INTER-SESSION ACTIVITY REPORT

OF

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INTRODUCTION

1. This report is presented 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), and covers activities carried out during the intersession period between August and November 2020.

2. The Report details the activities which I undertook in my capacity as a member of the Commission, a member of the Working Group on Indigenous Populations/Communities in Africa and Chairperson of the Committee on Resolutions, and as the Special Rapporteur on Freedom of Expression and Access to Information in Africa (the Special Rapporteur).

3. The Report is structured in five parts as follows:

   • **Part I**: Activities undertaken in my capacity as a member of the Commission, member of the Working Group on Indigenous Populations/Communities and Minorities in Africa and as the Chairperson of the Committee on Resolutions;
   • **Part II**: Activities undertaken in my capacity the Special Rapporteur;
   • **Part III**: Report on the letters of appeal addressing alleged human rights violations, and press releases issued;
   • **Part IV**: Challenges and Recommendations;
   • **Part V**: Conclusion.
Part I: Activities undertaken in my capacity as a member of the Commission, member of the Working Group on Indigenous Populations/Communities and Minorities in Africa and as the Chairperson of the Committee on Resolutions

➢ Chairing meetings of the Committee on Resolutions (the Committee)

4. On 18 August and 02 September 2020, I chaired meetings of the Committee on Resolutions, which were convened to consider and finalize Resolutions which were tabled before the 66th Ordinary Session, however had to be deferred owing to time constraints. These Resolutions can be found on the Commission’s website.

➢ Participation in the 29th Extra-Ordinary Session

5. From 02 to 07 October 2020, I participated in the Commission’s 29th Extra-Ordinary Session, which was held virtually. The Extra-Ordinary Session was convened to consider Communications and other outstanding matters.

➢ Participation in meetings of the Working Group on Indigenous Populations/Communities and Minorities in Africa (the Working Group)

6. On 29 September 2020, I attended a virtual informal meeting of the Working Group to discuss implications of the expansion of the special mechanism’s mandate to include ‘minorities,’ in addition to the working methods of the Working Group.
7. On 19 October 2020, I attended a virtual internal meeting of members of the Working Group, convened to discuss matters of relevance to the Working Group, particularly its activities within the context of the COVID-19 pandemic.

Part 2: Activities undertaken as the Special Rapporteur

➢ Webinar on “Proactive disclosure of Information and Elections in South Africa”

8. On 07 September 2020, I participated in a webinar on “Proactive disclosure of Information and Elections in South Africa,” where I gave a presentation on the “Opportunities and challenges regarding access to information and elections in Africa.”

9. The webinar, which was organized by the Centre for Human Rights of the University of Pretoria, focused on South Africa’s compliance with the Commission’s Guidelines on Access to Information and Elections in Africa. During the webinar, a Report on Access to Information and Elections during South Africa’s 2019 elections was formally launched.

➢ Webinar briefing on Freedom of Expression

10. On 25 September 2020, I participated in a webinar convened by the International Press Institute (IPI), which provided a briefing with leading journalists from Africa. The online briefing gave me the opportunity to interact with a number of journalists and media professionals, and to learn from the experiences and challenges they face.
11. In light of the myriad issues affecting journalists and media professionals, particularly during the ongoing Covid-19 pandemic, this briefing was a useful opportunity for me to receive first-hand information on the situation of press freedom and the safety of journalists in Africa.

12. I would like to take this opportunity to thank IPI for convening this important briefing, and call on the Organization to continue working with and supporting the mandate.

➢ Commemoration of the International Day for Universal Access to Information

13. On 28 September 2020, I joined the international community in commemorating the International Day for Universal Access to Information, which is celebrated on 28 September.

14. Additionally, I gave a statement on the “Overview of the African Commission’s initiatives on Access to Information and its impact at State level,” during a virtual celebration of the International Day for Universal Access to Information which was convened by the Centre for Human Rights, in collaboration with Article 19, the Media Institute of Southern Africa Zimbabwe and Transparency International.

15. Owing to my unavailability to attend other concurrent celebrations, I also recorded statements for virtual celebrations which were being held by the Federation of African Journalists and the African Freedom of Information Centre.

➢ Virtual Meeting with the UN Special Rapporteur on Freedom of Opinion and Expression
16. On **08 October 2020**, I attended a virtual meeting with Ms. Irene Khan, the UN Special Rapporteur on Freedom of Opinion and Expression. This meeting was a useful opportunity for the two mandates to discuss our respective priorities, in addition to discussing possible areas of collaboration.

Part III: Report on the letters of appeal addressing alleged human rights violations, and press releases issued

17. In line with the special mechanism’s mandate to “**make public interventions where violations of the right to freedom of expression and access to information have been brought to her attention, including by issuing public statements, press releases, and sending appeals to Member States asking for clarifications,”** this section of the Report provides information on the letters of appeal forwarded to State Parties addressing alleged violations of freedom of expression and access to information brought to my attention, in addition to press releases issued by the special mechanism.

18. During the period under review, I issued the following interventions:

Letters of Appeal and Appreciation

- **Letter of Appeal to the People’s Democratic Republic of Algeria**

19. On **26 August 2020**, I transmitted a Letter of Appeal to H.E. the President of the People’s Democratic Republic of Algeria regarding the conviction of Mr. Khaled Drareni on charges of inciting an unarmed assembly and harming national unity. According to information received Mr. Drareni was a journalist working in Algeria,
the founder of the CasbahTribune news site, a correspondent for the French TV channel TV5Monde and a representative of Reporters without Borders in Algeria.

20. The letter requested clarification on the reports received, that the only evidence presented in the case were Mr. Drareni’s Facebook posts covering anti-government protests in the country.

➢ Joint Letter of Appreciation to the Republic of Sierra Leone

21. On 28 September 2020, I participated in a Joint Letter of Appreciation with the Commissioner Rapporteur on the Human Rights Situation in Sierra Leone, which welcomed the decision of the Parliament of the Republic of Sierra Leone to repeal Part 5 of the Public Order Act of 1965 which criminalized defamation, false news and seditious libel.

➢ Joint Letter of Appeal to the Republic of Mozambique

22. On 30 September 2020, in collaboration with the Commissioner Rapporteur on the Human Rights Situation in the Republic of Mozambique, I participated in a Joint Letter of Appeal to H.E. the President of the Republic of Mozambique, in response to an attack which was perpetrated on the offices of a newspaper house called Canal de Moçambique on Sunday 23 August 2020.

23. The letter requested clarification on the reports that unknown individuals broke into the premises and set it on fire, completely destroying the newsroom, and requested information on the measures taken to ensure that the perpetrators were identified, arrested and brought to justice.
24. On 07 October 2020, I transmitted a Letter of Appeal to H.E. the President of the Republic of Chad, regarding a measure taken by the Government on 22 July 2020, to slow down internet speed in the Republic of Chad, reportedly with the intention to halt the dissemination of messages inciting hate and division. Additionally, reports received indicated that access to the messaging platform, “WhatsApp,” was blocked at that time.

25. The letter requested clarification on whether the internet speed, in addition to access to the messaging platform, “WhatsApp,” had been fully restored in the country, and called on the Government to ensure that the rights to freedom of expression and access to information online are protected.

26. On 15 October 2020, in line with my dual responsibility as the Commissioner Rapporteur on the Human Rights Situation in the Republic of Zimbabwe and as Special Rapporteur, I transmitted a Letter of Appeal to H.E. the President of the Republic of Zimbabwe regarding the arrest and detention of Mr. Hopewell Chin’ono, an independent investigative journalist working in Zimbabwe.

27. In line with my responsibility as the Commissioner Rapporteur on the Human Rights Situation in the Republic of The Gambia, on 20 October 2020 I transmitted a
Letter of Appeal to H.E. the President of the Republic of The Gambia in response to the rejection of the draft Constitution by the National Assembly on 22 September 2020. The letter noted that there was opposition to the draft Constitution which was fuelled by a number of contentious provisions. Additionally, concerns were raised that the draft Constitution did not sufficiently protect the rights of the Christian community in the country.

Letter of Appeal to the Federal Republic of Nigeria

28. On 27 October 2020, I transmitted a Letter of Appeal to H.E. the President of the Federal Republic of Nigeria, regarding an attack which was perpetrated on a number media houses in Lagos, Nigeria, on 21 October 2020, by unidentified individuals who set the premises of Television Continental (TVC) and other media houses on fire, resulting in the loss of media equipment and damage to vehicles.

Joint Letter of Appeal to the Republic of Sierra Leone

29. On 03 November 2020, in collaboration with the Commissioner Rapporteur on the Human Rights Situation in the Republic of Sierra Leone, I participated in a Joint Letter of Appeal to H.E. the President of the Republic of Sierra Leone, in response to reports received on the suspension from practice of a lawyer, Mr. Augustine Sorie-Sengbe Marrah, in addition to issuance of a warrant on 28 October 2020 for his arrest by the Supreme Court of Sierra Leone, following Mr. Marrah’s criticism of the Judiciary in a post on a lawyers’ forum.

Press Statements
30. On 15 October 2019, the 74th UN General Assembly proclaimed 28 September as the International Day for Universal Access to Information, in recognition of the significance of access to information.

31. The Commission also called for designation of this commemoration through Resolution to Modify the Declaration of Principles on Freedom of Expression to Include Access to Information and Request for a Commemorative Day on Freedom of Information, adopted during the 51st Ordinary Session in May 2012, which underscored “the importance of setting aside a day to commemorate access to information as a way to raise awareness and emphasise the importance of this right, and promote the ideals of good governance and accountability.”

32. Accordingly, on 28 September 2020 I issued a press statement in commemoration of this significant day, which joined the international community in recognizing the importance of the right of access to information, and called on State Parties to the African Charter which have not yet done so, to enhance national level protection by adopting legislation which ensures promotion and protection of the important right of access to information.

33. On 23 October 2020, in collaboration with the Commissioner Rapporteur for the Human Rights Situation in the United Republic of Tanzania and the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa, I
participated in a joint press release in response to the situation in Tanzania in the context of the COVID-19 pandemic and in the lead-up to the 2020 national elections.

Part IV: Challenges and Recommendations

Challenges

- Access to Information

34. Access to information, which is enshrined in Article 9(1) of the African Charter, is a cross-cutting and facilitative right. In addition to the provision in the African Charter, the Commission has further elaborated on the scope of this right in the Model law on Access to Information for Africa (the Model Law), the Guidelines on Access to Information and Elections in Africa (the Guidelines), and the Declaration of Principles on Freedom of Expression and Access to Information in Africa (the Declaration).

35. To date the following African countries that have enacted specific national access to information legislation are: Angola; Burkina Faso; Cote d’Ivoire; Ethiopia; Ghana; Kenya; Liberia; Malawi; Morocco; Mozambique; Niger; Nigeria; Rwanda; Seychelles; Sierra Leone; South Africa; South Sudan; Sudan; Tanzania; Togo; Tunisia; Uganda; and Zimbabwe.

36. However, to date a large number of African countries have not yet adopted national legislation on the protection of this important right.

- Freedom of Expression
37. Principle 10 of the Declaration refers to freedom of expression as “a fundamental and inalienable human right and an indispensable component of democracy.”

Protection of journalists and other media practitioners

38. Journalists and other media practitioners play an important role in guaranteeing the exercise of the right to freedom of expression. They provide the public with the necessary information to develop an opinion and to take informed decisions. However, in spite of their indispensable role in society, journalists are often targets of threats, intimidation, harassment, arbitrary arrest and detention, disappearance, in addition to physical attacks, which have sometimes resulted in murder.

Freedom of Expression and Access to Information on the Internet

39. Principle 37 provides that “States shall facilitate the rights to freedom of expression and access to information online and the means necessary to exercise these rights.”

40. However, increasingly States resort to shutting down, or curtailing, access to the internet and social media platforms, for various reasons including quelling unrest, among others.

Recommendations

41. In light of the aforementioned challenges, I wish to make the following recommendations:

To States Parties:
The Gambia

- Ensure that the process of reviewing the draft Constitution commences in the Parliamentary Select Committee as soon as possible, and ensure that the right of freedom of conscience, the profession and free practice of religion is guaranteed in the draft Constitution.

Freedom of Expression and Access to Information

- Expedite the adoption of legislation on the right to access information, in accordance with international standards and as elaborated in the Commission’s Model Law;
- Ensure effective implementation of access to information laws, including through adopting independent oversight mechanisms which “monitor, promote and protect the right of access to information and resolve disputes on access to information,” as stipulated in Principle 34 of the Declaration;
- Take the necessary measures to prevent attacks on journalists and, when they do occur, investigate them, punish the perpetrators and ensure that the victims have access to effective remedies, as provided in Principle 20 of the Declaration;
- Respond to Letters of Urgent Appeal with the information requested, and take appropriate action to remedy the human rights violations which are referenced in the Letters;
- Ensure protection of freedom of expression by revising laws which impede the right of freedom of expression;
- Take all measures to guarantee respect and protect the right to freedom of expression and access to information through ensuring access to internet and social media services, particularly during the COVID-19 pandemic.

To Civil Society Organisations:
- Continue to collaborate with the special mechanism on freedom of expression and access to information, including by submitting reports of violations of these rights;
- Familiarize yourselves with the soft law documents adopted by the Commission, including the Declaration, the Model Law and the Guidelines.

Part V: Conclusion

42. Given that this is my first Report as the Special Rapporteur, I wish to extend my thanks to former Commissioner Lawrence Mute for the work which was accomplished during his tenure in the special mechanism mandate on freedom of expression and access to information in Africa.

43. In conclusion, I would like to thank all stakeholders who have continued to collaborate and work with my mandate during the unprecedented times that we are living through.

I thank you.