

## **Press Briefing of the ACHPR**

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**Chairperson of the African Commission on Human and Peoples' Rights**

I would like to welcome the members of the press for this press briefing on the 66th ordinary session of the African Commission in Human and Peoples' Rights.

I would like to start off by introducing the African Commission. This is the premier human rights body of the AU. It is a treaty based human rights body, established under the African Charter on Human and Peoples' Rights, which is the founding treaty of the African human rights system adopted in 1981. The African Commission has been in operation since 1987.

The African Commission is provided with the mandate of promotion and protection of human and peoples' rights in Africa. This requires that the Commission monitors the state of human rights in Africa and undertakes various activities to address human rights issues on the continent through various means and mechanisms.

The Commission is made up of 11 members, who are elected by the highest authority of the AU, the Assembly of heads of state and government in accordance with the African Charter. These 11 members are among the best legal minds of the continent who serve in their personal capacity and as an expert body it operates as an autonomous and independent quasi-judicial body with human rights mandate.

We operate on the basis of country rapporteur-ship. All the 11 members have responsibilities for various countries. Country situations are monitored and responded to through country rapporteur through various measures including direct engagement with the authorities of the countries concerned, by issuing statement, urgent letters of appeal and undertaking promotion mission on the ground with a view to have first hand information on the state of human rights and to promote & popularize the rights enshrined in the African Charter.

The Commission also operates on the basis of its special mechanisms that have responsibilities for specific thematic human rights issues.

One of the most important avenues for the Commission to carry out its session is through the convening of its session. These sessions are ordinarily held in person and physically. The latest session which has just concluded today is the 66th session. This time around the session for understandable reasons is held virtually. This is the first ever virtual session of the Commission.

In this session, which has both a public segment and a closed part, we reviewed the state of human rights on the African continent.

Because of the serious challenges, COVID19 poses to human rights and the further danger and risks the response to COVID19 entails to human rights as well as the impact of the socio-economic and humanitarian fallout of COVID19 on human rights, this session paid particular attention to human and peoples' rights in the context of COVID19.

A total of 335 delegates participated in the session: 88 of these representing State Parties from 17 countries; 3 AU human rights bodies, 38 representing constitutionally established national commissions of human rights, one representing an autonomous international organization; 189 representing African and international NGOs with observer status with the African Commission; 14 representing other observers and 2 representing the media.

Representatives of 9 states parties to the African Charter presented statements providing updates on the state of human rights in their respective countries.

Six national commissions of human rights including Saharawi National Human Rights Commission, National Human Rights Commission of Rwanda, National Human Rights Commission of Algeria; National Commission for Human Rights and Liberties of Cameroon; National Human Rights Commission of Kenya; and National Human Rights Commission of Nigeria also delivered statements offering updates on current human rights issues in their respective country.

A total of 29 NGOs with observer status with the Commission also presented statements bringing to the attention of the Commission various country specific and thematic human rights issues affecting various categories of people and human and peoples' rights.

One international organization, ICRC, also provided update on the human rights and humanitarian law issues of concern it is dealing with in Africa.

The Commission also reviewed the 9th and 10th combined report of the republic of Mauritius, which provided detailed presentation on measures taken by the country during the past four years covering all aspects of the rights and freedoms enshrined in the African Charter.

The 11 members of the Commission also presented their activity reports detailing the various engagements and activities undertaken in pursuit of their country and thematic responsibilities for the promotion and protection of human rights in Africa.

The Commission during the closed segment of the session through its quasi-judicially mandate reviewed 15 communications, which are complaints on alleged violations of rights, and adopted various decisions in respect of which of them. Of these the Commission concluded two communications with a determination on the existence

of violations of Charter rights by the states against whom the communications were lodged. The Commission additionally adopted various resolutions relating to both country specific and thematic resolutions to address human rights issues of immediate concern.

### **State of human rights in Africa**

I would like now to come to the trends and themes emerging from the deliberations from statements delivered during the public session on the state of human rights in Africa with particular focus on rights in the context of COVID19.

1. From a human rights perspective, the pandemic constitutes a threat to the rights to health and life & states are under obligation pursuant to Article 1 of the African Charter to take measures to protect the public from threats that endanger health and life as underscored in the . Despite variations in approach and effectiveness of responses, it has emerged that overwhelming majority of African states took the threat the pandemic has posed seriously and they adopted measures to contain it- however imperfect but generally based on the public health advice available at the time.
2. Few countries have been successful in avoiding mortality from the pandemic and a few have succeeded in ending community transmission, while some others have managed to limit the speed of the spread. We commend these countries. There are few states who have taken an approach that is not reflective of the scientific advice, in respect of which we have continued those states to ensure that they uphold their obligations by adopting the relevant measures.
3. From the statements received from states, NHRIS and CSOs - Various exemplary approaches have been observed including in terms of provision of regular update and information to the public on the pandemic and precautionary measures, in installing sanitation stalls in public places, in the production and distribution of protection equipment and sanitizers, in adopting socio-economic relief measures to mitigate the impact of the COVID-19 response measures, in expanding access to water and sanitation such as in South Africa, Tanzania, Gabon. Other countries who provided update on similar measures taken include Eritrea & Egypt, among others
4. While not unique to Africa, the pandemic highlighted the ill-preparedness of the health and governance systems of states parties to the African Charter. Most African states lack a pandemic response and management strategy and plan, thereby forced to resort to ad hoc approaches with a great deal of experimentation and improvisation but often leading to a state centric approach lacking the benefit of public participation and community engagement, although even in this respect exceptions of limited consultations were observed such as in South Africa.

The foregoing represent overall positive areas of the human rights situation in the context of COVID19.

Unfortunately, we also observed, from the deliberations on agenda item on the state of human rights, major areas of human rights concern for the Commission include the following:

1. First, as far as the right to health is concerned, it has become clear that the health systems of many countries of the continent are ill prepared and ill equipped to respond to the pandemic. Equally, when COVID19 measures were introduced other health services that these health systems ordinarily deliver have been affected. As a result not only in terms of COVID19 but also in terms of the disruption that resulted from COVID19 measures in access for health services for non-COVID19 health issues the right to health have been negatively affected. This has had very serious consequences in some instances as pregnant women not having medical care losing their life or their babies has highlighted. This is an area that requires heightened levels of engagement and investment. The need for investing in access to health services has become a priority area of public interest for the wellbeing and security of societies. The right to health and access to health services is fundamental human right, critical public good that should be made available for all in the interest of fulfilling the right to health for all and safeguarding public health from pandemics like COVID19. This requires among others fulfilling the promise of the Abuja declaration in which states pledged to allocate 15% of national budget for the provision of health services to ensure that the continent is well placed to fend off more successfully. Other areas where the continent is also found wanting include in terms of access to therapeutics, diagnostic test kits and eventually vaccines. This is also an area that requires very serious policy attention and prioritization both in responding to COVID19 and in planning for a post-COVID19 order in which the health security and access of the continent to these critical medical supplies from within the continent is guaranteed.
2. The second area of concern relates to how this pandemic laid bare the pervasiveness of the socioeconomic deprivations and the various forms of inequalities and vulnerabilities affecting large number of people with the most vulnerable bearing the brunt of the impact of COVID19 as it accentuates these deprivations and vulnerabilities. These human rights issues have been manifested in terms of lack of access to water and sanitation, education, basic health care, housing and shelter, etc Many people living in overcrowded spaces, without shelter and those without access to water and sanitation have been left out from the application of the most basic public health measures including social distancing, hand washing and sanitation. The same challenges have been observed in respect of IDPs, refugees and asylum seekers and persons in places of detention. This is another area which raises questions about policy prioritization particularly in respect of the extent to which social and economic policies on the continent focused on and invested in the provision of public and social services and fulfilment of socioeconomic rights. It also importantly raises the fundamental issue

of the correctness of the development paradigm being pursued on the continent with its focus in GDP growth rather than human centred development. These vulnerabilities and gaps made the impact of COVID19 much more devastating than it could have been.

3. The unprecedented level of violation of the rights of women and girls outside of conflict contexts. The pervasiveness of the deprivation of these rights have given rise to the emergence of a pandemic within the public health pandemic. We have witnessed major upsurge in gender based violence, sexual violence, domestic violence, rise in harmful practices such as FGM and early marriage, the increase in household and reproductive care burden of women and girls and disruption of sexual and reproductive health services, including pre and post natal care for women. As a result we see this becoming an emergency forcing Nigeria's 36 states to launch a national campaign against GBV and girls who are supposed to be in school ending up falling pregnant including a staggering number of over 4000 in one county in Kenya and over 5000 in a province in Malawi. These are the most concerning issues manifesting gender oppression is a pervasive state of affair on our continent. There is an urgent need for States Parties and the AU to declare an emergency for addressing this scourge of deprivations of the rights of women and girls.
4. The fourth area of concern relate to the human rights issues arising from the nature of some of the COVID19 measures and the way these response measures have been enforced. States have adopted very sweeping measures such as closure of borders. While such measure as closure of borders are necessary, the complete ban on cross border movements have led to disruption of the rights and livelihood of of people in border areas and access basic to goods and services. This has also led to the blockade of refugees and asylum seekers from having access to safe entry and the protection that the African Charter and refugee treaties grant such group of people, as the situation of people fleeing conflicts on the borders from eastern DRC and South Sudan shows. We have also observed very concerning developments as far as the enforcement of COVID19 measures is concerned in which states relied heavily on security heavy approach. This has led to very tragic consequences including with respect to the rights to life, freedom from torture and inhuman treatment, the right to be free from arbitrary deprivation of liberty, and the right to dignity. The excessive use of force in some cases leading to killings as reported in Nigeria for example gun shots from security forces leading to more death than from COVID19. These are extremely concerning situations. Similar trends of loss of lives and inhuman and degrading treatment have been reported from Kenya and it has been reported in respect also of a number of states including Angola, Uganda and South Africa. These show that there are serious gaps in the state of the security sector. These gaps in the laws governing the security sector, the doctrine of security and law enforcement institutions and the training of their personnel particularly in respect of their role in the management of pandemics and exercise of pandemic response responsibilities. The experience has led to regrettable and irreversible results but it also presents an opportunity for

rectifying these gaps. The role of this sector is to enable the public in observing public health measures, in facilitating community engagement, in the distribution and supply of enabling provisions, using humanitarian and peacekeeping principles and tools rather than combat and security measures and tools. Misuse and abuse of COVID19 response measures in other areas such as in attacking the press, human rights defenders, opposition political members and in the embezzlement of COVID19 resources and funds and associated governance deficits, if not contained, is sure to descend into major human rights and governance crisis on its own on the continent, reversing democratic and governance gains achieved over the years.

5. Another area of concern for human rights is the socioeconomic and humanitarian fallout of COVID19 and COVID19 response measures. The socioeconomic impact of COVID19 including the loss of jobs, disruption of livelihoods, loss of access to basic supplies entails vary severe consequences such and catastrophic consequences on human rights as tens of millions are pushed to extreme poverty, with households losing income and facing dire conditions including starvation. We are at a time when we need to change course in addressing the structural weaknesses of the socioeconomic systems of our societies and the challenges of inclusion. This is a time for making people the front and center of development and governance investment. This is the basis for addressing the defining human rights challenges of this moment including pervasive poverty, widespread inequalities resulting from intersectional discrimination, gender operation and the democratic governance deficit that COVID19 highlighted.

Thank you.