

Special Rapporteur on Freedom of Expression and Access to Information in Africa - 710S

Apr 25, 2022

INTRODUCTION

1. This report is presented in accordance with Rules 25(3) and 64 of the Rules of Procedure (2020) of the African Commission on Human and Peoples' Rights (the Commission), and covers activities carried out during the intersession period between December 2021 to April 2022.
2. The Report details the activities which I undertook in my capacity as a member of the Commission and as the Special Rapporteur on Freedom of Expression and Access to Information in Africa (the Special Rapporteur).
3. The Report is structured as follows:
 - Part I: Activities undertaken in my capacity as a member of the Commission;
 - Part II: Activities undertaken in my capacity as the Special Rapporteur;
 - Part III: Priority areas of focus during my tenure as the Special Rapporteur;
 - Part IV: Conclusion.

Part I: Activities undertaken in my capacity as a Member of the Commission

Retreat on Result-based Annual Work Planning

4. From 10 to 13 January, I participated in a virtual planning meeting convened by the Commission's Secretariat to finalize the 2022 Annual Work Plan. The objectives of the meeting included, inter alia, developing a better understanding of the Commission's Strategic Plan 2021-2025, discussions on how the Work Plan is linked to the Strategic Plan, in addition to evaluating the Commission's progress in 2021 vis-à-vis the Strategic Plan.

Meeting to discuss Complementarity

5. On 12 February, I participated in a virtual meeting convened by the Commission to discuss complementarity with the African Court on Human and Peoples' Rights.

Participation in the Commission's 70th Ordinary Session and the 35th Extra-Ordinary Session

6. From 23 February to 09 March, I participated in the 70th Ordinary Session, held virtually, which was convened to consider Communications and other outstanding matters.

7. On 04 April, I participated in the 35th Extra-Ordinary Session which was held virtually to discuss the following: finalization of the paper on the Complementary Relationship between the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights; the paper on Pending Applications for Observer Status; and AOB items arising from the 70th Ordinary Session.

Mission to the Kingdom of Morocco

8. From 11 to 15 April, I participated in a joint mission to the Kingdom of Morocco, which was hosted by the National Council for Human Rights of Morocco as part of its advocacy strategy to encourage the Kingdom of Morocco to ratify the African Charter on Human and Peoples' Rights (the African Charter).

9. On the 11 April 2022 we met with the Chairperson of the National Human Rights Council of Morocco. On the second day, there was a meeting held with various NGOs who had questions about the African Charter and the various rights embodied in it. On the 13 April, we attended a meeting at the Regional Human Rights Commission of Casablanca. On the fourth day, there was a meeting with the President of the House of Representatives of the Kingdom of Morocco, followed by a meeting with the Representative of the House of Councillors of the Kingdom of Morocco.

Interventions as country rapporteur

10. On 22 February, in my capacity as the country rapporteur for the human rights situation in Tanzania, I participated in a Joint Letter of Appeal with the Chairperson of the Working Group on the Rights of Indigenous Populations/Communities and Minorities in Africa, issued to H.E. Ms. Samia Suluhu Hassan, President of the United Republic of Tanzania. The letter was issued in response to reports of the impending evictions of the Maasai, the indigenous people in Tanzania from their ancestral lands.

Part II: Activities undertaken as the Special Rapporteur

Meeting with Stakeholders

11. On 06 April, I participated in a virtual meeting with external stakeholders to discuss proposed activities of the special mechanism in 2022. This meeting provided an opportunity to brainstorm on ideas to ensure effective promotion and protection of the right to freedom of expression and promotion of access to information in Africa.

Collaboration on the Joint Declaration

12. During the inter-session period, I participated in a series of meetings and online discussions to develop a joint declaration in collaboration with the other special mechanisms on freedom of expression; that is the United Nations Special Rapporteur on Freedom of Opinion and Expression; the Organization for Security and Co-operation in Europe Representative on Freedom of the Media; and the Organization of American States Special Rapporteur on Freedom of Expression.

13. The outcome document from this collaboration, that is the Joint Declaration on Freedom of Expression and Gender Justice, will be issued on 03 May, which is World Press Freedom Day.

Interventions issued as Special Rapporteur

14. Part of the special mechanism's mandate is to "make public interventions where violations of the right to freedom of expression and access to information have been brought to her attention, including by issuing public statements, press releases, and sending appeals to Member States asking for clarifications," I issued the following interventions:

- Letters of Appeal

Letter of Appeal regarding allegations of the abduction of Hamadoun Nialibouly, Olivier Dubois and Moussa M'Bana Dicko, journalists working in the Republic of Mali

15. On 08 March, I initiated a letter of appeal to H.E. Assimi Goïta, Interim President of the Republic of Mali, regarding the alleged abduction of Hamadoun Nialibouly, Olivier Dubois and Moussa M'Bana Dicko, journalists who were allegedly abducted in different places in Mali, namely in Gao, Mopti and Boni between September 2000 and April 2021. The letter, inter alia, called on the Government to carry out independent and impartial investigations into the allegations of abduction of these three journalists, and to take all necessary measures to provide journalists and other media practitioners with an environment conducive to free expression without undue interference or fear of reprisal, from State and non-State actors.

16. To date, however, a response has not been received from the Government with regards to the issues raised in this letter of appeal.

- Press Statements

Statement commemorating World Press Freedom Day 03 May 2022

17. On 03 May, a Press Statement will be issued in commemoration of World Press Freedom Day. This day is observed to raise awareness on the importance of freedom of the press and the right to freedom of expression. This year, World Press Freedom Day is being commemorated under the theme "Journalism under Digital Siege," highlighting emerging challenges on press freedom during the digital era, impacting journalism and freedom of expression alike.

18. This Press Statement will be available on the Commission's website in English, French and Portuguese.

Part III: Priority areas of focus during my tenure as the Special Rapporteur

19. Following my assumption of duty as a Member of the Commission during the 69th Ordinary Session, held from 15 November to 05 December 2021, I was appointed to serve as the Special Rapporteur on Freedom of Expression and Access to Information in Africa in accordance with Resolution ACHPR/Res. 504 (LXIX)2021.

20. During my tenure as Special Rapporteur, I intend to focus on the following priority areas: Issuing interventions where violations of the right to freedom of expression and access to information have been brought to the mechanism's attention

21. In line with the mandate of the special mechanism, I will be issuing interventions in response to alleged violations of Article 9. Accordingly, I call on National Human Rights Institutions (NHRIs) and non-governmental organizations (NGOs) to continue submitting reports and complaints of alleged violations to the mechanism, given your first-hand knowledge of the situation in the State Parties.

22. In the same vein, I call on States Parties to respond to the Letters of Appeal transmitted to them, to provide information and clarification on the human rights violations reported to the State.

Dissemination of the Declaration of Principles on Freedom of Expression and Access to Information in Africa

23. The Declaration of Principles on Freedom of Expression and Access to Information in Africa (the Declaration) was adopted by the Commission during 65th Ordinary Session held in 2019. This Declaration establishes and affirms the principles for anchoring the rights to freedom of expression and access to information in conformance with Article 9 of the African Charter.

24. During my tenure, I intend to focus on dissemination of the Declaration and its principles to the States Parties, NHRIs, NGOs, in addition to the general public.

Elaboration of indicative questions on Article 9 of the African Charter

25. In accordance with Article 62 of the African Charter, States Parties are required to submit reports on the measures taken to implement and give effect to the Charter.

26. During my tenure, I intend to develop indicative question on Article 9 in order to guide States Parties when they are reporting on freedom of expression and access to information issues in their Periodic Reports. These indicative questions can also serve as a guide to NHRIs and NGOs when they are preparing shadow reports specific to Article 9 issues.

27. The elaboration of these questions will be through a consultative process involving the stakeholders who work with the special mechanism.

Encouraging development of national legislation on Access to Information

28. The right to access information is a fundamental human right necessary for the enjoyment of other human rights.

29. In line with the practice initiated by my predecessors, I intend to continue advocating for adoption of national legislation on the right of access to information in line with regional and international standards, and as elaborated in the Commission's Model Law on Access to Information in Africa. The Model Law was adopted by the Commission to serve as a tool to guide State Parties during elaboration of national legislation on access to information.

Issues related to freedom of expression and access to information in the digital age

30. The Preamble of the Declaration notes the need for "elaboration of the digital dimensions of freedom of expression and access to information." Accordingly, Part IV of the Declaration details principles on freedom of expression and access to information on the internet.

31. During my tenure, I would like to engage with the Commission's stakeholders on the rights enshrined in Article 9 viz-a-vis the digital age, ideally to raise awareness on the importance of protecting this right both offline and online.

Part IV: Conclusion

32. Given that this is my first Report, I wish to extend thanks to my predecessor, former Commissioner Jamesina King, for the work which was accomplished during her tenure as the Special Rapporteur.

33. In closing, I call on all stakeholders to continue working with the mechanism in order to ensure effective realization of the rights to freedom of expression and access to information in Africa.