INTERSESSION REPORT

Presented by:

Honourable Commissioner Reine ALAPINI GANSOU:

- Special Rapporteur on Human Rights Defenders in Africa
- Focal Point on Reprisals against Human Rights Defenders in Africa
- Member of the Committee for the Protection of the Rights of People Living with HIV (PLWHIV) and Those at Risk, Vulnerable to and Affected by HIV
- Member of the Working Group on Communications
- Member of the Working Group on the Rights of Older Persons and People with Disabilities in Africa;
- Member of Working Group on Indigenous Populations/Communities in Africa

58th Ordinary Session of the African Commission on Human and Peoples’ Rights (ACHPR), 6-20 April 2016, Banjul, Islamic Republic of The Gambia
INTRODUCTION

1. This report is presented in accordance with Rule 72 of the Rules of Procedure and Resolutions ACHPR/69 (XXXV) 04 of 4 June 2004 and ACHPR/Res.248 (LIV) of 5 November 2013.

2. Primarily, it covers the activities undertaken in my capacity as Special Rapporteur on Human Rights Defenders in Africa since the 57th Ordinary Session of the Commission held from 4 to 18 November 2015 in Banjul, The Islamic Republic of the Gambia (Part Two).

3. In the first part, the report presents the activities undertaken in my capacity as Member of the Commission, Member of the Committee for the Protection of the Rights of PLWHIV, Those at Risk, Vulnerable to and Affected by HIV and Member of the Working Group on the Rights of Older Persons and People with Disabilities in Africa.

4. The report also covers my activities undertaken as Focal Point on Reprisals, in accordance with Resolution ACHPR/Res.273 (LV) 14 of 12 May 2014, which expanded the scope of the mandate of the Special Rapporteur on Human Rights Defenders in Africa to include the specific issue of reprisals against human rights defenders.

5. In conclusion, the report presents an analysis of the situation of human rights defenders in Africa, with recommendations.
Activities undertaken as Member of the African Commission, Member of the committee for the protection of the rights of people living with HIV, those at risk, vulnerable to and affected by HIV, Member of the working group on communications, Member of the Working Group on the rights of older persons and people with disabilities in Africa, and Member of working group on indigenous populations/communities in Africa

I. AS MEMBER OF THE AFRICAN COMMISSION

1. Fact-finding mission, 7 to 13 December 2015, Republic of Burundi

We were part of the African Commission delegation charged to undertake a fact-finding mission to the Republic of Burundi, from 7 to 13 December 2015. Acting on the request from the Peace and Security Council of the African Union, this mission was undertaken in accordance with the promotion and protection mandate of the Commission and pursuant to Article 45 and 58 of the African Charter on Human and Peoples’ Rights (African Charter). During its mission, the delegation met and discussed the human rights situation in the country with various stakeholders, including the State authorities, civil society, media actors, members of the diplomatic corps, international organisations and humanitarian organisations. The report of this mission will be submitted in accordance with the appropriate procedural rules.


We participated in the proceedings of the 19th Extraordinary Session which took place from 16 to 25 February 2016 in Banjul, the Gambia. During the Session, we participated in the examination of the African Commission’s projects in relation to its 2016 activities. We further
took part in the examination and adoption of decisions related to thirty-seven (37) Communications on separate cases of human rights violations.

II. AS MEMBER OF THE COMMITTEE FOR THE PROTECTION OF THE RIGHTS OF PEOPLE LIVING WITH HIV (PLWHIV) AND THOSE AT RISK, VULNERABLE TO AND AFFECTED BY HIV


From 23 to 25 November 2015 in Lusaka, we participated in this forum which was organized by the African Union Commission on the catalytic Framework to end HIV/AIDS, Tuberculosis and Malaria. This meeting was organized in collaboration with UNAIDS, UNDP and other African Union partners, and was attended by delegates from across the continent, following the Abuja +12 commitments that required Member States to implement transformative actions that will lead to the elimination of the epidemics of HIV/AIDS, TB and Malaria by 2030. From the discussions held among participants, many countries in Africa were making progress in meeting the wide range of health related challenges of the continent. The catalytic framework is expected to help Africa to find a solution to ultimately eliminate the epidemics.

4. 7th edition of the Africa Conference on Sexual Health & Rights, 8 – 12 February 2016, Accra, Ghana

We participated in the 7th Africa Conference on Sexual Health and Rights held in Accra, Ghana, from February 8 – 12, 2016 and themed “Realizing Demographic Dividend in Africa: the Critical Importance of Adolescents and Youth Sexual and Reproductive Health and Rights”. The conference was part of a long-term process of building and fostering regional dialogue on sexual and reproductive health and rights. It started with a two-day pre-conference
programme consisting of experts meetings and capacity building workshops on sexual and reproductive health and rights for young people. The main conference took place from 10-12 February, 2016, including plenary sessions, skills-building workshops and exhibitions. During this conference, we made a presentation on the African Commission and its mandate.

III. AS MEMBER OF THE WORKING GROUP ON COMMUNICATIONS

5. Meeting of the Working Group on Communications, 13 to 14 February 2016

We participated in the meeting of the Working Group on Communications held from 13 to 14 February 2016 in Banjul, in preparation for the work of the 19th Extra Ordinary Session. This meeting of the Working Group made an initial review of eleven (11) communications on seizure and two (2) on admissibility.

IV. AS MEMBER OF THE WORKING GROUP ON THE RIGHTS OF OLDER PERSONS AND PEOPLE WITH DISABILITIES IN AFRICA

6. During the period under review, the two draft protocols which the Working Group was task with preparing experienced significant progress\(^1\). The first document has been adopted by the African Union (AU) in January 2016 and opened for signature and ratification by Member States. At its 19th extraordinary Session held from 18 to 25 February 2016, the Commission considered and adopted the Draft Protocol to persons with disabilities; this document will also be proposed to the African Union within the framework of its treaty-making bodies.

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\(^1\) Protocol to the African Charter on human and peoples’ rights relative to the rights of older persons in Africa and Protocol to the African Charter on human and peoples’ rights relative to the rights of persons with disabilities in Africa
V. AS MEMBER OF WORKING GROUP ON INDIGENOUS POPULATIONS/COMMUNITIES IN AFRICA

7. We participated in the meeting of the Working Group on Indigenous Populations / Communities of 4 to 5 April 2016. During the meeting, the Working Group discussed various items on the agenda, including the review and adoption of reports on activities carried out during the intersession period and the identification of future activities. The Working Group also had the opportunity to discuss the human rights situation of indigenous peoples in Africa, particularly regarding cases in Ethiopia, Kenya and Tanzania.
PART TWO

ACTIVITIES UNDERTAKEN IN MY CAPACITY AS SPECIAL RAPPORTEUR ON HUMAN RIGHTS DEFENDERS IN AFRICA AND FOCAL POINT ON REPRISALS

I- PROMOTION ACTIVITIES

With regard to promotion activities, we participated in the following meetings, seminars, and workshops.


Following up on the recommendations of the Cotonou meeting of May 2015 on the need to put in place a strategic plan for the mandate of the Special Rapporteur, we organised a strategic meeting from 18 to 21 December 2015 in Lome, Togo. This meeting allowed us to finalise the strategic plan for the mandate for the period 2016 – 2018. The meeting also allowed for the development and finalisation of an action plan for the mechanism of the Special Rapporteur for the year 2016.

As a reminder, the strategic plan 2016 – 2018 and the action plan 2016 take into consideration the following elements:

- The establishment of a proactive and effective system to better protect human right defenders on the continent;
- The development of a strategy to assist States to implement the recommendations of the mechanism, including recommendations contained in the studies on the situation of women human rights defenders in Africa;
- The need to strengthen collaboration with States Parties to the African Charter;
o The need for synergy, permitting human rights defenders to have an active and constructive dialogue among themselves, as well as with key stakeholders, with a view of promoting and protecting defenders’ rights;
o The importance to put in place regional forum to facilitate communication and interactions between human rights defenders themselves, and the mechanism for human rights defenders, which would allow for the possibility to gather information on best practices.

9. 67th Celebration of the International human rights day, Yaoundé, Cameroon, from 30 to 31 December 2015

The mechanism of the Special Rapporteur was represented at the 67th Celebration of the international human rights day, Yaounde, Cameroon, from 30 to 31 December 2015, organised by the Cameroonian National Commission for Human Rights and Freedom. The conference examined achievements made in Cameroon with regard to the promotion and protection of human rights. We also took part in a solidarity walk, which was organised in order to show support to soldiers and victims of terrorism. Furthermore, discussions were held with the Secretary General of the National Commission, as well as its staff, representatives of the UN centre for human rights and democracy in Central Africa, as well as civil society organisations. During discussions held with stakeholders, they expressed the need for the Special Rapporteur’s mechanism and the African Commission to organise a mission to Cameroon. This would be important, given the Mechanism’s need to verify the status of the implementation of recommendations from its previous promotion missions in this State Party.


In cooperation with the Department of Political Affairs of African Union Commission, we formally presented and launched the African Commission’s Principles and Guidelines on Human
and Peoples’ Rights while Countering Terrorism in Africa\textsuperscript{2} on 29 January 2016. The Principles and Guidelines were conceived and drafted in response to grave acts of terrorism and violent extremism in Africa and to assist States in implementing their human rights obligations while countering terrorism and violent extremism. During the event, copies of the said guidelines were distributed to the public and have since been made available on the website of the African Commission. It is worth noting the importance of such a document within the current African context, whereby the continent has encountered difficulties when facing the phenomenon of terrorism. The mechanism has committed itself to ensure that this document is made known to all actors and that it is made use of.

On 7 April 2016, speaking ahead of a panel discussion that our mechanism has planned for this 58\textsuperscript{th} Ordinary Session to brief Member States and other stakeholders, a group of eighteen (18) Special Rapporteurs, Independent Experts and Working Groups of the United Nations Special Procedures issued a strong statement endorsing and welcoming the new Principles and Guidelines, and calling on all African governments to fully implement the Commission’s recommendations for the respect of human rights in the context of fighting terrorism.\textsuperscript{3}

\textbf{11. 6\textsuperscript{th} annual inter-mechanism meeting, held from 25 to 26 February 2016 in Strasbourg, France}

The mechanism of the Special Rapporteur was represented at the 6\textsuperscript{th} annual meeting of international and regional human rights defenders protection mechanisms (“inter-mechanism meeting”) held from 25 to 26 February 2016 at the seat of the European Council in Strasbourg, France.


This meeting was organised around Michel Forst, UN Special Rapporteur on the situation of defenders of human rights and Nils Muižnieks, Commissioner for Human Rights at the Council of Europe, consisted of mandate holders of the African Commission on Human and peoples' rights (ACHPR), the Inter-American Commission on Human rights (IACHR), as well as representatives of the Organisation internationale de la Francophonie (OIF), the Organization for security and co-operation in Europe (OSCE) and the Parliamentary Assembly of the Council of Europe.

The meeting was organized by the World Organisation against Torture (OMCT) and the International Federation for Human Rights (FIDH) to examine new methods of cooperation among mechanisms and to discuss the good practices. The meeting also highlighted the challenges currently faced by human rights defenders within the context of national laws that are becoming more restrictive towards their activities.

12. Prize award from the West Africa Human Rights Defenders Network (WAHRDN) to civil society organisations in burkinabè, 28 december 2015, Ouagadougou, Burkina-Faso

In collaboration with the International Service for Human Rights (ISHR), West Africa Human Rights Defenders Network (WAHRDN) and East and Horn of Africa Human Rights Defenders Projet (EHAHRDP), on 28 December 2015, we took part in the prize award of WAHRDN in Ouagadougou, Burkina-Faso. This important ceremony, organized in acknowledgement of the plight by civil society organisations, was presided by the Prime Minister, Mister Yacouba Isaac ZIDA. The prize award ceremony served as a testimony in recognition of the efforts undertaken by civil society organisations in Burkinabé towards promoting human rights. During this occasion, we held advocacy meetings with the authorities in Burkina-Faso, whereby we emphasized on the need to adopt a law dealing specifically with the promotion and protection of human rights defenders in Burkina-Faso.
II- PROTECTION ACTIVITIES

During the period under review, several cases of violations of the rights of human rights defenders were brought to our attention. The most regularly reported incidents relate to allegations of arbitrary arrest, travel bans, unlawful detention, judicial harassment, denial of freedom of association and assembly, and forced disappearances.

In response to these situations, we increased our advocacy efforts through actively engaging with relevant stakeholders. We equally engaged a constructive dialogue with civil society actors with a view to better inform them on our mandate, our role, as well as our range of responsibilities and the limits of our actions. Moreover, in response to some urgent situations, we published eight (8) press releases\(^4\) and sent two (2) letters of urgent appeal\(^5\) to the States concerned.

III- ACTIVITIES UNDERTAKEN IN MY CAPACITY AS FOCAL POINT ON REPRISALS

By way of reminder, at its 50\(^{th}\) Ordinary Session held in 2011, the African Commission on Human and Peoples' Rights adopted Resolution ACHPR/Res.196 (L) 11 condemning acts of reprisal and intimidation against all those collaborating with the Commission and the African human rights system in general. To ensure the follow-up of this resolution, the African Commission adopted Resolution ACHPR/Res.273 (LV) 14 at its 55\(^{th}\) Ordinary Session held in 2014 expanding our mandate to include the fight against reprisals.

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\(^4\) \url{http://www.achpr.org/press/2015/12/d284/}
\url{http://www.achpr.org/press/2015/12/d283/}
\url{http://www.achpr.org/fr/press/2016/04/d292/}
\url{http://www.achpr.org/press/2016/04/d294/}
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\url{http://www.achpr.org/fr/press/2016/04/d296/}
\url{http://www.achpr.org/fr/press/2016/04/d297/}

\(^5\) Confidential procedure.
In that regard, in order to operationalize the focal point on reprisals of the African Commission and to effectively contribute to preventing and fighting against reprisals, the mechanism organized a regional consultation with civil society actors. The consultation led to the adoption of three (3) important documents, namely:

- A guide on communications between the African Commission Focal Point on Reprisals and the Alleged Victims and States Parties
- A form for compiling and transmitting information related to allegations of reprisals and acts of intimidations against human rights defenders;
- An information and guidance note regarding communication with the Focal Point of the African Commission on Reprisals. This succinct document of three (3) pages provides information to the general public regarding communications with the ACHPR focal point on reprisals. In particular, the document provides information and guidance on the mandate of the ACHPR Focal Point on Human Rights Defenders, what information should be reported to the Focal Point, which situations qualify as intimidation or reprisals, who can submit information to the Focal Point, what happens when the Focal Point receives the information, how much time the process takes, confidentiality of the procedure, etc.

These three documents, which are part of a number of documents provided for in the roadmap of the Special Rapporteur are useful for victims of reprisals, as well as for States Parties, will considered during the 58th Ordinary Session.

IV- ANALYSIS OF THE SITUATION OF HUMAN RIGHTS DEFENDERS IN AFRICA

Throughout the course of this period, we have realized that the situation of human rights defenders has not improved in most countries. On the contrary, we have noticed deterioration in the working conditions for human rights defenders due to several factors, including
conflicts, political crises related to elections, acts of terrorism, legislative and institutional reforms, etc.

Based on the information received and other factual elements, our mechanism believes, without a shadow of doubt, that the human rights situation remains worrying in many ways across the continent. This situation is particularly serious in countries such as Egypt, Burundi, the Democratic Republic of Congo, Chad, Cameroon, Ethiopia, Kenya, Central African Republic, and Somalia.

The freezing of assets of NGOs, as well as restrictive laws continue to hamper the efforts of human rights defenders in ensuring, along with State parties, the promotion of human and peoples’ rights and to take part in the development of their country.

With the technical and financial assistance provided by partners, our mechanism, in its efforts to foster a dialogue between civil society and State parties, was able to launch the *Principles and Guidelines on Human and Peoples’ Rights while Countering Terrorism in Africa*. Even though we note that it is important for States Parties to adopt policies as well as security and legislative measures to protect populations against acts of terrorism in Africa, we nevertheless remain concerned by the fact that several provisions of these counter-terrorism laws infringe the rights and restrict the work of human rights defenders.

We would like to call for dialogue, cooperation and a sense of responsibility to both human rights defenders and States Parties to better take into account all the issues related to the promotion and protection of human rights on the continent.

Even though the situation of human rights defenders is of concern in the light of the above, we note that progress has been made in some countries. This is the case for example, in Burkina Faso, Benin, and Côte d'Ivoire, where we note a certain will, reflected in the efforts taken by
the political authorities to collaborate with civil society actors. We would equally like to welcome the dialogue that some State Parties have engaged with the Special Rapporteur, on the promotion and protection of the rights of human rights defenders. We would further like to congratulate and appeal to countries such as Burkina Faso, Mali, Togo and Niger, who have clearly demonstrated their willingness towards creating a law dealing with the promotion and protection of human rights defenders, to persevere till the end and materialise their will, as is the case with Côte d’Ivoire.

On this occasion of the year 2016, which has been declared the year of human rights, with a particular focus on women rights in Africa, we would like to call upon African State parties to respect their obligations under the 1998 UN Declaration on Human Rights Defenders, the 1999 Grand Bay Declaration and the 2003 Kigali Declaration. We would like to call upon women human rights defenders to take the opportunities offered this year to continue their fight for the promotion of human rights. The African Commission recently adopted its resolution ACHPR/Res. 336 (EXT.OS/XIX) 2016 on Measures to Protect and Promote the Work of Women Human Rights Defenders in Africa. We hope that women human rights defenders will make the most of this resolution.

In this respect and for our part, we intend to organize a pan-African colloquium on human rights defenders in Africa. For us, this colloquium would be a great opportunity that would, allow for States Parties, civil society, and international partners and institutions, to evaluate together, in a climate of dialogue and a spirit of partnership and collective responsibility, the progress made since 1986, whereby the African Charter on human and peoples' rights came into force. It will also be an opportunity for both States Parties and human rights defenders, to measure the progress made and challenges faced by all stakeholders. We would thus like to appeal to all States Parties, technical and financial partners, national and international organizations and institutions to support this project.
V. CONCLUSION

As part of the new strategy of the mechanism, we are committed to developing and ensuring a permanent framework for consultation with all stakeholders both nationally and internationally. Our activities will take into account the new challenges related to information and the empowerment of stakeholders.

We would like to reiterate all the recommendations made in our previous report under the 57th Ordinary Session of the African Commission. We wish to express our sincere gratitude to the States Parties and to all our partners for their support to the Special Rapporteur on Human Rights Defenders in Africa.

Our mechanism will continue dialogue and activities for the promotion and protection of the rights of human rights defenders in Africa.