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, CONDITIONS OF DETENTION AND POLICING IN AFRICA;

CHAIRPERSON OF THE ADVISORY COMMITTEE ON BUDGETARY AND STAFF MATTERS; AND

A MEMBER OF THE COMMITTEE ON THE PREVENTION OF TORTURE IN AFRICA.

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SECTION 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-session period between April 2016 and October 2016.

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, Conditions of Detention and Policing in Africa (the Special Rapporteur); Chairperson of the Advisory Committee on Budgetary and Staff Matters; and a Member of the Committee on the Prevention of Torture in Africa.

3) The Report is divided into six(6) sections; the Introduction; my Inter-sessional Activities; Celebrating 20 Years of the Mandate of the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa, Challenges faced with Prisons, Conditions of Detention and Policing in Africa; Recommendations and Conclusion.
SECTION II: INTER-SESSION ACTIVITIES

PART 1: Activities undertaken as a Member of the Commission

4) From 9 to 18 June 2016, I participated in the 20th Extra-Ordinary Session of the Commission which took place in Banjul, The Gambia, organised to consider outstanding and urgent issues such as Communications and urgent human rights issues of concern on the continent.

Request for Promotion Missions

5) In February 2016, as the Commissioner responsible for promotional activities in the Republics of South Africa and Zambia, I sent reminder Notes Verbales requesting for authorization to undertake a promotion mission to these countries.

6) I have not yet received any response from the Republic of Zambia and do urge the government to authorize the mission. I would like to thank the Republic of South Africa for authorizing the promotion mission to South Africa and to assure the delegation that we would work towards reconciling the dates for the said mission.

PART 2: Activities undertaken as the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa

Meetings

7) From 16 to 23 July 2016, I attended the Extraordinary Consultation on HIV and AIDS in Prison Settings in Africa, International AIDS
Conference, Satellite Symposium and AHPPN Steering Committee Meeting in Durban, South Africa. The meeting was organized by the United Nations Office on Drugs and Crime (UNODC) with support from the African Correctional Service Association (ACSA) and the African HIV in Prisons Partnership Network (AHPPN). The meetings discussed progress made since the signing of the African Declaration of Commitment for HIV and AIDS Prevention Care, Treatment and Support in Prisons in 2009 and reaffirm their commitment to its aims. The meeting also officially launched the first Guidelines and Standard Operating Procedures for HIV Service Provision in Prison Settings, the release of comprehensive strategic information on HIV and Health in Prison Settings in several African countries, and a high-level panel discussion on the operationalization of the UN Standard Minimum Rules for the Treatment of Prisoners — The Nelson Mandela Rules — adopted by the UN General Assembly.

8) From 29 to 30 August 2016, I participated in the Southern African Regional Consultation Meeting on drafting *Principles and Operational Standards for the Policing of Assemblies by Law Enforcement Officials in Africa* in Pretoria, South Africa. The development of these Principles and Standards is a partnership between the Commission (specifically the Special Mechanisms on Human Rights Defenders in Africa and on Freedom of Expression and Access to Information in Africa) and the Danish Institute for Human Rights (DIHR) and the African Policing Civilian Oversight Forum (APCOF) to develop tools on the policing of assemblies in support for the implementation of ACHPR Resolution 281 on the Right to Peaceful Demonstrations (2014) and other relevant instruments. The meeting was therefore organised to consult on a zero
draft of the Principles and Standards and tool ahead of their presentation to the Commission at its 59 Ordinary Session

9) During the inter-session period, in collaboration with our partners, the Danish Institute for Human Rights (DIHR) and APCOF, we produced the ‘8th Edition of the Newsletter on Police and Human Rights in Africa’. This edition of the Newsletter features news, events and articles relating to policing and human rights, with a particular focus on women’s rights in line with the AU theme for 2016 ‘Africa Year of Human Rights with Particular Focus on the Rights of Women’.

10) From 17 to 19 October 2016, on the margins of the 59th Ordinary Session of the Commission, in Banjul, The Gambia, I attended the NGO Forum in the 59th Ordinary Session and 33rd African Human Rights Book Fair organised by the African Centre for Democracy and Human Rights Studies to foster closer collaboration among NGOs and the Commission to promote and protect human rights in Africa.

11) On 26 October 2016, during the 59th 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 progress made in the dissemination and Implementation of the Guidelines on the Conditions of Arrest, Police Custody and Pre-trial Detention in Africa as well as other possible areas of collaboration.


**Letter of Appeal**

12) In my capacity as the Special Rapporteur on Prisons and Conditions of Detention in Africa, I forwarded a Letter of Appeal to His Excellency Dr. Mulatu Teshome, President of the Federal Democratic Republic of Ethiopia, jointly with the Commissioner Rapporteur on the Human Rights Situation in the Federal Democratic Republic of Ethiopia regarding the fire outbreak in Qilinto Prison in Addis Ababa, Ethiopia. The Government of the Federal Democratic Republic of Ethiopia is yet to respond to the letter of appeal.

**Press-Release**


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

15) On 30 October 2016, during the 59th Ordinary Session, as the Chairperson of the Committee on Budgetary and Staff Matters of the Commission, I attended a meeting of the Budget Committee of the Commission in Banjul, The Gambia, to discuss the budget and staff matter of the Commission.

SECTION III: CELEBRATING 20 YEARS OF THE MANDATE OF THE SPECIAL RAPPOREUR ON PRISONS, CONDITION OF DETENTION AND POLICING IN AFRICA

16) This year 2016, marks 20 years since the establishment of the mandate of the Special Rapporteur in 1996. 20 years on, tremendous work has been carried out by the various Special Rapporteurs of the Commission assigned this very important mandate.

17) The Special Rapporteurs have undertaken promotion missions to more than 30 State Parties to the Charter, issued Press Releases, Urgent Appeals and Resolutions. Positive efforts made by State Parties in the area of prisons and policing have also been commended and recommendations made in areas where more work needs to be done. The mandates of the Special Rapporteur has over the years worked with its partners in promoting the rights of persons deprived of their
liberty and as such have organized seminars, conferences and workshops in this area, as well as, issue Newsletters on Police and Human Rights. To date, eight (8) Newsletters’ have been issued. The Commission with the support of its partners also adopted the Guidelines on Conditions of Arrest, Police Custody and Pre-trial Detention in Africa during the 55th Ordinary Session of the Commission. The Guidelines reflect the collective aspirations of states, National Human Rights Institutions and Civil Society Organizations in promoting rights based approach to the critical area of criminal justice.

18) The mandate has therefore evolved and should continue to do so. I would like to take this opportunity to commend all the past Special Rapporteurs on Prisons for the excellent work achieved in promoting the rights enshrined in Article 6 of the African Charter and all our partners who have diligently contributed and supported the work of the mechanism. I say BRAVO TO ALL OF US. Let us keep up the good momentum and continue to do what we do best, that is promoting human rights, in particular, the rights of persons deprived of their liberty.
SECTION IV: (A) CHALLENGES FACED WITH PRISONS AND CONDITIONS OF DETENTION IN AFRICA

19) As the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa, I am mandated to examine the situation of persons deprived of their liberty in 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 even though a lot of advancement has been recorded in this area, a lot of challenges still remain.

20) Some states have taken initiatives to build new prisons to curb overcrowding and ensure prisoners safety, however many Prisons in Africa still fall short of the international human rights standards characterized by limitations such as 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 at times minors share the same cells with adults.

(B) CHALLENGES FACED IN THE AREA OF POLICING AND HUMAN RIGHTS IN AFRICA

21) My mandate also includes issues of policing and human rights, and as such, I work with all the other Special Mechanisms of the Commission on cross-cutting issues relating to policing and human
rights. In this regard, I will like to highlight the following challenges faced in relation to issues of policing and human rights:

i. The lack of adequate human rights training provided to the Police remains an issue in Africa. Generally, Police Officers receive basic and ad hoc human rights training which is not adequate to provide Police Officers with a proper understanding of the respect for human rights during the course of their work;

ii. Not many African countries have an Independent Civilian Police Oversight Mechanism where individuals can freely file complaints or report cases of human rights violations by the Police;

iii. The violence during demonstrations especially those that raise political matters is still a concern;

iv. The disproportionate response of the Police during demonstrations leading to various type of violations remain a challenge in Africa;

v. The challenges in terms of equipment’s, investigations and enquiry systems available to the police to prevent terrorists attacks;

vi. Some systems put in place to counter terrorism also encompass some risks of abuse such as conditions of arrest and detention and the prolonged detention of persons suspected to be terrorists;

vii. Investigations carried out by the police on issues relating to vulnerable groups such as, violations of the rights of women, children and indigenous people are not always well investigated;

viii. Corruption at the boarders still undermines individual’s freedom of movement.
SECTION V: RECOMMENDATIONS AND CONCLUSION

A/ RECOMMENDATIONS ON PRISONS AND CONDITIONS OF DETENTION IN AFRICA

To State Parties

22) I urged State Parties to:

   i. Dedicate additional resources to prisons and places of detention, build more prisons and implement the Revised Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) to improve the standard of prisons;

   ii. Develop training programmes and provide human rights training to Prison Officials;

   iii. Establish or designate Independent National Bodies mandated to undertake regular visits to Prisons and grant requests for prison visits from Civil Society Organizations and other stakeholders;

   iv. Conduct an independent and timely investigation into any death in custody, and bring the perpetrators to justice;

   v. Grant authorization for promotion missions requested by the Special Rapporteur to Member States;

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

   vii. Implement the recommendations and decisions of the Commission in particular in Concluding Observations, Urgent Appeals, Resolutions and Communications, as well as, grant requests for Provisional Measures; and
viii. 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; and
d) The Ouagadougou Declaration and Plan of Action on Accelerating Prisons and Penal Reforms in Africa.

To Civil Society Organizations and National Human Rights Institutions

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

i. Continue to monitor prison conditions and places of detention;
ii. Conduct regular visits to prisons and places of detention to ensure the respect of the rights of prisoners; and
iii. Submit shadow reports on State Periodic Reports under Article 62 of the African Charter in relation to prisons and conditions of detention in States Parties.
B/ RECOMMENDATIONS ON POLICING AND HUMAN RIGHTS

To State Parties

24) I urged State Parties to:

i. Ensure that laws and policies applied by the Police with respect to the need to counter-terrorism do not create sources of human rights violations especially during arrests and detention by the Police;

ii. Develop training programmes and provide human rights training for Police Officers;

iii. Include adequate information and statistical data on policing and human rights in State Reports submitted under Article 62 of the African Charter;

iv. Establish or designate Independent Civilian Police Oversight Institution where civilians can freely access and report/complain about cases of abuse and allegations of torture committed by Police officers;

v. Enhance Police cooperation within the regional and sub-regional frameworks in order to provide the appropriate means for Law Enforcement Agents including the Police, to prevent terrorists’ actions and protect civilians from such actions;

vi. Refer to the following instruments adopted by the Commission on Policing and Human Rights:

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

   b) The Principles and Guidelines on Human and Peoples’ Rights while Countering Terrorism;
c) Resolution ACHPR/RES.259 (LIV) 2013 on Policing and Human Rights; and
d) Resolution ACHPR/Res.103a (XXXX) 06 on Police Reform, Accountability and Civilian Police Oversight in Africa.

To Civil Society Organisations

25) I urged Civil Society Organisations to:

i. Assist the Commission to disseminate and promote the implementation of the instruments relevant to Policing including the Guidelines on the Conditions of Arrest, Police Custody and Pre-trial detention in Africa;

ii. Continue to monitor conditions of arrests and detention in Police Custody; and

iii. Submit shadow reports on State Periodic Reports under Article 62 of the African Charter in relation to Policing and human rights

SECTION VI: CONCLUSION

26) In conclusion, I would like to take this opportunity to extend my profound gratitude to all our partners, in particular, APCOF, DIHR, Open Society Foundation 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 the rights of persons deprived of their liberty and human rights in general on the continent.