

@Appeal by Secretary General of Amnesty International to Organization of African Unity to protect human rights in Africa

Africa's victories against racism and colonialism were huge achievements. Now not only in Africa, but all over the world, governments and peoples are looking for solutions to the scourges of the late twentieth century, those of poverty and armed conflict. The last few years have seen unprecedented progress in the development of mechanisms to resolve and prevent conflict, and with it the tragic and pointless loss of human life that this entails. I welcome the OAU's steps in this direction and hope that the OAU Assembly of Heads of State and Government will establish effective institutions to build peace and security. The experience of Amnesty International, however, shows already that efforts to build peace which do not include specific - and effective - mechanisms for detecting and reacting to violations of human rights, such as political killings or arbitrary detention, are likely to fail.

This OAU Assembly is looking at ways of building a positive and peaceful future for our continent, as well as reviewing the OAU's performance over its first 30 years. Amnesty International also recently marked its thirtieth anniversary and, with its first Secretary General from Africa, is moving into its fourth decade determined to adapt in order to deal with current problems and needs. The OAU's thirtieth anniversary is an appropriate moment to take stock of the OAU's achievements - and shortcomings - in the promotion and protection of human rights. And, based on that assessment, to chart a course to meet the enormous human rights challenges of the coming decade.

Constructive steps by the OAU in the area of human rights

On the positive side, we can point to a number of constructive steps taken by the OAU in the field of human rights. It has been at the forefront of the struggle to end the vestiges of colonialism in Africa and to combat racism in southern Africa. It is now actively involved through its observers in assisting the transition to a post-Apartheid South Africa. In 1969 it adopted the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, which recognized the need to provide protection to a more widely defined group of people than that set out in other international refugee treaties. The Bureau for Refugees has had to address - with only limited resources - the immense problems of a continent with the world's largest number of refugees. The OAU adopted the African Charter on Human and Peoples' Rights in 1981, which reiterated the pledge in the OAU Charter to act with due regard to the Universal Declaration of Human Rights and required the African Commission to draw inspiration from that Declaration in its work. As of last week all the member states of the OAU - except Ethiopia and Swaziland together with the new state of Eritrea - have

become parties, committing themselves to uphold the rights enshrined in the African Charter.

In recent years the OAU Assembly has repeatedly adopted resolutions supporting the work of the African Commission, calling on states to become parties to the African Charter, appealing to states parties to submit timely reports to the African Commission and requesting them to implement the rights guaranteed by the African Charter. It has repeatedly emphasized the importance of human rights. For example, at its 25th anniversary session in July 1989, the Assembly declared that "the promotion and protection of Human and Peoples' Rights are essential ingredients for the advancement of African citizens and peoples and constitute a significant contribution to the realization of their development aspirations". The OAU Secretariat is increasingly involved in observing elections and in efforts to mediate conflicts in many places in Africa.

Perceived shortcomings of the OAU in response to human rights violations

Nevertheless, the failure of the OAU Assembly to take effective action to combat human rights violations in member states during its first three decades has overshadowed these positive steps and led - perhaps unfairly - to a perception both inside and outside Africa that the OAU does not care for human rights. I have only to point to the anguish which I and so many other Africans felt at the end of the 1970s when the painful death of one of your Secretary General's predecessors, Diallo Telli, after being deprived of all food and drink in the notorious Camp Boiro, provoked neither protest nor comment from either the OAU or African governments.

Indeed, some of that criticism has come from within the OAU Assembly itself. For example, at the July 1986 OAU Assembly, Ugandan President Yoweri Museveni, later to become Chairman of the OAU Assembly from 1990 to 1991, criticized the silence of the rest of Africa while gross human rights violations were carried out in his country during the governments of Idi Amin and Milton Obote. He said:

"Over a period of 20 years nearly three quarters of a million Ugandans perished at the hands of governments that should have protected their lives. . . . I must state that Ugandans . . . felt a deep sense of betrayal that most of Africa kept silent. . . . The reason for not condemning such massive crimes has supposedly been a desire not to interfere in the internal affairs of a member state, in accordance with the Charters of the OAU and the United Nations. We do not accept this reasoning because in the same organs there are explicit laws that enunciate the sanctity and inviolability of human life."

The reluctance of the OAU Assembly to address human rights violations in member states is in stark contrast to the practice of most other intergovernmental organizations, such as the United Nations, the Organization of American States and the Council of Europe, which routinely address human rights violations in their member states.

The need for an OAU program for action to promote and protect human rights

If the OAU is to rebut criticism of its human rights record effectively, it must take, and be seen to take, a strong leadership role in the struggle to promote and protect human rights in Africa. Moreover, in order to address in an effective way the twin scourges of poverty and internal conflict which plague our continent, it must tackle the gross human rights violations which lie at the heart of such problems.

For the past three years, I and my predecessor as Secretary General of Amnesty International have been requesting you to demonstrate the concern of the OAU for human rights in Africa by urging the OAU Assembly to adopt strong resolutions in support of the promotion and protection of human rights in Africa. Today, the Assembly meets in the aftermath of the World Conference - which will have bitterly disappointed the high hopes of the 41 African states and 180 non-governmental organizations who adopted the Tunis Declaration in November 1992 reaffirming the principles of the Universal Declaration of Human Rights and the African Charter. In the face of this setback to Africa's hopes, the enormity of the problems of poverty, internal conflict, extrajudicial executions, torture and other gross violations of human rights, and in the light of the new winds of change sweeping across Africa, it is not enough for the Assembly simply to adopt a strong resolution. Africa demands more.

I suggest that the OAU Assembly must not leave the initiative to others. It must seize the initiative on human rights in Africa and adopt a bold, high-profile program for action to promote and protect human rights in our continent. I would recommend that the program contain the following six points at a minimum:

• **1. The OAU Assembly should publicly and regularly address violations of human rights in its member states**

Amnesty International hopes that the OAU Assembly will, for the first time in three decades, speak clearly and unequivocally at this session on human rights by publicly deploring the widespread violations of human rights which have taken place in the past and regrettably are still occurring in certain places in Africa. In particular, we hope that the OAU Assembly will address as a matter of priority the pressing problem of extrajudicial executions. In October this year Amnesty International will launch a major international year-long campaign against

extrajudicial executions and "disappearances" and we invite the OAU to join us in this effort by taking concrete steps to end such gross violations of fundamental human rights in Africa.

In the 1990s the security forces in more than a quarter of OAU member states have been responsible for extrajudicial executions, that is unlawful killings, often in secret or on a massive scale, which are prohibited by national and international standards. In most cases those responsible have escaped unpunished and even uncriticized for their actions - even by successor governments. In the past year alone the scale of political killings, both by government forces and by other armed forces, has been completely unacceptable. We urge you to ensure that the OAU Assembly takes a public stand against such killings and lends its authority to the campaign to protect life throughout the continent.

• **2. The OAU Assembly should press member states to implement the African Charter**

Amnesty International hopes that the OAU Assembly will appeal to all states parties to the African Charter to implement the rights and freedoms guaranteed by the African Charter in their law and practice.

We also hope that the Assembly will request all states parties take the steps suggested in the Assembly's resolution last year to implement the right to freedom of expression as set forth in Article 9 of the African Charter, the duty in Article 26 to establish or strengthen national human rights institutions and the requirement in Article 25 to ensure that human rights is included in the curriculum at all levels of public and private education and in the training of law enforcement officials.

• **3. The OAU Assembly should provide stronger support for the work of the African Commission**

Amnesty International requests the OAU Assembly formally to urge the states parties which have not submitted timely periodic reports to submit them as soon as possible, to report on legislative and other measures taken to give effect to each of the rights and freedoms guaranteed by the African Charter and on the problems encountered in doing so and, if the state party has difficulty in preparing such reports, to seek help from the African Commission.

We hope that the Assembly will call on all member states to ensure widespread distribution of the documents of the African Commission and that it will request the OAU Secretary-General to ensure that the African Commission has adequate resources to carry out its responsibilities to promote and protect human rights.

At this session, the OAU Assembly will have a unique opportunity to demonstrate in a concrete way the depth of its commitment to human rights. The African Commission for the first time has forwarded to the Assembly communications submitted by individuals and organizations under the much criticized - and, regrettably, still largely confidential - complaint procedure established under Article 55 of the African Charter. These communications allege that certain member states have committed serious or massive violations of human and peoples' rights. All of Africa will be watching to see how the Assembly responds, in particular if it at least uses its powers under Article 58 (2) to "request the Commission to undertake an in-depth study of these cases and make a factual report, accompanied by its findings and recommendations". If the Assembly does so, it will have demonstrated to Africa and the rest of the world that an African intergovernmental organization is willing to take the important first step of investigating alleged human rights violations in member states and recommending effective action to redress them.

• **4. The OAU Assembly should review the human rights situation when deciding whether to send election observers and whether an election is free and fair**

As the number of countries in our continent conducting referenda and multiparty elections increases, the OAU Secretariat and the African Commission have been sending more and more observers to monitor whether those referendums and elections are free and fair. The OAU also has a joint role with the United Nations in ensuring that the referendum to resolve the future of the Western Sahara as part of the plan agreed between Morocco and the Sahrawi Arab Democratic Republic (Polisario Front) will be free and fair.

An essential factor in determining whether such referenda and elections are fair is whether all parties are able to campaign freely and without intimidation. They cannot be considered fair if people involved in the campaign or their supporters are detained for peacefully exercising their rights to freedom of assembly, association and expression, are subjected to extrajudicial execution, tortured and "disappeared" or are prosecuted and imprisoned after unfair trials. Amnesty International urges that when the Secretariat is deciding whether to send observers and when it assesses the fairness of elections it must take into account whether fundamental human rights were observed before, during and in the immediate aftermath of the campaign.

• **5. The OAU Assembly should ensure that human rights are an essential component of its work in mediating and conciliating conflicts**

The OAU has been playing an increasingly important role in mediation and conciliation of conflicts within member states in recent years, often in cooperation with other intergovernmental organizations such as the United Nations and the Economic Community

of West African States (ECOWAS), including those in Angola, Liberia, Mozambique and Rwanda. It has also sent observers to South Africa.

Amnesty International urges that whenever the OAU undertakes mediation and conciliation efforts it should address the issue of violations of human rights guaranteed by the African Charter - such as extrajudicial executions, torture, detention of prisoners of conscience and unfair trials of political prisoners - which are often at the root of such conflicts or an integral component of them. The organization believes that there can be no permanent solution to these conflicts unless effective steps are taken to end human rights violations and investigate past violations and bring those responsible to justice. Indeed, it is now widely recognized that the failure to establish effective mechanisms to address human rights violations was a major factor in the breakdown of the Peace Accords in Angola.

• **6. The OAU should strengthen the African Charter**

Amnesty International has undertaken a major effort in the past few years to promote awareness of the African Charter and the work of the African Commission within Africa itself. We have distributed thousands of copies of the African Charter and explanatory materials, including a guide to the African Charter for the general public, throughout our continent in many of its most widely used languages.

Nevertheless, Amnesty International agrees with African commentators that there are significant shortcomings in the African Charter. In some cases, the express guarantees it contains fall short of international standards. In addition, the methods established under the African Charter for ensuring that it is implemented suffer from a number of limitations on their effectiveness.

I have attached *Amnesty International's observations on possible reform of the African Charter on Human and Peoples' Rights* (AI Index: IOR 63/03/93) for your consideration. We propose that, pending a comprehensive review of the African Charter, the OAU should concentrate in the short term on drafting a special protocol or agreement to supplement the African Charter which would strengthen its implementation procedures. In the longer run, a thorough revision of the African Charter will be needed to ensure that it does not fall short of international standards. Amnesty International believes that it would be beneficial if the drafting of protocols or amendments involved non-governmental organizations and eminent jurists both from Africa and other parts of the world at all stages of the process and if the OAU Assembly deliberations on these matters were to be conducted in public sessions.

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In conclusion, Amnesty International hopes that as the Assembly embarks on its fourth decade that it will adopt a bold new program for action which effectively meets the pressing challenge of human rights violations in Africa.