


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي <i>African Commission on Human & Peoples' Rights</i>		UNIÃO AFRICANA <i>Commission Africaine des Droits de l'Homme & des Peuples</i>
31 Bijilo Annex Layout, Kombo North District, Western Region, P. O. Box 673, Banjul, The Gambia Tel: (220) 4410505 / 4410506; Fax: (220) 4410504 E-mail: au-banjul@africa-union.org ; Web: www.achpr.org		

Final Communiqué of the 59th Ordinary Session of the African Commission on Human and Peoples' Rights

**21 October to 4 November 2016
Banjul, Islamic Republic of The Gambia**

1. In commemoration of the African Year of Human Rights with particular focus on the rights of women, the African Commission on Human and Peoples' Rights (the Commission) and the African Committee of Experts on the Rights and Welfare of the Child (the Committee) organised their 59th Ordinary Session and 28th Ordinary Session from 21 October to 4 November 2016 and 21 October to 1 November 2016, respectively, in Banjul, Islamic Republic of The Gambia.
2. The following Members of the Commission participated in the 59th Ordinary Session:
 - i. Honourable Commissioner **Pansy Tlakula**, Chairperson;
 - ii. Honourable Commissioner **Soyata Maïga**, Vice-Chairperson;
 - iii. Honourable Commissioner **Reine Alapini-Gansou**;
 - iv. Honourable Commissioner **Yeung Kam John Yeung Sik Yuen**
 - v. Honourable Commissioner **Kayitesi Zainabo Sylvie**;
 - vi. Honourable Commissioner **Lucy Asuagbor**;
 - vii. Honourable Commissioner **Med S.K. Kaggwa**;
 - viii. Honourable Commissioner **Maya Sahli-Fadel**;
 - ix. Honourable Commissioner **Lawrence Murugu Mute**;
 - x. Honourable Commissioner **Jamesina Essie L. King**; and
 - xi. Honourable Commissioner **Solomon Ayele Dersso**.
3. The joint ceremony was officially opened by **Honourable Mama Fatima Singhateh**, Attorney General and Minister of Justice representing the Vice President and Minister of Women Affairs of the Islamic Republic of The Gambia.
4. In her opening statement, the Attorney General and Minister of Justice recognized that women across the African continent have come a long way since the inception of the Banjul Charter; and that there have been many obstacles along the way but some have resulted in numerous milestones celebrated. She also noted that, however, many women in Africa continue to be victims of human rights violations, such as domestic violence, customary tradition, many of which fail to acknowledge the rights of women especially in relation to inheritance by women, sexual violence and abuse, equal access to education, and equal sexual and reproductive health services. She also underscored the progress made by the Islamic Republic of The Gambia in the promotion and protection of the rights of women, including through the enactment of the Women's Act of 2010, the Domestic Violence Act 2013, the Sexual Offences Act of 2013, amended the Women's Act in 2015, prohibiting Female Genital Mutilation in The Gambia and amended the Children's Act in 2016, abolishing child marriage. She also hoped that the 59th Ordinary Session would open the platform for fruitful

deliberations whilst celebrating women in all spheres of life for their contribution to society and the continent as a whole.

5. During the opening ceremony, Mrs Hannah Forster, Executive Director of the African Centre for Democracy and Human Rights Studies, speaking on behalf of the NGOs Steering Committee, stated that the NGO Forum considered specific human rights issues relating to the human rights situation in Africa and the rights of women in Africa, and noted some of the positive developments, including the criminalisation of torture, the banning of female genital mutilation, the campaign against early and or forced child marriage and the Campaign on the Decriminalization of Abortion in Africa. She also highlighted the existing challenges and recommended to the Commission to urge State parties to ratify, domesticate and implement the Protocol to the African Charter on the Rights of Women in Africa; and to ensure that women have access to information and services, with the necessary resources which will enable them to contribute more effectively. She reiterated the commitment of the NGO Forum to continue to work in collaboration with the Commission in order to strengthen efforts aimed at promoting and protecting human rights and good governance in Africa. Mrs. Forster concluded by acknowledging the support and contribution of the Commission and other partners in ensuring successful commemorative celebrations.
6. Mrs NIRERE Madeleine, Vice Chairperson of the Network of African National Human Rights Institutions (NANHRI), representing the Members of NANHRI noted the many strides which the African continent under the leadership of the African Union (AU) and its organs has made towards the realization of human rights for all Africans including with the adoption of many human rights instruments, which in many ways are unique and speak to the realities of Africans. She also urged State Parties, to put in place structures to work with different actors for the realization of human rights and in particular, with National Human Rights Institutions (NHRIs) within a conducive environment as well as provide them with adequate support. She further noted the commitments of the AU and its organs to prioritize the mainstreaming of the participation of women and youth in all the actions of the Union in the Continent and urged all parties to contribute to the realization of women's rights as provided in the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa (Maputo Protocol) and other similar instruments. She also highlighted the many challenges that hinder the realization of human rights in the continent particularly the issue of democratic governance and called on the AU to utilize its powers to secure member states commitment to democracy, the rule of law and constitutional government. She reiterated the commitment of NHRIs to work with all the AU organs and institutions to address the challenges facing the realization of human rights in the continent within the framework of the Memorandum of Understanding signed between NANHRI and the African Union Commission (AUC) in March this year.

7. Honourable Susan Shabangu, Minister of Women in the Presidency of the Republic of South Africa, representing the African Union Member States, highlighted that the declaration of 2016 as the "Year of Human Rights, with Particular Focus on the Rights of Women" though necessary is not sufficient to ensure gender equality and women's empowerment. Additionally the conventions, declarations, protocols and policies adopted by the Heads of States must be implemented and periodically assessed to evaluate their impact on women. She also highlighted the multitude of barriers faced by women and girls in Africa which affects the full enjoyment of their human rights. She also recognized some of the efforts taken in Africa such as Agenda 2063 and the legislative, policy and other measures taken in South Africa to promote and protect the rights of women and girls. She concluded by reiterating the continuous phenomenon of violence against women in South Africa and the steps the Government is taking to tackle the problem.
8. Prof. Daniel Makiesse Mwana wa Nzambi, Acting Chairperson of the African Union Commission on International Law, indicated that the 59th Ordinary Session of the African Commission on Human and Peoples' Rights provided an exceptional opportunity to underscore three main issues, namely: the situation of humanity prior to the collective commitment in favour of women's rights; the global watershed with the recognition of women's rights; and the momentum of community promotion of women's rights in the context of humanity's development. He further added that without women's inclusion in implementation activities, in particular regarding development goals and the Agenda 2063, it would be difficult to achieve the desired results. He ended by underscoring that the world's development can only be achieved through the promotion of women and their involvement in the implementation process.
9. The Chairperson of the African Union Advisory Board on Corruption, Honourable Daniel Batidam in his intervention, he thanked the Commission for the invitation and noted that this was his maiden attendance to the Commission's session in his capacity as the Chairperson of the African Union Advisory Board on Corruption (AUABC). He also thanked the Commission and the other organs and Departments of the AU that worked together to organize the joint session. He also stated that women constitute more than half of Africa's population; yet, they are still relegated to the background, and remain a minority at the public policy, the private and public work-force and decision making levels across the continent. That the African Union theme for this year, is a clarion call for all Africans and friends of Africa to promote and support human rights in general, and the rights of women in particular. He further stated that collective responsibility for human rights explain why the African Commission on Human and People's Rights was one of the key stakeholders that facilitated the process leading to the establishment of the African Union Advisory Board on Corruption, with the goal to tackle the gross violation of socio-economic rights in

Africa. He concluded by urging all participants to contribute their ideas and suggestions on how best to promote and protect human rights in general and women's rights in particular, in Africa.

- 10.** Honourable Justice Sylvain Oré, President of the African Court on Human and Peoples' Rights, began his statement by indicating that the meeting in Banjul of the three main organs responsible for human rights protection and promotion on the continent was undeniably a strong signal. He however called for a self-introspection rather than a passionate celebration. He noted that in spite of the massive ratification of the Maputo Protocol on the rights of women, expectations about the volume of litigation have been disappointing. This finding is disappointing in view of the serious violations experienced by African girls and women. He further expressed concern at the lack of a well-defined and structured mechanism for the enforcement of the decisions of African human rights organs. He underscored the responsibility of States in realising the full enjoyment of rights by giving priority to the establishment of effective monitoring and implementation mechanisms. He encouraged States to ratify the various human rights instruments, in particular the Protocol on the establishment of the African Court and insisted on the importance for States to make the Declaration under Article 34(6) of the Protocol. He also reiterated the importance of the complementarity between the various organs, towards an effective protection of populations. He concluded by assuring that the African Court is committed towards complementarity, and towards a future where the authority of human rights organs is respected and where human rights prevail.
- 11.** In his statement, the second Vice-Chairperson of the African Committee of Experts on the Rights and Welfare of the Child, Mr. Joseph Ndayisenga reiterated that the rights of the child are an integral part of human rights; hence the adoption of the African Charter on the Rights and Welfare of the Child, which provides for a Committee in charge of monitoring its implementation. He stated that the Committee has undertaken tremendous work, including the examination of 38 periodic reports on the implementation of the Charter, received about ten communications, conducted investigation missions in certain States Parties, adopted general comments to guide Member States and stakeholders on the implementation of certain articles of the Charter, undertook studies and research on various themes relating to the rights and welfare of the child and prepared an African Agenda on the Rights and Welfare of the Child for the next 25 years called "Agenda 2040". He also pointed out that Children in Africa cannot be fully protected unless the African Charter on the Rights and Welfare of the Child is ratified by all Member States and urged Member States that have not yet ratified the Charter to accelerate the process in order to provide

the guaranteed protection to children living in their territory. He also stated that children continue to face several challenges, in particular violence, abuse, trafficking, harmful traditional and other practices. He concluded by calling on everyone to protect the rights of children and guarantee their wellbeing.

12. H.E. Dr Nkosazana Dlamini Zuma, Chairperson of the African Union Commission in her statement read by Dr Aisha Laraba Abdullahi, Commissioner for Political Affairs stated that the vision of a peaceful, united and prosperous Africa set out in Agenda 2063 can be achieved through sound planning and results-oriented policies and actions. That the realization of our common vision of a united and prosperous Africa anchored on a culture of human rights as envisaged by Agenda 2063 requires our common resolve. She emphasized that the African Human Rights system is structured in such a way that it protects human and the collective rights of people. That though civil and political rights remain a challenge in Africa, the biggest challenge relates to the promotion and protection of socio-economic and cultural rights. These require us to focus on how best to advance rights that address underdevelopment, poverty, inequality, marginalisation and exclusion on our continent as we make concerted efforts towards effective implementation of Agenda 2063: The Africa We Want. She also stated that in order to promote gender equality as we advance these socio-economic rights, we need to make deliberate efforts to empower African women socio-culturally, politically and economically. That the role of women and youth in the promotion and protection of Human and People's Rights in Africa is therefore instrumental in realizing the aspirations of Agenda 2063. That another important milestone was the Decision of the AU Summit in January 2011 to establish a Pan-African Governance Architecture and its Platform to support Member States in their efforts to promote democratic governance, constitutionalism and rule of law, democratic elections and human rights at the national level. She also sought the support of the Commission to explore the possibility of issuing a recommendation to support the Declaration by our Heads of State and Government of 2017 as the year of youth in Africa under the theme "*Harnessing the Demographic Dividend through Investments in Youth*".

13. In her opening statement, the Chairperson of the Commission, Commissioner Pansy Tlakula, gave a background to the historic nature of the 59th Ordinary Session. She stated that this ordinary session marking the commemoration of the 30th anniversary of the African Charter, presented an opportunity to reflect on the achievements made since its adoption and the challenges that impeded the effective realization of the rights enshrined therein. That some of these achievements include the establishment of the African Commission almost thirty years ago, the establishment of other organs and institutions with a human rights mandate, such as the African Court and others that were represented during the opening of the session as well as mechanisms to coordinate the activities of these organs. She also stated that the AU has adopted a number of human rights

instruments to enhance the enjoyment of human rights and Agenda 2063, which is a Pan African Vision of the Africa We Want in 2063. She further highlighted a number of declarations, principles, guidelines and general comments adopted by the Commission to elaborate the meaning and scope of the rights provided for in the African Charter as well as the significant progress made in the promotion and protection of human rights on our continent, particularly civil and political rights. She stated that despite the above achievements, a lot still remains to be done and African leaders have to take urgent measures to address the challenges that are facing our countries. She concluded by reiterating the essential objectives of the African Charter -freedom, equality, justice and dignity which should guide us to the Africa we want to enhance the protection of human rights in Africa.

14. Honourable Commissioner **Pansy Tlakula** presided over the 59th Ordinary Session.

15. A total of **five hundred and eighty-one (581)** Delegates participated in the 59th Ordinary Session; with one hundred and twenty-nine (129) representing twenty-six (26) Member States, thirty-one (31) representing the African Union and its Organs, thirty-nine (39) representing National Human Rights Institutions (NHRIs), thirteen (13) representing international and inter-governmental organisations, two hundred and ninety-eight (298) representing non-governmental organisations (NGOs), and forty-five (45) representing other observers and the media.

16. During the 59th Ordinary Session, the Commission organised and facilitated the following events:

- i. A Human Rights Dialogue; and
- ii. An Intergenerational Dialogue on human rights issues affecting the Youth.

17. In contribution towards strengthening the Rights of Women in Africa, the ACHPR's Special Mechanisms also organized the following panels:

- i. Panel by the Special Rapporteur on the Rights of Women in Africa;
- ii. Panel by the Working Group on Indigenous Populations/Communities in Africa;
- iii. Panel by the Special Rapporteur on Refugees, Asylum Seekers, Migrants and Internally Displaced Persons;
- iv. Panel by the Committee for the Prevention of Torture in Africa;
- v. Panel by the Working Group on Extractive Industries, Environment and Human Rights Violations;
- vi. Panel by the Working Group on Economic, Social and Cultural Rights;
- vii. Panel by the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa;

- viii. Panel by the Committee on the Protection of the Rights of People Living With HIV (PLHIV) and Those at Risk, Vulnerable to and Affected by HIV;
- ix. Panel by the Special Rapporteur on Freedom of Expression and Access to information;
- x. Panel by the Special Rapporteur on Human Rights Defenders;
- xi. Panel by the Working Group on the Rights of Older Persons and People with Disabilities; and
- xii. Panel by the Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary Killings in Africa.

18. Representatives of the following **twenty-four (24)** States Parties made statements on the human rights situation in their respective countries: Republic of Angola, Republic of Burkina Faso, Republic of Cameroon, Republic of Chad, Republic of Côte d'Ivoire, Democratic Republic of Congo, Arab Republic of Egypt, State of Eritrea, Federal Democratic Republic of Ethiopia, Islamic Republic of the Gambia, Republic of Ghana, Republic of Kenya, Kingdom of Lesotho, Republic of Liberia, Republic of Malawi, Islamic Republic of Mauritania, Republic of Niger, Federal Republic of Nigeria, Republic of Senegal, Republic of South Africa, Republic of The Sudan, Kingdom of Swaziland, Republic of Togo and Republic of Uganda.

19. Representatives of National Human Rights Institutions (NHRIs) of Côte d'Ivoire, Niger, Kenya, Liberia, Rwanda, South Africa, Sudan and Uganda made statements on the human rights situation in their respective countries.

20. **Thirty-five (35)** NGOs having Observer Status with the Commission also made statements on the human rights situation in Africa.

21. The Commission discussed the status of its relationship and cooperation with National Human Rights Institutions (NHRIs) and Non-Governmental Organizations (NGOs).

22. The Commission presented an update on the status of submission of NHRIs periodic reports.

23. The Commission granted Observer Status to the following **six (6)** NGOs in accordance with the Resolution on the Criteria for Granting and Enjoying Observer Status to NGOs Working in the Field of Human and Peoples' Rights:

- i. Kenya Legal and Ethical Issues Network on HIV/AIDS;
- ii. National Coalition of Human Rights Defenders – Kenya;
- iii. Tshwaranang Legal Advocacy Centre; South Africa;
- iv. The Great Lakes Initiative for Human Rights and Development;
- v. The International Center for Not-for-Profit Law [USA]; and
- vi. La Clinique Juridique d l’Université de Goma.

24. To date, the Commission has granted Observer Status to **five hundred and four (504)** NGOs.

25. The Commission presented an update on the status of submission of State Parties periodic reports. In accordance with Article 62 of the African Charter and Article 26 of the Maputo Protocol, the Commission considered the periodic reports of the following two (2) State Parties:

- i. Republic of Mauritius; and
- ii. Republic of Côte d’Ivoire.

26. The following Members of the Commission presented their reports on activities undertaken during the intersession period in their capacities as Commissioners, as well as reports of their various subsidiary Mechanisms:

- i. Chairperson of the Working Group on Communications;
- ii. Special Rapporteur on Freedom of Expression and Access to Information;
- iii. Chairperson of the Working Group on Indigenous Populations/Communities in Africa;
- iv. Special Rapporteur on the Rights of Women in Africa;
- v. Special Rapporteur on Human Rights Defenders;
- vi. Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa;
- vii. Special Rapporteur on Refugees, Asylum Seekers, Migrants and Internally Displaced Persons;
- viii. Chairperson of the Working Group on the Rights of Older Persons and People with Disabilities;
- ix. Chairperson of the Working Group on Extractive Industries, Environment and Human Rights Violations;
- x. Chairperson of the Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary Killings in Africa;
- xi. Chairperson of the Committee for the Prevention of Torture in Africa;
- xii. 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; and

xiii. Chairperson of the Working Group on Economic, Social and Cultural Rights.

27. The Commission considered and adopted the following documents:

- i. Concluding Observations on the Periodic Report of the Republic of Mali;
- ii. Report of the Promotion Mission to the Republic of Senegal;
- iii. Status of Allotment (2016 Budget);
- iv. 2017 Budget; and

28. The Commission considered and made observations on the following documents:

- i. Draft Joint General Comment on Child Marriage (ACHPR and ACERWC);
- ii. Concluding Observations on the Periodic Report of Burkina Faso;
- iii. Draft Principles and Operational Standards for Policing of Assemblies by Law Enforcement Officials in Africa; and
- iv. Draft Guidelines on Freedom of Association and Assembly in Africa.

29. The Commission decided that it would participate in the Arusha Meetings in November and would be represented by the following Commissioners:

- i. Commissioner Med. S.K. Kaggwa; and
- ii. Commissioner Maya Sahli Fadel.

30. The Commission adopted the following ten (10) Resolutions:

- i. Resolution on the Appointment of an Expert Member to the Working Group on Indigenous Populations/Communities in Africa;
- ii. Resolution on the Appointment of an additional Expert Member of the Working Group on Economic, Social and Cultural Rights in Africa;
- iii. Resolution on Developing Reporting Guidelines with respect to the Extractive Industries;
- iv. Resolution on the Human Rights Situation in the Federal Democratic Republic of Ethiopia;
- v. Resolution on the Human Rights Situation in the Republic of Burundi;
- vi. Resolution on the Human Rights Situation in the Democratic Republic of Congo;

- vii. Resolution on the Human Rights Situation in the Gabonese Republic;
- viii. Resolution on the Human Rights Situation in the Islamic Republic of The Gambia;
- ix. Resolution on the Right to Freedom of Information and Expression on the Internet in Africa; and
- x. Resolution on the need to Develop Guidelines on Policing and Assemblies in Africa;
- xi. Resolution on the Criteria for Granting and Maintaining Observer Status to Non-Governmental Organizations working on Human and Peoples' Rights in Africa.

31. The Commission considered **fifteen (15)** Communications:

- i. Thirteen (13) Communications on Seizure: eleven (11) were seized, two (2) were not seized, three (03) requests for Provisional Measures were granted and one (01) was deferred;
- ii. Two (2) Communications on Admissibility: One (1) declared admissible and (1) declared inadmissible.

32. The Commission also provided guidance on **six (6)** Communications and on issues relating to the transmission of documents to State Parties in the AU working languages.

33. The Commission considered and adopted the following:

- i. The Report of the Chairperson on the 27th AU Summit;
- ii. Update on Partner Support; and
- iii. The Report of the Secretary to the Commission.

34. The Commission decided to undertake promotion missions to the following countries:

- i. Islamic Republic of Mauritania, 15 to 21 December 2016; and
- ii. Federal Republic of Nigeria, 21 to 30 November 2016.

35. The Commission decided to hold its 21th Extraordinary Session from 23 February to 4 March 2017.

36. The Commission decided to hold its 60th Ordinary Session from 8 to 22 May 2017 in Niamey, Republic of Niger.

37. The Commission expresses its appreciation to all participants and partners who contributed at various levels to the successful organisation and conduct of the 59th Ordinary Session.
38. The Commission expresses its profound gratitude to the Government of the Islamic Republic of The Gambia for accepting to host the Session and for providing the Commission with the necessary facilities which greatly contributed to the smooth conduct and success of the Session, and for the warm welcome and hospitality extended to participants at the 59th Ordinary Session.
39. The closing ceremony of the 59th Ordinary Session was held on 4 November 2016 in Banjul, Islamic Republic of The Gambia.

Done in Banjul, Islamic Republic of The Gambia, on 4 November 2016