



**Remarks by Ms. Maymuchka Lauriston
delivered on behalf of Ms Michelle Bachelet,
High Commissioner for Human Rights
on the 40th Anniversary of the African Charter on Human and Peoples'
Rights (ACHPR)**

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Dr. Solomon Ayele Dersso,

Honourable Chairperson of the African Commission on Human and Peoples' Rights,

Honourable Members of the African Commission on Human and Peoples' Rights,

Excellencies, Ladies and Gentlemen,

On behalf of the High Commissioner for Human Rights and in my own respect, I would like to express our sincere gratitude to the African Commission on Human and Peoples' Rights for this invitation, as we commemorate the 40 years of the African Charter on Human and Peoples' Rights (the African Charter). This is an important milestone in as far as the promotion and protection of human rights in Africa is concerned. I bring you greetings and apologies from the High Commissioner, who could not make it for this auspicious occasion. She is currently, engaged with the Human Rights Council session, which begun on 21 June 2021.

Specifically, I have been requested to speak about **“African Charter’s contribution to international human rights norms and cooperation with the UN human rights system.”**

Excellences, Mesdames et Messieurs,

L'adoption de la Charte africaine par l'Assemblée des chefs d'État et de gouvernement le 27 juin 1981, à Nairobi, au Kenya, a été et reste encore un jalon dans l'histoire des droits de l'homme en Afrique.

Aujourd'hui, alors que nous réfléchissons à ce moment de l'histoire, nous pouvons également évaluer la contribution de la Charte africaine à la promotion et à la protection des droits de l'homme et des peuples sur le continent.

Suite à son adoption, la Charte africaine a renforcé le régime international de protection des droits humains en Afrique. Tout en complétant le régime

international des droits de l'homme, la Charte africaine a également prévu des dispositions spécifiques au-delà du spectre des droits individuels, pour reconnaître et garantir les droits des « peuples », en affirmation du collectif, une caractéristique importante et durable du peuple africain. À ce jour, outre l'Acte constitutif de l'Union africaine, la Charte africaine est le seul instrument des droits de l'homme ratifié massivement par les États membres de l'UA. En outre, la Charte africaine se distingue comme le seul instrument régional contraignant des droits de l'homme qui reconnaît explicitement les droits des « peuples ».

Comme d'autres instruments régionaux et internationaux des droits de l'homme, la Charte africaine n'est pas directement applicable. En conséquence, en vertu de l'article 30, il a créé la Commission africaine des droits de l'homme et des peuples, avec pour mandat de « promouvoir les droits de l'homme et des peuples et d'assurer leur protection en Afrique ».

La Commission africaine reste les yeux et les oreilles de la Charte africaine. La Commission africaine est l'avant-garde de la promotion et de la protection des droits de l'homme sur le continent. Tout au long de ces années, la Commission africaine, malgré les défis, a incroyablement contribué au corpus du droit international des droits de l'homme, à travers sa jurisprudence progressiste,

I will highlight 4 areas where this has proven to be true:

1. Rights of indigenous peoples

In February 2010, the African Commission in its seminal case of the Endorois¹, laid down several principles. These principles have shaped discourse, not only in Africa, but world-all over, in respect of the rights of indigenous peoples. In that case, the Endorois community in Kenya, represented by two NGOs, brought a complaint before the African Commission accusing their government of forceful

¹ 276 / 2003 – Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya

eviction from their ancestral lands. The African Commission while reaffirming the recognition of the rights of people, acknowledged the existence of indigenous communities within the meaning of “peoples”. It further clarified the scope of indigenous peoples’ rights, to include, **“the right to preserve one’s identity through identification with ancestral lands, cultural patterns, social institutions and religious systems.”** It also held that, the lack of effective participation, by the affected community, amounted to a violation of the right to development, marking the first time, an international tribunal delivered a ruling on the right to development.²

2. An Obligation of result imposed on Member States.

In its dynamic and constructive Jurisprudence based on African realities, the African Commission came to realize that, in order to live up to their obligations under the African Charter, Member States must not only take measures to implement the Charter, but they must also ensure that those measures they have taken have produced tangible results in the realization of the rights of African people. Hence, the Commission, contrary to its peer mechanisms at international et regional level, took the courageous decision to interpret the article 1 of the African Charter as imposing on State parties an Obligation of result³.

3. Progressive development of international human rights law – rights of women in Africa

Today, as we commemorate the 40th anniversary of the African Charter, it is important to acknowledge its contribution to the promotion and protection of the rights of women in Africa. On 1 July 2003, the Assembly of the African Union, adopted the Protocol to the African Charter on Human and Peoples’ Rights on the rights of women in Africa (also known as the ‘Maputo’ Protocol). This

² <https://www.ohchr.org/Documents/Issues/IPeoples/EMRIP/Session10/A.HRC.EMRIP.2017.CRP.2.pdf>

³ 272/03 Association of Victims of Post Electoral Violence & INTERIGHTS / Cameroon

Protocol provides a comprehensive normative framework for the protection of women's rights. It expressly prescribes in unequivocal terms- the rights of women during marriage, separation, divorce, and annulment of marriage. The Maputo Protocol also places women in the center of peace processes and safeguards the sexual and reproductive rights of women.

The Maputo Protocol has influenced constitutional and legislative developments in several African countries, including on gender equality, marriage, divorce, and family relations. There is also evidence of legislative reforms involving the criminalization of domestic violence and female genital mutilation. At the international level, international human rights mechanisms such as treaty bodies have progressively, hinged their dialogue with States, on commitments under the Maputo protocol.

4. Cooperation between mechanisms established under the African Charter and, United Nations (UN) human rights mechanisms

The African Charter has also formed the pedestal of cooperation between mechanisms established under it, and UN mechanisms. As we commemorate the 40th anniversary of the African Charter, it is also an opportunity for us to celebrate and affirm the coherent and regular cooperation between the African Union (AU) special mechanisms, established under the African Charter and UN human rights mechanisms and in particular, Special Procedure mechanisms.

In 2012, the Special Procedures mechanisms of the UN and the AU Special Mechanisms, adopted the Addis Ababa Roadmap to strengthen cooperation between the international and regional human rights systems. Since then, a considerable amount of work has gone into this. In many instances, the African Commission has taken the lead, for example, during the drafting of General Comment No.3 on the right to life on the African Charter on Human and Peoples' Rights. The late Professor Christof Heyns, the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions was involved throughout the

process of drafting this general comment led by the Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary killings in Africa.

The area of women's rights is another thematic focus where the UN Special Rapporteur on violence against women and the Special Rapporteur on women's rights of the African Commission collaborated within the Addis Ababa Roadmap framework. The Addis Ababa Roadmap remains one such opportunity that could strengthen the engagement between the AU and UN Special mechanisms and Special mandate holders respectively to further the promotion and promotion of human rights in Africa.

Excellencies, Ladies and Gentlemen,

Today's event reminds us that the African Charter and the African Commission have indeed, come a long way. Four decades of promotion and protection of human and peoples' rights is no ordinary feat. It is a feat which has yielded a wealth of experiences and lessons that are beneficial to the whole human rights community around the world, and particularly in Africa, given the particularities of the African Charter and the extensive contextualized jurisprudence that the African Commission has developed.

The Office of the High Commissioner for Human Rights remains committed to its human rights mandate and cooperation with the African Commission. Beyond the cooperation centered on international and regional human rights instruments, recent developments provide further opportunities to strengthen the engagement between OHCHR and the African Commission. The Agenda 2030 and Agenda 2063, as well as the Memorandum of Understanding between OHCHR and the African Commission, are some of the frameworks that could be tapped into, to strengthen this mutually reinforcing and beneficial collaboration between the two entities. Finally, the soon to be signed AU-UN Joint Framework on Human

Rights will give further opportunity to strengthen OHCHR's cooperation with the African Commission and other AU Human rights mechanisms.

Thank you.