

Statement of Hon. Lady Justice Imani D. Aboud, President of the African Court on Human and Peoples' Rights, on the occasion of the opening of the 77th Ordinary Session of the African Commission on Human and Peoples' Rights

20 October 2023

Arusha, United Republic of Tanzania

I am delivering this statement on behalf of Hon. Lady Justice Imani D. Aboud, the President of the African Court, who is unavoidably absent.

- Her Excellency,
- Hon. Chairperson of the African Commission on Human and Peoples' Rights,
- Hon. Commissioners of the African Commission
- Excellencies, representatives of AU Member States
- Distinguished representatives of International Organizations and CSOs
- All protocols duly respected

I wish to welcome all of you, the African human rights family and friends of Africa, to Arusha, the Human Rights and justice capital of Africa, where you also have the seat of the African Court on Human and Peoples' Rights.

I regret not being able to be with you today, but will be joining you in a few days' time. I have however, requested the Registrar of the Court to deliver this statement on my behalf.

Excellencies, dear friends, we are at a crossroads. Human rights in Africa are at a crossroads, and peace and development on the continent are at a crossroads. At times I ask myself as President of the apex Court on the continent whether the question of human rights is really taken seriously; whether we truly understand the crucial role of human rights in the socio-economic and political development of our continent.

The African Commission has as its motto – human rights our collective responsibility. Yes, indeed, human rights should be our collective responsibility. But what have we done? What are we doing? What contribution have we made, individually and collectively, to make this beautiful slogan a reality?

- As an individual what have you done in your community to enhance the cause of human rights.
- As an NGO, what can you concretely say you have done to promote and protect human rights on the continent. How have you engaged your country, for example, in the ratification of human rights instruments; in the deposit of the declaration; in the submission of State reports to human rights bodies, including the Universal Peer Review.
- As AU human rights organs, what have we done to facilitate access to justice for the people. How can we explain the fact that over 16 years since the establishment of the Court, it has received only 6 cases from the African Commission and the Court has transferred only 4 cases to the Commission, 16 years after we are still grappling with the very concept, let alone the implementation of complementarity.
- We all agree that the primary responsibility for the promotion and protection of human rights lies with Member States. But how can Member States live up to this responsibility if they do not ratify human rights instruments. Even those that ratify fail to domesticate. How can we explain the fact that a State will ratify an instrument like the Protocol establishing the Court but refuses individual and NGOs access to the Court. How can we explain the fact that a States fail to submit their State Reports to human rights treaty bodies. How can we explain that States that voluntarily establish these human rights bodies would turn around and refuse to comply with the decisions of these bodies. How can we justify that the President of the Court will have to lead a delegation to Member States to lobby for the ratification of the Protocol establishing the Court.

Excellencies, dear friends, I can go on and on, but these are some of the uncomfortable questions we must ask ourselves, and we must be prepared for the uncomfortable answers to them. Many a times, we do not want to ask these questions because we know the answers, but do not want to be reminded.

My colleagues and I at the African Court are convinced that human rights must be at the center of all our socio-economic and politico-developmental initiatives, and we must work together if this is to be realized.

One of the reasons for the establishment of the African Court was to strengthen the African Human rights system. The argument proffered at that time was that because the decisions of the African Commission were mere recommendations, they had no binding force, and that may explain why States were not complying with them. It was the argument that a Court, a judicial body - would render legally binding judgments that will be enforced.

Alas, that has turned out not to be the case. We have been proven woefully wrong. Of the over 200 legally binding decisions and orders for provisional measures issued by the Court, less than 10% have been complied with. Implementation of a decision is therefore not a matter of whether the treaty body issuing the decisions is judicial or quasi-judicial. It seems, in my view, to be a matter of political will. For a State which has the political will, will implement even the non-binding recommendations of a quasi-judicial body like the African Commission, and a State which does not have the political will, will not implement even the legally binding judgment of the African Court.

Excellencies, this year marks the end of the First Ten Year Implementation Plan of Agenda 2063. An assessment of the implementation of the FTYIP reveals that not much has been achieved. It does not need a magician to tell us that this is not unconnected to the role that was given to human rights in the FTYIP. Aspiration 3 of Agenda 2063 focuses on human rights, but as I have said repeatedly, all the seven aspirations of Agenda 2063 are linked by a single thread – the human rights thread, and as long as we fail to make that connection, the Africa we want in 2063 may not be realized.

Last month, I was privileged to attend a very important High- Level Meeting in Addis Ababa, organized jointly by the AU and UN on the theme '*the nexus between the right to development, human rights and peace*'. The meeting confirmed what we all already know, that there can be no development without human rights, no peace without development and no peace without human rights. We do not need to go far, all the hotspots on the continent today are as a result of a violation or perceived violation of human and or peoples' rights.

In a Retreat of the Executive Council of the African Union on Agenda 2063 held in Kigali from 1-3 October 2023, I emphasized the point that, the Africa we want must be an Africa with a viable human rights culture – an Africa where human rights are

our collective responsibility; an Africa with universal ratification and domestication of human rights instrument, an Africa where Member States voluntarily comply with decisions of human rights institutions, an Africa where the full potential of its citizens is manifested in an environment of free civic space and respect for human rights. Without human rights, the Africa we want, may remain a pipe dream.

I wish you all fruitful deliberations, and as you will be here for a few weeks, please find time to savour the hospitality, cuisine and nature's precious gifts to Tanzania.

Long live Africa

Long Live the African Commission

Asenteni sana.

Shukran

Thank you

Merci

Muito obrigada

Gracias

