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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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 carried out during the inter-session period between the 64th and present 65th Ordinary Session.

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 four (4) parts; the Introduction; Inter-sessional Activities; Challenges faced with the implementation of the mandate of the Special Rapporteur; and Recommendations and Conclusions.
SECTION II - INTER-SESSION ACTIVITIES

PART ONE: ACTIVITIES AS COMMISSIONER

38th Session of the PRC

4. From 17 to 18 June 2019, representing the Bureau of the Commission, I attended the 38th Session of the Permanent Representatives Committee in Addis Ababa, Ethiopia, where I presented the 46th Activity Report of the Commission. During this mission, I headed the delegation comprising of Dr. Mary Maboreke, Secretary to the Commission, Mrs. Marie Saine, Senior Legal Officer and Mrs. Martha Asante, Finance and Administrative Officer. The report on this mission has been presented and filed at the Commission.

26th Extra-Ordinary Session

5. From 16 to 30 July 2019, I attended the 26th 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.

Promotion Mission to the Democratic Republic of Sao Tomé & Principe

6. From 1 to 4 September 2019, as the Country Rapporteur on the Human Rights Situation in the Republic of Sao Tome and Principe, and together with Honourable Commissioner Hatem Essaiem, the Chairperson of the Committee on the Prevention of Torture in Africa, we undertook the first Promotion Mission of the Commission to the Democratic Republic of Sao Tomé and Principe. During the mission, we promoted the African Charter and other regional and international human rights instruments. We also held discussions with government officials and civil society organisations on the implementation of these instruments in the country and encouraged them to resume their attendance at the Commission’s sessions, as well as meetings of regional bodies for the promotion and protection of human rights.

Request for Promotion Mission

7. As Commissioner responsible for promotional activities in the Republics of Cape Verde, Equatorial Guinea, Guinea-Bissau, Mozambique and São Tomé and Principe, I sent reminder Notes Verbales requesting for
authorisation to undertake a promotion mission to Cape Verde, Equatorial Guinea, Mozambique and São Tomé and Príncipe. Authorization was granted by Sao Tome and Principe and we are yet to have official responses from Cape Verde and Equatorial Guinea. Discussions to schedule the visit are ongoing with Mozambique.

PART 2: ACTIVITIES UNDERTAKEN AS THE SPECIAL RAPPORTEUR ON PRISONS, CONDITIONS OF DETENTION AND POLICING IN AFRICA

A/ Meetings


8. From 11 to 12 June 2019, in Luanda, Angola, I held a “Sensitization and Training Workshop for Senior Officers of the Angolan Police and Prison Services on the ACHPR’s Guidelines on Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, its Implementation Toolkits and Principles on Decriminalization of Petty Offences in Africa”. The Workshop was attended by government institutions, Police and Prison Officers, as well as Civil Society Organisations.

9. The Workshop, which is part of the promotion mandate of the Commission, was organized within the framework of Article 45 of the African Charter, to sensitize Law Enforcement Officers on the Commission ’s Guidelines on Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, its Implementation Toolkits and the Principles on the Decriminalization of Petty Offences in Africa; and build their capacity in monitoring compliance with human rights standards by key stakeholders within the criminal justice system in Angola.

Workshop on the Role of the Commission in the Preservation of Human Rights in Africa

11. The Workshop was co-organized with the ASSOGE (Associação Observatório de Políticas Públicas da Perspetiva do Género) and was attended by Mosaiko. I was invited in my capacity as the Country Rapporteur on the Human Rights Situation in the five Portuguese-speaking African countries, commonly known by the acronym PALOP and was the first organised by an NGO having observer status with the Commission, for Lusophone speaking countries. The Workshop brought together various stakeholders from Angola, Cape Verde, Guinea Bissau, Mozambique and S. Tomé and Príncipe. I delivered the Opening Remarks and also made a presentation on the “Role of the Commission in the Safeguarding Human Rights in Africa”.

**Workshop on the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT): Dialogue and Cooperation with Angola**

12. From 27 to 28 August 2019, at the invitation of the UN Convention against Torture Initiative (CTI) and co-organized with the Republic of Angola, I attended a “Workshop on the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT): Dialogue and Cooperation with Angola”, which took place in Luanda, Angola.

13. The objective of the Workshop was to sensitize authorities on the obligations of UNCAT; the relevant regional and international instruments and guidelines on the prevention of torture; identify strategies for the implementation of the Covenant; strengthen understanding of the issues and challenges of the State after ratification. The Workshop was attended by experts from the UN; the IACHR; government institutions including Law Enforcement Officers; University Professors and Civil Society Organisations. During the working, I made two presentations on the “UN Convention against Torture and Relevant Regional Instruments: Introduction to Relevant African Instruments” and “Experiences and Recent Developments in Angola”.

**Round Table on Regional Systems of Human Rights**

14. On the 5 September 2019, at the invitation of the Ministry of Justice and Human Rights of Angola, I participated in a “Round Table on Regional Systems of Human Rights”, in Luanda, Angola. The meeting took place at the Instituto Superior Politécnico Kangonjo - ISKA, and was attended by the representatives of the University of Coimbra and Civil Society Organisations.
15. From 20 to 21 September 2019, I participated in a “Symposium on the Decriminalization of Petty Offences: Challenging Criminalization of Poverty, Marginalization, and Gender Non-Conformity”, held at the University of Miami’s Coral Gables Campus in USA. The Symposium was organised by the University of Miami School of Law in collaboration with the University of Miami Law Review, the University of Miami Race and Social Justice Law Review, the University of Miami School of Communication, the National Centre of Law on the Homeless and the Open Society Foundation.

16. The Symposium was organized to share experiences and strategies in challenging petty offenses, and for cross-learning from groups working on this issue in various parts of the world. In particular, the symposium explored the use of litigation; human rights advocacy at international, regional, national, and local levels; and creative campaigning. I was one of the speakers at the closing panel of the symposium.

B/Working Meetings

Working Meeting with Representatives of the International Committee of Red Cross (ICRC)

17. In July 2019, on the margins of the 26th Extra-Ordinary Session of the Commission, held in Banjul, The Gambia, I had a working meeting with Representatives of the International Committee of Red Cross based in Dakar, Senegal, to discuss the MOU to formalise areas of collaboration and cooperation between the two institutions.

Working Meeting with Representatives of the Danish Institute on Human Rights

18. During the same period, together with Honourable Commissioner Maya Sahli Fadel, the Special Rapporteur on Refugees, Migrants and Internally Displaced Persons in Africa, we held a working meeting with the Danish Institute on Human Rights (DIHR), to discuss the way forward on the drafting of the “Study on Human Rights Violations against Migrants in Niger”.

Working Meeting with the NANHRI

19. In September 2019, I had a working meeting with the NANHRI representative, Mrs. Patricia Makau, in Miami, USA, on the margins of the Symposium on the Decriminalization of Petty Offences, to agree on a joint programme on the dissemination of the Principles on Decriminalization of Petty Offences by the in Africa.

C/ Press Statements & Letters of Urgent Appeal

Statement on the Release of Prisoners in Cameroon

20. On 11 October 2019, together with the Commissioner Rapporteur on the Human Rights Situation in Cameroon, Honourable Commissioner Remy Ngoy Lumbu, we issued a Press Statement on the decision of His Excellency Mr Paul Biya, President of the Republic of Cameroon, to release and abandon all charges against 103 prisoners, including the opposition Leader of the Mouvement pour la Renaissance du Cameroun (Mr. Maurice Kamto), who were arrested and detained for 8 months for contesting the results of the presidential elections of 2018.

21. We expressed deep satisfaction at the successful resolution of the situation and hoped that the efforts for reconciliation of its people will continue in order to resolve the human rights situation in Cameroon, which remains a matter of concern, particularly in the North West and South West regions. We welcomed the conclusions of the National Dialogue and encouraged the various parties to find a sustainable solution and restore peace and unity in Cameroon. The Commission reiterated its request and availability to carry out a promotion mission to the Republic of Cameroon, to strengthen its dialogue with government authorities and all other stakeholders.

Letter of Urgent Appeal to Mozambique

22. On 19 June 2019, in my capacity as the Commissioner Rapporteur on the Human Rights Situation in the Republic of Mozambique, together with the Special Rapporteur on Refugees, Migrants and Internally Displaced Persons in Africa, Honourable Commissioner Maya Sahli Fadel, we sent a Joint Letter of Appeal to His Excellency Mr. Filipe Nyusi, President of the Republic of Mozambique, regarding allegations of Arbitrary Detention of 16 Refugees and Migrants in the Republic of Mozambique. The Commission is yet to receive a response from the Government of the Republic of Mozambique.
SECTION III: CHALLENGES

A/ Challenges Encountered in the Execution of my Mandate

23. 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 2 years, 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. The lack of translation of key documents of the Commission into Portuguese, which is one of the official working languages of the AU; and

iii. The need to recruit Portuguese speaking interpreters/translators for the Commission, as there are none currently.

B/ Challenges faced in the area of Prisons and Conditions of Detention in Africa

24. In order to avoid repetition, all the items contained in the previous reports remain unchanged and, in order to improve the Commission’s work to provide the necessary answers, a Letter of Intent is underway with the International Committee of the Red Cross working in the area of Prisons to train Prison Officers and assist with the rehabilitation of the Prisons.

25. Contacts have also been initiated with the Africa Correctional Services Association (ACSA), chaired by Mozambique, and developments are expected.

C/ Challenges faced in the area of Policing and Human Rights in Africa

26. The challenges faced in the area of policing and human rights are the same as in previous reports, as very few activities were carried out to bring about a paradigm shift. However, regional trainings have already been planned to allow for greater territorial coverage; and trainings will include parliamentarians from the countries covered, 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 VI: RECOMMENDATIONS & CONCLUSIONS

A/ RECOMMENDATIONS ON PRISONS AND CONDITIONS OF DETENTION IN AFRICA

To State Parties

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

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

vi. include adequate information and statistical data on Prisons and others 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, and

viii. 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 and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines);

c) Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa;
d) The Ouagadougou Declaration and Plan of Action on Accelerating Prisons and Penal Reforms in Africa; and

To Civil Society Organizations and National Human Rights Institutions

28. 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.

To 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

To State Parties:

29. State Parties are urged to:

   i. undertake the necessary law reviews and amendments to existing legislations;
   ii. develop sufficient initial and in-service human rights training programmes for Police Officers;
   iii. promote the employment of women within the police and penitentiary services;
   iv. disseminate and implement the instruments below, train Law Enforcement Officials on their content:

      a) Policing Assemblies Guidelines;
      b) Luanda 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;

v. 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;

vi. 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;

vii. 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

viii. 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.

To Civil Society Organizations:

30. 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


To Donors and Partners:

31. 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 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.
In conclusion:

32. I would like to take this opportunity to extend my profound gratitude to all our partners, in particular, APCOF and DIHR for their continued assistance and support to the mechanism. This gratitude extends to the ICRC, which is committed to collaborating with the Mechanism, on matters relating to prisons.

33. Finally, I would also like to encourage other partners, including States Parties, to collaborate with the Mechanism in holding training sessions to disseminate the Commission's publications on prisons, policing and human rights, and to authorise promotion missions.