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Towards the Promotion and Protection of the Rights of Human Rights Defenders in Africa

Amnesty International's recommendations to the Focal Point on Human Rights Defenders of the African Commission on Human and Peoples' Rights

1. Introduction

The first African Commission on Human and Peoples' Rights (African Commission) Consultative Workshop on Human Rights Defenders to dialogue with the Commission's Focal Point on Human Rights Defenders on her mandate and work plan will take place in Banjul, The Gambia, between 19 and 20 March, 2004. This Workshop provides a unique opportunity for the African Commission, non-governmental organizations (NGOs) and other stakeholders to take stock of the implementation of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders) in Africa.

It also provides them the chance to make proposals to strengthen the Commission's role and capacity to further the full and effective implementation of the Declaration. According to the African Commission, participants are expected, during this time, to "draw up the terms of reference, to plan for activities to be undertaken for the duration of the [Focal Point's] mandate and to define the way forward for this new mechanism in Africa."

The decision was made in 2003 by the African Commission to appoint Commissioner Jainaba Johm as Focal Point on Human Rights Defenders in Africa.¹ Following this decision, the African Commission and its partners, including Amnesty International, decided to meet to discuss how the new mechanism could address the numerous violations of the rights of human rights defenders in the continent.

Human rights defenders are the women and men on the front lines of the struggle to realise the ideal proclaimed in the Universal Declaration of Human Rights (UDHR), that all people should be free from "fear and want". They can be lawyers, journalists, peasant leaders, relatives of victims, trade unionists, doctors, teachers or students. Defenders work on the whole spectrum of human rights— civil and political rights as well as economic, social and cultural rights. This community has expanded

¹ The African Commission took this decision at its 34th Ordinary Session in Banjul, The Gambia between 6 and 20 November 2003.

considerably in recent years, in parallel with the increasing scope of their work and recognition of their contribution.

Wherever there is persecution and oppression, where human rights are denied or human dignity threatened, where there are harassed minorities or oppressed peoples, defenders strive to protect the weak and hold the powerful to account. In many countries, defenders put their lives on the line to protect others, and regularly confront threats and risks. Defending the victims and promoting their rights does not exempt them from danger, it magnifies it. Defenders themselves frequently become victims of imprisonment, torture, extra-judicial executions or “disappearance”. They are often targeted after being accused of offering support to “subversives” or of acting against the national interest.

They can be harassed and have their work curtailed through ostensibly legal channels: when their writing is banned or censored, when official restrictions prevent them from getting resources to support their work, deny them freedom of movement and the right to organize themselves or restrict their ability to represent the victims. The greatest threat comes from governments that perceive defenders as an obstacle to their policies of suppressing dissent, who fear that defenders will expose the repression they try to conceal from the scrutiny of the international community. Therefore, respect for the rights of human rights defenders is necessary for ensuring the full implementation of internationally recognized human rights.

The role of human rights defenders as a catalyst for the full implementation of human rights, and mobilizing pressure on governments, and contributing to standard-setting cannot be contested. Indeed, defenders have participated in the process of the development of human rights at the regional and international levels.

Across Africa, defenders rely on the UDHR and other instruments, such as the African Charter on Human and Peoples’ Rights (African Charter), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), to remind states of their obligations and to hold them responsible. Defenders publicly disclose human rights violations, raise public awareness, undertake fact-finding missions, reporting, human rights education and publication, lobby decision-makers on the domestic and international levels, provide legal assistance, and engage in domestic human rights litigation.

Amnesty International has consistently emphasized the need for states parties to the African Charter to respect and protect the work of human rights advocates and other members of civil society who work to ensure that peoples fully enjoy their internationally recognized human rights.

Amnesty International believes that human rights defenders in Africa (and elsewhere) should enjoy the rights and freedoms recognized in the UDHR, the African Charter, and the protection of the national law. They should be free to carry out their human rights activities, without interference. Their work must be protected and supported, rather than restricted, because of the vital contribution they make to any community, at any stage of social or political development.

The international community have long recognized and confirmed the important contribution of human rights defenders in the promotion and protection of human rights worldwide. Thus, Article 71 of the Charter of the United Nations provides, “the Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.”

In 1993, the UN World Conference on Human Rights explicitly recognized “the important role of non-governmental organizations in the promotion of all human rights,” and affirmed that “non-governmental organizations and their members genuinely involved in the field of human rights should enjoy the rights and freedoms recognized in the Universal Declaration of Human Rights, and the protection of national law.”²

This principle has been reaffirmed by the UN Declaration on Human Rights Defenders, adopted by the UN General Assembly on 8 December 1998. Although several international and regional human rights treaties have recognized the rights of human rights defenders, including the rights to freedom of expression, association and assembly, the adoption of the Declaration heralded the arrival of a new era in the promotion and protection of those rights.

The African Commission’s obligation to interact with defenders is written into Article 45 of the African Charter, which deals with the mandate of the Commission. Article 45(1)(a) states that the African Commission shall “collect documents, undertake studies and researches on African problems in the field of human and peoples’ rights, organize seminars, symposia and conferences, disseminate information, encourage national and local institutions concerned with human and peoples’ rights, and should the case arise, give its views or make recommendations to Governments.” According

² Vienna Declaration and Programme of Action, U.N. Doc. A/CONF.157/24 (1993), reprinted in 32 I.L.M. 1661.

to Article 45(1) (c), the African Commission shall “co-operate with other African and international institutions concerned with the promotion and protection of human and peoples' rights.”

Thus, during its Second Ordinary Session in Dakar in February, 1988, the African Commission adopted a Programme of Action in which cooperation is listed as a major point of its work. According to the Programme of Action, cooperation extends beyond intergovernmental organizations to non-governmental organizations. Since then, the Commission has been willing, in various ways, to engage in cooperative activities with NGOs. According to the Kigali Declaration adopted by the African Union (AU) Ministerial Conference on Human Rights in May 2003, African governments must “take appropriate steps to implement the UN Declaration on Human Rights Defenders in Africa.”

The work of human rights defenders takes place in the framework of the above enumerated standards: they denounce human rights violations, and oppose them peacefully but actively; they support and protect the victims; and fight to end impunity. They also try to forge the consensus necessary for progress and understanding between people and governments.

Amnesty International, together with other international and national human rights NGOs have called on the African Commission to adopt a resolution that would recognize the fundamental human rights of defenders and strengthen the protection of those rights throughout Africa. The establishment of the Focal Point on Human Rights Defenders is an important opportunity for the African Commission to reinforce its support for defenders in the continent. This document highlights the key provisions of the Declaration on Human Rights Defenders and makes recommendations to the Focal Point in order for the mechanism to function effectively and efficiently.

2. Summary of United Nations Declaration on Human Rights Defenders

The text of the Declaration on Human Rights Defenders comprises of a preamble and twenty articles. The Preamble reaffirms the importance of the observance of the purposes and principles of international and regional human rights instruments, including the ICCPR, the ICESCR and the African Charter, for the promotion and protection of all human rights, without discrimination.

It stresses and reaffirms the particular importance of achieving international cooperation to achieve the full realization of human rights, promote and protect the

valuable work of individuals, groups and associations in contributing to the effective elimination of violations of human rights.

Article 1 of the Declaration guarantees the right of everyone to, individually and in association with others, promote and strive for the protection and realization of human rights at the national and international levels. Article 2 imposes a responsibility on each state to protect, promote and implement human rights by adopting, among others, legislative and administrative measures, to create conditions necessary in the social, economic, political, legal and other fields, to ensure that persons under its jurisdiction are able to enjoy those rights and freedoms in practice.

The defence of human rights is a task shared by everyone, regardless of their ideological convictions, social background, or national origin. In any field of work, in schools and religious institutions, in unions and political parties, as individuals or by working in groups, the defence of one's own or other people's rights is an essential and entirely legitimate activity. As such it must be sanctioned, protected and encouraged.

The rights that make most of these activities possible are already guaranteed to all people: the right to freedom of expression, freedom of association and peaceful assembly. Amnesty International believes that recognition of the right to defend human rights should incorporate the following principles: the right to defend human rights should be interpreted in the widest possible sense so that it encompasses both promotion and efforts to prevent abuses. Furthermore, the defence of human rights relies on the work of individuals, but also on informal groupings and legally recognized associations. As such, efforts should be made to encourage joint initiatives in human rights defence and promotion.

Similarly, as the observance of human rights is a matter of universal concern, the right to defend them must not be subjected to geographical restrictions. It should be possible for everyone to: exercise this right on the international as well as the national level; defend and promote any and all human rights, and choose which rights they work on.

It is essential that the right to defend human rights is guaranteed by the law. This guarantee should not just include the protection necessary for human rights defenders, but also assumes that their means of obtaining the material and financial resources that make their work possible are not obstructed.

Article 3 of the Declaration states that domestic law, consistent with states' international human rights obligations, shall form the juridical framework for the enjoyment of human rights, and for carrying out human rights activities. Article 4

provides that nothing in the Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or the provisions of international and regional instruments relevant to the promotion and protection of the rights of defenders.

Both Articles 5 and 6 reaffirm the human right of everyone to, individually or in association with others: meet or assemble peacefully; form, join and participate in NGOs, associations or groups; and communicate with NGOs or intergovernmental organizations. The Articles also guarantee the right to: know, seek, obtain, receive and hold information about human rights; freely publish, impart or disseminate to others views, information and knowledge on human rights; and study, discuss, form and hold opinions on the observance, both in law and in practice, of human rights.

Ensuring that people are well informed about their rights and about the safeguards that states must implement to protect them is an important factor in the prevention of human rights violations. This right to know and to make known to others what rights they have, how they should be protected and who ensures this protection should thus be exercised without any interference.

Amnesty International believes that the full exercise of this right implies the possibility to: develop and promote courses on human rights for inclusion in official programs of education; and carry out specialized training for professions that fulfill an important role in the defence of human rights. The exercise of the right also means the implementation of courses for law enforcement officials and those in charge of detention centres and prisons.

Exercising the right to be informed about human rights means being able to seek, receive and impart information and ideas. Besides open access to the media and to academic sources, defenders must be entitled to: direct and unhindered access to information on human rights.

Furthermore, the Declaration guarantees in Articles 7, 8, 9, 11 and 12 the right of everyone to: develop and discuss new human rights ideas and principles and advocate their acceptance; have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs. Others include the right to benefit from an effective remedy and to be protected in the event of the violation of those rights; the lawful exercise of his or her occupation or profession and participate in peaceful activities against violations of human rights.

Under Articles 13 and 14 the Declaration also guarantees to everyone the right to: solicit, receive and utilize resources for the express purpose of promoting and

protecting human rights through peaceful means. The individuals and groups who defend human rights obviously need to have material and financial resources in order to carry out their work. Defenders cannot rely on being paid for the services they provide; the victims of human rights violations and the other people represented or assisted by defenders are almost invariably poor.

This clearly cannot stop the defence of human rights, and defenders raise the money and other resources they need by some of the following methods: the production and sale of books, leaflets, articles or other publications on human rights. Others may include: public fundraising through other campaigning activities, such as education and information sessions; selling crafts, posters and other goods; street theatre; speaking tours; and street collections; collecting professional fees when and if the beneficiaries can pay.

Defenders may also raise money through: donations and legacies from individuals or organizations, which could include financial contributions or other resources (such as books or fax machines); contributions from governmental and intergovernmental bodies, as well as from private foundations. These and other fundraising activities are legitimate as much for the means by which they are carried out as for their ultimate object.

According to Article 17, “in the exercise of the rights and freedoms referred to in the present Declaration, everyone, [working alone or through the combined efforts of different people in formal or informal associations] shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.”

Special responsibilities fall on states and their leaders in regard to the protection and promotion of human rights. They are responsible for exercising public power within strict limits; abuse of these limits necessarily leads to excesses or arbitrariness. Establishing the delicate equilibrium between the use of legitimate power and the respect for human rights is a fundamental obligation of every government. In order to fulfill this obligation, governments must establish institutions that guarantee the free exercise of human rights and contribute to the organization of society so that these rights can be enjoyed as widely as possible.

The above principles offer the framework for an expanded role for the African Commission’s Focal Point to work towards the full promotion and protection of the human rights of defenders in Africa. Unless defenders are protected from governmental retribution for their work, the promotion and protection of human rights

would continue to be in jeopardy. Amnesty International urges the Focal Point to consider the following recommendations in discharge of her mandate.

3. Amnesty International's Recommendations to the Focal Point on Human Rights Defenders of the African Commission

The Focal Point should monitor progress in the implementation of the Declaration on Human Rights Defenders in Africa

Amnesty International calls on the Focal Point to actively monitor the progress in the implementation of the Declaration on Human Rights Defenders in Africa. One way this could be achieved is through field missions, either individually or jointly with other thematic mechanisms of the African Commission. Under Article 46 of the African Charter, the African Commission “may resort to any appropriate method of investigation” in discharging its mandates.

The Focal Point should undertake follow-up missions to states, where appropriate. Undertaking field and follow-up missions to countries in the continent would enhance the full implementation of the Declaration on Human Rights Defenders at the national level. It also has the potential of providing visibility and awareness of the work of the Focal Point, and of the Declaration on Human Rights Defenders, as well as a more comprehensive understanding of the actual situation of defenders in the Africa.

The aim of such visits should be to examine directly the situation of defenders, to listen to them and hear their views, and to exchange views freely with government officials, NGOs and private institutions. The visits could also aim at sensitising the media to issues relevant to the promotion and protection of the rights of defenders.

It is important that the Focal Point requests visits to states where appropriate and to report to the Commission at regular intervals on the progress of follow-up activities and the extent of states' compliance with such request. Fact-finding missions should be carried out on a routine, non discriminatory basis. The Focal Point should ensure that sufficient resources and administrative support are secured to engage in fact-finding missions.

The Focal Point should produce public reports of missions for wide distribution which provide a detailed analysis of the situation of human rights defenders within a short time after the mission has been concluded. The reports should give information about the nature and scope of violations, details about national legislation, and its conformity with the African Charter and other treaties to which the government is a

state party, conclusions and recommendations. The recommendations should indicate action to be taken by the government and, if appropriate, non-governmental entities, as well as follow-up required by the AU or the African Commission itself. The recommendations should set a clear time-frame for implementation.

To achieve the above, the Focal Point should develop guidelines for missions, which would ensure the independence and impartiality of the mission, adequate preparation in advance of and follow-up after a visit, and the wide distribution of detailed reports following a mission. It is essential for the Focal Point to embark on consultations with members of the African Commission in order to develop and launch a Plan of Action to strengthen implementation of the Declaration on Human Rights Defenders and other relevant instruments. A Plan of Action would be crucial to strengthen the resources available to the Focal Point. The Focal Point should consider what role NGOs might play in this regard.

The Focal Point should prepare and make public appropriate reports

Amnesty International urges the Focal Point to prepare timely reports and ensure public access to her reports and recommendations, especially at the national level in the country concerned. The Focal Point should distribute her reports to NGOs and the press immediately after their adoption by the African Commission.

Attention should be given to educating, interesting and informing the media about the work of the Focal Point. While significant improvements have been made, information on materials relating to the work of the African Commission is still inadequate. The Focal Point should seek from the AU and external donors resources to support grass-roots initiatives designed to disseminate information about her work in more popular formats and media.

The Focal Point should explore collaboration with the office of the UN Special Representative on Human Rights Defenders in order to enhance the publication of her mandate and work. Furthermore, the Focal Point should prepare annual press releases on her activities and responses from governments.

The Focal Point should take preventive measures and urgent actions whenever necessary

It is essential that the Focal Point provides human rights defenders whose rights are violated or threatened with an effective and timely remedy. The Focal Point should use her position to intervene in cases where she may be able to prevent violations of the rights of defenders. Timely intercession in situations where defenders are facing serious human rights violations or threats may prevent further harm coming to those individuals. The Focal Point could set up “early warning and urgent system” to enable her to receive information including by electronic means and create awareness of such system among national and international NGOs.

Early warning is not enough, there has to be early action. Information on increased risk to defenders should be assessed and communicated to governments with recommendations on steps to be taken by them to prevent further threats or actual violations. The Focal Point should ensure continuous monitoring of the situation including through fact-finding missions, and sharing information with other relevant bodies, including the office of the UN Special Representative on Human Rights Defenders.

Results of the Focal Point’s early warning and urgent procedures could include formal decisions, declarations expressing her views, bringing the situation to the attention of the African Commission, the Commission of the AU, and ambassadors accredited to the AU. The Focal Point could also request an immediate clarification or action by the state involved, as well as undertake, (with the consent of the relevant governments) good offices, fact-finding or technical cooperation missions.

Amnesty International urges the Focal Point to produce regular detailed progress reports on a state-by-state basis, which should be discussed in public session of the Commission and published.

The Focal Point should make authoritative recommendations of general and specific nature on changes in law and practice of African governments

Where specific recommendations are made, the Focal Point should request states to report back within a specific period of time on what action has been taken to give effect to the recommendations. Follow-up on recommendations and continued dialogue with governments is necessary for the effectiveness and efficiency of the mandate of the Focal Point. The Focal Point should actively seek to bring about systematic changes to law and practice. The Focal Point could assist in the development of program of action in states for the implementation of the Declaration on Human Rights Defenders within the domestic legal system.

The Focal Point should coordinate and stimulate the action of other African Commission's thematic mechanisms on issues bordering on the promotion and protection of the rights guaranteed under the Charter

The Focal Point's mandate could serve as a means of promoting coordination within the African Commission on issues relating to the promotion and protection of the rights of defenders which fall within the mandates of other thematic mechanisms of the African Commission. The Focal Point should take steps to establish a procedure that would ensure cooperation among the African Commission's thematic mechanisms, including the undertaking of joint missions and the development of joint recommendations.

The Focal Point should also ensure that guidelines are developed within the African Commission that would require states to provide substantial information in their reports on the situation of human rights defenders in their countries, and the legal framework established to protect the rights of defenders. Considerable progress has been made in recent years in relation to the African Commission's website. The Focal Point should ensure that her activities are fully integrated and cross-referenced in the African Commission website. At a minimum, the site should provide practical information, including calendars and agendas, press releases, reports, and recommendations of the Focal Point. The information should be available in the working languages of the African Commission.

The Focal Point should establish effective cooperation with the office of the UN Special Representative on Human Rights Defenders

The Focal Point should encourage and facilitate enhanced cooperation, interaction and joint efforts between the African Commission and the UN Special Representative on Human Rights Defenders and other relevant UN bodies. This is especially important given the Special Representative's main role in monitoring compliance with the Declaration on Human Rights Defenders.

Through the African Commission, the Focal Point should make every effort to facilitate an exchange of information between the African Commission and the UN Special Representative, in order to improve the knowledge and encourage somewhat consistent interpretations of the Declaration on Human Rights Defenders. Furthermore, the Focal Point could also make full use of the insights gained, the

recommendations proposed and the efforts that have been made (or being made) by the Special Representative to secure the full implementation of the Declaration on Human Rights Defenders.

The Focal Point's mandate provides a regional approach to the implementation of the Declaration on Human Rights Defenders. According to the UN Special Representative on Human Rights Defenders, "collaboration between universal and regional mechanisms for the promotion of human rights is vital to ensure a coordinated and effective strategy for the protection of human rights defenders worldwide."³

The Focal Point should engage in consultation with NGOs working on the promotion and protection of the rights of human rights defenders

The Focal Point should develop mailing lists of and establish links with NGOs throughout Africa and internationally to enable her receive information regularly on countries in the continent. Such information could prove vital for the effective and efficient discharge of the mandate of the Focal Point. The Focal Point should encourage NGOs to make written submissions and oral presentations where appropriate on the situation of human rights defenders in Africa. This forum could be organized prior to the session of the African Commission but preferably during the NGOs Workshop, which precedes the session of the Commission.

The importance of NGO participation in the work of treaty bodies has been underlined repeatedly by the meetings of the persons chairing United Nations human rights treaty bodies⁴ who have pointed to the vital role of NGOs in supplying the treaty bodies with documentation and other information on human rights developments. At their seventh meeting in 1996, the Chairpersons encouraged NGOs to continue to take an active role in "critically examining the role of the treaty bodies" so that more effective performance by treaty bodies as a whole, as well as individual experts could be achieved.⁵

³ Report submitted by Hina Jinani, Special Representative of the Secretary-General on the Situation of human rights defenders, COMMISSION ON HUMAN RIGHTS Sixtieth session, E/CN.4/2004/94, 15 January 2004.

⁴ See *Report of the Sixth Meeting of Persons Chairing the Human Rights Treaty Bodies, 18-22 September 1995*, A/50/505 (4 October 1995) at para. 23; and *Report of the Seventh Meeting of Persons Chairing the Human Rights Treaty Bodies, 16-20 September 1996*, A/51/482 (11 October 1996) at paras. 35-38.

⁵ *Id.* at para. 35.

It is necessary for the Focal Point to facilitate and organize regular seminars on the Declaration on Human Rights Defenders and the scope of her mandate. It is equally essential that a data base of NGOs with mandates on the promotion and protection of the rights of defenders at the national and international levels be developed by the Focal Point. The Focal Point should encourage and facilitate the establishment of a mechanism for a systematic exchange of documents and publications with NGOs and intergovernmental organizations. The Focal Point should be proactive in seeking relevant information from NGOs, the AU and the UN.

The Focal Point should budget adequately for her activities

The Focal Point should budget adequately for carrying out her activities, if any serious impact is to be made. It is well known that the human resources and financial resources available to the African Commission to support its work are very limited. Amnesty International calls on the AU to increase the existing levels of funding and staffing at the African Commission, so that the Commission can discharge its mandates effectively and efficiently.

It is essential for the effectiveness and efficiency of the Focal Point that the AU take the appropriate measures to provide for the financing of the Focal Point's mandate from the regular budget of the AU, beginning with the budget for the 2004-2005. Similar support should be given to other thematic mechanisms of the African Commission, including the Special Rapporteur on the Rights of Women in Africa.

Strategies for achieving this in the long-term might include the establishment of a trust fund for the support of the African Commission and its thematic mechanisms. Independent foundations might also be persuaded to support the work of the Commission but African governments must take primary responsibility in this regard.

However, the African Commission must take immediate responsibility for evaluating how its resources can be best utilized and for ensuring a more effective management and efficient performance of the Secretariat.

Annex 1: UN Declaration on Human Rights Defenders

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

The General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Reaffirming also the importance of the Universal Declaration of Human Rights² and the International Covenants on Human Rights Resolution 2200 A (XXI), annex. as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

Stressing that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfil this obligation according to the Charter,

Acknowledging the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

Reiterating that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

Stressing that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

Recognizing the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels,

Declares:

Article 1

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 2

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

Article 3

Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

Article 4

Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights,² the International Covenants on Human Rights³ and other international instruments and commitments applicable in this field.

Article 5

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;
- (c) To communicate with non-governmental or intergovernmental organizations.

Article 6

Everyone has the right, individually and in association with others:

(a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

(b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;

(c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Article 7

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

Article 8

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.

2. This includes, *inter alia*, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

Article 9

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, *inter alia*:

(a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other

appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;

(b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;

(c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

Article 10

No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

Article 11

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

Article 12

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Article 13

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

Article 14

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include, *inter alia*:

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;

(b) Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.

3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

Article 15

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

Article 16

Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, *inter alia*, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

Article 17

In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Article 18

1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.
2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.
3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

Article 19

Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.

Article 20

Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non-governmental organizations contrary to the provisions of the Charter of the United Nations.

Adopted by General Assembly resolution 53/144, 8 March 1999

Annex 2: African Charter on Human and Peoples' Rights

Preamble

The African States members of the Organization of African Unity, parties to the present convention entitled "African Charter on Human and Peoples' Rights",

Recalling Decision 115 (XVI) of the Assembly of Heads of State and Government at its Sixteenth Ordinary Session held in Monrovia, Liberia, from 17 to 20 July 1979 on the preparation of a "preliminary draft on an African Charter on Human and Peoples' Rights providing inter alia for the establishment of bodies to promote and protect human and peoples' rights";

Considering the Charter of the Organization of African Unity, which stipulates that "freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples";

Reaffirming the pledge they solemnly made in Article 2 of the said Charter to eradicate all forms of colonialism from Africa, to coordinate and intensify their cooperation and efforts to achieve a

better life for the peoples of Africa and to promote international cooperation having due regard to the Charter of the United Nations, and the Universal Declaration of Human Rights;

Taking into consideration the virtues of their historical tradition and the values of African civilization which should inspire and characterize their reflection on the concept of human and peoples' rights;

Recognizing on the one hand, that fundamental human rights stem from the attributes of human beings which justifies their national and international protection and on the other hand that the reality and respect of peoples rights should necessarily guarantee human rights;

Considering that the enjoyment of rights and freedoms also implies the performance of duties on the part of everyone; Convinced that it is henceforth essential to pay a particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights;

Conscious of their duty to achieve the total liberation of Africa, the peoples of which are still struggling for their dignity and genuine independence, and undertaking to eliminate colonialism, neo-colonialism, apartheid, zionism and to dismantle aggressive foreign military bases and all forms of discrimination, particularly those based on race, ethnic group, color, sex, language, religion or political opinions;

Reaffirming their adherence to the principles of human and peoples' rights and freedoms contained in the declarations, conventions and other instrument adopted by the Organization of African Unity, the Movement of Non-Aligned Countries and the United Nations;

Firmly convinced of their duty to promote and protect human and people' rights and freedoms taking into account the importance traditionally attached to these rights and freedoms in Africa;

Have agreed as follows:

Part I: Rights and Duties

Chapter I: Human and Peoples' Rights

Article 1

The Member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Chapter and shall undertake to adopt legislative or other measures to give effect to them.

Article 2

Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

Article 3

1. Every individual shall be equal before the law.
2. Every individual shall be entitled to equal protection of the law.

Article 4

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

Article 5

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

Article 6

Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

Article 7

1. Every individual shall have the right to have his cause heard. This comprises: (a) the right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force; (b) the right to be presumed innocent until proved guilty by a competent court or tribunal; (c) the right to defense, including the right to be defended by counsel of his choice; (d) the right to be tried within a reasonable time by an impartial court or tribunal.
2. No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which no provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender.

Article 8

Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.

Article 9

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinions within the law.

Article 10

1. Every individual shall have the right to free association provided that he abides by the law.
2. Subject to the obligation of solidarity provided for in 29 no one may be compelled to join an association.

Article 11

Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

Article 12

1. Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law.
2. Every individual shall have the right to leave any country including his own, and to return to his country. This right may only be subject to restrictions, provided for by law for the protection of national security, law and order, public health or morality.
3. Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with laws of those countries and international conventions.
4. A non-national legally admitted in a territory of a State Party to the present Charter, may only be expelled from it by virtue of a decision taken in accordance with the law.
5. The mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups.

Article 13

1. Every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law.
2. Every citizen shall have the right of equal access to the public service of his country.
3. Every individual shall have the right of access to public property and services in strict equality of all persons before the law.

Article 14

The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.

Article 15

Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work.

Article 16

1. Every individual shall have the right to enjoy the best attainable state of physical and mental health.
2. States parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.

Article 17

1. Every individual shall have the right to education.
2. Every individual may freely, take part in the cultural life of his community.
3. The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.

Article 18

1. The family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and moral.
2. The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community.
3. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.
4. The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.

Article 19

All peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.

Article 20

1. All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.
2. Colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community.
3. All peoples shall have the right to the assistance of the States parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.

Article 21

1. All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.
2. In case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to an adequate compensation.
3. The free disposal of wealth and natural resources shall be exercised without prejudice to the obligation of promoting international economic cooperation based on mutual respect, equitable exchange and the principles of international law.
4. States parties to the present Charter shall individually and collectively exercise the right to free disposal of their wealth and natural resources with a view to strengthening African unity and solidarity.
5. States parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practiced by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources.

Article 22

1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.
2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

Article 23

1. All peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organization of African Unity shall govern relations between States.
2. For the purpose of strengthening peace, solidarity and friendly relations, States parties to the present Charter shall ensure that: (a) any individual enjoying the right of asylum under 12 of the present Charter shall not engage in subversive activities against his country of origin or any other State party to the present Charter; (b) their territories shall not be used as bases for subversive or terrorist activities against the people of any other State party to the present Charter.

Article 24

All peoples shall have the right to a general satisfactory environment favorable to their development.

Article 25

States parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter

and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood.

Article 26

States parties to the present Charter shall have the duty to guarantee the independence of the Courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter.

Chapter II: Duties

Article 27

1. Every individual shall have duties towards his family and society, the State and other legally recognized communities and the international community.
2. The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest.

Article 28

Every individual shall have the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.

Article 29

The individual shall also have the duty:

1. To preserve the harmonious development of the family and to work for the cohesion and respect of the family; to respect his parents at all times, to maintain them in case of need;
2. To serve his national community by placing his physical and intellectual abilities at its service;
3. Not to compromise the security of the State whose national or resident he is;
4. To preserve and strengthen social and national solidarity, particularly when the latter is threatened;
5. To preserve and strengthen the national independence and the territorial integrity of his country and to contribute to its defense in accordance with the law;
6. To work to the best of his abilities and competence, and to pay taxes imposed by law in the interest of the society;
7. To preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well being of society;

8. To contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African unity.

Part II: Measures of Safeguard

Chapter I: Establishment and Organization of the African Commission on Human and Peoples' Rights

Article 30

An African Commission on Human and Peoples' Rights, hereinafter called "the Commission", shall be established within the Organization of African Unity to promote human and peoples' rights and ensure their protection in Africa.

Article 31

1. The Commission shall consist of eleven members chosen from amongst African personalities of the highest reputation, known for their high morality, integrity, impartiality and competence in matters of human and peoples' rights; particular consideration being given to persons having legal experience.

2. The members of the Commission shall serve in their personal capacity.

Article 32

The Commission shall not include more than one national of the same state.

Article 33

The members of the Commission shall be elected by secret ballot by the Assembly of Heads of State and Government, from a list of persons nominated by the States parties to the present Charter.

Article 34

Each State party to the present Charter may not nominate more than two candidates. The candidates must have the nationality of one of the States party to the present Charter. When two candidates are nominated by a State, one of them may not be a national of that State.

Article 35

1. The Secretary General of the Organization of African Unity shall invite States parties to the present Charter at least four months before the elections to nominate candidates;

2. The Secretary General of the Organization of African Unity shall make an alphabetical list of the persons thus nominated and communicate it to the Heads of State and Government at least one month before the elections.

Article 36

The members of the Commission shall be elected for a six year period and shall be eligible for re-election. However, the term of office of four of the members elected at the first election shall terminate after two years and the term of office of three others, at the end of four years.

Article 37

Immediately after the first election, the Chairman of the Assembly of Heads of State and Government of the Organization of African Unity shall draw lots to decide the names of those members referred to in Article 36.

Article 38

After their election, the members of the Commission shall make a solemn declaration to discharge their duties impartially and faithfully.

Article 39

1. In case of death or resignation of a member of the Commission the Chairman of the Commission shall immediately inform the Secretary General of the Organization of African Unity, who shall declare the seat vacant from the date of death or from the date on which the resignation takes effect.
2. If, in the unanimous opinion of other members of the Commission, a member has stopped discharging his duties for any reason other than a temporary absence, the Chairman of the Commission shall inform the Secretary General of the Organization of African Unity, who shall then declare the seat vacant.
3. In each of the cases anticipated above, the Assembly of Heads of State and Government shall replace the member whose seat became vacant for the remaining period of his term unless the period is less than six months.

Article 40

Every member of the Commission shall be in office until the date his successor assumes office.

Article 41

The Secretary General of the Organization of African Unity shall appoint the Secretary of the Commission. He shall also provide the staff and services necessary for the effective discharge of the duties of the Commission. The Organization of African Unity shall bear the costs of the staff and services.

Article 42

1. The Commission shall elect its Chairman and Vice Chairman for a two-year period. They shall be eligible for re-election.
2. The Commission shall lay down its rules of procedure.

3. Seven members shall form the quorum.
4. In case of an equality of votes, the Chairman shall have a casting vote.
5. The Secretary General may attend the meetings of the Commission. He shall not participate in deliberations nor shall he be entitled to vote. The Chairman of the Commission may, however, invite him to speak.

Article 43

In discharging their duties, members of the Commission shall enjoy diplomatic privileges and immunities provided for in the General Convention on the Privileges and Immunities of the Organization of African Unity.

Article 44

Provision shall be made for the emoluments and allowances of the members of the Commission in the Regular Budget of the Organization of African Unity.

Chapter II -- Mandate of the Commission

Article 45

The functions of the Commission shall be:

1. To promote Human and Peoples' Rights and in particular:
 - (a) To collect documents, undertake studies and researches on African problems in the field of human and peoples' rights, organize seminars, symposia and conferences, disseminate information, encourage national and local institutions concerned with human and peoples' rights, and should the case arise, give its views or make recommendations to Governments.
 - (b) To formulate and lay down, principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African Governments may base their legislations.
 - (c) Co-operate with other African and international institutions concerned with the promotion and protection of human and peoples' rights.
2. Ensure the protection of human and peoples' rights under conditions laid down by the present Charter.
3. Interpret all the provisions of the present Charter at the request of a State party, an institution of the OAU or an African Organization recognized by the OAU.
4. Perform any other tasks which may be entrusted to it by the Assembly of Heads of State and Government.

Chapter III -- Procedure of the Commission

Article 46

The Commission may resort to any appropriate method of investigation; it may hear from the Secretary General of the Organization of African Unity or any other person capable of enlightening it.

Communication from States

Article 47

If a State party to the present Charter has good reasons to believe that another State party to this Charter has violated the provisions of the Charter, it may draw, by written communication, the attention of that State to the matter. This communication shall also be addressed to the Secretary General of the OAU and to the Chairman of the Commission. Within three months of the receipt of the communication, the State to which the communication is addressed shall give the enquiring State, written explanation or statement elucidating the matter. This should include as much as possible relevant information relating to the laws and rules of procedure applied and applicable, and the redress already given or course of action available.

Article 48

If within three months from the date on which the original communication is received by the State to which it is addressed, the issue is not settled to the satisfaction of the two States involved through bilateral negotiation or by any other peaceful procedure, either State shall have the right to submit the matter to the Commission through the Chairman and shall notify the other States involved.

Article 49

Notwithstanding the provisions of 47, if a State party to the present Charter considers that another State party has violated the provisions of the Charter, it may refer the matter directly to the Commission by addressing a communication to the Chairman, to the Secretary General of the Organization of African Unity and the State concerned.

Article 50

The Commission can only deal with a matter submitted to it after making sure that all local remedies, if they exist, have been exhausted, unless it is obvious to the Commission that the procedure of achieving these remedies would be unduly prolonged.

Article 51

1. The Commission may ask the States concerned to provide it with all relevant information.
2. When the Commission is considering the matter, States concerned may be represented before it and submit written or oral representation.

Article 52

After having obtained from the States concerned and from other sources all the information it deems necessary and after having tried all appropriate means to reach an amicable solution based on the respect of Human and Peoples' Rights, the Commission shall prepare, within a reasonable period of time from the notification referred to in 48, a report stating the facts and its findings. This report shall be sent to the States concerned and communicated to the Assembly of Heads of State and Government.

Article 53

While transmitting its report, the Commission may make to the Assembly of Heads of State and Government such recommendations as it deems useful.

Article 54

The Commission shall submit to each ordinary Session of the Assembly of Heads of State and Government a report on its activities.

Other Communications

Article 55

1. Before each Session, the Secretary of the Commission shall make a list of the communications other than those of States parties to the present Charter and transmit them to the members of the Commission, who shall indicate which communications should be considered by the Commission.
2. A communication shall be considered by the Commission if a simple majority of its members so decide.

Article 56

Communications relating to human and peoples' rights referred to in 55 received by the Commission, shall be considered if they:

1. Indicate their authors even if the latter request anonymity,
2. Are compatible with the Charter of the Organization of African Unity or with the present Charter,
3. Are not written in disparaging or insulting language directed against the State concerned and its institutions or to the Organization of African Unity,

4. Are not based exclusively on news discriminated through the mass media,
5. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged,
6. Are submitted within a reasonable period from the time local remedies are exhausted or from the date the Commission is seized of the matter, and
7. Do not deal with cases which have been settled by these States involved in accordance with the principles of the Charter of the United Nations, or the Charter of the Organization of African Unity or the provisions of the present Charter.

Article 57

Prior to any substantive consideration, all communications shall be brought to the knowledge of the State concerned by the Chairman of the Commission.

Article 58

1. When it appears after deliberations of the Commission that one or more communications apparently relate to special cases which reveal the existence of a series of serious or massive violations of human and peoples' rights, the Commission shall draw the attention of the Assembly of Heads of State and Government to these special cases.
2. The Assembly of Heads of State and Government may then request the Commission to undertake an in-depth study of these cases and make a factual report, accompanied by its findings and recommendations.
3. A case of emergency duly noticed by the Commission shall be submitted by the latter to the Chairman of the Assembly of Heads of State and Government who may request an in-depth study.

Article 59

1. All measures taken within the provisions of the present Charter shall remain confidential until such a time as the Assembly of Heads of State and Government shall otherwise decide.
2. However, the report shall be published by the Chairman of the Commission upon the decision of the Assembly of Heads of State and Government.
3. The report on the activities of the Commission shall be published by its Chairman after it has been considered by the Assembly of Heads of State and Government.

Chapter IV -- Applicable Principles

Article 60

The Commission shall draw inspiration from international law on human and peoples' rights, particularly from the provisions of various African instruments on human and peoples' rights, the Charter of the United Nations, the Charter of the Organization of African Unity, the Universal Declaration of Human Rights, other instruments adopted by the United Nations and by African

countries in the field of human and peoples' rights as well as from the provisions of various instruments adopted within the Specialized Agencies of the United Nations of which the parties to the present Charter are members.

Article 61

The Commission shall also take into consideration, as subsidiary measures to determine the principles of law, other general or special international conventions, laying down rules expressly recognized by member states of the Organization of African Unity, African practices consistent with international norms on human and people's rights, customs generally accepted as law, general principles of law recognized by African states as well as legal precedents and doctrine.

Article 62

Each state party shall undertake to submit every two years, from the date the present Charter comes into force, a report on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognized and guaranteed by the present Charter.

Article 63

1. The present Charter shall be open to signature, ratification or adherence of the member states of the Organization of African Unity.
2. The instruments of ratification or adherence to the present Charter shall be deposited with the Secretary General of the Organization of African Unity.
3. The present Charter shall come into force three months after the reception by the Secretary General of the instruments of ratification or adherence of a simple majority of the member states of the Organization of African Unity.

Part III: General Provisions

Article 64

1. After the coming into force of the present Charter, members of the Commission shall be elected in accordance with the relevant Articles of the present Charter.
2. The Secretary General of the Organization of African Unity shall convene the first meeting of the Commission at the Headquarters of the Organization within three months of the constitution of the Commission. Thereafter, the Commission shall be convened by its Chairman whenever necessary but at least once a year.

Article 65

For each of the States that will ratify or adhere to the present Charter after its coming into force, the Charter shall take effect three months after the date of the deposit by that State of its instrument of ratification or adherence.

Article 66

Special protocols or agreements may, if necessary, supplement the provisions of the present Charter.

Article 67

The Secretary General of the Organization of African Unity shall inform member states of the Organization of the deposit of each instrument of ratification or adherence.

Article 68

The present Charter may be amended if a State party makes a written request to that effect to the Secretary General of the Organization of African Unity. The Assembly of Heads of State and Government may only consider the draft amendment after all the States parties have been duly informed of it and the Commission has given its opinion on it at the request of the sponsoring State. The amendment shall be approved by a simple majority of the States parties. It shall come into force for each State which has accepted it in accordance with its constitutional procedure three months after the Secretary General has received notice of the acceptance.

Adopted by the eighteenth Assembly of Heads of State and Government June 1981 – Nairobi, Kenya