

**DISPATCH FROM BANJUL: KHRC
PARTICIPATION IN THE 30th NGO
FORUM & 56TH ORDINARY SESSION
OF THE AFRICAN COMMISSION IN
BANJUL, THE GAMBIA**

A. BACKGROUND

KHRC participated in the 56th session of the African Commission on Human and People Rights (ACHPR) which took place from April 21- May 7, 2015 in Banjul, Gambia. KHRC also participated in the NGO Forum (April 17-19, 2015) whose main objective was to foster closer collaboration among NGOs and with the ACHPR, for the purpose of promoting and protecting human rights in Africa. The forum is organized into three main thematic areas namely: the Status of Human Rights and Democracy in Africa; Special Interest Groups Discussions and; Networking for Human Rights.

The ordinary session on the other hand provides an opportunity for civil society to directly engage the Commissioners of the ACHPR directly and in line with their respective mandates. The agenda for the ordinary session can be accessed [here](#).

**B. ACTIVITIES UNDERTAKEN
DURING THE NGO FORUM &
ORDINARY SESSION**

In the light of the foregoing, KHRC undertook the following activities at the NGO forum and the ACHPR session from April 15-27, 2015:

1. Development and submission of a Country Brief on the Situation of Human Rights in Kenya

In recognition of [Kenya's State Report for 2008-14](#) that was submitted to the ACHPR in February 2015 and other contemporary developments, KHRC developed a country brief on the human rights situation in Kenya and presented it the Country Rapporteur, Commissioner Pacifique Manyirakiza in the context of a bilateral meeting with him. The Commissioner took particular note of the concerns raised with regard to terrorism, transitional justice, human rights defenders, the extractive industry and corporate accountability and the issue of corruption. The Commissioner undertook to consider the recommendations from our country brief as he drafted a resolution on Kenya for consideration by the close of the session.



KHRC Team with Commissioner Pacifique Manyirakiza (1st from right) discussing the KHRC Country Brief

2. Development and presentation of a statement on Human Rights Situation in Kenya (Entire KHRC team)

- The KHRC team prepared and delivered a 5-minute oral statement on the Human Rights

Situation on April 23, 2015 during the ordinary session of the ACHPR. This statement was based on the country brief that we developed.



KHRC Programme Manager Elizabeth Kariuki delivers KHRC's Oral Statement on Human Rights Situation in Kenya

3. Panel discussions on Torture and the Death Penalty

- Attended CPTA panel on Torture and Follow-up discussions on the development of General Comments on Article 5 of the African Charter: The Committee on the Prevention of Torture in Africa (CPTA) chaired by Commissioner Lawrence Mute convened a panel on torture that was held on April 22, 2015. The purpose of the panel was to discuss the priority areas for the CPTA in developing general comments on Article 5 of the African Charter on Human

and Peoples' Rights (African Charter) – on the prohibition of torture and cruel, inhuman and degrading treatment. During the panel, the CPTA explained that its quest to prepare general comments with respect to Article 5 of the African Charter was aimed at being complementary to the Robben Island Guidelines as well as providing additional standards for enabling realization of the absolute prohibition of torture. KHRC was subsequently approached in a follow-up discussion with Commissioner Mute that sought to enlist civil society actors as allies in the development of these general comments. KHRC expressed its interest to the CPTA in collaborating on a general comment relating to the right to redress.



KHRC and partners with Commissioner Lawrence Mute (Centre Left, seated) after CPTA Panel on Torture

- Participated in a Panel Discussion on the Death Penalty: KHRC was invited as a panelist to discuss the death penalty at an event that took place on April 22, 2015 within the main agenda of the ACHPR ordinary session. The panel was convened by the ACHPR Working Group on the Death Penalty and Extra-Judicial, Summary or Arbitrary Killings in Africa which is chaired by Commissioner Zainabo Sylvie Kayitesi who also serves as the overall chair

of the ACHPR. KHRC's presentation discussed Kenya's evolving experience with the death penalty highlighting the prevailing environment of conflicting jurisprudence and ambivalent government action towards the abolition of the death penalty. KHRC also encouraged the ACHPR to adopt a protocol on the abolition of the death penalty as a decisive action that could provide the much needed impetus and collective political support for governments to make the necessary legislative changes that can abolish the death penalty.



KHRC Programme Manager Andrew Songa (2nd from Right) as discussant for Panel on Death Penalty

- Lastly, KHRC attended a Launch of Guidelines on Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa and Interactive Sessions on Policing and Human Rights on April 25, 2015. Here we identified possible future synergies for our work on the policing of public protests and the developments of guidelines on the same; work currently being done within the precincts of our membership to the International Civil Liberties Organizations (INCLC).

4. NGO Forum Panel on Elections

- With regards to Electoral Governance, KHRC as represented by Carol Werunga was a panelist on the first day of the NGO Forum to discuss *Electoral Processes in Africa: Challenges and Perspectives*. KHRC in this context discussed election observation in Africa with a view to identifying lessons and strategies for improvement; based on experiences from undertaking electoral observation in the region using a human rights-based electoral assessment framework. The presentation highlighted the challenges posed by the fact that most observation bodies in Africa do not ascribe to a holistic, long-term and rights-based approach to electoral observation which in turn undermines its ability to improve the quality of elections and their outcomes. Furthermore the presentation highlighted some of the factors that hinder the effective participation of special interest groups such as women and persons with disabilities in the electoral process. Affirmative measures in favor of these special interest groups were recommended. Some notable observations from the plenary of this discussion included: (1) The need for more initiatives to enhance women's participation in electoral processes and the importance of harnessing crucial information such as the disaggregated data on women votes around the continent; (2) the need to understand and appreciate the role of social media in election monitoring; (3) the importance of international standards to guide the conduct and work of election observers and (4) a recommendation that a panel on Elections Observation be

undertaken at the next ordinary session of the ACHPR.



KHRC Programme Advisor Carol Werunga (2nd from right) as discussant for Panel on Elections

5. Transitional Justice

- Meeting of the Advisory Committee to the Study on Transitional Justice in Africa: KHRC participated in a meeting on the ACHPR Study on Transitional Justice in Africa as a member to the Advisory Committee to the Study. The meeting took stock of the first regional consultations which took place in Nairobi from March 30-31, 2015 and targeted stakeholders from Eastern and Southern Africa. The meeting further discussed aspects of the structure for the final Study report and dispensed with organizational issues for the advisory team such as preparations for the next round of regional consultations for stakeholders from North, Central and West Africa in addition to considering an expansion of the Advisory Committee. KHRC was further enlisted to assist in developing the aspect of gender and transitional justice within the study and to develop a position paper that interrogates whether there would be a need for a model law on transitional justice; taking cognizance of the experience of various countries in developing enabling laws for

truth commissions and empowering courts to prosecute transitional justice-related crimes for example.

- Side event on Rehabilitation and Reparations organized by Peace through Accountability in Africa Project Partners (PTAAP): In keeping with past practice KHRC and the Centre for the Study of Violence and Reconciliation (CSV) as members of PTAAP convened a side-event entitled, *“Realizing the Right to Rehabilitation and Reparation in Africa: An Analysis of Challenges and Opportunities for Implementation”*. The discussion interrogated the opportunities and challenges in the implementation and enforcement of rehabilitation and broader reparation for victims of gross human rights violations. It also focused on strategies that could be adopted to ensure that rehabilitation becomes a core part of the reparation remedy sought from the ACHPR by victims. The discussion yielded a proposed Resolution on the Right to Rehabilitation for Victims of Torture as an Essential Component of the Prevention of Torture in Africa which was submitted Commissioner Lawrence Mute as the Chair of the CPTA for consideration.



PTAAP members after Side Event on Rehabilitation and Reparations

Extractive Industries, Environment and Human Rights Violations

- Participated in a roundtable discussion on South Sudan: At the invitation of Amnesty International, KHRC participated in a roundtable discussion entitled, “*Waiting for Justice in South Sudan: Exploring the Need, Prospects and Options for Accountability*”. The discussion reflected on the need for justice, took stock of the regional response to the conflict, explored what more could or should be expected from the region, and considered the possible options for pursuing accountability. The meeting concluded with an emphasis on the need for the release of the report by the African Union (AU) Commission of Inquiry on South Sudan as the initial and integral step towards seeking accountability for the human rights violations committed in the midst of the conflict. In furtherance of its advocacy efforts on the Africa Transitional Justice Framework (ATJF) and Study on Transitional Justice in Africa, KHRC will continue to support advocacy efforts related to the conflict in South Sudan and collaborate with local CSOs such as the South Sudan Law Society.
- 6. Side Event on A Model Mining Legislation for Africa and Meeting with the ACHPR Working Group on**
- KHRC participated in a side-event convened by the International Alliance on Natural Resources in Africa (IANRA) in collaboration with Natural Resource Alliance of Kenya (KeNRA) to discuss the prospects for a Model Mining Legislation for Africa. The meeting resolved to form a regional network consisting of various organizations to participate in a study on the model legislation that has already been commenced by IANRA. KHRC will be joining IANRA as pathway to contributing to the study. The newly formed network subsequently met with Commissioner Pacifique Manyirakiza as Chair of the ACHPR Working Group on Extractive Industries, Environment and Human Rights Violations. It was agreed at this meeting that the newly formed network on the study will forge a working relationship with the ACHPR Working Group and share its outputs from the study for consideration.
- 7. Meetings of the Litigants’ Group for the Strengthening of the Protective Mandate of the ACHPR and the Implementation Working Group of Decisions from the ACHPR**
- The Litigants’ Group is an informal collective of individuals and organizations who share experiences and best practices in engaging the ACHPR’s protective mandate with a view to encouraging the ACHPR to undertake a series of reforms on procedure and the nature of their remedies so as to enhance its effectiveness for victims of violations. The meeting essentially sought to

revitalize the group after a close to 2-year lull of inactivity. The meeting reconstituted the coordinating structure for the group and identified priority areas of focus which include: (1) Convening a Forum on Law and Practice within the ACHPR that would hopefully bring together litigants and legal personnel within the ACHPR secretariat to discuss the prospects for reform within the ACHPR Communications Procedure; (2) The conclusion and dissemination of position papers on implementation of ACHPR decisions, reparations, confidentiality in the context of the Communications Procedure and the referral of matters by the ACHPR to the African Court on Human and Peoples' Rights (AfCHPR) and; (3) Developing modalities for constituting a Working Groups within the Litigants' Group. KHRC will play a role in the planning for the Forum on Law and Practice.

- KHRC also participated in a meeting of the Implementation working Group that was also reconvening after a 2-year period of being dormant. This working group aims to advance the cause of litigants seeking to have decisions received from the ACHPR implemented by the relevant States. The meeting focused on the role of NHRIs in advancing the implementation of ACHPR decisions and the provision of status updates on the progress made in pursuing implementation of decisions with various states. KHRC shared the experiences encountered in pursuing the implementation of the [Endorois Case](#). It was resolved that the working group would seek to undertake a side-event on implementation of ACHPR

decisions at the next ordinary session of the ACHPR.

8. Panel on Ratification of the United Nations Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR)

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS, 56TH SESSION, BANJUL, THE GAMBIA

**Advancing Economic, Social and Cultural Rights (ESCR):
The Role of the Optional Protocol to the International Covenant on ESCR in Securing Access to Justice**

The African Commission on Human and Peoples' Rights has been central to advancing these rights, establishing the Working Group on ESCR, adopting principles and guidelines, and advancing key resolutions, including Resolution 223 calling on States Parties to ratify the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Optional Protocol (OP-ICESCR) in May 2012.

During the past year, Gabon, Cabo Verde and Niger ratified the OP-ICESCR, a mechanism for individuals or groups of individuals to access justice at the international level when domestic remedies fail, and South Africa ratified the ICESCR in January.

The NGO Coalition for the OP-ICESCR—composed of over 300 organizations across Africa and other regions—together with its members FIDH and Community Law Centre will facilitate this event to explore the value of ICESCR and OP-ICESCR ratification for civil society and governments, complementing regional human rights system; reinforcing existing State obligations; and advocating access to remedy for violations at the domestic level.

Date: Wednesday, April 22, 6pm
Jaama Hall, Hotel Kairaba

Welcome: Ivahanna Larrosa, NGO Coalition for the OP-ICESCR
Moderator: Dr. Mabassa Fall, FIDH Representative to the African Union
Keynote Speaker: Commissioner Mohamed Khalfallah, Chair of Working Group on Economic, Social and Cultural Rights-ACHPR
Discussants:
Dr. Ebenezer Durojaye, Community Law Center, South Africa
Andrew Songa, Kenyan Human Rights Commission, Kenya
Pauline Vata Musangi, Economic and Social Rights Centre - Hakijamili, Kenya

- KHRC was invited as a panelist to discuss the role of the OP-ICESCR in securing access to justice. The event was convened by the Economic, Social and Cultural Rights Network (ESCR-Net) in conjunction with the ACHPR Working Group on ESCR chaired by Commissioner Mohamed Bechir Khalfallah who also serves as the overall Vice-Chair of the ACHPR. The panel argued for the OP-ICESCR as a powerful tool in securing justice for violations of ESCR and guiding the fulfilment of these

rights in line with existing State obligations. KHRC's presentation focused on the ratification of the OP-ICESCR as an opportunity for complementarity in the advancement of ESCR; highlighting the opportunities for institutional solidarity and cooperation between the ACHPR and the UN's Committee on Economic, Social and Cultural Rights (CESCR). A summary of the event can be accessed [here](#).