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الاتحاد الأفريقي African Commission on Human & Peoples' Rights		UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples
<p style="text-align: center;"><i>31 Bijilo Annex Layout, Kombo North District, Western Region, P. O. Box 673, Banjul, The Gambia          Tel: (220) 4410505 / 4410506; Fax: (220) 4410504 E-mail: <a href="mailto:au-banjul@africa-union.org">au-banjul@africa-union.org</a>; <a href="http://www.achpr.org">www.achpr.org</a></i></p>		

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

## **Intersession Activity Report**

**Presented by**

**Honourable Commissioner Reine Alapini-Gansou  
Special Rapporteur on Human Rights Defenders in Africa and Focal  
Point on Reprisals**

**Chairperson of the Joint Working Group on ACHPR and United Nations  
Special Procedures**

**Member of the Committee for the Protection of Persons Living with HIV,  
Those at Risk, Vulnerable to and Affected by HIV/AIDS**

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

**Member of the Working Group on Indigenous Populations**

**Member of the Working Group on Communications**

**Niamey, 8 to 22 May, 2017**

## INTRODUCTION

1. This report is submitted pursuant to the provisions of Rules 23(3) and 72 of the Rules of Procedure of the African Commission on Human and Peoples' Rights (the Commission). It provides an update of the activities carried out after the 59<sup>th</sup> Ordinary Session of the Commission, held from 21 October to 4 November, 2016 in Banjul, The Gambia.
2. The report consists of three parts; the first covers activities conducted during the period under review in my capacity as Member of the Commission ; the second covers activities carried out as Special Rapporteur on Human Rights Defenders in Africa and Focal Point on Reprisals ; the third part presents a brief analysis of the situation of human rights defenders in Africa, the conclusions and recommendations.

**PART ONE: ACTIVITIES CONDUCTED IN MY CAPACITY AS COMMISSIONER, MEMBER OF THE COMMITTEE FOR THE PROTECTION OF THE RIGHTS OF PERSONS LIVING WITH HIV/AIDS AND MEMBER OF THE WORKING GROUP ON COMMUNICATIONS**

3. This part covers the activities carried out in my capacity as member of the 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/AIDS and Member of the Working Group on Communications

**I. AS MEMBER OF THE AFRICAN COMMISSION**

**A. Training Workshop for civil society activists in the Department of Zou, Abomey, Benin from 12 to 14 December, 2016**

4. At the request of the Konrad Adenauer Foundation and WILDAF-Benin, I took part in a training workshop for civil society activists in the Department of Zou in Benin.
5. This training was a follow-up to a series of previous training sessions as part of a project code-named "a world without hunger". The aim was to provide the learners with fundamental notions on mediation and the modalities for dispute resolution in land matters. During this training, I made two presentations touching on "*Land Rights in Benin: Role and Responsibilities of Stakeholders for Secure Access to Land by Women*" and "*Land Dispute Settlement in Benin: National and Local Institutions*" respectively.
6. The purpose of this activity was to allow the population to appreciate the texts governing their lives, in particular concerning land issues in Africa in general, and in Benin, in particular.
7. The thematic issue addresses the concern of the Commission as far as economic, social and cultural rights of the population are concerned.

**B. Commission of Inquiry into Human Rights Violations in Burundi/Geneva, from 11 to 16 January, 2017.**

8. The International Commission of Enquiry into Human Rights Violations in Burundi, of which I am a member, prepared the terms of reference of its mission in Geneva. At the same time, the Committee met different stakeholders at various levels.

**C. 21<sup>st</sup> Extraordinary Session of the African Commission on Human and Peoples' Rights held from 23 February to 4 March, 2017 in Banjul, The Gambia.**

9. I took part in the deliberations of the 21<sup>st</sup> Extraordinary Session of the Commission held from 23 February to 4 March, 2017. At this session, the Commission, among others, considered and adopted several working tools including the Guidelines for Policing Assemblies in Africa.
10. The Commission also adopted several resolutions relating to the human rights situation on the African continent. Furthermore, the Commission also took decisions on specific cases concerning human rights violations.

**D. International Women's Day, UNESCO Chair, Abomey-Calavi, Benin, 8 March, 2017.**

11. As part of the celebration of the International Women's Day in Benin, at the request of the UNESCO Chair, I made a presentation on the theme "*the Role of the African Commission on Human and Peoples' Rights in Promoting and Protecting Human Rights*". The presentation focused specifically on the dual mandate of the ACHPR in promoting and protecting human rights. In this regard, I recalled some flagship rulings delivered by the African Commission, such as the decision on the Endorois v. Kenya, Sir Dawda Jawara v. The Gambia; and Geneviève M'biankeu v. Cameroon.
12. This presentation was of significant interest looking at the quality of the audience made up of academics and Ph.D. students who are concerned about the human rights situation on the continent.

**E. 34<sup>th</sup> Session of the Human Rights Council, Geneva, from 10 to 16 March, 2017**

13. In my capacity as Member of the United Nations International Commission of Enquiry into the Human Rights Violations in Burundi, I took part in the 34<sup>th</sup> Human Rights Council Session. The African Commission presented an oral report on the human rights situation in Burundi at this Session.

**F. Training Workshop on "Strengthening Collaboration among Stakeholders and Legal Action for the Elimination of the FGM Practice in Benin" held in Cotonou, Benin from 4 to 6 April, 2017.**

14. At the request of Equality Now and WILDAF, I took part in a training workshop jointly organized by the two organizations on the above-mentioned theme from 4 to 6 April, 2017. The objectives of the workshop were to review cases of FGM in Benin and to organize strategic litigation. During this workshop, the participants highlighted the legislative, political and institutional loopholes in the fight against FGM and proposed the adoption of an intervention approach for the introduction, management and handling of disputes arising from Female Genital Mutilation in order to curb and minimize the shortcomings identified in the FGM policies and programmes.

15. I also had the opportunity at this workshop to make a presentation on the implementation of legal texts relating to the FGM in Benin; and also on national and African mechanisms where FGM cases can be referred to.

**G. Private Sector Justice Working Group of the Association of Private Investors' Council of Benin (GTJ/CIPB) held on 6 April, 2017 in Cotonou, Benin.**

16. At the invitation of the Justice Working Group (GTJ/CIPB), I made a presentation on the theme "*Functioning of the African Commission on Human and Peoples' Rights*" on 6 April, 2017.

17. On this occasion, I made a presentation on the African Commission on Human and Peoples' Rights, its mandate and strategies for action. Specifically, the presentation touched on the protection mandate of the ACHPR as a judicial body that could be seized by the population after exhaustion of local remedies.

**H. Day of Discussions of the Pan-African Observatory of Women's Leadership (OPALEF), Lomé, Togo, 10 April, 2017.**

18. I took part in a Day of Discussions with several personalities including lawyers, judges and high-level legal experts on the theme "*Women, Leadership and Equality*" The objectives of this meeting were to identify the factors limiting or promoting the emergence of women, to raise awareness among public authorities on the formulation of policies that promote leadership by women in Africa ; and to bring about reforms geared towards the promotion of women's leadership and effective representation of women in decision-making bodies.

19. This meeting was a prelude to the one by the OPALEF Governing Board, of which the First Vice Chairperson is Mrs. Catherine SAMBA PEMBA, who was the former President of the Central African Republic. OPALEF was established in August, 2016.

**II. IN MY CAPACITY AS MEMBER OF THE COMMITTEE FOR THE PROTECTION OF THE RIGHTS OF PEOPLE LIVING WITH HIV, THOSE AT RISK, VULNERABLE TO AND AFFECTED BY HIV/AIDS**

**A. Awareness raising seminar on HIV/AIDS and human rights in Africa, held from 6 to 8 December, 2016 in Cotonou, Benin**

20. The seminar brought together several participants including government representatives from the Republic of Benin, in particular, from the Ministry of Justice and Legislation, the Ministry of Health; judges and lawyers from Benin; participants from Cameroon and Mali; representatives of civil society organizations working in the area of HIV/AIDS control and protection of PLWHIV as well as media professionals.

21. The objectives of the seminar, among others, were to highlight the existence of the Committee, its mandate and achievements and to draw attention to the means by which the participants could familiarize themselves with the approach for collaboration with the Mechanism; including the various investigative strategies and appropriate responses to be provided concerning rights violations against people living with HIV/AIDS (PLWHIV) and those at risk.

22. The seminar also served as a platform for raising awareness among the various actors on the urgent need to combine efforts for the prevention of HIV in order to maintain the process of fast-tracking the response.

23. A detailed report on this meeting has been put together by the Chairperson of the Committee.

**III. ACTIVITY IN MY CAPACITY AS THE CHAIRPERSON OF THE JOINT WORKING GROUP ON THE ACHPR AND THE UNITED NATIONS SPECIAL PROCEDURES**

24. During the period under review, I did not carry out any activity in my capacity as Chairperson of the Joint Working Group on ACHPR and United

Nations Special Procedures, Member of the Working Group on the Rights of Older Persons and People with Disabilities in Africa; Member of the Working Group on Indigenous Populations; Member of the Working Group on Communications.

### **III- IN MY CAPACITY AS MEMBER OF THE WORKING GROUP ON COMMUNICATIONS**

25. I took part in the deliberations of the Working Group on Communications of the African Commission from 5 to 6 May, 2017. During the deliberations, individual Communications submitted for consideration by the Commission were considered; these are Communications on which rulings have been given, particularly on cases of seizure and admissibility.

## **PART TWO: ACTIVITIES CONDUCTED IN MY CAPACITY AS SPECIAL RAPPORTEUR ON HUMAN RIGHTS DEFENDERS IN AFRICA AND FOCAL POINT ON REPRISALS**

26. This part covers promotion and protection activities conducted as part of my mandate as Special Rapporteur on Human Rights Defenders in Africa and Focal Point on Reprisals. This part is sub-divided into three parts; the first part is devoted to promotion activities, the second to protection activities and the last part to activities carried out within the context of the protection mandate concerning reprisals.

### **I- PROMOTION ACTIVITIES**

#### **A. Inter-Mechanism Meeting, Brussels, Belgium, 30 November, 2016**

27. I took part in my capacity as Special Rapporteur on Human Rights Defenders in Africa in the 7<sup>th</sup> “Inter-Mechanism” meeting organized by the Observatory for the Protection of Human Rights Defenders, a joint programme of the FIDH and the OMCT on 30 November, 2016.
28. This particular meeting provided a unique opportunity for mandate holders to engage in strategic discussions with officials of the European Union (EU) on ways to enhance support for human rights defenders and civil society activists against the background of their constantly shrinking working space outside and inside some EU Member States.

29. The aim of this meeting, organized in Brussels, was to enable the United Nations and Regional Mechanisms to establish linkages and to brainstorm on possible synergies, not only with the geographical and thematic departments within the European Parliament and the European Commission but also with representatives of the EU Member States.

30. This 7<sup>th</sup> meeting was preceded by a first meeting of “beneficiaries” organized by **ProtectDefenders.eu** on 29 November, 2016.

**B. Meeting of the Working Group on Freedom of Association and Assembly in Africa, 5 to 8 December, 2016, Cotonou, Benin**

31. In my capacity as the Chairperson of the Study Group on Freedom of Association in Africa, I organized a working meeting for a review and finalization of the project on the guidelines on freedom of association and assembly in Africa from 5 to 8 December, 2016. At this event, an outline for the dissemination and launch of these guidelines was formulated.

**C. Promotion Mission in the Islamic Republic of Mauritania from 15 to 21 December, 2016**

32. In my capacity as the Special Rapporteur on Human Rights Defenders in Africa and Focal Point on Reprisals, I took part in a promotion mission to the Islamic Republic of Mauritania from 15 to 21 December, 2017. The Delegation from the Commission which was led by the Vice Chairperson of the Commission, Me Soyata Maiga, was made up of Commissioner Maya Sahli-Fadel, Commissioner responsible for the country and myself.

33. The objectives of the mission, among others, were to make a follow-up on the implementation of the recommendations contained in the report of the promotion mission undertaken by the ACHPR in 2010 and to strengthen dialogue between the African Commission and the Islamic Republic of Mauritania.

34. A detailed report of the mission will be presented at an opportune time in line with the rules of the African Commission.

**D. Colloquium on the Situation of Human Rights Defenders in Africa, JOBOURG+18; Cotonou, Benin from 27 March to 1<sup>st</sup> April, 2017.**



35. In my capacity as the Special Rapporteur on Human Rights Defenders in Africa, I organized the 2<sup>nd</sup> Colloquium on the Situation of Human Rights Defenders in Africa, dubbed JOBOURG+18 held in Cotonou, Benin. This event brought together quite a large number of human rights defenders, members of national institutions, representatives of authorities in charge of human rights from all walks of life.
36. The main objective of the colloquium was to strengthen the protection of human rights defenders in Africa, ten (10) years after the establishment of the Mechanism of the Special Rapporteur, in order to take stock of the promotion and protection of human rights defenders on the continent and to develop new strategies and synergies adapted to current needs in respect of the protection of human rights defenders.
37. It comes particularly after JOBOURG+10, in order to take stock of activities of the various networks of human rights defenders and the Pan-African Network of Human Rights Defenders.
38. At the end of the Colloquium, a Declaration code-named “The Cotonou Declaration” including recommendations, was adopted. These recommendations have been incorporated into this report.

#### **E. Promotion Mission in The Gambia, 19 to 24 April, 2017**

39. In my capacity as the Special Rapporteur on Human Rights Defenders in Africa and as the Focal Point on Reprisals, I conducted a joint promotion mission in The Gambia from 19 to 24 April, 2017, together with my colleague Honourable Jamesina King, Commissioner in charge of the situation of human rights in The Gambia and also Chairperson of the Working Group on Economic, Social and Cultural Rights.
40. This mission, the first of its kind since the establishment of the ACHPR, offered us the opportunity to dialogue with the political authorities at the highest level including the development partners, the civilian population and stakeholders of civil society. We also visited the prisons and detention centres and some social services within the communities. It is necessary that the other mechanisms of the African Commission take the opportunity to continue with the human rights promotion in this State Party which has currently offered a wide latitude for such endeavors.

41. A detailed report of the mission will be presented at an opportune time in line with the rules of the African Commission.

## **II- PROMOTION ACTIVITIES**

42. During the period under review, the Special Rapporteur produced the following:

- Fifteen (15) Communications were forwarded to the Heads of State of countries involved in Complaints relating to violations;
- Six (6) press releases on serious human rights violations in a number of countries on the continent.

43. A dialogue has been initiated through communications with some States. The rules of confidentiality compel us not to mention the names of these States.

44. However, the Special Rapporteur notes that the situation of human rights defenders is alarming in the Great Lakes region of Central Africa, in Southern Africa and to a lesser extent, in West Africa.

## **III- ACTIVITIES ON REPRISALS**

45. On reprisals, the Special Rapporteur notes that the issue is a fundamental one. The people who work with the ACHPR are the ones who face the greatest risk and the case faced by the ACHPR staff at the end of the last session of the African Commission calls for more action and vigilance on the part of the Mechanism.

# **PART THREE: ANALYSIS, CONCLUSIONS AND RECOMMENDATIONS ON THE SITUATION OF HUMAN RIGHTS DEFENDERS IN AFRICA**

## **I- ANALYSIS OF THE SITUATION OF HUMAN RIGHTS DEFENDERS IN AFRICA**

46. The issue related to a better recognition of human rights defenders as stakeholders in development has still not been resolved in Africa. Protecting them is still a herculean task.

47. The analysis of the situation of human rights defenders shows that the latter continue to be victims of various forms of serious human rights violations. For instance, some groups of human rights defenders including women's rights activists working on land rights in both conflict and post-conflict States, on health-related issues, HIV, sexual orientation, gender identity and expression as well as sexual and reproductive health rights continue to be subjected to various kinds of harassments.
48. Furthermore, Human Rights Defenders (HRDs) working in the thematic area of extractive industries are exposed to serious risks at the hands of both State and non-State actors. On the other hand, the HRDs who work on election-related issues and get involved in the electoral processes in their countries are the people who are most at risk.
49. The situation of young human rights defenders who get involved in different social demonstrations leaves much to be desired on the continent. Many of them are already wallowing in prisons for having voiced their opinions on issues concerning the political life of their countries. Others have been compelled to ultimately flee into forced exile.
50. It is therefore important to pay keen attention to the situation of HRDs on our continent and States should accept the mechanism of dialogue where such a practice has not yet been established; and where it has already been initiated, the situation of HRDs should be improved and strengthened in their country.
51. In this regard, it is appropriate to commend the States which have committed themselves to the provision of a legal framework for the protection of human rights defenders. Some countries such as Tanzania, Mali, Burkina Faso, the DRC and Sierra Leone have already demonstrated this will to provide better protection for HRDs by embarking on the process of formulating a law for their protection. The State of Côte d'Ivoire deserves commendation for not only enacting a law to protect them but also it has issued an implementing decree in support of that law. This has already paved the way for the gradual and effective implementation of the aforementioned law.

## **II- CONCLUSIONS**

52. Generally, the Mechanism of the Special Rapporteur notes that within the context of protection activities, the results are not always the ones expected. The proper monitoring of communications is still a major challenge.

53. The Mechanism is becoming more and more visible and its recognition by the States is no longer in doubt. In this regard, we express our gratitude to the States of Cameroon, Algeria, Egypt and Mauritania which follow up on our communications. Even though the answers provided are still not the ones expected, this approach is a sign of recognition and respect for the Mechanism by the States.
54. In view of the foregoing, the Mechanism of the Special Rapporteur will fully use all the means at its disposal to monitor the situation of human rights defenders in the States. It will collaborate with these HRDs for the effective implementation of human rights standards and criteria relating to HRDs, particularly through recommendations on State reports, country visits, fact-finding missions, urgent appeals and other means.
55. The Special Rapporteur will continue to monitor the situation concerning reprisals against human rights defenders in Africa. She will provide an annual update in order to ask for the gradual establishment of a warning mechanism on reprisals, including the ones perpetrated against human rights defenders who collaborate with the African Commission or reprisals perpetrated against its staff.
56. The Special Rapporteur will ensure the effective implementation of the recommendations of the various studies on freedom of association, human rights and terrorism in Africa, the right to demonstrate and policing assemblies adopted by the African Commission on Human and Peoples' Rights. She will assist in formulating the guidelines on the protection of women's rights activists as a continuation of the study on women's rights defenders with indicators for monitoring and ensuring oversight of measures taken by the States.
57. She will continue to consider the legislation and policies which impose restrictions on public freedoms and undermine the role and operational space of civil society actors. She will continue to strengthen collaboration with all human rights defenders and pursue dialogue with States and other stakeholders.
58. In this regard, in order to maintain the gains of protecting human rights defenders in particular, and human rights in general, the Special Rapporteur would like to make the following recommendations to both State Parties and

to the various stakeholders involved in promoting and protecting human rights and human rights defenders on the continent.

### **III- RECOMMENDATIONS**

#### **To State Parties**

- i. Respect their obligations under the 1998 United Nations Declaration on Human Rights Defenders, the 1999 Grand Bay Declaration and the 2003 Kigali Declaration. I encourage the States to free the space for associations and to ensure the protection of human rights defenders at all times and in all circumstances, without any restrictions and impediments, irrespective of their sphere of activity.
- ii. Pay special attention to the situation of women's rights defenders which is of constant concern to the Mechanism of the Special Rapporteur.
- iii. Adopt legislative policies and measures for better protection of human rights defenders.
- iv. Establish appropriate mechanisms for reparation of the damage suffered by human rights defenders in the course of carrying out their duties.
- v. Refrain from putting financial, social, legislative and other restrictions to the working environment of human rights defenders.
- vi. Refrain from criminalizing the actions of human rights defenders; and from carrying out reprisals against the latter.
- vii. Remove punitive and restrictive laws, policies and practices that undermine the rights to freedom of association and assembly and stigmatize and discriminate against some categories of human rights defenders according to sex, health status, sexual orientation, identity and expression of gender or other statuses.
- viii. Initiate dialogue and consultation with human rights defenders by recognizing them publicly and supporting their work by means of communication and information campaigns.

#### **To the African Union and other regional and sub-regional organizations**

- i. Recognize the essential role of human rights defenders in the effective implementation of democratic principles, the rule of law, good governance and sustainable development in Africa and encourage the Member States and African Union organs to carry out awareness raising campaigns on the fundamental role played by human rights defenders.

- ii. Create a space for dialogue between the States, human rights defenders and other key actors on the challenges, good practices and progress achieved in the area of protecting human rights defenders.
- iii. Encourage and support full cooperation between the national, regional and international human rights defense mechanisms.

### **To the National Human Rights Institutions**

- i. Fully carry out their promotion and protection mandates in order to hold the States responsible for violations committed against human rights defenders and intervene to support human rights defenders who fall victim to human rights violations.
- ii. Establish internal mechanisms on the situation of human rights defenders within the institution and ensure that they have adequate resources and cooperate actively with all human rights defenders.
- iii. Pay special attention to human rights defenders who face increased risks, including women's rights defenders, activists working, among others, on land rights, in conflict and post-conflict States, on issues related to gender identity and sexual orientation, to HIV and the extractive industries.

### **To Civil Society Organizations**

- i. Continue to cooperate with the national, regional, sub-regional and the United Nations mechanisms for the protection of human rights in order to prevent and respond to human rights violations committed against human rights defenders.
- ii. Establish and strengthen the national and regional networks of human rights defenders in order to promote collaboration and inter-sectoral approaches that promote the establishment of alliances with various groups.
- iii. Develop innovative approaches to involve the general public, political actors and other opinion leaders, including the media in the work of human rights defenders.

### **To the media, religious and traditional leaders**

- i. Engage in dialogue with all human rights defenders and support their efforts to advance the cause of human rights, the rule of law, social change and development.
- ii. The Media must work in solidarity with the human rights defenders in order to keep themselves informed and for the population to be informed more appropriately.

- iii. The traditional and religious leaders should remove all the bottlenecks that impede the work of human rights defenders and civil society organizations, in particular regarding access to the communities; they should also prevent negative practices which are the source of discrimination against women rights activists and human rights defenders working with people who are criminalized and/or are discriminated against such as sex workers, people living with HIV and people with different sexual orientations and identities.

**To the technical and financial partners**

- i. Continue to support the mechanism in its actions to ensure effective promotion and protection of human rights defenders.