders in Africa, adopted at its 35th Ordinary Session, held from 21 May to 4 June 2004, in Banjul, The Gambia;

Bearing in mind its Resolution 83(XXXVIII) 05 of 5 December 2005 on the Appointment of the Special Rapporteur on Human Rights Defenders in Africa, adopted at the 38th Ordinary Session, held from 21 November to 5 December 2005, in Banjul, The Gambia;

Considering its Resolution ACHPR/Res.125 (XXXXII) 07 on the renewal of the mandate of the Special Rapporteur on Human Rights Defenders in Africa, adopted at its 42nd Ordinary Session, held in Brazzaville, Republic of Congo, from 13 to 28 November 2007;

Bearing in mind that in the *Grand Bay Declaration and Action Plan (Mauritius)*, the Organisation of African Unity (African Union) called on Member States "to take all the necessary measures to implement the United Nations Declaration on Human Rights Defenders in Africa";

Recalling Resolution ACHPR/Res.149 (XLVI) 09, on the appointment of Commissioner Lucy Asuagbor as the Special Rapporteur on Human Rights Defenders in Africa;

Further recalling Resolution ACHPR/Res.151 (XLVI) 09 on the need to conduct a study on Freedom of Association and Resolution ACHPR/Res.186(XLIX)11 on the Appointment of Members of the Study Group on Freedom of Association in Africa, which assigns oversight responsibility of the said study to the Special Rapporteur on Human Rights Defenders in Africa;

Bearing in mind Resolution ACHPR/Res.202 (L) 11 on the appointment of Commissioner Reine Alapini Gansou as the Special Rapporteur on Human Rights Defenders in Africa;

Noting with appreciation the work done by Commissioner Reine Alapini Gansou as the Special Rapporteur on Human Rights Defenders in Africa;

Considering the needs of the mandate;

Decides to renew the mandate of **Commissioner Reine Alapini Gansou** as the Special Rapporteur on Human Rights Defenders in Africa for a period of two (2) years, effective from 5 November 2013.

Done in Banjul, The Gambia, 5 November 2013



ACHPR/Res.249 (LIV) 2013: RESOLUTION ON THE RENEWAL OF THE MANDATE OF THE WORKING GROUP ON INDIGENOUS POPULATIONS/COMMUNITIES IN AFRICA

The African Commission on Human and Peoples' Rights (The Commission), meeting at its 54th Ordinary Session from 22 October to 5 November 2013 in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (The African Charter);

Recalling that the Commission established a Working Group on Indigenous Populations/Communities in Africa composed of ten members, including three members of the Commission;

Recalling its Resolution ACHPR/Res.65 (XXXIV) 03 on the report of the Working Group on Indigenous Populations/Communities adopted at its 34th Ordinary Session held in Banjul, The Gambia from 6 to 20 November, 2003;

Mindful of Resolution ACHPR/Res.123 (XXXII) 07 on the composition and renewal of the mandate of the Working Group on Indigenous Populations/Communities in Africa for a period of two years, adopted at its 42nd Ordinary Session held from 15 to 28 November, 2007 in Brazzaville, Republic of Congo;

Recalling Resolution ACHPR/Res.155 (XLV1) 09 and Resolution ACHPR Res.193 (L) 11, adopted by the Commission during its 46th and 50th Ordinary Sessions respectively, renewing the mandate of the Working Group on Indigenous Populations/Communities in Africa;

Noting with satisfaction the work done by the Working Group under the leadership of Commissioner Soyata Maiga during the last two years in the discharge of its mission;

Further noting that the mandate of the Chairperson and members of the Working Group has come to an end;

Further recognizing the importance of the work of the Working Group in the promotion and protection of indigenous populations/communities in Africa and the need to allow the Working Group to continue to carry out its mandate;

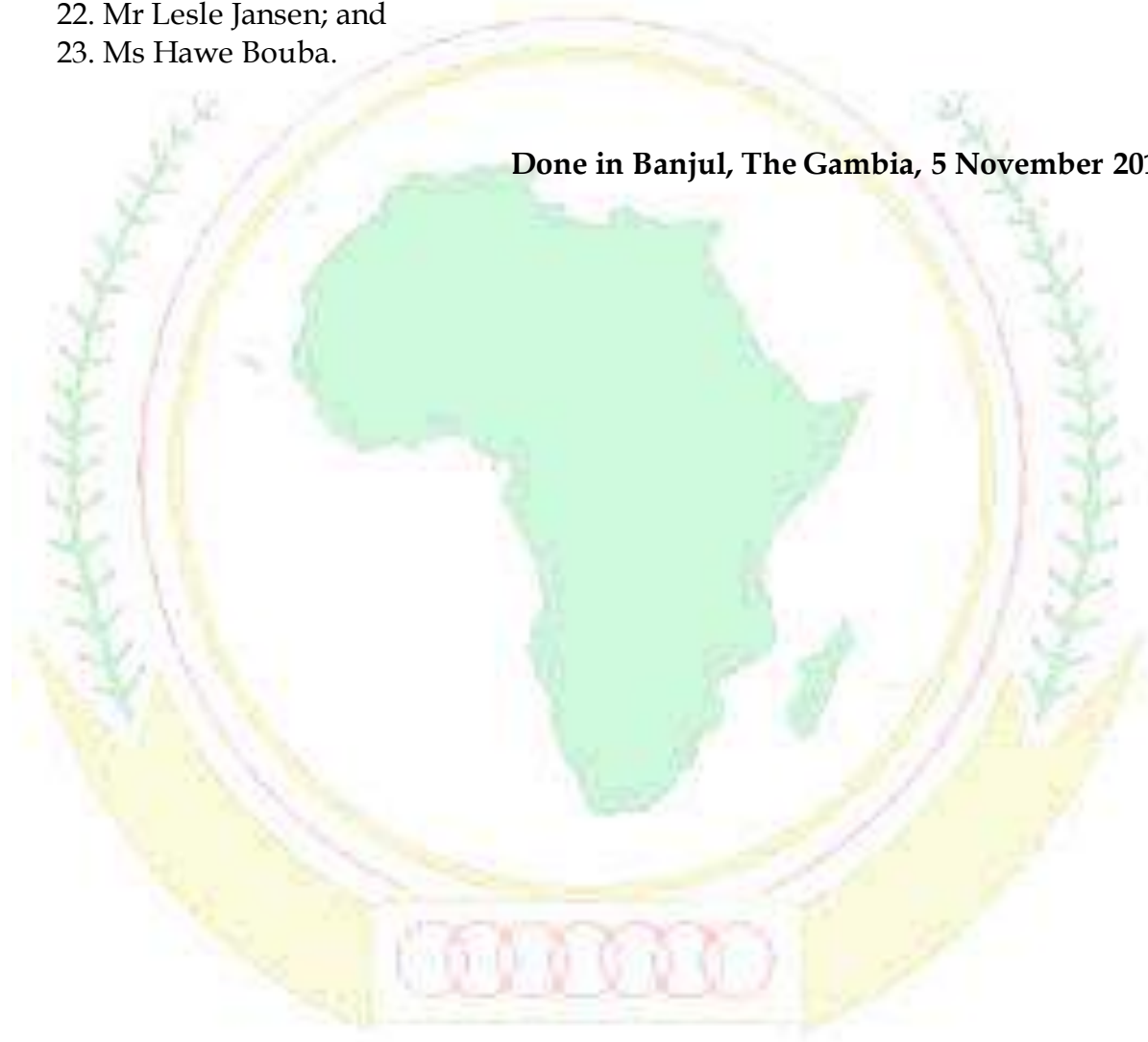
Decides to renew for a period of two years, with effect from 5 November 2013, the mandate of:

- xi.* **Commissioner Soyata Maiga** as Chairperson of the Working Group;

- xii. **Commissioner Lucy Asuagbor** and **Commissioner Pacifique Manirakiza** as members of the Working Group;
- xiii. the following experts:

17. Mr Mohammed Khattali;
18. Ms Marianne Jensen;
19. Dr Melakou Tegegn;
20. Dr Naomi Kipuri;
21. Dr Albert Barume;
22. Mr Lesle Jansen; and
23. Ms Hawe Bouba.

Done in Banjul, The Gambia, 5 November 2013



ACHPR/Res.250 (LIV) 2013: RESOLUTION ON THE RENEWAL OF THE MANDATE OF THE WORKING GROUP ON THE RIGHTS OF OLDER PERSONS AND PEOPLE WITH DISABILITIES IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 54th Ordinary Session from 22 October to 5 November 2013, in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter) ;

Bearing in mind the African Union Policy Framework and Plan of Action on Ageing in which "*State Parties recognized the fundamental rights of older persons and committed themselves to abolishing all forms of discrimination based on age*", and undertook "*to ensure that the rights of older persons are protected by appropriate legislation, including the right to organize themselves in groups and the right to representation in order to advance their interests*";

Recalling its Resolution ACHPR/Res.106 (XXXXI) 07 of 30 May 2007, on the Rights of Older Persons in Africa, adopted at the 41st Ordinary Session, held from 16 to 30 May 2007, in Accra, Ghana;

Further recalling its Resolution ACHPR/Res.118 (XXXXII), on the Appointment of a Focal Point on the Rights of Older Persons in Africa, that was adopted at the 42nd Ordinary Session, held from 15 to 28 November 2007 in Brazzaville, Republic of Congo;

Further recalling its Resolution ACHPR/Res.143 (XXXXV) 09 transforming the Focal Point on the Rights of Older Persons in Africa into a Working Group on the Rights of Older Persons and People with Disabilities in Africa;

Considering that the African Charter makes specific provisions for the protection of these rights, under Article 18 (4), which stipulates that "*the aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs*";

Considering further paragraph 20 of the Kigali Declaration which "*calls upon Member States to develop a Protocol on the protection of the rights of people with disabilities and the elderly*";

Bearing in mind the mandate of the Focal Point which includes, among others, "*leading the process of drafting a Protocol on the Rights of Older Persons for submission to the AU Policy Organs for consideration and adoption as soon as possible*";

Appreciating the work of the focal point in advocating for a rights-based approach towards protecting the rights of older persons;

Considering the mandate assigned to the Working Group on the Rights of Older Persons and People with Disabilities, and to facilitate the process of drafting the Protocol on Ageing, ensuring compliance by State Parties with the recommendations contained in the AU Policy Framework and Plan of Action on Ageing;

Recalling Resolution ACHPR/Res.189 (XLIX) 2011 adopted during the 49th Ordinary Session held in Banjul, The Gambia, from 28th April to 12th May 2011, increasing the number of Experts of the Working Group to effectively implement its mandate;

Further recalling Resolution ACHPR/Res.200 (L) 11 on the renewal of the mandate and appointment of the Chairperson and other Members of the Working Group on the Rights of Older Persons and Persons with Disabilities in Africa;

Recognizing the work and the outstanding achievements made by the Chairperson and Members of the Working Group, with specific reference to the draft Protocol on Older Persons, adopted by the Commission at the 52nd Ordinary Session, held from 9 to 22 October 2012 in Yamoussoukro, Côte d'Ivoire;

Considering that the two-year mandate of the Chairperson and other Expert Members of the Working Group has come to an end;

Considering the need to allow the Working Group on Older Persons and People with Disabilities to continue to carry out its mandate and to address urgent related matters;

Decides to:

- i. Re-appoint for a period of two years, with effect from 5 November 2013, the mandate of **Commissioner Yeung Kam John Yeung Sik Yuen** as Chairperson;
- ii. Re-appoint **Commissioner Reine Alapini Gansou** and **Commissioner Pansy Faith Tlakula** as members of the Working Group for the same period;
- iii. Appoint, for the same period, **Commissioner Lawrence Murugu Mute** as member;
- iv. Renew for the same period the mandate of the following members:
 24. Mr Tavengwa Machekano Nhongo;
 25. Ms Nadia Abdel-Wahab El-Afify;
 26. Dr Isabelle Anita Gbemisola Aboderin; and
 27. Mr Kudakwashe Dube.

Done in Banjul, The Gambia, 5 November 2013

ACHPR/Res.251 (LIV) 2013: RESOLUTION ON THE RENEWAL OF THE MANDATE OF THE CHAIRPERSON AND MEMBERS OF THE WORKING GROUP ON THE DEATH PENALTY, EXTRAJUDICIAL, SUMMARY AND ARBITRARY KILLINGS IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 54th Ordinary Session, held from 22 October to 5 November 2013, in Banjul, The Gambia;

Recalling its mandate to promote human rights and ensure their promotion in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.42 (XXVI) 99, adopted at its 26th Ordinary Session, held in Kigali, Rwanda, urging State Parties to envisage a moratorium on the death penalty;

Further recalling the decision of the African Commission at its 37th Ordinary Session to appoint two Commissioners to work with the Special Rapporteur on Prisons and Conditions of Detention in Africa to elaborate a concept paper on the Question of the Death Penalty in Africa;

Recalling its Resolution ACHPR/Res.79(XXXVIII) 05 on the composition and work of the Working Group on the Death Penalty, adopted at its 38th Ordinary Session to expand the composition of the Working Group to include two members of the Commission and five independent experts and to broaden its mandate;

Considering the trends in international law which encourage the abolition of the death penalty, in particular, the 2nd Optional Protocol to the International Covenant on Civil and Political Rights, the Statute of the International Criminal Court, the Resolution of the UN Commission on Human Rights, 2005/59, relating to the Death Penalty, the practices adopted by the State Parties to the UN Charter and the debates and initiatives undertaken by civil society and other stakeholders on the question of the death penalty;

Bearing in mind Resolution 62/149 of the General Assembly of the United Nations, adopted in 2007 calling on all States that still retain the death penalty to, inter alia, observe a moratorium on executions with a view to abolishing the death penalty;

Bearing in mind Resolution ACHPR/Res.113 (XXXXII) 07 on the renewal of the mandate and the appointment of Commissioner Kayitesi Zainabo Sylvie as the Chairperson of the Working Group on the Death Penalty, adopted at the 42nd Ordinary Session, held from 15 to 28 November 2007, in Brazzaville, Republic of Congo;

Recalling its Resolution ACHPR/Res.136(XXXIII) 08 calling on State Parties to observe the moratorium on the death penalty adopted at its 44th Ordinary Session, held from 10 to 24 November 2008, in Abuja, the Federal Republic of Nigeria;

Further recalling its Resolution ACHPR/Res.201 (L) 11 on the renewal of the mandate of the Chairperson and the appointment of members of the Working Group on the Death Penalty in Africa, adopted at its 50th Ordinary Session, held from 22 October to 5 November 2011 in Banjul, The Gambia;

Recalling further its Resolution ACHPR/Res.227 (LII) 2012 on the expansion of the mandate of the Working Group to questions on extrajudicial, summary or arbitrary killings, adopted at its 52nd Ordinary Session, held from 9 to 23 October in Yamoussoukro, Côte d'Ivoire;

Recognizing that seventeen (17) State Parties to the African Charter have already abolished the death penalty and twenty (20) others have declared a moratorium on its implementation;

Reaffirming the commitment of the African Commission to promote the right to life and to encourage State Parties to abolish the death penalty;

Considering the ongoing preparation of the draft Protocol to the African Charter on Human and Peoples' Rights on the Abolition of the Death Penalty in Africa;

Noting with appreciation the work done by the working Group under the leadership of Commissioner Kayitesi Zainabo Sylvie during the last two years;

Further noting that the mandate of the Chairperson and Members of the Working Group has come to an end;

Further recognizing the importance of the work of the Working Group on the Death Penalty, Extrajudicial, Summary or Arbitrary Killings and the need to ensure continuity of the Working Group;

Decides to:

- i. Re-appoint **Commissioner Kayitesi Zainabo Sylvie** as the Chairperson of the Working Group for a period of two years starting from 5 November 2013;
- ii. Re-appoint **Commissioner Maya Sahli Fadel** and **Commissioner Med Kaggwa** as Members of the Working Group for the same period; and
- iii. Renew for the same period the mandate of the following experts:

- 7) Ms Alice Mogwe;
- 8) Prof. Philip Francis Iya; and
- 9) Prof. Carlson E. Anyangwe.

Done in Banjul, The Gambia, 5 November 2013

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ACHPR/Res.252 (LIV) 2013: RESOLUTION ON THE RENEWAL OF THE MANDATE OF THE WORKING GROUP ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 54th Ordinary Session held from 22 October to 5 November 2013 in Banjul, The Gambia;

Recalling its mandate to promote human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.73 (XXXVI)04 to establish the Working Group on Economic, Social and Cultural Rights adopted at its 36th Ordinary Session held in Dakar, Senegal from 23 November to 7 December, 2004, and which also defines its mandate;

Recalling Resolution ACHPR/Res.147 (XLVI) 09, on the appointment of Commissioner Mohamed Bechir Khalfallah as Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa;

Further recalling its Resolution ACHPR/Res.193 (L) 11 on the renewal of the mandate of the Working Group on Economic, Social and Cultural Rights in Africa;

Considering the Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter and the State Party Reporting Guidelines on Economic, Social and Cultural Rights in Africa (Nairobi Principles);

Mindful of Resolution ACHPR/Res.236(LIII) 2013 on the illicit flight of capital from Africa which requires the Working Group and the Working Group on Extractive Industries, Environment and Violations of Human Rights in Africa to undertake an in-depth study on the impact of illicit capital flight on human rights in Africa;

Noting with appreciation the work carried out by the Working Group under the leadership of Commissioner Mohammed Béchir Khalfallah during the last two years;

Noting that the mandate of the Working Group has come to an end;

Considering the need to allow the Working Group to continue to carry out its mandate;

Decides to renew for a period of two years, with effect from 5 November 2013, the mandate of:

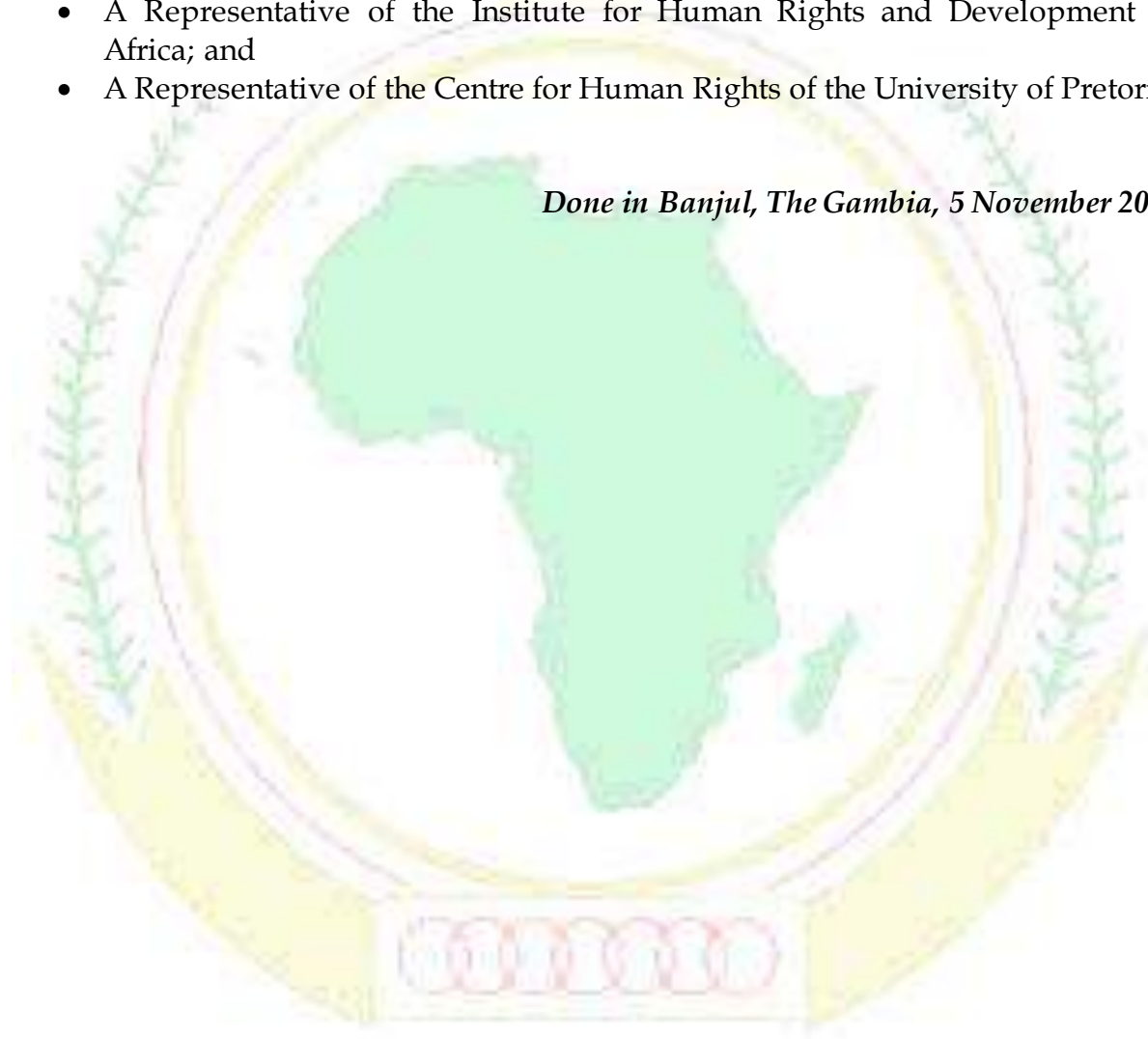
- i. **Commissioner Mohammed Bechir Khalfallah** as Chairperson of the Working Group;

- ii. **Commissioner Soyata Maiga** and **Commissioner Maya Sahli-Fadel** as members;

Further decides to renew, for an interim period of one year, the mandate of the following members:

- A Representative of the OHCHR;
- A Representative of the UNECA –GPAD;
- A Representative of INTERIGHTS;
- A Representative of the Institute for Human Rights and Development in Africa; and
- A Representative of the Centre for Human Rights of the University of Pretoria.

Done in Banjul, The Gambia, 5 November 2013



ACHPR/Res.253 (LIV) 2013: RESOLUTION ON THE RENEWAL OF THE MANDATE OF THE WORKING GROUP ON EXTRACTIVE INDUSTRIES, ENVIRONMENT AND HUMAN RIGHTS VIOLATIONS IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 54th Ordinary Session in Banjul, The Gambia held from 22 October to 5 November 2013;

Recalling all the relevant regional and international human rights instruments, specifically Articles 21 and 24 of the African Charter on Human and Peoples' Rights, on the right of all peoples to freely dispose of their wealth and natural resources and to a general satisfactory environment favourable to their development;

Recalling the unconditional responsibility of State Parties to prevent all forms of violations of human and peoples' rights, including violations of human and peoples' rights by non-state actors;

Concerned by the increasing rate of the destruction of the African environment and ecosystem by extractive industrial activities with impunity;

Convinced of the need for an improved protection of human rights, especially through the development of jurisprudence on holding non-state actors accountable for human rights violations in Africa;

Recalling Resolution ACHPR/Res148(XLVI) 09, establishing the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa (the Working Group), adopted during the 46th Ordinary Session held in Banjul, The Gambia, from 11 to 25 November 2009;

Recalling Resolution ACHPR/Res198(L)2011 appointing Commissioner Pacifique Manirakiza as Chairperson of the Working Group for an initial period of two years, adopted at its 50th Ordinary Session held in Banjul, The Gambia, from 24 October to 5 November, 2011;

Further recalling Resolution ACHPR/Res.215 (LI) 2012 on the Renewal of the Mandate of the Expert Members of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa;

Mindful of Resolution ACHPR/Res.236 (LIII) 2013 on the illicit flight of capital from Africa, adopted during the 53rd Ordinary Session held from 9 to 23 April 2013 and which required the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa and the Working Group on Economic, Social and Cultural Rights in Africa to carry out an in-depth study on the impact of the illicit flight of capital on human rights in Africa;

Noting with appreciation the work undertaken during the past two years by the Working Group under the leadership of Commissioner Pacifique Manirakiza;

Considering that the mandate of the Chairperson and the members of the Working Group comes to an end on 5 November 2013;

Recognizing the importance of the Working Group and the need to allow the Working Group to continue to carry out its mandate;

Decides to:

28. **Renew**, for a period of 2 years and taking effect from 5 November 2013, the mandate of **Commissioner Manirakiza Pacifique** as Chairperson of the Working Group, and **Commissioner Yeung Kam John Yeung Sik Yuen** as a Member for the same period; and

29. **Appoint Commissioner Lawrence Murugu Mute** as a member of the Working Group for the same period.

Done in Banjul, The Gambia, 5 November 2013



ACHPR/Res.254 (LIV) 2013: RESOLUTION ON THE APPOINTMENT OF THE CHAIRPERSON AND RENEWAL OF THE MANDATE OF THE MEMBERS OF THE COMMITTEE FOR THE PREVENTION OF TORTURE IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 54th Ordinary Session, held in Banjul, The Gambia, from 22 October to 5 November 2013;

Recalling its mandate to promote and protect human and peoples' rights in Africa under Article 45 of the African Charter on Human and Peoples' Rights (African Charter);

Considering the recognition by African States of the absolute and irrevocable nature of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment under Article 5 of the African Charter;

Recalling its Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines) adopted during its 32nd Ordinary Session, held in Banjul, The Gambia, from 17 to 23 October 2002;

Further recalling the establishment of the Robben Island Guidelines Follow-Up Committee in 2004 with the mandate to give effect to the promotion of Article 5 of the Charter;

Bearing in mind Resolution ACHPR/Res.120 (XXXII) 07 on the Appointment of the Chairperson and Members of the Committee for the Prevention of Torture in Africa adopted at its 42nd Ordinary Session held from 15 to 28 November 2007, in Brazzaville, Republic of Congo;

Further recalling Resolution ACHPR/Res158 (XLVI) 09, that changed the name of the Robben Island Follow-up Committee to the Committee for the Prevention of Torture in Africa (CPTA);

Considering Resolution ACHPR/Res.192 (L) 2011, adopted during the 50th Ordinary Session of the Commission held in Banjul, The Gambia, from 24 to 5 November 2011, renewing the mandate of the Committee for the Prevention of Torture in Africa;

Noting with appreciation the work undertaken by the Committee for the Prevention of Torture in Africa under the leadership of the Chairperson of the Committee, Commissioner Catherine Dupe Atoki, since her appointment on 28 November 2007;

Noting that the mandate of the Chairperson and members of the Committee has come to an end;

Considering the need to allow the Committee for the Prevention of Torture in Africa to continue carrying out its mandate and address urgent issues falling within its mandate;

Decides to:

- i. Appoint **Commissioner Lawrence Murugu Mute** as Chairperson of the Committee for a period of two years;
- ii. Renew for the same period the mandate of **Commissioner Med Kaggwa** as member of the Committee;
- iii. Appoint **Commissioner Lucy Asuagbor** as a member of the Committee for the same period; and
- iv. Maintain for the same period, the membership of the following experts:
 - Mr Jean-Baptiste Niyizurugero – Vice Chairperson;
 - Ms Hannah Forster – Member; and
 - Mr Malick Sow – Member.

Done in Banjul, The Gambia, 5 November 2013

ACHPR/Res.255 (LIV) 2013: RESOLUTION ON THE RENEWAL OF THE MANDATE OF THE WORKING GROUP ON COMMUNICATIONS

The African Commission on Human and Peoples' Rights (The Commission), meeting at its 54th Ordinary Session held in Banjul, The Gambia, from 22 October to 5 November 2013;

Recognizing its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Noting its protection mandate which involves the consideration of Communications alleging human rights violations against State Parties to the African Charter, pursuant to Articles 47 and 55 of the African Charter;

Noting Resolution ACHPR/RES.194 (L) 11, adopted during its 50th Ordinary Session held in Banjul, The Gambia from 24 October to 5 November 2011 establishing a Working Group on Communications and appointing its members;

Noting also Resolution ACHPR/RES.212 (EXT.OS/XI) 12, adopted during its 11th Extra-Ordinary Session held in Banjul, The Gambia, from 21 February to 1 March 2012 defining the mandate of the Working Group on Communications;

Further recalling Resolution ACHPR/RES.255(LII)12 on the extension of the mandate and modification of the composition of the Working Group on Communications, adopted at the 52nd Ordinary Session held from 9 to 22 October 2012 in Yamoussoukro, Côte d'Ivoire;

Further recognizing the importance of the work of the Working Group on Communications;

Noting with satisfaction the work done by the Working Group under the leadership of Commissioner Kayitesi Zainabo Sylvie in her capacity as Chairperson of the Working Group;

Considering that the mandate of the Chairperson and the members of the Working Group comes to an end on 5 November 2013;

Recognizing the importance of the Working Group and the need to allow the Working Group to continue to carry out its mandate;

Decides to:

Appoint Commissioner Lucy Asuagbor as Chairperson of the Working Group for a period of two years, with effect from 5 November 2013;

Renew for the same period the mandate of **Commissioner Reine Alapini Gansou** and **Commissioner Pacifique Manirakiza** as members of the Working Group; and

Appoint Commissioner Yeung Kam John Yeung Sik Yuen as a member of the Working group for the same period;

Renew for the same period the mandate of the support team of the Working Group at the Secretariat as follows:

- i. The Secretary to the Commission as coordinator of the support team;
- ii. Two (2) Senior Legal Officers; and
- iii. Two (2) Legal Officers.

Done in Banjul, The Gambia, 5 November 2013



ACHPR/Res.256 (LIV) 2013: RESOLUTION ON THE APPOINTMENT OF THE CHAIRPERSON AND RENEWAL OF THE MANDATE OF THE MEMBERS OF THE ADVISORY COMMITTEE ON BUDGETARY AND STAFF MATTERS

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 54th Ordinary Session held in Banjul, The Gambia from 22 October to 5 November 2013;

Recalling its mandate to promote and protect human and people's rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Aware of the vital role of its Secretariat in ensuring the effective discharge of the mandate of the Commission and the importance of having an efficient Secretariat;

Further conscious of the difficulties the Commission faces in the preparation, presentation and execution of its budget, and desirous of facilitating its budgetary preparation process;

Welcoming the decision of the Executive Council of the African Union (AU) to strengthen the human resource capacity of the Commission, through the recruitment of 33 more staff members over a period of five years from 2010 to 2014;

Recalling its decision taken during the 6th Extra-Ordinary Session to establish an Advisory Committee on Budgetary and Staff Matters to work with the Secretariat to prepare the Programmes Budget of the Commission;

Further recalling AU Executive Council Decision EX.CL/Dec.529 (XV) by which the African Union Commission (AUC), in consultation with the Permanent Representatives' Committee (PRC), is required to expedite the review of the honorarium and allowances of the members of the Commission, in accordance with AU financial rules and regulations;

Bearing in mind its Resolution ACHPR/Res 142 (XXXXV) 09, adopted at its 45th Ordinary Session, establishing an Advisory Committee on Budgetary and Staff Matters;

Mindful of Resolutions ACHPR/Res.188 (XLIX) 2011 and ACHPR/Res.191 (L)11 adopted respectively at its 49th and 50th Ordinary Session on the renewal and extension of the mandate of the Advisory Committee on Budgetary and Staff Matters;

Noting with appreciation the work undertaken during the past two years by the Advisory Committee under the leadership of Commissioner Reine Alapini Gansou;

Considering that the mandate of the Chairperson and the members of the Advisory Committee has come to an end;

Recognizing the importance of the Committee and the need to allow the Committee to continue to carry out its mandate;

Decides to:

30. Appoint **Commissioner Med Kaggwa** as Chairperson of the Committee for a period of 2 years with effect from 5 November 2013;
31. Renew the mandate of **Commissioner Reine Alapini Gansou** and **Commissioner Soyata Maiga** as Members of the Committee for the same period; and
32. Appoint **Commissioner Mohammed Bechir Khalfallah** as member of the Committee for the same period.

Done in Banjul, The Gambia, 5 November 2013



ACHPR/Res.257 (LIV) 2013: RESOLUTION CALLING ON THE REPUBLIC OF KENYA TO IMPLEMENT THE ENDOROIS DECISION

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 54th Ordinary Session, held in Banjul, The Gambia, from 22 October to 5 November 2013;

Considering its mandate to promote and protect human and peoples' rights in Africa as provided for in Article 45 of the African Charter on Human and Peoples' Rights (the African Charter);

Reaffirming the Commission's commitment to the promotion and protection of the rights of indigenous populations or communities in Africa, as a result of which it resolved to establish a Working Group on Indigenous Populations/Communities in Resolution ACHPR/Res.51 (XXVIII) 00;

Further recalling its Resolution ACHPR/Res.65 (XXXIV)03 on the Report of the African Commission's Working Group on Indigenous Populations/Communities adopted at its 34th Ordinary Session, held in Banjul, The Gambia, from 6 to 20 November 2003;

Recognising the importance of ensuring State Parties' compliance with the decisions of the Commission on Communications to ascertain victims' rights to effective redress;

Noting the Commission's obligation to follow-up on the implementation of its decisions in accordance with Rule 112 of its Rules of Procedure;

Considering Rule 118 (1) of the Commission's Rules of Procedure which allows the Commission to submit a case to the African Court on Human and Peoples' Rights where a State has not complied, or is unwilling to comply, with its decisions;

Recalling the Commission's decision in *Centre for Minority Rights Development (Kenya) and Minority Rights Group International (on behalf of Endorois Welfare Council) v. the Republic of Kenya*;

Further recalling the oral hearing at the 53rd Ordinary Session of the Commission, held from 9 to 23 April 2013, in Banjul, The Gambia, whereby the parties updated the Commission on the implementation of its decision in the Endorois case;

Recalling the Commission's Note Verbale to the Republic of Kenya, dated 29 April 2013, in which the Commission reminded the State party of its pledge at the oral hearing to submit an interim report within 90 days of the hearing, and a comprehensive report, including a road map with timelines and commitments for implementation at the Commission's 54th Ordinary Session;

Bearing in mind the non-compliance of the Republic of Kenya with its pledge to transmit an interim report within 90 days of the oral hearing, and a comprehensive report at the 54th Ordinary Session of the Commission, held in Banjul, The Gambia, from 22 October to 5 November 2013;

Taking into account the absence of the Kenyan Government representatives at the “Workshop on the Status of Implementation of the Endorois Decision of the African Commission on Human and Peoples’ Rights” organised by the Working Group on Indigenous Populations/Communities in collaboration with the Endorois Welfare Council held in Nairobi, Kenya on 23 September 2013;

Concerned by the lack of feedback from the Government of Kenya on the measures it has taken to implement the Endorois decision;

The Commission:

1. **Urges** the Government of Kenya, as State Party to the African Charter, to comply with its obligations under the Charter, including giving effect to the rights and freedoms guaranteed therein;
2. **Calls on** the Government of Kenya to inform the Commission of the measures proposed to implement the Endorois decision, and more particularly, the concrete steps taken to engage all the players and stakeholders, including the victims, with a view to giving full effect to the decision;
3. **Exhorts** the Government of Kenya to immediately transmit to the Commission, a comprehensive report, including a roadmap for implementation as pledged during the oral hearing at the 53rd Ordinary Session of the Commission.

Done in Banjul, The Gambia, 5 November 2013

ACHPR/Res.258 (LIV) 2013: RESOLUTION ON SUMMARY EXECUTION AND ENFORCED DISAPPEARANCE IN MALI

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 54th Ordinary Session held from 22 October to 5 November 2013 in Banjul, The Gambia,

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the obligations of the Republic of Mali under the African Charter and other regional and international human rights instruments ratified by Mali;

Considering Articles 1 and 23 of the African Charter which guarantee the security of peoples and their protection by State Parties;

Recalling its previous resolutions on the human rights situation in northern Mali and the relevant decisions of the Peace and Security Council of the African Union (AU) and the Economic Community for West African States (ECOWAS) on Mali;

Mindful of AU Peace and Security Council decision PSC/AHG/COMM/2 (CCCLIII) of 28 January 2013 and the AU Solemn Declaration on the Situation in Mali Assembly/AU/Decl.3 (XX) establishing the African-led International Support Mission to Mali (AFISMA), now the African Union Mission for Mali and the Sahel Region (MISAHEL);

Deeply concerned by the growing insecurity marked by cases of attacks and killings;

Further concerned by the cases of summary execution, enforced disappearance, arbitrary detention, inhuman and degrading treatment and the cases of torture recorded during investigations conducted by MISAHEL human rights observers, as well as the mutiny that occurred in the Kati military camp on 30 September 2013;

Strongly condemns the cases of summary execution and enforced disappearance which constitute human rights violations jeopardising peace and security in the country which is still weakened by conflict;

Calls on the Government of Mali to take the necessary measures to put an end to human rights violations and other acts of violence and to ensure the security of all persons in the country;

Urges the Government of Mali to take the necessary steps to put an end to impunity and to conduct an independent investigation in order to identify the perpetrators and bring them to justice;

Calls on ECOWAS, the AU and the international community to continue to support the people of Mali in their efforts to consolidate the gains of democracy and preserve the national security and territorial integrity of Mali.

Done in Banjul, The Gambia, 5 November 2013



ACHPR/Res.259 (LIV) 2013: RESOLUTION ON POLICE AND HUMAN RIGHTS IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 54th Ordinary Session, held from 22 October to 5 November 2013 in Banjul, The Gambia,

Recalling its mandate to promote and ensure the protection of human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Recognizing the central role of the police in the maintenance and enforcement of law and order and the promotion of citizen's safety as well as the respect for human rights;

Further recognizing the growing demands placed on the police to combat national and transnational crime, terrorism and other emerging security challenges;

Concerned that effective policing in Africa is impeded by several factors including limited financial resources, inadequate training, poor working conditions and corruption;

Further concerned that this situation has led to non-compliance by the police with basic human rights standards in the execution of their duties, including the use of excessive and disproportionate force, extrajudicial killings and summary executions, arbitrary and illegal arrest, torture and mistreatment;

Noting the importance of human rights training for the police as well as efficient mechanisms to follow up on human rights compliance by the police;

Recalling its decision at the 40th and 41st ordinary sessions to organize seminars on Building the Culture of Peace and Human Rights for the Military / Police in Africa;

Reaffirms its commitment to continue to place police and human rights as a priority issue in the execution of its promotion and protection mandate;

Calls on State Parties to the Charter to ensure that in the execution of their duties, police fully comply with the respect for human rights and the rule of law;

Further calls on State Parties to the African Charter to take the appropriate measures in accordance with the relevant Articles of the African Charter and other regional instruments to ensure that police services respect the dignity inherent in the individual in the discharge of their duties.

Done in Banjul, The Gambia, 5 November 2013

ACHPR/Res.260 (LIV) 2013: RESOLUTION ON INVOLUNTARY STERILISATION AND THE PROTECTION OF HUMAN RIGHTS IN ACCESS TO HIV SERVICES

The African Commission on Human and Peoples' Rights, meeting at its 54th Ordinary Session held from 22 October to 5 November 2013, in Banjul, The Gambia:

Reaffirming its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its previous Resolutions and General Comments, which recognise *inter alia* the rights of women and girls, the rights of people living with HIV, as well as the need to promote and protect women's sexual and reproductive health rights and to realize access to health services for all individuals;

Underscoring in particular that women's right to health and the principles of autonomy and non-discrimination are recognised under the African Charter and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), and that Article 14 of the Maputo Protocol explicitly provides for sexual and reproductive health rights, and specifically protects women's rights to "control their fertility, decide whether to have children, the number of children and the spacing of children [and] the right to choose any method of contraception";

Noting that voluntary sterilisation is one of the most widely used contraceptive methods in the world and is part of a full range of contraceptive services that should be accessible and affordable to every individual who so chooses, including women living with HIV;

Noting that involuntary sterilisation refers to a procedure that is carried out in the absence of genuine informed consent or against the expressed will of the individual;

Further noting that coerced sterilisation is a form of involuntary sterilisation characterized by the use of financial or other incentives, misinformation, or intimidation tactics to compel an individual to undergo the procedure;

Mindful that access by women living with HIV to the enjoyment of sexual and reproductive health rights is generally and severely limited or denied, as a result of HIV-related discrimination, stigma, prejudices and harmful customary practices;

Deeply concerned by the numerous reports of involuntary sterilisation of women living with HIV in certain State Parties to the African Charter;

- vi. Condemns** all forms of discrimination and human rights violations relating to access to adequate health services;
- vii.**

- viii. **Reaffirms** that all medical procedures, including sterilisation, must be provided with the free and informed consent of the individual concerned in line with internationally accepted medical and ethical standards;
- ix. **Firmly declares** that all forms of involuntary sterilisation violate in particular the right to equality and non-discrimination; dignity, liberty and security of person, freedom from torture, cruel, inhuman and degrading treatment, and the right to the best attainable state of physical and mental health; as enshrined in the regional and international human rights instruments, particularly the African Charter and the Maputo Protocol;
- x. **Calls upon** State Parties to the African Charter to:
- (i) Allocate adequate resources to HIV and reproductive health services;
 - (ii) Ensure that the existing international medical and ethical principles of free and informed consent with regards to all medical procedures, including sterilization are reflected in national laws and are enforced in the provision of healthcare services to women living with HIV;
 - (iii) Put in place mechanisms to ensure that women living with HIV are not subjected to coercion, pressure or undue inducement by healthcare providers and/or institutions in order to secure consent for sterilization or other medical procedures;
 - (iv) Ensure that women living with HIV are provided with all information on available HIV and reproductive health services in a language that they understand;
 - (v) Ensure regular training of medical personnel on the protection of human rights in the context of health care, including the principles of informed consent and non-discrimination;
 - (vi) Ensure meaningful involvement of women living with HIV in the drafting of laws, policies and guidelines concerning sexual and reproductive health and rights;
 - (vii) Investigate allegations of involuntary sterilisation conducted on women living with HIV and practices involving health practitioners, institutions and all persons involved in cases of involuntary sterilisations of women living with HIV; and
 - (viii) Put in place complaint mechanisms, legal assistance, and reparation for women living with HIV victims of involuntary sterilisation.

Done in Banjul, The Gambia, 5 November 2013

ACHPR/Res.261 (LIV) 2013: RESOLUTION ON THE EXTENSION OF THE DEADLINE FOR THE STUDY ON FREEDOM OF ASSOCIATION AND ASSEMBLY IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 54th Ordinary Session held from 22 October to 5 November 2013 in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Further recalling Resolutions ACHPR/69(XXXV) 04 on the protection of human rights defenders in Africa, ACHPR/Res.119 (XXXXII) 07 and ACHPR/Res.196 (L) 11 on the situation of human rights defenders in Africa;

Mindful of Resolutions ACHPR/Res151 (XLVI) 09 on the need to conduct a study on freedom of association, ACHPR/Res.179 (XLIX) 11 on the appointment of members of the Study Group on Freedom of Association in Africa and ACHPR/Res.229 (LII) 12 on the extension of the deadline for the study on freedom of association in Africa;

Conscious of the extension of the study to include freedom of assembly in Africa and the need to consolidate research on the study and gather as much information as possible;

Further conscious of the need to formulate guidelines on freedom of association and peaceful assembly;

Noting that the deadline set for the study is due to expire in October 2013, whereas the study report is being finalized;

Decides to extend the deadline for this study by one (1) year; and request that the report of the said study should be submitted for consideration by the Commission in October 2014.

Done in Banjul, The Gambia, 5 November 2013

ACHPR/Res.262 (LIV) 2013: RESOLUTION ON WOMEN'S RIGHT TO LAND AND PRODUCTIVE RESOURCES

The African Commission on Human and Peoples' Rights, meeting at its 54th Ordinary Session held in Banjul, The Gambia, from 22 October to 5 November 2013,

Recalling its mandate to promote and protect human and peoples' rights in Africa pursuant to the African Charter on Human and Peoples' Rights (the African Charter) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol);

Mindful that women's rights, based on the principles of equality and non-discrimination, are recognised and guaranteed by all regional and international instruments, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol, the African Charter and the Maputo Protocol;

Mindful of the relevant provisions of the Maputo protocol, in particular Articles 7, 15, 19 and 21;

Mindful of the Framework and Guidelines on Land Policy in Africa adopted by the African Union in 2009, in particular the provisions relating to strengthening women's right to land;

Recalling the African Women Decade (2010-2020) launched by the AU to promote gender equality and women's empowerment through expediting the implementation of the relevant regional and global decisions and commitments;

Considering that women's access to, control over and use of land and productive resources contribute to promoting gender equality and constitute a solid basis for improving women's social, political and economic status;

Recognising women's invaluable contribution to the effective use of land and their role in developing strategies to ensure food security, community development and sustainable agricultural practices on the continent;

Concerned that even though most State Parties have ratified the Maputo Protocol and other international instruments on women's rights women are still deprived of their right to own land and property and continue to experience discrimination and harmful social practices as a result of gender inequality;

Considering that women living in rural areas, women from poor and marginalized communities, women living with disabilities and women infected by HIV/ AIDS are more affected by marginalisation;

Deeply concerned that women are disproportionately affected by poverty, climate change, forced evictions, dispossession of land and forced resettlement;

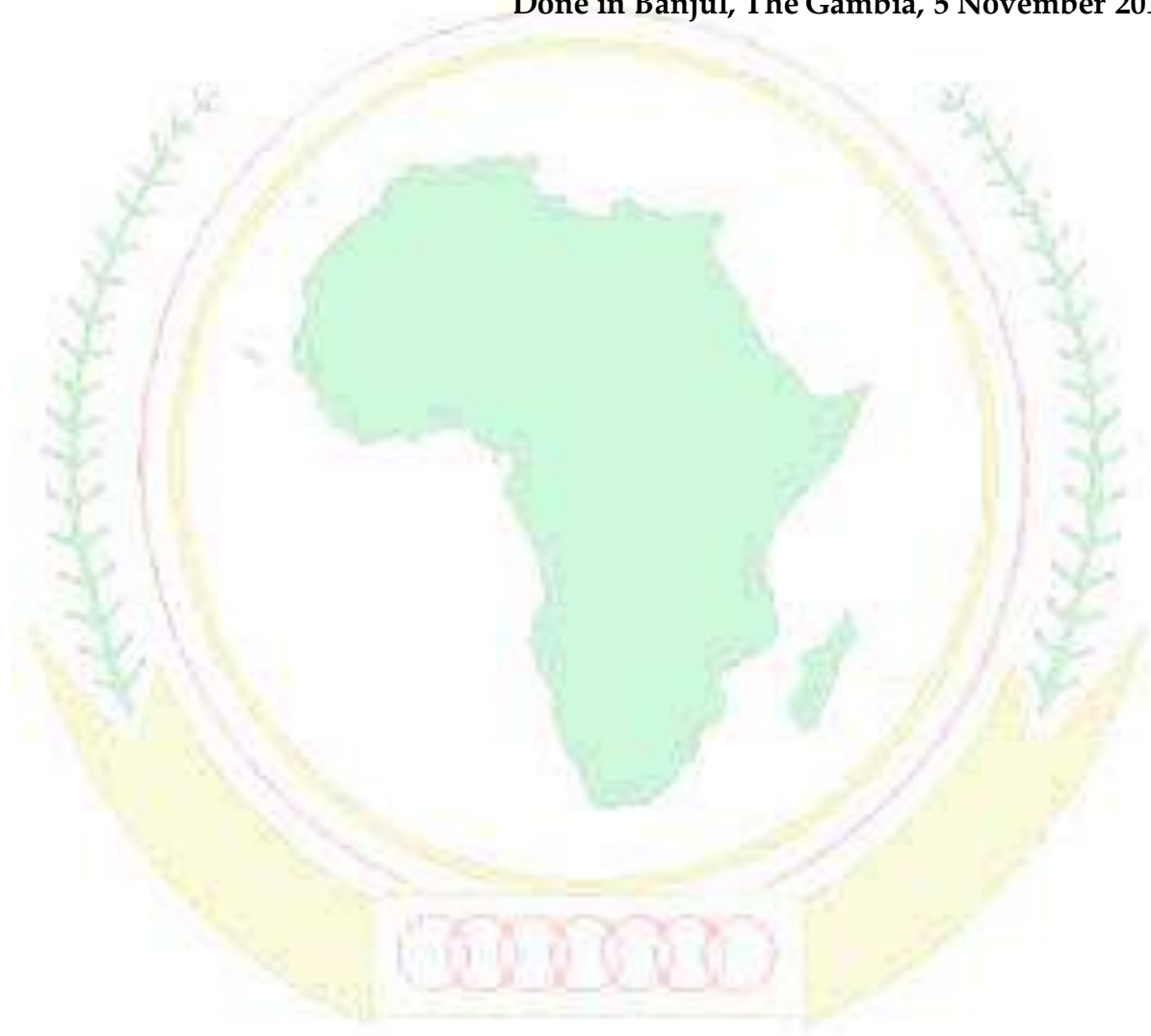
Conscious that State Parties have the primary responsibility to ensure and protect women's right to land and property in Africa:

1. **Urges** State Parties that have not yet done so to ratify the Maputo Protocol and ensure its effective implementation;
2. **Urges** State Parties to fully comply with their obligations and commitments to ensure, protect and promote women's right to land and property;
3. **Encourages** State Parties to repeal discriminatory laws and adopt legislative measures to sanction customary practices that limit or have a negative impact on women's access to, use of and control over land and other productive resources;
4. **Calls on** State Parties to organise sustained public sensitisation, information and education campaigns for community and religious leaders in order to transform socio-cultural patterns of conduct that deprive women of their security of enjoyment of and equal access to property, land and adequate housing;
5. **Calls on** State Parties to undertake land and agrarian reforms to ensure equal treatment for women in rural development, land distribution and social housing projects;
6. **Further urges** State Parties to:
 - i) provide legal protection to women against forced evictions and dispossession of land for use by public and private actors;
 - ii) ensure widows' right to inheritance, including the right to inherit the movable and immovable property of their husbands, as well as their right, irrespective of the matrimonial regime, to continue to live in the matrimonial house;
 - iii) ensure access to public justice services for underprivileged women by providing effective remedies for violations of their right to land and property, and free legal assistance in order to ensure compensation and the restitution of land;
 - iv) ensure that financial and microcredit institutions integrate the specific needs of women into their policies and practices, including access to credit and income-generating activities, especially for poor women and women heads of households;
 - v) integrate into national HIV/AIDS control strategies, as well as farming and land policies, women's right to land and property;
 - vi) put in place special measures to protect the property rights of women with disabilities.

vii) allocate specific resources to investment programmes that support and strengthen initiatives by rural women, in particular small-scale farmers;

7. **Calls on** international institutions and regional economic communities to provide technical and financial support to African governments towards achieving women's right to land and property, at all levels, in accordance with the Maputo Protocol and other relevant international instruments.

Done in Banjul, The Gambia, 5 November 2013



ACHPR/Res.263 (LIV) 2013: RESOLUTION ON THE PREVENTION OF ATTACKS AND DISCRIMINATION AGAINST PERSONS WITH ALBINISM

The African Commission on Human and Peoples' Rights, meeting at its 54th Ordinary Session held from 22 October to 5 November 2013 in Banjul, The Gambia;

Recalling its mandate to promote and ensure the protection of human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Concerned at the widespread discrimination, stigma and social exclusion directed at persons with albinism;

Deeply concerned at reports of systematic attacks against persons with albinism, including against women and children;

Welcoming the steps taken and efforts made by the countries concerned, including initiating legal action against perpetrators of attacks against persons with albinism, public condemnation of attacks against persons with albinism, and public awareness-raising campaigns;

Aware of Resolution 23/13 of the Human Rights Council on attacks and discrimination against persons with Albinism;

Bearing in mind Article 2 of the African Charter which guarantees every individual the enjoyment of the rights and freedoms recognised in the Charter regardless of race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status;

Mindful of the obligation of State Parties to the African Charter to promote and actualize the rights and freedoms enshrined in the African Charter;

Further bearing in mind Article 18 (4) of the African Charter which provides that the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs;

Bearing in mind its role under the African Charter to ensure the protection of human and peoples' rights;

HEREBY:

1. **Urges** State Parties to take all measures necessary to ensure the effective protection of persons with albinism and members of their families;

2. **Calls upon** State Parties to ensure accountability through the conduct of impartial, speedy and effective investigations into attacks against persons with albinism, the prosecution of those responsible, and by ensuring that victims and members of their families have access to appropriate remedies;
3. **Also calls upon** State Parties to take effective measures to eliminate all forms of discrimination against persons with albinism, and to increase education and public awareness-raising activities;
4. **Requests** State Parties to include in their reports submitted to the African Commission under Article 62 of the African Charter information on the situation of persons with albinism including good practices in protecting and promoting the rights of persons with albinism;
5. **Invites** State Parties to promote, in collaboration with relevant regional and international organizations, bilateral, regional and international initiatives aimed at protecting persons with albinism;
6. **Invites** its special mechanisms, as part of their respective mandates, to address the relevant aspects of the safety and non-discrimination of persons with albinism; and
7. **Invites** its Working Group on Older Persons and People with Disabilities to include guarantees of the rights of persons with albinism in the envisaged Draft Protocol to the African Charter on Human and Peoples' Rights on the Rights of People with Disabilities in Africa.

Done in Banjul, The Gambia, 5 November 2013

ACHPR/Res.264 (EXT.OS/XV) 2014: RESOLUTION ON ATTACKS AGAINST JOURNALISTS AND MEDIA PRACTITIONERS IN THE FEDERAL REPUBLIC OF SOMALIA

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 15th Extraordinary Session held in Banjul, The Gambia, from 7 to 14 March 2014:

Recalling its mandate to promote and protect human and peoples' rights pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Considering that the Federal Republic of Somalia is a Party to the African Charter and has committed itself to ensuring respect for human and peoples' rights within its territory;

Further considering the need to protect human life under Article 4 of the African Charter which provides that every human being shall be entitled to respect for his life and the integrity of his person;

Underscoring that freedom of expression and access to information are fundamental human rights guaranteed under Article 9 of the African Charter, and other international and regional human rights treaties;

Recalling Articles 10 and 11 of the African Charter which guarantee the right to freedom of association and assembly;

Recalling its Resolutions ACHPR/Res.62 (XXXII) 02 on the adoption of the Declaration of Principles on Freedom of Expression in Africa, which elaborates on the scope of Article 9 of the African Charter; ACHPR/Res.178 (XLIX) 2011 on the safety of journalists and media practitioners in Africa; ACHPR/Res.221 (LI) 2012 on attacks against journalists and media practitioners in Somalia;

Highlighting that the right to life and freedom of expression, assembly and association constitute fundamental human rights enshrined in the provisional Constitution of the Federal Republic of Somalia;

Welcoming the ongoing efforts by the African Union Peacekeeping Mission in Somalia (AMISOM) to restore peace and stability in the Federal Republic of Somalia, and **commending** its efforts to protect human rights;

Stressing that promoting respect for human rights is vital to restoring peace, stability and democratic governance in the Federal Republic of Somalia;

Denouncing the serious violations of the right to life and freedom of expression that continue to prevail in the Federal Republic of Somalia;

Concerned about the restrictions and intimidations against the National Union of Somali Journalists (NUSOJ) such as negative labelling, prosecution as well as physical harassment and intimidation of its members;

Deeply concerned by the continued killing of journalists and media practitioners in the Federal Republic of Somalia, where several media workers were killed with total impunity, in Mogadishu and Galkayo in 2013;

The Commission:

Strongly condemns the serious violations of the right to life committed against journalists and media practitioners in the Federal Republic of Somalia;

Calls on the Somali authorities to respect, protect and promote the right to life, freedom of expression and freedom of association and assembly of journalists and media practitioners as provided in the African Charter and other international and regional human rights instruments;

Calls on the Somali authorities and AMISOM to investigate the killing of journalists and media practitioners, and bring the perpetrators to justice;

Appeals for the immediate cessation of harassment and intimidation aimed at independent media organisations, in particular the NUSOJ, in the Federal Republic of Somalia.

Done in Banjul, The Gambia, on 14 March 2014

ACHPR/Res.265 (EXT.OS/XV) 2014: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN THE REPUBLIC OF SOUTH SUDAN

The African Commission on Human and Peoples' Rights (the Commission), at its 15th Extra-Ordinary Session held from 7 – 14 March 2014 in Banjul, The Gambia:

Recalling its mandate to promote and protect human and peoples' rights pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Further recalling that one of the objectives of the African Union, as stipulated in Article 3(f) of its Constitutive Act, is to promote peace, security, and stability in the continent;

Taking cognisance of Article 23 of the African Charter which also provides for the right of all peoples' to national and international peace and security;

Bearing in mind that South Sudan is a Member State of the African Union and signatory to the African Charter;

Commending the efforts made by the African Union to promote dialogue among the various parties towards achieving peace, security and political stability in the Republic of South Sudan;

Concerned about recent developments in South Sudan, which have massive implications on regional peace, security and stability;

Further concerned about the humanitarian consequences of the situation in South Sudan;

Alarmed with reports of serious and massive human rights violations, including the extra-judicial killing of civilians and captured soldiers, massive displacements and arbitrary detentions, mostly on ethnic grounds;

Bearing in mind the attacks against the civilian population, and the discovery of mass graves in some parts of the country;

Denouncing the acts of warring factions against innocent civilians, contrary to basic regional and international human rights standards;

Welcoming the decision of the African Union Peace and Security Council to establish a Commission of Inquiry to investigate human rights violations and other abuses committed during the armed conflict in South Sudan and make recommendations on the best ways and means to ensure accountability and reconciliation among all South Sudanese communities;

Stressing the need for South Sudan to cooperate with the African Union Commission of Inquiry to identify perpetrators of the atrocities and hold them accountable, in line with the African Union's firm commitment to fight impunity;

Noting the significance of effective redress for victims of human rights violations, not only at the domestic level, but also the regional and international level to end impunity;

Concerned by South Sudan's delay in ratifying and thereafter domesticating the African Charter as well as other fundamental human rights instruments, which provide avenues of redress for victims of human rights violations;

The Commission:

Strongly condemns the attacks on the civilian population perpetrated by the parties to the conflict;

Requests the Government of South Sudan to ensure the full protection of the civilian population;

Calls on all parties to immediately halt the violence, peacefully resolve their differences and follow through on peace agreements;

Calls on the Government of South Sudan to ensure that perpetrators of the human rights violations are held accountable for their actions;

Urges the Government of South Sudan to cooperate with the African Union Commission of Inquiry; and

Calls on the Government of South Sudan to immediately ratify and domesticate the African Charter and other fundamental human rights instruments.

Done in Banjul, The Gambia on 14 March 2014

ACHPR/Res.266 (EXT.OS/XV) 2014: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN THE CENTRAL AFRICAN REPUBLIC

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 15th Extraordinary Session held in Banjul, The Gambia, from 7 to 14 March 2014:

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Considering that one of the objectives of the African Union as stipulated in Article 3 (f) of its Constitutive Act is to "promote peace, security, and stability on the continent";

Recalling the obligations of the Central African Republic under the African Charter and other regional and international human rights instruments;

Further recalling the road map adopted by the 4th Extraordinary Summit of Heads of State and Government of the Economic Community of Central African States (ECCAS) held in N'Djamena on 18 April 2013;

Recalling its Resolution ACHPR/Res. 243 (EXT.OS/XIV) 2013 and its statements issued on 27 March 2013, 21 April 2013 and 24 July 2013 in which the Commission strongly condemned the looting and armed violence perpetrated against the Central African population and emphasized that "the perpetrators of these acts should be prosecuted by the competent courts";

Welcoming the efforts made by the transitional Government of the Central African Republic to put an end to the ongoing crisis;

Appreciating the efforts of the African Union and the international community to increase the number of soldiers deployed in the Central African Republic, in particular the activities of MISCA with the support of the French Operation Sangaris;

Concerned by the continuing violence and abuses carried out by the anti-Balaka militia against the Muslim civilian population, the regrouping of ex-Seleka forces in the towns of Vakaga, Batangafo and Kaga-Bandoro in the north and the new cycle of violence they cause in villages;

Deeply concerned by the continuing insecurity resulting in the forced and massive displacement of the civilian population, of nearly one million people both within and outside the country, and others seeking refuge in neighbouring countries;

Welcoming the commitment of countries such as the Republic of Cameroon, the Republic of Congo, the Democratic Republic of Congo and the Republic of Chad

which have shown hospitality and solidarity with refugee populations from the Central African Republic;

The Commission:

Strongly condemns the killings called “cleansing operations” carried out by members of the anti-Balaka in the neighbourhoods of Miskine, Marinaka and Combattant, and in the 3rd, 5th and 8th districts of the capital Bangui, including murder, rape, looting and destruction of property;

Also condemns the atrocities committed by ex-Seleka rebels in the towns of Batangafo and Kaga-Bandoro in retaliation for the attacks against the Muslim civilian population by members of the anti-Balaka;

Calls on the transitional Government to take the necessary measures to stop all acts of violence against the civilian population throughout the national territory and to bring the perpetrators before the competent courts;

Urges the transitional Government to expedite the establishment of Government institutions and to reconstitute the police and security forces in order to ensure the security of persons and property;

Calls on the African Union and the international community to strengthen the peacekeeping force in the Central African Republic by increasing its human and material resources;

Calls on countries hosting refugee populations to take the necessary measures to ensure their security and humanitarian assistance despite the complexity of the task;

Further calls on States to work closely with the UN High Commissioner for Refugees and other international humanitarian organisations towards an effective protection, material assistance and management of refugee camps in order to meet the needs of refugee populations in their territories, paying special attention to women and children;

Reiterates its call for the mobilisation of adequate humanitarian support for the populations affected by the crisis;

Calls on the Government of the Central African Republic to take all necessary measures to allow and facilitate unfettered access for humanitarian assistance to reach internally displaced persons;

Further calls on the transitional Government to organise free, fair, transparent and peaceful elections and to ensure that all the parties, in particular opposition parties, enjoy equitable access to state-controlled media;

Decides to remain seized of the matter.

Done in Banjul, The Gambia, on 14 March 2014



ACHPR/Res.267 (EXT.OS/XV) 2014: RESOLUTION ON THE HUMAN RIGHTS SITUATION IN THE FEDERAL REPUBLIC OF NIGERIA

The African Commission on Human and Peoples' Rights, meeting at its 15th Extra- Ordinary Session, held in Banjul, The Gambia, from 07 to 14 March 2014;

Recalling its mandate to promote and protect human and peoples' rights on the African Continent pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Considering that the Federal Republic of Nigeria is a Party to the African Charter and has committed itself to securing human and peoples' rights within its territory;

Further considering Article 1 of the African Charter which calls on Member States to adopt legislative or other measures to give effect to the rights and freedoms enshrined therein;

Further considering Article 4 of the African Charter by virtue of which human beings are inviolable, with every human being entitled to respect for their life and the integrity of their person;

Recalling its previous resolutions on the human rights situation in the Federal Republic of Nigeria, in particular *Resolutions ACHPR/RES.214 (OS/LI) 2012 and & ACHPR/RES. 211 (EXT.OS/XI) 2012*, which condemned acts of violence committed by armed groups against citizens in Nigeria.

Considering the consistent reports *inter alia* from UN Experts, Non-Governmental Organisations and the news media, of the deepening crisis of public safety and security being faced by the civilian population in the Nigerian north-eastern states of Borno, Adamawa and Yobe, arising from spates of attacks and various outrages on the civilian population by the militant Islamist group terrorising the region – *Jama'atu ahlus sunnah lid da'awati wal jihad*, popularly known as Boko Haram, which have further resulted in deaths, injuries and internal displacements amongst others;

Further concerned that such reports also document allegations of gross human rights abuse committed against the civilian population by personnel of the Nigerian military and other state agents, in their operations in combating the Boko Haram militants in the region;

Deeply concerned by the continued escalation in this extreme indiscriminate violence and killings of civilians which have continued unabated, resulting in more than 10,000 civilians killed and over 90,000 people displaced since the emergence of the Boko Haram group in 2002;

The Commission:

Strongly condemns the killings of the civilian population, and in particular, the recent acts of violence committed on 2 February 2014, in which about fifty-nine (59) pupils in the boarding school at the Federal Government College of Buni Yadi, in Yobe State, were shot or burnt alive;

Also condemns the instigators and perpetrators of these indefensible acts of violence, and demands that they immediately end their attacks on civilians;

Calls on the Government of the Federal Republic of Nigeria to take effective measures to guarantee the safety, security and protection of persons and their properties in the affected communities and States, and in the entire country at large, and urges it to increase efforts in securing the lives and integrity of the persons of the civilian population in accordance with its regional and international human rights obligations.

Further calls on the Government of the Federal Republic of Nigeria to ensure that military operations undertaken by its personnel and other agents in response to Boko Haram attacks comply with regional and international human rights standards;

Calls upon the relevant authorities of the Government of the Federal Republic of Nigeria to thoroughly investigate, and bring perpetrators of these gross human rights violations and killings to justice;

Also calls on the Government of the Federal Republic of Nigeria to guarantee the secure access of humanitarian actors and international human rights agencies to the affected communities and states; and

Further Calls on the Economic Community of West African States, the African Union, and the international community at large, to lend their full support to the Government of the Federal Republic of Nigeria in its efforts to end these acts of violence, and to closely monitor the human rights situation in the country.

Done in Banjul, The Gambia, 14 March 2014

ACHPR/Res.268 (LV) 2014: RESOLUTION APPOINTING EXPERT MEMBERS FOR THE WORKING GROUP ON EXTRACTIVE INDUSTRIES, ENVIRONMENT AND HUMAN RIGHTS VIOLATIONS IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 55th Ordinary Session, in Luanda, Angola, 28 April to 12 May 2014;

Considering its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Bearing in mind that the Commission established the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa (the Working Group) composed of eight members, amongst them, three Members of the Commission;

Recalling Resolution ACHPR/Res.148(XLVI)09: *Resolution on the Establishment of a Working Group on Extractive Industries, Environment and Human Rights Violations in Africa*, adopted during the 46th Ordinary Session of the Commission, held in Banjul, The Gambia, from 11 to 25 November 2009;

Further Recalling Resolution ACHPR/Res.175 (XLVIII)10: *Resolution to increase the Membership of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa*, adopted during the 48th Ordinary Session of the Commission, held in Banjul, The Gambia, from 10 to 25 October 2010;

Further Recalling Resolution ACHPR/Res.198(L)11: *Resolution Appointing the Chairperson and Members of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa*, adopted during the 50th Ordinary Session of the Commission, held in Banjul, The Gambia, from 24 October to 5 November 2011,

appointing Commissioner Pacifique Manirakiza as Chairperson of the Working Group;

Further Recalling Resolution ACHPR/Res.215(LI)2012: *Resolution on the Renewal of the Mandate of Expert Members of the Working Group Extractive Industries, Environment and Human Rights Violations in Africa*, adopted during the 51st Ordinary Session of the Commission held in Banjul, The Gambia, from 18 April to 02 May 2012;

Further Recalling Resolution ACHPR/Res.253(LIV): *Resolution on the Renewal of the Mandate of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa*, adopted during the 54th Ordinary Session of the Commission, held in Banjul, The Gambia, from 22 October to 5 November 2013, renewing the mandate of the Working Group for a period of two years taking effect from 05 November 2013;

Convinced of the necessity of improved human rights protection through development of jurisprudence on holding non-state actors accountable for human rights violations in Africa;

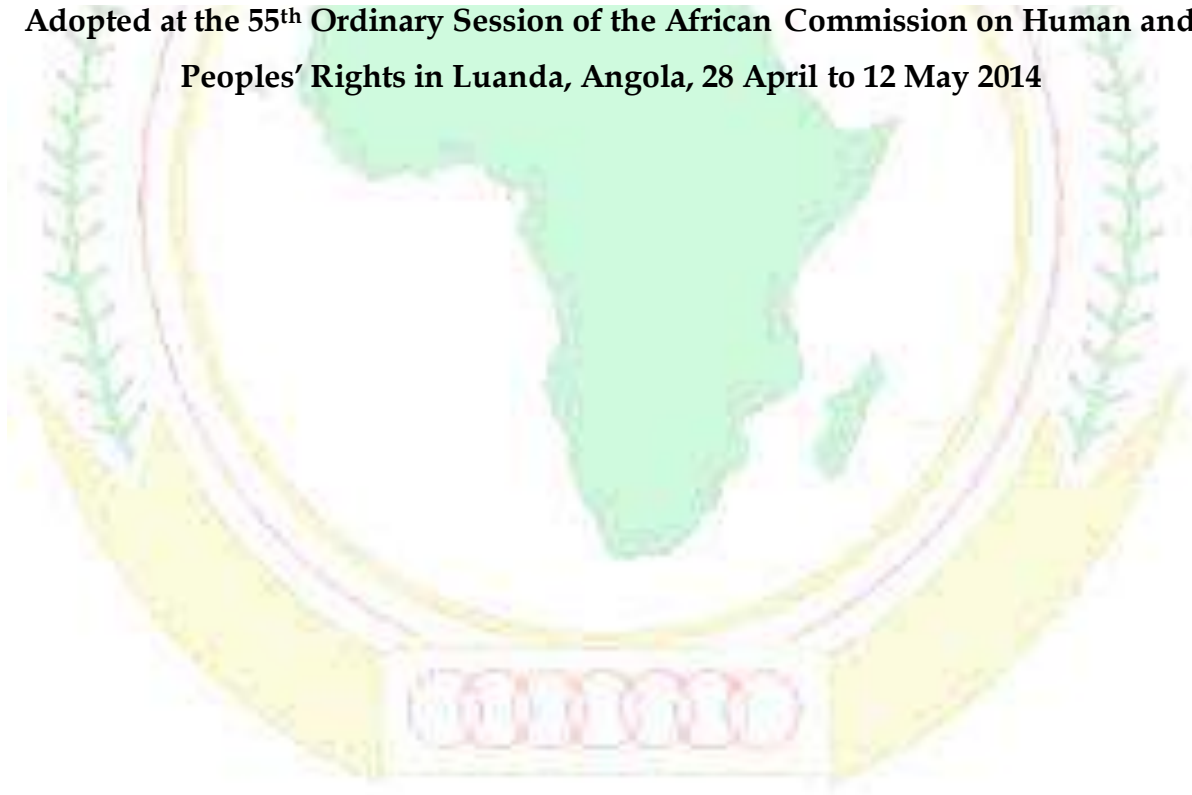
Noting the reduced number of members of the Working Group following the none active participation of two expert members, and *conscious* of the need to appoint two new members to replace them,

Recognizing that the success of the Working Group depends on the commitment of its members including their expertise to carry out its mandate and the importance for research, knowledge and capacity building to the Working Group;

Conscious of the need to ensure fair representation, taking into account the various geographical regions, languages, legal systems and gender;

1. **Decides to** appoint the following expert members of the Working Group for a period of two years: **Ms. Sheila Keetharuth** (Mauritius) in replacement of **Mr. Samuel Nguiffo** (Cameroun), and **Mr. Eric Kassongo Kalonji** (Democratic Republic of the Congo) in replacement of **Mr. Gilbert Maoundonodji** (Chad);
2. **Renews** the membership of the following experts:
 1. Mr. Clement Voulé;
 2. Professor James Gathii;
 3. Ms. Valerie Couillard; and
 4. Professor Michelo Hansungule.

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights in Luanda, Angola, 28 April to 12 May 2014



ACHPR/Res.269 (LV) 2014: Resolution Appointing an Expert Member for the Working Group on the Rights of Older Persons and People with Disabilities in Africa

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 55th Ordinary Session, in Luanda, Angola, 28 April to 05 May 2014;

Considering its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.106 (XXXI) 07 of 30 May 2007, on the Rights of Older Persons in Africa, adopted at the 41st Ordinary Session, held from 16 to 30 May 2007, in Accra, Ghana;

Further recalling its Resolution ACHPR/Res.118 (XXXII), on the Appointment of a Focal Point on the Rights of Older Persons in Africa, that was adopted at the 42nd Ordinary Session, held from 15 to 28 November 2007 in Brazzaville, Republic of Congo;

Further recalling its Resolution ACHPR/Res.143 (XXXV) 09 transforming the Focal Point on the Rights of Older Persons in Africa into a Working Group on the Rights of Older Persons and People with Disabilities in Africa;

Considering that the African Charter makes specific provisions for the protection of these rights, under Article 18 (4), which stipulates that "the aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs";

Considering further paragraph 20 of the Kigali Declaration which "calls upon Member States to develop a Protocol on the protection of the rights of people with disabilities and the elderly";

Further recalling its Resolution ACHPR/Res.143 (XXXV) 09 transforming the Focal Point on the Rights of Older Persons in Africa into a Working Group on the Rights of Older Persons and People with Disabilities in Africa;

Bearing in mind the mandate assigned to the Working Group on the Rights of Older Persons and People with Disabilities, which include holding comprehensive brainstorming sessions to articulate the rights of older persons and people with disabilities, identifying good practices to be replicated in Member States; and to facilitate the process of drafting the Protocols on the rights of older persons and persons with disabilities;

Further recalling Resolution ACHPR/Res.250 (CCL) 13 on the renewal of the mandate and appointment of the Chairperson and other Members of the Working Group on the Rights of Older Persons and People with Disabilities in Africa;

Recognizing the work and the outstanding achievements made by the Chairperson and Members of the Working Group, with specific reference to the Protocol on Older Persons, adopted by the Commission at the 52nd Ordinary Session, held from 9 to 22 October 2012 in Yamoussoukro, Côte d'Ivoire;

Considering the need to allow the Working Group on Older Persons and People with Disabilities to continue to carry out its mandate and to address urgent related matters, in particular drafting the Protocol on the Rights of Persons with Disabilities;

Decides to:

Maintain the membership of the following experts:

1. Mr Tavengwa Machekano Nhongo,
2. DrNadia Abdel-Wahab El-Afify,
3. Dr Isabelle Anita Gbemisola Aboderin,
4. Mr Kudakwashe Dube.

Appoint for a period of two years:

5. Dr. Elly Macha

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights in Luanda, Angola, 28 April to 12 May 2014

ACHPR/Res.270 (LV) 2014: RESOLUTION APPOINTING EXPERT MEMBERS OF THE WORKING GROUP ON DEATH PENALTY AND EXTRAJUDICIAL, SUMMARY OR ARBITRARY KILLINGS IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 55th Ordinary Session held from 28 April to 12 May 2014 in Luanda, Angola

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its decision adopted at its 37th Ordinary Session to appoint two Commissioners to work with the Special Rapporteur on Prisons and Conditions of Detention in Africa to prepare a Discussion Paper on the Question of the Death Penalty in Africa;

Further recalling its Resolution ACHPR/Res.79(XXXVIII) 05 on the Composition and Operationalization of the Working Group on the Death Penalty adopted at its 38th Ordinary Session in order to increase the composition of the Working Group to include two members of the Commission and five independent experts and to broaden its mandate;

Recalling its Resolution ACHPR/Res.113(XXXII) 07 on the Renewal of the Mandate and the Appointment of Commissioner Kayitesi Zainabo Sylvie as Chairperson of the Working Group on the Death Penalty, adopted at the 42nd Ordinary Session held from 15 to 28 November 2007 in Brazzaville, Republic of Congo;

Recalling its Resolution ACHPR/Res.201 (L) 11 on the Renewal of the Mandate of the Chairperson and the Appointment of Members of the Working Group on the Death Penalty in Africa, adopted at its 50th Ordinary Session held from 22 October to 5 November 2011 in Banjul, The Gambia, renewing the mandate of the Working Group for two years;

Bearing in mind its Resolution ACHPR/Res.227 (LII) 2012 expanding the mandate of the Working Group to include extrajudicial, summary or arbitrary killings adopted at its 52nd Ordinary Session held from 9 to 23 October 2012 in Yamoussoukro, Côte d'Ivoire;

Further recalling its Resolution ACHPR/Res.251 (LIV) 2013 on the Renewal of the Mandate of the Chairperson and Members of the Working Group on Death Penalty and Extrajudicial, Summary or Arbitrary Killings in Africa, adopted at its 54th Ordinary Session held from 9 to 22 October 2013 in Banjul, The Gambia, renewing the mandate of the Working Group for two years;

Noting the reduced number of members of the Working Group following the lack of active participation of two experts since October 2013 and *conscious* of the need to appoint two new members to replace them;

Recognising that seventeen (17) States Parties to the African Charter have already abolished the death penalty and that twenty (20) others have established a moratorium on the execution of the death penalty;

Recognising the importance of the work of the Working Group on Death Penalty and Extrajudicial, Summary or Arbitrary Killings in Africa and the need to enable the Working Group to continue to effectively implement its mandate;

Conscious of the need to ensure a fair representation taking into account the various geographical regions, languages and legal systems;

1. **Decides** to appoint the following expert members of the Working Group for a period of two years: Mr Bouzenia Fares (Algeria), in replacement of Ms Alya Cherif Chammari (Tunisia), and Mr Sègnitondji Isidore Clément Capo-Chichi (Benin), in replacement of Mr Moctar Diallo (Senegal);
2. **Requests** the African Union to provide the Working Group with the necessary resources, assistance and support for the implementation of this Resolution;
3. **Calls upon** other partners to continue to assist the Working Group in the implementation of its mandate.

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights held from 28 April to 12 May 2014 in Luanda, Angola

ACHPR/Res.271 (LV) 2014: RESOLUTION ON CLIMATE CHANGE IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 55th Ordinary Session held in Luanda, Angola, from 28 April to 12 May 2014;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Mindful of the provisions of Article 45(1)(b) of the African Charter which provides that the Commission shall "formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African governments may base their legislation;"

Considering the provisions of Article 24 of the African Charter on the right of all peoples to a satisfactory environment favourable to their development;

Recalling its **Resolution ACHPR/Res.153(XLVI)09: Resolution on Climate Change and Human Rights and the Need to Study its Impact in Africa**, adopted at the 46th Ordinary Session of the Commission held in Banjul, The Gambia, from 11 to 25 November 2009, in which the Commission decided to carry out a study on the impact of climate change on human rights in Africa;

Convinced that the conduct of an in-depth study on the impact of climate change in Africa will contribute to the development of effective human rights-based measures and solutions;

Requests the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa (the Working Group on Extractive Industries) to undertake an in-depth study on the impact of climate change on human rights in Africa;

Calls on civil society and other stakeholders to support the work of the Working Group on Extractive Industries.

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights held in Luanda, Angola, from 28 April to 12 May 2014

ACHPR/Res.272 (LV) 2014: Resolution on the 2014 Elections in Africa

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 55th Ordinary Session, in Luanda, Angola from 28 April to 12 May 2014;

Recalling its mandate to promote human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Considering the principles and objectives of the African Union enshrined in the Constitutive Act of the African Union;

Recalling further Article 13(1) of the African Charter which stipulates that "*every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law;*"

Further Considering the African Charter on Democracy, Elections and Governance which emphasizes the importance of entrenching on the Continent, a political culture of change of power based on the holding of regular, free, fair and transparent elections conducted by competent, independent and impartial national electoral bodies;

Bearing in mind its previous Resolutions on the Electoral Process and Participatory Governance in Africa including ACHPR/Res. 184 (EXT.OS/IX) 2011, ACHPR/Res. 232 (EXT.OS/XIII) 2013 and ACHPR/Res. 239 (EXT.OS/XIV) 2013;

Recalling its previous Resolutions on Freedom of Expression in Africa, Freedom of Association in Africa and Human Rights Defenders in Africa, including ACHPR/Resolution 62 (XXXII) 02, ACHPR /Res.99 (XXXX) 06, ACHPR/Res. 151 (XLVI) 09 and ACHPR/Res.196 (L) 11;

Reaffirming the importance of peaceful, free, fair and transparent elections and other political participation processes to the maintenance of peace and security on the Continent;

Noting with Satisfaction the successful conduct of the recent elections in the Republic of South Africa, The Peoples' Democratic Republic of Algeria, and The Republic of Guinea-Bissau;

Conscious of the fact that further elections are due to be held in other States Parties to the African Charter, including amongst others: the Arab Republic of Egypt, The Islamic Republic of Mauritania, the Republic of Mozambique, the Republic of Namibia, the Republic of Senegal and the Tunisian Republic, in the year 2014 ;

Reiterating its deep concerns about the recurrent situations of election-related violence and other human rights violations, as well as irregularities in electoral processes in Africa;

Noting in particular that meaningful participation of citizens in electoral processes requires the guarantee of their fundamental freedoms of expression, association and assembly within the law;

Acknowledging the critical role that human rights defenders and civil society play in promoting and defending human rights in particular in an election context;

Calls upon State Parties to the African Charter holding elections and other forms of political participation processes to:

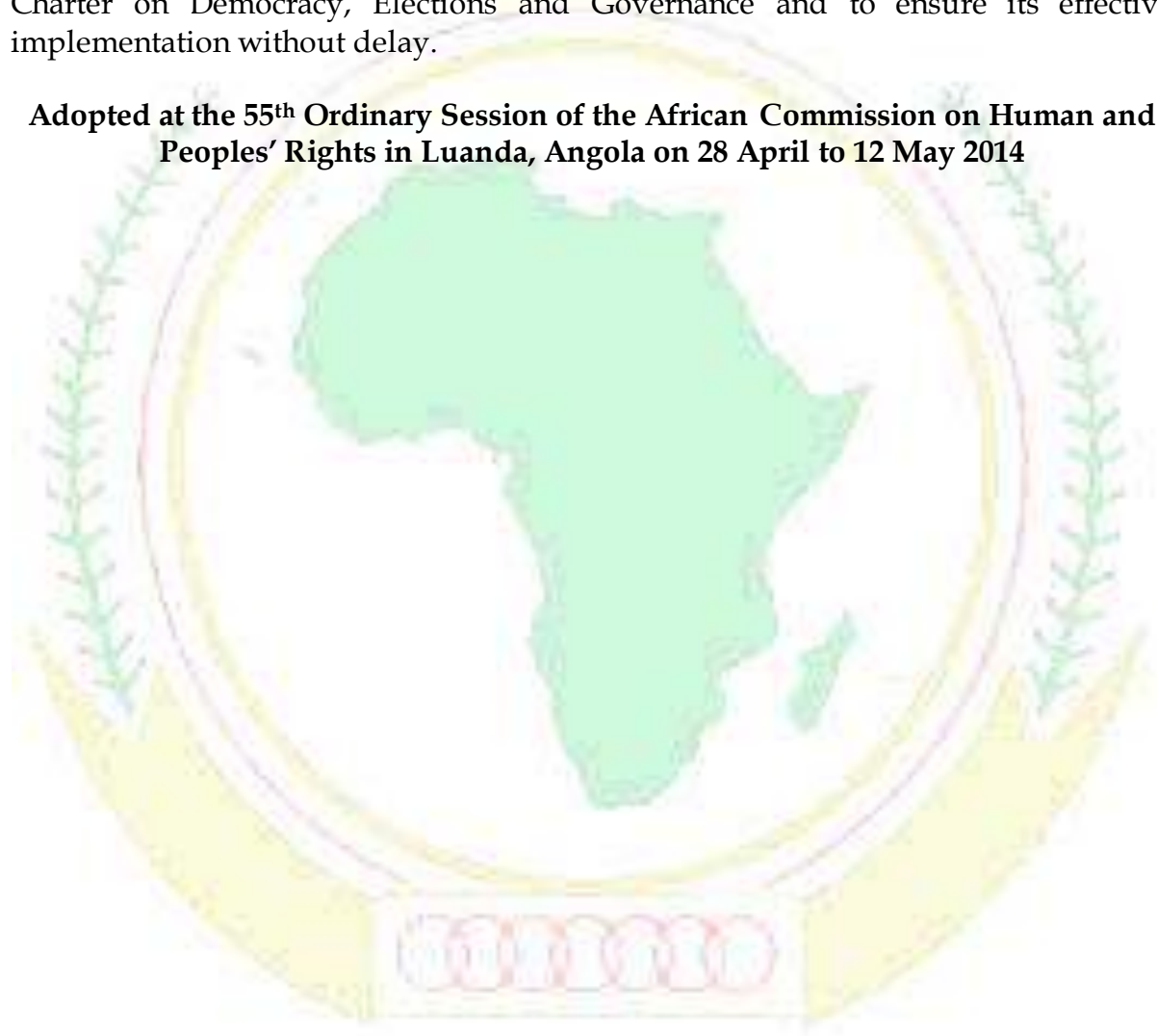
1. Ensure full compliance with their obligations under the African Charter and other regional and international human rights conventions, and take all necessary measures to preserve and protect the credibility of the electoral process;
2. Safeguard the human rights of all citizens including the freedom of movement, assembly, association and expression during the electoral processes, as well as equal access to media during campaign for all stakeholders;
3. Ensure that citizens exercise their right to vote in a peaceful environment free of intimidation, violence and any other impediment;
4. Respect and protect the rights of human rights defenders, journalists, civil society organisations and all stakeholders carrying out election-related activities;
5. Guarantee the independence of the institutions responsible for the organisation of elections and provide sufficient resources to them for the effective discharge of their mandates in the administration of efficient and transparent elections;
6. Allow the participation of national and international election observers in the entire electoral process;
7. Urge political parties to ensure that their supporters do not engage in or incite violence before, during or after the elections; and
8. Take all necessary measures to prevent and promptly investigate and prosecute any human rights violation which occurs within the framework of

the elections, including those committed by law enforcement agents, and provide prompt, adequate and effective redress to victims.

Urges the leaders of political parties and candidates participating in the elections due to hold in the State Parties to put the general interest of the people at the centre of the electoral processes.

Reiterates its appeal to all State Parties who have not done so, to ratify the African Charter on Democracy, Elections and Governance and to ensure its effective implementation without delay.

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights in Luanda, Angola on 28 April to 12 May 2014



ACHPR/Res.273 (LV) 2014: Resolution on Extending the Scope of the Mandate of the Special Rapporteur on Human Rights Defenders in Africa

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 55th Ordinary Session in Luanda, Angola, from 28 April to 12 May 2014

Recognizing its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Further recalling its Resolution **ACHPR/Res.69 (XXXV) 04** on the protection of human rights defenders in Africa and its Resolutions **ACHPR/Res. 119 (XXXXII) 07** and **ACHPR/Res. 196 (L) 11** on the situation of human rights defenders in Africa;

Recalling the human rights protection instruments, particularly the United Nations Declaration on Human Rights Defenders in 1998, the Grand Bay Declaration and its Plan of action adopted by the OAU Ministerial Conference on the promotion and protection of Human Rights in Africa in 1999, the Kigali Declaration in 2003, and the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa;

Cognizant of the obligations of African Union member States under the African Charter and under other regional and international human rights instruments for the protection of human rights, the obligation to guarantee the security of persons living in their own country, as well as freedoms of assembly, of association, of expression of human rights defenders and their right to take part in the management and conduct of public affairs;

Further recognizing the importance of the work carried out by civil society stakeholders, in particular human rights defenders collaborating with the African human rights system, for the promotion and protection of human rights, democracy and the rule of law in Africa;

Deeply concerned about the hostile environment in which civil society stakeholders collaborating with the African human rights system operate, and the fact they are victims of various kind of human rights violations as reprisals for their activities in defense of human rights.;

Concerned by the total impunity that continues to be enjoyed by the perpetrators of these acts of reprisals against those who collaborate with the African system of human rights;

Noting that the mandate of the Special Rapporteur on human rights defenders does not cover the specific issue of monitoring reprisals against human rights defenders collaborating with the African human rights system;

Determined to combat all obstruction of activities being conducted by those collaborating with the African human rights system and all forms of violence and reprisals against them;

Decides to extend the scope of the Special Rapporteur's mandate to include issues relating to reprisals against human rights defenders;

Decides, in this regard, to give this mechanism the additional responsibility of:

- I. Gathering information on and effectively addressing cases of reprisals against civil society stakeholders;
- II. Documenting and maintaining a database on cases of reprisals brought to its attention;
- III. Providing guidance to the Commission for the adoption of urgent measures to deal with specific cases of reprisals;
- IV. Presenting reports on cases of reprisals at each Ordinary Session of the Commission in the Special Rapporteur's activity report;
- V. Ensuring a follow-up of registered cases.

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights held in Luanda, Angola, from 28 April to 12 May 2014.

ACHPR/Res.274 (LV) 2014 : Resolution on the Drafting of Guidelines on Human Rights and the fight against Terrorism

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 55th Ordinary Session held from 28 April to 12 May 2014, in Luanda, Angola,

Recalling its mandate to promote and protect human and peoples' rights in Africa in accordance with the African Charter on Human and Peoples' Rights (the African Charter);

Further recalling

- Articles 1 and 23 of the African Charter which guarantee the security of peoples and their protection by States Parties;
- Article 45(1) (b) of the African Charter under which the Commission is mandated to formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African Governments may base their legislation;

Mindful of the OAU Convention on the Prevention and Combating of Terrorism of July 1999 and the Protocol to the OAU Convention on the Prevention and Combating of Terrorism adopted in July 2004;

Stressing the urgent need for all African States to take the necessary measures to protect their populations against acts of terrorism and to implement all international and regional instruments relating to humanitarian law and human rights;

Convinced that terrorism constitutes a serious violation of human rights and a threat to peace, security, development and democracy;

Deeply concerned by the increase in terrorist acts on the continent and the growing risks of links between terrorism and, amongst others, mercenarism, transnational crime, drug trafficking, money laundering and illicit proliferation of small arms;

Considering the need to prepare guidelines and establish principles relating to human rights and the fight against terrorism, the causes of which are complex and require a comprehensive approach:

1. Decides to assign the task of preparing the Guidelines on the Fight against Terrorism to the Special Rapporteur on Human Rights Defenders in Africa; and

2. Decides that the Guidelines should be presented to the Commission for consideration during its 56th Ordinary Session, to be held in October 2014.

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights in Luanda, Angola, 28 April to 12 May 2014



ACHPR/Res.275 (LV) 2014: Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 55th Ordinary Session held in Luanda, Angola, from 28 April to 12 May 2014:

Recalling that Article 2 of the African Charter on Human and Peoples' Rights (the African Charter) prohibits discrimination of the individual on the basis of distinctions of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or any status;

Further recalling that Article 3 of the African Charter entitles every individual to equal protection of the law;

Noting that Articles 4 and 5 of the African Charter entitle every individual to respect of their life and the integrity of their person, and prohibit torture and other cruel, inhuman and degrading treatment or punishment;

Alarmed that acts of violence, discrimination and other human rights violations continue to be committed on individuals in many parts of Africa because of their actual or imputed sexual orientation or gender identity;

Noting that such violence includes 'corrective' rape, physical assaults, torture, murder, arbitrary arrests, detentions, extra-judicial killings and executions, forced disappearances, extortion and blackmail;

Further alarmed at the incidence of violence and human rights violations and abuses by State and non-State actors targeting human rights defenders and civil society organisations working on issues of sexual orientation or gender identity in Africa;

Deeply disturbed by the failure of law enforcement agencies to diligently investigate and prosecute perpetrators of violence and other human rights violations targeting persons on the basis of their imputed or real sexual orientation or gender identity;

1. **Condemns** the increasing incidence of violence and other human rights violations, including murder, rape, assault, arbitrary imprisonment and other forms of persecution of persons on the basis of their imputed or real sexual orientation or gender identity;
2. **Specifically condemns** the situation of systematic attacks by State and non-state actors against persons on the basis of their imputed or real sexual orientation or gender identity;
3. **Calls on** State Parties to ensure that human rights defenders work in an enabling environment that is free of stigma, reprisals or criminal prosecution as a result of their human rights protection activities, including the rights of sexual minorities; and
4. **Strongly urges** States to end all acts of violence and abuse, whether committed by State or non-state actors, including by enacting and effectively applying appropriate laws prohibiting and punishing all forms of violence including those targeting persons on the basis of their imputed or real sexual orientation or gender identities, ensuring proper investigation and diligent prosecution of perpetrators, and establishing judicial procedures responsive to the needs of victims.

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights in Luanda, Angola, 28 April to 12 May 2014

ACHPR/Res.276 (LV) 2014 : Resolution on Terrorist Acts in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 55th Ordinary Session held from 28 April to 12 May 2014 in Luanda, Angola

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Considering the importance of the protection of human lives under Article 4 of the African Charter which requires respect for the right to life and physical and moral integrity of human beings;

Further considering that respect for the right to life is a pre-condition for the enjoyment of other rights guaranteed by the African Charter;

Recalling that all Member States of the African Union committed themselves to adopting legislative and other measures to give effect to the rights guaranteed by the African Charter;

Further recalling that all persons are entitled to the enjoyment of the rights guaranteed by the African Charter;

Considering that State Parties to the OAU Convention on the Prevention and Combating of Terrorism committed themselves to cooperate towards the eradication of terrorism pursuant to Article 4 of the Convention;

Commending the efforts made by the international community, the African Union and regional economic communities to prevent and combat terrorism in different parts of the continent, particularly in Somalia, Kenya, Mali and Nigeria;

Noting with regret that terrorist groups benefit from illicit trade, take advantage of corrupt systems, and use the normal channels to engage in money laundering and continue to acquire weapons;

Concerned by the attacks carried out by Al Shabaab including the attack at the Westgate Mall in Nairobi on 21 September 2013 and the bombings in Mombasa and Nairobi on 3 and 4 April 2014 respectively;

Saddened by the abuses committed by the Al Qaeda in the Islamic Maghreb against innocent civilian populations;

Deeply concerned by the barbaric acts of Boko Haram, in particular the abduction of more than 200 girls from a school in Borno State, the bombing of a bus station in Abuja leading to the death of 71 people and 124 wounded persons on 14 April 2014,

and the killing of 150 people in a village in Borno State in northern Nigeria on 7 May 2014;

The Commission:

Strongly condemns these violations of the right to life and these abductions which are cases of serious human rights violations;

Calls upon the perpetrators of these terrorist acts to put an immediate end to these shameful acts and urges them to use peaceful means to make their claims through dialogue among the various protagonists;

Urges States to take the necessary measures to ensure that the perpetrators of the various terrorist activities are brought to justice;

Further invites all African States to take the necessary measures to combat terrorism particularly by initiating joint actions aimed at preventing all activities relating to the financing, sale and transfer of weapons to terrorist groups ;

Invites States that are not yet parties to the OAU/AU Convention on the Prevention and Combating of Terrorism to take the necessary measures to ratify it;

Urges the African Union to strengthen its cooperation with the international community with a view to adopting a global strategy to stop the financing of these groups, and ensure that the alleged terrorists are prosecuted and punished in strict compliance with the right to a fair trial.

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights held in Luanda, Angola, from 28 April to 12 May 2014

ACHPR/Res.277 (LV) 2014: Resolution on the drafting of a Protocol to the African Charter on Human and Peoples' Rights on the Right to Nationality in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 55th Ordinary Session held from 28 April to 12 May 2014 in Luanda, Angola;

Recalling the provisions of Article 45(1) (b) of the African Charter on Human and Peoples' Rights which stipulates that the Commission shall "formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African Governments may base their legislation";

Bearing in mind its Resolution ACHPR/Res.234 (LIII) 13 on the Right to Nationality adopted at its 53rd Ordinary Session held from 9 to 23 April 2013 in Banjul, The Gambia;

Considering the roadmap for the implementation of Resolution ACHPR/Res.234 (LIII) 13 adopted in May 2013 in Addis Ababa, Ethiopia, and the meeting of various stakeholders held in Midrand, South Africa, in April 2014;

Considering the adoption of the Study on the Right to Nationality in Africa by the Commission during its 55th Ordinary Session held from 28 April to 12 May 2014 in Luanda, Angola;

Stressing the need to take new decisive steps towards identifying, preventing and reducing statelessness and protecting the right to nationality;

Considering the need to prepare a Protocol to the African Charter on Human and Peoples' Rights on the Right to Nationality in Africa:

1. *Decides* to assign the task of drafting a Protocol to the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;
2. *Calls upon* civil society organisations and other stakeholders to support the mechanism.

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights held from 28 April to 12 May 2014 in Luanda, Angola

ACHPR/Res.278 (LV) 2014: Resolution on the extension of the deadline for the Study on Transitional Justice in Africa

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 55th Ordinary Session, in Luanda, Angola, 28 April to 12 May 2014;

Recalling its mandate to promote human and peoples' rights in Africa in accordance with the African Charter on Human and Peoples' Rights;

Recalling further Resolution ACHPR/Res.235(LIII)13: Resolution on Transitional Justice in Africa, adopted during the 53rd Ordinary Session of the Commission, held in Banjul, The Gambia, from 9 to 23 April 2013, mandating Commissioner Pacifique Manirakiza to prepare a study on transitional justice in Africa;

Mindful of the need to consolidate and finalize the research undertaken as part of the study;

Considering that the one year deadline fixed for conducting the study will expire in May 2014;

Decides to:

- I. Extend the deadline of the study by two years;
- II. Request that the report of the study be submitted for consideration by the Commission in May 2016.

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights in Luanda, Angola, 28 April to 12 May 2014

ACHPR/Res.279 (LV) 2014: Resolution on the Extension of the Mandate of the Committee on the Protection of the Rights of People living with HIV, and those at Risk, Vulnerable to and affected by HIV in Africa

The African Commission on Human and Peoples' Rights (the Commission) at its 55th Ordinary Session held from 28 April to 12 May 2014, in Luanda, Angola;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (African Charter);

Considering that as part of fulfilling its mandate, the African Commission established various mechanisms for the promotion and protection of human and peoples' rights in Africa;

Recognizing that the Commission has the fundamental role to protect vulnerable groups in Africa from human rights violations;

Further Recalling its Resolution ACHPR/Res.163 (XLVII) 10, adopted at the 47th Ordinary Session of the Commission on the establishment of a Committee on the Protection of the Rights of People Living with HIV (PLHIV), and Those at Risk, Vulnerable to and Affected by HIV (the Committee);

Further Recalling its Resolutions ACHPR/172 (XLVIII) 10 and ACHPR/Res.195 (L) 11 on the appointment of Members of the Committee and Commissioner Lucy Asuagbor as the Chairperson of the Committee, as well as its Resolution ACHPR/Res.220 (LI) 12 renewing the mandate of the Committee;

Noting with satisfaction the work accomplished by the Committee;

Further noting that the mandate of the Committee and that of its Members came to an end during this Session, on 2 May 2014;

Bearing in mind the need for the Committee to continue carrying out its mandate and address the urgent issues falling within its mandate;

Decides to extend the mandate of the Committee and the following members for another term of two years with effect from 12 May 2014:

a.) Commissioner members of the Committee:

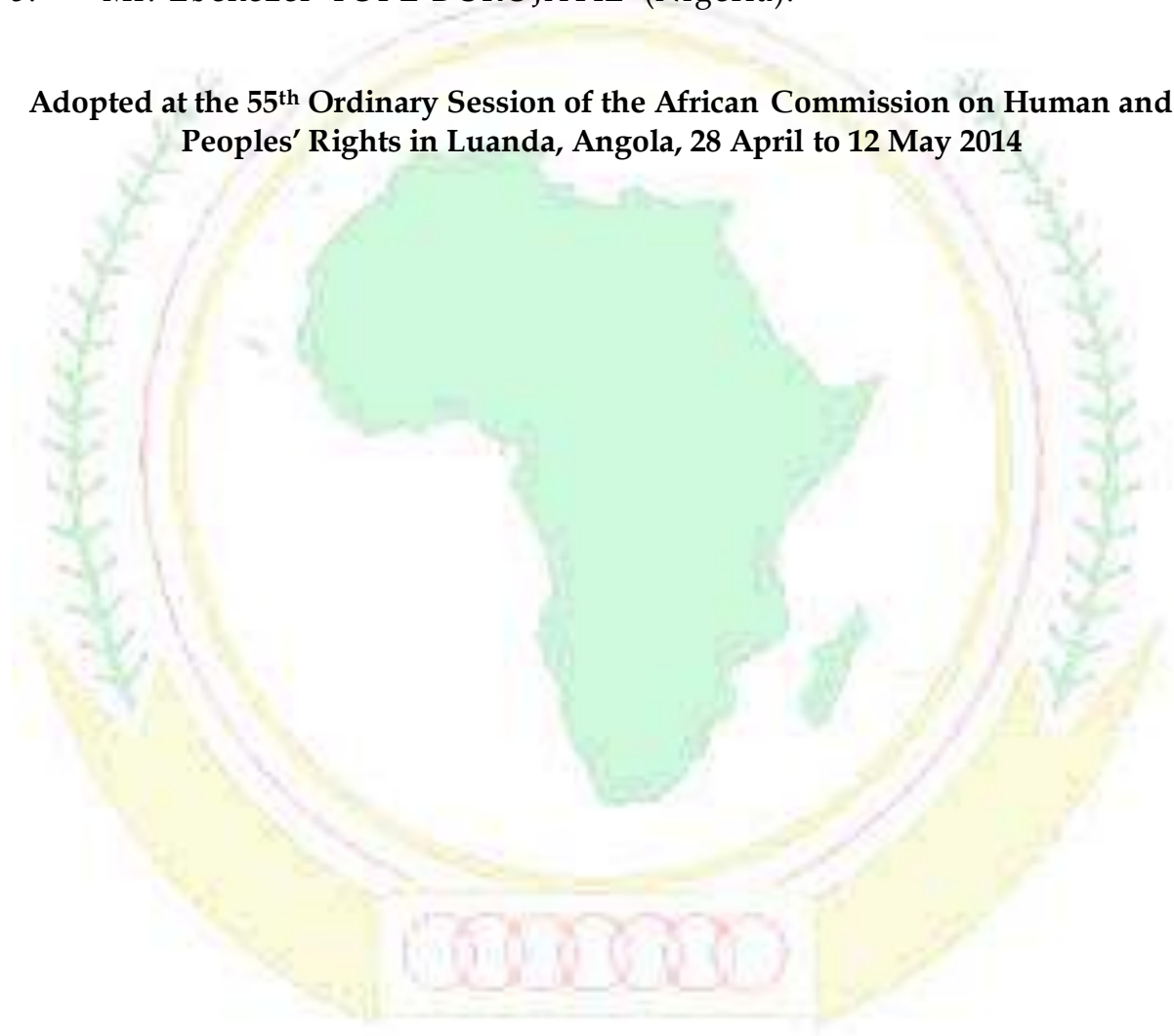
1. Honourable Commissioner Lucy ASUAGBOR, the Chairperson;
2. Honourable Commissioner Reine ALAPINI GANSOU, Member;

- and
3. Honourable Commissioner Soyata MAIGA, Member;

b.) Experts Members of the Committee:

1. Mrs. Agnes ATIM APEA (Uganda);
2. Mr. Patrick Michael EBA (Côte d'Ivoire);
3. Mr. Patrick Le doux DUTZUE FOGUE (Cameroon);
4. Mr. Christian GARUKA NSABIMANA (Rwanda); and
5. Mr. Ebenezer TOPE DUROJAYIE (Nigeria).

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights in Luanda, Angola, 28 April to 12 May 2014



ACHPR/Res.280 (LV) 2014: Resolution on the Extension of the Mandate of the Working Group on Specific Issues relevant to the Work of the Commission

The African Commission on Human and Peoples' Rights at its 55th Ordinary Session held from 28 April to 12 May 2014, in Luanda, Angola;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Further Recalling Resolution ACHPR/Res.77 (XXXVII) 05, adopted at its 37th Ordinary Session, on the establishment of a Working Group on Specific Issues Relevant to the Work of the Commission (Working Group);

Further Recalling Resolutions ACHPR/Res.124 (XXXXII) 07 and ACHPR/Res.150 (XLV1) 09 renewing the mandate of the Working Group, as well as Resolution ACHPR/Res.233 (EXT.OS/XIII) 13, reconstituting the Working Group and modifying its mandate and composition;

Noting with satisfaction the work accomplished by the Working Group since its reconstitution;

Further noting that the mandate of the Working Group and that of its Members came to an end on 23 February 2014;

Bearing in mind the need for the Working Group to continue carrying out its mandate and addressing the urgent issues falling within the same;

Decides to extend the mandate of the Working Group and the following members for another term of two years with effect from 12 May 2014:

- (i) Honourable Commissioner Faith Pansy Tlakula (Chairperson);
- (ii) Honourable Commissioner Med Kaggwa (Member);
- (iii) Honourable Commissioner Soyata Maiga (Member); and
- (iv) Honourable Commissioner Lucy Asuagbor (Member).

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights in Luanda, Angola, 28 April to 12 May 2014

ACHPR/Res.281 (LV) 2014 : Resolution on the Right to Peaceful Demonstrations

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 55th Ordinary Session held from 28 April to 12 May 2014, in Luanda, Angola;

Recalling its mandate to promote and ensure the protection of human and peoples' rights in the African Charter on Human and Peoples' Rights (the African Charter);

Considering the rights and freedoms guaranteed in Articles 4, 5, 6, 7 and 9 of the African Charter on Human and Peoples' Rights;

Further Considering the provisions of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials providing for conditions in which force may lawfully be used without violating human rights;

Concerned with the mass and arbitrary arrests and the continued detention of several people following peaceful demonstrations, with several reports of torture and ill-treatment in police stations;

Concerned also with the excessive use of force, live ammunition and tear gas to disperse peaceful demonstrators;

Concerned with the increasing level of sexual violence against female protesters, including cases of rape and sexual assaults in some countries;

Condemns serious restrictions imposed by some states to fundamental rights and freedoms specifically freedom of expression and the rights to information and peaceful demonstration;

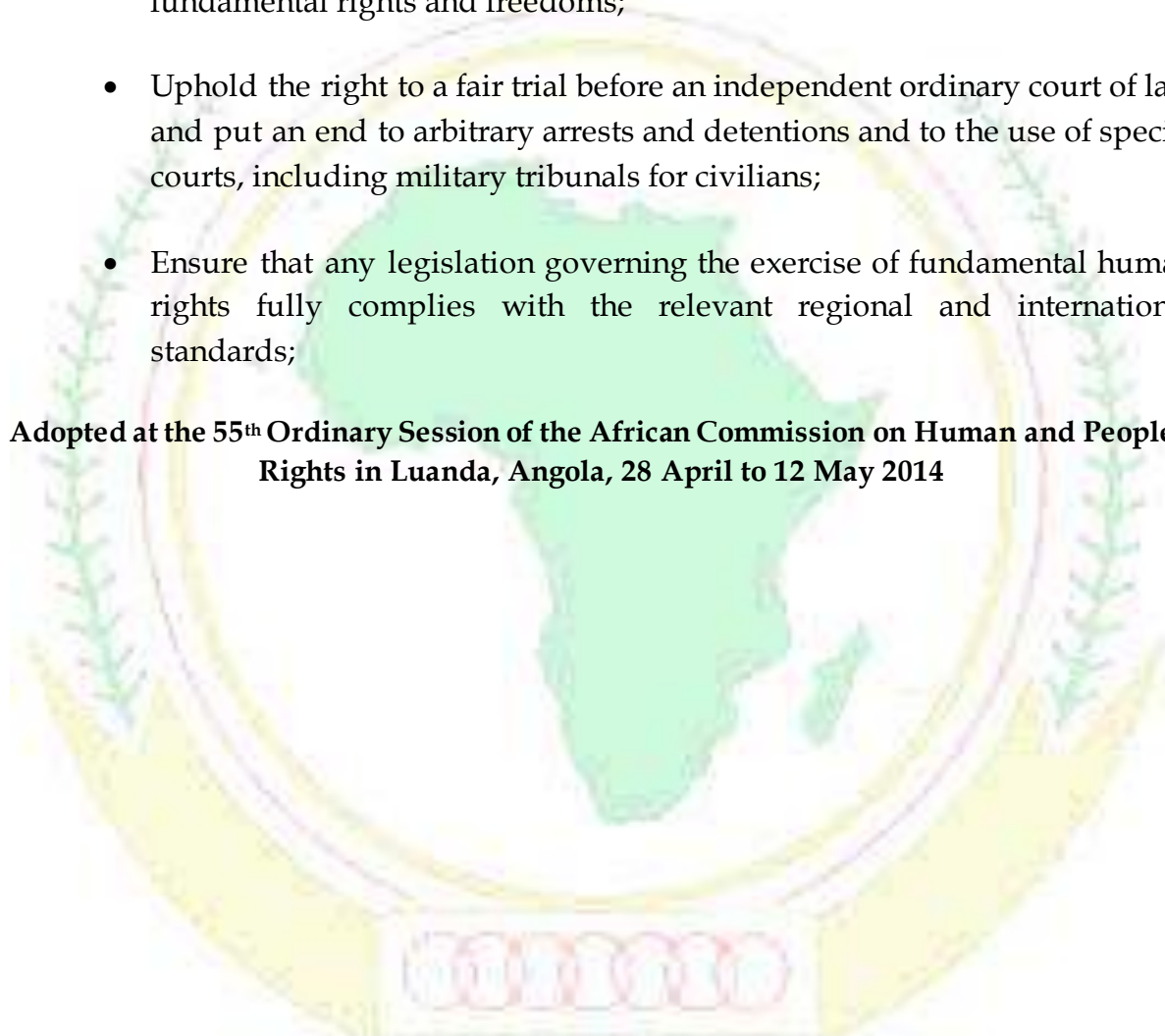
Condemns the arbitrary arrests and detentions and killings of peaceful demonstrators;

Calls on States Parties:

- To refrain from conducting arbitrary arrests and detentions of demonstrators and calls for their immediate release;
- To refrain from disproportionate use of force against demonstrators whilst fully complying with international standards on the use of force and firearms by law enforcement officials;

- To Conduct impartial and independent investigations into all human rights violations to ensure that all perpetrators are held accountable;
- To protect peaceful protesters regardless of their political affiliation, and/or sex;
- to fully abide by their regional and international obligations to respect fundamental rights and freedoms;
- Uphold the right to a fair trial before an independent ordinary court of law and put an end to arbitrary arrests and detentions and to the use of special courts, including military tribunals for civilians;
- Ensure that any legislation governing the exercise of fundamental human rights fully complies with the relevant regional and international standards;

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights in Luanda, Angola, 28 April to 12 May 2014



ACHPR/Res.282 (LV) 2014 : Resolution on the situation in the Sahrawi Arab Democratic Republic

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 55th Ordinary Session held from 28 April 2014 in Luanda, Angola:

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter) ;

Recalling further the African Charter in its Article 20 paragraph 1 which stipulates that: "All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.";

Recalling its Resolution ACHPR/Res.45 (XXVII) 00 on Western Sahara adopted at its 27th Ordinary Session held from 23 October to 6 November 2000, in Cotonou, Benin;

Considering its conclusions and recommendations made in its report on the fact-finding mission conducted in the Sahrawi Arab Democratic Republic (SADR) adopted by the Executive Council of the African Union at its meeting from 24 to 25 January 2013 in Addis Ababa, Ethiopia;

Commending the report of the United Nations Secretary General S/2014/258 published on 10 April 2014 on the situation in the Western Sahara, which emphasizes on the importance of the right to self-determination of the Sahrawi people;

Recalling the relevant United Nations Resolutions which recognize the status of Non-Self-Governing Territories in Western Sahara, making them the subject of decolonization;

Noting the adoption of Resolution 2152 by the United Nations Security Council on 29 April 2014, renewing the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO);

Further Noting and Commending the submission and consideration of the Periodic Report of the SADR pursuant to Article 62 of the African Charter;

Concerned by the persistence of acts of human rights abuses in the occupied territory of the SADR which take the form of a crackdown on peaceful demonstration, arrests, arbitrary detentions, enforced disappearances, acts of torture, inhuman and degrading treatment of Sahrawi prisoners and failure to respect the right to a fair trial;

Deeply concerned by the violence to which Sahrawi women and youth fall victim in the occupied territories, particularly regarding the excessive use of force to disperse demonstrators;

Deploring the growing number of Sahrawi victims of anti-personnel mines, the spread of which prevents freedom of movement across Western Sahara and continues to endanger the lives of the local population;

Denouncing the exploitation of natural resources by Morocco and some other members of the international community in the occupied parts of the territory and its territorial waters in violation of the principles of international law applicable to activities concerning natural resources of Non Self-Governing Territories ;

Observing the vulnerable socio-economic situation in which the refugees have lived for the past thirty-nine years in the camps near Tindouf (Algeria);

The Commission :

Condemns the widespread human rights abuses perpetrated against the Sahrawi people in the occupied territories;

Urges the parties to the conflict to continue the negotiations in order to achieve a just, political, lasting and mutually-acceptable solution, leading to self-determination for the people of Western Sahara;

Invites the International Community to establish an international human rights monitoring mechanism in the occupied territories;

Calls on the competent authorities to guarantee the respect of the inalienable right of the Sahrawi people concerning the natural resources in the occupied territories;

Urges the parties to continue to cooperate with the United Nations High Commission for Refugees in the implementation of the updated Action Plan on the confidence-building measures adopted in January 2012;

Further calls for the return of the humanitarian agencies to the refugee camps to strengthen the protection and assistance to the refugees;

Calls on the States to offer their good offices to clear the mines from the areas where anti-personnel mines have been laid as they represent a continuing source of danger for the population; and

Decides to be seized of the matter.

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights in Luanda, Angola, 28 April to 12 May 2014



ACHPR/Res.283 (LV) 2014: Resolution on the Situation of Women and Children in Armed Conflict

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 55th Ordinary Session held in Luanda, Republic of Angola, from 28 April to 12 May 2014

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Further recalling the United Nations Security Council Resolutions 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010), 2106 (2013) and 2122 (2013) on Women, Peace and Security which collectively aim to address *inter alia*, sexual violence in cases of conflict and impunity;

Recalling the prohibition of violence against women and women's rights to dignity, life, integrity, security and freedom from discrimination under the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol), in particular Articles 2, 3, 4, 5 and 11; as well as the right of access to justice and to equal protection of the law, under Article 8 of the same Protocol;

Further recalling the rights of children to life, survival, protection and development; as well as their rights to be protected from torture, discrimination, sexual abuse and particularly in situations of armed conflict, guaranteed under the African Charter on the Rights and Welfare of the Child, in particular Articles 3, 4, 5, 16, 22 and 27;

Reaffirming its Resolution ACHPR/Res.103 (XXXX) 06 of 29 November 2006 on the Situation of Women in the Democratic Republic of Congo and Resolution ACHPR/Res.111 (XXXXII)07 of 28 November 2007 on the Right to Remedy and Reparation for Women and Girls Victims of Sexual Violence;

Recalling its Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, in particular the provisions calling upon States to ensure that they respect equality of women and their dignity and the right not to be subjected to cruel, inhuman or degrading treatment or punishment;

Deeply concerned that multiple forms of human rights violations continue to take place in the context of armed conflict on the continent, in particular sexual and gender-based violence such as rape, sexual slavery, and sexual mutilations of women and children, mostly used as a tactic of war;

Concerned that crimes of sexual violence are often defined as "crimes against morality or honour", rather than against the victim's bodily integrity and that perpetrators may receive more lenient penalties if they are perceived to act to protect "honour", and sometimes go unpunished;

Deploing the impunity enjoyed by the perpetrators of crimes of sexual and gender-based violence;

Concerned that laws aimed at protecting women and children from violence are insufficient, discriminatory or non-existent and that legal definitions of crimes of sexual and gender-based violence are inadequate, especially in conflict situations;

The Commission:

1. Calls on Member States to:

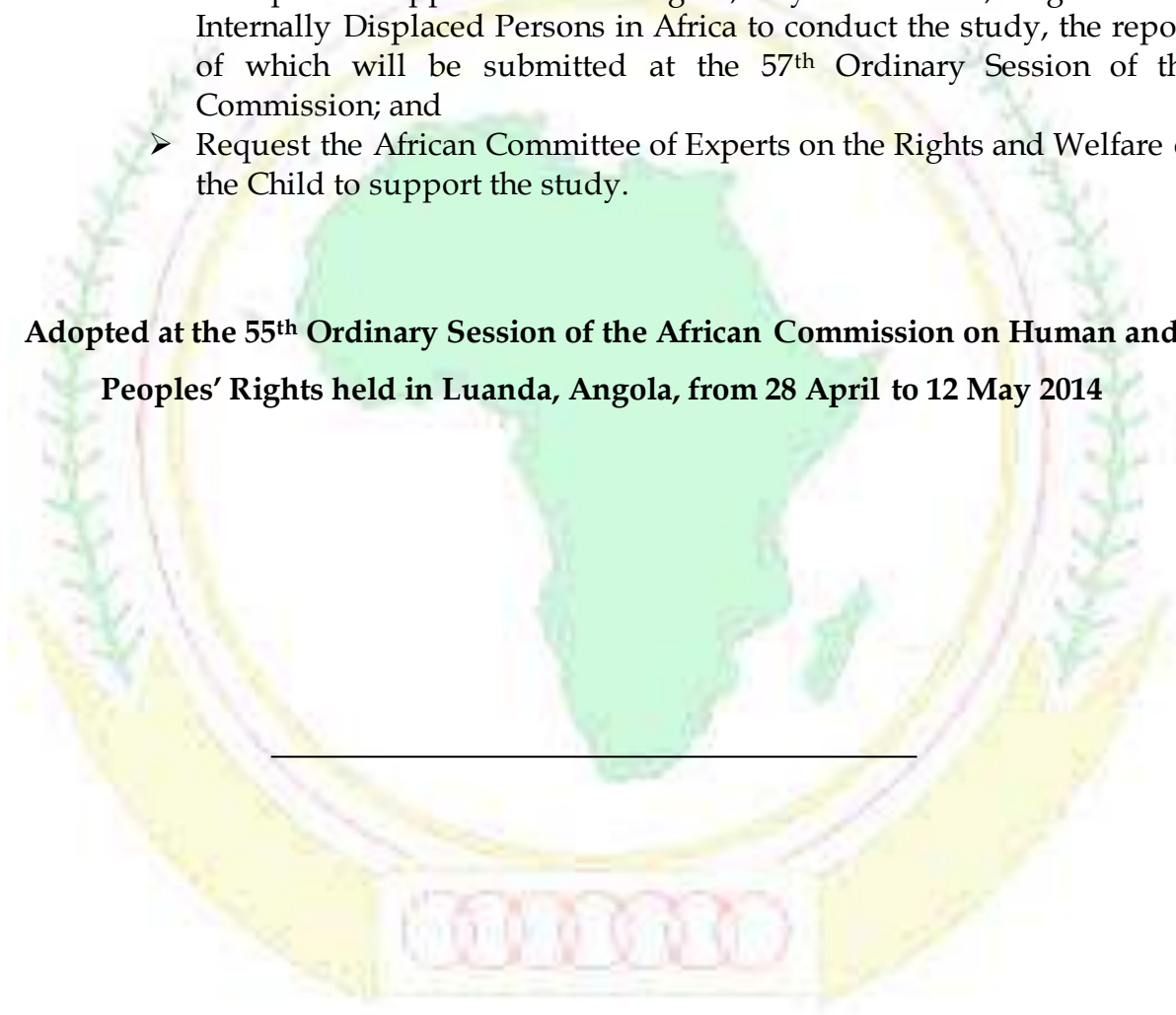
- **Condemn and prevent** violence against women and children in conflict and post-conflict situations, and ensure that survivors receive adequate support, affordable and accessible health-care services, including sexual and reproductive health;
- **Adopt** legislative, administrative, social and other measures to prevent and eradicate all forms of violence against women and children in conflict situations;
- **Conduct** independent and effective investigations into all crimes of sexual and gender-based violence, and prosecute and punish perpetrators to end impunity;
- **Provide** adequate training on investigating and prosecuting crimes of sexual and gender-based violence to personnel in the criminal justice system (police, forensic examiners, prosecutors, lawyers, judges);
- **Guarantee** the right to just and equitable reparation to victims in all forms (restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition) and address the consequences of violence against women and children in a comprehensive manner;
- **Ensure** the rehabilitation of victims of sexual and gender-based violence, and their involvement throughout the post-conflict peacebuilding and consolidation processes;
- **Ensure** implementation of the Commission's Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa;
- **Harmonize** abortion laws with the Maputo Protocol to include access to safe abortion in cases of rape, incest and sexual assault;
- **Ratify** and ensure the effective implementation of the African Charter on the Rights and Welfare of the Child, the Maputo Protocol, the Convention

on the Elimination of All Forms of Discrimination against Women, as well as other regional and international human rights instruments that protect women's and children's rights.

2. Decides to:

- Initiate a study on the impact of armed conflicts on the rights of women and children in Africa;
- Mandate the Special Rapporteur on the Rights of Women in Africa and the Special Rapporteur on Refugees, Asylum Seekers, Migrants and Internally Displaced Persons in Africa to conduct the study, the report of which will be submitted at the 57th Ordinary Session of the Commission; and
- Request the African Committee of Experts on the Rights and Welfare of the Child to support the study.

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights held in Luanda, Angola, from 28 April to 12 May 2014



**ACHPR/Res.284 (LV) 2014 : Resolution on the Suppression of Sexual Violence
against Women in the Democratic Republic of Congo**

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 55th Ordinary Session held from 28 April to 12 May 2014 in Luanda, Angola

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Further recalling the obligations of the Democratic Republic of Congo (DRC) under the African Charter and other regional and international human rights instruments ratified by the DRC;

Bearing in mind its Resolution ACHPR/Res.103 (XXXX) 06 of 29 November 2006 on the situation of the rights of women in the DRC, Resolution ACHPR/Res.111(XXXXII) 07 of 28 November 2007 on the right to remedy and reparation of victims of sexual violence, and Resolution ACHPR/Re.139(XXXXIII) 08 of 24 November 2008 on the human rights situation in the DRC;

Welcoming the enactment in 2006, by the Government of the DRC, of two laws criminalising acts of sexual violence and other forms of gender-based violence;

Concerned by the persistence and increase in cases of sexual violence and other forms of gender-based violence, perpetrated by armed groups and members of the Congolese armed forces against women and girls, especially in the eastern part of the DRC;

Deeply concerned by the mass rape and other forms of gender-based violence perpetrated by members of the FARDC against hundreds of women and girls in and around Minova in November 2012;

Further concerned by the impunity still enjoyed by the perpetrators and accomplices of these crimes despite the existence of specific laws on sexual violence, in particular the recent court decision, in the first and last instance, of 5 May 2014 by the Goma Operational Military Court in North Kivu acquitting 36 of the 39 members of the DRC armed forces accused of committing sexual violence in Minova;

The Commission:

Condemns the several acts of sexual violence and other forms of gender-based violence committed by the various armed groups against Congolese women and girls;

Further condemns the decision delivered by the military court - whose decisions cannot be appealed against, which violates the victims' right to a fair trial;

Urges the Congolese authorities to take the necessary measures to facilitate the effective access to justice of women and girls towards putting an end to impunity and ensuring that the perpetrators and accomplices of such acts are prosecuted before the competent courts within a reasonable time;

Calls upon the Congolese authorities to ensure the effective protection and safety of Congolese women, in particular victims of sexual violence and other forms of gender-based violence, by providing medical and psychological support, as well as adequate compensation;

Urges the Government of the DRC to take the necessary measures for the effective implementation of Law No. 06/18 and Law No. 06/19 of 2006 criminalising various forms of sexual violence;

Encourages the Congolese Government to take the necessary and urgent measures to domesticate the relevant provisions of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol);

Calls upon the international community to support efforts to protect women's rights in the DRC.

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights held from 28 April to 12 May 2014 in Luanda, Angola



ACHPR Res. 285 (EXT.OS/XVI) 2014: Resolution Appointing an Expert Member for the Committee on the Protection of the Rights of People Living with HIV (PLHIV), and Those at Risk, Vulnerable to and Affected by HIV in Africa

The African Commission on Human and Peoples' Rights (the Commission) at its 16th Extraordinary Session held from 20 to 29 July 2014, in Kigali, Republic of Rwanda;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (African Charter);

Bearing in mind that the Commission established the Committee on the Protection of the Rights of People Living with HIV (PLHIV), and Those at Risk, Vulnerable to and Affected by HIV (the Committee) composed of nine (9) members, amongst them, three(3) Members of the Commission;

Recalling its Resolution ACHPR/Res.163 (XLVII) 10, adopted at the 47th Ordinary Session of the African Commission on the establishment of a Committee on the Protection of the Rights of People Living with HIV (PLHIV), and Those at Risk, Vulnerable to and Affected by HIV;

Further Recalling its Resolutions ACHPR/172 (XLVIII) 10 and ACHPR/Res.195 (L) 11 on the appointment of Members of the Committee and that of Commissioner Lucy Asuagbor as the Chairperson of the Committee on the Protection of the Rights of People Living with HIV (PLHIV), and Those at Risk, Vulnerable to and Affected by HIV in Africa;

Recalling Further Resolution ACHPR/Res. 271 (LV) 14 on the Extension of the Mandate of the Committee on the Protection of the Rights of People Living with HIV (PLHIV), and Those at Risk, Vulnerable to and Affected by HIV in Africa, extending the mandate of the Committee and eight (8) of its members for a period of two years taking effect from 12 May 2014;

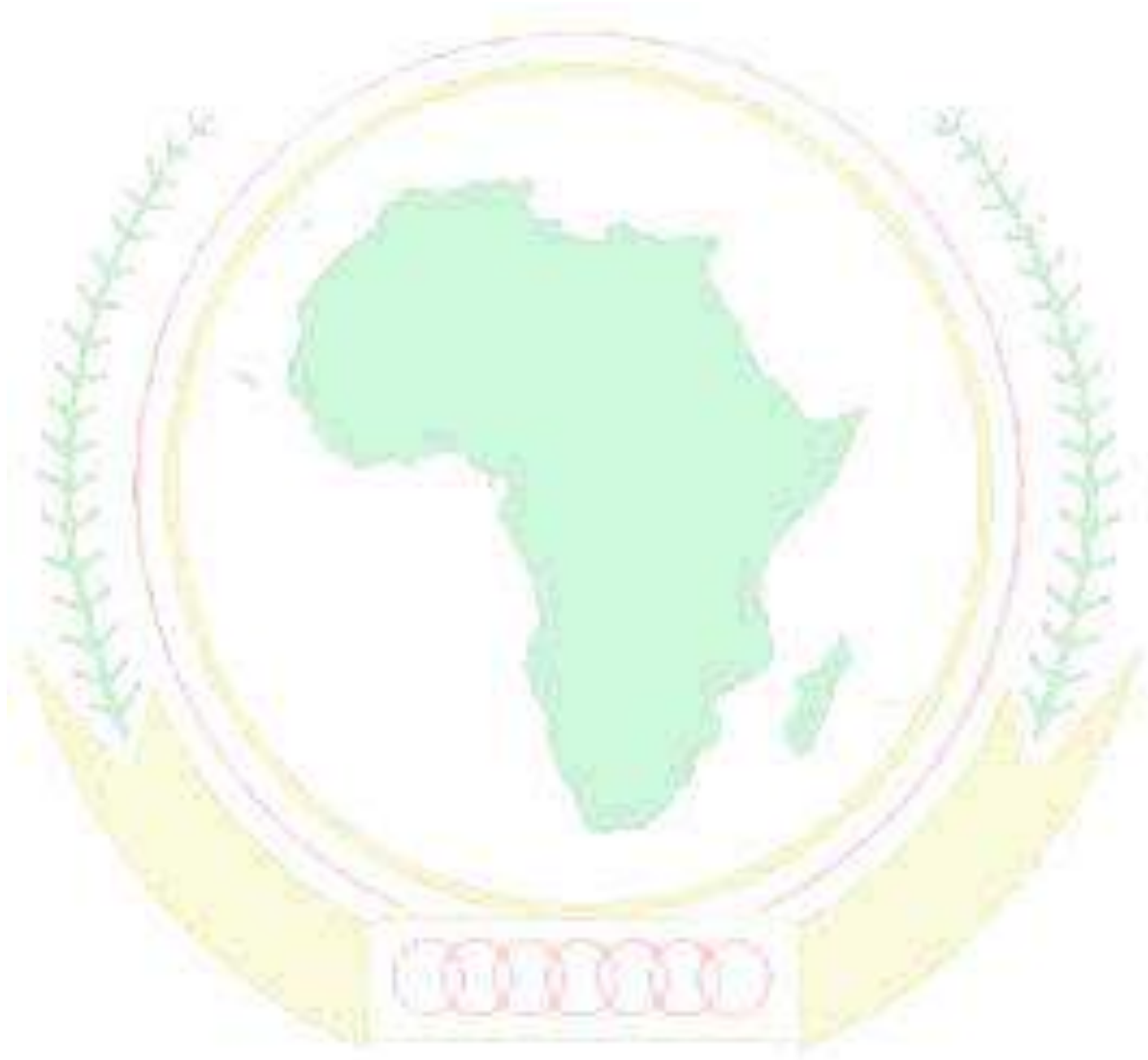
Noting the vacancy created by the decision of an expert member of the Committee not to renew her membership, and **conscious** of the need to appoint one (1) new member to replace her;

Recognising the importance of the work of the Committee and the need to enable it to continue to effectively implement its mandate, and also that its success depends on the commitment and expertise of its members;

Conscious of the need to ensure fair representation, taking into account the various geographical regions, languages, legal systems and gender;

1. *Decides* to appoint Ms Ann Strode as an expert member of the Committee for a period of two years; and
2. *Calls Upon* partners and other stakeholders to continue to assist the Committee in the implementation of its mandate.

Adopted at the 16th Extraordinary Session of the African Commission on Human and Peoples' Rights held from 20 to 29 July 2014 in Kigali, Republic of Rwanda



ACHPR/Res.286 (EXT.OS/XVI) 2014: Resolution on Freedom of Expression in the Kingdom of Swaziland

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 16th Extraordinary Session held from 20 to 29 July 2014, in Kigali, Republic of Rwanda;

Recalling its mandate to promote and protect human and peoples' rights in Africa pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Recalling further Article 9 of the African Charter, which provides that every individual shall have the right to receive information and to express and disseminate his or her opinions within the law, as well as other international human rights instruments, including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR);

Bearing in mind the *Declaration of Principles on Freedom of Expression in Africa* (the Declaration) which supplements Article 9 of the African Charter, in particular, *Principles I (1) and II (2)* of the Declaration which provides that freedom of expression and information is a fundamental and inalienable human right, whose restriction should be provided by law and serve a legitimate interest in a democratic society;

Recalling the Letter of Appeal of 24 March 2014 by the Special Rapporteur on Freedom of Expression and Access to Information in Africa regarding the alleged arrest of Mr. Thulani Rudolf Maseko and Mr. Bheki Makhubu;

Underlining *Principle XI (1)* of the Declaration, which provides that "...intimidation of, and threats to media practitioners and others exercising their right to freedom of expression...undermines independent journalism, freedom of expression and the free flow of information to the public," and *Principle XI (2)* which puts an obligation on State Parties "to take effective measures to prevent such attacks and, when they do occur, to investigate them, to punish perpetrators and to ensure that victims have access to effective remedies;"

Recalling Resolutions on the Situation of Freedom of Expression in Africa, including: **Resolution ACHPR/Res.54(XXIX)01**, adopted during the 29th Ordinary Session, held in Tripoli, the Great Socialist Peoples' Libyan Arab Jamahiriya, from 23 April to 07 May 2001; **Resolution ACHPR/Res.99(XXXX)06**, adopted during the 40th Ordinary Session, held in Banjul, The Gambia, from 15 to 29 November 2006; and **Resolution ACHPR/Res.166(XLVII)10**, adopted during the 27th Ordinary Session, held in Banjul, The Gambia, from 12 to 26 May 2010;

Further recalling **Resolution ACHPR/Res.216(LI)2012: Resolution on the Human Rights Situation in the Kingdom of Swaziland**, adopted during the 51st Ordinary Session, held in Banjul, The Gambia, from 18 April to 2 May 2012, which called on the Government of the Kingdom of Swaziland to respect the rights to freedom of expression, freedom of association, and freedom of assembly, and urged the Government to take all necessary measures to ensure the conduct of free, fair and credible elections in 2013;

Underscoring the fundamental importance of freedom of expression and information as an individual human right, as a cornerstone of democracy and as a means of ensuring respect for all human rights and freedoms;

Deeply concerned about continuous allegations of the violation of the right to freedom of expression in general and in particular the conviction and sentencing of Mr. Thulani Rudolf Maseko, a prominent human rights lawyer, and Mr. Bheki Makhubu, a journalist in the Kingdom of Swaziland, in relation to articles published in *The Nation* Magazine in February and March 2014;

The Commission:

- i. Calls on the Government of the Kingdom of Swaziland to respect, protect and fulfill the rights to freedom of expression, freedom of association, and freedom of assembly as provided for in the African Charter, the UDHR, the ICCPR and other international and regional human rights instruments;
- ii. Calls on the Government of the Kingdom of Swaziland to take the necessary measures to stop all acts of harassment and intimidation carried out against human rights defenders and media practitioners working in the Kingdom of Swaziland and to respect and guarantee their right to freedom of opinion and expression.

**Adopted at the 16th Extraordinary Session of the African Commission on Human and Peoples' Rights held from 20 to 29 July 2014 in Kigali,
Republic of Rwanda**

ACHPR/Res.287 (EXT.OS/XVI) 2014: Resolution on Human Rights Abuses in Egypt

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 16th Extraordinary Session held from 20 to 29 July 2014, in Kigali, Republic of Rwanda;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Considering that the Arab Republic of Egypt is a party to the African Charter and committed to ensuring respect for human and peoples' rights within its territory;

Recalling Articles 4, 5, 6, 7 9, 10, 11 and 26 of the African Charter which guarantees the right to life, the right to respect of the dignity of the person, the right to liberty and security of person, the right to fair trial, the right to freedom of expression, the right to freedom of association and assembly and independence of the judiciary respectively;

Recalling also its Resolutions ACHPR/Res.136(XXXXIV)08 calling on State Parties to observe a moratorium on the death penalty, ACHPR/Res.62(XXXII)02 on the adoption of the Declaration of principles on Freedom of Expression in Africa, ACHPR/Res.185 (XLIX)11 on the safety of journalists and media practitioners in Africa, ACHPR/Res.281(LV)2014 on the right to peaceful demonstration and ACHPR/Res. 111(XXXII)07 on the Right to a remedy and reparation for Women and Girls victims of sexual violence;

Alarmed by the grave and rapid deterioration of the human rights situation in Egypt since the 2011 uprising, where human rights violations continue to occur such as arbitrary detention acts of torture and ill-treatment in detention centers, violations of rights of human rights defenders, sexual violence against women, violations of the right to freedom of expression, association and assembly and death sentences;

Deploring the blatant disregard for the most basic guarantees of fair trial and due process by courts and tribunals as well as the lack of independence of the judiciary;

Concerned about the overall continuous impunity for human rights violations including security forces responsible for the excessive and often lethal use of force against demonstrators which led to the death of thousands from January 2011 to date;

Further concerned that the death penalty is still retained in the statute books of Egypt;

Deploring the fact that the Commission's recommendations contained in its letter of Urgent Appeal in April 2014 urging the Government of Egypt to uphold its obligations under international human rights law, including granting those sentenced to death an opportunity to appeal against the sentence have not been

implemented to the letter;

Further deploring the attacks, harassment and arbitrary detention targeting human rights defenders and groups;

Deeply concerned by the high level of sexual violence including sexual violence perpetrated against arrested persons during pre-trial detention as well as the culture of impunity which prevents victims especially women, from obtaining justice for acts of sexual harassment, rape and sexual assault in public spaces and during protests.

Strongly denouncing the severe restrictions imposed on journalists and media practitioners and their arbitrary arrest, detention and killing for carrying out their work, and for having expressed dissenting views in violation of the right to freedom of expression and freedom of opinion;

Deeply concerned by the government's draft law on Associations which include the ban on cooperation or affiliation of local NGOs with international bodies, approval for foreign funding without the prior permission of the government; a situation which could hamper the work and independence of civil society organizations;

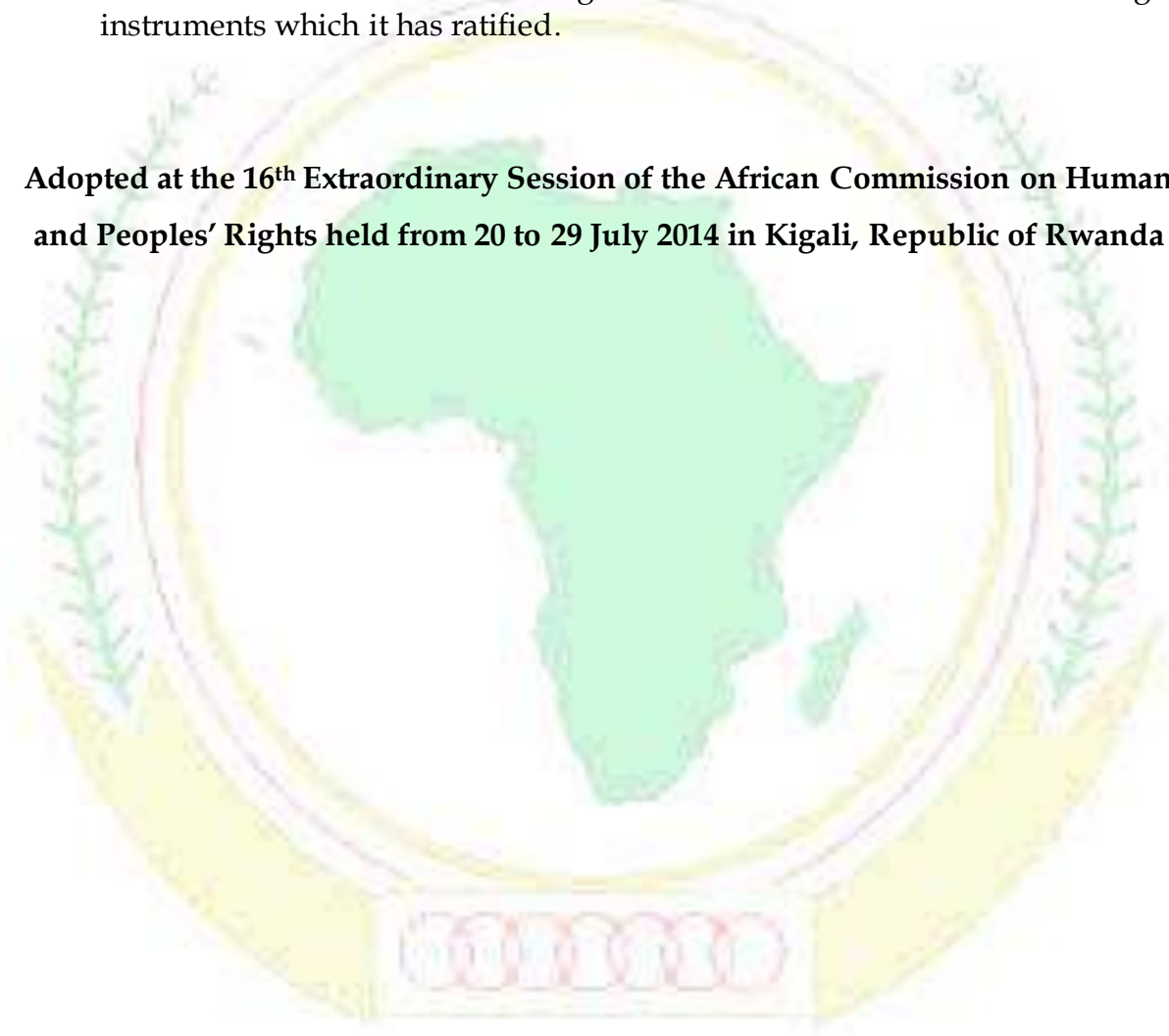
The Commission:

1. **Condemns** the flagrant violation of human rights such as harassments, arbitrary arrests and detentions, sexual violence against women and acts of torture;
2. **Calls** on the Egyptian authorities to take all necessary measures to put an immediate end to human rights violations;
3. **Further calls** on the Egyptian Government to uphold the right to a fair trial for all citizens before independent courts of law in accordance with international law and standards;
4. **Urges** the Egyptian authorities to guarantee the right to peaceful protest, association and assembly and to refrain from disproportionate use of force against protesters as well review its laws on demonstrations and public rallies on the use of firearms against protesters to bring them in line with international standards;
5. **Strongly urges** the authorities to observe an immediate moratorium on the death sentences and execution as a first step to abolishing the death penalty;
6. **Invites** the Government of Egypt to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of

the death penalty; the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and the Optional Protocol to CEDAW; and to withdraw reservations to articles 2 and 16 of CEDAW;

7. ***Calls*** on the authorities to investigate and prosecute the perpetrators of human rights violations in order to end the culture of impunity in the country;
8. ***Calls*** on the Egyptian authorities to respect and uphold provisions of the African Charter and other regional and international human rights instruments which it has ratified.

Adopted at the 16th Extraordinary Session of the African Commission on Human and Peoples' Rights held from 20 to 29 July 2014 in Kigali, Republic of Rwanda



ACHPR/Res.288 (EXT.OS/XVI) 2014: Resolution Condemning the Perpetrators of Sexual Assault and Violence in the Arab Republic of Egypt

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 16th Extraordinary Session held from 20 to 29 July 2014 in Kigali, Rwanda;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the obligations of the Arab Republic of Egypt under the African Charter and other regional and international human rights instruments;

Recalling its resolutions ACHPR/Res.111 (XXXII) 07 on the right to reparation for women and girls victims of sexual violence and ACHPR/Res.283 (LV) 2014 on the situation of women and children in armed conflict;

Mindful of its Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa;

Concerned by the persistent and widespread sexual violence and other forms of gender-based violence committed since the 2011 uprising against women in general and in particular women exercising their right to demonstrate in accordance with Article 11 of the African Charter;

Further concerned by the impunity enjoyed by the perpetrators of sexual violence and other violations of the rights of women in Egypt;

The Commission:

Condemns the ongoing acts of sexual violence and other forms of gender-based violence committed against hundreds of women while exercising their rights;

Welcomes the adoption, on 5 June 2014, of Decree No. 50 of 2014 to combat sexual harassment in Egypt;

Welcomes the ruling of 16 July 2014 by the Cairo court against nine (9) individuals, including seven (7) life imprisonment sentences against the perpetrators of sexual assault committed against several women during the assembly at the Tahrir Square, Cairo, in January 2013 and June 2014 on the occasion of the celebration of the 2nd anniversary of the 2011 revolution;

Welcomes with satisfaction this ruling which reflects the commitment of the Egyptian Government to combat sexual assault and violence against women;

Encourages the Egyptian authorities to strengthen efforts aimed at ending impunity regarding sexual violence and other forms of gender-based violence by ensuring that the perpetrators of these acts are brought to justice;

Urges the Government of Egypt to take the necessary measures to facilitate access to national courts for women victims of violence, and guarantee the right to reparation of the victims, including by providing adequate compensation;

Further urges the Egyptian authorities to provide medical and psychological support to victims of sexual violence and ensure greater protection and safety for women in exercising their right to assembly and peaceful demonstration;

Calls on the Government of Egypt to take the necessary measures to expedite the ratification and ensure the domestication of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol);

Calls on the international community to support the Egyptian authorities in their efforts to combat sexual violence and other forms of gender-based violence.

Adopted at the 16th Extraordinary Session of the African Commission on Human and Peoples' Rights held from 20 to 29 July 2014 in Kigali, Rwanda



ACHPR/Res.289 (EXT.OS/XVI) 2014: Resolution on the Food Crisis in Somalia

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 16th Extraordinary Session held from 20 to 29 July 2014 in Kigali, Rwanda;

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the obligations of the Government of Somalia under regional and international human rights instruments;

Considering the importance of the right to food which is implicitly included in the right to life and the right to health guaranteed in Articles 4 and 16 respectively of the African Charter;

Further considering that the enjoyment of the right to life and the right to health can only be attained if the right to food is guaranteed;

Recalling that AU Member States undertook to adopt legislative and other measures to give effect to the rights guaranteed by the African Charter;

Further recalling that all individuals are entitled to enjoy all the rights guaranteed by the African Charter;

Recalling that the issue of agriculture and food security is a fundamental issue for the African Union and that it was discussed during the 22nd and 23rd Summits of the African Union;

Mindful that sufficient food has to be acceptable, available, accessible and nutritionally adequate and healthy in accordance with General Comment No. 11 of the Committee on Economic, Social and Cultural Rights;

Considering that States Parties to the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention) undertook, under Article 5 of the Convention, to cooperate in protecting and assisting internally displaced persons;

Considering the press release of the 2009 AU Extraordinary Summit recalling that the Kampala Convention tasks the African Commission on Human and Peoples' Rights and its Special Rapporteur on the Rights of Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa with monitoring compliance with the Convention and ensuring the protection of the rights of displaced persons;

Concerned by the alert put out by several United Nations agencies and NGOs to inform about the early warning and alarming signs of a food crisis towards preventing Somalia from experiencing a similar food crisis like the one that affected the country in 2011;

Concerned by the lack of rapid and appropriate response to this warning at a time when there are already signs of a drought and increase in food prices;

Further concerned by the humanitarian situation of thousands of people, in particular the situation of malnutrition among children in camps for displaced persons;

The Commission:

Welcomes the measures taken and the efforts of United Nations specialized agencies and some NGOs to prevent and combat famine in several regions of Somalia, in particular areas affected by the activities of armed groups;

Urges the Somali authorities to take the necessary measures to address the crisis and achieve self-sufficiency and food security;

Further urges the warring parties to open humanitarian corridors to enable the unimpeded delivery of humanitarian assistance to the civilian population;

Calls on the international community and all African Union Member States to take the necessary measures to assist people affected by famine and those at risk;

Further calls on the African Union to strengthen its cooperation with the international community towards a comprehensive strategy for gathering the necessary funds to prevent another humanitarian crisis in Somalia caused by drought and the unstable security situation;

Calls on the Government of Somalia to expedite its ratification of the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa.

Done at the 16th Extraordinary Session of the African Commission on Human and Peoples' Rights held from 20 to 29 July 2014 in Kigali, Rwanda

**ACHPR Res. 290 (EXT.OS/XVI) 2014: Resolution on the Need to Conduct a Study
on HIV, the Law and Human Rights**

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 16th Extraordinary Session held from 20 to 29 July 2014 in Kigali, Republic of Rwanda;

Recalling its mandate to promote and protect human rights under the African Charter on Human and Peoples' Rights (the African Charter);

Noting that Article 45(1)(a) of the African Charter gives the Commission the mandate to "collect documents, undertake studies and researches on African problems in the field of human and peoples' rights" with a view to promoting and protecting human and peoples' rights on the continent;

Further noting, *inter alia*: the Continental Framework for Harmonization of Approaches among Member States and Integration of Policies on Human Rights and People Infected and Affected by HIV/AIDS in Africa (2005); the Brazzaville Commitment on Scaling up Towards Universal Access to HIV and AIDS Prevention, Treatment, Care and Support in Africa by 2010; and the Roadmap on Shared Responsibility and Global Solidarity for AIDS, Tuberculosis and Malaria Response in Africa (2012);

Recalling its previous Resolutions: ACHPR/Res.53 (XXIX) 01, on the HIV/AIDS Pandemic – Threat Against Human Rights and Humanity; ACHPR/Res.141(XLIV)08, on access to health and needed medicines in Africa; ACHPR/Res.163(XLVII)10 on the establishment of the Committee on the Protection of the Rights of People Living with HIV (PLHIV) and those at Risk, Vulnerable to and affected by HIV; and ACHPR/Res.260(LIV)13, on Involuntary Sterilisation and the Protection of Human Rights in Access to HIV Services;

Considering the obligations of States Parties under the African Charter and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) among others, to protect and promote the rights of people living with HIV (PLHIV);

Concerned that PLHIV continue to be victims of discrimination, stigma, prejudices, status-engendered violence and harmful customary practices in many States Parties;

Further concerned about the numerous obstacles faced by PLHIV in accessing HIV prevention, treatment, care and support services, as well as other forms of health and psycho-social services, and the punitive legal environment which prevents effective responses to the HIV pandemic in many States Parties;

Conscious that this situation which is a violation of their human rights has a significant impact on their ability to participate actively in the socio-economic and political processes of their countries and the continent in general;

Determined to ensure the promotion and protection of the rights of PLHIV, focusing on best practices and opportunities for a rights-based approach to HIV for the effective protection of the rights of PLHIV;

Noting in particular the mandate of the Committee on the Protection of the Rights of People Living with HIV (PLHIV) and those at Risk, Vulnerable to and affected by HIV (the Committee) to *"recommend concrete and effective strategies to better protect the rights of people living with HIV and those at risk"*;

Convinced that the conduct of a study on HIV, the legislative/legal frameworks and human rights will contribute to the promotion and protection of the human rights of PLHIV;

Decides to:

- (i) Undertake a study on *"HIV, the Law and Human Rights in the African Human Rights System: Key Challenges and Opportunities for Rights-based Responses to HIV"*;
- (ii) Assign the Committee the task of conducting the study and to present a report, for consideration and adoption, during its 57th Ordinary Session; and
- (iii) Call on stakeholders in the promotion and protection of the rights of PLHIV to support the Committee in conducting the study.

Adopted at the 16th Extraordinary Session of the African Commission on Human and Peoples' Rights held from 20 to 29 July 2014 in Kigali, Republic of Rwanda

**ACHPR/Res.291 (EXT.OS/XVI) 2014: Resolution on the UN World
Conference on Indigenous Peoples**

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 16th Extraordinary Session held from 20 to 29 July 2014 in Kigali, Republic of Rwanda;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Further recalling its Resolution ACHPR/Res.65 (XXXIV) 03 on the Report of the ACHPR Working Group on Indigenous Populations/Communities adopted at its 34th Ordinary Session held in Banjul, The Gambia, from 6 to 20 November 2003, which was later endorsed by the African Union;

Noting with appreciation the work done by the ACHPR Working Group on Indigenous Populations/Communities (the Working Group) and its role in articulating the Commission's position on the rights of indigenous populations in Africa;

Recognizing the positive developments in some countries with regard to the promotion and protection of indigenous peoples' rights;

Noting with satisfaction that all States Parties to the African Charter adhered to the United Nations Declaration on the Rights of Indigenous Peoples (the Declaration) when it was adopted by the UN General Assembly on 13 September 2007;

Recalling its Resolution ACHPR/Res.121 (XXXXII) 07 on the United Nations Declaration on the Rights of Indigenous Peoples adopted at its 42nd Ordinary Session held from 15 to 28 November 2007 in Brazzaville, Republic of Congo, in which the Commission welcomed the adoption of the instrument and recognized its importance for the promotion and protection of indigenous peoples' rights all over the world, including on the African continent;

Taking note of UN Resolution 65/198 of 21 December 2010, in which the UN decided to organize a high-level plenary meeting of the General Assembly, known as the World Conference on Indigenous Peoples, to be held in New York from 22 to 23 September 2014, in order to discuss the challenges, best practices and perspectives regarding the realization of the rights of indigenous peoples in accordance with the objectives of the Declaration;

Recalling UN Resolution 66/296 of 17 September 2012, also known as the 'modalities resolution', which calls on Member States of the UN, indigenous peoples and civil society organizations to participate fully and actively at the World Conference, and encourages Member States to include indigenous peoples' representatives in their delegations;

Welcoming the election of the Republic of Uganda, a country which has adopted a consistent and progressive approach to indigenous peoples' issues, to preside over the next UN General Assembly during which the World Conference on Indigenous Peoples (WCIP) will be held;

Strongly convinced that Uganda will seize this opportunity to encourage African States to show greater commitment in preparing for this important event in order to contribute to its success;

Recognizing the active participation and the important contribution made by indigenous peoples in the WCIP process since the adoption of UN Resolution 65/198, including the Alta outcome document (official UN document A/67/994);

Mindful of the various consultation meetings that the President of the General Assembly has organized and is planning to organize in accordance with the modalities resolution;

Welcoming with satisfaction the publication of the zero draft of the outcome document of the World Conference on Indigenous Peoples on 8 July 2014;

Calls on AU Member States to:

- I. participate fully and actively in the preparation and deliberations of the World Conference;
- II. support the full and active participation of indigenous peoples and civil society organizations in the preparation and deliberations of the World Conference;
- III. ensure that the drafting of the WCIP outcome document is done with the participation of indigenous peoples;
- IV. engage in constructive dialogue with the Working Group and civil society organizations working on indigenous issues;
- V. ensure that the outcome document of the WCIP recognizes the work of regional human rights mechanisms, including the work of the Commission in promoting and protecting the rights of indigenous peoples in Africa;

Urges indigenous peoples' representatives of State Parties and civil society organizations to continue to:

- I. participate actively in the consultations to be organized by the General Assembly; and

- II. engage in constructive dialogue with State Parties throughout the preparatory process.

Adopted at the 16th Extraordinary Session of the African Commission on Human and Peoples' Rights held in Kigali, Republic of Rwanda, from 20 to 29 July 2014



**ACHPR/Res.292 (EXT.OS/XVI) 2014: Resolution on the Need to Conduct a Study on
Child Marriage in Africa**

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 16th Extraordinary Session held from 20 to 29 July 2014 in Kigali, Republic of Rwanda;

Recalling its mandate to promote and protect human rights under the African Charter on Human and Peoples' Rights (the African Charter);

Noting Article 45(1)(a) of the African Charter which gives the Commission the mandate to *inter alia* "collect documents, undertake studies and researches on African problems in the field of human and peoples' rights";

Recalling the obligations of States Parties to the African Charter, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), and the African Charter on the Rights and Welfare of the Child to protect and promote children's rights, in particular the rights of girls in Africa;

Noting in particular Article 6 of the Maputo Protocol which requires States to enact appropriate legislative measures to guarantee the full and free consent of both parties before marriage and set the age of 18 as the minimum age of marriage for women;

Concerned that despite the ratification by the majority of African States of these relevant legal instruments child marriage remains a common practice in many countries, in violation of the rights and welfare of the child, denying their basic rights to education, health, the right not to be separated from parents against their will, right to dignity, right to life, and protection against all forms of abuse and exploitation, including sexual exploitation;

Concerned that even where a minimum age of 18 is legislated, child marriage is still practiced in many countries as a result of harmful customary and religious practices;

Recalling the objectives of the African Union Campaign launched on 29 May 2014 in Addis Ababa, Ethiopia, to end child marriage, focusing on policy action and raising continental awareness on child marriage which will run for an initial period of two years;

Convinced of the need to strengthen the African Union Campaign through the conduct of a study which will provide an overview of the situation of child marriage in some countries by identifying the root causes, prevalence, practices, customs and beliefs that perpetuate child marriage, the level of compliance with international and regional obligations, legislative and policy framework, including best practices in addressing the same in selected countries;

Further convinced that such a study will assist State Parties and other stakeholders in strengthening implementation mechanisms and adopting appropriate plans of action and strategies for eradicating child marriage and protecting children's human rights and in particular the rights of girls;

Recalling the mandate of the Special Rapporteur on the Rights of Women in Africa (the Special Rapporteur) to *inter alia*: follow up on the implementation of the African Charter and the Maputo Protocol by State Parties;

Decides to:

- (i) Conduct a study on child marriage in Africa which will cover the following countries where the level of child marriage is considered to be very high: Burkina Faso, Cameroon, Chad, Ethiopia, Mauritania, Malawi, Mozambique, Niger, Sierra Leone and Zambia;
- (ii) Task the Special Rapporteur to conduct the study and submit a report at its 57th Ordinary Session;
- (iii) Request the African Committee of Experts on the Rights and Welfare of the Child and the Centre for Human Rights of the University of Pretoria to contribute their support and expertise to the conduct of the study; and
- (iv) Call on all stakeholders to support the work of the Special Rapporteur.

Done at the 16th Extraordinary Session of the African Commission on Human and Peoples' Rights held from 20 to 29 July 2014 in Kigali, Republic of Rwanda

ACHPR/Res.103a (XXXX) 06: **Resolution on Police Reform, Accountability and Civilian Police Oversight in Africa**

The African Commission on Human and Peoples' Rights at its 40th Ordinary Session held in Banjul, The Gambia, from 15th to 29th November, 2006,

Being aware that police forces throughout Africa play a critical role in the maintenance of law and order, the administration of justice, the respect for the rule of law and enhancing peace and the security of persons and property in every state,

Noting, that policing is increasingly recognized as a basic foundation in building democracy, promoting human and peoples' rights, without which democratic practices, economic, and social development and the promotion of human rights are constrained and even jeopardized,

Recognizing, that the establishment and existence of many police forces in Africa trace their history from laws and practices which originate from the past colonial experience of our continent,

Concerned that in many of the African States, there exist no independent policing mechanisms, to which members of the public may report police misconduct and abuse of their powers for redress and that where they do, they are directly under the police authorities,

Recognizing that Police forces in African states, which do not have independent oversight mechanisms require reform in order to become effective instruments of security, safety, justice, and respect for human and peoples' rights across the continent,

Further recognizing, that a wealth of local knowledge and experience on policing reform in Africa is available to inform emerging reform initiatives,

Noting that accountability and the oversight mechanisms for policing forms the core of democratic governance and is crucial to enhancing rule of law and assisting in restoring public confidence in police; to develop a culture of human rights, integrity and transparency within the police forces; and to promote a good working relationship between the police and the public at large,

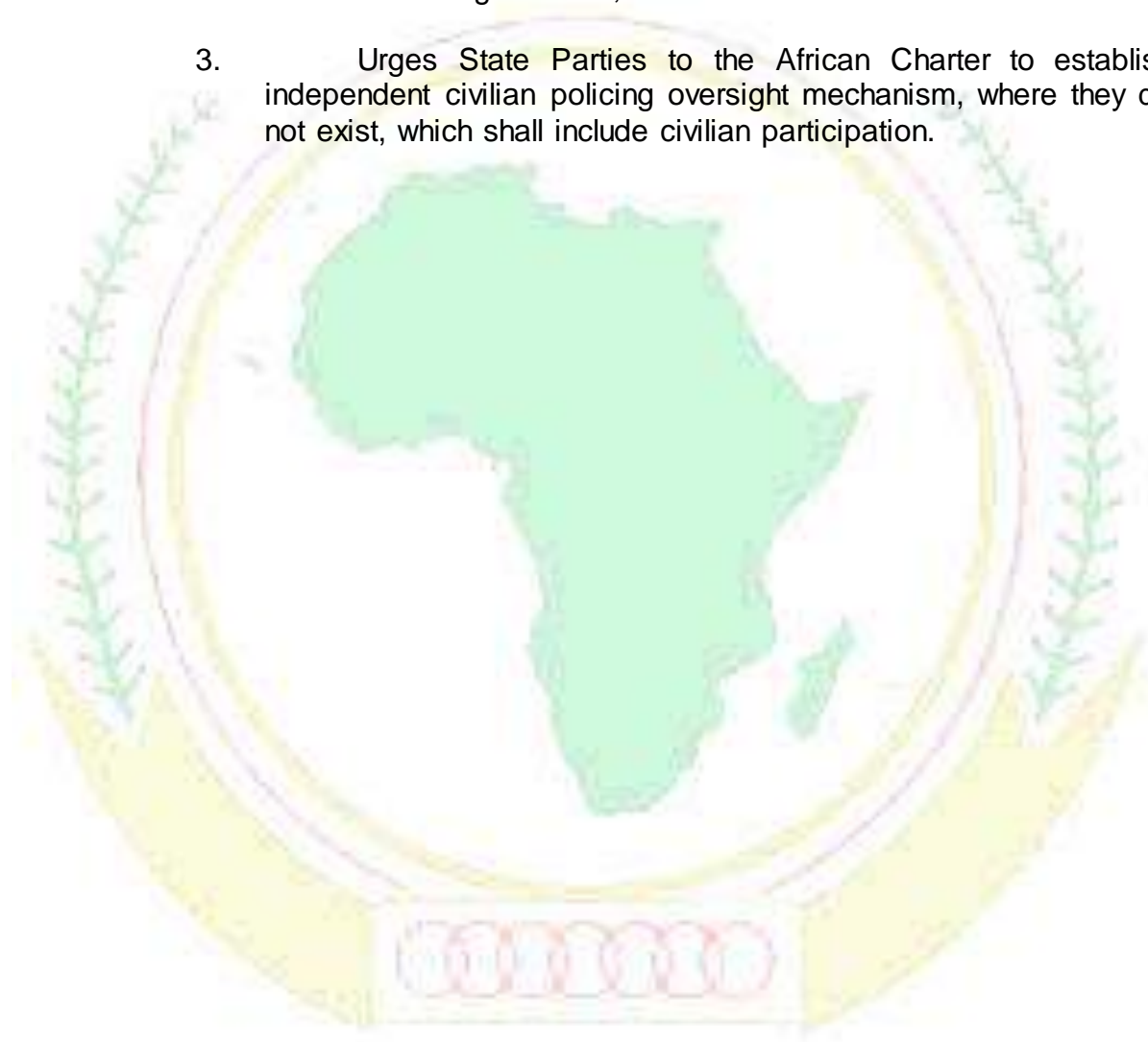
Encouraged by the initiative taken in the formation of the African Policing Civilian Oversight Forum (APCOF), through the collaboration of Civil Society and State Civilian Police Oversight agencies, as an African initiative to promote police reform and with it the building and strengthening of civilian police oversight in Africa,

The African Commission on Human and Peoples' Rights:

1. Calls on State Parties to the African Charter to take measures in terms of Articles 1 and 5 of the African Charter, to ensure that **police forces** respects the dignity inherent in the individual **during**

the discharge of their duties in the maintenance of law and order;

2. Calls on State Parties to the African Charter to adopt laws and regulations implementing the guidelines contained in the Resolutions of the African Commission on the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman and Degrading Treatment or Punishment in Africa, otherwise known as the Robben Island Guidelines, as far as they relate to Policing in Africa;
3. Urges State Parties to the African Charter to establish independent civilian policing oversight mechanism, where they do not exist, which shall include civilian participation.



ACHPR/Res.293 (EXT.OS/XVII) 2015: Resolution on 2015 Elections in Africa

The African Commission on Human and Peoples' Rights, meeting at its 17th Extraordinary Session held from 19 to 28 February 2015 in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Considering the principles and objectives of the African Union guaranteed by the Constitutive Act of the African Union;

Considering the political, institutional and global framework for the advancement of governance and human rights in Africa, promoted by the African Governance Architecture (AGA);

Recalling Article 13 (1) of the African Charter which stipulates that *"every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives, in accordance with the provisions of the law"*;

Further recalling the African Charter on Democracy, Elections and Governance which emphasizes the importance of consolidating on the continent, the political culture of change of power, based on the holding of regular, free, fair and transparent elections, conducted by national, independent, competent and impartial electoral bodies;

Bearing in mind its previous Resolutions on electoral process and participatory governance in Africa, in particular Resolutions ACHPR/Res. 184 (EXT.OS/IX) 2011, ACHPR/Res. 232 (EXT.OS/XIII) 2013, ACHPR/Res.239 (EXT.OS/XIV) 2013 and ACHPR/Res. 272 (LV) 2014;

Recalling its previous Resolutions on freedom of expression, freedom of association and of assembly and human rights defenders in Africa, in particular Resolutions ACHPR/Res. 62 (XXXII) 02, ACHPR/Res.99 (XXXX) 06, ACHPR/Res. 151 (XLVI) 09 and ACHPR/Res.196 (L) 11;

Reaffirming the importance of holding peaceful, transparent, free, fair and equitable elections organized by independent institutions;

Affirming that this fundamental right has to be exercised in a peaceful environment and in a responsible manner in order to preserve peace, security and stability on the continent;

Noting with satisfaction the successful holding of presidential elections in the Republic of Zambia;

Considering that general elections are scheduled in 2015, in particular in the Republic of Burundi, the Kingdom of Lesotho, the Federal Republic of Nigeria, the Republic of Sudan, the Federal Democratic Republic of Ethiopia, Burkina Faso, the United Republic of Tanzania, the Republic of Guinea (Conakry); presidential elections in the Togolese Republic, the Republic of Côte d'Ivoire, the Central African Republic and the State of Libya; and parliamentary elections in the Republic of Benin, the Arab Republic of Egypt, the Republic of Chad and the Republic of Niger;

Noting with concern the recurrent election-related human rights violations and irregularities that mar the electoral processes;

Recognizing that the credibility of an electoral process and the legitimacy of the elected authorities strongly depend on the effective participation of citizens in a transparent and fair process, as well as respect for their fundamental freedoms of expression, of association and of assembly;

Further recognizing the crucial role played by the civil society, including human rights defenders and journalists in the context of elections;

The Commission :

Calls on States Parties to the African Charter organizing elections to:

1. Guarantee, in accordance with their obligations under relevant regional and international conventions, the fundamental rights of citizens, in particular the right to participate in a free, democratic and transparent electoral process, freedom of assembly and of expression as well as equal access to the media for all stakeholders ;
2. Guarantee the rights of civil society organizations, including those of human rights defenders and journalists to enable them to conduct election-related activities in a conducive and reprisal-free environment;
3. Take the necessary measures to preserve social harmony to guarantee a credible and inclusive electoral process;

4. Guarantee the independence of institutions in charge of organizing elections and provide them with adequate resources for the effective implementation of their mandate;
5. Promote the participation of national and international observers throughout the electoral process;
6. Take the necessary measures to prevent, investigate and identify authors of election-related human rights violations, and guarantee immediate, fair and equitable redress for victims;

Urges political party leaders and candidates participating in the elections to place the general interest of the people at the core of the electoral process and to call on their members to exercise their rights in a civic and responsible manner;

Calls on Sub-Regional Organizations, the African Union and the International Community to support governments and other political actors of countries concerned in order to promote the smooth conduct of elections, in particular, by training election officials and sending election observation missions;

Lastly renews its call on all States Parties that have not yet done so, to ratify the African Charter on Democracy, Elections and Governance, and to ensure its effective implementation.

Done in Banjul, The Gambia on 28 February 2015

ACHPR/Res.294 (EXT.OS/XVII) 2015: Resolution on Good Governance at the African Commission on Human and Peoples' Rights and its Secretariat

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 17th Extraordinary Session held from 19 to 28 February 2015 in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the Commission's Rules of Procedure, in particular Rules 13, 14, 15, 17 and 18, and the various Decisions of the Executive Council of the African Union;

Conscious of the need for the African Union to make available to the Commission the resources it needs to accomplish the mandate entrusted to it under Article 45 of the Charter;

Bearing in mind Resolution ACHPR/Res.77(XXXVII)05 on the establishment of the Working Group on Specific Issues related to the work of the Commission adopted at its 37th Ordinary Session held from 27 April to 11 May 2005 in Banjul, The Gambia;

Bearing in mind its resolution ACHPR/Res. 142 (XXXXV) 09 on the establishment of an Advisory Committee on budgetary and staff matters, adopted at its 45th Ordinary Session held from 13 to 27 May 2009 in Banjul, The Gambia;

Conscious of the vital role played by the Secretariat in effectively carrying out the mandate of the Commission and the importance of having an effective Secretariat;

Conscious also of the difficulties encountered by the Members of the Commission in the execution of their respective mandates and the need to ensure that the Secretariat provides it with full support in the execution of its mandate in conformity with the relevant provisions of its Rules of Procedure;

Conscious of its responsibilities as the principal organ responsible for promoting and protecting human rights in Africa;

The Commission decides as follows:

1. The Commission's Rules of Procedure shall apply to all the staff of the Secretariat without prejudice to the general rules of the African Union relating to administrative and financial matters;
2. The Bureau of the Commission shall monitor, supervise and assess the performance of the Secretariat in accordance with the provisions of Article 13 (1 and 3) of the Rules of Procedure;

3. The Secretariat shall, with the support of the Bureau of the Commission, collaborate with the host Government in addressing the challenges faced by the Secretariat in its work, in terms of equipment, internet access, telecommunications and on the construction of the Commission's head office;
4. The Secretariat shall take the necessary measures for Commissioners to be assisted by their respective legal officers in the implementation of their mandate;
5. The Secretariat shall ensure that recruitment policies and the regular management of staff and administration are conducted in total transparency with the effective involvement of the Bureau, this in accordance with established practice and the Rules of Procedure of the African Union;
6. The Secretariat shall ensure the follow up of the decisions adopted by the Commission, and ensure that all the documents adopted by the Commission are published on the Commission's Website as soon as they are adopted;
7. The Secretariat should take all the necessary measures to foster the best possible conditions for the Sessions of the Commission and to ensure that all the working documents are available in good time;
8. The Secretariat shall provide reasonable accommodations, as necessary, to commissioners on the basis of the decisions of the Commission;
9. The Commission commits to deploy all efforts to enhance its visibility;
10. The Advisory Committee on Budgetary and Staff Matters is involved in the execution of the Budget and should monitor the assessment of the Secretariat staff.
11. The Bureau shall monitor the implementation of this resolution and report to the Commission at each session.

Done in Banjul, The Gambia on 28 February 2015

ACHPR/Res.295 (EXT.OS/XVII) 2015: Resolution on Meetings of the Working Group on Communications

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 17th Extraordinary Session held in Banjul, The Gambia, from 19 to 28 February 2015;

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Considering Rule 23 (1) of the Commission's Rules of Procedure which provides that the Commission may create subsidiary mechanisms such as special rapporteurs, committees and working groups;

Considering Rules 26 and 27 of the Rules of Procedure which provide that the Commission shall hold Ordinary and Extraordinary Sessions;

Recalling its Resolution ACHPR/Res.194 (L) 11 on the establishment of the Working Group on Communications and the appointment of its members;

Recalling Resolution ACHPR/Res.212 (EXT.OS/XI) 2012 on the mandate of the Commission's Working Group on Communications;

Recalling Resolution ACHPR/Res.225 (LII) 2012 on the renewal of the mandate and modification of the composition of the Working Group on Communications;

Considering the technical nature of the work of the Working Group on Communications;

Considering the need to create favourable conditions for members of the Commission to properly implement their protection mandate;

- 1- Decides that the meetings of the Working Group on Communications shall be considered as extraordinary sessions;
- 2- Grants Commissioners participating in sessions of the Working Group on Communications the same entitlements as those given during ordinary and extraordinary sessions;
- 3- Tasks the Secretariat with ensuring the implementation of this Resolution and to report to the Commission.

Done in Banjul, The Gambia on 28 February 2015

ACHPR/Res.296 (EXT.OS/XVII) 2015: RESOLUTION ON THE APPOINTMENT OF EXPERT MEMBERS OF THE WORKING GROUP ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 17th Extraordinary Session held from 19 to 28 February 2015 in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.73 (XXXVI) 04 on the creation of the Working Group on Economic, Social and Cultural Rights adopted at its 36th Ordinary Session held from 23 November to 7 December 2004, in Dakar, Senegal;

Further recalling its Resolution ACHPR/Res.147 (XLVI) 09, appointing Commissioner Mohammed Bechir Khalfallah Chairman of the Working Group on Economic, Social and Cultural Rights in Africa;

Bearing in mind its Resolutions ACHPR/Res.193 (L) 11 and ACHPR/Res.252 (LIV) 2013 relative to the renewal of the mandate of the Working Group on Economic, Social and Cultural Rights in Africa;

Considering the Principles and Guidelines on the implementation of the Economic, Social and Cultural Rights in the African Charter (Tunis Principles and Guidelines) and the Guidelines on the submission of Reports of States Parties on Economic, Social and Cultural Rights in Africa (Nairobi Principles);

Further noting that the mandate of the Expert Members has expired and cognizant of the fact that the success of the Working Group also depends on the commitment and expertise of these Experts;

Convinced of the need to appoint Expert Members acting on an individual basis to guarantee the continuity and smooth operation of the Working Group;

Concerned about the need to guarantee equal representation, taking into account in particular gender balance and the diversity of the geographical regions, languages and legal systems;

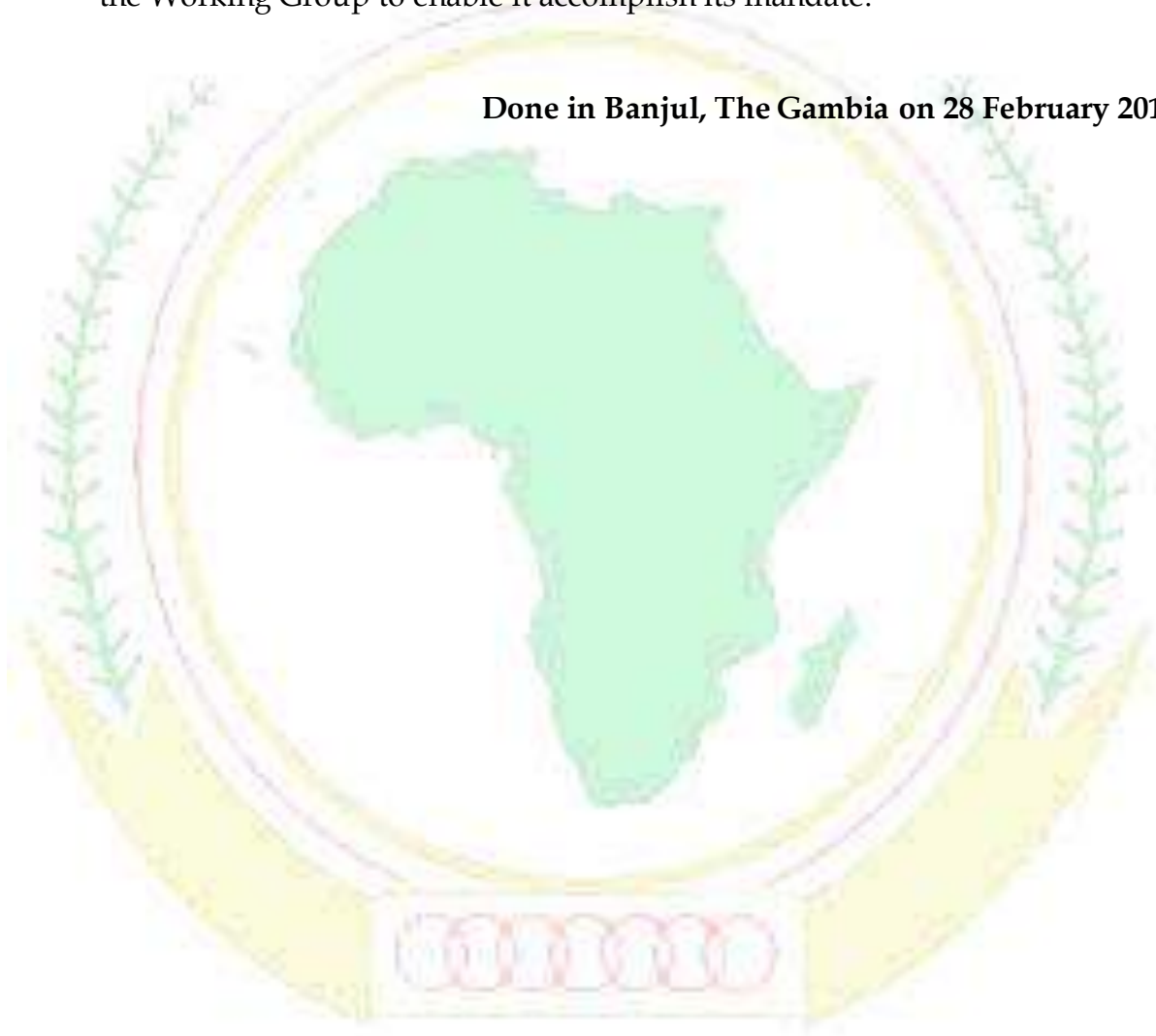
1. Decides to appoint the following persons as Expert Members of the Working Group for a period of one year:

- i. Pr. Frans Viljoen
- ii. Mr. Ibrahima Kane
- iii. Mr. Chafi Bakari

- iv. Mr. Gaye Sowe
- v. Mrs. Salima Namusobya
- vi. Mrs. Nadia Ait-Zai
- vii. Mr. Martial Jeugue Doungue
- viii. Mr. Sidi Tidiane Gueye
- ix. Mrs. Helene Ramos dos Santos

2. **Calls on** the partners and other stakeholders to continue providing support to the Working Group to enable it accomplish its mandate.

Done in Banjul, The Gambia on 28 February 2015



ACHPR/Res.297 (EXT.OS/XVII) 2015: Resolution on the Deteriorating Human Rights Situation in the Arab Republic of Egypt

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 17th Extra-Ordinary Session held from 19 to 28 February 2015, in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Bearing in mind that the Arab Republic of Egypt is a Member State of the African Union and State Party to the African Charter with the obligation to ensure respect for human and peoples' rights in its territory;

Recalling that one of the objectives of the African Union is to promote and protect human and peoples' rights in accordance with the African Charter, as well as to promote democratic principles and institutions, popular participation and good governance;

Reaffirming Articles 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 18, and 26 of the African Charter which enshrine the right to freedom from discrimination, the right to equal protection of the law, the right to life, the right to freedom from torture and cruel, inhuman and degrading treatment, the right to personal liberty and protection from arbitrary arrest, the right to fair trial, the right to freedom of conscience, the right to receive information and freedom of expression, the right to freedom of association and assembly, the right to participate in government, the duty to protect vulnerable groups, and the duty to ensure the independence of the judiciary respectively;

Reiterating the standards stipulated in the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (the Principles and Guidelines on Fair Trial), adopted by the Commission in 2001; ***Recalling*** Article 7 of the African Charter which stipulates that every individual shall have the right to have his cause heard by a competent, independent and impartial judicial body;

Noting that the right to defence is an essential component of a fair trial;

Recalling its Resolution ACHPR/Res.287(EXT.OS/XVI)2014 on Human Rights Abuses in Egypt, adopted at the 16th Extra-Ordinary Session, held in Kigali, Rwanda, in July 2014, calling on the Government of the Arab Republic of Egypt to uphold the right to fair trial for all citizens before independent courts of law in accordance with international law and standards;

Drawing attention to Resolutions ACHPR/Res.136(XXXIV)08 calling on State Parties to observe a moratorium on the death penalty, ACHPR/Res.62(XXXII)02 on the adoption of the Declaration of Principles on Freedom of Expression in Africa (the Declaration on Freedom of Expression) and ACHPR/Res.185 (XLIX)11 on the safety of journalists and media practitioners in Africa;

Mindful of the Final Report of the African Union High-Level Panel of Egypt dated 17 June 2014, in which the Panel expressed concern on the human rights situation in Egypt, particularly given the continued detention, without trial, of thousands of political activists and the mass sentencing to death meted out by courts without proper due process.

Deeply concerned about the deteriorating human rights conditions in the Arab Republic of Egypt following the 2011 popular uprising, particularly the blatant disregard to fair trial standards, including the conduction of summary/mass trials that lasted only a few hours, whereby individual guilt was not assessed;

Stressing that in countries which have not abolished the death penalty, sentence of death may only be imposed for the most serious crimes in accordance with the law in force at the time of the commission of the crime;

Disturbed by reports of mass death sentences imposed on 529, 683, 188, and 183 persons in March, April and December 2014, as well as February 2015;

Noting that of the 529 death sentences imposed in March 2014, 492 have been commuted to life imprisonment and 37 have been ordered for retrial by an appeals court;

Further noting the confirmation of 150 death sentences from the 683 persons sentenced in April 2014, the sentence to life imprisonment of 4 persons, the Court of Cassation's order for the retrial of 33 persons, and the acquittal of 496 persons;

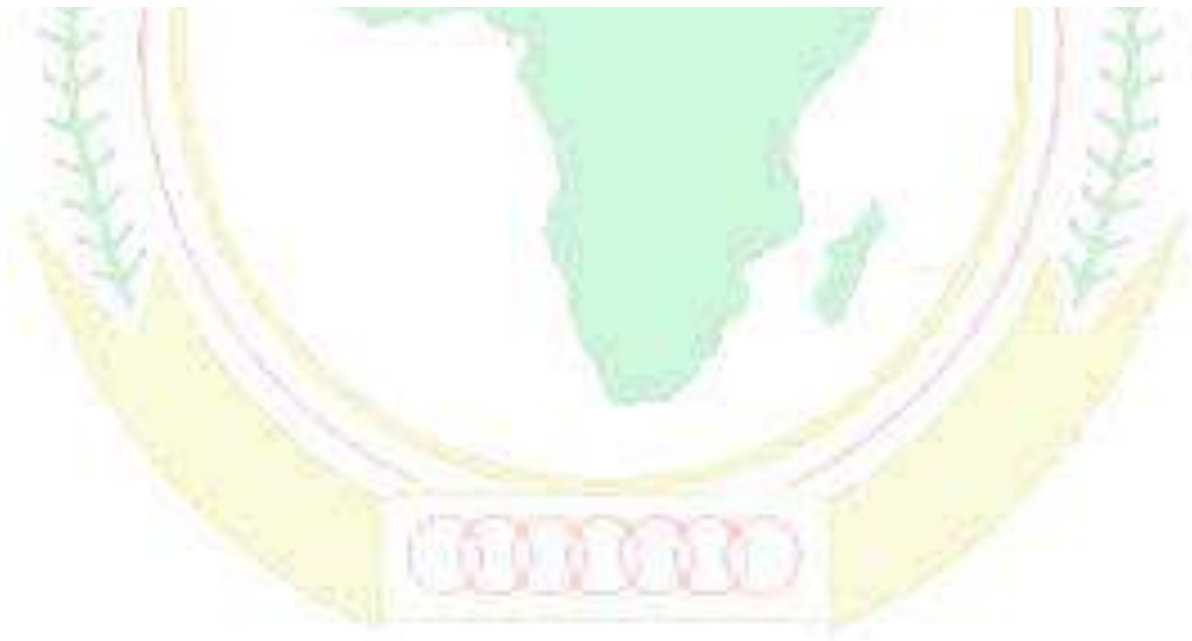
Concerned about the ongoing restrictions on freedom of expression and access to information, as well as the harassment, arbitrary arrest and detention of human rights defenders, journalists, and other individuals who express dissenting views;

The Commission:

1. ***Condemns*** the Arab Republic of Egypt's disregard to regional and international fair trial standards, the unlawful imposition of mass death sentences, and the persecution of journalists and human rights defenders;

2. ***Calls upon*** the Government of the Arab Republic of Egypt to comply with the African Charter, the Principles and Guidelines on Fair Trial, the Declaration on Freedom of Expression, and other instruments to which Egypt is a party;
3. ***Urges*** the Government of the Arab Republic of Egypt to put an end to the harassment, arbitrary arrest, detention and sentencing of journalists, human rights defendants, and individuals who express dissenting views regarding the Government's actions;
4. ***Strongly urges*** the Government of the Arab Republic of Egypt to observe an immediate moratorium on the death sentences and to reflect on the possibility of abolishing capital punishment;
5. ***Invites*** the Government of the Arab Republic of Egypt to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty; and
6. ***Calls on*** the Government of the Arab Republic of Egypt to investigate all human rights violations perpetrated in the country and prosecute authors of these violations.

Done in Banjul, The Gambia on 28 February 2015



ACHPR/Res.298 (EXT.OS/XVII) 2015: Resolution on the Human Rights Situation in the Federal Republic of Nigeria

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 17th Extraordinary Session held in Banjul, The Gambia, from 19 to 28 February 2015;

Recalling its mandate to promote and protect human and peoples' rights pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Recalling further its Resolutions, in particular Resolutions ACHPR/RES. 211 (EXT.OS/XI) 2012, ACHPR/RES.214(OS/LI)2012 and ACHPR/RES.267(EXT.OS)2014 on the human rights situation condemning the numerous and recurrent acts of violence committed in the Federal Republic of Nigeria by the group commonly known as Boko Haram which have resulted, *inter alia*, in loss of lives, injuries, destruction of property, internal displacements which have generally disrupted the lives of citizens, particularly in the North Eastern States of Borno, Yobe and Adamawa;

Reiterating its condemnation of these atrocities attributable to Boko Haram;

Deeply concerned by the protracted reign of terror by Boko Haram since July 2009 characterised by bomb attacks, shootings in public places, places of worship such as churches and mosques, prisons, police stations and schools as well as the abduction of women and children;

Further concerned by the escalating frequency and severity of the attacks which is reported to have resulted in the deaths of not less than 4,000 civilians in 2014 and more than 2,000 deaths so far in 2015, and also that these acts of violence now threaten the peace and security of neighboring countries of the Federal Republic of Nigeria;

Recalling the Declaration of the Assembly of Heads of State and Government of the African Union (Doc.Ass/AU/Decl.3(XXIV)) during the 24th Ordinary Session held in January 2015 in Addis Ababa, Ethiopia, expressing its support to the countries of the Lake Chad Basin Commission (LCBC) and Benin in the fight against Boko Haram;

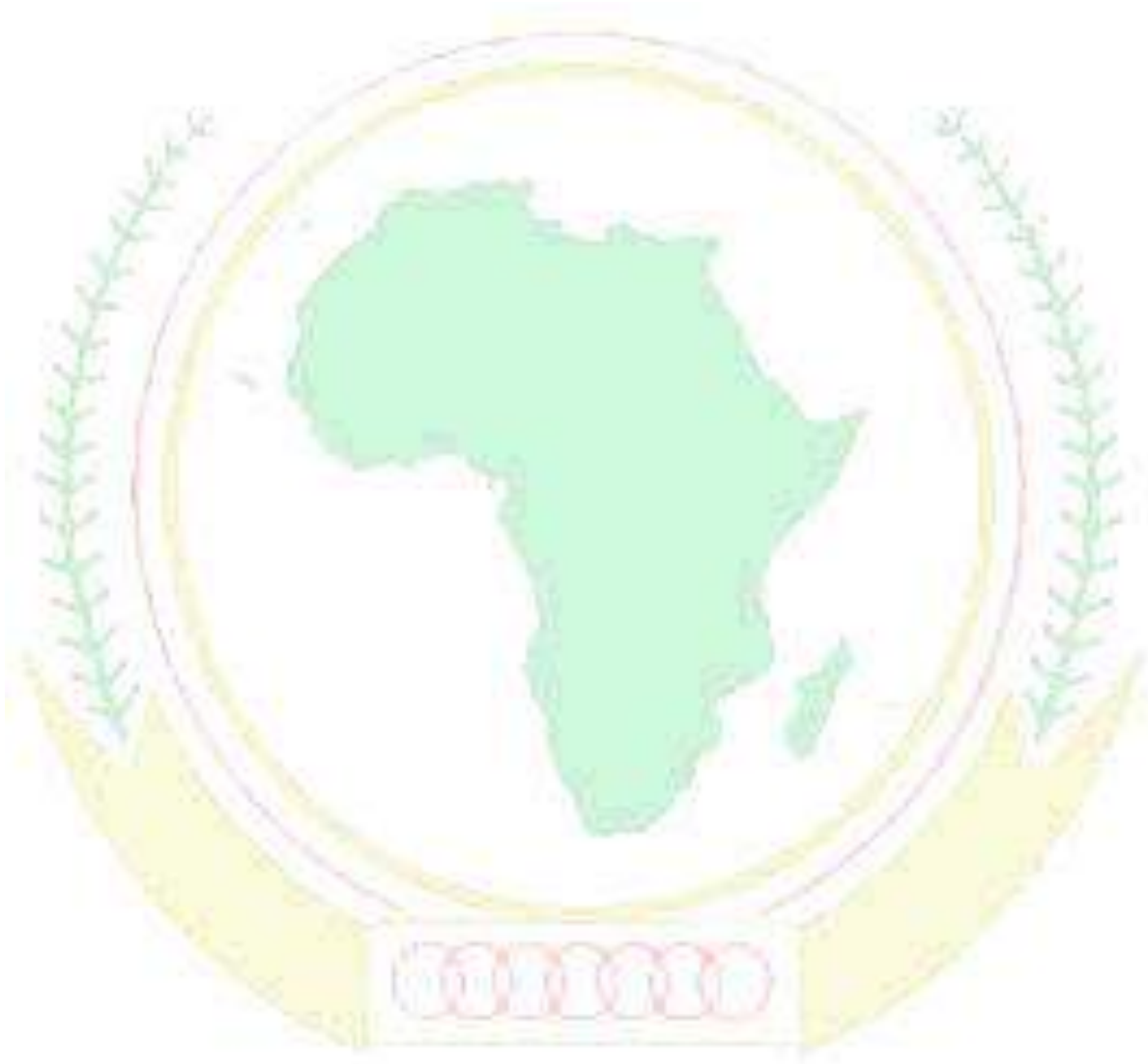
The Commission:

1. **Strongly reiterates** its condemnation of these acts of violence against the civilian population, and in particular the recent Baga incident in Nigeria in January 2015, in which Boko Haram militants assaulted the town, killing about 2,000 people and forcibly displacing hundreds of other individuals both internally and to neighbouring States;

2. **Further condemns** the spiralling use of female and children suicide bombers;
3. **Welcomes** the efforts of the Economic Community of West African States, the African Union, the African Union and the entire international community towards coordinated and collective action against terrorism and transnational organized crime on the Continent, and in particular, in the fight against Boko Haram;
4. **Supports** the initiatives taken by Member States of the Lake Chad Basin Commission (LCBC) and Benin in particular, to launch a cross-border military operation, the Multinational Joint Task Force (MJTF) to combat Boko Haram in the region;
5. **Calls Upon** the Federal Republic of Nigeria, the LCBC Member States and Benin in their sustained efforts to curb the Boko Harm insurgency to:
 - (i) Continue to guarantee the safety, security and protection of civilians in the affected countries and communities, and to strengthen their collaboration in securing the lives of the civilian population and the protection of public and private property, in accordance with their regional and international human rights obligations;
 - (ii) Ensure that the operations of the MJTF in response to Boko Haram are conducted in a transparent manner, in compliance with human rights and international humanitarian law;
 - (iii) Adopt rules of engagement of security staff encompassing the principles of human rights;
 - (iv) Take all necessary measures during evacuations of civilian populations to safer areas, informing them beforehand of possible risks and dangers;
 - (v) Take all appropriate and specific measures for the management of victims of violence, in particular women and child soldiers.
6. **Urges** the authorities of the Federal Republic of Nigeria to investigate, prosecute and bring to trial the perpetrators of abuses committed by the parties in conflict.

7. **Calls upon** the Economic Community of West African States, the African Union and the international community to consolidate the actions and initiatives launched in the fight against terrorism, in particular Boko Haram.

Done in Banjul, The Gambia on 28 February 2015



ACHPR/Res.299 (EXT.OS/XVII) 2015: Resolution on the Human Rights Situation in the Republic of The Gambia

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 17th Extra-Ordinary Session from 19 – 28 February 2015 in Banjul, The Gambia:

Recalling its mandate to promote and protect human and peoples' rights pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Bearing in mind that The Gambia is a Member State of the African Union, State Party to the African Charter and signatory to the African Charter on Democracy, Elections and Governance;

Noting the provisions of the African Charter on Democracy, Elections and Governance and the ECOWAS Protocol on Democracy and Good Governance;

Recalling that amongst the objectives of the African Union are the promotion and protection of human and peoples' rights, in accordance with the African Charter, and the promotion of democratic principles and institutions, popular participation and good governance;

Underscoring the right of citizens to freely participate in the government of their country, through freely chosen representatives as enshrined under Article 13 of the African Charter;

Reiterating the principles stipulated in its *Resolution ACHPR/Res.213 (CCXIII) 12 on the Unconstitutional Changes of Government*, adopted on 2 May 2012, during its 51st Ordinary Session held in Banjul, The Gambia from 18 April to 2 May 2012 which condemns attempts to institute autocratic regimes and the unconstitutional change of Government on the Continent, acts which it considers to be a serious threat to stability, peace, security and development;

Deploring the attempted unconstitutional change of Government in The Gambia, on 30 December 2014;

Mindful of the need to ensure that due process is observed for all persons, including those who may have participated in those events, as well as their families;

Drawing attention to Articles 6 and 7 of the African Charter on the rights to personal liberty, protection from arbitrary arrest and respect for fair trial standards;

Concerned about the deteriorating human rights situation in The Gambia, particularly following the attempted unconstitutional change of government;

The Commission:

1. **Condemns** the attempted unconstitutional change of government on 30 December 2014;
2. **Requests** the Government of the Republic of The Gambia to ensure due process for any suspects detained on allegations of participating in the attempted unconstitutional change of government;
3. **Urges** the Government of the Republic of The Gambia to ratify the African Charter on Democracy, Elections and Governance; and
4. **Calls on** the Government of the Republic of The Gambia to invite the Commission to undertake a fact-finding mission to The Gambia.

Done in Banjul, The Gambia on 28 February 2015



ACHPR/Res.300 (EXT.OS/XVII) 2015: RESOLUTION ON THE OBLIGATIONS ON THE RIGHT TO WATER

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 17th Extraordinary Session held from 19 to 28 February 2015 in Banjul, The Gambia:

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the Commission's Guidelines on Economic, Social and Cultural Rights adopted in Tunis in 2011 which explicitly require States to protect water resources from pollution, to prioritize the provision of water for personal and domestic use and to protect the right to water and other related rights, the realization of which directly depends on water resources management;

Recalling its Resolution ACHPR/Res.224 (LI) 2012 on a human rights-based approach to the governance of natural resources which requires States to strengthen natural resources governance, in particular water resources, using a human rights approach, and to implement the principle of sovereignty over natural resources with the participation and in the interest of the population as interpreted by the Commission in its jurisprudence⁶;

Recalling also the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) adopted in 2009 which calls for the protection of the right to water;

Recalling Article 15 of the Protocol to the African Charter on the Rights of Women in Africa (Maputo Protocol) which calls on States to take the necessary measures to guarantee access to clean drinking water for women;

Recalling the principles of international law on fresh water, namely the principle of cooperation with other bordering States, the principle of fair and reasonable use and the obligation to refrain from causing significant harm as stipulated in the relevant conventions;

Recalling Resolution 64/292 of the United Nations General Assembly and Resolution 15/9 of the United Nations Human Rights Council recognizing the right to water and sanitation;

Mindful of General Comment no. 15 (2002) of the United Nations Committee on Economic, Social and Cultural Rights on the right to water which requires States

⁶ 276/03 (2009) Centre for Minority Rights Development (Kenya) and Minority Rights Group (on behalf of Endorois Welfare Council) v. Kenya.

Parties to prevent their own citizens and companies from violating the right to water of individuals and communities in other countries; and depending on the availability of resources, to facilitate realization of the right to water in other countries;

Welcoming the 2002 Senegal River Water Charter, the 2008 Niger Basin Water Charter and the 2012 Water Charter for the Lake Chad Basin, explicitly recognizing the right to clean drinking water;

Concerned that 2 out of 5 Africans do not have access to clean drinking water, that among water-borne diseases diarrhea alone accounts for more than 8.8% of mortality on the continent, and conscious of the link between water, food and energy;

Concerned about the negative effects of overuse and pollution of water resources and other development activities threatening the rights of present and future generations, the realization of which depends on access to water;

Further concerned by the absence of a regional legal framework for greater human rights-based cooperation in the management of trans-border waters, whereas Africa is the continent with the highest number of watersheds;

The Commission:

Urges African Union Member States to meet their obligations in providing clean drinking water for all their populations and to conscientiously cooperate in the management and protection of water resources, and to:

- i. protect the quality of national and international water resources and the entire riverine ecosystem, from watersheds to oceans;
- ii. ensure the rational and equitable use of water resources through the distribution of water resources to meet, in priority, the vital human needs of the populations concerned, in particular access to drinking water in sufficient quantity for personal and domestic use, sanitation, agriculture and other means of subsistence;
- iii. recognize, protect and develop traditional and local water management systems for indigenous populations on their ancestral lands as well as local communities, and protect water resources from abusive use and pollution;
- iv. establish mechanisms for the participation of individuals and communities in decision-making on the management of water resources;

- v. guarantee the justiciability of the right to water;
- vi. build the capacity of populations in human rights education, including the right to water and protection mechanisms; and
- vii. comply with the principle of non-discrimination within and among riparian populations, and take into account the needs of vulnerable persons, in particular women and children, persons with disabilities, elderly persons, rural populations living in geographically inaccessible areas, displaced persons, refugees and persons deprived of their liberty.

The Commission requests the Working Group on Economic, Social and Cultural Rights to prepare principles and guidelines on the right to water to assist States in the implementation of their obligations.

Done in Banjul, The Gambia on 28 February 2015

ACHPR/Res.301 (EXT.OS/XVII) 2015: Resolution on the World Bank's draft Environmental and Social Policy (ESP) and associated Environmental and Social Standard (ESS)

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 17th Extraordinary Session held from 19 to 28 February 2014 in Banjul, The Gambia:

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Considering Article 21 of the African Charter, which recognizes that all peoples shall freely dispose of their wealth and natural resources, a right that shall be exercised in the exclusive interest of the people and shall not be denied under any circumstances;

Considering further Article 22 of the African Charter, which guarantees peoples right to their economic, social and cultural development and States' duty to ensure the exercise of the right to development;

Recalling its Resolution ACHPR/Res.65(XXXIV)/03 on the adoption of the "Report of the Working Group on Indigenous Populations/Communities" adopted at its 34th Ordinary Session held from 6 to 20 November 2003 in Banjul, The Gambia;

Recognizing the positive advance in recent years in the promotion and protection of indigenous populations in several African countries both at the normative level and with regard to the development of relevant plans, policies and programmes;

Recalling the United Nations Declaration on the Rights of Indigenous Peoples adopted in 2007 and reaffirming the African Commission's commitment to foster the principles enshrined in this Declaration by African States;

Noting with appreciation the endorsement by African States of the Outcome Document of the World Conference on Indigenous Peoples' that was adopted by the UN General Assembly on 23 September 2014 in New York;

Noting the proposed Environmental and Social Safeguard Policy (ESP) and associated Environmental and Social Standards (ESS) of the World Bank released for public consultation on 30 July 2014, and in particular, Environmental and Social Standard 7 (ESS7) on Indigenous Peoples;

Further noting the objective of ESS7 wherein the World Bank acknowledges that the

purpose of the policy provisions is to “ensure that the development process fosters full respect for the human rights, dignity, aspirations, identity, culture, and natural resource-based livelihoods of Indigenous Peoples”;

Concerned however that ESS7, in paragraph 9, provides governments with the possibility of opting out of applying ESS7 in its entirety where a project is judged to potentially “create a serious risk of exacerbating ethnic tension or civil strife; or where the identification of culturally-distinct groups as envisioned in this ESS is inconsistent with the provisions of the national constitution”;

Further concerned that opting out of ESS7, for countries choosing to do so, would have the effect of removing all the safeguard obligations designed to protect the fundamental human rights of indigenous peoples provided therein;

Concerned that the opt-out option would encourage States not to comply with their international and regional obligations and commitments, and discourage the evolving State practice for the enhanced protection of indigenous peoples in Africa.

Further concerned that the ‘opt-out’ option would infringe the African Union Vision 2063 adopted by the Heads of States and Government, which calls for ‘a prosperous Africa based on inclusive growth and sustainable development’;

Encouraged by the constructive discussion that the Working Group on Indigenous Populations/Communities had on 6 February 2015 with the World Bank Safeguards Review Team at the Headquarters of the Institution, where the Working Group highlighted its concerns with regard to the potential negative impact of the opt-out option on the legal recognition of indigenous peoples in Africa and the promotion and protection of their rights;

The Commission:

Calls on the World Bank to align its Environmental and Social Safeguards Policy and associated Environmental and Social Standards (ESS) with international and regional legal frameworks for the protection of indigenous peoples;

Urges the World Bank to undertake the revision of the safeguards policy by removing the ‘opt-out’ clause included in Environmental and Social Standard 7 (ESS7) and consult all stakeholders, including the indigenous communities and the African Commission on Human and Peoples’ Rights in the entire revision process;

Further urges the World Bank to ensure that the revised safeguard policy contribute to supporting the development of a relevant legal framework for the indigenous peoples in Africa;

Calls on the States Parties to support the revision of proposed Environmental and Social Standard 7 (ESS7) to fully reflect the realization of the rights and duties guaranteed by the African Charter and other relevant regional and international legal instruments;

Encourages States Parties to adopt legislative and other measures to protect the rights of indigenous peoples and to develop and strengthen positive action measures in their favour;

Urges international organizations to further promote human rights on the continent and abstain from taking initiatives that could have a negative impact on policies for the promotion and protection of the rights of indigenous peoples in particular.

Done in Banjul, The Gambia on 28 February 2015



ACHPR/Res.302 (LVI) 2015 : Resolution on terrorist acts in the Republic of Kenya

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 56th Ordinary Session in Banjul, The Gambia, from 21 April– 7 May 2015;

Recalling its mandate to promote and protect human and peoples' rights pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Recalling Article 3(f) of the Constitutive Act of the African Union which encourages promotion of peace, security, and stability on the continent;

Recalling further its Resolution: ACHPR/RES. 276 (LV) 2014, on terrorist acts in Africa, which condemned various attacks committed by the Al-Shabaab terrorist group in the Republic of Kenya;

Recalling the Decision of the Assembly of Heads of State and Government of the African Union, *Assembly/AU/Dec.536 (XXIII)*, at its 23rd Ordinary Session held in June 2014 in Malabo, Equatorial Guinea, expressing concern over the continued threat of terrorism in the Horn of Africa;

Deeply Concerned by the escalation of terror by the Al-Shabaab group since the year 2011 characterised by armed attacks on public places, places of worship, prisons, police stations and schools;

Further Concerned by the frequency and severity of terrorist attacks reported to have resulted in the deaths of hundreds of people in the recent attack on Garissa University College in North-eastern Kenya, which caused the death of 147 civilians;

Recognizing the role played by Kenya in the fight against terrorism in Africa, particularly as part of the African Union Mission in Somalia (AMISOM) and the establishment of a legal framework on prevention of terrorism;

Noting, however, the frequent use of retaliatory measures such as collective punishment, expulsion of refugees in the urban areas and members of the Somali community, freezing of funds, suspension of various civil society organizations and the threat of closure of refugee camps suspected of having links with terrorism;

Desirous of strengthening cooperation among Member States in the region in order to prevent and combat terrorist attacks which have multiple repercussions and constitute a serious violation of human rights, in particular, the rights to physical integrity, life, freedom and security, and impede socio-economic development;

Welcoming the expressed solidarity and support to the Republic of Kenya by various Member States and various regional, intergovernmental and international organizations, and the entire international community;

The Commission:

8. **Reiterates** its strong condemnation of acts of violence by the Al-Shabaab group in the Republic of Kenya and the use of youths and children in the terror attacks;
9. **Deplores** legislative and executive measures that were alleged to violate other basic human rights, including the right to a fair trial;
10. **Calls Upon** the Republic of Kenya to:
 - (vi) Continue to guarantee the safety, security and protection of civilians in the affected communities, and to strengthen the protection of public and private property, in accordance with its regional and international human rights obligations;
 - (vii) Ensure that the operations of AMISOM, and the Kenya Defence Forces in response to the Al-Shabaab group are conducted in accordance with relevant regional and international human rights obligations and international humanitarian law;
 - (viii) Ratify the Protocol to the OAU Convention, which among other things, commits Member States to take all necessary measures to protect the fundamental human rights of their populations against all acts of terrorism and outlaw torture and other degrading and inhumane treatment against alleged perpetrators of terrorism;
 - (ix) Take all necessary measures to protect refugees in conformity with regional and international commitments that Kenya has entered into;
 - (x) Take all necessary measures to ensure prior and impartial investigation in the event of the freezing and suspension of assets of individuals and various Civil Society Organizations suspected of supporting terrorist groups;
 - (xi) Investigate, prosecute, and bring to trial the perpetrators of human rights violations allegedly committed by the different groups and individuals including members of the terrorist groups.

11. **Calls upon** the African Centre for the Study and Research on Terrorism, the Intergovernmental Authority on Development, the African Union and its Members States as well as the international community in their sustained efforts to curb the acts of terrorism of the Al-Shabaab group, consolidate the actions and initiatives launched in the fight against terrorism in Kenya, and the continent in general.

Done in Banjul, the Gambia, 7 May 2015



ACHPR/Res.303 (LVI) 2015 Resolution on the Right to Rehabilitation for Victims of Torture

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 56th Ordinary Session held from 21 April to 7 May 2015 in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa pursuant to the African Charter on Human and Peoples' Rights (the African Charter):

Recalling Article 5 of the African Charter which enshrines the right to the respect of the dignity inherent in a human being and prohibits all forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment;

Further recalling its Guidelines and Measures for the Prohibition and Prevention of Torture and Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines), in particular the obligation to ensure that all victims of torture and their dependants are offered appropriate medical care, have access to appropriate social and medical rehabilitation and are provided with appropriate levels of compensation and support;

Bearing in mind that while reparation components including restitution, compensation, satisfaction and guarantees of non-repetition are well defined, the concept of rehabilitation lacks clarity;

Mindful that rehabilitation includes medical and psychological care as well as available and adequate legal and social services;

Recognising that rehabilitation services are inadequate and unable to reach all potential victims of torture, primarily due to financial constraints;

Noting the persisting acts of torture with impunity and the lack of understanding with regards to the needs of victims of torture, particularly rehabilitation;

Concerned about lengthy court processes which adversely affect the rehabilitation of torture victims;

Mindful that the traumatic experiences of victims of torture makes it difficult for their proper reintegration into society;

Further mindful that torture affects not only direct victims, but also families and communities;

Noting that there is an urgent need for effective institutional mechanisms to ensure that victims of torture are able to access appropriate rehabilitation services;

The Commission:

1. ***Calls on*** State Parties to implement domestic laws prohibiting torture and to include clear provisions on the obligation to provide rehabilitation for victims of torture, in line with regional and international standards;
2. ***Urges*** State Parties to ensure that all victims of torture and their dependants are offered appropriate medical care, have access to appropriate social rehabilitation and are provided with adequate compensation;
3. ***Encourages*** State Parties which are undergoing transitional justice processes to include explicit provisions on the rehabilitation of victims of torture;
4. ***Calls on*** State Parties to guarantee the right to justice and ensure that perpetrators of torture are brought to justice;
5. ***Calls on*** regional and international organisations, civil society and other actors to provide State Parties with the necessary support to meet the needs of victims of torture;
6. ***Encourages*** State Parties to put into practice the provisions of the Robben Island Guidelines;
7. ***Urges*** State Parties which have not done so to ratify and implement the United Nations Convention against Torture (CAT) and its Optional Protocol (OPCAT);
8. ***Undertakes*** to work with State Parties and other relevant actors to ensure rehabilitation for victims of torture, in particular through the adoption and implementation of national strategies.

Done in Banjul, The Gambia, on 7 May 2015

**ACHPR/Res.304 (LVI) 2015: RESOLUTION CONDEMNING THE XENOPHOBIC
ATTACKS IN THE REPUBLIC OF SOUTH AFRICA**

The African Commission on Human and Peoples' Rights meeting at its 56th Ordinary Session held in Banjul, The Gambia, from 21 April to 7 May 2015;

Recalling its mandate to promote and protect human and peoples' rights pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the obligations of the Republic of South Africa under the African Charter and other international and regional human rights instruments;

Recalling the xenophobic attacks of 2008, which took place in South Africa, killing more than 60 people and its **Resolution ACHPR/Res.131(XXXIII) 08**, condemning the attacks and violence perpetrated against migrants in various townships in South Africa;

Further recalling Article 3 (a) and (f) of the Constitutive Act of the African Union, which encourages greater unity and solidarity between African States and African people, as well as the promotion of peace, security, and stability on the continent;

Reaffirming Articles 3, 4, 5, 12, 14 and 28 of the African Charter and **noting**, in particular Article 4 which provides that: "*Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right*";

Deeply concerned by the recent xenophobic attacks perpetrated on foreign nationals in the province of KwaZulu Natal in South Africa, resulting in the killing of at least 5 people and the displacement of thousands of foreign nationals;

The Commission:

1. **Strongly condemns** the attacks and violence perpetrated against foreign nationals in South Africa;
2. **Welcomes** the measures taken by the South African Government, including the establishment of an Inter-Ministerial Committee to engage with the local communities affected, as well as the deployment of hundreds of police officers to provide security in the affected areas;
3. **Calls upon** the Government of the Republic of South Africa to:
 - (a) Immediately stop the attacks on foreign nationals in the country, and put measures in place to ensure that this does not recur in future;

- (b) Fully investigate the circumstances leading to the xenophobic attacks and other acts of violence perpetrated against foreign nationals;
- (c) Ensure that all the perpetrators of the attacks are brought to justice and held accountable for their actions in accordance with the law;
- (d) Take appropriate measures to ensure that the rights of all immigrants are protected in accordance with the applicable international and regional human rights instruments;
- (e) Comply with its obligations under the African Charter and all other international and regional human rights obligations; and
- (f) Take immediate steps to sign, ratify and domesticate the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa.

Done in Banjul, The Gambia, on 7 May 2015

ACHPR/Res.305 (EXT.OS/XVIII) 2015: RESOLUTION ON ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The African Commission on Human and Peoples' Rights, meeting at its 18th Extraordinary Session held from 29 July to 7 August 2015 in Nairobi, Republic of Kenya:

Recalling its mandate to promote and protect human and peoples' rights pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Reaffirming Article 2 of the African Charter on the entitlement of every individual to enjoy the rights and freedoms recognised in the African Charter without distinction of any kind;

Reaffirming Article 18 (4) of the African Charter which provides persons with disabilities with the right to special measures of protection;

Further reaffirming Article 13 (3) of the African Charter on the Rights and Welfare of the Child which stipulates that States shall use their available resources with a view to achieving progressively the full convenience of the mentally and physically disabled person to movement and access to public highway buildings and other places to which the disabled may legitimately want to have access to;

Considering Article 23 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa which provides women with disabilities with the right to special protection to facilitate their access to employment, professional and vocational training and their participation in decision-making;

Recalling the Continental Plan of Action for the African Decade of Persons with Disabilities (2010-2019) which underscores the importance of ensuring equality of opportunities for persons with disabilities, and requires that the inclusion of persons with disabilities in all spheres of life be guaranteed;

Noting that accessibility is one of the core principles established in the United Nations Convention on The Rights of Persons with Disabilities;

Gravely concerned that facilities and services across all spheres of life remain grossly inaccessible to persons with disabilities, thereby undermining their full and equal participation in society;

Recognising the importance of enabling persons with disabilities to live independently and participate fully in all aspects of life;

The Commission:

1. ***Calls on*** States Parties, the African Union and its Organs to take immediate and effective measures to ensure that all facilities and services open or provided to the public are accessible to persons with disabilities;
2. In particular, ***calls on*** States Parties, the African Union and its Organs to ensure that meetings in which the public participate are held in places accessible to persons with disabilities;
3. ***Urges*** States Parties, the African Union and its Organs to ensure that all information intended for the general public is disseminated in accessible formats and technologies appropriate to different kinds of disabilities;
4. ***Urges*** those States Parties that have not done so to ratify the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled;
5. ***Calls on*** States Parties, the African Union and its Organs to recognise and promote the use of sign language at the national, sub-regional and continental levels; and
6. ***Requests*** the Working Group on Older Persons and People with Disabilities in Africa to remain seized of this matter and to provide any further advice or guidance as it may deem appropriate.

Adopted on 7 August 2015 during the 18th Extraordinary Session held in Nairobi, Republic of Kenya

ACHPR/Res.306 (EXT.OS/ XVIII) 2015: RESOLUTION ON THE EXPANSION OF THE MANDATE OF THE SPECIAL RAPPORTEUR ON PRISONS AND CONDITIONS OF DETENTION IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 18th Ordinary Session, held from 29 July to 7 August 2015 in Nairobi, Kenya;

Recalling its mandate to promote human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its decision taken at its 20th Ordinary Session held in Grand Bay, Mauritius in October 1996 to establish the office and to appoint a Special Rapporteur on Prisons and Conditions of Detention in Africa, as a prison monitoring mechanism;

Recalling its Resolutions ACHPR/Res.103a (XXXX) 06 and ACHPR/Res.259 (LIV) 2013; on Police Reform, Accountability and Civilian Police Oversight in Africa, and on Police and Human Rights adopted at its 40th and 54th Ordinary Sessions respectively;

Further Recalling the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, adopted by the Commission during its 55th Ordinary Session held from 28 April to 12 May 2014 in Luanda, Angola;

Recognising the central role of the police in the maintenance and enforcement of law and order, promotion of citizen's safety as well as the respect for human rights and the growing demands placed on the police to combat national and transnational crime, terrorism and other emerging security challenges;

Concerned that effective policing in Africa is impeded by several factors including limited financial resources, inadequate training, poor working conditions, corruption, political interference, and weak governance structures; contributing to widespread cases of non-compliance by the police with basic human rights standards in the execution of its duties, including the use of excessive and disproportionate force, extrajudicial killings and summary executions, arbitrary and illegal arrest, torture and mistreatment;

Noting the importance of a good working relationship between the Police, the State and the public at large; and the need to work with all interested parties, including, National Human Rights Institutions, Civil Society Organisations and other stakeholders to promote effective human rights compliant policing;

Further noting that policing and human rights is a crosscutting issue with all the Special Mechanisms of the Commission, in particular, the mandate of the Special Rapporteur on Prisons and Conditions of Detention in Africa;

Reaffirming the commitment of the Commission to promote the right to liberty and security of the person as guaranteed under Article 6 of the African Charter; and to continue to place police and human rights on its agenda;

Noting with appreciation the work already carried out by the Special Rapporteur on Prisons and Conditions of Detention in Africa in the area of policing and human rights;

Decides to expand the mandate of the Special Rapporteur on Prisons and Conditions of Detention in Africa with the following amended title: The Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa;

Further decides to entrust the Rapporteur with the additional mandate to:

- I. Undertake studies on issues of relevance to policing and human rights in Africa and develop best practices on issues relating to policing and human rights;
- II. Take steps to ensure that issues related to policing and human rights are taken into account and reflected in the working methods of the Commission;
- III. Ensure implementation of the Commission's Guidelines on Conditions of Arrest, Police Custody and Pre-trial Detention in Africa;
- IV. Work with the other Special Mechanisms of the Commission on cross-cutting issues relating to policing and human rights.

Adopted on 7 August 2015 during the 18th Extraordinary Session held in Nairobi, Republic of Kenya

**ACHPR/Res.307 (EXT.OS/ XVIII) 2015: Resolution on the Development of
Guidelines on Access to Information and Elections in Africa**

The African Commission on Human and Peoples' Rights meeting at its 18th Extra-Ordinary Session held in Nairobi, Kenya from 29 July to 07 August 2015;

Recalling its mandate to promote human and peoples' rights in accordance with Article 45 of the African Charter on Human and Peoples' Rights (the African Charter);

Recalling further Article 13(1) of the African Charter which provides that 'every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law;'

Underscoring its previous resolutions on elections and participatory governance in Africa, in particular: Resolutions ACHPR/Res.23(XIX)1996; ACHPR/Res.184(EXT.OS/IX)2011; ACHPR/Res.232(EXT.OS/XIII)2013; ACHPR/Res.239(EXT.OS/XIV)2013; ACHPR/Res.272(LV) 2014; and ACHPR Res. ACHPR/Res.293(EXT.OS/xvii)2015;

Reaffirming the importance of peaceful, free, fair and transparent elections and referenda, for the maintenance of peace and security in Africa;

Recognizing the right of access to information as enshrined in Article 9 of the African Charter, as further elaborated by Resolution ACHPR/Res.62 (XXXII) 02 on the adoption of the Declaration of Principles on Freedom of Expression in Africa of 2002;

Mindful of the importance of the right of access to information as an essential tool for strengthening democracy, good governance and citizen participation in public affairs, which are in themselves, indispensable to the creation of a conducive environment for free, fair and transparent elections;

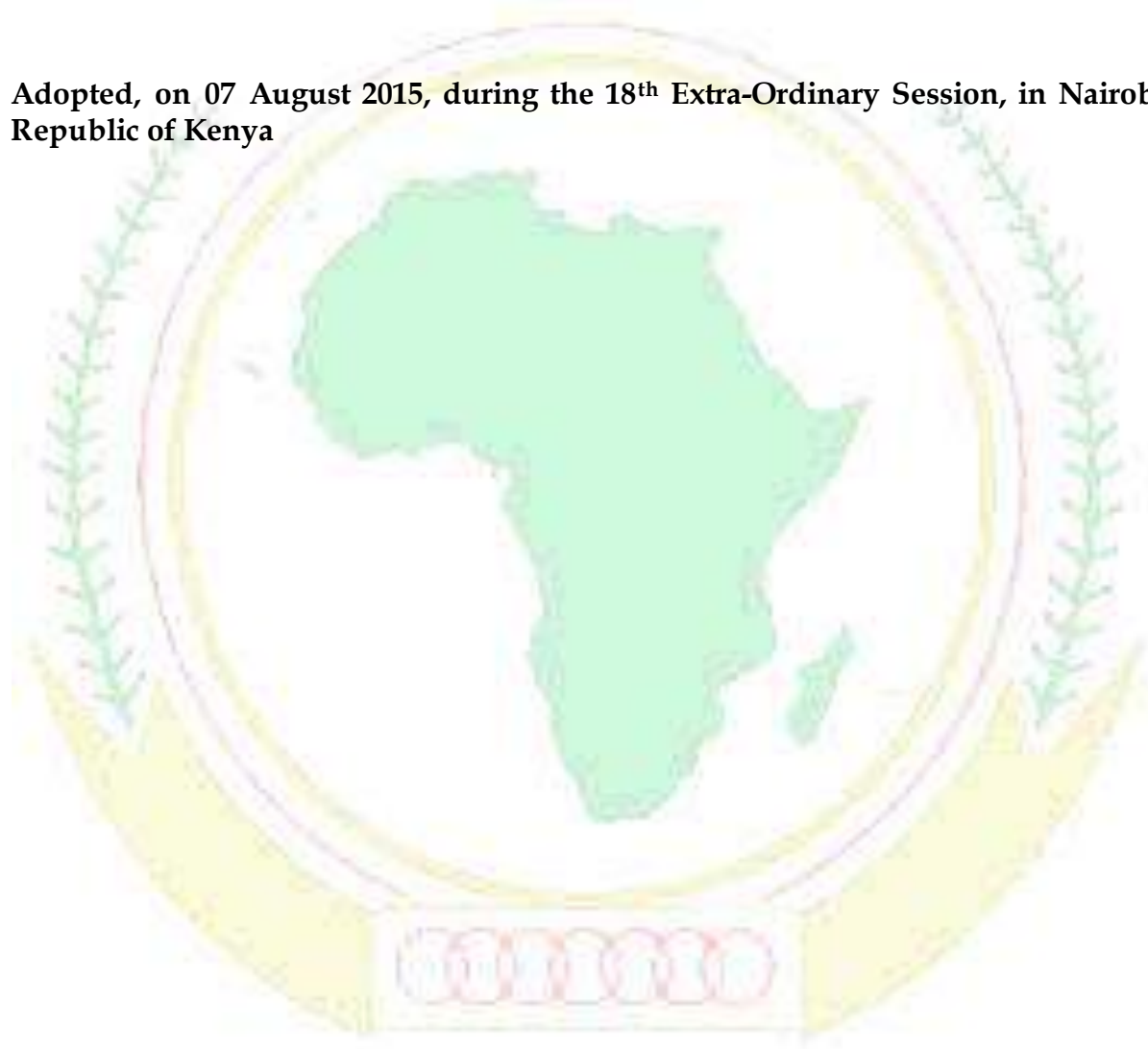
Cognizant that the African Charter on Democracy, Elections and Governance recognizes the need to promote best practices in the management of regular, transparent, free and fair elections for the purposes of political stability and good governance in Africa;

Concerned that there exists no regional standard on the role of access to information in the electoral process, as a means of guaranteeing the credibility of elections in Member States and the overall strengthening of democratic governance in Africa;

The Commission:

- i. Calls on the Special Rapporteur on Freedom of Expression and Access to Information (the Special Rapporteur) to develop Guidelines on Access to Information and Elections;
- ii. Requests the Special Rapporteur to report on the progress;
- iii. Urges Member States, civil society and other stakeholders, to collaborate with the Special Rapporteur by contributing to the process of drafting the Guidelines.

Adopted, on 07 August 2015, during the 18th Extra-Ordinary Session, in Nairobi, Republic of Kenya



ACHPR/Res.308 (EXT.OS/ XVIII) 2015: RESOLUTION ON THE EXTENSION OF THE DEADLINE FOR THE STUDY ON HIV, THE LAW AND HUMAN RIGHTS

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 18th Extra-Ordinary Session held from 29 July to 7 August 2015 in Nairobi, Republic of Kenya;

Recalling its mandate to promote and protect human rights under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling further, inter alia, Resolution ACHPR/Res.53 (XXIX) 01, on the HIV/AIDS Pandemic – Threat Against Human Rights and Humanity, and Resolution ACHPR/Res.163 (XLVII) 10 on the establishment of the Committee on the Protection of the Rights of People Living with HIV and those at Risk, Vulnerable to and affected by HIV (the Committee);

Recalling also Resolution ACHPR/Res.290 (EXT.OS/XVI) 2014 on the Need to conduct a study on HIV, the Law and Human Rights, which mandated the Committee to prepare the referenced study and to present a report for consideration and adoption by the Commission, during its 57th Ordinary Session;

Mindful that the research on the study is currently being undertaken despite a lack of adequate resources, which is stalling its progress;

Noting that the deadline fixed for the study is due to expire in November 2015, whereas the study is yet to be finalized;

Aware of the need to give the Committee sufficient time to conduct a thorough study on the subject, and also of the significance of the potential contribution of the study to the promotion and protection of the human rights of people living with HIV, and those at risk, vulnerable to and affected by HIV;

Decides to:

- i) Extend the deadline for presenting the report of the study by one (1) year, and accordingly requests that the report should be submitted for consideration at its 59th Ordinary Session; and
- ii) Reiterates its call on all stakeholders to support the Committee in conducting the study.

Adopted, on 7 August 2015, during the 18th Extraordinary Session, in Nairobi, Republic of Kenya

ACHPR/Res.309 (EXT.OS/XVIII) 2015: Resolution on the Human Rights Situation in Burundi

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 18th Extraordinary Session held from 29 July to 7 August 2015 in Nairobi, Republic of Kenya;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the provisions of Article 13 (1) of the African Charter which stipulates that "every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law";

Reaffirming its Resolution ACHPR/Res.293 (EXT.OS/XVII) 2015 on elections in Africa which calls on States Parties to protect the fundamental rights of all citizens, including the rights to freedom of movement, assembly, association and expression as well as equal access to the media for all stakeholders;

Bearing in mind its Statement of 3 May 2015 adopted at its 56th Ordinary Session held from 21 April to 7 May 2015 in Banjul, The Gambia, on the human rights situation in Burundi calling on the Government of Burundi to take all necessary measures to ensure a credible electoral process, in accordance with international and regional standards, and collaborate with all stakeholders for the realization of human rights in the country;

Bearing in mind the Communiqué of the Peace and Security Council, PSC/PR/COMM(DVII), of 13 June 2015 on the situation in Burundi and the Statement of the Heads of State of the East African Community of 6 July 2015;

Concerned about the deteriorating political and security situation during and after the elections, which resulted in the loss of human lives, destruction of property, police

ACHPR/Res.309 (EXT.OS/XVIII) 2015

brutality against citizens and the forced displacement of populations within the country and to neighbouring countries;

Further concerned about restrictions on press freedom, and freedom of expression, association and assembly of opposition political parties and of representatives of the media and civil society organizations;

Mindful of the need to restore the rule of law and allow for the protection and full enjoyment of the rights guaranteed under the African Charter and other relevant instruments;

Conscious of the on-going efforts of the Government to restore public order in the country;

Welcoming the efforts of the Economic Community of East African States towards resolving the situation, including the appointment of a Mediator;

Taking note of the determination of the African Union and the international community to work towards restoring the rule of law, including the deployment of military experts and human rights observers;

The Commission:

1. **Strongly condemns** the various acts of human rights violations perpetrated, including violations of the right to life, acts of torture and all use of force against peaceful protesters;
2. *Invites* the Government to urgently investigate human rights violations perpetrated during this period of crisis and to prosecute the alleged perpetrators;
3. **Calls on** the Government to make every effort to restore security and the rule of law in order to enable the exercise of the fundamental rights and freedoms of populations;

4. *Further calls on* the Government of Burundi to continue dialogue with all stakeholders involved in the current crisis for a negotiated and lasting solution;
5. *Invites* the African Union and the international community to continue their efforts in support of the Government of Burundi to restore order and security throughout the country.

Adopted on 7 August 2015 at the 18th Extraordinary Session held in Nairobi, Republic of Kenya



ACHPR/Res.310 (LVII) 2015 : Resolution on the urgency for undertaking Fact-finding Mission to Burundi

The African Commission on Human and Peoples' Rights at its 57th Ordinary Session held in Banjul, the Gambia from 4 November to 18 November 2015:

Considering its mandate to promote and protect human and people's rights in Africa envisaged under Article 45 of the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its resolution ACHPR/Res.309 (EXT.OS/XVIII) 2015 on the human rights situation in Burundi;

Cognizant of the AU Peace and Security Council's communiqué PSC/PR/COMM.(DLI) adopted at the 551st meeting of the Council held in Addis Ababa on 17 October 2015 requesting the African Commission to undertake an in-depth investigation into the human rights violations and other abuses in Burundi;

Further noting the AU Peace and Security Council's communiqué PSC/PR/COMM.(DLVII) adopted at the 557th meeting of the Council held in Addis Ababa on 13 November 2015 recalling its request for investigation into the human rights violations in Burundi and expressing deep concern about reports of human rights violations in Burundi;

Equally concerned about the human rights situation and the loss of life and human suffering as well as the worsening humanitarian situation resulting in unabating displacement of people and the ensuing flow of refugees into neighboring countries;

Taking into account the right of all peoples to peace and security guaranteed under Article 23 of the African Charter and expressing its deep concern about the threat the current situation poses to the peace and security of the people of Burundi and neighboring countries;

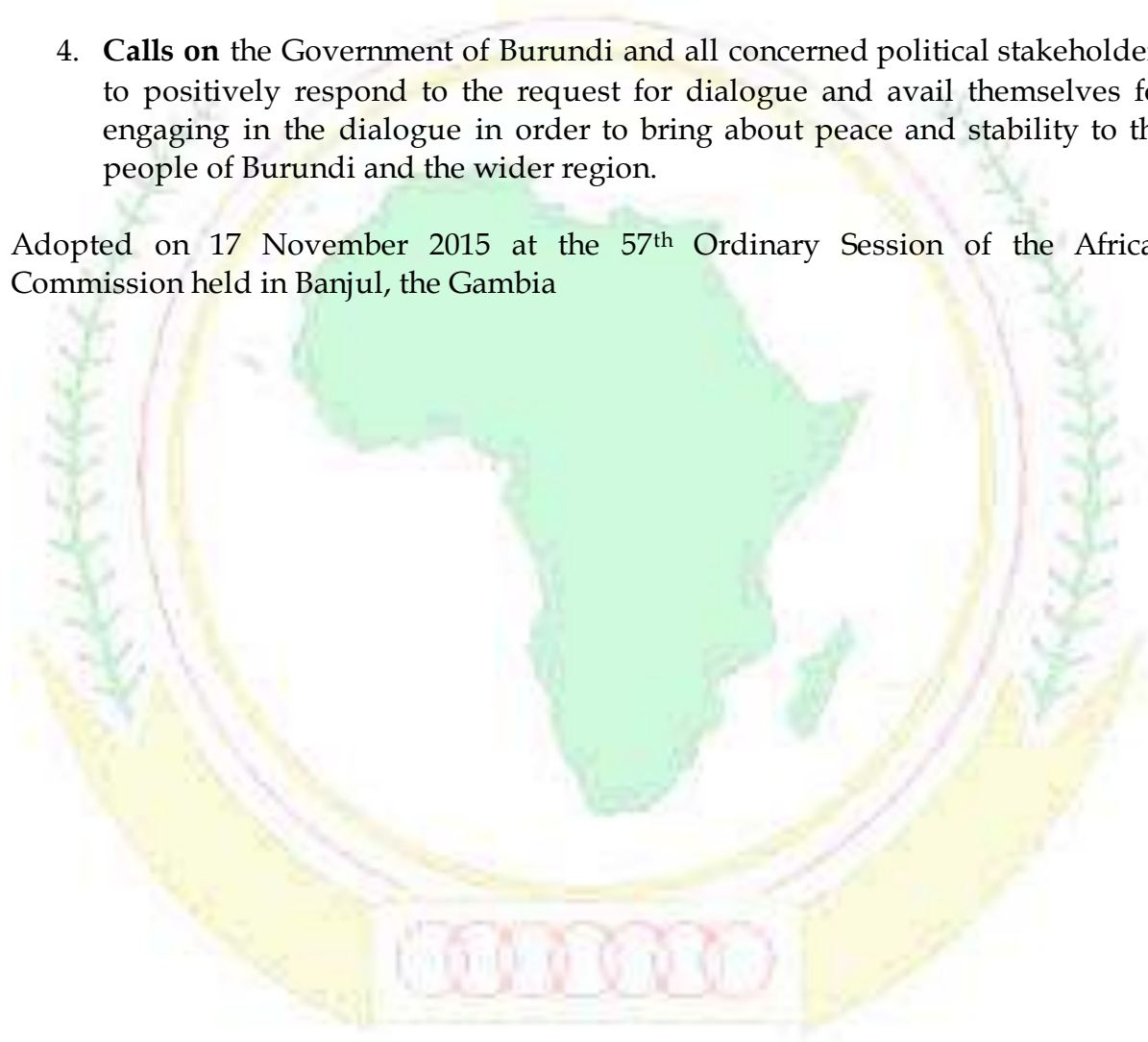
Expressing its full support for the initiatives of the East African Community (EAC) for mediating in the Burundi crisis and welcoming the call of the Peace and Security Council for the prompt convening of open and constructive dialogue among Burundian stakeholders;

Recognizing the urgent need for instituting measures for averting further violations of human rights;

The Commission:

1. **Expresses** its readiness to undertake a fact-finding mission into the human rights situation in Burundi as a matter of urgency;
2. **Calls on** the Government of Burundi to cooperate with the Commission and authorize the fact finding mission urgently;
3. **Urges** the EAC and the AU to facilitate the mission of the Commission and to take the necessary steps ensure, as part of the mediation efforts, that all violations of human rights are halted forthwith;
4. **Calls on** the Government of Burundi and all concerned political stakeholders to positively respond to the request for dialogue and avail themselves for engaging in the dialogue in order to bring about peace and stability to the people of Burundi and the wider region.

Adopted on 17 November 2015 at the 57th Ordinary Session of the African Commission held in Banjul, the Gambia



ACHPR/Res.311 (LVII) 2015: Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on Specific Issues Related to the Work of the Commission

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 57th Ordinary Session held from 4 to 18 November 2015 in Banjul, The Gambia;

Considering its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.77 (XXXVII) 05 on the establishment of a Working Group on Specific Issues Related to the Work of the Commission (Working Group) adopted at its 37th Ordinary Session;

Further recalling its Resolution ACHPR/Res.233 (EXT.OS/XIII) 13 reconstituting the Working Group and modifying its mandate and composition and Resolution ACHPR/Res.280 renewing the mandate of the Working Group for a further period of two years adopted at its 55th Ordinary Session held in May 2014;

Recognizing the need to reconstitute the Working Group;

Bearing in mind the need for the Working Group to continue carrying out its mandate and addressing the urgent issues falling within the same;

Decides to reconstitute the Working Group as follows:

1. Honourable Commissioner Faith Pansy Tlakula (Chairperson);
2. Honourable Commissioner Soyata Maiga (Member);
3. Honourable Commissioner Med Kaggwa (Member);
4. Honourable Commissioner Lawrence Murugu Mute (Member); and
5. Honourable Commissioner Solomon Ayele Dersso (Member).

Adopted at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights held in Banjul, The Gambia, from 4 to 18 November 2015

ACHPR/Res.312 (LVII) 2015: Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on the Rights of Older Persons and People with Disabilities in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 57th Ordinary Session held from 4 to 18 November 2015 in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Bearing in mind the African Union Policy Framework and Plan of Action on Ageing in which "*States Parties recognized the fundamental rights of older persons and committed themselves to abolishing all forms of discrimination based on age*" and undertook "*to ensure that the rights of older persons are protected by appropriate legislation, including the right to organize themselves in groups and the right to representation in order to advance their interest*";

Recalling its Resolution ACHPR/Res.106 (XXXI) 07 of 30 May 2007 on the Rights of Older Persons in Africa adopted at its 41st Ordinary Session held from 16 to 30 May 2007 in Accra, Ghana;

Recalling its Resolution ACHPR/Res.118 (XXXII) 07 on the Appointment of a Focal Point on the Rights of Older Persons in Africa adopted at its 42nd Ordinary Session held from 15 to 28 November 2007 in Brazzaville, Republic of Congo;

Further recalling its Resolution ACHPR/Res.143 (XXXV) 09 transforming the Focal Point on the Rights of Older Persons in Africa into a Working Group on the Rights of Older Persons and People with Disabilities in Africa;

Considering Article 18(4) of the African Charter which stipulates that: "*The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs*";

Further considering paragraph 20 of the Kigali Declaration which "*calls upon States Parties to develop a Protocol on the protection of the rights of people with disabilities and the elderly*";

Bearing in mind the mandate of the Focal Point, including to "*lead the process of drafting a Protocol to the African Charter on the Rights of Older Persons in Africa to be submitted to African Union policy organs for consideration and adoption as soon as possible*";

Appreciating the work of the Focal Point in advocating for a human rights approach for the protection of the rights of older persons;

Considering the mandate of the Working Group, and in order to facilitate the process of drafting a Protocol on Ageing towards ensuring compliance, by States Parties, with the recommendations made in the AU Policy Framework and Plan of Action on Ageing;

Recalling its Resolution ACHPR/Res.189 (XLIX) 11 adopted at its 49th Ordinary Session held in Banjul, The Gambia, from 28 April to 12 May 2011 to increase the number of Experts of the Working Group in order for the Working Group to effectively carry out its mandate;

Further recalling its Resolution ACHPR/Res.250 (CCL) 13 on the renewal of the mandate and appointment of the Chairperson and other members of the Working Group;

Recognising the work and the outstanding achievements of the Chairperson and members of the Working Group, in particular regarding the draft Protocol on the Rights of Older Persons adopted by the Commission during its 52nd Ordinary Session held from 9 to 22 October 2012 in Yamoussoukro, Côte d'Ivoire; and the well advanced process of the preparation of a draft Protocol on the Rights of People with Disabilities in Africa;

Considering that the two-year mandate of the Chairperson and other expert members of the Working Group has come to an end;

Considering the need to allow the Working Group on the Rights of Older Persons and People with Disabilities to continue to carry out its mandate and to address urgent related matters;

Decides to:

- i. Re-appoint Commissioner **Yeung Kam John Yeung Sik Yuen** as Chairperson of the Working Group for a period of two years as from 5 November 2015;
- ii. Renew for the same period the mandate of Commissioner Reine Alapini Gansou and Commissioner Lawrence Murugu Mute as members of the Working Group;
- iii. Appoint for the same period Commissioner Zainabo Sylvie Kayitesi and Commissioner Jamesina E.L. King as members of the Working Group;
- iv. Renew for the same period the mandate of the following expert members:
 - Dr Tavengwa Machekano Nhongo;
 - Ms Nadia Abdel-Wahab El-Afify;

- Mr Kudakwashe Dube; and
- Dr Elly Macha

Adopted at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights held in Banjul, The Gambia, from 4 to 18 November 2015



ACHPR/Res.313 (LVII) 2015: Resolution on the Renewal of the Mandate and Reconstitution of the Advisory Committee on Budgetary and Staff Matters

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 57th Ordinary Session held from 4 to 18 November 2015 in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Conscious of the essential role played by the Secretariat in ensuring the effective implementation of the mandate of the Commission and the importance of having an efficient Secretariat;

Further conscious of the difficulties faced by the Commission in the preparation, presentation and execution of its budget, and desirous of facilitating its budgetary preparation process;

Welcoming the decision of the Executive Council of the African Union (AU) to strengthen the human resources capacity of the Commission by recruiting 33 new staff members over a period of five years from 2010 to 2014;

Recalling the decision of its 6th Extraordinary Session to establish an Advisory Committee on Budgetary and Staff Matters in order to assist the Secretariat in preparing the programmes budget of the Commission;

Further recalling AU Executive Council Decision EX.CL/Dec.529 (XV) by which the African Union Commission, in consultation with the Permanent Representatives' Committee (PRC), is required to expedite the review of the honorarium and allowances of the members of the Commission in accordance with AU financial rules and regulations;

Bearing in mind its Resolution ACHPR/Res.142 (XXXXV) 09 adopted at its 45th Ordinary Session establishing an Advisory Committee on Budgetary and Staff Matters;

Mindful of its Resolutions ACHPR/Res.191 (L) 11 and ACHPR/Res.256 (CCLVI) 13 adopted respectively at its 50th and 54th Ordinary Sessions on the renewal and expansion of the mandate of the Advisory Committee on Budgetary and Staff Matters;

Noting with appreciation the work undertaken during the past two years by the Committee under the leadership of Commissioner **Med Kaggwa**;

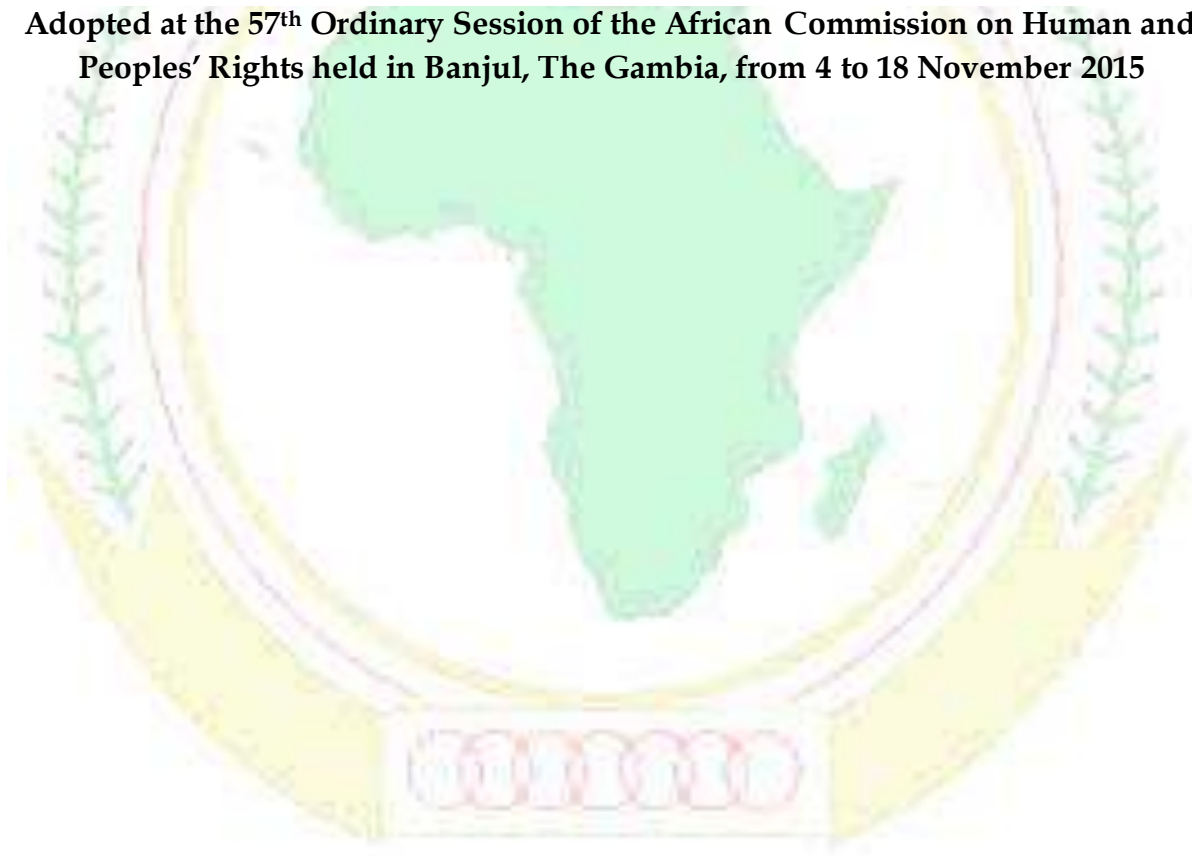
Considering that the mandate of the Chairperson and the members of the Committee has come to an end;

Recognising the importance of the Committee and the need to allow the Committee to continue to carry out its mandate;

Decides to:

- i. Re-appoint Commissioner Med Kaggwa as the Chairperson of the Committee for a period of 2 years as from 5 November 2015;
- ii. Renew for the same period the mandates of Commissioner Reine Alapini Gansou and Commissioner Soyata Maiga as members of the Committee; and
- iii. Appoint Commissioner Solomon Ayele Dersso as a member of the Committee for the same period.

Adopted at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights held in Banjul, The Gambia, from 4 to 18 November 2015



ACHPR/Res.314 (LVII) 2015: Resolution on the Renewal of the Mandate and Reconstitution of the Working Group on Communications

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 57th Ordinary Session held from 4 to 18 November 2015 in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Noting its protection mandate which involves the consideration of Communications alleging human rights violations against States Parties to the African Charter, pursuant to Articles 47 and 55 of the African Charter;

Noting its Resolution ACHPR/RES.194 (L) 11 adopted at its 50th Ordinary Session held in Banjul, The Gambia, from 24 October to 5 November 2011 establishing a Working Group on Communications and appointing its members;

Noting also its Resolution ACHPR/RES.212 (EXT.OS/XI) 12 adopted at its 11th Extraordinary Session held in Banjul, The Gambia, from 21 February to 1 March 2012 defining the mandate of the Working Group on Communications;

Further recalling its Resolution ACHPR/RES.255 (LII) 12 on the extension of the mandate and modification of the composition of the Working Group on Communications adopted at its 52nd Ordinary Session held from 9 to 22 October 2012 in Yamoussoukro, Côte d'Ivoire;

Further recognising the importance of the work of the Working Group on Communications;

Noting with satisfaction the work done by the Working Group under the leadership of Commissioner Lucy Asuagbor in her capacity as Chairperson of the Working Group;

Considering that the mandate of the Chairperson and the members of the Working Group comes to an end on 5 November 2015;

Recognising the importance of the Working Group and the need to allow the Working Group to continue to carry out its mandate;

Decides to:

Re-appoint Commissioner Lucy Asuagbor as the Chairperson of the Working Group for a period of two years, with effect from 5 November 2015;

Renew for the same period the mandate of **Commissioner Reine Alapini Gansou** and **Commissioner Yeung Kam John Yeung Sik Yuen** as members of the Working Group;

Appoint for the same period **Commissioner Jamesina E.L. King** and **Commissioner Solomon Ayele Dersso** as members of the Working Group;

Renew for the same period the mandate of the support team of the Working Group at the Secretariat as follows:

- i. The Secretary to the Commission as Coordinator of the support team;
- ii. Two (2) Senior Legal Officers; and
- iii. Two (2) Legal Officers.

Adopted at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights held in Banjul, The Gambia, from 4 to 18 November 2015



ACHPR/Res.315 (LVII) 2015: Resolution on the Renewal of the Mandate of the Special Rapporteur on Human Rights Defenders in Africa

The African Commission on Human and Peoples' Rights, meeting at its 57th Ordinary Session held from 4 to 18 November 2015 in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights;

Recalling its Resolution ACHPR/Res.69 (XXXV) 04 on the protection of human rights defenders in Africa adopted at its 35th Ordinary Session held from 21 May to 4 June 2004 in Banjul, The Gambia;

Bearing in mind its Resolution ACHPR/Res.83(XXXVIII) 05 on the appointment of the Special Rapporteur on Human Rights Defenders in Africa adopted at its 38th Ordinary Session held from 21 November to 5 December 2005 in Banjul, The Gambia;

Further recalling its Resolutions ACHPR/Res.119 (XXXXII) 07 and ACHPR/Res.192 (L) 11 on the Situation of Human Rights Defenders in Africa;

Considering its Resolutions ACHPR/Res.125 (XXXXII) 07 and ACHPR/Res.248 (LIV) 13 on the renewal of the mandate of the Special Rapporteur on Human Rights Defenders in Africa;

Bearing in mind its Resolutions ACHPR/Res.83 (XXXVIII) 05, ACHPR/Res.149 (XLVI) 09, ACHPR/Res.171 (XLVII) 10 and ACHPR/Res.202 (L) 11 appointing the various Special Rapporteurs on Human Rights Defenders in Africa;

Bearing in mind also that in the Grand Bay Declaration and Plan of Action (Mauritius), the Organisation of African Unity (African Union) called on Member States "to take appropriate measures to implement the United Nations Declaration on Human Rights Defenders";

Recalling its Resolution ACHPR/Res.273 (LV) 14 on the expansion of the mandate of the Special Rapporteur on Human Rights Defenders in Africa to include reprisals, adopted at the 55th Ordinary Session held from 28 April to 12 May 2014 in Luanda, Angola;

Noting with appreciation the work undertaken by Commissioner Reine Alapini Gansou as the Special Rapporteur on Human Rights Defenders in Africa;

Considering the new responsibilities of the Special Rapporteur as the focal person for cases of reprisals against human rights defenders in Africa;

Decides to renew the mandate of **Commissioner Reine Alapini Gansou** as the Special Rapporteur on Human Rights Defenders in Africa for a period of two (2) years, with effect from 18 November 2015.

Adopted on 17 November 2015 at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights held from 4 to 18 November 2015 in Banjul, The Gambia



ACHPR/Res.316 (LVII) 2015: Resolution on the Appointment of the Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa and Renewal of the Mandate of its Members

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 57th Ordinary Session held from 4 to 18 November 2015 in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.73 (XXXVI) 04 establishing and defining the mandate of the Working Group on Economic and Social Rights adopted at its 36th Ordinary Session held in Dakar, Senegal, from 23 November to 7 December 2004;

Further recalling Resolution ACHPR/Res.147 (XLVI) 09 appointing Commissioner Mohammed Bechir Khalfallah as the Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa (the Working Group);

Mindful of its Resolutions ACHPR/Res.193 (L) 11 and ACHPR/Res.252 (LIV) 13 on the renewal of the mandate of the Working Group, and ACHPR/Res.296 (EXT.OS/XVI) 14 on the appointment of expert members of the Working Group;

Bearing in mind the Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and People's Rights (Nairobi Principles and Guidelines) and the State Party Reporting Guidelines for Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights (Tunis Reporting Guidelines);

Recalling its Resolution ACHPR/Res.236 (LIII) 13 on illicit capital flight from Africa requesting the Working Group and the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa to undertake an in-depth study on the impact of illicit capital flight on human rights in Africa;

Further recalling its Resolution ACHPR/Res.300 (EXT.OS/XVI) 14 on the right to water obligations requesting the Working Group to develop principles and guidelines on the right to water in order to assist States in implementing their obligations in relation to the right to water;

Noting with appreciation the work done by the Working Group on Economic, Social and Cultural Rights in Africa under the leadership of Commissioner Mohamed Béchir Khalfallah since his appointment on 25 November 2009;

Noting that the mandate of the Chairperson and members of the Working Group is coming to an end;

Further recognising the importance of the work of the Working Group in promoting and protecting economic, social and cultural rights in Africa and the need to enable the Working Group to continue to implement its mandate;

Decides to:

- **Appoint Commissioner Jamesina E.L. King** as Chairperson of the Working Group for an initial period of two years, with effect from 18 November 2015;
- **Renew** for the same period the mandate of **Commissioner Maya Sahli Fadel** and **Commissioner Soyata Maiga** as members of the Working Group;
- **Renew** for the same period the mandate of the following expert members:
 - i. Prof. Frans Viljoen
 - ii. Mr Ibrahima Kane
 - iii. Mr Chafi Bakari
 - iv. Mr Gaye Sowe
 - v. Ms Salima Namusobya
 - vi. Ms Nadia Ait-Zai
 - vii. Dr Martial Jeugue Doungue
 - viii. Mr Sidi Tidiane Gueye
 - ix. Ms Helene Ramos dos Santos

Adopted at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights held from 4 to 18 November 2015 in Banjul, The Gambia

ACHPR/Res.317 (LVII) 2015: Resolution on the Renewal of the Mandate of the Chairperson and Members of the Working Group on Death Penalty, Extrajudicial, Summary or Arbitrary Killings in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 57th Ordinary Session held from 4 to 18 November 2015 in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.42 (XXVI) 99 adopted at its 26th Ordinary Session held in Kigali, Rwanda, urging States Parties to envisage a moratorium on the death penalty;

Further recalling the decision of the African Commission at its 37th Ordinary Session to appoint two Commissioners to work with the Special Rapporteur on Prisons and Conditions of Detention in Africa to prepare a concept paper on the Question of the Death Penalty in Africa;

Recalling its Resolution ACHPR/Res.79(XXXVIII) 05 on the composition and work of the Working Group on Death Penalty adopted at its 38th Ordinary Session to expand the composition of the Working Group to include two members of the Commission and five independent experts and to broaden its mandate;

Considering the trends in international law which encourage the abolition of the death penalty, in particular, the 2nd Optional Protocol to the International Covenant on Civil and Political Rights, the Statute of the International Criminal Court, the Resolution of the UN Commission on Human Rights 2005/59 relating to the Death Penalty, the practices adopted by the States Parties to the UN Charter and the debates and initiatives undertaken by civil society and other stakeholders on the question of the death penalty;

Bearing in mind Resolution 62/149 of the General Assembly of the United Nations adopted in 2007 calling on all States that still retain the death penalty to, inter alia, observe a moratorium on executions with a view to abolishing the death penalty;

Bearing in mind its Resolution ACHPR/Res.113 (XXXII) 07 on the renewal of the mandate and the appointment of Commissioner Kayitesi Zainabo Sylvie as the Chairperson of the Working Group on Death Penalty adopted at the 42nd Ordinary Session held from 15 to 28 November 2007 in Brazzaville, Republic of Congo;

Recalling its Resolution ACHPR/Res.136(XXXVIII) 08 calling on States Parties to observe the moratorium on the death penalty adopted at its 44th Ordinary Session held from 10 to 24 November 2008 in Abuja, Federal Republic of Nigeria;

Further recalling its Resolution ACHPR/Res.201 (L) 11 on the renewal of the mandate of the Chairperson and the appointment of members of the Working Group

on Death Penalty in Africa adopted at its 50th Ordinary Session held from 22 October to 5 November 2011 in Banjul, The Gambia;

Recalling further its Resolution ACHPR/Res.227 (LII) 2012 on the expansion of the mandate of the Working Group to include questions on extrajudicial, summary or arbitrary killings adopted at its 52nd Ordinary Session held from 9 to 23 October 2012 in Yamoussoukro, Côte d'Ivoire;

Recognizing that eighteen (18) States Parties to the African Charter have already abolished the death penalty and twenty-four (24) others have declared a moratorium on its implementation;

Reaffirming the commitment of the African Commission to promote the right to life and to encourage States Parties to abolish the death penalty;

Considering the need to continue to advocate for the abolition of the death penalty in Africa;

Considering the importance to continue to work with States Parties to the African Charter towards the adoption of the draft Protocol to the African Charter on Human and Peoples' Rights on the Abolition of the Death Penalty in Africa;

Noting with appreciation the work done by the Working Group under the leadership of Commissioner Kayitesi Zainabo Sylvie during the last eight years;

Further noting that the mandate of the Chairperson and Members of the Working Group has come to an end;

Further recognizing the importance of the work of the Working Group on Death Penalty, Extrajudicial, Summary or Arbitrary Killings and the need to ensure continuity of the Working Group;

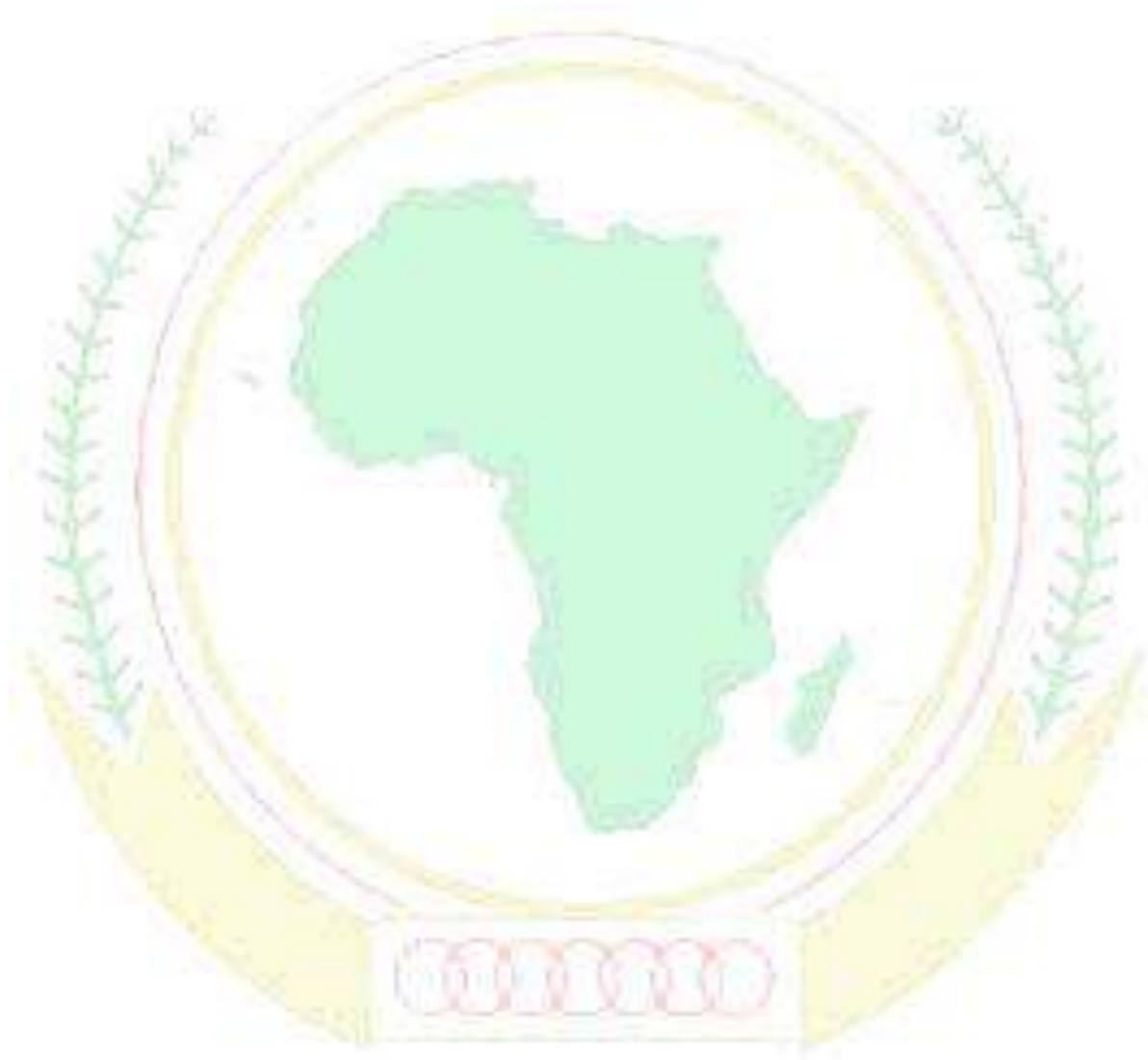
Decides to:

- i. Re-appoint **Commissioner Kayitesi Zainabo Sylvie** as the Chairperson of the Working Group for a period of two years starting from 18 November 2015;
- ii. Re-appoint **Commissioner Maya Sahli Fadel** and **Commissioner Med Kaggwa** as Members of the Working Group for the same period; and
- iv. Renew for the same period the mandate of the following Experts:

- Ms Alice Mogwe;
- Prof. Philip Francis Iya;
- Prof. Carlson E. Anyangwe;
- Mr Fares Bouzenia; and

- Mr Clement Capo-Chichi.

Adopted at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights held from 4 to 18 November 2015 in Banjul, The Gambia



ACHPR/Res.318 (LVII) 2015: Resolution on the Renewal of the Mandate of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 57th Ordinary Session held in Banjul, The Gambia from 4 to 18 November 2015;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Bearing in mind the adoption and coming into force of the 1951 Convention on the Status of Refugees and its 1967 Protocol and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa;

Also bearing in mind the adoption in 2009 and the coming into force in 2012 of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention);

Recalling the decision adopted at its 35th Ordinary Session held from 21 May to 4 June 2004 in Banjul, The Gambia, establishing a Special Mechanism on Refugees, Asylum Seekers and Internally Displaced Persons in Africa;

Mindful of Resolution ACHPR/Res. 72(XXXVI) 04 adopted at its 36th Ordinary Session held from 23 November to 7 December 2004 in Dakar, Senegal, and which defined the mandate of the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa;

Recalling Resolution ACHPR/Res. 95(XXXIX) 06 expanding the mandate of the Special Rapporteur to also include migrant issues;

Recalling Resolution ACHPR/Res.180(XLIX) 11 appointing Commissioner KAYITESI Zainabo Sylvie as Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;

Recalling Resolution ACHPR/Res. 230 (L) 11 appointing Commissioner Maya Sahli Fadel as Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;

Recalling further Resolution ACHPR/Res. 246 (LIV) 13 of 5 November 2013 renewing the mandate of Commissioner Maya Sahli Fadel as Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;

Concerned about the increase in the number of migrants trying to leave their countries, and travelling in dangerous and inhuman conditions;

Taking into account the constantly worsening situation of refugees, asylum seekers, internally displaced persons and migrants;

Considering the need to continue to advocate for the ratification of the Kampala Convention and its effective implementation on the continent by States Parties;

Considering the need to continue to work with States Parties to the African Charter on Human and Peoples' Rights towards the adoption of the draft Additional Protocol to the African Charter on the Right to Nationality and the Eradication of Statelessness in Africa;

Reiterating the importance of the mechanism of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;

Noting with satisfaction the work accomplished by Commissioner Maya Sahli Fadel as Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;

Considering that the mandate of Commissioner Maya Sahli Fadel has expired;

Considering also the need for the mechanism of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa to continue to carry out its mandate;

Decides to renew the mandate of **Commissioner Maya Sahli-Fadel** as the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa for a two-year period, with effect from 18 November 2015.

Adopted at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights held from 4 to 18 November 2015 in Banjul, The Gambia

ACHPR/Res.319 (LVII) 2015: Resolution on the drafting of Guidelines on Freedom of Association and Assembly in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 57th Ordinary Session, held from 4 to 18 November 2015, in Banjul, The Gambia

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/ 69 (XXXV) 04 of 4 June 2004 on the protection of human rights defenders in Africa, adopted at its 35th Ordinary Session, held from 21 May to 4 June 2004, in Banjul, The Gambia;

Further recalling its Resolutions ACHPR/Rés.119 (XXXXII) 07, ACHPR/ Rés.196 (L) 11, ACHPR/ 125 (XXXXII) 07 and ACHPR/Rés.248 (LIV) 13 relevant to the mandate and the situation of human rights defenders in Africa;

Bearing in mind its Resolution ACHPR/ 273 (LV) 14 on the extension of the scope of the mandate of the Special Rapporteur on Human Rights Defenders in Africa to include reprisals against human rights defenders, adopted at its 55th Ordinary Session from 28 April to 12 May 2014, in Luanda, Angola;

Considering Resolution ACHPR/Res.151 (XLVI) 09 of 25 November 2009 on the need for the conduct of a study on freedom of association in Africa, adopted at its 46th Ordinary Session, in Banjul, The Gambia;

Considering Resolution ACHPR/Res.186 (XLIX) 11 of 12 May 2011 on the appointment of members for a Study Group on Freedom of Association in Africa, adopted at its 49th Ordinary Session, held from 28 April to 12 May 2011 in Banjul, The Gambia;

Further considering Resolution ACHPR/Res.229 (LII) 12 of 22 October 2012 on the extension of the deadline for the study on freedom of association and extension of the scope of the study to include freedom of peaceful assembly in Africa, adopted at its 52nd Ordinary Session, held from 9 to 22 October 2012 in Yamoussoukro, Ivory Coast;

Recalling Resolution ACHPR/Res.261 (LIV) 13 of 5 November 2013 on the extension of the deadline for the study on freedom of association and assembly in Africa, adopted at its 54th Ordinary Session, held from 22 October to 5 November 2013 in Banjul, The Gambia;

Bearing in mind that during the 56th Ordinary Session, held from 21 April to 7 May 2015 in Banjul, The Gambia, the Commission launched the Report of the Study Group on Freedom of Association and Assembly in Africa;

Further considering that the Report of the Study Group on Freedom of Association and Assembly in Africa, among others, recommends drafting and disseminating guidelines on the freedom of association and assembly;

Bearing in mind the interest of relevant stakeholders on the adoption of guidelines on freedom of association and assembly, by the African Commission on Human and Peoples' Rights;

1. **Decides** to draft guidelines on freedom of association and assembly within a period of one (1) year, starting from 18 November 2015;
2. **Decides** to assign the task of drafting the said guidelines to the Study Group on Freedom of Association and Assembly, under the supervision of the Special Rapporteur on Human Rights Defenders in Africa;
3. **Decides** accordingly, to renew the mandate of the Study Group on Freedom of Association and Assembly for one (1) year, starting from 18 November 2015.

Adopted at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights held from 4 to 18 November 2015 in Banjul, The Gambia



ACHPR/Res.320 (LVII) 2015: Resolution on the Renewal of the Mandate of the Special Rapporteur on Freedom of Expression and Access to Information in Africa

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 57th Ordinary Session held from 04 to 18 November 2015, in Banjul, The Gambia:

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Aware that in the exercise of its mandate, the Commission has established various mechanisms for the promotion and protection of human and peoples' rights in Africa;

Recalling the Resolution on the Mandate and Appointment of the Special Rapporteur on Freedom of Expression in Africa adopted at its 36th Ordinary Session held from 23 November to 07 December 2004 in Dakar, Senegal;

Emphasizing that the right to freedom of expression and access to information is a fundamental human right guaranteed inter alia by Article 9 of the African Charter;

Recalling the adoption of the Declaration of Principles on Freedom of Expression in Africa (the Declaration), at its 32nd Ordinary Session held from 17 to 23 October 2002, in Banjul, The Gambia, which elaborates the nature, content and extent of the right to freedom of expression and access to information provided for under Article 9 of the African Charter;

Reaffirming the commitment of the Commission to promote the right to freedom of expression and access to information and monitor the implementation of the Declaration within Member States of the African Union;

Recalling Resolution ACHPR/Res.84 (XXXXV) 05, appointing Commissioner Faith Pansy Tlakula, as Special Rapporteur on Freedom of Expression in Africa adopted at the 38th Ordinary Session held from 21 November to 05 December 2005, in Banjul, The Gambia;

Recalling Resolution ACHPR/Res.122 (XXXXII) 07 on the Expansion of the Mandate and Re-appointment of the Special Rapporteur on Freedom of Expression and Access to Information in Africa adopted at the 42nd Ordinary Session held from 15 to 28 November 2007, in Brazzaville, Republic of Congo;

Recalling Resolution ACHPR/Res.161 (XLVI) 09, renewing the mandate of the Commissioner Faith Pansy Tlakula, as Special Rapporteur, adopted during the 46th Ordinary Session held from 11 to 24 November 2009 in Banjul, The Gambia;

Recalling Resolution ACHPR/Res.199 (L) 11, renewing the mandate of the Commissioner Faith Pansy Tlakula, as Special Rapporteur, adopted during the 50th Ordinary Session held from 24 October to 05 November 2011 in Banjul, The Gambia;

Further recalling Resolution ACHPR/Res.247 (LIV) 2013 on renewing the mandate of the Commissioner Faith Pansy Tlakula, as Special Rapporteur, adopted during the 54th Ordinary Session held from 22 October to 5 November 2013, in Banjul, The Gambia;

Mindful of Resolution ACHPR/Res.222 (LI) 2012 to modify the Declaration of Principles on Freedom of Expression to include Access to Information and Request for a Commemorative Day on Freedom of Information and Resolution ACHPR/Res.307 (EXT.OS/ XVIII) 2015, on the Development of Guidelines on Access to Information and Elections in Africa;

Noting with appreciation the work done by Commissioner Faith Pansy Tlakula as Special Rapporteur of Freedom of Expression and Access to Information in Africa during the past ten (10) years;

Considering that the mandate of Commissioner Faith Pansy Tlakula as Special Rapporteur on Freedom of Expression and Access to Information in Africa will end on 18 November 2015;

Further considering the need to allow the Special Rapporteur on Freedom of Expression and Access to Information in Africa to carry out her mandate as contained in Resolution ACHPR/Res.122 (XXXXII) 07 on the Expansion of the Mandate and Re-appointment of the Special Rapporteur on Freedom of Expression and Access to Information in Africa;

Decides to re-appoint Commissioner Faith Pansy Tlakula as Special Rapporteur on Freedom of Expression and Access to Information in Africa for a period of two years, effective from 18 November 2015.

Adopted on 17 November 2015 at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights, held from 4 to 18 November 2015 in Banjul, The Gambia

ACHPR/Res.321 (LVII) 2015: Resolution on the Appointment of the Chairperson and Reconstitution of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa and Renewal of its Mandate

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 57th Ordinary Session in Banjul, The Gambia held from 4 to 18 November 2015:

Recalling all the relevant regional and international human rights instruments, specifically Articles 21 and 24 of the African Charter on Human and Peoples' Rights, on the right of all peoples to freely dispose of their wealth and natural resources and to a general satisfactory environment favourable to their development;

Recalling the unconditional responsibility of State Parties to prevent all forms of violations of human and peoples' rights, including violations of human and peoples' rights by non-state actors;

Concerned by the increasing rate of the destruction of the African environment and ecosystem by extractive industrial activities with impunity;

Convinced of the need for an improved protection of human rights, especially through improving the regulatory framework of the activities of the extractive industries including mining, oil, gas, and timber extraction, developing effective continental mechanisms for monitoring the human rights impact of the activities of the extractive industries and the development of jurisprudence on holding non-state actors accountable for human rights violations in Africa;

Recalling Resolution ACHPR/Res.48(XLVI) 2009, *establishing the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa (the Working Group)*, adopted during the 46th Ordinary Session held in Banjul, The Gambia, from 11 to 25 November 2009;

Recalling Resolution ACHPR/Res.98(L) 2011 *appointing the Chairperson and Commission members of the Working Group for an initial period of two years*, adopted at its 50th Ordinary Session held in Banjul, The Gambia, from 24 October to 5 November, 2011;

Further Recalling Resolutions ACHPR/Res.215 (LI) 2012 and ACHPR/Res.253 (LIV) 2013: *on the Renewal of the Mandate of the Expert Members of the Working Group and on the Renewal of the Mandate of the Working Group respectively*;

Mindful of Resolution ACHPR/Res.236 (LIII) 2013 *on the illicit flight of capital from Africa*, adopted during the 53rd Ordinary Session held from 9 to 23 April 2013 and which required the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa and the Working Group on Economic, Social and Cultural Rights in Africa to carry out an in-depth study on the impact of the illicit flight of capital on human rights in Africa;

Noting with appreciation the work undertaken during the past years by the Working Group under the leadership of Commissioner Pacifique Manirakiza;

Considering that the mandate of the Chairperson comes to an end;

Recognizing the importance of the Working Group and the need to allow the Working Group to continue to carry out its mandate;

DECIDES:

- (i) to appoint the following for an initial period of two years taking effect as of 18 November 2015: **Commissioner Solomon Ayele Dersso** as Chairperson of the Working Group; **Commissioner Yeung Kam John Yeung Sik Yuen**, and **Commissioner Jamesina E.L King** as Members for the same period; and
- (ii) To maintain the current Expert Membership composition of the Working Group, as applicable, in line with its **ACHPR/Res.268 (LV) 2014: On Appointing Expert Members for the Working Group** as follows:

- **Mr. Clement Voulé;**
- **Professor James Gathii;**
- **Ms. Valerie Couillard;**
- **Professor Michelo Hansungule;**
- **Ms. Sheila Keetharuth; and**
- **Mr. Eric Kassongo Kalonji**

Adopted on 17 November 2015 at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights, held from 4 to 18 November 2015 in Banjul, The Gambia

ACHPR/Res.322 (LVII) 2015: Resolution on the Renewal of the Mandate and Reconstitution of the Committee for the Prevention of Torture in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 57th Ordinary Session, held in Banjul, The Gambia, from 4 to 18 November 2015;

Recalling its mandate to promote and protect human and peoples' rights in Africa under Article 45 of the African Charter on Human and Peoples' Rights (African Charter);

Bearing in mind Article 5 of the African Charter which enshrines the right to the respect of the dignity inherent in a human being and prohibits all forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment;

Recalling the Guidelines and Measures for the Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (the Robben Island Guidelines) adopted at the Commission's 32nd Ordinary Session, held in Banjul, The Gambia, from 17 to 23 October 2002;

Further recalling the establishment of the Robben Island Guidelines Follow-Up Committee in 2004 with the mandate to give effect to the implementation of Article 5 of the Charter and the Robben Island Guidelines;

Considering Resolution ACHPR/Res158 (XLVI) 09, that changed the name of the Robben Island Follow-up Committee to the Committee for the Prevention of Torture in Africa;

Taking account of Resolution ACHPR/Res.254 (LIV) 13 on the Appointment of the Chairperson and Renewal of the Mandate of the Members of the Committee for the Prevention of Torture in Africa, adopted at its 54th Ordinary Session held from 22 October to 5 November 2013, in Banjul, The Gambia;

Noting with appreciation the work undertaken by the Committee for the Prevention of Torture in Africa under the leadership of the Chairperson of the Committee, Commissioner Lawrence Murugu Mute, since his appointment on 5 November 2013;

Noting that the mandate of the Chairperson and members of the Committee has come to an end;

Considering the need to allow the Committee for the Prevention of Torture in Africa to continue carrying out its mandate and address urgent issues falling within its mandate;

The Commission decides to:

- i. Renew the appointment of **Commissioner Lawrence Murugu Mute** as Chairperson of the Committee for a period of two years;
- ii. Renew for the same period the mandate of **Commissioner Med. S. K. Kaggwa** and **Commissioner Lucy Asuagbor** as members of the Committee;
- iii. Appoint **Commissioner Solomon Ayele Dersso** as a member of the Committee for the same period; and
- iv. Maintain for the same period, the membership of the following experts:

- Mr Jean-Baptiste Niyizurugero – Vice Chairperson;
- Ms Hannah Forster – Member; and
- Mr Malick Sow – Member.

Adopted on 17 November 2015 at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights, held from 4 to 18 November 2015 in Banjul, The Gambia

ACHPR/Res.323 (LVII) 2015: RESOLUTION ON THE RENEWAL OF THE MANDATE OF THE WORKING GROUP ON INDIGENOUS POPULATIONS/COMMUNITIES IN AFRICA

The African Commission on Human and Peoples' Rights (the African Commission) meeting at its 57th Ordinary Session held from 4th to 18th November 2015, in Banjul, The Gambia;

Considering its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling that the African Commission established a Working Group on Indigenous Populations/Communities (the Working Group) composed of ten members, amongst them, three Members of the African Commission;

Further recalling its Resolution ACHPR/Res.65 (XXXIV) 03 on the Report of the African Commission's Working Group adopted at its 34th Ordinary Session held in Banjul, The Gambia, from 6 to 20 November 2003;

Recalling Resolutions ACHPR/Res.123 (XXXXII) of 2007; ACHPR/Res.155 (XLV1) of 2009; ACHPR/Res.204 (L) of 2011; and ACHPR/Res.249 of 2013 all renewing the mandate of the Working Group for consecutive two years;

Bearing in mind ACHPR/Res.237 of 2013 appointing two new expert members for the Working Group;

Noting with appreciation the work undertaken by the Working Group under the leadership of Commissioner Soyata Maiga during the past two years in the discharge of its mandate;

Noting further that the term of the Chairperson and members of the Working Group has come to an end;

Recognizing further the importance of the work of the Working Group in the promotion and protection of the rights of indigenous populations/communities in Africa and the necessity to allow the Working Group to continue to carry out its mandate;

Decides to:

- ix. Renew the mandate of Commissioner Soyata Maiga as Chairperson of the Working Group;
- x. Renew the mandate of Commissioner Lucy Asuagbor as a member of the Working Group;

- xi. Appoint Commissioner Reine Alapini-Gansou as a member of the Working Group;
- xii. Maintain the membership of the following experts:
 - Mr. Mohammed Khattali
 - Ms. Marianne Jensen
 - Dr. Melakou Tegegn
 - Dr. Naomi Kipuri
 - Dr. Albert Barume
 - Ms Lesle Jansen
 - Ms Hawe Bouba

The mandate of the Working Group is 2 years and shall take effect on 18 November 2015.

Adopted on 17 November 2015 at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights, held from 4 to 18 November 2015 in Banjul, The Gambia

ACHPR/Res.324 (LVII) 2015: Resolution on the Renewal of the Mandate of the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 57th Ordinary Session held from 4 to 18 November 2015, in Banjul, The Gambia;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Reaffirming the importance of observing the objectives and principles of the African Charter for the promotion and protection of the human rights of all, including those of detainees and prisoners;

Recalling its decision taken at its 20th Ordinary Session held in Grand Bay, Mauritius in October 1996 to establish the office and to appoint a Special Rapporteur on Prisons and Conditions of Detention in Africa, as a prison monitoring mechanism;

Further recalling its decision taken at its 38th Ordinary Session held in Banjul, The Gambia, in November/December 2005 to appoint the Special Rapporteur on Prisons and Conditions of Detention in Africa;

Bearing in mind Resolution ACHPR/Res.126 (XXXII) 07 on the Appointment of the Special Rapporteur on Prisons and Conditions of Detention in Africa adopted at the 42nd Ordinary Session held from 15 – 28 November 2007, in Brazzaville, the Republic of Congo;

Considering Resolution ACHPR/Res.206 (L) 11 on the Appointment of Commissioner Med S.K. Kagwa as the Special Rapporteur on Prisons and Conditions of Detention in Africa, adopted at the 50th Ordinary Session held from 24 October to 5 November 2011, in Banjul, The Gambia;

Bearing in mind Resolution ACHPR/Res.228 (LII) 2012 on the need to develop guidelines on conditions of police custody and pre-trial detention in Africa adopted at the 52nd Ordinary Session held from 9 to 22 October 2012, in Yamoussoukro, Côte d'Ivoire, which authorize the Special Rapporteur on Prisons and Conditions of Detention in Africa to develop '*Guidelines on the Conditions of Arrest, Police Custody and Pre-trial Detention in Africa*' including tools for its effective implementation;

Considering the adoption of the Guidelines on Conditions of Arrest, Police Custody and Pre-trial Detention in Africa during the 55th Ordinary Session of the Commission held from 28 April to 12 May 2014, in Luanda, Angola;

Recalling Resolution ACHPR/Res.306 (EXT.OS/ XVIII) 2015 Expanding the Mandate of the Special Rapporteur on Prisons and Conditions of Detention in Africa to include issues relating to Policing and human rights with the following amended

title: The Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa;

Noting with appreciation the work already carried out by Commissioner Med S.K. Kaggwa as the Special Rapporteur on Prisons and Conditions of Detention in Africa and subsequently as the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa;

Considering that the mandate of Commissioner Med S.K. Kaggwa as the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa has come to an end;

Decides to renew the mandate of **Commissioner Med S.K. Kaggwa** as the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa for a period of two years, effective from 18 November 2015.

Adopted on 17 November 2015 at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights, held from 4 to 18 November 2015 in Banjul, The Gambia



ACHPR/Res.325 (LVII) 2015: Resolution on the Appointment of the Chairperson of the Committee on the Protection of the Rights of People Living with HIV (PLHIV) and those at Risk, Vulnerable to and Affected by HIV

The African Commission on Human and Peoples' Rights, meeting at its 57th Ordinary Session held in Banjul, The Gambia, from 4 to 18 November 2015;

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Recognising that the African Commission on Human and Peoples' Rights (the Commission) has a fundamental role to protect the most vulnerable groups in Africa against human rights abuses;

Recognising also that a unique feature of the HIV pandemic is the overwhelming nature of the accompanying stigma;

Noting that in circumstances where the rule of law and human rights are not respected as an integrated part of society, the most vulnerable groups within that society are often denied the level of protection they require and hence, are exposed to increased vulnerability;

Recognising that people living with HIV and those at risk are currently one of the most vulnerable groups exposed to serious violations of human rights in Africa;

Recalling its previous Resolutions: ACHPR/Res.53 (XXIX) 01, on the HIV/AIDS Pandemic – Threat Against Human Rights and Humanity; ACHPR/Res.141 (XLIV)08, on access to health and needed medicines in Africa; ACHPR/Res.163(XLVII)10 on the establishment of the Committee on the Protection of the Rights of People Living with HIV (PLHIV) and those at Risk, Vulnerable to and affected by HIV (the HIV Committee); and ACHPR/Res.260(LIV)13, on Involuntary Sterilization and the Protection of Human Rights in Access to HIV Services;

Considering the obligations of States Parties under the African Charter and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) among others, to protect and promote the rights of people living with HIV (PLHIV);

Concerned that Africa continues to bear the greatest burden of the HIV epidemic, and also that despite commitments undertaken by State parties and regional bodies, PLHIV and those at risk continue to face serious violations of their basic human rights;

Recalling further Resolution ACHPR/Res. 290 (EXT.OS/XVI) 14, adopted during the 16th Extra-Ordinary Session, mandating the HIV Committee to Conduct a Study on HIV, the Law and Human Rights;

Mindful that the research on the study is currently being undertaken and **Aware** of the significance of the potential contribution of the study to the promotion and protection of the human rights of people living with HIV, and those at risk, vulnerable to and affected by HIV;

Recognising the considerable amount of work done by Commissioner Lucy ASUAGBOR in her capacity as the Chairperson of the Committee;

Decides:

- (i) To appoint Commissioner Soyata MAIGA as Chairperson of the Committee, and Commissioner Lucy ASUAGBOR as a Member of the HIV Committee, effective 18 November 2015; and
- (ii) To maintain the remaining membership composition of the HIV Committee, as follows, in line with its *Resolution 279 (LV)14, on the Extension of the Mandate of the Committee on the Protection of the Rights of People living with HIV, and those at Risk, Vulnerable to and affected by HIV in Africa*, and *Resolution 285 (EXT.OS/XVI) 14 Appointing an Expert Member for the Committee on the Protection of the Rights of People Living with HIV (PLHIV), and Those at Risk, Vulnerable to and Affected by HIV in Africa*:

a) Commissioner Members of the Committee:

- 1. Honourable Commissioner Reine ALAPINI GANSOU, Member; and

b) Expert Members of the Committee:

- 1. Mrs. Agnes ATIM APEA (Uganda);
- 2. Mr. Patrick Michael EBA (Côte d'Ivoire);
- 3. Mr. Patrick Le doux DUTZUE FOGUE (Cameroon);
- 4. Mr. Christian GARUKA NSABIMANA (Rwanda);
- 5. Mr. Ebenezer TOPE DUROJAYE (Nigeria); and
- 6. Ms. Ann STRODE (South Africa)

Adopted on 17 November 2015 at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights, held from 4 to 18 November 2015, in Banjul, The Gambia

ACHPR/Res.326 (LVII) 2015: RESOLUTION ON THE APPOINTMENT OF A NEW COMMISSIONER FOR THE TRANSITIONAL JUSTICE STUDY IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 57th Ordinary Session in Banjul, The Gambia held from 4 to 18 November 2015:

Recalling its mandate to promote human and peoples' rights in Africa in accordance with the African Charter on Human and Peoples' Rights;

Recalling Resolution ACHPR/Res.235 (LIII) 2013: on Transitional Justice in Africa, adopted by the Commission at its 53rd Ordinary Session held from 9 to 23 April 2013 in Banjul, The Gambia, mandating Commissioner Pacifique Manirakiza to prepare a study on transitional justice in Africa;

Further recalling Resolution ACHPR/Res.278 (LV) 2014: on the extension of the deadline for the Study on Transitional Justice in Africa, adopted by the Commission at its 55th Ordinary Session, in Luanda, Angola, 28 April to 12 May 2014, extending the deadline of the study by two years and requesting the report of the study in May 2016;

Considering that the mandate of Commissioner Pacifique Manirakiza as the Focal Person for the Study has come to an end;

Recognizing the importance of the work of the Focal Person and the need to consolidate and finalize the research;

Decides to task Commissioner Solomon Ayele Dersso as Focal person for the Study;

Further Decides that a Report on the Study be presented to the Commission for consideration in May 2016.

Adopted at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights held in Banjul, The Gambia, from 4 to 18 November 2015

**ACHPR/Res.327 (LVII) 2015: RESOLUTION ON THE APPOINTMENT OF THE
SPECIAL RAPPORTEUR ON THE RIGHTS OF WOMEN IN AFRICA**

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 57th Ordinary Session held from 04 to 18 November 2015, in Banjul, The Gambia:

Recalling its mandate to promote human and peoples' rights under the African Charter on Human and Peoples' Rights;

Taking note of Resolution ACHPR/Res.38 (XXXVIII) 99, adopted at its 25th Ordinary Session, held from 26 April to 5 May 1999 in Bujumbura, Burundi, on the establishment of a Special Mechanism on the Rights of Women in Africa;

Further recalling its decision taken at its 30th Ordinary Session, held from 17 to 27 October 2001 in Banjul, The Gambia, to appoint the Special Rapporteur on the Rights of Women in Africa; the Resolution ACHPR/Res.63(XXXIV) 03, adopted at its 34th Ordinary Session, held in Banjul, the Gambia, from 6 to 20 November 2003; the Resolution ACHPR/Res.78(XXXVIII) 05, adopted at its 38th Ordinary Session, held from 21 November to 6 December 2005 in Banjul, the Gambia, on the renewal of the Mandate of the Special Rapporteur.

Recalling also its Resolution ACHPR/Res.112(XXXII) 07 adopted at the 42nd Ordinary Session, held from 15 to 28 November 2007 in Brazzaville, Republic of Congo, on the appointment of Commissioner Soyata Maiga as the mandate of the Special Rapporteur on the Rights of Women in Africa;

Further taking note of its Resolutions ACHPR/Res.154 (XLVI) 09, ACHPR/Res.205 (L) 11 and ACHPR/Res.245 (LIV) 13 on the renewal of the mandate of Commissioner Soyata Maiga as the Special Rapporteur on the Rights of Women in Africa;

Bearing in mind the adoption and entry into force of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol);

Considering General Comments on Article 14(1) (d) and (e) of the Maputo Protocol and General Comments No.2 on Article 14.1.a), b), c) et f) and Article 14.2.a) et c) of the Maputo Protocol;

Aware that many challenges confronting women on the African continent relate to the recognition, exercise and enjoyment of their human rights;

Considering the need to continue advocating for the ratification and implementation of the Maputo Protocol by States Parties on the Continent;

Recognizing the considerable amount of work done by Commissioner Soyata Maiga in her capacity as the Special Rapporteur on the Rights of Women in Africa since her appointment in 2007;

Considering that the mandate of Commissioner Soyata Maiga has come to an end;

Reaffirming the importance of the mechanism of the Special Rapporteur on the Rights of Women in Africa;

Considering the need for the Special Mechanism to continue the implementation of its mandate;

Decides to appoint for two years **Commissioner Lucy Asuagbor** as the Special Rapporteur on the Rights of Women in Africa, effective from 5 November 2015.

Adopted at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights held in Banjul, The Gambia, from 4 to 18 November 2015



ACHPR/Res. 328 (EXT.OS/XIX) 2016: Resolution on the Modification of the Mandate of the Working Group on Specific Issues relevant to the Work of the Commission

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 19th Extra-Ordinary Session held in Banjul, The Islamic Republic of The Gambia, from 16 to 25 February 2016;

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights;

Recalling also Resolution ACHPR/Res.77 (XXXVII) 05 on the creation of a Working Group on Specific Issues Relevant to the Work of the Commission (the Working Group);

Recalling further its previous: Resolution ACHPR/Res.124 (XXXXII) 07 and Resolution ACHPR/Res.150 (XLV1) 09 renewing the mandate of the Working Group; Resolution ACHPR/Res.233 (EXT.OS/XIII) 13 reconstituting the Working Group and modifying its mandate and composition; Resolution ACHPR/Res.280 renewing the mandate of the Working Group; and Resolution ACHPR/Res.311 (LVII) 15 reconstituting the membership of the Working Group;

Noting with appreciation the accomplishments of the Working Group since its establishment;

Bearing in mind that the Working Group has in recent years been tasked with additional responsibilities pertaining to current matters relevant to the work of the Commission;

Also bearing in mind the establishment of a Legal Aid Fund for all African Union Human Rights Organs, as a result of which the mandate of the Working Group to establish a Voluntary Fund for Human Rights in Africa has become redundant;

Recognizing the need therefore, to modify the mandate of the Working Group;

The Commission:

Decides that the mandate of the Working Group be modified as follows, to:

- i. Deal as a matter of priority with the monitoring and evaluation of the implementation of the Strategic Plan of the Commission for the years 2015 – 2019, and the associated resource mobilization strategy;
- ii. Deal with the mechanism and procedure for the follow-up on the recommendations and decisions of the Commission other than those relating to Communications or those provided for under the Commission's Rules of Procedures;

- iii. Review the Rules of Procedure of the Commission (2010) in consultation with the Working Group on Communications, and propose amendments thereof to the Commission;
- iv. Advise the Commission on the governance and functioning of the Commission and its Secretariat in close collaboration with the Advisory Committee on Budgetary and Staff Matters; and
- v. Perform any other tasks which may be entrusted to it by the Commission.

Requests the Secretariat of the Commission to employ all necessary efforts to mobilize resources that would assist the Working Group to carry out its mandate.

Done in Banjul, The Islamic Republic of The Gambia, 25 February 2016

ACHPR/Res. 329 (EXT.OS/XIX) 2016: Resolution on the Appointment of Expert Members of the Working Group on Indigenous Populations/Communities in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 19th Extra-Ordinary Session held from 16 to 25 February 2016 in Banjul, The Islamic Republic of The Gambia;

Considering its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling that it established a Working Group on indigenous populations/communities in Africa (the Working Group) composed of ten members, including three members of the Commission;

Further recalling its Resolution ACHPR/Res.65 (XXXIV) 03 on the Report of the Working Group of the Commission adopted at its 34th Ordinary Session held in Banjul, The Gambia from 6 to 20 November 2003;

Recalling Resolutions ACHPR/Res.123 (XXXXII) of 2007, ACHPR/Res.155 (XLVI) of 2009, ACHPR/Res.204 (L) of 2011, ACHPR/Res.249 (LIV) of 2013 and ACHPR/Res.323 (LVII) of 2015 on the renewal of the Working Group's mandate for a period of two years each;

Bearing in mind Resolution ACHPR/Res.237 (LIII) of 2013 on the appointment of two new expert members of the Working Group;

Recognizing the importance of the actions of the Working Group in the promotion and protection of the rights of indigenous populations/communities in Africa, and the need to allow the Working Group to continue carrying out its mandate;

Cognizant of the need for the Working Group to expand its membership to properly discharge its mandate;

Mindful of the need to guarantee equal representation taking into consideration, in particular, the gender balance and geographical, linguistic and legal diversity;

The Commission:

Decides to appoint Mr. Belkacem Lounes (Algeria) as a member of the Working Group from this day 25 February 2016 to 4 November 2017.

Done in Banjul, The Islamic Republic of The Gambia, 25 February 2016

ACHPR/Res. 330 (EXT.OS/XIX) 2016: Resolution on the Appointment of a New Expert Member of the Working Group on the Rights of Older Persons and Persons with Disabilities in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 19th Extra-Ordinary Session held from 16 to 25 February 2016 in Banjul, The Islamic Republic of The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter) ;

Further recalling its Resolution ACHPR/Res.118 (XXXXII), on the Appointment of a Focal Point on the Rights of Older Persons in Africa, that was adopted at the 42nd Ordinary Session, held from 15 to 28 November 2007 in Brazzaville, Republic of Congo;

Further recalling its Resolution ACHPR/Res.143 (XXXV) 09 transforming the Focal Point on the Rights of Older Persons in Africa into a Working Group on the Rights of Older Persons and People with Disabilities in Africa;

Considering that the African Charter makes specific provisions for the protection of these rights, under Article 18 (4), which stipulates that "*the aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs*";

Appreciating the work of the focal point in advocating for a rights-based approach towards protecting the rights of older persons;

Considering the mandate assigned to the Working Group on the Rights of Older Persons and People with Disabilities, and to facilitate the process of drafting the Protocol on Ageing, ensuring compliance by State Parties with the recommendations contained in the AU Policy Framework and Plan of Action on Ageing;

Recalling Resolution ACHPR/Res.189 (XLIX) 2011 adopted in May 2011, increasing the number of Experts of the Working Group to effectively implement its mandate;

Further recalling Resolution ACHPR/Res.250 (CCL) 13 on the renewal of the mandate and appointment of the Chairperson and other Members of the Working Group on the Rights of Older Persons and Persons with Disabilities in Africa;

Considering Resolution ACHPR/Res.312 (LVII) 2015 on the Renewal of the Mandate and Reconstitution of the Working Group on the Rights of Older Persons and People with Disabilities in Africa

Considering that the Working Group needs additional expertise to efficiently conduct its mandate;

The Commission:

Decides to complement the number of Expert Members of the Working Group with the appointment of Ms Geronime Tokpo (Benin) as Expert Member of the Working Group from this day 25 February 2016 to 4 November 2017.

Done in Banjul, The Islamic Republic of The Gambia, 25 February 2016

ACHPR/Res. 331 (EXT.OS/XIX) 2016: Resolution on Elections in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 19th Extra-Ordinary Session, held in Banjul, The Islamic Republic of The Gambia, from 16 to 25 February 2016;

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling further Article 13(1) of the African Charter which stipulates that "every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law;"

Considering the African Charter on Democracy, Elections and Governance (the African Charter on Democracy) which emphasizes the importance of entrenching a political culture of change of power based on the holding of regular, free, fair and transparent elections conducted by competent, independent and impartial national electoral bodies;

Further considering Article 11 of the African Charter on Democracy which calls on State Parties to develop the necessary legislative and policy frameworks to establish and strengthen a culture of democracy and peace;

Cognizant of the provisions of Article 9 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa which calls on State Parties to take specific positive action to promote participative governance and the equal participation of women in the political life of their countries;

Bearing in mind its previous Resolutions on elections, including: Resolutions ACHPR/Res.23 (XIX) 96; ACHPR/Res.133 (XXXXIII) 08; ACHPR/Res.164 (XLVII) 2010; ACHPR/Res.174 (XLVIII) 2010; ACHPR/Res.232 (EXT.OS/XIII) 2013; ACHPR/Res.239 (EXT.OS/XIV) 2013; ACHPR/Res. 272 (LV) 2014; and ACHPR/Res.293 (EXT.OS/XVII) 2015;

Emphasizing the importance of peaceful, free, fair and transparent elections and referenda, and the acceptance by all parties of the results;

Concerned by the deterioration of the human rights situation in some African countries before, during, and after elections and the irregularities surrounding electoral processes that can lead to the breakdown of the rule of law;

Congratulates African countries that have held successful elections, in particular countries which are emerging from conflict such as the Central African Republic, and further

commends the African Union and the international community for the support given to these countries;

Noting that elections will be held in the following State Parties in 2016: Benin, Cape Verde, Chad, Comoros, Côte d'Ivoire, Djibouti, the Democratic Republic of Congo, Equatorial Guinea, Gabon, The Islamic Republic of The Gambia, Ghana, Republic of Congo, Sao Tome and Principe, Seychelles, Somalia, Zambia and Zanzibar (in Tanzania);

The Commission:

(i) **Calls on** State Parties to:

- Ensure compliance with the African Charter, and relevant regional and international human rights instruments, during the electoral process;
- Create conducive conditions to ensure peaceful, free, fair and transparent elections and referenda in order to allow citizens to exercise their right to vote in an environment free of intimidation, violence, or any other impediment;
- Take specific positive action to promote participative governance and the equal participation of women;
- Take all measures to prevent, investigate and prosecute human rights violations which may occur during the election period, and provide adequate redress to victims;
- Ensure that all parties participating in the elections, in particular the opposition parties, are allowed to conduct their campaign freely and are given equitable access to State controlled media and resources;
- Respect the independence of the national institution responsible for the management of elections and provide sufficient resources to carry out its mission;
- Allow the participation of independent election observers to observe the entire electoral process;

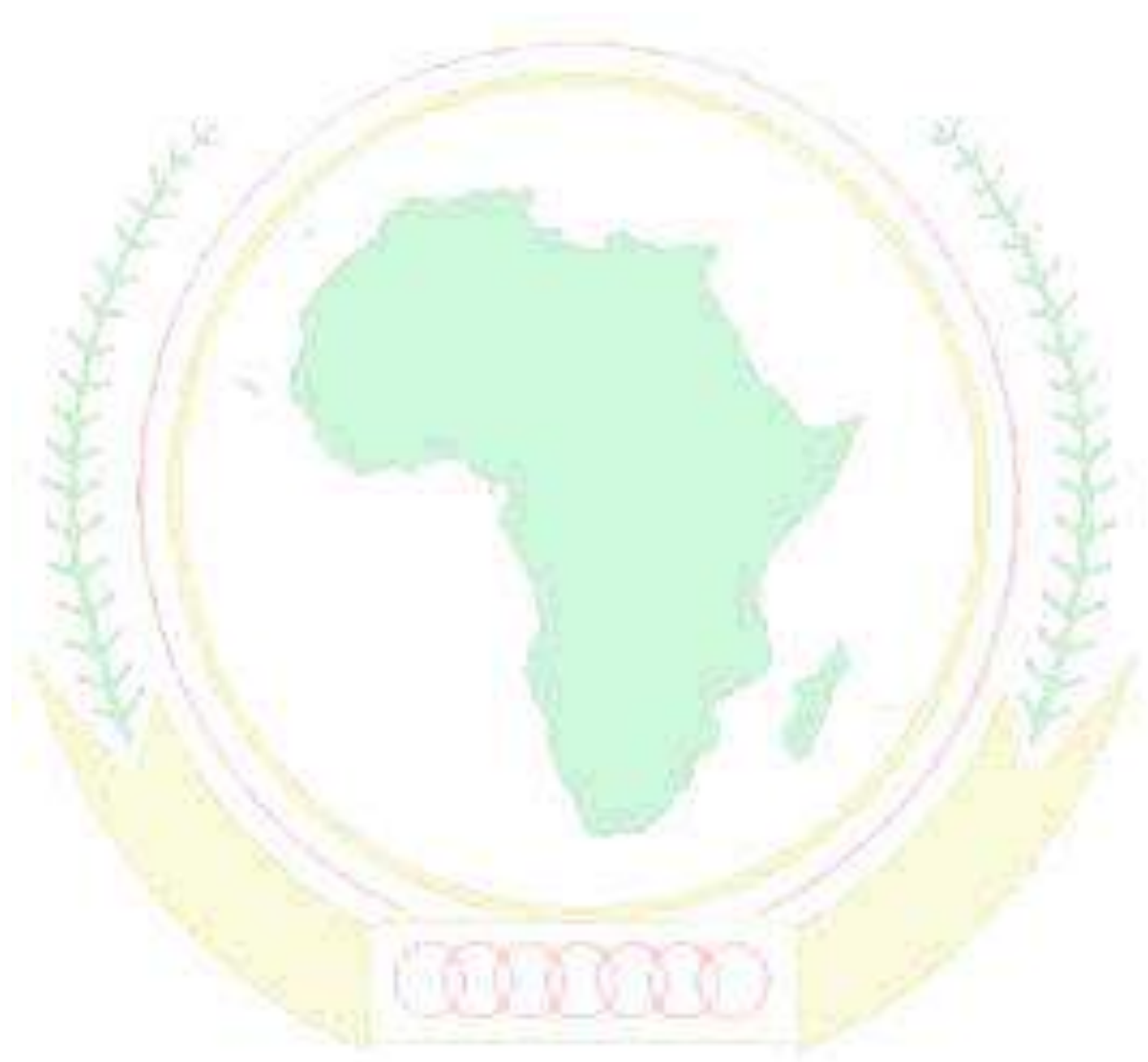
(ii) **Calls on** all candidates and political parties to:

- Accept the outcome of elections, or challenge the results through legally recognised structures established to resolve electoral disputes;
- Respect the election laws and regulations;
- Ensure that their supporters do not engage in, or incite, acts of violence either before, during or after the elections;

(iii) **Calls on** election observers to carry out their duty independently;

Reiterates its call to State Parties which have not done so, to ratify the African Charter on Democracy, Elections and Governance and to ensure its effective implementation.

Done in Banjul, The Islamic Republic of The Gambia, 25 February 2016



ACHPR/Res. 332 (EXT.OS/XIX) 2016: Resolution on Human Rights in Conflict Situations

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 19th Extra-Ordinary Session, held in Banjul, The Islamic Republic of The Gambia, from 16 to 25 February 2016;

Recalling its mandate to “promote human and peoples’ rights and ensure their protection in Africa”, including in particular in a situation of serious or massive violations of human and peoples’ rights as provided under the African Charter on Human and Peoples’ Rights (the African Charter);

Considering that one of the objectives of the African Union (AU), as outlined under Article 3 (f) of its Constitutive Act, includes “promoting peace, security and stability on the Continent” and that Article 3 (f) of the Protocol Establishing the Peace and Security Council (PSC Protocol) has as its objective protecting ‘human rights’ and ‘respect for the sanctity of human life and international humanitarian law’;

Considering further that Article 23 of the African Charter guarantees the rights to peace and security;

Bearing in mind its previous Resolutions pertaining to human rights in conflict situations on the continent, including, amongst others Resolution ACHPR/Res.117 (XLII) 07 on *Strengthening the Responsibility to Protect in Africa*; Resolutions ACHPR/Res.157 (XLVI) 09 and ACHPR/Res.207 (L) 11 on the *General Human Rights Situation in Africa*; and Resolution ACHPR/Res.276 (LV) 14 on *Terrorist Acts in Africa*;

Deeply concerned by the on-going conflict situations affecting various parts of Africa, as well as the consistent reports of violence being faced by civilian populations and the attendant widespread violations of human and peoples’ rights and humanitarian law;

Considering that despite the existing regional normative and institutional frameworks for addressing conflicts and threats of conflicts in Africa, there seem to be limitations in coordinated responses to human rights violations arising in conflict situations;

Mindful of the role of the Commission under the African Charter, in particular, Article 58, to respond to cases of ‘series of serious or massive violations of human

and peoples' rights and to ensure that human rights issues are addressed in conflict prevention, management and resolution;

Recognizing the urgent need for institutionalizing a human rights-based approach to conflict prevention, management and resolution on the continent;

Further recognising the need to work closely with the AU Peace and Security Council in accordance with Article 19 of the PSC Protocol and other regional and sub-regional processes, in addressing human rights in conflict situations;

The Commission:

Decides to:

1. Conduct a study on human rights in conflict situations in Africa, with a view to developing a comprehensive strategy and framework on the same;
2. Collaborate with the AU Peace and Security Council and other relevant stakeholders working on issues of peace and security, towards enhancing the role of the Commission, as well as its coordination with other continental processes, in addressing human rights issues in conflict situations; and
3. Task Commissioner Solomon Ayele Dersso to work on the implementation of this resolution and report to the 61st Ordinary Session of the Commission.

Done in Banjul, The Islamic Republic of The Gambia, 25 February 2016

ACHPR/Res. 333 (EXT.OS/XIX) 2016: Resolution on the Situation of Migrants in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 19th Extra-Ordinary Session, held from 16 to 25 February 2016 in Banjul, The Islamic Republic of The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the provisions of Article 5 of the African Charter, which guarantee every individual the right to the respect of the dignity inherent in a human being and consequently prohibit all forms of exploitation and degradation of man, in particular, human trafficking, physical or mental torture, cruel, inhuman or degrading punishment or treatment;

Recalling its resolutions ACHPR/Res.114 (XXXXII) 07 and ACHPR /Rés.131(XXXXIII) 08 on the situation of migrants;

Considering the provisions of the relevant international and regional instruments concerning arrests and detention, in particular, the Guidelines on the Conditions of Arrest, Custody and Preventive Detention in Africa adopted by the African Commission on Human and Peoples' Rights at its 55th Ordinary Session held in Luanda, Angola from 28 April to 12 May 2014 ;

Bearing in mind its Statement on the Deteriorating Situation of Migrants in the Mediterranean Sea made at its 56th Ordinary Session held in Banjul, The Gambia;

Deeply concerned by the loss of many lives among migrants in recent months in the Mediterranean and by the scale of this phenomenon and the disastrous consequences on African populations;

Conscious of the many problems caused by the increase in migration flows at the regional level;

Concerned by the specific vulnerability of certain categories of migrant groups, especially women and children;

Deeply concerned by the difficult situations the growing number of unaccompanied child migrants are confronted with, including detentions, trafficking and the sexual exploitation;

Concerned by the extent of human rights violations of international and regional human rights instruments relating to migrants, in particular, the growing number of cases of detention of migrants under unbearable conditions in certain countries;

Recalling that the detention of undocumented migrants should only be applied as a last resort and that priority should always be given to the use of alternative measures, in particular, for families with children and unaccompanied children;

Condemning the network of smugglers who promote and benefit from the exploitation of migrants resulting in the deliberate endangering of their lives which constitutes a serious violation of their rights;

Recalling the joint commitments made by African States with countries of the European Union during the Malta Conference in November 2015 on migration, to strengthen the protection of migrants, and fight against human trafficking and cooperate on the issue of return and resettlement of migrants;

The Commission:

Calls on States Parties to:

1. Take appropriate measures to respect the human rights of all migrants and ensure that they receive all the necessary protection;
2. Adopt policies, and strategies for cooperation to guarantee the respect of migrants facing arrests and detentions, including migrants found in countries that are not States Parties to the African Charter;
3. Develop alternative approaches to the detention of child migrants and to ensure that in all actions, their best interest is taken into consideration;
4. Establish reporting mechanisms and facilitate the handling of requests for redress concerning cases of human rights violation against migrants; and
5. Ensure that the issue of migrants is incorporated into their periodic reports submitted in accordance with Article 62 of the African Charter and Article 26 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

Urges the African Union to develop a strategic plan concerning the management of migratory flows and their consequences both at the regional and international level;

Done in Banjul, The Islamic Republic of The Gambia, 25 February 2016

ACHPR/Res. 334 (EXT.OS/XIX) 2016: Resolution on Indigenous Populations /Communities in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 19th Extra-Ordinary Session held from 16 to 25 February 2016 in Banjul, The Islamic Republic of The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Further Recalling the relevant provisions of the African Charter, in particular Articles 21 and 22 which recognize the right of all peoples to their economic, social and cultural development and the right to freely dispose of their wealth and natural resources as well as the duty of States to ensure the exercise of these rights;

Concerned over the deteriorating situation of indigenous populations/communities in Africa, particularly in terms of economic, social and cultural rights as a result of the plundering of their ancestral lands followed by serious violations of human rights perpetrated by certain State and non-State actors;

Deeply concerned by the forceful evictions of indigenous populations/communities from their ancestral lands and territories in some African countries;

Deeply concerned about the increased poverty among indigenous populations/communities and the often inadequate, weak and insubstantial legal and institutional frameworks to address social and economic disparities;

Further concerned by the marginalization of and discrimination against indigenous children, youth and women in many African States;

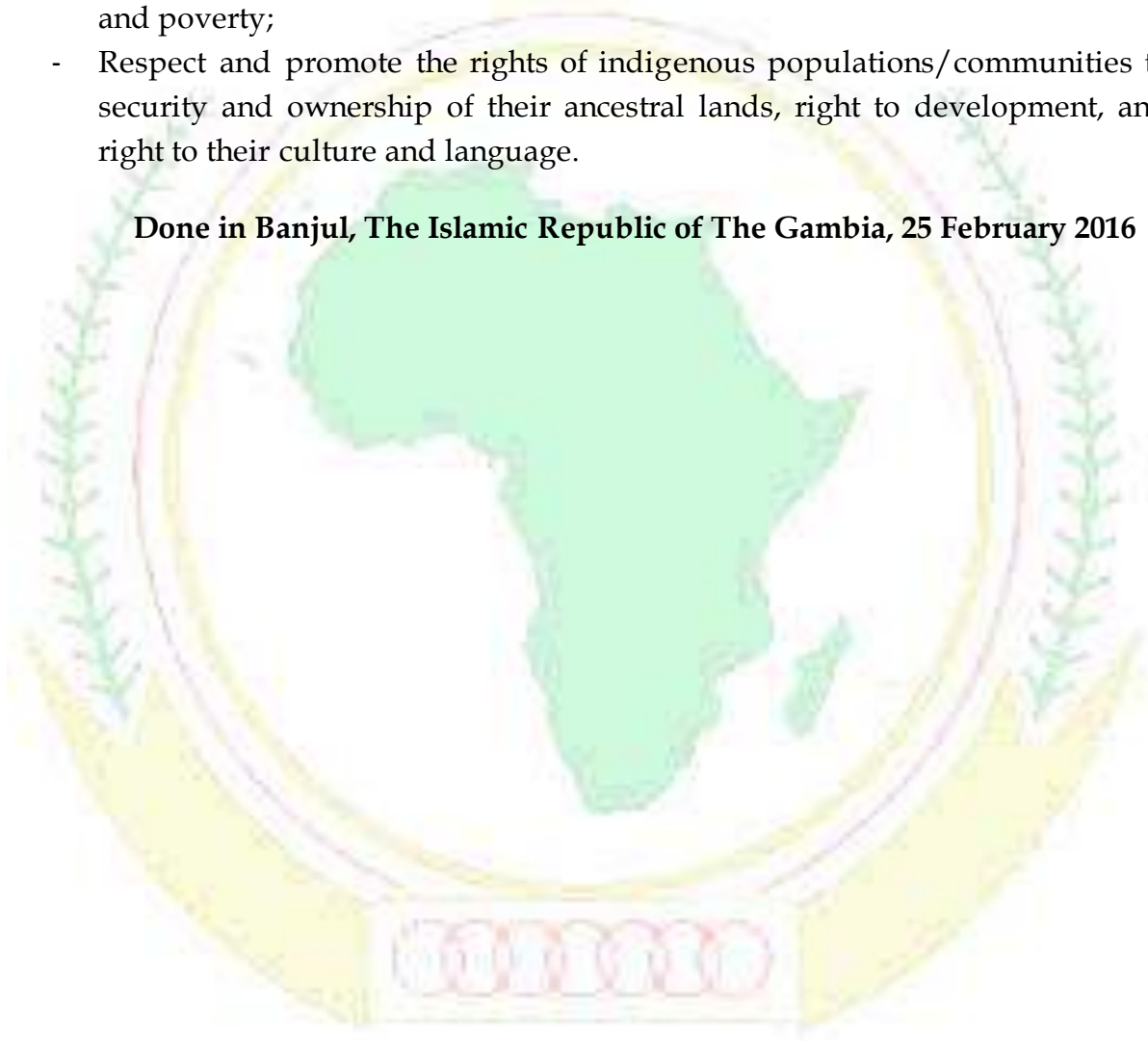
The Commission:

Urges States Parties:

- Prevent and halt forceful evictions of indigenous populations/communities from their ancestral lands and territories;

- Adopt policies and laws that secure the rights of indigenous populations/communities to own, control and manage their ancestral lands in the forests and protected areas;
- Adopt policies and laws that will promote and enhance the rights of indigenous populations/communities to access and benefit from social and economic programmes and projects;
- Adopt policies, laws and measures to promote and protect the rights of indigenous populations/communities from marginalization, discrimination and poverty;
- Respect and promote the rights of indigenous populations/communities to security and ownership of their ancestral lands, right to development, and right to their culture and language.

Done in Banjul, The Islamic Republic of The Gambia, 25 February 2016



ACHPR/Res. 335 (EXT.OS/XIX) 2016: Resolution on the Situation of Internally Displaced Persons in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 19th Extra-Ordinary Session held from 16 to 25 February 2016 in Banjul, Islamic Republic of The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the provisions of Article 23 of the African Charter guaranteeing all peoples the right to national and international peace and security, among other obligations;

Considering the provisions of relevant UN and regional principles relating to internally displaced persons, including the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention), and in particular its Article 3 which calls on States Parties to refrain from, prohibit and prevent arbitrary displacement of populations;

Recalling the commitment made by States Parties in the Preamble of the Kampala Convention to provide durable solutions to situations of internally displaced persons by establishing an appropriate legal framework for their protection and assistance and adopting measures aimed at preventing and putting an end to the phenomenon of internal displacement by eradicating the root causes, especially persistent and recurrent conflicts as well as addressing displacement caused by natural disasters and large development projects which have a devastating impact on human life, peace, stability, security, and development;

Deeply concerned about the massive displacement of populations as a result of armed conflicts, and the devastating consequences on the lives of these populations particularly in terms of insecurity, disease and loss of their possessions;

Concerned at the suffering and vulnerability of certain groups among displaced persons, including women, children, elderly persons and persons with disabilities;

Deeply concerned by the increasing number of violations against displaced persons, particularly children being recruited in armed groups, violence against women and girls, the main targets of warring factions;

Concerned at the extent of violations of the rights of internally displaced persons guaranteed under international and regional human rights instruments;

Concerned by the continued existence of camps for internally displaced persons and the consequences on their rights and those of host communities, as well as the negative impact on the stability and development of countries concerned;

Recalling the primary responsibility of African States to protect their citizens and adopt lasting solutions for internally displaced persons (for their return and resettlement);

The Commission:

Calls on States Parties to the African Charter to:

- i. Take appropriate measures in order to respect the human rights of all internally displaced persons and ensure that they receive all necessary assistance and protection adapted to their circumstances;
- ii. Ensure that the issue of internally displaced persons is integrated into their periodic reports presented pursuant to Article 62 of the African Charter and Article 26 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol);

Urges States Parties to the Kampala Convention to take all appropriate measures to ensure the protection of populations against forced displacement caused by large development projects in accordance with the provisions of Article 10 of the Convention;

Calls on States Parties that have not yet done so, to ratify the Kampala Convention;

Urges the African Union to intensify efforts for the resolution of armed conflicts, and develop a regional action plan to provide the necessary support to States experiencing natural disasters which result in the massive displacement of populations;

Done in Banjul, The Islamic Republic of The Gambia, 25 February 2016

ACHPR/Res. 336 (EXT.OS/XIX) 2016: Resolution on Measures to Protect and Promote the Work of Women Human Rights Defenders

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 19th Extra-Ordinary Session, held in Banjul, The Islamic Republic of The Gambia, from 16 to 25 February 2016;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Further recalling its Resolutions ACHPR/Res.69 (XXXV) 04, ACHPR/Res.119 (XXXXII) 07, ACHPR/Res.196 (L) 11 and ACHPR/Res.273 (LV) 2014 relevant to the situation of human rights defenders in Africa and the mandate of the Special Rapporteur on the Human Rights defenders;

Considering the obligations of State Parties under Article 18 (3) of the African Charter and the relevant provisions of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), particularly in light of the celebration of the African Year of Human Rights with particular focus on the Rights of Women, to eliminate all discrimination against women and ensure the protection of their rights;

Recalling the Report on the Situation of Women Human Rights Defenders in Africa, adopted at the Commission's 56th Ordinary Session, held in Banjul, The Gambia, from 21 April to 7 May 2015;

Considering that Resolution ACHPR/ Rés.196 (L)11 acknowledges the difficult environment in which human rights defenders in Africa conduct their work, which is often characterized by arbitrary arrests and detentions, acts of harassment, threats and other forms of intimidation, summary and extra-judicial executions or torture;

Further considering that Resolution ACHPR/ Rés.245 (LIV) 13 recognizes the challenges confronting women in Africa, particularly with regard to the recognition, exercise and enjoyment of their rights;

Emphasizing the importance of State Parties making progress on the implementation of UN General Assembly resolution on Women Human Rights Defenders (A/RES/68/181) of 18 December 2013;

Bearing in mind the human rights protection instruments, particularly the United Nations Declaration on Human Rights Defenders, and that in the *Grand Bay Declaration and Action Plan (Mauritius)*, the Organisation of African Unity (African

Union) called on Member States “to take all the necessary measures to implement the United Nations Declaration on Human Rights Defenders in Africa”;

Emphasizing the obligations of State Parties under other regional and international human rights instruments to protect and promote human rights, particularly the obligation to guarantee the security of persons living in their own country, as well as freedoms of assembly, association, and expression;

Convinced that women human rights defenders face particular barriers to engaging in the defense of human rights and risks in the conduct of their work to defend human rights;

Deeply concerned regarding the impunity that perpetrators of acts of violence on human rights defenders, in particular on women human rights defenders continue to enjoy in a large number of African countries;

Noting efforts by some State Parties to ensure an enabling environment for human rights defenders, including by reaffirming the legitimacy of the work of women human rights defenders;

The Commission:

Calls on State Parties to:

- i. disseminate and implement the recommendations of the Commission’s Report on the Situation of Women Human Rights Defenders in Africa, in consultation with relevant stakeholders, and in particular women human rights defenders;
- ii. end impunity by adopting specific laws and relevant measures to promote and protect the work of human rights defenders, which should include provisions that recognize and address the specific protection needs of women human rights defenders;
- iii. ensure that efforts designed to prevent and address violations and discrimination against women human rights defenders are developed and monitored in consultation with human rights defenders and other relevant stakeholders;
- iv. train the judiciary and public security and other relevant authorities on the specific risks and protections for human rights defenders and in particular women human rights defenders;
- v. report on the progress made in the promotion and protection of the work of women human rights defenders during presentation of periodic reports to the Commission in accordance with Article 62 of the African Charter

and Article 26 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

Done in Banjul, The Islamic Republic of The Gambia, 25 February 2016



ACHPR/Res. 337(LVIII) 2016: Resolution on the Extension of the Deadline for the Study on Transitional Justice in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 58th Ordinary Session, held from 6 to 20 April 2016 in Banjul, Islamic Republic of The Gambia:

Recalling its mandate to promote human and peoples' rights in Africa in accordance with the African Charter on Human and Peoples' Rights;

Recalling Resolution ACHPR/Res.235 (LIII) 2013 on Transitional Justice in Africa, adopted by the Commission at its 53rd Ordinary Session, mandating Commissioner Pacifique Manirakiza to prepare a study on transitional justice in Africa (the Study);

Further recalling Resolution ACHPR/Res.278 (LV) 2014 on the extension of the deadline for the Study, adopted by its 55th Ordinary Session, extending the deadline of the study by two years and requesting the report of the Study in May 2016;

Also Recalling Resolution ACHPR/Res.326 (LVII) 2015, appointing a new Commissioner - Commissioner Solomon Ayele Dersso as the focal person for the Study;

Mindful of the update on the Study provided by Commissioner Dersso to this 58th Ordinary Session, and the need for him to consolidate and finalize the Study;

Considering that the deadline fixed for conducting the Study will expire in May 2016;

Decides to:

- i. Extend the deadline of the Study by two (2) more years;
- ii. Request that the report of the Study be submitted for consideration by the Commission in May 2018.

Done in Banjul, Islamic Republic of The Gambia, on 20 April 2016

ACHPR/Res. 338(LVIII) 2016: Resolution on the Establishment of a Resolutions Committee

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 58th Ordinary Session held in Banjul, Islamic Republic of The Gambia, from 6 to 20 April 2016;

Recalling its mandate to promote and protect human and peoples' rights under Article 45 of the African Charter on Human and Peoples' Rights (the African Charter);

Considering Rule 23 (1) of its Rules of Procedure which provides that: "The Commission may create subsidiary mechanisms such as special rapporteurs, committees and working groups";

Recalling the importance of resolutions adopted by the Commission to take into account the human rights situations on the continent with a view to formulating guidance and recommendations on the promotion and protection of human rights in the African Charter;

The Commission:

- i. **Decides** to establish a Resolutions Committee mandated to:
 - Collect data and information on situations of human rights violations on the continent that may be addressed in resolutions and make proposals to the Commission;
 - Consider resolutions proposed by subsidiary mechanisms of the Commission prior to their adoption in plenary;
 - Ensure that the final versions of resolutions faithfully reflect the observations and comments of Members of the Commission;
 - Ensure proper publication and popularisation of adopted resolutions through the appropriate means;
 - Compile and analyse all resolutions of the Commission.
- ii. **Appoints** Commissioner Maya Sahli Fadel as Chairperson of the Committee for a period of two years as from 20 April 2016;
- iii. **Also appoints** Commissioners Soyata Maiga, Reine Alapini Gansou, Solomon Ayele Dersso and Jamesina Essie L. King as Members of the Committee;
- iv. **Requests** the Secretariat to provide the Committee with the necessary support.

Done in Banjul, Islamic Republic of The Gambia, on 20 April 2016

ACHPR/Res. 339(LVIII) 2016: Resolution on the Human Rights Situation in the Republic of Congo

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 58th Ordinary Session held from 6 to 20 April 2016 in Banjul, Islamic Republic of The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Further recalling the obligations of the Republic of Congo under the African Charter and other relevant regional and international human rights instruments ratified by Congo;

Concerned about the deterioration of the political and human rights situation in the Republic of Congo following the political process which led to the announcement of the results of the presidential election of 20 March 2016;

Deeply concerned about allegations of human rights violations, in particular unduly restrictions of the right to freedom of expression and peaceful assembly, the arbitrary arrest and detention of political opponents, including opposition candidates, the use of force against peaceful demonstrators and acts of torture and inhuman and degrading treatment;

Deeply concerned about allegations related to operations of intimidation carried out by security forces against leaders of opposition parties and their members, as well as against the population in Pool, in the southern part of Brazzaville, which are alleged to have led to the loss of lives;

Concerned about information regarding the displacement of people for fear for their lives and the related social and humanitarian consequences;

The Commission:

- i. **Strongly condemns** the human rights violations, in particular the cases of arbitrary arrest and detention and the acts of threat and intimidation against political leaders of the opposition;
- ii. **Further Condemns** all acts aimed at restricting the right to freedom of expression and peaceful assembly, including through the excessive and disproportionate use of force against demonstrators;
- iii. **Urges** the Government of the Republic of Congo to:

- Open an independent and prompt investigation into all allegations of human rights violations towards prosecuting the instigators, perpetrators and accomplices;
 - Take the necessary measures to put an immediate end to abuses and other forms of human rights violation and repression against leaders of opposition parties and their members;
 - Refrain from resorting to the excessive use of force during peaceful demonstrations and mass protests and ensure, at all times, freedom of opinion and expression, as well as the right to organise peaceful demonstrations and assemblies;
 - Comply with its obligations under the African Charter on Human and Peoples' Rights and other relevant human rights instruments to which Congo is a party;
- iv. ***Calls on*** leaders of the ruling party and opposition parties, their members and other stakeholders to refrain from all acts that may undermine public order, and encourages them to settle their disputes in a peaceful manner and in accordance with the law;
- v. ***Calls on*** the African Union and the international community to continue to support the Government and people of Congo towards restoring peace and security in the country.

Done in Banjul, Islamic Republic of The Gambia, on 20 April 2016

ACHPR/Res. 340 (LVIII) 2016: Resolution on the Human Rights Situation in the Sahrawi Arab Democratic Republic

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 58th Ordinary Session, held from 6 to 20 April 2016, in Banjul, Islamic Republic of the Gambia:

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter)

Considering the pledge to end all forms of colonialism in Africa reaffirmed in the preamble to the African Charter;

Noting Article 20 (1) of the African Charter enunciating that *"All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen."*

Recalling its previous Resolutions on Western Sahara ACHPR/Res.45 (XXVII) 00 and ACHPR/Res. 282 adopted at its 27th Ordinary and 55th Ordinary Session, respectively;

Further Recalling its conclusions and recommendations made in its report on the fact-finding mission conducted in the Sahrawi Arab Democratic Republic (SADR) adopted by the Executive Council of the African Union (AU) through its Decision EX.CL/Dec.775 (XXIII) of May 2013, which encouraged the Commission to complete its report on the fact-finding mission to the Sahrawi Arab Democratic Republic by including the situation in the territory under the control of the Kingdom of Morocco;

Also Recalling, Decision (PSC/PR/COMM/1.(CDXCVI) of the Peace and Security Council of the AU, adopted during its 496th meeting held on 27 March 2015 & the decision of the Peace and Security Council at its 588th meeting held on 6 April 2016, which called on the Commission to undertake, as soon as possible, a mission to Western Sahara and to the refugee camps in Tindouf, to assess the human rights situation and make recommendations to the Peace and Security Council (PSC), building on the outcome of the Commission's visit to the region in September 2012;

Recalling Further, Executive Council Decision EX.CL/921(XXVII), appealing to the Government of the Kingdom of Morocco to facilitate the fact-finding mission by the Commission to Western Sahara on the human rights situation, in line with the previous decisions of the Assembly in this regard;

Welcoming the report of the Chairperson of the AU Commission on Western Sahara, and expressing support to the efforts of the AU for the resolution of the Western Sahara conflict including through the appointment of the Special Representative of

the AU Commission on Western Sahara former President Joaquim Chissano of Mozambique;

Reaffirming the relevant United Nations Resolutions recognizing the status of Non-Self-Governing Territories in Western Sahara, making them the subject of decolonization and calling for the holding of a free and fair referendum on the self-determination of Western Sahara;

Concerned Over the lack of progress in the effort for resolving the Western Sahara conflict and the dire state of the humanitarian and the human rights situations in Western Sahara and the illegal exploitation of the territory's natural resources;

Further Concerned Over the decision by Morocco to expel 84 international civil servants, including AU personnel, from the UN Mission for the Referendum in Western Sahara (MINURSO);

The Commission:

- i. Urges the follow up of the AU Assembly decision of June 2014 on the UN General Assembly 'to determine a date for the holding of the self-determination referendum for the people of Western Sahara' and to 'address the issues of the respect for human rights and the illegal exploitation of the Territory's natural resources';
- ii. Calls on the UN Security Council to renew the mandate of MINURSO whose current mandate expires on 30 April 2016, and in this regard emphasizes the need for protecting the role of MINURSO and strengthening its mandate with the addition of a human rights monitoring task;
- iii. Urges international organizations including the UN, the EU, the World Bank and the African Development Bank and other members of the international community not to support and recognize trade or investment agreements contrary to the rights of the people of Western Sahara over the natural resources of the territory;
- iv. Encourages the Peace and Security Council of the AU and the Chairperson of the AU Commission to pursue the process of monitoring, documenting and reporting of the human rights situation in Western Sahara; and
- v. Decides to undertake a visit to Western Sahara in accordance with the decision of the Peace and Security Council adopted during its 588th meeting held on 6 April 2016 in Addis Ababa, Ethiopia.

Done in Banjul, Islamic Republic of the Gambia, 20 April 2016



ACHPR/Res. 341(LVIII) 2016: Resolution on the human rights situation of the abducted Chibok girls and other abducted victims in Nigeria

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 58th Ordinary Session, held in Banjul, The Islamic Republic of The Gambia, from 6 – 20 April 2016

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (The Maputo Protocol);

Considering that the Federal Republic of Nigeria is a Party to the African Charter and the Maputo Protocol and committed itself to securing human and peoples' rights within its territory;

Noting Article 3(f) and (h) of the Constitutive Act of the African Union (AU) which states that the objectives of the AU shall be to promote peace, security, and stability on the continent, as well as human and peoples' rights in accordance with the African Charter and other relevant human rights instruments;

Recalling its previous Resolutions on the human rights situation in the Federal Republic of Nigeria, in particular *Resolutions ACHPR/Res.214 (LI) 2012, ACHPR/Res. 211 (EXT.OS/XI) 2012, ACHPR/Res.267 EXT.OS/XV) 2014, and ACHPR/Res.298 (EXT.OS/XVII) 2015* which condemned acts of violence committed by Boko Haram resulting, *inter alia*, in the abduction of girls, loss of lives, injuries, destruction of property, internal displacements and other human rights violations in the country;

Deeply concerned by the abduction on 14 April 2014 by Boko Haram of over 200 girls from the boarding house of a secondary school in the village of Chibok, Borno State, and further abductions of girls from the villages of Warabe and Wala, in Borno State, on 6 May, 2014;

Conscious of the efforts made by the authorities of the Federal Republic of Nigeria which led to the release of hundreds of women and children [from Boko Haram strongholds](#);

Noting the collective efforts of the Economic Community of West African States, the African Union, Member States of the Lake Chad Basin Commission, the Multinational Joint Task Force, and the entire international community towards combating terrorism and transnational organized crime on the continent, and in particular, in the fight against Boko Haram;

Deeply concerned about the lack of reliable and current information on the situation of the Chibok Girls, 2 years after their abduction, and further allegations that these girls have been forced to join Boko Haram;

The Commission:

- i. **Strongly condemns** the continuous human rights violations perpetrated by Boko Haram members in the Federal Republic of Nigeria and in neighbouring countries;
- ii. **Urges** the Government of the Federal Republic of Nigeria to:
 - continue and intensify its efforts towards the release of the Chibok girls and other abducted persons;
 - investigate, prosecute and bring to trial the perpetrators of abuses committed by the Boko Haram members;
 - take the necessary measures, including by implementing laws and programmes and establishing effective mechanisms in order to guarantee the safety and security of its citizens, in particular women and girls;
 - take further meanings for reintegration and rehabilitation of rescued girls;
- iii. **Urges** African States to strengthen regional and international cooperation in combatting terrorism and trafficking in women and children.

Done in Banjul, the Islamic Republic of The Gambia, 20 April 2016

ACHPR/Res. 342(LVIII) 2016: Resolution on Climate Change and Human Rights in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 58th Ordinary Session, held in Banjul, The Islamic Republic of The Gambia, from 6 to 20 April 2016:

Recalling its mandate to promote human and peoples' rights and ensure their protection in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Mindful of the provisions of Article 45 of the African Charter providing a mandate to "promote human and peoples' rights and ensure their protection in Africa;"

Considering the provisions of Articles 22 and 24 of the African Charter relating to the right of peoples to economic, social and cultural development and the right of peoples to a satisfactory environment favourable to their development;

Recalling the Commission's Resolution ACHPR/Res.153 (XLVI) 09 on Climate Change and Human Rights and the Need to Study its Impact in Africa, adopted at its 46th Ordinary Session on 25 November 2009 and the Commission's Resolution ACHPR/Res.271 (LV) 14 on Climate Change and Human Rights and the Need to Study its Impacts in Africa, adopted on 11 May 2014 at its 55th Ordinary Session;

Considering that the United Nations Framework Convention on Climate Change (UNFCCC), which all almost all African States have ratified, obliges States Parties thereto to "... protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities";

Noting that the implementation of the UNFCCC, and the Paris Agreement under it, should adequately reflect the African perspective on human and peoples' rights, especially the right to a general satisfactory environment favourable to their development, the right to development and the right to health;

Noting further that African regional standards for the protection of the environment, management of natural resources and human and peoples' rights are consistent with provisions of the UNFCCC and its Kyoto Protocol, to which all African States are parties;

Welcoming the agreement reached at the COP21 meetings of December 2015 held in Paris, France outlining obligations relating to, among others, the limitation of green gas emissions, mitigations of and adaptations to climate change;

Concerned about the detrimental impact of the increased levels of greenhouse gases which could lead to temperature rises with serious consequences on the lives of African populations;

Concerned about the failure of developed countries Parties to the UNFCCC to comply with their obligation to take the lead in mitigation while creating enabling conditions for African countries to realise their right to sustainable development and adapt to climate change;

Concerned that the absence of full, effective and sustained implementation of the Convention through long-term cooperative action, including a lack of technology transfer and financial assistance for mitigation and adaptation, seriously undermines the capacity of African governments to safeguard human rights in Africa;

The Commission:

- i. **Encourages** Member States to strengthen regional and international cooperation in order to achieve a strong, committed and comprehensive climate action that will ensure that the human rights of Africans are safeguarded to the greatest extent possible both today and for future generations;
- ii. **Urgently requests** Member States to adopt and implement the special measures of protection for vulnerable groups such as children, women, older persons and persons with disabilities, indigenous communities and other minorities as well as victims of natural disasters and conflict;
- iii. **Tasks** its Working Group on Economic and Social Rights, in collaboration with the Working Group on Extractive Industries, Environment and Human Rights Violations, to undertake a “study on the impact of climate change on human rights in Africa” and to present it within two years.

Done in Banjul, The Islamic Republic of The Gambia, 20 April 2016



ACHPR/Res. 343(LVIII) 2016: Resolution on the Right to Dignity and Freedom from Torture or Ill-Treatment of Persons with Psychosocial Disabilities in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 58th Ordinary Session, held in Banjul, The Islamic Republic of The Gambia, from 6 to 20 April 2016:

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Further recalling Article 5 of the African Charter on the right to dignity, freedom from torture, cruel, inhuman or degrading punishment and treatment, and Article 6 of the African Charter which provides that an individual may not be arrested or detained arbitrarily;

Reaffirming the rights enshrined in the Convention on the Rights of Persons with Disabilities, and in particular, the right to equal recognition before the law, the prohibition of arbitrary deprivation of liberty, the right to freedom from torture or cruel, inhuman or degrading treatment or punishment, and the right to receive treatment on the basis of free and informed consent;

Noting that human dignity is an inherent right which all human beings are entitled to without discrimination on the basis of disability;

Deeply concerned by the violation of the rights to dignity, freedom from torture or ill-treatment, and freedom from arbitrary deprivation of liberty of persons with psychosocial disabilities by some State and non-State actors;

Noting that such violations include forced treatment without the prior, free and informed consent of the persons concerned, forced sterilisation, beatings, chaining, food deprivation and forced detention;

Further noting that at the heart of the right to dignity lies the right to enjoy a full and decent life;

The Commission:

- i. Calls on* State Parties to adopt the necessary measures to ensure that persons with psychosocial disabilities enjoy legal capacity on an equal basis with others in all aspects of life;
- ii. Calls on* State Parties to review and amend mental health laws which have been used as a basis for the torture or ill-treatment of persons with psychosocial disabilities;
- iii. Calls on* State Parties, national institutions for the promotion of human rights and human rights NGOs to monitor on a regular basis, using effective mechanisms, institutions which provide services to persons with psychosocial disabilities;

- iv. Requests* the Working Group on Older Persons and Persons with Disabilities to work with relevant stakeholders to monitor implementation of this resolution; and
- v. Requests* the African Union Commission to fast-track the process of adopting the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa.

Done in Banjul, The Islamic Republic of The Gambia, 20 April 2016



ACHPR/Res. 344(LVIII) 2016: Resolution on the fight against impunity in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 58th Ordinary Session held from 6 to 20 April 2016 in Banjul, Islamic Republic of The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling Article 3(f) and (h) of the Constitutive Act of the African Union (AU) which states that the objectives of the AU shall be to promote peace, security, and stability on the continent, as well as human and peoples' rights in accordance with the African Charter and other relevant human rights instruments, and Article 4 (o) relating to the condemnation and rejection of impunity;

Recalling the provisions of the African Charter in particular Articles 4 and 5 guaranteeing the rights to life, integrity and dignity of all human beings;

Recalling the obligation of African countries to combat impunity for all human rights violations in accordance with international and regional instruments and national legislative frameworks, to hold perpetrators of these crimes accountable;

Considering the resolutions of the Commission including Resolution ACHPR/Res.87(XXXVIII) 05 calling for an end to impunity in Africa and the domestication and implementation of the Rome Statute of the International Criminal Court

Welcoming the adoption of the Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights granting the court criminal jurisdiction over international crimes affecting Africa;

Deeply concerned by the serious human rights violations committed in different parts of Africa, including sexual and gender-based violence, that may amount to genocide, crimes against humanity and war crimes, and other serious violations of international human rights law and international humanitarian law;

Concerned about the impunity that the perpetrators of these crimes continue to enjoy;

Conscious of the suffering of thousands of Africans who are victims of violations of international human rights law and international humanitarian law who continue to seek truth, justice and reparation;

The Commission urges States Parties to the African Charter to:

- i. Ratify the Protocol on the Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights;
- ii. Comply with their obligations to investigate serious human rights violations, and hold perpetrators accountable in accordance with applicable regional and international human rights standards;
- iii. Take the necessary legislative and other measures to put an end to impunity and ensure that all the perpetrators of serious human rights violations are prosecuted;
- iv. Adopt the necessary laws, policies and mechanisms to guarantee the rights to justice, truth and reparation for victims of serious human rights violations and international crimes.

Done in Banjul, Islamic Republic of The Gambia, on 20 April 2016



ACHPR/Res. 345(LVIII) 2016: Resolution on the Situation of Human Rights Defenders in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 58th Ordinary Session held in Banjul, Islamic Republic of Gambia, from 6 to 20 April 2015;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling Commission Resolution ACHPR/ Res. 69 (XXXV) 04 on the protection of human rights defenders (HRDs) in Africa and Resolutions ACHPR/ Res. 104, ACHPR / Res. 119 (XXXXII) 07 and ACHPR/ Res.196 (L) 11 on the situation of human rights defenders in Africa;

Recalling the human rights protection instruments, in particular the United Nations Declaration on Human Rights Defenders of 1998, the Grand Bay Declaration and Plan of Action of 1999 adopted by the OAU Ministerial Conference on the promotion and protection of human rights in Africa, the Kigali Declaration adopted in 2003 by the African Union (AU) Ministerial Conference on human rights in Africa;

Recalling further Commission Resolution ACHPR/Res.273 (LV) 2014 on the expansion of the mandate of the Special Rapporteur on Human Rights Defenders in Africa and Resolution ACHPR/Res.336 (EXT.OS/XIX) 2016 on measures to protect and promote the rights of women human rights defenders;

Deeply concerned about the situation of human rights defenders including those working on land and environmental issues in States Parties to the African Charter, particularly those who, because of their activities, are subjected to several violations of their fundamental rights, such as arbitrary arrest, illegal detention, extrajudicial killing, denial of the right to defence, denial of medical treatment and food during their detention;

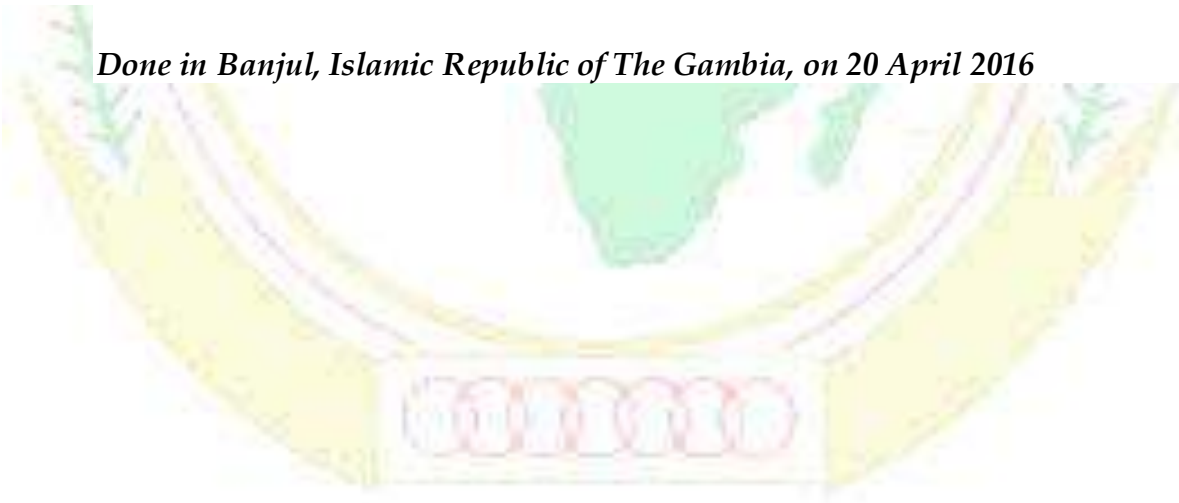
Further concerned about the situation of human rights defenders in some African countries where they are regularly victims of judicial harassment, arbitrary arrest and detention, travel ban, freezing of funds, space restriction, prohibition of demonstration and assembly, arbitrary suspension of their activities;

Commending the efforts of some States Parties to promote and protect the rights of human rights defenders;

The Commission:

- i. ***Reminds*** all States Parties to the African Charter on Human and Peoples' Rights of their obligation to promote and protect the rights and freedoms enshrined in the African Charter and other relevant human rights instruments;
- ii. ***Strongly condemns*** obstacles to the activities of **human rights defenders and all forms of violence and reprisals against them**;
- iii. ***Urges*** all States Parties to meet their obligations under the United Nations Declaration on Human Rights Defenders, the Grand Bay Declaration, the Kigali Declaration and the Principles and Guidelines on Human and Peoples' Rights while Combating Terrorism in Africa;
- iv. ***Urges*** States parties to release arbitrarily detained human rights defenders and put an end to all forms of harassment and other acts of intimidation against human rights defenders including individuals or groups of individuals who cooperate with or bring matters before African human rights mechanisms;
- v. ***Calls on*** States parties to take the necessary measures to conduct independent investigations into violations of the rights of human rights defenders and prosecute the perpetrators;
- vi. ***Encourages*** States parties to enact specific laws on the protection of human rights defenders.

Done in Banjul, Islamic Republic of The Gambia, on 20 April 2016



ACHPR/Res. 346 (LVIII) 2016: Resolution on the Right to Education in Africa

The African Commission on Human and Peoples' Rights, meeting at its 58th Ordinary Session held in Banjul, Islamic Republic of the Gambia, from the 6 to 20 April 2016;

Considering that Article 17 of the African Charter on Human and Peoples' Rights guarantees the right to education and that States must ensure that everyone has access to education;

Considering that Article 12 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women also guarantees equal access and opportunity for education and training of women and girls and that States must ensure that this right is enjoyed without any discrimination;

Considering that Article 11 of the African Charter on the Rights and Welfare of the Child guarantees the right to education for all children in Africa;

Considering also that the right to education is also guaranteed under Article 13 the International Covenant on Economic, Social and Cultural Rights;

Recalling that the Nairobi and Tunis Guidelines recognize that access to quality education for all as well as vocational training and teaching is a prerequisite for the sustainable development of societies;

Recalling also that Goal 4 of the Sustainable Development Goals seeks to "ensure inclusive and quality education for all and promote lifelong learning"

Noting that commitments made by the States in the "Post-2015 Development Agenda" further confirm their obligation to ensure that the right to education is fulfilled;

Concerned that despite the existence of legal frameworks for the protection of the right to education many children, particularly girls, vulnerable children such as children with disabilities, refugee children, migrant children, street children, internally displaced children, girls who abandon school as a result of pregnancy, and children from marginalised communities have not been given equal opportunity;

Concerned about the existence of laws and policies, as well as deep-rooted harmful social and cultural practices such as early and forced marriages and preference for boys' education which continue to contribute to social, economic and political exclusion;

Concerned that the prevalence of internal conflicts, political crisis and instability in some African countries negatively impact on the realisation of the right to education in Africa, particularly for children;

Concerned also that adequate resources have not been made available by States in their budgets to realise the right to education, including the provision of equal access and opportunity;

The Commission:

- i. **Urges** States Parties to guarantee the full scope of the right to education, including:
 - The opportunity for all children to enjoy free and compulsory primary education without distinction by progressively providing adequate financial and other resources in their education budget;
 - The provision of pre-school, primary, secondary, tertiary, adult education and vocational training;
 - Ensuring equal opportunity and general accessibility, both physical and economic, for all persons to education without discrimination;
 - The provision of high quality and appropriate educational programmes that serve the needs of all sectors of society, and in particular girls, vulnerable children such as children with disabilities, refugee children, migrant children, street children, internally displaced children, pregnant children and children from marginalised communities ;
 - The provision of reasonable accommodation measures for children with disabilities and in particular girls with disabilities, to ensure inclusive quality education on an equal basis with other members of their communities consistent with the goal of full inclusion;
 - Ensuring that privatisation in education does not exacerbate discrimination against children, in having access to and quality in education, particularly girl children, vulnerable and marginalised children;

- ii. **Calls on** States Parties to fulfil their duties with respect to access to education, in particular to:
 - Address social and cultural practices that impede the girl children's equal enjoyment of the right to education;
 - Ensure that children that drop out from school, in particular pregnant children, have the opportunity to complete their education;

- Prohibit and prevent all forms of discrimination in education against children with HIV/AIDS based on their real or perceived status;
- Provide the enabling environment for all persons to be educated, as well as ensure safety of schools for all children.
- Adopt all necessary and appropriate measures to the maximum of its available resources to promote, provide and facilitate access to education for all in Africa.

Done in Banjul, The Islamic Republic of The Gambia, 20 April 2016



ACHPR/Res. 347(LVIII) 2016: Resolution on the Human Rights issues affecting the African Youth

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 58th Ordinary Session held in Banjul, Islamic Republic of The Gambia, from 6 to 20 April 2015;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the African Youth Charter which provides a comprehensive framework for the protection and promotion of the youth, as well as the strengthening of the capacity and leadership of the youth in order to meet the needs and aspirations of young displaced persons, refugees and youth with special needs;

Recalling further Goal 15 of the African Union Agenda 2063 for an engaged and empowered youth in Africa, and other AU standards and mechanisms for the youth, including the NEPAD Strategic Framework for Youth and the commitments made during the commemoration of Africa Youth Day on 1 November 2015;

Considering the recognition by States Parties that the youth are the greatest resource and an asset for sustainable development, peace and prosperity;

Further considering that the youth provide a unique contribution to the development of democracy and the rule of law in Africa;

Noting with concern the human rights situation of the youth, many of whom are marginalised as a result of inequality in income and wealth and lack of access to decision-making institutions, as well as the high illiteracy rate, unemployment and underemployment which forces them to go into exile, through clandestine means, risking their lives;

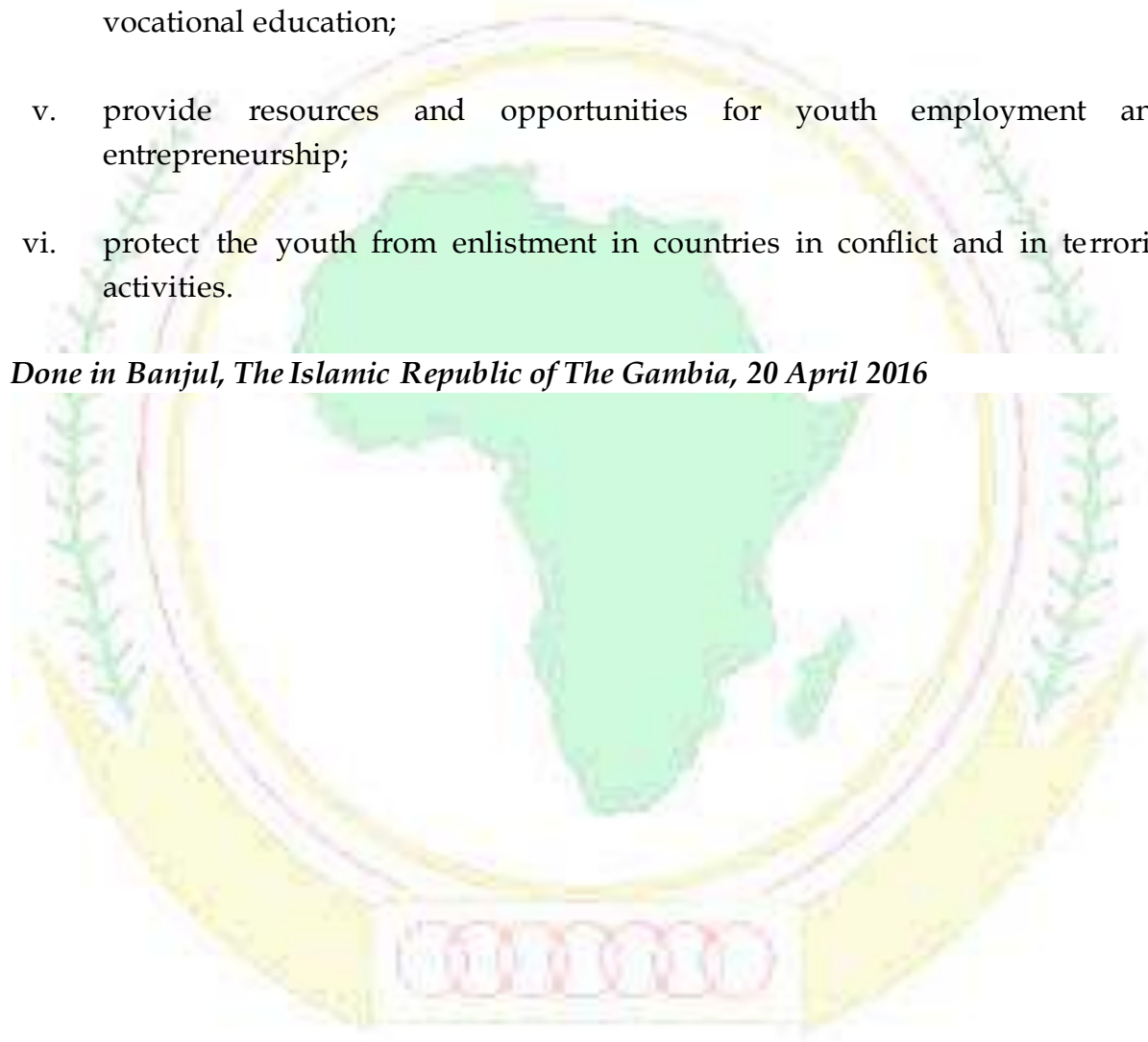
Concerned further by the vulnerability of the youth, some of whom are infected or affected by the HIV/AIDS pandemic, live in situations of poverty, are exposed to violence including gender-based violence, forced enlistment during armed conflicts and in terrorist groups and other forms of discrimination and harmful cultural practices;

The Commission urges States Parties to:

- i. establish institutions to ensure the participation of youth movements;
- ii. take concrete steps to promote effective youth participation in the decision-making and government of their countries;

- iii. adopt plans, policies and programmes to improve the situation of young girls who face structural and cultural obstacles, in particular forced and early marriages, female genital mutilation, discrimination and other harmful cultural practices;
- iv. provide adequate resources towards the establishment of effective institutions for youth education with a view to ensuring the quality of general and vocational education;
- v. provide resources and opportunities for youth employment and entrepreneurship;
- vi. protect the youth from enlistment in countries in conflict and in terrorist activities.

Done in Banjul, The Islamic Republic of The Gambia, 20 April 2016



ACHPR/Res. 348(LVIII) 2016: Resolution on the Collaboration between the African Commission on Human and Peoples' Rights and Partners on Promoting The revised United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 58th Ordinary Session, held in Banjul, The Islamic Republic of The Gambia, from 6 to 20 April 2016;

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling further Article 4, 5 and 6 of the African Charter which enjoins Members States to guarantee the right to life and integrity of person, respect for the dignity inherent in a human being and prohibition of all forms of torture, arbitrary arrest and detention of persons;

Mindful that States Parties to the African Charter bear the responsibility for people deprived of their liberty and have the obligation to improve prison conditions and protect the human rights of prisoners, detainees and all persons deprived of their liberty in Africa;

Concerned that the conditions of prisons and prisoners in many African countries are some of the poorest in the world with high congestion rates, the overuse of pre-trial detention, poor sanitation and lack of access to proper medical care, with few rehabilitative programmes, educational or vocational opportunities, among others;

Considering the Commission's Guidelines on the Conditions of Arrest, Police Custody and Pre-trial Detention in Africa and the Guidelines and measures for the prohibition and prevention of torture, cruel, inhuman or degrading treatment or punishment in Africa; to ensure better protection and promotion of rights of prisoners and pre-trial detainees;

Cognizant of Article 45(1) (c) of the African Charter, which mandates the Commission to cooperate with other African and international Institutions concerned with the promotion and protection of human and peoples' rights; and the 'Addis Ababa Road Map' agreement between the special procedures of the United Nations Human Rights Council and the special mechanisms of the Commission, aimed at fostering cooperation between the two entities with the common objective to promote and protect human rights;

Noting Resolution UN-Doc A/Res/70/175, adopted by the United Nations General Assembly on 17 December 2015, adopting the United Nations Revised Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) as a source of standards relating to treatment in detention, and as the key framework used by monitoring and inspection mechanisms in assessing the treatment of prisoners;

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Supporting the adoption by the United Nations of the Revised Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules);

The Commission:

- i. **Encourages** all stakeholders to draw inspiration from the Mandela Rules in order to fill the existing gaps in the applicable laws, policies and practice with the view to enhance a better treatment for detainees;
- ii. **Commits** itself through the work of the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa, to collaborate with Partners and other stakeholders to promote and disseminate the Revised Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules).

Done in Banjul, The Islamic Republic of The Gambia, 20 April 2016

ACHPR/Res.349 (EXT.OS/XX) 2016: Resolution on the Attacks on Persons with Albinism in Malawi

The African Commission on Human and Peoples' Rights, meeting at its 20th Extra-Ordinary Session, held in Banjul, Islamic Republic of The Gambia, from 09 to 18 June 2016;

Recalling its mandate to promote and ensure the protection of human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Bearing in mind Article 2 of the African Charter which guarantees every individual the enjoyment of the rights and freedoms recognized in the African Charter regardless of race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status;

Further bearing in mind Article 18(4) of the African Charter which provides that the persons with disabilities shall also have the right to special measures of protection in keeping with their physical or moral needs, in addition to Article 23 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa which provides for the special protection of women with disabilities;

Recalling Resolution ACHPR/Res.263 (LIV) 2013 on the prevention of attacks and discrimination against Persons with Albinism;

Further recalling the Joint Press Release by the Chairpersons of the Working Group on Death Penalty, Extra-Judicial, Summary and Arbitrary Killings in Africa and the Working Group on the Rights of Older Persons and Persons with Disabilities in Africa regarding the attacks and killings of Persons with Albinism in East Africa, issued on 11 March 2015;

Cognizant of the commemoration of the International Albinism Awareness Day on 13 June 2016;

Concerned at the widespread violence, discrimination, stigma and social exclusion directed at persons with albinism;

Deeply concerned about continuing systematic attacks and killings against persons with albinism in the Republic of Malawi;

Taking note of the commitment of the Government of the Republic of Malawi to fight this serious violation of the rights to life, dignity and protection from inhuman treatment;

The Commission:

- (i) Strongly condemns the continuing systematic attacks and killings of persons with albinism;
- (ii) Calls on the Republic of Malawi to urgently take all necessary measures to ensure the effective protection of persons with albinism and members of their families;
- (iii) Calls on the Republic of Malawi to ensure accountability by duly investigating and bringing perpetrators of these gross human rights violations to justice, and by ensuring that victims and members of their families have access to appropriate remedies;
- (iv) Calls upon the Republic of Malawi to take effective measures to eliminate all forms of violence and discrimination against persons with albinism, and to increase education and public awareness-raising activities.

Done in Banjul, Islamic Republic of The Gambia, on 18 June 2016

ACHPR/Res. 350 (EXT.OS/XX) 2016: Resolution to Revise the Declaration of Principles on Freedom of Expression in Africa

The African Commission on Human and Peoples' Rights, meeting at its 20th Extra-Ordinary Session, held in Banjul, Islamic Republic of The Gambia, from 09 to 18 June 2016;

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Reaffirming the fundamental importance of freedom of expression and access to information enshrined in Article 9 of the African Charter and other international human rights instruments;

Bearing in mind Resolution ACHPR/Res.62 (XXXII) 02 on the adoption of the Declaration of Principles on Freedom of Expression in Africa, which elaborates on the scope of Article 9 of the African Charter, and Resolution ACHPR/Res.222 (LI) 2012 to modify the Declaration of Principles on Freedom of Expression to include Access to Information and Request for a Commemorative Day on Freedom of Information;

Further bearing in mind Resolution ACHPR/Res.167 (XLVIII) 10 on Securing the Effective Realization of Access to Information in Africa, which authorized the Special Rapporteur to develop a Model Law on Access to Information;

Taking into account the developments in the areas of freedom of expression and access to information in Africa since the adoption of the Declaration of Principles on Freedom of Expression in Africa by the Commission in 2002;

The Commission:

- (v) Decides to revise the Declaration of Principles on Freedom of Expression in Africa (the Declaration), through its Special Rapporteur on Freedom of Expression and Access to Information in Africa;
- (vi) Urges States Parties, civil society and other stakeholders, to collaborate with the Special Rapporteur by contributing to the process of revising the Declaration;
- (vii) Requests the Special Rapporteur to report the progress made at its next Ordinary Session.

Done in Banjul, Islamic Republic of The Gambia, on 18 June 2016

ACHPR/Res. 351 (EXT.OS/XX) 2016: Resolution to Renew the Mandate of the Focal Point between the African Commission on Human and Peoples' Rights and the African Peer Review Mechanism

The African Commission on Human and Peoples' Rights, meeting at its 20th Extra-Ordinary Session, held in Banjul, Islamic Republic of The Gambia, from 09 to 18 June 2016;

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Considering Article 45(1)(c) of the African Charter which requires the African Commission on Human Rights and Peoples' Rights (the Commission) to co-operate with other African and international institutions concerned with the promotion and protection of human and peoples' rights;

Recalling that one of the key indicators of the African Peer Review Mechanism (APRM) process is the respect for and protection of fundamental rights and freedoms;

Bearing in mind Resolution ACHPR/Res.168 (XLVIII)10 on the Cooperation between the African Commission on Human and Peoples' Rights and the African Peer Review Mechanism, which underscored the need to continue cooperation between the APRM and the Commission, and appointed Commissioner Pansy Tlakula as the focal point between the Commission and the APRM for a period of one year, to coordinate and enhance cooperation between the APRM and the Commission;

Hereby decides to renew the mandate of Commissioner Pansy Tlakula, as the focal point between the Commission and the APRM for a period of one year.

Done in Banjul, Islamic Republic of The Gambia, on 18 June 2016

ACHPR/Res. 352 (EXT.OS/XX) 2016: Resolution on the Renewal of the Mandate of Expert Members of the Committee on the Protection of the Rights of People Living with HIV and Those at Risk, Vulnerable to and Affected by HIV

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 20th Extraordinary Session held from 09 to 18 June 2016 in Banjul, Islamic Republic of The Gambia;

Recognizing its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Considering that as part of fulfilling its mandate, the Commission has established various mechanisms for the promotion and protection of human and peoples' rights in Africa;

Recognizing that the Commission has a fundamental role to protect vulnerable groups in Africa from human rights violations;

Recalling its Resolution ACHPR/Res.163 (XLVII) 10 adopted at the 47th Ordinary Session of the Commission on the establishment of a Committee on the Protection of the Rights of People Living with HIV (PLHIV) and Those at Risk, Vulnerable to and Affected by HIV (the Committee);

Further recalling, its resolutions ACHPR/Res.172 (XLVIII) 10 and ACHPR/Res.195 (L) 11 respectively on the appointment of members of the Committee and Commissioner Lucy Asuagbor as the Chairperson of the Committee, as well as its resolutions ACHPR/Res.220 (LI) 12 and ACHPR/Res. 279 (LV) 14 renewing the mandate of the Committee and its members;

Bearing in mind its resolutions ACHPR/Res. 285 (EXT.OS/XVI) 14 on the Appointment of an Expert Member of the Committee and ACHPR/Res.325(LVII) 15 on the Appointment of Commissioner Soyata Maiga as the Chairperson of the Committee;

Noting with satisfaction the work accomplished by the expert members;

Further noting that the mandate of expert members expired in May 2016 and **bearing in mind** the need for the Committee to continue carrying out its mandate and address the urgent issues falling within its mandate;

Mindful of the expressions of continued interest and commitments by the Expert Members in contributing their expertise to the implementation of the mandate of the Committee, and also **Recognising** the need to align and ensure uniformity in the duration of the membership of the Committee;

Decides to renew the membership of the following experts until **18 November 2017**;

1. Mrs Agnes ATIM APEA ;
2. Mr Patrick Michael EBA ;
3. Mr Patrick Le doux DUTZUE FOGUE ;
4. Mr Christian GARUKA NSABIMANA ;
5. Mr Ebenezer TOPE DUROJAYE ; and
6. Mrs Ann STRODE.

Done in Banjul, Islamic Republic of The Gambia, on 18 June 2016

ACHPR/Res.353 (EXT.OS/XX) 2016: Resolution on the Renewal of the Mandate of the Expert Members of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 20th Extra-Ordinary Session in Banjul, Islamic Republic of the Gambia, held from 09 to 18 June 2016:

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (African Charter);

Bearing in mind all relevant regional and international human rights instruments, specifically Articles 21 and 24 of the African Charter, on the right of all peoples to freely dispose of their wealth and natural resources, and to a generally satisfactory environment favourable to their development;

Recalling its previous Resolutions on the need for an improved protection of human rights and the environment, especially through improving the regulatory framework for the activities of the extractive industries, developing effective continental mechanisms for monitoring the human rights impact of the activities of the extractive industries and the development of jurisprudence on holding non-state actors accountable for human rights violations in Africa;

Recalling in particular, Resolution ACHPR/Res. 148(XLVI) 2009, establishing the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa (the Working Group), as well as Resolution ACHPR/Res.236 (LIII) 2013 on the Illicit Flight of Capital from Africa, and Resolution ACHPR/Res.271 (LV) 2014 on Climate Change in Africa, by which the Commission has tasked the Working Group with additional responsibilities of conducting an in-depth study on the impact of the illicit flight of capital on human rights in Africa, and an in-depth study on the impact of climate change on human rights in Africa;

Mindful of the ongoing efforts of the Working Group with regard to its mandates and the conduct of the various studies, and also **Noting** with satisfaction the work accomplished by the Working Group up-to-date;

Recognizing the importance of the Working Group and the need to allow the Working Group to continue to carry out its mandate;

Recalling Resolution ACHPR/Res.268 (LV) 2014 appointing the current Expert Members for the Working Group, and **Noting** that the mandate of the Expert Members of the Working Group came to an end on 12 May 2016;

Further Recalling Resolution ACHPR/Res.321(LVII)2015 appointing Commissioner Solomon Dersso as the new Chairperson of the Working Group, as well as

Commissioner Yeung Kam John Yeung Sik Yuen, and Commissioner Jamesina E.L King as Members of the Working Group, for a period of two years with effect from 18 November 2015;

Mindful of the expressions of continued interest and commitments by the Expert Members in contributing their expertise to the implementation of the mandate of the Working Group, and also **Recognising** the need to align and ensure uniformity in the duration of the membership of the Working Group;

Decides to renew the membership of the following experts until **18 November 2017**;

1. Mr. Clement Voulé;
2. Ms. Valerie Couillard;
3. Professor Michelo Hansungule;
4. Ms. Sheila Keetharuth;
5. Mr. Eric Kassongo Kalonji; and
6. Professor James Gathii.

Done in Banjul, Islamic Republic of The Gambia, on 18 June 2016

ACHPR/Res. 354(LIX) 2016: Resolution on the Appointment of an Expert Member of the Working Group on Indigenous Populations/Communities in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 59th Ordinary Session held from 21 October to 4 November 2016 in Banjul, Islamic Republic of The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling Resolution ACHPR/Res.65 (XXXIV) 03 on the adoption of the Report of the Commission's Working Group on Indigenous Populations/Communities, and the establishment of the Working Group on Indigenous Populations/Communities (the Working Group);

Further recalling Resolutions ACHPR/Res.123 (XXXII) 2007; ACHPR/Res.155 (XLV1) 2009; ACHPR/Res.204 (L) 2011; ACHPR/Res.249 (LIV) 2013; and ACHPR/Res.323 (LVII) 2015 respectively on the renewal of the mandate of the Working Group for a period of two years;

Recognising the importance of the work of the Working Group in promoting and protecting the rights of indigenous populations/communities in Africa, and the need to enable the Working Group to continue to implement its mandate;

Noting that one of its members tendered her resignation in April 2016;

Conscious of the need to fill the position and in order to ensure an equitable representation which reflects geographical diversity and the various legal systems;

The Commission:

Decides to appoint Dr Kanyinke Sena (Kenya) as an Expert Member of the Working Group for the period from November 2016 to November 2017.

Done in Banjul, Islamic Republic of The Gambia, on 4 November 2016

ACHPR/Res. 355(LIX) 2016: Resolution on the Appointment of an Expert Member of the Working Group on Economic, Social and Cultural Rights in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 59th Ordinary Session held from 21 October to 4 November 2016 in Banjul, Islamic Republic of The Gambia;

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.73 (XXXVI) 04 establishing and laying down the mandate of the Working Group on Economic and Social Rights adopted at its 36th Ordinary Session held in Dakar (Senegal), from 23 November to 7 December 2004;

Further recalling Resolution ACHPR/Res. 316 (LVII) 15 on the appointment of Commissioner **Jamesina E.L. King** as Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa (the Working Group) and the extension of the term of its members, adopted at the 57th Ordinary Session of the Commission held from 4 to 18 November 2015 in Banjul, Islamic Republic of The Gambia;

Recalling AU Executive Council Decision EX.CL.876 (XXVII) of 1 June 2015 requesting the Commission to prepare, in collaboration with the African Union Commission, an additional protocol to the African Charter on the Rights of Citizens to Social Protection and Social Security;

Recognising the importance of the Working Group in promoting and protecting economic, social and cultural rights in Africa, including the rights of citizens to social protection and social security;

Recalling that the Commission decided, during its 19th Extraordinary Session held in Banjul, Islamic Republic of The Gambia, from 16 to 25 February 2016, to assign this task to the Working Group on Economic, Social and Cultural Rights and the Working Group on the Rights of Older Persons and People with Disabilities in Africa in accordance with the said AU Executive Council decision;

Noting that the Working Group needs special expertise in order to implement the abovementioned decisions of the Executive Council and the Commission;

The Commission

Decides to appoint Prof. Marius Paul Olivier as an Expert Member of the Working Group for the period from November 2016 to November 2017.

Done in Banjul, Islamic Republic of The Gambia, on 4 November 2016

ACHPR/Res. 356(LIX) 2016: Resolution on the Human Rights Situation in the Federal Democratic Republic of Ethiopia

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 59th Ordinary Session held from 21 October to 4 November 2016 in Banjul, Islamic Republic of the Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Mindful of the obligations of the Federal Democratic Republic of Ethiopia as a Member State of the African Union, and State Party to the African Charter and the African Charter on Democracy, Elections and Governance as well as other regional human rights instruments;

Recalling that one of the objectives of the African Union is to promote and protect human and peoples' rights in accordance with the African Charter, and to promote democratic principles and institutions, popular participation and good governance;

Reaffirming the provisions of Articles 2, 3, 4, 5, 6, 7, 9, 11, 13 and 19 of the African Charter which guarantee the right to be protected from discrimination, the right to equal protection of the law, the right to life, the right not to be subjected to torture and other ill-treatment, the right to personal liberty and protection from arbitrary arrest, the right to a fair trial, the right to receive information and to freedom of expression, the right of assembly, the right to participate freely in government and the right to equality of all peoples;

Further reaffirming the standards and principles stipulated in the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa, the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, General Comment No. 3 on the African Charter on Human and Peoples' Rights on the Right to Life, the Declaration of Principles on Freedom of Expression in Africa, and the Report of the African Commission on Human and Peoples' Rights Study Group on Freedom of Association and Assembly in Africa;

Deeply concerned by the deterioration of the human rights situation in the Federal Democratic Republic of Ethiopia following the protests which began in November 2015;

Concerned by the use of excessive and disproportionate force to disperse protests, resulting in the deaths and injuries of several protestors, as well as the arbitrary arrest and detention of many others;

Alarmed by reports of a fire outbreak in Qilinto Prison in Addis Ababa, on 4 September 2016, leading to the deaths and injuries of a number of inmates, including detainees;

Deeply concerned by reports that more than fifty-five people were killed and several hundreds injured in a stampede, following police attempt to disperse the crowd in a break-out protest, at a religious festival on 2 October 2016;

Concerned by allegations relating to the arbitrary arrest and detention of members of opposition parties and human rights defenders;

Alarmed by the loss of lives and the destruction of property resulting from violence perpetrated by some protestors;

Concerned by the declaration of a state of emergency on 9 October 2016, which restricts fundamental human rights and freedoms;

Further concerned by restrictions on movement, assembly, media access, internet services as well as the arbitrary arrest and detention of many people following the state of emergency declaration;

Noting reports of the release of 2, 000 persons who were detained on suspicion of engaging in protests;

The Commission:

1. **Condemns** the deteriorating human rights situation in the Federal Democratic Republic of Ethiopia, in particular the undue restrictions on fundamental human rights and freedoms resulting from the state of emergency.
2. **Calls** on the Government of the Federal Democratic Republic of Ethiopia to:
 - i. ensure that fundamental human rights and freedoms are respected and upheld during the state of emergency;
 - ii. lift the ban on movement, assembly, media access, and internet services;
 - iii. ensure due process of law for persons arrested and detained in connection with protests, in accordance with regional and international standards, and release persons arrested and detained without charge;
 - iv. refrain from the use of excessive and disproportionate force against protestors and, more generally, take the necessary measures to guarantee the security and safety of its population;
 - v. initiate prompt and impartial investigations into these alleged human rights violations and ensure that the perpetrators of these violations are held accountable and subjected to appropriate sanctions reflecting the gravity of the offences, in accordance with relevant international and regional standards;

- vi. comply with the letter and spirit of the African Charter and other regional and international human rights instruments to which it is a party and, more particularly, the instruments referred to in this Resolution;
 - vii. ensure that victims of the above violations and their families obtain full and adequate redress, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition; and
 - viii. authorise the Commission to undertake a fact-finding mission to Ethiopia.
3. ***Calls*** on protestors to exercise their rights with due regard to the law and the rights of others;
4. ***Calls*** on all actors, particularly leaders and members of opposition parties, other stakeholders and the population in general, to refrain from any form of incitement and all other acts of violence.

Done in Banjul, Islamic Republic of the Gambia, on 4 November 2016



ACHPR/Res. 357(LIX) 2016: Resolution on the Human Rights Situation in the Republic of Burundi

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 59th Ordinary Session held from 21 October to 4 November 2016 in Banjul, The Gambia;

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Mindful of its Statement of 3 May 2015, made at its 56th Ordinary Session held from 21 April to 7 May 2015 in Banjul, The Gambia, and its Resolution ACHPR/Res.309 ((EXT.OS/ XVIII) on the human rights situation in Burundi;

Recalling the decision of the Peace and Security Council of the African Union (PSC) of 17 December 2015 stressing that "only a genuine and truly inclusive dialogue, based on the respect of the Arusha Agreement and the Constitution of Burundi, will allow the Burundian stakeholders to overcome the serious difficulties facing their country, as well as strengthen social cohesion, democracy and the rule of law";

Considering the conclusions and recommendations contained in the Commission's report following its fact-finding mission undertaken in Burundi in December 2015 at the request of the Peace and Security Council, and the report of the United Nations Independent Investigation Mission on Burundi (UNIIB);

Deeply concerned about the security and human rights situation in Burundi marked by continuous arrests and arbitrary detentions, targeted killings, extrajudicial executions, acts of torture and other forms of cruel, inhuman and degrading treatment, abductions and enforced disappearances, harassment and intimidation of journalists and media professionals, sexual violence, and other forms of serious human rights violations;

Concerned by the continuous political impasse and the lack of constructive dialogue between all the stakeholders towards finding a peaceful solution to the crisis;

Further concerned by the decision of the Burundian authorities of 19 and 24 October 2016, to deregister five civil society organisations notably the Forum for the Strengthening of Civil Society (FORSC), Forum for Consciousness and Development (FOCODE), Association for the Protection of Human Rights and Detained Persons (APRODH), Action by Christians for the Abolition of Torture in Burundi (ACAT-Burundi) and Network of Honest Citizens (RCP); and to suspend five other organisations, including Civil Society Coalition for Election Monitoring (COSOME), Burundian Coalition for the International Criminal Court (CB-CPI), Burundi Union of Journalists (UBJ), Burundian Human Rights League " ITEKA", and SOS Torture Burundi; accused of conducting activities that are likely to disturb public order and security;

Concerned about the decision taken by the Burundian authorities to suspend cooperation with the Office of the United Nations High Commissioner for Human Rights in Burundi (HCHR) and to declare the UNIIB experts *persona non grata*, following the presentation of the final report of the Investigation Mission during the 33rd Session of the UN Human Rights Council on 27 September 2016;

The Commission:

1. **Condemns** the various human rights violations committed in the country since April 2015;
2. **Condemns** the continuous repression against human rights defenders which led to the deregistration and suspension of the main human rights organisations and the suspension of independent media outlets in the country;
3. **Regrets** the decision of the Burundian authorities to suspend cooperation with the Office of the HCHR in Burundi and to declare the UNIIB experts *persona non grata*;
4. **Calls on** the Government of the Republic of Burundi to:
 - i. immediately end all human rights violations;
 - ii. release all persons arbitrarily detained, especially persons detained incommunicado, and ensure their physical integrity;
 - iii. end attacks, threats, acts of intimidation and harassment, including judicial harassment, of human rights defenders and journalists;
 - iv. authorise the unconditional resumption of the activities of all the deregistered and suspended civil society organisations;
 - v. take the necessary urgent measures to conduct prompt, independent, impartial and effective investigations in order to prosecute the perpetrators of these crimes;
 - vi. ensure that victims of the above violations and their families obtain full and adequate redress, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition;
 - vii. extend full cooperation with all regional and international human rights institutions, including the Office of the UN High Commissioner for Human Rights and the African Union particularly regarding the full deployment of all the human rights observers and military experts, in accordance with the decision of the Heads of State and Government of the African Union adopted at the 26th Summit held from 21 to 31 January 2016;
 - viii. authorise the Commission to undertake a mission to follow up on the recommendations in the Report of the Fact-finding Mission;
5. **Calls on** the African Union and the international community to continue their efforts to resolve the crisis in Burundi.

Done in Banjul, Islamic Republic of The Gambia, 4 November 2016

ACHPR/Res. 358(LIX) 2016: Resolution on the Human Rights Situation in the Democratic Republic of Congo

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 59th Ordinary Session held from 21 October to 4 November 2016 in Banjul, Islamic Republic of The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling the provisions of Articles 3(2), 4 and 23 of the African Charter regarding the obligations of State Parties to protect the lives of persons and to ensure peace and security in their territory;

Further recalling the provisions of Article 13(1) of the African Charter which stipulates that "every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law";

Reaffirming its Resolution ACHPR/Res.293 (EXT.OS/XVII) 2015 on Elections in Africa which calls on State Parties to protect the fundamental rights of all citizens, including the rights to freedom of movement, assembly, association and expression as well as equal access to the media for all stakeholders;

Bearing in mind its Statement of 22 September 2016 following the violence of 19 and 20 September 2016, in particular in Kinshasa, calling on the Government of the Democratic Republic of Congo (DRC) to conduct an independent and impartial investigation into the incidents;

Concerned by the human rights violations, including the excessive use of force on protestors and executions, particularly in Beni, and the lack of investigation and prosecution of the perpetrators, and the recent arbitrary arrest and detention of protestors, in Kinshasa on 24 and 26 October 2016;

Further concerned about allegations of restriction of the freedom of expression, association and peaceful assembly of political parties, youth associations and civil society organisations;

Deeply concerned about the arbitrary arrest and detention, intimidation and harassment of youth activists, human rights defenders and political opponents;

Conscious of the need to restore the rule of law and to ensure the exercise and full enjoyment of the rights guaranteed under the African Charter and other relevant instruments;

Welcoming the efforts of the African Union through facilitation of the on-going national dialogue between the Government and the opposition;

Further welcoming the efforts of the international community to peacefully resolve the political crises in the DRC;

The Commission:

1. *Condemns* the various human rights violations committed in the DRC, including executions, arbitrary arrests and detention, restrictions on freedom of expression, association and assembly, and the excessive use of force during protests.
2. *Calls* on the Government of the DRC to:
 - i. immediately end all human rights violations;
 - ii. take the necessary measures for citizens to exercise their fundamental human rights and freedoms;
 - iii. initiate prompt and impartial investigations into these alleged human rights violations and ensure that the perpetrators of these violations, including those within the security forces, are held accountable;
 - iv. ensure that victims of the above violations and their families obtain full and adequate redress, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition; and
 - v. comply with the African Charter, and other regional and international human rights instruments to which it is a party.
3. *Encourages* all the stakeholders to continue the national dialogue in order to preserve peace.
4. *Calls* on all actors, particularly leaders and members of opposition parties, other stakeholders and the population in general, to refrain from violence and maintain peace before, during and after the elections.
5. *Encourages* the African Union, and the international community to continue to support efforts aimed at resolving the crises in DRC.

Done in Banjul, Islamic Republic of The Gambia, on 4 November 2016

ACHPR/Res. 359(LIX) 2016: Resolution on the Human Rights Situation in Gabonese Republic

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 59th Ordinary Session held from 21 October to 4 November 2016 in Banjul, Islamic Republic of The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Bearing in mind the obligations of the Gabonese Republic as a State Party to the African Charter and other regional and international human rights instruments, and signatory to the African Charter on Democracy, Elections and Governance;

Reaffirming the provisions of Articles 3, 4, 5, 6, 7, 9, 11 and 13 of the African Charter which guarantee the right to equal protection of the law, the right to life, the right not to be subjected to torture and other ill-treatment, the right to personal liberty and protection from arbitrary arrest, the right to a fair trial, the right to receive information and to freedom of expression, the right of assembly, and the right to participate freely in government;

Concerned by the deteriorating political and human rights situation in the Gabonese Republic following the announcement of the results of the presidential election of 27 August 2016;

Further concerned by allegations of human rights violations, including the arbitrary arrest and detention of political opponents, the use of force against peaceful protestors and acts of torture and other ill-treatment;

Deeply concerned by the conditions of detention of persons arrested during the peaceful protests of 31 August to 4 September 2016, and the disappearance of many other people;

The Commission:

1. **Strongly condemns** the post-election human rights violations committed in Gabon;
2. **Condemns** all acts aimed at restricting the right to freedom of demonstration and peaceful assembly, including through the use of excessive and disproportionate force against protestors;
3. **Calls** on the Government of Gabonese Republic to:
 - i. take the necessary measures to put an immediate end to abuses and other forms of human rights violations and repression against leaders of opposition parties and their supporters;

- ii. refrain from the use of excessive force during demonstrations and mass protests;
 - iii. ensure due process of law for persons arrested and detained in relation to the mass protests, in accordance with regional and international standards, and release persons arrested and detained without charge;
 - iv. initiate prompt and impartial investigations into these alleged human rights violations and ensure that the perpetrators of these violations are held accountable;
 - v. ensure that victims of the above violations and their families obtain full and adequate redress, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition; and
 - vi. Engage in an inclusive and constructive inter-Gabonese dialogue towards a solution to the post-election crisis.
4. ***Calls*** on non-state actors, in particular leaders and members of opposition parties, other stakeholders and the population in general, to refrain from any form of incitement and other acts of violence.
 5. ***Invites*** the African Union and the international community to closely monitor the political situation in the Gabonese Republic.

Done in Banjul, Islamic Republic of The Gambia, on 4 November 2016

ACHPR/Res. 360(LIX) 2016: Resolution on the Human Rights Situation in the Islamic Republic of The Gambia

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 59th Ordinary Session from 21 October to 4 November 2016 in Banjul, Islamic Republic of The Gambia;

Recalling its mandate to promote and protect human and peoples' rights pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Bearing in mind that the Islamic Republic of the Gambia is a State Party to the African Charter and a signatory to the African Charter on Democracy, Elections and Governance;

Recalling the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa; Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa; Declaration of Principles on Freedom of Expression in Africa; Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa; and General Comment No. 3 on the African Charter on Human and Peoples' Rights on the Right to Life;

Further recalling its resolutions ACHPR/Res.5 (XI) 92 on the Right to Freedom of Association; ACHPR/Res.281 (LV) 14 on the Right to Peaceful Demonstration; and ACHPR/Res.331 (XIX) 16 on Elections in Africa;

Bearing in mind the Declaration of Principles of Freedom of Expression in Africa Principles I (2) which provides that "everyone shall have an equal opportunity to exercise the right to freedom of expression and to access information without discrimination" and Principle II (2) which also provides that "any restrictions on freedom of expression shall be provided by law, serve a legitimate interest and be necessary in a democratic society";

Reaffirming the fundamental importance of freedom of information, expression and association of individuals as a cornerstone of democracy, particularly during elections and, as a means of ensuring respect for all human rights and freedoms;

Concerned by the three-year imprisonment of opposition party members for protesting against election reforms introduced by the Election Amendment Act of 2015;

Alarmed by the deaths of Ebrima Solo Sandeng on 15 May 2016 and Ebrima Solo Krummah on 20 August 2016, National Organising Secretary and Member of the

United Democratic Party (UDP) respectively, following their arrest and detention by the police for demonstrating against these electoral reforms;

Deeply concerned by allegations of torture and ill-treatment of the detained opposition members as well as sexual assault of detained women;

Further concerned by the allegations that detained persons in need of medical care denied the medical attention and family visits;

Disturbed by Government restrictions on social media and certain sites of the internet;

The Commission:

1. *Condemns* all acts of excessive and disproportionate use of force against protestors, sexual assault of women detainees and torture and other ill-treatment of detainees;
2. *Condemns* unjustified restrictions on the right of freedom of expression and access to the internet by the Government;
3. *Calls on* the Government of Islamic Republic of The Gambia to:
 - a) Ensure that the elections are free, fair and peaceful;
 - b) Pardon all persons sentenced because of demonstrating to oppose election reforms of the Election Amendment Act;
 - c) Refrain from the use of excessive and disproportionate force against protestors and generally take necessary measures to ensure the security and safety of its population;
 - d) Release the report of the investigation into the death of Ebrima Solo Sandeng if it has been concluded;
 - e) Carry out prompt and impartial investigations into the death of Ebrima Solo Krummah while in detention and make public the report of the investigating body;
 - f) Carry out prompt and impartial investigations into the allegations of torture, ill-treatment and sexual assault of detainees and ensure that those responsible are held accountable and subjected to appropriate sanctions reflecting the gravity of the offences, in accordance with the relevant international and regional standards;
 - g) Ensure immediate provision of medical assistance for detainees and prisoners in need of it and allow visits by their families and legal representatives;
 - h) Immediately lift all restrictions to internet and social media networks it has imposed; and
 - i) Ensure that contesting parties and candidates of the elections are given equitable access to state controlled media.

4. ***Calls on*** leaders and members of opposition parties, other stakeholders and the general population to refrain from violence and maintain peace during and after the elections.

Done in Banjul, Islamic Republic of The Gambia, on 4 November 2016



ACHPR/Res. 361(LIX) 2016: Resolution on the Criteria for Granting and Maintaining Observer Status to Non-Governmental Organizations working on Human and Peoples' Rights in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 59th Ordinary Session held from 21 October to 4 November 2016 in Banjul, Islamic Republic of The Gambia;

Bearing in mind the provisions of Article 45 of the African Charter on Human and Peoples' Rights (the African Charter), which establishes the competence and determines the mandate of the Commission;

Recalling the Grand Bay (Mauritius) Declaration and Plan of Action, adopted at the 1st Organisation of African Unity (OAU) Ministerial Conference on Human Rights, meeting from 12 to 16 April, 1999 in Grand Bay, Mauritius which recognises "the contribution made by African NGOs to the promotion and protection of human rights in Africa ...";

Further recalling the Kigali Declaration, adopted at the 1st African Union (AU) Ministerial Conference on Human Rights in Africa, on 8 May 2003 in Kigali, Rwanda, which "recognizes the important role of civil society organizations (CSOs)... in the promotion and protection of human rights in Africa" and "calls upon Member States and regional institutions to protect them and encourage the participation of CSOs in decision-making processes with the aim of consolidating participatory democracy and sustainable development";

Reaffirming Rule 68 of the Rules of Procedure of the Commission adopted at its 47th Ordinary Session, held from 12 to 26 May 2010, in Banjul, The Gambia, which provides that Non-governmental organisations (NGOs) may be granted observer status with the Commission and notes their rights and obligations;

Considering that since its establishment in October 1987, 504 NGOs have been granted observer status with the Commission;

Recognising the important role of NGOs in supporting the Commission to fulfill its mandate of promoting and protecting human and peoples' rights in Africa;

Noting Executive Council Decisions **Ex.CL/887(XXVII)** and **EX.CL/Dec.902 (XXVIII) Rev.1**, which requested the Commission "to take into account the fundamental African values, identity and good traditions, and to [...] review its criteria for granting Observer Status to NGOs."

Further noting Executive Council Decision **EX.CL/Dec.902 (XXVIII) Rev.1** for the Commission “to review the criteria for... representation before the ACHPR by non-African individuals and groups...”

The Commission:

1. **Welcomes** the opportunity to improve its criteria for the grant of observer status, and enhance its co-operation and partnership with NGOs working on human rights in Africa;
2. **Adopts** the new criteria for granting and maintaining observer status, the text of which is annexed to the present Resolution;
3. **Decides** that the new criteria shall immediately enter into force; and
4. **Requests** the Secretary to the Commission to report on the implementation of the present Resolution at each Ordinary Session.

ANNEX - CRITERIA FOR THE GRANTING OF AND FOR MAINTAINING OBSERVER STATUS WITH THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

CHAPTER I

1. All Non-Governmental Organisations (NGOs) applying for observer status with the African Commission on Human and Peoples' Rights (the Commission) shall be expected to submit a documented application to the Secretariat of the Commission, with a view to showing their willingness and capability to work for the realisation of the objectives of the African Charter on Human and Peoples' Rights (the African Charter).
2. All NGOs applying for observer status with the Commission shall consequently:
 - a) Have objectives and activities in consonance with the fundamental principles and objectives enunciated in the African Union (AU) Constitutive Act, the preamble to the African Charter on Human and Peoples' Rights, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol);
 - b) Be NGOs working in the field of human rights in Africa; and
 - c) Declare their financial resources.

3. NGOs applying for Observer Status with the Commission are required to provide, at least three months prior to the Ordinary Session, the following documents:
 - a) A letter of application addressed to the Secretariat requesting Observer Status with the Commission;
 - b) A list of the Board of Members, and other members of the NGO;
 - c) The signed and authenticated Constitutive Statute of the NGO;
 - d) The Certificate of Legal Status of the NGO issued by the relevant Government authority, in the country in which the NGO is based;
 - e) The sources of funding of the NGO;
 - f) The latest independently audited financial statement of the NGO;
 - g) The latest Annual Activity Report of the NGO; and
 - h) A current comprehensive Plan of Action or Strategic Plan for the NGO, signed or approved by the relevant members of the NGO, which covers a minimum of two years, and which contains the objectives of the NGO during the specified period, the list of activities to be carried out, the timeline for their realisation, the places of implementation, the strategies to implement them and the target groups.”
4. No application for Observer Status shall be put forward for examination by the Commission without having been previously processed by the Secretariat.
5. The Commission’s Bureau shall designate a rapporteur to examine the dossiers. The Commission’s decision shall be notified without delay to the applicant NGO.

CHAPTER II: PARTICIPATION OF NGOS WITH OBSERVER STATUS IN PROCEEDINGS OF THE COMMISSION

1.
 - a) All NGOs with Observer Status (observers) shall be invited to be present at the opening and closing sessions of the Commission.
 - b) An observer shall not participate in the Commission’s proceedings in any manner other than as provided for in the Rules of Procedure governing the conduct of its sessions.
2. All observers shall have access to the documents of the Commission subject to the condition that such documents:

- a) shall not be of a confidential nature;
 - b) deal with issues that are of relevance to their interests.
The distribution of general information documents shall be free of charge; the distribution of specialised documents shall be on a paid-for basis, except where reciprocal arrangements are in place.
3. Observers may be invited specially to be present at closed sessions dealing with issues of particular interest to them.
 4. Observers may be authorised by the Chairperson of the Commission to make a statement on an issue that concerns them, subject to the text of the statement having been provided, with sufficient lead-time, to the Chairperson of the Commission through the Secretary to the Commission.
 5. The Chairperson of the Commission may give the floor to observers to respond to questions directed at them by participants.
 6. Observers may request to have issues of a particular interest to them included in the provisional agenda of the Commission, in accordance with the provisions of the Rules of Procedure of the Commission.

CHAPTER III: RELATIONS BETWEEN THE COMMISSION AND OBSERVERS

1. Observers shall undertake to establish close relations of co-operation with the Commission and to engage in regular consultations with it on matters of common interest.
2. Observers shall present their activity reports to the Commission every two years.
3. Administrative arrangements shall be made, whenever necessary, to determine the modalities of this co-operation.

CHAPTER IV: FINAL PROVISIONS

1. The provisions of the General Convention on the Privileges and Immunities of the OAU and those of the Headquarters Agreement of the Commission shall not apply to observers except as regards the granting of visas.
2. The Commission reserves the right to take the following measures against Observers that are in default of their obligations:

- non-participation in sessions;
 - denial of documents and information;
 - denial of the opportunity to propose items to be included in the Commission's provisional agenda and of participating in its proceedings.
3. Observer status may be suspended or withdrawn from any NGO that does not fulfil the present criteria, after deliberation by the Commission.

Done in Banjul, Islamic Republic of The Gambia, 4 November 2016



ACHPR/Res. 362(LIX) 2016: Resolution on the Right to Freedom of Information and Expression on the Internet in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 59th Ordinary Session, held Banjul, Islamic Republic of The Gambia, from 21 October to 04 November 2016;

Recognizing its mandate to promote and protect human and peoples' rights pursuant to the African Charter on Human and Peoples' Rights (the African Charter);

Reaffirming the fundamental right to freedom of information and expression enshrined under Article 9 of the African Charter and other international human rights instruments;

Further reaffirming the Declaration of Principles on Freedom of Expression in Africa, specifically Principle I(2) which provides that "everyone shall have an equal opportunity to exercise the right to freedom of expression and to access to information without discrimination" and Principle II(2) which provides that "any restrictions on freedom of expression shall be provided by law, serve a legitimate interest and be necessary in a democratic society;"

Recalling Resolution ACHPR/Res.62 (XXXII) 02 on the adoption of the Declaration of Principles on Freedom of Expression in Africa, which elaborates on the scope of Article 9 of the African Charter; Resolution ACHPR/Res.54 (XXIX) 01 on the Situation of Freedom of Expression in Africa; Resolution ACHPR/Res.99 (XXXX) 06 on the Deteriorating Situation of Freedom of Expression and Access to Information in Africa; and Resolution ACHPR/Res 350 (EXT.OS/XX) 16 to Revise the Declaration of Principles on Freedom of Expression in Africa;

Further Recalling the United Nations Human Rights Council Resolution HRC/RES/20/8 of 2012, which recognizes "the global and open nature of the Internet as a driving force in accelerating progress towards development in its various forms" and affirms that "the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one's choice," and calls upon all States "to promote and facilitate access to the Internet and international cooperation aimed at the development of media and information and communications facilities in all countries;"

Cognizant of the Joint Declaration on Freedom of Expression and the Internet, adopted by the UN Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission's Special Rapporteur on Freedom of Expression and Access to Information in Africa on 01

June 2011, which *inter alia* stresses the transformative nature of the Internet in terms of giving voice to billions of people around the world, of significantly enhancing their ability to access information and of enhancing pluralism and reporting;

Mindful of the need to bridge the digital divide which has significantly disadvantaged the African continent;

Recognizing the importance of the Internet in advancing human and peoples' rights in Africa, particularly the right to freedom of information and expression;

Further recognizing that privacy online is important for the realization of the right to freedom of expression and to hold opinions without interference, and the right to freedom of peaceful assembly and association;

Condemning the use of hate speech on the Internet, such as any form of speech which degrades others, promotes hatred and encourages violence against a group on the basis of criteria including race, colour, religion, national origin, gender, disability or a number of other traits;

Taking note of the **African Declaration on Internet Rights and Freedoms**, which was developed by a coalition of African civil society organizations and adopted during the 9th Internet Governance Forum in Istanbul, Turkey, in September 2014, which elaborates on the principles which are necessary to uphold human and people's rights on the Internet, and to cultivate an Internet environment that can best meet Africa's social and economic development needs and goals;

Concerned by the emerging practice of State Parties of interrupting or limiting access to telecommunication services such as the Internet, social media and messaging services, increasingly during elections;

Convinced that it is of critical importance that clear and comprehensive principles are established to guide the promotion and protection of human rights in the online environment;

The Commission:

1. Calls on States Parties to respect and take legislative and other measures to guarantee, respect and protect citizen's right to freedom of information and expression through access to Internet services;
2. Urges African citizens to exercise their right to freedom of information and expression in the Internet responsibly;
3. Encourages the Special Rapporteur of Freedom of Expression and Access to Information in Africa to take note of developments in the Internet age during the revision of the Declaration of Principles on Freedom of Expression in Africa, which was adopted by the Commission by 2002;

4. Urges State Parties, civil society and other stakeholders to collaborate with the Special Rapporteur by contributing to the process of revising the Declaration to consider Internet rights.

Done in Banjul, Islamic Republic of The Gambia, on 04 November 2016



ACHPR/Res. 363(LIX) 2016: Resolution on the Need to Develop Guidelines on Policing and Assemblies in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 59th Ordinary Session held from 21 October to 4 November 2016 in Banjul, Islamic Republic of The Gambia;

Recalling its mandate to promote and protect human rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa and the Model Law on Access to Information for Africa;

Further recalling its Resolutions ACHPR/Res.103a (XXXX) 06 on Police Reform, Accountability and Civilian Police Oversight in Africa, ACHPR/Res.259 (LIV) 2013 on, Police and Human Rights in Africa, ACHPR/ Res.196 (L) 11 on the Situation of Human Rights Defenders in Africa, and ACHPR/Res.281 (LV) 2014 on the Right to Peaceful Demonstrations;

Bearing in mind its Resolution ACHPR/Res. 306 (EXT.OS/XVIII) 2015 on the extension of the mandate of the Special Rapporteur on Prisons and Conditions of Detention in Africa which recommends that the Rapporteur should work with other Special Mechanisms of the Commission on cross-cutting issues relating to policing and human rights;

Noting the important role played by the police in ensuring the peaceful conduct of public assemblies and consequently, protecting freedom of expression and assembly;

Mindful of the importance of communication and the right of access to information before, during and after assemblies;

Concerned by the persistence of police violence during assemblies in Africa and its apparent consequences on the enjoyment of the various rights enshrined in the African Charter, in particular Articles 4, 5, 6, 9 and 11;

Considering the particularly vulnerable state of human rights defenders and journalists who are more exposed to various forms of police violence during assemblies;

Conscious that in many cases, this situation is caused or aggravated by several factors including the fact that the legal framework does not sufficiently protect the right to freedom of assembly, expression and access to information in the context of public assemblies, the interference of political actors, lack of training for police officers and the non-existence of special mechanisms to monitor policing;

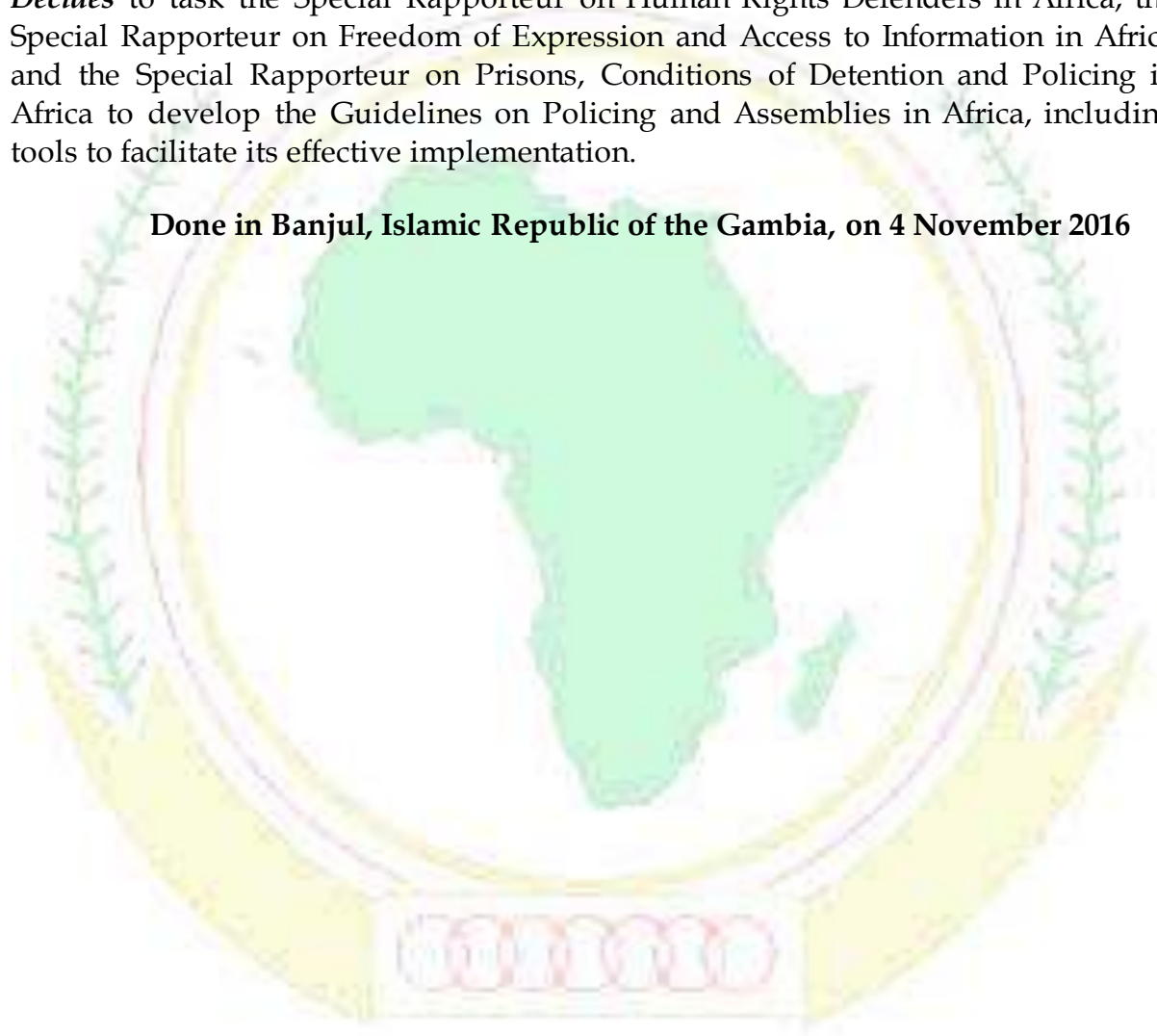
Noting the links between the right to freedom of assembly, freedom of expression and access to information;

Convinced of the urgent need to develop guidelines on policing and assemblies in Africa to guide States Parties to the African Charter, in particular law enforcement officials to ensure greater observance of human rights during assemblies in Africa;

The Commission:

Decides to task the Special Rapporteur on Human Rights Defenders in Africa, the Special Rapporteur on Freedom of Expression and Access to Information in Africa and the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa to develop the Guidelines on Policing and Assemblies in Africa, including tools to facilitate its effective implementation.

Done in Banjul, Islamic Republic of the Gambia, on 4 November 2016



ACHPR/Res. 364(LIX) 2016: Resolution on Developing Reporting Guidelines with Respect to the Extractive Industries

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 59th Ordinary Session held from 21 October to 4 November 2016 in Banjul, Islamic Republic of The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.148 (XLV1) 09, establishing the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa (the Working Group), adopted during the 46th Ordinary Session held in Banjul, The Gambia from 11 to 25 November 2009;

Further recalling Resolution ACHPR/Res.321(LVII)2015 appointing Commissioner Solomon Dersso as the new Chairperson of the Working Group and the extension of the term of its members, adopted at the 57th Ordinary Session of the Commission held from 4 to 18 November 2015 in Banjul, Islamic Republic of The Gambia;

Recognising the importance of the Working Group in contributing to the work of the Commission towards an improved protection of human rights and the environment within the context of extractive industries;

Further recognising that the lack of reporting guidelines on extractive industries undermines the monitoring of compliance by State Parties with Charter standards;

The Commission

Decides to mandate the Working Group to elaborate reporting guidelines that adequately guide State Parties on the information they should incorporate in their periodic report.

Done in Banjul, Islamic Republic of The Gambia, on 4 November 2016

Section G

Resolutions adopted during the 60th – 65th Ordinary Sessions

(2017 – 2021)

ACHPR/Res. 365 (EXT.OS/XX1) 2017: Resolution on Developing Guidelines on Combatting Sexual Violence and its Consequences

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 21st Extraordinary Session held from 23 February to 4 March 2017 in Banjul, Republic of The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling its Resolution ACHPR/Res.38 (XXXVIII) 99, adopted at its 25th Ordinary Session, held from 26 April to 5 May 1999 in Bujumbura, Burundi, on the establishment of a Special Mechanism on the Rights of Women in Africa;

Recalling the adoption and entry into force of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa; in particular Articles 4, 5 and 14, which prohibits all forms of violence and harmful practices against women and promotes the reproductive health rights of women;

Further recalling Resolutions ACHPR/Res.111 (XXXXII) 07 on the Right to a Remedy and Reparation for Women and Girls as Victims of Sexual Violence, ACHPR/Res.284 (LV) 14 on the Suppression of Sexual Violence against Women in the Democratic Republic of Congo; ACHPR/Res.288 (XVI) 14 Condemning the Perpetrators of Sexual Assault and Violence in the Arab Republic of Egypt; the Joint Statement by the UN Human Rights Experts, the Rapporteur on the Right of Women of the Inter-American Commission on Human and Peoples' Rights and the Special Rapporteurs on the Rights of Women and Human Rights Defenders of the Commission on women's sexual and reproductive health rights; and the Joint Press Release by the Commission's Focal Point for the Study on Human Rights in Conflict Situations and its Special Rapporteur on the Rights of Women in Africa, expressing its condemnation of all forms of sexual violence in conflict as grave violations of human and peoples' rights;

Concerned that sexual violence remains widespread throughout Africa, in peacetime as well as in wartime, and that the perpetrators enjoy impunity, which contributes to the repetition of those crimes;

Further concerned that these victims suffer very serious and long-lasting consequences, such as unwanted pregnancies, gynaecological complications, sexually transmitted diseases, and social stigmatization; that victims struggle to get access to the necessary medical and psycho-social services, live in fear of reprisals and most are denied their right to truth, justice and reparation;

Recognising the need to fight sexual violence through concrete measures aimed at preventing these violations, bringing the perpetrators to justice and protecting and

supporting the survivors, in compliance with States' obligations under regional and international human rights instruments;

Further recognising the lack of adequate national laws for States to address the sexual violence and its consequences particularly at the regional level;

Considering the need to prepare guidelines to address the fight against sexual violence and its consequences;

The Commission:

1. welcomes the initiative by the Special Rapporteur on Rights on Women in Africa to develop a set of Guidelines to combat Sexual Violence and its consequences; and
2. decides that the Guidelines be presented to the Commission for consideration and adoption within a year.

Done in Banjul, Republic of the Gambia, on 4 March 2017.

Principles on the Declassification and Decriminalization of Petty Offences in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 21st Extraordinary Session held from 23 February to 4 March 2017 in Banjul, The Gambia;

Recalling its mandate to promote and protect human rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter);

Recalling Article 45(1)(b) of the African Charter which mandates the Commission to 'formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African Governments may base their legislation;

Further recalling Resolution ACHPR/Res.64(XXXIV)03 adopting the Ouagadougou Declaration and Plan of Action on Accelerating Prisons and Penal Reforms in Africa, which calls on State Parties to the African Charter to declassify and decriminalize minor offences, 'such as being a rogue and vagabond, loitering, prostitution, failure to pay debts and disobedience to parents' as a strategy for reducing prison overcrowding;

Bearing in mind the Commission's Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, which articulate grounds for arrest based on principles of legality and equality, and encourage the diversion of minor criminal offences away from the criminal justice system;

Concerned about the existence of vague and overly broad laws, in many African states that create petty offences and impede the enjoyment of human rights by all persons, particularly on the basis of their origin status and fortune;

Further concerned that the enforcement of petty offences have the effect of punishing, segregating, controlling and undermining persons on the basis of their status, and further infringe on the autonomy of persons by restricting their performance of socio-economic activities in public places;

Considering that overcrowding is endemic in prisons and police detention facilities across Africa, and the need to develop strategies for preventing imprisonment through the use of alternatives forms of punishment and the decriminalization of petty offences;

Concerned about the disproportionate impact of laws that create petty offences on the poor and persons who are otherwise marginalized or vulnerable within the criminal justice system;

Mindful that the enforcement of petty offences not only diverts resources away from

the prevention and detection of serious crime, but further entrenches the impact of poverty on persons most vulnerable to human rights violations across the criminal justice chain;

Convinced of the urgent need to develop Principles on the Declassification and Decriminalization of Petty Offences in Africa, to ensure greater observance of human rights for all persons;

The Commission decides:

1. to task the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa to develop the Principles on the Declassification and Decriminalization of Petty Offences in Africa; and
2. that the Principles be presented to the Commission for consideration and adoption within a year.

Done in Banjul, Republic of the Gambia, on 4 March 2017.



ACHPR/Res. 367 (LX) 2017: Resolution on the Niamey Declaration on Ensuring the Upholding of the African Charter in the Extractive Industries Sector

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The African Commission on Human and Peoples' Rights, meeting at its 60th Ordinary Session held from 8 to 22 May 2017 in Niamey, Republic of Niger;

Recalling its mandate to promote and ensure the protection of human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (African Charter);

Recalling its Resolution ACHPR/Res.148 (XLV1) 09 establishing the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa (Working Group) adopted during the 46th Ordinary Session held in Banjul, The Gambia, from 11 to 25 November 2009; Resolution ACHPR/Res.224 (LI) 2012 on a human rights-based approach to natural resources governance adopted during the 51st Ordinary Session held from 18 April to 2 May 2012 in Banjul, The Gambia; Resolution ACHPR/Res.236 (LIII) 2013 on illicit flight of capital from Africa adopted during the 53rd Ordinary Session held from 9 to 23 April 2013;

Underscoring that the right to freely dispose of wealth and natural resources is an inviolable right of all peoples guaranteed under Article 21 of the African Charter;

Acknowledging that in many African countries extractive industries constitute a source of revenue representing a substantial part of foreign direct investment which, if managed in a viable, sustainable and transparent manner respectful of charter-based rights, can contribute to broad-based and inclusive socio-economic development;

Reiterating the primary responsibility of States Parties to prevent and provide redress in accordance with the African Charter for all forms of violations of human and peoples' rights, including violations involving non-state actors;

Affirming that extractive industries have the legal obligation to respect the rights guaranteed in the African Charter;

Concerned by the lack of transparency prevailing in relation to the negotiation and terms of concessionary contracts and the receipt and use of revenues;

Alarmed by the low respect of human and peoples' rights in the extractive industries sector resulting in extensive individual and collective human rights violations;

Concerned by the exploitative terms on the basis of which the extractive industries operate in many parts of the continent depriving the populations of the benefits to which it is entitled and often causing adverse environmental and social impacts further exacerbating poverty in the host communities;

Noting with deep concern the loss of a considerable amount of revenues due to weak governance and tax regimes as well as bargaining capacity resulting in unduly long tax holidays, disadvantageous duty-free privileges and the exploitation by extractive

companies and individuals of the loopholes in such legal regimes and licensing contracts;

Further concerned by the increasing destruction with impunity of the environment and ecosystems resulting from poorly regulated activities of the extractive industries in Africa;

Convinced of the need for transforming the national legal and regulatory framework of the activities of the extractive industries, in line with the African Charter, to the development needs of society and the benefit of local communities, indigenous populations/communities, women, children, mine workers and other vulnerable groups living in the areas of operation of extractive industries;

The Commission:

1. Requests States Parties to ensure that relevant legislation is adopted or existing ones reviewed in order to:
 - a. Stipulate provisions for sharing revenues from operations of extractive industries between national government, regional authorities and local communities;
 - b. Require that licences to extractive industries are negotiated and granted in accordance with internationally accepted rules and standards, based on transparency and human and peoples' rights;
 - c. Guarantee that all the financial terms of agreements with extractive companies including those relating to licence fees, national and local taxes, custom duties, royalties and shares due to the State are not exploitative;
 - d. Require that communities and individuals residing in areas earmarked for prospection and development of natural resources are properly consulted, provided with all information relating to exploration and development activities from the very inception and are assured that exploration and development activities are undertaken with due respect to the agreed terms protecting their rights;
 - e. Ensure that concessionary contracts are negotiated with active participation of representatives of affected communities and community-based organizations and that their terms are made known to the public in accordance with the requirements of transparency and respect for all the human and peoples' rights in the African Charter;
 - f. Require that all revenues received by the State from the activities of extractive companies and the use to which they have been put are independently audited, made known to the public in the local languages and subject to parliamentary scrutiny;
 - g. Put in place regulatory bodies vested with the relevant powers for ensuring that human rights, environmental and labour standards are duly respected and environmental and social impacts are mitigated;

- h. Impose criminal and administrative accountability for all those involved in corrupt practices and misappropriation of public funds accruing from the operations of the extractive industries;
 - i. Provide non-judicial and judicial grievance mechanisms accessible to affected communities and adequately equipped and resourced for handling cases involving extractive industries; and
 - j. Ensure the application of human rights and relevant safety and environmental standards for protecting individuals and communities involved in and dependent on artisanal mining with particular attention to the rights of children, women, indigenous populations/communities and other vulnerable groups.
2. Calls on States Parties to institute laws where these do not exist, or reform existing laws to recognize and enshrine the obligations of extractive industries to respect the rights in the African Charter throughout their operation cycle, including for:
 - a. Implementing exploration and development activities with due respect to the terms agreed in consultations guaranteeing the rights and interests of host communities;
 - b. Paying due compensation to affected communities for all material and non-material damages suffered and for the cleaning and rehabilitation of affected environment in cases of despoliation of the environment;
 - c. Bearing civil and criminal responsibility and paying compensation for human and peoples' rights violations and/or abuses arising from their extractive industrial activities or from activities of those operating on their behalf or for assisting or abating such violations by state or non-state actors including private security companies;
 - d. Contributing to the development needs of the communities in the areas of their operations including through supporting community-based employment, educational, health, agricultural or pastoral development projects; and
 - e. Disclosing the identity of shareholders and local partners, fully declaring profits they make from their operations in the host country and for publicizing all payments that they make to government in terms of the contract and applicable laws of the country.
 3. Urges States Parties to adopt laws and regulations aimed at easing the transition of affected communities from economic dependence on extractive industries to reliance on other livelihoods when activities of extractive industries are closed down, in line with regional and international human rights laws and principles;
 4. Calls on States Parties to enforce such requirements where sufficient legislation currently exists including the provision of grievance mechanisms for all cases of violations of rights guaranteed in the African Charter;
 5. Urges States Parties to establish regional mechanisms for:
 - a. Cooperation and the exchange of good practices between States Parties to strengthen capacities and develop the necessary institutional and legal framework to ensure that mining contracts are negotiated to the benefit of and in consultation with affected individuals, local communities and indigenous populations/communities;

- b. Developing capacities for value addition and beneficiation;
- c. Building regional marketing platforms for assessing the commercial value of the resources exported from their territories; and
- d. Fighting illicit financial flights common in the extractive industries.

Done in Niamey, Republic of Niger, on 22 May 2017



ACHPR/Res. 368 (LX) 2017: Resolution on Implementation of the Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa

The African Commission on Human and Peoples' Rights, meeting at its 60th Ordinary Session held from 8 to 22 May 2017 in Niamey, Niger;

***Bearing in mind** Resolution 88 (2005) on the Protection of Human Rights and the Rule of Law in the Fight against Terrorism, which reaffirms that: "African States should ensure that the measures taken to combat terrorism fully comply with their obligations under the African Charter on Human and Peoples' Rights and other international human rights treaties, including the right to life, the prohibition of arbitrary arrest and detention, the right to a fair hearing, the prohibition of torture and other cruel, inhuman and degrading punishment and treatment and the right to seek asylum";*

***Considering** the Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa adopted by the African Commission on Human and Peoples' Rights at its 56th Ordinary Session held in Banjul, The Gambia, from 21 April to 7 May 2015;*

***Welcoming** the participation, as partners, of civil society in raising awareness and promoting the implementation of the Principles and Guidelines by States Parties;*

***Cognisant** of the fundamental importance of guaranteeing respect for human and peoples' rights and the standards of the rule of law when developing and implementing policies, regulations and laws on counter-terrorism and whilst undertaking counter terrorism operations;*

***Reaffirming** the important role of the African Commission on Human and Peoples' Rights, States Parties to the African Charter on Human and Peoples' Rights, the African Court, Regional Economic Commissions, national courts and other stakeholders, including civil society and security sector institutions, in the implementation of the African Charter on Human and Peoples' Rights as well as the process of monitoring and evaluating respect for same;*

***Noting with concern** that African States are still enacting and implementing certain aspects of counter terrorism legislations that are in violation of fundamental human rights of populations also resulting in shrinking civic space;*

***Noting further** that African States including law enforcement agencies are yet to take ownership of the principles enshrined in the Guidelines while countering terrorism;*

The Commission:

1. Calls on all African States, in accordance with Article 1 of the African Charter on Human and Peoples' Rights, to adopt legislative, administrative, judicial

and other appropriate measures to give effect to the Principles and Guidelines on Human Rights while Countering Terrorism in Africa and ensure that the rights and obligations contained therein are guaranteed in law, policies, regulations and practices governing all counter-terrorism operations, including during armed conflict and under a state of emergency;

2. Further calls on African States, in accordance with their reporting obligations under the African Charter on Human and Peoples' Rights, to include information on the progressive implementation of human rights compliant legislation, policies and regulations that have to do with their counter-terrorism operations and on the extent to which their on-going or proposed counter-terrorism measures are consistent with these principles and guidelines;
3. Undertakes, through its Special Rapporteur on Human Rights Defenders, to develop and recommend for adoption to States Parties to the African Charter on Human and Peoples' Rights a strategy and work plan that ensures the effective implementation of the Principles and Guidelines while Countering Terrorism in Africa;
4. Urges States Parties to the African Charter on Human and Peoples' Rights to take the necessary measures to build the capacity of all stakeholders concerned on these Principles and Guidelines, as well as undertake to include provisions of the Principles and Guidelines in both the rules of engagement and deployment plans for all counter-terrorism operations;
5. Calls on the African Union to support the efforts of States Parties in the implementation of the Principles and Guidelines.

Done in Niamey, Republic of Niger, on 22 May 2017

ACHPR/Res. 369 (LX) 2017: Resolution on the Situation of Internally Displaced Persons in Africa

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The African Commission on Human and Peoples' Rights, meeting at its 60th Ordinary Session held from 8 to 22 May 2017 in Niamey, Niger;

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (African Charter);

Recalling the provisions of Article 23 of the African Charter which, among other obligations, guarantee peoples' right to national and international peace and security;

Further recalling the implementation commitments from the 1st Meeting of the Conference of States Parties to the Kampala Convention held in Harare, Zimbabwe, in April 2017;

Bearing in mind its 2016 fact-finding mission report on Burundi and the 2015 African Union Commission of Inquiry report on South Sudan;

Further recalling its Resolution ACHPR/Res.335 (EXT.OS/XIX) 16 on the situation of internally displaced persons in Africa;

Considering the provisions of the UN Guiding Principles on Internal Displacement, the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), in particular the provisions of Article 3 urging States Parties to refrain from, prohibit and prevent arbitrary displacement of populations;

Recalling the commitment of States Parties enshrined in the Preamble to the Kampala Convention to providing durable solutions to situations of internally displaced persons by establishing an appropriate legal framework for their protection and assistance, and to adopt measures aimed at preventing and putting an end to the phenomenon of internal displacement by eradicating the root causes, especially persistent and recurrent conflicts as well as addressing displacement caused by natural disasters, which have a devastating impact on human life, peace, stability, security, and development;

Deeply concerned about the increasing number of internally displaced persons on the continent, in particular in South Sudan, Burundi, Nigeria, Congo, Democratic Republic of Congo, Niger and Cameroon;

Concerned about the continuous worsening of the violence in South Sudan and the increasing number of people in need of protection, shelter, medical care and other forms of assistance;

Concerned about the lack of information on the situation of the missing 3,000 internally displaced persons in South Sudan out of the 20,000 internally displaced

persons in February 2017 and about the constant refusal of the government forces of the Sudan People's Liberation Army (SPLA) to allow members of the United Nations Mission in South Sudan (UNMISS) to search for their whereabouts;

Alarmed by the persistence of human rights violations in Burundi against internally displaced persons, including acts of intimidation, the worsening security and socio-economic situation and the increase in acts of discrimination, especially in the Ruhororo (Ngozi Province) and Mutaho (Gitega Province) Camps;

Concerned about the increasing number of internally displaced persons in Congo Brazzaville (about 22,000), following the intensification of armed clashes in the Pool region and the lack of concrete information on their living conditions;

Further concerned about the critical situation of close to 1,700,000 internally displaced persons in Nigeria and the urgent need to provide them with sufficient assistance, especially regarding social, educational and health services, as well as protection against sexual and gender-based violence, including from law enforcement officers;

Concerned about the situation of more than 1,000,000 internally displaced persons in the Democratic Republic of Congo and particularly in the Kasai region;

Alarmed by the situation of internally displaced persons in the Diffa region of Niger following terrorist activities by Boko Haram, which have brought about the massive displacement of more than 283,930 persons, a situation which still remains precarious;

Further concerned about the constant increase in the number of internally displaced persons in the Far North Region of Cameroon of more than 222,000 as a result of the criminal activities committed by Boko Haram and the need to provide assistance and ensure their protection;

Recalling the primary responsibility of African States to provide protection and humanitarian assistance to their nationals and particularly to internally displaced persons without any discrimination;

Further recalling the need for States to promote the roles of international humanitarian organisations providing assistance to their nationals in accordance with international law;

The Commission:

1. Calls on the authorities in the countries concerned to take all the necessary measures to respect the human rights of all internally displaced persons and to ensure that they receive all the necessary assistance and protection appropriate to their situation;

2. Calls on Burundi to take all the necessary measures to ensure the safety of displaced persons in the Ruhororo (Ngozi Province) and Mutaho (Gitega Province) Camps;
3. Calls on the government forces of the Sudan People's Liberation Army (SPLA) to allow forces of the United Nations Mission in South Sudan to conduct patrols to ensure the security of internally displaced persons and to obtain information on the situation of the missing 3,000 internally displaced persons who have still not been found;
4. Calls on the authorities of the Republic of Congo to ensure the protection of the population of the Pool region, particularly internally displaced persons as a result of the ongoing armed clashes in the region;
5. Calls on the authorities of the Federal Republic of Nigeria to take the necessary measures to ensure the safety of internally displaced persons, as well as their access to social and health services and protection against sexual and gender-based violence;
6. Urges the Democratic Republic of Congo to continue its collaboration with United Nations agencies to protect internally displaced persons, particularly in the Kasai region;
7. Encourages the Republic of Niger to continue providing assistance to internally displaced persons in the Diffa region and to take the necessary measures to ensure their protection;
8. Calls on the authorities of the Republic of Cameroon to take the necessary measures to assist internally displaced persons as a result of the terrorist attacks of Boko Haram and ensure their protection;
9. Urges the African Union to intensify efforts aimed at resolving conflicts and combatting terrorist groups, while respecting the human rights guaranteed under the African Charter, by providing assistance to the States concerned;
10. Calls on the African Union to expedite the implementation of the Common African Position (CAP) on Humanitarian Effectiveness in order to provide the necessary support to States in managing the massive displacement of populations;
11. Calls on the international community and humanitarian organisations to increase assistance to displaced persons in the countries concerned;
12. Calls on the authorities of South Sudan, Burundi, Democratic Republic of Congo, Cameroon and all States Parties that have not yet done so, to ratify the Kampala Convention;
13. Urges States Parties to the Kampala Convention to take all the necessary measures to protect populations from forced displacements irrespective of the causes.

Done in Niamey, Republic of Niger, on 22 May 2017



ACHPR/Res. 370 (LX) 2017: Resolution on the Granting of Affiliate Status to National Human Rights Institutions and specialized human rights institutions in Africa

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 60th Ordinary Session from 08 to 22 May 2017, in Niamey, Niger;

Bearing in mind the provisions of Article 45(1) of the African Charter on Human and Peoples' Rights (the African Charter), which provides that the function of the Commission shall be, *inter alia*, "to cooperate with other African and international institutions concerned with the promotion and protection of human and peoples' rights;"

Considering that Article 26 of the African Charter stipulates that States Parties to the Charter shall have the duty to "allow the establishment and the improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the Charter;"

Cognizant of the adoption of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and other relevant regional and international human rights instruments;

Reaffirming Rule 67 of the Rules of Procedure of the Commission, adopted during its 47th Ordinary Session, held from 12 to 26 May 2010, in Banjul, The Gambia, which provides that "National Human Rights Institutions established by States Parties and functioning according to internationally and regionally recognized norms and standards may be granted affiliate status with the Commission;"

Considering that to date, the Commission has granted affiliate status to 27 National Human Rights Institutions;

Recognizing the Paris Principles which elaborate on the mandate of such institutions;

Recognizing the establishment of the Network of National Human Rights Institutions, the regional umbrella body that brings together African National Human Rights Institutions and works to support and strengthen national human rights institutions in Africa;

Recognizing the emergence of other specialized human rights institutions in Africa, including Gender Commissions and Equality Commissions, with which the Commission may also work in fulfillment of its mandate;

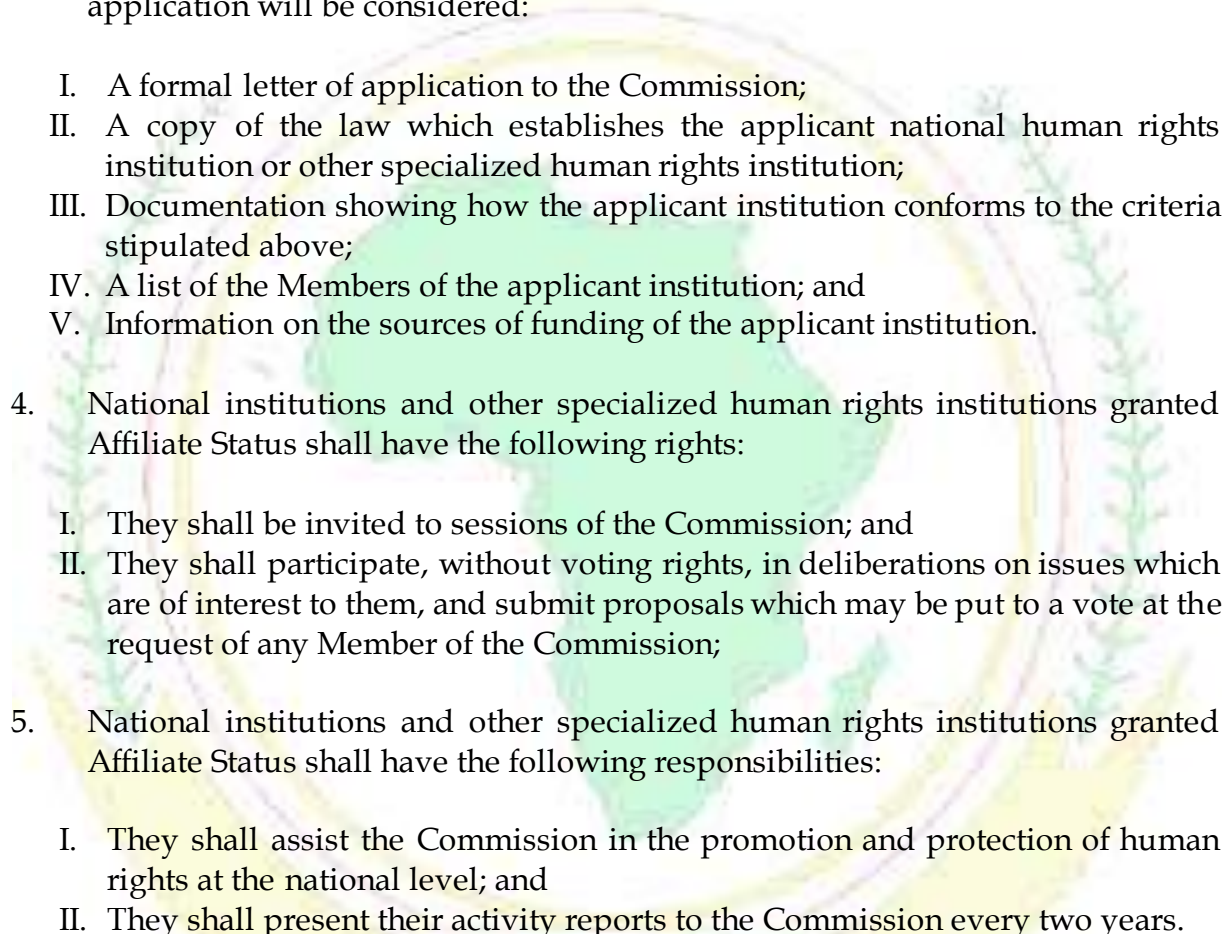
Convinced of the importance of the role of national institutions and other specialized human rights institutions in the promotion and protection of human rights and in creating public awareness in Africa;

The Commission:

1. **DECIDES TO REVIEW** its criteria for granting of Affiliate Status to national human rights institutions;
2. **COMMENDS** the increasing interest shown by States Parties in establishing and strengthening national human rights institutions and other specialized human rights institutions for the promotion and protection of human rights;
3. **RECOGNIZES** that it is the right of each State to establish, according to its sovereign prerogatives and within the most appropriate legislative framework, a national institution charged with the promotion and protection of human rights according to internationally recognized norms, and that each State too may establish other specialized human rights institutions such as Gender Commissions and Equality Commissions;
4. **NOTES WITH SATISFACTION** the significant participation of African national human rights institutions and the Network of African National Human Rights Institutions in the Sessions of the Commission;
5. **ADOPTS** a new criteria for the granting of Affiliate Status to national human rights institutions and other specialized human rights institutions;
6. **DECIDES** that the new criteria shall enter into force with immediate effect, and requests the Secretary to the African Commission to report on the implementation of the present Resolution at each Ordinary Session of the Commission.

CRITERIA FOR THE GRANTING OF AFFILIATE STATUS TO NATIONAL HUMAN RIGHTS INSTITUTIONS AND OTHER SPECIALIZED HUMAN RIGHTS INSTITUTIONS WITH THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

1. National Human Rights Institutions and specialized human rights institutions applying for Affiliate Status with the African Commission on Human and Peoples' Rights (the Commission) shall submit a written application to the Secretariat of the Commission, showing that they work for the realisation of the objectives of the African Charter on Human and Peoples' Rights (the African Charter).
2. An institution applying for Affiliate Status shall meet the following criteria:
 - I. It shall be duly established by law;
 - II. It shall be a national human rights institution or other specialized human rights institution of a State Party to the African Charter;
 - III. Its independence shall be guaranteed by law;

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- IV. It shall have as broad a mandate as possible, capable of promoting, protecting and monitoring human rights through various means;
 - V. It shall be characterized by effective functioning;
 - VI. It shall be adequately funded and not subject to financial control;
 - VII. It shall be accessible to the general public; and
 - VIII. It shall be composed of diverse membership representative of the society.
3. Applicant institutions shall submit the following documents to the Commission, at least three months prior to the Ordinary Session where the application will be considered:
 - I. A formal letter of application to the Commission;
 - II. A copy of the law which establishes the applicant national human rights institution or other specialized human rights institution;
 - III. Documentation showing how the applicant institution conforms to the criteria stipulated above;
 - IV. A list of the Members of the applicant institution; and
 - V. Information on the sources of funding of the applicant institution.
 4. National institutions and other specialized human rights institutions granted Affiliate Status shall have the following rights:
 - I. They shall be invited to sessions of the Commission; and
 - II. They shall participate, without voting rights, in deliberations on issues which are of interest to them, and submit proposals which may be put to a vote at the request of any Member of the Commission;
 5. National institutions and other specialized human rights institutions granted Affiliate Status shall have the following responsibilities:
 - I. They shall assist the Commission in the promotion and protection of human rights at the national level; and
 - II. They shall present their activity reports to the Commission every two years.

Done in Niamey, Republic of Niger, on 22 May 2017

ACHPR/Res. 371 (LX) 2017: Resolution on the Implementation of the New York Declaration for Refugees and Migrants

The African Commission on Human and Peoples' Rights, meeting at its 60th Ordinary Session held from 8 to 22 May 2017 in Niamey, Niger;

Recognizing its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (African Charter);

Recalling the provisions of Article 12 of the African Charter which guarantee the right to freedom of movement and residence for all individuals and prohibit the mass expulsion of non-nationals;

Recalling the provisions of the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, the provisions of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) and other international instruments on the protection of refugees;

Further recalling its resolutions ACHPR/Res.114 (XXXXII) 07, ACHPR/Res.131 (XXXXIII) 08 and ACHPR/Res.333 (EXT.OS/XIX) 16 on the situation of migrants, as well as its Statement on the deteriorating situation of migrants in the Mediterranean issued at its 56th Ordinary Session held in Banjul, The Gambia;

Taking into account the massive displacement of migrants and refugees in the past years and the various human rights violations of which migrants and refugees are victims;

Concerned about the huge loss of lives of migrants in the Mediterranean Sea, the magnitude of the phenomenon and the disastrous consequences on African populations in particular;

Considering that response to the refugee and migrant problem has thus far been mainly humanitarian;

Noting the importance of developing a stronger, more orderly and sustainable response to assist refugees and host communities, with respect to their rights;

Welcoming the adoption by the African Union in January 2016 of the Common African Position on Humanitarian Effectiveness;

Further considering the adoption by States, at the UN Summit on Migrants and Refugees held on 19 September 2016 in New York, of the Declaration for Refugees and Migrants;

The Commission:

1. Recommends that States Parties should adopt a comprehensive approach to issues relating to population displacement regardless of the cause;
2. Calls upon States Parties and the African Union to organize and participate in national, regional and international consultations planned under the New York Declaration; as well as undertake inclusive and participatory consultation with all stakeholders towards the adoption of the Global Compact for safe, orderly and regular migration;
3. Urges the African Union, in particular countries of origin as well as host countries, to take ownership of the recommendations contained in the Declaration and adopt the necessary measures for their implementation in order to find concrete solutions to the situation of migrants and refugees;
4. Calls upon the African Union to implement, as soon as possible, the Common African Position (CAP) on Humanitarian Effectiveness and to expedite the establishment of the African Humanitarian Agency, which will be responsible for the implementation of the humanitarian action programme at the continental level;
5. Urges the African Union to take into account the recommendations of the New York Declaration during implementation of the Common African Position on Humanitarian Effectiveness with the aim of aligning them with the global response strategy emanating from the Declaration.

Done in Niamey, Republic of Niger, on 22 May 2017

ACHPR/Res. 372 (LX) 2017: Resolution on the Protection of Sacred Natural Sites and Territories

The African Commission on Human and Peoples' Rights, meeting at its 60th Ordinary Session held from 8 to 22 May 2017 in Niamey, Niger;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (African Charter);

Bearing in mind the definition of "indigenous" in an African context, given in the report "Indigenous Peoples in Africa: The Forgotten Peoples?" (ACHPR, 2003), as consisting of several shared characteristics, most notably that "survival of their particular way of life depends on access and rights to their traditional lands and the natural resources thereon";

Recognising that sacred natural sites are one of the oldest forms of culture-based conservation, defined as "areas of land or water having special spiritual significance to peoples and communities" (IUCN, 2008) and often harbouring rich biodiversity contributing to connectivity, resilience and adaptability of valuable landscapes and ecosystems;

Recognising the centrality of sacred natural sites and territories to protecting and supporting the relationship between peoples, land and culture, especially for indigenous populations/communities;

Recognising also that custodian communities, who maintain customary governance systems to protect sacred natural sites and territories, play an essential role in preserving the traditional values of Africa, and require legal recognition and support to do so;

Recalling international treaties that support the protection of sacred natural sites, including the UNESCO Universal Declaration on Cultural Diversity (2001), the UNESCO Convention for the Safeguarding of Intangible Cultural Heritage (2003), the UNESCO Convention on the Protection and Promotion of Diversity of Cultural Expressions (2005) and the United Nations Declaration on the Rights of Indigenous Peoples (2007);

Recalling the preambular text to the African Charter relating to the importance of peoples' rights in addition to, and in harmony with, fundamental and individual human rights;

Recalling the provisions of Articles 22 and 24 of the African Charter relating to the right of peoples to economic, social and cultural development and the right of peoples to a satisfactory environment favourable to their development;

Recalling its Resolution ACHPR/Res.73 (LXXIII) 04 on the importance of economic, social and cultural rights;

Recalling also its Resolution ACHPR/Res.51 (LI) 00 on the rights of indigenous populations/communities as well as Resolutions ACHPR/Res.257 (CCLVII) 13 and ACHPR/Res.197 (CXC VII) 11 which relate to the protection of the land rights of specific indigenous communities;

Welcoming the support already undertaken for sacred natural sites and territories by States Parties, including Benin's 'Sacred Forest Law' and the regional protection in areas such as Sheka and Bale in Ethiopia;

Concerned by the continued rapid growth of environmentally damaging industrial activity and infrastructure development which cause irreparable damage and which impact, directly or indirectly, on sacred natural sites and territories;

Concerned that many governments do not have laws, policies or appropriate measures to protect sacred natural sites and territories;

The Commission:

1. Calls on States Parties to recognise sacred natural sites and territories, and their customary governance systems, as contributing to the protection of human and peoples' rights.
2. Calls on States Parties to uphold their obligations and commitments under regional and international law on sacred natural sites and territories and their customary governance systems, and the rights of custodian communities.
3. Urges States Parties, civil society, businesses and other stakeholders concerned to recognize and respect the intrinsic value of sacred natural sites and territories.

Done in Niamey, Republic of Niger, on 22 May 2017

**ACHPR/Res. 373 (LX) 2017: Resolution on the Regional Action Plan on Albinism
in Africa (2017-2021)**

The African Commission on Human and Peoples' Rights, meeting at its 60th Ordinary Session held from 8 to 22 May 2017 in Niamey, Niger;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (African Charter);

Bearing in mind Article 2 of the African Charter which guarantees every individual the enjoyment of the rights and freedoms recognised in the Charter regardless of race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status;

Further bearing in mind Article 18 (4) of the African Charter which provides that persons with disabilities shall also have the right to special measures of protection in keeping with their physical or moral needs;

Concerned at the continued widespread discrimination, stigma and social exclusion directed at persons with albinism;

Deeply concerned at reports of systematic attacks against persons with albinism in multiple countries, including against women and children;

Recalling Resolution ACHPR/Res.263 2013 on the prevention of attacks and discrimination against persons with albinism and Resolution ACHPR/Res.349 2016 on the attacks on persons with albinism in Malawi;

Welcoming the steps taken and efforts made by the countries concerned, including national action plans, to address attacks and discrimination against persons with albinism, legal action against perpetrators of attacks against persons with albinism, public condemnation of attacks against persons with albinism, and awareness-raising campaigns;

Cognizant of the Addis Ababa Road Map which aims to enhance cooperation between the Special Procedures of the UN Human Rights Council and the Special Mechanisms of the Commission;

Aware of Resolution 23/13 of the Human Rights Council on attacks and discrimination against persons with albinism, General Assembly Resolution A/RES/69/170 establishing International Albinism Awareness Day on 13 June, and Resolution 29/06 of the Human Rights Council establishing the mandate of the Independent Expert on the Enjoyment of Human Rights of Persons with Albinism;

Welcoming the adoption by the Commission of the Draft Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa;

The Commission:

1. Endorses the Regional Action Plan on Albinism in Africa (2017-2021) which lays out specific measures for addressing attacks and discrimination against persons with albinism through prevention, protection, accountability as well as equality and non-discrimination measures;
2. Urges States Parties to take all measures necessary to adopt and implement the Regional Action Plan and to ensure the effective protection and promotion of the rights of persons with albinism and members of their families;
3. Invites relevant organs and bodies of the African Union to give due regard to the Regional Action Plan within their mandates;
4. Requests the Commission and its Special Mechanisms to consider appropriate ways for the effective promotion of the Regional Action Plan and to make proposals and take actions thereon.

Done in Niamey, Republic of Niger, on 22 May 2017

ACHPR/Res. 374 (LX) 2017: Resolution on the Right to Food and Food Insecurity in Africa

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 60th Ordinary session held from 8th to 22nd May 2017 in Niamey, Niger:

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (the African Charter)

Recalling that the African Charter enshrines Economic, Social and Cultural Rights, in particular in Articles 14, 15, 16, 17, 18, 21 and 22.

Recalling its Resolution ACHPR/Res.73(XXXVI)04 on Economic, Social and Cultural Rights in Africa passed at the 36th Ordinary Session of the Commission in Dakar, Senegal, on 7th December 2004; which established the mandate of the Working Group on Economic, Social and Cultural Rights in Africa, and adopted the Declaration of the Pretoria Seminar on Economic, Social and Cultural Rights in Africa (the Declaration);

Further Recalling the Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights (the Nairobi Guidelines) adopted by the Commission at its 48th Ordinary Session held from 10 to 24 November 2010 in Banjul, The Gambia; which assist State Parties to comply with their obligations;

Cognisant that, as underscored in the Nairobi Guidelines and the Declaration, the right to food is inherent in the Charter's protection of the rights to life, health and the right to economic, social and cultural development; and that this right is realized when everyone alone or in community with others has physical and economic access at all times to adequate food or means of its procurement and is free from hunger even in times of natural or other disasters;

Noting that the said Resolution, Guidelines and Declaration have affirmed that regional and international human rights instruments stress the indivisibility, interdependence and universality of all human rights, including the African Charter, the African Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the Universal Declaration of Human Rights, the Declaration on the Right to Development, the International Covenant on Economic, Social and Cultural Rights and the Convention for the Elimination of All Forms of Discrimination Against Women and the United Nations Convention on the Rights of Persons with Disabilities.;

Noting with appreciation the on-going efforts to guarantee the right to food in a number of countries and in particular the experience of Niger which presented its “3 N” initiative during the 60th Ordinary Session;

Concerned that food insecurity is currently gravely threatening the right to food of more than 20 million people across the world including in some African countries, in particular parts of South Sudan, Somalia and Nigeria and in other countries on the continent;

Further concerned that most vulnerable groups, including children, women, older persons, persons with disabilities, refugees, migrants and internally displaced persons are those mostly affected by food insecurity;

Noting that food insecurity, starvation and famine in these countries are due to political crises, conflicts, increase in food prices, environmental degradation, and natural phenomenon prompted by climate change which is again the result of human deeds;

The Commission:

1. Urges State Parties to:

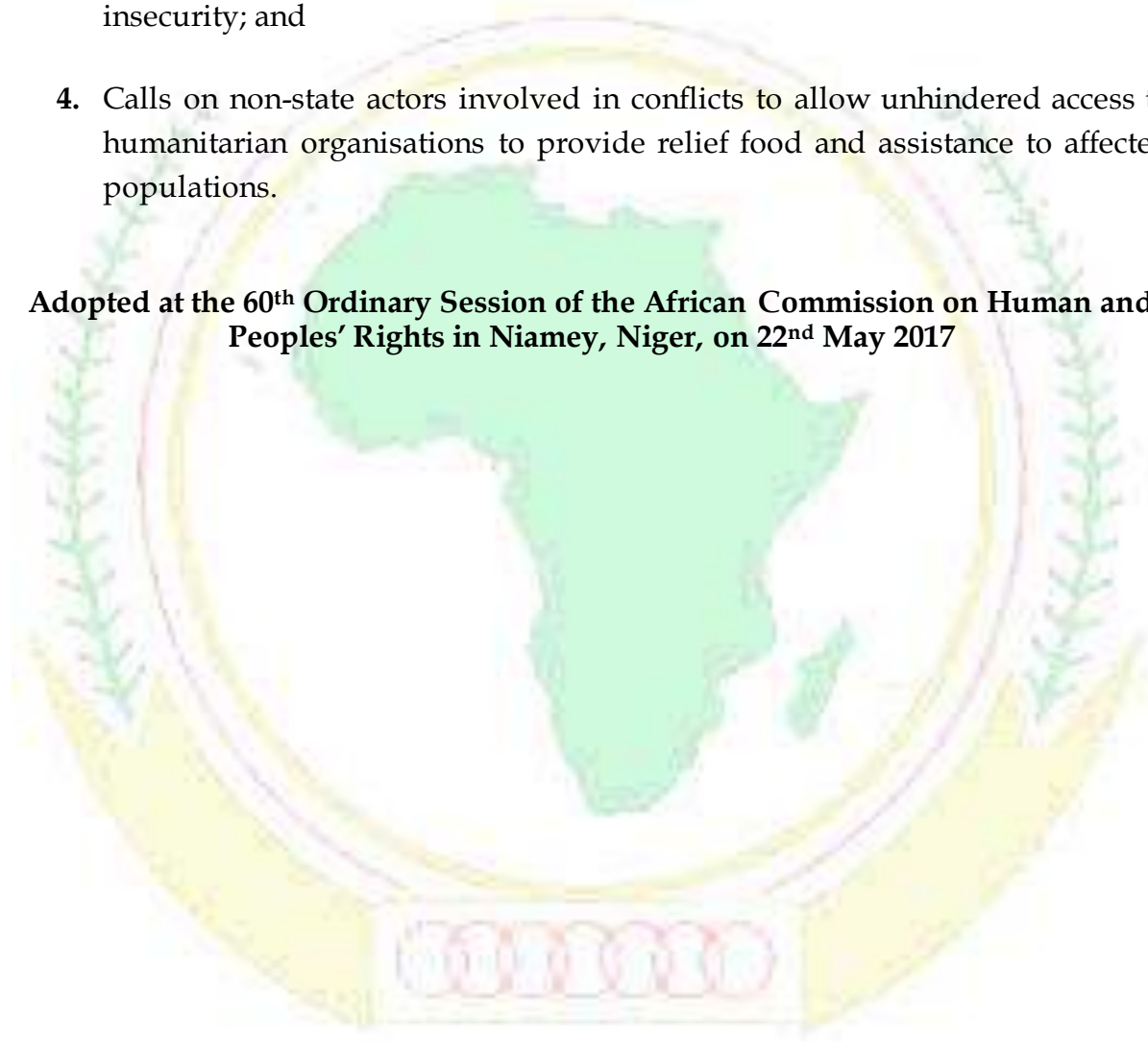
- a. Adopt legislative, administrative and other necessary measures to guarantee the right of everyone to be free from hunger and to mitigate and alleviate hunger even in times of natural or other disasters;
- b. Immediately halt situations of insecurity and conflicts in concerned countries gravely affecting the fundamental human rights of their populations in particular the right to food ;
- c. Guarantee unhindered access for the distribution of humanitarian assistance to those most vulnerable due to the precariousness of the security conditions they live in;
- d. Ensure the accessibility of food to members of vulnerable and disadvantaged groups through special programmes;
- e. Prioritize and support the most sustainable management and use of natural and other resources for food at the national, local and household levels;
- f. Participate in international and regional cooperation efforts and projects aimed at ensuring the right of everyone to be free from hunger in particular through equitable distribution of food supplies in relation to need and to those affected in situations of insecurity;

- 2. Urges States Parties, the African Union and Regional Economic Communities,** to operationalize and implement without delay all strategies and plans aimed at responding to emergencies and humanitarian needs of the populations

affected by food insecurity, famine and starvation; including the Malabo Declaration on Accelerated Agricultural Growth and Transformation for Shared Prosperity and Improved Livelihoods, its Implementation Strategy and Road Map as well as the African Union Centre of Best Practices for Food Security;

3. **Urges** the International Community, in particular the United Nations System to continue its efforts to provide assistance to populations affected by food insecurity; and
4. Calls on non-state actors involved in conflicts to allow unhindered access to humanitarian organisations to provide relief food and assistance to affected populations.

Adopted at the 60th Ordinary Session of the African Commission on Human and Peoples' Rights in Niamey, Niger, on 22nd May 2017



ACHPR/Res. 375 (LX) 2017: Resolution on the Right to Life in Africa

The African Commission on Human and Peoples' Rights, meeting at its 60th Ordinary Session held in Niamey, Republic of Niger, from 8 to 22 May 2017;

Recalling its mandate to promote and ensure the protection of human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (African Charter);

Considering the adoption by the African Commission of *General Comment No.3* to the African Charter, which clarifies the nature of the right to life as recognised in Article 4 of the Charter and the extent of the obligation it imposes upon State parties, and recalling that the General Comment does not put in place new standards or highlight best practices but rather sets out the Commission's perspective on dimensions of this universally recognised right;

Considering also the various instruments recently adopted by the Commission with a direct bearing on the protection of the right to life, including the *Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa*, the *Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa*, and the *Guidelines for the Policing of Assemblies by Law Enforcement Officials*;

Welcoming the fact that the great majority of African States have abolished the death penalty or have adopted a moratorium on the practice of executions, in line with the Commission's Resolutions 42 (XXVI) and 136 (XLIV);

Nonetheless concerned that in some States legislation that provides the death penalty for crimes remains in effect, and that in some jurisdictions persons are sentenced to death after trials that do not comply with fair trial norms;

Particularly concerned by the prevalence of arbitrary deprivations of life occurring in the context of law enforcement operations, often through the use of excessive force by state agents;

Recalling that failure to investigate in a transparent and diligent manner suspicious deaths and killings by State agents and to identify and hold accountable those responsible, constitutes in itself a violation by the State of the right to life;

Emphasizing that the State's duty to investigate is also triggered by suspicion or allegation of an enforced disappearance, and that where it is found that a person has been forcibly disappeared and his/her fate remains unknown, in addition to the violation of other rights, a violation of the right to life has occurred;

Reaffirming the State's heightened level of responsibility to protect the rights of those it places in its custody, and particularly the presumption of State responsibility for deaths occurring in custody;

The Commission:

1. Urges all States Parties to ensure that their domestic laws on the use of force by law enforcement officials are in line with regional and international standards and in particular the principles of precaution, necessity and proportionality;
2. Urges all States Parties to ensure that law enforcement officials are provided with appropriate personal protective equipment and weapons less likely to cause an injury than fire arms, and that they receive adequate training to avoid the use of force;
3. Urges all States Parties to establish mechanisms to ensure that a prompt, impartial, and effective investigation is conducted into any potentially unlawful death or enforced disappearance in its jurisdiction;
4. Urges those States Parties that have established a moratorium on executions to undertake further practical steps towards the abolition of the death penalty, in accordance with their regional and international legal obligations, by reinforcing their moratorium and by encouraging judicial authorities to refrain from imposing the death penalty;
5. Urges those States Parties that have not already abolished the death penalty to immediately establish a moratorium on executions and to adopt measures aimed at the full abolition of the death penalty;
6. Calls on States Parties to inform the Commission on such efforts during their regular reporting on observance of the African Charter.

Done in Niamey, Republic of Niger, on 22 May 2017

**ACHPR/Res. 376 (LX) 2017: Resolution on the Situation of Human Rights
Defenders in Africa**

The African Commission on Human and Peoples' Rights, meeting at its 60th Ordinary Session held from 8 to 22 May 2017 in Niamey, Niger;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (African Charter);

Bearing in mind its Resolution ACHPR/Res.69 (XXXV) 04 establishing the mechanism of the Special Rapporteur on Human Rights Defenders in Africa and its Resolutions ACHPR/Res.119 (XXXXII) 07, ACHPR/Res.196 (L) 11, ACHPR/Res.273 (LV) 14 and ACHPR/Res. 336 (XIX) 16 on the situation of human rights defenders in Africa;

Considering Resolution ACHPR /Res.196 (L) 11 which recognises the difficult environment in which human rights defenders in Africa work;

Considering Resolution ACHPR /Res.245 (LIV) 13 which recognises the challenges faced by women human rights defenders on the African continent regarding the recognition, exercise and enjoyment of their rights;

Further considering the obligations of States Parties under Article 1 of the African Charter and the relevant provisions of regional and international human rights instruments, including the obligation to guarantee the security of persons living in their territories, as well as the freedom of assembly, association, expression, and access to information of human rights defenders and their right to participate in the management and government of their country;

Bearing in mind the instruments for the protection of the rights of human rights defenders, in particular the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (1998 UN Declaration on Human Rights Defenders), the 1999 Grand Bay Declaration and Plan of Action, and the 2003 Kigali Declaration;

Recognising the importance of the contribution of human rights defenders to the protection of human and peoples' rights, democracy, rule of law, peace consolidation and sustainable development;

Deeply concerned about the situation of human rights defenders in Africa, and their families, who as a result of their activities are victims of several forms of violation, including arbitrary arrest, unlawful detention, acts of torture, inhuman and degrading treatment, extrajudicial and summary execution, killing, enforced

disappearance, denial of the right to fair trial, access to medical care and right to food while in detention, and are forced to go into exile;

Also concerned about the persistence of reprisals against human rights defenders who cooperate with human rights mechanisms;

Noting with satisfaction the initiative taken by some States Parties to enact specific laws for the protection of human rights defenders in accordance with international standards and measures for their implementation;

Recalling that States Parties recognised in the 2003 Kigali Declaration “the important role of human rights defenders in the promotion and protection of human rights in Africa”;

Conscious of the fact that since the establishment of the mechanism of the Special Rapporteur on Human Rights Defenders in Africa much progress has been made, including the establishment of sub-regional networks of human rights defenders, the study and adoption of the report on women human rights defenders and the Report of the Study of Freedom of Association;

Concerned about new challenges, in particular the increased threats against defenders working on issues including the right to health, the fight against HIV/AIDS, reproductive health, sexual orientation and gender, extractive industries, promotion of democracy and peace, and women rights defenders irrespective of their area of activity;

Concerned by the shrinking civic space through the enactment or amendment of laws within the framework of the fight against terrorism, in particular regarding freedom of association, demonstration, expression and access to information which are the fundamental pillars of the work of human rights defenders;

Convinced that women human rights defenders face obstacles and risks while carrying out their human rights activities;

Conscious that the 1999 Grand Bay Declaration calls on State Parties to “take appropriate steps to implement in Africa the UN Declaration on the Protection of Human Rights Defenders”;

Noting the Cotonou Declaration issued at the end of the 2nd International Colloquium on the Situation of Human Rights Defenders in Africa of March 2017;

The Commission calls upon States Parties to:

1. Comply with their obligations under the African Charter on Human and Peoples’ Rights and other relevant human rights instruments ratified;

2. Take the necessary measures to provide human rights defenders with a conducive environment to be able to carry out their activities without fear of acts of violence, threat, intimidation, reprisal, discrimination, oppression and harassment from State and non-State actors;
3. Adopt specific legislative measures to recognise the status of human rights defenders, and protect their rights and the rights of their colleagues and family members, including women human rights defenders and those working on issues such as extractive industries, health and HIV/AIDS, reproductive health, sexual orientation and gender identity, promotion of peace and democracy, fight against terrorism, and respect for human rights;
4. Refrain from using the fight against terrorism as a pretext to restrict fundamental freedoms, including freedom of religion and conscience, expression, association, assembly and movement;
5. Enact specific laws in conformity with the UN Declaration on Human Rights Defenders, the Grand Bay Declaration and Plan of Action, and the Kigali Declaration, and take the necessary measures for their implementation.

Done in Niamey, Republic of Niger, on 22 May 2017

