


<b>AFRICAN UNION</b>		<b>UNION AFRICAINE</b>
<b>الاتحاد الإفريقي</b> <b>African Commission on Human &amp; Peoples' Rights</b>		<b>UNIÃO AFRICANA</b> <b>Commission Africaine des Droits de l'Homme et des Peuples</b>
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## INTERSESSION REPORT

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**COMMISSIONER**

### ITEM 1

November 2008-May 2009

## **INTRODUCTION**

In the present report, I shall be reporting in accordance with item 3 of rule 3 of our Rules of Procedure on promotional activities carried out during the intersession, between the 44<sup>th</sup> session of the African Commission on Human and Peoples' Rights (African Commission or ACHPR), held in Nigeria from 10 to 24 November, 2008.

I am reporting as a Member of the African Commission.

## **As Member of the African Commission on Human and Peoples' Rights.**

During the intersession I conducted the following activities:

1. On 27 November, 2008, I participated in the 14<sup>th</sup> annual campaign on gender based violence. This campaign was organised against the backdrop of the moves spearheaded by the international community against gender based violence. The traditional theme of this annual campaign was domestic violence and its effects; I gave a detailed account of gender based violence in Benin. Be it physical, verbal or psychological, this violence stems from an array of tendencies which demean women and deny them the enjoyment of their rights. Hence, it is not only imperative to adopt specific laws in this area but also to espouse sound norms and policies to enable society to face up squarely to gender based violence.
2. **From 5th to 7th December, 2008**, then from **14th to 20th December, 2008** and finally from **5th to 15th January 2009**, I was designated to defend the 2009 budget on behalf of the Commission. The session was held in Addis Ababa, in Ethiopia and I reported back to the 6th extraordinary Session of the African Commission.
3. **From 12th to 14th February, 2009**, I participated in the follow-up meeting of the network of National Human Rights Institutions in the ECOWAS States. The meeting was held at the Hotel du Lac, in Benin and was organised by the ECOWAS Commission to identify obstacles to the effective dispatch of the human rights promotion and protection mandate of National Human Rights Institutions. Another objective of the meeting was to avail representatives of human rights institutions the opportunity to bring to the fore the different violations of human rights in ECOWAS member countries and to consider the establishment of a sustainable network of Human Rights Institutions in the sub region.

Present at the meeting were about forty dignitaries from ECOWAS, the 15 Member countries of ECOWAS, the 'Francophonie', the Commonwealth and other bodies.

The meeting discussed the ECOWAS Protocol on Democracy and Good Governance at length. Our colleague Catherine Dupe Atoki, graced the occasion and presented a paper on the African Commission on Human and Peoples' Rights and on the Rights of the Child.

4. **From 23rd to 25th February, 2009**, I attended an international meeting in Cotonou, Benin, on the theme: 'Good Governance, accountability, and responsibility». The international conference was organised by the Human Rights Institute for the Promotion of Democracy and Democracy and Everyday Life, was financed by the UNDF and aimed at meeting the emerging challenges head on as we enter a period of political change and effective separation of powers.

During the conference, several themes were discussed such as good governance, political change and accountability of the different players.

5. **On 26th February, 2009**, I had a working session with the « Haut Commissariat à la Gouvernance Concertée » (High Commission for Collective Governance) (HCGC) in Benin. The main objective of the meeting was to establish contacts with this authority and to perpetuate the National Dialogue on Human Rights in Benin. Such dialogue was initiated between the members of the civil society and representatives of State Institutions on the occasion of the 60th anniversary of the Universal Declaration of Human Rights, last December.
6. **From 4th to 6th March, 2009**, I accepted an invitation from the Inter-parliamentary Union to attend a regional seminar on Human Rights for Francophone African Parliamentarians. The seminar was jointly organised by the Inter-Parliamentary Union, the United Nations High Commission for Human Rights and the Gabonese Parliament. The theme of this seminar was: « Promoting cooperation at the regional level between Parliaments and organs with a human rights mandate».

The objective of this seminar was to outline the role of parliamentarians in the promotion and protection of human rights. This seminar summed up the findings of the preceding national and sub-regional meetings organised since 2007 by the Inter-Parliamentary Union to build the capacity of parliamentarians and officials of francophone African Parliaments and to impress on them the importance of incorporating human rights in the organisation charts and

policies of Francophone African Parliaments. I presented a paper on the African Commission as an African regional mechanism for the promotion and protection of human rights. I underscored the need for parliamentarians to familiarise themselves with the African Charter on Human and Peoples' Rights and with other relevant African legal instruments and finally to forge ties with the Commission.

7. **From 19th to 22nd March, 2009**, I attended the Harmonisation and Validation Workshop on the Analytic Study to Identify Gender Specific Discriminatory Clauses and Gender Equality Disparities in the National Laws of ECOWAS Member Countries. These workshops were organised by the ECOWAS Gender Centre (EGDC), in Banjul, the Gambia, to validate the study reports prepared by national experts commissioned by the EGDC, from November to December, 2008. At the end of the workshop, a synthesised report highlighting the achievements, obstacles and prospects in the area of gender in the sub region was presented. Participants at this workshop concluded that gender based discrimination remains topical in Member Countries despite the adoption of laws and the launching of remedial programmes and policies. Governments, civil society, technical partners and all other players should therefore pool their efforts and systematically mainstream gender so as to evolve appropriate strategies for better promotion and protection of the rights of women.
  
8. **From 30th March to 4th April, 2009**, I attended the 6th Extraordinary session of the African Commission on Human and Peoples' Rights which was held at headquarters, in Banjul, the Gambia. At this session, urgent matters related to our twofold mission of promotion and protection was considered. The meeting identified strategies for the smooth implementation of the Commission's 2009 programme.
  
9. **From 9th to 11th May 2009**, I participated in the NGO Forum for Participation at the 45th session of the African Commission on Human and Peoples' Rights and at the 19th Book Fair. On the sidelines of the Forum, and as a Member of the African Commission on Human and Peoples Rights, I participated in

working session organised by the Human Rights Centre of the University of Pretoria.

This meeting sought to create ownership of a study commissioned by the International Labour Office in collaboration with the African Commission on Human and Peoples' Rights on the promotion of the rights of indigenous populations. The title of this study was: « promotion of the rights of indigenous populations in Africa in accordance with the principles of convention n°169 of ILO and the African Charter on Human and Peoples' Rights. This was an important working session in that it gave participants an insight into the specificities of the countries covered by the study, and that the resultant document will be beneficial to the Commission and by extension its Working Group on Indigenous Peoples as it will go a long way in alleviating the paucity of material on the subject.

10. **On 12th May 2009**, I participated in the meeting of representatives of the Inter-American Human Rights Commission. The objective of this meeting was to inform members of the African Commission on Human and Peoples' Rights and its Secretariat of the mandate and functioning of the Inter-American Human Rights Commission. From the deliberations, it transpired that the two organs, that is the African Commission and Inter-American Human Rights Commission would do well to pursue their partnership if they are to become more efficient in the accomplishment of their mandate.

**As Member of the Focal Point on the Elderly Persons;**

11. Human rights should be all-encompassing and our Commission subscribes to this fact. Consequently, for the past two years the Commission has been working through its focal point on Elderly persons to give effect to the rights of the Elderly Persons. In a bid to implement the provisions of the Charter, the Commission believes it must go the extra mile to address the issue of the Disabled and to collaborate with all stakeholders.

For this reason, on the sidelines of the 6th Extraordinary Session and as a Member of the Focal Point for Elderly Persons, I was involved in laying the groundwork leading to the establishment of the Mechanism for Elderly Persons and the Disabled in Africa.

## CONCLUSIONS

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During the intersession, my activities covered the entire continent. I tried to get to grips with and consolidate my mandate as Member of the African Commission on Human and Peoples' Rights both at the national and continental level.

To some extent, my presentations at different seminars have contributed to the execution of my mandate as laid down in Article 45 of the Charter. I do believe that Parliamentarians and practicing Legal Practitioners are pivotal to the elaboration of texts which incorporate all aspects of human rights. The Commission should therefore reflect on ways and means of equipping African Parliamentarians to deal with human rights issues and to evolve appropriate strategies for enduring capacity building, considering the crucial role they play in the adoption of national texts, the bedrock of governance in our respective countries.

**ITEM II**

## INTRODUCTION

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This report covers activities I carried out in accordance with item three of Rule 87 of the Rules of Procedure and the mandate entrusted on me as Special Rapporteur on the Rights of Human Rights Defenders in Africa, in line with the relevant resolutions of the African Commission on Human and Peoples' Rights : Resolution no **ACHPR/Res.69(XXXV) 04** dated **4th June 2004**, No **ACHPR/Res.83(XXXVIII)05** dated **5 December 2005** and resolution **ACHPR/Res.125(XXXII)07** dated **28 November 2007**.

This is a status report covering the promotion and protection activities I carried out since the 44th Session of the African Commission on Human and Peoples' Rights which was held in Abuja, Nigeria from 10th to 24 November, 2008.

## PROMOTIONAL ACTIVITIES

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- ✓ Seminars and meetings with members of the civil society
- ✓ Cooperation between organs
- ✓ Country visits and notes verbales

### a) Seminars and meetings with Members of the civil society.

11. **On 10th December, 2008**, I jointly organised a one-day National Dialogue in Benin with the Beninese Association for the Right to Development (ABDD) funded by the Open Society Initiative for West Africa (OSIWA). This activity was conducted under the second phase of a project launched in commemoration of the 60th Anniversary of the Universal Declaration of Human Rights. I already reported on the above at the 44th Session.
12. **From 21st to 24th January 2009**, I attended a workshop organised by the (*Human Rights Commission for Lesbian, Gays, Bisexual and Intersexual, HRCLGBT*) in Cape Town, Republic of South Africa. The objective of the workshop was to evolve legal strategies for the protection of the rights of LGBTI in Africa. During the workshop, participants highlighted the different forms of discrimination and violations this target group was subjected to in Africa. I gave an overview of the African Commission on Human and Peoples' Rights and explained that the Commission took the issue of sexual inclinations as seriously as all other issues. The meeting discussed the difficulties experienced by defenders of the rights of gays and lesbians in view of the challenging cultural context.
13. **On 9th February, 2009**, under our capacity building programme, the Toolkit for Human Rights Defenders developed during the workshop held in August-September, 2008, in Benin was launched. The launching was funded by the Embassy of the Federal Republic of Germany, in Benin.

14. **From 9th to 10th March 2009**, I attended in Abuja, Federal Republic of Nigeria, a symposium organised by the Open Society Initiative for West Africa (OSIWA) on the theme « justice and migrations ». I chaired a panel on the African Commission Human and Peoples' Rights on the promotion and protection of persons and target groups striving to give effect to economic, social, and cultural rights. The discussions also covered other issues pertaining to the importance of causes of a public interest.
15. **From 13th to 17th April, 2009**, at the invitation of the *Association for Justice, Peace and Democracy, (l'Association pour la Justice, la Paix et la Démocratie) (AJPD)* in Luanda, Republic of Angola, I moderated over a training seminar for some twenty representatives of human rights defenders' organisations on the legal instruments for the protection and promotion of the rights of women in Africa. During the training, I apprised participants of the protection mechanisms of the African Commission on Human and Peoples' Rights. The meeting also defined the strategies for optimised use of these instruments.
16. **From 20th to 23rd April 2009**, with the support of our partners, I chaired the Conference of Human Right Defenders held in commemoration of the tenth anniversary of the United Nations Declaration on Human Rights and the 1998 Inaugural Pan African Conference of Human Rights Defenders. The objectives of this conference were to take stock of the activities of Human Rights Defenders during the past decade and to identify factors which impede the effective implementation of the rights of human rights defenders in Africa. At the end of the Conference, participants made recommendation for the improvement of the lot of human rights defenders.
17. **From 9th to 11th May, 2009**, during the NGO Forum, Commissioners, participants, and especially the network of human rights defenders considered the situation of human rights defenders in Africa.

**b) Co-operation among organs.**

18. **On 10th December, 2008**, in commemoration of the 10th Anniversary of the United Nations Declaration on Human Rights Defenders, I published a declaration jointly with the other mechanisms responsible for the promotion and protection of the rights of human rights defenders (United Nations, European Union, InterAmerican Commission for Human Rights).

**c) Country Visits and Notes Verbales**

19. During the intersession, I did not conduct any country visits. I was awaiting the response of the States I had addressed Notes Verbales to and hope to hear from them soon.

20. To date, I have sent Notes Verbales to the following countries :

- Republic of Angola
- Democratic Republic of Congo
- Republic of Senegal
- Republic of Guinea
- Republic of Sierra Leone
- Democratic and Peoples' Republic of Algeria

21. Meanwhile the following countries have given their approval, in principle:

- The Republic of Congo has responded to my Note Verbale and arrangements are being made for the visit to take place.
- The Republic of Mauritania has also given its approval in principle for a visit and again arrangements are being made to that end.
- The Republic of Angola has also informed us of its approval in principle for a visit to be held and we are awaiting a response from the State.
- The Democratic Republic of Congo has also given its approval in principle and arrangements are being made to that end.

From my reckoning, chances are Sudan and Algeria will accede to a visit.

## PROTECTION ACTIVITIES

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Protection activities are presented in two parts:

- ✓ Communications
- ✓ Press Releases

Since our last session, the situation of human rights defenders has deteriorated considerably. In Sudan, the already precarious situation of human rights defenders was exacerbated by the political problems arising in the wake of the international arrest warrant issued by the International Court of Justice.

One issue of concern noted by the Mechanism during the intersession is linked to freedom of expression in the different States and it is for this very reason that we are drafting terms of reference for a study on freedom of association in Africa.

The freedom of expression of human rights defenders was infringed upon in a number of African countries during the intersession.

Human rights defenders are subjected to arbitrary arrests, threats, and all types of legal harassment. In Burundi and in the Republic of Congo, human rights defenders have paid a heavy toll in their quest to promote and protect human rights in Africa. These are not faceless persons: they are renowned and called Ernest Manirumva and Bruno Ossebi.

With respect to the most recent cases of violations, I have made press releases or communications, as necessary.

### **a) Communications**

22. During the above-mentioned period, I called the attention of several countries to several alleged human rights violations, and to that effect dispatched 27 (twenty-seven) communications. To cite a few : Sudan, Ethiopia, Somalia, the Democratic Republic of Congo, Republic of Congo, Cameroon, Guinea Bissau, Mauritania, Burundi, Djibouti, Gabon, Kenya, Tunisia and Zimbabwe ;

it note-worthy that the majority of cases occurred in the Democratic Republic of Congo and Tunisia.

23. In Zimbabwe, the situation is improving somewhat and I seize this opportunity to call on all stakeholders to pursue the dialogue process.

**b) Press releases**

24. During the intersession, I prepared three press releases following the assassination of three defenders in Kenya, Congo and Burundi. I was also instrumental in the publication of two other press releases concerning Gabon, one denouncing human rights violations and another commending the State for responding positively by desisting from such acts. A sixth press release condemned the closure of three human rights NGOs in Sudan last May.

## CONCLUSIONS AND RECOMMENDATIONS

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Generally, I am of the opinion that considering the protection activities undertaken, Commission and State actors should pay special attention to the situation of human rights defenders. The reactions to the Commission's seizure of State Parties on individual cases of violations of rights of human rights defenders seem to point to the fact that the mechanism is gaining greater recognition among stakeholders. However, this recognition alone suffices not to face up to the many challenges attendant to the persistent violations, and to the operating environment of human rights defenders.

During 44th session, the Commission focused on the need to provide databases on the effective enforcement of the rights of human rights defenders through awareness of and utilisation of fundamental texts which govern their rights. It was also recommended that the synergy and information sharing on the activities of the mechanism be maintained as these issues are still pertinent considering the human and material resources problems our Commission is grappling with.

Communication and information constraints besetting the Commission are making the activities of the Mechanism less visible. States, civil society players and all the other stakeholders are entitled to communicate with the Mandate and to be informed of her activities. To this end, during the intersession I planned, in concert, with Front Line, to launch alongside the news bulletin an interactive information website, in the near future. I believe that this would help bridge the present communication and information gaps, it being understood that it is the Commissioner's duty to be on the alert and to act promptly.

With regard to the recognition of the Commissioner by the State Parties, it will be recalled that since 2007, Cameroon, Nigeria and Tunisia, have all responded to some degree to our communications. Algeria too sent us a response during the last session. The Commissioner is grateful to these States and counts on their support to improve on follow-up of cases and to find fair and appropriate solutions to the problems raised in the communications.

As regards complaints proper, yet another challenge we are expected to rise up to is linked to their processing. I have learnt from State Representative's that in most cases, our communications do not fall into the right hands and worse still some States have even questioned the very existence of the said communications.

The Mechanism plans henceforth to ensure that Communications follow the proper channels so as to elicit a speedy response from the State Parties.

The Commissioner is deepening its cooperation with the other organs with a mandate to promote and protect the rights of human rights defenders to design methodologies and strategies to follow up on Communications involving individual cases of human rights violations. This issue is being addressed in unison by organs dealing with the protection of human rights.

At the end of the International Conference on Human Rights Defenders held in Kampala, from 20th to 23rd April, 2009, the community of human rights defenders in Africa and the Diaspora, all the networks of human rights defenders and a good number of development partners have recognised that the establishment by the international and regional community of mechanisms for the promotion and protection of the rights of human rights defenders is a laudable feat and even a remarkable feather in the cap of human rights defenders. The ever-increasing number of networks and coalitions of NGOs involved in the protection of human rights attests clearly to the interest in and recognition of the rights of the African people.

However, considering the findings of the Kampala Conference, commonly known as « Jobourg +10 », there are more challenges along the way, to wit, giving effect to the rights enshrined in the different legal instruments remains problematic. In Africa, gross violations of rights in the areas of civil, political, social and cultural rights and solidarity rights subsist and this speaks to the right to an equitable distribution of wealth and natural resources, the right to decent employment, and the right to come and go..

To this end, the difficult and unacceptable operating environment of human rights defenders and the fact that their rights are violated with impunity is worthy of mention.

The situation of human rights defenders operating in an environment characterised by bad governance which in turn generates conflicts between Government officials, persons in power, and other non State actors should be of concern to our Commission and compel the latter to come up with corrective and preventive measures. The most serious cases which we should focus on during our session are Chad, Guinea Conakry (these two countries are on the verge of being militarised and the populations are in dire straits).The situation of Somalia, Sudan, Guinea Bissau and DRC are equally worrisome. The situation of Eritrea is also serious because several of this country's human rights defenders and journalists are under arbitrary detention and some have even departed from life long ago. We should take the bull by the horns in this case.

Another burning issue over the past six months is the legitimacy of associations of human rights defenders. I am aware of the difficulties encountered by the latter in their to gain recognition and cannot but cite the example of countries such as Uganda, Ethiopia, Tunisia and Sudan which have stood firmly by their position to deny human rights defenders the right to assemble freely and to receive funds for their activities.

These different attitudes are food for thought for our Mechanism when it comes to actual protection of the rights of human rights defenders and call for the adoption of effective and binding measures. During the Kampala Conference, and on the sidelines of the NGO forum, the focus was on the measures to be envisaged to strengthen the mechanism for the protection of human rights defenders. To this end, the Commissioner is proposing, with the support of the African Commission on Human and Peoples' Rights to pass a resolution on this issue during this session.

## **Recommendations**

In view of the foregoing, the Special Rapporteur recommends as follows:

### **To State Parties :**

- ✓ For those who have embarked on the right path, that they continue to give effect to the Note Verbales and Communications, as behoves them under the Charter, the emanation of their common will, and on the other hand to foster the common will to pursue the constructive dialogue between the African Commission on Human and Peoples' Rights and the State Parties.
- ✓ Those who are yet to react are encouraged to be more involved in the activities of the Special Rapporteur.
- ✓ That they initiate discussions with the organisations of human rights defenders considering that they are special and incontrovertible partners.

### **To our Commission :**

- ✓ That measures are taken to ensure that the Special Rapporteur can conduct her promotion and protection missions as effectively as possible.

### **To civil society actors themselves:**

- ✓ The Special Rapporteur calls on them to synergise their activities, be more accountable and that they strive to build their institutional and organisational capacities.

I thank you.