65th ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES’ RIGHTS

INTER-SESSION ACTIVITY REPORT

(May – October 2019)

Presented by

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BANJUL, THE GAMBIA

21 October – 10 November 2019
INTRODUCTION

1. This report is presented in accordance with Rules 23(3) and 72 of the Rules of Procedure of the African Commission on Human and Peoples’ Rights (the Commission). It covers activities carried out during the inter-Session period between May and October 2019.

2. The report is divided into three parts: Part I covers the activities conducted in my capacity as Commissioner, Chairperson of the Working Group on Death Penalty and Extrajudicial, Summary and Arbitrary Killings and Enforced Disappearances in Africa and Chairperson of the Working Group on Specific Issues Related to the work of the African Commission, Part II deals with the situation of death penalty and extrajudicial, summary or arbitrary killings in Africa and Part III which concludes with a set of recommendations.

   Part I – Activities carried out as Commissioner and as Chairperson of the Working Group on Death Penalty and Extrajudicial, Summary and Arbitrary Killings and Enforced Disappearances in Africa and Chairperson of the Working Group on Specific Issues Related to the work of the African Commission

   A. Participation in the 26th Extraordinary Session of the Commission

3. I participated in the 26th Extraordinary Session of the Commission held from 16 - 30 July 2019 in Banjul, Republic of The Gambia. During the Session, the Commission mainly considered Communications and adopted decisions on eighteen (18) Communications.

   B. Promotion Missions

      Request for a Promotion Mission to the Republic of Chad

4. The Commission welcomes the positive response of the Republic of Chad to undertake a promotion mission in the country, and will soon reschedule the dates of the mission.

      Request for a Promotion Mission to the Republic of Benin
5. The request for authorization to undertake a promotion mission in the Republic of Benin is still awaiting the official communication of the mutually convenient dates from the Republic of Benin.

**Request for a Promotion Mission to the Republic of Senegal**

6. The request for authorization to undertake a promotion mission in the Republic of Senegal is still awaiting response from the Government of the Republic of Senegal.

**Request for a Promotion Mission to the People’s Democratic Republic of Algeria**

7. The Commission met with the Algerian Delegation on the margins of the 64th Ordinary Session, held in Sharm- el-Sheikh, Egypt and is still awaiting a decision on the new dates for the postponed Promotion Mission to Algeria, initially scheduled anytime, from between 10 January to end of February 2018 as proposed by the Government of Algeria in Note Verbale No. 131/17/AMB/YB of 20 July 2018.

**C. Press Statement**

8. As Chairperson of the Working Group on Death Penalty and Extrajudicial, Summary and Arbitrary Killings and Enforced Disappearances in Africa, I issued a press release on the 17th World Day against the Death Penalty on the theme of the year ‘Children: unseen victims of the death penalty’ calling states parties and other stakeholders to protect the rights of these children as provided by International Law. The Statement has been widely distributed to the general public.

**Participation in a Side Event at the Human Rights Council on the Occasion of the 30th Anniversary of the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty**

9. On 2 July 2019 in Geneva, Switzerland, I participated in a side event at the Human Rights Council on the Occasion of the 30th Anniversary of the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty. The event was organised by the International Commission Against Death Penalty, of which I am a member. The objective was to review and reflect on the impact of the instrument on the advancement of the human rights agenda
at the regional and international levels in the area of the death penalty, as well as assess to what extent the Second Optional Protocol to the ICCPR has achieved its goal to abolish the death penalty in its 30 years of existence, and note the factors that have contributed to expediting, impeding or delaying its ratification.

10. At the event, I made a presentation on “Death Penalty and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty”. I gave an overview of the situation of the death penalty in Africa, and explained the work of the Working Group on Death Penalty in Africa, as well as its impact on expediting the ratification of the Second Optional Protocol, including the recent Resolution ACHPR Res.416 (LXIV) of 14 May 2019 on the abolition of the death penalty in Africa, in which the Commission calls on States to observe the moratorium and to ratify the Second Optional Protocol to the ICCPR.

11. During the mission in Geneva, I also attended the General Assembly of the International Commission Against Death Penalty, during which I made a presentation on the situation of the death penalty in Africa and shared the experiences of the Working Group in the abolition of the death penalty.

Participation in the Regional Conference on the Universal Periodic Review, 11 to 13 June 2019, Kigali, Rwanda

12. The Regional Conference on the UPR was organised from 11 to 13 June 2019 in Kigali by the Legal Aid Forum, Rwanda, and the United Nations, Rwanda, on the theme: “Strengthening Human Rights Protection within the East Africa Community (EAC) Region through the Universal Periodic Review (UPR) Mechanism.

13. During the conference, I represented the African Commission on Human and Peoples’ Rights and made a presentation on “The Role of the African Commission on Human and Peoples’ Rights in the UPR Process”. Given that the human rights issues of African States that are dealt with at the level of UN treaty bodies are
similar to those that are examined by the African Commission, the latter’s role is mainly that of revisiting the recommendations of international mechanisms and the UPR during promotion missions of the Commission in States parties to the African Charter, during discussions with States when they present their periodic reports, and through the Commission’s relevant concluding observations and recommendations.

Participation in the Sensitization Seminar for AU Member States on the Ratification of the Protocol on the Rights of Older Persons and the Protocol on the Rights of Persons with Disabilities in Africa

14. The Sensitisation Seminar for AU Member States on the Ratification of the Protocol on the Rights of Older Persons and the Protocol on the Rights of Persons with Disabilities in Africa was organised by the Working Group on the Rights of Older Persons and People with Disabilities in collaboration with the Government of Rwanda. It was held on 5 and 6 July 2019 and brought together representatives of AU Member States. I read the opening statement, on behalf of the Chairperson of the Commission, and participated in the deliberations in my capacity as a member of the Working Group.

15. The objective of the seminar was to inform officials of ministries of foreign affairs and justice of the existence of the two additional protocols to the African Charter on Human and Peoples’ Rights and to sensitise States to ratify the two regional human rights instruments adopted by the African Union, which are:

- Protocol on the Rights of Older Persons in Africa adopted by the African Union at its 26th Summit held from 21 to 31 January 2016 in Addis Ababa, Ethiopia; and

Participation in the Panel on Extrajudicial Executions

16. I served as moderator during the panel on extrajudicial executions that was organised by the Working Group on 24 October 2019 during the 65th Ordinary Session of the Commission. The objective was to discuss, with delegates, the
issue of extrajudicial executions in Africa and to draw the attention of States to this issue which is a violation of the right to life. Ms Samia Bourouba, member of the Working Group, attended the panel discussion and made a presentation on “Extrajudicial executions as a human rights violation under the African Charter and the contribution of the Commission to the fight against extrajudicial executions”. Mr Kevin Mwangi of the Independent Medico-Legal Unit (IMLU) also made a presentation on the “Situation of extrajudicial executions in Africa: underlying causes and consequences, and the importance of documentation towards ensuring adequate reparation for survivors”.

17. Following the above presentations, Mr Nicolas Perron, ECPM Programme Director, made a presentation on “Decisions of the 7th World Congress against the Death Penalty”. We seized the opportunity to sensitize States to support the adoption of the draft Protocol on the Abolition of the Death Penalty in Africa.

**Participation in the Panel on Enforced Disappearances**

18. The panel was organised on 22 October 2019 during the 65th Ordinary Session of the Commission. It was jointly organised by the Commission’s Committee for the Prevention of Torture and the Working Group on Death Penalty and Extrajudicial, Summary and Arbitrary Killings and Enforced Disappearances.

19. The objective was to discuss the issue of enforced disappearances which is an ongoing phenomenon in many States parties that are in conflict situations, and to brainstorm on measures to be taken in order to prevent and eradicate this form of human rights violation.

**Participation in the Panel Discussion on the Ratification of the Protocol on the Rights of Older Persons and the Protocol on the Rights of Persons with Disabilities**

20. The panel discussion was organised on 24 October 2019 by the Working Group on the Rights of Older Persons and People with Disabilities during the 65th Ordinary Session of the Commission within the framework of continuous sensitization towards the ratification of the Protocol on the Rights of Older Persons and the Protocol on the Rights of Persons with Disabilities.

21. In my capacity as a member of the Working Group, I made a presentation on the urgent need and importance to ratify the two protocols which will improve
the living conditions of these two groups of people who are an important part of our societies and are vulnerable groups.

Part II. Situation of the Death Penalty, Extrajudicial, Summary or Arbitrary Killings in Africa

Death Penalty

22. The Working Group notes with satisfaction some of the positive developments in Africa regarding the abolition of the death penalty. As of October 2019, forty-four (44) State Parties to the African Charter have abolished the death penalty in law or in practice. Twenty-one (21) have abolished the practice by way of enacting national legislation,¹ of which twelve (12) have also ratified the Second Optional Protocol to the ICCPR on the abolition of the death penalty.² Twenty-three (23) State Parties have not carried out an execution for ten years.³

23. The Working Group takes note of the positive developments that have been made across the continent including non-imposition of the death penalty and non-execution of prisoners during the period under review. At the same time, the Working Group is also keenly monitoring the constitutional amendment and constitutional review processes to abolish the death penalty, in Burkina Faso and the Gambia respectively and pledges its readiness to provide any technical support required in this regard.

Deaths related to armed conflict

24. The Working Group is deeply concerned that the situation in the Central Mopti Region of Mali between nomadic Fulani herders and Bambara and Dogon farmers continues unabated and innocent lives and property continue to be lost. This unfortunate situation have demonstrated that despite the international and global efforts in fighting terrorism, the latter remains as a

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¹ Angola, Benin, Burkina Faso, Burundi, Cape Verde, Congo (Republic of), Côte d'Ivoire, Djibouti, Gabon, Guinea, Guinea-Bissau, Madagascar, Mauritius, Mozambique, Namibia, Rwanda, Sao Tome and Principe, Senegal, Seychelles, South Africa, and Togo.

² In addition to these abolitionist state parties, The Gambia and Liberia have ratified OPII but not yet abolished the death penalty in national legislation. Angola has signed but not ratified the Protocol.

problem to international security and durable solutions to these conflicts must be found.

Private Killings, Insecurity and Terrorism

25. The Working Group remains concerned about the recent xenophobic attacks in parts of South Africa, leading to the death of at least twelve (12) people and many others injured or displaced. The Working Group also notes that such attacks have been a constant phenomenon in South Africa for the past years including in 2008 and 2015 respectively, and despite the public condemnation of the recent attacks by the President of South Africa, no one has yet been brought to justice for the past xenophobic attacks and the ones that took place this year.

26. The Working Group calls on the Government of the Republic of South Africa to conduct independent and timely investigations into these cases, with full accountability for any individual found responsible as well as implement the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance. This will contribute to combating impunity as well as finding a holistic and lasting solution to this regrettable phenomenon.

Part III. Conclusion and Recommendations

27. With the positive developments regarding the situation of the death penalty on the continent, particularly the non-imposition of death penalty and non-execution of prisoners during the period under review, the Working Group will continue to work with its partners and stakeholders to sustain the advocacy with a view to increase awareness and influence attitudes of the State Parties on the issue of the death penalty and extra-judicial, summary or arbitrary killings and enforced disappearances in Africa.

28. Notwithstanding the gains made, the Working Group is also mindful of the many challenges that still lie ahead regarding the protection of the right to life in Africa.

29. In light of the aforementioned analysis on the situation of the death penalty and extra-judicial, summary or arbitrary killings and enforced disappearances in Africa, the Working Group hereby wishes to make the following recommendations to the various stakeholders:
State Parties:

- Calls on the Republic of South Africa and the Republic of Mali take concrete measures to finding a lasting solution to the underlying causes of the attacks in their respective States. It also calls on the International Community to continue to lend support these countries in addressing the violence relating to the communal conflicts and xenophobia respectively;

- Urges the States Parties to the African Charter that still impose/use the death penalty to observe a moratorium on the application of the death penalty, suspend the execution of prisoners in death row and commute their sentences to life;

- Urges the States Parties to the African Charter to effectively collaborate with the Commission to raise awareness and combat the problem of extra-judicial, summary or arbitrary killings and enforced disappearances in Africa;

- Continue to collaborate at the national, regional and international level to combat the resurgence of terrorism in most African countries, particularly in West, Central and North Africa in line with regional and international norms, standards and best practices;

- Strengthen at the national level, the legal framework protecting the right to life and dignity by supporting the adoption process of the draft Protocol to the African Charter on Human and Peoples’ Rights on the Abolition of the Death Penalty in Africa;

- Calls on the Republic of Benin and the Republic of Senegal to authorize the request for Promotion Mission to their respective countries, and the People’s Republic of Algeria to communicate the new dates for the authorized promotion mission.

Civil society organizations:
- Continue advocacy at the national level for the abolition of the death penalty, collaborate and support similar advocacy efforts at the sub-regional and continental level;

- Continue advocacy and awareness-raising activities towards combating extra-judicial, summary or arbitrary killings and enforced disappearances in Africa;

*Other partners:*

- Continue to support the Working Group to enable the latter to effectively implement its mandate.