

AFRICAN UNION		UNION AFRICAINE
<b>الاتحاد الأفريقي</b> <i>African Commission on Human &amp; Peoples' Rights</i>		UNIÃO AFRICANA <i>Commission Africaine des Droits de l'Homme &amp; des Peuples</i>

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**FINAL COMMUNIQUE OF THE 51st ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS  
HELD IN BANJUL, THE GAMBIA  
FROM 18 April TO 02 May 2012**

1. The African Commission on Human and Peoples' Rights (the African Commission) held its 51<sup>st</sup> Ordinary Session in Banjul, Republic of The Gambia, from 18 April to 2 May 2012.
2. Honourable Commissioner **Catherine Dupe Atoki**, Chairperson of the African Commission, presided over the Opening Ceremony of the 51<sup>st</sup> Ordinary Session.
3. The following Honourable Members 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 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. Honourable Commissioner **Catherine Dupe Atoki** chaired the deliberations of the Public Session.
5. Altogether four hundred and seventeen (417) delegates participated at the 51<sup>st</sup> Ordinary Session. Of these, one hundred and two (102) represented twenty-three (23) States Parties, forty five (45) represented National Human Rights Institutions, four (4) represented International and Inter-Governmental Organizations, two hundred and fifty-six (256) represented African and International NGOs, and ten (10) represented African Union Organs.
6. A number of activities and meetings, amongst others, the launch of the ‘Study on the Question of the Death Penalty in Africa,’ took place prior to and on the margins of the 51<sup>st</sup> Ordinary Session.
7. The 51<sup>st</sup> Ordinary Session was preceded by a three-day meeting of the NGO Forum, organized by the African Centre for Democracy and Human Rights Studies, which was held from 14 to 16 April 2012. Two hundred and twenty (220) participants attended the NGO Forum – 204 from Africa, 4 from the Americas, 1 from Asia and 11 from Europe.
8. The NGO Forum examined the human rights situation in many countries in Africa, and expressed concern over specific issues, such as election-related crises, freedom of expression, armed conflicts, environmental degradation, failure in constitutional obligations, the continuing inequalities and challenges faced by women in most countries, the situation and conditions of people living with HIV/AIDS, and the situation of human rights defenders on the African continent.
9. In her opening statement at the NGO Forum, Commissioner Soyata Maiga, speaking on behalf of the Chairperson of the African Commission Honourable Commissioner **Catherine Dupe Atoki**, highlighted the critical role the NGO Forum is playing in securing human rights in Africa. She noted

that the NGO Forum is a meeting point where the human rights situation in the continent are assessed and discussed.

10. The NGO Forum was closed by the Chairperson of the African Commission, Honourable **Commissioner Catherine Dupe Atoki**. The Chairperson expressed concern over the consequences of bad governance and continued violations of human rights, which she said continues to make millions of Africans live in a state of poverty. In this regard, she called on the NGO community to redouble their efforts to promote and protect human rights in their different thematic areas.
11. In her Opening Statement to the 51<sup>st</sup> Ordinary Session, **Honourable Commissioner Catherine Dupe Atoki** welcomed participants to the Session and said that the inter-session had witnessed a mix of important political and economic developments in Africa which she described as a potpourri of '*the good, the bad and the ugly*'. In that regard the Chairperson, congratulated the people of the Republic of Senegal for holding free and fair elections. She observed that the elections were a triumph for democracy, the rule of law, as well as popular participation.
12. She, however, stated that the continent is still beset with several human rights problems and the general lack of access to basic needs for dignified living. She particularly expressed her disappointment over the conflict between South Sudan and Sudan and called on both countries to settle their differences peacefully.
13. The Chairperson also decried the recent truncating of democratic rule in Mali and Guinea Bissau and raised concerns over the escalating phenomenon of terrorist activities which have recently sprang up in Africa, particularly in the Federal Republic of Nigeria.

14. **Mrs. Adama Cooper**, read a statement on behalf of the NGOs that participated in the NGO Forum preceding the 51<sup>st</sup> Ordinary Session of the Commission. **Mrs. Adama Cooper** expressed concern over the continuing human rights violations in some African countries, which she said was caused or aggravated by poverty, conflicts, and bad governance. She highlighted instances of serious violations of human rights in places like Sudan and South Sudan, DRC, and the Horn of Africa. **Mrs. Cooper** also expressed concern and disappointment over the two coups d' états in the Republic of Mali and the Republic of Guinea Bissau, given that 2012 is supposed to mark a significant milestone in Africa, as several countries have conducted free and fair elections, and more are expected, signaling a new era of democratization in Africa.

15. She concluded by reiterating the readiness of the NGOs to collaborate with the African Commission and the African Union in promoting human rights, good governance and the rule of law.

16. A representative of the Network of National Human Rights Institutions (NHRIs or the Network), **Adv. Mabedle Lawrence Mushwana** delivered a statement on behalf of NHRIs. He stated that the Network was a strategic partner of the African Commission in the promotion and protection of human rights in Africa. In that regard, he informed the 51<sup>st</sup> Ordinary Session that the Network held a two-day 'Workshop for African NHRIs on Reporting Processes to the African Regional Human Rights Mechanisms.' **Adv. Mushwana** stated that the Workshop which was opened and closed by the Chairperson of the African Commission and attended by a number of Commissioners afforded the NHRIs to share experiences and challenges on how these institutions can be more effective within the African human rights system.

17. **Adv. Mushwana** noted that the 51<sup>st</sup> Ordinary Session was being held at a time when Africa was facing many challenges in its efforts to achieve good

governance. He cited the recent unconstitutional changes of governments in the Republic of Mali and the Republic of Guinea Bissau, the arrest of the Chairperson of the Malawi Human Rights Commission and the plight of the Chairperson of the Togo Human Rights Commission who had to flee the country following threats to his life. He said that NHRIs in Africa are conscious of these challenges and pledged that they shall play their role in addressing them.

18. Speaking on behalf of the African Court of Human and Peoples' Rights (the African Court), **Honourable Justice Sylvain ORIE**, commended the African Commission for its continuing efforts in the promotion and protection of human and peoples' rights in Africa.
19. **Justice Orie** noted that the participation of the African Court in the Ordinary Sessions of the African Commission has enabled it to appreciate the important role of the African Commission carries in securing of human rights in Africa. He further noted that the continuing participation of the African Court in the African Commission's sessions is a testimony of the complementary relationship existing between the two institutions.
20. The First Vice-Chairperson of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), **Mr Cyprien Adebayo Yanclo** also made a statement to the 51<sup>st</sup> Ordinary Session. He underscored the important bi-lateral relationship that exists between the ACERWC and the African Commission. He informed the 51<sup>st</sup> Ordinary Session that since the commencement of its work in 2002, the ACERWC has worked assiduously to increase the number of ratifications of the African Charter on the Rights and Welfare of the Child by AU Member States, which currently stands at 46. He also stated that the Committee has now considered 15 State Reports and two Communications.

21. Speaking on behalf of the African Union Member States, **Mr. David Mangota** underscored the need for all Member States of the African Union to support the African Commission financially, materially and morally to enable it fulfil its mandate.
22. **Mr. Mangota** declared that NGOs and NHRIs are crucial to the work of the African Commission, as they are the only partners that are able to put pressure on governments regarding their human rights obligations. He, however, expressed his fears about the integrity of some NGOs and advised that they be more cautious and wary of hidden human right agendas by outsiders who are quite ready to hijack useful African programmes.
23. In his opening statement, the Attorney General and Minister of Justice, Honourable Justice **Lamin K. Jobarteh**, welcomed participants and delegates to the 51<sup>st</sup> Ordinary Session of the African Commission. Speaking on the various human rights challenges facing the continent, Justice Jorbateh expressed concern over continued armed conflicts in Somalia, Sudan, South Sudan and in some parts of northern Africa. On the recent coup d'etats in the Republic of Mali and Republic of Guinea Bissau, Justice Jobarteh described the putsches as shameless, crude and out of fashion. He called on the African Commission and the international community to reject such unconstitutional changes of governments. He also highlighted that the problem of drought being experienced by several Member States is causing serious economic crises to many communities.
24. **Justice Joberteh** welcomed the peaceful elections that have been held in many African States since the African Commission last met in October / November 2011. He also observed that the Presidential and Parliamentary elections that were held in The Gambia at the end of 2011 and beginning of 2012 were described by international community as peaceful, free and fair.

25. Finally, the Honourable **Attorney General** thanked the Members of the African Commission for choosing The Gambia again to hold the 51<sup>st</sup> Ordinary Session. He then declared the Session opened.
26. Representatives of the following countries made statements relating to the human rights situation in Africa from the representatives of the following States Parties: Republic of Angola, Peoples' Democratic Republic of Algeria, Republic of Burkina Faso, Republic of Cameroon, Republic of Cote D'Ivoire, Republic of Chad, Arab Republic of Egypt, Federal Democratic Republic of Ethiopia, Kingdom of Lesotho, Republic of Mauritania, Federal Republic of Nigeria, Saharawi Arab Republic, Republic of Sudan, Republic of Togo, Republic of Tanzania, Republic of Tunisia, and Republic of Zimbabwe on the human rights situations in their respective countries.
27. Three (3) National Human Rights Institutions (NHRIs) made statements on the state of human rights in their various countries. They were: the National Human Rights Institutions of Algeria, South Africa and Sudan.
28. A total of fifty-one (51) NGOs enjoying Observer Status with the African Commission also made statements on the human rights situation in Africa.
29. The African Commission considered applications for Observer Status from six (6) NGOs. It granted the said Status to the five (5) NGOs 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. The following NGOs were granted Observer Status:

- i. World Alliance for Citizen Participation (CIVICUS);
- ii. Centre Feminine pour la Démocratie et les Droits Humains;
- iii. Strategic Initiative for Women in the Horn of Africa;

- iv. African Freedom of Information Centre, and
- v. Zimbabwe Election Support Network

30. The African Commission considered an application for Observer Status from Sight Savers and decided to defer it to the 52<sup>nd</sup> Ordinary Session.

31. This brings the total number of NGOS with Observer Status with the African Commission to four hundred and thirty five (435).

32. In conformity with Article 62 of the African Charter, the Periodic Reports of the following States Parties were presented:

- Republic of Angola; and
- Republic of Sudan

33. 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 and made contributions to the Reports of the following Commissioners:

- Special Rapporteur on Refugees, Asylum Seekers, Migrants and Internally Displaced Persons in Africa;
- Special Rapporteur on the Rights of Women in Africa;
- Special Rapporteur on Human Rights Defenders in Africa;
- Special Rapporteur on Prisons and Places of Detention in Africa;
- Special Rapporteur on Freedom of Expression and Access to Information in Africa;
- Chairperson of the Working Group on the Death Penalty in Africa;
- Chairperson of the Working Group on Indigenous Populations/Communities in Africa;

- Chairperson of the Working Group on the Rights of Older Persons and People with Disabilities in Africa;
- Chairperson of the Working Group on Extractive Industries, Environment and Human Rights in Africa; and
- 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 Risk, Vulnerable to and Affected by HIV; and
- Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa (ECOSOC).

34. The African Commission examined and adopted the following Reports:

- a) Promotion Mission Report of the Republic of Niger;
- b) Report of the Secretary to the African Commission; and
- c) Report of the Working Group on Communications;

35. The African Commission met in their Private Session with the UN Special Rapporteur on Trafficking in Persons, especially Women and Children, Mrs. Joy Ngozi Ezeilo. The UN Special Rapporteur briefed Members of African Commission on her global mandate and the work she is doing in Africa. She informed Members of the Commission about the scourge of trafficking in many countries in Africa and invited the African Commission to collaborate with her mandate in order to address the violations.

36. The African Commission considered the 'Draft Protocol on Older Persons' and deferred it to the 52<sup>nd</sup> Ordinary Session for reconsideration.

37. The African Commission adopted Concluding Observations on the Periodic Report of the Republic of Togo.

38. The African Commission adopted the following Resolutions:

- Resolution on the Situation of the North of the Republic Mali;

- Resolution on the Human Rights Situation in Federal Republic of Nigeria;
- Resolution on the Human Rights Situation in the Democratic Republic of Ethiopia;
- Resolution on the Situation Between Sudan and South Sudan;
- Resolution on the Human Rights Situation in the Kingdom of Swaziland;
- Resolution on the Unconstitutional Change of Governments;
- Resolution on the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
- Resolution on the Attacks Against Journalist and Media Practitioners in Somalia;
- Resolution to modify the Declaration of Principles on Freedom of Expression to include Access to Information and request for a Commemoration Day on Freedom of Information;
- Resolution on the Renewal of the Mandate of Expert Members of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa;
- 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 and Re-appointment of Members of the Committee.
- Resolution on the Human Rights-Based Approach to Natural Resources Governance.

39. The African Commission considered 77 Communications: it was seized with four (4) and considered 2 on the Merits. 71 Communications were deferred to the 52<sup>nd</sup> Ordinary Session, for various reasons, including time constraints and lack of response from one or both parties.

40. The African Commission conducted oral hearings on four (4) Communications.
41. The African Commission adopted its 32<sup>nd</sup> Activity Report which will be submitted to the 21<sup>st</sup> Ordinary Session of the Executive Council of the AU and the 19<sup>th</sup> Summit of the Assembly of Heads of State and Government of the AU, which is scheduled to take place in Lilongwe, Republic of Malawi in June 2012.
42. The African Commission decided to hold an Extra-ordinary Session from 30 July to 4 August 2012, to discuss urgent and outstanding Communications.
43. The African Commission decided to hold its 52<sup>nd</sup> Ordinary Session from 9 to 22 October 2012, in Abidjan, Cote d'Ivoire.
44. 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 51<sup>st</sup> Ordinary Session.
45. The closing ceremony of the 51<sup>st</sup> Ordinary Session took place on 2 May 2012 in Banjul, The Gambia.
46. The Chairperson of the African Commission, **Honourable Commissioner Catherine Dupe Atoki**, held a Press Conference after the closing ceremony.

**Done in Banjul, Republic of The Gambia, 2 May 2012**