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Item 4: Human Rights Situation In Africa

Chairperson, Honourable Commissioners,

Amnesty International welcomes this opportunity to address the African Commission on Human and Peoples' Rights (African Commission) on the state of the situation of human rights in Africa.

The dire human rights situation in **Somalia** continues to be utterly neglected, even as the international community focuses increasing attention on the twenty-year conflict. Yet any durable solution must include effective action to address widespread violations of international human rights and humanitarian law, including war crimes, and the humanitarian crisis faced by civilians in southern and central Somalia.

Wide-ranging impunity for the decades of abuses committed in the armed conflict must be addressed for any resolution to the conflict to be sustainable. The lack of accountability for serious abuses, including crimes under international law, in Somalia tells perpetrators of human rights abuses that they have no reason to stop and no reason to fear justice. Others are positively encouraged to commit abuses and need not fear being held to account.

Civilians remain particularly vulnerable during any occurrence of fighting. In southern Somalia, several air strikes, some of which have been acknowledged by the Kenyan air force, appear to have resulted in death and injury to civilians and to have disrupted humanitarian access and operations. Kenyan and Ethiopian forces fight alongside militia loosely affiliated with the Transitional Federal Government (TFG). There are reports that in some towns under the control of these militia and forces, people have been extra-judicially executed or arbitrarily detained. The lack of adequate human rights monitoring in most of the country allows such abuses to go unchecked.

In Mogadishu, regular explosions and bombings and fighting among different TFG units have resulted in civilian casualties. Along with the large flow of people displaced by drought and lack of access to aid into Mogadishu, reports of looting of aid and rapes of women and girls in IDP camps in the capital, sometimes by men in TFG uniforms, have increased. The TFG has sought to address infighting among TFG troops and looting of aid through a military court, which has sentenced alleged perpetrators to death after summary or unfair trials.

Al-Shabab, the main armed group opposed to the TFG has committed wide-ranging and serious abuses, including public killings such as stonings to death and other punishments. It has specifically targeted children for recruitment as soldiers. Amnesty International has received reports of increasing recruitment taking place in Southern Somalia in response to military intervention by regional governments and fighting. Militia groups affiliated to the TFG and reportedly fighting alongside Ethiopian and Kenyan troops are also accused of having used and recruited children (under the age of 18) to their forces. While they are not being actively recruited, there is no effective mechanism to ensure that Transitional Federal Government (TFG) forces have demobilised all children in their ranks, , despite a commitment from the TFG to do so.

Journalists in all regions of Somalia and Somaliland have faced increasing harassment, attack and restrictions to press freedom over recent months. Five journalists have been killed in Somalia since December 2010; three in Mogadishu, one in Beletweyne and one in the northern part of Galkayo town, controlled by the Puntland authorities. At least 26 journalists have been killed in Somalia since January 2007. No one has ever been held to account for attacks targeting journalists, human rights activists and humanitarian workers.

Events in southern and central Somalia are not without effect on Somalia's neighbours. Almost half a million people have sought refuge in the Dadaab refugee camps in Kenya. Over one million Somali people have sought refuge in the region. The large number of Somali nationals and the resources required to support them presents a challenge for all host states, and in particular, Kenya. While recognising the difficulties this poses the Government of Kenya, including legitimate security concerns, the rhetoric used by the Kenyan authorities and reported plans to forcibly return all refugees in Dadaab across the border to Somalia are extremely concerning. Kenya must respect the principle of non-refoulement and must not return refugees to face gross human rights violations and indiscriminate violence.

Despite this reality, the international community has failed to give human rights abuses and serious allegations of war crimes the attention they deserve.

Amnesty International calls on the African Commission to:

- Support the creation of an independent international Commission of Inquiry or similar mechanism into human rights violations, war crimes and other violations of international humanitarian law committed in Somalia, and call on the Transitional Federal Government and African Union to do the same;
- Urge all parties to the conflict to adhere to international humanitarian and human rights law during the conduct of hostilities, including obligations to protect the civilian population from the effect of hostilities and ceasing the recruitment or use of persons under the age of 18 into armed forces or militia.
- Call upon the Somali authorities to ensure the protection of journalists, including by investigating all incidents of killings, attacks and harassment and bringing those responsible to justice, and uphold press freedom, creating an enabling environment for journalists to undertake their legitimate work in safety.
- Request all Member States to allow entry to civilians fleeing conflict and humanitarian crisis in Somalia, and uphold the principle of non-refoulement by refraining from forcibly returning individuals to southern and central Somalia;

The human rights situation in **Sudan** continues to deteriorate with ongoing conflicts in transitional areas including Southern Kordofan and Blue Nile between the Sudanese Armed Forces (SAF) and armed opposition group, the Sudan People's Liberation Army-North (SPLA-N) since June and September 2011. Indiscriminate aerial bombardments by the SAF and ground fighting by both sides, has resulted civilian deaths, injuries and mass displacement in the areas. Over 132,000 people from Southern Kordofan and Blue Nile have fled to neighbouring South Sudan and Ethiopia, and 420,000 people have been internally displaced by the conflict. The Sudanese authorities continue to deny humanitarian assistance to civilians in the SPLA-N controlled areas despite proposals by the African Union, UN and League of Arab States to allow for humanitarian access.

Insecurity persists for civilians from Abyei, since the SAF and allied-militia attacked the area in May 2011, causing over 100,000 people to flee to South Sudan. On 31 March 2012 the SAF bombed Um Khariet in Abyei, the first reported aerial bombardment in the Abyei area since the signing of the 20 June 2011 agreement between the Government of Sudan and Sudan Peoples Liberation Movement. The majority of displaced have been unable to return to their homes since the conflict began, despite the presence of the UN Interim Force for Abyei (UNISFA) since June 2011. Factors including the ongoing presence of armed forces in the area, the destruction of property during the conflict, lack of livelihoods, the threat of landmines in the area, and the lack of clarity on the administration of the Abyei area have resulted in the continued displacement of the population.

Freedoms of opinion and expression are increasingly curtailed by the Sudanese authorities. Journalists, writers and activists face arrest, torture and other forms of ill-treatment by the National Intelligence and Security Service and other security agents in Sudan. Many journalists and writers face criminal charges for carrying out their lawful work.

Amnesty International calls on the African Commission to:

- Urge the Sudanese authorities to end indiscriminate aerial bombardments and attacks in areas of conflict including Southern Kordofan, Blue Nile and Abyei, and to allow unfettered access to humanitarian agencies in all affected areas, in order to provide assistance to affected populations;
- Request the Sudanese authorities allow immediate access to international human rights monitors, including monitors from the African Commission, to all areas of Southern Kordofan, Blue Nile and Abyei;
- Call upon the Sudanese authorities to provide repatriation for the victims of human rights abused committed by members of the Sudanese Armed Forces, Popular Defence Force and SAF-backed militia in Abyei and hold perpetrators accountable in accordance with international standards;
- Urge the Sudanese authorities to immediately stop the harassment and intimidation of journalists, writers and activists in Sudan and respect their right to freedoms of opinion and expression.

Amnesty International is alarmed at increasing occurrences of state-based harassment, persecution and arrests of people who are, or who are perceived to be, **lesbian, gay, bisexual and transgender (LGBT)** throughout the continent. In December 2011, a bill was introduced to the Nigerian House of Representatives seeking to extend the penalties for consensual same-sex conduct, and to criminalize individuals and organisations who work for the human rights of LGBT people. In Uganda, the Anti-Homosexuality Bill is was re-introduced on 7 February this year,

whilst on 14 February, a workshop in Entebbe for human rights activists working on LGBT issues was shut down by the Minister for Ethics and Integrity and the police, violating the activists' rights to freedom of expression and peaceful assembly. In Cameroon, men and women continue to be arrested on a regular basis for so-called 'homosexuality' or 'attempted homosexuality', and in March a workshop in Yaounde on the human rights of LGBT people was shut down by police. In February, a bill was introduced in Liberia seeking to impose penalties ranging from ten years' imprisonment to the death penalty for consensual same-sex conduct.

These are just a few examples of the increasing clampdown in many African countries against people based on their sexual orientation or gender identity. In many cases, this is occurring with the explicit backing of legal systems which continue to criminalize consensual same-sex conduct. Such laws violate the right to non-discrimination, the right to equality before the law, the right to privacy, and in some cases also violate the right to freedom of expression, association and assembly, the right to be free from torture and other cruel, inhuman or degrading treatment, and the right to liberty and security of the person. In addition, they significantly hamper the ability of LGBT individuals to exercise their right to health.

In March 2012, the UN Human Rights Commissioner presented her report on discrimination and violence on the basis of sexual orientation and gender identity to a special panel session of the Human Rights Council. This report, the first of its kind, confirmed that LGBT rights are human rights, and that the rights of LGBT people are firmly grounded in international human rights law. In concluding the panel, Ambassador Abdul Minty of South Africa said that when considering how to approach the human rights of LGBT persons, states would do well to heed the concept of Ubuntu, meaning 'I am because you are.'

Increasingly, African present and past leaders are speaking out on this issue. In October of last year, former Botswanan president, Festus Mogae, called for the decriminalization of homosexuality across Africa. In January, Thabo Mbeki, responding to a question about Uganda's Anti-Homosexuality Bill, said 'what two consenting adults do is really not a matter for the law', and likened criminalising same-sex sexual conduct to South Africa's criminalization of inter-race sexual relations during Apartheid.

The African Charter on Human and Peoples' Rights affirms the right to non-discrimination under Article 2, and refers throughout to the rights of 'every individual'. However, the African Commission on Human and Peoples Rights (the Commission) has yet to make an official statement or resolution that condemns the persecution and criminalization of people on the basis of their sexual orientation, gender identity or consensual sexual behaviour. The Commission is uniquely placed to be able to reverse the trend of criminalization and persecution of LGBT people in Africa through developing principles and standards around the right to non-discrimination for LGBT people under the African Charter.

Amnesty International therefore reiterates its call to the Commission to adopt a resolution condemning the persecution of LGBT people, and to unequivocally state that laws that criminalize consensual same-sex conduct violate the non-discrimination and equality provisions of the African Charter. Amnesty International also calls on the African Commission to develop principles and standards on the prevention of persecution, discrimination and violence against LGBT people by state and non-state actors alike. Such principles and standards should be based on the African Charter, the Commission's jurisprudence, and the standards elaborated by the UN human rights bodies and experts.