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## INTER SESSION REPORT

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**COMMISSIONER/SPECIAL RAPPORTEUR ON THE  
RIGHTS OF WOMEN IN AFRICA**

**46th Session of the African Commission on Human and Peoples' Rights**

**Banjul - November 2009**

1- This report gives an account, under the terms of paragraph 3 Article 87 of the Rules of Procedure and by virtue of the mandate entrusted to me in my capacity as Special Rapporteur on the Rights of Women in Africa, of the promotional activities that I undertook since the 45<sup>th</sup> Ordinary session of the African Commission held in Banjul in May 2009.

2- It consists of three sections: the activities carried out in my capacity as Member of the African Commission, in my capacity as Member of the Working Group on Indigenous Populations/ Communities and as Special Rapporteur on the Rights of Women in Africa.

### **I – Activities carried out in my capacity as Member of the African Commission**

3- **From 11<sup>th</sup> – 13<sup>th</sup> July 2009**, I participated in a meeting of the ACHPR held in Arusha (Tanzania), whose objective was to update the Commissioners on the draft Rules of Procedure, on its provisions in relation to the ACHPR's complementarity with the African Court on Human and Peoples' Rights.

4- **From 28<sup>th</sup> June to 2<sup>nd</sup> July 2009**, I participated at the Ordinary Session of the Executive Council and the Summit of the Heads of State and Government of the African Union held in Syrte, Libya.

5- **From 14<sup>th</sup> – 15<sup>th</sup> July 2009**, I participated in the first joint meeting of the ACHPR and the African Court, whose objective was to harmonize the Rules of Procedure of the two Bodies for a better coordination of their working relations. The work was in conformity with the spirit and letter of the rules sanctioned by the Protocol which created the African Court.

6- **On 6<sup>th</sup> and 7<sup>th</sup> August 2009**, I took part in a workshop organized by the Human Rights Centre of the University of Pretoria (South Africa), which brought together the Members of the African Commission, Experts representing Organizations and Networks involved in the protection of Women's Rights, Students and Heads of Human Rights Centres.

7- The main objective was to enrich the draft guidelines which had been prepared and presented by the Human Rights Centre on the implementation of the Maputo Protocol. This exercise is in line with the promotion of collaborative efforts through the building of the capacities of the ACHPR in its mandate of protecting the Rights of Women in Africa. Once adopted, the guidelines should serve as a guide for the States Parties to the Protocol in the preparation of their Reports. Further, they should reduce the need for additional information for the African Commission and contribute to the acquisition of a more comprehensive perspective of the situation of the Rights of Women in each country. I presented Communication regarding the ratifications and the implementation of the Maputo Protocol.

At the end of the meeting, the draft guidelines had been amended and enriched. It will be submitted for the consideration of the African Commission for adoption.

8- **From 5<sup>th</sup> to 11<sup>th</sup> October 2009**, I participated, in Dakar, Senegal, in the meeting of the African Commission for the consideration of the observations on the preliminary Rules of Procedure and the discussion on the provisions relating to complementarity and finalization of the said Rules of Procedure.

9- **From 12<sup>th</sup> to 16<sup>th</sup> October 2009**, I participated, in Dakar, Senegal, in the second joint meeting of the African Commission and the African Court on the harmonization of their respective Rules of Procedure.

### **II- Activities carried out in my capacity as Member of the Working Group on Indigenous Populations/African Commission**

**10-** I participated from **20<sup>th</sup> to 24<sup>th</sup> July 2009** in a workshop organized in Bamako, Mali, by the Coordinating Committee of Indigenous Populations in Africa (IPACC) in collaboration with the Human Rights Council of the United Nations and the NGO TIN HINAN which are active in the promotion and protection of the culture and identity of the Touareg populations. The theme of the workshop was **“To promote the United Nations Declaration on the Rights of Indigenous Populations for the reinforcement of human rights and peace”**. The workshop brought together the representatives of Indigenous Populations, Heads of NGOs, Parliamentarians, Media persons and Experts working on the theme in the different regions of Africa.

**11-** It may be of interest to elaborate a bit on this workshop. Several presentations enriched the discussions. These focused on the history, the key principles and the legal status of the Declaration, the African Charter, the principal international instruments for the protection of human rights, the experiences of indigenous women, the operational priorities and their needs in terms of capacity building, the international mechanism and the African human rights system as well as the African Commission’s jurisprudence on the violations of the rights of indigenous populations through case studies. I made a presentation on the Role, Mandate and Experience of the African Commission’s Working Group on Indigenous Populations/Communities. The international human rights protection instruments had been revisited in the light of the principle of self-determination and for a better understanding of the concept of collective rights.

**12-** From the analysis of the human rights situation of the indigenous populations in Africa by the participants it was observed that the vulnerable and marginalized classes still live in insecurity and ignorance of the principal legal instruments which protect them at the national, regional and international levels. Recommendations had been formulated for the ACHPR, States Parties and the technical and financial partners for the purpose of increasing and strengthening education and human rights sensitization programmes. An African Action Plan for the promotion and implementation of the Declaration on the Rights of Indigenous Populations had been adopted.

### **III- Activities carried out in my capacity as Special Rapporteur on the Rights of Women in Africa.**

#### **A – Seminars and Meetings with the Civil Society Organizations, the Independent Bodies and Inter-Governmental Institutions.**

**13- On the 4<sup>th</sup> June 2009**, I participated in a Round Table in Geneva organized on the sidelines of the deliberations of the 11<sup>th</sup> Session of the United Nations Human Rights Council on the theme: « **Maternal mortality and Human Rights** » at the initiative of the New York Centre for Reproductive Rights, Human Rights Watch, Action Canada for Population and Development and the International Initiative on Maternal mortality and Human Rights.

The main objective of the Organizers with this event was to engage all the actors, States, NGOs and International Organizations in an exercise of advocacy for the adoption by the Human Rights Council of a Resolution on Maternal Mortality and Morbidity as a human rights problem.

**14-**I made a presentation on the situation of Maternal mortality in Africa and on the position of the ACHPR by means of an expose on the rights inscribed in the Maputo Protocol as well as the analysis of the points contained in the Resolution 135/08 adopted in Abuja during the 44<sup>th</sup> Session held in November 2008 on Maternal mortality in Africa.

**15-** I then had a meeting with the group of African Ambassadors in the context of advocacy action for a human rights based perspective.

16- These joint efforts culminated in the adoption by the Human Rights Council on the 16<sup>th</sup> June 2009 of a « **Resolution on preventable Maternal Mortality and Morbidity and human rights** » which constitutes a high standard contribution to the already existing initiatives for a better comprehension of the dimensions relating to human rights and to the issue of maternal mortality.

17- On the 5<sup>th</sup> June 2009 I participated in a Round Table, in Geneva, on « **the 15 years of the United Nations Special Rapporteur on abuse against Women: Successes, Challenges and Perspectives** ». The meeting, which had been organized at the initiative of the World Organization Against Torture (OMCT), registered the participation of the Office of the High Commissioner for Human Rights, the Special Rapporteur on extra-judiciary killings, NGO representatives, in particular the Asia Pacific Forum on Women, Law and Development, the NGO Committee on the Status of Women and the Working Group on Abuse against Women and Girls.

18- The Special Rapporteur Mrs. Yakin ERTURK outlined a critical and exhaustive picture of her mandate and the challenges she had been faced with in the different regions of the world. The conclusions of the Round Table had highlighted the persistence of abuse and the sexual exploitation of women and girls particularly in Africa, in the Great Lakes region. The Rapporteur nonetheless emphasised the impact of the mandate on the development of standards and the conceptual understanding of abuse. She also commented on the development of tools for the implementation of norms and standards as well as the compulsory surrender by the States in relation to gender based violence.

19- The 27<sup>th</sup> to 28<sup>th</sup> June 2009 saw my participation in the deliberations of the 14<sup>th</sup> Civil Society Consultation on the integration of Gender in the African Union which was held in Tripoli, Libya, directed by Africa Women Solidarity (FAS) in collaboration with the Organization of Maghrebi Mothers (OMMA), the Organization of Young Libyans with the support of the African Women's Development Fund (AWDF).

20- The participants evaluated the implementation by the States Parties and the NGOs and Networks engaged in the Campaign « **Gender is my Agenda** » of the commitments outlined in the Solemn Declaration of the Heads of State on Gender Equality in Africa.

21- At the end of the discussions chaired by the Libyan Secretary of State responsible for Women's Affairs, it had been noted that 35 countries had still not submitted any Report to the Commission of the African Union under the terms of the said Declaration. Furthermore, the procedure for the establishment of a Solidarity Fund for the building of the economic capacities of African Women, which constitutes an integral part of the implementation of the DSEHFA had not yet been finalized.

22- Recommendations had been submitted to the Assembly of Heads of State for their inclusion in the Agenda of the 13<sup>th</sup> Summit of the African Union, in particular the convening, in 2010, of a special Summit on Gender; on the appointment of women Special Representatives of the African Union in peace negotiations and peace keeping missions; the adoption of urgent measures for the protection of children and women in Somalia; the adoption by the States of National Action Plans on United Nations Resolutions 1325 and 1820 for the consolidation of peace efforts; the protection of women against sexual abuse and other forms of discrimination in countries in conflict and post conflict situations.

23- On 4<sup>th</sup> August 2009, I was invited to participate in Pretoria in a seminar organized by the South African Independent Electoral Commission on the theme « **Women and Elections** » within the framework of the commemorative activities of Women's Month in that country. I had occasion to present on « **the participation of Women in Politics, challenges and perspectives in the West African region** ». This activity registered the participation of Experts, of representatives of Ministerial Departments and NGOs. The contributions and discussions however tended towards the same observation, namely that

there is so far insufficient representation of women in elective posts and in the decision making positions in Africa generally, despite their involvement in their countries' development activities, due to the combination of several factors: lack of political will at the highest level; the absence of positive temporary measures for women; the mobilization of women for male candidates during election time; **the paucity of incitant measures regarding Political Parties etc. .**

**24- On 20<sup>th</sup> August 2009**, I participated in Bamako in the organization of a Day of Information and Discussions for the Leaders of Malian Women Associations and NGOs on the draft Family and Persons Code. The adoption of the Code by the National Assembly had given rise to a mobilization that was unprecedented in the country's history. Led by the Islamic Associations, the mobilisations called for the rejection of some of the Code's provisions relating to marriage and inheritance which, according to them and to Islam, is contrary to their tradition. The objective was to enlighten them on the content of the said provisions and to emphasize the need for them to take ownership of the motivations underlying the upholding of the said provisions as they were, in the Text. The activity registered the participation of Magistrates, Lawyers and traditional Communicators. The discussions culminated in the setting up of a Civil Society Advocacy Committee that would be given the responsibility of drafting an advocacy document to harmonize the activities relating to sensitization and information on the draft Code.

**25- On 2<sup>nd</sup> September 2009**, I was invited to make a presentation on the state of implementation in Africa of Security Council Resolutions 1325 and 1820 on « Women, Peace and Security » at a Round Table organized in OTTAWA by the Canadian Network for the Consolidation of Peace and the Pearson Centre for the maintenance of Peace. This is a Canadian Institution whose mission is to improve the efficiency of peace operations through research, education, training and capacity building.

**26-** The Round Table brought together Canadian and international Experts and NGO representatives working in the field of peace and security in Sierra Leone, Somalia and Darfur. The objective was to enhance the comprehension of policies, needs and the stakes linked to peace and security as well as the obligations of States and non-State Actors emanating from the international legal human rights instruments and Resolutions 1325 and 1820. The instruments and Resolutions 1325 and 1820 are still little known and little applied in conflict situations in African countries.

**27-** The extremely vulnerable situation of Women in these countries had been highlighted due to the impunity enjoyed by the perpetrators of sexual abuse, as well as the great tolerance of the exploitation and the sexual abuse committed against them, despite the high cost of the investments and initiatives developed by the International Community.

**28-** The Round Table also focused on the operational benefits of female presence in peace operations contingents while deploring the low level of women's participation in peace keeping operations and their representation in the Police and Armed Forces, particularly in Africa.

#### **B- Collaboration with the partners working for the promotion of Women's Rights**

**29- From 22<sup>nd</sup> – 23<sup>rd</sup> June 2009**, I participated in Montreal as an ex-officio Member in the deliberations of the Governing Council of the International Centre for Individual Rights and Democratic Development commonly called Rights and Democracy. It is an Institution which works in several regions of the world on the themes of Women's human rights, democracy and indigenous populations, among others.

**30- On 3<sup>rd</sup> September 2009**, I moderated a Round Table organized by the West Africa Division of the Canadian Ministry of Foreign Affairs and International Trade in OTTAWA on « **the Rights of Women in Africa in the face of rising Fundamentalism** ». Through the discussions, the participants wished to examine the strategies and activities that the



Canadian Institutions working in Africa need to develop to promote the creation of a conducive environment for good governance, democracy and the development of women leadership.

**31- On 4<sup>th</sup> September 2009**, I moderated two conferences in Montreal organized by Rights and Democracy for its staff on « **the progress and the challenges in the promotion of Women's Rights in Africa** » and by Amnesty International Canada on « **the impact of the economic crisis on Women's human rights in Africa** », for the benefit of its Members, NGO representatives and African nationals resident in Canada.

**32- On 30<sup>th</sup> September 2009**, I participated, in Bamako, in a Panel of technical and financial partners on the draft Malian Persons and Family Code under the aegis of the Canadian Embassy. The objective of the meeting was to enhance their understanding of the problems relating to the draft Code and the evaluation of the perspectives relative to its imminent promulgation by the President of the Republic.

### **C- Collaboration with the States Parties**

**33- On 5<sup>th</sup> August 2009**, I moderated a Conference in Pretoria co-organized by the Head of Gender in the Africa/Multilateral Cooperation Division of the South African Ministry of Foreign Affairs and the Ministry of Women's Affairs on the theme: « **Protocol on the Rights of Women in Africa: state of implementation and challenges** ». This important event registered the participation of the representatives of several Departments and Divisions working in the area of Gender promotion. The discussions focused on the manner in which socio-cultural barriers could be overcome as they constitute obstacles to the development of Women in Africa.

**34- On the 13<sup>th</sup> and 14<sup>th</sup> August 2009**, I participated in a regional Consultation co-organized in Bujumbura (Burundi) by the Ministries responsible for Gender and Women's Affairs of Burundi, of DRC and of Rwanda in partnership with the Women's Organizations and Networks of these three countries. The deliberations of the Consultation held under the aegis of the Executive Secretariat of the International Conference on the Great Lakes region (CIRGL) was chaired by the Deputy Prime Minister of Burundi and recorded the participation of the Executive Representative of the United Nations Secretary General, Mr. Youssef Mahmad, as well as the Assistant to the Secretary General on Gender Issues, Mme. Rachel Mayanka. The situation of Women in the Great Lakes region had been reviewed through a presentation and discussion of a sub-regional study and of the National Action Plans on the implementation of United Nations Security Council Resolution 1325. The participants were required to focus on the strengths and weaknesses of each of the Action Plans and to identify the regional activities likely to promote their effective implementation, through the integration of the Gender perspective in the Policies, Structures and Programmes and in the peace process.

**35-** At the end of the discussion, the participants noted the active role that the three countries can play in the integration of Gender in the peace process in the Great Lakes region. A Monitoring Committee has been set up to draft a sub-regional Action Plan for the implementation of Resolution 1325, to strengthen cooperation in security matters on the basis of a common agenda so as to realize sustainable humanitarian peace and security in the Great Lakes region.

**36- From 28<sup>th</sup> October to 2<sup>nd</sup> November 2009**, I travelled on a promotional mission to Sudan within the framework of my mandate with my colleagues Commissioners Catherine Atoki and Pansy Tlakula. During this visit we met with the Authorities and the NGOs working for the promotion for Women's Rights and discussed the human rights situation in general and that of Women's Rights in particular in that country.

### **D - Notes Verbale/ Reminder Letters to the States Parties**

**37-** Notes Verbale had been dispatched to several States Parties to the African Charter in the context of planned promotional missions. These are:

- \* The Republic of Niger which responded to our Note Verbale and is awaiting a proposal of dates.

- \* The Republic of Gabon which gave its agreement in principle for the visit with the advice that the dates be fixed for after the Presidential elections.

- \*The Central African Republic which also gave its agreement in principle through the Human Rights Head Office in the Justice Ministry.

- \* The Republic of Guinea which gave its agreement in principle.

- \* To date only 29 countries have ratified the Maputo Protocol. Letters of reminder have been sent to the other States Parties to the Charter urging them to ratify the Charter.

- \* On the 20<sup>th</sup> August 2009, I sent, together with the Special Rapporteur on the Freedom of Expression, a letter to His Excellency Professor Sheikh Yahya A. J. J. Jammeh, President of the Republic of The Gambia, requesting him to use his discretionary powers of pardon for the immediate release of the Journalists, including a woman mother of a 7 month baby, who had been arrested, tried and condemned by the Gambian High Court for slander and libel.

- \* Following their release, a joint letter of gratitude from our two mechanisms had been conveyed through official channels on the 11<sup>th</sup> September, to His Excellency the President of the Republic of The Gambia.

## **E- Press Release**

**38- On 31<sup>st</sup> July 2009**, on the occasion of the Women's Pan-African Day, I published a Press Release on **the protection of Women against sexual exploitation and all other forms of abuse against them.**

The Declaration reminds the States, the CSOs and the technical and financial partners of their obligations in the combat against discrimination and violence against Women as well as the need to reinforce the initiatives, programmes, Plans and Policies implemented for the improvement of the legal, political, social and economic status of Women in Africa.

## **F- Study on the situation of Women's Rights**

**39- On 28<sup>th</sup> August 2009**, I finalized a regional Study on the Sexo-specific discriminatory provisions and gaps in terms of Gender Equality in the national legislations of ECOWAS member States. Funded by the ECOWAS Centre for Gender Development, this analytic and comparative study had been carried out on the basis of 13 country reports which identified in each Member State the discriminatory provisions and laws which do not provide appropriate guarantees for the realization of Gender equality. The information put together had been illustrated by statistical data as well as by examples of cases of discrimination and abuse brought before the Courts which involved Women.

**40-** The objective of the study is to enable the Gender Centre to formulate appropriate recommendations for the Member States and for ECOWAS. Also required is the need to draw up a strategy of advocacy for the benefit of the political decision makers, the Parliamentarians and the opinion leaders in order to promote the integration of the regional and international legal instruments which impact the status of women in national legislations and to accelerate their effective implementation.

## **Conclusions and Recommendations**

**41-** In the face of persistent poverty, illiteracy, armed conflicts and the slowness in the adoption of legal reforms favourable to gender equality, African Women continue to suffer all sorts of abuse and several forms of discrimination, as well as the weight of traditional values. They lack the proper qualifications to find decent employment and suffer from the insufficiency and/or lack of appropriate policies, infrastructure and sufficient budgetary resources to satisfy their specific needs.

**42-** Despite this gloomy picture, the mechanism is pleased to have contributed to the development of the working relations and cooperation existing between the African Commission, the States Parties, the regional Economic Commissions, the research Institutions and the Civil Society Organizations working on gender issues.

**43-** Thanks to this interaction, I have been able to observe during the visits, meetings and seminars organized in the different regions of Africa, varied progress according to the countries, both at the level of the States Parties' political will to reduce the gaps in gender equality as well as in the combat against discrimination and gender based violence.

**44-** I am following with great interest, the adoption by some countries of gender sensitive policies and of a law on the quota to raise the level of women's representation in elective positions and in decision making bodies. Thus, during the intercession, Burkina Faso and Burundi finalized the adoption process of their law on the quota, granting 30% in elective positions to women.

**45-** In several countries in post conflict situations, in particular in Uganda, DRC, Liberia, Burundi and Rwanda, National Action Plans have been adopted to accelerate the integration of gender in women's recruitment and training programmes in the Armed and Police Forces. In peace keeping operations and in the reconstruction process greater attention is paid in these countries to women's needs by the technical and financial partners and the International Community through the setting up of gender units and of a fund for women's empowerment and the rehabilitation of ex-combatants and the victims of sexual abuse.

**46-** Nonetheless, I deplore the persistent slow process of ratification of the Maputo Protocol. Some of its provisions relating to abortion, inheritance, marriage and access to land still give rise to strong controversy which can constitute a serious threat to social peace as a result of the heavy weight of the religion and traditional values.

**47-** I have also noted that the countries which have ratified the Maputo Protocol do not sufficiently and adequately include in their Periodic Reports presented under the terms of Article 62 of the African Charter, the information on the legislative and other measures they have taken to give full effect to the relevant provisions of the Protocol.

**48-** For this reason I am pleased with the results of the workshop organized by the Human Rights Centre of the University of Pretoria on the guidelines that should guide the States Parties in the preparation of their Periodic Reports on the situation of Women and Girls.

## **Recommendations:**

### **For the States Parties**

**1-** The States Parties to the Charter that have not yet ratified the Maputo Protocol should do so urgently.

**2-** The States Parties to the Maputo Protocol should from henceforth include in their Periodic Reports indicated under Article 62 of the African Charter, all the statistical data on the situation of Women and Girls as well as the legislative and other measures that they have taken to give effect to the provisions of the Protocol.



**3-** They should strengthen the programmes of education, information and sensitization on Women's Rights for the benefit of the religious leaders, the customary heads and traditional communicators so as to accelerate the change of cultural patterns and models as well as the broadening of the universal values of Equality and non-Discrimination.

**For the African Commission:**

**4-** To adopt as early as possible, new guidelines on the Periodic Reports of States Parties, integrating therein the legislative and other measures taken by them under the terms of the implementation of the Maputo Protocol.

**5-** To support the efforts of the mechanism in the popularization of the Maputo Protocol and the Solemn Declaration of the Heads of State on Gender Equality in Africa at the Continental level, and in particular in countries in conflict where the situation of the rights of Women and Girls remains a matter of concern.