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INTERSESSION REPORT

Presented by:

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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

57th Ordinary Session, Banjul, 4-18 November 2015

INTRODUCTION

- 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**.
- It covers the activities undertaken in my capacity as Special Rapporteur on Human Rights Defenders in Africa since the 56th Ordinary Session of the Commission held from 21 April to 7 May 2015 in Banjul, The Gambia (Part Two).
- 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
- The report also covers activities undertaken as Focal Point on Reprisals, in accordance with Resolution ACHPR/Res.273 (LV) adopted at the 55th Ordinary Session, 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.
- In conclusion, the report presents an analysis of the situation of human rights defenders in Africa, with recommendations.

PART ONE

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 and Member of the Working Group on Communications

- **As Member of the African Commission**

1. Promotion mission, 15 to 23 July 2015, Republic of Cabo Verde

From 15 to 23 July 2015, I headed the promotion mission to the Republic of Cabo Verde, in collaboration with Honourable Soyata Maiga. The report of this mission will be presented in due course and in accordance with the rules.

2. 18th Extraordinary Session of the African Commission on Human and Peoples' Rights, 29 July to 7 August 2015, Nairobi, Kenya

I participated in the proceedings of the 18th Extraordinary Session which took place from 29 July to 7 August 2015 in Nairobi, Kenya.

During the Session, fifty-three (53) Communications on individual cases of human rights violations were considered. I acted as Vice-Chairperson at the Session during which the Commission was seized with new communications. In addition, two oral hearings were granted to parties at their request.

3. Training of Government stakeholders on the preparation of State reports under the Maputo Protocol, 15 to 21 August 2015, Kinshasa, Democratic Republic of Congo

From 15 to 21 August 2015, I was invited to the training session for sectoral experts involved in the drafting of DRC State reports on the Maputo Protocol, held in Kinshasa, DRC.

During this training session initiated and organized by the Government of the DRC in partnership with UN-Women, we provided clarification to participants on the procedure and guidelines for the presentation of State reports at the level of the ACHPR with special emphasis on the rights of women. A report was submitted to the partner according to the appropriate procedure.

4. Participation in the Workshop of Regional and Sub-Regional Human Rights Courts/Commissions held in Strasbourg, France from 20 to 21 October 2015

The workshop was organized by the Office of the High Commissioner for Human Rights. It was attended by members of the various regional and sub-regional courts, representatives of national institutions and civil society as well as academics.

The workshop was aimed at strengthening co-operation between regional and sub-regional human rights courts and commissions and the U.N. human rights mechanisms; sharing good practices and experiences and developing concrete proposals for co-operation, monitoring and implementation of recommendations that will be made.

During the various discussions, we shared experiences and good practices of the various human rights systems, particularly the African, Inter-American, Asian and European systems on access to courts, procedures and jurisprudence.

The workshop participants unanimously agreed that strengthening cooperation between the various regional, sub-regional and U.N. human rights protection mechanisms is an essential tool for enhancing human rights promotion and protection around the world.

The next meeting will focus on the rights of human rights defenders.

5. Participation in the dialogue on sexual orientation and gender identity, 3 November 2015, Banjul, The Gambia

During the period under review, I took part in the dialogue on the implementation of Resolution ACHPR/Res.275 (LV) 2014 on protection against violence and other human rights violations against persons on the basis of their real or imputed sexual orientation or gender identity, adopted by the African Commission.

The dialogue between the African Commission, the Inter-American Commission on Human Rights and UN human rights mechanisms, notably the United Nations Office of the High Commissioner for Human Rights and UNAIDS is a follow-up to the process initiated to exchange information and share experiences and knowledge acquired in this field, in order to strengthen the capacity to prevent and fight against human rights violations based on sexual orientation and gender identity within the framework of our respective mechanisms.

6. Meeting between special procedures mandate holders of the UN Human Rights Council and the African Commission on Human and Peoples' Rights, 3 November 2015, Banjul, The Gambia

The objective of the meeting was to review the progress made in the implementation of the Addis Ababa roadmap. During the discussions, the two mechanisms were able to assess the strides made and the areas requiring the continuous efforts of stakeholders for the effective implementation of the Addis Ababa Roadmap.

The meeting also provided the opportunity for the two mechanisms to elect a new Chairperson of the Joint Working Group on the Implementation of the Roadmap.

- **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**

4 - Consultative meeting, 31 August to 1 September 2015, Abidjan, Côte d'Ivoire

I participated in the consultative meeting 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.

The meeting was specifically aimed at providing the Committee and its partners with a forum to share information on their respective mandates, identifying the connections between the mandates and the possibilities of collaboration. Discussions on the follow-up to the recommendations emanating from these consultations were continued during this Session.

- **As Member of the Working Group on Communications**

8 - 31 October to 2 November 2015, Meeting of the Working Group on Communications

5 - I chaired the meeting of the Working Group on Communications held from 31 October to 2 November 2015 in Banjul. During the meeting, the Working Group made an initial review of communications to be submitted to the 57th Session. During the meeting, the Working Group on Communications considered thirteen (13) communications on seizure and six (6) on admissibility, and provided guidance on two (2) communications.

- **As Member of the Working Group on the Rights of Older Persons and People with Disabilities in Africa**

9. No activity was undertaken during the period under review.

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, I participated in the following meetings, seminars, and workshops.

10-Consultative Meeting on the Implementation of the Special Rapporteur's Strategy on Human Rights Defenders in Africa, Cotonou, Benin, 25 - 28 May 2015

In 2004, the African Commission on Human and Peoples' Rights decided, through Resolution 69 adopted at its 35th Ordinary Session, to transform the Focal Point on Human Rights Defenders into the Special Rapporteur on Human Rights Defenders in Africa. A year later and more specifically in November 2005, the Commission entrusted me with this responsibility. Ten years later, the need was felt to assess the progress made in the discharge of the mandate, analyse its strengths and weaknesses in order to draw lessons for the future. The Cotonou consultation was thus essentially meant to assess the progress made and propose strategies and actions to strengthen the mandate. This led to the development of a strategic plan of the mechanism for the next 3 years.

The consultation was attended by about fifteen human rights defenders across the continent representing the following organisations: Institute of Human Rights of South Africa, International Service for Human Rights, West African Network of Human Rights Defenders (ROADDH), Coalition of Human Rights

Defenders of Côte d'Ivoire (CIDDDH) and the Beninese Association for the Right to Development (ABDD).

The consultation adopted a broad outline of the strategy of the mandate for the next 3 years, based on the strengths and weaknesses of the mandate over the past 10 years. The outline of the strategy can be summarized as follows:

- The need to enhance the visibility of the mechanism through the optimal use of new communication technologies and media activities;
- The establishment of a system for proactive and effective protection to better protect defenders at risk 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 and on the right of association and assembly in Africa;
- Strengthening collaboration with States Parties through country visits and advocacy visits to assist States Parties to establish a legal framework conducive to the work of human rights defenders - one possibility could be the encouragement of States to adopt specific laws that protect human rights defenders in accordance with the United Nations Declaration on Human Rights Defenders and other instruments at the regional level;
- The collection of best practices of States Parties in the protection of defenders to make them visible through the Commission's website in order to encourage other States to follow suit;

- Taking into account new challenges related to the narrowing space of human rights defenders through the enactment of security and counter-terrorism laws.
- the need for the mechanism to be more present in meetings of sub-regional groups to discuss the protection of defenders and encourage these groups to take into account the protection-related needs of human rights defenders and women defenders of Africa in their activities.
- I urge States Parties, NGOs and development partners to support this new dynamics of the mechanism to be included in a strategic plan.

11 - Consultation with the UN Special Rapporteur on Human Rights Defenders, Abidjan, Côte d'Ivoire, 2 to 5 June 2015

During this period, in collaboration with the UN Special Rapporteur on Human Rights Defenders, I took part in a discussion forum with defenders of French-speaking African countries on the possibility of drafting a model law or guidelines for the promotion and protection of human rights defenders. It should be noted that Côte d'Ivoire has already adopted a specific law on human rights defenders.

On the margins of the consultation with defenders of French-speaking countries on the model law on human rights defenders organized by the United Nations Special Rapporteur on Human Rights Defenders and the International Service for Human Rights, I held a working session with the UN Special Rapporteur. The working session focussed essentially on the preparation of the inter-mechanism meeting of Paris and Geneva.

The two mechanisms issued a joint communiqué at the end of the meeting.

The two mechanisms and their partners will continue to develop joint actions to further promote and protect the rights of HRDs in Africa.

12 - Inter-mechanism coordination meeting, 15 June 2015, Paris, France,

On 15 June 2015, I took part in an inter-mechanism coordination meeting, with the support of OIF. This meeting registered the full participation of the Secretary General of the Francophonie and United Nations mandate holders, the African Commission on Human and Peoples' Rights (ACHPR), the inter-American Commission on Human Rights (IACHR), as well as representatives of OIF, the Organization for Security and Cooperation in Europe (OSCE), the European Union (EU) and the Office of the Human Rights Commissioner of the Council of Europe.

13- Participation in the discussion panel with the UN Special Rapporteur on Human Rights Defenders, 16 June, Geneva, Switzerland

On 16 June 2015, I took part in a discussion panel on reprisals together with the Rapporteur of the Inter-American Commission on Human Rights Defenders and the United Nations Special Rapporteur for Human Rights Defenders. The discussion panel was held alongside the 29th meeting of the United Nations Human Rights Council and provided the possibility to discuss with human rights defenders and actors of different countries.

14- Consultation with the Special Rapporteur on Human Rights Defenders, Cotonou, Benin, 3-5 September 2015

In collaboration with Front Line Defenders and the International Service for Human Rights, I prepared a number of consultations and sub-regional tours to

discuss with State actors about the appropriate strategies to ensure better protection of HRDs. In Abidjan, Mrs Mary Lowlor, founder and Executive Director of Front Line met with H.E. the Minister of Foreign Affairs, Mr. Charles DIBY Kofi, and other Government representatives. She was able to enquire about the actions which the Government intends to undertake in the field of human rights, in general, and to improve the working environment of human rights defenders in the country, in particular.

I participated in the sub-regional consultation on human rights defenders in collaboration with Front Line Defenders and the International Service for Human Rights. The meeting took stock of the situation of human rights defenders in Benin and in West African countries. I took part in a meeting with H.E. the Minister of Foreign Affairs, African Integration, Francophonie and Beninese Abroad, Mr Saliou Akadiri, and other Government representatives.

Together with Mrs Mary Lawlor's team, I am working towards reaching out to the largest number of political actors possible.

15 - Commemoration of the 10th Anniversary of the East and Horn of Africa Human Rights Defenders Network, Kampala, Uganda, 25 to 26 October 2015

Together with the Special Rapporteur on the Rights of Women, I attended the tenth anniversary celebration of the East and Horn of Africa Human Rights Defenders Project (EHAHRDP). During the ceremony, prizes were awarded to deserving defenders by EHAHRDP.

16 - Activities undertaken during the forum: 31 October to 3 November 2015

- Panel on Reprisals against those who collaborate with the African human rights system

Regarding my mandate on reprisals, I chaired a discussion panel on the role of the African Commission and civil society in the fight against reprisals. I seized the opportunity to explain the mandate of the focal point and highlight the prospects in relation to its strategic plan.

In this regard, I provided information on the tools and methods used in my work.

- Panel on the protection of the rights of human rights defenders working on issues of human rights and extractive industries

The panel discussed strategies and possibilities of collaboration between my mechanism and the Working Group on Extractive Industries, Environment and Human Rights Violations, in order to better protect human rights defenders working to promote human rights and limit the impact of the activities of extractive industries on the rights protected by the Charter.

- Panel on the human rights and terrorism

The panel, supported by *Open Society Initiative for West Africa (OSIWA)*, served as an opportunity to present the *Principles and Guidelines on Human and Peoples' Rights and the Fight against Terrorism in Africa*, to delegates of States Parties, representatives of regional and international institutions and representatives of NGOs. The document was prepared by the Commission with the support of OSIWA to address new challenges posed by the measures and actions of States Parties engaged in the fight against terrorism.

17 - Platform for human rights defenders, Dublin, 4 to 6 November 2015

I participated in this platform organized every two years by Front Line. It is a platform for the free expression of human rights defenders, which provides a unique opportunity for defenders at risk to meet in order to share their experiences and discuss issues related to their protection.

It is also an opportunity for me to discuss with defenders at risk in their countries and to participate in actions undertaken to ensure their protection. I also made a presentation on the African legal instruments that can be used by human rights defenders to protect themselves.

II- PROTECTION ACTIVITIES

During the period under review, several cases of violations of the rights of human rights defenders were brought to my attention. The most regularly reported incidents relate to allegations of arbitrary arrest, travel ban, unlawful detention, judicial harassment, pressure, denial of freedom of association and assembly, forced disappearance, etc. In response, I sent five (5) letters of urgent appeal to the States concerned, issued a statement and published 15 press releases.

During this period, I am examining four requests for urgent appeal regarding the necessary action to be taken.

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

At its 50th Ordinary Session held in 2011, the African Commission on Human and Peoples' Rights adopted Resolution 196 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 Commission adopted Resolution 273 at its 55th Ordinary Session held in 2014 expanding my mandate to include the fight against reprisals. This part of the report is in line with the Commission's instructions.

In order to make the mandate of the focal point operational and effectively contribute to preventing and fighting against reprisals, I organized in collaboration with the International Service for Human Rights, a regional consultation for civil society actors and experts. The consultation led to the development of a roadmap for the focal point. Pursuant to the recommendations of this roadmap, I prepared 2 important documents with the technical support of the International Service for Human Rights and the Cairo Institute for Human Rights Studies.

The first document is an information brief on the existence of the focal point. The document gives details on information needed by the focal point to act in the event of acts of reprisals and how to be seized. The second document contains procedures of communication between the focal point, victims and States Parties. It explains how communication on cases of reprisals is processed as soon as they are received, between the focal point, victims and States Parties.

These two 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 to better understand the mandate and working methods of the focal point.

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

My analysis of the situation of the rights of HRDs during the past two years is as follows:

First, the human rights situation is the same and has worsened in conflict or post-conflict situations, the cases of Sudan, Burundi, CAR, Somalia, DRC, among others, say a lot.

Discussions held over the past two years were focused on specific issues such as the situation of women human rights defenders, those related to the right of association with underlying themes concerning refusal to provide funding, restrictive laws on the working space of civil society stakeholders, the right to peaceful demonstration, the right to sexual orientation, and the rights of human rights defenders in electoral processes and others. I led the preparation of two reports on the situation of women human rights defenders and on the right to freedom of association; and expressed the hope that the recommendations emanating from the two reports will be effectively implemented. Regarding the activities of human rights defenders, I note that HRDs generally seek to specialize in the various emerging areas of human rights. As such, in Africa they operate in the traditional fields of civil, political, economic, social and cultural rights, not only on specific issues of women human rights defenders – regardless

of whether they are men, women or children- but especially because of the commitment of the ACHPR on human rights within the framework of extractive industries. Thus HRDs working this area, like those involved in issues of impunity and governance, are increasingly considered as human rights defenders at risk.

Regarding the issue of extractive industries, I plan to collaborate with the Working Group on Extractive Industries, Environment and Human Rights Violations in undertaking a continental study aimed at providing a better understanding of the challenges and problems related to the protection of human rights defenders working in this area.

In spite of the adoption by the ACHPR of a large number of resolutions on elections, urging States Parties to involve civil society in electoral processes by guaranteeing their protection, it is observed that the rights of human rights defenders continue to be seriously violated during elections, especially when they call for good governance and respect for the constitution, democratic principles and change of power as provided by the African Charter on Democracy, Elections and Governance and the various resolutions of the African Commission.

I urge States Parties to the Charter to consider human rights defenders as privileged partners in the organisation of free and transparent elections respectful of human rights. In this regard, I would like to commend Côte d'Ivoire for the recent organisation of peaceful elections and especially for the work of

human rights defenders within this framework, which helped to avoid the violence and abuses noted in 2010.

In connection with my new strategy, I pledge to develop new information and training activities and new working tools that take into account persistent issues relating to freedom of association, the rights of women human rights defenders, the right to peaceful demonstration, as well as intimidation and reprisals.

Laws restricting the work of HRDs are a key issue for my mechanism and constitute an impediment for the economic, social and cultural development of our States. In any case, they are not a priority and States Parties should therefore abstain from enacting such laws, especially since they are often a reflection of the lack of communication between human rights defenders and government officials.

Intimidation and reprisals are a serious form of violation of the rights of HRDs which deserve the full attention of stakeholders. I have, on several occasions, sounded the alarm about cases of intimidation and reprisals. States Parties, and more particularly non-State actors whose actions are primarily the responsibility of States Parties, should refrain from such acts at all cost.

Even though I 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, I am however concerned that several provisions of these counter-terrorism laws infringe the rights and restrict the work of human rights

defenders. A security law which does not distinguish between terrorist movements and NGOs working to promote and protect the fundamental rights of all human beings is inconsistent with international human rights instruments, in particular the African Charter on Human and Peoples' Rights.

In this regard, a dialogue approach among the stakeholders and which involves human rights defenders in the process of the drafting of these laws is necessary, and should be based on the Commission's guidelines.

I call on States that have enacted such laws to review them and ensure that these laws comply with the relevant required standards. States may contact the Commission for further information.

Even though the situation of human rights defenders is one of concern in the light of the above, I note with satisfaction that progress has been made in some countries.

I welcome the enactment by Côte d'Ivoire of the law on the protection of human rights defenders. This first example in Africa, which comes after the examples set by Mexico and Honduras, needs to be emulated by other countries.

I would also like to appeal to countries such as Burkina Faso, Mali and Niger, which are involved in the process at several levels, to ensure that all stakeholders are involved in the drafting of a law which will be in accordance with the 1998

UN Declaration on Human Rights Defenders, the 1999 Grand Bay Declaration and the 2003 Kigali Declaration.

V. CONCLUSION

Within the framework of my new strategy, I pledge to develop new information and training tools and activities which take into account the new challenges.

In my previous reports, I made several recommendations which remain valid and require the participation of all stakeholders for their implementation.

I reiterate those recommendations and I would like to express my sincere gratitude to all our partners for supporting the work of the mechanism.

I hope that there will be continuous dialogue between the mechanism, States Parties, civil society stakeholders and technical partners.

I thank you.