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African Union: Make Human Rights the Basis of Shared Values

In advance of the 16th Ordinary Summit of the African Union Heads of State and Government to be held in Addis Ababa, Ethiopia, from 24 – 31 January 2011, under the theme *"Towards Greater Unity and Integration through Shared Values"* Amnesty International is calling on African leaders to ensure that the respect and protection of international human rights and humanitarian law are made the basis of shared values in Africa.

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 remain at high risk of being killed and injured in indiscriminate attacks by all parties to the conflict, and as a result of a situation of generalized violence and collapse of the rule of law. Amnesty International is also concerned at the rise in the use of child soldiers by armed groups, and the lack of respect for the United Nations arms embargo on Somalia. No mechanism has ever been established to investigate and map grave human rights abuses in Somalia, despite decades of impunity.

Amnesty International accordingly calls upon the African Union Assembly to:

- Publicly demand that crimes against international law committed against civilians by all parties to the conflict, including the use of child soldiers, are investigated and mapped by an independent and impartial Commission of Inquiry, or similar mechanism, which could also recommend the way forward for accountability in Somalia;
- Sets up an independent mechanism to investigate all allegations of violations of international humanitarian and human rights law by personnel of AMISOM, including allegations of indiscriminate or disproportionate attacks, such as mortar firing or shelling in densely populated areas in Mogadishu;
- Urge its member states to respect the United Nations arms embargo on Somalia, including the obligation to request exemptions, for any security sector assistance to Somalia's Transitional Federal Government (TFG), from the United Nations Sanctions Committee;
- Ensures that training and other security assistance delivered by the African Union Mission in Somalia (AMISOM) to TFG security forces includes rigorous practical exercises and operating standards designed to ensure full respect for international human rights and humanitarian law.

On 2 February the preliminary results of the referendum on the secession of south **Sudan** are scheduled to be announced. In its preliminary statement the AU concluded the referendum "was free, fair and credible". However, a number of key issues related to the referendum remain unresolved. Amnesty International is particularly concerned about the absence of an agreement on citizenship which creates uncertainty for people and may lead to human rights violations. If people are not to be permitted to hold nationality or citizenship of both countries if south Sudan were to secede, they should be able to make their own choice as to which nationality or citizenship they will take. The conditions for obtaining nationality or citizenship, as well as for passing it on to

one's children, must not discriminate on the basis of birth, ethnic origin, religion, gender, marital status or similar other factors. Moreover it will be necessary to make effective provisions to safeguard the right to family life in cases where different members of a family have different nationalities or citizenships.

The human rights situation in Darfur continued to deteriorate. Since February 2010, government attacks and inter-communal fighting as well as armed confrontations between the government troops and armed opposition groups in various parts of Darfur reportedly caused the displacement of more than 100,000 people. In December, more than 20,000 people were displaced when government troops carried out indiscriminate attacks on towns and displaced camps in north and south Darfur, including Dar el Salam, Shangil Tobaya and Khor Abeche. Violations of international human rights and humanitarian law continued in Darfur, with the government regularly restricting access to humanitarian aid. Arbitrary arrest and detention of Darfuris also continued. Amnesty has documented a number of cases of torture by the National Intelligence and Security Service (NISS). Human rights activists and others, continued to be held in incommunicado detention and without charges for long periods of time. Thirteen Darfuri activists and journalists were arrested by the NISS and kept in incommunicado detention for more than two months in Khartoum. A few of them were released in mid January while the others remained in detention.

In the south of Sudan, although the situation improved from last year, incidents of inter-communal violence were reported throughout the year. Violence between members of the Misseriya and the Dinka Ngok communities in the north of Abyei erupted around the start of the referendum. More than 40 civilians were reportedly killed before mediators intervened to stop the fighting. A convoy carrying southern Sudanese returnees was also reportedly attacked by a group of armed Misseriya.

Amnesty International calls upon the African Union Assembly to:

- Call on the National Congress Party and the Sudan People's Liberation Movement to come to an agreement on citizenship which would allow people to choose their nationality or citizenship, without discrimination and in accordance to international human rights standards;
- Condemn violations of international human rights and humanitarian law by all parties in the armed conflict in Darfur, and to call on the government of Sudan to protect civilians in Darfur;
- Urge the Sudanese government to repeal the 2010 National Security Act and bring its laws in line with international human rights standards by removing extensive powers of arrest and detention and removing immunities for human rights violations;
- Call on the Government of Sudan to immediately end its persecution of human rights defenders and journalists, to immediately and unconditionally release all prisoners of conscience and to respect their right to freedom of expression, association and peaceful assembly;
- Continue to support national and international justice mechanisms in order to end the culture of impunity in Sudan.

In **Nigeria**, Amnesty International is concerned about escalating levels of violence in the run-up to the 2011 elections. Amnesty International condemns the violence and is calling on the African Union to urge the Nigerian authorities to take comprehensive measures to protect the right to life and security of persons across the country. There must be justice, truth and reparation for the victims and their relatives. Hundreds of people have been killed across Nigeria in politically-motivated, ethno-religious and sectarian violence in the past few months. In addition, human rights defenders and journalists are facing increasing intimidation and harassment. Yet the Nigerian authorities have failed to bring suspected perpetrators to justice and to otherwise repair

the harm suffered by victims.

In Plateau state, dozens of people have been killed in gun and machete attacks in and around the city of Jos, in communal violence. The violence followed the detonation of at least three bombs in Jos on 24 December, which killed over 80 people. Dozens of houses have been burnt down and businesses remain shut. More than 50 people have been killed in sectarian violence in and around Maiduguri, Borno state, since July 2010 by people believed to be members of the religious sect formally known as Boko Haram. Many of the attacks targeted the police. Sixteen people were killed in the last week of December alone, including six people killed on 24 December when suspected Boko Haram members attacked two churches in Maiduguri. Suspected members of Boko Haram also carried out attacks in Bauchi and Yobe states, killing at least five policemen.

Amnesty International has received numerous reports of politically motivated attacks, killings, threats and intimidation targeting political candidates and their supporters in the run-up to the 2011 elections; dozens have already been killed. Amnesty International fears that human rights defenders, who play a key role in monitoring Nigeria's upcoming election in April, are at increased risk of violence. Amnesty International is concerned that the failure to take measures to prevent violence and to protect the right to life of individuals may contribute to an escalation in election related violence and killings in the run-up to the April 2011 elections. While not all the recent violence is directly related to the elections, widespread violence and impunity facilitate election related violence and killings.

Amnesty International is calling upon the African Union Assembly to urge Nigeria to:

- Investigate immediately all cases of politically-motivated, communal and sectarian violence;
- Ensure that those suspected of perpetrating acts of violence are brought to justice in accordance with international fair trials standards and without recourse to the death penalty;
- Provide compensation and rehabilitation to victims of human rights violations; and
- Ensure that the findings of previous commissions of inquiry into violence in Plateau State are made public.

Senegal is required under international law to try Hissène Habré, the former president of Chad, for alleged political killings and systematic torture committed between 1982 to 1990, when he was president of the country. At the 15th Ordinary Summit of the African Union Heads of State and Government held in Kampala, Uganda, the African Union reiterated its commitment to fighting impunity in accordance with Article 4 (h) of the Constitutive Act of the African Union. In July 2006, the African Union Heads of State and Government adopted a resolution which mandated Senegal "to prosecute and ensure that Hissène Habré is tried, on behalf of Africa, by a competent Senegalese court with guarantees for fair trial" and called on the African Union Commission, "to provide Senegal with the necessary assistance for the effective conduct of the trial." Senegal's obligation under international law and the African Union decision requiring it to try Hissène Habré remains unchanged by the decision by the Court of Justice of the Economic Community of West Africa (ECOWAS) that he must be tried by a court with international elements. The decision of the ECOWAS Court of Justice is inconsistent with international law. The trial of Hissène Habré had been delayed by Senegal for various different reasons. The effect of these continuing delays has led to the denial of justice and reparations to the victims of Hissène Habré's alleged crimes. "The United Nations Committee against Torture recently reminded Senegal of its obligations under international law. In a letter to Senegal, it said, "financing is today at [Senegal's] disposition, thanks to the raising of funds from many sources," and that, "the Committee wishes therefore to

remind [Senegal] of its obligation under the Convention against Torture, to submit the case to its competent authorities for the purpose of prosecution or failing that, since Belgium has made an extradition request, to comply with that request” or any other extradition request from another state made pursuant to the convention.”

Amnesty International accordingly calls upon the African Union Assembly to:

- Reiterate its mandate to Senegal to try Hissène Habré for the alleged crimes committed without further delay.
- Proceed with the arrangements that have been put in place since the donor conference held in Dakar, Senegal, whose aim was to raise the necessary resources to enable Senegal to try Hissène Habré.

The 2007-2008 post-elections violence in **Kenya** resulted in the death of over 1,100 people through politically and ethnically-motivated killings and police killings and to the displacement of over 500,000 people. To date, no measures have been implemented to ensure accountability for human rights violations, including possible crimes against humanity, committed in the post-election violence. Debate on a private members bill seeking to establish a special tribunal to investigate and prosecute these crimes stalled due to lack of quorum in Parliament. In March 2010, the ICC authorised investigations into the post-election violence. On 15 December 2010 the Prosecutor Luis Moreno Ocampo made an application requesting the ICC to issue summonses to appear against six Kenyan citizens, including current or suspended ministers from both ruling parties. Following the application for summons to appear, the Kenyan Parliament passed on 22 December 2010 a motion asking the government to take appropriate action within 60 days to withdraw from the Rome Statute.

Withdrawing from the Rome Statute will not affect the investigations and proceedings already initiated and so would not affect the cases brought to the ICC on post-elections violence in Kenya. As provided by the Rome Statute of the International Criminal Court, withdrawals shall only take effect one year after the day of receipt of the notification addressed to the Secretary General of the United Nations and Kenya would not be discharged, by reason of its withdrawal, from the obligations arising from the Statute, including the obligation to cooperate fully with the Court in connection with criminal investigations and proceedings commenced prior to the date on which the withdrawal became effective.

The executive in Kenya has not officially responded to the Parliamentary motion for withdrawal from the ICC. However, in the last couple of weeks, high ranking government officials have reportedly been lobbying other African heads of state (Uganda, South Africa, Ghana to date), apparently seeking support for strong statements from the AU and possibly the UN for suspension of the summonses. Kenya may also petition the ICC in the near future for the summonses to be suspended. Kenya is also considering pushing local measures for accountability that would bolster their case for the ICC not to pursue the matter.

Amnesty International accordingly calls upon the African Union Assembly to:

- Reiterate its commitment to fighting impunity on the African continent by calling on those member states of the AU who are States Parties to the Rome Statute not to support the calls to withdraw from the Rome Statute.
- To call on the Kenyan government to fulfil its obligations as a State Party to the Rome Statute and cooperate with the ICC in the summons that have been issued.