INTER-SESSION ACTIVITY REPORT

OF

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African Commission on Human and Peoples’ Rights

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INTRODUCTION

1. This report is presented in accordance with Rules 25(3) and 64 of the Rules of Procedure (2020) of the African Commission on Human and Peoples’ Rights (the Commission), and covers activities carried out during the intersession period between November 2020 to April 2021.

2. The Report details the activities which I undertook in my capacity as a member of the Commission, a member of the Working Group on Indigenous Populations/Communities in Africa and Chairperson of the Committee on Resolutions, and as the Special Rapporteur on Freedom of Expression and Access to Information in Africa (the Special Rapporteur).

3. The Report is structured in five parts as follows:

   - **Part I:** Activities undertaken in my capacity as a member of the Commission, member of the Working Group on Indigenous Populations/Communities and Minorities in Africa and as the Chairperson of the Committee on Resolutions;
   - **Part II:** Activities undertaken in my capacity as the Special Rapporteur;
   - **Part III:** Report on interventions issued in response to human rights violations;
   - **Part IV:** Challenges and recommendations;
   - **Part V:** Conclusion.
Part I: Activities undertaken in my capacity as a Member of the Commission, Member of the Working Group on Indigenous Populations/Communities and Minorities in Africa and as the Chairperson of the Committee on Resolutions

- Participation in the 30th and 31st Extra-Ordinary Session

4. From 11 to 19 December 2020 and 19 to 25 February 2021, I participated in the Commission’s 30th and 31st Extra-Ordinary Sessions, held virtually, which were convened to consider Communications and other outstanding matters.

5. In my capacity as the Chairperson of the Committee on Resolutions, I led the Commission’s consideration and adoption of ten (10) Resolutions, which were subsequently finalized and uploaded on the Commission’s website.

- Participation in meetings of the Working Group on Indigenous Populations/Communities and Minorities in Africa (the Working Group)

6. On 12 March 2021, I participated in a virtual meeting of the Working Group, which was convened to discuss modalities relating to the commencement of a study on the “Impact of COVID-19 on the Rights of Indigenous Peoples and Communities in Africa.” During the meeting, the Working Group members agreed on a road-map for the study, which will commence following adoption of a Resolution commissioning the study.

7. During the meeting, the Working Group members also discussed other issues including ongoing studies, in addition to other funding opportunities and activities relevant to the Working Group during the course of this year.
Part II: Activities undertaken as the Special Rapporteur

- **Data Privacy Summit 2021**

8. On **28 January 2021**, I participated in a **Data Privacy Summit**, convened in commemoration of International Data Privacy Day, where I gave a statement during the opening ceremony focusing on the relevance of the topic in Africa, and the commemoration of the day, with Article 9 of the African Charter.

9. The Data Privacy Summit 2021, convened by Facebook in partnership with Article 19 (East Africa, West Africa and MENA), CIPESA and FGI Benin, aimed to raise awareness on contemporary privacy and data protection issues in Africa, as well as to inspire individuals, policymakers, organisations to take action and adopt best practices that protect privacy, while promoting innovation in a manner that mitigates risks in the digital era.

- **Launch of the Digital Platform for the Safety of Journalists**

10. On **29 January 2021**, I participated in the launch of the **Digital Platform for the Protection of Journalists**, where I gave an opening statement highlighting the work of the special mechanism. This Platform was conceived and established by African Media stakeholders through a steering committee chaired by the African Editors Forum (TAEF) and comprised of the Federation of African Journalists (FAJ), UNESCO Addis Ababa Liaison Office to the AU and UNECA, the International Federation of Journalists (IFJ), among others.
11. The expected results of this Digital Platform is to create an enabling environment for the media to operate in Africa, through respect for the rights of journalists and media workers, and the end to impunity for crimes against journalists in Africa.

➢ *Regional Seminar on Confronting threats to Freedom of Expression and Media Freedom during Elections in East Africa*

12. On **15 March 2021**, I participated in a Regional Seminar on confronting threats to freedom of expression and media freedom during elections, which focused on perspectives from Uganda, Tanzania, Burundi, and Kenya. The Seminar was convened by the International Center for Not-for-Profit Law (ICNL) and its partners.

13. The discussions during the Seminar highlighted the growing trend of restrictions on freedom of expression and media freedoms in the context of elections in Africa, and gave me an opportunity to receive first-hand information from journalists working in the East Africa region, on the challenges being faced in relation to media freedom during elections.

14. The Seminar also served as an opportunity for me to raise awareness on the special mechanism on freedom of expression, and the different means through which stakeholders can interact with it, including through submitting reports of human rights violations committed against journalists and other media practitioners in the region.

➢ *Virtual meeting with Mr. Guilherme Canela de Souza Godoi, UNESCO Chief of Section, Freedom of Expression and the Safety of Journalists*

15. On **01 April 2021**, I participated in a virtual meeting with Mr. Guilherme Canela de Souza Godoi, UNESCO’s Chief of Section, Freedom of Expression and the Safety of
Journalists. This meeting was a useful opportunity to discuss our respective mandates and to explore possible areas of collaboration in the future.

Part III: Report on interventions issued in response to human rights violations

16. In line with the special mechanism’s mandate to “make public interventions where violations of the right to freedom of expression and access to information have been brought to her attention, including by issuing public statements, press releases, and sending appeals to Member States asking for clarifications,” this section of the Report provides information on the interventions taken to address alleged violations of freedom of expression and access to information brought to my attention.

17. During the period under review, I issued the following interventions:

- Press Statement on the arrest and pre-trial detention of Mr. Hopewell Chin’ono

18. On 21 January 2021, I issued a Press Statement expressing concern on the arrest and pre-trial detention of Mr. Hopewell Chin’ono, a journalist working in the Republic of Zimbabwe. Mr. Chin’ono was arrested by the police on 08 January 2021 for the third time in six months and remanded in custody on allegations of publishing or communicating falsehoods prejudicial to the State.

19. The Press Statement called on Zimbabwe to ensure that the fair trial rights of Mr. Chin’ono, in addition to others in pre-trial detention, are duly respected and guaranteed.

- Press Statement on the Attack on Ugandan Journalists in Kampala
20. On **19 February 2021**, I issued a Press Statement expressing concern in response to an attack on journalists, which occurred when they were reporting on the delivery of a petition by a Member of the Opposition to a UN office.

21. While I condemned this attack which resulted in several journalists suffering injuries during the incident, I also took note of information which indicated that on 18 February 2021 the Ugandan military sentenced seven soldiers to up to 90 days in jail after they were convicted of assaulting journalists.

22. The Press Statement called on the State to guarantee the safety of journalists and other media practitioners, create a conducive environment for them to practice their profession, to ensure their protection when covering demonstrations and rallies and ensure that security officials are trained on this.

**Part IV: Challenges and Recommendations**

23. The **Declaration of Principles on Freedom of Expression and Access to Information in Africa** (the Declaration) provides, in Principle 1 on the importance of the rights to freedom of expression and access to information, that “*States Parties to the African Charter shall create an enabling environment for the exercise of freedom of expression and access to information.*”

**Challenges**

➢ *Access to Information*

24. The right to access information, recognized as a basic human right, is enshrined in a number of human rights instruments, including the African Charter on Human and
Peoples’ Rights (the African Charter) which stipulates in Article 9(1) that, “Every individual shall have the right to receive information.” The African Union (AU) Convention on Preventing and Combating Corruption, the African Youth Charter and the African Charter on Elections, Democracy and Governance, also have provisions on the right to access information.

25. Principle 26 of the Declaration stipulates that “the right of access to information shall be guaranteed by law.” Essentially, this principle recognizes the need for legislation which specifically provides for the promotion and protection of this right. In the absence of enforcing legislation, there is an absence of legally ordained procedural mechanisms for enforcing the right.

26. In recognition of the importance of this right, the mechanism has continually advocated for States Parties to the African Charter to adopt ATI laws. To this end, the Commission adopted the Model Law on Access to Information in Africa in order to provide African States with a non-binding guide which indicates the minimum standards which national laws on access to information in Africa should contain, thereby assisting African States in their processes of adopting new laws or reviewing existing laws.

27. To date, twenty-five (25) African countries have adopted access to information (ATI) laws, while thirty (30) are yet to do so.¹

28. Additionally, the following States Parties currently have pending draft bills on access to information: Botswana; Democratic Republic of Congo; Madagascar; Senegal; Somalia; The Gambia; and Zambia.²

¹ https://africafoicentre.org/why-you-should-be-talking-about-access-to-information-in-africa/
² Status of ATI Laws in Africa, Africa Freedom of Information Centre
Freedom of Expression

29. Principle 10 of the Declaration stipulates that “freedom of expression, including the right to seek, receive and impart information and ideas, either orally, in writing or in print, in the form of art or through any other form of communication or medium, including across frontiers, is a fundamental and inalienable human right and an indispensable component of democracy.”

30. It is well known that journalists and other media practitioners play an important role in guaranteeing the exercise of the right to freedom of expression; however, in spite of their indispensable role in society, journalists are often targets of threats, intimidation, harassment, disappearance, in addition to physical attacks. The special mechanism has also observed the rise in attacks on journalists reporting on elections, and cases of arbitrary arrest and detention of journalists while doing their work reporting on events and issues.

31. In recognition of these increased attacks on journalists and media practitioners, I would like to take this opportunity to commend the launch of the Digital Platform for the Protection of Journalists, which has the potential to be an extremely useful source of information on violations of freedom of expression and access to information in Africa.

32. Additionally during the 67th Ordinary Session in December 2020, the Commission adopted Resolution ACHPR/Res.468 (LXVII) 2020 on the Safety of Journalists and Media Practitioners in Africa, which decried the deteriorating situation facing journalists and other media practitioners in Africa, including reports of attacks against journalists and restrictions on their work.
33. Specifically, Resolution 468 calls on States Parties to, inter alia, “ensure the safety of journalists and other media professionals, and create a conducive environment for them to practice their profession.”

> Freedom of Expression and Access to Information on the Internet

34. Principle 37 of the Declaration stipulates that “States shall facilitate the rights to freedom of expression and access to information online and the means necessary to exercise these rights.” Principle 38(1) provides that “States shall not interfere with the right of individuals to seek, receive and impart information through any means of communication and digital technologies, through measures such as the removal, blocking or filtering of content, unless such interference is justifiable and compatible with international human rights law and standards.”

35. Undoubtedly, the internet has become an indispensable tool during the pandemic to spread information and advice on preventing the spread of the disease. This was observed in the Press Release on the Importance of Access to the Internet in Responding to the COVID-19 Pandemic, issued on 08 April 2020, which reiterated “the critical duty of States in times of public health emergencies to ensure that members of the public receive accurate, regular, accessible and science-based information on the threat COVID-19 poses to their health, the role and impact of the measures adopted for preventing and containing the virus, the precautionary measures that members of the public should take, and on the scale of the spread.”

36. In its conclusion, African States were called on to “take all measures to guarantee respect and protect the right to freedom of expression and access to information through ensuring access to internet and social media services especially during the COVID-19 pandemic.”
Recommendations

37. In light of the aforementioned challenges, I wish to make the following recommendations:

To States Parties:
- Expedite the adoption of legislation on the right to access information, in accordance with international standards and as elaborated in the Commission’s Model Law;
- Sensitize all duty bearers with the principles enumerated in the Declaration;
- Ensure the protection of journalists and media practitioners, and specifically during election periods;
- Take all measures to guarantee respect and protect the right to freedom of expression and access to information through ensuring access to internet and social media services, particularly during the COVID-19 pandemic; and
- Investigate all reports of violations and provide appropriate remedies to victims.

To NHRIs and NGOs:
- Familiarize yourselves with the Declaration and all pertinent soft law documents on freedom of expression and access to information such as Resolution 468;
- Partner with the Commission to popularize its soft law documents related to freedom of expression and access to information; and
- Continue to collaborate with the special mechanism by submitting cases or reports of violations of the right of freedom of expression and access to information in Africa.

Part V: Conclusion
38. State Parties to the African Charter, individuals and all stakeholders are called upon to fulfil our collective responsibilities of safeguarding and guaranteeing the full enjoyment of the right to freedom of expression and access to information in accordance with the Charter, the Declaration and Model Law, to give full meaning and expression to the African Union’s theme for the year 2021, “Arts, Culture And Heritage: Levers for Building the Africa We Want.” This theme envisages the enhancing of spaces, platforms and opportunities to celebrate and promote Africa’s rich and diverse culture and heritage within the context of achieving the continent’s socio-economic agenda outlined in Agenda 2063.

39. I thank you for your attention.

AFIC: [get their statement]
Significance of ATI in the context of elections.
Draw attention of civil society to make use of this document, as part of their advocacy work.