

REPORT ON ATTENDING THE 47TH SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLE'S RIGHTS

By

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Introduction

The ACHPR met in Banjul for its 47th Ordinary Session from 12 to 26 May 2010 at the Laico Atlantic Hotel. The session was originally scheduled to be held in Tunis, but was relocated at a late stage. I arrived in Banjul on the evening of 9 May 2010 and left for South Africa on the evening on 13 May 2010.

NGO Forum

The ACHPR NGO Forum was held at the Kairaba Hotel in Banjul from 8-10 May 2010 and attended by a substantial number of NGO representatives. The forum is organised by the African Centre for Democracy and Human Rights Studies (ACDHRS) in collaboration with the African Commission on Human and Peoples' Rights. I attended the forum on 10 May 2010. A copy of the NGO Forum Declaration has been requested and will be circulated when it becomes available.

Meeting at ACHPR offices

On 11 May 2010 I visited the offices of the ACHPR in Banjul, accompanied by Ms D Long from the University of Bristol, Human Rights Implementation Centre. We had a meeting with Dr Feyi Ogunade, Senior Legal Officer to Commissioner Dupe Atoki. Commissioner Atoki is Special Rapporteur on Prisons (SRP) and also Chairperson of the Committee for the Prevention of Torture in Africa (CPTA); formerly the Follow-up Committee on the Robben Island Guidelines (RIG).

In the course of the meeting with Dr Ogunade, copies of CLC's most recent annual report was deposited with the Commission as is required for organisations with observer status. For future reference, Mr. Sheikh Tijan Hydara is the contact person for depositing annual reports.

Follow-up was also made on the MOU that was reportedly approved at the Commission's 46th Session, but for which no further information could be gathered as to the status of the MOU prior to this visit. After numerous enquiries over the next three days, the MOU was signed and a copy is attached as Appendix 1.

The meeting with Dr Ogunade also dealt with the recent proposal submitted jointly by a consortium of which CLC-CSPRI is part of, to the European Commission (European Instrument for the Development of Human Rights –EIDHR). The partnership consists of UCT (Gender Health and Justice Research Unit); UWC (CLC-CSPRI); University of Bristol (Human Rights Implementation Centre), and the African Policing Civilian Oversight Forum (APCOF). The proposal sets out a project on the prevention and eradication of torture in six post-conflict African states, being Burundi, Kenya, Mozambique, Rwanda, South Africa and Uganda. The project methodology relies substantially on cooperation with two of the ACHPR Special Mechanisms; the SRP and the CPTA. The purpose was to pave the way for further discussions if the proposal is accepted by the EC-EIDHR.

A visit was also paid to the documentation centre of the ACHPR and it was apparent that only a limited number of the more than 300 NGOs with observer status submit copies of their publications and annual reports as required. In pursuit of the MOU referred to above, it will be necessary to submit a comprehensive set of copies of CLC publications to the ACHPR documentation centre.

47th Ordinary Session

The 47th Ordinary Session was attended from 12 – 13 May 2010. Due to other commitments it was not possible to stay longer at the session. Agenda items on 12 May 2010 dealt with the opening ceremony for most of the day and statements from states started in the late afternoon. Statements from states continued on 13 May 2010 while statements from NHRI and NGOs were also being heard. CLC's statement was the first NGO statement to be heard. The statement focused on pre-trial detention in Africa and a copy is attached as Appendix 2. Based on approaches from other NGOs after the statement and media enquiries it is concluded that it was well received. Commissioner Atoki also requested an electronic copy.

On the morning of 13 May 2010 Ms D. Long and I met over breakfast with Commissioner Atoki and Dr Ogunade to discuss a number of issues. The description below will only deal with CLC-CSPRI related matters. The purpose of the meeting was to identify and agree to tangible areas of cooperation between CSPRI and the SRP and CPTA.

- Commissioner Atoki was briefed on the EIDHR proposal described above and in principle gave her support provided that the emphasis is placed on the Robben Island Guidelines.
- The Commissioner was also advised that CSPRI is in process of undertaking a survey of legislation in SADC that enables judges, magistrates and members of parliament to undertake visits to places of detention. The intention is that in countries where this is possible, that these functionaries be encouraged and supported to undertake such visits. A monitoring tool to facilitate this was developed by CSPRI and the Judicial Inspectorate in 2009 and can be used as a basis for similar tools in other SADC countries.
- The Commissioner was advised regarding the surveys that CSPRI will be undertaking shortly in Malawi and Zambia on case flow management, awaiting trial prisoners and prison management. She and Dr Ogunade were invited to make in-puts on the research design and data collection tools.

- The Commissioner was advised that the South African government is in process of drafting a bill on the criminalisation of torture and related matters and it is expected that the bill will be tabled in Parliament in 2011. In view of this, possibilities were raised about her support for the bill through interactions with Parliament. Such interactions will also serve to promote the work of the ACHPR in general. Commissioner Atoki was evidently enthusiastic about this possibility.
- Commissioner Atoki explained that over the years the SRP has not used a consistent format for reporting on missions to states and particularly not for assessing conditions of detention when visiting prisons. This has resulted in gaps in reports as well as inconsistencies between mission reports. In view of this she requested assistance for the development of such a monitoring tool as missions to at least one state is planned for the latter half of 2010. Given CSPRI's experience in developing monitoring tools for prisons, an offer was made to investigate this and develop a basic proposal on taking this forward. Subsequent to the meeting, informal discussions were held with the OSISA representative present at the meeting to establish if OSISA would be interested to support such an initiative. At this stage the assessment is positive.
- Commissioner Atoki explained that her office has funding available to produce a video on good practices in African prisons but that they have been experiencing difficulties in identifying such practices. An offer was made to use the CSPRI electronic newsletter subscriber list (1200 subscribers) to invite nominations of good practices that can be included in such a video.

Informal discussions were also had with Adv Lawrence Mshwana, Chairperson of the SA Human Rights Commission, who attended for the first time a session of the ACHPR. Introductions were also made to Mrs Kieswetter, representative of the South African government to the ACHPR.

Informal discussions were also held with Prof Frans Viljoen (University of Pretoria) on 13 May 2010 regarding cooperation between CLC and the Centre for Human Rights (CHR).

- The first issue was the topics identified by the LLM students for their theses and whether this can be guided in a manner that CLC's research needs can be better met, but also to ensure that students select topics that will enable supervision from CLC's fields of expertise. Prof Viljoen explained that the issue of topic selection has not been finalised for 2010 and the final selection is mutually dependent on the university selected by the student and the topic selected. In view of this, I offered to coordinate the issue of topic selection with the other CLC project coordinators and, if need be, pay a short visit to UP to discuss the issue further with staff and students at the Centre for Human Rights.
- Prof Viljoen informed me that Prof Christo Heyns has reportedly been nominated as UN Special Rapporteur on Extra-judicial, Summary or Arbitrary Executions and chances are good that he will receive the necessary support to take up the position. If Prof Heyns is indeed successful, he regarded this as a possible area for substantive cooperation between CLC and the CHR through support rendered to the Special Rapporteur. Depending on whether Prof Heyns' nomination is indeed successful, the issue may need to be discussed further.
- Informal discussions were also held with former CLC student, Japheth Biegon, who is now an LLD candidate at CHR. From this discussion it appears that the Dept. of Justice and Constitutional Development had requested, in January 2009, the CHR to draft South Africa's

periodic report to the UN Committee against Torture. Progress has, however, been slow due to the Department not providing the CHR with the necessary information. Compliance with UNCAT has been one of CSPRI's focal areas and cooperation with CHR will be pursued in this regard.

Logistics

As noted in a previous report, attending the sessions of the ACHPR, especially when held in West Africa, is extremely expensive and time consuming. In view of this, the decision to attend only one session per year remains a sound one. However, there is reportedly growing pressure on the South African government to host the next session in November 2010 and this may enable attendance of a second session in 2010.

It should also be noted that a compilation of CLC publications was prepared to submit these to the ACHPR during the 47th Session. However, through incompetence on the part of the courier company the package was delivered to the wrong address in Pretoria (from where I was departing for Banjul) and I was thus not able to take it along to Banjul. Subsequent arrangements were made to have the package delivered to the ACHPR Documentation Centre in Banjul at no further charge to CLC.

There were also some problems with the accommodation bookings *en route* to Banjul as Duma Travel failed to make a reservation for accommodation in Dakar for the night of 8/9 May 2010. This was resolved at the last minute but resulted in additional expenses as more affordable accommodation could not be secured.

Way forward

After nearly two years the MOU bring a new dimension to CLC's interaction with the ACHPR. In this regard it will firstly be important to provide some publicity to the MOU. Secondly, arrangements need to be put in place to ensure that CLC meets its obligations under the MOU. Thirdly, CLC needs to promote itself with the ACHPR and its commissioners to ensure that requests for research can be generated and funding sought for such research.