

## **I INTRODUCTION**

1. This report covers the activities carried out by the Special Rapporteur on Freedom of Expression and Access of Information in Africa (Special Rapporteur) since the 42<sup>nd</sup> Ordinary Session of the African Commission on Human and Peoples' Rights (Commission) which was held in Brazzaville, Republic of Congo from 16<sup>th</sup> to 29<sup>th</sup> November 2007. At this session, the Commission renewed the mandate of the Special Rapporteur for two years and extended it to include "Access to Information."
2. The first part of the report highlights the activities undertaken during the period under review and includes general observations, conclusions and recommendations on the state of Freedom of Expression and Access to Information in Africa.

## ***II. ACTIVITIES UNDERTAKEN DURING THE PERIOD UNDER REVIEW***

### **Conferences and Workshops.**

3. On 23-24 January 2008 I was invited by Media Alliance Zimbabwe to a workshop on "Towards a Free, Fair and Credible Elections in 2008". The workshop was held in Harare, Republic of Zimbabwe. I presented a paper on "Freedom Expression, Access to Information and Elections, with particular reference to the Declaration of Principles on Freedom of Expression in Africa."

Since the workshop was held two months before the 2008 Harmonized Election in Zimbabwe I highlighted the following issues relating to elections in her presentation:

- ❖ That without the free flow of news, information and opinion, the citizenry cannot be adequately informed and cannot therefore exercise its democratic rights.
  
- ❖ I recalled the rights and obligations contained in the African Union Declaration on the Principles Governing Democratic Elections in Africa in 2002. These rights include the right of individuals or political parties to freedom of movement, to campaign and to express political opinion with full access to the media and information within the laws of the land.<sup>1</sup> The obligations include the obligation of the media covering the electoral process to maintain impartiality and refrain from broadcasting and publishing in abusive or other forms of provocative language that may lead to violence or incitement of hatred. They also include the obligation of every candidate and political party to respect the impartiality of the public media by undertaking to refrain from any act which might constrain or limit their electoral adversaries from using the facilities and resources of the public

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❖ <sup>1</sup> AHG/Decl.1 (XXXVIII), 2002, at par. (1) and (5). Elections: rights and obligations.

media to air their campaign messages.<sup>2</sup>

- ❖ Moreover I also recalled the provisions of the African Charter on Democracy, Elections and Governance (The Charter on Democracy) which calls on State Parties to, amongst others, promote freedom of expression, in particular freedom of the press and fostering a professional media.
  - ❖ I concluded my presentation by recalling the resolution on Freedom of Expression and the Upcoming Elections in Zimbabwe that was adopted by the African Commission at its 42<sup>nd</sup> Session that was held in Brazzaville, the Republic of Congo in November 2007 in which, amongst others, it requested the Government of the Republic of Zimbabwe to ensure that contesting parties and candidates for elections are given equitable access to state controlled media.
4. On 5 February 2008, I made a presentation on “Elections, Freedom of Expression and Information in the SADC Region – The practical implementation of existing principles” at a meeting that was organized by media office of Friedrich Ebert Stiftung in Johannesburg.
  5. On 14 February 2008 I attended a training workshop organised by the Secretariat of the Commission for West African journalists and media practitioners. The workshop was held in Banjul, The

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❖ <sup>2</sup> AHG/Deccl.1 (XXXVIII), 2002, at par. IV (10) and (11), Elections: rights and

Gambia at the fringes of the Extra Ordinary Session of the Commission. The purpose of the workshop was to sensitise journalists working in the area of human rights in the sub region on the provisions of the African Charter and the Declaration of Principles on Freedom of Expression in Africa (Declaration) and to explore ways in which these journalists could use their skills and knowledge to publicise the work of the Commission in their respective countries. Journalists and media practitioners from about 14 countries attended. I made a presentation on my mandate and on the situation of freedom of expression in Africa.

6. On the 23-24 April 2008, I made a presentation at the conference on the role of the media in strengthening electoral democracy. The conference was organized by the Electoral Commission of South Africa with the purpose of providing a platform to media stakeholders, political parties and civil society organizations to dialogue on the role that the media should play in the run up to, during and after an election. The topics that were covered included the following: should the media be politically aligned?; is there a need for the print media to adopt a self regulatory code of conduct for coverage of elections; women, elections and the media; the role of the public broadcaster and the broadcasting regulatory body in elections etc.

7. On the 2-3 May 2008 I attended and participated at a workshop that was organized by the United Nations Education and Cultural Organization (UNESCO) in celebration of the World Press Freedom Day. The workshop was held in Maputo, the Republic of Mozambique

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obligations.

under the theme “Freedom of Expression, Access to Information and the Empowerment of People.” The objective of the workshop was to explore how the media can contribute to the empowerment of the citizenry by making information available.

8. On the 11 May 2008 I attended and made a presentation at a meeting that was organized by the Media Institute of Southern Africa (MISA). This meeting was organized at the fringes of the 43<sup>rd</sup> Ordinary Session of the African Commission to strengthen the relationship between media stakeholders in the Kingdom of Swaziland, to discuss the mandate and the work of the Special Rapporteur and to explore the areas of cooperation. The meeting was attended by the following organizations: Swaziland Editors’ Forum, Swaziland National Association of Journalists, Media Workers Union of Swaziland and the African Editors Forum.

### III. CONCLUSION

9. I wish to commend member states that are making every effort to ensure that the right to freedom of expression and access to information is a reality for the people within their territories. I also wish to thank all the partners for all the support that they continue to give me in the course of executing my mandate. I must however express concern about the countries against whom I continue to receive disturbing reports of the violation of the right to freedom of expression and access to information, in particular reports of unlawful arrest, harassment and intimidation of journalists and other media practitioners. I once again wish to avail my office to engage in constructive dialogue with these member states in order to gain a better understanding of their situation and the challenges that they

are faced with in giving effect to the right of freedom of expression and access to information. To this end, I intend to undertake a promotional visit to the Republic of The Gambia during intersession in order to strengthen the full enjoyment of the right to freedom of expression and the promotion of access to information in that country.

10. In the report that I submitted at the 42<sup>nd</sup> Ordinary Session of the Commission, I highlighted as one of the areas of concern the slow pace at which state parties are enacting access to information legislation in conformity with Article 9 (1) of the Charter as elaborated in the Declaration of Principles on Freedom of Expression in Africa. In order to monitor progress in the adoption of access to information legislation, I have initiated a research project in collaboration with the Center for Human Rights on the position of the right of access to information in Africa. <sup>3</sup>The terms of reference of this project include investigation into how many countries in Africa have adopted access to information legislation. Although the project is still in its infancy stages, preliminary indications are that South Africa, Uganda, Angola and Zimbabwe are some of the countries that have adopted access to information legislation. Malawi, Mozambique, Nigeria, Tanzania, Kenya being some of the countries that have pending Bills in their parliaments. The second part of the project entails analysis of legislation that has already been adopted to determine compliance with international and regional human rights standards. I also intend to study the Bills that exist in various countries with a view of advising member states of compliance of these Bills with international and regional standards.

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<sup>3</sup> LLM in Human Rights and Democratisation in Africa Clinical Group

11. In conclusion, the relationship between freedom of expression, access to information and elections need not be overemphasized. Free, fair and credible elections are not possible without free flow of information, free and diverse media and plurality of views. I therefore once again appeal to member states that will be holding elections in the coming months to ensure respect for the right to freedom of expression and access to information.