



THE HUMAN RIGHTS SITUATION IN AFRICA:

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.

On the **death penalty**, Amnesty International is concerned with the increase of death sentences passed since the beginning of the year in West Africa. In total, at least 64 death sentences were handed down in eight countries, including in countries where capital sentences were rare. Amnesty International recorded for example 11 death sentences in Liberia, 13 in The Gambia and 16 in Mauritania since the beginning of 2010. Retentionist countries have obligations to ensure that the death penalty is imposed only for the most serious crimes, to respect prohibitions under international law regarding its use and to fully respect all safeguards guaranteeing protection of the rights of those facing the death penalty.

In **Equatorial Guinea**, former military officers José Abeso Nsue, Manuel Ndong Anseme, border guard Jacinto Michá Obiang and Alipio Ndong Asumu, a civilian, were executed on 21 August 2010 within an hour of being sentenced to death by a military court. They had been convicted of an attack against the Head of State and Government, treason and terrorism, in relation to an alleged attack on the presidential palace in February 2009. In prison they were held incommunicado and tortured and their trial did not meet international standards of fairness. The speed of their execution deprived them of their right to appeal to a higher court and of their right to seek clemency, in accordance with international law and the country's own law.

Amnesty International is also concerned that several states in Nigeria announced in April their intention to execute death row inmates to ease overcrowding. In The Gambia, the scope of the death penalty was extended to drug related crimes. Amnesty International welcomes the steps taken by the governments of Benin and Mali to abolish the death penalty but is concerned that the draft bill for abolition adopted by the Malian government in 2007 has not yet been examined by Parliament three years later.

Amnesty International accordingly calls on the African Commission to:

- Urge African Union member states which still use the death penalty to establish an immediate moratorium on executions as a first step towards abolishing the death penalty;
- Urge African Union member states that are yet to do so to ratify the International Covenant on Civil and Political Rights and/or its Second Optional Protocol aiming at the abolition of the death penalty.

In **Somalia**, Amnesty International is concerned at the widespread violations of international humanitarian law and human rights law, including war crimes, and the dire humanitarian situation that civilians face in southern and central Somalia. Civilians are at high risk of being killed and injured in indiscriminate attacks by all parties to the internal armed conflict, and as a result of a situation of generalized violence and collapse of the rule of law. In addition, certain categories of persons also face targeted attacks, including unlawful killings, torture and other ill treatment, abductions, death threats and harassment. In areas where there is currently no fighting, civilians bear the brunt of arbitrary and repressive rules, violating their human rights, enforced by armed Islamist groups. Conflict and associated human rights abuses continue to cause massive displacement in Somalia. According to UNHCR, over 200,000 civilians were estimated to have fled their homes in Somalia between January and early September 2010, some 1.4 million are currently displaced within the country and 68,000 have been registered as newly arrived refugees in neighbouring countries in 2010. Given the difficulties of access to southern and central Somalia by independent observers, Amnesty International relies on information provided by local sources to document the situation, as well as accounts from Somali refugees who flee Somalia. Amnesty International interviewed hundreds of Somali refugees who had recently fled their country in March and June 2010 in Kenya.

Amnesty International accordingly calls on the African Commission to:

- Demand that grave abuses committed against civilians by all parties to the conflict are investigated and mapped by an independent and impartial Commission of Inquiry, or similar mechanism, which could also recommend the way forward to for accountability in Somalia
- Call for the setting up an independent mechanism to investigate all allegations of violations of international humanitarian and human rights law by personnel of the African Union Mission in Somalia (AMISOM), including allegations of indiscriminate or disproportionate attacks, such as mortar firing or shelling in densely populated areas in Mogadishu
- Call on all AU member states to ensure that all Somalis fleeing conflict and persecution in southern and central Somalia are able to access refuge and protection on their soil and not to send back any Somali to South-Central Somalia, in line with the OAU refugee convention and the Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia, updated by the UN High Commissioner for Refugees (UNHCR) in May 2010.
- Call on AU Member States to find ways to provide durable solutions for Somali civil society activists, including easily accessible asylum procedures, resettlement and support to continue their work in light of the peculiar risk that this group of Somalis face.

Amnesty International would like to express its concerns over the situation of human rights in **Sudan** in the lead up to the referendum on self-determination of south Sudan, scheduled to take place on 9 January 2011.

Restrictions on freedom of expression, including censorship and the arrests of journalists have significantly increased in the north of Sudan over the past two weeks, with the arrest and incommunicado detention of at least 11 activists and journalists by the National Intelligence and Security Service (NISS). Newspapers continue to be closed down.

Amnesty International is particularly concerned over the powers granted to law enforcement agencies, such as the NISS, which continue to commit human rights violations, including arbitrary arrests and detention, torture and other forms of ill-treatment. Upholding the right to freedom of expression remains vital during the referendum and in any future transition Sudan faces.

Amnesty International asks the African Commission to:

- Request the Sudanese authorities to immediately stop the arbitrary arrests and detentions, torture and other ill treatment, particularly by the NISS, and to ensure that those responsible for human rights violations are held accountable in the lead up to, during and following the referendum.
- Urge the Government of Unity and the Government of Southern Sudan to remove all restrictions on freedom of expression, association and peaceful assembly and to allow journalists and activists to peacefully continue their work and express their opinions.

Amnesty International would also like to express its profound concern at the recent decision of the African Commission to deny observer status to the Coalition of African Lesbians (CAL), a non-governmental human rights organization (NGO) whose member groups come from eleven countries on the continent. The African Commission denied the coalition's application without explanation in an unprecedented summary decision dated 20 May 2010 and sent to CAL on 25 October 2010.

The African Commission's resolution on observer status notes "the need to strengthen [the Commission's] co-operation and partnership with NGOs working the field of human rights" and recalls a resolution that notes "the contribution made by African NGOs to the promotion and protection of human rights in Africa." Consistent with these values, the African Commission should seek the participation of the broadest possible range of African human rights organizations.

The African Commission's decisions should also uphold the principles of fairness and transparency. If the African Commission applies criteria to applications for observer status that are additional to those set out in its resolution, it should make those additional criteria public. Where the African Commission believes that the applicant does not fulfil the established criteria for observer status, it should notify the organization that it intends to deny observer status, provide reasons for its intent to do so, and afford the organization in question an opportunity to

respond to the concerns it has identified.