Special Rapporteur on Rights of Women in Africa - 710S

Apr 22, 2022

INTRODUCTION

1. 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 in line with its Resolution ACHPR/res.38 (XXV) 99 of 5 May 1999, I present this Report in my capacity as the Special Rapporteur on the Rights of Women in Africa.

2. The Report, which is presented in three (3) parts, covers activities carried out during the intersession period after the 69th Ordinary Session of the Commission, held virtually from 15 November to 5 December 2021. Part one covers my activities as Special Rapporteur on the Rights of Women in Africa; Part two gives an overview of the status of women and girls during the intersession period; and finally, Part three of the Report highlights conclusions with recommendations.

PART ONE: ACTIVITIES AS SPECIAL RAPPORTEUR ON THE RIGHTS OF WOMEN IN AFRICA

A. Planning Meeting on the Workplan of the Special Rapporteur for 2022 and 2023 3. On 31 January 2022, I held a Meeting with relevant staff of the Secretariat supporting my mandate to discuss activities to be implemented in 2022 and 2023. The purpose of this meeting was to develop the Commission's Workplan and Roadmap of the Mechanism.

B. Consultative Meeting with the Special Rapporteur on Violence Against Women 4. On 2 February 2022, I had a consultative meeting and briefing with the Special Rapporteur on Violence Against Women (SRVAW), Reem Alsalem. During the meeting, she updated me on the mandate of the SRVAW and we also discussed possible areas of collaboration with the two mandates.

5. She also updated me on the deliberations of the EDVAW Platform meeting held on 28 January 2022. The EDVAW Platform is a forum of cooperation among UN, and global and regional women's rights mechanisms established to develop strong cooperation and synergies among independent UN and regional mechanisms on violence and discrimination against women.

6. The Meeting of 28th January 2022 was convened to discuss side events at the CSW66; make proposals on the proposed new Treaty on Gender-Based Violence (GBV); and discuss the United Nation's (UN) Secretary General's proposal on gender equality and GBV issues; amongst other things.

C. Annual High-Level Accountability Platform on Harmful Practices in Commemoration of the 2022 International Day of Zero Tolerance for Female Genital Mutilation 7. On 6 February 2022, I was invited by the African Union Commission to Participate in the Annual High-Level Accountability Platform on Harmful Practices in Commemoration of the 2022 International Day of Zero Tolerance for FGM. The theme of the Conference was "How the African Union invests in Accountability for Girls and Women's Human Rights." The Conference was organised within the context of the Saleema Initiative on the elimination of FGM.

8. The event was led by the Saleema Youth Victorious Ambassadors, and convened the main stakeholders involved in the design and the implementation of the Saleema Accountability Framework in Africa, in order to discuss the main challenges they face, as well as exchange best practices.

9. During the event, I made a presentation on how the Commission is holding African Union Member States accountable in eliminating harmful practices. In my presentation, I informed

Participants that as a regional human rights framework, the Commission has a unique role to play in holding Member States accountable on eliminating harmful practices. Particularly, holding States accountable to meet their reporting obligations; quality of reporting; and demanding use of data and evidence.

10. I also informed Participants about the follow-up and review post State report presentation which is critical to the process, as Member States are primed to conduct adequate reporting, ensuring there is a supportive environment for stakeholders to contribute in national reports, to draft shadow or parallel reports, to participate in State party report presentation and follow-up/ review missions.

11. My presentation also highlighted the Commission's efforts in protecting women and girls from harmful practices, including the "Joint General Comment of the African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child on ending Child Marriage," developed by the Commission and the African Committee of Experts on the Rights and Welfare of the Child (the Committee). The Commission and the Committee are also in the process of developing Joint General Comment on FGM.

D. Judicial Conference on Women, Children and the Law

12. On 10 February 2022, I took part in a Conference organised by the Judiciary of The Gambia, in collaboration with the Female Lawyers Association-Gambia (FLAG). I was invited in my capacity as the Founder, the first President and current adviser of the FLAG, and in my new role as the Special Rapporteur on the Rights of Women in Africa. As such, I was tasked with the duty to contribute and share my experience on matters relating to women and the law, the challenges encountered by them in seeking redress before the Courts, and the way forward.
13. In my remarks, I recounted the contribution of FLAG since its establishment in 2006. I laid emphasis on FLAG's immense contribution to the promotion and protection of the rights of women and children in The Gambia; through the provision of pro bono legal advice and representation before the courts in The Gambia, and lobbying for the domestication of International and Regional legal instruments protecting and promoting the rights of women. I underscored that the work of FLAG and that of the mechanism of the Special Rapporteur on the Rights of Women in Africa is very relevant to the theme of the Judicial Conference.
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14. My overall presentation focused on property rights of women, challenges posed by the plural legal system-with special reference to inheritance rights of women, cultural and traditional perception on the inheritance rights of women, marital status and rights, and the process of administration of intestate estates under the laws of The Gambia. I also took the opportunity to raise awareness on the General Comment No. 6 Of The Protocol To The African Charter On Human And Peoples Right On The Rights Of Women In Africa (Maputo Protocol): The Right To Property During Separation, Divorce Or Annulment Of Marriage (Article 7(D)). I also used the platform to urge the lawyers and members of the judiciary to have regard to the General Comment in interpreting provisions of the national law relating to property rights of Women.

E. Consultation with the Centre for Human Rights, University of Pretoria

15. On 24 February 2022, I held a Meeting with the Centre for Human Rights (CHR), University of Pretoria, a long-standing Partner of the Commission. The Women's Rights Unit of the Centre has over the years provided technical support to the Office of the Special Rapporteur on the Rights of Women in Africa. The Meeting was convened by the Women's Rights Unit to discuss areas of collaboration and identify technical support as necessary.

F. Consultation with Association for the Prevention of Torture

16. On 28 February 2022, the above-mentioned consultation took place with Luce Ahouangnimon (Senior Adviser Detention and Mobilization) & Jean-Jacques Gautier of the Association for the Prevention of Torture.

17. During the meeting, we explored possible areas of collaboration within my mandate, so as to design an in-depth course on gender-sensitive monitoring which will specifically be tailored to give visibility to, and address the specific risks of discrimination, abuse and ill-treatment faced by women deprived of liberty. The course intends to strengthen the capacity of New Public Managements (NPMs) of Togo, Rwanda and South Africa to adopt and apply gender-sensitive monitoring, collect first-hand information on women detainees and make recommendations and advocate for the improvement of their treatment.

G. Inception Meeting with Consultant for Joint General Comment on FGM

18. As previously reported, on 1 October 2021, my predecessor held a Meeting with the Committee and agreed to develop a Joint General Comment on the prohibition of FGM. This was done within the framework of the existing collaborative partnership between African Union Organs with a human rights mandate.

19. On 3 March 2022, together with Members of the Committee, we met with the Consultant tasked with responsibility of developing the Joint General Comment on FGM. During the meeting, we discussed the outline of, and matters to be elaborated in the Joint General Comment.

20. The Meeting, amongst other things, discussed the Action Plan for the Joint General Comment and impending Consultation Meeting with stakeholders.

21. According to the Action Plan of the Joint General Comment, elements of the draft Joint General Comment will be presented during this Session, following which, Consultations will take place with stakeholders.

H. Press Statement on the occasion of "International Women's Day"

22. On 8 March 2022, I published a Statement on the occasion of the International Women's Day with the theme, 'Gender equality today for a sustainable tomorrow,' available on the website of the Commission and tweeter handle: <u>https://t.co/hd1ZQV1nBl</u> -

English <u>https://twitter.com/achpr_cadhp/status/1501116817758208001</u> - Tweet <u>https://t.co/x9TpbyyUS1</u> - French

https://twitter.com/achpr_cadhp/status/1501116592205099008 - Tweet

23. The theme underlines the importance of ensuring ultimate gender equality in order to allow women to take up their important role in creating a sustainable future, and to lend their voice and expertise to mitigating climate change.

24. In my Statement, I reiterated that women's full participation and contribution to the climate change adaption can be guaranteed by their adequate access to information and participating in knowledge management through the safe use of Information Communications Technology (ICT). Specifically, the role of women in mitigating climate change and effectively taking part in conflict prevention can only be enhanced by their consistent access to information through ICT. Their access to information also positively impacts the growth of development on the continent and helps to end the cycle of poverty.

25. I underscored that International Women's Day is an opportune moment to reflect on the plight of women in armed conflict and the challenges African women face in participating online as hindrances to achieving gender equality.

I. EDVAW Platform event on the digital dimension of violence against women and girls 26. On 15 March 2022, I participated in the virtual Side Event of the CSW organised by the EDVAW Platform, on the theme "Digital dimension of Violence Against Women". I made a presentation on 'Online violence against women in Africa.'

27. In my presentation, I highlighted the fact that with the advancement of technology blowing up globally, it is crucial for the women on the African continent to equally participate and engage with emerging technologies. I reminded Participants about the "AU's Agenda 2063-The Africa We Want", which recognises ICT as a vital component for the development of the

continent, and that access to the internet should be considered a right.

28. I underscored that despite the low percentage of women regularly accessing the internet, a significant number of them have or continue to suffer violence online. Online violence manifests in different ways to include stalking, unsolicited pornography, doxing (sharing of personal information online), cyber-bulling and the non-consensual releasing of intimate pictures. It is sometimes targeted at prominent women in politics, journalism or other public profiles but it also affects ordinary women who access the internet.

J. Awareness raising briefing for civil society organizations on the use of regional and United Nations human rights mechanisms to tackle violence and discriminationagainstwomen 29. On 15 March 2022, I was invited as a Panellist in the above virtual event, organised by the CSW/NGO network. My contribution was focused on: Overview of the African human rights system with a focus on violence and discrimination against women & views from the Special Rapporteur on the Rights of Women in Africa of the African Commission on Human and Peoples' Rights.

30. During the Panel, I explained the role of the Mechanism in combating Violence Against Women (VAW) and discrimination and how Civil Society Organisations (CSOs) can engage with the African human rights system. In my presentation, I also explained the root causes of VAW and girls which includes discrimination, gender stereotypes, and sexism. I also highlighted the laudable initiatives under the African Human Rights System to combat VAW, in particular, the Maputo Protocol. I reiterated that many provisions in the Maputo Protocol address VAW and establish various legal reform obligations; the most important being Article 4(2) of the African Charter, which enjoins States Parties to 'enact and enforce laws to prohibit all forms of violence against women.' State Parties are also required to enact legislative and other measures aimed at preventing, punishing and eradicating all forms of VAW.

31. I also noted that, most, if not all human rights instruments do not specifically address the issue of online/cyber violence which is an increasing problem worldwide and often gender-based and targeting women and girls.

32. Furthermore, I highlighted the specific role of the Mechanism in protecting women from violence and discrimination, including sponsoring Resolutions relating to women's rights in general, and violence against women in particular. These include inter alia, ACHPR/res.284 (Iv) 2014: Resolution on the suppression of sexual violence against women in the DRC; ACHPR/res.283 (Iv) 2014Resolution on the situation of women and children in armed conflict;

ACHPR/res.173 (xlv111) 10: Resolution on the crimes committed against women in the DRC; ACHPR/res.111 (xxxxii)07: Resolution on the right to a remedy and reparation for women and girls' victims of sexual violence. Most importantly, the Mechanism together with its Partners, prepared Guidelines on Sexual Violence and its Consequences which have been adopted by the Commission and currently at the popularisation stage.

33. In conclusion I informed Participants on how CSOs can collaborate with the Mechanism in particular, and the Commission in general, to end VAW by, applying for Observer Status before the Commission, in line with its Criteria for granting Observer Status; using existing international norms and standards, national policies and commitments on gender equality and women's empowerment; working together to enhance partnerships among Government institutions, gender-specific ministries, organisations and agencies, and gender experts in order to promote gender mainstreaming in developing and implementing environmental and sustainable development policies, programmes and projects; and supporting non-governmental and community-based organisations working on gender equality and women's empowerment.

K. Forum on Integrating a Protect, Respect, and Remedy Approach Business and Human Rights in Africa, as a Lever towards the Acceleration of Human, Social, and Economic Capital Development.

34. On 12 April 2022, I took part in the above Forum organised by the Network of African National Human Rights Institutions. I made a presentation on 'Perspectives on gendered dynamics of fisheries and sustainable oceans.'

35. In my presentation, I stated that the UN Sustainable Development Goal (SDG) Number 14 has often been cross cited with SDG 5, underlining the importance of gender equality, inclusion and empowering of women in life below water. Two important factors come into play: the effect that unhealthy oceans have on women and the domestic life, as well as economic and technological empowerment of women.

36. I noted that the rights of women in fisheries in a sustainable environment resonate with various provisions of the Maputo Protocol, including Article 15 which guarantees women's right to food security which is an essential component of the fisheries industry; Article 18 which guarantees the right to a healthy, sustainable environment with an emphasis on the right of women to participate in the planning, management and preservation of the environment and sustainable use of natural resources; and Article 19 which guarantees women's right to sustainable development, ensuring women are involved in the conceptualisation and decision-making of development programmes, as well as access to and control over productive resources to reduce poverty among women.

37. I also highlighted the fact that women face a lot of challenges in the fisheries sector: forced to balance their reproductive and household work with productive labour, thus limiting their ability to accumulate capital and experience; and grossly under-represented in the fisheries governance institutions, thus limiting their ability to contribute to conservation strategies that ensure sustainability of their fishing activities; cultural proscriptions against taking on certain types of work, thus limiting their skills development and income-generating capacity; and lack of gender disaggregated data on the role of women in the fisheries sector and working conditions. 38. In my recommendations, I called on policy makers to develop marine and fisheries policies that take into consideration the historical, economic, cultural and environmental context that affect women, gender roles, relationships and dynamics. I also called on States to prioritise collection of gender disaggregated data which helps them to develop policies that are targeted at the specific needs of women, especially around conditions of work, labour rights and access to skill and finance. NHRIs should also take up a role in investigating the condition of women in fisheries and contribute to the data compilation process. Finally, I encouraged Partners to collaborate with the Office of the Special Rapporteur to brainstorm on ways to improve the lives of women in fisheries in fulfilment of Articles 15,18 and 19 of the Maputo Protocol.

L. Consultation on Regional Convention on the elimination of VAW and Girls in Central Africa

39. On 14 April 2022, I had a consultative meeting with the Consultant tasked with the responsibility of developing a Regional Convention on the elimination of VAW and Girls in Central Africa. The project is co-managed by the Economic Community of Central African States (ECCAS) in partnership with UN Women West and Central Regional Office. The Consultant sought to elicit the perspective and views of my mandate on the development and the need for such a Regional Convention.

40. Apart from VAW in Central Africa, we also discussed the relevance and added value of such a regional Convention. In discussing this, we also considered the current initiative of the AU to develop a Convention to end VAW that is applicable to the continent as a whole. I also highlighted the possibility of potential duplications, and the capacity for an enforcement and follow-up mechanism.

PART TWO: Brief overview on the situation of women and girls in Africa

41. During the intersession period, I noted the following triumphs and challenges on the

situation of women and girls on the continent.

42. The AU, during the commemorations of the International Women's Day 2022, launched the 'What African women want' campaign to rally for more action on women's empowerment. This is a welcome development that seeks to popularize and advocate for the full and speedy implementation of the A Strategy for Gender Equality and Women's Empowerment (2018-2028) as well as the implementation of programmes under the African Decade of Women's Financial and Economic Inclusion (2020-2030).

Botswana

43. I welcome the progressive decision advancing women's rights in Botswana. On 29 March 2022, the High Court of Botswana awarded damages in the case of GMJ v Attorney General against the State for negligence in the provision of reproductive health services. The Plaintiff had undergone a hysterectomy which was not done properly. In addition, she was not given proper postoperative care resulting in her suffering physical and psychological damage.

44. I however note that Botswana remains one of the countries that has not yet ratified the Maputo Protocol, and is yet to show indications of the intention to ratify the instrument. Gabon

45. Gabon has struggled with inequality for a while, with the International Labour Organization reporting that the Central African country's female labour force participation rate for those aged 15 to 64 is 45% compared to nearly 64% for men in the same age group.

46. It is encouraging to note that Gabon has enacted a new law on the elimination of all forms of violence against women. In addition, the law prohibits discrimination in the economy and amends legislation to include women's financial inclusion and more access to employment. Malawi

47. Malawi statistics indicate that the sexual assault and rape of minors (mostly aged between 13-17 years) is higher than that of adult women. Police in the country have speculated that this is fueled by superstitious beliefs that raping a child brings wealth or luck.

48. Considering these disturbing statistics, the High Court in Malawi on 18 January 2022 sentenced a police officer, Andrew Chigaga to 30 years imprisonment for raping a a minor in police custody. This follows a decision by Justice Kapindu in 2021, where a previously imposed sentence of 14 years for rape of a minor was revised upwards to 40 years after the accused person appealed the sentence. This is a clear signal on the non-tolerance of impunity and abuse of power in Malawi and reflects on the country's commitment to eliminate violence against women and girls.

South Africa

49. South Africa is one of the countries plagued by an alarming number of cases of VAW and femicide. I note however that during the intersession, on 28 January 2022, South Africa signed into law 3 progressive laws on VAW. These were the Criminal Law (Sexual Offences and Related Matters) Amendment Act; Criminal and Related Matters Amendment Act and the Domestic Violence Amendment Act. Among other things these laws provide for the compulsory registration of sexual offenders on a national registry which goes a long way towards protecting women and girls. In addition, the laws have improved ease of access to protection orders, with women now being able to apply for them online instead of going to the Court. The laws have also expanded domestic violence to include several other intimate relationships beyond just marriage.

50. While these are welcomed developments, I note with grave concern the reports about the 902 women that were murdered in South Africa in the last quarter of 2021 alone. These numbers are unacceptable and indicate an endemic problem in society. Online/Digital VAW

51. Regulation of online VAW still proves to be a challenge on the continent. Many countries do not have laws that are specific to the phenomenon, so more needs to be done to ensure that online VAW is taken seriously.

Affirmative Action and Women's Representation in Parliament Nigeria

52. Women's representation in Parliament remains a concern in most African countries. On 2 March 2022, women in four (4) States in Nigeria took to the street to protest the Senate's wholesale rejection of five (5) gender equality Bills. Among other things, the Bills sought to put more political power in the hands of women by reserving 35% of seats for them. They also sought to confer citizenship to foreign-born husbands of Nigerian women (currently the law only automatically confers citizenship to foreign-born wives of Nigerian men and not vice-versa which is discriminatory). The protest by women yielded results when hours later the Senate rescinded its decision of three (3) of the Bills and undertook to consider them at its next convening.

The Gambia

53. In February 2022, a female member of the National Assembly of The Gambia, Hon. Fatoumatta Njie, with strong support from a coalition of CSO's in The Gambia, (CSO's Gender Platform), championed a Private Member's Bill for an amendment of the Constitution to include provisions for the reservation of seats in the National Assembly, for women and persons living with disabilities. Unfortunately, the Honourable member failed to obtain the requisite majority in the National Assembly, for the enactment of the Bill. This was indeed a missed opportunity for the promotion and protection of women's political participation in The Gambia.

54. Furthermore, in The Gambia's recent Parliamentary elections, held on 9 April 2022, out of forty-eight (48) seats that were contested, only three (3) women were elected, The President by virtue of Section 88(1)(b) of the Constitution of The Gambia, 1997 has the power to nominate five (5) members. Out of the five (5) members that were nominated, two (2) are women. As it stands, out of fifty-three (53) seats in Parliament, only five (5) are women, thus, lending credence to the need for affirmative action.

Ratification and Implementation of the Maputo Protocol

55. Ratification and implementation of the Maputo Protocol remains a challenge. The Mechanism on Women's rights has repeatedly underscored that the Maputo Protocol has the potential of being a powerful tool for change. Gains have been made since the adoption of the Maputo Protocol. This is evident through increased adoption of legislation addressing discrimination against women. In addition, progress has also been ascertained in the ratification of the Maputo Protocol remains a challenge and has been admittedly slow. Implementing the Maputo Protocol requires commitment by governments to gender equality as well as strategic efforts by civil society to hold States accountable to their obligations under the Maputo Protocol.

56. Furthermore, ratification comes with various State obligations, one of which includes State Reporting. State reporting is an essential component in monitoring the implementation of the Maputo Protocol. Generally, State Reporting serves a number of crucial functions that includes: stocktaking of

the concrete steps undertaken by ratifying States towards compliance with treaty obligations; identifying problems and challenges to full implementation of treaty obligations; and providing an opportunity for constructive engagement with the Commission in order that State Parties may benefit from their recommendations.

57. Article 62 of the African Charter and Article 26(1) of the Maputo Protocol outlines the obligations that ratifying States hold with respect to State reporting. State parties commit to submit a report every two years from the coming into force of the treaty, detailing the

legislative and other measures they have taken to ensure the realization of the rights of women. In line with this mandate to oversee State Reports, the Commission adopted Guidelines for State reporting under the Maputo Protocol. In doing so, the Commission provides a benchmark for States undertaking reporting. States that are party to both the African Charter and the Protocol are expected to submit one report with Part A of the report dealing with the Charter and Part B being dedicated to the Maputo Protocol. The reporting obligation assists State parties in the full implementation of the Protocol at the national level and allows the Commission to assess the extent to which the Protocol's obligations have been met. However, despite this existing obligation, the Maputo Protocol like other African human rights treaties before it, continue to suffer a similar fate of nonreporting or late submission of reports.

PART THREE: CONCLUSIONS AND RECOMMENDATIONS

58. In view of the above developments, allow me to make the following recommendations: To the Government of Botswana

- The Government of Botswana is urged to ensure that the judgment on reproductive rights as well as similar judgments that advance the rights of women, are fully and speedily implemented.
- I also take this opportunity to encourage once again the Government of Botswana to ratify the Maputo Protocol in order to ensure the full protection of the rights of women in Botswana.

To the Government of Gabon

- To continue working towards the improvement of women's lives in the country, most importantly by ensuring that enough budgetary allocations are made towards the implementation of the newly enacted laws in order for them to be effective.
- The Mechanism also encourages the Government of Gabon to ensure that women are included, and they meaningfully participate in decision-making regarding their economic empowerment.

To the Government of Malawi

• The Government is encouraged to increase community-based awareness campaigns in order to eliminate harmful traditional beliefs that are resulting in the sexual assault of children. The office of the Special Rapporteur remains available to engage with the State on the best ways to eliminate harmful practices in the country.

To the Government of South Africa

• While the Government is applauded for reviewing the laws on VAW, it is urged to take more decisive and concrete steps to eliminate the alarming rate of VAW in the country. It is encouraged to implement the laws fully and ensure stiff penalties for offenders as a deterrent to would-be offenders.

To the Government of Nigeria and The Gambia

• I note with interest the progressive content of the laws that are the current subject of contention. The Government is urged to take into consideration all stakeholders' views especially the voices of the women in deliberating on the laws. It is encouraged to have a transparent, consultative process in finalizing the laws. The Mechanism will continue to monitor the progress made in enacting these laws;

• The Government of Nigeria and The Gambia should ensure proportional representation systems to afford more opportunities for women's participation in politics; and adopt Quota Policies with efficient mechanisms for increasing the number of women participating in political processes.

On Cyber Violence:

- States should enact and implement robust laws on cyber-security and specific laws on online VAW;
- States should undertake training of law enforcement agents on identifying and prosecuting cases of online VAW. This includes sensitisation on the gravity of the cases;
- Awareness raising and information dissemination- the majority of cases are not reported because women are unaware that online violence is as much a serious issue as offline violence;
- Internet intermediaries need to be involved to include safety measures for women and communicate these clearly to their users, coupled with clear penalties for offenders.

On ratification and implementation of the Maputo Protocol

- Despite progress ascertained in ratification, we still have a few steps to go. I would like to call on those States that have not yet ratified the Maputo Protocol, to do so. I urge you to join the league of distinguished nations that have realised that the prioritisation of women's concerns is key to their nationhood and development. To delay ratifying the Maputo Protocol would further deny millions of girls and women the rights and freedoms enshrined in the Protocol;
- In addition, to also ensure that all African women benefit from the rights provided in the Maputo Protocol, African States that have made reservations during ratification of the Maputo Protocol are urged to lift those reservations. We believe in and are committed to the full implementation of the Maputo Protocol without reservations;
- All Member States are also reminded of their unassailable treaty obligation to submit periodic State Reports. Members of civil society are also encouraged to submit shadow reports, which greatly enhance the Commission's assessment of State Reports. This is one of the areas where we need to see more progress.

CONCLUSION

59. On a final note, I express my gratitude to all Partners of the Mechanism. All the achievements registered by the Special Rapporteur on the Rights of Women in Africa since its inception would not be possible without your financial and technical support.