



ACHPR
African Commission on
Human and Peoples' Rights

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**81st ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN AND
PEOPLES' RIGHTS**

INTER-SESSION ACTIVITY REPORT

OF

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AS

A MEMBER OF THE AFRICAN COMMISSION;

**THE CHAIRPERSON OF THE WORKING GROUP ON EXTRACTIVE
INDUSTRIES, ENVIRONMENT AND HUMAN RIGHTS VIOLATIONS IN
AFRICA;**

COUNTRY RAPPORTEUR;

THE FOCAL POINT FOR TRANSITIONAL JUSTICE IN AFRICA and

**THE FOCAL POINT FOR HUMAN RIGHTS IN CONFLICT SITUATIONS IN
AFRICA;**

**THE FOCAL POINT FOR THE STUDY ON HUMAN AND PEOPLES' RIGHTS
AND ARTIFICIAL INTELLIGENCE (AI), ROBOTICS AND OTHER NEW AND
EMERGING TECHNOLOGIES IN AFRICA**

May 2024 – Novembre 2024

I Introduction

1. This Report is presented in accordance with Rules 25(3) and 64 of the Rules of Procedure of the African Commission on Human and People's Rights (the Commission) (2020), and in accordance with its **Resolutions: ACHPR/Res 148 (XLVI) 09; ACHPR/Res 236 (LIII) 13; ACHPR/Res 271(LV) 14; ACHPR/Res. 447 (LXVI) 20; ACHPR/Res.467 (LXVII) 20; and ACHPR/Res. 473 (EXT.OS/ XXXI) 21.**
2. The Report, which is presented in seven parts, covers activities carried out, between May 2024 and November 2024 and comprises the following:
 - I. Activities undertaken as a Member of the Commission;
 - II. Activities undertaken as Chairperson of the Working Group on Extractive Industries, Environment and Human Rights;
 - III. Activities undertaken as the Focal Point on Human Rights in Conflict Situation and on Transitional Justice;
 - IV. Activities as Focal Point on the Study on AI, new and emerging technologies and human and peoples' rights
 - V. Activities undertaken as Country Rapporteur
 - VI. Conclusion and Recommendations

II ACTIVITIES UNDERTAKEN AS A MEMBER OF THE COMMISSION

3. From 24 July to 02 August 2024, I participated in the 80th Private Ordinary Session of the African Commission on Human and Peoples' Rights. My involvement encompassed a broad range of activities outlined on the agenda of the session including consideration of communications (human rights complaints against state parties submitted for adjudication by the Commission), concluding observations on state reports, and various reports. Details of activities undertaken during the session are available here in the link. <https://achpr.au.int/en/news/press-releases/2024-08-02/80th-private-ordinary-session>.
4. I participated in the meeting of the Commission involving the ACHPR/Res.590 (LXXX) on the joint fact-finding mission to the Republic of Sudan. This involved a meeting with the Commissioner for Political Affairs, Peace and Security.
5. During the annual All Africa Moot Court Competition organized by the Centre for Human Rights, University of Pretoria in Kigali, Rwanda, I served as a judge in the final round of the moot court competition. I also engaged in promoting the work of the Commission through an interview with Rwanda's main newspaper the New Times.

III ACTIVITIES UNDER THE MANDATE OF THE WORKING GROUP ON EXTRACTIVE INDUSTRIES, ENVIRONMENT AND HUMAN RIGHTS (WGEI)

6. From 15-16 October 2024, in Banjul, The Gambia, I made a presentation in my capacity as the Chairperson of the WGEI in the 1st Pre-Session Forum of State Parties to the African Charter on Human and Peoples' Rights. This session was held with a focus, among others, on the extractive industries, under the caption 'African Continental Forum of State Parties and the ACHPR on Human Rights, statelessness, extractive industries and stakeholders engagement in Africa.'



7. Considering the persistence of legal and institutional gaps and weaknesses that continue to characterise the governance of the extractive industries sector in Africa, my presentation focused on availing detailed analysis of the ways in which the African Commission through the State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter. Accompanying my presentation, the printed copy of the Guidelines and Principles were shared with representatives of States Parties to the African Charter for their reference both in the preparation of their periodic reports under Article 62 of the African Charter and in the updating and adoption of relevant laws and regulatory institutional measures.
8. In the presentation, I identified the range of policy, legislative and institutional measures that the African Charter expects of States Parties for compliance with the standards of the Charter. It underscored that giving effect to the rights and freedoms in the Charter including Articles 21 and 24 of the Charter in the extractive industries sector requires policies and regulatory measures that cover not only mining and oil but also finance, banking, investment, environment and trade. It was noted that it is only through such measures covering all these sectors that the phenomenon of resource curse with its attendant human and peoples' rights deprivations can be reversed and African states can ensure that natural resources serve the human and peoples' rights interests of peoples and host communities, including the improvement of their socio-economic conditions.
9. The presentation outlined how the State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter map in comprehensive terms the contours and contents of the obligations that States Parties bear and the rights of peoples, host communities and individuals vis-à-vis Articles 21 and 24 of the Charter read with other parts of the Charter. In doing so, attention was drawn to the imperative of addressing the range of human and peoples' rights issues that need to be resolved (including those affecting local communities and those relating to breaches of transparency, environmental, labour and fiscal obligations including illicit financial flows) and the imperative of ensuring that conditions are created for the operation of extractive

industries to accrue net benefits to peoples of the country and host communities.

10. I underscored that apart from drawing on the state reporting guidelines and principles on Articles 21 and 24 of the Charter for the updating existing laws and institutional measures and adopting such new measures, states are expected to make use of the guidelines and principles in developing national action plans on business and human rights.
11. The presentation elicited extensive response from States Parties and culminated in productive exchanges. The response from States Parties underscored the strategic importance of this area of work and the need for this work of the Commission to be made further known on the part of member states. Of particular significance was the proposal of member states on the need for elevating the issues highlighted in the presentation to the level of the policy making bodies of the AU. In this respect, emphasis was put on the need for inclusion of the subject to the agenda of the PRC for follow up action with a focus on **the establishment of a continental competence where disputes involving extractive industries are dealt with based on international standards on the African continent to end the assignment of jurisdiction for such disputes to entities outside the continent by excluding any role to national judicial competence**. The discussion also underscored the need for integrating the soft law standards of the WGEI into the process of updating and finalizing the draft AU policy on business and human rights. I count on the collaboration of members of the PRC and the Department of Political Affairs, Peace and Security and look forward to taking the discussion forward with a focus on the areas identified for action and next steps.
12. On 22 October in the context of the ongoing 81st session, I engaged in a side event organized by Kenya Human Rights Commission and Oxfam on **community rights in extractive sector with a focus on sharing and post-mining land use**. During the side event, experiences from countries such as Angola, Kenya and South Africa were shared. It afforded me to share with participants on activities undertaken by the Working Group on Extractive Industries on the subject with a focus on Resolution 337 and the State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter. Based on the exchanges during the event, we have agreed to work on a report providing assessment of where selected countries stand in terms of their legislative, institutional, policy measures and practices judged against the standards set under the State Reporting Guidelines on Articles 21 and 24 of the African Charter.
13. Based on exchanges during the intersession period on following up on activating the process for the development of the regional instrument called for under the resolution of the ACHPR Resolution 550 on business and human rights, I held a meeting on the sidelines of this 81st session with representatives of Lawyers for Human Rights and FIDH to explore

collaboration on how to activate the process. I look forward to the follow up on this and the commencement in 2025 of the process for the development of the regional instrument.

14. In pursuit of one of the longstanding priorities of the WGEI, I initiated a discussion with ICNL to explore collaboration on the development of a web-based tracking, monitoring and reporting software/instrument. I look forward to establish firm collaboration for undertaking this work during 2025. Currently, the WGEI depends on either matters brought to its attention or those it comes across by accident. It does not have its own system of tracking, documenting and reporting on human rights and environmental issues arising in the extractive industries sector. It is this gap that this proposed work is expected to fill in.
15. During the intersession period, I initiated a plan for and worked towards the convening of a panel during the plenary of the ongoing 81st session on a very topical issue of major human and peoples' rights and strategic significance for Africa. This was **the human and peoples' rights impact of the interface between critical minerals and artificial intelligence and other new technology**. The Panel, held on 23 October, focused on the following issues
 - a) Sharing insights from the draft study on the implications of AI and other new and emerging technologies on human and peoples' rights in general and on the mandate of the African Commission in particular;
 - b) Exploring the significance of critical minerals for new and emerging technologies
 - c) Identifying the implications of the growing significance of critical minerals for human and peoples' rights in Africa.
 - d) Analysing the governance challenges arising from the intersection between critical minerals and AI and other emerging tech.
 - e) Explore how the African human rights system can contribute to the advancement of a human rights based governance system that contributes to addressing the human and peoples' rights issues arising from these developments.

Thematic focus during the intersession period

16. During the intersession period, one of the issues that attracted my attention as Chairperson of the WGEI, on which we wish to put particular spotlight as an area deserving of the attention of this Commission, is the interface between extraction of minerals and conflicts in Africa. As such, this brief exposition in the paragraphs that follow aims at highlighting examples that we documented as part of our monitoring during the intersession period.
17. In Sudan, illicit extraction of gold has proliferated, becoming a major source of financing of the ongoing war between the Sudan Armed Forces (SAF) and the paramilitary Rapid Support Forces (RSF). According to the report of the

UN Sudan Sanctions Committee,¹ 'gold continued to be a source of revenue for the warring parties.' It further stated that '[a] governance vacuum and lack of control over the gold industry allowed gold smuggling networks to flourish.' Of significance is the Committee's observation from reports that 'more than 50 per cent of the gold mined in the Sudan was not traded through the formal channels but was smuggled out of the country.' The warring parties sell gold through illicit networks, often smuggling it across borders to finance their military activities. These flows not only deprive the Sudanese economy of revenue but also prolong the conflict. The permissive environment prevailing prior to the war for illicit extraction and smuggling out of Sudan of gold set the fertile ground which, in the context of the eruption of the war, is facilitating and fuelling instability and violence. The control over gold mines and trade routes provides these groups with financial power to sustain their operations. The Armed Conflict Location & Event Data Project (ACLED) reports that these resources have increased the prevalence of conflict and have exacerbated existing tensions in regions such as Darfur and South Kordofan.

18. Similar trends abound in the Sahel region. As one report pointed out, in Mali, Burkina Faso and Niger, a gold boom is offering a new source of funding and potentially even recruits to several armed groups, including jihadists.² In Burkina Faso, for example, mining reportedly contributes 14% of the country's GDP and 75 % of the its export. 93% of the export comes from gold. In the context of the spike in terrorist operations in the country during the past years, regions with gold mines, particularly artisanal gold mining, have increasingly attracted terrorist incursions and the interest of criminal networks and local self-defence groups. At the same time, decisions by authorities to close artisanal mining sites, as an effort to deprive terrorist groups of sources of finance, tend to backfire, as local communities who depend on such mines end up seeking the protection of those groups considered to be terrorists.

19. Manifesting the resource of curse phenomenon that the extractive industries sector in Africa is known for, the discovery and extraction of the rich resource endowments of the Cabo Delgado province of Mozambique, including the Liquefied Natural Gas (LNG) from what is believed to be Africa's largest gas reserve, has been accompanied by the eruption of a terrorist insurgency. Despite its resource riches, Cabo Delgado is one of the most marginalized regions of Mozambique. It was reported that local communities, notably the majority Muslim Mwani and Makua, have largely been excluded from economic opportunities. It is this marginalisation that LNG project magnified and created the vacuum that the terrorist insurgent group took advantage of. When natural gas was discovered in Cabo Delgado in the early 2010s, According to one study,³ '[d]espite the increase in investment in the region, the reality is that, locally, there is a conviction that little has been done in

¹ <https://documents.un.org/doc/undoc/gen/n24/005/64/pdf/n2400564.pdf>

² <https://www.crisisgroup.org/africa/sahel/burkina-faso-mali-niger/repandre-en-main-la-ruce-vers-lor-au-sahel-central>

³ https://scielo.org.za/scielo.php?script=sci_arttext&pid=S0259-01902024000100002

favour of the local population, mostly Muslim.’ This discontent increases social tension and insecurity in the region.’ Beyond existing grievances of marginalization, new layers of grievances emerged when many residents lost their homes and source of livelihood, as they were resettled in new areas far from their farms and fishing areas to give way to resource extraction investments.

20. The foregoing are only few selected cases and by no means representative of the various other situations where natural resource extraction plays major role in conflict. Indeed, we are mindful of other examples ranging from the cases of illicit charcoal trade by Al Shabaab in Somalia to the scramble by insurgent and local militia groups in Eastern DRC over the control of extraction of mines including some critical minerals.
21. These cases signify at the very least two issues. The first is the continuation and contemporary manifestation of how the extraction of resources in an environment of major governance deficits and socio-economic marginalization create the conditions for conflicts. They also show how in conflict situations mineral extraction is used for financing and fuelling. All of these further affirm what the Working Group’s study has already established. As highlighted in the Study, data from ‘the Armed Conflict Location & Event Data Project (ACLED) shows increased conflict (higher prevalence of riots and protests) driven by extractive resources, resource-related clashes and instances of violence against civilians in countries such as Nigeria, Sudan, South Sudan, the DRC and Somalia.’
22. It is of major concern for us, as the Working Group and indeed the African Commission, that extraction of minerals and other resources not only fuels but also at times becomes the site where contestation over whose control and use triggers conflicts. In some instances, this has created a vicious cycle of insecurity and violence, a condition that not only leads to major human and peoples’ rights violations but also the perpetuation of a vacuum of effective governance and the concomitant exploitative, socially and environmentally costly extraction of the resources of the continent.

IV ACTIVITIES UNDERTAKEN AS FOCAL POINT ON HUMAN RIGHTS IN CONFLICT SITUATIONS AND ON TRANSITIONAL JUSTICE AND HUMAN AND PEOPLES’ RIGHTS

23. On 26 July, I undertook a visit to the Rwanda National Memorial Site of the 1994 genocide against the Tutsi in my capacity as Focal Point of the Commission on Transitional Justice and Human and Peoples’ Rights. I also had an interview with Rwanda’s leading newspaper The New Times newspaper. The interview focused on the lessons to be gleaned from

Rwanda's experience and the importance of the work of the African Commission in advancing the cause of prevention of atrocities and justice for those affected by such atrocities, including through channelling the recommendations of the Commission's study on transitional justice.

24. Apart from emphasizing the importance of transitional justice as elaborated in the African Commission's study and the AU TJ Policy, I put particular significance to the role of human rights both for prevention and recovery from the kind of calamitous violence perpetrated in Rwanda. As I put it in the interview, 'human rights standards are a prerequisite for creating the conditions for avoiding and preventing the occurrence of that kind of calamity. That calamity can only happen in an environment where those rights and freedoms do not have a space for their protection and for their enjoyment.' You can find more from the link to the interview here <https://www.newtimes.co.rw/article/18872/news/rwanda/the-world-has-yet-to-learn-from-rwandas-tragedy-says-au-rights-official>
25. On 24 September 2024, in my capacity as Focal Point on Human Rights in Conflict Situations, I, alongside the African Commission's country rapporteur for Sudan Honourable Commissioner Hatem Essaiem, initiated a joint statement condemning in strong terms the atrocities being perpetrated against civilians in El Fasher, where the ongoing conflict has gravely endangered the lives of hundreds of thousands of refugees sheltering in the city. We called on the warring parties to cease all acts of violence against civilians and fully adhere to the principles of International Humanitarian Law, including distinction, necessity, and proportionality. We also reminded the warring parties that they bear full responsibility for any acts of violence committed against civilians and will be held criminally accountable under the relevant rules of international law.
26. We expressed the African Commission's unwavering belief that the Sudanese people have the right to peace and security, as enshrined in Article 23 of the African Charter, and reiterated that there is no justification of any kind for any act of violence targeting civilians.
27. Following a proposal I initiated during the intersession period, on 19 October 2024, in my capacity as Focal Point on Human Rights in Conflict Situations, alongside Honourable Commissioner Hatem Essaiem, the Country Rapporteur on the Human Rights Situation in the Republic of Sudan, we convened a special panel on the human rights situation in Sudan. Experts, including two Sudanese, shared presentations on the state of the human rights situation in the war and their expectations on the steps that should be taken by the ACHPR and the AU as a whole. This provided the opportunity for highlighting the plight of Sudanese during the plenary of the 81st ordinary session and mobilizing attention and engagement on the grave situation, particularly with the participation of states parties to the African Charter.

V. Study on AI, new and emerging technologies and human and peoples' rights

28. It is to be recalled that during the previous inter-session period, in my capacity as the focal point for the study along with Commissioner Topsy Soono convened experts meeting for the consideration and review of the initial draft of the study requested under ACHPR Resolution 473 on AI, robotics and other new and emerging technologies. As a follow up to that, on 30 and 1st October 2024, in my capacity as the focal point for the Study, convened a wider consultation and validation meeting in Kigali, Rwanda.

29. The meeting held with the technical support of the Centre for Human Rights brought together not only experts in the tech industry but also human rights experts and practitioners from the wider human and peoples' rights community as well as national and international experts and representatives. The consultation meeting, apart from enabling receipt of inputs on the draft study from experts from various backgrounds, provided the opportunity to get rich and robust reflections and discussion on the following

- a. Assess the impact of the development and use of AI, robotics, and emerging technologies on the rights of individuals and peoples in Africa, in accordance with the African Charter on Human and Peoples' Rights and other human rights instruments;
- b. Interrogate the interface between these technologies and human and peoples' rights to distil a human and peoples' rights frame of analysis as a basis for addressing the human and peoples' rights issues that these technologies give rise to both generally and in the African context particularly;
- c. Discuss the role and relevance of the legislative materials that the African human rights system, such as the African Charter on Human and Peoples' Rights avail for responding to and establishing a regional governance regime for regulating and addressing the human and peoples' rights issues and the consequences relating to these technologies;
- d. Investigate and illuminate how these technologies affect not only the content and boundaries of the various rights and freedoms enshrined in the African Charter but also the nature and scope of obligations of states parties to the African Charter both at the national level and in their international relations as well as the role of non-state actors particularly the big tech companies;
- e. Identify the various ways through which the mandates and human rights promotion and protection instruments and tools of the African Commission, such as the communications procedure and state reporting as well as special mechanisms, can be leveraged for harnessing the contribution of these technologies for human rights and for mitigating, if not, resolving their adverse impacts;
- f. Develop recommendations to inform the thinking and action of the ACHPR not only in updating its protection and promotion work but also in the tools, and processes that it may wish to put in place for advancing human and peoples'

rights in the context of the rapid advancement and huge impact of these technologies.

30. During the intersession period as part of the work on the human rights implications of AI, robotics and other emerging technology, I sent a submission to the UN Secretary-General in response to the request under UN General Assembly Resolution 78-241 for such submission focusing on lethal autonomous weapon systems. The submission emphasized the a) applicability of international law rules including human and peoples' rights and international humanitarian law, b) the necessity of effective and meaningful human control over lethal autonomous weapons as well as d) accountability and remedy in the event of violations as a result of the deployment of lethal autonomous weapons. This submission drew on existing jurisprudence and soft law instruments of the African Commission including General Comment No 4 on the right to life and Resolution 473, which have been referenced by member states of the AU in their engagement in the UN on the subject of lethal autonomous weapons. The copy of the submission is available in the link here [https://docs-library.unoda.org/General Assembly First Committee -Seventy-Ninth session \(2024\)/78-241-African Commission-EN.pdf](https://docs-library.unoda.org/General_Assembly_First_Committee_-_Seventy-Ninth_session_(2024)/78-241-African_Commission-EN.pdf)

VI ACTIVITIES UNDERTAKEN AS COUNTRY RAPPORTEUR

31. In my capacity as country rapporteur, I continued monitoring the human rights situation in the countries of my responsibility namely Kenya, Nigeria, Seychelles, South Africa and South Sudan. As part of this responsibility, measures initiated during the intersession period include the following.

Kenya

32. On 18th June 2024, in my capacity as the Country Rapporteur on Human Rights in the Republic of Kenya, I issued a statement expressing concern over the proposed tax bill and its potential impact on the citizens of Kenya. I stressed the importance of balancing the government's efforts to generate revenue with the need to protect the socio-economic well-being of its most vulnerable populations. The statement underscored the necessity for the government to engage in meaningful consultations with those affected by these measures, ensuring that the tax reforms align with the principles of the African Charter on Human and Peoples' Rights, particularly in safeguarding citizens' rights.

33. Additionally, I called on the Government of Kenya to uphold the right to peaceful protest, as guaranteed by Article 11 of the African Charter and I urged the immediate release of individuals who were arrested for participating in peaceful demonstrations.

34. On 25 June 2024 I issued a further statement expressing profound concern regarding the ongoing human rights violations and rising tensions associated with mass protests in Kenya, including reports of targeted abductions, the disproportionate use of force by security forces, and other forms of repression. Particularly troubling are allegations involving the use of live ammunition against peaceful demonstrators, resulting in tragic fatalities and severe injuries. Such actions may constitute serious breaches of the rights enshrined in Articles 4, 5, and 6 of the African Charter on Human and Peoples' Rights.
35. Furthermore, I called upon the Government to facilitate a transparent and inclusive dialogue with all relevant stakeholders, including civil society and protestors, to address the root causes of the unrest. The African Commission remains steadfast in its commitment to assisting Kenya in meeting its human rights obligations and in promoting a culture of respect for democratic governance and constitutional order.
36. On 23 July 2024, in my capacity as the Country Rapporteur on Human Rights in the Republic of Kenya, along with Hon. Commissioner Ourveena Geereesha Topsy-Sonoo, Special Rapporteur on Freedom of Expression and Access to Information in Africa, we issued a Joint Letter of Appeal regarding the attacks on journalists in Kenya.
37. In light of the concerns raised, we called upon the Government of Kenya to provide clarification regarding reports of journalists being physically attacked or detained by police while covering recent protests. Specifically, we urged an independent and impartial investigation into the shooting of journalist Ms. Catherine Kariuki on 16 July 2024, and to ensure that perpetrators are held accountable, with appropriate remedies provided to the victims.
38. We further emphasized the critical role of the media as the fourth estate and requested that all necessary measures be taken to ensure that journalists and other media practitioners are able to exercise their profession without fear of reprisal, in an environment conducive to free expression.
39. On 21 August 2024, in my capacity as Commissioner Rapporteur on the Human Rights Situation in the Republic of Kenya, I joined with Honourable Commissioner Rémy Ngoy Lumbu, Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa, and Honourable Commissioner Idrissa Sow, Chairperson of the Working Group on Death Penalty, Extrajudicial, Summary or Arbitrary Killings and Enforced Disappearances in Africa in sending a letter of urgent appeal to the Republic of Kenya.
40. The appeal addresses the alleged disappearances of three human rights defenders: Mr. Bob Michemi Njagi, Mr. Longton Jamil, and Aslam Longton.

These individuals were reportedly abducted by unknown masked men in Kitengela, Kajiado County, on 19 August 2024, shortly after signing a notification for a peaceful protest. We highlighted our concerns that, if true, these disappearances would represent serious violations of the rights to life, dignity, and liberty as enshrined in the African Charter on Human and Peoples' Rights.

41. We urged the Government of Kenya to conduct independent and impartial searches and investigations to locate the missing persons and bring the perpetrators to justice. Additionally, we requested that the Kenyan authorities provide updates on the results of these searches to ensure full compliance with Articles 4, 5, 6, and 11 of the African Charter.

Nigeria

42. As the Country Rapporteur on Human Rights in the Federal Republic of Nigeria, I joined Honourable Rémy Ngoy Lumbu, Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa, in issuing a joint statement addressing our deep concerns regarding the human rights abuses in the context of the protests in Nigeria. We highlighted the tragic incidents that took place on 2 August 2024, where clashes between security personnel and protesters led to the unfortunate loss of at least 13 lives. Such actions, reportedly blamed on law enforcement, may amount to violations of Article 4 of the African Charter on Human and Peoples' Rights concerning the right to life. We reiterated that law enforcement agencies must refrain from the use of excessive force as per the Commission's jurisprudence.

43. In our statement, we urged the Government of Nigeria to respect the right to peaceful protest, as enshrined in Article 11 of the African Charter, to ensure law enforcement agencies adhere to human rights standards, and to conduct independent investigations into the fatalities and violations against journalists. Furthermore, we encouraged dialogue between the government, civil society organizations, and protesters to address the root causes of the protests and adopt appropriate corrective measures.

South Sudan

44. On 4 July 2024 as the Country Rapporteur on the Human Rights Situation in the Republic of South Sudan, I issued a statement expressing deep concern over the recent amendments to the National Security Service Act in the Republic of South Sudan. This followed the parliamentary vote on 3 July 2024, in which the amended National Security Service Bill was passed with 274 votes in favor, 114 against, and 3 abstentions. The amendments, particularly in Articles 54 and 55, significantly expand the powers of the National Security Service, allowing arrests without a warrant. This legislation is now awaiting the President's signature to become law.

45. In response to this development, I reviewed the reports received by the Commission and expressed grave concerns that these measures could lead to arbitrary actions, severely undermining the protection of human rights and the rule of law, as enshrined in the African Charter on Human and Peoples' Rights. I emphasized that key rights, such as the right to personal liberty (Article 6), the right to a fair trial (Article 7), and the freedom of movement (Article 12), could be jeopardized by this legislation.
46. I called on the Government of South Sudan to take immediate action, including urging the President to withhold his signature until the bill undergoes a thorough review to ensure its alignment with the Constitution and the African Charter. I also encouraged the Parliament to reconsider Articles 54 and 55 to ensure that arrest powers are subject to judicial oversight, and I emphasized the importance of public and civil society consultations to promote transparency and inclusivity in the legislative process.

VII Conclusions and Recommendation

47. The various activities undertaken in relation to the WGEI and the review of the periodic review of states parties during the 81st session highlighted the need for **increased engagement in the popularization of the State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter**. They also underscored the importance of taking forward some of the pending priorities of the strategic plan of the WGEI including the development of the web-based for tracking, documentation and reporting tool (tracker) for a systematic gathering, analysis and response to human and peoples' rights and environmental issues arising in the extractive industries in Africa and the activation of the process for the development of the instrument requested in the ACPR resolution 550 on Business and Human Rights.
48. On the discussions that ensued from the presentation to the pre-session meeting with member states, I count on the collaboration of members of the PRC and the Department of Political Affairs, Peace and Security and look forward to taking the discussions forward on **developing a continental platform for adjudication of disputes involving multinational companies on the basis of internationally established standards** at a continental level and the updating and finalization of the draft AU policy on business and human rights in accordance with the jurisprudence and soft law standards of the African Commission on the basis of the African Charter.
49. The intersessional preparation for and the convening of the Panel on the human and peoples' rights implications of the interface between critical minerals and AI and other new/emerging technologies also shows that the human rights issues in the extractive industries are characterized not only by continuity with the persistence of existing patterns of exploitation and abuse

that have long history but also changes indicating new or emerging issues in the context of the socio-economic and technological changes taking place in the world. Apart from continuing to track and address existing patterns of abuse and concerns for human rights, the exchanges in the plenary made clear the need for closer attention and further engagement on critical minerals.

50. With respect to the analysis on the thematic focus of my report, **it is our submission that particular attention is given to address the plethora of human and peoples' rights and environmental issues arising from the intersection of extraction of minerals and other natural resources and conflicts in Africa.** In this respect,

- a. the first matter that should receive consideration is the development of a continental strategy focusing on prevention of natural resource use or extraction from triggering conflicts and ending the illicit extraction and trade of such resources for financing conflicts or creating war economies;
- b. In the various situations where extraction of resources triggered or contributed to the eruption of conflicts and/or where extraction of resources precipitated a war economy, there is a need for integrating natural resource governance measures into the peace-making and peacekeeping initiatives of the AU and other entities, with a particular focus on addressing illicit extraction and trade in minerals and other resources;
- c. Of particular significance from a perspective of the rights of affected communities is the focus that should be given to the protection of communities in the areas of mineral extraction including where illicit extraction of minerals takes place from various kinds of rights abuses and violations, with a focus on the rights of women and children;
- d. Steps particularly for extricating minerals from illicit extraction and trade need to involve regional coordination that secures the full support of states whose territories are used as routes and/or destination of trade in illicitly extracted minerals such as gold;
- e. Finally, territories subjected to a war economy involving illicit extraction and trading of minerals should be designated for internationally monitored and enforced ban against the extraction of minerals, with due regard to the interests of affected communities including those who depend on artisanal mining as source of their livelihood.

51. On the Study on AI and other new and emerging technologies and human and peoples' rights in Africa, I thank those who actively participated, including

members of the African Commission and States Parties, during the Panel Discussion held in the plenary of this session for their contributions. I look forward to the completion of the updating of the draft on the basis of the feedback and rich exchanges during the Kigali consultation and the uploading of the draft on the Commission's website for wider public consultation before its submission to the Commission for its consideration and adoption.

Kenya

52. In the light of reports that as many as 65 people were killed and many others remain unaccounted for, I remain concerned about the lack of the institution of an independent public inquiry into the various violations reported during and in relation to the protests and in holding perpetrators of violations accountable. Apart from my expectation for the establishment of an independent investigative commission of inquiry, I wish to express my hope that the Republic of Kenya would not only heed our request for upholding the right to peaceful protest but also responds to the various letters of urgent appeal sent by the Commission.

53. I also wish to note that we have initiated a request for undertaking promotion mission to Kenya. I very much look forward to an affirmative response from the Republic of Kenya to afford us the opportunity for on the ground engagement with national authorities and other stakeholders on the state of implementation of the African Charter.

Nigeria

54. We look forward to Nigeria's government action on the issues that we raised in the joint statement issued on reports of violations perpetrated in the context of protests held in the country and the need for upholding the right to peaceful protest in Nigeria. In this context, the reported charging of protestors for treason last month not only may amount to excessive restriction to freedom of assembly but also entails a chilling effect on civic rights in Nigeria and on the country's human rights record. Considering that treason charge entails death penalty, I express the Commission's alarm over this matter and its expectations that this measure does not lead to the criminalization of the right to peaceful protest and that the right of those charged to due process of the law is fully respected.

55. I wish to express our hope that the Nigerian government advances social security measures and other mitigating policy steps to address the socio-economic pressures facing people, in view of widely held perception of corruption in the public sector, which prompted the protests. We continue to be concerned by conditions of insecurity in various parts of the country that threaten the rights to life, personal security and social stability in the country. We reiterate our call from earlier statements from incidents of violent security

incidents on the need for addressing both the triggers and underlying causes of the various sources of insecurity in the country.

Seychelles

56. As one of the countries of my rapporteur-ship that is late in submitting its periodic report by more than three reports, I would like to request the Republic of Seychelles to submit its periodic report to avail us the opportunity to engage in constructive dialogue on the state of implementation of the African Charter on Human and Peoples' Rights. I have also initiated a request for undertaking a promotion mission and I look forward to an affirmative response that will enable us to be on the ground for interacting with all stakeholders in the country for a first-hand assessment of the human rights situation in the country.

South Africa

57. I commend the holding of free and fair elections in the Republic of South Africa during the intersession period and congratulate the Republic for the example that its free and credible elections set. I join the expectation of many South Africans that the outcome of the elections will press on national authorities to address the concerns of the public around corruption, poor service delivery and persisting socio-economic deprivations including unemployment and lack of sanitation and poor infrastructure for education in historically disadvantaged areas.

58. The record of the African Commission shows that South Africa is late in the presentation of its periodic report by more than three reports. I would like to take the opportunity to call on South Africa to submit its periodic report in fulfillment of its obligations under Article 62 of the African Charter and presenting the African Commission with the opportunity for engaging in constructive dialogue on the state of implementation of the African Charter in South Africa.

South Sudan

59. I welcome the reported announcement of the Government of National Unity that the Presidency declined to assent to the controversial Articles 54 and 55 of the security law. However, I remain concerned that the Parliament has not proceeded to remove these provisions, creating legal uncertainty and risk of the said provisions being used by security agencies, leading to abuses and violations. The Government of South Sudan is thus urged to revisit the amendments to the National Security Service Act, particularly Articles 54 and 55. Public consultations and input from civil society should be integral to this review, ensuring transparency and alignment with international human rights standards.

60. We commend the peace process in South Sudan being held in Kenya and applaud the participation of various actors in this process. As an effort to bring into the peace fold actors that are not signatories of the 2018 revitalized peace agreement, we affirm the importance of safeguarding and ensuring the implementation of the 2018 peace agreement not only for peace and security but also for other human rights in South Sudan. The Government of National Unity is also urged to create conditions for ameliorating and resolving intercommunal conflicts affecting some parts of the country, leading to various human rights violations and abuses.

61. I also urge the Government of South Sudan to address reports of acts of repression that are leading to the shirking of the civic space and attacks on the media and journalists. I also appeal that the government enhances transparency in the collection and utilization of public revenue and in tackling corruption that has diverted public resources away from social services and from ameliorating the socio-economic deprivations of ordinary Sudanese.

62. As South Sudan has as yet to submit any report under the African Charter, I also wish to use this opportunity to call on the Government of South Sudan to fulfill its Article 62 obligations by presenting its state report and presenting the African Commission with the opportunity for engaging in constructive dialogue on the state of implementation of the African Charter in South Sudan.

In closing and finally

63. I wish to express my gratitude to the Centre for Human Rights for the support that I received during the intersession period particularly with respect to the conduct of the study on AI, robotics and other new and emerging technologies and human and peoples' rights in Africa. I also thank various other civil society organizations notably those from the countries of my responsibility as well as others for their regular engagement and collaboration. My appreciation also goes to States Parties to the African Charter for their willingness to engage and collaborate with us and to national human rights and independent constitutional institutions. I also extend my gratitude to fellow commissioners with whom I collaborated during the intersession period in issuing joint statements and urgent letters of appeal and to the Secretariat for the technical support I received. I look forward to continue and count on the support and collaboration of each and every one of you during the next intersession period.

I thank you for your kind attention!