

**STATEMENT ON BEHALF OF PARTICIPANTS OF THE FORUM OF NGOs AT THE
OFFICIAL OPENING OF THE
57TH ORDINARY SESSION OF THE AFRICAN COMMISSION ON
HUMAN AND PEOPLES' RIGHTS,
4th NOVEMBER 2015
KAIRABA BEACH HOTEL, BANJUL, THE GAMBIA**

Honourable Lamin Nyabally, Secretary General, Head of Civil Service and Minister of Presidential Affairs,
Your Excellency, Madame Aicha L. Abdulahi, Commissioner for Political Affairs, African Union Commission
Honourable Madame Sylvie Zainabo Kayitesi, Chairperson of The African Commission on Human and Peoples' Rights (ACHPR), ,
Hon. Vice Chairperson, Hon. Bechir Khalfallah and Members of the African Commission;
My Lord, Honourable Justice Augustino S.L. Ramadhani, President, African Court on Human and Peoples' Rights; and Hon. Members of the African Court on Human and Peoples' Rights (AfCHPR);
Honourable Chairperson and Members of the Committee of Experts on the Rights and Welfare of the Child;
Honourable Joseph Chilengi, Returning Officer, ECOSOCC, African Union Commission;
Honourable Members of the African Union Organs here present;
Representatives of African Union Member States;
H.E. Mohamed Ibn Chambas, Special Representative of the UN Secretary General for West Africa (UNOWA)
Honourable Mahamame Cisse-Gourro, Representatives of the United Nations High Commissioner for Human Rights;
Special Mandate Holders of the United Nations here present;
Mr. Gilbert Sebihogo, Representative, and Members of the Network of National Human Rights Institutions
Your Excellencies, The Dean and Members of the Diplomatic and Consular Corps;
Honourable Ministers of the Republic of The Gambia;
Honourable Members of the National Assembly;
Members of the African Centre for Democracy and Human Rights Studies Governing Council;
Distinguished Members of the NGO Forum Steering Committee;
Distinguished State Representatives;
Venerable Religious and Traditional Leaders;
Representatives of National Human Rights Institutions;
Representatives of National and International NGOs;
Representatives of the Press;
Distinguished Ladies and Gentlemen;
All protocols respectfully observed

All too soon another six months has gone by and The African human rights community meets once again under the auspices of the African Commission on Human and Peoples' Rights. On behalf of my colleagues of the Forum on the Participation of NGOs in the 57th Ordinary Session of the African Commission on Human and Peoples' Rights, it is with pleasure and great sense of duty that I deliver this statement on this auspicious occasion. At the onset, please allow me, on behalf of **all the participants of the NGO Forum**, and indeed on my own behalf, to **thank the Chairperson Kayitesi and Members of the African Commission** for affording us this opportunity. In the same vein, The Forum would like to convey our appreciation and best wishes to the outgoing Commissioners Khalfalah and Manirakiza and to congratulate incoming Commissioners Jamestina King and Solomon Dersso on their appointment to this august body.

Your Excellencies, Distinguished Ladies and Gentlemen

Allow me to express our **gratitude to the Government and people of The Gambia** for their hospitality and warmth, in facilitating the activities of the 57th Ordinary Session and to extend the appreciation of the Forum of NGOs for the continued cordiality accorded them since their arrival on the soil of this beautiful country.

Your Excellencies, Distinguished Ladies and Gentlemen,

The Forum on the Participation of NGOs in the 57th Ordinary Session on the African Commission on Human and Peoples' Rights and the 31st African Human Rights Book Fair, organised and facilitated by the African Centre for Democracy and Human Rights Studies in collaboration with the African Commission on Human and Peoples' Rights, was held at the Kairaba Beach Hotel from 31st October–2 November, 2015. As usual, the turnout was remarkable, the debate objective and professional leading to the adoption of commendable outcomes. Over 230 representatives from 29 African countries participated in addition to participants from Denmark, France,

Netherlands, Norway, Sweden, Switzerland, the United Kingdom and the United States of America.

Guided by the provisional agenda for the 57th Ordinary Session of the African Commission, the development of the programme was a collective endeavour, circulated prior to the said meeting and prepared in consultation with the NGOs Steering Committee, all interested participants, the Secretariat of the African Commission and the ACDHRS Governing Council respectively, with the aim to review and formulate strategies and recommendations on the following three themes –

1. The Developments on the Situation of Human Rights and Democracy in Africa;
2. The Review of Specific Human Rights Relevant to the Work of the African Commission; and
3. Networking for Human Rights in Africa.

The full report of the Forum together with the adopted resolutions and recommendations will be forwarded, for the kind consideration of your distinguished body, as our contribution to your deliberations at this 57th Session.

Distinguished Ladies and Gentlemen

We crave your indulgence as we present to you a few highlights of the said deliberations.

With ten plenary panels and fourteen breakaway special interest groups, participants had an intense three days filled with sharing and networking at an expert level indicative of the professionalism that civil society has attained in a number of specialized themes of human rights and governance.

In reviewing the situation of human rights and democracy on the continent, The Forum on the Participation of NGOs in the Work of the African Commission on Human and Peoples' Rights applauded positive

developments in the situation of human rights and democracy. No doubt, the curbing of the Ebola Virus Disease in Guinea, Liberia and Sierra Leone is encouraging; the restraining of the coup plotters in Burkina Faso and indeed the development of a legislation on the protection of human rights defenders in Cote D'Ivoire is an example worthy of emulation by other States. However, it was asserted that a lot more needs to be done as many African countries continue to face challenges of insecurity; a rise in violence and terror attacks, especially in Nigeria, Mali, Central Africa Republic, Chad, among others; disease; criminalisation of poverty and petty crimes; corruption; unemployment; arbitrary detention and extrajudicial killings; restrictions on civil society space; among others. The Forum noted, with concern, the ongoing conflict in many African countries coupled with reports of serious crimes under regional and international law continue to pose serious threats to peace and security, especially the escalating violence in some of these countries.

With emphasis on those countries whose State reports will be considered during this session, in North Africa, **Algeria** and Libya was discussed while the volatile situation in Egypt and Tunisia were highlighted.

In East Africa, there was concentration on Burundi, **Kenya**, Sudan and South Sudan. The Forum agreed that a lot more attention needs to be paid to these countries.

Meanwhile in West Africa, **Burkina Faso** and **Sierra Leone** were also discussed. The recent citizens uprising in Burkina Faso was not lost on participants who call on the Commission to call on the government to encourage greater participation of all groups, especially women and youth in national processes. Other countries discussed in this region included Guinea, Senegal, Mauritania and The Gambia.

In Southern Africa, the situation in Angola, Lesotho, Malawi, Mozambique, South Africa and Zimbabwe were singled out for attention.

Central African Republic, Cameroon and the Republic of Congo were subjects of discussion in the Central Africa Region.

Civil society organization's work is still restricted by a draconian legislation in many African countries that disregards the African Commission's standard and their own Constitution. Prosecution of several human rights defenders on the grounds of the peaceful activities and investigation, leading to judicial harassment into the work of independent human rights organizations is ongoing.

Madame Chairperson, Distinguished Ladies and Gentlemen

How to enhance political participation of marginalised groups in the electoral process formed part of the subjects under discussion, including women and the need for empowerment was the focus of another panel. Highlight of case studies from The Gambia, Kenya and the SADC region were shared. The Forum felt that engagement of women in decision making is a vital component to the attainment of gender equality in Africa, among others, and urged that as much attention as possible should be paid by the mandate holders of marginalised groups, especially of women and girls.

A Panel on the protective mandate of the African Commission observed that INGOs are the main users of the ACHPR communication procedures, while being utilized by States and local (African) organisations alike. The Forum, would therefore, like to urge more States and indeed NGOs to use and popularise the ACHPR processes and decisions and to encourage States to comply with decisions as well as consider signing Article 34(6) of the Protocol to the African Charter on the Court.

From the outcomes of the panel dedicated to the Topic, The Forum opined that **reprisals** prevent HRDs from being effective in their operations and functions. Despite Resolution 273 of The African Commission, a number of countries including Angola use reprisals against human rights defenders on their territory. The Forum therefore, calls on the African Commission to

support the work of its Focal Point on Reprisals and to appeal to States to cease the harassment and intimidation of HRDs when reports of violations are made.

The rights of persons with disability under the **Marrakesh Treaty** is central to ensuring that persons with disability are not discriminated against when it comes to access to and availability of resources. It is, therefore of utmost importance to ensure that adequate facilities are put in place, especially for the visually impaired.

The opportunities and challenges of **access to justice at the sub regional level** found in the Courts of Regional Economic Communities was also the subject of discussion. Whereas the ECOWAS and the East African Courts are functional and have been effectively engaging with their citizens, it was contended that it is essential that the **SADC Tribunal** be more functional and responsive to the demands of its region needs to be reinstated. The Forum calls on the African Commission to urge the SADC countries to review and address their decision relating to this sub-regional court.

Furthermore, in order to promote **reforms in the African criminal justice system**, we call for the implementation of the Luanda Guidelines and urge the African Commission to endorse the **recognition of African Pre Trial Detention Day (25th April)**, as adopted by NANHRI at its General Assembly 2015.

From reports received at The Forum, **torture** persists in many countries. While it is important to raise awareness to its existence and to assist victims of torture to access justice, it is crucial that torture, in all its forms, is criminalized. The Forum calls on states to ratify, domesticate and implement all instruments relating to torture. The African Commission is urged to consider the development and adoption of a model law which criminalizes torture with legislative mandate of the Pan African Parliament.

Distinguished Ladies and Gentlemen

The importance of fostering the involvement of **Youth** in the development and maintenance of democracy and nation building through inclusive participation was also a subject of discussion. We are all aware that the death toll of illegal migrants has reached dimensions beyond imagination, while the Mediterranean Sea has become an open grave preferable to African youths rather than to stay at home in Africa.

The Forum also noted, with concern, that despite the Common African Position on Migration and the Migration Framework, issues pertaining to **Asylum Seekers, Refugees, Migrants and IDPs** are not prioritised by AU institutions, State Parties and indeed by CSOs. This is in spite of the ongoing deaths of thousands of African refugees and migrants who are forced to undertake perilous journey to seek safety from persecution, conflict and poverty.

Your Excellencies, Distinguished Ladies and Gentlemen

Concern was also expressed by the Forum in relation to the recent **forced evictions** of Sengwer in Kenya and Maasai of Tanzania from their ancestral lands and territories by their respective governments. Furthermore, the extreme poverty amongst **indigenous peoples** coupled with inadequate national mechanisms to address the attendant social and economic disparity, the double marginalization and discrimination of indigenous children, youth and women in many African states has been a cause for distress and trepidation. The Forum therefore, calls on the Commission to urge states to respect their obligation to all vulnerable groups, including indigenous populations.

The hostile environment characterising the hazardous situation of **human rights defenders**, not to mention the rate at which reprisals are on the increase in many states; the precarious fate of persons whose identity and sexuality are non-conforming leading to their continued discrimination and persecution legitimised with the enactment of statutes; the kidnapping, maiming, destruction and killing that has been the hallmark of

terrorists and armed gangs; and the increase of counter terrorism bills restricting association and the work of human rights defenders to curb the rise in peaceful assembly is also a cause for concern.

The Forum congratulates the Chairperson of the **Study Group on Freedom of Assembly and Association** for launching its report during the last session and urges the African Commission to extend its mandate to enable the Group develop the Guidelines which are eagerly awaited.

The increasing use of legislation to curb space and restrict the work of journalists as well as use of cybercrime laws that restrict **Freedom of Expression and Access to Information** remains a cause for concern in many African countries. Moreover, the legal framework for access to information has not been developed in many of our countries. The Forum, therefore, calls for the harmonization, adoption and implementation of laws impacting on freedom of expression and access to information.

Your Excellencies, Distinguished Ladies and Gentlemen

Aligning issues discussed mainly to existing mechanisms of the Commission, The Forum also considered evolving areas of interest as mentioned before and reviewed over fourteen **thematic special interest groups**, namely: the situation relating to the Death Penalty; Economic, Social and Cultural Rights; Extractive Industries, Environment and Human Rights Violations; Freedom of Association and Assembly; Freedom of Expression, the Press and Access to Information; Human Rights Defenders, especially Women Human Rights Defenders; Impunity; Minorities and Indigenous Populations; Prevention of Torture in Africa; Prison Conditions and Places of Detention, and Policing; Refugees and Internally Displaced Persons; Rights of Older Persons and Persons with Disability; Sexual Orientation and Gender Identity; Threats to Human Rights, Peace and Security in Africa; Women; Youth among others.

These conversations took place with the forthcoming observation of **2016** as the **Year for Human Rights** in mind, the reports and outcomes emerging

from the main Panels and these Special Interest Groups meetings form the core of the developed resolutions and recommendations as a result of in-depth review and proposal of strategies for civil society engagement in collaboration with their partners, the African Commission in particular aimed at addressing the rising violations in their various areas of intervention.

Madam Chairperson, Distinguished Ladies and Gentlemen

In line with the objectives of the **Networking for Human Rights in Africa** session, which was geared towards the provision and sharing of more information between the three main partners i.e. the African Commission; States; and Civil Society, in the development and maintenance of an effective human rights community.

The need for **networking and collaboration** continue to be at the core of the Forum's agenda. It was, therefore, worthy to note that networking and collaboration continues to be one of the objectives of the Forum, as discussed in the last three panels: Laws affecting Civic space, challenges, opportunities, lessons learnt and the role of stakeholders; Poverty: Towards the declassification and decriminalisation of Petty Offences; and Preserving the Independence of the ACHPR in fulfilling its mandate. Results of collaboration as well as relationships among civil society and between civil society and other partners especially the African Commission, OHCHR and other partners were examined thereby consolidating strategies for effective collaboration between these groups with a common goal of promoting and protecting human rights in Africa.

The **civic space** panel especially provided space for further exchange of information and experience on advocacy strategies around the national and regional levels including the ACHPR and formed a basis to share best practices and lessons learnt from previous interaction.

'**Poverty** is not a crime' but it is evident that those persons in the poverty cycle end up in the net when it is criminalized as research has proven.

They form the core of inmates in prison and have been swelling places of detention. The Forum, therefore, joins the Pan African Lawyers Union and its partners to call for the **decriminalization and declassification of petty crimes** to primarily ensure that citizens do not go to prison because of their status and indeed to decongest prisons.

Your Excellencies, Distinguished Ladies and Gentlemen

As the launching of the **Year for Human Rights in 2016** draws near, The Forum, continues to appeal to States, which have not ratified pertinent treaties, to speedily do so in order to enable their implementation. The ratification of many regional and international instruments by many States was commended, however, the usual challenge of **harmonisation and implementation of these treaties at the national level, remains.**

The Forum would like to take this opportunity to **congratulate all the four States that have submitted their reports for review** by the African Commission. We would therefore, wish to urge other States who have not yet fulfilled this obligation to follow this example as soon as is feasible.

Your Excellencies, Distinguished Ladies and Gentlemen

Allow me, to **thank the African Commission and its Secretariat** for the usual collaboration and support in the organisation and facilitation of the NGO Forum, characterised by the existing interest enjoyed by the NGOs community. We continue to urge as many of our participants and their constituencies to apply for observer status to enable them play their role and benefit from the access provided.

While The Forum congratulates the African Union Commission for dedicating **2016** as the **Year for Human Rights, with emphasis on the Rights of Women, we reaffirm both our willingness and readiness** to contribute and engage in this laudable process. Meanwhile we wish to reiterate that the African Union Commission in collaboration with the

African Commission on Human and People's Rights explore possibilities of convening a **roundtable dialogue** on the strategies to be used to engage **on** issue of **peace and security** as it relates to the human rights and development, with special emphasis on women in conflict situations.

Distinguished Ladies and Gentlemen;

While **commending** the African Commission for all the **gains made** in fulfilment of its mandate, The Forum continue to **pledge** its **support** for the work of the African Commission and hereby calls all stakeholders recommit themselves and their efforts towards sustaining this institution and safeguarding its independence.

It is gratifying to note that the over six side events have been organised by NGOs focusing on matters of interest.

Finally, it would be remiss of me not to extend our most sincere appreciation to all our partners and supporters, especially United Nations of West Africa and the International Service of Human Rights for providing much needed financial support for the organisation of this Forum. We look forward to closer collaboration and assistance.

Your Excellencies, Madam Chairperson, Hon. Members of ACHPR, Distinguished Guests,

On behalf of the participants of the Forum on the Participation of NGOs in the work of the 57th session of the African Commission, I **wish to extend to you, Honourable Chairperson, and all the other Commissioners, our best wishes for a successful session.**

I thank you for your kind attention.