INTER-SESSION REPORT

by

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INTRODUCTION

This report is presented in accordance with Rule 72 of the Rules of Procedure of the African Commission on Human and Peoples’ Rights (the Commission) in respect of promotion and protection activities undertaken during the period of inter-session with effect from the 56th Ordinary Session of the Commission held from 21 April to 7 May 2015 in Banjul, The Gambia.

The report comprises promotion activities undertaken in my capacity as Member of the Commission, as Member of the Working Group on Economic, Social and Cultural Rights; as Member of the Working Group on the Death Penalty, including activities undertaken in respect of my mandate as Special Rapporteur on Refugees, Asylum Seekers, Internally-Displaced Persons and Migrants in Africa. This mechanism was assigned to me by Resolution ACHPR/Res.203 (L) 11 of the African Commission on renewal of the mandate pursuant to Resolution ACHPR/Res.246 (LIV) 2013 of 5 November 2013.
PART I

ACTIVITIES UNDERTAKEN IN MY CAPACITY AS COMMISSIONER, MEMBER OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES’ RIGHTS

1. During the inter-session, I undertook a number of promotion and protection activities by participating in seminars, meetings, promotion missions and workshops.

2. I started these inter-session activities by taking part in a promotion mission to the Republic of Djibouti and in several meetings bordering on the theme of the death penalty as part of the Addis Ababa Roadmap. Thereafter, I continued with activities related to the fourth meeting between the Commission and the African Court on Human and Peoples’ Rights and a host of meetings of joint committees between the two institutions, particularly the meeting on joint publications. I also participated in the sub-regional meeting on the preparation and consolidation of the joint African position at the Global Humanitarian Summit. I then took part in the 18th Extraordinary Session. I also undertook a second promotion mission to the Republic of Senegal.

Meeting of the Working Group on the Death Penalty from 4 to 5 June in Kigali, Rwanda.

3. As part of the Addis Ababa Roadmap, I took part in the meeting of the Working Group on the Death Penalty, in Kigali, Rwanda. The objective of this meeting was to prepare a general comment on Article 3 of the African Charter on the Right to Life. I also discussed the action and strategic plan on the abolition of the death penalty. The meeting was attended by Prof. Heyns, the United Nations Independent Expert on Extrajudicial, Summary or Arbitrary Executions and other members of the Working Group.

Regional Consultation on the Draft Declaration on the Right of Peoples and Individuals to International Solidarity (22 to 23 July 2015) Addis Ababa, Ethiopia
4. I participated in this meeting at the invitation of the United Nations Independent Expert on international solidarity, Madam Dadan, in order to make a presentation on international solidarity as perceived by the African Commission on Human and Peoples’ Rights, and established under the African Charter, and also from the perspective of the jurisprudence of the different mechanisms. The consultation brought together representatives of States, of the African Union and the Office of the High Commissioner for Human Rights.

- **4th statutory meeting between the African Court on Human and Peoples’ Rights and the African Commission on Human and Peoples’ Rights (27-28 July 2015)**

5. Within the context of the collaboration between the two organs in the area of human rights, the African Court and the Commission continued with exchanges on issues concerning the complementary relationship between the two institutions as well as the progress achieved in their collaboration in order to ensure effective protection of human rights on the Continent.

- **Meeting on joint publications between the Court and the Commission (25 July 2015).**

6. I participated in the meeting of the Committee on Joint Publications in my capacity as member. During this meeting, the issue of the title of the publication came up for discussion, including other issues such as the determination of the list of members of the Scientific Committee, financing and budget, the themes and the authors likely to contribute to the first edition of the publication.

- **18th Extraordinary Session (29 July to 7 August 2015)**

7. The 18th Extraordinary Session was focused on the consideration of the various communications submitted for the attention of the Commission; but also issues of rights requiring the opinion of the Commission.

**Meeting of the Working Group on the Death Penalty – 3 to 4 September 2015 (Geneva, Switzerland)**
Still within the context of the Addis Ababa Roadmap between the Commission and the United Nations Special Procedures, I took part in the second meeting of the Working Group on the Death Penalty in Geneva at the invitation of the United Nations Independent Expert on Extrajudicial, Summary or Arbitrary Executions, Professor Heyns, with the aim of engaging in discussions for the finalisation of the draft general comment on Article 4 of the African Charter, the process of which had been initiated at the Kigali meeting. This meeting brought together several experts, representatives of the ICRC, the Office of the High Commission for Human Rights, including members of the Working Group and Commissioner Kaggwa.

Promotion Mission

- Promotion Mission to the Republic of Djibouti, 25 to 31 May 2015

8. As part of the Human Rights Promotion Mission, the Commission carried out a promotion mission to the Republic of Djibouti at the invitation of the Government of Djibouti.

9. This mission was undertaken jointly with the Chairperson of the Commission and Commissioner in charge of the human rights situation in the Republic of Djibouti, Commissioner Kayitesi and the Special Rapporteur on the Situation of Women in Africa and Chairperson of the Working Group on Indigenous Communities/Populations, Commissioner Maiga. This mission, the first of its kind by the Commission to that country, was a follow-up to the presentation of the first combined periodic report of the State of Djibouti at the 56th Ordinary Session of the African Commission and this made it possible to assess the actual human rights situation in the country.

10. The report including the recommendations of the various stakeholders aimed at enhancing the promotion and protection of human rights in this country will be presented to the Commission during this session; however, I would like to make a brief summary of the situation of refugees as observed during the visit.

11. During the mission, I met different stakeholders of the State, civil society and the United Nations system. Together with the representatives of the HCR, I undertook a visit to the refugees in Ali Adeh in the north of the country where I had the opportunity to have discussions with the refugees concerning their living conditions and their problems. The delegation also had discussions with the
officials of the camp. The Ali Adeh camp plays host to three major communities as follows; Somalians, the majority community in the camp since 1991; Ethiopians and Eritreans who are long-term refugees.

12. The living conditions in the camp are more or less acceptable, though a lot still remains to be done especially in the area of health, nutrition and education. The remote location of the camp and its siting in a very arid region does not allow the refugees to undertake income-generating activities and this renders them totally dependent on the HCR and these agencies for survival.

13. There are growing numbers of people who want to migrate, especially, second generation of refugees, i.e. those born in the camps; the reason is that they do not see any other prospect for transforming their situation. The HCR indicated that discussions are on-going with the Djiboutian authorities to accept the integration of long-term refugees. However, at this juncture, I would like to seize the opportunity to congratulate the Djiboutian government for the significant efforts it is making to welcome the refugees in spite of the lack of resources at its disposal. Indeed, during the visit, quite a sizeable number of refugees from Yemen were already on Djiboutian soil and others kept on entering the country. In spite of the decline in subventions from the HCR for the refugees in the Republic of Djibouti, this country has not closed its borders and was awaiting substantial aid from countries in the region and the African Union.

- Promotion Mission to the Republic of Senegal, 14 to 21 September 2015

14. At the invitation of the Republic of Senegal in the aftermath of the presentation of its report at the 56th Ordinary Session, I undertook a promotion mission to that country in my capacity as Commissioner responsible for the human rights situation in the Republic of Senegal. This mission was undertaken with the assistance of the personnel of the Secretariat and the objective was to assess the actual human rights situation in the country. During this mission, I met different stakeholders from government circles, the United Nations Specialised Agencies and civil society. The mission made it possible for me to appreciate not only the problems faced by the Republic of Senegal but also the progress it had achieved in the implementation of the rights enshrined in the African Charter and the other relevant human rights instruments ratified by Senegal.
15. The comprehensive report including the recommendations will be presented at the 19th Extraordinary Session of the Commission.

ACTIVITIES UNDERTAKEN IN MY CAPACITY AS SPECIAL RAPPOTEUR OF REFUGEES, ASYLUM SEEKERS INTERNALLY-DISPLACED PERSONS AND MIGRANTS IN AFRICA.

- Workshop on Migrants in detention with a focus on Children from 8 to 10 June 2015, Tunis, Tunisia

16. At the invitation of the NGO, International Detention Coalition (IDC), I participated in a meeting on the detention conditions of migrants and alternative approaches in the MENA (Middle East and North Africa) region; with special emphasis on the conditions of detention of migrants in Libya. During the meeting, which was also attended by the ICRC, the HCR and several experts, a lot of information was provided by an NGO working in Libya which specifically monitors the issue of detention of migrants. The alternative approaches to the detention of migrants were discussed and relevant proposals made. The participants agreed to continue with the discussion and engage in a dialogue with the Governments of the different countries concerned in order to make them adopt alternative means to detention as far as migrants are concerned.

- Sub-regional meeting for East Africa on the preparation and consolidation of the joint African position at the Global Humanitarian Summit (28 to 31 July 2015); Arusha, Tanzania

17. The purpose of the meeting was to prepare for the participation of African Union countries in the Global Social Summit scheduled for 2016 in Istanbul, Turkey. This meeting was part of a series of sub-regional meetings for the development of a common African position on humanitarian issues to be presented at the Summit.

- African Commission Session on International Law (14-15 October 2015), Cairo, Egypt.
18. The purpose of my participation in this meeting was to present the draft protocol on nationality to members of the Commission and to discuss with them possible improvements to the text. I was accompanied by partners of the mandate concerned with this project; i.e. OSIWA, the HCR and the Institute for Human Rights and Development in Africa (IHRDA). During the two days of meetings, the members of the Commission and the delegation that I led discussed different articles of the draft protocol and various proposals were made. It is the first time that the African Union Commission on International Law is receiving a request for consideration by an organ of the Union in accordance with Article 5(5) which stipulates that the Commission on International Law, shall also consider proposals and preliminary draft multilateral conventions presented by the Member States and organs of the Union to encourage and facilitate the gradual development of international law and its codification. The members of the Commission expressed their satisfaction with the collaboration, expressing the hope of strengthening it and the belief that other organs will get in touch with it as the African Commission on Human and Peoples’ Rights had done.

- Panel on the sidelines of the Session

19. On the sidelines of the current session, I took part in two panel discussions. The first one focused on detained migrants and it was organised by the IDC in order to embark on the launch of a report on alternatives approaches to detention “There Are Alternatives”. During this panel discussion, the deliberations centred on actions conducted by the mandate on the protection of migrants and the challenge posed by the issue of migrants in detention.

20. Regarding the second panel discussion which centred on anti-constitutional changes by governments and the issue concerning the youth, the participants included representatives from the Burkinabè Youth Movement “the citizen’s broom”, I was called upon to moderate the panel discussion as Commissioner responsible for the human rights situation in Burkina Faso. This discussion was followed by a set of recommendations.

I. Press Release, Interview, etc.

21. I issued a Statement on the occasion of the celebration of the World Refugees Day on 20 June 2015. This day which was organised under the theme: “The Refugee is a person like you and I” was an occasion to recall that the refugee is a human being and he could be one of us. It was also an occasion for the mandate to highlight
the numerous challenges confronting it, particularly the issue of long-term refugees, the increase in conflicts which contribute considerably to the growing number of refugees; internally-displaced persons and migrants. I also reminded the States about the importance of complying with the commitments they have made to ratify the human rights-related instruments.

II. Urgent Appeal

22. I sent an urgent appeal to Kenya to inquire about the disappearance of Dabassa Guyo Safaro, a refugee, whose disappearance had been reported to me. The urgent appeal was dealt with at this session.

III. Status of ratification of the African Union Convention on Protection and Assistance to Internally-Displaced Persons in Africa

23. During the inter-session, I continued to monitor the status of ratification of the African Union Convention on protection and assistance to internally-displaced persons in Africa (the Kampala Convention). There are now a total of twenty-four (24) countries which have ratified/acceded to the Convention, with the ratification by Congo last year. These ratifications include those by Angola, Benin, Burkina Faso, Côte d’Ivoire, Gabon, Gambia, Guinea Bissau, Lesotho, Mali, Malawi, Nigeria, du Niger, Rwanda, Sahrawi Arab Democratic Republic, Central African Republic, Sierra Leone, Swaziland, Chad, Togo, Uganda, Zambia, Zimbabwe; in addition to Congo.

24. However, nineteen (19) countries which have only signed the Convention are Burundi, Comoros, Djibouti, Democratic Republic of the Congo, Equatorial Guinea, Eritrea, Ethiopia, Ghana, Guinea-Conakry, Liberia, Mozambique, Mauritania, Namibia, Senegal, Somalia, Sao Tomé and Principe, South Sudan, Tanzania and Tunisia.

25. Finally, there are still twelve (12) countries which have neither signed nor ratified the Convention. They are: Algeria, Botswana, Cameroon, Cape Verde, Egypt, Kenya, Libya, Madagascar, Mauritius, South Africa, Seychelles and Sudan.
IV. Analysis of the situation of refugees, asylum seekers, internally-displaced persons and migrants in the last few months.

26. During the inter-session, the situation of refugees and asylum seekers, internally-displaced persons and migrants did not see any improvement; though media attention was focused more on issues of migrants from the Middle-East, particularly from Syria, the migrants originating from Africa are still more. Indeed, among the wave of migrants from the Middle-East, there were also African migrants among whom are Eritreans, Ethiopians, Sudanese and Somalians. It is more than urgent for African States to take up their responsibilities in order to find solutions for the eradication of this phenomenon.

27. Moreover, the increase in long-term refugees; internally-displaced persons is becoming more and more disturbing. Indeed, the crisis currently faced by Burundi has caused displacement of the population which is fleeing from the capital. The major development projects initiated by governments, though they target the well-being of the population, they sometimes create tragic situations, particularly displacement of the population.

28. Lastly, the natural disaster which hit the Sahrawi refugee camps in Algeria, a victim of torrential rains, caused flooding, considerable damage and made the living conditions of these refugees increasingly precarious. Following these floods, the United Nations Secretary General’s Special representative, Christopher Ross went to the camps to assess the situation. Furthermore, the association of the personnel of the African Union also made a donation of 50 thousand dollars to assist the refugees.

29. I also observed that actions aimed at fighting against terrorism were used as a means of expelling the refugees. Thus, it is on the basis of these deep concerns about these situations and in the light of the foregoing that I make the following recommendations to the different stakeholders to take steps in order to provide solutions.

V. Recommendations
30. Following this report, I hope to make the following recommendations to the various stakeholders:

A. To the States Parties to the African Charter:

I recommend to the Member States of the African Union, to:

- Ensure greater involvement in preventing forced displacements of the population within and outside the borders, whatever the origin of the displacement (armed conflicts, climate change, major development projects); and protect them when prevention fails.

- For those States which have not yet done so, to ratify and/or speed up the ratification process of the African Union Convention on the Protection and Assistance to Internally-Displaced Persons in Africa (the Kampala Convention); and for the States that have ratified it, to effectively implement it through national transposition laws and action plans;

- Continue with their efforts for enhanced protection and assistance to refugees in their countries in collaboration with the HCR and other humanitarian organizations;

- Protect vulnerable groups from violence, in particular, sexual violence in armed conflict situations;

- Support the campaign for the eradication of statelessness launched by the United Nations High Commissioner for Human Rights for the decade 2014-2024;

- Support the adoption of the draft additional protocol to the African Charter on Human and Peoples’ Rights; on the specific aspects of the right to nationality and the eradication of statelessness in Africa;

- Adopt laws on asylum or facilitate the integration of refugees;

- As part of the African Human Rights Year in 2016, that the States organize activities on thematic issues concerning refugees, migrants and internally-displaced persons;
- Take measures in order to find sufficient solutions for the issue of long-term refugees;

- Ensure that major development projects take into account the rights of the population and that solutions for their reintegration are proposed; in order to avoid creating new internally-displaced people.

B. To the African Union

- Assume responsibility in a very diligent manner regarding the issue of migrants and refugees by dealing with the deep-seated causes of such movement with tragic consequences and find a platform for consultation with the originating States and the host States.

C. To the UN High Commission for Refugees

- To work upstream with the States in order to find solutions to the situation of refugees and migrants, but more particularly for long-term refugees.

- To work to support the mechanism within the context of its mandate regarding the issue of nationality in Africa and the fight for the eradication of statelessness;

D. To the ICRC

- To strengthen the collaboration with the African Commission on Human and Peoples’ Rights on thematic issues of common interest.

E. To stakeholders of Civil Society and other partners

- Continue with the advocacy for the ratification of the Kampala Convention;
- Disseminate and popularise the study on nationality
- Continue with their action on the ground to keep us informed about the situation of refugees, asylum seekers, internally-displaced persons and migrants.
- Lend their support and assistance to the Special Rapporteur to enable her to discharge her mandate satisfactorily.