INTER-SESSION REPORT

May 2014 – April 2015

Presented by

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- Special Rapporteur on the Situation of Human Rights Defenders in Africa;
- Focal Point on reprisals against human rights Defenders in Africa;
- Member of the Committee on the Protection of the Rights of PLHIV and Those at Risk, Vulnerable to and Affected by HIV/AIDS

Member of the Working Group on the Rights of Older Persons and Persons with Disabilities in Africa

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INTRODUCTION

This report is presented pursuant to the provisions of Rule 72 of the Rules of Procedure and Resolutions ACHPR/69(XXXV) 04 of 4 June 2004 and ACHPR/ Res.248 (LIV) of 5 November 2013.

The first part of the report covers activities conducted in my capacity as Member of the Commission, Member of the Committee on the Protection of the Rights of PLHIV, Persons at Risk, Vulnerable to and those affected by HIV/AIDS and Member of the Working Group on the Rights of Older Persons and Persons with Disabilities in Africa.

The second part of the report essentially deals with activities undertaken in my capacity as the Special Rapporteur on the Situation of Human Rights Defenders in Africa, from the 54th Ordinary Session of the Commission held from 22 October to 5 November 2013 in Banjul, The Gambia.

An analysis of the situation of human rights defenders in Africa and a list of recommendations are presented by way of conclusion.

Part One

Activities conducted in my capacity as Member of the African Commission, Member of the Committee on the Protection of the Rights of PLHIV and those at Risk, Vulnerable to and Affected by HIV and Member of the Working Group on the Rights of Older Persons and Persons with Disabilities in Africa

I – As Member of the African Commission

1- Continental Conference on the Abolition of the Death Penalty in Africa: 2 to 4 July 2014 in Cotonou, Benin

During the period under review, in my capacity as member of the ACHPR, I participated in the Continental Conference on the Death Penalty in Africa, organized by the Working Group of the African Commission on the death penalty, extrajudicial, summary and arbitrary killings in Africa, in collaboration with the Government of Benin and the European Union.

Based on the Commission’s resolutions, particularly Resolution ACHPR/RES.136 (xxxxiv) 08 which urges Member States to observe a moratorium on the death penalty including the recommendations of successive meetings in Kigali, Rwanda (2009) and Cotonou, Benin (2010), which served as frameworks for dialogue by various stakeholders on the issue of the death penalty in Africa, this meeting was in keeping with the ultimate vision of the Commission to achieve abolition of the death penalty at the Continental level, by adopting a Protocol to the African Charter on the Abolition of the Death Penalty. The meeting ended with a Regional Conference Declaration on the Death Penalty in Africa (dubbed the Cotonou Declaration).

2- Round Table on Victims’ Rights before the ICC on 17 July 2014: Cotonou, Benin

During the 12th World International Justice Day, I was invited to a round table by the Beninese Coalition for the International Criminal Court at the Faculty of Law of the University of Abomey - Calavi.
I presented a paper on the policy document of the Office of the ICC Prosecutor on violence perpetrated against women, in view of the fact that under offences falling within the jurisdiction of the ICC, it is women who bear a heavy brunt of conflicts, the effects of which they do not know anything about.


At the invitation of Amnesty Benin, I took part in a consultation between stakeholders of civil society of Benin and Madam Aminata Kébé from the United Nations West Africa Office, on the challenges relating to the establishment of the National Human Rights Commission of Benin: It should be noted that since then, Benin has not complied with the Paris Principles and the law that had just been adopted in favour of the national human rights commission should have paved the way for the rehabilitation and empowerment of the former commission. At this meeting, I seized the opportunity to underscore the need for the new commission to be created to re-establish contacts with the ACHPR in order to obtain Observer Status.

4- Participation in the 16th Extraordinary Session of the ACHPR, 21-29 July 2014, Kigali/Rwanda

I participated in the 16th Extraordinary Session of the ACHPR held in Kigali, Rwanda during the above-mentioned period. At this 16th Extraordinary Session, I participated, among others, in the deliberations of the Working Group on Communications and in the consideration of Communications on individual cases of human rights abuses. I also participated in the adoption of several resolutions and the consideration of the 2012-2015 ACHPR strategic plan.

Members of the ACHPR also attended a briefing session on the importance of geospatial science for human rights investigations during the extraordinary session.


In the light of the growing and crucial concern to incorporate the human rights component into peacekeeping operations in Africa, it was deemed appropriate to strengthen cooperation, which had hitherto been occasional, among the United Nations bodies and the operational units of the African Union missions.

The Office of the Human Rights Commissioner and the African Union Commission invited me to this meeting to contribute to the process of defining and structuring this cooperation in my capacity as former Head of the Human Rights Component, MISMA, now referred to as MISAHEL.

At this meeting, I made a presentation on the experience of the human rights observer mission in Mali.
6- Consultative Meeting on the writing of draft general comments on Article 6 of the Maputo Protocol, 26-27 August 2014, Nairobi/Kenya.

In collaboration with the Special Rapporteur on Women’s Rights in Africa, I participated in the preparatory deliberations on the drafting of the general comments concerning Article 6 of the Maputo Protocol.

7- Seminar on the “Impact of the Malian Conflict on Women and Girls’ Rights: what partnership with the African Commission on Human and Peoples’ Rights (ACHPR)”: from 28 to 30 October 2014, Bamako, Mali

The Special Rapporteur on Women’s Rights in Africa, Honourable Soyata Maiga, organised a seminar on the impact of the Malian conflict on women and girls in the country and the role of the African Commission on Human and People’s Rights. At this meeting, I was invited in my capacity as head of the human rights monitoring mission in Mali and as Commissioner in charge of human rights in Mali.

During this meeting, I laid emphasis on the actions taken by the African Commission before and after the Malian crisis. In this regard, I indicated the different resolutions adopted by the ACHPR on the human rights situation in Mali, the various promotion missions undertaken in Mali and the fact-finding mission I undertook to the North of Mali in 2013 including the efforts made by the Human Rights Component, MISAHEL as part of the conflict in Mali.


The Special Rapporteur participated in the 17th Extraordinary Session of the African Commission on Human and Peoples’ Rights, held from 19 to 28 February 2015, in Banjul, during which more than forty Communications were considered and Nine important Resolutions adopted by the African Commission including one on management and governance at the ACHPR.

9- IPAS Meeting from 24 to 26 March 2015 in Nairobi, Kenya

At the invitation of IPSAS and in collaboration with the Special Rapporteur on the Rights of Women in Africa, I participated in a retreat on reproductive health.

This meeting provided the opportunity to discuss recent developments on access to safe abortion as a human right including the role the African Commission, the African Union and civil society stakeholders must play to ensure that Member States promote and protect the reproductive rights of women.

Participants were able to ascertain recent developments on access to safe and legal abortion in Africa and to identify best practices on the continent.
10- Meeting on child marriages with Pretoria Centre

This meeting was held from 8 to 9 April 2015 in Addis Ababa and was organized by the Human Rights Centre of the University of Pretoria in support of the mandate of the Special Rapporteur on the Rights of Women in Africa.

II- In my capacity as Member of the Working Group on the Rights of Older Persons and Persons with Disabilities in Africa

In this capacity, I participated in two important meetings.


This meeting was organized jointly by the International Organization of the Francophonie (OIF) and the High Commissioner for Human Rights (HCHR). It brought together international Experts to discuss the overall situation of persons with albinism in the world.

For my part, this meeting provided the opportunity to share with the other colleagues, actions taken by the African Commission on the issue of violence perpetrated against Albinos in Africa. I underscored Resolution 263 on the Prevention of Aggression and Discrimination against Albinos, adopted at the 54th Ordinary Session of the African Commission held from 22 October to 5 November 2013; including the violence which preceded this decision.

The meeting also provided the platform to underscore our aspirations to strengthen monitoring by the Working Group through close collaboration with civil society organisations and governments on the situation of Albinos; to finalize the Protocol to the African Charter on Human and Peoples’ Rights on Persons with Disabilities in Africa; to encourage the States to raise awareness among the population against stigmatisation of Albinos and to take concrete measures against the perpetration of violence against such persons; to interrogate the States about measures and policies they have put in place to protect Albinos during the consideration of their country reports; to lay emphasis on the enjoyment of economic and social rights, particularly quality care for Albinos; and finally to mobilise resources for the effective implementation of the Working Group’s mandate.

12- Meeting of the Committee on the Rights of Persons with Disabilities/other international and regional mechanisms in the area of the rights of persons with disabilities, held on 26 September 2014 in Geneva, Switzerland

At its 11th Session held in April 2014, the Committee on the Rights of Persons with Disabilities (CRPD) decided to hold a meeting with all regional human rights mechanisms working in the area of persons with disabilities in order to foster cooperation and facilitate exchange of information between the Committee and the regional mechanisms.

Each regional mechanism presented its activities and future plans. I underscored the progress made in the Draft Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Persons with Disabilities in Africa. The Draft has reached a stage where inputs are being sought from the general public to enrich it. The objective is to have an instrument with the basic characteristics of a Convention on the Rights of Persons with Disabilities but more adapted to the African continental context. It must be noted that the document is at a draft stage but well advanced.
Part Two

Report of the Special Rapporteur on the Situation of Human Rights Defenders in Africa

The report provides an overview of the human rights promotion (1) and protection (2) activities undertaken by the Special Rapporteur during the period under review. These activities were conducted pursuant to Article 45 of the Charter and in accordance with Resolution ACHPR/Res. 248 of 5 November 2014.

I- Promotion Activities

With regard to promotion activities, the Special Rapporteur participated in meetings, seminars and workshops:

13- Panel discussion on the human rights situation in Mali at the Hotel EL FAROUKH on 17 June 2014: Bamako /Mali

At the invitation of the human rights component of MINUSMA, I chaired a panel discussion with the civil society of Mali on events marked by serious human rights abuses which occurred between 17 and 23 May 2014 in Kidal, North of Mali.

It must be recalled that following the Prime Minister’s visit to this region of the country, there were misunderstandings leading to a battle between the army and armed groups in the north during which public servants and civilians were savagely killed: there were also enforced disappearances, illegal detentions, acts of torture and other human rights abuses.

The purpose of this activity revolved around two issues: to find ways and means of brainstorming to contribute to peacekeeping in Mali/ and to have a full understanding of the events but with a great deal of serenity focusing on factual issues.

On this occasion, I once again made a presentation on the African Commission and assured them about the latter's expertise when the need arises.

14- Press Conference on the human rights situation in Mali : 24 June 2014 ; Bamako

I participated in a press conference on the theme “Peace-Reconciliation: current situation and prospects”

- Messrs Florian GEEL ; Director Africa of FIDH;
- Lawyer Moctar Mariko, President of AMDH;
- Lawyer Patrick BAUDOuin; Honorary President of FIDH;
- Lawyer Brahima Koné, Honorary President of AMDH;

These personalities constituted the panel at this press conference during which I recalled the interest of the Commission to collaborate with stakeholders of civil society in order to give effect to the relevant provisions of the African Charter entrusted to her mechanism for the promotion and protection of human rights on the continent.

15- Training on human rights promotion and protection systems, 26 June 2014, Bamako, Mali
At the request of the human rights component of MINUSMA, I co-chaired a training session on the United Nations and African human rights promotion and protection systems for young Malian law students in the Association of Young Lawyers of Bamako.

My role as facilitator enabled the young students to familiarize themselves with the African human rights system, I presented the normative and institutional framework of human rights in Africa and the various new mechanisms established to enhance and strengthen the African system of promoting and protecting human rights.

During this training session, a great deal of attention was given to the African Commission on Human and Peoples’ Rights as the leading continental body for the promotion and protection of human rights on the continent.

16- Donors’ conference on the rights of LGBT: 09-10 November 2014, Washington, United States

At the invitation of the USAID (American Government), I participated in a Global Donors’ Conference in Washington on the Rights of LGBT Persons.

This initiative brought together leading countries on issues pertaining to LGBT. At this conference, I shared the position of the Commission following Resolution 275 on human rights abuses based on the sexual orientation or gender identity, either real or supposed, of people in Africa, adopted at the Ordinary Session held from 28th April 2014 to 12th May 2014 in Luanda, Angola. I also exchanged ideas with an audience curious to know about the concerns of the Commission with regard to violence and discriminatory laws against the LGBT people in Africa. It is up to us to inform the partners about the actions taken by the ACHPR to ensure the protection of people in Africa, irrespective of their sexuality or gender identity, real or supposed. I also had the opportunity to learn about the way other governmental, regional and international institutions deal with this issue.

The meeting was crowned with the issue of joint communiqué calling for stronger measures that are more consistent with the realities on the ground in each of the regions to promote the rights and dignities of all.

17- Fifth “Inter-Mechanism” Cooperation Process: 12 - 13 November 2014, Paris/ France

Following the previous meetings in Washington (2009), Warsaw (2010), and Geneva (2012), the United Nations Special Rapporteur on the Situation of Human Rights Defenders convened the technical teams of the mechanisms on the protection of human rights defenders in preparation for a meeting of mandate holders scheduled for the first quarter of 2015.

This meeting was a high profile opportunity for the discussion of best practices and strategies for combating arbitrary detention, reprisals against human rights defenders and impunity of the perpetrators.

The Paris meeting also addressed the legal phenomenon of limiting external financing of civil society organisations, which impedes the ability of human rights defenders to carry out their activities. At the end of this meeting, it was decided that an inter-mechanism meeting of Heads of Mechanisms will be held in the first quarter of 2015 in Paris.

In accordance with Resolution of the ACHPR/Res.151 (XLVI) 09 on the need to carry out a study on freedom of association in Africa and Resolution 230 on the need for a study on the situation of women human rights defenders in Africa, the Special Rapporteur organised a meeting for the finalisation of the two reports of the Study Groups established for that purpose.

During the four-day meeting, the participants comprising members of the two Study Groups, staff of the Secretariat and other local resource persons in Cotonou were able to review the two reports and make the necessary amendments. With regard to the report on the freedom of association and assembly, its publishing and printing have been assigned to the Network of Human Rights Defenders of East Africa. The Rapporteur announced that the launch of the report on Women Human Rights Defenders will be done at the 56th Ordinary Session. For the African Commission, these two reports are designed to define strategic actions for the promotion and protection of the freedoms of association and assembly as well as the rights of women human rights defenders in Africa.

19- Workshop for the training of women human rights defenders on investigative techniques, documentation and report writing on gender-based human rights violations: 14 - 17 October 2014, Lomé /Togo

The purpose of this workshop was to assist in deepening the knowledge of women rights advocates on investigative techniques, documentation and report writing. It was organized by the West African network of human rights defenders.

During this activity, the participants were able to familiarize themselves with the African system of promoting and protecting human rights and the Special Mechanism on the situation of human rights defenders in Africa.

20- Advocacy visit, Abidjan/ Côte d'Ivoire: 19 - 23 December 2014,

This mission provided the opportunity for the Special Rapporteur to assess, in collaboration with the Ivorian authorities and civil society stakeholders, the implementation of Law No.... on the Promotion and Protection of Human Rights Defenders in Côte d'Ivoire and to find out about the situation of human rights defenders, in particular about the situation of women human rights defenders.

This Law is the first of its kind in Africa, even though it could be improved and there is an urgent need to adopt an implementing decree for this law, other African States could draw inspiration from it.

At the end of this visit, the Special Rapporteur noted a genuine willingness on the part of all stakeholders to move towards actual enforcement of Law......

The Special Rapporteur visited the Federal Republic of Somalia and interacted with human rights defenders and the local authorities in Somalia.

At a workshop, the Special Rapporteur met 80 human rights defenders working in different aspects of human rights in Somalia. She also met His Excellency, the President of the Republic, Mr. Hassan Sheikh Mahamoud and other members of the Government, in particular, the Minister of Human Rights and Women’s Affairs, Hon. Khadijaa Dirie, the Minister of Justice, Hon. Dr. Ahmed Dahir and the Minister of Information, Hon. Mustaf Dhuhulow. The Special Rapporteur was able to inquire about the prospect of human rights in general, particularly about a better working environment for human rights defenders in the country.

The Special Rapporteur also visited various institutions supporting the stabilisation process in Somalia, among which are representatives of AMISOM (the African Union Mission in Somalia), the Human Rights Unit of UNSOM (the United Nations Mission in Somalia) as well as the headquarters of the European Working Group on Human Rights in Somalia.

This visit is therefore the beginning of a long collaboration between the Commission and all stakeholders in Somalia. Commitments were made on all sides for the establishment of appropriate and strong mechanisms in the area of human rights in Somalia.

It is also proper that our Commission lends a helping hand to this Country which is beset with a difficult and long conflict.

22- Regional Consultation on human rights and sexuality in West and Central Africa : 28 February - 1 March 2015, Lomé / Togo

The Special Rapporteur was represented at a meeting on human rights and sexuality, organized by the Global Initiative for Sexuality and Human Rights (GISHR), the African Men for Sexual Health and Rights (AMSHeR) and Afrique Arc en Ciel of Togo. This meeting reported on the status of the rights of Lesbians, Gays, Bisexual and Transgender People in countries in West and Central Africa. The meeting brought together sexual minority rights defenders from Togo, Burundi, Burkina Faso, Cameroon, the DRC, Kenya, South Africa, Mali, Rwanda, Senegal and Côte d’Ivoire.

One of the objectives of this meeting was for the participants to familiarize themselves with the working tools of the ACHPR, in particular with Resolution 275 on discrimination based on sexual orientation: On this occasion, information was provided on the different positions of the ACHPR on sexual orientation.

23- Participation in the 76th session of the United Nations Committee on the Rights of Women (CSW) from 8-10 March 2015 : New York

At the invitation of Norway, the Special Rapporteur on HRDs participated in the 76th Ordinary Session of the United Nations Committee on the Rights of Women. During this event which coincided with the 20th anniversary of the Beijing Conference on Women, I sat on a high profile panel discussion on the rights of women. The panel members comprising United Nations Representatives and a large number of
participants highly appreciated the African Commission’s study report on the situation of women human rights defenders in Africa. They expressed the desire to cooperate closely with a view to diligently implementing the recommendations emerging from this Report, which, in any case, has just been launched during this session.

It must be recalled that the theme of the 20th Anniversary of the Beijing Conference is the empowerment of women “Imagine”

II- Protection Activity

During the period under review, the Special Rapporteur received reports of several human rights violations perpetrated against human rights defenders in many countries on the continent. She responded to many of these issues by means of Communications and press releases.

1- Urgent Communications

During the period under review, the Special Rapporteur sent four (4) urgent Communications to three Member States: the Democratic Republic of Congo (3), Mauritania (1).

2- Press releases

11 Press releases were published on the situation of a number of human rights defenders in Africa:

- Press release on the situation of human rights defenders in the Kidal region of the Republic of Mali [Press release on 23 May 2014]
- Press release on the arrest and detention of human rights defenders in Egypt [Press release issued on 27 June 2014]
- Press release by the Special Rapporteur on Human Rights Defenders in Africa on the sentencing of 25 Egyptian activists on 11 June 2014 by a Cairo Court, in Egypt [Press release on 30 June 2014]
- Press release on the implications of the proposed Law regulating external assistance to civil society organisations in relation to the work of human rights defenders in the Federal Republic of Nigeria [Press release on 01 July 2014]
- Press release on the closure of the Salmah Women’s Center Organisation in Khartoum, Sudan [Press release on 04 July 2014]
- Press release on the continuing detention of a human rights advocate, Mr. Pierre Claver Mbonimpa [Press release on 14 July 2014]
- Press release on the Abduction of Human Rights Defenders, Médiatrice Riziki and Angélique Navura in the Democratic Republic of Congo [Press release on 13 August 2014]
- Press release on the upcoming verdict of the trial of Ms. Sanaa Seif, Ms. Yara Sallam, together with 21 other individuals [Press release on 24 October 2014]
- Joint Press release [ACHPR-OHCHR] on the Verdict against Sanaa Seif, Yara Sallam and 21 other co-defendants in Egypt [Press release on 04 November 2014]
- Joint Press Release [ACHPR-OHCHR] on the decision of the Supreme Court of Botswana in favour of the registration of the organisation LGBT-LEGABIBO. [Press release in November 2014]

III- Activities as focal point on reprisals against human rights defenders in Africa

1- Consultations on the implementation of the mandate of focal point on reprisals

Resolution 273 on reprisals against human rights defenders in Africa was adopted at the 55th Ordinary Session of the ACHPR. This resolution extended the mandate of the Special Rapporteur on human rights defenders to include a focal point on cases of reprisals against civil society and other parties working with the ACHPR. This resolution was motivated by the “deep concern” of the Commission regarding the frequency and severity of reprisals against civil society actors, particularly human rights defenders (HRD), as well as the “total impunity” enjoyed by the perpetrators. Consequently, the Special Rapporteur on human rights defenders was mandated to act as “focal point” on reprisals.

To give effect to this resolution, the Special Rapporteur, in collaboration with the International Service for Human Rights, met with several representatives of NGOs from all regions in Africa to discuss the terms and conditions as well as strategies for an effective implementation of the resolution; this culminated in the adoption of a road map, which will shortly be implemented.

Furthermore, it was decided that the Special Rapporteur will prepare a detailed report on cases of reprisals at each session pursuant to the aforementioned resolution.

IV- Analysis of the situation of human rights defenders in Africa

In the light of the report that has just been presented, the Special Rapporteur concludes that the situation of defenders is alarming.

In general, there are allegations of pressure, travel bans, arbitrary arrests, illegal detentions, judicial harassments, deprivation of rights of association and assembly, enforced disappearances and other acts. These allegations are regularly reported to the Mechanism and analysis reveals that certain State actors through their behaviour, often place States parties in difficulty. Cases of reprisals reported to the Special Rapporteur reveal that there is a genuine need to pursue dialogue with all stakeholders and put in place mechanisms that are both persuasive and deterrent regarding human rights violations.

The Special Rapporteur also observes with great concern, the tendency throughout the continent to restrict freedom of association and of assembly as well as other freedoms before, during and after electoral periods. In many countries, policies for regulating the financing of civil society organizations are stumbling blocks for human rights defenders, who are essential partners of States.

Furthermore, the Special Rapporteur is faced with even greater challenges given that her responsibilities have increased as other duties have been assigned to her. And this, of course, in the light of new developments relating to the promotion and protection of human rights defenders, including women.

Human rights-related issues and discrimination based on sexual orientation also remain despite the adoption of Resolution 275. This warranted activities undertaken to launch the reports of studies on the situation of women human rights defenders and on freedom of association. The Special Rapporteur
therefore calls on for the participation and support of all political actors, non-State actors and technical partners for the effective implementation of her mandate.

The Special Rapporteur continues to implement her communication strategy through the publication of “The Rapporteur’s Newsletter”. The 10th edition of the newsletter was published during this Session under the theme: “Reprisals Against Women Human Rights Defenders in Africa”.

V- Recommendations

In view of the above, the Special Rapporteur makes the following recommendations:

i. The African Commission on Human and Peoples’ Rights:
   - Continue to strengthen and support the work of the mechanism of the Special Rapporteur on Human Rights Defenders in Africa;
   - Improve the website to facilitate the public’s access to press releases and other documents;
   - Contribute to the finalisation and adoption of the Guidelines on the Protection of Human Rights Defenders in Africa;
   - Provide the mechanism with the necessary material support for the activities of the Focal Point on Reprisals;

ii. The African Union:
   - Take into account, during sessions of the Assembly of Heads of State and Government, the issue of impunity and reprisals against human rights defenders in Africa and take the necessary measures;
   - Adopt measures to promote and protect the rights of human rights defenders in Africa.

iii. States Parties:
   - Refrain from taking measures that may infringe on the principles of freedom of association, of assembly and of expression.
   - Support the African Commission, in particular the mechanism, in effectively handling reported cases of violation by responding to letters of urgent appeal.
iv- **Civil society organisations:**

- Strengthen cooperation with the African Commission, in particular the mechanism of the Special Rapporteur on Human Rights Defenders in Africa;

- Promote dialogue and advocacy towards improving the situation of human rights defenders.

v- **Other partners:**

- Increase support to the work of the Special Rapporteur on Human Rights Defenders, in particular within the framework of the implementation of the various recommendations made in the report on the situation of women human rights defenders and the report on freedom of association.