

<b>AFRICAN UNION</b>		<b>UNION AFRICAINE</b>
الاتحاد الأفريقي <b>African Commission on Human &amp; Peoples' Rights</b>		<b>UNIÃO AFRICANA</b> <b>Commission Africaine des Droits de l'Homme et des Peuples</b>
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**FINAL COMMUNIQUE OF  
THE 42<sup>nd</sup> ORDINARY SESSION OF  
THE AFRICAN COMMISSION ON HUMAN AND PEOPLES'  
RIGHTS  
HELD IN BRAZZAVILLE, REPUBLIC OF CONGO,  
FROM 14<sup>th</sup> to 28<sup>th</sup> November 2007**

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1. The African Commission on Human and Peoples' Rights (African Commission), held its 42<sup>nd</sup> Ordinary Session in Brazzaville, Republic of Congo, from 14<sup>th</sup> to 28<sup>th</sup> November 2007.

2. Commissioner **Yassir Sid Ahmed El Hassan**, former Vice-Chairperson of the African Commission, participated at the opening ceremony of the 42<sup>nd</sup> Session and spoke on behalf of the outgoing Chairperson of the African Commission, Madam Salamata Sawadogo.

3. Commissioner **Sanji Mmasenono Monageng**, the newly elected Chairperson of the Commission, chaired the deliberations of the Session.

4. The following Members also participated at the Session:

- Commissioner **Angela Melo** – Vice Chairperson;
- Commissioner **Musa Ngary Bitaye**;
- Commissioner **Reine Alapini-Gansou**;
- Commissioner **Mumba Malila**;
- Commissioner **Bahame Tom Mukirya Nyanduga**;

- Commissioner **Faith Pansy Tlakula;**
- Commissioner **Yeung K. J. Y. Sik Yuen**
- Commissioner **Catherine Dupe Atoki;**
- Commissioner **Kayitesi, Sylvie Zainabo**
- Commissioner **Soyata Maiga**

5. Twenty three (23) States Parties, four (4) National Human Rights Institutions, seven (7) International and Inter-Governmental Organisations and forty one (41) African and International NGOs were represented at the 42<sup>nd</sup> Ordinary Session of the African Commission. Five hundred and fifty seven (557) delegates altogether participated at the 42<sup>nd</sup> Ordinary Session.

6. Several parallel activities were organized in Brazzaville, Republic of Congo to celebrate the African Commission's twenty years of existence and to take stock of its achievements. On the occasion of these celebrations it was noted that the human rights situation remains a matter of great concern in some African countries. The African Commission noted that in these past twenty years, the human rights violations continue to feed the internal armed conflicts in some Member States of the African Union. There is no doubt that the failure to respect the rights guaranteed under the African Charter is one of the major causes of internal conflicts in some Member States.

7. As is customary, at the beginning of the Ordinary Session of the African Commission, the Session was preceded by the Forum of Non-Governmental Organizations (NGOs), organized by the African Centre for Democracy and Human Rights Studies, which was held from the 10<sup>th</sup> to 12<sup>th</sup> November 2007. The 54 interest groups within the NGO Forum examined the human rights situation in many countries in the African region, expressing concern over specific issues such as the situation of the rights of women and of human rights defenders on the Continent.

8. On the general human rights situation, the NGO Forum lamented that after several years, human rights issues on the African Continent still remain critical. Underscoring the alarming human rights situation in many parts of the Continent, the Forum declared that Africa's development is plagued by ignorance, disease, poverty, hunger, unemployment, violent conflicts, the debt crisis, bad governance and corruption. Against this background, the Forum noted that the commemoration of the 20<sup>th</sup> Anniversary of the African Commission serves as a reminder that while we celebrate the Commission's coming of age, we should not forget that in many parts of the Continent, intolerance in all its forms has plunged millions of men, women and children into misery.

9. The Department of Political Affairs of the African Union Commission also organised a series of activities prior to the 42<sup>nd</sup> Session, in particular:

- A Workshop on African Constitutions from 5 - 7 November 2007;
- A Joint Seminar with the African Commission to celebrate the 20<sup>th</sup> Anniversary of the African Commission on Human and Peoples' Rights, from 8-9 November 2007;
- A Workshop on the Observation of Elections in Africa, from 12-13 November 2007.

10. In his welcoming statement, the former Vice-Chairperson of the African Commission, Commissioner **Yassir Sid Ahmed El Hassan**, expressed, on behalf of the Members of the African Commission, and on his own behalf, his gratitude to the Prime Minister of the Republic of Congo for accepting to perform the official opening of the Session. He also thanked the Congolese Government and People on behalf of the African Commission for agreeing to host the 42<sup>nd</sup> Ordinary Session.

11. The Vice Chairperson stated that the 42<sup>nd</sup> Session marks twenty years of existence of the African Commission. He stated that despite efforts made by the International community, the human rights situation in certain parts of the Continent like Somalia, the Darfur region in Sudan, Chad, Democratic Republic

of Congo and Zimbabwe remains a matter of concern, due to the persistence of armed conflicts and political crises. He also intimated that human rights defenders should be protected from human rights violations in the context of their activities.

12. Addressing the State Parties to the Charter directly, he informed them that the Commission continues to receive numerous reports of human rights abuses perpetrated on the Continent. The Vice-Chairperson further stated that the lack of commitment to fully implement human rights obligations is giving rise to numerous difficulties on the Continent. The Vice-Chairperson further lauded the decision of the AU to allow the African Commission to prepare and defend its own budget and to present a new structure before the Permanent Representative Committee (PRC) of the African Union to enhance its human capacities and other resources of the Secretariat of the African Commission. He also referred to the draft revised Rules of Procedure, and the Strategic Plan which the Commission was to adopt during the session. Finally, he acknowledged that the African Commission has at times encountered difficulties but it remains steadfast in its resolve to achieve its mandate.

13. Speaking on behalf of the AU Member States, the Minister of Justice of the Central African Republic stated that the 42<sup>nd</sup> Session is taking place at a time when the issue of human rights has become a top priority for States Parties and is regarded as an important component of the global agenda. He indicated that if Africa is to develop, all countries on the Continent must respect human rights. He acknowledged that Africa is facing numerous human rights challenges which need to be addressed.

14. Speaking on behalf of the Commission of the African Union, Her Excellency, Mrs Julia Dolly Joiner, Commissioner for Political Affairs, assured the African Commission of the continued support of the African Union in the discharge of its mandate and reiterated that the African Commission is an integral part of the United Nations-African Union 10-year Capacity Building Programme as well as the Africa-EU Dialogue on Human Rights and Capacity Building issues.

15. The 42<sup>nd</sup> Ordinary Session was officially opened by His Excellency Voumba Isidore, Prime Minister, of the Republic of Congo, responsible for Governmental Coordination and Privatisation. His Excellency welcomed the African Commission to Brazzaville, the capital of the Republic of Congo. The Prime Minister intimated that a large number of Africans are ignorant of the existence of the African Charter and that the popularization of this legal instrument is very important for all African countries. He stated that by hosting the 42<sup>nd</sup> Session, the Congolese Government is proud to contribute to the dissemination and promotion of the rights enshrined in the African Charter.

16. The Prime Minister also declared that according to the January 2002 Constitution of the Republic of Congo, all the treaties ratified so far have been integrated into national law, but acknowledged that a lot more remains to be done for the enjoyment by all Congolese of the rights guaranteed by the Charter. He noted however that the Republic of Congo is doing its best, adding that freedom of press, for instance, is guaranteed by law and that prison conditions have also improved. He indicated that the Government is firmly committed to peace and security, adding that other rights such as the right to good health, the right to development, and the rights of women and children will remain on the agenda of the State.

17. Following the election by the Assembly of the Heads of State and Government of the African Union, of five members to the African Commission in July 2007, the new Commissioners including Commissioner Angela Melo whose term was renewed, took their oath of office during the 42<sup>nd</sup> Ordinary Session. The five members were:

- Commissioner Angela Melo;
- Commissioner Yeung K. J. Y. Sik Yuen
- Commissioner Catherine Dupe Atoki;
- Commissioner Kayitesi Zainabo Sylvie
- Commissioner Soyata Maiga

18. In accordance with Article 42 of the African Charter and the relevant provisions of its Rules of Procedure, Commissioner **Sanji Mmasenono Monageng** was elected Chairperson of the Commission, and Commissioner Angela Melo, Vice-Chairperson as members of the Bureau for the next two years, with effect from 15 November 2007.

19. During the Session, the Commission heard statements relating to the human rights situation in Africa from the representatives of States Parties, including in particular, those from the Republic of South Africa, Zimbabwe, Cote d'Ivoire, the Republic of Mali, the Sahrawi Arab Democratic Republic, Senegal, Nigeria, Rwanda, Botswana, Ethiopia and Sudan.

20. Statements were also made by the representatives of Intergovernmental and International Organisations, by the Network of National African Human Rights Institutions as well as the National Human Rights Institutions in Africa and Non-governmental organisations (NGOs).

21. In his intervention, the Representative of the Office of the United Nations High Commissioner for Human Rights, Mr Patrice Vahard informed to the Session that twenty years on, the situation of human rights on the African Continent remains generally critical. He indicated that the nexus of corruption and impunity jeopardizes the efforts being deployed in many parts of the Continent to alleviate poverty and strengthen peace building.

22. Nonetheless, he noted that considerable progress had been registered in the African Continent and in the world at large in the field of human rights. He also reiterated that the links between human rights and development on the one hand, and between peace, security and human rights on the other, are recognised and mainstreamed at the global and regional levels.

23. The Representative of the Non-Governmental Organisations (NGOs), Ms. Colette Letlojane, expressed the concern of the NGO Forum regarding the

human rights violations brought about by the exploitation of Africa's natural resources, and requested the Commission to put in place a Special Mechanism to work on human rights pertaining to the exploitation of natural resources. She also expressed the concern of the NGO Forum regarding the persistence of human rights violations against women, in particular the practice of female genital mutilation and gender-based violence, and urged States Parties which have not yet done so to ratify the Protocol on the Rights of Women in Africa.

24. In conformity with Article 62 of the African Charter on Human and Peoples' Rights, the Periodic Reports of The Peoples Democratic Republic of Algeria, the Republic of Tunisia and the Republic of Rwanda were presented to the Commission.

25. Members of the African Commission presented reports of the activities they undertook as members of the Commission, as well as reports of activities undertaken during the inter-session in the context of their various special mechanisms and mandates. The Reports of the Special Rapporteurs on the Rights of Women, Prisons and Conditions of Detention, Freedom of Expression, Refugees, Asylum Seekers and Internally Displaced Persons were also presented, as were reports from the Chairpersons of the Working Group on the Implementation of the Robben Island Guidelines, and the Working Group on Indigenous Peoples.

26. The Commission considered the applications for Affiliate Status and decided to grant the said Status to the following National Human Rights Institutions:

- The National Human Rights Commission of Mali;
- and
- The National Commission for Human Rights and Liberties of Cameroon

This brings the number of NHRIs with affiliate status with the African Commission to 21.

27. The Commission considered the applications for Observer Status and granted the said status to the following NGOs:

- Forum des Organisations nationales des droits de l'homme (FONADH Mauritania)
- Centre for Environment and Development (Cameroon)
- Droits de l'homme sans frontiere (DHSF- Chad)
- SOS-Kinderdorf International (The Gambia)
- African Policing Civilian Oversight (APCOF-South Africa)
- Nigerian Bar Association (NBA-Nigeria)
- Associaçao Justica, Paz e Democracia (Angola) and
- People Opposing Women Abuse (POWA- South Africa)

This brings the number of NGOs with Observer Status with the African Commission to 375.

28. The African Commission considered and adopted the Report of the fact-finding mission to the Republic of Mali and to the Islamic Republic of Mauritania.

29. The Commission also adopted its 2008-2012 Strategic Plan.

30. The African Commission reiterated its decision to organise seminars on the following topics in 2008:

- Consultations with the Partners on the Rights of Indigenous Populations in March 2008,
- A Conference on Strategic Partnering for Human Rights in Africa in April 2008.

31. The African Commission appointed the following Commissioners and individuals to head and serve as members of the following mechanisms, effective from 28 November 2007:

- ▶ **Commissioner Soyata Maiga** - Special Rapporteur on the Rights of Women.
- ▶ **Commissioner Kayitesi Zainabo Sylvie** - Chairperson of the Working Group on the Death Penalty. Commissioner Bahame Tom Mukirya Nyanduga was appointed member of the Working Group on the Death Penalty.

The following experts were appointed members of the Working Group:

- Mrs. Alya Cherif Chammari
- Mrs. Alice Mogwe
- Mr. Mactar Diallo
- Professor Philip Francis Iya
- Professor Carlson E. Anyangwe
- Professor Mohamed S. El-Awa

► **Commissioner Musa Bitaye** - Chairperson of Working Group on Indigenous Populations/Communities. The following were also appointed members or their membership renewed in the Working Group on Indigenous Populations/Communities:

- Commissioner Mumba Malila – member (membership renewed)
- Commissioner Soyata Maiga – member
- Marianne Jensen – member (membership renewed)
- Kalimba Zepharin – member (membership renewed)
- Dr Naomi Kipuri – member (membership renewed)
- Dr. Albert Barume – member
- Mr Melakon Tegegn - member

► **Commissioner Angela Melo** - Chairperson of Working Group on Specific Issues. The following persons were also appointed members or their membership renewed in the Working Group on Specific Issues:

- Commissioner Faith Pansy Tlakula – member (membership renewed)
- Commissioner - Kayitesi Zainabo Sylvie– member
- Ibrahima Kane – member (membership renewed)
- Chidi Odinkalu – member (membership renewed)
- Julia Harrington – member (membership renewed)
- Alpha Fall – member (membership renewed)

► **Commissioner Angela Melo** - Chairperson of the Working Group on Economic and Social Rights: The following were also appointed members of the Working Group on Economic and Social Rights:

- Commissioner Catherine Dupe Atoki – member
- Ibrahima Kane - member

► **Commissioner Catherine Dupe Atoki** - Chairperson of the Monitoring Committee on the Implementation of the Robben Island Guidelines. The following persons were also appointed members or their membership renewed in the Monitoring Committee on the Implementation of the Robben Island Guidelines:

- Mr Jean-Baptiste Niyizurugero (Penal Reform International) - Vice Chairperson (membership renewed)
- Mrs. Hannah Forster (The Gambia) – member (membership renewed)
- Ms. Leila Zerrougui – (Algeria) – member (membership renewed)
- Ms Karen McKenzie (South Africa) – member (membership renewed)
- Malick Sow (Senegal) - member (membership renewed)

► **Commissioner Yeung K. J. Y. Sik Yuen** - Chairperson, Focal point on the Rights of the Elderly. The following persons were also appointed members:

- Commissioner Reine Alapini Gansou – member
- Yassir Sid Ahmed El Hassan

► The African Commission renewed the appointment of **Mumba Malila**, as Special Rapporteur on Prisons and Conditions of Detention in Africa.

► The African Commission renewed the appointment of **Faith Pansy Tlakula** – as Special Rapporteur on Freedom of Expression in Africa. The mandate was also expanded to include “**Access to Information.**”

► The African Commission renewed the appointment of Mme **Reine Alapini-Gansou** as Special Rapporteur on Human Rights Defenders.

► The African Commission renewed the appointment of **Bahame Tom Mukirya Nyanduga** as Special Rapporteur for Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa.

32. Each Commissioner was entrusted with the responsibility of carrying out promotional activities in the State Parties to the African Charter as follows:

Commissioner **Sanji Mmasenono Monageng**: Liberia, Lesotho, Mauritius and Mozambique

Commissioner Dr **Angela Melo**: Angola, Sao Tome and Principe, Cape Verde, Equatorial Guinea and Guinea Bissau

Commissioner **Musa Ngary Bitaye**: Ghana, Sierra Leone, Nigeria and Zimbabwe

Commissioner **Reine Alapini-Gansou**: Cameroon, Democratic Republic of Congo, Senegal, Togo, Tunisia and Mali

Commissioner **Mumba Malila**: Kenya, Malawi, Uganda and Tanzania

Commissioner **Bahame Tom Mukirya Nyanduga**: Eritrea, Botswana, Seychelles, South Africa and Rwanda

Commissioner **Faith Pansy Tlakula**: The Gambia, Namibia, Swaziland and Zambia

Commissioner **Yeung K. J. Y. Sik Yuen**: Madagascar, Comoros, Sawahri Democratic Republic, Chad, Benin.

Commissioner **Catherine Dupe Atoki**: Egypt, Ethiopia, Somalia, Djibouti and Sudan

Commissioner **Kayitesi Zainabo Sylvie**: Burkina Faso, Burundi, Algeria, Mauritania and Cote d'Ivoire

Commissioner **Soyata Maiga**: Central African Republic, Niger, Guinea, Libya and Gabon

33. The African Commission adopted the following resolutions:

- Resolution on the Appointment of the Chairperson and Members of the Working Group on Economic, Social and Cultural Rights in Africa;
- Resolution on the Renewal of the Mandate of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa;
- Resolution on the Renewal of mandate and Appointment of the Chairperson and Members of the Follow-up Committee on the Implementation of the Robben Island Guidelines;

- Resolution on the Renewal of the mandate and Appointment of the Chairperson of the Working Group on the Death Penalty;
- Resolution on the Creation and Appointment of the Focal Point on the Rights of Elderly Persons in Africa;
- Resolution on the Situation of Human Rights Defenders in Africa;
- Resolution on the Renewal of the Mandate of the Special Rapporteur on Human Rights Defenders in Africa;
- Resolution on the Renewal of the Mandate and Composition of the Working Group on Specific Issues Relevant to the Work of the Commission;
- Resolution on the upcoming elections and the situation of freedom of expression in Zimbabwe;
- Resolution on the Renewal of the Mandate and Appointment of the Special Rapporteur on Prisons and Conditions of Detention in Africa;
- Resolution on the Ratification of the African Charter on Democracy, Elections and Good Governance;
- Resolution on the Expansion of the Mandate and the Appointment of the Special Rapporteur on Freedom of Expression and Access to Information in Africa;
- Resolution on the Renewal of the Mandate and the Appointment of the Special Rapporteur on the Rights of Women in Africa;
- Resolution on the Composition and Renewal of the Mandate of the Working Group on Indigenous Populations/Communities in Africa;
- Resolution on Right to a Remedy and Reparation for Women and Girls Victims of Sexual Violence;
- Resolution on the United Nations Declaration of the Rights of Indigenous Peoples;
- Resolution on Migration and Human Rights in Africa; and
- Resolution of Strengthening the Responsibility to Protect in Africa.

34. The African Commission considered 81 Communications: it was seized with 11; it considered 42 on admissibility, 27 on the merits and 1 on review.

35. The African Commission adopted its Twenty Third (23<sup>rd</sup> ) Activity Report which will be submitted to the 12<sup>th</sup> Ordinary Session of the Executive Council of the African Union and the 10<sup>th</sup> Summit of the Assembly of Heads of State and Government of the African Union, which is scheduled to take place in January 2008 in Addis Ababa, Ethiopia.

36. The African Commission decided to hold its 43<sup>rd</sup> Ordinary Session from 15 – 29 May 2008 at a venue to be determined in due course.

37. The African Commission expresses its sincere appreciation and profound gratitude to the Government and People of the Republic of Congo 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 success of the deliberations of its 42<sup>nd</sup> Ordinary Session.

38. The closing ceremony of the 42<sup>nd</sup> Ordinary Session took place on the 28<sup>th</sup> November 2007 in Brazzaville, Republic of Congo.

39. The Chairperson of the African Commission held a Press Conference after the closing ceremony.

**Done in Brazzaville, Republic of Congo, 28 November 2007**