

Chapter Three

Third Annual Activity Report of the

African Commission

October/November 1989 - April 1990

I. Organisation of work and any other business

A. Period Covered by the Report

1. The Second Activity Report of the African Commission on Human and Peoples' Rights was adopted by the Commission on 14th June, 1989 in Banjul. It covered two ordinary sessions (Cairo, 17-26 October 1988 - Benghazi 3-14 April 1989) and one extraordinary session (Banjul, 13-14 June 1989.). The report was adopted by the twenty-fifth session of the Assembly of Heads of State and Government of the OAU by its Resolution AHG/188 (XXV).

This report, the third one, relates to the sixth and seventh ordinary sessions (Banjul), 23 October - 4 November 1989 and 18-28 April 1990

B. Status of Ratification

2. Mozambique has become the 40th State Party. It acceded to the Charter on 22nd February, 1989 and deposited its instrument of accession on 7th March 1990.
3. The list of States that have ratified or adhered to the African Charter is attached to this Volume as Appendix III.
4. The Chairman has on behalf of the Commission re-written to all non States Parties urging them to ratify the African Charter on Human and Peoples' Rights. (The letter dated 21 February 1990 is contained in Annex I of the present report).

C. Session and Agenda

5. The Commission has held two Ordinary Sessions since its Second Activity Report was adopted:
 - the Sixth Ordinary Session was held in Banjul, The Gambia from 23rd October to 4th November 1989;
 - The Seventh Ordinary Session was held in Banjul, The Gambia from 1st to 28th April 1990.The Agendas of both sessions are attached to this Report as Annexes II and III.

D. Composition and Participation

6. The composition of the African Commission on Human and Peoples' Rights has changed. Mr. Umozurike was elected in July 1989 to serve the remaining period of Mr. Ibingira who resigned. The list of members of the Commission is attached to this Report as Annex IV.
7. Attendance at sessions has been as follows:

- All Commissioners attended the Sixth Session,
- at the Seventh Ordinary Session, Messrs Alioune Blondin Beye, Alexis Gabou and M. D. Mokama were absent with apology.

E. Chairman, Vice-Chairman and Secretary of the Commission

8. The mandate of the Chairman, Mr. Isaac Nguema and Vice-Chairman, Dr. Ibrahim Ali Badawi expired.
9. At its Sixth Session, the Commission went ahead with the election of its office bearers on the 24th October, in accordance with Article 17 of the Rules of Procedure of the Commission, the following were elected as members of the bureau:
 - Prof. U. O. Umozurike, was duly elected Chairman of the Commission
 - Mr. A. Gabou was duly elected as Vice-Chairman.
10. Taking the chair, Professor Umozurike thanked the members for electing him and Mr. Gabou as Chairman and Vice-Chairman respectively, and pledged to work hard in order to rise to the expectations of members. He paid tribute to Mr. Nguema for his total devotion and commitment in conducting the affairs of the Commission during its formative days, a task which was obviously very delicate and most demanding. He promised to carry on from where Mr. Nguema had stopped, and counted on the members for the necessary support in trying to achieve the set objectives of the Commission.
11. Mr. Ngabishema Mutsinzi continues to be the Secretary of the Commission.

F. Other Business

Matters relating to Situation of Human Rights in Africa

12. In the course of the general discussions, the African Commission on Human and Peoples' Rights dwelt on the situation of human rights and freedoms in certain African countries. It expressed its heartfelt satisfaction at the release of Nelson Mandela and the Independence of Namibia which has become the 51st Member State of the OAU since 10 April 1990.
13. It approved the messages of support and solidarity issued on these occasions by the Chairman of the Commission.
14. It expressed the hope that the people of South Africa will continue the struggle in unity and solidarity until apartheid is totally dismantled and a democratic and non-racial society emerges.
15. During the in-depth and serious discussions, members of the Commission unanimously expressed their grave concern about the situation of human and

peoples' rights in Africa. All African countries should take this concern into account with a view to ensuring the rule of law in each State. This was the solemn pledge made by African countries when they instituted and adopted a Charter which guarantees *inter alia*, the right to life, the inviolability of the human being, the security of the person, the right to be tried within a reasonable period by an impartial court or tribunal, the right of each citizen to participate freely in the government of his country etc.

16. However, mass media reports have proved that certain African countries had deliberately violated this solemn pledge.

17. The African Commission issued a solemn and strong appeal to these countries to immediately take all necessary measures to put an end to that.

18. It gave mandate to its Chairman to approach these countries and the authorities of the OAU on that matter with a view to verifying these information and reporting to the Commission at its next session.

G. Adoption of the Activity Report

19. On 28th April 1990, the Commission considered the draft of this third Activity Report. After discussions resulting in amendments, the Activity Report was adopted by the Commission.

II. General remarks of the Commission

A. Promotional Activities

(a) Seminars

20. In keeping with the Programme of Action, members of the Commission attended seminars which are listed in Annex V.

(b) Publications

- On the issue of publications, the Commission noted with concern that the General Secretariat has not published the first and second annual activity reports of the Commission apparently because of lack of funds. For making up for that situation, the Commission sought the help of the United Nations Centre for Human Rights in Geneva whereby the Centre had promised to help the Commission with the publication of 2000 copies of these reports.
- The Centre has graciously agreed also to publish and circulate, as UN documents, some of the documents containing information on the Commission, notably the text of the African Charter and the Rules of Procedure of the Commission.
- At present, the Commission prepares to launch the first edition of its own publication "The African Review on Human and Peoples' Rights", using contributions provided by the UNESCO and the Commission of the European Community.

(c) Observers

21. In pursuance of Rules 76 and 77 of its Rules of Procedure, the Commission has granted certain non-governmental organisations observer status.
22. The NGOs which have so far been granted observer status are in the list attached to this Volume as Appendix VI.

III. Periodic Reports

23. The Great Socialist Peoples' Libyan Arab Jamahiriya was the first State Party to submit a periodic report in accordance with Article 62 of the Charter. This report will be examined at the next session.

IV. Consideration of Communications

B. Protective Activities

24. Since its beginning, the Commission received and considered 105 communications of which 16 are directed against States Parties to the Charter.
25. With the view to continuously improving the handling of communications, the Commission instructed its Secretary as to explore ways and means which should be followed in processing complaints.

V. Next Sessions

26. Dates and venues of the next sessions will be determined in consultation with the OAU General Secretariat.

Annexes

Annex I.

Ratification of the African Charter on Human and Peoples' Rights

Hs Excellency
President of the Republic of

African Commission on Human and Peoples' Rights
PO Box 673, Banjul
The Gambia

21 February, 1990

May I recall, Your Excellency, that the African Charter on Human and Peoples' Rights was adopted by the Assembly of African Heads of State in Nairobi in 1981 and came into force on 21 October 1986. The Commission of the African Charter on Human and Peoples' Rights was inaugurated on 2 November 1987 and has been doing its best to carry out the responsibilities vested on it by the Charter.

As we go through the latest list of ratification, we notice that your Excellency's State is not yet included. This does not imply that you are not concerned with the activities of the Commission. Your Excellency's State helps to fund the Commission through its contributions to the OAU; it considers the annual reports and through the Assembly and Secretariat generally exercises control over the Commission. What remains therefore is to formally recognise your interest, obligations and responsibilities under the Charter.

The Charter is considered to reflect the hopes of African people for a fuller and better life in which their States accept to observe certain minimum standards of treatment for their citizens. The Charter incorporates authentic African philosophy on human and peoples' rights which are regarded as unique in the doctrine of human rights. I am convinced, Your Excellency, that it will be in furtherance of Your Excellency's State's role in Africa to ratify the Charter and give formal recognition to the activities you are already performing in furthering the promotion and protection of human rights in Africa. This hope is well-founded and I crave for your Excellency's personal intervention in the matter.

I have the honour to be.

Prof. U. O. UMOZURIKE, Chairman,
African Commission on Human and Peoples' Rights

ANNEX II

Agenda of the sixth ordinary Session (23 October - 4 November 1989)

1. Opening Session
2. Election of Bureau
3. Adoption of Agenda
4. Organisation of Work
 - (a) 10 hrs - 13 hrs; 16 hrs - 18.30 hrs
- Friday 27th October Afternoon - Free; Saturday 28th October Afternoon - Free
- 1st November - Working Session; 3rd November - Working Session
 - (b) Appointment of Rapporteur
5. Action by the 25th Session of the Assembly of Heads of State and Government on the 2nd Activity Report of the Commission.
6. Report of the Activities of the Chairman and members of the Commission during the Intersession period.
7. Consideration of Communications.
8. Promotional Activities; Publications and Distribution.
9. Question of observers.
- 10' Questions relating to the Headquarters.
11. Relations between the Commission and the African Centre for Democracy and Human Rights Studies.
12. Consideration of the Report on Privileges and Immunities of Commissioners.
13. Any Other Business.
14. Date, Venue and Draft Agenda of the 7th Session.
15. Adoption of the Report of the Session.
16. Final Communiqué.

ANNEX III

Agenda of the seventh ordinary Session (18 - 28 April 1990)

1. Opening Session
2. Adoption of Agenda
3. Organisation of work
4. Appointment of Rapporteur
5. Matters arising from the last meeting
6. Consideration of national periodic reports
7. Reports of activities of the Chairman, Members and Secretary of the Commission during the Intersession:
 - a) Report of the Chairman; b) Report of Members; c) Report of the Secretary
8. OAU Convention on Privileges and Immunities:
Privileges and Immunities of Members of the Commission
9. Organisation of the activities of the Commission:
 - a) Protective activities; b) Promotional activities
10. Consideration of the Rules of Procedure
11. Report on the activities of the OAU relevant to the Commission
12. Annual Activity Report
13. Observers
14. Draft Budget of the Commission
15. Any Other Business
16. Date, Venue and draft agenda of the 8th Session
17. Adoption of the Report of the Session
18. Final Communiqué

ANNEX IV

List of members of the Commission

1. Prof. U. Oji Umozurike, Chairman
2. Alexis Gabou, Vice-Chairman
3. Alioune Blondin Beye, Member
4. Ali Mahmoud Buhedma, Member
5. Dr. Ibrabim Ali Badawi El Sheikh, Member
6. Sourahata Baboucar Semega Janneh, Member
7. Justice Robert Habesh Kisanga, Member
8. Moleleki D. Mokama, Member
9. C. L. C. Mubanga-Chipoya, Member
10. Youssoupha Ndiaye, Member
11. Isaac Nguema, Member

Secretary to the Commission: Ngabishema Mutsinzi

ANNEX V

Seventh Session of the African Commission on Human and Peoples' Rights

Intersession activity Report of the Chairman
of the African Commission on Human and Peoples' Rights
November 1989 - April 1990

1. Three members of the Commission - Mr. R. H. Kisanga, Mr. I. Nguema, and Prof. U. O. Umozurike - attended a symposium on the Judiciary and Human Rights organised in Banjul by the African Society of International Law in collaboration with the African Commission on Human and Peoples' Rights and the African Centre for Democracy and Human Rights Studies. Prof. Umozurike delivered a paper on **Autochthony in the African Charter**.
2. The Chairman addressed staff and students of the University of Lagos on the African Commission on 5 December 1989.
3. The Chairman issued a statement on the 10 December 1989 to mark the 41st Anniversary of the Universal Declaration on Human Rights.
4. On 5 January 1990, the Chairman issued a call to Nigerian non-goveenmental organisations to seek observer status with the African Commission on Human and Peoples' Rights.
5. Six members of the Commission - Mr. R. H. Kisanga, Mr. Y. Ndiaye, Dr. A. Gabou, Mr. I. Nguema, Mr. S. Semega-Janneh and Prof. U. O. Umozurike - attended a Seminar organised jointly in Costa Rica by the Inter-American Institute of Human Rights, Inter-American Court of Human Rights and Inter-American Commission on Human Rights on 8-12 January 1990. All the Members participated in discussions on the Inter-American Commission and African Commission.
6. On 16 January 1990, the Chairman paid a courtesy call on the Nigerian President, General Ibrahim Babangida.
7. The Chairman attended the Ministerial Council of African Foreign Ministers held in Addis Ababa 19-24 February 1990 and delivered an address. He and the Secretary held discussions with the Secretary-General of the OAU and observed the deposit of instruments of ratification of the African Charter by the Republic of Malawi and addressed letters to Heads of State that have not yet ratified the Charter.
8. The Chairman attended the Meeting of the UN Commission on Human Rights held in Geneva and delivered an address on 9 March 1990. He held discussions

with the officials of the Commission on the requirements of the African Commission.

9. Four Members of the Commission - Mr. B. Beye, Mr. R. H. Kisanga, Dr. A. Gabou and Prof. U. O. Umozurike - attended the Afro-European Conference on Human Rights organised in Strasbourg by the Friedrich Naumann Foundation on 26-30 March. The Chairman delivered a paper on "the working of the African Commission on Human and Peoples' Rights". The Commissioners discussed co-operation the African Commission and their European counterparts.
10. The Chairman addressed a letter to President Nujoma on the occasion of Namibia's Independence.
11. The Chairman received an application by the Catholic Commission for Justice and Peace in Zimbabwe for observer status dated 13 March 1990.

Presentation of the 3rd Activity Report

**by the Chairman of the Commission, Professor U. O. Umozurike
to the 26th Session of the Assembly of Heads of State and Government of
the Organisation of African Unity (9 - 11 July, 1990)**

Your Excellencies,

I have the honour to present to you the third activity report' of the African Commission on Human and Peoples' Rights. May I seize this opportunity to thank Your Excellencies for considering me worthy enough to be a member of the African Commission. On my election as the Chairman of the Commission by my colleagues in October 1989, I promised to carry on from where my illustrious predecessor, Mr. Isaac Nguema, stopped and urged for their co-operation and dedication. I am pleased to report that the Commission has been doing its best in setting out its procedures and in acquiring the necessary tools for its work.

Our responsibilities are broadly two-fold: protective and promotional. We commenced the procedure in respect of the 16 complaints made against Member States and in some respects our mere intervention was enough to secure the human rights of the persons affected. We also dealt with communications relating to our work generally.

Our promotional responsibilities are very wide but we have not the resources for them. Our facilities in some respects are still rudimentary. We have no library yet. We are therefore seeking help in acquiring the facilities, to enable us perform effectively.

Presently, 40 States have acceded to or ratified the Charter. May I respectfully urge members that have not yet done so, to give serious consideration to the matter in order to make the Charter a truly African document. May I remind you that such members already contribute to maintain the African Commission through their regular contributions to the OAU; they join in electing the Commissioners and in discussing the reports; they join in exercising general supervision of the Commission which is now an organ of the OAU. All that is left is for the members to assure their own citizens the benefits of the Charter. All States in the international community are already bound by the international customary law principle of respect for human rights. The Charter is a commitment to sister African States that those rights and obligations will be respected in every state in the spirit of African brotherhood.

We have made several recommendations to Member States which I crave your indulgence to let me recount here:

- (a) To incorporate the Charter in national legal systems as required by Article I of the Charter.
- (b) To promote the Charter through incorporating it at all levels of the educational systems.
- (c) To form or encourage national or regional bodies interested in human rights.
- (d) To conduct regular broadcasts on the Charter.

- (e) To observe 21st October as African Day on Human and Peoples' Rights. The Charter came into force on 21st October 1986.
- (f) To render reports every two years on the steps members are taking to implement the Charter.

The African Charter is more ambitious than the European and American Charters that preceded it, even though it does not incorporate the court system. The implementation of the first generation of rights, e.g. the right to free movement, assembly, thought, the right to life, etc. mainly requires governments to refrain from interfering with the dignity and liberty of individuals and may be readily observed in a democratic set-up no matter its peculiarities. However, the implementation of the second generation of rights, such as the right to work, to education, to free medical treatment, etc., all of which are embodied in the Charter, may be difficult to achieve in the present hostile economic circumstances. Our Charter requires that all of these rights and more should be implemented now. It is for every Member State to organise seminars and symposia on the impact of the Charter on its domestic laws. This will task the energy of policy makers and thinkers in Member States. One solution is to pass laws that provide for programmatic implementation. A second solution is to include the expensive rights in that part of the Constitution that deals with fundamental objectives and directive principles of State policy. It is a task that must be carried out by every ratifying State.

It has been repeated by honourable speakers on this floor that human rights can only flourish in conditions of peace, progress and good government. The second generation of rights, in particular can only flourish if our citizens work hard and if the maximum use is made of our human and material resources.

Despite some setbacks, we are convinced that the stage has been reached where the human rights of all Africans have become the concern of all other Africans. The process is irreversible. No more can human rights breaches be swept under the carpet as internal affairs, for the protection and promotion of these rights are indeed the fundamental purpose of all governments. The light of democracy has been rekindled in several parts of the world including our own continent and this should result in an enhanced integrity of the African personality.

May I express the thanks of the Commission for the support that your Excellencies have given us. The Secretariat has been ever willing within its resources to enable us stand on our feet. May I acknowledge before you the support and co-operation of the UN Commission on Human Rights, UNESCO, EEC and the European and American Human Rights Commissions who have been of help and enabled us to gain familiarity with other human rights protection systems. Our host, the Gambia, has always been co-operative.

I wish to thank the governments that have hosted our sessions. The occasion of our meetings offers a great opportunity to promote knowledge of the Charter and of the Commission. We wish to be invited to as many States as possible.

We expect shortly to produce concrete results for our publications will be out in a matter of months. The confidentiality of our procedures in fact keeps some of our

activities from the public. We crave for your continued support even though all Africa is passing through difficult times. I have the honour to submit the Third Annual Report of the African Commission on Human and Peoples' Rights.

Your Excellencies, I thank you.

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