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INTER-SESSION ACTIVITY REPORT

(November 2015-April 2016)

OF

HON. COMMISSIONER LUCY ASUAGBOR

Special Rapporteur on the Rights of Women in Africa

Member of the Committee for the Prevention of Torture in Africa

Member of the HIV Committee

Presented to the 58th Ordinary Session of the African Commission on Human and Peoples’ Rights

Banjul, The Gambia, 6– 20April 2016
INTRODUCTION

1. In keeping with Rules 23.3 and 72 of the Rules of Procedure of the African Commission on Human and Peoples’ Rights (the Commission) and in accordance with its Resolution ACHPR/res.38 (XXV) 99 of 5 May 1999, I present this Report in my capacities: as a Member of the Commission; as the Special Rapporteur on the Rights of Women in Africa; Member of the Committee on the Protection of the Rights of People Living with HIV (PLHIV) and Those at Risk, Vulnerable to and Affected by HIV (the HIV Committee); and as a Member of the Committee for the Prevention of Torture in Africa (CPTA).

2. The Report, which is presented in six parts, covers activities carried out in the period between the 57th Ordinary Session, and this 58th Ordinary Session: Part one covers my activities as Commissioner; Part two, as Special Rapporteur on the Rights of Women in Africa which is linked to the achievements and challenges in promoting and protecting the rights of women discussed in Part three of the Report; Part four will look at my activities as a Member of the HIV Committee, and Part five will discuss my activities as a Member of the CPTA. I will conclude my Report with recommendations related to the rights of women in Africa.

PART ONE: ACTIVITIES AS COMMISSIONER

19th Extra-Ordinary Session

3. I participated in the 19th Extra-Ordinary Session of the Commission which took place in Banjul, The Gambia from 16 to 25 February 2016, organised to consider outstanding and urgent issues such as Communications and urgent human rights issues of concern on the continent.

PART TWO: ACTIVITIES AS SPECIAL RAPPORTEUR ON THE RIGHTS OF WOMEN IN AFRICA

A. GIMAC Meetings and other pre-summit activities

4. I participated in the GIMAC Meetings and Pre-Summit activities held before and on the margins of the 26th African Union (AU) Summit in Addis Ababa, Ethiopia. They were attended by African Civil Society Organizations (CSOs), African and international networks on Gender Mainstreaming in the AU and States Parties to the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (the Maputo Protocol).

27th Pre-Summit Consultative Meeting on Gender Mainstreaming in the AU

5. From 17 to 18 January 2016, I participated in the 27th Pre-Summit Consultative Meeting on Gender Mainstreaming in the AU held on the margins of the 26th
AU Summit, which took place from 21 to 31 January 2016 in Addis Ababa, Ethiopia. The Meeting which was organized by Femmes Africa Solidarite under the “Gender is my Agenda Campaign”, brought together CSOs and other entities working in the area of gender mainstreaming. The theme of the Meeting was “Looking towards 2020: Securing Women’s Rights through Gender Equality and Silencing the Guns in Africa” and is in sync with the AU’s dedication of 2016 as the “African Year of Human Rights with Particular Focus on the Rights of Women.” It also addressed commitments to women’s human rights as enshrined in Agenda 2063 and the Declaration on 2015 Year of Women’s Empowerment and Development Towards Africa’s Agenda 2063. During the Meeting, I made a Statement at the Opening Ceremony.

6. The Meeting provided a platform for civil society actors from across Africa to assess progress on women’s human rights and put forth key recommendations to the AU Heads of State and Government for accelerated action to ensure human rights at regional, national and local level. The Meeting further took stock of the status of women’s human rights on the continent and identified key priority areas for action.

7. The following are some of the recommendations that emanated from the meeting:
   - States should not only ratify women’s rights instruments but should effectively ensure their implementation;
   - States need to evaluate the status of women’s rights to be able to define a comprehensive pathway for change, provide resources to empower women, reduce poverty and achieve gender equality; and accelerate efforts to end child marriages and sexual violence.

Launch of the Campaign for the Decriminalization of Abortion in Africa

8. On 18 January 2016, during the 27th Pre-Summit Consultative Meeting on Gender Mainstreaming, in partnership with IPAS Alliance for Africa, the Commission launched ‘the Continental Campaign for the Decriminalization of Abortion in Africa’, in line with its Resolution on Health and Reproductive Rights of Women in Africa, 2007 and with its commitment through a Communiqué on Accountability for Women’s Reproductive Health taken in March 2015. The Launch which was well attended by all participants at the GIMAC Meeting was the beginning of a campaign aimed at bringing attention to unsafe abortion which poses a serious threat to the sexual and reproductive health rights of women and girls.

9. The Campaign is informed by the Commission’s concern that unsafe abortions resulting in many deaths occur partly because of laws that criminalize abortion on the presumption that the threat of arrest or imprisonment will prevent women and girls from having abortions. The Commission is committed to bringing States into compliance with their commitments under the Maputo Protocol; the Maputo Plan of Action; and the Campaign for the Accelerated Reduction of Maternal Mortality in Africa, in order to bring a stop to these deaths and save the lives of many women and girls. This Campaign
therefore calls on all Heads of State and Governments to demonstrate their commitment to preserving the lives of African women and girls by decriminalizing abortion in their respective countries.

**The 8th AU Gender Pre-Summit Meeting**

10. From **19 to 20 January 2016**, I attended the above Meeting held in Addis Ababa, Ethiopia, prior to the AU Summit. The Meeting was organized by the Gender Directorate of the African Union Commission (AUC) under the theme ‘Gender mainstreaming and women’s rights: concrete steps towards action’. It brought together the voices of key actors such as African Ministers responsible for Gender and Women Affairs, Regional Economic Communities, AU Organs, AUC Departments, CSOs, the private sector, United Nations Agencies and development partners in the gender equality and women’s empowerment arena. These actors updated and discussed critical developments related to gender equality and women’s empowerment, with the aim of influencing and shaping the discussions and decisions of scheduled AU Summits.

11. During the Meeting, I made a presentation on the ‘Status of Ratification of the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa’. My presentation highlighted the status of ratification of the Maputo Protocol, which to date, has been ratified by 37 countries and the role of the Commission in promoting the ratification of the Maputo Protocol. The presentation cited some of the key activities carried out by the Commission towards enhancing knowledge of the Maputo Protocol including the development of its Guidelines for State Reporting under the Maputo Protocol and General Comments 1 and 2 under the Maputo Protocol.

12. The Presentation further highlighted some challenges in implementing the Maputo Protocol and made the following recommendations: States should fix a new deadline to achieve full ratification and take urgent measures to domesticate the Maputo Protocol as well as organize continental and regional campaigns for ratification; the Pan-African Parliament and National Parliaments should be involved in the campaigns; Academia should contribute to the popularization of the Protocol; and CSOs should popularize the Protocol especially at the grassroots and assist victims in prosecuting their rights.

**Working lunch on the World Humanitarian Summit**

B. Workshop on Violence Against Women

14. From 8 to 9 February 2016, in Paris, France, I attended a Workshop to launch a Project on Sexual Violence Against Women and its Consequences, organized in collaboration with the International Federation of Human Rights (FIDH). The objective of the Project is to strengthen the capacity of African Governments and civil society to combat this scourge and protect victims. To this end the Commission, in collaboration with Partners is developing Guidelines for Combating Sexual Violence and its Consequences to combat sexual violence in Africa.

15. I made a presentation on “Combatting sexual violence and its consequences.” In my presentation, I noted that sexual violence is associated not only with physical injury but with a number of adverse health, social and economic consequences. I mentioned the structured efforts undertaken by the Commission to combat sexual violence through Resolutions, General Comments and other measures. I also made recommendations urging States Parties to put in place comprehensive systems whereby victims can report cases of sexual violence; provide adequate budgetary allocations to address sexual violence, and work in collaboration with religious and traditional leaders to combat sexual violence.

C. 5th General Assembly

16. From 7 and 8 March 2016, I participated in the 5th General Assembly of the Kigali International Conference Declaration on “the Role of Security Organs in Ending Violence against Women and Girls” in Algiers, Algeria. The Activity was organized within the framework of the UN Secretary General’s Global Campaign to End Violence against Women and Girls. I made a presentation on “the role of the police in fighting violence against women.” During my presentation, I highlighted issues relating to investigation and prosecution of perpetrators, the rights of victims; child marriage as a method of violence against the girl child; elaborated on the draft Joint General Comments on Child Marriage prepared by the Commission and the African Committee of Experts on the Rights and Welfare of the Child; HIV as a consequence of sexual violence and the study commissioned by the Commission earlier mentioned; the Resolution on Forced Sterilization; Luanda and Robbin Island Guidelines as well as issues relating to the rights of victims of sexual violence.

D. International Women’s Day

17. On 2 March 2016, as part of the activities to commemorate the International Women’s day, I was requested to give a talk to the women of the Supreme Court of Cameroon on the theme “Gender equality and women empowerment: Meeting the challenges and overcoming the obstacles”. I underscored the fact empowerment of women is linked to having awareness of themselves, of knowledge, of their skills, their attitude and aptitude to have a voice. I also
elaborated on gender equality within the AU, the legal provisions for gender equality and women’s empowerment within the AU, while highlighting the provisions of the African Charter, the Maputo Protocol, and the African Children’s Charter, the challenges and obstacles in promoting gender equality and women’s empowerment, and the role of the judiciary in overcoming the challenges and obstacles for gender equality and women’s empowerment.

18. Many recommendations ensued from the talk including, *inter alia*: the ratification of the Maputo Protocol in order for the judiciary to be able to make reference to the provisions of the Maputo Protocol with regards to gender equality and women empowerment while deciding cases; States Parties to focus on better enforcement, including strengthening institutional mechanisms and resources and increasing the human capacity needed to ensure enacted legislation promotes gender equality and women empowerment; holding perpetrators accountable; and different stakeholders to work together to devise a plan of action, which would take into account training of judges and lawyers about gender equality and women empowerment.

19. On 8 March 2016, I made a Press Statement to commemorate the International Women’s Day, which has been published on the Commission’s website and disseminated for public consumption. The theme chosen for this year’s celebration, “Pledge for Parity”, is in line with the United Nations theme “Planet 50-50 by 2030: step it up for gender equality;” resonates the AU’s declaration of this year as “The Africa year of human rights, with particular focus on the rights of women;” and is also in line with the 2030 Agenda for Sustainable Development adopted by Heads of State and Government and High Representatives in September 2015.

E. 60th Session on the Commission on the Status of Women (CSW)


21. On 17 December 2016, I participated at a panel discussion on “Removing Unjust Abortion Laws in Africa and Latin America—Strategies for Decriminalisation.” In my presentation, I underlined Article 14 (2) (c) of the Maputo Protocol, wherein States Parties are required to take all appropriate measures to “protect the reproductive rights of women by authorizing medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus”, and the fact that the Maputo Protocol is the very first treaty to recognize abortion, under certain conditions. I noted that many countries are yet to undertake the necessary legislative reforms towards domesticating the relevant provisions of the Maputo Protocol, including in the area of women’s sexual and reproductive rights. I informed Panelists about General Comment No. 2 on Article 14 (1) (a), (b), (c) and (f) and Article 14 (2) (a) and (c) of the Maputo Protocol.
adopted by the Commission which provides interpretive guidance on the overall and specific obligations of States Parties towards promoting the effective domestication and implementation of Article 14 of the Maputo Protocol. As an overarching recommendation, I urged Member States that have not yet done so, to ratify, implement and domesticate the Maputo Protocol.

22. On 18 March 2016, I made a presentation on “the Status of Implementation of the Maputo Protocol” wherein I noted that there is still a huge gap between commitments pursuant to the ratification of the text and the reality of women’s lives, and that harmonization with domestic laws in several countries that have ratified the Protocol is yet to be conducted due to the lack of real political will and the persistence of several other obstacles. My presentation also highlighted best practices in countries that are trying to domesticate the Protocol through law reforms and other strategies, as well as challenges that exist in domestication, including reservations; lack of resources; lack of sensitisation; poverty and effective monitoring.

F. Side Events on the margins of the 58th Ordinary Session:

23. The following Side Events were organized in collaboration with Partners, on the margins of this Session:

- Panel on Decriminalization of Abortion Campaign (8 April 2016);
- Panel on State Reporting Guidelines under the Maputo Protocol (10 April 2016); and
- Panel on the Importance of Sexual and Reproductive Rights in the "Year of Human Rights with Special Focus on the Rights of Women" with State Representatives (11 April 2016).

PART THREE: A SNAP SHOT OF ACHIEVEMENTS IN WOMEN’S RIGHTS IN AFRICA, WITH AN OVERVIEW OF CHALLENGES

24. During the inter-Session period, some gains have been made in the area of women’s rights which are worth mentioning in this Report.

State Reporting

25. Article 26 of the Maputo Protocol obligates States Parties to submit a Report to the Commission, on the legislative and other measures that they have undertaken to give effect to the rights provided by the Maputo Protocol. In compliance with this, two countries, namely the Republic of Namibia and the Republic of South Africa, have submitted State Reports to be presented during this Session. These States also complied with the Commission’s Guidelines on State Reporting the Maputo Protocol by expanding on the steps taken to give effect to the provisions of the Maputo Protocol as required by the Guidelines.
This will give the Commission the opportunity to better engage with them on the extent to which they have or intend to implement the Maputo Protocol.

**Child Marriage**

26. In January 2016, the Constitutional Court of Zimbabwe ruled that child marriage is illegal. This decision was based on the Constitution which states that nobody should enter a marriage contract without their will and that the State has to ensure that children are not pledged into marriage. The Constitutional Court held that the legal age of marriage in Zimbabwe is 18 years.

**Abolition of Female Genital Mutilation (FGM)**

27. The abolition of harmful traditional practices, including FGM is adequately addressed in international and regional treaties.

i. **The Gambia:** In November 2015, the practice of FGM or cutting was banned and subsequently criminalized in The Gambia in December 2015. The law against FGM provides a fine of about $1250 or three years imprisonment for offenders who perpetrate the act of FGM, and those who cause death by FGM could face life sentences. This marked an important milestone in the country’s journey to end FGM/C and ensure that the fundamental human rights of girls and women are protected and fulfilled. This achievement places The Gambia amongst other countries that have banned the practice of FGM in the country.

ii. **Nigeria:** The adoption of the Violence Against Persons (Prohibition) Act 2015 is a milestone to stopping harmful traditional practices such as FGM in the country. The Act does not only ban FGM, it also prohibits economic abuse, forced isolation and separation from family and friends, depriving persons of their liberty, and indecent exposure, amongst others. The Act further provides maximum protection and effective remedy for victims of violence, and punishment of offenders.

**Reproductive Rights**

**Sierra Leone Safe Abortion Bill:** In December 2015, the Sierra Leonean Parliament passed the Safe Abortion Bill. The Bill is a positive step in the right direction and allows us to envision the elimination of unsafe abortion in Sierra Leone,

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and many deaths and injuries it causes. It permits access to abortion during the first 12 weeks of pregnancy, after which it would be permitted until week 24 in cases of rape, incest, or health risk to the foetus or the woman or girl. We however note with regret the setbacks the Bill is facing and urge the Government of Sierra Leone to sign this Bill into Law.

28. This Act complements other strategies in Sierra Leone, such as the Free Medical Health Programme which is tailored towards the protection of pregnant women in the country, and is a positive step in the right direction which allows us to envision the elimination of unsafe abortion in Sierra Leone and the many deaths and injuries it causes.

Ratification

29. In October 2015, the Republic of Sierra Leone ratified the Maputo Protocol, making it the 37th State Party to ratify the Protocol amongst the 53 Member States of the AU.

Challenges in the protection and promotion of women’s rights in Africa:

30. Despite the above-mentioned achievements, challenges continue to exist that impede the effective protection of women’s rights on the continent, including the following:
   i. Slow ratification of the Maputo Protocol and full implementation of the same;
   ii. Reservations by some countries that have signed the Maputo Protocol;
   iii. Obtaining statistics on progress made towards the reduction and eradication of FGM and other harmful traditional practices due to the lack of reliable survey data, while millions of girls and women are still at risk of being subjected to such practices;
   iv. Lack of political will and other measures to protect the rights of women;
   v. Challenges in implementing national protection systems due to lack of specialised human rights institutions that will monitor the situation of vulnerable women and States’ failure to incorporate human rights treaties into national laws.

PART FOUR: ACTIVITIES AS A MEMBER OF THE HIV COMMITTEE

International Conference on AIDs and STIs in Africa (ICASA)

My presentation focused on “Women, Girls and HIV in Conflict and Post-Conflict Societies.” I underscored the fact that human rights violations are both a cause and consequence of the HIV epidemic, and as such, the HIV Committee realizes that it is crucial to ensure that responses to HIV are firmly grounded on human rights protection if the HIV incidence and AIDS-related deaths on the continent were to be reduced, and the strategic global objective of ending AIDS by 2030 was to be achievable in Africa. I also informed participants about the Study on HIV, the Law and Human Rights: Key Challenges, Best Practices & Opportunities for Rights-based Responses to HIV initiated by the Committee with a view to assess the state of the continent on HIV and human rights, and to develop a broad strategic plan for strengthening the regional response to HIV, human rights and social justice.

32. Many recommendations ensued from the discussion, including inter alia: the need for post-conflict societies to address the stigmatization of women and girls who have experienced sexual violence during conflict as well as persons living with HIV and those affected by HIV; consideration of gender dimensions of post-conflict transition such as reflecting and re-strategizing on the issue of sexual violence against women and girls and its intersections with HIV/AIDS; and developing multi-sectoral and comprehensive national policies to respond to the challenges of HIV/AIDS and sexual violence against women, including psychological support and healthcare for survivors in post-conflict transitions.

Workshop on HIV, the Law and Human Rights in Africa: Key Challenges and way forward

33. On 1 December 2015, I attended a Workshop on “HIV, the Law and Human Rights in Africa: Key Challenges and way forward.” I made a presentation on the HIV Committee and analysis of its mandate, as well as Action Plans and Strategies towards promoting and promoting the rights of people living with HIV/AIDS (PLHIV). I noted that the Committee has been able to identify the major challenges relating to the legal protection for PLHIV, vulnerable persons and those at risk and related human rights issues and has also noted some good practices in this regard. All of these have assisted the Committee in defining its strategies and activities, in a bid to respond effectively to challenges identified within the scope of its mandate.

PART FIVE: ACTIVITIES AS A MEMBER OF THE CPTA

Workshop on the National Preventive Mechanisms for Torture

34. On 17 December 2015, I attended the above-mentioned Workshop organized by the Ministry of Justice, YaoundéCameroon. I made a presentation on experiences of other countries wherein I stated that the institution of a
National Preventive Mechanism (NPM) in Cameroon is not a novel idea, and it is in fact an endeavor that both State and non-State actors have been involved in as early as 2012. My presentation extensively discussed the Robben Island Guidelines, which encourages the establishment of effective NPMs on the continent in accordance with the provisions of the Optional Protocol to the Convention Against Torture (OPCAT) and also provides considerable, detailed guidance concerning the establishment of NPMs, including its mandate and powers.

35. I informed participants that the OPCAT which has been ratified by eighteen (18) African States also seeks the establishment of effective and independent NPMs. Further, that in Cameroon, according to the Association for the Prevention of Torture (APT, the body most likely to assume the role of NPM is the National Commission on Human Rights and Freedoms which, among other things, has a mandate to visit centers of detention.

36. My presentation also discussed a number of practical issues and challenges facing States, as well as NPMs, in carrying out their mandate in the region, including; limitation in resources; ensuring functional independence; operating within a federal system; addressing acts of torture and other ill-treatment committed by military and security personnel as well as non-state actors.

37. As a way forward, I encouraged Cameroon to ensure proper ratification/deposition of the OPCAT because despite indications that the Parliament of Cameroon adopted the law on the ratification of OPCAT in 2010, the deposit of the instrument of ratification with the United Nations Headquarter is pending. Ratifying and depositing would enable Cameroon eligible to receive the necessary support from the SPT, as well as other bodies in the institution of NPMs such as the APT. I also urged for broad and inclusive consultations and an in-depth analysis of the specific context, to find the most appropriate model for the country.

CONCLUSION AND RECOMMENDATIONS

38. My conclusion and recommendations in this Report will focus on matters related to my mandate as the Special Rapporteur on the Rights of Women in Africa.

39. Despite global efforts in empowering women and girls and also protecting their rights, women’s rights continue to be violated ranging from discrimination on the grounds of race, cultural, social and political status, and sexual identity amongst other things. Additionally, discrimination against women further prevents them from expressing themselves, whilst exposing them to violence, and injustice in the societies in which they belong.
40. In light of the above, various protection mechanisms in the form of strategies and soft laws on the rights of women have been developed with a view to supplement the African Charter and the Maputo Protocol. Cognizant of the fact that legal framework aimed to promote and protect the rights of women and girls is essential to the realization of their rights, many States have taken steps to strengthen their national legal and policy frameworks and bring them in line with international and regional human rights standards for the promotion and protection of the rights of women and girls in Africa.

41. On the other hand however, despite having ratified the Maputo Protocol, several States Parties have not adopted domestic laws to give effect to the provisions therein. Thus, although different legislative and other measures have been taken to give effect to women’s human rights, women still face vulnerabilities due to the challenges in ensuring implementation. To ensure that all African women benefit from the rights provided by the Maputo Protocol, States are urged to take the following steps:

States:

Legislative Measures:

- The 17 remaining Member States of the Union are urged to make efforts to ratify the Maputo Protocol;
- Repeal or amend domestic laws which are discriminatory towards women and which entrench gender inequality;
- Harmonise their national laws with the provisions of the Maputo Protocol;
- Create specific institutions to promote and protect the rights of women and girls;
- Initiate legislative processes within existing broader institutions to take account of the interests of women and girls; and
- Put in place legislative policies, plans and programmes, including goals set for economic, social and cultural rights of women in CEDAW, the Maputo Protocol and other regional instruments.

General Measures:

- Effective, affordable and accessible means of recourse and redress for violations of women rights should be established, including gender-sensitive courts and tribunals;
- Take significant steps to strengthen their constitutional provisions that would prohibit discrimination on the basis of sex;
- Intensify their efforts to fully incorporate CEDAW and the Maputo Protocol into domestic law, and other international human rights treaties,
- Make efforts to implement the Commission’s decisions on Communications that relate to women’s rights, as well as the
Commission’s Concluding Observations on State Reports; and recommendations from Promotion Missions;

- Prioritize women’s health issues in national development plans and political agendas,
- Put in place comprehensive systems through which women victims can report cases of human rights abuses. These systems must be confidential and should be linked to healthcare, counselling and other comprehensive and integrated services which provide for support of victims;
- Provide adequate budgetary allocations to address women’s human rights violations; and
- Work in collaboration with religious and traditional leaders to ensure that patriarchal views which act as a barrier for gender equality are tackled.

Other stakeholders:

- Stakeholders must work together with Government to devise a plan of action, or institutional mechanisms for the advancement of women which should take into account all aspects of women’s human rights and provide for solutions to combatting discrimination against women at all levels; and
- In view of this year being declared by the AU as: “African Year of Human Rights, with a particular focus on the rights of women”, stakeholders are encouraged to use this opportunity to work with, and support the Commission in general, and the Special Rapporteur on the Rights of Women in particular, by proposing and organising women-related activities towards commemorating this very important year.

Partners:

While expressing gratitude to the Partners that have supported and collaborated with the Mechanism over the years, I implore them to continue to provide the requisite technical and financial support for the effective implementation of the Mechanism’s mandate.