


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي <i>African Commission on Human &amp; Peoples' Rights</i>		UNIÃO AFRICANA <b>Commission Africaine des Droits de l'Homme &amp; des Peuples</b>
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**FINAL COMMUNIQUE OF THE 53<sup>rd</sup> ORDINARY SESSION OF THE AFRICAN COMMISSION  
ON HUMAN AND PEOPLES' RIGHTS  
HELD IN BANJUL, THE GAMBIA  
FROM 9 TO 23 APRIL 2013**

1. The African Commission on Human and Peoples' Rights (the Commission) held its 53<sup>rd</sup> Ordinary Session in Banjul, The Gambia, from 9 to 23 April 2013.
2. The Opening Ceremony was graced by the presence of the Attorney General and Minister of Justice of the Republic of The Gambia, **Honourable Justice Lamin SK Jobarteh**, who declared the Session open.
3. Honourable Commissioner **Catherine Dupe Atoki**, Chairperson of the Commission, presided over the deliberations of the 53<sup>rd</sup> Ordinary Session, (the Session) and the following Honourable Members of the Commission attended and participated in the Session:
  - Honourable Commissioner **Kayitesi Zainabo Sylvie (Vice Chairperson);**
  - Honourable Commissioner **Reine Alapini-Gansou;**
  - Honourable Commissioner **Faith Pansy Tlakula;**
  - Honourable Commissioner **Yeung Kam John Yeung Sik Yuen;**
  - Honourable Commissioner **Soyata Maiga;**
  - Honourable Commissioner **Mohamed Bechir Khalfallah;**
  - Honourable Commissioner **Lucy Asuagbor;**
  - Honourable Commissioner **Med Kaggwa;**

- Honourable Commissioner **Maya Sahli-Fadel**; and
- Honourable Commissioner **Pacifique Manirakiza**.

4. Altogether Six hundred and thirty two (632) delegates participated in the Session. Of these, one hundred and thirty two (132) represented twenty nine (29) State Parties, six (6) represented African Union (AU) Organs, thirty two (32) represented National Human Rights Institutions (NHRIs), nine (9) represented International and Inter-Governmental Organizations, four hundred and fifty three (453) represented African and International Non-Governmental Organisations (NGOs) as well as other observers.
5. A number of parallel activities took place prior to and on the margins of the Session, including the NGO Forum, which was held from 6 to 8 April 2013.
6. In her Opening Address, the Chairperson of the Commission, **Honourable Catherine Dupe Atoki**, welcomed participants and expressed the Commission's gratitude to the Government of The Gambia for hosting the Session and for the high level representation of its dignitaries at the opening ceremony.
7. The Chairperson noted that the Session was being held at a time when Africa is preparing to celebrate the Golden Jubilee of the Organisation of African Unity (OAU), the forerunner to the AU. Whilst taking stock of the journey travelled so far by the continental political organisation, the Chairperson noted that the past fifty years of the Union had witnessed momentous developments, with significant political, economic, social, cultural and technological changes in Africa.
8. She recounted the challenges, successes and weaknesses of the AU in relation to human rights in Africa, and lauded the successes and milestones that it has recorded, including the development of a series of human rights

norms and the establishment of the Commission. She also congratulated the Union on the occasion of the Golden Jubilee.

9. Regarding the human rights situation in Africa, the Chairperson noted the progress recorded over the past years, including the conduct of peaceful elections in Ghana, Sierra-Leone, Kenya and the constitutional referendum in Zimbabwe; and the entry into force of the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa. However, she observed that despite these advances, the continent of Africa continues to grapple with various human rights challenges including amongst others: abject poverty, the HIV/AIDS pandemic, the political insecurity in Eastern Congo, the unconstitutional change of government by rebels in the Central African Republic and the persistent acts of terrorism orchestrated by Islamist armed groups in Somalia, Mali and Nigeria.
10. The Chairperson noted that the Commission continues to receive allegations of reprisals against NGOs working in the field of human rights, as well as reports of torture, cruel, and inhuman or degrading treatment, arbitrary arrest and detention, threats and intimidation of human rights advocates and defenders, including journalists and political opponents.
11. In conclusion, the Chairperson stressed the Commission's undeterred willingness and determination to continue to promote and protect human and peoples' rights on the continent; commended Member States for demonstrating commitment in ensuring the enjoyment of human rights by the people living in their jurisdictions; and also, expressed her appreciation to NHRIs, members of civil society and all stakeholders for their participation in the Ordinary Sessions of the Commission.
12. Advocate Lawrence Mushwana, speaking on behalf of the Network of African National Human Rights Institutions (NANHRI), expressed gratitude to the Government and People of The Gambia for hosting the

Session. He stated that NANHRI continues to play an active role in the promotion of human rights in Africa, and expressed appreciation for the Commission's sterling work in the promotion, development and protection of human rights in Africa, particularly its cooperation and collaboration with other stakeholders in the performance of their human rights duties.

13. Advocate Mushwana concluded by underlining the significant increase in the establishment of NHRIs on the continent, but noted that the institutions continue to be faced with financial challenges coupled with lack of political will, independence and autonomy.
14. Dr. Mamadou Dia, speaking on behalf of the African Union Commission Commissioner of Political Affairs commended the Commission for the efforts made towards the promotion of human rights and hailed the dedication of members of the Commission to their work aimed at guaranteeing human rights in Africa. Dr. Dia said that the Political Affairs Department is proud of the strides made by the African continent to strengthen democracy and good governance in the continent. However, he observed that there still remain enormous challenges.
15. Finally, he presented the strategy of the Political Affairs Department on transitional mechanisms on the African continent and indicated that the Department, in collaboration with other partners, is putting in place a framework for the promotion of transitional justice on the African continent.
16. Speaking on behalf of the President of the African Court on Human and Peoples' Rights (the African Court), Honourable Justice Sylvain Oré expressed the African Court's appreciation for the invitation that the Commission extends to the Court regularly to participate in its sessions which he said is a testimony to the perfect collaboration between the two

institutions and the formal complementarity established by the Protocol with regard to the establishment of the Court and the Rules of Procedure of the two institutions.

17. Justice Oré, commenting on the status of ratification of the Protocol on the establishment of the African Court and the Declaration of Recognition of its jurisdiction under Article 34 (6), urged States Parties which have not yet ratified the Protocol and/or made the Declaration in recognition of the African Court's jurisdiction to do so in order to ensure a better protection of their citizens. On behalf of the African Court, he thanked the Commission for its commitment to the promotion of the African Court, an activity it undertakes as part of its various promotion missions.
18. Finally, he commended the Commission for the efforts it continues to make in furtherance of the objective of making human rights a reality on the African continent.
19. Speaking on behalf of AU Members States, H.E. Gnénéma Mamadou Coulibaly, Keeper of the Seals, Minister of Justice, Human Rights and Public Liberties of the Republic of Côte d'Ivoire, thanked the Commission for choosing Côte d'Ivoire to take the floor on behalf of the other States Parties, a choice he said, is considered as a sign of high esteem and a sign of the highest consideration for his country, Côte d'Ivoire.
20. Minister Coulibaly stated that the African continent still faces challenges regarding respect for rights of all generations and emphasized the need for States to strengthen their enthusiasm in the constant and renewed quest for appropriate solutions by exploring the virtues of active African solidarity and its driving force.
21. In conclusion Minister Coulibaly stressed the importance of peace in the continent, stating that without peace, there will be no meaningful

development in Africa. In this regard, he commended the Commission for its relentless and effective efforts in promoting and protecting human rights on the continent, in spite of constraints.

22. Honourable Justice Lamin Jobarteh, Attorney General and Minister of Justice of the Republic of The Gambia, on behalf of the President of the Republic of The Gambia, His Excellency Sheikh Professor Alhaji Dr Yahya AJJ Jammeh, welcomed delegates to the Session of the Commission.

23. Honourable Justice Jobarteh noted that the Session, not only marks the 26 years of the existence of the Commission, but also coincides with the 50<sup>th</sup> Anniversary of the formation of the AU. This, he said, makes it an opportune time to take stock of the achievements attained thus far, and to chart a way forward, in order to achieve the Millennium Development Goals and facilitate the promotion and protection of human and peoples' rights in Africa.

24. Honourable Justice Jobarteh stated that because of its desire to attain a democratic society, the Government of The Gambia, in collaboration and with assistance from the Commonwealth Secretariat, had commenced consultations for the establishment of a National Human Rights Commission, which would make The Gambia part of the family of AU State members that have a functional independent National Human Rights Commission.

25. Before declaring the Session open, Justice Jobarteh expressed appreciation to other stakeholders for their work and efforts in the field of human rights, stating that the Sessions of the Commission are the forum where discussions on fundamental issues of human and peoples' rights in Africa are held. That said, he declared the Session officially open.

26. Representatives of the following twenty four (24) State Parties made statements relating to the human rights situation in their respective countries: Peoples' Democratic Republic of Algeria, Republic of Angola, Burkina Faso, Republic of Cameroon, Republic of Chad, Republic of Côte D'Ivoire, Republic of Eritrea, Federal Democratic Republic of Ethiopia, Republic of The Gambia, Kingdom of Lesotho, Republic of Liberia, Republic of Mauritania, Republic of Malawi, Republic of Niger, Federal Republic of Nigeria, Republic of South Africa, United Republic of Tanzania, Republic of Rwanda, Republic of Senegal, Republic of Sudan, Sahrawi Arab Democratic Republic, Republic of Tunisia, Republic of Uganda, and Republic of Zimbabwe.

27. The following Four (4) NHRIs, made statements on the state of human rights situation in their respective countries, namely:

- i. National Consultative Commission for the Promotion and Protection of Human Rights (CNCPPDH) of Algeria;
- ii. Kenya National Human Rights Institution;
- iii. Rwanda National Commission for Human Rights; and
- iv. South African Human Rights Commission.

28. The Commission considered and granted Affiliate Status to the National Independent Human Rights Commission of the Republic of Burundi, in accordance with Resolution ACHPR/Res.31 (XXIV) 98 on the Criteria for Granting Affiliate Status to National Human Rights Institutions established in Africa and functioning in accordance with international recognized norms and standards.

29. This brings the total number of NHRIs with Affiliate Status with the Commission to twenty three (23).

30. A total of forty-eight (48) NGOs that have Observer Status with the Commission also made statements on the human rights situation in Africa.

31. The Commission considered applications for Observer Status from eight (8) NGOs and granted the Status to all, in accordance with Resolution ACHPR/Res.33 (XXV) 99 on the Criteria for Granting and Enjoying Observer Status to Non-Governmental Organisations Working in the Field of Human and Peoples' Rights. These are:

- i. Federation of African Journalists, Senegal;
- ii. Endorois Welfare Council of Kenya;
- iii. Muslims for Human Rights, Kenya;
- iv. The Association of Non-Governmental Organisations (TANGO), The Gambia;
- v. International Federation of Women Lawyers Association, Nigeria;
- vi. Independent Medical Legal Unit (IMLU), Kenya;
- vii. Soutien aux prisonniers en Côte d'Ivoire, (SOPCI), Côte d'Ivoire; and
- viii. Action pour la Protection des droits de l'homme, Côte d'Ivoire.

32. This brings the total number of NGOs, which have Observer Status with the Commission to four hundred and forty-five (445).

33. Ms. Sheila Keetaruth, United Nations Special Rapporteur on Eritrea, briefed Members of the Commission on the scope and strategies for implementing her mandate, as well as the proposed modalities for collaborating with it to respond to the human rights situation in Eritrea.

34. The Commission launched a Model Law on Access to Information for Africa, and, the General Comments on Article 14 (1) (d) and (e) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

35. Members of the Commission presented the following Reports of the 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 Human Rights Defenders in Africa;
- iii) Special Rapporteur on Prisons and Conditions of Detention in Africa;
- iv) Special Rapporteur on Freedom of Expression and Access to Information in Africa;
- v) Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;
- vi) Chairperson of the Working Group on the Death Penalty, Extra-judicial, Summary or Arbitrary Killings in Africa;
- vii) Chairperson of the Working Group on Indigenous Populations/Communities in Africa;
- viii) Chairperson of the Working Group on the Rights of Older Persons and People with Disabilities in Africa;
- ix) Chairperson of the Working Group on Extractive Industries, Environment and Human Rights in Africa;
- x) Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa (ECOSOC);
- xi) Chairperson of the Committee for the Prevention of Torture in Africa; and
- 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;

36. The Commission adopted the Promotion Mission Reports to the Kingdom of Lesotho and the Republic of Cameroon.

37. The Commission further considered the Report of its Working Group on Specific Issues and also the Report of the Secretary to the Commission.

38. The Commission also deliberated on the;

- i. Execution of the 2013 Budget;

- ii. Recommendations from the Public Session of the 52<sup>nd</sup> Ordinary Session;
- iii. Study on Climate Change and Human Rights; and
- iv. Revision of the Rules of Procedure of the AU Policy Organs.

39. The Commission adopted the following Resolutions:

- i. Resolution on Transitional Justice in Africa;
- ii. Resolution on Illicit Capital Flight from Africa;
- iii. Resolution on the Right to Nationality; and
- iv. Resolution appointing Expert Members for the Working Group on Indigenous Population/Communities in Africa

40. The Commission examined Sixteen (16) Communications:

- i. Eight (8) on Seizure,
- ii. One (1) on Admissibility,
- iii. Five (5) on the Merit;
- iv. Two (2) Oral Hearings.

41. The Commission adopted its 34<sup>th</sup> Activity Report, which will be submitted to the 23<sup>rd</sup> Ordinary Session of the Executive Council of the AU and the 21<sup>st</sup> Summit of the Assembly of Heads of State and Government of the AU, which are scheduled to take place in May 2013.

42. The Commission decided to undertake a Fact-Finding Mission in the Republic of Mali, from 3 to 7 June 2013.

43. Members of the Commission met with the Eritrean delegation at their request and discussed on various human rights situations in the country.

44. The Commission decided to hold a meeting with the African Court from 17 to 19 July 2013, in Nairobi, Republic of Kenya.

45. The Commission decided that it will hold its 14<sup>th</sup> Extra-ordinary Session from 20-24 July 2013, in Nairobi, Republic of Kenya.

46. The Commission also decided to hold its 54<sup>th</sup> Ordinary Session from 22 October to 5 November 2013, in Banjul, The Gambia.

47. The Commission expressed its sincere appreciation and profound gratitude to the Government and people of the Republic of The Gambia for the facilities placed at its disposal, and for the warm welcome and hospitality

accorded to the participants, all of which contributed to the excellent outcome and successful deliberations of its Session.

48.The Closing Ceremony of the Session took place on 23 April 2013, at a venue to be decided.

49.The Chairperson of the Commission, Honorable Commissioner Catherine Dupe Atoki, held a Press Conference after the closing ceremony.

**Done in Banjul, Republic of the Gambia on 23 April 2013**

2013

# FINAL COMMUNIQUE OF THE 53rd ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

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