

AFRICAN UNION

الاتحاد الأفريقي

African Commission on Human &  
Peoples' Rights



UNION AFRICAINE

UNIÃO AFRICANA

Commission Africaine des Droits de l'Homme  
et des Peuples

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**REPORT OF THE 48<sup>th</sup> ORDINARY SESSION OF THE AFRICAN  
COMMISSION ON HUMAN AND PEOPLES' RIGHTS**

(10 - 24 November 2010, Banjul, The Gambia)

## INTRODUCTION

1. The 48<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights (the African Commission or ACHPR) was held from 10 to 24 November 2010, in Banjul, Republic of The Gambia (The Gambia). The following Members of the African Commission were in attendance:

- Commissioner **Reine Alapini-Gansou**, Chairperson
- Commissioner **Mumba Malila**, Vice Chairperson
- Commissioner **Catherine Dupe Atoki**;
- Commissioner **Musa Ngary Bitaye**;
- Commissioner **Mohamed Khalfallah**;
- Commissioner **Soyata Maiga**;
- Commissioner **Kayitesi Zainabou Sylvie**;
- Commissioner **Pansy Tlakula**;
- Commissioner **Yeung Kam John Yeung Sik Yuen**; and
- Commissioner **Lucy Asuagbor**

2. Commissioner Mohamed Fayek was absent with apologies.

3. Due to circumstances beyond her control, the Chairperson had to leave the 48<sup>th</sup> Ordinary Session before its conclusion.

### ITEM 1: OPENING CEREMONY (PUBLIC SESSION)

4. Mrs Justice Lucy Asuagbor from Cameroon was sworn in as the new Commissioner.

5. At the opening ceremony speeches were delivered by the Chairperson of the African Commission, a representative of non-governmental organizations (NGOs), a representative of National Human Rights Institutions (NHRIs), the Commissioner of Political Affairs of the African Union Commission (AUC), the President of the African Court on Human and Peoples' Rights (the African Court), and a representative of African Union (AU) Member States.
6. The 48<sup>th</sup> Ordinary Session of the African Commission was officially declared open by Mr. Edward Gomez, Attorney General and Minister of Justice of The Gambia.

*Statement of the Chairperson of the African Commission, Honourable Commissioner Reine Alapini-Gansou*

7. In her welcoming statement, the Chairperson of the African Commission, Honourable Commissioner **Reine Alapini-Gansou**, expressed, on behalf of the Members of the African Commission, and on her own behalf, her profound gratitude to the Government and People of The Gambia for once again hosting the Ordinary Session of the African Commission and welcomed the participants to its 48<sup>th</sup> Ordinary Session. The Chairperson congratulated Honourable Justice **Mrs. Lucy Asuagbor** on her election as a Member of the African Commission and officially welcomed her to the latter.
8. The Chairperson also welcomed the President of the African Court, Honourable Justice **Gerard Niyungeko**, who was attending the Session of the African Commission for the first time. She stated that the presence of Honourable Justice **Gerard Niyungeko** should be seen as a manifestation of the constructive complimentary relationship between the African Court and the African Commission.

9. The Chairperson speaking on the theme of the 48<sup>th</sup> Ordinary Session *Reflecting on the Human Rights of Women in Africa*, observed that even though there have been a plethora of legislations enacted by some States to protect women's rights, securing women's rights in Africa remains a challenge.
10. She stated that despite the BEIJING+15 Conference in 2009 that called for an evaluation of the rights of women in Africa, 2010 has shown that there is an urgent need to take positive steps to improve the human rights of women in Africa. In particular on issues such as female genital mutilation, forced marriages, sexual and domestic violence and other types of human rights violations that affect the dignity and physical integrity of women. The Chairperson stated that at the time when democracy in Africa is facing serious challenges, it is imperative for NGOs and civil society in collaboration with the African Commission to send a clear message of their strong commitment to the rights and freedoms guaranteed in the African Charter on Human and Peoples' Rights (the African Charter).
11. In closing her speech, the Chairperson stressed the need for States Parties to the African Charter to build a culture of human rights observance and to establish effective mechanisms to protect human rights in Africa. She ended her speech by asking the following question: "Do we want the future generation to inherit an intolerable world, an Africa devastated by wars, an Africa that refuses to move forward?"

*Statement by the Representative of NGOs, Mrs Hannah Foster, Executive Director, ACDHRS*

12. The Executive Director of the African Centre for Democracy and Human Rights Studies (ACDHRS), **Mrs. Hannah Forster**, made a statement on behalf of the NGOs present at the Forum which was held prior to the 48<sup>th</sup>

Session. In reviewing the human rights landscape in Africa for the last six months, she noted that Africa is still experiencing a lot of human rights abuses and called on Member States to ensure better protection of human rights in their territories. She expressed the concerns of the NGO Forum over homophobic attacks in Burundi, Malawi, Rwanda and Uganda, as well as the extrajudicial killings and enforced disappearances in a number of countries including the Democratic Republic of Congo.

13. **Mrs. Forster** stated that some States Parties to the African Charter have not only enacted harsh laws to suppress free expression and the press, but that some of them continue to harass, intimidate, arbitrarily detain and even kill human rights defenders. **Mrs. Forster** also highlighted the challenges faced by various vulnerable groups and communities in Africa such as migrants, refugees and Internally Displaced Persons (IDPs), the elderly, the disabled and indigenous populations.

*Statement by the Representative of NHRIs, Mr. Med S. K. Kaggwa, Chairperson, Uganda Human Rights Commission and Member of the Steering Committee of the Network of African National Human Rights Institutions*

14. The Representative of the Network of African National Human Rights Institutions and Chairperson of the Uganda Human Rights Commission, **Mr. Med S. K. Kaggwa**, in his statement expressed appreciation to the African Commission for its relentless efforts to make human rights a reality on the African continent, despite being confronted with multiple challenges. **Mr. Kaggwa**, stated that the Sessions of the African Commission provide the Network of African National Human Rights Institutions the opportunity to exchange information on various human rights challenges and also serve as a platform to debate pertinent human rights issues concerning the African continent.

15. **Mr. Kaggwa** noted that the Session was being held at a time Africa was facing many challenges ranging from issues relating to freedom of expression, issues of democracy and good governance and the plight of women and children, especially those caught in conflict zones. He stated that, despite some progress made by some African states to promote and protect human rights as envisaged in the African Charter and other regional human rights instruments, and the Constitutive Act of the AU, human rights violations still persist. He underscored, however, that Africans are increasingly becoming aware of their rights and demanding such rights from their governments.
16. **Mr. Kaggwa** said that the Network of African National Human Rights Institutions is happy to collaborate with Member States and the AU organs, such as the African Commission, the African Court and other regional treaty monitoring bodies and civil society organizations to promote and protect the rights of people on the African continent. He noted that the Network of African National Human Rights Institutions complement the already established African human rights institutions, and by the nature of the work they do, are in a good position to make a unique contribution to secure human rights in the region.

*Statement by the Commissioner of Political Affairs in the African Union Commission, Mrs Julia Dolly Joiner*

17. Speaking on behalf of the AUC, Her Excellency, **Mrs. Julia Dolly Joiner**, Commissioner for Political Affairs at the AUC, assured the African Commission of the continued support of the AUC in the discharge of its mandate and reiterated that the African Commission is an integral part of the human rights dialogue that is taking place right across Africa. Her Excellency **Mrs. Joiner** noted with appreciation the role the African

Commission has played and continues to play in promoting and protecting human rights on the continent.

18. She stated that despite some progress, the overall human rights record in Africa remains poor and noted with regret that matters such as gender discrimination remain a concern. Her Excellency **Mrs. Joiner** stated that issues such as the right to development and the rights of women and children needed some more focus by Member States. She said that the deteriorating human rights situation in many African countries has had a negative impact on the lives of women and children and urged Member States to spare no effort to respond progressively and decisively to these issues, in particular to repeal laws that discriminate against women and girls.
19. Her Excellency, **Mrs. Joiner** urged the African Commission, that whilst responding to the complex demands and challenges of the next six months, it must seek ways to ensure that it delivers on all elements of its core mandate particularly in ensuring that Member States submit their Initial and Periodic States Reports in accordance with Article 62 of the African Charter. She stated that even though the obligation to submit Reports rests with Member States, the African Commission is well placed to explore ways of securing more active participation and commitment in this regard. Her Excellency, **Mrs. Joiner** underscored that while the anticipated activities to commemorate the 30<sup>th</sup> Anniversary of the African Charter are important for advocacy and raising the profile of the African Commission, these activities should be used by the African Commission to reflect on the journey travelled and the challenges that lie ahead.

*Statement by the President of the African Court on Human and Peoples' Rights,  
Honorable Judge Gerard Niyungeko*

20. Speaking on behalf of the African Court, Honourable Justice **Gerard Niyungeko**, President of the African Court reiterated the sentiments expressed by the Chairperson of the African Commission, Honourable Commissioner **Reine Alapini-Gansou** in her opening remarks that the collaborative relationship between the African Court and the African Commission is one that is based on mutual respect for the complementary role of both institutions. He added that it is within the spirit of that collaborative relationship that the Rules of Procedure of both organs have been harmonized.
21. Honourable Justice **Niyungeko** stated that the African Court has two roles. Firstly, to look into cases related to the interpretation and the application of the African Charter and secondly, an advisory role, where the African Court gives a legal opinion about any question related to human and peoples' rights.
22. He indicated that the foremost challenge of the African Court is its inability to hear cases due to the small number of countries that have ratified the Protocol Establishing the Court, as well as the small number of States Parties which have made the Declaration allowing individuals and NGOs to submit cases directly to the Court. He informed the Session that of the 53 Member States of the AU, only 25 have so far ratified the Protocol Establishing the Court. He further stated, that out of those 25 States only four countries, namely Burkina Faso, Mali, Malawi and Tanzania, have made the a declaration accepting the jurisdiction of the Court to examine applications lodged by individuals and NGOs.

*Statement by a Representative of AU Member States, Honorable Mrs Salamata Sawadogo, Minister for Promotion of Human Rights in Burkina Faso*

23. The Minister for the Promotion of Human Rights in Burkina Faso, Honourable **Salamata Sawadogo**, delivered a statement on behalf of the

Member States to the AU present at the 48<sup>th</sup> Ordinary Session. After expressing her gratitude to the Government and People of The Gambia, the Honourable Minister reminded the participants, that the African Charter places responsibility on States Parties to ensure the promotion and protection of human rights on the continent. She said however, that the protection of human rights in Africa can only be realised with the collaboration of all, including Member States, international partners, NHRIs and NGOs.

24. The Honourable Minister stated that the Sessions of the African Commission provide all those who fight for the cause of human rights with an opportunity to engage in frank and constructive dialogue. The Honourable Minister reminded that if the African Commission is to discharge its mandate with success, it is crucial that it cooperates with Member States, who should be encouraged to facilitate and support its work. She urged the African Commission to continue discharging its mandate resolutely and with objectivity.

*Opening Speech by Honorable Edward Gomez, Attorney General and Minister of Justice of the Republic of The Gambia*

25. In his opening statement, the Attorney General and Minister of Justice, Honourable **Edward Gomez**, on behalf of his Excellency, Sheikh, Professor, Alhagie, Doctor Yahya A. J. J. Jammeh, President of the Republic of The Gambia welcomed the delegates and participants to the 48<sup>th</sup> Ordinary Session of the African Commission to Banjul, The Gambia.
26. Honourable **Gomez**, congratulated the African Commission on the successful convening of the Session and recognized the important role of the African Commission's Sessions which he likened to a mirror through which Africa sees itself, while evaluating its achievements and challenges in the promotion and protection of human rights. He detailed various efforts

that have been made by the Government of The Gambia to uphold the rights and liberties of the Gambian people, notably through the constitution and the creation of a Department for Human Rights in the Ministry of Justice. He, however, raised the issue of enjoyment of individual rights, which he argued must be subject to the rights of others and the compelling interests of society as a whole. This, he explained, was the basis for the continued existence of the death penalty in The Gambia and the enactment of legislation to curb corruption.

27. Honourable **Gomez** regretted the deplorable conditions of women in Africa, particularly rural women and the girl-child, whom, he said, continue to be victims of harmful customary practices. He appealed to States Parties and members of civil society to devise more creative ways and means of protecting the African woman and the girl-child. Honourable **Gomez**, congratulated Honourable Justice Mrs Asuagbor on her election as a Member of the African Commission, before officially declaring the 48<sup>th</sup> Ordinary Session open.

## **ITEM 2: ADOPTION OF THE AGENDA (PRIVATE SESSION)**

28. The African Commission adopted the Agenda of its 48<sup>th</sup> Ordinary Session with some amendments.

## **ITEM 3: ORGANISATION OF WORK (PRIVATE SESSION)**

**Morning Session:** 9:00 – 13:00

**Afternoon Session:** 15:00 – 18:00

**Fridays**

Morning Session: 9:00 – 13:00

Afternoon Session: Free

### **Sundays**

Morning Session: Free

Afternoon: 14:30 – 18:30

## **ITEM 4: HUMAN RIGHTS SITUATION IN AFRICA (PUBLIC SESSION)**

### **a) Statements by State Delegates**

29. The delegate of **Libyan Arab Jamahiriya** stated that Libya has always been supporting the cause of freedom and liberation of Africa from colonialism and dependency. Freedom, security and stability, he said, cannot be realized without a sustainable development, which is related to human rights as it involves providing the human need of food, water, housing, education, health, and a clean environment. He also indicated that Libya called for an African-European Summit in November 2010 in order to discuss common programs/plans in the fields of development, investment, and exploitation of the natural resources of Africa, for the benefit of Africans.

30. The delegate of the **Republic of Burkina Faso** indicated that the issue of elections is a major element in the realization of human rights. In this regard Burkina Faso congratulated the progress in Côte D'Ivoire and Guinea for the restoration of democracy and peace. On the national level, he said, Burkina Faso sensitizes its citizens of their rights and obligations and has also taken reforms in several sectors such as justice and social services. He added that other actions have been taken by Burkina Faso since the last

session such as the reform of the National Commission on Human Rights, the finalization of a guide for the introduction of human rights education in primary schools, and providing essential documents to citizens (birth certificates and identification cards) free of charge or with nominal fees. Burkina Faso, he added, ratified the Protocol on the Status of the African Court of Justice and Human Rights, the African Charter on Democracy, Elections, and Governance, as well as the Optional Protocol on the Convention against Torture, and other Cruel, Inhuman and Degrading Treatment or Punishment (CAT). He also indicated that Burkina Faso is up to its regional and international engagements/obligations. He said Burkina Faso will soon submit reports to different bodies on the issues of torture, racial discrimination, migrant workers, as well as its report to the African Commission in compliance with Article 62 of the African Charter.

31. The delegate of the **Republic of Uganda** stated that his country continues to make the observance and protection of human rights a cornerstone of its policies in accordance with the aspirations of its people, its constitution and African Charter. In accordance with this commitment he said Uganda recently ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. The strides in implementing the provisions of the African Charter, he said, are amply highlighted in the periodic report for 2008 – 2010 which is undergoing consultative validation and adoption which will be submitted before the end of the year for discussion at its 49<sup>th</sup> Session. Finally, he pledged Uganda's commitment to respect the rights of suspects who have been arrested in relation to the 11 July 2010 bomb attacks and he called upon the international community to join the Government of Uganda in its efforts to definitively and permanently eliminate terrorism which has assumed catastrophic trans-boundary dimensions.

32. The delegate of the **Kingdom of Lesotho** stated that the sessions of the African Commission are an opportunity of taking stock of the achievements, shortcomings and challenges that lie ahead in the human rights field in our respective countries. The delegate informed the African Commission of the most recent developments regarding human rights in Lesotho namely:

- The amendment of the Children’s Protection Act 1980 in order to fully incorporate the principles of the African Charter on the Rights and Welfare of the Child (ACRWC), and the Convention on the Rights of the Child (CRC). The new “The Children’s Protection and Welfare Bill”, that is still under deliberation of the Parliament, she said, addresses several important issues such as child trafficking, children with disabilities, and children affected by HIV and AIDS. Lesotho will also be preparing the reports on the ACRWC and CRC, as well as the overdue reports on the African Charter.
- The enactment of the Education Act 2010 that makes free primary education compulsory, and makes it an offence for any parent to keep a school going child at home.
- In the field of the rights of women, Lesotho is part of the 10 year Southern African Development Community (SADC) Strategic Plan of Action (2009-2019) on human trafficking especially of women and children. An Anti-Trafficking in Persons Bill is now in place as well.
- The various efforts made concerning the HIV and AIDS pandemic among which she made mention of “Know Your Status” campaign, free voluntary counseling, the establishment of the National Aids Commission, and a proposed HIV and AIDS Bill.

33. The delegate of the **Republic of Zimbabwe** indicated that his country continues to work towards the effective implementation of the principles of human rights which are enshrined in the African Charter. As an illustration, he tabulated some giant strides achieved by his Government in the human rights discourse such as the draft Bill to make the Zimbabwe Human Rights Commission operational and the establishment of the Inter- Ministerial Committee to advise the Government of its human rights obligations. The delegate pleaded to the international community particularly the Western world to remove “the illegal sanctions imposed on Zimbabwe”.
34. The delegate of the **Arab Republic of Egypt** indicated that the African Commission is the only extra-national mechanism trusted by Egypt with receiving communications on behalf of individual complainants. The delegate reiterated the importance of urgent action to increase the financial resources of the African Commission to enable it to enhance the different aspects of its work and activities. He raised Egypt’s concern over attempts to use the international and regional venues to promote notions and values that are alien to regional and international legal commitments of African states, by imposing controversial themes. He also affirmed Egypt’s dedication to invest in spreading the human rights culture among citizens. He said Egypt is also keen to fulfill its regional and international obligation through submitting reports to the different human rights mechanisms as well as receiving human rights experts.
35. The delegate of the **Federal Democratic Republic of Ethiopia** stated that his country has made major strides in the promotion and protection of human rights through the consolidation of its new constitutional dispensation and democratic governance and is keen to cooperate with relevant institutions.

He further stated that it is in pursuance of this objective that the reports for the two international covenants, the CAT and the African Charter are presented for the first time. He further stated that Ethiopia had also gone through a successful assessment of its human rights performance under the Universal Periodic Review of the United Nations Human Rights Council. He revealed that three important AU human rights instruments will be considered for ratification during the current Ethiopian budget year. He noted that Ethiopia has been undergoing a significant fight against poverty over the last two decades through pro-poor programmes in the areas of infrastructure development, and has also been collaborating with all relevant regional and international institutions in combating climate change and international terrorism. He concluded by reaffirming the readiness of the Government of Ethiopia to closely cooperate and work with the Commission in the implementation of the African Charter.

36. The delegate of the **Republic of South Africa** indicated several issues of specific importance to the South African Government such as gender equality and women's rights, access to justice, human trafficking, and poverty. In order to address these issues the delegate said the Government of South Africa has enacted legislations, promoted the representation of women in political positions, made courts more accessible to all citizens, organized events and campaigns to sensitize citizens, and signed human rights instruments.

37. The delegate of the **Federal Republic of Nigeria** affirmed his country's commitment to consolidate current democracy advances in Nigeria. He said that preparations for the forthcoming General Elections in the first quarter of 2011 are going as planned and further indicated that the Independent

National Electoral Commission has been reconstituted with the appointment of new commissioners and a new Chairman. He indicated that the Government has intensified the fight against corruption in all its ramifications and stated that it has succeeded in restoring peace to the Niger Delta region with the implementation of the “Amnesty Program” for ex militants. He reaffirmed the Government’s commitment to promoting the sanctity of the constitutional provisions on due process and good governance, the independence of the judiciary, as well as the capacity of the legislature to undertake oversight of the executive functions in order to promote a harmonious exercise of state power.

38. The delegate of the **Republic of The Sudan** indicated that the referendum on Southern Sudan is going to be held in January 2011. He said the referendum will be internationally and regionally monitored and expressed the country’s wish to see AU monitoring mission during the referendum. He added that the registration of voters will start soon and that all parties have pledged to accept the result of the referendum if it genuinely reflects the aspiration of the Southern Sudan people. He also indicated that to achieve this goal a number of coordinated strategies have been adopted. With regards to Darfur, he said that the situation is much better now as many IDPs and refugees have started returning to their original places. He informed the African Commission that Sudan is currently preparing its periodic report which will be considered in May 2011. In conclusion, the delegate indicated Sudan’s commitment to cooperate with the African Commission.

**b) – Statements by Intergovernmental and International Organizations**

**Statement by the Representative of United Nations Program on HIV/AIDS (UNAIDS)**

39. The representative of UNAIDS indicated that, in spite of the progress made in the reduction of the prevalence of HIV and the availability of antiretroviral therapy (HAART), there are concerns regarding some legal and regulatory frameworks introduced or invoked to control HIV that results in stigmatization and discrimination against people living with HIV. The speaker specifically mentioned criminal law provisions targeting people living with HIV and members of key specific populations including sex workers, Lesbians, Gays, Bisexuals, Transsexual and Intersex (LGBTI) people and individuals who use drugs that infringe upon the human rights of members of those groups and affect their dignity. These laws, he said, deter members of those groups from seeking HIV services, subject them to harassment, prosecution and denial of legal status.

**Statement by the Special Representative of the UN Secretary General and head of the UN office for West Africa (UNOWA)**

40. The Special Representative enumerated a number of issues that occurred in the last few years in Africa such as unconstitutional changes of governments, pandemics, food and financial crises that aggravate poverty. The speaker also stressed on the importance of having women's rights in the peace and security agenda in Africa.

**C) – statements by National Human Rights Institutions (NHRIs)**

**Statement by the Kenyan National Commission on Human Rights**

41. The representative of the **Kenyan National Commission on Human Rights** informed the Commission about the rendition of some Kenyans to Uganda by the Kenyan Government to face terrorism charges following the July 11 bombings in Uganda. These renditions, he stated, were inconsistent with the Kenyan Constitution and the extradition laws of Kenya and were an affront to the rights of these individuals since they were transferred to

Uganda without due process. He therefore requested the African Commission to call on the Government of Kenya to have all those extradited to Uganda to be transferred back to Kenya, to investigate and prosecute all officials who perpetrated the illegal transfers, to reassure Kenyans and ensure that mechanisms are put in place to prevent the illegal transfer of Kenyans to other countries. He finally regretted the Commission's decision not to grant Observer Status to the Coalition of African Lesbians (CAL), noting that the African Commission's decision is inconsistent with international and regional human rights instruments.

#### **Statement by the National Human Rights Commission of Burkina Faso**

42. The representative of the National Human Rights Commission of Burkina Faso indicated that the national commission was in a transitional period since a new legislation has established a new commission in January 2010. The representative further indicated that, although some progress has been made, there are still many areas of human rights that need to be addressed.

#### **d) – Statements by Nongovernmental Organizations (NGOs)**

##### **Organisation Mondiale Contre la Torture (OMCT) and la Federation Internationale des Ligues des Droits de l'Homme (FIDH)**

43. The speaker indicated that the situation of human rights defenders (HRD), in Africa in general and in Democratic Republic of Congo (DRC) in particular, is cause for concern. Concerning DRC, he said, the assassination of Floribert Chebeya on 2 June 2010 and the attempt to assassinate Clemence Bakatuseka on 4 October 2010 and other intimidation and arrests against HRD are examples of the hostile environment that human rights defenders face in DRC. The speaker also indicated cases of arbitrary arrests

and intimidation that HRD face in other African countries such as Zimbabwe, Tunisia, Uganda, and The Gambia. He further said that freedom of association, of expression and of assembly has been threatened in the last few months, especially in Tunisia and Algeria.

### **East and Horn of Africa Human Rights Defenders Project**

44. The representative of the **East and Horn of Africa Human Rights Defenders Project** welcomed the opportunity offered by the 48<sup>th</sup> Ordinary Session of the African Commission to highlight the human rights situation in the East and Horn of Africa sub region. He noted that attacks on civil and political rights, on human rights defenders, and targeted acts of intimidation and harassment of opposition party members, were rife in Uganda during the election period. In Somalia, he said, the situation had witnessed no improvements since the last report, with civilians continuing to bear the brunt of armed conflict characterized by indiscriminate and targeted attacks, a majority of which are attributed to non state actors. With regards to Uganda, he raised the issue of restrictions on freedom of expression and association, the Bill on Anti-Homosexuality and the draft Public Order Management Bill, which he said were in clear contravention of Uganda's commitments under the African Charter. He deplored the situation of civil and political rights in Ethiopia and Burundi which he said continued to be restricted especially during the run-up to the elections that were held in those countries. He therefore urged the African Commission to take action in order to enable governments in these countries meet up with their commitments under the African Charter.

### **Zimbabwe Lawyers for Human Rights**

45. The representative of Zimbabwe Lawyers for Human Rights indicated that the Zimbabwean Government continues to perpetrate human rights violations against HRD (including women, gays and lesbians), political activists, as well as ordinary Zimbabweans through arrest, criminal prosecution, limitation on freedom of expression, intimidation against human rights organizations and violation of the right to demonstrate. The speaker further expressed the organization's concern over the denial by the African Commission of observer status to CAL.

#### **Arid Lands Institute**

46. The representative of Arid Lands Institute talked about the ongoing human rights violation of the pastoralists in Tanzania. He recalled that since 2006 pastoralists in Tanzania have been living in fear created by the current Government following serial evictions and violation of human rights. The Government policy, he said, is a clear indication that it has no interest in promoting the rights of pastoralists. As an illustration he stated that in Ngorongoro district, eviction of pastoralists was implemented in July 2009. He further stated that the Government still continues to intimidate journalists advocating for the rights of pastoralists and pastoralists themselves were intimidated during the campaigns for the general elections of October 2010, while many others were denied political participation by the ruling party CCM. He requested the African Commission to pay more attention to the human rights situation of pastoralists in Tanzania, to visit and meet affected pastoralists. He concluded by suggesting that the Government engages in constructive dialogue with pastoralists on the future of their existence.

### **Alternative Cameroon**

47. The speaker expressed her organizations dissatisfaction with the African Commission's decision which denied CAL observer status. The speaker further explained that CAL satisfies all the criteria for observer status before the African Commission and hence she urged the latter to reconsider its decision.

### **Human Rights Institute of South Africa**

48. At the outset, the delegate congratulated the African Commission for adopting resounding resolutions during its 47<sup>th</sup> Ordinary Session. He stated that the implementation of Article 62 of the African Charter is very poor as most Members States are behind with their periodic reports. He stressed that despite many efforts, LGBTI people and NGOs working on such issues continue to face discrimination and judicial harassment in Zimbabwe, Malawi, Mozambique and Lesotho. He also noted that regarding the African Commission's resolution on freedom of expression and Access to Information in Africa, the rights to freedom of expression and the media continue to be violated in South Africa, Angola, Botswana, DRC, Lesotho, Zimbabwe, Swaziland and Malawi. He explained that the creation of statutory media regulatory bodies to control the activities of independent media threatens media freedom in the region. He revealed that the killing of albinos for ritual purposes is rampant in Tanzania, Swaziland and DRC. Finally, he called upon the African Commission to grant observer status to CAL, and urged the SADC Members States to appoint new judges for the Tribunal and sign the declaration to grant direct access to victims and NGOs to the African Court.

### **International Humanist and Ethical Union – United Kingdom**

49. The representative of the International Humanist and Ethical Union said ritual killings continue to take place in several African countries in contravention of human rights norms. He informed the African Commission that several cases of ritual killings take place on the African continent because many people still wrongly believe that the use of charms and the performance of ritual sacrifices using human organs can fortify them spiritually, enhance their fortunes in business and politics and elections or protect them from various ills. He stated that most cases of ritual killings are not investigated and often go unpunished notably in Nigeria, Uganda, Swaziland, Liberia, Namibia, Tanzania and Zimbabwe. He urged the African Commission to pay critical attention to ritual killings, raise issues concerning ritual killings during official visits to States Parties and when examining State Reports, and hold states where these practices still prevail, accountable.

### **Zimbabwe Human Rights NGO Forum**

50. The representative of Zimbabwe Human Rights NGO Forum informed the African Commission that the situation in Zimbabwe remains fragile and that human rights violations continue unabated despite the existence of a Government of National Unity (GNU). He stated that the country is currently going through a process of constitutional reform and that consultative meetings were being conducted nationwide. He however regretted that these meetings have been marred by politically motivated violence which have resulted in more than 2000 recorded cases of violations ranging from unlawful arrests, assault, intimidation to abductions and violations of the right to freedom of expression, association and assembly. He expressed his organization's concern over repeated calls by the officials of the GNU for elections to be held in 2011 insisting that the prerequisites

for holding democratic elections were not yet in place. He therefore urged the African Commission to call upon the GNU to fulfill its obligation under the African Charter, implement fully the provisions of the Global Political Agreement and to effect genuine electoral reforms in accordance with the Declaration on Principles Governing Democratic Elections in Africa, before holding elections in Zimbabwe.

### **Ogiek Community in Kenya**

51. The representative of the Ogiek Community in Kenya indicated several human rights violations that the latter are facing, such as the denial of constitutional recognition as a distinct separate tribe, the existence of laws and policies that criminalize the Ogiek culture, lack of justice before Kenyan courts, lack of representation in political arena and in employment, the frequent excisions of their lands, logging activities that threaten the environment of the Mau Forest, and the denial of basic services. The representative also suggested several recommendations for the Kenyan Government and the African Commission to solve these issues.

### **Bajito Onda African Foundation**

52. The foundation stressed on the importance of States Parties to the African Charter to participate in the work of the African Commission by submitting reports every two years on the human rights situation in their respective countries, and by sending representatives to the African Commission's sessions. The foundation talked about Sierra Leone as an example of the non-respect of those two obligations and urged the African Commission to address this issue within the AU meetings of Head of States and Governments.

### **National Union of Tunisian Women**

53. The representative of National Union of Tunisian Women indicated that for more than 50 years Tunisia has built a steady comprehensive gender based approach that has given women the tools to reach maturity and become full citizens. She said her organization trains women, works with women in all parts of the country, provides women with micro-credits so that they can start their own business, provides shelter to women facing violence. She further indicated that women are present in all fields, they hold decision making positions and all careers are open to them.

### **Global Rights Nigeria**

54. The speaker indicated that human rights defenders working on LGBTI issues in Africa face intimidation and persecution. The speaker further explained that African States continue to refuse the registration of NGOs working on these issues, enact legislations criminalizing homosexuality that specifically target LGBTI HRD, face arbitrary arrests and sexual violence amongst other human rights violations. The speaker invited the Special Rapporteur on human rights defenders to investigate this issue, and urged the African Commission to reconsider CAL's application for observer status.

### **Legal Defense and Assistance Project (LEDAP)**

55. The representative of LEDAP indicated that LGBTI people working in protecting and promoting rights based on sexual orientation and gender identity suffer from detention solely based on sexual orientation, gender identity and expression. The speaker urged the Special Rapporteur on Prisons and Places of Detention in Africa to investigate, document and

report, the conditions of detention of those people to the African Commission. The speaker also urged the African Commission to reconsider CAL's application for observer status.

### **Aid the Children Network**

56. The representative of Aid the Children Network indicated that the prisons in Africa are old, overcrowded and neglected, and this is due to the fact that care for prisoners is at the end of the list of priorities for African governments. The representative further indicated that prisons in Africa are unduly punitive, oppressive and do not follow the Robben Island Guidelines and other minimum rules on places of detention. The representative also talked about the problem of infections of hepatitis C, Sexually Transmitted Diseases (STDs), and HIV and that there is neither prevention nor treatment for the detainees.

### **Kenya Human Rights Commission**

57. The representative of Kenya Human Rights Commission recalled the African Commission's decision not to grant observer status to CAL without giving any reason. The representative, citing relevant provisions of the African Charter and the jurisprudence of the African Commission on non-discrimination and equality, stated that apparently the decision of the African Commission not to grant observer status to CAL does not respect these normative obligations. The representative encouraged the African Commission to expand its body of knowledge, appreciate the extent of human rights violations experienced by LGBTI people in Africa and support organizations like CAL that seek redress for the same.

### **Amnesty International**

58. The representative of Amnesty International expressed the organization's concern over several human rights issues including the increase of death sentences in West Africa since 2010, the widespread violations of international humanitarian law and human rights law in Somalia, the human rights situation in Sudan in the lead up to the referendum on self-determination of Southern Sudan. The representative lastly expressed the organization's concern over the African Commission's decision that denied observer status to CAL.

### **Legal Resources Center**

59. The representative of Legal Resources Centre indicated that there is an urgent need to end the divide, in most African countries, between the formal or state legal system and customary legal systems, in order to achieve justice in women's rights issues. The representative further explained that the center advocate for new approaches to customary law, without disregarding the violations that women suffer from in the name of custom or culture. The representative referred to the link between education and empowerment of women, and specifically referred to the practice of Ukhutwala in South Africa and its impact on girls.

### **International Service for Human Rights**

60. The representative of International Service for Human Rights raised concern over the issue of intimidation and harassment against HRD who cooperated with regional and international human rights mechanisms. The representative indicated that the growing participation of human rights defenders with the African Commission expose those defenders to an increasing reprisals. The International Service for Human Rights suggested

that the African Commission establish a joint 'African Commission-NGO Forum Working Group' to analyze this issue and propose concrete measures to be discussed and adopted during the African Commission's 49<sup>th</sup> Ordinary Session.

#### **Media Monitoring Project Zimbabwe (MMPZ)**

61. The representative of MMPZ indicated that, although six new independent newspapers were registered, the constitutional right to freedom of expression in Zimbabwe still remains restricted by repressive media laws. The representative further added that journalists continue to be harassed, arrested and prosecuted in Zimbabwe.

#### **Prisoners Rehabilitation and Welfare Action (PRAWA)**

62. The representative of PRAWA indicated that PRAWA undertook several activities concerning the issue of torture, inhuman and degrading treatment and punishment. He made mention of some of the activities such as the weekly in-station training and interactive sessions for police officers in Nigeria, and a drama series on torture airing at a national Nigerian radio station. The representative further highlighted the need for State Parties to properly equip their police force financially, as well as with other necessary equipment for investigation of crimes, and conduct training of law enforcement agents on the prevention of torture.

#### **Human Rights Development Initiative**

63. The representative of the Human Rights Development Initiative drew the attention of the African Commission to the plight of people that CAL was seeking to represent before the African Commission saying that these people suffer from egregious human rights violations such as rape and other forms of abuse because people do not understand them or see them as

a threat to their beliefs. She likened this situation to the dehumanizing period of apartheid in South Africa, the genocide in Rwanda and the war in Sierra Leone which the world had vowed never to tolerate again. She stated that after the difficult times the African continent has been through, it is very difficult to turn a blind eye to anyone who is silenced or dehumanized and therefore urged the African Commission to reconsider its decision and let CAL find comfort and safety by granting it observer status.

#### **Global Rights (International Human Rights Law Group)**

64. The representative at the outset wished to add his voice to the dissatisfaction raised during the session by the denial of observer status to CAL. He stated that by denying observer status to CAL, the Commissioners have failed in their duty of impartiality established by Articles 31 and 38 of the African Charter. Finally, he noted that the African Commission's decision on this matter creates a serious injury to its own mandate and that this injury will not be healed until the African Commission reconsiders the issue and decides upon the matter based on human rights principles and standards.

#### **Coalition for an Effective African Court**

65. The representative of Coalition for an Effective African Court recalled that on 17 August 2010 the SADC Summit of Head of States decided not to renew the terms of office of 5 judges eligible for reappointment. He stated that the manner in which the review was taken is problematic as it violates the rule of law and the principle of independence of the judiciary. The delegate stressed that the suspension of the normal operation of the SADC Tribunal violates the right of SADC citizens to access justice and get

effective remedy. He regretted that it has become an exercise in futility for the African leadership to set up judicial institutions which are rendered inaccessible and ineffective. He congratulated the Governments of Burkina Faso, Malawi, Mali and Tanzania for taking the lead in ratifying the African Court Protocol. Finally, he requested the SADC Tribunal to convene an extraordinary summit for the purpose of remedying its decision of 17 August 2010 and to renew the terms of those Tribunal members eligible for reappointment or appoint new Tribunal members. He also suggested to the African Commission to facilitate the participation by all stakeholders in the review process in terms of Article 23 of the SADC Treaty.

#### **Collectif des Familles de disparus en Algérie (CFDA)**

66. The representative of CFDA stated that her organization is concerned with the recurrent denial of rights and fundamental freedoms in Algeria with particular reference to the victims of the year 1990. The representative further stated that government politics and programs have been for long denying fundamental rights to their citizens. She said that the civil society tends to be isolated. She also noted that since 2006 the victims of enforced disappearances and terrorists attacks have created a coalition to bring attention to the various human rights violation as a result of the reconciliation process. She indicated that serious measures have been put in place to restrict the activities of the CFDA. The representative further stated that the 1990 victims did not receive a fair compensation or reparation for their sufferings whilst the perpetrators of torture, extrajudicial killings and other Islamic groups were granted amnesty. Finally, the speaker recommended the Algerian Government to take reasonable steps to ensure freedom of expression and association and to curb the culture of impunity.

**Centre for Human Rights, University of Pretoria**

67. The representative of the Centre for Human Rights expressed his deep disappointment at the African Commission's refusal to grant observer status to CAL. He indicated that the African Commission's reasoning is not tenable for three main reasons. Firstly, he stated, CAL's objectives are consonant with the AU Constitutive Act and African Charter. Secondly, he pointed out that the African Commission's own practice confirms that sexual minority rights are protected under the African Charter. As an illustration he recalled that in examining Cameroun Report in 2006, the African Commission as a whole expressed concern for the upsurge intolerance towards sexual minorities. Thirdly, he emphasised that many NGOs already use their observer status to advance the rights of sexual minorities before the African Commission and that has certainly been true of the Centre. He noted that the African Commission in 2009 has already granted observer status to Alternatives-Cameroun, an NGO that has an explicit mandate to work on the right to health and other rights of men who have sex with men and other sexual minorities and that there are great similarities in the mandate of Alternatives-Cameroun and CAL. He further stressed that granting observer status serves to uphold the freedom of association, assembly and speech and it is in line with the Kigali Declaration. Finally, he suggested that the African Commission should consider that its decision comes in a context of increasing homophobia in many AU Member States and urged the African Commission to reconsider its decision and leave aside personal preference and prejudice.

**Bajito Onda Africa**

68. The representative of Bajito Onda Africa stated that its organisation embarked on a massive vibrant project in 2009 on combating human

trafficking in Africa. He stated that Bajito Onda Africa was able to save 39 girls from traffickers' cartels and sent them back to Nigeria for a rehabilitation program. Finally he solicited the African Commission's support in appealing to the government of the country where these girls have been enslaved to give a helping hand in getting these innocent victims.

### **Nigerian Bar Association**

69. The representative of the Nigerian Bar Association brought to the attention of the African Commission, the Jos crisis in Northern Nigeria which he said has led to the loss of many lives and the destruction of property. He outlined the contemporary concepts affecting the Jos crisis such as the issue of 'settlers', 'indigenes' and 'identity'. He stated that the root cause of the Jos crisis was the dichotomy between indigenes and settlers in addition to religious sentiments and election related violence. He advanced a number of recommendations which could be implemented by the Nigerian Government in order to resolve the crisis. He outlined the consequences of indifference by the international community to instances of gross human rights violations and called for specific urgent intervention by the African Union as well as other regional organizations in the Jos crisis.

### **Mozambique Human Rights League**

70. The representative of Mozambique Human Rights League gave an overview of the general socio-economic challenges Mozambique is facing. The representative indicated that about 30% of Mozambique's population is affected by a cyclical food and nutrition insecurity due to their vulnerability to natural disasters, absolute poverty and the incidence of chronic diseases. He added that 53% of the population cannot read and write among which 56% are women. With respect to civil and political rights, the representative

highlighted on the killings, injuries, detentions and other human rights violations that followed the 1 and 2 September 2010 street protests caused by unbridled price rises. He also talked about the threat caused by uncontrolled mining activities in Mozambique.

**African Association for the Defence of Human Rights (ASADHO)**

71. The representative of ASADHO stated that corruption, insecurity and bad governance is rampant in the DRC and that rule of law is not a reality. He noted that although the DRC has an impressive and progressive legislative and constitutional framework, the implementation in the ground remains problematic. He stated that on various occasions, ASADHO has denounced revocation of magistrates and appointment of public officers based on political or ethnic affiliation. He stressed that there is still serious dysfunction at the institutional level where the Prime Minister is no longer acting in his constitutional capacity as head of the government, but simply relegated to administrative protocol. He noted that the judiciary is not independent and is subjected to political interference. He further stressed that human rights defenders are working in an unfriendly environment. Finally, he requested the African Commission to give a greater attention to the examination of the Periodic Report of the DRC and take a decision to send an inquiry mission to investigate on the human rights situation of human rights defenders in the country.

**Joint statement by Cairo Institute for Human Rights Studies (CIHRS), International Federation for Human Rights (FIDH), CFDA and Organisation Mondiale Contre la Torture (OMCT)**

72. The representative of CIHRS, FIDH, CFDA and OMCT expressed concern on behalf of the four organisations on the ongoing violation of human rights in Northern Africa. She said that civil societies in general and HRD in particular are constantly in danger when performing their mission in some

countries like Sudan, Egypt, Algeria, Tunisia and Libya. She observed that Egypt has shown little or no commitment in implementing its human rights duties towards its citizens. On the contrary, she said, the state has prolonged the state of emergency law which has been in force since 1967 and which is a real impediment to the exercise of civil liberties. In Sudan, she said, the situation of human rights defenders is of critical concern since the last elections. The National Security Law, together with the Criminal Law of 1991 was used to infringe freedom of expression. She noted that political pluralism is far from being a reality in Libya. She added that violence and brutal repression were used in Algeria against protesters during a protest led by the CFDA. Finally she stated that a law was recently passed in Tunisia that has a damaging effect on the exercise of freedom of expression and other civil and political rights.

#### **FIDH**

73. The delegate congratulated the African Commission for the adoption in May 2010 of an important resolution pertaining to election in Africa. He noted that the case of Burundi is a sad reminder that intimidation and harassment that took place during electoral process remain an impediment to the principle of free and fair election. He urged the African Commission to issue a strong statement on the human rights situation in Burundi. In the meanwhile, he added that Sudan is going to hold within two months, two important popular consultations. He urged the African Commission to remain seized of the upcoming referendum in Sudan and immediately send a field mission in the country to assess and monitor the preparation of the referendum. He further stressed that Justice is a right enshrined in the African Charter and therefore should not be subjected to limitation by the Executive. He urged the African Commission to further investigate and

push forward the prosecution of those involved in the 28 September 2009 violence in Guinea and act against the diversion used by the Senegalese government to delay the judgement of Hissein Habre.

### **Community Law Centre**

74. The representative of Community Law Centre indicated that depriving children of their liberty should remain, as emphasized by international human rights law, a measure of last resort. He said the situation of children warrants attention as the conditions in both prisons and other institutions where children are deprived of their liberty are generally below what is commonly regarded as acceptable for children; the duration of pre-trial detention is frequently too long and many cases do not proceed to trial and children deprived of their liberty are vulnerable to ill treatment. Finally, he noted that the imprisonment of children requires serious attention in South Africa.

### **People Opposing Women Abuse (POWA)**

75. The representative of People Opposing Women Abuse commended the African Commission for resolving to establish a Committee on the Protection of the Rights of People Living with HIV (PLHIV) and Those at Risk, Vulnerable to and Affected by HIV and indicated that the refusal by the African Commission to grant observer status to CAL is a stark contradiction. The representative highlighted some of the concerns that POWA hopes will be addressed by the Committee. These concerns include violence against women, including abuses in health care settings, involuntary HIV testing and disclosure and a surge in problematic HIV related laws, which have the effect of violating women's rights and

increasing their exposure to violence as well as HIV transmission. In conclusion, the representative reiterated POWA's commitment to support the Committee towards the fulfilment of its mandate.

#### **Media Foundation for West Africa**

76. The representative of Media Foundation for West Africa stated that the state of the media and free expression in The Gambia requires urgent attention. He added security officials continue to intimidate, harass and persecute media practitioners. He also brought to the attention of the African Commission the refusal of the Gambian Government to comply with the Resolution 134 of the African Commission, adopted at its 44<sup>th</sup> Ordinary Session in November 2008, on the Gambia which amongst other things urged the Gambian Government to provide access to all prisoners and bring an immediate end to harassment and intimidation of independent media institutions and respect the rights of journalists. He also raised the problems the media and journalists are facing in Togo and Ghana.

#### **La Delegation des Femmes Congolaises**

77. The representative indicated that mass rape of women and girls in DRC is used as a weapon of war, and that according to UNFPA report issued this year, 8,000 women have been raped in 2009. The speaker further indicated that the African Commission is in a better position than any other human rights organ to give an African solution to this problem, and therefore urged the African Commission to immediately send a fact finding mission to DRC to investigate this matter with a view to find a lasting solution.

**ITEM 5: LAUNCHING OF THE ACTIVITIES COMMEMORATING THE 30<sup>TH</sup> ANNIVERSARY OF THE AFRICAN CHARTER (PUBLIC SESSION)**

78. During the launching of the activities commemorating the 30<sup>th</sup> anniversary of the African Charter, speeches were delivered by the representative of AU Member States, Commissioner for Political Affairs of the AUC, the envoy of the Special Representative of the UN Secretary-General and Head of the UNOWA and the Chairperson of the African Commission. A presentation was also made by the President of the African Court.

79. The Chairperson of the Committee for the Prevention of Torture in Africa (CPTA), Commissioner Catherine Dupe Atoki, also launched a bi-annual newsletter of the Committee entitled 'Africa Torture Watch' during the event.

80. After the speeches and the presentation the activities for the commemoration of the 30<sup>th</sup> year of the African Charter was officially launched.

**ITEM 6: COOPERATION AND RELATIONSHIP WITH NATIONAL HUMAN RIGHTS INSTITUTIONS (NHRIs) AND NON-GOVERNMENTAL ORGANIZATIONS (NGOs) (PUBLIC SESSION)**

**a) – Relationship between the ACHPR and NHRIs**

81. Honourable Commissioner **Kayitesi Zainabou Sylvie** introduced this agenda item and gave the following information on the status of the relationship between the African Commission and NHRIs.

NHRIs which have submitted all their reports	4
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NHRIs which have not submitted any Report	8
NHRIs of which reports are not yet due	2
NHRIs owing one or more reports	7
Total number of NHRIs with Affiliate Status	22

### **Institute for Human Rights and Development in Africa (IHRDA)**

82. The representative recalled that the IHRDA in its capacity as a focal point for NHRIs within the Coalition for an effective African Court encouraged the African Commission to continue efforts to strengthen collaboration with NHRIs. He said by virtue of their contribution to the promotion and protection of human rights at the national level, NHRIs play an important role in the dissemination of the rights protected by the African Charter. Therefore, the representative urged the African Commission to strengthen its collaboration with NHRIs. He especially mentioned that the adoption in 1998 of Resolution. 31 (XXIV) 98 on the granting of affiliate status to NHRIs is an important step towards the achievement of this goal. Finally, he requested the African Commission to appoint a focal point to serve as an interface between NHRIs and the latter and to develop a strategy to implicate NHRIs in the follow up and implementation of decisions made through communications. He also suggested to the African Commission to develop a strategy to help NHRIs in their efforts to meet the Paris Principles.

### **b) - Cooperation between the ACHPR and NGOs**

83. Honourable Commissioner Catherine Dupe **Atoki** introduced this agenda item and indicated that among the 412 NGOs which have observer status

before the African Commission only 215 have submitted one or more report on their activities. This, she said, leaves 197 NGOs that have never submitted their reports, while only 15 NGOs have submitted reports during the last intersession.

84. She urged NGOs with observer status to submit their activity reports to the African Commission every two years and not limit their partnership with the latter to only making statements during the sessions. She said NGOs should indicate in their reports measures they have taken at local and regional levels to promote and protect human and peoples' rights in Africa. She also noted that these reports serve as a source of information to, not only the African Commission, but also to researchers on specific thematic issues, or on a particular country or on the African human rights system as a whole.

85. In conclusion, Honourable Commissioner **Atoki** stated that the African Commission is exploring further ways of making effective use of these reports, to ensure maximum effect.

**b)(ii) – Consideration of Application for Observer Status**

86. The following organizations were granted observer status with the African Commission:

- I. Open Society Initiative for Southern Africa (OSISA)
- II. Secretariat of the African Decade for Persons with Disabilities
- III. Eastern African Journalists Association
- IV. Consortium for Refugees and Migrants in South Africa (CORMSA)
- V. Dimension Sociale Benin

## VI. Network of African Human Rights Institutions

## ITEM 7: CONSIDERATION OF STATE REPORTS (PUBLIC SESSION)

## a) Status of Submission of State Party Reports

87. Commissioner Yeung Sik Yuen introduced this agenda item and indicated that the status of submission and presentation of States Reports at the 48<sup>th</sup> Ordinary Session of the African Commission stood as follows:

No.	Category	Number of States
1	States which have submitted and presented all their reports	9
2	States that are late by one report	8
3	States that are late by two reports	5
4	States that are late by three reports	5
5	States that are late by more than three reports	12
6	States that have never submitted any report	12
7	States that are going to present their reports at the 48 <sup>th</sup> Ordinary Session	2

88. The above status of submission of States Reports is represented as follows:

No.	State Party	Number of Reports due
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<b>States which have submitted and presented all their reports (9)</b>		
1	Algeria	
2	Botswana	
3	Cameroon	
4	Congo Brazzaville	
5	Ethiopia	
6	Mauritius	
7	Nigeria	
8	Rwanda	
9	Uganda	
<b>States that are late by one report (8)</b>		
1	Benin	
2	Kenya	
3	Madagascar	
4	Sudan	

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5	Tanzania	
6	Tunisia	
7	Zambia	
8	Zimbabwe	
<b>States that are late by two reports (5)</b>		
1	Central African Republic	
2	Egypt	
3	Mauritania	
4	Seychelles	
5	South Africa	
<b>States that are late by three reports (5)</b>		
1	Burkina Faso	
2	Niger	
3	Saharawi Arab Democratic Republic	
4	Senegal	
5	Togo	

<b>States that are late by more than three reports (12)</b>		
1	Angola	
2	Burundi	
3	Cape Verde	
4	Chad	
5	Gambia	
6	Ghana	
7	Guinea Republic	
8	Lesotho	
9	Mali	
10	Mozambique	
11	Namibia	
12	Swaziland	
<b>States that have never submitted any report (12)</b>		
1	Comoros	

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2	Cote D'Ivoire	
3	Djibouti	
4	Equatorial Guinea	
5	Eritrea	
6	Gabon	
7	Guinea Bissau	
8	Liberia	
9	Malawi	
10	Sao Tome and Principe	
11	Sierra Leone	
12	Somalia	
<b>States that are going to Present their report during the 48<sup>th</sup> Session</b>		
<b>1</b>	<b>DRC</b>	
<b>2</b>	<b>Libya</b>	

At the end of his presentation Commissioner Yeung Sik Yuen called upon States that have never submitted their reports and those that have overdue reports to comply with their reporting obligations under Article 62 of the African Charter.

**b) – Consideration of the Periodic Report of the Democratic Republic of Congo (DRC)**

89. The State delegate, Mr Richard Lukunda Vakala-Mfumumu, Human Rights Adviser at the Ministry of Human Rights, stated that the report is submitted in compliance with Article 62 of the African Charter. He recalled the various international human rights instruments ratified by the DRC, including the African Charter and the two protocols. He said that by submitting this Report, the DRC want to strengthen its collaboration and partnership with the African Commission. The Report presented efforts made by the Government to ensure the realization of basic rights and fundamental freedoms such as the right to life, the realisation of socio-economic rights in the DRC, collective rights, as well as efforts made at the institutional level to achieve human rights. The Government has set up the “Entite de Liaison des droits de l’homme” as a mechanism to prevent violation of human rights through consultation and dialogue. He admitted that the Government faces some challenges but is still fully committed to the promotion and protection of human rights.

**The African Commission’s Observation on the DRC Report**

90. After the presentation of the Report, Honourable Commissioner **Soyata Maiga**, on behalf the Commissioner responsible congratulated the Congolese delegation for respecting Article 62 of the African Charter and stated that the Report does not give sufficient information on how it has been elaborated. She asked if the civil society was involved during the preparation of the report.

91. Commissioner Soyata Maiga, on behalf of the African Commission, welcomed the adoption of a new law on gender, the establishment of the Independent National Electoral Commission (INEC) as well as measures taken at the national level to ratify the Maputo Protocol. Commissioner Maiga was concerned by the fact that the Report is silent in terms of resources allocation and programming. She was also concerned that no mention of any statistics were made available on access to healthcare and that no indication was made as to the possible existence of a Law governing HIV-AIDS. She further raised the issue of social protection, legal aid, equal protection before the law, sexual violence against women and gender equality.
92. Commissioner Khalfallah addressed the issue of measures taken by the Congolese Government to reduce and tackle poverty and expressed his concern that the Report did not address appropriately the issue of environment and situation of human rights defenders in the DRC.
93. Commissioner Tlakula on her part indicated that DRC has not ratified the African Charter on Elections, Governance and Democracy and asked the delegate how DRC is ensuring equal access and equitable use of the media by the 229 political parties that exist in the country. She also queried about the existence of a law on freedom of expression and the functions and composition of the authority regulating the media. She also queried about the alleged imprisonment of two journalists; namely Tumba Lumembu and Clivis Kadima.
94. Commissioner Yuen while noting that the Constitution of DRC recognizes the independence of the judiciary, he said that no mention is made in the

report how that is being practically guaranteed. He indicated that the dismissal of 315 magistrates in 2003 is a violation of the independence of the judiciary. He further indicated that the family code of DRC is discriminatory against women.

95. Commissioner Atoki pointed out that the report does not show measures taken to prevent torture and asked the delegate if he is aware of the different mechanisms put in place to prevent torture in Africa such as the Robben Island Guidelines. She congratulated the Government of DRC for criminalizing torture in the country. She also observed that the report is silent on prisons and conditions of detention as mentioned in Article 6 of the African Charter. She further asked about prison population, the condition of detainees awaiting trial and existence of medical care for detainees.

96. Commissioner Asuagbor asked clarification on the situation of children born in prisons and prisoners right to rest.

97. Commissioner Bitaye recalled that his Working Group on Indigenous Populations/Communities has undertaken a promotion mission to DRC in August 2009. He indicated that indigenous people should be integrated in all Government plans and actions. He further pointed out that the generic term 'pygmy' is pejorative and reflects the degree of stigmatization, marginalization and exclusion of indigenous people.

98. Commissioner Bitaye expressed his concern on the fact that the right to life of the Batwa people have been violated and called upon the Government to punish all those responsible. He proposed that the Government should take

inspiration from neighbouring countries of Burundi and Rwanda to increase the representation of indigenous people in the National Assembly and the Senate. With regard to the right to health he indicated that studies have shown that indigenous people don't have access to basic health services and the mortality rate is high among these communities.

99. Commissioner Malila pointed out that the report talks about the realization of rights guaranteed in the African Charter but it does not precisely pin point to measures taken to ensure the implementation of those rights. He also observed that the report is silent concerning sanctions or measures taken in the event when the Government fails to observe its duties and obligations. In conclusion he expressed his concern that in DRC, like in most African countries, there is an apparent inequality in the allocation of resources, despite the fact that it is richly endowed with so many resources.

100. Commissioner Maiga requested the delegate to provide the Commission with more information and that in the future the information provided in the report should consider the format in the state reporting guidelines.

#### **The Government's reply to the African Commission's Questions**

101. The State delegate stated that after considering the African Commission's concerns on certain issues, his Government will provide sufficient and reliable statistics to supplement the Report.

102. On the issue of sexual violence against women, the State delegate stated that the Government has adopted a strategic document to fight it. In 2009, the Government created a special body to fight against sexual violence.

103. With regards to the independence of the judiciary, he stated that the Government has recently recruited 2000 magistrates appointed as “substituts du Procureur”. He further stressed that separation of power is guaranteed by Article 151 of the Constitution.
104. At the institutional level, the representative admitted that the two Institutions, INEC and the Conseil National de la Communication Audiovisuel (CNCA), are yet to be implemented. He stated that a National Human Rights Commission is has been set up to replace the former Observatory of Human Rights.
105. On the issue of gender equality, he mentioned the existence of a law on parity to ensure equal representation of men and women in the National Assembly and other decision-making bodies. In July 2010, four (4) women were among the 1000 newly appointed magistrates.
106. On the issue of Education and especially the budget allocation, the representative stated that it has increased from 8.2% in 2008 to 9% in 2010.
107. On the issue of forced displacement which is recurrent in the Great Lakes Region, in an effort to help communities, the Government gives primary support to IDPs. He revealed that the Government is going to sign the 2009 Kampala Convention on IDPs in the next few days. On the issue of death penalty, he said that the Government undertook to bring its legislation in accordance with international standards.
108. On the issue of freedom of expression guaranteed in Articles 22 and 23 of the Constitution is a reality in DRC. As an illustration, the government has created the Institute for Information Sciences and Technology, an institution dedicated to the training of journalists. He stated that 212 radios stations and 55 TV station are registered and continuously broadcast their programmes. He revealed that the journalist Tumba Lumembu, were freed

two days before. He stated that the DRC was among the 15 African states which have ratified the Ouagadougou Protocol.

109. On the issue of torture, he recalled that DRC has ratified the Convention against Torture (CAT) on 17 February 1989. He stated that the Government is willing to criminalise the practice of torture, and announced that the Government is willing to receive a promotional visit of the Committee for the Prevention of Torture in Africa. The government is embarking on a process of reconstruction and rehabilitation of prisons around the Country. Therefore, the military prison of Ndolo and the Provincial prison of Bandudu have been rehabilitated recently.
110. On the issue of indigenous communities, he agreed that the term 'pygmy' is pejorative and has negative connotations. He noted the suggestion to give indigenous populations full access to their traditional land. He also noted the necessity to give the indigenous people the opportunity to perform and develop traditional medicine.
111. On the issue of anti-corruption measures and resources allocation, he stated that the government has already embarked on an anti-corruption campaign. The government is also implementing programmes to reduce corruption in the field of extractive industries through the incorporation of the Kimberley principles. The government has suspended the exploitation of natural resources in particular regions. Finally, the delegate expressed the Government's willingness to investigate into the funds allocated for the celebration of the 50<sup>th</sup> anniversary of independence.

**ITEM 8: ACTIVITY REPORTS OF MEMEBERS OF THE AFRICAN COMMISSION AND SPECIAL MECHANISMS (PUBLIC SESSION)**

**Activity Report of Commissioner Reine Alapini-Gansou**

*Report on activities as Commissioner and member of the Bureau*

112. From 7 to 11 June 2010, the Chairperson of the African Commission participated in a training seminar on the African Commission Communication procedures in Dakar, Senegal. The seminar was organized by the African Commission to make available to the key actors some educational tools and texts to serve as a basis for seizure of the African Commission in the event of individual human rights violations.
113. From 22 to 24 June 2010, the Chairperson of the African Commission participated in a working visit of the African Commission's Bureau to Addis Ababa, Ethiopia. The visit had the objective of meeting the key actors of the AU Organs and discussing appropriate ways and means of giving effect to the decisions of the Heads of State and Government regarding the treatment of the members of the African Commission and the need to build the human and intellectual capacities of its Secretariat.
114. From 13 to 16 July 2010, the Chairperson of the African Commission participated in a Continental Conference in Bamako, Mali, on the role of the African Commission in the promotion and protection of Women's Rights in Africa. This Conference which was organized on the initiative of the Special Rapporteur on the Rights of Women in Africa, Maitre Soyata Maiga, sought, among other things, to bring the African Commission closer to the stakeholders who had participated in this conference.<sup>1</sup> In this context, the Chairperson delivered the opening and closing addresses of the Conference.

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<sup>1</sup> The Representatives of 18 States Parties, the Members of Civil Society and the Development Partners attended and participated in the conference.

The Conference provided an opportunity for the Chairperson to participate in the launching of the Claims Dossier on the Rights of Women in Africa prepared by the FIDH and its partners.

115. From 19 to 23 July 2010, the Chairperson of the African Commission participated in the AU summit of Heads of State and Government in Kampala, Uganda. During the summit the Chairperson presented the 28<sup>th</sup> Activity Report of the African Commission which was adopted by the Decision No. EX.CL/600(XVII).

116. The Chairperson of the African Commission participated in two workshops with the NHRIs on human rights promotion mechanisms. The first workshop took place from 29 to 30 July 2010 in Johannesburg, South Africa and brought together more than ten NHRIs. The second workshop took place from 27 to 28 September 2010 in Dakar, Senegal and brought together all the NHRIs from West and North Africa. These workshops had the main objective of putting in place strategies and action plans enabling the NHRIs to engage in a more effective partnership with the African human rights mechanisms.

117. From 2 to 3 August 2010, the Chairperson of the African Commission represented the latter in three activities relating to the launching of the governance architecture platform in Africa, the African Human Rights Strategy and the preparation of the summit on shared values in Banjul, The Gambia.

118. From 4 to 6 August 2010, the Chairperson of the African Commission participated in the 3<sup>rd</sup> meeting on the establishment of the Human Rights Strategy for Africa in Banjul, The Gambia. This meeting sought in particular to consider the draft Human Rights Strategy for Africa and to contribute as best as possible to its coherence and practicability.

119. From 12 to 13 August 2010, the Chairperson of the African Commission participated in a meeting organized by the AUC on the study of two Protocols; one on the Pan-African Parliament and the other on the extension of the African Court on Human and Peoples' Rights, in Johannesburg, South Africa.
120. From 15 to 17 September 2010, the Chairperson of the African Commission participated in a sub-regional Forum on the evaluation of the 10 years of the UN Resolution 1325 on the situation of Women in conflict situations and on the representation of women in decision making institutions, under the theme "Women, an Asset for Peace". The Forum was organized by the UNOWA in collaboration with the other representatives of the UN Agencies in Dakar, Senegal. During this Forum the Chairperson made a presentation on the African Commission, its achievements, challenges and its prospects with regard to women's rights in Africa.
121. From 4 to 6 October 2010, the Chairperson of the African Commission participated in the Symposium of African Human Rights Courts and similar institutions, in Arusha, Tanzania. The Symposium sought to pool the experiences of the organs and Institutions represented at this symposium for the purpose of strengthening each others' activities and to achieve better cooperation between the human rights protection organs and institutions on the African Continent.
122. On 9 October 2010, the Chairperson of the African Commission participated in the 19<sup>th</sup> All African Moot Court organised by the Centre for Human Rights of the University of Pretoria as a member of the Jury appointed to proclaim the prize winners results. The Moot Court, which took place in Cotonou, Benin, sought to create a nursery from which competent jurists who have a good knowledge of the African Charter and

other subsequent legal instruments, the jurisprudence of the ACHPR and international human rights law, can be drawn, for the defence and protection of the rights of individuals and communities.

123. From 19 to 22 October 2010, the Chairperson of the African Commission participated in the 3<sup>rd</sup> edition of the MIBEKO Forum on the Rights of Women in Africa, in Brazzaville, Congo. The central issues tabled during this Forum were that of the adequate representation of women in decision making institutions and that of women's leadership, as well as crucial issues linked to gender based abuse and to HIV. During this Forum the Chairperson made a presentation on behalf of the African Commission, and delivered an address on the African Commission's achievements.

124. From 25 to 26 October 2010, the Chairperson of the African Commission participated in the last meeting before the launching of the Human Rights Strategy in Arusha, Tanzania. This meeting sought essentially to validate the document on the Human Rights Strategy.

125. From 28 to 29 October 2010, the Chairperson of the African Commission participated in a meeting on the review mechanisms of the United Nations Human Rights Council organized by the United Nations in Geneva, Switzerland.

*Activities as a Member of the Working Group on the Rights of Older Persons and People with Disabilities in Africa*

126. From 9 to 11 August 2010, the Chairperson of the African Commission participated in the 2<sup>nd</sup> statutory meeting of the Working Group on the Rights of Older Persons and Persons with Disabilities in Africa in Port-Louis, Mauritius. The objective of the meeting was to examine two draft Protocols; one on the rights of elderly persons and the other on the rights of persons with disabilities.

*Activities as Chairperson of the Committee on the Protection of the Rights of People Living with HIV (the Committee on the Protection of PLHIV and Those at Risk)*

127. On 2 October 2010, the Committee held a working meeting organized by the Human Rights Development Initiative (HRDI), in Pretoria, South Africa. The main objective of this working session was to enable the mechanisms working in human rights and HIV/AIDS issues to discuss their modalities of cooperation and appropriate strategies that would allow the Committee to give effect to the Commission's Resolution No. *ACHPR/Res163 (XLVII) of 26 May 2010*.

128. On 6 November 2010, another working session in Banjul, The Gambia, brought together the HRDI staff and members of the Committee and culminated in the conclusion of a document on the various types of support that can be given to the Committee (technical, material and financial. .

129. On 7 November 2010, the Committee held a meeting with the representatives of UNAIDS to fine tune the implementation of the Committee's Action Programme. From this meeting also emanated highly concrete proposals on the activities to be undertaken in the short, medium and long terms.

**Activity Report of Commissioner Mumba Malila**

*Activities as Commissioner and member of the bureau*

130. From 7 to 11 June 2010, Commissioner Malila participated in a Training Seminar on the Communications Procedure which was organized by the African Commission in Dakar Senegal. The purpose of the seminar was, in the main, to familiarize various users of the communications procedure of the African Commission with the many fine points regarding communications particularly in light of the latter's new rules of procedure,

and generally to discuss issues of concern to the users. He presented a paper on an overview of the African Commission.

131. From 14 to 18 June 2010, Commissioner Malila attended a working visit at the Inter American Commission on Human Rights, in Washington DC, USA together with the Secretary to the African Commission and Mr Chafi Bakari, Senior Legal Officer. This visit was done in the framework of cooperation with institutions with similar mandates. The purpose was to share experience, consider challenges and identify ways for future collaboration.
132. From 21 to 25 June 2010, Commissioner Malila undertook a working visit with the Chairperson and the Secretary to the African Commission to the AUC in Addis, Ababa. the delegation held meetings with the Vice Chairperson of the AUC, Dr Erustus Mwencha, the Commissioner, Political Affairs Mrs. Julia Dolly Joiner, the AUC Legal Counsel, Mr. Ben Kioko and the Director Human Resource and Administration, among others. The main purpose of the visit was to discuss the outstanding issue of recruitment of staff and revision of remuneration for the Commissioners.
133. On 30 June 2010, Commissioner Malila attended the meeting of the Subcommittee of PRC on Administrative and Financial matters, in Addis Ababa, Ethiopia. The meeting was organised to among other things, discuss the issue of remuneration for the African Commission as well as that of the Court.
134. From 19 to 21 July 2010, Commissioner Malila attended the pre AU summit meeting of the PRC in Kampala, Uganda, together with the Chairperson, Commissioner Maiga and the Secretary. Commissioner Malila also attended the Executive Council meeting that preceded the AU Summit and attended the Summit itself.

135. From 28 to 29 July 2010 in Maseru, Lesotho, Commissioner Malila participated in a Judges' Symposium on Judicial Independence, Impartiality and Accountability, organized by the International Commission of Jurists in conjunction with the Judiciary of Lesotho. The participants were drawn from the Southern African sub region and included serving and retired judges and academics. He presented a paper entitled "The Independence of the Judiciary through the Eyes of the African Commission on Human and People's Rights".
136. On 30 July 2010, Commissioner Malila participated in a workshop for Eastern and Southern African National Human Rights Institutions on continental human rights mechanisms held in Johannesburg, South Africa and officially closed the workshop which had been opened by the Chairperson of the African Commission on the 29 July 2010.
137. From 4 to 6 October 2010, Commissioner Malila participated in a colloquium of the African Human Rights Court and Similar Institutions held in Arusha, Tanzania. The Colloquium was jointly sponsored by the GTZ, the Danish Institute for Human Rights, the European Union and the African Commission. He presented a paper on "the Jurisprudence of the African Commission on Human and Peoples' Rights".
138. On 15 October 2010, Commissioner Malila was invited to officially inaugurate a new course in Financial Crimes Investigation at the National Institute of Public Administration in Lusaka, Zambia.
139. On 21 October 2010, Commissioner Malila, at the invitation of the South African Human Rights Commission and the South African Human Rights Institute, participated, in the commemoration of African Human Rights Day whose theme was "*Human Rights; A Key to Sustainable Peace and Security in Africa*" honouring the year 2010 as a year of peace in Africa. The event was organized by the South African Human Rights Commission in conjunction

with the Commission on Religious and Linguistic Rights and the South African Human Rights Institute.

140. He presented the key note address in which he, among other things, called on African states to support the human rights institutions they have created, including the African Commission and the African Court. He also featured in an interview on e-TV explaining the significance of the day in the African human rights calendar and also on a live phone-in programme in which he was asked questions on the African human rights system generally.

141. From 25 to 26 October 2010, Commissioner Malila participated in a regional Training Workshop for Lawyers organized by the Coalition for an Effective African Court, Zimbabwe Human Rights NGO Forum, and the Centre for Human Rights and Rehabilitation in Blantyre, Malawi. He presented a paper on the Complementarity between the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights.

142. On 8 November 2010, Commissioner Malila featured on a Gambian radio station, Paradise FM, to explain the various aspects of the African Commission. Elementary matters like the creation of the latter, its composition, mandate, working methods, achievements and challenges were explained.

*Activities as a Member of the Working Group on the Death Penalty in Africa*

143. From 7 to 9 November 2010, Commissioner Malila participated in the meeting of the Working Group on the Death Penalty held immediately preceding the 48<sup>th</sup> Ordinary Session. The meeting discussed among other things, the Kigali Framework Document and the Cotonou Framework

Document as well as the way forward on the question of the death penalty in Africa.

*Activities as a Member of the Working Group on Indigenous Populations / Communities in Africa*

144. From 11 to 13 October 2010, Commissioner Malila together with Commissioner Bitaye, Dr. Zephym Kalimba, Mr. Albert Barume and Ms Genivive Rose as members of the Working Group on Indigenous Populations and Communities in Africa attended and participated in the Sub regional Conference on the Rights of Indigenous Peoples/Marginalised Communities in Africa organized by the office of the Prime Minister (Namibia) International Labour Organization and the African Commission.

145. The Conference coincided with the official launch of the overview Report of the Rights of Indigenous Peoples in 24 African Countries. The study leading to the Report was undertaken by the Centre for Human Rights of the University of Pretoria and was presented by Prof Frans Viljoen. The seminar and the launch of the Report took place in Windhoek, Namibia.

146. From 7 to 8 November 2010, Commissioner Malila participated in the meeting of the Working Group on Indigenous Peoples/ Communities held in Banjul, The Gambia, just before the 48<sup>th</sup> Ordinary Session of the African Commission. The meeting reviewed, among other things, activities undertaken in the last inter session, and planned for programmes to be undertaken in the forthcoming intersession.

*Activities as Chairperson of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa*

147. From 27 to 28 September 2010, Commissioner Malila as Chairperson of the Commission's Working Group on Extractive Industries, Environment and

Human Rights Violations in Africa, took part in a conference on Legal Remedies and the Role of Lawyers in Protecting Human Rights in the Context of Corporate Activity organized by the International Commission of Jurists in Geneva, Switzerland. He made a presentation on the background to the creation of the Working Group, the purpose of the Working Group and how it hopes to contribute to redressing human rights violations by corporations operating in the continent.

148. From 1 to 2 November 2010, he participated in a workshop on Extra-Territorial Obligations (ETOs) for the African Region in Pretoria, South Africa. The meeting was co-organized by the Centre for Human Rights, Pretoria, FIAN International and SAIFAC. He made a presentation on “The Establishment and Future of the Working Group on Extractive Industries” and possible areas of future cooperation between the African Commission and the ETO Consortium.

*Activities as a Member of the Committee on the Protection of PLHIV and Those at Risk*

149. On 2 October 2010, Commissioner Malila participated together with the Chairperson and Commissioner Maiga as members of the Committee on the Protection of PLHIV and Those at Risk in a conversation between the Committee, the UN Special Rapporteur on the Right of Everyone to the Highest Attainable Standard of Physical and Mental Health, Mr. Anand Grivern and the Human Rights Development Institute (HRDI). The conversation took place in Pretoria South Africa.

## **Activity Report of Commissioner Dupe Atoki**

### *Activities as a Commissioner*

150. From 7 to 11 June 2010, Commissioner Atoki attended a training seminar in Dakar, Senegal, on the Complaints/Communication procedure, organized by the African Commission.
151. On 29 June 2010, Commissioner Atoki chaired in a stakeholder's roundtable on strengthening of the National Human Rights Commission of Nigeria and its adherence to the Paris Principles, which was organized by the Network of African Human Rights Institutions (NANHRI) in Abuja, Nigeria. The roundtable brought high level representatives of NHRI's from six regional zones, Parliament and civil society organizations. The meeting involved the launching of the Gap Analysis report on the National Human Rights Commission of Nigeria that was commissioned by NANHRI. The overall objective of the roundtable was to sensitize national and international stakeholders on strengthening the NHRC to enable it carry out its mandate in line with the recommendations of the Gap Analysis Report
152. From 5 to 6 July 2010, Commissioner Atoki participated in an anti-corruption interactive seminar for Magistrates in Lagos, Nigeria. The Seminar was organized by Socio-economic Rights and Accountability Project (SERAP) and it aimed at promoting integrity in the Magistrate Courts and improving access of citizens to justice in Lagos State. She presented a paper on promoting and enhancing the use and awareness of Alternative Dispute Resolution Mechanisms.
153. On 10 August 2010, Commissioner Atoki was invited by the Nigerian Institute for Advanced Legal Studies Lagos to make a presentation on *Revisiting Death Penalty in Nigeria*. She traced the evolution of international law and the trend towards abolition of the death penalty as illustrated by

the UN General Assembly's adoption of the 2<sup>nd</sup> Optional Protocol to the ICCPR and the general reluctance by those States that have retained capital punishment on their Statute books to exercise it in practice.

154. From 4 to 6 October 2010, Commissioner Atoki attended a Colloquium of the African Human Rights Courts and Similar Institutions in Arusha, Tanzania, together with Commissioners Maiga, the Chairperson, Vice-chair, and the Secretary of the Commission. She made a presentation on the “Enforcement of the recommendations of the African Commission” and reiterated the fundamental clog in the wheel of the operationalisation of the mandate of the Commission created by the instrument which left it without enforcement powers.

*Activities as Special Rapporteur on Prisons and Places of Detention in Africa*

155. From July 10 to 14 2010, the Special Rapporteur on the invitation of the Government of the Republic of Tunisia visited detention and related facilities in the country. During her visit she held talks with high ranking officials including the Government officials responsible for the relevant portfolios dealing with prisons in particular and detention in general. She also held talks with relevant NGOs and civil society organisations working in the field of prisons in the country. During the visit, the Special Rapporteur also visited a wide range of detention facilities including prisons, police stations and juvenile detention places.
156. On 22 July 2010, the Special Rapporteur on the invitation of the Nigerian Bar Association as part of its Law week activities gave an International/comparative perspective to a keynote presentation on Balancing Public Safety and Security and the Constitutional Rights of Suspects: The Imperatives for Reforming the Pre-Trial System in Lagos State.

157. Pursuant to the collaborative project with PRAWA on Prison Reform Intervention in Africa, the Special Rapporteur from 19 to 23 July 2010 participated in the assessment programme for Nigeria, which took place in Abuja on the situation and practices of the prisons/ correctional services.

*Activities as Chairperson of the Committee on the Prevention of Torture in Africa*

158. From June 2010, Commissioner Atoki chaired a public hearing on police abuse in Ibadan City, Nigeria, organized by the Network of Police Reforms, an NGO engaged in monitoring the activities of police in Nigeria. Victims publicly testified to the various violations of human rights suffered by them at the hands of the police whilst wrongfully detained. Torture, cruel, inhuman, degrading treatment and punishment were consistently identified as the means of extorting confessions. These testimonies were televised and reported nationwide.

159. On the occasion of the 'International Day in Support of Victims of Torture', the African Commission and the CPTA jointly called upon States Parties to the African Charter to take concrete measures to respect their commitments with regard to the right of victims to an effective remedy for the human rights violations suffered as a result of torture and other ill-treatment, as well as the right to full redress, including compensation and rehabilitation.

160. From 18 to 19 October 2010, Commissioner Atoki attended a Workshop in Nairobi, Kenya, for East Africa National Human Rights Institutions on the Implementation of Standards to Prevent Torture and other Ill-treatment, organised by the Human Rights Implementation Centre of the University of Bristol, UK. She made a presentation on the role of the African Commission in the prevention of Torture in Africa where she highlighted the important

role that NHRI can play in support of the work of the African Commission by popularizing the RIG, prosecuting torture, advocating for the criminalization of torture and lobbying for enforcement of the recommendations of the Commission.

161. On 12 November 2010, during celebrations marking the 30<sup>th</sup> Anniversary of the African Charter, during the 48<sup>th</sup> Ordinary Session of the African Commission, the CPTA in its effort to promote the RIG, sensitize the public on its role and ensure that States Parties live up to their international obligations launched a bi-annual publication of a Newsletter known as *AFRICA TORTURE WATCH*.

162. On 10 November 2010, on the margins of the 48<sup>th</sup> Ordinary Session, Commissioner Atoki chaired a Meeting of the CPTA in Banjul, The Gambia to review the Meetings of the CPTA of 26 April 2010, which was held in Dakar, Senegal, and the Strategic Consultative Meeting of the CPTA of 29 April 2010, also in Dakar, Senegal. The Meeting also discussed the programme and activities of the CPTA for 2010 and 2011.

### **Activity report of Commissioner Musa Ngary Bitaye**

#### *Activities as a Commissioner*

163. In March 2010, Commissioner Biatye, as Commissioner responsible for promotion activities in the Federal Republic of Nigeria, sent an Urgent Appeal to His Excellency the President of the Federal Republic of Nigeria to “Investigate Allegations of Serious Human Rights Violations” in Jos. Because of the deteriorating situation in Jos, the African Commission followed the March Urgent Appeal with another letter, in May, addressed to the Chair of the Peace and Security Council, requesting from the State Party a Joint Fact-finding Mission to address the situation in Jos. The

African Commission is still awaiting a response from the Federal Republic of Nigeria as to when the African Commission and the Peace and Security Council will be able to carry out the Fact-finding Mission.

164. In September 2010, Commissioner Biatye also sent an Urgent Appeal to His Excellency the President of the Federal Republic of Nigeria about the alleged assassination of officials of the economic and financial crimes commission. In that Appeal, he brought to His Excellency's attention the grave concerns of the African Commission about the recent alleged spate of assassinations of officials of the Economic and Financial Crimes Commission (EFCC) and the implications this has for its impartiality and independence. He is still awaiting a reply from the Government of the Federal Republic of Nigeria.

165. Pursuant to the African Commission's decision during the 47<sup>th</sup> Ordinary Session to conduct a Joint Promotion Mission to Sierra Leone involving all its Special Mechanisms taking into account the recent troubled history of that country and the many challenges it posed for the respect of human rights, Commissioner Biatye sent a Note Verbale to the Government of Sierra Leone requesting a Joint Promotion Mission. The Government of Sierra Leone responded, but limited the Mission to conditions in Prisons. Unfortunately, the African Commission did not consider it appropriate to truncate the Joint Mission it had proposed. Therefore, the Joint Promotion Mission could not take place.

*Activities as Chairperson of the Working Group on Indigenous Populations /Communities in Africa*

166. The following activities were carried out under the supervision of Commissioner Bitaye, as Chairperson of the Working Group:

167. On 9 August 2010 Commissioner Bitaye together with the Chairperson of the Commission sent an Urgent Appeal to the President of Botswana, His Excellency Ian Khama, drawing his attention to the 21 July 2010 judgment of the High Court in Lobatse, Botswana which ruled that the Bushmen people were not entitled to use a well already established on their traditional land in the Kalahari Game Reserve or excavate a new one. This is in contradiction with the 13 December 2006 ruling of the High Court of Botswana that has ruled the forceful eviction of the Bushmen of the Central Kalahari Game Reserve as 'unlawful and unconstitutional'. In the Urgent Appeal the Government of Botswana was urged to embrace the 13 December 2006 decision of the High Court and allow the Bushmen to have access to water from their existing borehole at Mothomelo.

168. On 21 September 2010, Commissioner Bitaye sent a second Urgent Appeal to the Government of Tanzania on the situation of the Masaai Pastoralists in Loliondo, Northern Tanzania. In the Urgent Appeal he brought to the attention of the President of the United Republic of Tanzania, His Excellency Jakaya M. Kikwete, that the situation of the Masaai Pastoralists in Loliondo reportedly continues to be as bad as it was in 2009 when he wrote the first urgent appeal, that members of non-governmental organizations who are working with the affected people are being intimidated and that European Union and diplomatic missions from different countries have been denied access to Loliondo. He urged the Government to kindly provide clarification on these reports, and in particular indicate what measures it has put in place or is likely to put in place to deal with the situation, if the reports are correct.

169. From 11 to 13 October 2010, Commissioner Bitaye participated in the launch of the Overview Report of the Research Project carried out jointly by

the International Labor Organization, the African Commission and the University of Pretoria on the Legal and Constitutional Rights of Indigenous Peoples in 24 African Countries, in Windhoek, Namibia.

170. From 6 to 8 November 2010, Commissioner Bitaye participated in the meeting of the Working Group on Indigenous Populations/ Communities, in Banjul, The Gambia, to discuss activities undertaken during the past six months and plan for future activities.

171. At the 48<sup>th</sup> Ordinary Session of the African Commission, The UN Declaration on the Rights of Indigenous Peoples and the Advisory Opinion of the African Commission on the UN Declaration on the Rights of Indigenous Peoples, published in English and French was distributed to participants at the 48<sup>th</sup> Ordinary Session. The publication will be used to raise awareness about the UN Declaration on the Rights of Indigenous Peoples among African member states and other key stakeholders. The rights enshrined in this important UN Declaration are consistent with the African Charter and the jurisprudence of the African Commission.

### **Activity Report of Commissioner Soyata Maiga**

#### *Activities as Commissioner*

172. From 7 to 11 June 2010, Commissioner Maiga took part in a seminar organized by the African Commission on Communications/complaints procedures in Dakar, Republic of Senegal. The aim of the seminar was to inform representatives from member States and NGO on the communications/complaints procedure.

173. From 1 to 2 July 2010, Commissioner Maiga participated in a meeting organized by the UN Committee on the Exercise of the Inalienable Rights of the Palestinian People in Rabat, Morocco. The objective was to discuss the importance of building an international consensus on a just and viable solution of the question of Jerusalem and the role of African States and other actors in that regard. In this meeting, Commissioner Maiga delivered a presentation on “The Role of Non-State Actors, including Parliamentarians and African Civil Society”.
174. On 19 August 2010, Commissioner Maiga participated in a workshop on the validation of the 2010-2014 strategic plan of the National Human Rights Commission of Mali, in Bamako, Mali.
175. On 2 October 2010, Commissioner Maiga participated together with the Chairperson and the Vice-Chair of the African Commission, in a meeting organized by the Human Rights Development Initiative (HRDI) on the **Committee on the Protection of PLHIV and Those at Risk** and other actors, in Pretoria, South Africa.
176. From 4 to 6 October 2010, Commissioner Maiga participated in the Colloquium organised by the African Court, in partnership with the Danish Institute for Human Rights and with the support of the German agency for technical cooperation (GTZ) and the European Union in Arusha, Tanzania. The goal of the colloquium was to initiate a judicial dialogue between such institutions, in order to reinforce the means and ways through which cooperation and coordination can be ensured (notably through the exchange of information and expertise) between judicial, quasi-judicial, continental and sub-regional organizations mandated with the promotion and protection of human rights in Africa.

*Activities as Special Rapporteur on the Rights of Women in Africa*

177. On 3 and 4 June 2010, the Special Rapporteur participated in a seminar organized by the Inter-Parliamentary Union (IPU) in partnership with the National Assembly of Mali on the topic “Violence against Women and Girls” which was intended for Parliamentarians in Bamako, Mali.
178. From 21 to 23 June 2010 and on 24 and 25 October 2010 respectively, the Special Rapporteur participated in Montreal, Canada, as a foreign member, in the deliberations of the Board of Directors of Rights and Democracy.
179. From 13 to 15 July 2010, The Special Rapporteur, in collaboration the Government of the Republic of Mali, organized the first Regional Conference for West and North African States in Bamako, Mali, on the theme “The Role of the Commission in the Promotion and Protection of the Rights of Women in Africa”. The conference took place, under the auspices of the Government of the Republic of Mali. This was the first of a series of conferences that the Special Rapporteur wishes to organize on women’s rights in Africa. The overall objective of the Conference was to highlight the role that can be played by the Commission in the promotion and protection of women’s rights in Africa and to provide a better understanding of its protection mandate through its communication/complaint mechanism. The report of the conference is available on the African Commission’s website [www.achpr.org](http://www.achpr.org).
180. From 21 to 23 July 2010, in Kampala, Uganda, the Special Rapporteur participated in the 16<sup>th</sup> Consultative Meeting of African civil society organisations on Gender Mainstreaming in the AU in Kampala, Uganda. The meeting was organized by the network “Gender is my Agenda” (GIMAC) and coordinated by Femmes Africa Solidarité (FAS). Participants discussed the following themes: Women, Peace and Security in Africa and the Tenth Anniversary of Resolution 1325; Review of the implementation of

the Solemn Declaration; Maternal, infant and child health and development in Africa. Recommendations were formulated at the end of the meeting, in particular in the field of maternal health, for the Summit of Heads of State and Government that was to follow.

181. On 22 and 27 July 2010, the Special Rapporteur participated in the Ordinary Session of the AU's Executive Council, in Kampala, Uganda and subsequently, the Summit of Heads of State and Government of the AU.
182. On 31 July 2010, on the occasion of Pan African Women's Day, the Special Rapporteur published a press release which highlighted the importance of the topic of maternal health in the African human rights agenda in 2010. She recalled the theme of the AU Campaign on Accelerated Reduction on Maternal Mortality (CARMMA): "Africa Cares, No woman should die while giving birth!" and that of the 15<sup>th</sup> Summit of Heads of State and Government, which was "Maternal, Infant and Child Health and Development in Africa"..
183. From 23 to 25 August, 2010, the Special Rapporteur participated in a workshop organized by a Canadian organization: the International Development Research Centre (IDRC), in Dakar, Senegal, to plan a sub-regional study on the problems of political participation of young women.
184. On 2 September, 2010, the Special Rapporteur was invited by the Office of the High Commissioner on Human Rights (OHCHR) to participate in a meeting with the staff of the Office of Rashida Manjoo, UN Special Rapporteur on Violence against Women, its Causes and Consequences in Geneva, Switzerland. The meeting agreed to reinforce the partnership between our two mechanisms, by exchanging information and with regards to programs implemented by the OHCHR, particularly in the DRC on sexual violence and the right to reparation for victims.

185. On 3 September 2010, the Special Rapporteur took part in a conference on *Maternal Mortality, Morbidity, Human Rights and Accountability: A Dialogue with Human Rights Bodies*, in Geneva, Switzerland. The conference was organized by the United Nations Population Fund (UNFPA) and the Centre for Reproductive Rights. The objective of the conference was to bring together experts working in the different international and regional human rights systems to share their experiences and develop strategies aimed at recognizing and establishing legal standards in the area of maternal health and morbidity as human rights.
186. In September 2010, the Special Rapporteur wrote the preface of a publication by Rights and Democracy entitled “Sexual Violence in Armed Conflict from 1993 to 2003 in the Democratic Republic of Congo”, which should be launched in the upcoming months.
187. From 15 to 17 September 2010, in Dakar, Senegal, the Special Rapporteur participated in a regional forum on the implementation of United Nations Security Council Resolution 1325 on “Women, Peace, and Security” in Dakar, Senegal. The forum was organized by the UNOWA, in partnership with the AU, the Economic Community Of West African States (ECOWAS), Mano River Union (MRU), the United Nations Population Fund (UNFPA), the United Nations Trust Fund for Women (UNIFEM), UN-INSTRAW, the Office of the UN High Commissioner for Human Rights (OHCHR), the United Nations Development Program (UNDP), the UN High Commissioner for Refugees (UNHCR) and the United Nations Children’s Fund (UNICEF). In addition to technical and financial partners, NGO and ECOWAS Gender Ministers were represented.
188. On 12 October 2010, in Kinshasa (DRC) the Special Rapporteur participated in a Forum organized by the Office of the High Commissioner on Human Rights (OHCHR) and the United Nations Mission for

Stabilization in DRC (MONUSCO) in Kinshasa, DRC, on the issue of sexual violence in DRC and the issue of reparation for victims of sexual violence. Representatives from the OHCHR, the Trust Fund for victims, NGOs, associations of victims of sexual violence, and government delegates working in the field of gender and justice were represented at the Forum. The goal of this event was to inform participants on the global strategy initiated by the OHCHR and to ensure that all stakeholders working on the issue of sexual violence kept abreast with the latest developments.

189. From 13 to 15 October 2010, the Special Rapporteur participated in a meeting of Experts and Gender Ministers from the AU in Nairobi, Kenya, which preceded the launching of the African Women Decade (AWD) 2010-2020. The Meeting was officially opened by H. E. Hon. Kolonza Musyoko, Vice President of the Republic of Kenya and chaired by H. E. Atanas Manyala Keya, Assistant Minister for Gender, Children and Social Development. The meeting concluded with the adoption of the Nairobi Declaration and finally the launching the AWD on 15 October 2010.

190. From 19 to 22 October, the Special Rapporteur participated in the third edition of the International Mibeko Forum in Brazzaville, Congo. This Forum was organized by Mibeko Association, in partnership with the Ministry of Gender and Integration of Women in Development with the support of the United Nations Development Programme (UNDP) and the United Nations Population Fund (UNFPA). The forum brought together delegates from States, international, regional and sub-regional institutions as well as representatives from African civil society. The Special Rapporteur presented a paper on “Thirty years of CEDAW: Evaluation and Perspectives in Africa”.

191. In line with her mandate to undertake promotional and fact finding missions in Members States of the AU, the Special Rapporteur forwarded

letters to the Republic of Niger for a mission to be carried out from 6 to 10 December 2010 and also to the Republic of Algeria, which responded to the verbal note and states its willingness to welcome the mission from 13 to 22 December 2010.

192. During the 48<sup>th</sup> Ordinary Session of the African Commission, which took place in Banjul, the Gambia, the Special Rapporteur participated in the following activities:

- Meeting of the Committee tasked to work on the Internal Rules of Procedure;
- made a presentation in a panel discussion organized by the NGO Forum on “Women as a Critical Force in Democratic Governance”;
- Facilitated a discussion on “Women’s and Children’s Rights in Africa”. The discussion was held during the NGO Forum organized by the African Centre for Democracy and Human Rights Studies (ACDHRS) and, made a presentation on the Mandate of the African Commission and on the mandate of the newly established Committee on the Protection of PLHIV and Those at Risk in Africa organized by the NGO, People Opposing Women Abuse (POWA).

193. In conclusion, the Special Rapporteur reported that the year 2010 was fruitful and highly symbolic for African women. It marked the beginning of the African Women Decade 2010-2020 and the 10<sup>th</sup> anniversary of the adoption of the UN Security Council Resolution 1325 on “Women, Peace, and Security”. The year 2010 is also the 5<sup>th</sup> anniversary since the entry into force of the Maputo Protocol.

194. The Special Rapporteur stated that despite an enhanced commitment from Member States to improve the situation of women, women continue to be victims of poverty, illiteracy, and suffer from the consequences of armed conflicts and from all kinds of abuses and several forms of discrimination, as well as the weight of traditional practices. She however indicated that the mechanism is pleased to have contributed to raising awareness on challenging issues faced by women in decision-making institutions and forums.
195. The Special Rapporteur congratulated the existing collaboration and cooperation between the African Commission, States Parties, UN agencies, Regional Economic Commissions, Research Institutions and civil society organizations working on gender issues.
196. She formulated recommendations for Member States on specific themes which have an impact on the promotion and the protection of the rights of women and girls in Africa, including the following:
- Ensure the ratification without reservation, the domestication, and the effective implementation of all key human rights instruments which guarantee the rights of women and girls;
  - Take appropriate measures to eliminate discrimination against women and girls;
  - Enact laws and adopt additional programmes aimed at ensuring a better protection of maternal and child health;
  - Adopt national action plans to facilitate the implementation of UN Security Council Resolutions 1325, 1820, 1888 and 1889;
  - Take appropriate measures to reinforce the role of women and to guarantee their participation in the prevention and the resolution of conflict;

- Reinforce the capacities of women and women NGOs to enable them to influence the systems, structures, and decision-making institutions;
- Ratify and give priority to the implementation of the African Charter on Democracy, Elections, and Governance;
- Invest in research on climate change in Africa and its implications on the life of women.

*Activities as a Member of the Working Group on Indigenous Populations / Communities in Africa (WGIP)*

197. From 6 to 8 November 2010, in Banjul, The Gambia, she participated in the meeting of the Working Group on Indigenous Populations / Communities and took part in the discussion on the agenda items.

**Activity Report of Commissioner Kayitesi Zainabou Sylvie**

*Activities as Commissioner*

198. From 10 to 11 June 2010, Commissioner Kayitesi attended a Workshop on the application of International, Regional Instruments and Principles of Human Rights in the Administration of Justice in Rwanda, organized by the UN Coordination in collaboration with the National Commission on the Rights of the Individual in Kigali, Rwanda. During this Workshop, she presented a paper on the “Role of Regional Mechanisms and Instruments for the Protection of Human Rights”.

199. On 7 June 2010, Commissioner Kayitesi attended a training session on human rights organised for priests from the North Western region of Rwanda, organized by the National Commission of Human Rights in Rwanda. She presented a paper on “International, Regional and National Mechanisms on the Protection of Human Rights”.

200. From 29 to 30 June 2010, Commissioner Kayitesi attended a National Workshop on Human Rights organized for Members of Parliament in Kigali, Rwanda, by the UN Coordination in Rwanda. She presented a paper on “the African System on the Protection of Human Rights”.
201. On 29 July 2010, Commissioner Kayitesi attended a Consultative Meeting with Youth Leaders from Civil Society Organizations held, in Gicumbi , Rwanda . She presented a paper on “African Instruments on Human Rights: The African Charter on Human and Peoples’ Rights and the African Charter on Democracy, Elections and Governance”. The objective of the meeting was to remind Civil Society Organizations of their role as promoters of Democracy since the country was at the time in the process of holding its Presidential Elections.
202. From 20 to 21 September 2010, Commissioner Kayitesi attended the 2<sup>nd</sup> Regional Conference on the Death Penalty in the Middle East and North Africa in Alexandria, Egypt. The Conference was organized by Penal Reform International (PRI) in collaboration with the Swedish Institute Alexandria and the Arab Center for the Independence of the Judiciary and Legal Profession. During the Conference, she presented a paper on “The African Commission on Human and Peoples’ Rights and the Working Group of the African Commission on the Death Penalty”.
203. During the intersession, Commissioner Kayitesi forwarded Note Verbales to Burundi and Guinea Bissau with a view to undertake promotional missions in her capacity as the Commissioner responsible for promotional activities on human rights in these countries.

*Activities as Chairperson of the Working Group on the Death Penalty in Africa*

204. From 7 to 9 November 2010 Commissioner Kayitesi chaired the Meeting of the Working Group on the Death Penalty in Africa in Banjul, The

Gambia. The Meeting was organised to examine the document on the issue of the Death Penalty in Africa. During the meeting, the Working Group examined the document and included the recommendations made at the two regional Conferences on the Death Penalty in Kigali, Rwanda and in Cotonou, Benin. The Working Group also examined the Draft Resolution on the Abolition of the Death Penalty in Africa, to be submitted for consideration to the African Commission.

205. During the intersession, Commissioner Kayitesi forwarded Letters of Appeal on the situation of the Death Penalty to:

- His Excellency, President of the Federal Republic of Nigeria in June 2010, following information received about the planned execution of 800 prisoners sentenced to Death in a bid to reduce the prison population. The Appeal was addressed to His Excellency, reminding him to adhere to the Resolutions of the African Commission on the Moratorium on the Death Penalty and urge for measures to be put in place to prevent the execution of these persons.
- His Excellency, President of the Republic of Equatorial Guinea in September 2010, following information received that four persons, three of whom were military officers, and a civilian were executed some time after a military tribunal had tried and convicted them in *absentia*; and that their family members were neither given the opportunity to see nor give them a decent burial. The letter expressed the African Commission's disappointment and urged the State Party to make all efforts to ensure that such situations do not re-occur, to respect the African Charter and African Commission Resolutions on the Moratorium.

## Activity Report of Commissioner Pansy Tlakula

### *Activities as Commissioner*

206. From 29 to 30 July 2010, Commissioner Tlakula attended a Workshop for East and Southern African National Human Rights Institutions (NHRIS), organised by the Network of African NHRIs, in Johannesburg, South Africa. She made a presentation on “the African Commission on Human and Peoples’ Rights: its mandate, functions and relevance in the promotion and protection of human rights”.
207. On 26 August 2010, Commissioner Tlakula attended a workshop on Public Dialogue on the promotion of the African Charter and Protocols to enhance shared values and women’s participation in governance. The Workshop was organized by IDASA in Pretoria, South Africa.
208. On 8 September 2010, Commissioner Tlakula attended the African Network of Constitutional Lawyers' Working Group on Social and Economic Rights in Africa (SERIA), organised by the University of Cape Town, South Africa. The theme of the Workshop was, “Tracking progress in the protection of socio-economic rights in Africa”. During the Workshop, she made a keynote address on the “Background of the African Commission,” where she highlighted the socio-economic rights problems in Africa, and the role of the African Commission in finding lasting solutions to their realisation by States Parties.”
209. From 7 to 9 October 2010, Commissioner Tlakula attended the Second Echenberg Family Global Conference on Human Rights and Diverse Societies, organised by the McGill Centre for Human Rights and Legal Pluralism, and the McGill University Faculty of Law in Montreal, Canada. She gave a speech on “*Human Rights Institutions: Successes and Failures*”.

210. On 19 October 2010, Commissioner Tlakula attended a Seminar on the recent developments in the African Commission organised by the People Opposed to Women Abuse (POWA) in Johannesburg, South Africa.

*Activities as Special Rapporteur on Freedom of Expression and Access to Information in Africa*

211. From 25 to 28 May 2010, the Special Rapporteur participated in a Panel Discussion on 'Human Rights of Journalism,' at the International Federation of Journalists (IFJ) World Congress in Cadiz, Spain.
212. On 5 July 2010, she attended the 2<sup>nd</sup> World Journalism Education Congress and 2010 Highway Africa Conference in Grahamstown, South Africa, where she made a presentation on "Understanding the mandate of the Special Rapporteur on Freedom of Expression and Access to Information in Africa: A medium to effective advocacy for Journalists in Africa."
213. From 19 to 24 July 2010, the Special Rapporteur attended a Seminar on Media and Elections in SADC- challenges and opportunities, organised by the Electoral Commission Forum of SADC. She made a presentation on "The state of ratification of the African Charter on Democracy, Elections, and Governance in the SADC region".
214. From 16 to 18 August 2010, the Special Rapporteur attended a Freedom of Information Litigation Strategies meeting in Nairobi, Kenya. During the meeting, she made a presentation on the "Role and Mandate of the Special Rapporteur on Freedom of Expression and Access to Information in Africa." In her presentation, she highlighted Article 9 of the African Charter which entrenches the rights to freedom of expression and access to information, and the Declaration of Principles on Freedom of Expression in Africa which elaborates on Article 9. She also mentioned various Resolutions that have

been adopted by the African Commission related to freedom of Expression and Access to Information in Africa since 2006.

215. From 30 August to 2 September 2010, she attended the Open Government Policy Summit organised by the Rivers State, in Port Harcourt Nigeria. She made a presentation on the “Role & Agenda of the Special Rapporteur on Freedom of Expression and Access to Information in Africa”.
216. On 15 September 2010, the Special Rapporteur participated in the “Right to Know Campaign” launch organised by the Freedom of Expression Institute (FXI) in Johannesburg, South Africa. She made a presentation on “Regional Perspectives on Freedom of Expression and Access to Information”.
217. On 28 September 2010, the Special Rapporteur attended the Regional Training Workshop on Media and Elections for Senior Journalists from Eastern and Southern Africa, organised by the UNDP. She made a presentation on “Freedom of Expression and Access to Information: A requisite for Democratic Elections in Africa”.
218. From 29 to 31 October 2010, she attended an Expert meeting on drafting a model law for Freedom of Information in Africa. The workshop was organised by the Centre for Human Rights, University of Pretoria in collaboration with the Special Rapporteur and the Open Society Justice Initiative (OSJI).
219. On 12 November 2010, the Special Rapporteur attended a Brainstorming Meeting on strengthening freedom of expression under the African Peer Review Mechanism (APRM), organized by Article 19, in collaboration with her mandate. The meeting had three main objectives: to strengthen the cooperation and working relationship between the mandate of the Special Rapporteur and the APRM; ensure that issues related to freedom of expression and access to information are incorporated in the APRM

Questionnaire and Indicators; and to strengthen the cooperation between the African Commission and the APRM.

220. In line with her mandate to “make public interventions where violations of the right to freedom of expression and access to information have been brought to her attention, including by issuing public statements, press releases, and sending appeals to Member States asking for clarifications,” the Special Rapporteur forwarded letters of Appeal to the Republic of Zambia, Republic of Rwanda, and the Republic of South Africa.
221. The Special Rapporteur noted that the Republic of Liberia which was reported to have a Freedom of Information Bill submitted to the House of Representatives since 18 April 2008 by the Liberia Media Law and Policy Reform Working Group was finally passed into law on 6 October 2010. In this regard, the Special Rapporteur commended Liberia for this progress and expressed hope that other States Parties which still have Bills pending in Parliament will follow suit.
222. The Special Rapporteur continued to receive reports on violation of the right to freedom of expression and access to information in the following countries<sup>2</sup>: Angola, Burundi, DRC, Egypt, Eritrea, Ethiopia, Gabon, Ivory Coast, Western Kenya, Malawi, Mozambique, Namibia, Nigeria, Somalia, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda and Zimbabwe. These reports include: prosecution, kidnapping, imprisonment, harassment and intimidation; extra-judicial killing/murder of journalists and Media Practitioners; unfair press restrictions; banning and destruction of media houses, restrictions to publish newspapers by requiring a license as a precondition, detention of journalists pending investigation in publication crimes, libel and criminal defamation laws etc.

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<sup>2</sup> These violations have remained the same and have been consistent over the years.

223. The Special Rapporteur welcomed the decision of the Constitutional Court of Uganda in August 2010 that the sedition law infringes on the public's right to freedom of speech guaranteed under Uganda's Constitution, and thus abolishing criminal sedition. Following this decision, a Ugandan Magistrates Court in Kampala dismissed sedition charges in October 2010 against the former radio presenter Robert Kalundi Serumaga, who faced six counts of sedition for making anti-President statements during the September 2009 Kampala riots. There are currently ten journalists who collectively face 22 sedition charges, some of which have been accumulated since 2005. The Special Rapporteur reported that she is looking forward to the dismissal of the other pending cases against the ten journalists.
224. The Special Rapporteur also encouraged other African countries to ensure that their criminal defamation laws conform to standards stipulated in Principle XII of the Declaration. The Special Rapporteur pointed to some of the challenges still present and these include amongst others: States Parties who continue to ignore the recommendations and appeals of the Special Rapporteur; absence of Access to Information laws in some States Parties; continuous attacks on journalists and Media Practitioners and Legislative measures that restrict freedom of expression to name a few.
225. She finally appealed to the States Parties that have not yet done so, to ratify the African Charter on Democracy, Elections and Governance, highlighting that the right to freedom of expression and access to information, are essential for free, fair and credible elections.

### **Activity Report of Commissioner Yeung Kam John Yeung Sik Yuen**

#### *Activities as Commissioner*

226. On 27 August 2010, Commissioner Yeung Sik Yuen received Mr. Greg Shaw, Director, International and Corporate Relations of the International

Federation on Ageing (IFA) on 27 August 2010. The IFA has expressed interest to work with the Commission in the future.

227. On 2 October 2010, Commissioner Yeung Sik Yuen attended the function marking the International Day of Elderly Persons held at the State House, Le Reduit Mauritius. Almost 1,000 elderly persons turned out at a tea party/ cultural show hosted by the President of the Republic of Mauritius, to mark that yearly event.
228. On 4 November 2010, Commissioner Yeung Sik Yuen contributed to the publication of a booklet of illustrated drawings launched by Amnesty International (Mauritius) branch by writing its preface. The drawings are meant to help diffuse and promote human rights and civil liberties which are embedded in the Constitution of Mauritius.

*Activities as the Chairperson of the Working Group on the Rights of Older Persons and Persons with Disabilities in Africa*

229. From 9 to 11 August 2010, Commissioner Yeung participated in the meeting of the Working Group on the Rights of Older Persons and Persons with Disabilities, in Mauritius. The main objective of the meeting was to finalize the Draft Protocol on the Rights of Older Persons in Africa with a view to present it for consideration during the 48<sup>th</sup> Ordinary Session of the African Commission.
230. The meeting also mapped out strategies to finalize the draft Protocol on the Rights of People with Disabilities, with a view to conclude the same through the participation and collaboration of other stakeholders by 2011. The meeting was able to finalize the draft Protocol on Older Persons in Africa in both English and French for adoption by the African Commission.

## **Activity Report of Commissioner Mohamed Khalfallah**

### *Activities as Commissioner*

231. During the inter-session, Commissioner Khalfallah did not carry out any activities as a Commissioner.

### *Activities as a Special Rapporteur on Human Rights Defenders in Africa*

232. Commissioner Khalfallah sent Note Verbales to ten countries for promotion missions namely: Angola, Côte D'Ivoire, Congo Brazzaville, Democratic Republic of Congo, Central African Republic, Guinea, Cameroon, Chad, Rwanda and Burundi. Only Cameroon responded to the request and discussions are on-going to agree on dates for the said visit. These country visits are necessary in order to maintain the dialogue with the Governments and with Civil Society.

233. Commissioner Khalfallah noted that, the subject of concern by the mechanism during the intersession period is that pertaining to freedom of association and freedom of expression in the various African States. Commissioner Khalfallah is in the process of drafting terms of reference for a study on the freedom of association in Africa. Other matters of concern experienced by the human rights defenders constitute: harassment, intimidation and arbitrary detentions.

234. Following the receipt of urgent appeals from the various human rights organizations and networks, Commissioner Khalfallah dealt with thirty cases and sent communications to the Governments according to the need and urgency of the case. These cases concern human rights defenders in the following ten (10) countries: Algeria, Angola, Cameroon, The Gambia, the Democratic Republic of Congo, Uganda, Sudan, Tunisia, Zimbabwe, and Swaziland.

235. Commissioner Khalfallah published two Press Releases; one on the assassination of Floribert Chebeya and the other on the arrest of Sylvestre Baziwa in the Democratic Republic of Congo. Commissioner Khalfallah also published a letter of appreciation in relation to the release of a Zimbabwean human rights defender.
236. From 4 to 6 November 2010, Commissioner Khalfallah participated in a seminar organized by the International Human Rights Service. In the same vein, the first activity of the regional meeting held in Banjul, The Gambia, had been designed to provide specific information regarding the experience of women human rights defenders in Africa. These discussions led the Commissioner to the second activity relating to possible strategies for the establishment of contacts with the international and regional mechanisms, so as to maximize the protection of women human rights defenders and the promotion of their work. An Action Plan was developed as well as a Resolution on women human rights defenders with the objective of building their capacity and enabling them to protect their rights in a strategic manner.
237. On 6 November 2010, Commissioner Khalfallah participated in a workshop organized by the International Human Rights Service on human rights defenders. He had discussions with the human rights defenders on several issues so as to provide them information on the role of the Special Rapporteur and to develop common working strategies for the protection of human rights defenders.
238. From 7 to 9 November 2010, Commissioner Khalfallah participated in the NGO forum which preceded the 48<sup>th</sup> Ordinary Session of the African Commission. In this Forum he was a member of a panel organized by the International Service, to meet and discuss with

human rights defenders about the ways and means of establishing dialogue between them and the Special Rapporteur, and to address the problems encountered by human rights defenders everywhere on the continent.

*Activities as Chairperson of the Working Group on ECOSOC*

239. During the Inter-Session, Commissioner Khalfallah chaired the Working Group meeting held in Tunis from 7 to 9 July 2010 to study the ECOSOC Guidelines; this meeting was decided on the sidelines of the 47<sup>th</sup> Ordinary Session. The working group proposed to name this Guideline 'Tunis Guidelines'. The Working Group also met on the sidelines of the 48<sup>th</sup> Ordinary Session.

**ITEM 9(a): Budget proposal for 2011 (PRIVATE SESSION)**

240. The Secretary presented the 2011 budget of the African Commission and highlighted its main features and projections. She informed the Commissioners that the budget had already been sent to the AUC for consideration. Commissioners raised a number of concerns with the budget, including the issue of the Commissioner's honorarium which had been pending for some time now. The secretary and the Finance Officer clarified some of these issues and it was recommended that the Secretariat should capture all the suggestions and concerns raised for use during the defense of the budget. On the issue of Commissioner's honorarium, it was decided that the African Commission would await the outcome of the budget approval process and should this not reflect the proposed honorarium, the Chairperson and Commissioner Bitaye would follow up with the AUC.

**ITEM 9(b): Discussion on the Composition of the Advisory Committee on Budget and Staff Matters (PRIVATE SESSION)**

241. The discussion on the composition of the Advisory Committee on budget and staff matters was deferred sine die.

**ITEM 9(c): Report of the Committee on the Rules of Procedure (PRIVATE SESSION)**

242. Commissioner Kayitesi Zainabou presented the new Rules of Procedure of the Commission. A few discrepancies between the French and English versions of the document were raised by Commissioners. These were finally sorted out and the document was adopted with the necessary amendments.

**ITEM 9(d): Report of the Working Group on the Death Penalty (PRIVATE SESSION)**

243. This report was presented by Commissioner Kayitesi Zainabou Sylvie who set out the major activities that the Working Group had carried out during the intersession period including, two regional conferences. She outlined the current activities in which the group is engaged and the challenges they faced and proffered recommendations to the African Commission as a way forward. She stated that a research document on which the Group was working would be ready before the 49<sup>th</sup> Ordinary Session of the African Commission. The item was deferred for examination during the next Session pending the finalization of the research document.

**ITEM 9(e): Draft State Reporting Guidelines on Economic, Social and Cultural Rights in Africa (PRIVATE SESSION)**

244. The draft State Reporting Guidelines on Economic, Social and Cultural Rights in Africa was presented by Commissioner Mohamed Khalfallah and after long discussions, it was adopted with amendments.

**ITEM 9(f): Draft Protocol on the Rights of Older Persons in Africa (PRIVATE SESSION)**

245. Commissioner Yeung Sik Yuen presented the draft Protocol on the Rights of Older persons in Africa which had been prepared during an experts' seminar organized by the Working Group on the Rights of Older Persons in Africa. Commissioners made comments and suggestions on improving the draft. At the end of the deliberation on this item, it was agreed that the document be reconsidered by the Working Group to reflect the comments and suggestions made by Commissioners. The item was deferred for consideration to a later date.

**ITEM 9(g): Nomination of an Independent Expert from North Africa to join the Working Group on Extractive Industry, Environment and Human Rights Violations in Africa (PRIVATE SESSION)**

246. It was indicated that the position was advertized on the website following the decision of the African Commission at the 47<sup>th</sup> Ordinary Session but no applications were received. Accordingly, it was decided that the position be re-advertized on the African Commission's website until 31 January 2011.

**ITEM 9(h): Nomination of Independent Experts for the Committee on the Protection of the Rights of PLHIV and Those at Risk (PRIVATE SESSION)**

247. The African Commission reviewed the applications received and appointed the following as Expert Members 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:

- I. Ms Atim Agnes, HRDI
- II. Mr Patrick Eba, UNAIDS
- III. Mr Alain Patrick le Doux Fougue Dzutue, Cameroon
- IV. Ms Nicolette Merle Naylor, Namibia
- V. Mr Christian Garuka Nsabimana, Rwanda

VI. Mr Durojaye Ebenezer Tope, Nigeria

**ITEM 9(i): AU Human Rights Strategy (PRIVATE SESSION)**

248. This item was not examined due to lack of information occasioned by the absence of the Chairperson who had attended the meetings during which the issue was discussed. It was therefore deferred to the next Session of the Commission.

**ITEM 9(j): CAL Application for Observer Status (PRIVATE SESSION)**

249. The Rapporteur for this item was Commissioner Pansy Tlakula who introduced a letter written by CAL addressed to the Secretariat of the African Commission requesting for information on the process and reasons that informed the African Commission's decision not to grant observer status to it. After deliberations it was decided that CAL had not requested for a review of the African Commission's decision but had simply asked that the African Commission's decision be given with reasons leading to the decision. It was accordingly decided that CAL be furnished with the reasons as recorded in paragraph 33 of the 28<sup>th</sup> Activity Report of the African Commission.

**ITEM 9(k): Submission of States Reports and Attendance at the Ordinary Sessions of the Commission (PRIVATE SESSION)**

250. The African Commission directed the Secretariat to write Notes Verbale to States Parties that have never submitted periodic reports and to those that have one or more overdue reports.

**ITEM 9(l): Matters/Cases for Referral to the African Court (PRIVATE SESSION)**

251. The African Commission considered cases for referral to the African Court and agreed that those cases should be identified by the Secretariat and report to the African Commission at the next Session.

**ITEM 9(m): Right to Citizenship (PRIVATE SESSION)**

252. Four representatives from Citizen Rights in Africa Initiative (CRAI) made a presentation on the problem of citizenship in Africa. They highlighted the difficulties many Africans continue to face in acquiring citizenship and the human rights violations that these problems have engendered. They pointed out that the African Charter does not specifically provide for citizenship rights and urged the African Commission to create a Working Group on Citizenship Rights in Africa, with one of its mandates being the elaboration of a Protocol to the African Charter on Citizenship Rights in Africa.

253. Following this presentation, the Commissioners raised a number of concerns and questions especially with regards to whether there were statistics and detailed studies in existence that captured the magnitude of the problem. The presenters gave clarifications to some of these concerns and promised to provide further information on issues to which they could not immediately respond. After fruitful discussions, especially on the feasibility of creating a working group, it was decided that the African Commission should be furnished with more detailed documentation and data, including best practices, in order to enable it appreciate the pertinence of the issue. It was also agreed that the issue be taken up by existing mechanisms such as the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons and the Special Rapporteur on Women's Rights. The issue was therefore deferred subject to the provision of the above mentioned documentation.

**ITEM 9(o): Oral hearing of complainants of Communication 266/03 Kevin Ngumne v Cameroon (PRIVATE SESSION)**

254. The decision to hear the complainants in the above case on the non-compliance by the State of Cameroon with the African Commission's decision was. The Complainants informed the African Commission that the state of Cameroon had reneged on its earlier promise to dialogue with the complainants. They therefore appealed to the African Commission to appoint a mediator to enable Cameroon implement the latter's decision and that any mediation talks be held at a neutral venue such as the AU or UN headquarters. The African Commission, after deliberating, came to the decision that the state of Cameroon be put on notice that the complainants had approached the African Commission with a request for mediation. Should the State of Cameroon accept such mediation, a Commissioner would be appointed as a mediator.

**ITEM 10: CONSIDERATION AND ADOPTION OF DRAFT REPORTS (PRIVATE SESSION)**

**Report on Promotion Mission to Sudan**

255. The joint promotion mission to Sudan was adopted with amendments.

**ITEM 11: CONSIDERATION OF COMMUNICATIONS (PRIVATE SESSION)**

256. A total of eighty-two (82) Communications were tabled before the Commission: five (5) on Seizure; fifty-two (52) on Admissibility; twenty-four (24) on the Merits; and one (1) for review.

257. The following Communications were seized of by the African Commission:

- i. **Communication 389/10 – Mbiankeu Genevieve v Cameroon;**

- ii. **Communication 390/10 – Abba Boukar v Cameroon;**
- iii. **Communication 391/10 - Mr. Abdelrahman Mohamed Gassim & 9 others ( represented by East and Horn of Africa Human Rights Defenders Project) v Sudan;**
- iv. **Communication 392/10 - Mr. Theogene Muhayeyezu v Rwanda;**
- v. **Communication 393/10 - Institute for Human Rights and Development in Africa & Rights and Accountability in Development v DRC;**

**Communication 311/05 - Rifaat Makkawi v. Sudan**

258. The African Commission considered Communication 311/05 – Rifaat Makkawi v. Sudan and decided to declare it Admissible, with amendments.

**Communication 305/05 – Article 19 v. Zimbabwe**

259. The African Commission considered Communication 305/05 – Article 19 v. Zimbabwe and decided to declare it Inadmissible.

**Communication 338/07 – Socio-Economic Rights and Accountability Project (SERAP) v. the Federal Republic of Nigeria**

260. The African Commission considered Communication 338/07 - Socio-Economic Rights and Accountability Project (SERAP) v. the Federal Republic of Nigeria and decided to declare it Inadmissible.

**The Communications listed below were considered and deferred to the 49<sup>th</sup> Ordinary Session:**

261. Communication 259/02 – Groupe de Travail v. DRC, deferred, awaiting a court judgment from the Respondent State
262. Communication 270/03 – Access to Justice v. Nigeria, deferred
263. Communications 274/03 & 282/03 ASADHO/DRC & Maître O. Disu et autres v. DRC, deferred, awaiting for a court judgment from the Respondent State
264. Communication 277/03 – Kobedi v. Botswana, deferred
265. Communication 278/03 – PROJUST v. DRC, deferred, awaiting for a court judgment from the Respondent State
266. Communication 285/04 – Kazila N v. DRC, deferred, awaiting for a court judgment from the Respondent State
267. Communication 286/04 – Dino Noca v. DRC, deferred because the Respondent State has not responded
268. Communication 287/04 – Duga Titanji v. Cameroon, deferred
269. Communication 288/04 – Gabriel Shumba v. Zimbabwe, deferred
270. Communication 295/04 – ZHR NGO Forum v. Zimbabwe, deferred
271. Communication 301/05 – IHRDA v. Ehtiopia, deferred
272. Communication 302/05 – Me. Mamboleo v. DRC, deferred
273. Communication 306/05 – Samuel Muzerengwa and 110 Others v Zimbabwe
274. Communication 317/06 – IHRDA v. Kenya, deferred because the Respondent State has not responded
275. Communication 319/06 – INTERRIGHTS & Ditshwanelo v. Botswana, deferred because the Respondent State has not responded
276. Communication 320/06 – Pierre Mamboundou v. Gabon, deferred because both parties have not made their submissions
277. Communication 321/06 – LSZ et al v. Zimbabwe, deferred because both parties have not made their submissions

278. Communication 322/06 – Tsatsu Tsikata v. Ghana, deferred because the Respondent State has not responded
279. Communication 323/06 – EIPR & INTERIGHTS v. Egypt, deferred
280. Communication 334/06 – EIPR v. Egypt, deferred
281. Communication 348/07 - Le Collectif des Familles de Disparu(e)s en Algérie v. Algeria, deferred because both parties have not made their submissions
282. Communication 355/07 – Hossam Ezzat & Rania Enayet v. Egypt, deferred because both parties have not made their submissions
283. Communication 356/07 – Gambia Task Force v The Gambia
284. Communication 365/08 – Christopher Byagonza v. Uganda, deferred because both parties have not made their submissions
285. Communication 357/08 – Urban Mkandawire v. Malawi, deferred because the Respondent State has not responded
286. Communication 280/03 – Nzuzi Phutuka v. DRC, deferred, awaiting for a court judgment from the Respondent State
287. Communication 289/04 – Brahima Koné et al v. Cote d’Ivoire, deferred
288. Communication 290/04 – OSJI v. Cameroon, deferred
289. Communication 298/05 – Roy Bennet v. Zimbabwe, deferred because the Respondent State have not responded
290. Communication 314/06 – ZLHR & HRTSA v. Zimbabwe, deferred
291. Communication 318/06 – OSJI v. Cote d’Ivoire, deferred
292. Communication 324/06 & 325/06 – OMCT v. DRC, deferred because both parties have not made their submissions.
293. Communication 328/06 – Cabinda v. Angola, deferred
294. Communication 331/06 – Kamanako Association v. Botswana, deferred
295. Communication 332/06 – CMRD v. Kenya, deferred
296. Communication 335/07 – Dabalorivhuwa Patriotic Front v. South Africa, deferred

297. Communication 336/07 – AFTRADEMOP v. Cameroon, deferred
298. Communication 337/07 – Kevin Ngumne v. Cameroon & Nigeria, deferred
299. Communication 339/07 – HURINET-U v. Uganda, deferred
300. Communication 340/07 – ZHR NGO Forum v. Zimbabwe, deferred
301. Communication 341/07 – Equality Now v. Ethiopia, deferred
302. Communication 342/07 – PAIN v. Sudan, deferred
303. Communication 344/07 – INTERRIGHTS v. Egypt, deferred
304. Communication 346/07 – Mouvement de 17 Mai v. DRC, deferred because the Respondent State have not responded
305. Communication 347/07 - Association Pro Decheros Humanos De Espana (APDHE) v. Equatorial Guinea, deferred because the Respondent State have not responded
306. Communication 349/07 – Simon Weldehairmanot v. Eritrea, deferred because the Respondent State have not responded
307. Communication 350/07 – Sizalobuhle Moyo Mpofo v. Zimbabwe, deferred
308. Communication 351/07 – Givemore Chari v. Zimbabwe, deferred
309. Communication 352/07 – Sarah Mwatenga v. Zimbabwe, deferred
310. Communication 358/08 – Zimbabwe Exiles Forum v. Zimbabwe, deferred because the Respondent State has not responded.
311. Communication 361/08 – Prof. Dr. Liesleth Zegveld (on behalf of J.E. Zitha & P.J.L Zithar) v. Mozambique, deferred
312. Communication 363/08 – Lotfy KAMILIA v. Egypt, deferred
313. Communication 364/08 - Jurists and Journalists for the Defence of Human Rights and Citizenship Rights v. Angola, deferred because both parties have not made their submissions.
314. Communication 366/09 – Hammadi Kamoun v. Tunisia, deferred because the Complainant has not responded

315. Communication 368/09 – Abdelhadi Ali Radi and others v. Sudan, deferred because the Respondent State has not responded.
316. Communication 369/09 – Leke Theodore v. Cameroon, deferred because the Complainant has not responded
317. Communication 370/09 – Social and Economic Rights Action Center (SERAC) v. Nigeria, deferred because the Respondent State has not responded.
318. Communication 371/09 – Emmanuel Niyonzima v. Burundi, deferred because both parties have not made their submissions.
319. Communication 372/09 - Adolfo Samuel Beira (represented by Zelda de Vasconcelos) v. Mozambique, deferred because the Complainant has not responded
320. Communication 372 GKB/09 – INTERIGHTS v. Ethiopia, deferred because the Respondent State has not responded.
321. Communication 374/09 – The Morin Family (represented by Small Island Institute) v. Seychelles, deferred because both parties have not made their submissions.
322. Communication 376/09 – Acleo Kalinga v. Uganda, deferred because the Respondent State has not responded.
323. Communication 375/09 – Priscilla Njere Echaria v. Kenya, deferred
324. Communication 377/09 – Mendozaki Patricia Monchali v. South Africa, deferred because both parties have not made their submissions.
325. Communication 378/09 – Socio-Economic Rights and Accountability Project v. Libya, deferred because both parties have not made their submissions.
326. Communication 379/09 – Monim Elgak, Osman Hummeida and Amir Suliman v. Sudan, deferred
327. Communication 380/09 – Global Conscience Initiative Cameroon v. Cameroon, deferred because both parties have not made their submissions.

328. Communication 381/09 – CIMERIDE v. Kenya, deferred because the Respondent State has not responded.
329. Communication 383/10 Al-Assad v. Djibouti, deferred because both parties have not made their submissions.
330. Communication 385/10 – ICJ-Kenya v. Kenya, deferred because both parties have not made their submissions.
331. Communication 386/10 – REDRESS (on behalf of Dr. Farouk Mohamed Ibrahim) v. The Sudan, deferred because the Respondent State has not responded.
332. Communication 387/10 – Mr. Koffi Yamgname v. Togo, deferred because both parties have not made their submissions.
333. Communication 388/10 – Mr. Ntiroranya Adrien v. Burundi, deferred because both parties have not made their submissions.

**ITEM 12: REPORT OF THE SECRETARY (PRIVATE SESSION)**

334. In her Report to the 48<sup>th</sup> Ordinary Session of the ACHPR, the Secretary, Dr. Mary Maboreke, set out the activities undertaken during the Inter-Session, budgetary and staffing issues. She further discussed the budget execution rate, as well as the draft budget preparation concerning the 2011 fiscal year.
335. She indicated that there have been some positive developments in the staffing situation at the Secretariat. She reported that in response to the Secretariat's continuous requests to the Headquarters to expedite recruitment to the approved posts for 2010, a new Accounts Assistant has joined the Secretariat and candidates have been interviewed for vacant positions for Legal Officer positions at the Secretariat as follows: Legal Officer/Protection P2; Legal Officer/Promotion P2 and Legal Officer/Protection P3. She said following approval from the Headquarters, the posts of Receptionist/Secretary and Driver/Messenger were advertised

locally, and that a lot of applications have been received, all of which would be forwarded to the Headquarters for processing with a view to having the new staff joining the Secretariat as soon as possible.

336. Concerning implementation of AU Policy decisions, Dr. Maboreke indicated that the Secretariat has continued to follow-up on the issue of the construction of a permanent Headquarters for the African Commission and so far, there have been no new developments on the matter.

337. Regarding the long-standing issue of the upward review of honorarium and allowances for members of the ACHPR, Dr. Maboreke said the proposals for the allowances and honorarium of ACHPR Commissioners had been attached to the 28<sup>th</sup> Activity Report of the ACHPR. However, the Executive Council decided that the proposals be considered by the relevant AU bodies before being submitted for consideration by the Executive Council and Summit. She indicated that the Secretariat will continue to follow up on the matter.

338. Recalling that the new Rules of Procedure came into force three (3) months following the date of their adoption, that is, on 18 August 2010, Dr Maboreke informed the Honourable Commissioners that the Committee set up to clean up the Rules met prior to the 48<sup>th</sup> Ordinary Session, to ensure that the Rules are ready for a final reading and, thereafter, harmonization. It will then be translated into all the other AU languages as mandated during the 47<sup>th</sup> Ordinary Session.

**ITEM 13(a): Adoption of Resolutions (PRIVATE SESSION)**

339. The following resolutions were adopted: Resolution on Elections in Africa;

I. Resolution on Repealing Criminal Defamation Laws in Africa;

- II. Resolution on the Cooperation between the African Commission on Human and Peoples' Rights and the African Peer Review Mechanism;
- III. Resolution on the Deteriorating Situation of Indigenous People/Communities in some parts of Africa;
- IV. Resolution to Increase Members of the Working Group on Older Persons and People with Disabilities in Africa;
- V. Resolution on the Appointment of a Special Rapporteur on Human Rights Defenders in Africa;
- VI. Resolution on the Appointment of Members 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;
- VII. Resolution on the Ratification of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights;
- VIII. Resolution on Crimes of Sexual Violence against Women in the Democratic Republic of Congo (DRC);
- IX. Resolution on Securing the effective Realization of Access to Information in Africa;
- X. Resolution to Increase the Membership of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa;

#### **RE-ALLOCATION OF COUNTRIES OF RESPONSIBILITY**

340. Following the election of Commissioner **Lucy Asuagbor** as a Member of the African Commission, a reallocation of countries of responsibility for carrying out Promotional Mission was made by the African Commission as follows:.

- I. Honourable Commissioner **Reine Alapini-Gansou**: Cameroon, Cape Verde; Democratic Republic of Congo, Mali and Tunisia;
- II. Honourable Commissioner **Lucy Asuagbor**: Benin; Guinea Bissau, Togo and Rwanda;
- III. Honourable Commissioner **Mumba Malila**: Kenya, Malawi, Mozambique Uganda and Tanzania;
- IV. Honourable Commissioner **Pansy Tlakula**: The Gambia, Namibia, Lesotho,, Swaziland and Zambia;
- V. Honourable Commissioner **Catherine Dupe Atoki**: Egypt, Ethiopia, Equatorial Guinea, Liberia, and Sudan;
- VI. Honourable Commissioner **Musa Ngary Bitaye**: Ghana, Nigeria, Mauritius Sierra Leone and Zimbabwe;
- VII. Honourable Commissioner **Mohamed Bechir Khafallah**: Chad, Central African Republic, Guinea Conakry, Mauritania, SADR and Senegal;
- VIII. Honourable Commissioner **Zainabo Sylvie Kaytesi**: Algeria, Burkina Faso, Burundi and Cote d'Ivoire,
- IX. Honourable Commissioner **Mohamed Fayek**: Botswana, Eritrea, South Africa and Somalia;
- X. Honourable Commissioner **Soyata Maiga**: Angola, Congo Brazaville, Gabon, Niger and Libya;
- XI. Honourable Commissioner **Yeung Kam John Yeung Sik Yuen**: Comoros, Djibouti, Madagascar, Sao Tome and Principe, and Seychelles.

**ITEM 13(b): Concluding Observations and Recommendations (PRIVATE SESSION)**

341. The Concluding Observations and Recommendations on the Periodic Report of the DRC were adopted.

**ITEM 14: DATES AND VENUE OF THE 49<sup>TH</sup> ORDINARY SESSION OF THE AFRICAN COMMISSION (PRIVATE SESSION)**

342. The African Commission decided that the 49<sup>th</sup> Ordinary Session will be held from 28 April to 12 May 2011, at a venue yet to be determined.

**ITEM 15: ANY OTHER BUSINESS (PRIVATE SESSION)**

**a) Participation of Expert Members of Working Groups in Promotional Missions**

343. Commissioner Catherine Dupe Atoki introduced this agenda item and after lengthy deliberations it was agreed that expert members could accompany Commissioners when they go for promotion missions.

**b) Update on Commissioners' Honorarium**

344. The Commission agreed that Commissioner Bitaye and the Secretary should follow-up on the matter with the AUC.

**c) Allegations on Staff Appointments**

345. The Commission together with staff members of the Secretariat had a closed discussion on the matter.

**ITEM 16(a): 48<sup>th</sup> Session Report (PRIVATE SESSION)**

346. The adoption of the 48<sup>th</sup> Ordinary Session Report to a later Session, due to time constraints.

**ITEM 16 (b): 29<sup>th</sup> Activity Report (PRIVATE SESSION)**

347. The 29<sup>th</sup> Activity Report was adopted.

**ITEM 16 (c): Final Communiqué of the 48<sup>th</sup> Ordinary Session (PRIVATE SESSION)**

348. The Final Communiqué of the 48<sup>th</sup> Ordinary Session was adopted.

**ITEM 17: CLOSING CEREMONY (PUBLIC SESSION)**

349. The Acting Chairperson, Commissioner Mumba Malila, and Honorable Edward Gomez, Attorney General and Minister of Justice of the Republic of The Gambia gave closing speeches.

350. The Final Communiqué of the 48<sup>th</sup> Ordinary Session was read by Commissioner Pansy Tlakula.

**ITEM 18: PRESS CONFERENCE (PUBLIC SESSION)**

351. Due to circumstances beyond the control of the African Commission a press conference was not held. However, the final communiqué was widely distributed.