

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

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### ORAL STATEMENT BY AMNESTY INTERNATIONAL

#### **ITEM 7(j): Presentation of the Report of the Working Group on Specific Issues Relevant to the Work of the African Commission**

The Chairperson,  
African Commission on Human and Peoples' Rights  
43<sup>rd</sup> Ordinary Session  
Ezulwini,  
Swaziland

Chairperson, Commissioners,

Amnesty International remains concerned that four years after the entry into force of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, the court has not been fully embraced by many member states of the African Union (AU). Despite the recommendation contained in the African Commission resolution adopted at the 37<sup>th</sup> Ordinary Session in May 2005, only 24 states have ratified the Protocol. Of these, only two, Burkina Faso and Mali, have made the declaration under Article 34(6) of the Protocol, granting individuals and non-governmental organizations direct access to the Court. It is essential that more states ratify the Protocol and make declarations to ensure that the court is able to exercise jurisdiction over human rights violations in countries of all 53 member states of the AU and to provide an opportunity to individuals and NGOs to directly approach the Court and to increase the international accountability of state parties to the African Charter.

Amnesty International welcomed the entry into force of the Protocol as a significant development in the efforts to strengthen the regional human rights mechanism to be more effective in the protection and promotion of human rights on the continent. Furthermore, an independent, effective, and efficient African Court would be capable of stimulating positive change throughout Africa, as well as providing the platform for the articulation of international legal principles at the regional level, and direction and precedents for domestic courts. The court would also allow victims of human rights violations or their representatives access to a robust institution that would be capable of holding state parties accountable to their obligations both under the African Charter on Human and Peoples' Rights (African Charter) and the Protocol as well.

According to the information on the African Union website, elections of new members of the African Court will be conducted during the 13th Ordinary Session of the Executive Council of the African Union, scheduled for Sharm El Sheikh, Egypt, in June/July 2008. Amnesty International calls on states nominating a candidate for judge to take measures to ensure the nomination of the

highest qualified candidates by fulfilling the criteria set out in the Protocol, including that of individual competence, independence, and impartiality and "adequate gender representation." A transparent process with the broadest possible consultation with civil society would significantly contribute to ensure the establishment of an African Court that is able to carry out its enormous tasks both effectively and efficiently.

Amnesty International urges all states that have not yet done so, to ratify the Protocol without further delay. The organization also calls on all states that have not yet done so to make the declaration under Article 34(6) of the Protocol.

The organization calls on the African Commission to exercise its mandate and authority to encourage:

- States that have not yet done so to ratify the Protocol and to make the declaration under Article 34(6), so that individuals and NGOs are able to approach the court directly in cases of violations of human rights
- States parties to the Protocol to nominate three candidates and to do so in a transparent selection procedure. The nomination process should be open to all potential candidates who meet the requirements of the Protocol and that it is widely advertised; they should encourage applications from female candidates, and encourage civil society organizations to participate at all stages of the nomination process.
- The AU and its member states to ensure that the Court is allowed to function independently, impartially and effectively and to develop its own case law. AU member states should cooperate fully with the Court, including by according high priority to the prompt compliance with the judgments and decisions of the Court.

Amnesty International also urges the African Commission to organize at its 44<sup>th</sup> Ordinary Session a Day of General Discussion to discuss ways and strategies to ensure full ratification of the Protocol, and for states to make the necessary declarations pursuant to Article 34(6) of the Protocol. Government representatives, NGOs and other stakeholders should be invited to participate in the Day of General Discussion.

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International Secretariat, Amnesty International, 1 Easton St., London WC1X 0DW, UK  
[www.amnesty.org](http://www.amnesty.org)