

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

AI Index: IOR 63/001/2010

29 January 2010

African Union: Address human rights violations in conflicts

In advance of the 14th Ordinary Summit of the African Union Heads of State and Government to be held in Addis Ababa, Ethiopia, from 31 January to 2 February 2010, Amnesty International is calling on African leaders to take concrete steps to ensure the respect and protection of international human rights and humanitarian law in some of the long standing conflicts in Africa.

In **Somalia** the human rights and humanitarian situation continues to deteriorate as a result of the armed conflict. Thousands more civilians have been killed and injured in 2009 as a result of indiscriminate warfare. Hundreds of thousands have fled further fighting. In territories controlled by armed groups, many civilians do not have access to humanitarian aid and they are at increasing risk of being punished under arbitrary interpretations of Shari'a law. Journalists and civil society activists have seen their space to work restricted by threats, targeted killings and insecurity. The continuous flow of arms to all parties to the conflict and the striking lack of accountability for serious abuses exacerbate Somalia's human rights crisis.

Amnesty International accordingly calls upon the African Union to:

- Call on member states to suspend all supplies of weapons, military and security equipment to the Transitional Federal Government (TFG) until effective mechanisms are in place to prevent such assistance from being used in committing serious violations of international humanitarian and human rights law.
- Ensure that member states respect the UN arms embargo on Somalia, including the obligation to request exemptions, for any security sector assistance to Somalia's TFG, from the UN Sanctions Committee.
- Ensure that training and other security assistance delivered by the African Union Mission in Somalia (AMISOM) to government security forces includes rigorous practical exercises and operating standards designed to ensure full respect for international human rights and humanitarian law.
- Demand that grave abuses committed against civilians by all parties to the conflict are investigated by an independent Commission of Inquiry, or similar mechanism.
- Set 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.

In **Sudan** the scheduled presidential and legislative elections in April 2010 and the referendum in January 2011 on the independence of Southern Sudan could cause a further deterioration of the human rights situation across the country and an upsurge of armed conflict, particularly in Darfur and Southern Sudan. In Darfur attacks against civilians continue to occur and hundreds of civilians were killed in 2009 by armed opposition groups and government armed forces. The conflict continues in a climate of impunity. Despite some returns during the year, more than 2.6 million persons continue to live in camps for the internally displaced, relying on humanitarian assistance and waiting for the conflict to end.

The joint African Union/United Nations Mission in Darfur (UNAMID) still lacks essential resources, such as helicopters and other air and ground transport equipment. This equipment is vital for UNAMID to fulfil its primary mandate of protecting civilians, but also ensuring the safety of humanitarian staff and convoys as well as itself.

In Southern Sudan there was a resurgence of violence in 2009, some of the worst since the Comprehensive Peace Agreement (CPA) was signed in 2005. The UN estimates that over 2,500 people were killed and 350,000 displaced. Much of this violence was the result of inter-ethnic fighting. The UN Mission in Sudan (UNMIS) has a mandate to protect civilians but needs to enhance its protection role due to the deterioration of the situation.

To address the serious human rights violations that continue to take place in Sudan, justice must be reinforced at all levels. Those suspected of being responsible for war crimes and crimes against humanity should be held accountable for their actions.

The National Intelligence and Security Services (NISS) are responsible for many of the human rights violations in Sudan. In December 2009, the Sudanese National Assembly passed a law reforming the NISS. The new law however maintains the powers of NISS officers to arrest and detain people for a period of four and a half months without judicial review. The law also provides immunity from prosecution to NISS personnel for human rights violations they may have carried out in the course of their work.

Amnesty International calls upon the African Union to:

- Call on the government of Sudan to protect the civilian population in Darfur and to call on all parties in the conflict to stop directing attacks against civilians, including humanitarian staff.
- Continue to support the reinforcement of national and international justice mechanisms in order to end the culture of impunity in Sudan by bringing to justice those suspected of committing war crimes and crimes against humanity in Darfur.
- Call on the government of Sudan, and the authorities of South Sudan, to protect civilians and provide UNMIS with the support it needs.
- Call on the UN to urgently develop an action plan for UNMIS to strengthen the protection of civilians in Southern Sudan in light of the deteriorating conflict situation. This should include more long range patrols, more stations of peacekeeping troops – including in remote areas, and rapid deployment units that can respond to outbreaks of violence.
- Call on the Sudanese government to bring the National Security Act in line with international human rights standards and with the Sudanese Bill of Rights. The immunity of NISS agents must be removed and allegations of human rights violations must be investigated and those responsible prosecuted in accordance with standards of fair trial.

At previous AU Assembly of States Parties, specifically during the Ordinary Sessions in January and June 2009, the AU debated issues related to international justice. On the developments in the field of universal jurisdiction, Amnesty International welcomes the constructive dialogue on the scope of such jurisdiction which took place in the Sixth Committee of the UN General Assembly in October 2009 as a result of the last AU summit's decision.

At the eighth session of the Assembly of States Parties of the International Criminal Court, which was held in November 2009, the general view was expressed by states parties and by observers that no amendments should be forwarded to the Review Conference scheduled to take place in Kampala from 31 May to 11 June 2010 unless they had widespread support. This position led to withdrawal of all or most of the proposed amendments submitted and in this light Amnesty International recommends the AU not to propose any amendments for discussion at this Review Conference unless the AU can demonstrate widespread international support for such amendments.

Amnesty International welcomes the commitment stated by some individual AU member states that they would comply with their obligations under the Rome Statute of the International Criminal Court

(Rome Statute) to arrest and surrender anyone named in an International Criminal Court arrest warrant and urges the AU to make a similar commitment to ending impunity. Challenges to such arrest warrants should be made only after arrest and surrender and before the Court, using the procedure for such challenges in Article 19 of the Rome Statute.

The proposal to give the African Court of Justice and Human Rights jurisdiction over crimes under international law such as genocide, crimes against humanity and war crimes needs to be evaluated most carefully, weighing both possible advantages and disadvantages, including, in particular, the huge cost to the AU and its member states if the African Court were to assume such a criminal jurisdiction.

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Public Document
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