INTER-SESSION ACTIVITY REPORT

HONOURABLE COMMISSIONER MED S.K. KAGGWA

ACTIVITY REPORT AS

A MEMBER OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES’ RIGHTS;

THE SPECIAL RAPPORTEUR ON PRISONS AND CONDITIONS OF DETENTION IN AFRICA;

CHAIRPERSON OF THE ADVISORY COMMITTEE ON BUDGETARY AND STAFF MATTERS;

A MEMBER OF THE WORKING GROUP ON THE DEATH PENALTY AND EXTRA-JUDICIAL,

SUMMARY OR ARBITRARY KILLINGS IN AFRICA; AND

A MEMBER OF THE WORKING GROUP ON SPECIFIC ISSUES RELATED TO THE WORK OF

THE COMMISSION

PRESENTED AT THE

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Contents

I: Introduction..................................................................................................................................................3

II: Inter-Sessional Activities..............................................................................................................................4

Part 1: Activities as a Member of the Commission..........................................................................................4-5
Part 2: Activities as the Special Rapporteur on Prisons and Conditions of Detention in Africa...............6-9
Part 3: Activities as the Chairperson of the Committee on Budgetary and Staff Matters..........................9
Part 4: Activities as a Member of the Working Group on Death Penalty and Extra-Judicial Summary and
Arbitrary Killings in Africa..................................................................................................................................9
Part 5: Activities as a Member of the Working Group on Specific Issues related to the Work of the
Commission.......................................................................................................................................................10

III: Challenges faced with Prisons and Conditions of Detention in Africa......................................................Error! Bookmark not defined.-11

IV: Recommendations and Conclusion........................................................................................................11-13
I: INTRODUCTION

1) This Report is submitted pursuant to Rules 23 (3) and 72 of the Rules of Procedure of the African Commission on Human and Peoples' Rights (the Commission), and covers activities which were undertaken during the inter-sessional period between May 2014 and April 2015.

2) This report covers activities I participated in or undertook in my capacity as a Member of the African Commission on Human and Peoples’ Rights (the Commission), the Special Rapporteur on Prisons and Conditions of Detention in Africa (the Special Rapporteur); Chairperson of the Advisory Committee on Budgetary and Staff Matters; a Member of the Working Group on the Death Penalty and Extra-Judicial, Summary or Arbitrary Killings in Africa, and a Member of the Working Group on Specific Issues Related to the Work of the African Commission.

3) The Report is divided into four sections; the introduction, my inter-sessional activities, challenges faced with Prisons and Conditions of Detention in Africa and recommendations and conclusion.
II: INTER-SESSIONAL ACTIVITIES

PART 1: Activities undertaken as a Member of the Commission

4) From 20 to 24 June 2014, I participated in the 23rd African Union Summit which was held in Malabo, Equatorial Guinea, together with the Chairperson and Vice Chairperson of the Commission, the Special Rapporteur on the Rights of Women in Africa, and the Secretary to the Commission. The delegation attended the core Policy Organ meetings of the 28th Ordinary Session of the Permanent Representatives Committee, the 25th Ordinary Session of the Executive Council, and the 23rd Ordinary Session of the Assembly of Heads of State and Government.

5) From 15 to 17 July 2014, I participated at the Meeting of the Working Group on Communications held in Kigali, Rwanda, during the margins of the 16th Extra-Ordinary Session, to consider Seizure and Admissibility Communications as well as other urgent issues on Communications before the Commission.

6) From 18 to 19 July 2014, I participated in the Third Joint Meeting of the Commission and the African Court on Human and Peoples’ Rights, held in Kigali, Rwanda. The meeting was organised towards promoting and facilitating the complementarity relationship between the two institutions.

7) From 20 to 29 July 2014, I participated in the 16th Extra-Ordinary Session of the Commission which took place in Kigali, Rwanda, organised to consider outstanding and urgent issues such as Communications and urgent human rights issues of concern on the continent.
8) On 18 November 2014, I attended a workshop on the African Regional Human Rights Protection System, in Kampala, Uganda. The Workshop was organised by the Office of the United Nations High Commissioner for Human Rights. During the Workshop; I presented a paper on "Emerging Human Rights Areas and Issues from the ACPHR and Uganda’s engagement with the AU system".

9) From 19 to 31 January 2015, I participated in the 24th African Union Summit which was held in Addis Ababa, Ethiopia, together with the Chairperson and Vice Chairperson of the Commission, the Special Rapporteur on the Rights of Women in Africa, and the Secretary to the Commission. The delegation attended the core Policy Organ meetings of the 29th Ordinary Session of the Permanent Representatives Committee, the 26th Ordinary Session of the Executive Council, and the 24th Ordinary Session of the Assembly of Heads of State and Government.

10) From 19 to 28 February 2015, I participated in the 17th Extra-Ordinary Session of the African Commission on Human and People’s Rights organised to consider outstanding and urgent issues such as Communications and urgent human rights issues of concern on the continent.

11) From 25 to 26 March 2015, I participated in a retreat organised by Alliance for Africa (IPAS) in Nairobi Kenya. The retreat specifically focused on women’s rights following the declaration of 2015 as the Year of Women Empowerment and 2016 as the Year of Human Rights with a focus on women’s rights.
PART 2: Activities undertaken as the Special Rapporteur on Prisons and Conditions of Detention in Africa

Meetings

12) From 19 to 21 August 2014, I participated in a meeting held to discuss implementation of the Guidelines on the Conditions of Arrest, Police Custody and Pre-trial Detention in Africa. The meeting took place in Dar es Salam, Tanzania. I made a Key Note speech during the Opening Session.

13) From 22 to 24 September 2014, as the Special Rapporteur on Prisons and Conditions of Detention in Africa, I participated in a meeting on the Implementation of the Guidelines on the Conditions of Arrest, Police Custody and Pre-trial Detention in Africa, held in Lilongwe, Malawi. The Meeting was organised by the Centre for Human Rights Education, Advice and Assistance (Chreaa) with the support from the United Nations Development Programme (UNDP). I made a statement during the Opening Session.

14) In October 2015, in collaboration with our partners, African Policing and Civilian Oversight Forum (APCOF) and the Danish Institute for Human Rights (DIHR), we produced the 5th Newsletter on Police and Human Rights in Africa. The newsletter features news, events and articles relating to policing and human rights.

15) From 10 to 11 November 2014, I attended the High Level and Expert Group Meeting on Improving Provision of HIV Services in Prisons in Sub-Saharan Africa, held in Johannesburg, South Africa. The meeting was organised by the United Nations Office for Drugs and Crime. During the meeting, I delivered a Paper on ‘HIV and Human Rights in Prisons in Africa’.
16) From 20 to 22 November 2014, I participated in the Strategic Planning Meeting on the Implementation of the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, in Accra, Ghana. The meeting was co-hosted by APCOF and the Commission for Human Rights and Administrative Justice (‘CHRAJ’), with support from the UNDP Regional Service Centre for Africa. The meeting brought together stakeholders from State Institutions, Non-Government Organisations, and the donor community to discuss police arrest, custody and pre-trial detention.

17) From 24 to 25 November 2014, I participated in the Strategic Planning Meeting on the Implementation of the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, in Abidjan, Cote d’ Ivoire. The meeting was co-hosted by APCOF and Ivorien Human Rights Observatory (OIDH), with support from the UNDP Regional Service Centre for Africa. The meeting brought together stakeholders from State Institutions, Non-Government Organisations, and the donor community to discuss police arrest, custody and pre-trial detention.

18) From 3 to 5 December 2014, I participated in a Symposium for key stakeholders in the administration of Justice from the SADC region. The Symposium was organised by the South African Development Community Lawyers Association and the Zimbabwe Lawyers for Human Rights. The Symposium mainly focused on the administration of justice in the SADC region, with a specific focus on good practices and lessons learned in the administration of justice in Zimbabwe. During the Symposium, I made a presentation on the ‘Role of Prison Service in the Administration of Justice’;

19) From 8 to 10 December 2014, I participated in the Launch of the Namibian Plan of Action on Human Rights in Windhoek, Namibia, at the invitation of the Ombudsman of Namibia.

20) From 14 to 17 April 2015, I attended the 13th UN Congress on Crime Prevention and Criminal Justice in Doha, Qatar. At a side event on ‘Implementing International and Regional Standards’, co-hosted with Open Society Foundation, APCOF, Fair Trials, The University of

21) On 23 April 2015, I organised in partnership with the DIHR and APCOF, a side event on the ‘Role of Police Officers in the Promotion of Human rights Compliant Policing’. The event aimed at discussing the challenges faced by the police in the implementation of human rights standards while executing their function, as well as discussing the alternatives to address those issues.

22) On 24 April 2015, on the margins of the 56th Ordinary Session of the Commission, in Banjul, The Gambia, I held a meeting with our partners, APCOF and DIHR, on the possibility for a greater collaboration and discussed the process for the dissemination of the Guidelines on the Conditions of Arrest, Police Custody and Pre Trail Detention in Africa.

23) On 25 April 2015, during the 56th Ordinary Session of the Commission, I organised together with my colleagues, to whom I express my gratitude, the Launch of the Guidelines on the Conditions of Arrest, Police Custody and Pre-trial Detention in Africa, adopted by the Commission during its 55th Ordinary Session held in Luanda, Angola, from 28 April to 12 May 2014.

Letters of Appeal

24) I forwarded the following two (2) Letters of Appeal to the Republic of The Gambia in my capacity as the Special Rapporteur on Prisons and Conditions of Detention in Africa and to the Republic of South Africa, in my capacity as the Commissioner Rapporteur on the Human Rights Situation in the Republic of South Africa:
i. On 27 January 2015, I sent a letter of appeal to His Excellency, Sheikh Professor Alhaji Dr. Yahya A.J.J. Jammeh, President of the Republic of The Gambia, jointly with the Chairperson of the Committee on the Prevention of Torture in Africa, regarding the human rights situation in the country following the attempted unconstitutional change of government on 30 December 2014. In a letter dated 2 February 2015, the Government of the Republic of The Gambia acknowledged receipt of the letter of appeal, and by letter dated 25 February 2015, the Government forwarded its official response to the letter of appeal strongly denying the basis for the allegations, and stating that it would not compromise on holding those responsible for the attacks accountable.

ii. On 16 April 2015, I sent a letter of appeal to His Excellency, Mr. Jacob Zuma, President of the Republic of South Africa, regarding the human rights situation in the country following the recent Xenophobic attacks that took place in South Africa. The Government of the Republic of The South Africa is yet to respond to the letter of appeal.

Notes Verbale

25) In March 2015, as the Commissioner responsible for promotional activities in the Republics of South Africa and Zambia, I sent Notes Verbale requesting for authorization to undertake a promotion mission to these countries. I have not yet received any responses from both Governments.

PART 3: Activities undertaken as Chairperson of the Committee on Budgetary and Staff Matters

26) On 19 January 2015, as Chairperson of the Committee on Budgetary and Staff Matters, I participated in the meeting to finalize the 2016 Budget of the Commission during the preparatory meetings of the African Union Summit in Addis Ababa, Ethiopia.
PART 4: Activities undertaken as a Member of the Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary Killings in Africa

27) From 2 to 4 July 2014, I participated in the Continental Conference on the Abolition of the Death Penalty in Africa held in Cotonou, Benin, organised by the Commission in collaboration with the Government of the Republic of Benin. The aim of the Conference was to raise awareness of AU Member States and other stakeholders on the issue of the death penalty; the need to adopt an African Protocol on the Abolition of the Death Penalty and to encourage Member States to vote in favour of the proposed United Nations General Assembly Resolution on a moratorium on the death penalty, as well as, enhance its implementation in African countries.

PART 5: Activities undertaken as a Member of the Working Group on Specific Issues Relating to the Work of the African Commission

28) From 4 to 6 September 2014, I participated in the Meeting of the Working Group on Specific Issues related to the Work of the Commission, held in Banjul, The Gambia. The Meeting was organised to review and finalize the draft Strategic Plan of the Commission for the period 2015-2019.

III: CHALLENGES FACED WITH PRISONS AND CONDITIONS OF DETENTION IN AFRICA
29) As the Special Rapporteur on Prisons and Conditions of Detention in Africa, I am mandated to examine the situation of persons deprived of their liberty within the territories of State Parties to the African Charter on Human and Peoples’ Rights. In receiving information on prisons and conditions of detention in Africa and on individuals who have been deprived of their liberty, I would like to reiterate that a lot of challenges remain in Prisons and places of detention in Africa.

30) In general, many Prisons in Africa fall short of the international human rights standards. The lack of funding and other resources have resulted in major shortcomings and good prison governance. These shortcomings have resulted in overcrowding and poor conditions of detention, poor sanitary conditions, poor nutritional meals, lack of sufficient medical facilities, lack of rehabilitation facilities, a large proportion of the prison populations comprise of awaiting trial inmates, accused and convicted individuals are also often detained in the same cells, and sometimes minors share cells with adults.

31) Moreover, the right to liberty is usually threatened by Human rights violations at various stages of the justice process, including the lack of respect for due process guarantees during arrest, detention and in the conduct of court cases, the lack of independent civilian oversight Police Institutions in many States Parties, Police brutality and continued arbitrary arrest and detention during peaceful demonstrations.

IV: RECOMMENDATIONS AND CONCLUSION

To State Parties

32) I urge State Parties to:

i. Dedicate additional resources to Prisons and places of detention to meet the International human rights standard requirements for Prisons;
ii. Develop training programmes and provide human right training to prison and police officers;

iii. Establish or designate Independent National Bodies mandated to undertake regular visits to Prisons and accommodate requests for prison visits from civil society organizations and other stakeholders;

iv. Conduct an independent and timely investigation into any death in custody, with full accountability for individuals responsible;

v. Establish independent civilian police oversight institutions and support effective and accessible complaint mechanisms to investigate and take action on allegations of torture, cruel, inhuman or degrading treatment or punishment;

vi. Grant authorization for promotion missions to be conducted by the Special Rapporteur in the respective countries;

vii. Include information and statistical data on Prisons and places of detention in State Reports submitted under Article 62 of the African Charter;

viii. Implement the recommendations and decisions of the Commission in particular in Concluding Observations and recommendations on Communications;

ix. Grant request of the Commission on the requests for Provisional Measures, Urgent Appeals and Resolutions;

x. Refer to the following instruments adopted by the Commission in taking measures to ensure the respect for the dignity of persons deprived of their liberty:

   a) The Guidelines on the Conditions of Arrest, Police Custody and pretrial detention in Africa;

   b) The Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines);

   c) The Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa;

   d) The Ouagadougou Declaration and Plan of Action on Accelerating Prisons and Penal Reforms in Africa,

   e) The Resolution ACHPR/RES.259 (LIV) 2013 on Policing and Human Rights;
f) The Resolution ACHPR/Res.103a (XXXX) 06 on Police Reform, Accountability and Civilian Police Oversight in Africa.

To Civil Society Organizations and National Human Rights Institutions

31) I urge Civil Society Organizations and the National Human Rights Institutions to:

i. Continue to monitor conditions of Prisons and places of detention;

ii. Conduct regular visits to prisons and places of detention to ensure the respect of the rights of prisoners.

iii. Submit shadow reports on the information they have with respect of Prisons and Conditions of Detention in States Parties to the African Charter on Human and Peoples’ Rights.

32) Last but certainly not the least, I extend my profound gratitude to all our partners, in particular, APCOF, DIHR, Open Society Foundation’s Justice Initiative and UNDP Regional Office in Addis Ababa for their continued assistance and support to the mechanism and trust that our partnership will continue to bring positive changes in promoting and protecting human rights on the continent.