

INTERSESSION REPORT

BY

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Africa**

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Introduction

1- The present report is in accordance with Rule 87 of the Rules of Procedure of the African Commission and covers the promotional activities carried out since the 44th Ordinary Session of the African Commission held in Abuja, Nigeria, in November, 2008.

2.-The report covers three types of activities conducted in my capacity as a Member of the African Commission and as a Member of the Working Group on Indigenous Populations and 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

1. From 1st to 5th December, 2008, I carried out a human rights promotional mission in Congo, at the invitation of the Congolese Government, in my capacity as Commissioner responsible for the country. During the visit, I had discussions with representatives of Government and Institutions such as the Senate, National Assembly, the Office of the Ombudsman, The Bar, National Human Rights Commission, Civil Society organisations and Women's Associations on the general human rights situation in the country and in particular on the status of implementation of the rights enshrined in the African Charter and other relevant and duly ratified African human rights legal instruments

2. I presented a paper to students at the Marien N'Gouabi University on the theme: The African Charter on Human and Peoples' Rights: "Present Situation and Prospects" in commemoration of the 60th Anniversary of the Universal Declaration of Human Rights.

3. The recommendations made at the end of the visit are yet to be adopted by the African Commission before being made public. However at the end of the mission, a brief overview was given to the Prime Minister at his request, assisted by his colleagues and members of the Government. Our discussions were open and frank and centred on the numerous challenges that need to be addressed for the full enjoyment by the people of the Congo of the rights enshrined in their national legislation and in the African Charter and other related instruments.

4. On **10th December, 2008**, I served on the Special Panel of the 'Espace d'Interpellation Démocratique' (Democratic Forum) in Mali. This public forum is organised on the 10th of December of every year and offers the opportunity to all Malian citizens who feel they have a legitimate reason to bring to question Members of the Government from the various Ministerial Departments on cases of human rights violations. This exercise which is peculiar to Mali helps to address the concerns of the citizens in the areas of good governance: problems relating to land management and bottlenecks in justice delivery within the public service.

5. On 22nd December 2008, I spoke, at the request of the Management of the National Law Institute of Mali, at a Conference on the theme: 'The African Charter on Human and Peoples' Rights: Vision, Practice and Jurisprudence'.

6. The objective in the short term was to incorporate into the curricula for Magistrates interactive and documented conferences on the regional and international Conventions and the African Human and Peoples' Rights system.

7. On 28th December 2008, I moderated a Conference on the African Commission on Human and Peoples' Rights attended by NGOs and students in commemoration of the 60th anniversary of the Universal Declaration of Human Rights organised by the Ministry of Justice, in Mali.

8. A number of dignitaries and representatives of the State apparatus and organs of the United Nations with a human rights mandate participated in this Conference. Participants were particularly interested in the procedure governing individual communications before the African Commission and relations between the African Commission and the African Court of Justice and Human Rights.

9. On 17th March 2009, I participated in a one-day discussion and experience sharing forum with the members of the National Human Rights Commission of Mali (NHRC), and the Pivot group/Rights and Citizenship of Women, a coalition of Women's NGOs involved in the protection of the rights of women, on the country's proposed Gender Equality Policy.

10. The project was formulated and pioneered by the Ministry of Women's and Children's Affairs and aims to promote greater involvement of Malian womenfolk in the formulation and implementation of all public policies, guarantee them both greater access to appointments and elective positions including their economic well-being.

11. This forum was intended to involve the NHRC, as a key stakeholder, in the formulation, implementation, monitoring and evaluation of every policy relating to the promotion of human rights and to collect its amendments and contributions to the vision, the guiding principles and orientations of the project and map out its areas of intervention.

12. From March 30 - 3rd April, 2009, I participated in the Extraordinary Session of the African Commission, in Banjul, to consider promotion mission reports and pending communications/complaints.

II- In my capacity of a Member of the Working Group on Indigenous Populations/ Communities

13. From 2nd - 6th February 2009, I conducted a joint promotion mission with Commissioner Kayitesi Sylvie Zainabo on the rights of indigenous populations in Burkina Faso. The aim of mission was to promote human rights and also to promote the African Commission on Human and Peoples' Rights.

14. During the discussions we had with Government Officials, Institutions and Civil Society actors, a clearer understanding emerged regarding the characteristics which constitute the basis and legitimised the acceptance in Africa of the concept of Indigenous Populations/Communities. These communities are segments of our society which are rooted in their native land, culture, way of life, and in most cases live in highly inaccessible regions.

15. The delegation met pastoral Peul and Touareg populations, civil servants, elected local councillors, and representatives of NGOs in the province of Oudallan, Dori and Gorom Gorom and discussed with various actors about the work of the African Commission with particular reference to the activities carried out by the Working Group to promote human rights and the living conditions of nomadic populations.

16. At the end of the mission on the ground, the specific findings and challenges gathered will all be captured in a report to be submitted to the Commission for adoption but a brief assessment was presented to the Minister responsible for the Promotion of Human Rights in Burkina Faso who spared no effort to ensure a hitch free and successful the mission.

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

A- Seminars and meetings with Civil Society Organisations.

17. From **6th - 8th January, 2009** I attended the 2nd Forum of Sudanese Women on Darfur, organised and facilitated by 'Femme Africa Solidarité, (FAS).

18. Madame Mary Robinson, former High Commissioner for Human Rights and Chairperson of « Realizing Rights », an NGO, representatives of the United Nations and African Union Agencies stationed in Darfur, women in leadership positions in the international and African arena as well as women from the different parties and factions in Darfur attended the meeting.

19. Women from Darfur also managed to rise above their political and ethnical differences focused on their common challenges and positioned themselves squarely as a force to be reckoned with in the negotiations, institutional and legislative reforms and other on-going programmes.

20. The objectives of the meeting were to raise awareness among the women of Darfur and the different actors in the field about the importance and urgency of providing multi-faceted support to the on-going initiatives, ensure fuller participation of women in peace-building and in the socio-economic development of their world.

21. On **24 January, 2009**, I organised a one-day meeting with women leaders of Malian NGOs and Women's Associations in Mali, on the Solemn Declaration on Gender Equality in Africa, in Bamako.

22. The meeting provided the opportunity to trade success stories and discuss the strides made in the implementation of this important instrument in Mali and to identify obstacles and challenges to equal opportunities, in the following areas: health,

education, human rights, peace, security, and improved economic growth and governance.

23. At the end of the meeting the following recommendations were made for the Government to immediately adopt the draft Family and Personal Law, to ensure involvement of women in the on-going peace negotiations, to adopt a law on quotas to increase the level of representation of women in decision making bodies, and to allocate considerable financial resources in support of economic programmes targeted at women.

24. From **27th – 28th January 2009**, I participated in the 13th Consultative Meeting on Gender Mainstreaming at the African Union, in Addis Ababa steered and organised by the Femme Africa Solidarité (FAS) in collaboration with « **Gender is my Agenda Campaign (GIMAC)**» a network comprising of regional and national organisations and networks of African women and civil society, with the financial support of several partners: ECA, OSIWA, AWDF, FINLAND, DFID, ADB.

25. The meeting held for the 13th time on the sidelines of the Summit of Heads of State and Government of the African Union, is a special and institutionalised forum wherein African women exchange views on the dynamic regional and international environment with a bearing on their living conditions.

26. The specific objectives were, among, others to make civil society organisations more committed to the GIMAC campaign, encourage partnerships between the different players, identify future challenges and redefine the best strategies for the attainment of gender equality and the mainstreaming of gender in national and regional policies.

27. At the Consultative meeting, participants discussed the reports of Member States, Focal Points presented reports on the implementation of the Solemn Declaration on Gender Equality in Africa (SDGEA) followed by the submission of the findings of a study commissioned by the FAS entitled: 'Gender mainstreaming in Africa: Best practices in Africa'.

28. At the end of the proceedings, a number of recommendations were made for the Chairperson of the African Union Commission and the Assembly of Heads of State and Government recalling the conclusions of the 12th Consultative Meeting on land rights, economic growth and the trafficking of women.

29. Based on the findings of the Sudanese Women's Forum on Darfur, the situation of women and children in Zimbabwe and in the DRC are a source of concern for African women. The latter sounded an ardent appeal for African Leaders and their partners to lend political and financial support to resolve the crises besetting the populations.

B. Ratification of the Protocol on the Rights of Women in Africa

30. To date 27 Member States to the African Charter on Human and Peoples' Rights have successfully completed the ratification process. These are Angola, Benin, Burkina Faso, Cape Verde, Comoros, Congo DRC, Djibouti, Gambia,

Ghana, Guinea Bissau, Liberia, Libya, Lesotho, Mali, Malawi, Mozambique, Mauritania, Namibia, Nigeria, Rwanda, South Africa, Senegal, Seychelles, Tanzania, Togo, Zimbabwe and Zambia.

31. I am also pleased to report that the Gender is my Agenda Campaign partners have vigorously taken up the campaign for ratification and implementation of the Protocol, Solemn Declaration on Gender Equality in Africa and CEDAW very seriously.

C- Collaboration with partners involved in the promotion of women's rights

32. From 16th - 18th February 2009, I participated in and facilitated a sub regional seminar in Lome. This seminar was jointly organised by the Inter-Parliamentary Union, UNDP, the National Assembly of Togo, on the theme: **'towards improved promotion of women's rights: The role of Parliaments and Parliamentarians in the West African sub region.'**

33. The aim of the seminar was to appraise Parliamentarians from Benin, Burkina Faso, Côte d'Ivoire, Mali, Niger, Senegal and Togo of the principle of gender equality and of the regional and international instruments on women's rights. The seminar also sought to build their capacity and ensure greater involvement in the drafting of periodic State reports and in the implementation of the recommendations made by the United Nations organs, particularly the CEDAW Committee.

34. Several themes were presented and discussed against the backdrop of country experiences: the main regional and international legal instruments relative to gender equality and to the rights of women; and the monitoring organs thereof; the regional perspective of the application of regional and international Conventions relative to women's rights; the issues of specific interest to the sub region such as: elimination of discrimination against women in the public and political spheres; equality before the law; and issues relating to marriage, family law, and involvement of women in conflict prevention.

35. I presented a paper on the African Charter on Human and Peoples' Rights and another on the Progress made and obstacles to the application of the Maputo Protocol in the sub region. In the second presentation, I took stock of the status of ratification, reservations, implementation of the protocol in the countries concerned, existing good practices and major challenges to be overcome.

36. From 6th - 9th March, 2009, I participated in the International Women's Colloquium organised by Her Excellency, the President of Liberia, Ellen Johnson Sirleaf and Her Excellency, the President of Finland, Tarja Halonen on the theme « Consolidation of Economic Growth, Leadership, Development, Peace and Security ».

37. The Heads of State of Senegal and Rwanda graced this important event and were acclaimed for the adoption and implementation of gender sensitive policies and programmes in their respective countries. Also present were His Excellency Michaëlle Jean, Governor General of Canada, and the Vice Presidents of Spain and the Gambia, Doctor Isatou Njie Saidy as well as hundreds of Leaders,

Representatives of States, Specialised Agencies of the United Nations and the African Union, rural women and associations of young women activists engaged in the promotion of women's rights.

37. The meeting discussed the situation of women worldwide with particular reference to countries in conflict and post-conflict situations and underscored the hardships, deprivation and violence meted out to women because of the lingering wars in Africa.

38. A series of case studies, especially on the experience of Women in Liberia, Sierra Leone and Burundi helped the Meeting gauge the progress made by the States and the International Community to give effect to United Nations Security Council Resolution 1325 adopted on 31st December, 2000, and more generally to honour the commitments made in the wake of the Beijing World Conference, in the priority areas of Education, Health, Human Rights, equal access to economic resources and the participation of women in decision-making bodies.

39. On 25th March 2009, I spoke at a Lecture-Forum, in Montreal, Canada, at the invitation of the International Association of Women Judges, Quebec Chapter on the theme : «The Mandate of the Special Rapporteur on the Rights of Women in Africa : **Obstacles to and Progress in the Protection of Women's Rights.** ».

40. The presentation engendered debate on the inadequacy of legal assistance in Africa, the status of legislative reform undertaken in the area of justice and in Family Law, as well as the disparities between ratified international conventions and national laws.

41. From 26th - 27th March, 2009, I sat in Montreal, as a foreign member, in the Board of the International Centre for Human Rights and Democratic Development, otherwise known as Rights and Democracy.

42. Rights and Democracy is an independent, non partisan Canadian organisation, established by an Act of Parliament, in 1988. Its mission is to promote democratic development and to defend the rights of persons as set forth and enshrined in the International Charter on Human and Peoples' Rights of the United Nations.

43. The Institution works with States, regional and international organs for the promotion and protection of human rights such as the African Commission and with civil society players worldwide to build their capacity, support projects which ensure the participation of citizens in the political process and assist human rights institutions.

44. At this juncture, it is important to acknowledge and applaud the impact of interventions of Rights and Democracy in the fight against impunity in the Democratic Republic of Congo and in Zimbabwe. The Institution is now collaborating with local stakeholders to document severe cases of human rights abuses especially gender based violence.

IV- Collaboration with State Parties

45. In the course of the different missions and our interactions with other civil society actors in the State Parties visited, the efforts led to the deepening and consolidation of the existing dialogue with State Parties, especially the Ministries responsible for Women's Affairs, to advocate for wider dissemination and fuller implementation the Maputo Declaration and the Solemn Declaration on Gender Equality in Africa.

V- Press Statements, Note Verbale, and Others

Press Statements:

46. In commemoration of the International Women's Day on 8th March, 2009, I published in the languages of the African Union a press statement on the theme: "Shared Responsibilities of Men and Women and Provision of Care in the context of HIV Aids".

47. The press statement recalled that women affected and infected by HIV Aids are subjected to the most severe forms of stigmatisation and discrimination, such as violence, eviction from their family homes, and denial of inheritance rights.

48. The statement, further called on State Parties to honour their obligations to guarantee women the right to self protection and to be protected from HIV/ Aids transmission, and recalled the need to involve them at all stages of the Aids Control Programmes especially when decisions which affect them are taken.

Notes Verbale:

49. Notes Verbale were sent to the State Parties to the African Charter which are yet to ratify the Protocol on the Rights of Women in Africa encouraging them to take the necessary steps to that effect

50. Notes Verbale were sent to the Republics of Niger and Gabon seeking authorisation for promotional and fact finding missions respectively.

51. A Note Verbale was also sent to H.E. **Abdullahi Yusuf Ahmed**, President of the Republic of Somalia in regard to the execution by stoning of the 13 year-old girl, Aisha Ibrahim Duhulow on 27 October 2008, in one of the city's main squares, after an Islamic Sharia Court in the southern port town of Kismayo convicted her of adultery. I raised my profound concern and shock about this incident which constitutes an infringement of the rights enshrined in the **African Charter on Human and Peoples' Rights**, particularly **Article 4**. I called on H.E. the President to:

1. undertake a public, impartial and prompt investigation into the execution and make the findings public;
2. Inform the African Commission and the Special Rapporteur on the Rights of Women in Africa of measures undertaken by the competent Somali authorities to ensure that there are no further executions;
3. Guarantee the security and physical and psychological integrity of women.

Collaborative Campaigns

51. For the past two years, I have followed with rapt attention the progress made in the campaign dubbed « *Afrique pour les droits des femmes : ratifier et respecter* » or “*Africa, towards women’s rights : ratify and respect*” initiated by the International Federation of Human Rights (FIDH) in collaboration with regional women’s rights defense organizations in Africa. The objective of the campaign is to ensure ratification of regional and international women’s rights protection instruments and their effective implementation by all African States.

52. The campaign was officially launched on 08 March 2009 throughout the continent, coinciding with activities marking the International Women’s Day. Mobilisation activities were carried out in many countries, amongst others, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Congo Brazzaville, Djibouti, the Gambia, Ghana, Liberia, Mali, Malawi, Mauritania, Niger, Tanzania, DRC, Senegal, Sierra Leone, Swaziland, Togo and Zimbabwe, hundreds of men and women organized marches, press conferences, interviews in the media, meetings with national authorities to carry the message of the campaign across.

53. This ambitious and massive campaign received the support of world acclaimed personalities including Nobel prize winners like Desmond Tutu and Shirin Ebadi, Nobel laureates in literature such as Wole Soyinka and Nadine Gordimer, writers such as Maryse Condé, personalities in the world of music such as Youssou N’Dour, Angélique Kidjo, Bafing Kul, Jane Birkin et Rachid Taha including representatives of the United Nations such as Pramila Patten and Yakin Ertürk. These personalities joined the campaign trail because they share our common ideal of respect for the rights of African women and are convinced of the urgent need to stem the violence and discrimination against women to which the latter are subjected to on daily basis.

54. I associate myself with the campaign messages and re-iterated the call on all State parties to expedite action on the ratification Protocol on the Rights of Women in Africa; the United Nations Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and its Optional Protocol; The Solemn Declaration on Gender Equality in Africa (SDGEA), to ensure respect for the rights guaranteed by these instruments. I urged State Parties to incorporate the provisions of the aforementioned legal provisions into their national legislations and to repeal discriminatory laws against women by taking all appropriate measures for the implementation of laws that protect the human rights of women.

VI- Activities Carried Out during the 45th Ordinary Session

From 9th – 10th May 2009 I participated in the Validation Workshop organised by the International Labour Organisation in collaboration with the African Centre for Human Rights and the African Commission on Human and People’s Rights.

On the 10th – 11th I participated in the NGO Forum, where I moderated on the theme “Women’s Rights”. In the same Forum at the invitation of POWA, I launched a book titled “State Accountability for Homophobic Violence”

On the 11th May 2009 I participated in a meeting organized by the Centre for Human Rights, Inter-American Commission and the African Commission on Human and Peoples' Rights.

VII- Progress, Challenges, and recommendations concerning the status of Women's Rights in Africa.

55. Though it is admitted that repetition has pedagogical virtues, in the field of women's rights, the serious persistence of challenges makes it imperative to remind State Parties about their commitments and to address the same recommendations to them.

57. The Beijing Programme, MDGs, Maputo Protocol, Solemn Declaration on Gender Equality in Africa, NEPAD to name a few, enjoin all Member States to mainstream gender equality in a bid to improve the level of human development, eradicate poverty and urge States to take steps to promote the legal and social rehabilitation of women and to foster their economic promotion.

58. An assessment of the general situation of women's rights in Africa and the level of implementation of these instruments by State Parties point to some progress yet there remain challenges to be overcome.

Progress:

59. In a number of countries:

- there are legislative and legal reforms aimed at improving the legal status of women, laws on female genital mutilation have been enacted and also laws on the prevention and protection of women against HIV Aids and Reproductive Health have been enacted;
- policies and programmes have been formulated to combat Malaria in order to reduce the maternal mortality rate;
- the level of representation of women in the political field is on the rise as well as their access to decision making organs, subsequent to the adoption of quota laws;
- there is greater interaction between State Parties and regional and international organs with a protection of women's rights mandate, namely, the CEDAW Committee, providing the possibility of continuous monitoring of the progress made in the area of promotion and protection of women's rights;
- have National Gender Policy and a National Action Plan for the promotion of women's affairs;
- awareness creation campaigns have been launched to encourage communities to modify socio-cultural systems and models using the Convention on the Elimination of

all Forms of Discrimination against Women and the Maputo Protocol as advocacy tools.

B- Challenges to improved and sustainable progress

Despite the progress made, there are major challenges along the way, namely:

60. The existence of a bi-jural system or one governed by different norms for the same areas, hence the attendant difficulty of harmonisation. The Maputo Protocol and CEDAW are at variance with Muslim religious law and/or customary law on the rules governing essential issues of human rights of women, divorce, repudiation, succession, access to land, female genital mutilation and other harmful practices.

61. Lawyers and Magistrates are not conversant with the conventions and regional and international procedures for the protection of women's rights and legal practitioners and women are not abreast with regional and international laws and lack access to the latter. For these reasons Lawyers hardly or never invoke the provisions of the CEDAW and the Maputo Protocol in the national jurisdictions.

62. Delays in the submission by State Parties of their periodic reports on the implementation of CEDAW, and the Solemn Declaration on Gender Equality in Africa and the Maputo Protocol.

63. The failure to involve Parliamentary organs in the drafting of periodic reports and in the monitoring, evaluation and implementation of recommendations made by regional and international organs.

64. Low budgetary provisions for the implementation of Programmes, Plans and Policies targeted at women.

65. Low capacity of women to influence decision makers and secure their interest. The legitimisation of regional and international norms relating to the human rights of women as a source of values, calls for wider consensus between women and the different segments of society.

66. Illiteracy, poverty among women and inefficiency of legal and judicial assistance limit access to most public legal services (cost of procedures, execution of legal decisions.)

67. The low capacity of States to collect, analyse, and disseminate gender desegregated data on discrimination and gender based violence.

68. Pressure from religious and traditional leaders which explains the reticence to ratify the Maputo Protocol, delays in the adoption of laws and in the legislative and legal process especially in the area of Family Law.

C- Recommendations

69. In the area of human rights, State Parties which have not already done so should expedite the ratification process of the Maputo Protocol and commit to prepare an

annual report on the progress made by them in mainstreaming gender in all policies and programmes, in accordance with Item 12 of the African Union Declaration on Gender.

70. State parties should reinforce the steps taken to establish a national plan, disseminate legal instruments on women extensively especially among legal practitioners, civil servants, political leaders, parliamentarians and organisations engaged in the protection of women's and human rights.

71. Regarding the level of representation of women, States should adopt special measures tied to concrete and firm timetables, with a view to expediting equal participation of women in public and political life, as stipulated in Article 4 of the CEDAW and Article 9 of the Maputo Protocol.

72. In the area of violence against women : States should launch public sensitisation campaigns through the Media among other channels ; build the capacity of legal practitioners, law enforcement officials and health professionals ; ensure that all forms of violence are covered by the laws in force to guarantee that perpetrators of such crimes are duly prosecuted and punished. Guarantee, in conformity with international and regional norms, the right of women and girls to recourse in law and reparation, with due cognisance of their realities.

73. In the area of girl's and women's education, State Parties should increase the budgetary allocations for girls' school enrolment programmes, take appropriate steps to guarantee access on an equal footing for girls and young women at all levels of education, boost policies relating to pre-school education and aimed at combating illiteracy through programmes targeting the girl child and women, incorporate human rights education in all school curricula.

74. As regards women's access to health, State Parties should improve women's access to quality health care as well as information on reproductive health especially in the rural areas, offer more comprehensive health services in the area of sexuality and contraception with a view to avoiding illegal abortions among adolescents, promoting sex education for boys and girls, primarily to prevent early pregnancies and combat sexually transmitted diseases and HIV Aids.

75. Regarding peace and security, the International Women's Colloquium held recently in Liberia indicated that to date only Burundi, Liberia, and Uganda have an Action Plan for the involvement of Women in the mediation and conflict resolution processes as enunciated in Resolution 1325 of the United Nations Security Council.

76. State Parties should appoint Special Women Envoys and/or Advisers or Gender Focal Points to work with Mediators involved in the on-going peace processes on the Continent, to enhance the role of women in the pacification of crises.

77. Regarding gender desegregated data, State Parties should have a comprehensive data collection and analysis system and design measurable indicators to evaluate the progress made in the effective attainment of equality between men and women.

and desirous of favourably promoting traditions and mentalities that are in keeping with greater justice and equality