67th ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN 
AND PEOPLE’S RIGHTS

INTER-SESSION ACTIVITY REPORT
(July - November 2020)
Presented by
Honorable Ndiamé GAYE
Member of the Commission and Commissioner Country Rapporteur;
Member of the Working Group on Economic, Social and Cultural Rights in Africa;
Chair of the Working Group on the Death Penalty, Extrajudicial, Summary or Arbitrary Executions
and Enforced Disappearances in Africa

Banjul, The Gambia
13 November – 3 December 2020
INTRODUCTION

1. This Report is submitted pursuant to Rules 25 (3) and 64 of the 2020 Rules of Procedure adopted by the African Commission on Human and Peoples' Rights (the Commission) at its 27th Ordinary Session held from 19 February to 4 March 2020 and in accordance with ACHPR/Res. 456 (LXVI) 2020 on the reappointment, appointment of the Chairperson and reconstitution of the Working Group on the Death Penalty, Extrajudicial, Summary or Arbitrary Executions and Enforced Disappearances in Africa (the Working Group). It provides an update on the activities undertaken since I was sworn in as a member of the Commission, at the 28th Extraordinary Session held virtually from 29 June to 1 July, 2020.

2. The report is organized in five parts. The first part presents the activities undertaken in my capacity as Commissioner and Rapporteur in charge of monitoring the human rights situation in Guinea, Sierra Leone, Uganda, the Central African Republic (CAR) and the Saharawi Arab Democratic Republic (SADR). The second part covers activities carried out as member of the Working Group on Economic, Social and Cultural Rights in Africa. The third part is devoted to the activities pursued in my capacity as Chair of the Working Group. The fourth part presents a brief analysis of the situation of the death penalty, extrajudicial, summary or arbitrary executions and enforced disappearances in Africa and the last part outlines some recommendations.

Chapter I: Activities carried out as Commissioner and Country Rapporteur

A. Activities carried out as member of the Commission

   ➢ Participation in the 28th Extraordinary Session of the Commission

3. I participated in the 28th Extraordinary Session of the Commission, held virtually from 29 June to 1 July. During the public session, I was sworn in with the other newly elected Commissioners. I also attended the orientation session intended for the new Commissioners, during which several themes were discussed, including the Institutional Architecture of the African Union and the Role of the Commission, the Rules of Procedure and Methods of Work of the Commission, the thematic and country mandates, the Sessions and inter-sessional activities of the Commission, the processing of
Communications, and the functions and responsibilities of the Secretariat of the Commission.

- **Participation in the 67th Ordinary Session of the Commission**

4. I took part in the 66th Ordinary Session of the Commission held virtually from 13 July to 7 August, 2020. During the Session, the various stakeholders exchanged views on the human rights situation on the continent with particular emphasis on the Covid-19 pandemic. The Commission also considered several items, including inter-sessional reports of its mechanisms, communications, requests for observer status and various reports and documents.

- **Participation in the 29th Extraordinary Session of the Commission**

5. I participated in the 29th Extraordinary Session of the Commission held virtually on 2, 3 and 5 October, 2020. During the Session, the Commission considered, inter alia, issues related to the application of the 2020 Rules of Procedure such as non-retroactivity and Administrative Referral of Complaints; a communication on referral and communications requiring the Commission’s guidance; and financial and administrative matters.

B. **Activities carried out as Commissioner in charge of monitoring the human rights situation in Guinea, Sierra Leone, Uganda, Central African Republic and Sahrawi Arab Democratic Republic**

- **Letter of appreciation to the authorities of Sierra Leone, 28 September, 2020**

6. In my capacity as Commissioner-Rapporteur on the situation of human rights in Sierra Leone, and jointly with the Special Rapporteur on Freedom of Expression and Access to Information, the Honorable Commissioner Jamesina E. L. King, we addressed a letter of appreciation to the President of the Republic of Sierra Leone on 28 September, 2020. The purpose of the letter was to welcome the recent decision of the Parliament of the Republic of Sierra Leone to repeal Part 5 of the 1965 Public Order Act which criminalized defamation, false news and seditious slander. In this correspondence, we further urged the Office of the President to support these developments by authorizing the enactment of the amended law to promote and protect the right to freedom of expression as guaranteed by Article 9 of the African Charter.
Joint letter of concern to CAR authorities, 2 November, 2020

7. In my capacity as Commissioner in charge of the promotion and protection of human rights in the Central African Republic, together with the Chair of the Working Group on Extractive Industries, Environment and Human Rights Violations and the Chair of the Working Group on Economic, Social and Cultural Rights, we addressed, on 2 November 2020 a joint letter of concern to the President of the Central African Republic regarding allegations of human rights violations resulting from the gold mining activities of four mining companies (Tian Xiang, Tian Run, Meng and SMC Mao) before they left the region at the end of April 2020 and whose negative impact on the population’s right to health and a healthy environment is still being felt. We also noted the irregularities that would have characterized the said operation, including the absence of a full, effective and meaningful consultation of the neighboring populations, and the failure to carry out a prior environmental, social and human rights impact study.

8. To this end, we have requested the Government of the Central African Republic to conduct an independent and impartial investigation into all human rights violations resulting from the said mining operation and their consequences on human rights and the environment and to hold mining companies responsible for compensating those affected and for the full rehabilitation of the environment. We further called on the authorities to ensure that all future mining activities are undertaken only after full, effective and meaningful consultation with the affected populations and after environmental, social and human rights impact assessments have been carried out.

Joint press release on the socio-political situation in the Republic of Guinea, 26 October, 2020

9. Together with the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa, the Honorable Commissioner Maria Teresa Manuela, we issued a press release on the socio-political situation in the Republic of Guinea in the aftermath of the presidential elections of 18 October, 2020 and the proclamation of the provisional results of 24 October, 2020 by the National Independent Electoral Commission.

10. We expressed our deep concern over the deterioration of the human rights situation and condemned the post-election violence and clashes between
supporters of the Union of Democratic Forces of Guinea’s candidate, Mr. Cellou Dalein Diallo, and law enforcement officials in Conakry and the province, which resulted in loss of life, injuries and destruction of both public and private property.

11. We, in particular, called on the various stakeholders to exercise restraint and to favor the use of legal avenues of recourse for all claims and the resolution of all electoral disputes.

Part II: Activities carried out as member of the Working Group on economic, social and cultural rights in Africa

Participation in the meeting of the Working Group on Economic, Social and Cultural Rights in Africa, 20 October, 2020

12. As a member of the Working Group on Economic, Social and Cultural Rights (the Working Group), I took part in a virtual meeting organized on 20 October, 2020. The meeting was convened to formally introduce the members of the Working Group after its further reconstitution in accordance with ACHPR Resolution 457(LXVI)2020 on the renewal of the mandate of the Working Group adopted by the Commission at its 66th Ordinary Session, held virtually from 13 July to 7 August, 2020. The meeting was also intended to inform the new members, in particular, about the Working Group’s mandate and methods of operation, the role of members, as well as the current and future activities of the Working Group to which members are required to participate and contribute.

Part III: Activities carried out as Chair of the Working Group on the death penalty, extrajudicial, summary or arbitrary executions, or arbitrary arrests and enforced disappearances in Africa.


13. As part of the commemoration of the International Day on Enforced Disappearances, I took part in a panel organized virtually on 26 August 2020 by the NGO REDRESS and its partners on the theme: "The forgotten victims
of enforced disappearances in Africa". The Webinar\(^1\) provided an opportunity to exchange on the difficulties that victims face on the continent when seeking justice for the crime of enforced disappearance.

14. On this occasion, I made a presentation in which I highlighted the actions and initiatives of the Commission and its Working Group on Enforced Disappearances. I also highlighted the major challenges in finding solutions to end enforced disappearances in Africa and bring justice to the victims.

B. Meeting of the Working Group with the UN Working Group on Enforced or Involuntary Disappearances and the Committee on EnforcedDisappearances, 6 October 2020

15. With the Honourable Commissioner Maya Sahli-Fadel, we had a virtual meeting with representatives of the UN Working Group on Enforced or Involuntary Disappearances and the Committee on Enforced Disappearances. The exchanges focused in particular on the cooperation of our institutions on issue of enforced disappearances. The meeting reflected on activities that can be carried out jointly.

C. Expert Group Meeting on the elaboration of the Guidelines on Enforced Disappearances in Africa, 8 October 2020

16. In its Resolution ACHPR/Res. 448 (LXVI) 2020 adopted at its 66\(^{th}\) Ordinary Session held virtually from 13 July to 7 August 2020, the Commission assigned the Working Group the task of developing guidelines on the protection of all persons from enforced disappearance in Africa. To this end, I participated in a meeting held virtually on 8 October, 2020, regrouping 28 participants including experts from Africa, the United Nations, victims and civil society organizations. The meeting enabled participants to exchange views on the structure of the guidelines and relevant procedural issues. The meeting was also an opportunity to discuss the first draft of the document.

17. In my opening address to the meeting, I highlighted the actions taken by the Commission and the Working Group on Enforced Disappearances in Africa and the importance of the guidelines which will provide guidance to States Parties on their main obligations with regard to prevention, protection, prosecution and reparation for victims of enforced disappearances.

\(^1\)The full webinar is available at the following link: [https://www.youtube.com/watch?v=3qPIVGoTA30](https://www.youtube.com/watch?v=3qPIVGoTA30)
18. I would like to seize this opportunity to thank the NGO REDRESS and its partners who organized and facilitated this meeting.

D. High Level Panel on the Resolution calling for a universal moratorium, 9 October 2020

19. I took part in a panel discussion on the resolution calling for a universal moratorium on capital punishment with a view to abolishing the death penalty, held virtually on 9 October 2020 by FIACAT and the European Union.

20. The panel was convened to persuade highly abolitionist States and those applying the moratorium on the death penalty to vote in favour of the future resolution calling for a universal moratorium on capital punishment with a view to abolishing the death penalty to be presented to the United Nations General Assembly in November 2020.

21. On this occasion, we made a presentation on the African abolitionist dynamic and the initiatives of the Commission in the fight for the abolition of the death penalty on the continent.

E. Meeting of the Working Group, 4 November 2020

22. Following the adoption of the Resolution on reappointment, appointment of the Chair and reconstitution of the Working Group by the Commission at its 66th Regular Session held virtually from 13 July to 7 August, 2020, the Working Group held a meeting of its members on 4 November, 2020.

23. The meeting was mainly devoted to the initiation of new members on the mandate and working methods of the Commission and the Working Group and on the roles and responsibilities of members. In addition, the Working Group members exchanged views on the activities carried out during the intersessional period. They also planned the activities of the Working Group for 2021.

F. Joint letter of concern to the authorities of Mozambique, 2 November 2020

24. Following the reports received, together with the Special Rapporteur on the Rights of Women in Africa and the Commissioner in charge of the human rights situation in the Republic of Mozambique, we addressed to the President of the Republic of Mozambique, on 2 November, 2020, a joint letter
of concern regarding allegations of a case of extrajudicial execution of a woman accused of being a member of a local armed group by Mozambican security forces at a site near the town of Awasse in Cabo Delgado province in early September 2020.

25. In this regard, we called on the Government of Mozambique to provide clarifications on the above-mentioned allegations and, in particular, to conduct independent and impartial investigations into this case with a view to establishing responsibility and prosecuting the alleged perpetrators.

G. Issuance of Statements and Press Releases

- **Joint press release on the alleged massacre of two hundred and twenty civilians in Mwenga territory in South Kivu, Democratic Republic of Congo, 27 July 2020**

26. Together with the Commissioner in charge of monitoring the human rights situation in the Democratic Republic of Congo, the Honourable Commissioner Marie Louise Abomo, we published, on 27 July, 2020 a press release in which we expressed our deep concern regarding allegations of the massacre of two hundred and twenty (220) civilians by armed groups during an attack perpetrated on the night of 16-17 July, 2020, in the village of Kipupu, Sector of itombwe, Mwenga territory in the Province of South Kivu, East of the Democratic Republic of Congo.

27. We called on the Congolese authorities to investigate the alleged facts with a view to, inter alia, prosecuting and bringing the alleged perpetrators to justice and providing adequate reparation to the victims.

- **Joint press release on the killings of Masalit farmers in the locality of Masteri, West Darfur region of the Republic of Sudan, July 29, 2020.**

28. Jointly with the Commissioner in charge of monitoring the human rights situation in the Republic of the Sudan, the Honorable Commissioner Hatem Essaiem, we issued a press release on 29 July, 2020, condemning the killings perpetrated by an armed group on 25 July, 2020, which caused the death of more than 60 people and wounded 60 others from the Masalit Farmers Community in the locality of Masteri, West Darfur region of the Republic of the Sudan.
29. We also deplored the increase in killings and other human rights violations targeting farmers who have returned to their areas. To this end, we urged the Sudanese authorities to adopt appropriate measures to guarantee the physical integrity and security of all persons and their property in the country in general and in the Darfur region in particular, in accordance with its obligations under the African Charter on Human and Peoples' Rights and other relevant regional and universal human rights instruments.

➤ Statement issued on the occasion of the International Day for Victims of Enforced Disappearance, 30 August 2020

30. On 30 August, 2020, the Working Group joined the international community to commemorate the International Day of Victims of Enforced Disappearance celebrated annually. The Working Group deplored the increasing number of victims of enforced disappearances. It condemned the tendency of certain State actors to use this horrible practice as a tool of repression against political opponents, activists, human rights defenders, and members of vulnerable groups, particularly in countries facing a socio-political crisis.

31. The Working Group reminded States Parties of their obligations to prevent and eradicate the practice of enforced disappearance and to conduct rigorous, independent and impartial investigations into the incidents of enforced disappearance reported to them in order to determine the various responsibilities, bring the alleged perpetrators to justice, render justice to the family of the disappeared and provide them with detailed information on the results of the investigations and the fate of the victim.

➤ Statement issued on the occasion of the World Day against the Death Penalty, 10 October 2020

32. The commemoration of the World Day against the Death Penalty, celebrated under the theme: "Access to a lawyer: a matter of life and death", was the occasion for the Working Group to issue a press release which was widely disseminated. The Working Group reiterated the paramount importance of effective legal representation at all levels of proceedings for those allegedly guilty of crimes punishable by the death penalty.

33. The Working Group urged those States Parties that still apply the death penalty to ensure that all defendants facing the death penalty have access to judicial proceedings that meet international and regional standards of due process and fair trial. It further recommended that they ensure the assignment
of legal counsel to indigent defendants for the entire judicial process, from the arrest to the delivery of the final judgment.

34. The Working Group reiterated its call to all States Parties that continue to apply the death penalty to observe a moratorium on the execution of prisoners sentenced to death.

Part IV: Situation on the death penalty, extra-judicial, summary or arbitrary executions and enforced disappearances in Africa

A. Death penalty

35. The Working Group notes that the African continent is making good progress towards abolition of the death penalty. As of October 2020, forty-five (45) States Parties to the African Charter had abolished the death penalty in law or in practice, of which twenty-two (22) countries have abolished this practice through the enactment of domestic legislation\(^2\), the most recent being Chad, which on 20 May 2020, promulgated a law abolishing the death penalty for all crimes.

36. The Working Group also notes the positive developments in Sudan. On 9 July 2020, the Sovereign Council of Sudan approved legislative amendments substantially reforming the Sudanese judicial system. The death penalty has been abolished for certain crimes, including apostasy and homosexuality. Capital punishment has also been abolished for children and persons over 70 years of age.\(^3\)

37. The Commission further notes that sixteen (16) States Parties have ratified the Second Optional Protocol relating to the ICCPR on the Abolition of the Death Penalty\(^4\). Of the countries that still maintain this punishment in their legislation, 23 States are abolitionist in practice but have not carried out any executions in the last 10 years.\(^5\)

\(^2\)Angola, Benin, Burkina Faso, Burundi, Chad, Cabo Verde, Republic of Congo, Côte d’Ivoire, Djibouti, Gabon, Guinea, Guinea-Bissau, Madagascar, Mauritius, Mozambique, Namibia, Rwanda, Sao Tome and Principe, Senegal, Seychelles, South Africa and Togo.

\(^3\)http://www.worldcoaltition.org/Sudan-repeals-capital-punishment-for-homosexuality.html

\(^4\)Angola, Benin, Cabo Verde, Djibouti, Gabon, The Gambia, Guinea-Bissau, Liberia, Madagascar, Mozambique, Namibia, Rwanda, Sao Tome and Principe, Seychelles, South Africa and Togo.

Despite these positive developments, the Working Group is concerned about the death sentences handed down by the courts in some States Parties. This is notably the case with regard to the death sentence imposed by the Anti-Terrorist Special Court in Bamako on 28 October 2020 against three jihadists (the Mauritanian, Fawaz Ould Ahmed, and two Malians, Sadou Chaka and Abdoulbaki Abdramane Maïga) prosecuted for the deadly attacks perpetrated in 2015 in Bamako at the Radisson Blu and La Terrasse.

The Working Group is deeply concerned that some countries continue to apply the death penalty, including Botswana, Egypt, Somalia, Sudan and South Sudan, which have carried out executions in the past two years. It wishes to recall the non-deterrent nature of the death penalty. It further recalls that capital punishment is also an iniquitous punishment when it is imposed on persons who have been tried without the most basic guarantees of a fair trial, as underlined by the African Court on Human and Peoples’ Rights in its recent case law.

B. Excessive use of force

During the reporting period, the Working Group noted some cases of disproportionate use of force in certain States Parties. For example, Mali, Cameroon, Nigeria and Guinea.

In Mali, the security forces used excessive force to crack down on the occasionally violent demonstrations organised from 10 to 12 July by opposition parties in the capital city, Bamako. While condemning the negative behaviour of some demonstrators, the Working Group deplores the loss of life and injuries caused by the use of lethal force in maintaining law and order.

In Cameroon, security forces used disproportionate force during peaceful demonstrations on 22 September 2020 organised by opposition parties, including the Cameroon Renaissance Movement (MRC). The use of truncheons, tear gas and water cannons to disperse demonstrators in some areas, such as Ancien-Chococam in Douala, was noted.
43. **In Nigeria,** Nigerian police used excessive force in parts of Nigeria with tear gas and live ammunition, resulting in several deaths and injuries among participants in a demonstration organised by Nigerian youth from 7 October 2020 to demand the disbandment of the Special Anti-Robbery Squad (SARS). The latter is accused of multiple human rights violations, including harassment, arbitrary arrest and detention, torture and extra-judicial killings.

44. **In Guinea,** security forces used lethal force in Conakry and in the provinces during clashes with supporters of Union of Democratic Forces of Guinea’s candidate, Mr. Cellou Dalein Diallo, following the 18 October 2020 presidential election and proclamation of the provisional results. This police brutality resulted in loss of life, injuries and property damage.

45. The Working Group strongly condemns the use of lethal force by law enforcement and deplores the loss of life and injury caused. The Commission issued press releases on these matters.

A. **Extra-judicial, summary or arbitrary killings**

46. The Working Group also monitors situations involving cases of extra-judicial, summary or arbitrary killings in Africa. Following information received regarding the execution of a woman by Mozambican security forces in the province of Cabo Delgado in early September 2020, the Working Group, in a joint letter of concern with other mechanisms, requested the Government, among other measures, to conduct an independent and impartial investigation into the case with a view to bringing the alleged perpetrators to justice.

B. **Enforced disappearances**

47. The Working Group did not receive any reports on cases of enforced disappearances during the period under review and welcomes this situation. It however notes the low rate of ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. To date, only 17 out of 55 African States are parties to this important treaty.

Part V: Recommendations

8 [https://www.achpr.org/](https://www.achpr.org/)
48. In light of the above analysis on the situation of the death penalty, extra-judicial, summary or arbitrary executions and enforced disappearances in Africa, the Working Group hereby makes the following recommendations to the various stakeholders:

To States Parties:

- Urges States Parties that still apply the death penalty to ensure that all defendants facing the death penalty have access to a judicial process that meets international and regional standards of due process and fair trial;

- Further urges States that maintain the death penalty to suspend the execution of those sentenced to death and to observe a moratorium on the use of the death penalty;

- Calls on States Parties that have not yet ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the Abolition of the Death Penalty, to speed up the ratification process and to harmonize their national laws accordingly;

- Further calls on States Parties that have not yet done so to accelerate the process of ratification of the International Convention for the Protection of All Persons from Enforced Disappearance;

- Urges States Parties to strengthen their respective legal frameworks for the protection of the right to life and dignity and support the adoption of the Draft Protocol to the African Charter on Human and Peoples’ Rights on the Abolition of the Death Penalty at all levels of AU internal procedures;

- Adopt a clear legislative framework to guide the use of force by law enforcement and other actors, in compliance with international standards, including the principles of necessity and proportionality;

- Urges the governments of Mali, Cameroon, Nigeria and Guinea to conduct thorough and independent investigations to determine those responsible for the use of lethal force by law enforcement against the demonstrators and bring the alleged perpetrators to justice;
Further urges States Parties to ensure effective protection for persons at risk or under threat of extra-judicial, summary or arbitrary execution or enforced disappearance in their respective territories;

Calls on States Parties to adopt effective measures and legal frameworks to prevent, combat and put an end to extra-judicial, summary or arbitrary killings and enforced disappearances in their territories at all times;

Conduct prompt, independent and impartial investigations into reported cases of extra-judicial, summary or arbitrary killings and enforced disappearances in order to determine who is responsible, bring the alleged perpetrators to justice and obtain justice for the families of victims;

Finally, calls on States Parties to the Charter to massively support the adoption of the Resolution to be voted by the United Nations General Assembly in December 2020 calling for a universal moratorium on the use of the death penalty and ultimately its abolition.

To the African Union and its Policy Organs:


To National Human Rights Institutions and Civil Society Organizations:

Increase advocacy and actions at the national level for the formal abolition of the death penalty, collaborate and support similar advocacy efforts at the sub-regional and continental level;

Advocate with relevant government institutions on the need to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the Abolition of the Death Penalty with a view to speeding up its ratification process;

Intensify advocacy and awareness-raising among the various stakeholders on the issue of extra-judicial, summary or arbitrary killings and enforced disappearances and their negative impact on various human rights.

To development partners:
- Provide support to the Working Group to enable the latter to effectively implement its mandate;

- Provide technical and financial support to States, NHRIs and NGOs in their activities, programmes, projects and policies to combat extra-judicial, summary or arbitrary killings and enforced disappearances.