

INTERSESSION ACTIVITY REPORT

COMPILED BY

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AS

**THE SPECIAL RAPPORTEUR ON PRISONS AND CONDITIONS OF
DETENTION IN AFRICA, MEMBER OF THE WORKING GROUP ON
THE DEATH PENALTY IN AFRICA AND MEMBER OF THE AFRICAN
COMMISSION ON HUMAN AND PEOPLES' RIGHTS**

*Presented during the 54th Ordinary Session of the African Commission on Human
and Peoples' Rights*

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INTRODUCTION

- 1) This report outlines the activities undertaken by myself in my capacity as the Special Rapporteur on Prisons and Conditions of Detention in Africa, Member of the Working Group on the Death Penalty in Africa and Member of the African Commission on Human and Peoples' Rights (African Commission.) It covers the intercession period May to October 2013.
- 2) The Report is divided into three (3) parts, **Part I** outlines the activities as Commissioner, **Part II** highlights the activities as the Special Rapporteur on Prisons and Conditions of Detention in Africa, **Part III**, the activities as Member of the Working Group on the Death Penalty in Africa and **Part IV** presents the conclusions and recommendations of the Report.

PART I

Activities undertaken as Commissioner

- 3) On the 4th to 7th June, I participated in a stakeholders' conference on 'Enhancing the Effectiveness of the African Court on Human and People's Rights' in Durban, South Africa which was organized by the Rule of Law Program for Sub-Saharan Africa of the Konrad Adenauer Stiftung (KAS) in conjunction with the Coalition for an Effective African Court on Human and People's Rights. In that conference, I presented a paper on the '**Effectiveness of the African human rights system: The African Court on Human and Peoples' Rights**' where I addressed myself, *inter alia*, to the principles of cooperation and complementarity between the two organs.
- 4) From 24th to 25th June, I participated in a workshop organized by the University of Nottingham Human Rights Law Centre and the Middlesex University School of Law in the United Kingdom where I presented a paper

on 'The Opportunities and Challenges of Co-existence of International and Regional Human Rights Systems'.

- 5) I also participated in Extra-Ordinary Session in Nairobi Kenya which included;
 - a. A meeting between Members of the African Commission on Human and People's Rights and Judges of the African Court on Human and People's Rights held on the 18th and 19th July and;
 - b. The 14th Extra-Ordinary Session of the African Commission on Human and People's Rights.
- 6) From 25th to 31st August, I participated in a joint Promotion Mission in Uganda with an aim of engaging major stakeholders in constructive dialogue on the human rights situation in the country among other issues.

PART II

Activities undertaken as the Special Rapporteur on Prisons and Conditions of Detention in Africa

- 7) From 20th to 22nd May, I took part in the SADC Regional Workshop held in Johannesburg, South Africa to discuss the 'Draft SADC Standard Minimum Guidelines for the Treatment and Management of Detainees and The Draft Guidelines on the Use and Conditions of Police Custody and Pre Trial Detention in Africa. The workshop was organized SADC Lawyers' Association in partnership with the African Commission on Human and People's Rights and the African Policing Civilian Oversight Forum (APCOF).
- 8) From 10th to 13th June, I participated in a regional workshop organised by Prisoners Rehabilitation and Welfare Action (PRAWA) on Prison Health and

Management of Special Needs Offenders in Dakar, Senegal. The objective of the workshop was: “to identify and review practices and existing frameworks as well as recommend solutions regarding the management of Special Needs Offenders in Africa.” As result of the workshop:

- Sharing of experiences and Best Practices on Prison Health and Management of Special Needs offenders amongst the workshop participants.
 - Development of a Plan of Action on Prison Health and Management of Special Needs Offenders in Africa.
 - Establishment of effective mechanism for collaboration, exchange and peer review among relevant stakeholders both at sub-regional and continental levels.
- 9) On the 8th of July, I participated in an expert meeting held at Oxford University, United Kingdom. The meeting was organized by Centre for Human Rights and Humanitarian Law of the American University, Washington College of Law. The purpose was to review the United Nations Standard Minimum Rules for the Treatment of Prisoners (UNSMR). I suggested some areas that should be reviewed in the UNSMR, for instance:
- **Register:** Upon reception or during registration, Prisoners should also be informed of their rights and responsibilities while in prison. This education has to also be carried out periodically to remind them.
 - **Medical services:** Medical practitioners should also be trained on the impact and treatment of torture victims, as well as their obligation under international law in relation to torture and punishment of inmates.
 - The children should be entitled to the right to be fed by the state not from the remnants of their mothers’ food as we have seen in several African prisons.

- **Rules applicable for special categories:** In the rules, there is no provision for physically disabled persons. That should be changed in order for proper care to be given to them.

10) I attended the following consultations on the Draft Guidelines on the Use and Conditions of Police Custody and Pretrial Detention in Africa:

- From 15th to 16th August 2013, Consultation for East Africa; the meeting was organized by African Policing and Civilian Oversight Forum in Nairobi, Kenya.
- From 17th - 18th September 2013, Consultation for West and Central Africa; the meeting was in Dakar - Senegal, organized by the African Policing and Civilian Oversight Forum.
- From 7th - 8th October 2013, Consultation for North Africa, organized by the African Policing and Civilian Oversight Forum in Tunisia.

11) From 21st - 23rd September 2013, at the invitation of the UN Office on Drugs and Crime, I attended and moderated a High-Level Consultative Meeting on Prison Conditions, Policy and Legal Reform in Lusaka, Zambia. The main objective of the meeting was:

- to sensitize MPs and Key Stakeholders on current prison health conditions and the SADC minimum standards on HIV/AIDS;
- to develop a roadmap to operationalize the SDC Minimum Standards on HIV/AIDS using current evidence on prison conditions and prison health in line with the recommendations of the legal and policy framework review.

PART III

Activities undertaken as a Member of the Working Group on Death Penalty in Africa

- 12) On 26th to 27th July I participated in a Joint Meeting of the Working Group on the Death Penalty and Extra-Judicial, Summary or Arbitrary killing in Africa and the UN Special Rapporteur on Extra-Judicial Executions at Pretoria University, Pretoria, South Africa.

PART IV

CONCLUSIONS AND RECOMMENDATIONS

- 13) Article 6 of the African Charter guarantees that: "Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained." The Commission recognises that holding detainees without charges constitutes "an arbitrary deprivation of their liberty."¹ In this perspective, the Special Rapporteur continues to call upon States parties to bring in line International, Regional and Domestic Human Rights commitments for the humane and dignified detention conditions.
- 14) The Special Rapporteur thanks all States parties, Intergovernmental Organisations, National Human Rights Institutions, NGOs, and other

¹ Communication 102/93 *Constitutional Rights Project and Civil Liberties Organisation v Nigeria* (1998b) ACHPR para 55.

stakeholders that have supported the work of the Special Rapporteur by involving themselves in the improvement of the conditions of detention in African in raising awareness through trainings, workshops, seminars and conferences.

- 15) The Special Rapporteur calls on States Parties to improve funding for medical services in prisons, improve medical staff in correctional facilities and improve access to treatment especially detainees with special needs such as mental illness , detainees who are victims of torture and other forms of cruel, inhuman or degrading treatment.
- 16) The Special Rapporteur recommends to States Parties to facilitate the efforts of civil societies to ensure that detainees are aware of their rights and collaborate with them. Also, provide training to all magistrates and encourage them to release more pre-trial detainees pending trial in order to reduce congestion and ensure that detainees are segregated according to the level of security.
- 17) In conclusion, the Special Rapporteur urges States parties to fully implement the Robben Island Guidelines by adopting and implementing regulations and by providing comprehensive training to all law enforcement officials and prisons staff.