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| <p>الاتحاد الأفريقي</p> <p><i>African Commission on Human &amp; Peoples' Rights</i></p>  |   | <p>UNIÃO AFRICANA</p> <p><i>Commission Africaine des Droits de l'Homme &amp; des Peuples</i></p> |
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## Final Communiqué of the 50<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples Rights

**Banjul, The Gambia**

**24 October - 5 November 2011**

1. The African Commission on Human and Peoples' Rights (the African Commission) held its 50<sup>th</sup> Ordinary Session from 24 October to 5 November 2011, in Banjul, The Gambia.
2. Honourable Commissioner Reine Alapini Gansou presided over the Opening Ceremony of the Session, in her capacity as the outgoing Chairperson of the African Commission.
3. The following Members also attended and participated in the Session:
  - Honourable Commissioner Catherine Dupe **Atoki**;
  - Honourable Commissioner **Kayitesi** Zainabo Sylvie;
  - Honourable Commissioner Lucy **Asuagbor**;
  - Honourable Commissioner Maya **Sahli Fadel**;
  - Honourable Commissioner Soyata **Maiga**;
  - Honourable Commissioner Pacifique **Manirakiza**;

- Honourable Commissioner Med S. K. **Kaggwa**;
  - Honourable Commissioner Yeung Kam John **Yeung Sik Yuen**.
4. Honourable Commissioner Faith Pansy **Tlakula** attended part of the Session and had to leave in mid-session with apologies.
  5. Honourable Commissioner Mohammed Bechir **Khalfallah** was absent due to illness.
  6. Honourable Commissioner Yeung Kam John Yeung Sik Yuen gave a vote of thanks on behalf of the Commission to the outgoing Chairperson of the African Commission, Honourable Commissioner Reine Alapini Gansou.
  7. Following their election to the African Commission by the 17<sup>th</sup> Assembly of the Heads of State and Government of the African Union, in July 2011, in Malabo, Republic of Equatorial Guinea, the following Commissioners took their oaths of office during the 50<sup>th</sup> Ordinary Session, in accordance with Article 38 of the African Charter on Human and Peoples' Rights and Rule 9 of the Rules of Procedure of the African Commission;
    - Honourable Commissioner Reine Alapini **Gansou** (re-elected);
    - Honourable Commissioner Faith Pansy **Tlakula** (re-elected);
    - Honourable Commissioner Maya **Sahli Fadel**;
    - Honourable Commissioner Med S. K. **Kaggwa**; and
    - Honourable Commissioner Pacifique **Manirakiza**.
  8. In accordance with Article 42 of the African Charter on Human and Peoples' Rights, and Rules 10 and 11 of the Rules of Procedure, a new Bureau was elected on 24 October 2011. Honourable Commissioner

Catherine Dupe **Atoki** was elected as the Chairperson, while Honourable Commissioner **Kayitesi** Zainabo Sylvie was elected Vice-Chairperson. The Bureau of the Commission will serve for a term of two years in line with Rule 12 of the Rules of Procedure of the African Commission.

9. In total, **three hundred and seventy three (373)** delegates participated in the Ordinary Session. **Eighty-eight (88)** delegates representing **twenty-two (22)** State Parties, **nine (9)** from organs of the African Union (AU), **ten (10)** delegates from National Human Rights Institutions, **six (6)** delegates from International and Inter-Governmental Organizations, **two hundred and four (204)** delegates from African and International Non-Governmental Organizations (NGOs), and other observers.
  
10. A number of parallel meetings were held prior to and on the margins of the 50<sup>th</sup> Ordinary Session, including the following:
  - NGO Forum, from 19 to 21 October 2011;
  - Training by the Committee on the Protection of the Rights of People Living with HIV and those at Risk, Vulnerable to and Affected by HIV on “HIV, The Law and Human Rights,” on 19 October 2011;
  - Moot Court competition held in commemoration of Africa Human Rights Day, on 21 October 2011;
  - Consultation Meeting on Implementing and Monitoring the Human Rights Strategy for Africa, on 20-21 October 2011
  - Meeting of the Committee for the Prevention of Torture in Africa, on 21 October 2011;

- Colloquium held in commemoration of the 30<sup>th</sup> Anniversary of the African Charter, under the theme “*Current Challenges and Future Opportunities in the Promotion and Protection of Human Rights in Africa,*” held on 22 to 23 October 2011;
- Meeting of the Working Group on Indigenous Communities/Populations, on 22 to 23 October 2011
- Launch of the ECOSOC Principles and Guidelines, on 24 to 25 October 2011;
- Meeting of the Working Group on the Rights of Older Persons and People with Disabilities in Africa, on 25 October 2011.

11. In her opening statement, Honourable Commissioner Reine Alapini Gansou, the outgoing Chairperson of the African Commission, observed that the 50<sup>th</sup> Ordinary Session of the African Commission was being held at a very significant moment in history, as the 30<sup>th</sup> Anniversary of the African Charter is being celebrated. To this end, she expressed her gratitude to the Government of the Republic of The Gambia for hosting this Session, in addition to having hosted previous Sessions of the Commission as well. She noted with satisfaction that The Gambia has hosted the Commission’s Sessions 34 times out of the 59 sessions held since its inception.

12. Honourable Commissioner Reine Alapini Gansou reviewed the human rights situation on the Continent and in that regard highlighted the current human rights situation in the Republic of Guinea, Libya, Cote d’Ivoire, Democratic Republic of Congo and Somalia, and observed that special attention was required in all those situations. She noted that the Commission needs to focus its efforts on prevention of human rights

violations and protection of human rights. She also called upon the Commission to strengthen collaborative action with all stakeholders.

13. Honourable Commissioner Reine Alapini Gansou expressed concern regarding delays in the consideration of Communications, and called for the strengthening of the Commission's Secretariat which is its institutional memory.
14. The Executive Director of the African Center for Democracy and Human Rights Studies, Mrs. Hannah Forster, made a statement on behalf of the NGO Forum, which took place from 19 - 21 October 2011, in Banjul, The Gambia. Mrs. Forster noted that this year marks a significant milestone in Africa, given that the African Charter is 30 years old and the African Commission is almost 25 years.
15. While acknowledging the very real gains that had been made over this period, Mrs. Forster noted that Africa still continues to face serious human rights challenges. In that regard, she highlighted instances of serious violations of human rights in the DRC, Egypt, Guinea Conakry, Malawi, Mauritania, and in the Nuba Mountains of the Sudan. Mrs. Forster also expressed concern regarding the situation of human rights defenders, refugees and internally displaced persons, the continued application of torture and the death penalty, and violations of the right to freedom of expression in some parts of the continent. She concluded by reiterating the readiness of the NGOs to collaborate with the African Commission and the African Union as a whole in promoting human rights, good governance and the rule of law.

16. Speaking on behalf of the Network of African National Human Rights Institutions (NANHRI), Ms. Lindiwe Mokate of the South African Human Rights Commission noted that the promotion and protection of human rights in Africa has greatly improved over the years, despite the numerous social, economic and political challenges that continue to confront the Continent. To this end, she called upon the AU, as an important stakeholder in the promotion and protection of human rights, to encourage States to ratify, domesticate and implement international and regional instruments.
17. Ms. Mokate called attention to the new challenges facing African NHRIs, such as the attack by demonstrators on the premises of the Egyptian Human Rights Commission. She further expressed concern regarding weak legal and institutional frameworks and inadequate funding for activities and programs which undermine the effectiveness of NHRIs.
18. In a statement read on her behalf by Dr. Salah Hamad, H. E. Mrs. Julia Dolly Joiner, Commissioner for Political Affairs for the African Union Commission, noted the historic coincidence of the commemoration of the 30<sup>th</sup> Anniversary of the adoption of the African Charter with the 50<sup>th</sup> Ordinary Session of the African Commission. She observed that thirty years after the adoption of the African Charter, is an appropriate time to take stock and reflect on the lessons learnt, one of which is that the respect for human rights is the bedrock for sustainable development.
19. The Commissioner for Political Affairs indicated that, at their January 2011 Summit, the African Heads of State and Government dedicated 2012 as the "*Year of Shared Values in Africa*," stressing that these shared values include human rights. She called on the African Commission and all

stakeholders to participate in the Year of Shared Values and work towards the achievement of its objectives. She further informed the Session that during the same Summit, the African Governance Architecture and its Platform were adopted to support Member States in their efforts to promote democracy, good governance and the rule of law. In her view the launch of this Platform would enhance capacity and deepen understanding regarding issues of human rights, democracy and governance.

20. Speaking on behalf of the African Court on Human and Peoples' Rights (the African Court), Honourable Judge Fatsah Ouguergouz noted that, since its establishment twenty-five years ago, the African Commission has worked tirelessly for the fulfilment of its mandate of promoting and protecting human rights on the continent. Expressing appreciation for the cordial relations that exist between the African Court and the African Commission, Justice Ouguergouz indicated that the two institutions had met three times to discuss and harmonize their respective Rules of Procedure.
  
21. Justice Ouguergouz observed that regarding the complementarity of their mandates as envisaged by the Protocol establishing the African Court on Human and Peoples Rights, the historic referral of the first case by the African Commission to the African Court, the Commission is giving life to the complementary relationship mandated by the Protocol. He concluded by reiterating the Court's commitment to work closely with the African Commission, and other stakeholders, to enhance the protection of human rights in Africa.

22. Speaking on behalf of AU Member States, Honourable Edouard Nduwimana, Minister of Home Affairs of the Republic of Burundi, noted that the occasion of the 50<sup>th</sup> Ordinary Session provided a good opportunity for State Parties and other partners working for the promotion and protection of human rights to carry out an objective evaluation of the effectiveness of the regional system of human rights, in which the Commission plays a crucial role.
23. The Honourable Minister stated that one of the priorities of the Government of Burundi is to promote dialogue between all the socio-political actors in the country. He informed the Session that the President of the Republic of Burundi has indicated his readiness to dialogue with civil society organisations. In this regard, the Minister highlighted some of the important reforms which have been introduced in consultation with its partners, including the creation of the Independent National Commission on Human Rights and the elaboration of a new legislation on political parties.
24. The Honourable Minister noted that, notwithstanding those efforts, there are still many challenges with regard to the realization of human rights. He said, for instance, one of the biggest concerns of his government is to ensure equal access to social services for the whole population without discrimination. He concluded by reaffirming his Government's commitment to work with the Commission and informed the Session that his Government welcomes any visit from the members of the Commission to the Republic of Burundi.



25. In his Opening Statement, Honourable Edward Gomez, the Attorney General and Minister of Justice of the Republic of The Gambia, noted that the Government and the people of The Gambia were honoured not only to host the momentous 50<sup>th</sup> Ordinary Session of the African Commission, but also to host the commemoration of the 30<sup>th</sup> anniversary of the adoption of the African Charter. He noted that thirty years after the adoption of the African Charter, stability, democracy, good governance and the rule of law should form the foundation of the promotion and protection of human rights.
26. The Minister noted with appreciation the growing number of participants at the Sessions of the African Commission, which in his view is a testimony to the work and relevance of the Commission. He called on all Delegates to participate fully to ensure that the deliberations of the 50<sup>th</sup> Ordinary Session live up to the expectations of all stakeholders and address challenges facing the African continent.
27. Honourable Edward Gomez congratulated the elected members of the African Commission, before officially declaring the 50<sup>th</sup> Ordinary Session open.
28. During the agenda item on the human rights situation in Africa, statements were made by the following State Delegates on the human rights situation in their respective countries; the Republic of Algeria, the Republic of Angola, Burkina Faso, Arab Republic of Egypt, the Republic of Burundi, the Republic of Cote d'Ivoire, Federal Democratic Republic of Ethiopia, Republic of Kenya, Kingdom of Lesotho, the Islamic Republic of Mauritania, the Federal Republic of Nigeria, the Republic of Rwanda,

Sahrawi Arab Democratic Republic, Republic of Senegal, Republic of South Africa, Republic of the Sudan, Republic of Tunisia, Republic of Uganda and the Republic of Zimbabwe.

29. The African Committee of Experts on the Rights and Welfare of the Child also made a statement under this item.
30. Only one NHRI took the floor under this item; the National Human Rights Commission of Nigeria.
31. Statements were also made by the representatives of Intergovernmental and International Organizations, including the International Committee of the Red Cross and the UN Expert Mechanism on the Rights of Indigenous Peoples.
32. A total of **forty-four (44)** NGOs enjoying Observer Status with the African Commission also made statements on the human rights situation in Africa.
33. The African Commission, in accordance with its ACHPR.Res.33(XXV)99: Resolution on the Criteria for Granting and Enjoying Observer Status to Non-Governmental Organizations Working in the Field of Human and Peoples' Rights (1999), considered and granted applications for Observer Status to two (2) Non-Governmental Organizations. These are: **Gambia Press Union**, Banjul, The Gambia, and **East African Law Society**, Arusha, Tanzania.

34. This brings the total number of NGOs with Observer Status with the African Commission to four hundred and thirty (430).

35. In accordance with Article 62 of the African Charter, the African Commission considered the Periodic Reports of the following State Parties:

- i. The Federal Republic of Nigeria;
- ii. The Republic of Burundi;
- iii. The Republic of Togo.

36. Members of the African Commission presented Reports of the activities they undertook during the inter-session as Members of the Commission, as well as Reports of activities undertaken within the framework of their various special mechanisms. In that regard, the Session listened to the reports of the Special Rapporteur on Refugees, Asylum Seekers, Migrants and Internally Displaced Persons in Africa; the Special Rapporteur on the Rights of Women in Africa; the Special Rapporteur on Human Rights Defenders in Africa; the Special Rapporteur on Prisons and Places of Detention in Africa; the Special Rapporteur on Freedom of Expression and Access to Information in Africa; the Chairperson of the Working Group on the Death Penalty in Africa; the Chairperson of the Working Group on Indigenous Populations/Communities in Africa; the Chairperson of the Working Group on the Rights of Older Persons and People with Disabilities in Africa; the Chairperson of the Working Group on Extractive Industries, Environment and Human Rights in Africa; the Chairperson of the Committee for the Prevention of Torture in Africa; and the Chairperson of the Committee on the Protection of the Rights of People Living with HIV (PLHIV) and those at Risks, Vulnerable to and Affected by HIV.

37. The African Commission examined and adopted the following documents:

a) Promotion Mission Reports:

- (i) Peoples' Democratic Republic of Algeria;
- (ii) Republic of Cameroon.

b) Missions of the Special Mechanisms:

- (i) Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa - Mission to the Republic of Tunisia;
- (ii) Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa - Mission to Federal the Republic of Nigeria.

c) Report of the Secretary to the Commission.

38. The Commission adopted Concluding Observations on;

- (i) The Federal Republic of Nigeria;
- (ii) Burkina Faso;
- (iii) The Republic of Uganda.

39. The African Commission considered and adopted the Report of the Research and Information Visit to Kenya by the Working Group on Indigenous Populations/Communities in Africa and the Study on the Question of the Death Penalty in Africa.

40. In addition to the Resolutions reconstituting, renewing and extending its Special Mechanisms, the African Commission adopted the following Resolutions:

- Resolution on the General Human Rights Situation in Africa;
- Resolution on the Situation of Human Rights Defenders in Africa;

- Resolution on the Indigenous Peoples' Rights in the Context of the World Heritage Convention and Designation of Lake Bogoria as a World Heritage Site;
- Resolution Establishing a Working Group on Communications and Appointment of Members.

41. The African Commission issued a Communiqué on the abduction of three humanitarian NGO workers from Sahrawi Refugee Camps, condemning such acts and demanding the immediate and unconditional release of these hostages.

42. The African Commission distributed the responsibility of monitoring the promotion and protection of human rights in State Parties amongst Commissioners as follows:

- I. Commissioner Catherine Dupe Atoki - Egypt, Ethiopia, Liberia, Sudan, The Gambia;
- II. Commissioner Kayitesi Zainabo Sylvie - Burundi, Algeria, Cote d'Ivoire, Djibouti, Gabon;
- III. Commissioner Reine Alapini Gansou - Cape Verde, Mali, Democratic Republic of Congo, Togo, Cameroon;
- IV. Commissioner Pansy Tlakula - Lesotho, Namibia, Swaziland, Mauritius, South Sudan, Sierra Leone;
- V. Commissioner Y. K. J. Yeung Sik Yuen - Comoros, Madagascar, Ghana, Sao Tome & Principe, Seychelles;
- VI. Commissioner Soyata Maiga - Angola, Congo-Brazzaville, Niger, Libya, Equatorial Guinea;
- VII. Commissioner Mohamed Bechir Khalfallah - Chad, Sahrawi Arab Democratic Republic, Central African Republic, Mauritania;

- VIII. Commissioner Lucy Asuagbor - Uganda, Nigeria, Zimbabwe, Rwanda, Malawi;
- IX. Commissioner Med S. K. Kaggwa - South Africa, Botswana, Eritrea, Somalia, Zambia;
- X. Commissioner Maya Sahli Fadel - Burkina Faso, Tunisia, Guinea Conakry, Senegal;
- XI. Commissioner Pacifique Manirakiza - Kenya, Mozambique, Benin, Tanzania, Guinea Bissau.

43. The African Commission distributed its Special Mechanisms among members of the Commission as follows:

- XII. Commissioner Catherine Dupe Atoki - **Chairperson of the Committee for the Prevention of Torture in Africa;**
- XIII. Commissioner Kayitesi Zainabo Sylvie - **Chairperson of the Working Group on the Death Penalty in Africa;**
- XIV. Commissioner Reine Alapini Gansou - **Special Rapporteur on Human Rights Defenders in Africa;**
- XV. Commissioner Pansy Tlakula - **Special Rapporteur on Freedom of Expression and Access to Information in Africa;**
- XVI. Commissioner Y. K. J. Yeung Sik Yuen - **Chairperson of the Working Group on the Rights of Older Persons and People with Disabilities in Africa;**
- XVII. Commissioner Soyata Maiga - **Special Rapporteur on the Rights of Women in Africa and Chairperson of the Working Group on Indigenous Populations and Communities in Africa;**
- XVIII. Commissioner Mohamed Bechir Khalfallah - **Chairperson of the Working Group on Economic, Social and Cultural Rights;**
- XIX. Commissioner Lucy Asuagbor - **Chairperson of the Committee on the Protection of the Rights of People Living with HIV (PLHIV);**

- XX. Commissioner Med S. K. Kaggwa - **Special Rapporteur on Prisons and Places of Detention in Africa;**
- XXI. Commissioner Maya Sahli Fadel - **Special Rapporteur on Refugees, Asylum Seekers, Migrants and Internally Displaced Persons in Africa;**
- XXII. Commissioner Pacifique Manirakiza - **Chairperson of the Working Group on Extractive Industries, Environment and Human Rights in Africa.**

44. The African Commission considered ninety two (92) Communications. It was seized with six (6). Three (3) communications considered for seizure did not meet the requirements. It considered three (3) on admissibility and one (1) on the merits.

45. The African Commission decided to dismiss three (3) Communications for want of diligent prosecution. Seventy-six communications were deferred to the next Session for various reasons.

46. The Commission decided to hold the 10<sup>th</sup> Extra-Ordinary Session from 21<sup>st</sup> February to 1<sup>st</sup> March 2012 in Banjul, The Gambia, and the 51<sup>st</sup> Ordinary Session from 18<sup>th</sup> April to 2<sup>nd</sup> May 2012, at a venue to be decided.

47. The African Commission expresses 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 50<sup>th</sup> Ordinary Session.

48. The closing ceremony of the 50<sup>th</sup> Ordinary Session took place on 5 November 2011 in Banjul, The Gambia.

**Done in Banjul, Republic of The Gambia, 5 November 2011**



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