INTER-SESSION ACTIVITY REPORT

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AS

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

AND

THE SPECIAL RAPPORTEUR ON PRISONS, CONDITIONS OF DETENTION AND POLICING IN AFRICA

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Virtually
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   - Member of the Commission
   - Special Rapporteur on Prisons, Conditions of Detention and Policing 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 the activities undertaken during the inter-session period between the 65th and present 66th Ordinary Sessions.

2. The Report covers activities I undertook in my capacity as a Member of the African Commission on Human and Peoples' Rights (the Commission), and as the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa (the Special Rapporteur).

3. The Report is divided into five (5) parts; the Introduction; Inter-sessional Activities; Prisons and COVID 19; Challenges faced with the implementation of the mandate of the Special Rapporteur; Recommendations and Conclusions.

It should be noted that, at this stage of the intersessional period, activities have been rare and rather renewed. Indeed, the travel planned for the implementation of the programme, with a view to disseminating the instruments of the Mechanism and the ACHPR, as well as the promotional visits, some of which have already been authorized but postponed, have been suspended at continental level in particular and in the world at large.
SECTION II - INTER-SESSION ACTIVITIES

ACTIVITIES AS A MEMBER OF THE COMMISSION

27th Extra-Ordinary Session

4. From 19 February to 3 March 2020, I attended the 27th Extra-Ordinary Session of the Commission held in Banjul, The Gambia, organised to examine outstanding and urgent issues, such as Communications and urgent human rights issues on the continent.

Bureau Meeting

5. On 30 April 2020, I participated in a virtual meeting convened by the Bureau of the Commission, to discuss the re-organization of the activities of the Commission due to the continuing Covid-19 pandemic.

28th Extra-Ordinary Session

6. From 2 June to 1 July 2020, I participated in the 28th Extra Ordinary Session of the Commission held virtually. The Session was organised to conduct the swearing in and induction of the newly elected Commissioners, as well as conduct a re-allocation of its special mechanism mandates and countries of responsibility.

Visit to the Centre for Human Rights and Citizenship of the Catholic University of Angola

7. On 19 June 2020, on the invitation of the Director, Dr. Wilson de Almeida Adão, and members of the Board of Directors, I visited the Centre for Human Rights and Citizenship of the Catholic University of Angola, to know the...
institution and discuss possible area of collaboration with the Commission and other regional bodies.

**Request for Promotion Mission**

8. As Commissioner Rapporteur responsible for promotional activities in the Republics of Cape Verde, Equatorial Guinea, Guinea-Bissau, Mozambique and São Tomé and Príncipe, I sent reminder Notes Verbales requesting for authorisation to undertake a promotion mission to Cape Verde, Equatorial Guinea and Mozambique. I am yet to receive official responses.

**ACTIVITIES UNDERTAKEN AS THE SPECIAL RAPPORTEUR ON PRISONS, CONDITIONS OF DETENTION AND POLICING IN AFRICA**

**A/ MEETINGS**

**Meeting with Partners**

9. During the inter-session, I held various virtual meetings with our partners APCOF, ICRC-Dakar, FIACAT and NANHRI, to discuss the possibility of trainings and/or dissemination of information on Covid 19 in prisons and other places of detention as well as actions for the use of force by the Law Enforcement and Security Forces.

**Joint Webinar on ‘Response to Covid 19 in Places of Detention in Africa’**

10. On 5 June 2020, I attended a Joint Webinar on ‘Response to Covid 19 in Places of Detention in Africa’ organised by the Africa Centres for Disease Control and Prevention (Africa CDC) and the ICRC, in the framework of the State of Emergencies declared by State Parties. The meeting which addressed more specifically the policy framework and Covid 19 response measures in places of detention in different regions, including immigration detention in Africa. The meeting also addressed key challenges and achievements in relation to the implementation of the policies and response measures as well as, what should be done to further reinforce coordinated actions and government responses to fight the pandemic in places of detention in Africa.

11. The speakers included WHO Africa Regional Office; IOM; ACHPR; and the National Prisons Authority. Participants included Member States; Ministries of Health; African Correctional Services Association; National Penitentiary Authorities; Regional Health Organisations; RECs and the ACHPR.
Virtual meeting with Association OMUNGA

12. On 3 July 2020, I participated in a virtual meeting with Association OMUNGA Observer Member with nº 383 of the ACHPR in Luanda, Angola, on “Arrests and Detentions in Africa: Special Cases of Migrants and Refugees”. The meeting discussed the situation of prisons in Africa during the Covid-19 pandemic and the state of preparedness, in relation to human resources and facilities, if there are positive cases in prisons across Africa. The spread of the corona virus in detention centres and shelters for migrants and refugees in various countries was also discussed, including the release of migrants from these centers and shelters to contain the virus.

B/ PRESS STATEMENTS & LETTERS OF URGENT APPEAL

PRESS RELEASES

Press Release of the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa on the Release of Prisoners during the COVID 19 Pandemic

13. On 7 April 2020, I issued a Press Statement on the Release of Prisoners during the COVID 19 Pandemic. I commended all States parties to the African Charter on Human and Peoples' Rights (African Charter) that released persons deprived of their liberty in prisons and other places of detention during the COVID-19 pandemic, in order to reduce the spread of the Corona virus by way of decongesting prisons and other places of detention. I appreciated in particularly States that had released prisoners at the time and urged other States that had not done so to emulate the same.

14. I noted the immediate emergency measures adopted by some States, such as the suspension of all public court hearings, the suspension of all prison visits, taking health and security measures to prevent/contain the spread of the Corona virus among prisoners, including detention sites and prison sterilization and disinfection operations, among others.

15. I reminded States to respect the rights of persons deprived of their liberty in accordance with Article 6 of the African Charter on Human and Peoples' Rights, while adhering to and complying with the World Health
Organization's Interim Guidelines on the Preparation, Prevention and Control of COVID-19 for prisons and other places of detention

Press Release of the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa on Reports of Excessive use of Force by the Police during the COVID-19 Pandemic

16. On 7 April 2020, I also issued a Press Release on Reports of Excessive use of Force by the Police during the COVID-19 Pandemic. I expressed concern at reports of the excessive use of force and abuses by Law Enforcement and Public Security Forces in some African States, during the State of Emergency declared due to the COVID-19 pandemic. I further expressed concerned about publicly reported incidents of extrajudicial killings, torture, abuse of authority, arbitrary arrest and detention of civilians by the police and other law enforcement officials in some African States, in the context of the implementation of national regulations to contain the spread of COVID-19, under the heading “Stay at Home”.

17. I reminded States that, despite the declared State of Emergency, there are international human rights principles that guide the use of force and firearms, with emphasis on the principles of legality, necessity, proportionality and accountability. I further reminded States the right to life, protection against torture, cruel and degrading treatment are absolute and irrevocable rights, even in a State of Emergency.

18. I therefore condemned any excessive use of force and subsequent violations of the human rights of individuals and urged all States, to take appropriate measures to put an end to such acts of abuse of authority by the Police and other Security Forces against civilians, while also calling on everyone to respect and follow the lockdown regulations issued by Governments of all African States, in order to avoid unnecessary confrontations with the Police and other Law Enforcement Officials.

LETTERS OF URGENT APPEAL

Joint Letter of Urgent Appeal to the Democratic Republic of Congo

of the Working Group on Death Penalty and Extrajudicial, Summary or Arbitrary Killings and Enforced Disappearances in Africa, Hon. Commissioner Kayitesi Zainabo Sylvie; we sent a joint Letter of Urgent Appeal to His Excellency Mr. Félix Antoine Tshisekedi Tshilombo, President of the Democratic Republic of Congo, concerning the death of seventeen (17) prisoners in the Central Prison of Makala.

20. The Commission is yet to receive a response from the Government of the Democratic Republic of Congo.

Joint Letter of Urgent Appeal to the Republic of Cameroon.

21. On 2 March 2020, in my capacity as the Commissioner Rapporteur on Prisons, Conditions of Detention and Policing in Africa, together the Commissioner Rapporteur on the Human Rights Situation in the Republic of Cameroon, Hon. Commissioner Remy Ngoy Lumbu, we sent a Joint Letter of Appeal to His Excellency Mr. Paul Biya, President of the Republic of Cameroon, regarding the arbitrary detention of Awungafac Clinton since 13 November 2017, at Mamfe prison, Mamfe, in the Southwest Region of Cameroon.

22. The Commission is yet to receive a response from the Government of the Republic of Cameroon.

Joint Letter of Urgent Appeal to the Republic of Mozambique

24. The Commission is yet to receive a response from the Government of the Republic of Mozambique.

**Joint Letter of Urgent Appeal to the Republic of Sierra Leone**

25. On 27 May 2020, in my capacity as the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa, together with the Commissioner Rapporteur on the Human Rights Situation in the Republic Sierra Leone, Hon. Commissioner Lucy Asuagbor and the Chairperson of the Working Group on Death Penalty, Extra-Judicial, Summary or Arbitrary Killings and Enforced Disappearances in Africa, Hon. Commissioner Kayitesi Zainabo Sylvie, we sent a Joint Letter of Appeal to His Excellency Mr. Julius Maada Bio, President of the Republic of Sierra Leone, regarding the riot which took place in the Male Correctional Centre in Freetown, during the Corona Virus Pandemic.

26. The Commission is yet to receive a response from the Government of the Republic of Sierra Leone.

**Joint Letter of Urgent Appeal to the Republic of Djibouti**

27. On 22 June 2020, in my capacity as the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa, together with the Commissioner Rapporteur on the Human Rights Situation in the Republic of Djibouti and the Chairperson of the Committee for the Prevention of Torture in Africa, Hon. Commissioner Hatem Essaim, we sent a Joint Letter of Appeal to His Excellency Mr. Ismail Omar Guelleh, President of the Republic of Djibouti, regarding the conditions of detention of Lieutenant Fouad Ali Youssouf, detained in Gabode Prison in Djibouti.

28. The Commission is yet to receive a response from the Government of the Republic of Djibouti.

**SECTION III: PRISONS & COVID 19**

Prisons and places of detention are becoming Covid-19 infected zones due to overcrowding and unsanitary conditions. The rate of infection of diseases in prisons is higher than among others. Overcrowding therefore constitutes an obstacle for preventing the spread of Covid-19. **Some prisons have resorted to violence with Covid-19 related riots** and in most of Africa’s overcrowded prisons and detention centers, social distancing and self-isolation remain impossible. This is because prisoners are incarcerated mainly in shared facilities
with poor hygienic conditions, thus increasing prisoner’s fear of contracting the Corona Virus.

In responding to Covid-19 in prisons and other places of detention, States must respect the human rights of persons deprived of their liberty. In a bid to curb the spread of Covid-19, some African countries have responded positively to decongesting prisons. Several States have already started to release prisoners in an attempt to prevent the spread of the deadly virus, others have suspended all public court hearings and prison visits, while some States have embarked on prison sterilization and disinfection operations, among others. However, overcrowding and poor conditions of detention still remain a challenge.

In addition to the existing measures, Governments should also review cases of people in pre-trial detention in particular, vulnerable groups such as older persons and persons with disabilities; pregnant women and those with children; persons sentenced for minor and non-violent offences; those sentenced for petty offences and most importantly, those with underlying medical conditions. Increasing cleanliness and hygiene in places of detention is paramount to prevent the entry or limit the spread of the virus. People deprived of their liberty exhibiting symptoms of Covid-19 or who have tested positive should be monitored and treated in line with the WHO guidelines and recommendations.

Prisons and other places of detention must therefore be part of national response plans to Covid-19. Consequently, a standard healthcare and safety measures should be the priority for inmates that remain in prison to ensure the maximum possible protection against the spread of Covid-19. Prison staff who are a critical workforce in the fight against Covid-19, should also be provided with proper protective gears, equipment and support. As stated by Winnie Byanyima, Executive Director of UNAIDS, “A health response to COVID-19 in prisons is not enough. Countries must ensure not only the security but also the health, safety and human dignity of people deprived of their liberty at all times, irrespective of any state of emergency”.

I therefore take this opportunity to remind all States to respect the human rights of persons deprived of their liberty in accordance with Article 6 of the African Charter on Human and Peoples' Rights, while adhering to and complying with the World Health Organization's Interim Guidelines on the Preparation, Prevention and Control of Covid-19 for prisons and other places of detention.

**SECTION IV: CHALLENGES**
A/ Challenges Encountered in the Execution of my Mandate

29. The following are challenges encountered in the implementation of my mandate as a Member of the Commission and as the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa:

i. the failure to recruit a Portuguese-speaking Legal Officer to date and after 3 years of office by the Human Resources Department of the African Union Commission (AUC), to assist in the implementation of my mandate, as is the case with the other Commissioners who have Legal Officers assisting them in their respective working languages;

ii. failure to translate most of the working documents of the Commission in Portuguese, during Sessions and other statutory meetings, as is done with other languages such as French and English;

iii. the lack of translation of the key documents and legal instruments of the Commission into Portuguese, which is one of the official working languages of the AU; and

iv. The need to recruit Portuguese speaking interpreters/translators for the Commission, as there are none currently, if possible with the assistance of partners, following the example of other Mechanisms.

v. Identify new partners who can assist in issues related to documentation in Portuguese language.

B/ Challenges faced in the area of Prisons and Conditions of Detention in Africa & Policing and Human Rights in Africa

30. In addition to the cited above on prisons and Covid-19, and to avoid repetition, all the challenges highlighted in my previous activity reports remain unchanged.

31. The challenges faced in the area of policing and human rights also remain unchanged as in previous reports, as very few activities were carried out to bring about some shift.

32. However, regional trainings have been planned to allow for greater territorial coverage; and trainings will include the police and prisons officers, parliamentarians and judges, in order to narrow the gaps between national
laws governing policing and the regional and international human rights principles and standards applicable in the area of policing.

SECTION V: RECOMMENDATIONS & CONCLUSIONS

A/ RECOMMENDATIONS ON PRISONS AND CONDITIONS OF DETENTION IN AFRICA

State Parties

33. State Parties are urged to:

i. dedicate funding to prisons and other places of detention, renovate and build new prisons in line with the Revised Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) to improve the standard/conditions of detention;

ii. adhere to and comply with the World Health Organization's Interim Guidelines on the Preparation, Prevention and Control of COVID-19 for prisons and other places of detention;

iii. develop and provide human rights training to Prison Officials;

iv. 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;

v. conduct independent and timely investigations into any death in custody, and bring the perpetrators to justice;

vi. grant authorization for promotion missions and prison visits requested by the Special Rapporteur to Member States;

vii. include adequate information and statistical data on Prisons and other 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, Urgent Appeals, Resolutions and Communications, and

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

a) Guidelines on the Conditions of Arrest, Police Custody and pre-trial detention in Africa (the Luanda Guidelines);

b) Guidelines on Policing Assemblies;
c) Principles on Decriminalisation of Petty Offences in Africa  
d) Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines);  
e) Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa;  
f) The Ouagadougou Declaration and Plan of Action on Accelerating Prisons and Penal Reforms in Africa; and  
g) Ouagadougou Declaration

Civil Society Organizations and National Human Rights Institutions

34. Civil Society Organizations and National Human Rights Institutions are urged to:  
   i. continue to monitor conditions of prisons and places of detention in Africa and make recommendations;  
   ii. conduct regular visits to prisons and other places of detention to ensure the respect of the rights and dignity of detainees; and  
   iii. submit shadow reports on State Periodic Reports submitted under Article 62 of the African Charter in relation to prisons and conditions of detention in States Parties.

Donors and Partners:

   i. continue to provide financial and technical assistance to the Mechanism to carry-out the necessary research and gather information that will serve as a basis for the development of appropriate activities for better criminal justice systems in Africa.

B/ RECOMMENDATIONS ON POLICING AND HUMAN RIGHTS

State Parties:

35. State Parties are urged to:

   i. Refrain from excessive use of force and subsequent violations of the human rights of individuals and take appropriate measures to put an end to such acts of abuse of authority by the Police and other Security Forces against civilians;  
   ii. undertake the necessary law reviews and amendments to existing legislations;
iii. develop sufficient initial and in-service human rights training programmes for Police Officers and Penitentiary Staff;
iv. promote the employment of women within the police and penitentiary services;
v. disseminate and implement the instruments below, train Law Enforcement Officials and Public Security on their content:
   a) Luanda Guidelines;
   b) Policing Assemblies Guidelines;
   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;
   e) Principles on the Decriminalisation of Small Offences.
vi. provide information on the status of implementation of the Luanda Guidelines and the Policing Assemblies Guidelines when submitting their Periodic States reports, as well as the Principles on the Decriminalization of Petty Offences in Africa;
vii. establish or designate an Independent Civilian Police Oversight Institution where civilians can freely access and report/complain about cases of abuse and violence’s committed by Police officers;
viii. 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; and
ix. enhance Police cooperation within 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.

Civil Society Organizations (CSOs):

36. Civil Society Organisations are urged to:

i. assist the Commission to disseminate and promote the instruments relevant to Policing including the Luanda Guidelines, the Policing of Assemblies Guidelines and the Principles on the Decriminalisation of Petty Offences in Africa;
ii. continue to monitor conditions of arrests and detention in Police custody; and

Donors and Partners:
37. Donors and partners are urged to:

i. provide financial and technical assistance to the mechanism to undertake relevant activities in the area of policing and human rights and specially to facilitate the dissemination and promotion of the Luanda Guidelines, the Policing Assemblies Guidelines; and the Principles on the Decriminalization of Petty Offences in Africa; and

ii. the Mechanism has so far produced 13 Newsletters on Policing and Human Rights in Africa and has started the production of Newsletter 14 on Police and Human Rights. I would like to urge donors and partners to renew and strengthen the support to the Mechanism for the continuing production of this Newsletter, which significantly contributes to awareness raising and promote human rights compliance policing in Africa.

CONCLUSION:

38. I would like to take this opportunity to extend my profound gratitude to all our partners, in particular, APCOF, DIHR, OSF, FIACAT and ICRC for their continued assistance and support to the mechanism. Finally, I would also like to encourage other partners, including States Parties to collaborate with the Mechanism in holding trainings to disseminate the Commission's publications on prisons, policing and human rights, and to authorise promotion missions.