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INTERSESSION REPORT

By

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**Commissioner/Special Rapporteur on Refugees, Asylum Seekers,
Internally Displaced Persons and Migrants in Africa**

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Rights**

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INTRODUCTION

Pursuant to Rule 72 of the Rules of Procedure of the African Commission on Human and Peoples' Rights (the Commission), this report gives an account of human rights promotion and protection activities undertaken during the intersession period from the 55th Ordinary Session of the Commission held in Luanda (Angola) from 28 April to 12 May 2014.

The report outlines the promotional activities conducted in my capacity as Commissioner, member of the Commission, member of the Working Group on Economic, Social and Cultural Rights, member of the Working Group on the Death Penalty, as well as the activities engaged in by virtue of the powers vested in me as Special Rapporteur on Refugees, Asylum Seekers, Internally-Displaced Persons and Migrants in Africa. This Mechanism was entrusted to me in accordance with Resolution ACPHR/Res.203 (L) 11 of the African Commission and my mandate renewed pursuant to Resolution ACHPR/Res.246 (LIV) 2013.

PART I

ACTIVITIES CONDUCTED IN MY CAPACITY AS COMMISSIONER, MEMBER OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

I. Meetings, conferences and workshops

1. During this intersession period, I conducted several promotion and protection activities through participation in seminars, working sessions, fact-finding missions and workshops.
2. I commenced my intersession activities by participating in a continental conference on the abolition of the death penalty in Africa held in Cotonou, Republic of Benin.
 - **Participation in the Continental conference on the abolition of the death penalty in Africa (2-4 July 2014), Cotonou, Benin**
3. In my capacity as member of the Working Group on the death penalty, extrajudicial, summary or arbitrary executions in Africa, I participated in this conference organized in collaboration with the Government of the Republic of Benin. The objectives of the conference were to raise awareness of African Union (AU) member States and other actors on the issue of the death penalty and on the need to adopt an African protocol relating to the abolition of the death penalty and to strengthen the capacities of non-State actors in conducting advocacy actions for the abolition of the death penalty. It is worthwhile to note that this conference adopted a declaration on the abolition of the death penalty in Africa (the Cotonou Declaration).
4. My intersession activities were pursued with a series of meetings held on the margins of the 16th Extraordinary Session in Kigala, Rwanda. I hence participated in the 3rd statutory meeting of the African Court on Human and Peoples' Rights (the African Court) and our Commission and in the meeting on joint publications of the two institutions.

- **3rd statutory meeting of the African Court on Human and Peoples' Rights and the African Commission on Human and Peoples' Rights (18-19 July 2014), Kigali, Rwanda**
5. During this meeting, organized as part of collaboration efforts between the two human rights organs, the African Court and the Commission continued discussions on issues of complementarity between the two institutions and on progress made in the course of their collaborative work for an effective protection of human rights on the Continent.
- **Meeting on joint publications of the Court and the Commission (18 July 2014), Kigali, Rwanda**
6. The meeting of the Working Group on joint publications, which I coordinate, finalized the concept note on joint publications and developed the action plan for implementation of this initiative.
- **16th Extraordinary Session (20 to 29 July 2014), Kigali, Rwanda**
7. At the 16th Extraordinary Session, a significant number of communications on admissibility and merits were considered as well as various texts regarding human rights issues on the continent. Issues relating to the work of the Commission were also discussed.
- **3rd annual high level dialogue on democracy, human rights and governance in africa: trends, challenges and prospects (30-31 October 2014), Dakar, Senegal**
8. This meeting was organized by African Union organs and institutions on the theme: *"Silencing the guns: strengthening governance to prevent, manage and resolve conflicts in Africa"*. The main purpose of this meeting was to propose measures through which governance systems can be strengthened to address political crises in Africa.
- **Working Group on joint publications of the Commission and the African Court on Human and Peoples' Rights (21 November 2014), Addis Ababa, Ethiopia**

9. I chaired the meeting of the Working Group on joint publications of the Commission and the African Court during which we measured progress made in the implementation of the action plan, designated focal points and scientific contributors, and discussed the mobilization of human and financial resources for the effective implementation of this project.
 - **Information exchange with the Pan African Lawyers Union (PALU) (21 to 22 November 2014), Addis Ababa, Ethiopia**
10. I participated in an information exchange meeting with the Pan African Lawyers Union (PALU) to look at developments with the aim of identifying strategies that will help increase the number of cases transferred by the Commission to the African Court.
 - **Meeting of experts on the abolition of the death penalty in the Middle East and North Africa (2-3 December 2014), Algiers, Algeria**
11. During this meeting, I was a member of the panel on: Deterrence and death penalty, for a gradual abolition of capital punishment. I presented the work and strategy of the Commission in this regard.
 - **Training of the Monitoring Committee of the Convention on the Elimination of all forms of Discrimination against Women (10 December 2014)**
12. This training session, organized to mark International Human Rights Day, was an opportunity for me to present the African human rights system to participants. Moreover, as the focus was on women, I placed special emphasis on Year 2016, declared African Year of Human Rights with particular focus on the rights of African women.
 - **Meeting of the Working Group on Economic, Social and Cultural Rights (ECOSOC) in Africa (14-16 December 2014), Dakar, Senegal**
13. I also participated in the meeting of the Working Group on economic, social and cultural rights held in Dakar, Republic of Senegal. Several issues were discussed at this meeting, including the 2015-2018 action plan for implementation of the

various mandates assigned to the Group by the African Commission pursuant to its resolutions.

- **17th Extraordinary Session (18 to 29 February 2015), Banjul, The Gambia**

14. I participated in the 17th Extraordinary Session which considered various communications submitted to the Commission as well as rights-related issues that required the opinion of the Commission.

- **Meeting of the Working Group on Economic, Social and Cultural Rights (ECOSOC) in Africa (19-20 April 2015), Banjul, The Gambia**

15. I participated in the meeting of the Working Group on economic, social and cultural rights, a follow-on to the meeting held in Dakar. Members discussed various issues, including the organization of a continental conference and collaboration with certain partner NGOs.

PART II

ACTIVITIES CONDUCTED IN MY CAPACITY AS SPECIAL RAPPORTEUR ON REFUGEES, ASYLUM SEEKERS, INTERNALLY DISPLACED PERSONS AND MIGRANTS IN AFRICA

1. I conducted a number of activities and took part in several meetings in my capacity as Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa. These include, among other activities, the Inaugural conference of the 17th summer course on Refugee Law held in Strasbourg, France, a second meeting of the Working Group on nationality, a meeting at the 15th Summit of the Francophonie, a meeting jointly organized with the Office of the UN High Commissioner for Refugees (UNHCR) – West Africa Bureau, and the launch of the study on nationality. I also issued press releases and sent an urgent appeal to the Government of Sudan regarding the situation of Eritrean refugees.
 - **Participation in the Inaugural conference of the 17th summer course on Refugee Law (23 June - 4 July 2014), Strasbourg, France**
16. The International Institute of Human Rights, founded by René Cassin, and the Office of the United Nations High Commissioner for Refugees jointly organize summer courses on Refugee Law. I was invited to deliver an address on the African human rights system at the Inaugural conference of the 17th summer course.
 - **2nd meeting of the Working Group on statelessness and the right to nationality in Africa (1 September 2014), Addis Ababa, Ethiopia**
17. This meeting, held in the framework of the Addis road map and its implementation, prepared the list of Working Group experts and identified their roles and responsibilities for implementation of its action plan.
 - **15th Summit of the Francophonie (28-29 November 2014), Dakar, Senegal**
18. As a member of the panel on "*Nationality and civil status in the Francophonie*", I presented at the Summit of the Francophonie, actions undertaken by the

Commission relating to this theme, including the adoption of resolutions and realization of the study on nationality.

- **Meeting with the Coalition for the right to nationality in Africa (28 November 2014), Saly, Senegal**
19. This meeting discussed the issue of statelessness and its eradication in Africa as well as efforts to be deployed by the different actors to ensure that the right to nationality is effective for all.
- **2nd anniversary of the entry into force of the African Union Convention on the protection and assistance of internally displaced persons in Africa (Kampala Convention) (12 December 2014), Geneva, Switzerland**
20. As part of celebrations to mark the second anniversary of the Kampala Convention, the African Union's Permanent Delegation in Geneva organized a one-day event to present the instrument, its ratification status and efforts made for its implementation, especially by States parties for its integration into national legal systems. This was with a view to gaining a better understanding of the instrument, identifying achievements and persistent issues, and drawing up recommendations for next steps. I was tasked with making a general presentation of the Convention.
- **Meeting with journalists on the subject of statelessness and the right to nationality (17 December 2014), Saly, Senegal**
21. At this meeting, I presented the activities of the Commission in this regard, in particular, the adoption of resolutions, the conduct of the study on nationality and preparation of a draft protocol. Journalists were urged to involve themselves in the fight against statelessness through dissemination of these resolutions and the study, and by educating people on the issue of statelessness.
- **Meeting of experts on statelessness and the right to nationality (17 to 19 December 2014), Saly, Senegal**
22. The purpose of the meeting was to draft recommendations for the regional conference on statelessness in ECOWAS member countries that was to be held in February 2015. It was also an opportunity to discuss the study on nationality, conducted by the mechanism and its partners (UNHCR, OSIEA) with a view to drafting a protocol on the right to nationality in Africa. Participants at the

meeting were primarily academics, magistrates, researchers from West Africa and other parts of the world, civil society organizations working in this field, staff of ministries of justice and the interior of sub-regional countries and UN agencies such as the International Organization for Migration (IOM).

23. Launch of the study on the right to nationality (29 January 2015), Addis Ababa, Ethiopia

24. On 29 January 2015 in Addis Ababa, the study on the right to nationality was launched by His Excellency Alassane Ouattara, President of the Republic of Côte d'Ivoire in the presence of the Chairperson of the African Union Commission, Dr. Nkosazana Dlamini Zuma, the Chairperson of the African Commission on Human and Peoples' Rights, Commissioner Kayitesi and other members of the Commission as well as representatives of States, the Office of the UN High Commissioner for Refugees and civil society. During this launch ceremony, I outlined the background to this study, presented its content and reiterated its importance in the resolution of human rights issues relating to nationality on the continent.

- Experts' meeting on nationality in preparation of the 1st ministerial conference on statelessness in the ECOWAS (23-24 February 2015), Abidjan, Côte d'Ivoire

25. I was invited to talk about the issue of nationality in Africa and I presented the situation on the right to nationality on the continent as well as actions undertaken by the Commission in this regard. In particular, the adoption of different resolutions on the issue of nationality, the realization of the study on nationality and the draft protocol on nationality and eradication of statelessness in Africa.

- 1st ministerial conference on statelessness in the ECOWAS (25 February 2015)

26. I participated in this 1st ministerial conference as a follow-on to the workshop held in December in Saly, Senegal, where recommendations were put forward on the issue of statelessness and its eradication in Africa.

- Meeting of independent experts on the draft protocol to the African Charter on human and peoples' rights on the right to nationality in Africa (8 to 10 April 2015), Tunis, Tunisia

27. A group of 30 experts from Africa and Europe met to develop the draft protocol to the African Charter on human and peoples' rights on the right to nationality and the eradication of statelessness in Africa. The purpose of the meeting was to finalize the draft protocol to be considered by the Commission at its 56th Ordinary Session for possible adoption. Experts conducted a thorough review of this draft protocol. The Tunis meeting was the last of a series of consultations on the issue of nationality involving different stakeholders including AU organs, UNHCR, civil society and the media.

- **Forum of NGOs (18-20 April 2015), Banjul, The Gambia**

28. I also participated in the Forum of NGOs during which I chaired the panel on nationality and the Working Group on refugees, asylum seekers, internally displaced persons and migrants.

II. Press release, interview, etc.

29. I issued a statement to mark the celebration of World Refugee Day on 20 June 2014. This date coincided with the 45th anniversary of the OAU Convention governing the specific aspects of refugee problems in Africa and was celebrated under the theme "One family torn apart by war is too many".

30. It was an opportunity to encourage States that demonstrate hospitality and solidarity to refugees living within their territories. African States were also reminded of their obligations under regional and international legal instruments they have ratified to ensure greater protection of the rights of refugees.

31. A joint statement was issued to mark International Migrants Day with the UN Special Rapporteur on the human rights of migrants, the UN Committee on the Protection of the Rights of Migrant Workers and Members of Their Families, and the Rapporteur on the Rights of Migrants of the Inter-American Commission on Human Rights. The Statement called on countries to implement open and accessible policies on migration and to respect and protect the rights of migrants in a regular situation or not, and hence avoid the many tragedies we keep witnessing.

32. On the occasion of International Migrants' Day on 18 December 2015, I granted an interview, while in Saly, Senegal, to the United Nations radio. The situation of African migrants was discussed during this interview, especially those risking their lives to cross the Mediterranean sea for Europe because of the dire economic situation of their countries and armed conflicts across the continent.

III. Urgent appeal

33. I sent an urgent appeal to the Republic of Sudan regarding the safety of Eritrean refugees at the Shegerab camp.

IV. Ratification status of the African Union Convention for the protection and assistance of internally displaced persons in Africa

34. During the intersession period, I continued to monitor the ratification status of the African Union Convention for the protection and assistance of internally displaced persons in Africa (Kampala Convention). As we are celebrating the second anniversary of the entry into force of the Convention, twenty-two (22) countries in total have ratified/acceded to the Convention. These are: Angola, Benin, Burkina Faso, Central African Republic, Chad, Côte d'Ivoire, Gabon, The Gambia, Guinea Bissau, Lesotho, Mali, Malawi, Nigeria, Niger, Rwanda, Sahrawi Arab Democratic Republic, Sierra Leone, Swaziland, Togo, Uganda, Zambia and Zimbabwe. To date, twenty (20) countries have signed including Burundi, Comoros, Congo, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Ghana, Guinea Conakry, Liberia, Mozambique, Mauritania, Namibia, Senegal, Somalia, Sao Tomé and Príncipe, South Sudan, Tanzania and Tunisia.

35. Statistical data shows that twelve (12) countries have neither signed nor ratified the Convention. These include: Algeria, Botswana, Cameroon, Cabo Verde, Egypt, Kenya, Libya, Madagascar, Mauritius, South Africa, Seychelles and Sudan.

V. Fact-finding mission to the Central African Republic, 10 to 14 September 2014

36. As part of its human rights protection mission, the Commission followed with interest, developments in the crisis situation and the gradual deterioration of human rights in the Central African Republic and decided to conduct a fact-finding mission to investigate allegations of serious and massive violations of human rights committed since December 2012 and subsequent to the coup d'état of 24 March 2013.
37. I participated in this mission in my capacity as Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa. The mission, conducted with the Chairperson of the Commission and the Vice-chairperson, Commissioner in charge of the human rights situation in the CAR, was an opportunity to discuss with the different actors and assess the humanitarian and human rights situation in the CAR.
38. The report including recommendations to the different actors for the promotion and protection of human rights in this country was presented to the Commission during its 17th Extraordinary Session.

VI. Analysis of the situation of refugees, asylum seekers, internally displaced persons and migrants in the past months

39. During this intersession period, the situation of refugees, asylum seekers, internally displaced persons and migrants deteriorated significantly as a result of multiple armed conflicts across the continent, particularly in the Central African Republic, Libya, Somalia, Mali and the DRC. Attacks by terrorist groups such as Boko Haram in Nigeria, Niger and Cameroon also contribute to the drastic increase in the number of refugees and internally displaced persons and it is becoming increasingly difficult to properly assist these persons.
40. The situation of migrants is of growing concern with the increase in the number of people prepared to board insecure boats at the risk of their lives to travel to Europe as a result of political instability compounded by the lack of security in many countries. Thousands have thus lost their lives while others live under precarious conditions at detention camps in host countries, particularly in Lampedusa, Italy.

41. Xenophobic violence currently in South Africa has grave consequences on the situation of refugees and migrants, who are the primary victims of such violence; and this is all the more serious for they are already vulnerable due to their refugee or migrant status.
42. Furthermore, the fight against terrorism has become an excuse to adopt restrictive laws that target refugees and migrants in particular. I am deeply concerned by this situation and it is with this in mind that I make the following recommendations to the different actors capable of providing solutions.

VII. Recommendations

43. Following this report, I would like to make recommendations to the different stakeholders as follows:

A. To States parties to the African Charter:

- Adopt practical measures to prevent forced displacements of populations both within and beyond borders regardless of the reason for displacement (armed conflict, climate change, large development projects) and ensure their protection should prevention measures fail;
- For those that are yet to do so, ratify and/or speed up the ratification process of the African Union Convention for the protection and assistance of internally displaced persons in Africa (Kampala Convention), and for those that have ratified the Convention, effectively implement it through national laws and action plans;
- Continue efforts for enhanced protection and assistance of refugees in their countries in collaboration with UNHCR and other humanitarian organizations;
- Ensure that, in combating terrorism, no restrictive law that infringes on the rights of refugees and migrants or likely to stigmatize them is adopted.

B. To the Office of the UN High Commissioner for Refugees

- Work proactively with States to propose solutions to address the situation of refugees and particularly that of migrants;
- Continue to support the mechanism in carrying out its mandate on the issue of nationality in Africa and its efforts to eradicate statelessness.

C. To civil society and other partners

- Continue advocacy actions for the ratification of the Kampala Convention;
- Disseminate and popularize the study on nationality;
- Continue actions on the ground to keep us apprised of the situation of refugees, asylum seekers, internally displaced persons and migrants;
- Provide support and assistance to the Special Rapporteur enabling her to properly fulfil her mandate.