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**INTERSESSION REPORT**  
**(May 2014 - April 2015)**

**56<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights**

**By**

**Honourable Commissioner Mohamed Béchir Khalfallah**

*Vice-Chairperson of the African Commission on Human and Peoples' Rights*  
*Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa*

**Banjul, The Gambia - 21 April to 7 May 2015**

## **Introduction**

1. This report is prepared in accordance with Rule 72 of the Rules of Procedure of the African Commission on Human and Peoples' Rights (the Commission). It is divided into two parts.
2. The first part provides an update on the status of implementation of activities undertaken in my capacity as Commissioner and Vice-Chairperson of the Commission, and the second takes stock of activities undertaken in my capacity as Chairperson of the Working Group on Economic, Social and Cultural Rights in Africa (ECOSOC). The report concludes with a set of recommendations.
  - A. Activities undertaken in my capacity as Commissioner and Vice-Chairperson of the African Commission on Human and Peoples' Rights**
    - *Participation in the two African Union summits held respectively from 20 to 27 June 2014 in Malabo, Equatorial Guinea and 23 to 31 January 2015 in Addis Ababa, Ethiopia.*
3. Together with the Chairperson of the Commission, two Commissioners and the Executive Secretary, we participated in meetings of African Union decision-making bodies during these Summits.
4. The Chairperson of the Commission presented the 36<sup>th</sup> and 37<sup>th</sup> activity reports at the Ordinary Sessions of the Permanent Representatives' Committee and Executive Council.
5. The latter urged States Parties to the African Charter on Human and Peoples' Rights (the African Charter) to implement recommendations of the Commission and respond to its urgent appeals. It also urged States Parties to issue standing invitations to the Commission for promotion missions and invited those to whom requests have been made to authorize proposed missions.

➤ *Participation in the meeting of Bureaux of the African Court on Human and Peoples' Rights (the Court) and of the Commission, 16 July 2014 in Kigali, Rwanda*

6. In my capacity as Vice-Chairperson of the Commission, I took part in the 6<sup>th</sup> Joint Meeting of the Bureau of the Court and the Bureau of the African Commission on Human and Peoples' Rights held on 16 July 2014 in Kigali, Rwanda. This meeting was in preparation of the annual joint meeting of the two institutions.

➤ *Participation in the annual meeting between the Court and the Commission, 18 and 19 July 2014 in Kigali, Rwanda*

1. I also participated in the 3<sup>rd</sup> joint annual meeting of the Court and the Commission held on 18 and 19 July 2014 in Kigali, Rwanda.

2. At this meeting, judges and Commissioners considered and adopted the minutes of the first and second annual meetings. The meeting also considered the composite document on tasks assigned to the Secretariat of the Commission and the Court Registrar.

3. The complementary nature of the two institutions was the subject of much debate focusing, in particular, on the interpretation of Article 130 of the Commission's Rules of Procedure and Article 56 of the African Charter. A joint committee was established to reflect on ways and means to address normative issues relating to the referral of cases to the Court.

4. The two institutions also discussed other issues concerning, in particular, the project to declare 2016 as "African Year of Human Rights with a focus on the rights of women in Africa", exchange of staff, developments in the

establishment of a Pan African Human Rights Institute, establishment of a legal assistance fund for human rights bodies, and draft joint publications. Madam Chairperson will provide a more detailed account of these two meetings.

➤ *Participation in the 16<sup>th</sup> and 17<sup>th</sup> Extraordinary Sessions of the Commission held respectively from 20 to 29 July 2014 in Kigali, Rwanda and from 19 to 28 February 2015 in Banjul, The Gambia.*

5. I participated in the 16<sup>th</sup> and 17<sup>th</sup> Extraordinary Sessions of the Commission during which several issues were discussed, including communications currently before the Commission.

6. During the 16<sup>th</sup> Session, we also discussed the use of geospatial technology in the investigation of human rights violations, the 2014-2017 strategic plan of the Commission and its harmonization with the African Union's Agenda 2063.

7. The 2015-2018 strategic plan of the Commission and its harmonization with the African Union's Agenda 2063 was finalized at the 17<sup>th</sup> Extraordinary Session. It is worthwhile to also note that the Commission has appointed members to the Working Group on Economic, Social and Cultural Rights.

➤ *Fact-finding mission to the Central African Republic from 10 to 14 September 2014.*

8. A fact-finding mission led by the Chairperson of the Commission was conducted to the Central African Republic from 10 to 14 September 2014.

9. The purpose of the mission was to conduct investigations into multiple allegations of serious and massive human rights violations committed in the CAR since December 2012, pursuant to Article 45 of the African Charter

mandating the Commission to promote and protect human and peoples' rights on the Continent.

10. During this mission, the delegation met and held working sessions with several State and non-State actors. It also heard submissions from victims and witnesses of the different abuses who provided insight into violations of human rights in the country. It visited certain sites such as camps for internally displaced persons and detention centres.

➤ *Participation in a workshop organized by the Pan-African Parliament from 24 to 26 September 2014 in Nouakchott, Mauritania.*

11. On behalf of the Chairperson, I participated in the workshop organized by the Pan-African Parliament in Nouakchott, Mauritania from 24 to 26 September 2014. The theme of the workshop was: "Regional parliamentary meeting on the promotion, ratification and domestication of African Union legal instruments". Following in-depth discussions on various topics, recommendations were adopted with regard to:

- a) the Protocol to the Constitutive Act of the African Union relating to the Pan-African Parliament and the role of national parliaments in the process;
- b) the African Governance Architecture (AGA) and the African Governance Platform (AGP);
- c) the African Charter on Democracy, Elections and Governance, and progress made towards its ratification and domestication in the region;
- d) Issues relating to peace and security in Central and North African regions.

#### **B. Activities undertaken in my capacity as Chairperson of the Working Group on Economic, Social and Cultural Rights**

➤ *Participation in the meeting of the Working Group held on the margins of the 55<sup>th</sup> Ordinary Session*

12. The Working Group organized a meeting on the margins of the 55<sup>th</sup> Ordinary Session held from 28 April to 12 May 2014 in Luanda, Angola. At this meeting, members of the Group discussed publication of the Algiers workshop proceedings. It was decided to collate presentations made and laws governing education sectors in the countries represented at the workshop. The documents have been compiled. Funds now have to be mobilized and members of the Steering Committee appointed to prepare the compendium.
13. A concept note on the organization of a continental meeting on the right to education post-2015, proposed by the UN Special Rapporteur on the right to education, was considered and amendments tabled.
14. The Working Group noted that Algeria has already proposed to host this upcoming conference.
15. Participants discussed the possibility of drafting a concept paper on activities to be conducted by the Working Group in relation to the “2016, African year on human rights” project. They also exchanged ideas on the need to organize an activity on the margins of the Summit of Heads of State and Government to be held in 2016.
16. The meeting seized the opportunity to finalize harmonization of footnotes in the French version of the “Principles and guidelines on the implementation of economic, social and cultural rights in the African Charter” with the original English version. Members of the Working Group highlighted the need to translate this document into languages of the African Union and ensure its wide dissemination.
17. Finally, participants decided to send out a call for candidates to fill vacancies within the Working Group on economic, social and cultural rights.

➤ *Participation in the international workshop on strengthening cooperation between the United Nations and the regional mechanisms for the promotion and protection of human rights, held from 8 to 9 October 2014 in Geneva*

18. At the invitation of the Office of the United Nations High Commissioner for Human Rights, I participated from 8 to 9 October 2014 in Geneva, Switzerland, in an international workshop attended by UN and regional mechanisms working in the area of human rights.

19. I took part in two panel discussions and had the honour to make two presentations. The first presentation focused on recent developments in the area of cooperation between the United Nations and regional human rights mechanisms, particularly following the 2012 international workshop. The theme of the second presentation centred on “Strengthening cooperation between international and regional human rights mechanisms to mainstream economic, social and cultural rights”.

20. In general, participants expressed satisfaction at the collaboration between the different mechanisms. They however recommended better harmonization among programmes and advocated for greater resources to ensure an effective implementation of the Addis Ababa road map.

➤ *Participation in the Working Group meeting, held from 14 to 16 December 2014, in Dakar, Senegal*

21. At this meeting, the Working Group, among others, designed its 2015-2018 plan of action for the implementation of the various mandates given to it by the African Commission in accordance with its resolutions.

22. The Working Group discussed the question of disseminating the Nairobi Principles and Guidelines as well as the Tunis Guidelines. It also deliberated on the publication of proceedings of the Algiers workshop on the right to education for all.

23. The Working Group also focused on enhancing its collaboration with United Nations mechanisms that have a similar mandate in compliance with the Addis Ababa Road Map.

➤ *Participation in the meeting of the Working Group held from 19 to 20 April 2015 in Banjul, The Gambia*

24. At this meeting, the Working Group focused particularly on the finalization of the preparation for the continental conference on the theme « the right to education for all : priorities and challenges for Post-2015 Africa ». It further appointed focal points in order to facilitate the realization of the various activities scheduled in its 2015-2018 plan of action.

25. The Working Group had a meeting with Madam Sheila Keetaruth, the United Nations Special Rapporteur on the human rights situation in Eritrea, regarding economic, social and cultural rights in that country. The Working Group also exchanged ideas with Dr Curtis Doebbler of the International-Lawyers.org Organisation on the issue of climate change and its impact on economic, social and cultural rights.

➤ *Urgent appeals*

26. In collaboration with the 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 in Africa, we sent an urgent appeal to the authorities in



Burundi on 18 September 2014 in which we expressed concern at allegations of patients detained for not being able to pay their hospital bills.

27. An urgent appeal was sent to the Mauritanian authorities on 2 December 2014 following the arrest and detention of activists of the anti-slavery movement in the Islamic Republic of Mauritania.
28. We also sent an urgent appeal to the authorities of the Republic of Congo on 19 December 2014 following allegations regarding spoliation of land from about thirty families by some elements of the Congolese armed forces.
29. To date, only the Islamic Republic of Mauritania has responded to the urgent appeal.

➤ *Declarations/Press releases*

30. In my capacity as Chairperson of the Working Group on economic, social and cultural rights, I supervised the drafting of the declaration on the Ebola epidemic published on 19 September 2014. The Declaration expressed the Commission's position in relation to the management of the crisis triggered by the Ebola virus in certain countries in West Africa.
31. The declaration calls on States to build synergies with other partners with a view to effectively raising awareness and addressing this outbreak, ensuring that economic, social and cultural rights are safeguarded with regard to measures taken in the fight against the Ebola virus, and mobilizing the necessary resources to this effect.
32. The Working Group also published a Declaration on the collective responsibility of States in preventing and containing the Ebola outbreak, at the conclusion of the meeting held in Dakar (Senegal) in December 2014.

➤ *Meeting with partners*

33. In my capacity as Chairperson of the Working Group, I held a meeting on 22 September 2014 in Paris with officials at the Africa Bureau of the International Federation of Human Rights Leagues (FIDH), Ms. Tcherina and Ms. Geneviève. The purpose of our meeting was to reflect on how to promote economic, social and cultural rights among NGOs and mobilize States for the ratification of the Optional Protocol on ECOSOC rights (ICESCR). In this regard, a panel was jointly organized with FIDH, the Coalition of NGOs for the Optional Protocol to ICESCR, Kenyan Human Rights Commission, the Centre for Economic and Social Rights and Community Law Centre. The panel's objective was to raise awareness among the States, which had not yet done so, to ratify this cardinal instrument for the implementation of economic, social and cultural rights.

**Conclusion and recommendations**

34. Implementation of economic, social and cultural rights is faced with several challenges and the most significant include the lack of sufficient means for special mechanisms, the absence of measures to monitor implementation of recommendations made by special mechanisms or the Commission, the low level of cooperation from States, and the lack of African mechanisms that are able to promptly address emergencies such as the Ebola outbreak.

35. In light of activities conducted, challenges faced and findings, please allow me to make the following recommendations:

**To States Parties to the African Charter:**

- make every effort to respond to urgent appeals received and inform the Commission of measures taken or planned to remedy alleged violations;
- develop relevant policies to ensure that all economic, social and cultural rights of populations are respected, particularly, access to education, health, housing, employment, etc.;
- make use of the Principles and Guidelines on the implementation of economic, social and cultural rights in the African Charter (Nairobi Principles).

#### **To the African Union:**

- establish rapid response mechanisms in cases of outbreaks in the continent and assist countries affected as in the case of the Ebola virus;
- increase the budget allocated to the Commission in general and to the Working Group in particular, enabling them to effectively perform their mission of promoting and protecting economic, social and cultural rights in the continent.

#### **To the Commission:**

- adopt methods for monitoring implementation of recommendations of special mechanisms such as reminder letters after a specified waiting period.

#### **Special consideration**

I have become accustomed to concluding my reports with a special consideration. In this report, the focus is "Growth in Africa".

The African continent was credited with a 5.1% growth rate in 2014 by the IMF and a projected 5.8% rate in 2015. The IMF Expert, Mr. Olivier Blanchard highly praised our countries during the IMF annual general meeting on 7 October 2014, comparing these results to those of a flagging economy in Europe, which is even less confident of itself.

However, according to experts, this growth was not “inclusive” and the situation of populations was not improved. The World Bank President, Mr. Jim Yong Kim, considers that the poverty rate had not reduced as much as expected in view of the high growth rate. It is therefore vital that we remain cautious while welcoming these positive results. As the saying goes, “one swallow does not make a summer”.

I thank you for your kind attention.