

**INTERSESSION REPORT OF THE MECHANISM OF  
THE SPECIAL RAPPORTEUR ON THE RIGHTS OF  
WOMEN IN AFRICA SINCE ITS ESTABLISHMENT**

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## **I- Introduction**

1. The present report is part of the celebration of the 25<sup>th</sup> anniversary of the African Commission on Human and Peoples' Rights (the Commission). It is presented in accordance with Rule 23(3) of the Rules of Procedure of the Commission and takes into account the recommendations made by the Commission during its 12<sup>th</sup> Extraordinary Session held in Algiers in July 2012.
2. The report outlines the progress made by the Mechanism of the Special Rapporteur on the Rights of Women in Africa (III), challenges faced (IV) and plans for ensuring greater protection of women's rights in Africa (V).

## **II – Establishment of the Mechanism of the Special Rapporteur on the Rights of Women in Africa**

3. The Mechanism of the Special Rapporteur on the Rights of Women is one of the oldest mechanisms of the Commission. It was established during the 23<sup>rd</sup> Ordinary Session held in Banjul, The Gambia. Its establishment is in line with the Commission's firm determination to promote the rights of women and girls and combat the discrimination and injustice that they continue to experience on the continent.
4. Over the years, the Mechanism has been chaired by three Commissioners and there have been a few amendments to its mandate. Its work, however, is mainly guided by the African Charter on Human and Peoples' Rights

(African Charter), the Maputo Protocol, the Heads of State's Solemn Declaration on Gender Equality in Africa and international conventions relating to the rights of women and children duly ratified by African States.

5. As such, the present mandate of the Mechanism is to, among other things:
- assist African governments in developing and implementing national policies to promote and protect women's rights in Africa, in accordance with the domestication of the Maputo Protocol and general harmonisation of domestic laws with the rights enshrined in the said Protocol;
  - undertake promotion and fact-finding missions to African countries which are AU Member States with a view to publicizing AU human rights instruments and investigating the situation of women's rights in the countries visited;
  - monitor the implementation by States Parties of the African Charter on Human and Peoples' Rights and its Protocol on the Rights of Women in Africa, in particular by preparing reports on the situation of women's rights in Africa and proposing recommendations to be adopted by the Commission;
  - where necessary, draft resolutions on the situation of women in African countries and propose them to the members of the Commission for adoption;
  - conduct a comparative study on the situation of women's rights in African countries;
  - establish guidelines for State reporting in order to enable Member States to better address issues relating to women's rights in their periodic and/or initial reports submitted to the African Commission.

6. This mandate was renewed five times with the adoption of Resolution 63 at the 34<sup>th</sup> Ordinary Session, Resolution 78 at the 38<sup>th</sup> Ordinary Session, Resolution 112 at the 42<sup>nd</sup> Ordinary Session, Resolution 154 at the 46<sup>th</sup> Ordinary Session and Resolution 205 at the 50<sup>th</sup> Ordinary Session.
7. By Resolution ACHPR/RES.38 (XXV) 99 adopted at the 25<sup>th</sup> Ordinary Session held from 26 April to 5 May 1999 in Bujumbura, Burundi, the Commission appointed its very first Special Rapporteur on the Rights of Women in Africa, Honourable Commissioner Julienne Ondziel Gnelenga of the Republic of Congo.
8. She was succeeded by Honourable Commissioner Angela Melo of the Republic of Mozambique who was appointed during the 30<sup>th</sup> Ordinary Session held in October 2001 in Banjul, The Gambia, and Honourable Commissioner Soyata Maïga of the Republic of Mali who was appointed during the 42<sup>nd</sup> Ordinary Session held in November 2007 in Brazzaville, Republic of Congo.

### **III – Progress made by the Mechanism since its establishment**

#### **A- Monitoring the drafting, adoption and ratification of the Maputo Protocol**

9. The Maputo Protocol is the reference legal instrument of the African system for the promotion and protection of women's rights. It was adopted on 11 July 2003 at the 2<sup>nd</sup> Ordinary Session of the African Union

held in Maputo, Mozambique, and entered into force on 25 November 2005.

10. The document was adopted thanks to the relentless and concerted efforts of the Mechanism's pioneer chairperson, African civil society organisations, government representatives and technical and financial partners involved in the promotion of women's rights.
11. The work of drafting the Protocol was done in each region of Africa through the organisation of workshops and seminars during which clarifications, improvements and amendments were made to the initial document. This phase was led by the Mechanism up to the meetings of government experts that were held prior to the adoption of the instrument in July 2003.
12. In order to speed up the entry into force of the Protocol after its adoption and promote its ratification across the continent, the Mechanism conducted an effective and constant advocacy campaign among the ministries of foreign affairs/external relations and parliaments of AU Member States through country missions and by sending notes verbales to diplomatic missions, as well as during the presentation of State periodic reports before the Commission in accordance with the African Charter.
13. As a result, after nine (9) years since its adoption, forty-seven (47) AU Member States out of fifty-three (53) have signed the Protocol and thirty-four (34) have successfully ratified it. These countries include: Angola, Benin, Burkina Faso, Cameroon, Cape Verde, DRC, Comoros, Côte d'Ivoire, Djibouti, The Gambia, Ghana, Guinea-Bissau, Equatorial

Guinea, Liberia, Libya, Lesotho, Mali, Malawi, Mozambique, Mauritania, Namibia, Nigeria, Uganda, Rwanda, South Africa, Senegal, Gabon, Congo, Seychelles, Tanzania, Kenya, Togo, Zimbabwe and Zambia. Two States, Cameroon and Congo, have ratified the Protocol and are on the point of depositing their instruments of ratification.

## **B- Drafting the Guidelines for State Reporting under the Maputo Protocol**

14. According to the provisions of Article 26 of the Maputo Protocol, “States Parties shall ensure the implementation of this Protocol at national level, and in their periodic reports submitted in accordance with Article 62 of the African Charter, indicate the legislative and other measures undertaken for the full realisation of the rights herein recognized”.
15. In order to encourage States that have ratified the Protocol to honour their obligations, the Mechanism, with the support of the Centre for Human Rights of the University of Pretoria, led the drafting of the Guidelines for State Reporting under the Maputo Protocol.
16. The Guidelines were adopted by the African Commission during its 46<sup>th</sup> Ordinary Session held from 11 to 25 November 2009 in Banjul, The Gambia. The document is an instrument for measuring the level of enjoyment of the rights of women and girls.

## **C- Organisation of the first regional conference on women's rights in Africa**

17. The Mechanism initiated the organisation of the first regional conference of the African Commission that was held in July 2010 in Bamako, Mali, under the theme: "The Role of the African Commission in the Promotion and Protection of the Rights of Women in Africa". The conference brought together over 85 participants from 18 West and North African countries representing States Parties, national human rights institutions, national and regional women's NGOs, and UN human rights agencies.

18. The overall objective of the conference was to highlight the role the African Commission can play in promoting women's rights in Africa and raise awareness about the Commission's protection mandate through its procedure of communications/complaints. The conference served as a forum for establishing networks among the various partners and ensuring visibility of the work of the Mechanism.

## **D- Collaboration between the Mechanism and States Parties**

19. As part of its mandate to publicize the Maputo Protocol and African and international instruments to protect women's rights, as well as investigate the general situation of women's rights in the various countries, the Mechanism was invited to participate in several seminars and workshops and undertook missions to the following countries: Tunisia, Ethiopia, Mauritania, DRC, Angola, Congo, Niger, Algeria, Libya, Burkina Faso and Cameroon.

20. Through these missions, it was noted that despite the challenges in promoting and protecting women's rights, significant progress has been made in several areas. Recommendations were made to the highest authorities and other stakeholders with a view to improving the level of enjoyment of women's rights.

21. With regard to collaboration with States Parties, it should be noted that the Government of South Africa supported the mechanism by providing an Assistant and a special fund.

### **E- Implementation by States Parties of the provisions of the Maputo Protocol**

22. During its missions and thanks to its meetings with States Parties, the Mechanism has made concrete progress in the protection of women's rights, particularly with regard to legislation. As such, several States Parties have adopted a Code of Persons and the Family reflecting gender equality, laws on reproductive health, laws on the protection of women against HIV/AIDS, laws on domestic and/or sexual violence, laws on equality or quotas, and laws to promote the education of girls and female literacy.

23. Several governments now have full-fledged ministries to empower women, children and the family. Most countries have adopted and implemented national gender policies, national action plans for the promotion of the rights of women and the family, national action plans for implementing UN Resolution 1325, and relevant sectoral policies in the area of maternal and child protection. With regard to socioeconomic achievements, several countries have adopted ambitious action plans to alleviate poverty among women by establishing funds



for women's empowerment and initiating land reforms with the aim of promoting women's access to social housing , land and agricultural loans.

**F- Collaboration between the Special Rapporteur, its counterpart UN mechanism and intergovernmental institutions working to promote and protect women's rights**

24. These partners include the ECOWAS Gender Development Centre, the International Development Research Centre (IDRC), Ottawa, Canada, the Centre for Law and Democracy, Montreal, Canada, and the Office of the UN Special Rapporteur on Violence against Women, Its Causes and Consequences.

25. As part of its collaboration with the ECOWAS Gender Development Centre, the Mechanism was given the task in 2009 to facilitate and coordinate the conduct of a survey in the 15 ECOWAS countries with the objective of identifying discriminatory practices and laws affecting women and making recommendations with a view to harmonising domestic laws with the Maputo Protocol and CEDAW.

26. The Mechanism also played an important role in 2010 in the drafting and adoption of the ECOWAS regional action plan for implementing UN Resolution 1325 on women's participation in armed conflicts.

27. With regard to collaboration with the IDRC, the Mechanism, in 2011, led the Science Advisory Board in charge of coordinating a survey on the political participation of girls in the following four countries: Mali, Burkina Faso, Senegal and Togo. The project included the organization of national seminars on

the presentation of the outcome of surveys and the development of a road map to promote the full participation of girls in the electoral processes of the countries concerned.

28. The Mechanism was involved in several activities of the Centre for Law and Democracy, Canada, in the area of strengthening women's rights in the Great Lakes countries and particularly on the issue of gender-based violence in the DRC.

29. As a result, in 2008, the Mechanism shared the findings of a mission on sexual violence that was undertaken in the DRC by the UN Special Rapporteur on Violence against Women, Its Causes and Consequences at the initiative of the Centre for Law and Democracy. During the occasion, the two mechanisms met with Members of Parliament and NGOs and gave lectures to Canadian students on violence against women and the impact of their respective mandates on the protection of women's rights in Africa.

30. Since then, the two mechanisms of the African Commission and the UN have strengthened their collaboration by exchanging information on country missions and the situation of women in countries in conflict, particularly on the violation of women's rights in Côte d'Ivoire, Guinea and recently in Mali.

## **G- Collaboration between the Mechanism and civil society organisations**

### **GIMAC**

31. – Since 2007, the Mechanism of the Special Rapporteur has been working in close collaboration with GIMAC (Gender is my Agenda Campaign) and

contributes its expertise during deliberations on women's rights and the formulation of recommendations to Heads of State and Government. GIMAC is a platform which brings together a network of regional and international civil society organisations advocating for the integration of gender into policies and programmes in Africa.

32. This platform which meets prior to each AU Summit has played an important role in the campaign for a continent-wide ratification of the Maputo Protocol and the assessment of the implementation of the Solemn Declaration on Gender Equality in Africa in six strategic areas (health, education, human rights, peace and security, women's empowerment, political governance and women's representation) with an impact on the lives of women.

33. Still with regard to GIMAC, the Mechanism was chosen as an ad hoc member of the *Gender Award* Selection Committee which presents an award, every two years, to African Heads of State who distinguish themselves by promoting gender through the enactment of laws and adoption of programmes and policies in the area of gender. The prize has been awarded to Presidents Abdoulaye Wade of Senegal, Thabo Mbeki of South Africa, Paul Kagamé of Rwanda, Armando Emílio Guebuza of Mozambique and Helen Sirleaf Johnson of Liberia.

## **FIDH**

34. The Mechanism of the Special Rapporteur has been collaborating with FIDH since 2009 on the international campaign launched by the NGO to promote the rights of women in Africa with the objective of expediting the ratification of the Maputo Protocol throughout the continent towards its effective implementation and an African continent worthy of women.

## **IPAS**

35. IPAS is an NGO with observer status with the African Commission working at the international and African level on issues relating to reproductive health and other complications related to unsafe abortion. It contributes significantly to the work of the Special Rapporteur with regard to promoting women's reproductive rights in accordance with the Maputo Protocol.

36. In 2010 and 2012, IPAS organised two retreats on women's reproductive health in Nairobi for Commissioners and Secretariat staff of the African Commission. The retreats were attended by doctors, experts and activists working to promote women's reproductive rights in Africa. The objective was to share information with the Commission on the appropriate strategies to enable African States to improve the reporting of their obligations under the Maputo Protocol.

## **The Centre for Human Rights of the University of Pretoria**

37. The Mechanism collaborates with the Centre for Human Rights of the University of Pretoria which provided significant support in the preparation of the Guidelines for State Reporting under the Maputo Protocol. In addition, the Centre is assisting the Special Rapporteur on other ongoing projects relating to its mandate, in particular the development of general principles in accordance with the provisions of Article 14 of the Maputo Protocol.

## **H – Active involvement of the Special Rapporteur in combating violence against women**

38. The Special Rapporteur was actively involved in combating violence against women. Special emphasis was laid on the situation of women in detention, harassed women journalists, and women victims of post-electoral violence. Its activities include urgent appeals, statements and letters sent to the authorities of the States Parties concerned. Mixed results were noted which calls for more of such activities.

## **I - Publications**

39. As part of its mandate, the Special Rapporteur coordinated studies on women's rights, wrote several articles and prefaces of documents, guides and reports relating to women's rights at the invitation of NGOs and intergovernmental and international organisations. It has published statements on a regular basis every March 8, International Women's Day, and every July 31, Pan-African Women's Day, ensuring to make a link between the theme of the ceremony and the relevant provisions of the Maputo Protocol and the AU Solemn Declaration on Gender Equality in Africa. Its publications are widely disseminated by the Secretariat of the African Commission in order to raise awareness about women's rights among a large number of women.

40. Since its establishment, the Mechanism of the Special Rapporteur on the Rights of Women in Africa has accomplished a lot in collaboration with other mechanisms of the African Commission and the UN system, States Parties, national human rights institutions and NGOs. However, there were some

difficulties and much is still to be done in order to ensure greater protection of the rights of women and girls in Africa.

## **IV- Difficulties faced by the Mechanism**

### **A – Low ratification rate by States of the Maputo Protocol and delays in depositing the instruments of ratification**

41. Since the Maputo Protocol was adopted in 2003, and despite the constant advocacy conducted by the Mechanism and civil society organisations, only thirty-four (34) out of fifty-three (53) States Parties to the African Charter have to date successfully completed the ratification process. Nineteen (19) have not yet done so. They include Botswana, Burundi, Central African Republic, Algeria, Sierra Leone, Somalia, Sao Tome and Principe, Sudan, Chad, Egypt, Eritrea, Guinea, Madagascar, Mauritius, Sahrawi Arab Democratic Republic, Niger, Swaziland, Tunisia and Ethiopia.

### **B- Non-compliance by States Parties with the Guidelines for State Reporting under Article 26 of the Maputo Protocol**

42. It was noted that since the entry into force of the Maputo Protocol in November 2005, no State Party has taken into account, when writing its periodic report in accordance with Article 62 of the African Charter, the guidelines established by the African Commission regarding the legislative and other measures adopted in relation to the Protocol.

43. This issue has been regularly noted by the Special Rapporteur during the presentation by States Parties of their periodic reports before the African Commission as an obstacle to the effective monitoring of the implementation of the provisions of the Maputo Protocol.

### **C – Insufficient collaboration between the Special Rapporteur and the AU Gender Directorate**

44. Even though its collaboration with the AU Gender Directorate has been commended earlier, it is true that such collaboration is insufficient. Being the two main AU mechanisms in the area of promoting women's rights in Africa, it would be expected to see the Mechanism and the AU Gender Directorate working in close collaboration, both in terms of constant information sharing and undertaking country missions and other activities in order to realize their common objectives.

45. There is need for the two institutions to work together in order to give impetus to their activities in an area where there are daily setbacks and achievements are marred by the various crises occurring in Africa and which affect women in particular.

### **V – Some observations on the challenges faced in protecting women's rights**

46 – An assessment of the implementation of the commitments made by States Parties under the African Charter, the Maputo Protocol and the AU Solemn Declaration on Gender Equality in Africa in the area of promoting and protecting women's rights, both at the local, national and regional levels, shows

that despite the existence of these relevant instruments, the situation of women's rights remains a source of constant concern.

**47 – In the area of peace and security**, despite the commitments contained in UN Resolution 1325, women's representation in armed and security forces and in peacekeeping operations is still very low.

**48 – As such**, States Parties have to implement sensitisation programmes for African troops on gender issues and appoint women as mediators and/or special envoys to participate in ongoing peace negotiations in Africa, particularly in Darfur, Somalia and Zimbabwe.

**49 – With regard to gender-based violence**, particularly in conflict countries, prevention and the protection of women against sexual violence and exploitation are inadequately ensured by the police and the public justice service. Moreover, NGOs working for the restoration of the dignity of women and to combat impunity conduct their activities without the necessary resources, such as is the case in the DRC, and often at the risk of the physical integrity and lives of their members. In addition, the victims seldom benefit from the necessary legal assistance.

**50 – States Parties** have to take the necessary measures to strengthen the judicial system, ensure the effective implementation of laws and implement programmes to provide psychological support, legal assistance, and socioeconomic reintegration assistance to women victims of violence.

**51 – Regarding women's human rights**, it should be noted that States Parties to the Protocol are taking long to harmonise some of their domestic laws with the provisions of the Protocol. As a result, it has been noted that there are still discriminatory laws and legislative gaps in crucial areas such as inheritance, access to land, marriage and custody of minors.

**52 – Moreover**, in spite of the training programmes for magistrates and lawyers on women's rights conducted in almost all countries, the regional and international conventions that have been duly ratified by States are rarely invoked in courts, thereby making their implementation difficult and their impact very limited regarding the elimination of violence and discrimination against women and girls.



53. It is urgent for the ratification process to be expedited and followed by the domestication and effective implementation of the Protocol and other relevant legal instruments. This requires that States have to exercise greater political will and that other relevant stakeholders should develop more synergies and strategies. There is therefore the need to continue to form alliances and coalitions for the protection of women's rights in the various regions of Africa.

54 – **In the area of health**, in spite of the commitments made by States Parties contained in plans, policies, programmes and declarations on malaria, HIV/AIDS, tuberculosis and other infectious diseases, negative social, cultural, economic and legal factors continue to threaten the lives and health of a large number of women and girls in our countries.

55 – Maternal death rate related to pregnancy and childbirth in Africa is still one of the highest in the world despite the adoption of legislation and corrective measures to protect the lives of women.

56. The situation is even worse in rural areas and requires greater mobilisation efforts by the international community and States Parties, the enactment of legislation to protect women with HIV/AIDS from all forms of discrimination, and the establishment of mechanisms to ensure their full participation in the process of providing access to health care and antiretroviral treatment.

57 – **In the area of education**, despite the concrete progress made by some countries, the problem of the education of girls and ensuring their school attendance beyond primary education remains unresolved. This requires, within the framework of attaining the MDGs and the objectives of the education for all campaign, greater commitment and financial resources from States Parties and greater involvement of communities, teachers and parents.

58 – **With regard to access to land and productive resources**, as a result of the traditional management of land and the existence of cultural stereotypes, access, control and exploitation of land and productive resources by women is limited and insufficiently regulated. It is for this reason that African women, through the Gender is my Agenda Campaign, made an important recommendation to the 11<sup>th</sup> Ordinary Session of the Assembly of Heads of State and Government to organise a continental roundtable on the Africa Land Policy Guidelines.

59. Among the challenges, it is worth mentioning the existence of harmful traditional practices such as female genital mutilation, early marriage and the acceptance by women and communities of domestic violence and forced early marriages despite the existence of laws. Other factors restricting women's empowerment include their low representation in elective positions and decision-making institutions, particularly in the magistracy, police, diplomacy and management.

## **VI- Plans for greater effectiveness of the Mechanism of the Special Rapporteur on the Rights of Women in Africa**

### **A – Concrete and effective involvement of Member States**

60. States play a crucial role in the promotion and protection of women's rights in Africa. All efforts will go in vain without the concrete and effective willingness of Member States.

61. States Parties to the Protocol have to honour their international and regional commitments by implementing the provisions of the Protocol, in particular by harmonising their domestic laws and enacting new laws to replace laws in which discrimination against women in law and in fact exists, as well as establishing mechanisms to monitor the effective implementation of laws to benefit women.

62. Moreover, the Mechanism plans to strengthen its collaboration with States Parties, establish dialogue with the relevant institutions, NHRIs and NGOs in order to promote the exchange of views on best practices with regard to eliminating laws and practices that create discrimination against women and girls in Africa.

## **B- Strengthening collaboration with international and regional mechanisms to protect women's rights**

63. The Special Rapporteur is already working with the support of a good number of mechanisms in charge of issues relating to women's rights. However, its collaboration has to be strengthened, in particular with the UN Special Rapporteur and the AU Gender Directorate.

## **C- Publicizing the work and mandate of the African Commission and its subsidiary mechanisms**

64. The African Commission and its subsidiary mechanisms, as well as African legal instruments to promote and protect human and women's rights in particular are not well known among government and other stakeholders at the country level. There is need to conduct awareness campaigns on these instruments and the work of the African Commission and its mechanisms at the regional and national levels.

65. Moreover, African NGOs should be encouraged to participate massively in the meetings of the Commission with the support of States and financial partners.

## **The need to increase the financial resources of the African Commission**

66. The financial difficulties faced by the African Commission restrict its mechanisms from constantly developing their activities. These constraints create obstacles to the promotion and protection of women's rights in Africa.

67. It goes without saying that the Mechanism of the Special Rapporteur cannot succeed in its mandate without the collaboration, assistance and support of the AU, governments, technical and financial partners, NGOs and NHRIs.

## **D- Enhancing protection of the lives of women and girls through the establishment of a Working Group on Reproductive Health in Africa**

68. Women's reproductive health is a major concern in Africa. Out of 5 million abortion cases every year worldwide, 4.2 million cases occur in Africa resulting

in the death of close to 30,000 women. In some African countries, these deaths account for 20% to 40% of maternal mortality.

69. As such, as a result of this avoidable tragedy, it is urgent to establish a Working Group which will strengthen the mandate of the Mechanism of the Special Rapporteur and will be tasked, among other things, to conduct concrete studies on reproductive health barriers in Africa, work with experts and propose to States Parties best practices and appropriate strategies to better protect the lives of women and resolve reproduction-related complications.

## **VI- Conclusion**

Since its establishment, the Mechanism of the Special Rapporteur on the Rights of Women in Africa has conducted activities that have been very successful. The various chairpersons of the Mechanism made significant contributions. They all worked relentlessly to achieve their mission with efficiency, devoted commitment and self-sacrifice in order to promote and protect women's rights.

Today, one can be proud of the visibility and importance of the Mechanism of the Special Rapporteur thanks to the combined and continued efforts. The promotion and protection of the rights of women and girls in Africa should be considered a priority for the sustainable development and future of the continent. It is worth noting that there is now a real and effective awareness at a high level about eliminating disparities between girls and boys and men and women as well as combating inequalities in families and at the work place, in particular regarding access to and participation in economic and political decision-making.

8 March 2011 marked the 100<sup>th</sup> anniversary of International Women's Day. As usual, an update on the global situation of women's rights was presented at the UN General Assembly.

On that occasion, the UN Secretary-General deplored in his message the fact that girls and women continue to experience unacceptable discrimination and violence, particularly in conflict zones where sexual violence is deliberately and systematically used to intimidate women and whole communities.

Even though the vast majority of this category of vulnerable people lives in Africa, the situation should not be considered as unavoidable. Everything is possible if we show willingness and contribute the necessary financial and other resources.