

Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa - 75OS

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TABLE OF CONTENTS

SECTION I:	Introduction
SECTION II: Activities undertaken during the Inter-Session Period as:	
I.Member of the Commission	
II.Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa	
III.Rapporteur for Portuguese-speaking countries	
IV.Member of the Working Group on Communications	
SECTION III:	Challenges
SECTION IV: Recommendations and Conclusions	

SECTION I - INTRODUCTION

1.This Report is submitted in accordance with Rules 23(3) and 72 of the Rules of Procedure of the African Commission on Human and Peoples' Rights (the Commission) and covers the activities undertaken during the inter-session period between the 73rd and 75th Ordinary Sessions of the Commission.

2.The Report covers activities I undertook in my capacity as a Member of the African Commission on Human and Peoples' Rights (the Commission), as the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa (the Special Rapporteur) and as Member of the Working Group on Communications.

3.The Report is divided into four (4) parts; Introduction; Activities of the Intersessional Period; Challenges faced in the exercise of the mandate of the Special Rapporteur; Recommendations and Conclusions.

SECTION II - ACTIVITIES OF THE INTER-SESSION PERIOD

I.ACTIVITIES AS A MEMBER OF THE COMMISSION

A/Statutory Meetings

4.On 9 January 2023, I participated in the 36th Extraordinary Session held virtually.

5.From February 21 to March 7 , 2023, I attended the 74th Ordinary Session held virtually. During the Session, the Commission considered outstanding matters from its previous Sessions, including Communications, Resolutions, Reports and other documents.

6.During the session, I attended the 2024 annual work plan meeting which aimed to discuss the programmatic component of the work of the ACHPR for the upcoming year. The meeting enabled the Commission to develop a comprehensive strategy on the institution's interventions in 2024, while ensuring that all mechanisms are in line with the agenda for the protection and promotion of human rights in Africa.

7.On 4 April 2023, I participated in the meeting between the ACHPR and the AU restructuring work team led by Prof. Mukoko where issues related to the Reform of the organs of the African Union were discussed, more specifically those working on the promotion and protection of

Human Rights. Here the emphasis is on the protection component within the Commission's mandate which is intended to be removed from the Commission. From the discussion and data sharing, the importance of this mandate was reaffirmed because it is not only limited to communications, but also extends to other aspects, such as the examination of periodic reports, as well as fact-finding missions. Another important fact is that it was endorsed by 54 countries which have never disputed it.

II. ACTIVITIES UNDERTAKEN AS SPECIAL RAPPORTEUR ON PRISONS, DETENTION CONDITIONS AND POLICING IN AFRICA

8. From 24 to 25 November 2022, I attended the meeting to validate the training manual for law enforcement forces, together with the Chairperson for the Working Group on Death Penalty, Extra-Judicial, Summary and Arbitrary Executions, the Chairperson of the Committee on the Prevention of Torture and the Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons.

9. The purpose of the Handbook is to ensure that law enforcement officials receive appropriate training based on respect for the principles guiding human rights in order to facilitate the daily treatment of citizens.

10. During the intersessional period, I participated in the preparatory meetings for the Conference on the State of Prisons in Africa. The Commission has been invested in monitoring the conditions of prisons and places of detention on the continent, to safeguard the rights of prisoners who, despite having some of their rights restricted, deserve to be treated with the dignity inherent to their human condition. The conferences planned by the Commission in the coming months aim to discuss the possibility of a study/audit of prisons on the continent to see if there have been any substantial changes since the adoption of the Ouagadougou Declaration and Action Plan, as well as other instruments that serve as a guide for States Parties to legislate and act upon.

11. On 27 and 28 April, the Special rapporteur held a regional conference on prison conditions in Africa. The meeting gathered State delegates, representatives of NHRI, Civil society, Law officials and prison experts. The event aimed at discussing issues pertaining to prison conditions on the continent and the idea of engaging in a reform of prison administration. Among the relevant topics, issues such as access to information and reporting about prisons were addressed, prisons conditions and overcrowding, the need to consider alternatives to imprisonment based on the reality of the continent. The meeting decided on a declaration, which will become a resolution to be adopted at the current 75th Ordinary Session. Stakeholders at the event agreed on the need to conduct a study on prison conditions on the continent,

III. RAPPORTEUR FOR LUSOPHONE COUNTRIES

A. Meetings held.

12. From 1 to 3 February 2023, she participated in the Regional Workshop on Freedom of Expression, together with the Rapporteur for that Mechanism and the Rapporteur for Human Rights Defenders in Johannesburg. The meeting brought together media experts, senior government officials, journalists and academics. The overall objective of the Regional Workshop is was to raise awareness and disseminate the 2019 Declaration, specifically targeting Lusophone African State Parties. The Workshop was an opportunity to build knowledge on the importance of the rights to freedom of expression and access to information as elaborated in the Declaration.

13. During the intersession period, she has held dialogue with country representatives in order to encourage their interaction with the ACHPR and their participation in the public sessions, having received positive feedback in relation to all except Equatorial Guinea.

B. LETTERS OF APPRECIATION, URGENT APPEAL AND CONCERN

14. During the inter-session period, several events occurred in which the rights and safety of the citizens involved were at risk and were violated in many cases. As Special Rapporteur and Country Rapporteur monitoring the human rights situation, I directly addressed the above issues with which the concerned States.

15. In other cases, during this first quarter, States have taken progressive and positive measures that have strengthened legal systems and thus provided a human rights-friendly environment for their nationals.

16. In this regard, a Letter of Appreciation was addressed to the President of Zambia for commuting the death sentences of 390 inmates to life imprisonment.

17. Following the events in Senegal over the past month, a joint Letter of Urgent Appeal was sent to the President of Senegal for the excessive use of force by law enforcement officers against protesters.

18. Following several complaints about prison conditions in the Republic of Burundi and after further verification, a Letter of Concern was sent to the President of Burundi due to the deteriorating living conditions of prisoners in the country.

19. Upon receiving information about migrants improperly removed by law enforcement agents while camping outside the UN building in South Africa, a letter of concern was sent to His Excellency the President of that country in order to recommend an investigation into the matter.

20. Since Mozambique was affected by the drastic consequences of the cyclone, which caused more than 100 deaths and a cholera outbreak, a Letter of Concern was sent to His Excellency the President of the country to address the challenges that the people of Mozambique faced.

IV. ACTIVITIES UNDERTAKEN AS A MEMBER OF THE WORKING GROUP ON COMMUNICATIONS

SECTION VI: RECOMMENDATIONS AND CONCLUSIONS

A/ RECOMMENDATIONS ON PRISONS AND CONDITIONS OF DETENTION IN AFRICA

21. State Parties are urged to:

i. Within the means of the Commission and in partnership with the State Parties, to initiate an assessment of the state of prisons in Africa since the establishment of the Mechanism in 1996;

ii. Allocate funding to prisons and other places of detention, renovate and build new prisons in accordance with the Revised Minimum Rules for the Treatment of Prisoners (the Mandela Rules) in order to improve the standard/conditions of detention, taking into account the post-pandemic period;

iii. Work to take advantage of the experience and good practices that have occurred successfully in some prisons for the detection and treatment of Covid-19 in prisons and places of detention, to deal with other epidemics and/or endemics, such as HIV, tuberculosis, the skin diseases that still prevail in prisons.

iv. Develop and provide human rights training to prison officers;

v. establish or designate Independent National Bodies mandated to undertake regular visits to Prisons and grant requests for prison visits from Civil Society Organizations and other

stakeholders;

- vi. Conduct independent and timely investigations into any deaths or reports of ill-treatment in pre-trial detention, and bring perpetrators to justice;
 - vii. Grant authorization for promotion missions and prison visits requested by the Special Rapporteur to Member States;
 - viii. Include adequate information and statistical data on Prisons and other places of detention in State Reports submitted under Article 62 of the African Charter;
 - ix. Implement the recommendations and decisions of the Commission in Concluding Observations, Urgent Appeals, Resolutions and Communications; and
 - x. Implement the following instruments adopted by the Commission in taking measures to ensure the respect for the dignity of persons deprived of their liberty:
 - a) Guidelines on Conditions of Detention, Police Custody and Pre-trial Detention in Africa (the Luanda Guidelines);
 - b) Principles on Decriminalization of Petty Offences in Africa
 - c) Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines);
 - d) Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa;
 - e) The Ouagadougou Declaration and Plan of Action on Accelerating Prisons and Penal Reforms in Africa; and
 - f) The Arusha Declaration on Good Practice in Prison Management.
 - g) The Kadoma Declaration on Alternative Measures to Effective Prison and the Challenge of Prison Overpopulation,
- Civil Society Organizations and National Human Rights Institutions

22. Civil Society Organizations and National Human Rights Institutions among other specialized institutions are urged to:
- i. Continue to monitor the conditions of prisons and places of detention in Africa and make recommendations presenting sustainable suggestions for improving the situation;
 - ii. Conduct regular visits to prisons and other places of detention to ensure respect for human rights not affected by the restriction, including the dignity of detainees;
 - iii. Submit shadow reports on State Periodic Reports submitted under Article 62 of the African Charter in relation to prisons and conditions of detention in States Parties; and
 - iv. Encourage other organizations working with prisoners who are interested in prisoners' rights to join forces with those of the Commission for better protection.
- Donors and Partners:
- i. Continue to provide financial and technical assistance to the Mechanism to carry-out the necessary research and gather information that will serve as a basis for the development of appropriate activities for better criminal justice systems in Africa.

B/ RECOMMENDATIONS ON POLICING AND HUMAN RIGHTS

State Parties

23. State Parties are urged to:

- i. Refrain from excessive use of force and subsequent violations of the human rights of individuals and take appropriate measures to put an end to such acts of abuse of authority by the Police and other Security Forces against civilians;
- ii. Undertake the necessary revisions of laws and amendments adapting them to existing regional and international instruments;
- iii. Develop appropriate initial and on-site training programs in the field of human rights for police officers and integrate materials on the performance of law enforcement in a state of

emergency (emergency, disaster and others);

iv. Dissemination, at all levels, of measures taken by States for conditions of exception;

v. In case of excessive use of force by the agents of public order and security, hold the agents declared as authors criminally and disciplinary;

vi. Disclosure of data on complaints and respective results of the investigation carried out, for public knowledge;

vii. Call on governments to provide law enforcement and security officers with appropriate work equipment and protective equipment;

viii. Promote the employment of women within the police and prison services;

ix. Disseminate and implement the instruments indicated below, training the Agents Responsible for Law Enforcement in its content:

a) Policing Guidelines during Demonstrations;

b) Luanda Guidelines;

c) Resolution ACHPR/RES.259 (LIV) 2013 on Policing and Human Rights; and

d) Resolution ACHPR/Res.103a (XXXX) 06 on Police Reform, Accountability and Civilian Police Oversight in Africa;

x. Provide information on the status of implementation of the Luanda Guidelines and Guidelines for Policing Demonstrations when submitting their Periodic State reports, as well as the Principles on the Decriminalization of Petty Offences in Africa;

xi. Establish or designate an Independent Civilian Police Oversight Institution where civilians can freely access and report/complain about cases of abuse and violence committed by Police officers;

xii. Ensure that laws and policies applied by the Police with respect to the need to counter-terrorism do not create sources of human rights violations especially during arrests and detention by the Police; and

xiii. Enhance Police cooperation within regional and sub-regional frameworks to provide the appropriate means for Law Enforcement Agents including the Police, to prevent terrorists' actions and protect civilians from such actions.

Civil Society Organizations (CSOs):

24. Civil Society Organizations are urged to:

i. Assist the Commission in mobilizing the society on the seriousness of the post-pandemic consequences and thereby on the need for dissemination of the experiences gained from good practices in some countries and in order to improve the police approach in times of crisis, exception or disasters.

ii. Assist the Commission to disseminate and promote the instruments relevant to Policing including the Luanda Guidelines, the Guidelines for Policing Demonstrations and the Principles on the Decriminalization of Petty Offences in Africa;

iii. Continue to monitor the conditions of detention and imprisonment in police custody; and

iv. Submit Shadow Reports on State Periodic Reports under Article 62 of the African Charter in relation to Policing and Human Rights.

Donors and Partners:

25. Donors and partners are urged to:

i. Provide financial and technical assistance to the mechanism to undertake relevant activities in the area of policing and human rights and specially to facilitate the dissemination and promotion of the Luanda Guidelines, the Guidelines for Policing Demonstrations; and the Principles on the Decriminalization of Petty Offences in Africa;

ii. The Mechanism has so far produced 13 Newsletters on Policing and Human Rights in Africa

and has started the production of Newsletter 14 on Police and Human Rights. I would like to urge donors and partners to renew and strengthen the support to the Mechanism for the continuing production of this Newsletter, which significantly contributes to awareness raising and promote human rights compliance policing in Africa.

CONCLUSION:

26. In conclusion:
i. I would like to take this opportunity to express my deep gratitude to all our partners, APCOF, DIHR, OSF, NANHRI, CICV and all members of the Regional Campaign to Decriminalize Small Crimes in Africa, for their continued assistance and support to the mechanism.
ii. I would also like to encourage other partners, including States Parties to collaborate with the Mechanism in holding trainings to disseminate the Commission's publications on prisons, policing and human rights:
iii. Finally, and of paramount importance, I would like to encourage the States-party to authorize promotion missions.

Luanda, on 28 April 2023

Signed by,

Maria Teresa Manuela