INTER-SESSION ACTIVITY REPORT
HONOURABLE COMMISSIONER MARIA TERESA MANUELA

ACTIVITY REPORT 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

Presented at The 63rd Ordinary Session
24 October to 13 November 2018
Banjul, The Gambia
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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 May and October 2018.

2. The Report covers activities I participated in or undertook in my capacity as a Member of the African Commission on Human and Peoples' Rights (the Commission), and as a Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa (the Special Rapporteur).

3. The Report is divided into four (4) sections; the Introduction; my Inter-sessional Activities; Challenges faced with the execution of the mandate of the Special Rapporteur; Recommendations and Conclusion.
SECTION II – Inter-Session Activities

PART 1: Activities undertaken as a Member of the Commission

4. From 4 to 5 June 2018, I participated in the Joint Retreat of the Permanent Representatives Committee of the African Union and the Commission, held in Nairobi, Kenya. The Retreat sought to resolve various concerns about the relationship between the Commission and the Policy Organs and Member States.

5. On June 12, 2018, I chaired a meeting with non-governmental organizations based in Luanda, Angola, in order to get to know those working on the promotion and protection of human rights, the territorial level and share information and best practices, as well as how to encourage them to continue and improve their working methods.

6. From 16 to 20 July 2018, as Commissioner Rapporteur on the human rights situation in the Republic of Guinea Bissau and together with my colleagues, Honourable Maya Sahli Fadel, Honourable Commissioner Jamesina King and Honourable Remy Ngoy Lumbu, we undertook a promotion mission to the Republic of Guinea Bissau. The mission was part of the Commission’s human rights promotion mandate under Article 45 (1) of the African Charter on Human and Peoples’ Rights (the African Charter). During the mission, the delegation met with senior officials and other stakeholders involved in human rights promotion and protection, in particular with His Excellency the President of the Republic, the different representatives of Ministries and National Institutions, Civil Society Organisations, including women’s organisations working in the area of women’s rights, and other human rights stakeholders in Guinea Bissau.

7. From 30 July to 8 August 2018, I participated in the 24th Extra-Ordinary Session of the Commission in Banjul, The Gambia, organised to consider outstanding and urgent issues such as Communications and urgent human rights issues of concern on the continent.

PART 2: Activities undertaken as the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa

8. From 9 to 13 July 2018, together with the Vice-Chairperson of the Commission and Commissioner Rapporteur on the human rights
situation in the Republic of Botswana, Honourable Commissioner
Lawrence Murugu Mute, the Chairperson of the Commission and
Chairperson of the Committee on the Protection of the Rights of People
Living with HIV (PLHIV) and Those at Risk, Vulnerable to and Affected
by HIV, Honourable Commissioner Soyata Maiga, and the Chairperson of
the Committee for the Prevention of Torture in Africa, Honourable Hatem
Essaiem, we undertook a promotion mission to the Republic of Botswana.
The mission was part of the Commission’s human rights promotion
mandate under Article 45 (1) of the African Charter on Human and
Peoples’ Rights (the African Charter). During the mission, the delegation
will meet with senior officials and other stakeholders involved in human
rights promotion and protection, in particular representatives of
Ministries and National Institutions, Civil Society Organisations,
including women’s organisations working in the area of women’s rights,
and other human rights stakeholders in Botswana.

9. From 17 to 22 September 2018, together with the Commissioner
Rapporteur on the human rights situation in the Republic of Tunisia,
Honourable Commissioner Maya Sahli-Fadel, we undertook a promotion
mission to the Republic of Tunisia. The mission was part of the
Commission’s human rights promotion mandate under Article 45 (1) of
the African Charter on Human and Peoples’ Rights (the African Charter).
During the mission, the delegation will meet with senior officials and
other stakeholders involved in human rights promotion and protection, in
particular representatives of Ministries and National Institutions, Civil
Society Organisations, including women’s organisations working in the
area of women’s rights, and other human rights stakeholders in Tunisia.

10. From 1 to 2 October 2018, in Accra, Ghana, together with the Special
Rapporteur on the Rights of Women in Africa, Honourable Commissioner
Lucy Asuagbor, we organised a Joint Sensitization/ Training Workshop
for Senior Officers of the Ghanaian Police and Prisons Services on the
Guidelines on Conditions of Arrest, Police Custody and Pre-Trial
Detention in Africa (the Luanda Guidelines), its Implementation Toolkits
and the Guidelines on Combating Sexual Violence and its Consequences
in Africa. The Workshop was organised in partnership with African
Policing Civilian Oversight Forum (APCOF) and Commission on Human
Rights and Administrative Justice of Ghana (CHRAJ). The Joint
Sensitization Workshop was organised to build the capacity of Officers of
the Ghana Police and Prison Services in order to assist CHRAJ realize its
mandate as a National Human Rights Institution, in respect of monitoring
compliance with human rights standards by key stakeholders within the
criminal justice system in Ghana.
11. From 3 to 4 October 2018 in Accra, Ghana, I organised a Regional Conference on the Decriminalisation of Petty Offences in Africa. The Conference was organised in partnership with the Campaign on the Decriminalization of Petty offences in Africa and NANHRI, with the support of Open Society Foundations (OSF). The Regional Conference was organised to provide a platform to build momentum around the implementation of the recently adopted Principles on the Decriminalisation of Petty Offences in Africa (the Principles) by the Commission. The Meeting was attended by State Representatives, Representatives of NHRI, Civil Society Organisations, Academics, the Judiciary and development partners.


**Letter of Appeal**


**Letters of Commendation**

14. By letter dated 6 July 2018, in my capacity as the Commissioner Rapporteur on the Human Rights Situation in the Republic of Equatorial Guinea and as the Special Rapporteur on Prisons, Condition of Detention and Policing in Africa; together with the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa; Honourable Commissioner Remy Ngoy Lumbu, we forwarded a joint letter of appreciation to His Excellency the President of the Republic of Equatorial Guinea, Mr. Teodoro Obiang Nguema Mbasogo on the granting of
amnesty to all political prisoners and human rights defenders whom in the exercise of their duties, were detained for political crimes. In this letter, we congratulated the country for this commendable step and its commitment to the ideals of human rights provided for by the African Charter.

15. By letter dated 26 September 2018, in my capacity as the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa and jointly with the Country Rapporteur for the Republic of Rwanda, Honourable Commissioner Lucy Asuagbor, we forwarded a letter of commendation to His Excellency the President of Republic of Rwanda, Mr. Paul Kagame, following the granting of amnesty to over 2000 prisoners in Rwanda. In this letter, we congratulated the country for this positive step towards the promotion and protection of human rights in the Republic of Rwanda.

Request for Promotion Mission

16. In February 2018, as the Commissioner responsible for promotional activities in the Republics of Cap Verde, Equatorial Guinea, Guinea Bissau, Mozambique and Sao Tome and Principe, I sent Notes Verbales requesting for authorization to undertake a promotion mission to these countries. I have only received a response from the government of Guinea Bissau and the mission undertaken. Despite the commitment made by the head of the delegation of the Republic of Equatorial Guinea in the margins of the 62nd Ordinary Session of the ACHPR in Nouakchott, I have not yet received authorization for the visit. As for the other countries, I am yet to receive a response.

SECTION III: Challenges

A/ Challenges encountered in the Execution of my Mandate

17. The following are challenges encountered in the execution 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 non-recruitment and consequently the non-assignment of a Portuguese-speaking Legal Officer by the African Union Human Resources, so that together with the current Legal Officer improve the communication and the development of the activities;

ii. Translation of key documents of the ACHPR into Portuguese, which is one of the official working languages of the AU;
iii. The lack of recruitment and assignment of a Portuguese speaking Legal Officer to the ACHPR to assist me is hindering the work;
iv. The need to increase the number of Portuguese speaking interpreters/translator to the ACHPR, since there are none currently; and
v. Lack of adequate funding to effectively carry out the mandate of the mechanism.

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

18. The mandate of the Special Rapporteur monitors the situation of persons deprived of their liberty in State Parties to the African Charter on Human and Peoples’ Rights. In receiving information on prisons and conditions of detention in Africa and on individuals who have been deprived of their liberty, the Special Rapporteur notes that even though advancements have been recorded in this area, many challenges still remain.

19. To curb overcrowding in prisons, some States have taken initiatives to build new prisons and ensure prisoners safety. However, many Prisons in Africa are characterized by limitations such as overcrowding, poor conditions of detention, poor sanitary conditions, poor nutritional meals, lack of sufficient medical facilities, lack of rehabilitation facilities. According to a survey in countries where data are available, there is a large number of awaiting trial inmates with some detained in the same cells as convicted prisoners as well as minors sharing the same cells with adults, in breach of the existing guidelines and accepted by all.

20. In some countries, the prisons are old and dilapidated and the facilities are of the ancient colonial era which is far from the internationally recognized standards of detention. Furthermore, Prison Officers lack the requisite training on prisoners’ rights and the treatment of prisoners.

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

21. The challenges faced in the area of policing and human rights:
i. There are still some gaps between national laws governing policing and the regional and international human rights principles and standards applicable in the area of policing;

ii. Police officers lack sufficient initial and in-service human rights training undermining the possibility for them to conduct their duty in a manner that respect human rights;

iii. Police services do not always have the necessary means to carry out their duty in a manner that respects human rights;

iv. Corruption is still a challenge to combat within the Police;

v. Poor representation of female police officers within the Police Services.

SECTION VI: RECOMMENDATIONS AND CONCLUSION

A/ RECOMMENDATIONS ON PRISONS AND CONDITIONS OF DETENTION

IN AFRICA

To State Parties

22. State Parties are urged to:

i. dedicate funding to prisons and other places of detention, renovate old prisons 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:

i. Guidelines on the Conditions of Arrest, Police Custody and pre-trial detention in Africa;

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

iii. Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa; and

iv. Ouagadougou Declaration and Plan of Action on Accelerating Prisons and Penal Reforms in Africa; and


To Civil Society Organizations and National Human Rights Institutions

23. Civil Society Organizations and the National Human Rights Institutions are urged to:

i. continue to monitor conditions of prisons and other 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

24. State Parties are urged to:

i. undertake the necessary law reviews and amendments;
ii. develop sufficient initial and in-service human rights training programmes for Police and Prison Officers;
iii. promote the employment of women within the police and penitentiary services.
iv. disseminate and implement the following instruments below, train Law Enforcement Agents on their content and refer to them when adopting or amending relevant laws:
   a) Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa (Policing Assemblies in Africa Guidelines);
   b) Guidelines on the Conditions of Arrest, Police Custody and pretrial detention in Africa (the 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;
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;
viii. enhance Police cooperation within the 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

25. Civil Society Organisations are urged to:

i. assist the Commission to disseminate and promote the instruments relevant to Policing including the Luanda Guidelines, the Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa
and the Principles on the Decriminalization of Petty Offence in Africa;

ii. continue to monitor conditions of arrests and detention in Police Custody; and

iii. submit shadow reports on State Periodic Reports under Article 62 of the African Charter in relation to Policing and human rights

To Donors and Partners:

26. 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 and the Policing Assemblies Guidelines.

ii. furthermore, the Mechanism has so far produced 10 Newsletters on Police and Human Rights in Africa and as the project is coming to an end, I 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.

SECTION VI: CONCLUSIONS

27. In conclusion, I would like to take this opportunity to extend my profound gratitude to all our partners, in particular, NANHRI, APCOF, Open Society Foundations and PALU for their continued assistance and support to the mechanism.

28. I would also like to encourage other partners, including States to cooperate with the Mechanism, to authorize training to disseminate basic documents on the protection of prisoners within law enforcement bodies and prison services.