



HUMAN RIGHTS PRIORITIES FOR THE NEW AFRICAN UNION COMMISSION CHAIRPERSON

The election of a new chairperson of the African Union Commission (AUC) is scheduled to take place during the 28th African Union Summit (22-31 January 2017, Addis Ababa, Ethiopia). In this statement, Amnesty International outlines six human rights issues that the organization believes should be the priorities of the new chairperson upon taking up the mantle of leadership.

In many ways, the last two years have prepared the ground for the next chairperson to take the African Union (AU) to a new level in the protection and promotion of human rights. The years 2015 and 2016 were marked as the “the year of Women’s Empowerment and Development towards Africa’s Agenda 2063” and “African year of human rights, with particular focus on the rights of women” respectively. In those two years, the AU developed important human rights instruments, including the Draft Protocol on the Rights of Older Persons in Africa and the Draft Protocol on the Rights of Persons with Disabilities in Africa. There were also positive developments in the area of international justice. The conviction in May 2016 of Hissène Habré for crimes against humanity, war crimes and torture was one of these, marking the first time a former African leader has been prosecuted for crimes under international law before a court in another African country. At the same time, the continental human rights system faced numerous challenges, including attacks on the independence and autonomy of the regional institutions for the promotion and protection of human rights. The security situation on the continent remained fragile as many countries were afflicted by conflict or political crisis. Serious human rights violations and abuses were committed in these conflict or crisis situations.

It is thus imperative that the consolidation of gains made and the bold defence of human rights feature prominently in the new AUC chairperson’s priority list.

1. PLACE HUMAN RIGHTS AT THE CENTRE OF CONFLICT PREVENTION AND RESPONSE

The AUC chairperson has an important role to play in the prevention, management and resolution of conflicts on the continent. Under Article 7 of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, the Peace and Security Council (PSC) exercises its powers “in conjunction” with the AUC Chairperson. Article 10 of the Protocol sets out the role of the AUC Chairperson in relation to matters of peace and security. He or she has a general mandate to “deploy and take all initiatives deemed appropriate to prevent, manage and resolve conflicts”.

Recent and ongoing conflict situations in Africa have led to gross human rights violations but also result from persistent denial of human rights over a period of time. However, despite normative and institutional developments, the AU’s responses to structural human rights causes or gross violations that emerge out of conflicts have largely been slow, inconsistent and reactive rather than as part of a comprehensive and consistent strategy. In instances where the AU has shown concern for human

rights violations and abuses, it has regrettably lacked the determination and political will to address them.

In execution of his or her peace and security mandate, and given the AU's stated aspiration to end all conflicts on the continent by 2020, the new AUC Chairperson must deliberately and consistently give prominence to addressing human rights violations that lead to and/or are committed in conflict situations. He or she must ensure that the AU responds to conflict situations in terms of a comprehensive institutional strategy. The new chairperson must also establish modalities for coordination and synergy amongst all AU organs directly or indirectly involved in protection and promotion of human rights and in the prevention and resolution of violent conflicts. The new chairperson must also seek to strengthen the relationship and collaboration between the AU and the Regional Economic Communities in matters of peace and security.

2. ENSURE ACCOUNTABILITY FOR SUSPECTED PERPETRATORS OF CRIMES UNDER INTERNATIONAL LAW

One of the key organizing principles of the AU is the "condemnation and rejection of impunity". However, impunity has remained a common denominator in all of Africa's major conflicts, with those suspected of crimes under international law and gross human rights violations rarely held to account. The new chairperson should reaffirm publicly and in concrete terms that the AU is firm in its rejection of impunity and committed to pursuing accountability for perpetrators of crimes under international law. There are specific and urgent measures expected from the new chairperson to ensure accountability and justice in South Sudan, Burundi and Eritrea. As mandated by the South Sudan Peace Agreement signed on 17 August 2015, the new chairperson should establish the Hybrid Court for South Sudan expeditiously. He or she should also give due consideration to the recommendation of the African Commission on Human and Peoples' Rights relating to the establishment of a special tribunal for Burundi and the recommendation of the United Nations Commission of Inquiry on Eritrea relating to the establishment of an accountability mechanism to investigate allegations of crimes against humanity in Eritrea.

The new AUC Chairperson should also discourage and publicly denounce any provisions granting immunity or amnesty for crimes under international law in the establishment of any regional or national accountability mechanisms.

3. STAND UP FOR REGIONAL HUMAN RIGHTS INSTITUTIONS

The African human rights system is only as strong as the institutions that comprise the system. The new AUC chairperson must defend and guard the independence and autonomy of the African Commission on Human and Peoples' Rights, African Court on Human and Peoples' Rights, and the African Committee of Experts on the Rights and Welfare of the Child. He or she should oppose any political interference with the work of the regional human rights institutions and stand up to the Permanent Representative Committee (PRC) and/or the Executive Council if they take or indicate their intention to take actions that undermine the independence of these institutions. The new chairperson must also ensure that the regional human rights institutions are sufficiently resourced.

To ensure a stronger regional human rights court, the AUC chairperson will need to actively urge AU member states that have not yet ratified the Protocol Establishing the African Court on Human and Peoples' Rights to do so without further delay. He or she must also continuously encourage member

states to make the declaration allowing individuals and NGOs to directly access the African Court on Human and Peoples' Rights.

4. PROTECT CIVIL SOCIETY AND FREEDOMS

The new chairperson will assume office at a time when Africa is seeing growing demands for change, inclusion and freedom by its citizens, in particular young people who bear the triple burden of unemployment, poverty and inequality. People are going out to the streets in large numbers, ignoring threats and bans on protest, refusing to back down in the face of brutal clampdowns, and instead expressing opinions and reclaiming their rights through acts of solidarity, boycotts and extensive, creative use of social media. This trend of gathering resilience and the withering of the politics of fear offers cause for hope.

Despite many stories of courage and resilience, government crackdowns on dissent and peaceful protest have expanded alarmingly in recent years. There are widespread patterns of violent crackdowns on protests – hallmarked by protest bans, arbitrary arrests, detentions, beatings as well as killings. Several AU member states have imposed severe restrictions on the activities of civil society organizations and human rights defenders. These have included arrests, prosecutions and imprisonment of human rights defenders, journalists and others on charges such as spreading false information, and asset freezes and travel bans on human rights defenders. The AU Commission has also taken regressive decisions that lock out civil society groups from its summits. As such, civic space is closing down at the national and regional levels.

The new AUC chairperson should take urgent measures to reverse this trend, including by allowing access of civil society to AU summits and generally facilitating a more active civil society engagement in the activities of the AU Commission. He or she should also urge member states to ensure a safe and enabling environment for civil society organizations and human rights defenders and peaceful expression of dissent.

5. DEFEND WOMEN'S RIGHTS

The AU has made significant efforts towards the realization of women's human rights on the continent, including through the adoption of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), which came into force in 2005. The new AU Chairperson should build on these efforts to further advance gender equality and women's human rights. He or she must actively call on those member states that have not yet done so to ratify the Maputo Protocol and those that have already done so to effectively implement it within their domestic laws, and comply with their reporting obligations. The Maputo Protocol provides that states parties have an obligation to "protect the reproductive rights of women by authorizing medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus". The new Chairperson must not only advance and publicly reaffirm this commitment but he or she must also support the African Commission on Human and Peoples' Rights' campaign for the decriminalization of abortion in Africa.

6. RALLY SUPPORT FOR THE ABOLITION OF THE DEATH PENALTY

African countries have made positive progress at the national level on the death penalty in recent years. For example, in 2016 Togo acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights, Guinea abolished the death penalty for ordinary crimes, and a Constitutional Court judgment in Benin effectively abolished the death penalty for all crimes. Progress at the AU is, however, slow. In particular, no progress has been made since November 2015 when the AU Specialized Technical Committee on Legal Affairs declined to consider the Draft Protocol on the Abolition of the Death Penalty in Africa, which was developed by the African Commission. The new chairperson should prioritize the resolution of this stalemate and use his or her leadership position to ensure that the Draft Protocol is adopted and all initiatives for the abolition of the death penalty in Africa receive the support of the AU.