

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>
<p>No. 31 Bijilo Annex Lay-out, Kombo North District, Western Region, P. O. Box 673, Banjul, The Gambia Tel: (220) 441 05 05 /441 05 06, Fax: (220) 441 05 04 E-mail: au-banjul@africa-union.org; Web www.achpr.org</p>		

Final Communiqué of the 55th Ordinary Session of the African Commission on Human and Peoples' Rights

Luanda, Angola

28 April – 12 May 2014

1. The African Commission on Human and Peoples' Rights (the Commission) held its 55th Ordinary Session in Luanda, Angola, from 28 April to 12 May 2014.
2. Honourable Commissioner **Kayitesi Zainabo Sylvie** presided over the opening ceremony of the Session, in her capacity as Chairperson of the Commission.
3. The opening ceremony was graced by the presence of the Minister of Justice and Human Rights of the Republic of Angola, **Honourable Rui Manguera**, who declared the Session open.
4. The following Members of the Commission participated in the Session:
 - Honourable Commissioner **Kayitesi Zainabo Sylvie**;
 - Honourable Commissioner **Mohamed Béchir Khalfallah**;
 - Honourable Commissioner **Reine Alapini-Gansou**;
 - Honourable Commissioner **Yeung Kam John Yeung Sik Yuen**;
 - Honourable Commissioner **Soyata Maiga**;
 - Honourable Commissioner **Lucy Asuagbor**;
 - Honourable Commissioner **Med Kaggwa**;
 - Honourable Commissioner **Maya Sahli-Fadel**;
 - Honourable Commissioner **Pacifique Manirakiza**; and
 - Honourable Commissioner **Lawrence Murugu Mute**.
5. Honourable Commissioner **Faith Pansy Tlakula** was absent with apologies.
6. The Chairperson of the Commission, Honourable Kayitesi Zainabo Sylvie, left the Session after the opening of the Private Session due to reasons beyond her control. Thereafter, the proceedings of the Commission were presided over by the Vice-Chairperson, Honourable Commissioner Mohamed Béchir Khalfallah, in the

capacity of Acting Chairperson; he was assisted by Honourable Commissioner Reine Alapini Gansou, as acting Vice-Chairperson.

7. During the opening ceremony, **Mrs. Hannah Foster**, Executive Director of the African Centre for Democracy and Human Rights Studies, speaking on behalf of the NGO Forum Steering Committee, stated that the Forum recognized the positive developments in the human rights and democracy situation in Africa but asserted, however that a lot more needs to be done as many African countries continue to face challenges of various human rights violations. She congratulated the Special Procedures Mandate Holders of the United Nations and the African Commission on the successful implementation of the first two years of the Roadmap adopted by the two institutions in January 2012 and reiterated civil society organisations' full support for such collaboration. Mrs. Forster ended her statement with an appeal to States, which have not ratified regional and international human rights instruments to speedily do so; and similarly to those which had ratified to ensure their effective implementation.
8. **Mrs. Kagwiria Mbogori**, Chairperson of the Kenya National Commission on Human Rights, speaking on behalf of the Network of African National Human Rights Institutions, seized the opportunity to highlight the strides made during the past two years in fostering engagement and collaboration with African human rights mechanisms, specifically the African Commission, and to consequently set the tone for the future. She urged the Commission to continue collaborating and supporting the work of the NHRI Network, especially as the latter has entered into its new strategic planning period.
9. **Ms. Yanine Poc**, OHCHR Regional Representative for Southern Africa, speaking on behalf of Ms. Navi Pillay, UN High Commissioner for Human Rights, affirmed that the Session organised by the African Commission is a forum to reflect on the

situation of human rights on the continent, and to carve out ways to respond to and address the human rights of all. She raised concern on the human rights situation in South Sudan and the Central African Republic (CAR). She also highlighted measures that have been taken so far by the Office of the High Commissioner for Human Rights with regard to these two countries.

10. She stated that the denial of fundamental rights relating to employment, housing, food or respect for cultural life, together with discrimination and exclusion from the decision-making processes of society, are the root causes of many grave crises and conflicts. She underscored that the resolution of such crises, and the consolidation of social harmony, rest on respect for all human rights. In this regard, she emphasized the need to strengthen strong partnership between the UN and the African Commission to address human rights challenges in Africa. Ms. Poc also expressed concern regarding reprisals against human rights activists and defenders in their quest to better the lives of others. She appealed to all stakeholders to denounce reprisals, defend free voices and protect victims of reprisals. She also underscored the need to protect and expand the space in which civil society can meaningfully participate and contribute to human rights promotion, peace and development.
11. Speaking on behalf of African Union Member States, **Her Excellency Aichetou Mint M’Haiham**, Commissioner for Human Rights, Humanitarian Action and Relations with Civil Society of the Islamic Republic of Mauritania, commended the Commission’s efforts in the promotion and protection of human and peoples’ rights in Africa. On the situation of human rights, the Commissioner drew attention to challenges confronting the continent, which include poverty, terrorism, cross border organized crime, armed conflicts, displacement of persons, climate change and environmental degradation. She called on all stakeholders to join forces in addressing these challenges. The Commissioner highlighted recent

developments in the human rights situation in Mauritania such as freedom of the press, constitutional guarantees on crimes relating to slavery, cultural diversity and political change for a greater participation of women as well as a revitalized political class bringing the youth on-board. She concluded by reaffirming the commitment of States parties to fulfil their obligations under the African Charter and other African human rights instruments.

12. **Honourable Justice Bernard Ngoepe**, Vice-President of the African Court on Human and Peoples' Rights, averred that the regular invitation for the Court to attend and address the Commission's Sessions reflects the excellent relations and complementarity of the two institutions. He stated that the rich jurisprudence of the Commission has been widely used to strengthen the jurisprudence of the Court. Justice Ngoepe stressed that 2016 has been declared as "African Year of Human Rights with Particular Focus on the Rights of Women". This, he said is a result of the initiative by the Commission and the Court, and called upon all stakeholders interested in the promotion and protection of human rights on the Continent, to find a way of contributing to this initiative. In conclusion, he called upon those Member States that have not yet ratified the Protocol establishing the Court, to urgently ratify the same and make the declaration provided for in article 34(6), if they are truly committed to the protection of human rights in their countries and on the continent as a whole.

13. **Dr Salah Hammad**, Senior Legal Expert at the Department of Political Affairs of the African Union Commission, speaking on behalf of Dr Aisha Abdullahi, Commissioner for Political Affairs of the African Union Commission, commended the commitment of H.E. the President of the Republic of Angola and his Government to the promotion and protection of human rights in Angola and in Africa. He stated that the continued support of the Republic of Angola to the African Union human rights agenda is clearly demonstrated by its hosting of the

55th Ordinary Session of the African Commission. He stated that the Ordinary Session is taking place at a time when the African Union is implementing its Strategic Plan 2014-2017, which prioritizes the promotion and protection of human and peoples' rights, peace and stability, democracy and good governance as foundations for sustainable development and stable societies in Africa.

14. Dr Salah Hammad indicated that holding this Session a few days after the commemoration of the 20th anniversary of the Rwanda genocide, afforded an opportunity to mark the resolve of African States to never again allow genocide in Africa. He affirmed that the realization of a common vision of a united and prosperous Africa as well as the building of a culture of promoting and protecting human and peoples' rights remained a great task, requiring a common resolve. In this regard, he emphasized that the participation of all African peoples in this important process is essential for the promotion of human rights, good governance, respect for democratic principles and the rule of law as underscored in the Constitutive Act of the African Union. He congratulated the members of the African Commission for their unrelenting efforts to the promotion and protection of human and peoples' rights on the continent.
15. In her opening statement, the Chairperson of the Commission, **Honourable Commissioner Kayitesi Zainabo Sylvie**, expressed her sincere gratitude and appreciation to the Government and people of Angola for hosting the 55th Ordinary Session of the Commission.
16. Speaking on the current human rights situation on the continent, she expressed concern about the increase in acts of terrorism and political strife, in particular the situation in the Arab Republic of Egypt, in the Republic of Kenya, in the Republic of Mali, in the Central African Republic, in the Republic of Sudan, in the Republic of South Sudan and in the Federal Republic of Nigeria. She highlighted cases of

gross violations of the right to life such as the continuous and coordinated attacks of the Boko Haram in different parts of Nigeria, particularly in the northern part of the country, the daily killing of people of the Muslim faith by the Anti-Balaka Militia which continues in the Central African Republic, the armed groups in Mali which continue to attack and maim innocent civilians, as well as in South Sudan and Sudan where many people are also routinely killed and injured. She further deplored the fact that, in most cases, perpetrators of these acts do so with impunity. She underscored the need for African States and the international community as a whole to step up to these challenges so that the ideals of the African Charter and other international human rights instruments which State Parties have ratified and committed themselves to will be effectively implemented and have meaning for the African citizenry.

17. The Chairperson also expressed her indignation at reprisals against human rights defenders. In this regard, she recalled Resolution ACHPR/196 (L) 11 adopted by the Commission at its 50th Ordinary Session held from 22 October to 5 November 2011 in Banjul, The Gambia, condemning all forms of reprisals against people who collaborate with the African system of human rights. She therefore called upon States Parties to implement this Resolution and avoid all forms of intimidation and reprisals against all those who collaborate with the Commission and/or participate in its Sessions. She concluded her statement by acknowledging and expressing appreciation of the efforts of all human rights stakeholders who have provided unfailing support to the Commission. She urged them to continue to render this support to the Commission allowing it to fulfil its mandate.
18. **Honourable Rui Manguera**, Minister of Justice and Human Rights of the Republic of Angola welcomed participants to the 55th Ordinary Session of the African Commission. He stated that this Session afforded a great opportunity to jointly examine the human rights situation in Africa. In this light, he seized the

opportunity to highlight the implementation of fundamental human rights in Angola. With regard to Africa as a whole, the Honourable Minister of Justice stated that the human rights situation in Africa calls for greater attention and that each situation needed to be analysed separately, given the specificities of each State. He further stated that discussions during this Session will contribute to enhancing plans to be developed for the future of human rights in Africa. In his conclusion, he wished fruitful deliberations to the Session and declared open the 55th Ordinary Session of the African Commission.

19. At the request of the delegation of the Government of Algeria, a moment of silence was observed in memory of the former President of the Republic of South Africa, Mr Nelson Mandela, who passed away on 5 December 2013.
20. A total of three hundred and eighty-four (384) delegates participated in the Session; with one hundred and forty-three (143) delegates representing twenty six (26) State Parties, four (4) African Union Organs, eighteen (18) from national human rights institutions (NHRIs), thirteen (13) from international organizations, and one hundred and eighty (180) representing African and international non-governmental organizations (NGOs). Twenty-six (26) representatives of the media and other observers were also in attendance.
21. A number of activities were conducted prior to and on the margins of the Session, including:
 - NGO Forum, held from 24 to 26 April 2014;
 - Meeting of the Working Group on Economic, Social and Cultural Rights in Africa, held on 27 April 2014;

- Consultation Meeting Between Special Procedures Mandate-Holders and Members of the African Commission on Human and Peoples' Rights on the Implementation of the Addis Ababa Roadmap, held on 27 April 2014;
 - Consultation Workshop on the Guidelines on Freedom of Association, held on 27 April 2014;
 - Interactive Session with States and Other Stakeholders on State Party Reporting Guidelines under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, held on 29 April 2014;
 - Meeting with Representatives of the European Union Delegation to the African Union, held on 29 April 2014;
 - Interactive Session with the Centre for Reproductive Rights, held on 30 April 2014;
 - Interactive Session on the Principles and Guidelines on Human Rights and Countering Terrorism, held on 3 May 2014;
 - Meeting with Representatives of Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), held on 4 May 2014; and
 - Meeting with International-Lawyers.Org on Climate Change and Human Rights, held on 7 May 2014.
22. Representatives of the following twenty (20) State Parties made statements on human rights situations in their respective countries: Algeria, Angola, Burkina Faso, Cameroon, Djibouti, Ethiopia, Eritrea, The Gambia, Lesotho, Liberia, Mauritania, Niger, Nigeria, Uganda, Rwanda, Sahrawi Arab Democratic Republic, Senegal, South Africa, Sudan and Zimbabwe.
23. A Representative of the Republic of South Sudan – a country which is not yet a party to the African Charter, also made a statement.

24. Representatives from the African Court on Human and Peoples' Rights, the African Committee on the Rights and Welfare of the Child, the Department of Political Affairs of the African Union Commission and the African Union Office in Geneva made statements highlighting the collaboration, between the Commission and their respective institutions and departments, in promoting and protecting human rights.
25. Statements were made by the UN High Commissioner for Refugees Representative to the AU and UN Economic Commission for Africa, and the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions of the Human Rights Council special procedures.
26. Four representatives of national human rights institutions also made statements on the human rights situation in their respective countries, namely:
 - i) the National Human Rights Commission of the Federal Republic of Nigeria;
 - ii) the National Consultative Commission for the Protection and Promotion of Human Rights of the Republic of Algeria;
 - iii) the National Human Rights Commission of the Republic of Rwanda;
 - iv) the Senegalese Human Rights Committee of the Republic of Senegal.
27. A total of forty-one (41) NGOs with Observer Status with the Commission also made statements on the human rights situation in Africa.
28. The Commission granted Observer Status to twelve (12) NGOs, in accordance with the Resolution on the Criteria for Granting and Enjoying Observer Status to

Non-Governmental Organizations working in the field of human and peoples' rights, namely:

- i. Refugee Consortium of Kenya (Kenya)
- ii. Sonke Gender Justice Network (South Africa)
- iii. WaterLex (Switzerland)
- iv. Tanzania Human Rights Defenders Coalition (Tanzania)
- v. Reporters Without Borders – Sweden
- vi. Humanitaire Plus (Togo)
- vii. Fondation pour l'étude et la promotion des droits humains en Afrique (Burkina Faso)
- viii. Association Béninoise du Droit de Développement (Benin)
- ix. Organisation Nationale des Victimes du Terrorisme (Algeria)
- x. Le Cercle pour la défense de l'environnement (DRC)
- xi. Réseau National des ONGs des Droits de l'Homme de la République Démocratique du Congo (DRC)
- xii. Action contre l'impunité pour les droits humains (DRC)

29. This brings the total number of NGOs with Observer Status with the Commission to four hundred and seventy-eight (478).

30. In accordance with Article 62 of the African Charter, the Commission considered the periodic reports of the following State Parties:

- (i) Republic of Mozambique;
- (ii) Sahrawi Arab Democratic Republic; and
- (iii) Republic of Liberia.

31. Members of the Commission presented the following reports of activities they undertook during the inter-Session period as Commissioners and within the framework of their various Special Mechanisms:

- (i) Special Rapporteur on the Rights of Women in Africa;
- (ii) Special Rapporteur on Freedom of Expression and Access to Information in Africa;
- (iii) Special Rapporteur on Human Rights Defenders in Africa;
- (iv) Special Rapporteur on Prisons and Conditions of Detention in Africa;
- (v) Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;
- (vi) Chairperson of the Working Group on the Rights of Older Persons and People with Disabilities in Africa;
- (vii) Chairperson of the Working Group on Indigenous Populations/Communities in Africa;
- (viii) Chairperson of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa;
- (ix) Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa;
- (x) Chairperson of the Working Group on Death Penalty, Extrajudicial, Summary or Arbitrary Killings in Africa;
- (xi) Chairperson of the Working Group on Communications;
- (xii) Chairperson of the Committee on the Protection of the Rights of People Living with HIV and those at Risk, Vulnerable to and Affected by HIV; and
- (xiii) Chairperson of the Committee for the Prevention of Torture in Africa

32. The Commission adopted the reports of two human rights promotion missions undertaken to the Republic of Uganda and the Gabonese Republic.

33. The Commission considered and adopted the following:

- a. General Comments on Article 14.1 (a), (b), (c) and (g) and Article 14.2 (a) and (c) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;

- b. Report of the Study Group on Freedom of Association and Peaceful Assembly in Africa;
 - c. Study on the Right to Nationality in Africa;
 - d. Guidelines on Conditions of Police Custody and Pre-Trial Detention in Africa;
 - e. Toolkit for Promotion Missions of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa; and
 - f. Report of the Secretary.
34. The Commission also considered the following:
- a. Report on the Participation of the Commission in the 23rd Ordinary Session of the African Committee of Experts on the Rights and Welfare of the Child;
 - b. Concept Note on Project 2016 declared as “African Human Rights Year”;
 - c. Principles and Guidelines on Human Rights and Countering Terrorism;
 - d. Update on Cases before the Court; and
 - e. Advisory Opinion requested by the African Committee of Experts on the Rights and Welfare of the Child
35. Commissioner Reine Alapini Gansou informed members of the Commission of her report on the human rights situation in Mali in her capacity as Head of the Human Rights Component of the African Union Mission in Mali and the Sahel (MISAHEL).
36. The Commission selected and appointed new expert members of the following special mechanisms:
- i) Working Group on Death Penalty, Extrajudicial, Summary or Arbitrary Killings in Africa;

- ii) Working Group on the Rights of Older Persons and People with Disabilities in Africa; and
- iii) Working Group on Extractive Industries, Environment and Human Rights Violations in Africa.

37. The Commission adopted resolutions on the composition and renewal of the mandate of the following special mechanisms:

- a. Resolution on the Renewal of the Mandate of the Committee on the Protection of the Rights of People Living with HIV and those at Risk, Vulnerable to and Affected by HIV;
- b. Resolution on the Renewal of the Mandate of the Working Group on Specific Issues Related to the Work of the African Commission;
- c. Resolution on the Renewal of the Mandate of the Special Rapporteur on Human Rights Defenders in Africa;
- d. Resolution Appointing New Expert Members of the Working Group on Death Penalty and Extrajudicial, Summary or Arbitrary Killings in Africa;
- e. Resolution Appointing a New Expert Member of the Working Group on the Rights of Older Persons and People with Disabilities in Africa; and
- f. Resolution Appointing New Expert Members of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa.

38. The Commission also adopted the following resolutions:

- a. Resolution on the Extension of the Deadline for the Study on Transitional Justice in Africa;
- b. Resolution on the Drafting of a Protocol to the African Charter on Human and Peoples' Rights on the Right to Nationality in Africa;
- c. Resolution on the Situation of Women and Children in Armed Conflict;
- d. Resolution on Climate Change in Africa;

- e. Resolution on the Protection against Violence and other Human Rights Violations against Persons on the Basis of their Real or Imputed Sexual Orientation or Gender Identity;
 - f. Resolution on the Drafting of Principles and Guidelines on Human Rights and Countering Terrorism;
 - g. Resolution on the Right to Peaceful Demonstration;
 - h. Resolution on Terrorist Acts in Africa;
 - i. Resolution on Elections in Africa in 2014;
 - j. Resolution on the Suppression of Sexual Violence against Women in the Democratic Republic of Congo; and
 - k. Resolution on the Situation in the Sahrawi Arab Democratic Republic;
39. The Commission adopted and issued press releases on the human rights situation in the Federal Republic of Nigeria and the Central African Republic. A press release was also issued, jointly with the UN special procedures, on the abduction of more than two hundred girls by the Islamist group Boko Haram in the northeast of Nigeria.
40. The Commission considered twelve (12) Communications:
- i. Two (2) on Seizure;
 - ii. Eight (8) on Admissibility;
 - iii. One (1) on Merits; and
 - iv. One (1) for Re-listing.
41. The Commission adopted its 36th Activity Report, which will be submitted to the 25th Ordinary Session of the Executive Council of the African Union during the 23rd Summit of the Assembly of Heads of State and Government of the African Union, scheduled to take place in June 2014.

42. The Commission decided to hold the joint meeting of the Bureaux of the Court and of the Commission on 16 July 2014 and the 3rd annual meeting of the Court and the Commission on 18 and 19 July 2014 in Kigali, Rwanda.
43. The Commission decided to hold its 16th Extraordinary Session from 20 to 29 July 2014 in Kigali, Rwanda.
44. Following the invitation of the Republic of Niger, the Commission decided to hold its 56th Ordinary Session from 14 to 30 October 2014 in Niamey, Niger.
45. Burkina Faso proposed to host the 58th Ordinary Session of the Commission scheduled for October 2015.
46. The Commission expresses its sincere gratitude to the Government and people of the Republic of Angola for the warm welcome and hospitality extended to participants. The Commission also expresses its sincere appreciation to the Republic of Angola for accepting to host the 55th Ordinary Session and for all the resources and facilities made available to the Commission, which largely contributed to the smooth conduct and success of the Session.
47. The closing ceremony was held on 12 May 2014 in Luanda, Angola.

Done in Luanda, Republic of Angola, on 12 May 2014

2014

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