INTER-SESSION ACTIVITY REPORT OF
HONOURABLE COMMISSIONER JAMESINA ESSIE L. KING

AS

A member of the African Commission on Human and Peoples’ Rights;
The Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa;
The Chairperson of the Committee on Resolutions;
Country Rapporteur;
A member of the Working Group on Indigenous Populations/Communities in Africa;

AND

A member of the Working Group on Extractive Industries, Environment and Human Rights Violations;

Presented to the 65th Ordinary Session of the African Commission on Human and Peoples’ Rights

Banjul, The Gambia

21 October – 10 November 2019
INTRODUCTION
1. This report is prepared in accordance with Rules 23(3) and 72 of the Rules of Procedure of the African Commission on Human and Peoples’ Rights (the Commission).
2. I present this report in my capacities as a member of the Commission, as Country Rapporteur, as the Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa, as the Chairperson of the Committee on Resolutions, as a member of the Working Group on Extractive Industries, Environment and Human Rights Violations and as a member of the Working Group on Indigenous Populations/Communities in Africa.
3. The Report covers activities carried out during the intersession period between April and October 2019 and is structured in seven parts as follows:

- Part I – Activities undertaken in my capacity as a member of the Commission;
- Part II – Activities undertaken in my capacity as the Chairperson of the Committee on Resolutions
- Part III – Activities undertaken in my capacity as Country Rapporteur
- Part IV – Activities undertaken in my capacity as the Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa;
- Part V – Activities undertaken in my capacity as a member of the Working Group on Indigenous Populations/Communities.
- Part VI – Activities undertaken in my capacity as a member of the Working Group on Extractive Industries, Environment and Human Rights Violations
- Part VII – Conclusions, Challenges and Recommendations

PART I – ACTIVITIES UNDERTAKEN IN MY CAPACITY AS A MEMBER OF THE COMMISSION

Participation in the Moot Court Competition held in Botswana
4. From 1 to 6 July 2019 in Gaborone-Botswana, I attended the Moot Court competition co-organised by the Centre for Human Rights of the University of Pretoria and the Department of Law of the University of Botswana. I sat as a Judge in the final round.

Participation in the 26th Extra-Ordinary Session of the African Commission on Human and Peoples’ Rights
5. In accordance with Rule 27 of its Rules of Procedure, the Commission held its 26th Extra-Ordinary Session from 16 to 30 July 2019 in Banjul, The Gambia. I participated in the activities of the said Session as highlighted in the Final Communiqué which is accessible on the website of the Commission, at: https://www.achpr.org/sessions/info?id=308.
PART II – ACTIVITIES UNDERTAKEN IN MY CAPACITY AS THE CHAIRPERSON OF THE COMMITTEE ON RESOLUTIONS

6. As the Chairperson of the Resolutions Committee, I wish to report that during the 26th Extra-Ordinary Session, the Commission adopted the following resolutions which could also be found on the website of the Commission:
   i. Resolution on the Human Rights Situation in Libya;
   ii. Resolution on the Threat of the Ebola Epidemic in the Democratic Republic of Congo; and
   iii. Resolution on Human Rights and Humanitarian Law Violations resulting from Foreign Air Strikes.

PART III – ACTIVITIES UNDERTAKEN IN MY CAPACITY AS COUNTRY RAPPORTEUR

Advocacy visit to the Kingdom of Eswatini and participation in a workshop on the Right to Adequate Housing

7. This first activity was actually carried out under both my capacities as Country Rapporteur and the Chairperson of the Commission’s Working Group on Economic, Social and Cultural Rights in Africa.

8. From 26 to 28 August 2019, I undertook an advocacy country visit to the Kingdom of Eswatini to meet the victims of forced evictions and participate in a workshop on the right to adequate housing. The activity was organised and supported by the International Commission of Jurists (ICJ) in conjunction with the European Union (EU), the Foundation for Socio-Economic Justice (FSEJ), the Southern African Litigation Centre (SALC) and Amnesty International (AI).

9. On 26 August 2019, I met with the communities at risk of forced evictions in Sigombeni and those already affected in the Malkerns. This was an opportunity for me to hear the affected communities out and to learn about the land tenure system of the Kingdom of Eswatini.

10. In Sigombeni, we had an informative encounter with the communities at risk of forced evictions. They explained the circumstances under which they settled in the area and how they have been living in constant fear, since the acquisition of the title-deed to the land on which they live by an Eswatini businessman.

11. In the Malkerns, I visited sites with visible remains of homesteads which were demolished by a private company during forced evictions which took place on 9 April 2018. The affected families told us that they acquired the land from a chief through the traditional land tenure system. They also indicated that before the evictions, they were
living in dignity and sustainability in their homesteads, as they could equally farm on the land for subsistence.

12. We further visited their resettlements in the Malkerns and we witnessed their poor and deplorable living conditions. They are now vulnerable or their already existing vulnerability has increased following the forced evictions.

13. On 27 August, we began the workshop on the right to adequate housing in which the affected and at-risk communities took part and I addressed participants with a view to:

- raising awareness on the African Charter, the Commission’s standards and international human rights instruments and standards on the State’s obligation to protect the right to adequate housing;
- highlighting the Kingdom of Eswatini’s responsibilities to guarantee the right to adequate housing and to protect victims from forced evictions;
- urging the Kingdom to publicly declare a moratorium on forced evictions until adequate legal and procedural safeguards are put in place, compensate victims of forced evictions and provide them with adequate alternative housing with a focus on vulnerable, marginalised and disadvantaged groups;
- urging the State to enact laws prohibiting forced evictions and enhance the security of tenure in the Kingdom of Eswatini.

14. On 28 August, the workshop continued and the affected communities and I had the opportunity to engage the Chairperson of the Human Rights Commission of the Kingdom of Eswatini on the issue of forced evictions. The workshop concluded with the development of a strategic action plan.

15. An important aspect of my visit was the meeting I had with the Minister of Justice of the Kingdom to discuss the issue of forced evictions and the plight of affected communities. She assured me that the Kingdom is actively working on resolving the issue with all stakeholders in a collaborative manner.

Press Release on the Death of Sir Dawda Kairaba Jawara

Follow-up on the Request for a Promotion Mission to the State of Eritrea
17. We have not yet received response from the State of Eritrea with respect to our request for authorization to conduct a promotion mission.
Follow-up on the Request for a Promotion Mission to the Republic of Zimbabwe
18. On 11 September 2019, the Ministry of Foreign Affairs and International Trade of the Republic of Zimbabwe sent a Note Verbale to the Commission in response to my request for a Promotion Mission dated 14 March 2019, proposing the mission to be held from 19 to 25 September 2019. By a Note Verbale dated 18 September 2019, the Commission suggested a postponement of the Mission to a mutually convenient date.

PART IV – ACTIVITIES UNDERTAKEN IN MY CAPACITY AS THE CHAIRPERSON OF THE WORKING GROUP ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN AFRICA

19. Following the workshop on the right to adequate housing in Eswatini, I went to South Africa to launch the ICJ’s Guide for the Legal enforcement and Adjudication of Economic, Social and Cultural Rights in South Africa. Whilst I was in South Africa, I also had the opportunity to meet with the Judges of the Constitutional Court of South Africa and our discussions highlighted the need for more engagement and collaboration between national judiciaries and the African Human Rights System.

PART V – ACTIVITIES UNDERTAKEN IN MY CAPACITY AS A MEMBER OF THE WORKING GROUP ON INDIGENOUS POPULATIONS/COMMUNITIES

20. From 7 to 8 October 2019, I attended and facilitated a session at the National Dialogue on the Rights of Indigenous Peoples’ and Extractive Industries organized by the Working Group on Indigenous Populations/Communities in Africa (the Working Group) in Nairobi, Kenya. Its Final Communiqué and action plan is available on the Commission’s website at: https://www.achpr.org/news/viewdetail?id=203. I also participated in the Working Group’s meeting held on the 19th and 20th October 2019 in Banjul the Gambia.

Development of the Guidelines on the Right to Water in Africa
21. During the 26th Extra-Ordinary Session which took place in Banjul from 16 - 30 July 2019, the Working Group Expert Helene Dos Santos presented the revised Guidelines on the Right to Water in Africa. The Commission adopted the Guidelines subject to incorporation of additional comments and observations. The document is being finalized for publication.
PART VI - ACTIVITIES UNDERTAKEN IN MY CAPACITY AS A MEMBER OF THE WORKING GROUP ON EXTRACTIVE INDUSTRIES, ENVIRONMENT AND HUMAN RIGHTS VIOLATIONS

22. Progress was made during this intersession period to incorporate amendments made to the Study on Illicit Financial Flows, mandated to the WGEI and the Working Group on Economic, Social and Cultural Rights under the Commission’s Resolution 236. The next step would be consideration by the Commission of the Study for adoption.

PART VII - CONCLUSIONS, CHALLENGES AND RECOMMENDATIONS
Conclusions and challenges
23. The Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples’ Rights indicate the obligations of State Parties on the right to housing and refers to SERAC & CESR v Nigeria, where the Commission held that, although the right to housing or shelter is not explicitly provided for under the African Charter, housing rights are protected through the combination of provisions protecting the right to property (art 14), the right to enjoy the best attainable standard of mental and physical health (art 16), and the protection accorded to the family (art 18(1)).

The right to housing imposes, amongst others, the following obligations on States parties to:

a. Refrain from and protect against forced evictions from home(s) and land, including through legislation. All evictions must be carried out lawfully and in full accordance with relevant provisions of national and international human rights and humanitarian law. States should apply appropriate civil or criminal penalties against any public or private person or entity within its jurisdiction that carries out evictions in a manner inconsistent with applicable national and international law, including due process.

b. Guarantee to all persons a degree of security of tenure which confers legal protection upon those persons, households and communities currently lacking such protection, including all those who do not have formal titles to home and land, against forced evictions, harassment and other threats.

c. Ensure at the very least basic shelter for everybody

A lot of communities and individuals across the continent face enormous housing challenges as a result of absence of security of tenure, forced evictions and displacement which undermine their dignity, well-being and ability to contribute to development, peace and cohesion. The Commission is concerned by the failure or neglect by State parties to prioritize the full implementation of economic, social and cultural rights and in particular the right to adequate housing and the absence of constitutional, legislative, judicial and administrative mechanisms to provide redress to victims of violations of these rights.
Recommendations

24. I wish to make the following recommendations to various stakeholders:

To State Parties:

- Protect and respect the right to adequate housing and take steps to put in place constitutional, legislative, administrative, policy, institutional, judicial and budgetary measures towards the full realisation of all economic and social rights of your population in accordance with the African Charter, A.U. Agenda 2063 and the U.N. Sustainable Development Goals and provide redress to victims of violation of these rights;

- Take concrete steps to regulate the activities of non-state actors to prevent violations of economic, social and cultural rights and remedy violations if and when they occur.

- All national development plans of State Parties and monitoring and evaluation mechanisms of such plans should be human rights driven and take into account their obligations under the African Charter, Agenda 2063 and the Sustainable Development Goals.

- Support the internal processes of the AU on the adoption of the Draft Protocol to the African Charter on the Rights of Citizens to Social Protection and Social Security;

25. I continue to urge the State of Eritrea to authorise a promotion mission in line with Article 45 of the Charter. I also wish to reiterate my appeal to the Kingdom of Eswatini to publicly declare a moratorium on forced evictions until the passing of a law ensuring enhanced security of tenure and to submit its outstanding state reports under the African Charter and the Maputo Protocol.

To Civil Society Organisations and Other partners

- Collaborate and support advocacy efforts at the national, sub-regional and continental levels to implement economic, social and cultural rights and

- Provide support to the Working Group to enable it to effectively implement its mandate.

Thank you for your attention.