

AFRICAN UNION
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*African Commission on Human
& Peoples' Rights*

*Commission Africaine des Droits de l'Homme
et des Peuples*

Plot 48, Kairaba Avenue, P. O. Box 673, Banjul, The Gambia Tel: (220) 4392 962/4372070; Fax: (220) 4390 764 E-mail: achpr@achpr.org; Web www.achpr.org

**FINAL COMMUNIQUE OF
THE 40th ORDINARY SESSION OF
THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS
HELD IN BANJUL, THE GAMBIA,
15 - 29 November, 2006**

1. The African Commission on Human and Peoples' Rights (the African Commission), held its 40th Ordinary Session in Banjul, the Republic of The Gambia, from 15 - 29 November 2006. The session was presided over by the Chairperson of the African Commission, Commissioner **Salamata Sawadogo**.
2. The following Members participated at the Session:
 - Commissioner **Yassir Sid Ahmed El Hassan**, Vice-Chairperson;
 - Commissioner **Kamel Rezag-Bara**;
 - Commissioner **Bahame Tom Mukirya Nyanduga**
 - Commissioner **Angela Melo**;
 - Commissioner **Sanji Mmasenono Monageng**;
 - Commissioner **Musa Ngary Bitaye**;
 - Commissioner **Reine Alapini-Gansou**;
 - Commissioner **Faith Pansy Tlakula**; and
 - Commissioner **Mumba Malila**.
3. Twenty (20) States Parties, Five (5) National Human Rights Institutions, six (6) International Organisations and Intergovernmental Organisations and one hundred and thirty nine (139) African and International NGOs were represented at the 40th Ordinary Session of the African Commission. Altogether, a total of

three hundred and seventy two (372) participants attended the 40th Ordinary Session.

4. To enrich the African Commission's deliberations, the Commission's 40th Ordinary Session was preceded by a two-day meeting of Non-Governmental Organisations (NGOs) from 12 - 14 November 2006. Seventeen interest groups within the NGO Forum examined the human rights situation in Africa, expressing concerns over issues such as the death penalty, the situation of women and the plight of some human rights defenders. On the human rights situation in the Darfur region of Sudan, the Forum urged the Commission to support the efforts of the United Nation's Security Council to Convince Sudan to authorise the deployment of a UN peacekeeping force.
5. In her welcoming address, the Chairperson of the African Commission, Commissioner Salamata Sawadogo, expressed, on behalf of the Members of the African Commission, and on her own behalf, her gratitude to the Acting Solicitor General and Legal Secretary of the Republic of The Gambia for attending the opening ceremony. She thanked the Gambian government and the Gambian people for having hosted a number of the Commission's meetings in the past.
6. The Chairperson focused on the theme of stock taking of the Commission's activities after twenty years of existence, and invited NGOs and individuals to ask themselves what can be done for the promotion and protection of human rights in Africa.
7. She said that in the present period in the history of the continent where Africans are faced with several challenges, and where the principal organs of the African Union are working towards the improvement of the welfare of Africans, and where democracy, equality, the rule of law, development and respect for human rights have become the main watchwords, it is all the more important to take stock of the contribution of the African Commission during its period of existence.
8. The 40th Ordinary Session was officially opened by Dr Henry Carroll, the Acting Solicitor General and Legal Secretary, who was representing Her Excellency, Dr

Ajaratou Isatou Njie-Saidy, Vice President and Secretary of State for Women's Affairs of the Republic of the Gambia. Referring to the theme (time for stock taking) developed by the Chairperson of the African Commission, Dr. Carrol suggested that the exclusive national premise of sovereignty is becoming increasingly problematic because the pieces on the global chessboard are changing. Referring to the global human rights movement, he presented a normative argument on the issue of independence and sovereignty agreeing that the concept of sovereignty becomes irrelevant when a member state voluntarily decides to become a member of an international organisation. He said he looked forward to the day when member states of the African Union would uphold fundamental human rights values. Africa, he said would then cease to be a blood soaked continent, thereby making civil strife, wars and rebellion, hunger, ignorance, poverty and disease a thing of the past.

9. On the question of providing the Commission with facilities to undertake its work, Dr. Carrol indicated that since the signing of the headquarters Agreement in 1989, the Gambian government has always honoured its contractual obligations to the full satisfaction of the African Commission. He however, observed that the last three ordinary sessions of the Commission have been held in The Gambia at the expense of the Gambian government and this constituted a heavy burden on the Gambian tax payer. He called on Member States of the African Union to cooperate with the Gambian to accept to host the ordinary sessions of the African Commission alternately.
10. Other speakers at the opening ceremony included H. E Hosni Al Wahshi al Saddig, Secretary for Legal and Human Rights Affairs of the Great Jamarahiya, who spoke on behalf of Member States of the African Union, the Chairperson of the Coordinating Committee of African National Human Rights Institutions, Mrs K. F Ajoni who spoke on behalf of National Human Rights Institutions in Africa and Maitre Mambassa Fall, who spoke on behalf of Non-Governmental Organisations (NGOs).
11. The 40th Session also received a statement from the United Nations Special Rapporteur on Torture, Professor Manfred Nowak. He indicated that the record of

African States that have ratified international human rights treaties relating to torture has been impressive. He however noted that almost sixty (60) per cent of African States, Parties to the Convention Against Torture have not submitted their initial reports to the Committee Against Torture on their efforts to fulfil their obligations. He encouraged African governments to ratify the Optional Protocol to the Convention Against Torture as an expression of their determination to eradicate torture. The Special Rapporteur further congratulated the respective Commissioners for their outstanding contributions to the eradication of torture, and noted with satisfaction recent efforts by the African Commission in the creation of a Special Rapporteur on Prisons and Conditions of Detention in Africa, the adoption of the Robben Island Guidelines for the Prevention of torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa and the establishment of its Follow-up Committee. He concluded by stating that he was prepared and willing to cooperate with the African Commission on issues such as the exchange of information and carrying out joint missions to African states.

12. Professor Walter Kälin, the Representative of the UN Secretary General on the Human Rights of Internally Displaced Persons (IDPs) also addressed the Commission. In his statement, Prof. Walter Kälin spoke about the protection of the civilian population against displacement, during displacement and after displacement. He said that the disregard for the human rights of IDPs is common in all stages of displacement. He urged African States, experiencing internal displacement to enhance the protection of the human rights of IDPs by adopting national policies or legislations for their protection. He commended those states which have done so.

13. During the Session, the African Commission heard statements relating to the human rights situation in Africa from representatives of States Parties, representatives of international and intergovernmental organisations, national human rights institutions and Non-governmental organisations (NGOs).

14. In conformity with Article 62 of the African Charter on Human and Peoples' Rights, the Periodic Report of the Republic of Uganda and the Federal Republic

of Nigeria were presented to the Commission. Responding to questions from Commissioners, the Attorney General and Minister of Justice of the Republic of Uganda, Dr Khiddu Makubuya assured the Commission that Uganda is implementing a range of measures including legislative reforms to promote and protect human rights. Replying to questions on behalf of the Federal Republic of Nigeria Her Excellency, Maryam Mohammed, the Nigerian High Commissioner to the Gambia similarly assured the Commission that Nigeria is doing all it can to secure the human rights of all Nigerians.

15. The Chairperson presented a report of her activities undertaken during the intersession period. Other members of the Commission also presented their reports of activities they undertaken as members of the Commission as well as reports of activities they undertook under their various special mechanisms mandate.

16. The African Commission granted affiliate status to two National Human Rights Institutions (NHRIs), namely; the National Human Rights Commission of Ethiopia and the National Human Rights Commission of Uganda. This brings the number of NHRIs with affiliate status with the African Commission to nineteen (19).

17. The African Commission granted Observer Status to the following NGOs -:

- Association des Femme Juristes de Cote d'Ivoire (Cote d'Ivoire)
- Help Out (Cameroon)
- Institute for Forest Wildlife and Human Development Studies (Zambia)
- Baobab for Women's Rights (Nigeria)
- People Against Injustice (The Gambia)
- Feinstein International Centre (USA)
- Centre for Reproductive Rights (USA)
- East and Horn of Africa Human Rights Defenders Project (Uganda)
- Third World Network (Ghana)
- Unisons Nous pour la protection des Batwa du Burundi (Burundi)
- Lawyers for Human Rights (Swaziland)

This brings the number of NGOs with Observer Status with the African Commission to three hundred and sixty (360).

18. The African Commission considered and adopted the following reports:

- Report of the Promotion Mission to the Kingdom of Lesotho;
- Report of the Promotion Mission to the Republic of Mauritius;
- Report of the Promotion Mission of the Working Group on Indigenous Populations/Communities in Africa to the Republic of Niger; and
- Report of the Promotion Mission of the Special Rapporteur on the Rights of Women in Africa to the Republic of Cape Verde.

19. The Commission also adopted a Policy on the recruitment of interns, a study on the *locus standi* before it and took note of the report of the Expert on the communications procedure of the African Commission.

20. The African Commission reiterated its decision to organise seminars on the following topics in 2006/2007 -:

- Terrorism and Human Rights in Africa;
- Islam and Human Rights;
- Contemporary Forms of Slavery;
- Refugees and Internally Displaced Persons in Africa;
- Seminar on Building the Culture of Peace and Human Rights for the Military / Police ;
- Regional Conference / Seminar for Journalists;
- Human Rights Education Seminar for Teachers;
- Peaceful settlement of ethnic and social conflicts from a human rights perspective;
- The right to education: an essential condition for development in Africa;
- The right of persons with disabilities;
- Freedom of movement and the right of asylum in Africa;
- Ethnic conflict resolution in a human rights context; and
- The right to development and the right to self-determination.

21. Due to lack of funds, the African Commission has been unable to organise these seminars and calls on interested partners to collaborate with it in the organisation of these seminars.

22. The African Commission appointed six expert members to serve on its Working Group on the Death Penalty. They are:

- Ms. Alya Cherif Chammari (Tunisia);
- Ms Alice Mogwe (Botswana);
- Mr. Mactar Diallo (Senegal);
- Prof. Philip Francis Iya (Uganda);
- Prof Carlson E Anyangwe (Cameroon) ; and
- Prof. Mohamed S El- Awa (Egypt)

23. The African Commission appointed Mr. Mumba Malila, Member of the Commission to join the Working Group on Indigenous Populations/Communities in Africa.

24. The African Commission adopted the following resolutions:

- Resolution on the establishment of a fund to be financed by voluntary contributions for the African Commission on Human and Peoples' Rights;
- Resolution on the importance of the implementation of the recommendations of the African Commission on Human and Peoples' Rights;
- Resolution on the appointment of a Commissioner as member of the Working Group on Indigenous Populations/Communities in Africa;
- Resolution on the situation of Freedom of Expression in Africa;
- Resolution on the adoption of the Lilongwe Declaration on access to legal assistance in the criminal justice system;
- Resolution on Police Reform, Accountability and Civilian Police Oversight in Africa;
- Resolution on the composition and operationalisation of the Working Group on the Death Penalty

- Resolution on the Human Rights Situation in Darfur; and
 - Resolution on the situation of women in the Democratic Republic of Congo;
25. The African Commission considered sixty eight (68) communications: it was seized with eleven (11) communications, considered thirty-four (34) on admissibility, twenty-one (21) on the merits and two (2) on review.
26. The African Commission adopted its Twenty First (21st) Activity Report which will be submitted to the 10th Ordinary Session of the Executive Council of the African Union and the 8th Summit of the Heads of State and Government of the African Union, which is scheduled to take place in January 2007 in Addis Ababa, Ethiopia.
27. The African Commission decided to hold its 41st Ordinary Session from 16 – 30 May 2007, in the Republic of Ghana.
28. The African Commission expresses its sincere appreciation and profound gratitude to the Government of the Republic of The Gambia for the warm welcome and hospitality accorded to the participants, all of which contributed to the excellent outcome and success of the deliberations of its 40th Ordinary Session.
29. The closing ceremony of the 40th Ordinary Session took place on the 29th November 2006 in Banjul, Republic of The Gambia.
30. The Chairperson of the African Commission held a Press Conference after the closing ceremony.

Done in Banjul, The Gambia, 29th November 2006

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