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INTERSESSION REPORT

BY

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SPECIAL RAPPORTEURE ON THE RIGHTS OF HUMAN RIGHTS
DEFENDERS IN AFRICA

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POINT I**INTRODUCTION**

This report focuses on promotion activities undertaken in accordance with item 3 of Article 87 of our rules of procedure for the intersession period following the 45th Session of the African Commission on Human and Peoples' Rights (African Commission or ACHPR) held in Banjul in the Republic of Gambia from 13th to 27th May 2009 .

I present this activity report in my capacity as Member of the African Commission.

IN MY CAPACITY AS MEMBER OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS AND MEMBER OF THE WORKING GROUP ON OLDER PERSONS AND PERSONS WITH DISABILITIES

A) As a Member of the African Commission on Human and Peoples' Rights

During the intersession, I undertook the following activities:

1. **From 23 - 29 June 2009**, I undertook a promotion visit to the Republic of Senegal. This visit is in keeping with the provisions contained in Article 45 of the Charter and Article 87 of our rules of procedure which make it mandatory for the Commission and its members to promote human rights throughout the continent. The visit to Senegal was undertaken in my capacity as Member of the Commission responsible for the promotion of human rights in Senegal.

This visit was a follow-up one to the ones undertaken by my predecessors. Generally-speaking, the visit created a platform for the continuation of dialogue on human rights with all stakeholders and also to publicize the mandate of the Commission. A detailed report on this visit shall be presented in private session according to the rules governing such reports.
2. **From 11 to 16 July 2009**, I participated in a working meeting between the African Commission and the African Court on Human Rights in Arusha, in the Republic of Tanzania. The objective of this meeting was to examine the best strategies for the harmonization of our rules of procedure with that of the Court within the framework of ensuring complementarity in terms human rights protection among institutions on our continent as contained in Articles 2 and 5 of the Protocol on the Africa Court. After this meeting, the two institutions discussed about the study of some relevant provisions of their two rules of procedure and postponed further discussions to a future date.

3. **From 6 to 8 August 2009**, at the invitation of the Centre for Human Rights of the University of Pretoria, I sat on a panel as a Judge during the 18th African Human Rights Mock Trial Competition organized by this Centre in conjunction with the University of Lagos, Nigeria.
4. On the sidelines of this competition, I participated in a workshop on human rights disputes within national jurisdictions. During this event, we were able to appreciate how important issues of human rights were to the participants who had come from 127 African Universities and how best they could use them for human rights protection in Africa. At this juncture, we wish to pay tribute to the Centre for Human Rights not only for their efforts in popularizing African legal instruments for the promotion and protection of human rights through this programme but also for their collaboration with the African Commission on Human and Peoples' Rights.
5. For us, this competition remains one of the most effective strategies to identify and motivate legal professionals in our countries towards effective human rights defense on the continent. The specific interest in this mock trial is for us the best way to anticipate referral of a case to the African Court on Human Rights at the behest of our Commission.
6. **From 30 to 31 August 2009**, in my capacity as the acting Vice-Chairperson, I participated in an Extraordinary Session of the Executive Council of the African Union in Tripoli, the capital of the Great Popular and Socialist Libyan Arab Jamahiriya. This meeting which was organized by the African Union Commission centred mainly on the conflict situation in countries on our continent. One of the critical issues that emerged at this session was in connection with the involvement of multinational companies in the conflicts scattered all over the continent and particularly the uncontrolled and chaotic exploitation of our natural resources by these companies. At this point in time, this issue is of much concern to our Commission and I hope the Commission would associate itself with any initiative towards this end.
7. **From 16 to 20 September 2009**, I represented our Commission at the 12th Session of the United Nations Human Rights Council in Geneva. During the session, I discussed with the various partners and institutions on the establishment or strengthening, as the case may be, of cooperation with the view to sharing experiences within the context of the missions of the African Commission on Human and Peoples' Rights. On this occasion I was able to propagate the objectives of our Commission to the African Group. Among others, I was also able to participate in discussions on key thematic issues such as the state of children.
8. **From 5 to 16 October 2009**, I participated in two meetings on harmonization of the rules of procedure of the African Commission and the African Court on Human and Peoples' Rights: the first meeting was held among members of the ACHPR and the second between members of the ACHPR and those of the African Court on Human and Peoples' Rights. This meeting, which

was held in Dakar came after an earlier one held in July in Arusha, Tanzania and it enabled all the members of the Commission to finalize the discussion on the texts of the two rules of procedure relating to the principle of complementarity between the two institutions provided for in Article 2 of the Protocol of the African Charter on Human and Peoples' Rights establishing the African Court on Human and Peoples' Rights.

9. **From 7 to 10 November 2009**, I took part in the 3rd Conference of National Human Rights Institutions organized by the African Union Directorate for Political Affairs. This was an African Union initiative to assist the latter body to undertake discussions with African Human Rights Institutions on their activities, appreciate their views and what could be expected from them.
10. During this meeting which was attended by a large number of members of the African Commission on Human and Peoples' Rights, the discussions centred on varied experiences of the National Human Rights Institutions (at least fifteen of them) represented, the relations between the African Union and the National Institutions, the difficulties faced in the said relations and appropriate solutions to ensure better relations. Fruitful discussions were also held on capacity building within these National Institutions.
11. Finally, several presentations were made on human rights with reference to both continental and regional matters. These bordered essentially on the current status of women's rights in Africa, the gender issue and strategies for the implementation of human rights. During this conference, we had the opportunity to point out the importance of and the role of National Human Rights Institutions in the implementation of the rights guaranteed by the African Charter on Human and Peoples' Rights. We also noted the need for these institutions to honor their commitments with the ACHPR and to participate in sessions as they are affiliate organs of the Commission. Several recommendations were made at the conference and these will be made available to the ACHPR at the appropriate time.

B) In my capacity as Member of the Working Group on Older Persons and Persons with Disabilities

12. During our 45th session held in Banjul, against the background of the heightened interest in effectively handling the situation of older persons and persons with disabilities, our Commission changed the focal point created for that purpose into a Working Group on older persons and persons with disabilities. Today, this Group has within its ranks experts on the two thematic areas and notably on the mission to formulate measures for the promotion and protection of older persons and persons with disabilities.

13. **From 26 to 28 August 2009**, our Commission organized a seminar of experts on the rights of older persons and persons with disabilities in Africa with the main aim of taking the initial steps towards drafting a Protocol on the rights of older persons and persons with disabilities in Africa. Towards that end, participants at this workshop created a platform for sharing experiences and thoughts on the living and working conditions, respect for the rights of these vulnerable persons and their collaboration with the Africa Commission to ensure that they benefit a great deal from the guarantees for protection provided for the other social groups in Africa.

14. At the beginning of the meeting, I was called upon to make a short presentation on the special procedures that the Commission had developed over the last 15 years, their legal bases and their mandates; in this particular instance regarding the working group on older persons and persons with disabilities.

15. At the end of the meeting, the participants were able to prepare two draft texts, one on older persons and the other on persons with disabilities. These two documents need to be finalized and submitted to the Commission to ensure that appropriate procedures for their transmission to the African Union are followed.

CONCLUSIONS

16. During the intersession, I undertook a lot of activities on the continent both with regard to relations between our Commission and other Human Rights Institutions and relations with members of civil society.
17. Our discussion centred mostly on the role the Commission will have to play in order to factor into the scheme of things disturbing issues such as the future collaboration with the African Court, the involvement of multinationals in conflicts in Africa, cooperation with other institutions and regional or international mechanisms and the issue of older persons and persons with disabilities.
18. Our Commission should be a position to address the various challenges confronting it within an African continent undergoing rapid transformation and find appropriate solutions to the problem of promotion and protection of human rights on the continent.

POINT II

INTRODUCTION

19. This report is presented under item 3 of article 87 of our rules of procedure, in pursuance of the mandate given to us as Special Rapporteur on the rights of Human Rights Defenders in Africa, in conformity with resolutions of the African Commission on Human and Peoples' Rights No *ACHPR/ Res 69(XXXV) 04* of 4 June 2004, No *ACHPR /Res.83(XXXVIII)05* of 5 December 2005 and of resolution *ACHPR/Res.119(XXXXII) 07* of 28 November 2007.
20. This report focuses on promotional activities undertaken since the 45th session of the African Commission on Human and Peoples' Rights (the African Commission) or ACHPR) held in Banjul, the Republic of Gambia from 13th to 27th May 2009.

PROMOTION ACTIVITIES

21. Concerning :

- ✓ Seminars and meetings with members of civil society
- ✓ Inter-institutional cooperation
- ✓ Country visits and notes verbales

A) Seminars and meetings with members of civil society

22. **From 2 to 5 June 2009**, I participated in a regional workshop *Capacity Building of National Human Rights Defenders' Organizations in Francophone West Africa towards a general periodic review*. This workshop which was organized by the West African Network of Human Rights Defenders (ROADDH) with the support of the International Organization of the Francophonie helped to shed light on certain aspects of the African human rights protection system. During this meeting, we had the opportunity to underscore the importance of members of civil society in ensuring the effectiveness of human rights, not only in taking part in the preparation of national reports but also in the formulation of alternative reports to assist the institutions with oversight responsibility to have a very precise understanding of the situation presented to them.
23. **From 10 to 19 June**, at the invitation of the International Service for Human Rights, I participated in a series of activities on the sidelines of the 11th session of the Human Rights Council in Geneva. Thus, on **12th June 2009**, I participated in a Round *Table on Human Rights, Sexual Orientation and Gender Identity* organized in Geneva. This round table sought to initiate an interregional dialogue on issues relating to sexual orientation and gender identity within the context of human rights. It was also intended to sensitize and reinforce the joint declaration of the General Assembly on human rights, sexual orientation and gender identity to allow for the deepening of thoughts on the implementation of an effective protection for men and women who are victims of violations as a result of their sexual orientation or their gender identity.
24. **On 18th June 2009**, I responded to the invitation of the International Coalition of Women Defenders of Human Rights and the United Nations Special Rapporteur on Human Rights Defenders who were organizing the first strategic meeting of women rights defenders. This meeting basically sought to brainstorm on specific concerns confronting women defenders and to find appropriate strategies to include them in the agenda of the Special Rapporteurs

on human rights defenders. Another objective of this meeting was also to find possibilities for collaboration between the Women's Defenders Coalition and the Special Rapporteurs on Human Rights Defenders. Other periodic meetings will in the near future help to deepen the thoughts on women defenders.

25. **On 19th June 2009 in Geneva**, I participated in the meeting for the presentation of the annual report (2008) of the Observatory FIDH / OMCT in Geneva on the state of human rights defenders in the world. Placed under a very suggestive theme, *Stubborn Determination To Bear Witness*, Mr. Roberto Saviano, the author of the preface stated as follows: « a tribute to these men and women who, in the course of 2008, at the peril of their lives, fought because they were imbued with the sentiment that the idea of human rights is a matter of concern to all of us ». I would like to seize this opportunity to once again pay tribute to all those who contributed in bringing out into the open a small fraction of a daily reality lived by HRD in the World, or better still in Africa.
26. **On 27 July 2009**, I took part in the presentation of the report of the Observatory FIDH/OMCT on the state of human rights in Cairo, Egypt. At this meeting, we had the opportunity to engage members of civil society to ensure better collaboration with the Commission and to work side by side with the Government towards the presentation of its report as stipulated in Article 62 of our Charter. As a result of time constraints, we were unable to undertake informal visits to members of the Egyptian Government. But it is our conviction that this visit can be undertaken in a more formal way.
27. **From 30th August to 5th September 2009**, I participated in a training workshop for human rights defenders in Kigali, Rwanda. The main objective of this workshop which was organized by the International Service for Human Rights was to prepare civil society for the upcoming General Periodic Review of Rwanda in 2011 and for the use of the human rights promotion and protection mechanisms. I seized this opportunity to present the Commission and my mandate to the participants. I also discussed about the significance of collaborating with the Commission through my mandate. During our stay in Kigali, we undertook informal visits to the authorities, particularly to the Chairperson of the Human Rights Commission of the Rwandan National Assembly to share views on the state of human rights in the country.

28. **From 21st to 23rd September 2009**, I responded to an invitation by the Centre for Conflict Resolution in Cape Town, in the Republic of South Africa, within the framework of a training workshop for rights defenders on the role of human rights defenders in conflict management and resolution.
29. This was a theoretical, practical and interactive workshop on actions by HRD in relation to issues bordering on peace building, peace keeping and peacemaking. In many respects, peace building will be an exercise in futility if one fails to factor into the scheme of things ways of addressing the various human rights breaches and violations committed against innocent people, or at best, exact punitive measures against such infringements in case they took place both upstream and downstream during the conflicts. The interesting aspect of this workshop was the relational approach it took between human rights and the search for peace including the role of HRD in protecting the population in times of conflicts, their role in conflict resolution and peace building.
30. During this workshop, I made a presentation on the mandate of the Special Rapporteur on HRD and the various procedures used in the promotion and defense of HRD in Africa. I also had the opportunity to see in what way the HRD mandate could assist in conflict prevention, resolution and management. The mandate has already demonstrated that it can suggest strategic options to all the stakeholders.
31. **From 22 to 23 October 2009**, I took part in the European Development Days organized in Stockholm, Sweden by the European Commission and the European Union Presidency chaired by Sweden this semester. Through the Swedish Foundation for Human Rights, the European Development Days are basically meant to make development assistance more effective and to establish a global coalition against poverty and achieve the millennium development goals. For two days, experts from different backgrounds and nations shared thoughts on lots of themes centred particularly on good governance, climate change, energy and the economic recession. At this meeting, I brought into the panel discussion, all the strategies of our Commission in terms of the right to reproductive health. We also participated in a Conference on the instruments for the promotion and protection of the rights of Human Rights Defenders.
32. **From 27 October to 2 November 2009**, I visited the Federal Republic of Sudan on a joint promotion visit in my capacity as the Special Rapporteur on Human Rights Defenders in the company of my colleague responsible for the promotion of human rights in Sudan as well as

other colleagues in charge of the Mechanisms of Women's Rights in Africa and of Freedom of Expression and Information. During this mission, meetings with various governmental and non-governmental partners helped to shed light on progress made in terms of human rights. Better still, the meetings also brought to light the work of NGOs.

33. **From 8 to 10 November 2009**, during the NGO Forum, together with all the participants on the one hand, then representatives of human rights defenders networks on the other, we examined the state of human rights defenders on the continent. A lot of issues were examined, particularly the situation in Niger, Guinea-Conakry, the Gambia, Sudan, Ethiopia, to mention just a few. We also devoted some time to examine together with the rights defenders new strategies for improved protection of defenders on the continent. Beyond that, a workshop on the freedom of expression organized in conjunction with the International Service for Human Rights also helped to share ideas on this fundamental issue.

B) Inter-institutional cooperation

34. As indicated in previous reports, inter-institutional cooperation is a critical strategy for the effectiveness of our respective mandates.
35. **From 21 to 22 October 2009**, I took part in an inter-mechanism meeting on the protection of human rights defenders in Washington, United States of America. Organized by the World Organization Against Torture (OMCT), this meeting followed the one held in October 2008 in Brussels which sought to identify the best strategies to make the coordination of actions of the different mechanisms more effective in terms of promotion and protection of the rights of HRD at the global and regional levels. During this meeting which brought together regional and world institutions responsible for the promotion and protection of the rights of defenders, I was able not only to demonstrate our collaborative efforts with our counterparts but also share the challenges faced by our outfits in the area of follow-up of individual cases on rights violations by HRD.

C) Country visits and notes verbales

36. The mandate of the Special Rapporteur on human rights defenders has the conviction that the promotion of human rights must be the best step to create awareness on the

knowledge and respect for human rights. On this score, to date I have forwarded Notes Verbales to State Parties in order to undertake human rights promotion activities.

37. Since then we have sent notes verbales to the following countries :

- The Democratic People's Republic of Algeria
- The Republic of Côte d'Ivoire
- Congo Brazzaville,
- Liberia,
- Ethiopia.

38. Moreover, the following countries have already agreed in principle:

- The Republic of Congo responded to our Note Verbale and efforts are underway for us to undertake a visit to that country.
- Liberia has taken all measures to pave the way for a promotion visit into the country by the Special Rapporteur. This visit could not take place as a result of lack of coordination and we offer apologies of the Commission to the Government of Liberia and would like to assure the Government of our preparedness to ensure that the promotion visit takes place under the required conditions.

ACTIVITIES ON PROTECTION

39. The activities relating to protection are presented in two parts :

- ✓ Communications
- ✓ Press releases

40. For the past six months, the state of human rights defenders has worsened considerably. The disturbing issue pointed out by the Mechanism during the intersession is one of freedom of association and freedom of expression in the different States. Moreover, it is for this reason that the terms of reference are being drawn up for a study on the freedom of association in Africa. It is against this background that communications and communiqués were released, as the case may be, on violations that came to the knowledge of my mandate:

A) Communications

41. During the aforementioned period, communications were forwarded to Governments on different allegations of human rights violations for which 23 (twenty-three) communications were sent out to seven countries.

B) Press releases

42. During the intersession, nine press releases were issued, three (3) of them on assassinations of three rights defenders in Kenya, Libya and the Democratic Republic of Congo. The first denounced systematic worsening of the state of human rights. The second related to the freeing of a defender who was detained arbitrarily. We also released a joint communiqué with the United Nations Special Rapporteur on Human Rights Defenders. These communiqués concerned the state of human rights in the Gambia and on the state of human rights in Guinea.

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

43. We noted during the 45th session that the mandate is gradually being recognized by all stakeholders, Governments, civil society actors, the various human rights implementation institutions including other partners. We continue to think that in terms of protection activities which my mandate undertakes, the state of human rights deserves very keen attention on the part of the Commission and State actors..

44. Coming back to the issue of recognition of my office by the State Parties, it must be noted that in spite of efforts made since 2007, generally-speaking, the States do not respond to our communications, which impacts negatively on the monitoring of cases and consequently on the dialogue between my office and the States in order to find appropriate solutions to suspected or established human rights violations. As you may have noticed during the intersession, my office worked on very relevant themes which deserve critical attention.

HRD and elections.

45. In the coming days and months, our States would go through elections. Towards this end, our Commission is aware that the condition and the safety of HRD are some of the constant challenges during such events. My office therefore caused resolution n° *ACHPR/Res.104(XXXI)07* to be adopted during the 41st session and I think that we must put this resolution into effect.

HRD in conflict management.

46. Peace can be cultivated in several ways. About a year ago, our newsletter « *The Letter of the Rapporteur* » raised this issue by presenting some practical cases from Southern, Central and West Africa. In view of the resurgence of conflicts and permanent trouble spots on the continent, an in-depth study on the role of HRD in conflict management would be welcome. We are already getting down to study the backgrounds and parametres of such a study.

47. Another problem of concern was communication and exchange of information between my office and the networks or the NGOs in general. In order to surmount this tangible difficulty whose consequences are a stumbling block to the visibility and effectiveness of the action of my office, the web site on human rights defenders has just been created alongside the site of our Commission to enable all and sundry to have right of access to more information on our mechanism. This site (www.srhrda.org) of the mechanism is a space for dialogue and information through the Internet and we wish to announce that the line was open at the time this report was being written. In this respect, the mechanism will be able to meet the current communication and information needs of actors knowing very well that it has the obligation to watch and act. We seize this opportunity to express our appreciation to our partner Front Line which supported us from the design stage to the actualization of this new communication tool.

Challenges

48. The state of the rights of human rights defenders within the context of bad governance which creates conflicts between Government actors, persons at the helm of affairs and other non State actors must be of concern to our Commission. In this respect, it is imperative that preventive and curative measures are taken by the Commission.
49. Among these actions, we can perhaps cite sensitization actions for the ratification of the African Charter on democracy, elections and good governance and the systematic refusal for any change of constitutionalism. Among these actions, we should also include education, sensitization and information of all sections of the population.
50. The most disturbing issues which caught the attention of the mechanism during the intersession were those of the Gambia and Guinea-Conakry where the situation of human rights defenders remains unacceptable. The cases of Sudan and the DRC are quite disturbing and undoubtedly deserve more attention and action from our Commission.
51. The question of the legitimacy of human rights defense associations which was raised about certain countries during our last session is still a burning issue. A study must be conducted on this problem. The mechanism therefore wishes to initiate, with the support of the African Commission on Human and People's Rights, the adoption of a resolution on this disturbing concern during the ongoing session.

Recommendations

52. The Special Rapporteur notes that the recommendations that she made at the 45th session are still valid. She therefore recommends :

To the State Parties :

- ✓ That they continue, in case of those that are already doing it, to respond to our notes verbales and our communications, as this is part of their responsibility in keeping with the Charter itself, which is a product of their common will and also of their shared desire for constructive dialogue between the African Commission on Human and People's Rights with the State Parties.
- ✓ That States that are still not responding, to get more involved in the actions of the mechanism of the Special Rapporteur.

- ✓ That they open dialogue with the human rights defense organizations which are supposed to be for them privileged and unavoidable partners.

To actors of civil society itself:

- ✓ The Special Rapporteur would like more synergetic and accountable actions. That they strive to build their own institutional and organizational capacity.
- ✓ That they continue to develop all the best possible strategies for the promotion and defense of the rights of HRD on the continent.

I thank you