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**FINAL COMMUNIQUE OF**  
**THE 38th ORDINARY SESSION OF**  
**THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS**  
**HELD IN BANJUL, THE GAMBIA,**  
**FROM 21 NOVEMBER TO 05 DECEMBER 2005**

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- The African Commission on Human and Peoples' Rights (ACHPR), held its 38 th Ordinary Session in Banjul, Republic of The Gambia, from 21 st November to 5 th December 2005, chaired by Commissioner **Salamata Sawadogo**.
  
- The following Members participated at this Session:
  - Commissioner **Yassir Sid Ahmed El Hassan**, Vice-Chairperson;
  - Commissioner **Kamel Rezag-Bara**;
  - Commissioner **Musa Ngary Bitaye**;
  - Commissioner **Reine Alapini-Gansou**;
  - Commissioner **Mumba Malila**;
  - Commissioner **Angela Melo**;
  - Commissioner **Sanji Mmasenono Monageng**;
  - Commissioner **Bahame Tom Mukirya Nyanduga**, and
  - Commissioner **Faith Pansy Tlakula**.
  
- As is customary, the Non Governmental Organisations met prior to the 38 th Ordinary Session of the African Commission on Human and Peoples' Rights from the 18 th to 20 th November, in order to contribute to the deliberations of the said Session.
  
- In her welcoming statement, the Chairperson of the African Commission, Mrs. Salamata Sawadogo, expressed, on behalf of the Members of the African Commission on Human and Peoples' Rights, and on her own behalf, her profound gratitude to the Government of The Gambia for kindly hosting the 38 th Ordinary Session of the African Commission. She welcomed the four new Commissioners and all the participants to the Session whose presence was, once again, a testimony of their commitment to the cause of human rights in Africa. She also commended the work done by the Members of the African Commission whose mandate had ended. Concerning the human rights situation in Africa, the Chairperson applauded the positive developments observed in certain State Parties; however, she invited all actors to increase their vigilance as the situation remained precarious in other States. The Chairperson also extended, on behalf of all the Members of the African Commission on Human and Peoples' Rights, their appreciation and congratulations to Mr. Germain Baricako, who, after 12 years of service in the Secretariat of the African Commission, has been called to other duties. Finally, the Chairperson welcomed Ms. Adwoa Coleman, his replacement, and wished her success.
  
- The Minister of Human Rights of the Republic of Burundi, the Honourable Mrs. Françoise Ngendahayo, delivered a statement on behalf of the State Parties present at the 38 th Ordinary Session. After having expressed her gratitude to the people and Government of The Gambia, Her Excellency the Minister commended the progress made by the African Commission despite the numerous challenges that it had had to



- face. She urged Member States to ratify the various legal instruments to ensure the effective enjoyment of human rights on the Continent. She pointed out that the human rights situation in most of the Member States remains fragile. It is for this reason, she said, that the African Commission and the actors of civil society needed to persevere in their work of promoting human rights and assisting the Member States so as to improve the human rights situation.
- Mrs. Hannah Forster, Executive Director of the African Centre for Democracy and Human Rights Studies, addressed the audience in her capacity as the representative of the NGO Community present at the 38 th Ordinary Session. She alluded to the NGO Forum which had been held as a prelude to the deliberations of this Session and whose conclusions would be submitted to the African Commission. Furthermore, Mrs. Forster lauded the election of the new Members of the African Commission and commended the outgoing Members for their significant contribution to the promotion and protection of human rights on our Continent. Finally, she urged the Member States to ratify the Protocol establishing the African Court as well as the Protocol to the African Charter on the Rights of Women in Africa which was due to enter into force.
  - In his opening address Honourable Sheikh Tijan Hydera, Attorney General and Secretary of State for Justice of the Republic of The Gambia, welcomed all the participants to the 38 th Ordinary Session. He expressed his gratitude to the African Commission and to its Secretariat for the task accomplished in organising the Session and in executing the missions assigned to it. He went on to reiterate The Gambia's commitment to supporting the African Commission and urged the Member States to ratify the Protocols relating to the African Court and to the Rights of Women in Africa. He urged the different partners of the African Commission to continue giving their support towards making a greater impact on the work of promoting and protecting human rights on the Continent. After having congratulated the four (4) newly-elected Members of the African Commission and expressed his good wishes for a successful outcome of the deliberations, the Honourable Minister declared the 38th Ordinary Session open.
  - In conformity with Article 39 of the African Charter on Human and Peoples' Rights and Rule 16 of the Rules of Procedure of the African Commission, the Members of the African Commission on Human and Peoples' Rights, newly-elected by the Assembly of Heads of State and Government, took their oath of office during the opening ceremony. They are -:
    - Commissioner Reine Alapini-Gansou ;
    - Commissioner Musa Ngary Bitaye;
    - Commissioner Mumba Malilla; and
    - Commissioner Faith Pansy Tlakula .
  - In conformity with the provisions of Article 42 of the African Charter on Human and Peoples' Rights and Rule 17 of the Rules of Procedure of the African Commission, the following Commissioners were re-elected to the Bureau -:
    - Chairperson of the African Commission on Human and Peoples' Rights, **Mrs. Salamata Sawadogo**, and
    - Vice-Chairperson of the African Commission on Human and Peoples' Rights, **Mr. Yassir Sid Ahmad El-Hassan**.
  - During the Session, the African Commission on Human and Peoples' Rights heard statements relating to the human rights situation in Africa from several Delegates of



State Parties, Representatives of Intergovernmental Organisations and of National Human Rights Institutions and Non-Governmental Organisations.

- Twenty two (22) State Parties, nine (9) National Human Rights Institutions, six (6) Intergovernmental Organizations, one hundred and thirty five (135) African and International Non Governmental Organizations and other invitees participated in the Session, making a total of two hundred and eighty two (282) participants.
- The Republic of South Africa presented its Periodic Report in conformity with Article 62 of the African Charter. The African Commission on Human and Peoples' Rights considered the said Report and adopted Concluding Observations relating thereto.
- The Members of the African Commission on Human and Peoples' Rights presented Reports on the activities they had carried out during the intersession period. The Special Rapporteurs and the Chairpersons of the Working Groups also presented their Reports.
- The African Commission granted Observer Status to the following twelve (12) Non Governmental Organisations -:
  - Association of Women Heads of Family of Mauritania;
  - Community Law Centre of South Africa;
  - Mbororo Social and Cultural Development Association of Cameroon;
  - Civic Aid International Organisation (CIAO) of the United Kingdom;
  - Burkinabé Association for Childhood Survival (ABSE);
  - Congolese Association for the Control of Violence against Women and Girls (ACOLF);
  - Kataliko Action for Africa/Kataliko Action pour l'Afrique of the DRC;
  - Franciscans International of Switzerland;
  - Access to Justice of Nigeria;
  - Association for the Reconstruction and Development of Mokooh Peoples of Cameroon;
  - Global Network for Good Governance of Cameroon; and
  - Sudan Organisation Against Torture (SOAT), U.K.

This brings the number of Non-Governmental organisations with Observer Status with the African Commission to three hundred and forty two (342).

- The Members of the African Commission on Human and Peoples' Rights adopted the Reports of promotional missions to the Central African Republic, Mauritania, Sao Tomé and Príncipe, Guinea Bissau, Seychelles and Botswana; the Report of the Missions of the Special Rapporteur on the Rights of Women in Africa to Djibouti and Sudan; the Report of the Mission of the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa to Senegal, as well as the Reports of the Missions of the Working Group on the Indigenous Populations/Communities to Botswana and Namibia.
- The Members of the African Commission also adopted the Reports of the 35 th, 36 th, 37 th and 38 th Ordinary Sessions.
- The African Commission on Human and Peoples' Rights reiterated its decision to organise seminars on the following topics in 2006 -:
  - Terrorism and Human Rights in Africa;
  - Islam and Human Rights;
  - Contemporary Forms of Slavery; and
  - Refugees and Internally Displaced Persons in Africa.



- On 25 th November 2005, the African Commission on Human and Peoples' Rights, in collaboration with Civil Society organisations attending the 38 th Ordinary Session, celebrated the entry into force of the Protocol to the African Charter on the Rights of Women in Africa.
- During the public session, on 26 th November 2005, Members of the African Commission, Delegates of State Parties and Representatives of International and Non-Governmental organisations, paid vibrant homage to Germain Baricako, Secretary to the African Commission on Human and Peoples' Rights, who has been appointed to another duty station.
- The African Commission on Human and Peoples' Rights adopted seventeen (17) Resolutions on -:
  - The Renewal of the Term of the Special Rapporteur on the Rights of Women in Africa: Commissioner **Angela Melo**;
  - The Composition and Operationalisation of the Working Group on the Death Penalty: Vice-Chairperson **Yasir Sid Ahmed El Hassan** was designated Chair and Commissioner **Bahame Tom Nyanduga** was designated member as well as five (5) experts representing the different regions of the continent;
  - The Renewal of the Mandate and Composition of the Working Group on Specific Issues Relating to the Work of the African Commission on Human and Peoples' Rights: Commissioner **Faith Pansy Tlakula** was designated as Member;
  - The Composition and Extension of the Mandate of the Working Group on Indigenous Populations/Communities in Africa: Commissioner **Rezag Bara** was designated Chairperson and Commissioner **Musa Ngary Bitaye**, a member;
  - The Nomination of Commissioner **Mumba Malila** as Special Rapporteur on Prisons and Conditions of Detention;
  - The Nomination of Commissioner **Reine Alapini-Gansou** as Special Rapporteur on Human Rights Defenders in Africa;
  - The Nomination of Commissioner **Faith Pansy Tlakula** as Special Rapporteur on Freedom of Expression in Africa;
  - The Status of Women in Africa and the Entry into Force of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;
  - The Operationalisation of an Independent and Effective African Court on Human and Peoples' Rights.
  - Ending Impunity in Africa and on the Domestication and Implementation of the Rome Statute of the International Criminal Court;
  - The Protection of Human Rights and the Rule of Law while Countering Terrorism;
  - The Human Rights Situation in Zimbabwe;
  - The Human Rights Situation in the Democratic Republic of Congo;
  - The Human Rights Situation in Eritrea;
  - The Human Rights Situation in Ethiopia;
  - The Human Rights Situation in the Darfur region in Sudan;
  - The Human Rights Situation in Uganda.
- The African Commission on Human and Peoples' Rights considered fifty four (54) Communications, including thirteen (13) decisions on seizure and four (4) decisions on admissibility. It further considered and decided to remove two (2) Communications from its list of Communications. For various reasons, the rest of the communications were deferred to the 39 th Ordinary Session for further consideration.
- The African Commission considered and took note of the Report of the Secretary to the African Commission, relating to the financial and administrative situation of the Secretariat and to the construction of the headquarters.



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- The African Commission decided to hold its 39 th Ordinary Session from the 9 th to 23 rd May 2006 in Banjul, The Gambia.
  - The African Commission on Human and Peoples' Rights expresses its sincere appreciation and profound gratitude to the Government of The Gambia for the facilities placed at its disposal and for the warm welcome and hospitality accorded to the participants, all of which contributed to the excellent outcome and success of the deliberations of its 38 th Ordinary Session.
  - The closing ceremony of the 38 th Ordinary Session took place on the 5 th December 2005 in Banjul, Republic of The Gambia.
  - The Chairperson of the African Commission on Human and Peoples' Rights held a Press Conference after the closing ceremony.

**Done in Banjul, The Gambia, 5th December 2005**