

# **AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS**

## **The role of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions**

### ***Introduction***

Amnesty International's concern with strengthening the African system of human rights protection dates back to the establishment of the African Commission on Human and Peoples' Rights (African Commission) in 1987. For many years, the organization has formulated recommendations aimed at enabling the African Commission to take effective action against violations of the human rights enshrined in the African Charter on Human and Peoples' Rights (African Charter) and encouraging the Organization of African Unity (OAU) to provide political support for the work of the African Commission and to ensure effective implementation of its decisions. One such recommendation was the creation of a Special Rapporteur on extrajudicial, summary or arbitrary executions (Special Rapporteur).

In 1990, Amnesty International first alerted the African Commission to the prevalence of extrajudicial, summary or arbitrary executions and urged it to address the issue as a matter of priority.<sup>1</sup> In a letter to the Chairman of the African Commission in March 1992 on the occasion of the 11th Session of the African Commission, the Secretary General of Amnesty International once again raised the concerns of the organization about extrajudicial executions and urged the African Commission to appoint an expert in international human rights law to prepare a detailed, comprehensive study on the issue. In subsequent oral statements to the African Commission, Amnesty International repeatedly raised the issue of extrajudicial executions and urged the African Commission to create a procedural mechanism to enable it to react quickly to large-scale extrajudicial executions.<sup>2</sup>

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<sup>1</sup>See Amnesty International's oral statement to the 8th Ordinary Session of the African Commission on Human and Peoples' Rights, held in Banjul, Gambia, October 1990.

<sup>2</sup>See Amnesty International's oral statements to the 13th Ordinary Session of the African Commission, held in Banjul, Gambia, March 1993 and the 14th Ordinary Session of the African Commission, held in Addis Ababa, Ethiopia, December 1993.

In April 1994, Amnesty International placed proposals before the African Commission for the establishment of a mechanism with a mandate to study the problem of extrajudicial, summary or arbitrary executions in Africa, which would work closely with the United Nations (UN) Special Rapporteur on extrajudicial, summary or arbitrary executions (UN Special Rapporteur). The recommendations also specified that the African Commission's Special Rapporteur might begin by addressing particular thematic issues, such as extrajudicial executions in countries experiencing internal armed conflict, the use of firearms against peaceful demonstrators or the failure of governments to conduct thorough, prompt and impartial investigations of extrajudicial executions<sup>3</sup>.

Amnesty International therefore welcomed the unanimous decision of the African Commission in April 1994 to establish the mechanism of a Special Rapporteur on extrajudicial executions. In appointing the Special Rapporteur, a few weeks after the genocide began in Rwanda, the African Commission was signalling that it was willing to take swift action to investigate extrajudicial executions.<sup>4</sup> In its resolution on the situation in Rwanda, the African Commission condemned "very strongly... the massacre of innocent civilians by different armed factions" and requested its Special Rapporteur on extrajudicial, summary or arbitrary executions "to pay special attention to the situation in Rwanda and to report back to the 16th Session".<sup>5</sup> Amnesty International had hoped that the appointment of a Special Rapporteur would enable the African Commission to tackle the serious situation of extrajudicial, summary or arbitrary executions on the continent with speed and in a systematic way.

### ***Extrajudicial Executions in Africa***

Since the appointment of the Special Rapporteur by the African Commission, killings have continued almost unabated in various countries in Africa. Amnesty International's documents are replete with details of extrajudicial executions by government security forces and deliberate and arbitrary killings by armed opposition groups occurring in

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<sup>3</sup> See Amnesty International's oral statement to the 15th Ordinary Session of the African Commission on Human and Peoples' Rights, held in Banjul, Gambia, April 1994.

<sup>4</sup> See Final Communique of the 15th Ordinary Session of the African Commission on Human and Peoples' Rights, ACHPR/FIN/COM(XV), para. 20 where the Commission recorded its decision to appoint its Vice-Chairman, Mohammed Hatem Ben Salem, as Special Rapporteur on extrajudicial executions in Africa and stated that "the Rapporteur has been requested to address the situation in Rwanda as a matter of urgency".

<sup>5</sup>Resolution on the Situation in Rwanda, Annex XII, Seventh Activity Report of the African Commission on Human and Peoples' Rights 1993-1994, AHG/198/(XXX).

African countries which are parties to the African Charter, including Algeria, Burundi, Chad, Democratic Republic of Congo, Senegal and Rwanda.

## **Algeria**

Under the entry on Algeria in its Annual Report, published in July 1997 (covering the period January to December 1996), Amnesty International states that:

“Thousands of people were killed by security forces and government-backed militias, hundreds of them being extrajudicially executed. Hundreds of civilians were deliberately killed by armed opposition groups, both in targeted attacks and indiscriminate bomb explosions, and others were abducted and killed. ... Thousands of people were killed by the security forces. Many were killed in armed confrontations, but hundreds were extrajudicially executed when they posed no threat to the lives of members of the security forces”.<sup>6</sup>

In Algeria extrajudicial executions by security forces, deliberate and arbitrary killings by state-armed militias and by armed opposition groups (which define themselves as “Islamic groups) have been increasingly widespread in the past three years.<sup>7</sup>

During 1997 the already very serious human rights situation deteriorated further, with the pattern of large-scale massacres of civilians becoming increasingly widespread.

Amnesty International and other international human rights organizations called for an international investigation to ascertain the facts, examine allegations of responsibility and to make recommendations in respect of the massacres and other abuses by all sides in Algeria.<sup>8</sup>

## **Burundi**

Reports of massacres of civilians, including extrajudicial executions and deliberate and arbitrary killings, continue to be a fact of daily life across Burundi. Government forces and armed groups consistently, deliberately and arbitrarily kill civilians in the areas in

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<sup>6</sup>Amnesty International Report 1997, AI Index: POL 10/01/97, p. 68.

<sup>7</sup>See “Algeria: Fear and Silence: A hidden human rights crisis”, AI Index: MDE 28/11/96

<sup>8</sup> Joint appeal by Amnesty International, the International Federation of Human Rights (FIDH), Human Rights Watch and Reporters Sans Frontieres, “Algeria: A call for action to end a human rights crisis”, 15 October 1997

which they operate. A country-wide pattern of reprisal killings by the Burundi army following clashes with armed groups, or armed group activity, continues unchecked and thousands of civilians have been killed or injured as a result. Many killings in conflict appear to be the result of a deliberate failure by the Burundian security forces to distinguish between unarmed civilians and members of armed groups; scores of children and elderly men and women who could not possibly be suspected of being members of armed groups are reported to have been killed in massacres during military operations. In some cases responsibility for killings is not clear and it is rare that any of the parties to the conflict admit responsibility for the abuses.

Hutu dominated armed groups have often attacked camps for the displaced, the inhabitants of which are mainly Tutsi. Camps are often situated near military positions although some attacks appear to have been deliberately against the civilians inside. Displaced people from camps have also participated in abuses along side members of the security forces and some attacks are reported to have been in reprisal for such actions. Whatever the motive, and whatever or whoever the target, unarmed civilians invariably are killed.<sup>9</sup>

## Chad

In Chad Amnesty International has documented the systematic extrajudicial execution of unarmed civilians. Amnesty International has established that the Chadian authorities have adopted a deliberate policy against criminals which legitimizes extrajudicial execution. Such authorization is not new and has been given publicly from the highest level of government by President Déby himself. Amnesty International has documented:

“On the night of 3-4 December 1996, the bodies of four men were found near the village of Djalali Arave, south of N’Djamena. The *Association tchadienne pour la promotion et la défense des droits de l’homme* (ATPDH), Chadian Association for the Promotion and Defence of Human Rights, carried out an on-site investigation on 7 December and reported that the victims’ bodies were decomposed and bore marks of torture and ill-treatment. .... Presumably in order that these extrajudicial executions should be an

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<sup>9</sup> “Great Lakes Region, Open letter to governments hosting refugees from Burundi, Rwanda and the Democratic Republic of Congo: A call for the safety and dignity of refugees”, AI Index AFR 02/24/97. See also “Burundi, Forced relocation: new patterns of human rights abuses”, AI Index AFR 16/19/97.

example to the population, the security forces have on several occasions publicly killed presumed thieves and displayed their bodies to villagers for many hours".<sup>10</sup>

### **Democratic Republic of Congo**

In a memorandum of March 1997, Amnesty International urged the UN Security Council to investigate reports of atrocities in eastern Zaire (now Democratic Republic of Congo), documenting that:

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<sup>10</sup>"Chad, Hope betrayed", AI Index: AFR 20/04/97.

“It is not known how many refugees and Zaïrian Hutu have been killed. Some sources have been able to provide precise figures. In other instances, only rough estimates are available. For example, a Zaïrian group responsible for burying corpses indicated in mid-December that they collected 6,537 bodies in the Goma, Sake and Rutshuru areas. The UNHCR has said that 1,515 bodies were recovered at Kibumba camp, and has found a mass grave at Katale camp containing 300 bodies. *The Association zairoise de défense des droits de l’homme* (AZADHO), Zaïrian Association for the Defence of Human Rights, has reported that thousands of Zaïrian Hutu have been killed in the villages of Ngungu, Nyamitaba and Nyakariba. A foreign aid worker reported to Amnesty International that 300 refugees were allegedly killed in the Parish of Kalambi”.<sup>11</sup>

On 15 April 1997, the UN Commission on Human Rights adopted resolution 1997/58 establishing a Joint Investigative Mission to “investigate allegations of massacres and other issues affecting human rights which arise from the situation prevailing in eastern Zaire since September 1996”.<sup>12</sup> When the Joint Investigative Mission arrived in Kigali in May, they were refused access to eastern Zaire by the *Alliance des forces démocratiques pour la libération du Congo-Zaire* (AFDL), Alliance of Democratic Forces for the Liberation of Congo-Zaire, which raised a number of substantial objections, including the participation of Roberto Garreton, the Special Rapporteur on the human rights situation in Zaire.

Subsequently, the UN Secretary-General established a commission of inquiry in August 1997, headed by Atsu-Koffi Amega, a member of the African Commission. The Government of the Democratic Republic of Congo has refused to cooperate with the UN team investigating reports of widespread massacres of refugees and other unarmed civilians alleged to have been killed by troops of the AFDL as they took control of the region, as well as by other armed groups, including members of the former Zairian army.<sup>13</sup>

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<sup>11</sup>“Zaire, Amnesty International’s memorandum to the UN Security Council: Appeal for a commission of inquiry to investigate reports of atrocities in eastern Zaire”, AI Index AFR 62/11/97

<sup>12</sup> The Commission nominated three independent human rights experts to carry out the investigation: the UN Special Rapporteur on the situation of human rights in Zaire, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions and a member of the UN Working Group on Enforced or Involuntary Disappearances.

<sup>13</sup>See Amnesty International News Service 165/97, 2 October 1997, Democratic Republic of Congo: Truth about massacres suppressed as government blocks UN human rights investigations, AI

## **Rwanda**

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Index: AFR 62/30/97.

*Amnesty International 1 November 1997*

*AI Index: IOR 63/05/97*

In its most recent report on Rwanda, published in September 1997, Amnesty International has documented the various circumstances in which unarmed civilians have been extrajudicially executed by the Rwandese Patriotic Army (RPA) or deliberately and arbitrarily killed by armed opposition groups believed to be allied to members of the *Forces armées rwandaises*, the former Rwandese Armed Forces.<sup>14</sup> These circumstances include killings of civilians in armed conflict but they also include the extrajudicial execution of detainees and the public and summary execution of murder suspects and killings of critics and perceived opponents of the government, such as journalists and members of the National Assembly - situations which are not related to the armed conflict in Rwanda. Refugees repatriated from the Democratic Republic of Congo and Tanzania have become particular targets for extrajudicial executions and killings by the RPA and other armed groups.

## **Senegal**

Amnesty International issued a press release in September 1997 in which it provided details of extrajudicial executions perpetrated by the Senegalese security forces in Casamance. It stated:

“Since July 1997 at least 30 civilians have been arrested by the Senegalese security forces and have since been reported missing. The majority are said to have been victims of extrajudicial killings and they have been buried in communal graves not far from some military camps”.

This information was obtained by an Amnesty International delegation during a visit to Senegal to investigate allegations of human rights violations. During the visit the delegation also established that the *Mouvement des forces démocratiques de la Casamance* (MFDC), Democratic Forces of Casamance Movement, was responsible for the deliberate and arbitrary killing of unarmed civilians during September 1997.<sup>15</sup>

## ***Executions after unfair trials***

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<sup>14</sup>“Rwanda: Ending the silence”, AI Index: AFR 47/32/97

<sup>15</sup>Amnesty International News Service 164/97 “Senegal: Dozens of civilians killed in Casamance in the last two months”, AI Index: AFR 49/03/97

Amnesty International is also extremely concerned about the imposition of the death penalty after trials which fail to conform to international standards of fair trial, including Article 7 of the African Charter, as interpreted by the African Commission in its resolution on The Right to Recourse Procedure and Fair Trial.<sup>16</sup> As early as October 1990 Amnesty International drew the attention of the African Commission to the frequency of executions after unfair trials and urged it to address this issue as a matter of priority.<sup>17</sup> Almost two years ago, on 10 November 1995, Ken Saro-Wiwa and eight other members of the Ogoni ethnic group were executed, despite international protests and pleas, after trials before the Civil Disturbances Special Tribunal which was neither independent nor impartial. There are executions taking place in similar circumstances in many African countries and many prisoners have been sentenced to death after unfair trials and are awaiting execution.

Amnesty International has documented the imposition of the death penalty after unfair trials in many countries including Burundi, Chad, Egypt, Kenya, Liberia, Libya, Rwanda and Tunisia. The execution of prisoners after unfair trials amounts to arbitrary execution, in violation of Article 4 of the African Charter and contrary to the specific prohibition of the arbitrary deprivation of the right to life.

### **1. *Mandate of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions***

Article 4 of the African Charter on Human and Peoples' Rights (ACHPR) broadly protects the right to life. It states that:

"Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right".

It is in this Article that the mandate of the Special Rapporteur is rooted.

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<sup>16</sup>Resolution on the Right to Recourse Procedure and Fair Trial, Annexe VI, Fifth Annual Activity Report of the African Commission on Human and Peoples' Rights 1991-1992, ACHPR/XI/AN.RPT/5/Rev.2.

<sup>17</sup>See Amnesty International's oral statement to the 8th Ordinary Session of the African Commission on Human and Peoples' Rights, held in Banjul, Gambia, October 1990.

In drawing up the mandate, the African Commission has highlighted the following areas for the attention of the Special Rapporteur:

- to propose the implementation of a reporting system on cases of extrajudicial, summary or arbitrary executions in African states, specifically by keeping a register containing all information as to the identity of the victims
- to follow up, in collaboration with government officials, or failing that, with international, national or African non-governmental organizations (NGOs), all enquiries which could lead to discovering the identity and extent of responsibility of authors and initiators of extrajudicial, summary, or arbitrary executions
- to suggest the ways and means of informing the African Commission in good time of the possibility of extrajudicial, summary or arbitrary executions, with the goal of intervening before the OAU Council of Ministers, and if necessary, the OAU Assembly of Heads of States and Governments
- to intervene with States for trial and punishment of perpetrators of extrajudicial, summary or arbitrary executions, and rehabilitation of the victims of these executions
- to examine the modalities of creation of a mechanism of compensation for the families of victims of extrajudicial, summary or arbitrary executions, which might be done through national legal procedures, or through an African compensation fund.

Amnesty International believes that, in order to achieve the mission proposed for the Special Rapporteur as outlined above, there are key criteria which need to be fulfilled. These are that the Special Rapporteur should be able to:

- act, urgently if necessary, all year round
- take up individual cases
- carry out on-site visits, producing specific recommendations tailored to those countries

- examine the phenomenon of extrajudicial, summary or arbitrary executions, recommending general safeguards and changes in law and practice needed to combat extrajudicial executions
- act as a catalyst to encourage the development of new regional standards
- encourage the integration of human rights concerns falling within his/her mandate into other areas of the work of regional institutions and bodies.

## **2. Working Methods**

The interpretation and development of the mandate of the Special Rapporteur is key to the effectiveness and credibility of both the mechanism and the African Commission itself. For these reasons, it is important that there is the political will within the African Commission and the OAU to exploit and support the potential of this mechanism as a dynamic tool to tackle extrajudicial, summary or arbitrary executions at the regional level. Below is a full range of working methods which the Special Rapporteur should employ. However, the extent to which each working method will be used will depend on the needs of Africa and ensuring that the work of the Special Rapporteur complements that of the UN Special Rapporteur.

### **An effective response**

The Special Rapporteur is imbued with the authority to take innovative and effective action against extrajudicial, summary or arbitrary executions. Such actions include investigations and public reports, but the Special Rapporteur should also facilitate a rapid response to urgent situations. The Special Rapporteur cannot be a silent witness to situations of gross or massive human rights violations.

### **Information and communication**

The Special Rapporteur should establish systems for the receipt and transmission of urgent and less urgent appeals. S/he should be open to receiving information from a wide range of sources, including NGOs. The Special Rapporteur should be accessible to such sources, especially during the preparation for on-site visits.

The Special Rapporteur should establish a dialogue between the source of a complaint and the government concerned, routinely sending copies of government responses to the source for further observations and information and communicating

such further information to the government, while protecting the confidentiality of the source whenever necessary.

The Special Rapporteur should set time limits for governments to respond to requests, which should be short in the case of urgent appeals. If the government fails to respond, the Special Rapporteur should be able to treat information from reliable sources as valid and act upon it as appropriate. Governments which persistently fail to act or co-operate should be identified in the Special Rapporteur's report to the African Commission with a recommendation to the OAU Council of Ministers and, if appropriate, the OAU Heads of States and Governments, to adopt a resolution urging these governments to cooperate.

When a considerable number of serious allegations have been raised with a government or where a pattern of violations is revealed and the government persistently refuses to co-operate, the Special Rapporteur should transmit the full dossier to the African Commission for further action under Article 58 of the African Charter.

The Special Rapporteur should maintain a system of pending cases when replies are not received, are inadequate or otherwise do not enable him/her to be satisfied that the case has been properly addressed. Statistics of pending cases by country should be included in his/her annual reports.

The Special Rapporteur should establish criteria for what constitutes a full and satisfactory reply from a government in different types of cases. This might include copies of the findings of government investigations, autopsy reports, court proceedings, and so on.

The Special Rapporteur should continue to work on relevant cases even after the immediate danger to the victim has passed (in the case of death threats, for example).

The Special Rapporteur should act where s/he receives credible and well-documented information about situations of violations involving large numbers of individual cases or where no specific individual case may have been submitted but where information suggests the systematic use of extrajudicial executions. It will often be appropriate in such circumstances for the Special Rapporteur to undertake an on-site visit.

### **On-site country visits**

On-site visits should become a regular feature of the Special Rapporteur's work. Adequate funding and staffing resources should be provided for this.

Reports of on-site visits should be published as separate addenda to the Special Rapporteur's main reports for easy dissemination. Governments should report back fully by the time of the following report on the specific steps they have taken to implement the recommendations following an on-site visit.

Where a significant number of recommendations are made following a visit and/or where the Special Rapporteur notes particular problems that need to be addressed, one or more follow-up visits within a reasonable period of time should become a regular feature of the process of on-site visits to examine how recommendations are being addressed and to offer further advice and observations.

In a situation where a range of violations have been identified, the Special Rapporteur on his/her own initiative should be able to seek a joint visit with other relevant mechanisms of the African Commission. Given that the Special Rapporteur has accorded priority to women victims of extrajudicial executions, there should be joint visits by both mechanisms, in the event that a Special Rapporteur on women is appointed by the African Commission.

The Special Rapporteur should ensure that s/he is part of any investigative mission undertaken by the African Commission to a country where persistent reports of extrajudicial executions have been received.

### **Regular, public reports**

The annual report of the Special Rapporteur must be translated and disseminated widely immediately after it is presented at a session of the African Commission if it is to have any impact. Although other reports, such as bulletins, are useful in providing regular accounts, resources should be concentrated on the publication of a comprehensive report to the African Commission, which includes descriptions of concerns about extrajudicial, summary or arbitrary executions in particular countries, responses by governments and recommendations made by the Special Rapporteur.

### **Co-ordination with other parts of the African system**

There should be more structured and regular opportunities for communication, co-ordination and co-operation among the mechanisms of the African Commission, as well as other components of the OAU.

In particular, the Special Rapporteur should work closely with the OAU Mechanism for Conflict Prevention, Management and Resolution and the OAU Bureau for Refugees to enable these African institutions to take preventive steps to address problems inherent in such situations before they reach crisis proportions. The Special Rapporteur could be integrated into an early warning system and into mediation/conciliation efforts to ensure that his/her information is properly channelled and reflected in eventual decision-making on possible recommendations for preventive action.

The Special Rapporteur, to ensure that his/her reports receive the adequate attention of the OAU Council of Ministers, should attend its meetings twice a year and address each meeting on the issue of extrajudicial executions and present recommendations on concrete steps which the Council should take to prevent killings. Attending the meetings of the Council would also provide an opportunity for the Special Rapporteur to raise the issue of extrajudicial executions with the Secretary General of the OAU, the head of the Conflict Resolution Mechanism and staff at the OAU Secretariat with responsibility for monitoring situations of conflict in specific countries.

### **Co-ordination with other parts of the international system**

The work of the Special Rapporteur is complementary to that undertaken by the UN Special Rapporteur and therefore close co-ordination with the UN Special Rapporteur is essential. Wherever possible, the Special Rapporteur should join the UN Special Rapporteur on his missions to African countries, which will enable him/her to make recommendations to the African Commission and OAU which are supportive of those made by the UN Special Rapporteur to the UN Commission on Human Rights.

Where the UN Special Rapporteur has been denied access to an African country, the Special Rapporteur should use all the means at his/her disposal, including approaches to the OAU Secretary-General, to obtain access, although a government should not be allowed to justify denying access to one of the Special Rapporteurs on the grounds that it has granted access to the other.

While the UN Special Rapporteur concentrates mainly on individual cases of

extrajudicial executions, the Special Rapporteur should consider patterns of extrajudicial executions in Africa and make specific recommendations to the African Commission, OAU and African governments. These patterns may include extrajudicial executions during armed conflict, after unfair trials and resulting from deaths in custody.

Although there will be a necessary overlap between the mandate, working methods and role of the Special Rapporteur and his/her counterpart at the UN level, s/he will have to develop priorities which are relevant to Africa. The specific role which the Special Rapporteur can play at the regional level, especially in relation to the OAU, and by concentrating on patterns of extrajudicial executions, makes his/her role different to that of the UN Special Rapporteur.

In developing recommendations for governments, the Special Rapporteur should consider the role of other actors in the human rights field, in particular the Special Rapporteurs of the UN Commission on Human Rights, UN Centre for Human Rights/Office of the High Commissioner for Human Rights, treaty monitoring bodies and development agencies. In developing and tailoring recommendations to governments for ending extrajudicial, summary or arbitrary executions, the Special Rapporteur should consider the range of options that might be open to that government through human rights training, technical assistance and advisory services. These might be organized and funded by the UN, other regional bodies or international financial institutions. The Special Rapporteur could usefully contribute to these human rights programmes as they are being developed.

## **Resources**

The Special Rapporteur must have a firm financial basis upon which to undertake his or her work. Such financing should come from a regular budget to which all members of the OAU contribute, and might include the OAU regular budget or the Voluntary Peace Fund. This would not preclude additional voluntary funding for the work of the Special Rapporteur from other sources.

The Special Rapporteur should prepare budget proposals and present these together with the overall budget of the African Commission to the relevant financial appropriation bodies of the OAU to ensure that the OAU budgets for the resources required by the mechanism.

The Special Rapporteur must be provided with permanent assistance through the Secretariat of the African Commission. Without such assistance, the Special Rapporteur will not be able to undertake his/her work adequately or to respond to the issues which are being referred to him/her. The Special Rapporteur has to identify tasks which an assistant based at the Secretariat in Banjul, The Gambia, will be required to undertake, and which may include: the receipt of correspondence addressed to the Special Rapporteur and the acknowledgement of such correspondence, the compilation of information on specific cases, maintaining contact with the source of complaints, obtaining information from NGOs, liaising with the UN thematic mechanisms and the UN Centre for Human Rights, arranging on-site visits and assisting in the preparation of reports. The Special Rapporteur should submit to the African Commission a request that these responsibilities be allocated to a legal officer at the Secretariat.

### **Documentation**

The Central Documentation Centre within the African Commission's Secretariat should become operational as soon as possible and should be available to the Special Rapporteur. Country dossiers should be established containing all relevant documents of the African Commission.

In addition, the Special Rapporteur should avail him/herself of all other relevant source material including that produced electronically by the UN, in particular reports of the thematic mechanisms of the Commission on Human Rights; reports of the UN treaty monitoring bodies; reports of the UN technical assistance and advisory services programme; reports from development agencies where there might be a programme of work in the country concerned. In addition, the Special Rapporteur should ensure that s/he receives information posted by the many NGOs who now have home-pages on the internet system.

### **3. Recommendations to the African Commission**

As the monitoring body for the implementation of the African Charter, the African Commission has a particular responsibility to ensure that the phenomenon of killings in Africa is addressed in concrete ways. All states parties to the African Charter have a responsibility in this regard too.

African Governments are also members of the UN and, as such, have committed themselves to the principles of the Universal Declaration of Human Rights. In addition, member states of the UN are required to act in accordance with some important norms and standards for the prevention of extrajudicial, summary or arbitrary executions<sup>18</sup>.

Members of the African Commission must ensure that they read the reports of the Special Rapporteur and take action on the recommendations contained therein. They should also refer to the different organs of the OAU, including the Council of Ministers and the Conflict Resolution Mechanism, situations of concern which require these bodies to take urgent steps.

More specifically:

Where governments fail to respond to the Special Rapporteur, and s/he draws attention to them in his/her reports, the African Commission should take action, for example, by expressly calling on those government to co-operate, by referring a draft resolution to the Council of Ministers which calls on the government to respond.

The African Commission should take action under Article 58 of the African Charter on reports transmitted to it by the Special Rapporteur on a series of allegations or a pattern of violations.

In situations of violations involving large numbers of individual cases where the Special Rapporteur is requesting an on-site visit, the African Commission should call on the government to accept such a visit if no invitation is forthcoming.

The African Commission should agree on funding for the Special Rapporteur to ensure that the mechanism is placed on a secure financial footing, in addition to establishing a voluntary fund. A legal officer in the Secretariat should be identified to provide assistance to the Special Rapporteur.

States parties to the African Charter should be requested by the African Commission to address the issue of extrajudicial executions specifically in their state reports submitted under Article 62 of the African Charter.

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<sup>18</sup> For example, the UN Code of Conduct for Law Enforcement Officials; Basic Principles on Use of Force and Firearms; Principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions