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

AS

A member of the African Commission on Human and Peoples’ Rights;

Outgoing Chairperson of the Working Group on Economic, Social and Cultural Rights

in Africa;

AND

The Chairperson of the Committee on Resolutions;

Presented to the 66th Ordinary Session of the African Commission on Human and Peoples’ Rights

Banjul, The Gambia

13 July – 7 August 2020
INTRODUCTION

1. This report is prepared 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).

2. I present this report in my capacities as a member of the Commission, as outgoing Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa, and as the Chairperson of the Committee on Resolutions,

3. The Report covers activities carried out during the inter-session period between November 2019 and July 2020 and is structured in five parts as follows:
   • Part I – Activities undertaken in my capacity as a member of the Commission;
   • Part II – Activities undertaken in my capacity as outgoing Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa;
   • Part III – Activities undertaken in my capacity as Chairperson of the Committee on Resolutions; and
   • Part IV – Challenges, Recommendations and Conclusion.

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

Participation in the 27th Extraordinary Session of the Commission

4. I participated in the 27th Extraordinary Session of the Commission held from 19 February to 4 March 2020 in Banjul, The Gambia. The activities of the said Session are highlighted in the Final Communiqué which is accessible on the website of the Commission at: https://www.achpr.org/sessions/info?id=318.

Participation in the 28th Extraordinary Session of the Commission

5. Amidst the COVID-19 pandemic, the Commission held its 28th Extraordinary Session virtually from 29 June to 1 July 2020. Four (4) newly elected Commissioners made their Solemn Declaration during the said Session and also underwent an induction ceremony. The Final Communiqué of the 28th Extraordinary Session is available at: https://www.achpr.org/sessions/info?id=325

6. The end of the 28th Extraordinary also marked the end of my mandate as Chairperson of the Working Group on Economic, Social and Cultural Rights.
PART II – ACTIVITIES UNDERTAKEN IN MY CAPACITY AS OUTGOING CHAIRPERSON OF THE WORKING GROUP ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN AFRICA

Sensitization Seminar on the Promotion and Protection of the Rights of Women in Africa


Press Releases on the COVID-19 crisis and the impact of the COVID-19 pandemic on economic, social and cultural rights

8. In the wake of the COVID-19 pandemic, I issued two press statements namely:
   - Press statement on the coronavirus (COVID-19) crisis on 28 February 2020; and

9. The objective of the press statements was to remind States Parties of their obligation to observe and protect human and peoples’ rights in their efforts to combat the pandemic in their respective countries.

Norm development on States’ obligations to regulate private actors involved in the provision of social services

10. Following a Resolution passed at the 27th Extraordinary Session on the Need to Develop Norms on States’ Obligations to Regulate Private Actors Involved in the Provision of Social Services, the Working Group on Economic, Social and Cultural Rights (the Working Group) and selected partners held two virtual preparatory meetings on 8 May 2020 and 5 June 2020 respectively, to discuss the norm to be developed, its scope and structure.

Publication of the Guidelines on the Right to Water in Africa

11. On 1 July 2020, the Guidelines on the Right to Water in Africa, elaborated under my leadership and adopted at the Commission’s 26th Extraordinary Session, were
published on the Commission’s website. To mark the occasion, I issued a press statement on the importance of the Guidelines especially in assisting States to develop appropriate preventive measures in addressing the COVID-19 pandemic.

**Update on the Study on Illicit Financial Flows in Africa**

12. The Commission’s Resolution 236 mandated the Working Group on Economic, Social and Cultural Rights and the Working Group on Extractive Industries, Environment and Human Rights to jointly undertake an in-depth study on the impact of illicit capital flight on human rights in Africa. A joint special mechanisms meeting was held in February 2019 during which the Study on Illicit Financial Flows in Africa was presented to members of the Working Groups and other selected experts. The final draft is to be finalized for presentation to the Commission.

**Update on the Study on Climate Change and Human Rights**

13. The Working Group on Economic, Social and Cultural Rights and the Working Group on Extractive Industries, Environment and Human Rights were also mandated by the Commission to undertake a study on climate change and human rights. This Study has not been undertaken.

**Update on the process of the adoption of the Draft Protocol to the African Charter on the Rights of Citizens to Social Protection and Social Security.**

14. Last year the Commission adopted the Draft Protocol to the African Charter on the Rights of Citizens to Social Protection and Social Security and transmitted it to the Department of Social Affairs of the African Union Commission for adoption by the AU Assembly of Heads of State and Government. The internal processes are ongoing at the level of the African Union and it is expected that it will be presented shortly for consideration and adoption.

**Joint letters to State Parties on allegations of violations of economic, social and cultural rights**

15. I sent a Joint Letter of Concern to the Republic of Sudan on 18 May 2020, together with the Commissioner Rapporteur on the Human Rights Situation in the Republic of Sudan regarding the alleged arbitrary dismissal of employees in the National Civil Service of Sudan based on perceived alliance with the former regime. In the letter, we urged the Government of the Republic of Sudan to provide clarification to the Commission regarding the above-stated allegations; carry out prompt and impartial investigations into the allegations without delay; guarantee the right to
work under equitable and satisfactory conditions; ensure that due process of law is followed in the termination of employees; respect regional and international standards on the right to work; and generally, to comply with the African Charter on Human and Peoples’ Rights (the African Charter) as well as other relevant human rights instruments to which the Republic of Sudan is a party.

16. I also sent a Joint Letter of Appeal to the United Republic of Tanzania together with the Commissioner responsible for the human rights situation in Tanzania, and Special Rapporteur on Freedom of Expression and Access to Information concerning the promotion and protection of human rights during the COVID-19 pandemic. We urged the Government of the United Republic of Tanzania to ensure that all necessary measures are taken to institute preventive measures to secure the health, safety and life of all people in Tanzania without distinction while complying with the human rights standards including safe access by prisoners to their lawyers; ensure that factual, regular, intelligible and science-based information is availed to all people on inter alia, the spread of COVID-19 in the country and across different regions and the precautionary measures people should adopt to protect themselves from contracting the virus; work with community and religious leaders to adopt measures that fully comply with preventive measures including banning of meetings and religious gatherings, while facilitating alternative ways through which people can continue to practice their right to freedom of religion and inform the Commission of the steps it has taken or intends to take in complying with these recommendations.

PART III - ACTIVITIES UNDERTAKEN IN MY CAPACITY AS THE CHAIRPERSON OF THE COMMITTEE ON RESOLUTIONS

17. As the Chairperson of the Resolutions Committee, I wish to report that during the 65th Ordinary Session held in Banjul, The Gambia from 21 October to 10 November 2019, the Commission adopted the following resolutions finalized during the inter-session which could be found on the website of the Commission:

- Resolution on the Renewal of the African Commission on Human and Peoples’ Rights’ Special Mechanisms’ mandates;
- Resolution on the Appointment of Expert Members of the Committee for the Prevention of Torture in Africa;
- Resolution on use of expertise of former Commissioners to advance the Work of the African Commission on Human and Peoples’ Rights;
- Resolution on the Human Rights Situation in the Republic of South Sudan;
- Resolution on the Human Rights Situation in the Federal Democratic Republic of Ethiopia;
- Resolution on the Recognition, Promotion and Protection of Indigenous Languages;
18. During the 27th Extraordinary Session held in Banjul, The Gambia from 19 February to 4 March 2020, the Commission adopted the following resolutions which could also be found on the website of the Commission:

- Resolution on the Post-Election Crisis in the Republic of Guinea-Bissau
- Resolution on the Extension of the Deadline for the Submission of the Draft Study on the Situation of Africa’s Sacred Natural Sites and Territories;
- Resolution on the Need to Develop a Study on the Situation of African Human Rights Defenders in Exile;
- Resolution on the Need to Develop Guidelines for Shadow Reporting;
- Resolution on the Need to Develop norms on the Obligations of States to Regulate Private Actors Involved in the Provision of Social Services; and
- Resolution on the Need to Prepare a Study on the Use of Force by Law Enforcement Officials in Africa.

PART VI – CHALLENGES, RECOMMENDATIONS AND CONCLUSION

Challenges

19. The COVID-19 pandemic has highlighted gaps in the health sector which undermine individuals’ right to enjoy the best attainable state of physical and mental health as well as access to receive medical attention when they are sick guaranteed by Article 16 of the African Charter. The focus on the COVID-19 response has resulted in less attention being given to maternal and infant mortality with the risk of cutting back the gains made in reducing maternal and infant mortality as well as other diseases.

20. There are also reports about inadequate economic and social welfare coverage to individuals, especially vulnerable groups, in order to protect them from the negative consequences of the pandemic which continue to threaten lives and livelihood in particular the rights to housing, health, education, water, sanitation, food and work.

21. The outbreak of the COVID-19 has also impeded the implementation of some of the Commission’s activities including those pertaining to my various mandates. Planned activities that required the physical presence of participants were
cancelled and this has affected the output of the Working Group for the period under review.

**Recommendations**

22. In light of the aforementioned analysis, I wish to make the following recommendations to the various stakeholders:

**State Parties:**

- Take legislative and other measures for the full realization of economic, social and cultural rights in the African Charter in accordance with the Principles and Guidelines on Economic Social and Cultural Rights, the Guidelines on the Right to Water in Africa and other regional and international human rights norms at all times including periods of national emergencies like the pandemic at hand;

- Strengthen health care systems including increased budgetary allocation, provision of ventilators, test kits, personal protective equipment, medical supplies and consumables required for the prevention and treatment of COVID-19, address maternal and infant health as well as other diseases;

- Empower individuals and communities with timely, comprehensive and accessible information about COVID-19 prevention and treatment;

- Commence bilateral and multilateral negotiations to ensure that any proven medical treatment and vaccine for COVID-19 is affordable and available and will benefit the populations;

- Implement the recommendations in the Commission’s Press Releases relating to appropriate human and peoples’ rights responses to the COVID-19 crisis; and


**Civil Society Organisations:**

- Continue to collaborate and support advocacy efforts at the national, sub-regional and continental levels to implement economic, social and cultural rights;
• Increase the level of sensitization of all stakeholders including the general population on the existence and consequences of COVID-19 and the need for a collective effort to combat it.

Other partners:

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

Conclusion

23. As I hand over the position of the Chairperson of the Working Group on Economic, Social and Cultural Rights to my colleague Hon. Commissioner Mudford Zachariah Mwandenga, I would like to express my deep appreciation to Ms. Marie Saine, Senior Legal Officer and Ms. Aya Jennifer Douabou, AU Youth Volunteer, who have been providing me with the necessary assistance to discharge my mandate to the best of my ability. I also want to thank the members of the Working Group on Economic, Social and Cultural Rights both colleague Commissioners and expert members for the work we did together successfully. I also want to thank all of the partners and stakeholders who have supported the Working Group in various ways and ask that you continue this support.

24. I am convinced that my successor Commissioner Mwandenga will continue to carry out this important work of promoting and protecting economic, social and cultural rights in Africa which needs continuous and sustained commitment, advocacy and action. This is because this cluster of human rights has not been given the necessary attention and resources that it deserves. Some of these rights are categorised as Directive Principles of State Policy in some national constitutions and are not justiciable. These practices are inconsistent with the letter and spirit of the Charter which in its preamble states as follows:

“....Convinced that it is henceforth essential to pay a particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights...”

Thank you for your attention