



***The Participation of Non-Governmental Organizations
(NGOs) in the Work of the African Commission
on Human and Peoples' Rights
(ACHPR)***

***A Compilation of Basic Documents
by:
the International Commission of Jurists***

October 1991 - April 1994

***The Participation of Non-Governmental Organizations
(NGOs) in the Work of the African Commission
on Human and Peoples' Rights
(ACHPR)***

A Compilation of basic documents on:

Part I

Conclusions and Recommendations made within the framework of the first six^{to 4} Workshops jointly organized on this subject, between October 1991 and April 1994, by the International Commission of Jurists (ICJ) and the African Centre for Democracy and Human Rights Studies (ACDHRS);

Part II

Actions taken by the African Commission on Human and Peoples' Rights (ACHPR); as well as

Part III

Actions taken by the Assembly of Heads of State and Government of the Organization of African Unity (OAU).

Annex

Additional Protocol to the African Charter on Human and Peoples' Rights

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Preface

After more than forty years of international promotion and protection of human rights, the matter of human dignity has become more than ever a core concern of the International Commission of Jurists (ICJ). The first results of the ICJ's action in Africa started to materialize right after the wave of independence of the 1960's, with the sponsorship of the 1961 Lagos Congress. During this Conference, African Jurists concerned about the protection of individual freedoms at the continental level, recommended the drawing up of an African Human Rights Convention, which notably provided for the establishment of an appropriate Court with means of redress for any one under the jurisdiction of the States parties.¹ However, the ICJ's endeavours in Africa culminated in the 1980's, in particular with the adoption in 1981 of the Charter on Human and Peoples' Rights² by the Assembly of Heads of State and Government of the Organization of African Unity (OAU) followed by the entry into force of that instrument in 1986 and the establishment in 1987 of the African Commission on Human and Peoples' Rights (ACHPR)³.

Although the African Charter is a useful instrument with many possible ways to promote and protect human rights actions, the fact remains that it can certainly be improved or enriched⁴. One of the Joint Authors, otherwise known as the "Father of the African Charter", rightly observed that "...the authors of the Charter envisaged provisions concerning its amendments and revision. The Charter constitutes what the African States were able to accept in 1981 and was therefore only a stage. It is hoped that it can be improved at a later date..."⁵

Moreover, there is the following consideration: despite the widespread consensus of the African States on the Charter and the significant improvements made by Africa and the OAU towards the respect of Human and Peoples' Rights, serious and massive violations of human rights persist in many African countries both at the legislative and practical levels.

Thus, the ICJ, besides its main Plan of Action which aims at strengthening and improving the work of the African Commission within the mandate and the mission assigned by the Charter, developed a general objective of close and fruitful co-operation between the African Commission and the NGOs. The goal is to fight against the deterioration of the position of human and peoples' rights in Africa while integrating the African Commission and the OAU political bodies into a positive human rights promotion and protection process.

This ICJ strategy does not only imply support for the NGOs role in representing the people and in articulating opinions, supported by cooperation between NGOs, but also implies the strengthening of the relationship between NGOs and the African Commission, notably by means of consultation, communication of

1 This Recommendation is part of the Resolutions adopted during the African Conference on the Rule of Law which are known as the "Law of Lagos".

2 Known as the "African Charter". See, 1st and 2nd Annual Activity Reports, Documentation, African Commission on Human and Peoples' Rights, no.1 (1992), p.2.

3 Known as the "African Commission"; see, Articles 30 through 68 of the African Charter.

4 In this respect, the ICJ organized in January 1993 in Dakar a Brainstorming Session on the African Charter on Human and Peoples' Rights at the close of which relevant Conclusions and Recommendations were made by the participants and forwarded to the OAU. Cf. in Annex, Document no. 25./

5 Observation made by Justice Kéba Mbaye in his keynote address at the ICJ Conference and which was reiterated in the Brainstorming Session on the African Charter organized in January 1993 in Dakar by the ICJ.

complaints to the Commission⁶ and NGOs participation in the Commission's sessions.

This is the spirit and the significance of the ICJ initiative, jointly implemented since 1991 with the African Centre for Democracy and Human Rights Studies (ACDHRS) and which consists in harmonizing the dates of the workshops with the sessions of the Commission. Thus, from October 1991 to April 1994, six workshops on the participation of the African NGOs in the work of the Commission were organized on the eve of the Commission's sessions in order to prepare NGOs accordingly.

During these workshops, Conclusions and Recommendations were made for special consideration by the Commission (Part I) which, as the case may be, took follow-up actions (Part II).

Due to this situation and taking into consideration, by virtue of Article 54 of the Charter, the African Commission report, the Assembly of the Heads of State and Government of the Organization of the African Unity also adopted resolutions for the strengthening of the achievement of the basic objectives of the Charter as well as of the process of promoting and protecting human and peoples' rights.

A thorough survey of the positive and negative points of the relationship between the NGOs, the African Commission, and the Assembly of Heads of State and Government, together with possible suggestions of orientation for future, will be presented at a later date.

*Adama Dieng,
Secretary General
International Commission of Jurists*

Geneva, October 1994

⁶ Considering the numerous violations of human rights in the African continent, only 8 complaints were communicated to the African Commission. This clearly demonstrates that NGOs look shy as concerns this matter.

Part I

***The Basic Documents on Conclusions and Recommendations
Made by the First Six Workshops on the Participation
of NGOs in the Work of the African Commission
on Human and Peoples' Rights
(ACHPR).***

***First ICJ Workshop on NGO Participation in the
African Commission on Human and
Peoples' Rights (ACHPR)***

Organized by :

***The International Commission of Jurists (ICJ)
in collaboration with
The African Commission on Human and Peoples Rights
(ACHPR)
&
The African Centre for Democracy and Human Rights Studies
(ACDHRS)***

***5 - 7 October 1991
Banjul, The Gambia***

Conclusions and Recommendations

Introduction

The International Commission of Jurists, in collaboration with the African Commission on Human and Peoples' Rights and the African Centre for Democracy and Human Rights Studies, organized a three-day workshop on NGO Participation in the Work of the African Commission in Banjul, the Gambia, 5 - 7 October, 1991, the weekend preceding the 10th Session of the African Commission.

The purpose of the workshop was to:

- develop NGO strategies for working on a continental level with each other and with the African Commission;
- promote dialogue between NGOs and the African Commission;
- provide opportunity for NGOs to attend and participate in the public sessions of the Commission's meetings.
- The Workshop was opened by the Honourable Hassan B. Jallow, the Minister of Justice of the Gambia. In his keynote address, the Minister pointed out that "[e]ventually the success of the African Commission will be greatly facilitated by close collaboration between it and NGOs, with their grassroots links, NGOs can, not only bring the Commission to the ordinary African, but also serve as a very valuable source of information on human rights practices in the struggle to check human rights abuse".

Similarly, in his welcoming address, Mr. Adama Dieng, the Secretary-General of the ICJ observed, "the African Commission must survey, with more diligence, the measures taken by States concerning their domestic affairs in order to ensure respect for the human rights and fundamental freedoms of their citizens. This protective activity of the Commission is essential for the further strengthening of the Rule of Law in the perspective of an institutional protection of human rights".

The workshop, attended by 59 individuals including 5 members of the African Commission and representatives of 35 NGOs, provided a valuable opportunity for the exchange of ideas and clarifications regarding practical ways of maximising the role of the African Commission. The discussions were preceded by the presentation of an ICJ background paper dealing with NGO participation in the work of the African Commission. Based on the experience of participants the workshop identified obstacles confronting the African Commission and made a number of recommendations to deal with these obstacles. In light of the deliberations characterised by frankness and candour the following Conclusions and Recommendations emerged regarding such major issues as the composition, appointment and independence of the Commission, the Secretariat of the Commission, the relationship between the Commission and its role particularly in regard to interpretation of the Charter, amendments of the Charter, the possible establishment of an African Court on Human Rights, the role of NGOs and their relationship with the African Commission.

1. Composition of the Commission

The workshop was of the view that it was regrettable that a Commission established to implement a regional human and peoples' rights regime should ignore the basic principle of the equality of the sexes. It was recommended that an affirmative action policy be adopted in regard to the appointment of women commissioners.

2. Independence of the Commission

In view of the need to avoid situations of possible conflict of interest regarding the discharge of the Commission's mandate and to preserve the independence of the Commission, appointments to the membership of the Commission should have due regard to the incompatibility of certain governmental functions with membership of the Commission.

3. The Secretariat of the Commission

There was a general feeling that the effectiveness of the Commission's Secretariat will reflect on the overall success of the Commission. It was therefore recommended that the Commission take immediate steps to further strengthen the Secretariat.

In particular, we recommend the following:

Notifications

- i) The Secretary, in collaboration with the Commission, should develop an order of the day which allocates morning and afternoon sessions to specific topics so Commission members NGO's, press and others can plan their days effectively.
- ii) The date and location of the session should be established at least one year in advance and notice should be sent to NGOs, press, Commission members and governments as soon as the schedule is established.
- iii) The time when government reports will be considered should be determined not later than the last day of the previous session and this should be communicated to all governments, NGOs and the press at that time.

- iv) The Secretariat should make use of all available lists of NGOs in Africa to inform such NGOs on the activities of the African Commission and invite such NGOs to apply for observer status and to participate actively in the work of the Commission by submitting information concerning periodic reports, communications and other information and assistance to the Commission.

Press Policy

- i) The Secretariat should be required to inform at least 5 news agencies and 15 newspapers including all newspapers published in the country where sessions take place, and the relevant agenda of the forthcoming session.
- ii) The Secretary should develop an active press policy to explain the work of the Commission including soliciting interviews with Commission members and the Secretariat.
- iii) The Secretariat should issue a press release well before the session explaining what will take place; and another after the session explaining what happened. - Both releases should be distributed as widely as possible to newspapers, NGOs, and African governments.
- iv) The Secretariat should attempt to solicit radio and TV coverage of the public parts of the Commission's sessions and meetings.

Dissemination of Documents

- i) Copies of the State periodic reports should be distributed to all Commission members, and made available to all NGOs, observers with standing requests and all human rights NGOs (observers or not) in the reporting State.
- ii) They should be made available as soon as they are received without waiting for translations.
- iii) The Secretary should actively seek the assistance of IGOs, foundations, NGOs and others to translate documents.

Response to Requests for Information

- i) The Secretary should respond to requests for information not later than 15 days after the receipt of the request and by fax wherever appropriate.
- ii) The Secretariat should develop as soon as possible a fax network to ensure that Commission members can remain in touch between Commission sessions.

General: (Implementation of Decisions)

The Secretariat should implement decisions of Commission members as soon as possible, and where problems exist, should alert all Commission members about the difficulties being encountered.

4. Role and Duties of NGOs

The Workshop having recognised the actual and potential role of NGOs in regard to maximizing the effectiveness of the Commission, called for close collaboration between NGOs and the Commission. To this end, NGOs were invited to provide assistance to the Commission. In particular, NGOs should perform the following functions;

- i) NGOs should become actively involved in the consideration of State reports by preparing comments on such reports.
- ii) NGOs and Commissioners responsible for particular areas should maintain constant contacts with each other.
- iii) NGOs should be actively involved in the processes of nomination and appointment of Commissioners.
- iv) NGOs with observer status with the Commission should create a Coordinating Committee whose functions should include the establishment of a voluntary fund to assist African NGOs to maximise their contributions to the work of the Commission.

5. Role of the Commission

Interpretation

- i) The interpretation of the Charter should take into account the current evolution of the human rights situation in Africa and enhance better protection of human rights in Africa.
- ii) Clawback clauses should be interpreted in accordance with established principles of international law to exclude laws that are inconsistent with the Charter. In particular derogations under national constitutions should be subjected to the test of proportionality and necessity.
- iii) The Commission should consider using its power of interpretation under Article 45 (1) (b) to draft guidelines to assist States parties to harmonise their laws with the provisions of the Charter.
- iv) The Commission should cooperate closely with NGOs to carry out its promotional functions.
- v) The Commission should appoint working groups to undertake research and studies and to provide legal assistance.
- vi) The Commission should establish procedures in order to intervene promptly in emergency situations without the necessity to wait for the annual OAU summit.
- vii) Authority should be delegated to the Secretariat to carry out important functions during the inter-sessional periods of the Commission.

6. Relationship Between the Commission and the OAU Assembly of Heads of State and Government

Reports of the Commission should embody specific decisions and the measures that must be taken to implement the decisions.

7. Procedures of the Commission

The lengthy and complex procedures regarding communications to the Commission are likely to discourage their effective utilisation and must be revised. The meeting urged the Commission to revise its rules of procedure with a view to making them more flexible and by taking into account the prevailing conditions in the country where the communication emanated from. In case a State fails to respond to the Commission's request for information, the Secretary should send a reminder without waiting for the next session. In the event of failure to respond after a deadline, the Commission should presume the truthfulness of allegations made against the respondent State and proceed accordingly.

To allow for better functioning of the Commission, the confidentiality of procedures as provided under Article 59 of the Charter should be the exception, publicity being the general rule.

8. Amendments of the Charter and the Rules of Procedure

- i) The preamble of the African Charter should be amended to incorporate the duty to eliminate dictatorship in all its forms and to promote democracy in Africa.
- ii) The reference to moral and traditional values contained in the preamble as well as some articles of the Charter should be amended by pointing out that these references concern exclusively moral or traditional values which can help to enhance the enjoyment of human rights.

9. Establishment of an African Human Rights Court

Given the problems facing the Commission and the unexhausted potential within the mandate of the Commission, it is considered appropriate that the question regarding the establishment of an African Court of Human and Peoples' Rights be deferred at the present time.

***Second ICJ Workshop on NGO Participation in the
African Commission on Human and
Peoples' Rights (ACHPR)***

Organized by :

***The International Commission of Jurists (ICJ)
in collaboration with
The African Commission on Human and Peoples Rights
(ACHPR)
&
The Tunisian League for Human Rights (TLHR)
&
The Arab Institute for Human Rights (AIHR)***

***29 February - 1 March 1992
Tunis, Tunisia***

Conclusions and Recommendations

At the end of the first ICJ workshop held in Banjul, the Gambia, in October 1991, the participating NGOs adopted several recommendations concerning the manner in which the African Commission on Human and People's Rights (ACHPR) functions and the NGO's access to these proceedings. The NGOs were pleased, at the time, with the fertile dialogue between the commissioners and the human rights organizations. In light of the preceding, the following remarks were made :

1. Given the particularly difficult context, the members of the ACHPR should accordingly be imaginative and courageous. This request is all the more justified because the ACHPR is a young institution in which the courage of its members is necessary to create a jurisprudence proper for a positive orientation of the provisions of the African Charter on Human and Peoples' Rights which sometimes reveal a vague and general character.
2. Certain provisions of the Charter, including those defining freedom of association, appear particularly restrictive due to the prevailing role generally attributed to the imperatives related to "public order" and the "law." In practice, such provisions take away all substance from the rights guaranteed by the Charter. It is therefore indispensable that the ACHPR undertake to interpret these clauses in light of international law and international human rights law, assuring that internal legislation conforms with international norms (cf. Arts 60 and 61 of the African Charter);
3. Evaluation of the work accomplished since the 10th Session of the ACHPR :
 - a) It has become apparent that the ACHPR has not yet accepted the recommendation to submit a request to the Assembly of Heads of State and Government for the election of women to the ACHPR;

- b) Similarly, the ACHPR has not taken into account the recommendation concerning the incompatibility of the functions of Commissioner(s) with those of member(s) of governments or their representatives;
- c) As for the Secretariat of the ACHPR, it appears that it has not transmitted the documents addressed to the members of the ACHPR to the NGOs, still less to the press and other interested bodies; furthermore, the Secretariat has not responded, within a reasonable lapse of time, to requests for information received, nor has it undertaken any action aiming at supplying each Commissioner with a facsimile machine.

The participants therefore reiterate their demands regarding the issues mentioned above and exhort the ACHPR to give them due attention.

- 4. It was strongly regretted that the NGOs have not had the opportunity to assist the ACHPR in examining the periodic reports of States parties to the African Charter. Great emphasis was therefore laid on hopes for the creation and development of effective cooperation between the African Commission on Human and Peoples' Rights (ACHPR) and the Non-Governmental Organizations (NGOs).

*Done in Tunis,
1 March 1992*

***Third ICJ Workshop on NGO Participation in the
African Commission on Human and
Peoples' Rights (ACHPR)***

Organized by :

***The International Commission of Jurists (ICJ)
in collaboration with***

***The African Commission on Human and Peoples Rights
(ACHPR)***

&

***The African Centre for Democracy and Human Rights Studies
(ACDHRS)***

***9 - 11 October 1992
Banjul, The Gambia***

Conclusions and Recommendations

Introduction

The Third ICJ Workshop on NGO Participation in the Work of the African Commission on Human and Peoples' Rights organized by the International Commission of Jurists (ICJ) and the African Centre for Democracy and Human Rights Studies (ACDHRS) enabled 55 participants representing 36 African and international NGOs to prepare for the 12th Session of the African Commission for Human and Peoples' Rights. The Workshop was based mainly on the agenda of the 12th Session of the African Commission. It focused on cooperation between NGOs and the African Commission, and studied two particular questions: the right to development and women's rights issues.

The Workshop stressed that this forum is crucial to both the active participation of NGOs in the African regional system and to the improvement of human rights in Africa. The participants expressed their appreciation to the Commission for being responsive to certain concerns which have been expressed by the NGOs participating in previous forums, and they reiterated the wish that the Commission act positively on the recommendations made during the workshop. Upon concluding its function, the Workshop prepared the following list of recommendations and conclusions to be submitted to this session of the African Commission as well as to African Heads of States.

A. Procedures of the African Commission

- 1) The existing procedures, as reflected in the Charter and the Rules of Procedure, are lengthy and cumbersome.
- 2) The provision of confidentiality (Art. 59) does not prohibit making the proceedings and jurisprudence of the Commission known. Therefore, the working of the Commission should be more transparent.

- 3) Despite these procedural, as well as other, difficulties, NGOs should still utilise the African Charter. NGOs are urged to input factual information to the Commission and take advantage of the communication procedure.
- 4) The procedure established for situations of urgency and emergency should be expedited, and practical measures should be taken in this regard.

B. Exhaustion of Local Remedies

- 5) The African Commission should develop guidelines concerning the exhaustion of domestic remedies, including economic, social, and cultural rights, taking into account the situations of the underprivileged groups in society.
- 6) The African Commission should publish its consideration concerning the receivability of complaint/communications (without jeopardizing the protection of identities of victims).
- 7) The African Commission's promotional activities should focus on:
 - a) Making the public aware of the existence of communication procedures and provisions of the Charter;
 - b) Explaining basic international legal principles with regard to the exhaustion of local remedies as a procedural requirement under the Charter;
 - c) Stressing the importance of the right to compensation, restitution, and rehabilitation of victims.

C. Right to Development

- 8) The African Commission should adopt a resolution on the implementation of the right to development, taking into account in particular:
 - a) the interdependence and indivisibility of the right to development and all human rights (popular participation, women's rights, right to education, right to health, etc.);
 - b) the obstacles to the implementation of the right to development, including:
 - the debt-burden
 - the actual policies regarding structural adjustment, in particular the social costs of these policies
 - the fraudulent enrichment of State officials
 - the current economic doctrine giving absolute priority to economic growth ("growth without development")
 - the lack of policies regarding the redistribution of income
 - the ill-considered military expenses of the State
 - the lack of policies regarding popular participation
 - the policy of privatisation of certain economic sectors jeopardizing sovereignty over national resources;
 - c) the importance of genuine indicators to measure the implementation or the denial of the right to development;
 - d) the right to development as a right of peoples and individuals, and not a right of governments;

- e) the inclusion of the right to development in the reporting obligations of the States;
 - f) the study of concrete cases of systematic violations of the right to development.
- 9) The African Commission should appoint a Special Rapporteur to study the right to development, as defined in Recommendation 8.
 - 10) The African Commission should recommend to the African Preparatory Meeting for the 1993 World Conference on Human Rights to reflect these suggestions in the Tunis Declaration.
 - 11) The African Commission should appoint an independent expert to study the situation in Somalia, with a particular attention to the violation of the right to development and its linkage with human rights and peace in that country.

D. Women's Rights

Specific focus was given during this Workshop to the situation of women in Africa. The workshop discussed that the obvious case of the historic marginalization of women effects the very notion of equality. It stressed that the Charter's emphasis on cultural values, as seen in Arts. 18 and 29, needs to be interpreted in favour of human rights. The Charter itself mentions the preservation of "positive" values: negative traditions need not be valued.

- 12) It is regrettable that a women Commissioner was not appointed when there was a vacancy earlier this year. The Workshop repeated its call for women Commissioners.
- 13) NGOs are urged to submit communications concerning gender issues to the Commission and to take advantage of the existing mechanisms.
- 14) The African Commission should request States to pay particular attention to the realization of women's rights in their periodic reports. In examining periodic reports, the Commission should also pay special attention to these issues.
- 15) Women NGOs and other organizations are encouraged to apply for consultative status with the African Commission.
- 16) The African Commission should appoint a women independent expert as Special Rapporteur on the rights of women, with the mandate:
 - a) to study the situations of women, their role, their positions, their rights;
 - b) to study the obstacles to the implementation of women's rights, including:
 - the inappropriate use of religions and cultures as a motive to perpetrate flagrant and massive human rights violations, especially traditional sexual practices, the status of the family, polygamy, and the lack of women's reproductive rights
 - access to education, food, health, and political decision-making
 - violence against women;
 - c) to make recommendations, in particular concerning the interpretation of relevant Charter sections to impose affirmative action on States and the African Commission, to ensure that the Charter is interpreted in a non-sexist way and to propose the necessary amendments.

- 17) The African Commission should prepare a general observation on women's rights in the African Charter, taking into account the key-role of women in the implementation of the right to development.
- 18) The African Commission should focus its promotional activities on women's rights.
- 19) The African Commission should recommend to the African Preparatory Meeting for the 1993 World Conference on Human Rights to reflect these recommendations in the Tunis Declaration.

E. General Conclusions and Observations

- 20) the Workshop calls upon States to fulfil their obligation, provided by the African Charter, to produce periodic State reports. These reports should be made available to Commissioners and NGOs, as soon as possible, in adequate numbers, and in the working languages of the OAU.
- 21) States are urged to utilise the technical and advisory services offered by the United Nations Centre for Human Rights, and other relevant bodies.
- 22) In view of repeated and constant reminders of the gross inefficiency of the Secretariat, previous calls for the replacement of the current Secretary have been reiterated. The Workshop welcomes the appointment of the new legal officer, but draws attention to the fact that improving the workings of the Commission and its Secretariat also need adequate funding.
- 23) The concerns highlighted in the recommendations made in the two previous Workshops are still valid, including:
 - a) the composition and independence of the Commissioners and problems of conflict of interest;
 - b) the appointment of women Commissioners;
 - c) the organization and working of the Secretariat;
 - d) the nature of the relationship between the OAU and the Commission;
 - e) the amendment of the Charter and the Rules of Procedures;
 - f) the consideration of the need for the establishment of an African Court of Human Rights;
 - g) the role of NGOs and their relation with the Commission.
- 24) The Workshop discussed the preparation of the African Regional Preparatory Conference. The workshop welcomes the initiatives undertaken by the ICJ to promote exchanges between NGOs. It also welcomes the proposals made to consolidate this coordination in order to enable African NGOs attending the Tunis and Vienna Conferences to have the requisite representation and efficiency.

***Fourth ICJ Workshop on NGO Participation in the
African Commission on Human and
Peoples' Rights (ACHPR)***

Organized by :

***The International Commission of Jurists (ICJ)
in collaboration with
The African Commission on Human and Peoples Rights
(ACHPR)
&***

***The African Centre for Democracy and Human Rights Studies
(ACDHRS)***

***26 - 28 March 1993
Banjul, The Gambia***

Conclusions and Recommendations

Introduction

The fourth ICJ Workshop on NGO participation in the work of the African Commission on Human and Peoples Rights organized by the International Commission of Jurists in collaboration with the African Centre for Democracy and Human Rights Studies and the African Commission on Human and Peoples Rights, enabled 60 participants representing 35 African and International NGOs to prepare for the 13th Session of the African Commission of Human and Peoples Rights. Following the general objective of promoting a productive working relationship and mutual cooperation between the African Commission and NGOs, the theme of the 4th workshop was:

"How to integrate the African Commission and the OAU political bodies in the NGO strategy for effective promotion and protection of Human Rights in Africa".

3. The workshop undertook a critical assessment of NGO strategy at the local, national and regional levels. It pointed out that although the opportunities for NGO participation in the past three ordinary sessions of the African Commission had undoubtedly provided a much-needed boost to the work of the African Commission, more effort needed to be put into the African Commission - NGO relationship by both sides. The presence of six Commissioners and their active participation in the deliberations of the workshop was highly appreciated by the NGOs. Upon concluding its deliberations, the workshop prepared the following list of conclusions and recommendations:

A. Rules of Procedure of the African Commission

1. The African Commission is encouraged to conclude the revision of its rules of procedure.

2. The provision of confidentiality (Art 59) does not prohibit making the proceedings and the jurisprudence of the Commission known. The Commission is particularly urged to accelerate its procedures for the handling of communications and giving it more publicity and transparency.
3. NGOs are encouraged to provide factual information to the Commission and to maximise their utilisation of the Communication procedures.

B. NGO Complaints Register

4. NGO Communications to the African Commission should be recorded in a central register of complaints.
5. The International Commission of Jurists is requested to establish and maintain the register at its headquarters in Geneva.
6. NGOs are urged to request from the Commission information regarding the status of communications addressed to the Commission.

C. Indivisibility of Civil and Political Rights and Economic Social and Cultural Rights

7. The African Charter recognises the indivisibility of human and peoples rights.
8. It is stressed that governments should respect civil and political rights as well as economic, social and cultural rights. Preventive detention, massacres, disappearances and other massive violations of human and peoples rights are contrary to the African Charter and must be condemned.
9. African governments should ensure that in seeking development loans and aid, agencies such as the World Bank and the IMF desist from the imposition of conditionalities that prejudice the realisation of the rights guaranteed by the African Charter.
10. Governments owe a duty of accountability to the public. All corrupt practices frustrate the realization of the right to development. The African Commission is urged to appoint a Special Rapporteur to study the issue of fraudulent enrichment of top government officials.

D. The Role of NGOS

11. It is imperative that African human rights NGOs enhance their institutional capacity building by directing energies and efforts towards grassroots participation.
12. It is necessary that African NGOs create a credible image in their operations within the social and political environment.
13. It is crucial for NGOs to include in their programmes strategies for selective constituency building with the administration and civil society.

It is extremely important that African NGOs work closely with the African Commission in ensuring effective enforcement of the Charter.

14. NGOs should play a major role in lobbying authorities in regard to the processes of nomination and appointment of Commissioners.

15. It is urgent that NGOs establish a reliable information system for the storing of comprehensive data. They should also organize referral services to facilitate the making of representations not only to the African Commission but also to United Nations bodies.

E. Ratification of International Human Rights Instruments

16. African States are strongly urged to ratify relevant United Nations Human Rights instruments.
17. Such ratification should not be subject to reservations which undermine the effectiveness of the ratified instruments.

F. Incorporation of the African Charter into Domestic Law

18. For those African States parties requiring specific legislation for incorporating the African Charter into their domestic legal systems, such legislation need to be enacted as a matter of urgency.
19. Such incorporation should not subject the African Charter to domestic law. The African Charter must be accorded higher status over domestic legislation.

G. Creation of an African Human Rights Court

20. Serious consideration should be given to the creation of an African Human Rights Court.

H. Respect for Human Rights and Humanitarian Principles in Armed Conflicts

21. In cases of armed conflicts it is of the utmost importance that human rights and the humanitarian principles and norms embodied in the Geneva Conventions of 1949 as well as the Additional Protocols of 1977 be respected by all warring factions.

I. General Observations

The workshop drew attention to concerns highlighted in the conclusions and recommendations of the three previous workshops, including :

- a) The election of women commissioners;
- b) The appointment of a woman rapporteur to study the question of women's rights under the African Charter;
- c) The organization and working of the Commission's secretariat;
- d) The nature of the relationship between the OAU and the Commission;
- e) The provision of adequate funding for the Commission.

*Done in Banjul,
28 March 1993*

***Fifth ICJ Workshop on NGO Participation in the
African Commission on Human and
Peoples' Rights (ACHPR)***

Organized by :

***The International Commission of Jurists (ICJ)
in collaboration with
The African Commission on Human and Peoples Rights
(ACHPR)***

***28 - 30 November 1993
Addis Ababa, Ethiopia***

Conclusions and Recommendations

1. Rules of Procedure

Participants at the workshop expressed the view that there had to be transparency regarding the application of the Commission's Rules of Procedure. It was not clear as to how the rules of procedure were being applied.

The workshop reiterated its previous recommendations that the ACHPR completes its work on the Revision of the Rules of Procedure which has dragged on for three years. The revision should not simply be a technical amendment but should reflect the changes NGOs have proposed for the strengthening of the effectiveness and transparency of the African Commission.

2. NGOs Strategy for the Strengthening of the Promotional and Protective Mandate of the ACHPR

- strengthening the relationship between NGOs and the African Commission,
- strengthening the Commission's Secretariat,
- enhancing the independence of the Commission,
- increasing NGO participation in various activities of the Commission,
- following up actions to assess progress achieved in regard to the work of the Commission,
- increasing the representation of women in the Commission.

3. The NGOs

- NGOs should disseminate information concerning the work of the Commission and their contributions to its activities;
- NGOs should provide regular reports to the Commission concerning their promotional activities and the ways in which they provide assistance to the Commission;

- NGOs should send copies of their communications to the Commission to the Central Registrar of Complaints opened at the ICJ Secretariat in Geneva following the recommendation of the fourth workshop in March 1993;
- NGOs should promote a culture of professionalism and objectivity in their human rights work;
- NGOs should organize training workshops between the sessions of the Commission;
- NGOs should use the opportunity of their presence at the Commission to strengthen networking by preparing and disseminating information regarding new developments in their countries.

4. The Workshop Recommends

- 4.1. That an African Court of Human Rights be established.
- 4.2. That the views expressed in the group be considered by the ICJ when the protocol is being drafted, and, as far as possible, the comments by the participants should be incorporated.
- 4.3. An explanatory document which will accompany the draft protocol should be prepared by the ICJ, to explain the provisions of the draft protocol, and, as far as possible, taking into account the comments of the participants to the workshop.
- 4.4. The final draft protocol and the explanatory document will then be presented to the Heads of State of the OAU, in particular the present and the next Chairman of the OAU. The importance to associate NGOs representatives to the work of the group of Government Experts, in view to draft the Additional Protocol to the African Charter for the establishment of an African Court of Human and Peoples' Rights should be emphasised.

***Sixth ICJ Workshop on NGO Participation in the
African Commission on Human and
Peoples' Rights (ACHPR)***

Organized by :

***The International Commission of Jurists (ICJ)
in collaboration with
The African Commission on Human and Peoples Rights
(ACHPR)
&
The African Centre for Democracy and Human Rights Studies
(ACDHRS)***

***15 - 17 April 1994
Banjul, The Gambia***

Conclusions and Recommendations

Arbitrary Detentions

The workshop drew attention to two alarming facts:

- the widespread practice of arbitrary detentions in Africa;
- the deplorable conditions in prisons and detention centres.

The workshop noted the effectiveness of the UN Working Group on Arbitrary Detentions and urged more African NGOs to make wider use of it. At the same time, NGOs were also urged to refer cases of arbitrary detention to the African Commission on Human and Peoples' Rights.

The situation in African prisons and detention centres is alarming. Basic food, hygiene and health needs are not or insufficiently provided and loss of life is frequent in detention. Facilities are inadequate and overcrowded and maltreatment is frequent.

The workshop calls on NGOs to make more *in situ* visits and launch education and information campaign on rights of prisoners, targeting penitentiary administration police, lawyers and magistrates and the general police.

Extra-Judicial Executions

The workshop is alarmed by the growing number of extra-judicial executions in Africa and at the same time, the silence of the African Commission on Human and Peoples' Rights.

The workshop recognizes the Commission's limited material means but believes it necessary for the Commission to act and at least make public Statements on extra-judicial executions.

The workshop calls for the establishment of an emergency mechanism and recommends the appointment by the Commission of a Special Rapporteur on Extra-

Judicial Executions who could be a member of the Commission or an independent expert, as well as the setting up of international working groups to act on emergencies.

Human Rights Education

Referring to the Resolutions of the ACHPR at its 4th ordinary session on the promotion and protection of human rights, and noting the relation between human rights and civil society and democracy.

The workshop reiterates the need and importance of Human Rights Education as an effective means to prevent violations of human rights in Africa. The workshop recommends that the next workshop be devoted to the issue of human rights education and that special sessions on human rights education be organized frequently with a special effort towards the training of educators.

The workshop recommends the establishment by the ACHPR of a working group on human rights education to carry out a five-year programme of activities in collaboration with NGOs.

Drawing on Article 25 of the African Charter on Human and Peoples' Rights, the workshop recommends that States legislate to integrate human rights education in school and university curricula.

Recognising the necessity to reach a wide range of people, the workshop recommends that human rights education should target not only pupils and students and the general public, but also military and police training schools, civil servants, magistrates, NGOs, political parties and government departments. In this case, special emphasis should be put on respect and promotion of international humanitarian law.

The Role of the Press in the Promotion and Protection of Human and Peoples' Rights

The workshop recognises the important, fundamental role of the press in the promotion and protection of Human Rights and reiterates its recommendations for the adoption of dynamic media policies by both NGOs and the African Commission on Human and Peoples' Rights.

The workshop recommends that NGOs and the Commission make wider and more effective use of the media to inform the public and promote their activities.

Women's Rights

The workshop is convinced that women's rights are human rights; considers that women's rights are not explicitly guaranteed in the African Charter on Human and Peoples' Rights; notes that many African States are yet to ratify or strictly apply the convention of the Elimination of All forms of Discrimination Against Women (CEDAW) and bears in mind the forthcoming regional meeting in Dakar in November 1994, and the World Conference on Women in Beijing in 1995.

The workshop draws attention to the lack of specific reference to women's rights in the African Charter on Human and Peoples' Rights. Although the Charter stipulates equality of all persons, it makes no direct reference to the rights of women. The workshop therefore, recommends the drafting an Additional Protocol to the Charter on Women's Rights.

The workshop further recommends that States sign, ratify or accede to CEDAW and other relevant international instruments and immediately implement these international standards.

The workshop calls on States to ensure the promotion of economic autonomy of women and their effective participation in the decision-making process.

The workshop also calls for a greater participation of women in negotiation, mediation and other peace initiatives, and recommends the appointment of more women in positions of responsibility in regional and international bodies.

The workshop regrets that large number of restrictive reservations to the Convention on the Elimination of All forms of Discrimination against Women, which tend to defeat the object and purpose of that treaty, and call upon all States to withdraw those reservations as a matter of priority.

The workshop recommends that the ACHPR establish at the 15th Session a working group on the rights of women composed of members of the Commission and of representatives of observer NGOs. The mandate of the working group would include the drafting of an Additional Protocol to the African Charter defining the rights of women.

Article 58 of the African Charter on Human and Peoples' Rights

1. There should be a more creative interpretation of the Charter by the Commission.
2. The Commission should develop a jurisprudence of its own.
3. The Commission should take steps towards the protection of human rights as opposed to dealing only with violations.
4. NGOs should make communications to the Commission on a regular basis and they should put pressure on the Commission to act on these communications.
5. The Charter should make provisions and procedure for cases where the complaint is made against the incumbent Chairman of the OAU.

Part II

The Main Actions Taken by the African Commission on Human and Peoples' Rights (ACHPR)

***Final Communique of the 10th Ordinary Session of the
African Commission on Human and
Peoples' Rights***

***8 - 15 October 1991
Banjul, The Gambia***

1. The African Commission on Human and Peoples' Rights held its 10th Ordinary Session in Banjul, The Gambia, from 8-15 October 1991 under the Chairmanship of Dr. Ibrahim Ali Badawi El Sheikh.
2. The session coincided with the 10th Anniversary of the African Charter on Human and Peoples' Rights adoption, in Nairobi, in June 1981, by the Assembly of the Heads of State and Government of the OAU and with the 4th Anniversary of the installation of the African Commission on Human and Peoples' Rights on 2nd November 1987.
3. The session was attended by the following members:
 - i) Dr. Ibrahim Ali Badawi El Sheikh
 - ii) Mr. Alioune Blondin Beye
 - iii) Mr. Ali Mahmoud Buhedma
 - iv) Mr. Robert Habesh Kisanga
 - v) Mr. Moleleki D. Mokama
 - vi) Mr. Sourahata B. Semega Janneh
 - vii) Mr. Chama L.C. Mubanga-Chipoya
 - viii) Prof. Isaac Nguema
 - ix) Prof. U.O. Umozurike
4. The opening was presided over by Prof. Umozurike, the outgoing Chairman of the Commission and His Excellency, the President of the Republic of The Gambia was represented by the Honourable Hassan B. Jallow, Attorney General and Minister of Justice.
5. After the welcome address by Professor Umozurike other speeches were made by:
 - The Honourable Hassan B. Jallow, Attorney-General and Minister of Justice representing the President of the Republic of The Gambia.
 - Mr. Robinson, Chairman of the Inter-American Commission on Human Rights;
 - Mr. Falk, representing the United Nations Under-Secretary-General for Human Rights;
 - Mr. Adama Dieng, Secretary-General of the ICJ, and

- Mr. N. Mutsinzi, the Secretary to the African Commission on Human and Peoples' Rights representing the Secretary-General of the OAU.
6. In his Statement the Honourable Hassan B. Jallow assured the Commission of the enduring commitment of the Gambian government to the facilitation of the work of the Commission by providing the necessary assistance to enable it achieve its objectives.
 7. On commencement of their formal deliberations, the recently reelected members of the Commission, at the 27th Ordinary Session of the Assembly of Heads of State and Government, took their oath of office. The newly re-elected members are:
 - Mr. Robert Hababesh Kisanga
 - Mr. Chama L.C. Mubanga-Chipoya
 - Prof. U.O. Umozurike
 8. Following the expiry of the two year term of office for Umozurike and Gabou elected on 24th November 1989 as Chairman and Vice-Chairman, respectively, the Commission in conformity with Rule 17 of the Rules of Procedure elected as Chairman: Dr. Ibrahim Ali El-Sheikh and as Vice-Chairman: Mr. Chama L.C. Mubanga-Chipoya.
 9. The Commission deliberated, in particular, on the following topics:
 - i) Observers
 - a. Requests for observer status;
 - b. Consideration of the conclusions of the workshop organized by the ICJ and the African Centre for Democracy and Human Rights on NGO participation in the work of the African Commission.
 - ii) Matters arising from the preceding session:
 - a. Report of the Chairman;
 - b. Reports of the members of the Commission;
 - c. Report of the Secretary.
 - iii) Activities of the Commission:
 - a. Protective activities
 - b. Promotional Activities
 - iv) Consideration of Periodic Reports.
 - v) Report of the consultants on the Programme of Activities.
 - vi) Consideration of the Rules of Procedure.
 - vii) Report of the activities of the OAU relevant to the Commission
 - viii) Date, venue and agenda of the 11th Session.
 - ix) Adoption of the report of the 10th Session.
 - x) Final Communiqué.
 10. Following consideration of their requests the Commission granted observer status to the following NGOs;

1. International Human Rights Law Group;
2. Minnesota Lawyers International Human Rights Committee;
3. Fédération internationale de l'action des chrétiens pour l'abolition de la torture (FIACAT);
4. African Union of Lawyers;
5. Groupe d'étude et de recherche sur la démocratie et le développement économique et social;
6. Anti-Slavery International for the Protection of Human Rights;
7. Congressional Human Rights Foundation;
8. La Ligue ivoirienne des droits de l'homme;
9. L'Association des juristes africains (AJA);
10. L'Association pour la promotion de l'Etat de droit (APED);
11. Rencontre africaine pour la défense des droits de l'homme (RADHO);
12. The Decade of Human Rights Education , INC (DHRE);
13. Marangopoulos Foundation for Human Rights (MFHR);
14. Legal Research and Resource Development Centre;
15. Organization mondiale contre la torture;
16. International Service for Human Rights;
17. International League for Human Rights;
18. L'Association nationale des droits de l'homme (Gabon).

The following were given observer status subject to their presentation of their basic documents:

- African Bar Association
 - Ligue centrafricaine des droits de l'homme
11. On obtaining observer status the NGOs expressed gratitude to the Commission and reaffirmed their respective commitment to the promotion and protection of Human Rights in Africa.
 12. The commission learned from the Statement of the Chairman of the Inter-American Commission who cited examples of measures which the African Commission could utilize to enhance its own performance. Measures such as, *inter alia*, possibility of carrying out investigations in States Parties; the possibility of undertaking actions and adopting interim measures in order to avoid irreparable prejudice to victims of human rights violations; measures to be taken to counter delaying tactics used by some member States to impede settlement of cases presented to the Commission; and, the possibility of visiting prisons, preparing special reports on human rights situations in a given country and exempting indigent complaints from stipulations governing the exhaustion of local procedures.
 13. On the role of the Commission and the NGOs in the discharge of their protective and promotional functions the NGOs emphasized:

- the need for members of the Commission to enjoy full diplomatic immunity while engaged in these activities even in their own countries;
 - the need to simplify the rules of procedure resulting in the reduction of delays in settling communications thereby enabling the Commission to intervene with greater efficiency in emergency situations;
 - the need for the Commission to act with greater audacity in carrying out its assigned functions;
 - the need for NGOs working hand in hand with the members of the Commission in order to address the difficulties which might arise from the execution of these functions;
 - the need to improve the effectiveness of the Secretariat of the Commission by developing dynamic methods in discharging its functions and making maximum use of the efforts of the members of the Commission.
14. The newly elected Chairman, Dr. Badawi El Sheikh, the Commissioners and the Secretary-General submitted their reports on their respective activities in the inter session period. The fruitful discussions on these reports led to various observations and suggestions.
15. The Commissioners agreed to a reorganization of the list of countries for each member for the purpose of their direct promotion and protection activities in these countries; an exercise first enunciated at the 8th ordinary session.
16. The continuing decline of the resources allocated to the Commission by the OAU, brought about by the difficulties encountered by the OAU in recovering the total amount of budget contributions, remains a source of great worry to the Commission. In this regard the Commission received with gratitude grants from Organizations such as:
- UN Centre for Human Rights;
 - UNESCO,
 - EC,
 - DANIDA
 - The Raoul Wallenberg Institute of Human Rights and Humanitarian Law.
17. The Commission appointed a Commissioner to work out ways of systematic utilization of the funds made available to it and to establish an appropriate and reliable machinery for hiring personnel to help it acquire equipment for use at its headquarters and whenever it might hold its sessions. Another Commissioner was requested to indicate additional ways in which the DANIDA Fund could be put towards the efficient fulfilment of its promotional activities.
18. Among other seminars and discussions the members of the Commission may hold or attend in their promotional activities, the Commission decided to send a representative to the seminar to be held from 29 November to 2nd December 1991 in Tunis organized by the Arab Institute for Human Rights and the Tunisian League for Defence of Human Rights on Criminal Law and Penal Reform, who are to provide lodging and boarding free of charge.
19. With regard to the protective activities, the Commission considered complaints other than those of States Parties, namely:
- cases already declared admissible;

- new cases.
20. Concerning the new cases presented to the Commission for consideration, in accordance with Article 55 of the Charter, the Commission considered 18 new communications and made the following decisions:

For 15 of these cases, the communications must be brought to the knowledge of the State concerned and its author should be requested to indicate whether all local remedies have been exhausted. For 2 cases, the Commission should refer the matter to the current Chairman of the OAU, in conformity with Article 58 paragraph 3 of the Charter. For one of the cases the Commission decided to request the State concerned for a temporary suspension of the measures envisaged.
 21. Regarding cases already declared admissible, the Commission considered 7 communications which have been settled in a satisfactory manner, and closed the dossiers.
 22. The subject of revising the Rules of Procedure was also tackled and a Commissioner appointed to consolidate the amendments have been made for a full debate on the matter at the coming 11th session.
 23. Mindful of the need to monitor the human and people's rights situation in the States Parties and to establish a dialogue with them, the Commission vigorously tackled the matter of periodic reports from States. The Commission formally directed a number of questions to the States concerned in an effort to lay out a foundation on which to build this work according to Guidelines already prepared. It has also been indicated to the States concerned on which dates their reports would be considered at the next session.
 24. Ever mindful of the situation of *apartheid* in South Africa, and since the Commission has received reports of the continuing violence in that country, and noting with sadness from these reports that much of the violence appears to be sponsored, encouraged or supported by certain elements of the Government. And following the recent signing of the National Peace Accord by Organizations including the African National Congress, the Inkhata Freedom Party and the South African government, intended to end this violence.

The Commission:

- a. Condemns the use of violence in South Africa to settle disputes by anybody in South Africa and in particular the recent massacre of 18 people in Thokoza near Johannesburg.
 - b. Appeals to the government to fully comply with its undertakings under the National Peace Accord.
 - c. Calls on the government to accede to the demands of the majority of South Africans for the establishment of an interim government and a constituent assembly.
 - d. In keeping with the preamble of the Charter of the Organization of African Unity requiring total commitment to the elimination of *apartheid*, calls upon the Heads of State of the OAU to consider carefully the human rights conditions prevailing in South Africa.
25. The Commission decided to hold its 11th session from 2 to 9 March 1992 in a venue which will be announced and that, in future, ordinary sessions will be held during the first half of March and the second half of October each year.

26. The Commission decided on the agenda of the 11th session copy of which is attached.

*Done in Banjul,
15 October 1991*

***Final Communiqué of the 11th Ordinary Session of the
African Commission on Human and
Peoples' Rights***

***2 - 9 March 1992
Tunis, Tunisia***

1. The African Commission on Human and Peoples' Rights held its 11th Ordinary Session from 2-9 March 1992 in Tunis, at the invitation of the Tunisian government, and chaired by Dr. Ibrahim A. Badawi El Sheikh.
2. This session held just before the African Preparatory Conference on Human Rights organized by the United Nations and planned for November 1992 in Tunis, was preceded by the meeting of a workshop organized in the Tunisian capital from 29 February to 1st March 1992 by the International Commission of Jurists (ICJ) on NGO support for the Commission's work in cooperation with the African Commission.
3. At a time when Africa is proud to see one of its renowned sons, Dr. Boutros Ghali, at the head of the UN General Secretariat, at a time when the wind of democracy is blowing through the whole Continent and when Africa has just started on the process of dismantling the *apartheid* system in force in its southern part, the Commission has adopted a detailed programme of action and reaffirmed its determination to ensure the promotion and the protection of human and peoples' rights in Africa.
4. The following Commissioners took part in this session:
 - Dr. Ibrahim A. Badawi El Sheikh, Chairman;
 - Mr. Alioune B. Bèye;
 - Mr. Ali Mahmoud Buhedma;
 - Mr. Robert H. Kisanga;
 - Mr. Sourahata B. Semega Janneh, Vice-Chairman;
 - Mr. Molefeki D. Mokama;
 - Mr. Youssoupha Ndiaye;
 - Prof. Isaac Nguéma;
 - Prof. U.O. Umozurike;
5. The Commission paid tribute to the last Commissioner C.L.C. Mubanga-Chipoya and observed a minute of silence.
6. The opening session took place in the presence of His Excellency Mr. Hamed Kaouri, Prime Minister, representing the President of the Republic, Zine El Abidine Ben Ali.
 - Mr. Ahmed Haggag, the OAU's Assistant Secretary-General
 - Members of the government

- Ambassadors and Heads of Diplomatic Missions
 - Commission Members
 - International and African NGO representatives
 - Representatives from the international press
 - Numerous guests.
7. In his welcoming speech, Dr. Badawi El Sheikh, after praising Tunisia for her sustained policy on human rights, pointed at the importance of this meeting, whose agendas covered notably both the examining of Egypt's Togo's, Tanzania's and Nigeria's periodic reports and the studying of the right to freedom of association and the right of recourse. In his opening speech to the work of the 11th Session, Prime Minister Mr. Hamed Karoui stressed both the new era's commitment to human rights and to African aspirations and just causes and the need to set up a new international economic order, based on justice, equality of peoples and multi lateral help between African countries, finishing with a mention of how very much the Tunisian government had done to promote and protect human rights.
 8. The Commission elected a new Vice-Chairman Mr. Sourahata B. Janneh in replacement of the late Commissioner C.L.C. Mubanga-Chipoya.
 9. The Commission's work was particularly focused on the four main questions that follow:
 1. Adopting a promotion programme;
 2. Examining the periodic reports;
 3. Examining complaints;
 4. Studying Article 2 of the Charter on the right to free association and the right of recourse.
 10. Before starting its deliberations, the Commission recorded a certain number of Statements and also the conclusions reached by the workshop organized by the NGO's Forum.
 11. In their speeches, the representatives of the governmental and non-governmental organizations stressed their Organizations' willingness to give support and aid to the functioning of the Commission for the Promotion and Protection of Human Rights in Africa. Such was the sense and significance of the speeches made in particular by:
 - Mr. Falk, representing the United Nations Deputy Secretary-General for Human Rights;
 - Miss Catherine Cisse, on behalf of the Commission of the European Communities;
 - The representative of the Swedish government;
 - Mr. Nasr S.N. Ramadan, representing the Tunisian government
 - Mr. Farouk Abu Eissa, Chairman of the Union of Arab Lawyers
 - Dr. Philip Amoah, representing the International Commission of Jurists;
 - Mr. Christopher Hall, representing Amnesty International

- Mr. Fayek, Secretary-General of the Arab Organization for Human Rights;
 - Mr. Zouhir Chelli, Tunisia's honorary Delegate at the United Nations High Commissioner for Refugees.
12. Presenting the report of the workshop organized by the International Commission of Jurists, Mrs. Mona Abdallah Rishmawi first repeated the conclusions and recommendations made by the workshop, held from 5-7 October 1992 in Banjul on the organization and functioning of the African Commission on Human and Peoples' Rights, before making recommendations on the contents of the right to freedom of association and of the right of recourse, provided for in Articles 10 and 7 of the African Charter on Human and Peoples' Rights. According to Mrs. Rishmawi, the workshop examined the provisions of the African Charter on Human and Peoples' Rights and particularly those of the above-mentioned articles concerning the right to freedom of association and the right of recourse, so that the content of these rights conform to other international legal instruments.
13. Taking up the question of the programme of action and working methods, the Commission drew up a timetable of seminars and symposia which it intends to organize, either in cooperation with other international organizations or alone. In this way, the Commission reiterated its intention of organizing:
- a seminar on refugees and displaced persons, jointly with the UNHCR
 - a seminar on integration and the implementing of the African Charter in African legal systems (Banjul 1992),
 - a seminar on the role of women in development,
 - a seminar on popular participation and informal education (in cooperation with UNESCO and the Economic Commission for Africa),
 - a seminar on post-apartheid South Africa (in cooperation with UNESCO).
- As regard working methods, the Commission decided:
- to set up an Information and Documentation Centre within the Secretariat;
 - to set up a work group during the inter-sessions;
 - to adopt an organigram for the Secretariat's departments, and recognised a need for recruiting the corresponding staff;
 - to publish a press bulletin concerning the activities of the Commission and concerning the human rights in Africa;
 - to continue with publishing the African Commission on Human and Peoples' Rights Review;
 - to publish annual reports and other Commission documents including periodic reports;
 - on the need to publish and translate periodic reports.
14. During the deliberations, the Commission had the task of examining the reports made by the Arab Republic of Egypt and the Republic of Tanzania. Examination of these reports aimed at examining the legislative or other measures taken by the States to give effect to the rights and freedoms recognised and guaranteed by the African Charter on Human and Peoples' Rights.

15. The Commission regretfully noted that the States do not conform entirely to the orders and questions put to them when they are drawing up these reports. It nonetheless hailed the usefulness and the appropriateness of the constructive dialogue which had developed between the Commission and the States concerned, and thanked the Governments of the Arab Republic of Egypt and of Tanzania for their reports and for their willingness to cooperate with the Commission.
16. It appealed to the States which had not yet submitted their reports to do so as quickly as possible.
17. On the subject of complaints concerning the allegation that human rights were being violated in some African countries, the Commission recorded five new communications, and 22 communications are still pending in each case, regretted the administrative delay which in many cases holds up the affairs investigations procedure.
18. As regard promotion activities, besides those which appear in the programme of action adopted by the Commission, the Commission will submit to the Conference of OAU Heads of State and Government to be held in Dakar in June-July 1992 a certain number of draft resolutions particularly concerning the ratifying of the Charter, promotional activities and the States' reports. Moreover, the Commission passed two resolutions, one on the right to freedom of association and one on the right of recourse. As far as right of recourse is concerned, the Commission is appealing to the States to give effect to the exercise of this right, which includes:
 1. the right to refer to the competent national courts any act that violates the basic rights which are recognised and guaranteed to one by the conventions, laws, regulations and customs in force;
 2. the right to be presumed innocent until one's guilt is established by a competent court;
 3. the right to be defended, including that of being helped by counsel of one's choice;
 4. the right of being tried within a reasonable period of time by an impartial court.
19. During this session, the Commission granted Observer Status to the following Non-governmental Organizations:
 1. The Human Rights Institute at the Catholic University of Lyon
 2. The Guinea-Bissau Human Rights League
 3. The International Society for Human Rights
 4. The National Union of the Moroccan Press
 5. Lawyers for Human Rights
 6. The Observatoires Panafricain de la Démocratie (OPAD)
 7. The International Centre against Censorship
 8. The National Human Rights Committee
 9. The Libyan Arab Human Rights Commission
 10. The Benin Human Rights Commission

11. The African Lawyers' Federation
12. The International Centre for Human Rights and Democratic Development.
20. It was also granted Observer Status to the International Committee of the Red Cross.
21. Finally before ending the examination of its agenda, the Commission adopted its report of the 11th session and of the annual report, which will be submitted to the next session of the Conference of OAU Heads of State and Government.
22. The Commission registered with satisfaction the request made by the Malian government to the Commission to send a mission to observe the presidential elections to be held on 22 March and 5 April 1992.
23. The Commission expressed its sincere thanks to his Excellency President Zine El Abidine Ben Ali, President of the Republic of Tunisia, and to the Tunisian government and People, for their warm welcome and the hospitality they have shown it and for the support they have given to the Commission's work, a support which has allowed the work to be so successful. A telegram of thanks to His Excellency the President was sent to that effect.

*Done in Tunis,
9 March 1992*

***Resolution on Ratification of the African Charter of the
11th Ordinary Session of the African Commission
on Human and Peoples' Rights***

***2 - 9 March 1992
Tunis, Tunisia***

Recalling the 10th Anniversary of the adoption by the Assembly of Heads of State and Government of the Organization of African Unity of the African Charter on Human and Peoples' Rights in June 1981 and the fifth anniversary of its entry into force on 21 October 1991.

Noting that the members of the African Commission on Human and Peoples' Rights are elected by the Organization of African Unity.

Further recalling that all the Member States of the Organization of African Unity have pledged in the Preamble of the Charter of the Organization of African Unity "to promote international cooperation, having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights",

Remembering that the Assembly of Heads of State and Government of the Organization of African Unity at its 24th Ordinary Session in May 1988 "strongly" urged member States which had not yet ratified the African Charter "to do so as soon as possible",

Emphasizing the importance of adherence to the African Charter on Human and Peoples' Rights by all member States of the Organization of African Unity,

Expressing deep gratitude to the 43 Member States of the Organization of African Unity which have become States parties to the African Charter on Human and Peoples' Rights,

1. **Strongly urges** those Member States which have not yet ratified the African Charter on Human and Peoples' Rights to do so as soon as possible,
2. **Directs** the Secretary-General of the OAU to transmit this Resolution to each member State of the Organization of African Unity which has not yet ratified or acceded to the African Charter on Human and Peoples' Rights,
3. **Requests** the African Commission on Human and Peoples' Rights to report on the implementation of this resolution.

***Resolution on the Right to Freedom of Association of the
11th Ordinary Session of the African Commission
on Human and Peoples' Rights***

***2 - 9 March 1992
Tunis, Tunisia***

Taking into consideration all rights stipulated in the Universal Declaration of Human Rights, with special reference to Articles 20, 23 guaranteeing the Right to Freedom of Peaceful Assembly and Association,

Recalling Article 22 of the international Covenant on Civil and Political Rights, and Article 8 of the International Covenant on Economic, Social and Cultural Rights assuring that everyone shall have the Right to Freedom of Association with others,

Highly evaluating the UN Sub-Commission on the Prevention of Discrimination, Resolution N° 13 (XXX III) on the 11th September 1980 which adopted the Right to Freedom of association,

Taking into consideration the provisions of the African Charter on Human and Peoples' Rights, in particular article 10 (1), guaranteeing every individual the right to Free association provided that he abides by the law,

Considers:

1. The competent authorities should not override constitutional provisions or undermine Fundamental Rights guaranteed by the Constitution and International Human Rights Standards;
2. In regulating the use of this right, the competent authorities should not enact provisions which would limit the exercise of this freedom;
3. The Regulation of the exercise of the Right to Freedom of Association should be consistent with States' obligations under the African Charter on Human and Peoples' Rights.

***Resolution on the Right to Recourse Procedure and Fair Trial
of the 11th Ordinary Session of the African Commission
on Human and Peoples' Rights***

***2 - 9 March 1992
Tunis, Tunisia***

Conscious of the fact that the African Charter on Human and Peoples' Rights is designed to promote and protect human rights in accordance with the provisions contained in the Charter and recognized International Human Rights Standards.

Recognizing that the Right to a fair trial is essential for the protection of fundamental Human Rights and Freedoms.

Bearing in mind Article 7 of the African Charter on Human and Peoples' Rights.

1. **Considers** that every person whose rights or freedoms are violated is entitled to have an effective remedy.
2. **Considers Further** that the Right to fair trial includes among other things, the following:
 - A. All persons shall have the right to have their cause heard and what shall be equal before the courts and tribunals in the determination of their rights and obligations.
 - B. Persons who are arrested shall be informed, at the time of arrest, in a language which they understand of the reasons for their arrest and shall be informed promptly of any charges against them.
 - C. Persons arrested or detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or be released.
 - D. Persons charged with a criminal offence shall be presumed innocent until proved guilty by a competent court.
 - E. In the determination of charges against individuals, the individuals shall be entitled in particular to
 - 1) Have adequate time and facilities for the preparation of their defence and to communicate in confidence with counsel of their choice;
 - 2) Be tried within a reasonable time;
 - 3) Examine, or have examined, the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;
 - 4) Have the free assistance of an interpreter if they cannot speak the language used in court.
3. Persons convicted of an offence shall have a right of appeal to a higher court.

4. **Recommends** to States Parties to the African Charter on Human and Peoples' Rights to create awareness of the accessibility of the Recourse Procedures and to provide needy with legal aid.
5. **Decides** to continue to be seized with the Right to Recourse Procedures and Fair Trial with the view of elaborating further principles concerning this right.

**Resolution on Promotional Activities of the 11th Ordinary
Session of the African Commission on
Human and Peoples' Rights**

**2 - 9 March 1992
Tunis, Tunisia**

Recalling that the Assembly of the Heads of State and Government of the Organization of African Unity at its 27th ordinary session held at Abuja, Federal Republic of Nigeria, 3 June 1991, recommended in Resolution AHG/Res. 202 (XXVII) that Member States celebrate the anniversary of the entry into force of the African Charter on Human and Peoples' Rights on 21 October of every year "by organizing activities aimed at promoting Human and Peoples' Rights".

Further Recalling and Reaffirming its own resolutions to the effect that Member States should observe this anniversary each year on 21 October, and that all States Parties should incorporate the rights and freedoms recognized in their internal legal systems and guaranteed in the African Charter on Human and Peoples' Rights, that States parties should establish and support national institutions with responsibility for promoting and protecting Human and Peoples' Rights, and that Human and Peoples' Rights should be included in the curriculum at all levels of education and that the press should be encouraged to promote Human and Peoples' Rights.

1. **Urges** all States Parties to the African Charter on Human and Peoples' Rights to reflect the rights and freedoms recognized and guaranteed by the African Charter in their law and practice,
2. **Requests** that all States Parties should implement Article 26 of the African Charter on Human and Peoples' Rights by establishing national institutions with responsibility for promoting and protecting human and peoples' rights where they do not exist and strengthening all such institutions,
3. **Further Requests** that all Member States should implement Article 25 of the African Charter on Human and Peoples' Rights by ensuring, *inter alia*, that Human Rights are included in the curriculum at all levels of public and private education and in the training of all law enforcement officials,
4. **Invites** States Parties to ensure that the right of individuals to receive information and to freedom of expression recognized and guaranteed by Article 9 of the African Charter on Human and Peoples' Rights is fully respected,
5. **Calls** upon all States Parties to report on these question in their periodic reports to the African Commission on Human and Peoples' Rights.
6. **Requests** the African Commission on Human and Peoples' Rights to report on the implementation of this resolution.

***Final Communique of the 12th Ordinary Session of the
African Commission on Human and
Peoples' Rights***

***12 - 21 October 1992
Banjul, The Gambia***

1. The African Commission on Human and Peoples' Rights held its 12th Ordinary Session from 12 to 21 October 1992 in Banjul, The Gambia.
2. This Session was preceded by the meeting of a workshop jointly organized in The Gambia from 9-11 October 1992 by the International Commission of Jurists and the African Centre for Democracy and Human Rights Studies on the following themes:
 - i) the need to revise the rules of procedure of the Commission;
 - ii) the need to formulate guidelines on the exhaustion of national remedies
 - iii) the right to development
 - iv) the rights of women especially the appointment of women commissioners.
3. This Session was attended by the following Commissioners:
 - Dr. Ibrahim A. Badawi El-Sheikh, Chairman
 - Mr. Sourahata B.S. Janneh, Vice Chairman
 - Mr. Ali Mahmoud Buhedma
 - Justice Robert Habesh Kisanga
 - Mr. Youssoupha Ndiaye
 - Mr. Isaac Nguema
 - Professor U.O. Umozuriki
 - Dr. Mohammed H. Ben Salem
4. The Commission observed a minute of silence in memory of the victims of the civil war, internal conflicts, drought and famine raging in Ethiopia and many other parts of Africa and the martyrs of acts of violence in South Africa. During its third sitting, the members of the Commission and NGO representatives also observed a minute's silence in memory of the victims of the earthquake which struck Egypt the previous day.
5. The opening Session was held on 12 October 1992 at 10 a.m. at the Kombo Beach Hotel Novotel in the presence of His Excellency the Honourable Hassan Jallow, Minister of Justice of the Gambia and the following dignitaries:
 - Ambassadors and Heads of Diplomatic Missions;
 - Representatives of International and African NGOs;
 - Representatives of the press and other invitees.

6. In his introductory speech, Dr. Badawi El-Sheikh Stated that the Commission is confronted with the task of addressing the serious human rights situation in Africa. Furthermore, the Chairman Stated that the OAU has demonstrated its willingness to promote and protect rights by its Resolution on the African Commission adopted at its 28th Ordinary Session held in Dakar, Senegal. In his speech, Dr. Badawi noted that the Commission is facing a certain number of constraints such as an inadequate secretariat and limited financial resources. The Commission has, however, managed to attain some of its objectives.

The Honourable Hassan Jallow paid tribute to the Commission for its achievements. He Stated that in spite of the difficulties encountered, the Commission has managed to accomplish some of its objectives. He underscored the commitment of His Excellency Sir Dawda Kairaba Jawara to support the Commission both at the national level and at the level of the OAU. In this regard, the Minister informed the Commission that the Gambia government was in the process of establishing contacts with other friendly countries to initiate amendments to the Charter.

7. The proceedings of the Commission mainly focused on five major issues, viz:
 1. adoption of a programme;
 2. consideration of periodic reports;
 3. consideration of complaints;
 4. administrative and financial matters;
 5. consideration of the right to development.
8. At the beginning of its proceedings, the Commission heard, on the one hand, a certain number of Statements and, on the other hand, the conclusions of the workshop organized by the forum of NGOs before the session.
9. In their interventions, the representatives of Governmental and Non-Governmental Organizations underscored the resolve of their Organizations to help and assist in the functioning of the Commission to enhance the promotion and protection of human rights in Africa. These were the essence and thrust of the Statements made notably by:
 - Mr. Christopher Hall of Amnesty International;
 - Mr. Salim A. Salim of the Libyan Arab League
 - Mrs. Iris Almeida, of the International Centre for Human Rights and the Development of Democracy
 - Dr. Amin M. Medani of the Sudan Human Rights Organization
 - Salem Mezhoud of Anti-Slavery International
 - Dr. Tunji Abayoumi of Human Rights Africa
 - Dr. S. Gutto of Network on Integrated Human Rights in Africa (NARIHRA).
10. In presenting the report of the workshop organized by the International Commission of Jurists and the African Centre for Democracy and Human Rights Studies, Mrs. Mona Rishmawi and Dr. Philip Amoah of the ICJ thanked the Commission for accepting its offer to explore ways of initiating a preliminary study on the question of women's rights. For her part, Mrs. Mona Rishmawi Stated that NARIHRA will consult women's organizations and

NGOs with observer status with the Commission in carrying out the exercise. The Commission was also requested to look into the problem of structural adjustment and to organize a seminar on the subject. The meeting was also informed that the ICJ will conduct preliminary investigations on the subject and make proposals to the Commission. The representative of Amnesty International reported on the measures adopted by his organization to assist the Commission in the discharge of its functions.

11. Dealing with its programme of action and New Methods of Work, the Commission drew up a calendar of seminars and symposia it intends to organize either on its own or jointly with other international organizations. In this regard, the Commission, reiterated its will to organize:
 - i) A seminar on "How the African Charter on Human and Peoples' Rights has been received in the Legal Systems of States Parties to the African Charter" (Banjul from 26 to 30 October 1992);
 - ii) A seminar on the role of the African media in the promotion and protection of human rights (Tunis from 31st October to 1st January 1992);
 - iii) A seminar on African refugees and internally displaced persons;
 - iv) A seminar on popular participation and informal education;
 - v) A seminar on post-apartheid South Africa (early January 1993);
 - vi) A seminar on the right to fair trial;
 - vii) A seminar on the role of women under the African Charter;
 - viii) A meeting of the inter-sessional working group of the African Commission on Human and Peoples' Rights (Banjul, mid-January 1993);

Regarding its methods of work, the Commission decided as follows:

- adoption of an organizational chart for the Secretariat and the need to recruit the necessary staff;
 - the publication of the fifth annual activity report of the Commission and the second edition of the Review of the Commission;
 - the publication of annual reports and other documents of the Commission including the periodic report.
12. During its deliberations, the Commission examined the periodic reports submitted by the Republic of Senegal (initial report and report N°1), the Republic of Zimbabwe (initial report) and the Republic of The Gambia (initial report).
 13. The Commission expressed satisfaction at the usefulness and relevance of the constructive dialogue established between the Commission and States concerned and thanked the Government of the Republic of Senegal, the Republic of Zimbabwe and the Republic of The Gambia for their reports and their willingness to cooperate with the Commission .
 14. It appealed to States who have not yet submitted their reports to do so as soon as possible.
 15. Regarding complaints pertaining to allegations of human rights violations in some African countries, examined 34 old communications and 20 new communications. After taking the appropriate decisions in each case the

Commission deplored the administrative delays encountered in the consideration of complaints.

16. Under promotional activities, the Commission received the report of Commissioner Ndiaye on the mission sent to Mali to monitor the presidential elections. This mission was a success and the elections were free and fair.
17. The Chairman also informed the Commission that its annual report was well received by the Assembly of Heads of State and Government of the OAU. In this regard, the Assembly adopted a resolution requesting that the Commission be provided with the requisite resources for the implementation of its programme of activities (AHG/Res. 207 (XXXVII)).
18. The Commission learnt with consternation of the death of Mr. Orton Chirwa whilst in detention together with his wife for their political beliefs.

The Commission recalls that this regrettable incident occurred whilst it had been seized with this case and one of its members was carrying out on-the-spot investigations.

The Commission expresses to the family of the deceased its most profound sympathy and reiterates its grave concern about the fate of the spouse who is still in detention.

19. On the last day of its session the Commission noted with dismay the recent mass expulsion of Nigerian nationals living in Gabon. The Commission reminds States Parties to the Charter on Human and Peoples' Rights that these measures coming in the wake of others taken recently constitute a flagrant violation of the relevant provisions of Article 12 paragraph 5 which expressly stipulates as follows:

"The mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups".

20. As regards the venue of the 13th Session, the Commission agreed to wait until the end of December for the response of the Government of Botswana. Otherwise the 13th Session will be held in Banjul during the first fortnight of April 1993.

*Done in Banjul,
21 October 1992.*

***Final Communique of the 13th Ordinary Session of the
African Commission on Human and
Peoples' Rights***

***29 March - 7 April 1993
Banjul, The Gambia***

1. The African Commission on Human and Peoples' Rights held its 13th Ordinary Session at its headquarters in Banjul, The Gambia from 29 March to 7 April 1993.
2. This Session was preceded by the fourth Workshop on NGO participation in the work of the African Commission jointly organized in The Gambian capital from 26 to 28 April 1993 by the International Commission of Jurists and the African Centre for Democracy and Human Rights Studies.
3. The 13th Session was attended by the following Commissioners:
 - Dr. Ibrahim A. Badawi El-Sheikh, Chairman;
 - Mr. Sourahata B.S. Janneh, Vice Chairman;
 - Mr. Alioune B. Beye;
 - Mr. Ali Mahmoud Buhedma;
 - Justice Robert Habesh Kisanga;
 - Mr. Youssoupha Ndiaye;
 - Prof. Isaac Nguema;
 - Professor U.O. Umozuriki;
 - Dr. Mohammed H. Ben Ssaalem;
 - Mr. Alexis Gabou;
 - Mr. Moleleki D. Mokama;
4. The opening ceremony took place on 29 March 1993 at 10 a.m. at the Kairaba Beach Hotel in the presence of His Excellency the Honourable Hassan Jallow, Attorney General and Minister of Justice of the Gambia and H.E. Ambassador Abdullahi Said Osman, Assistant Secretary-General of the Organization of African Unity and the following dignitaries:
 - Ambassadors and Heads of Diplomatic Missions;
 - Representatives of International And African NGOs;
 - Members of the press and other invitees.
5. In his introductory Statement the Vice-Chairman Mr. Sourahata B.S. Janneh underscored the Actions deployed by the African Commission towards the promotion of human and peoples' rights in Africa.

6. H.E. Ambassador Abdullahi Saod Osman, expressed his delight in participating and deputizing for the Secretary-General of the OAU, H.E. Dr. Salim Ahmed Salim. He also reaffirmed the readiness of the General Secretariat of the OAU to do its utmost to support the Commission in the efficient and successful discharge of its functions.
7. In his opening address, the Honourable Hassan Jallow welcomed all the participants and urged that greater priority be accorded to Africa during the forthcoming World Conference on Human Rights so that it would enjoy the solidarity of the international community in its untiring development efforts.
8. The proceedings of the Commission dealt mainly with the following major issues:
 1. Consideration of applications for Observer Status;
 2. Consideration of periodic reports;
 3. Consideration of communications - complaints;
 4. Administrative and financial matters;
 5. Consideration of the right to development.
9. Observer Status was granted to the following 18 Organizations:
 1. Organization guineenne de défense des droits de l'homme et du citoyen;
 2. Association des journalistes tunisiens;
 3. The Danish Centre for Human Rights;
 4. African Rights and Justice Protection Network;
 5. Agir ensemble pour les droits de l'homme;
 6. Association rwandaise pour la défense des droits de la personne et des libertés publiques
 7. Centre beninois pour le développement des initiatives à la base
 8. CUSO, The Gambia
 9. National Society for Human Rights of Namibia;
 10. Association chretienne pour l'abolition des tortures et pour le respect des droits de l'homme;
 11. The African Institute for Human Rights and Peace Research;
 12. International Association of Lawyers for Human Rights Studies;
 13. Universal Defenders of Democracy;
 14. Women Concerned;
 15. Egyptian Association of Supporters of Human Rights;
 16. Comité international pour le respect et l'application de la charte africaine (CIRAC);
 17. Centre de promotion des droits de l'homme du burundi;
 18. Comissão Nacional dos Direitos Humanos de Cabo Verde.

10. These 18 Organizations join the 90 already granted Observer Status by the African Commission.
11. At the beginning of its proceedings, the Commission was addressed by a number of NGO representatives including the representatives of the International Commission of Jurists (ICJ) who presented the conclusions and recommendations of the Dakar symposium of January 1993 and the 4th NGO Workshop which preceded the Session of the African Commission.
12. During its proceedings, the Commission considered the initial periodic reports submitted by the Republic of Togo and the Federal Republic of Nigeria.
13. The consideration of these reports is geared towards assessing the legislative or other measures, taken by States with a view to giving effect to the rights and freedoms enshrined in the African Charter on Human and Peoples' Rights.
14. The Commission thanks the Government of Togo and the Government of Nigeria for presenting their report before the Commission. The Commission, nevertheless, urged the two States concerned to reply in writing to the questions which were not answered or for which the response was unsatisfactory.
15. The Commission appealed to the States which have not yet submitted their reports to do so as soon as possible.
16. As regards protective activities, the Commission considered 55 communications, from sources other than States Parties including 14 new ones. For some of them, the Commission noted that they relate to special cases which appear to reveal the existence of a series of serious and massive violations of human and peoples' rights.
17. In the face of such situations in certain African countries the Commission decided to apply the relevant provisions of the Charter especially paragraphs 1 and 3 of Article 58.
18. Moreover, in dealing with certain communications, the Commission resorted to the provisions of Article 46 of the Charter.
19. As regards promotional activities the Commission intends to organize with the assistance of the Raoul Wallenberg Institute training courses on the obligations contained in the African Charter in Harare and Tunis during the course of 1993. Moreover, a seminar on refugees and displaced persons will be organized in Harare from 12 to 16th July 1993, with the assistance of the Centre for Documentation and Research of Southern Africa.
20. The Commission will hold its 14th Session during the last ten days of November in Banjul, The Gambia.

Done in Banjul,
7 April 1993

Final Communiqué of the 14th Ordinary Session of the African Commission on Human and Peoples' Rights

***1 - 10 December 1993
Addis Ababa, Ethiopia***

1. The African Commission on Human and Peoples' Rights held its 14th Ordinary Session at the OAU (Organization of African Unity) Headquarters in Addis Ababa, Ethiopia, from 1-10 December 1993.
2. The Session was preceded by the fifth workshop on NGO participation in the work of the African Commission on Human and Peoples' Rights organized by the International Commission of Jurists in collaboration with the African Commission from 28-30 November 1993.
3. The following Commissioners attended the Session:
 - i) Prof. Isaac Nguema, Chairman
 - ii) Dr. Mohammed Hatem Ben Salem, Vice Chairman,
 - iii) Mr. Atsu-Koffi Amega,
 - iv) Mr. Emmanuel Victor Oware Dankwa
 - v) Mr. Sourahata B. Semega Janneh,
 - vi) Mr. Robert H. Kisanga,
 - vii) Mrs. Vera Valentina Duarte-Martins,
 - viii) Mr. Youssoupha Ndiaye,
 - ix) Dr. Ibrahim A. Badawi El -Sheikh
 - x) Prof. U.O. Umozurike
4. Mr. Alioune Blondin Bèye could not attend and sent his apologies.
5. The opening Session took place at 10 a.m. on 1 December 1993 at the Hilton Hotel in the presence of His Excellency, Salim Ahmed Salim, Secretary-General of the OAU, Mr. Adama Dieng, Secretary-General of the International Commission of Jurists and Ambassador Haggag, Assistant Secretary-General of the OAU. Also present at the opening ceremony were:
 - Ambassadors and Heads of Diplomatic Missions;
 - Representatives of Intergovernmental and Non-Governmental Organizations;
 - Members of the press and other guests.
6. In his introductory Statement, Dr. Ibrahim Ali Badawi El-Sheikh, outgoing Chairman of the African Commission, welcomed the three new members of the African Commission, Mr. Atsu-Koffi Amega, Mrs. Vera Valentina Duarte-

Martins and Mr. Emmanuel Victor Oware Dankwa. Dr. Badawi also congratulated Mr. Youssoupha Ndiaye for his re-election to the African Commission. He then called upon his Excellency, Dr. Salim Ahmed Salim, Secretary-General of the OAU to address the opening meeting of the 14th session.

7. In his address, His Excellency Salim Ahmed Salim congratulated the Commissioners elected during the last Summit of the OAU Assembly of Heads of States and Government. He also extended a special welcome to Mrs. Vera Valentina Duarte-Martins, the first woman to be elected to the Commission.
8. The OAU Secretary-General urged the members of the Commission to discharge their duties impartially and faithfully as they are enjoined to do by the solemn declaration they made upon assuming their functions as Commissioners.
9. The Secretary-General pointed out that the 14th Session convenes at a critical stage in the history of Africa. He noted that the changed world political circumstances have brought challenges to African States to adjust the systems of governments to respond to the new needs of society, particularly in the field of human and peoples' rights.
10. The OAU Secretary-General further noted that the new wave imposes a heavy duty on the African Commission as the human rights ombudsman in Africa. He called on the Commission to challenge governments to protect and promote human rights through dialogue and not through confrontation.
11. In conclusion, the OAU Secretary-General Stated that in order to achieve the objective of promoting and protecting human rights, Africa must continue the struggle for a world order which is sensitive to the legitimate aspirations for economic and social development of Africans which is an essential element of human rights. The Secretary-General pledged to cooperate with the African Commission on the discharge of its functions.
12. In his opening address, the outgoing Chairman, Dr. Ibrahim Ali Badawi El-Sheikh thanked the OAU Secretary-General for his address and Stated that the Commission will take into account the Secretary-General's message during its deliberations.
13. Dr. Badawi El-Sheikh noted that the 14th Session convenes at a time when the Central Organ for the Prevention, Management and Resolution of Conflicts in Africa meets at the level of Heads of State. Dr. Badawi El-Sheikh pointed out that many conflicts in Africa stem from human rights breaches.
14. Dr. Badawi El-Sheikh referred to the accomplishments and difficulties of the African Commission since its inception. In particular, he referred to the Commission's relations with NGOs, the Commission's examination of State reports and individual and NGOs complaints, as well as the Commission's 1992-96 programme of activities.
15. Dr. Badawi El-Sheikh, stressed the need for the OAU to increase the administrative capacity of the Commission's Secretariat as well as the Commission's budget so as to increase the effectiveness of the Commission.
16. Dr. Badawi El-Sheikh also referred to the importance of Coordinating with the OAU, the activities of the African Commission relevant to the work of the former. In particular, activities on the rights of the child, women and refugees.

17. In conclusion, Dr. Badawi El-Sheik stressed the importance of promoting and ensuring respect for human rights in Africa as a prerequisite for development, peace and stability.
18. After the opening ceremony the newly elected members of the Commission made a solemn declaration to discharge their duties impartially and faithfully.
19. Pursuant to Article 42 of the African Charter and Rule 7 of the Rules of Procedure, the Commission elected its Chairperson and Vice Chairperson for a renewable two-year period. Mr. Isaac Nguema was elected Chairman. Mr. Mohammed Hatem ben Salem was elected Vice Chairman.
20. During its proceedings the Commission dealt mainly with the following:
 - i) Consideration of applications for Observer Status;
 - ii) Consideration of Periodic Reports;
 - iii) Consideration of Communications ;
 - iv) Consideration of Promotional activities;
 - v) Administrative and financial matters.
21. The following non-governmental Organizations were granted Observer Status:
 - i) International Federation of Women Lawyers (FIDA) Kenya Chapter;
 - ii) Organization nationale des droits de l'homme du Sénégal;
 - iii) National Justice and Peace Commission, Catholic Mission
 - iv) Collectif des ligues et associations de défense des droits de l'homme au Rwanda (CLADHO);
 - v) International Work for Indigenous Affairs;
 - vi) The Centre for Human Rights, Faculty of Law, University of Pretoria;
 - vii) Ligue des Droits de la Personne dans la Region des Grands Lacs (LDGL);
 - viii) International Commission of Jurists (Kenya Section);
 - ix) Foundation for Human Rights Initiative;
 - x) Media Rights Agenda;
 - xi) Inter-African Network for Human Rights;
 - xii) International Alert;
 - xiii) University of Namibia;
 - xiv) Ligue camerounaise des droits de la personne;
 - xv) Ethiopian Human Rights Council;
22. The following non-governmental Organizations were granted Observer Status subject to the provision of additional basic documents:
 - i) Penal Reform International;
 - ii) AZADHO (Association de defense des droits de l'homme - Zaïre);
 - iii) Association des journalistes du Cap-Vert;

- iv) Association pour la défense des droits de l'homme et des libertés.
- 23. These increase to 129 the number of non-governmental Organizations in Observer Status with the African Commission.
- 24. The granting of Observer Status to la Société internationale pour les droits de l'homme was postponed pending the submission of a complete set of documents.
- 25. At the beginning of its proceedings, the Commission heard Statements from several African and International NGO representatives including:
 - i) Nana Ghartey, Ghana Committee on Human and Peoples' Rights;
 - ii) Mr. Shadrack Gutto, Network of Activists and Researchers on Integrated Human Rights in Africa (NARIHRA);
 - iii) Mrs. Tokunbo Ige, Legal Research and Resource Development Centre;
 - iv) Mr. Christopher Hall, Amnesty International;
 - v) Ms. Mona Rishmawi, International Commission of Jurists; and
 - vi) Mr. Anslem Odinkalu, Interights (The International Centre for the Legal Protection of Human rights).
- 26. During the proceedings, the Commission considered the initial periodic report of Ghana. Mr. Kobina Wudu, Ghana's Chargé d'affaires in Ethiopia, presented the report on behalf of the Government of Ghana.
- 27. The purpose of periodic State reports is to encourage States to implement voluntarily their human rights obligations.
- 28. The Commission thanked the Government of Ghana and its representative for submitting the report. The Commission urged the Government of Ghana and its representative to submit in writing additional information and response to questions which could not be answered.
- 29. The Commission appealed to States Parties which have not yet done so to submit their reports as soon as possible.
- 30. With regards to protective activities, the Commission considered 60 communications from NGOs and individuals. These included 7 new communications. The Commission noted that some of these cases apparently relate to special cases which reveal the existence of serious and massive violations of human and peoples' rights.
- 31. The Commission noted with concern the situation of massive violations of human rights in a number of African countries which cause human suffering and death. Accordingly, the Commission appeals to all concerned to find ways and means to put an end to such unfortunate situations.
- 32. As regards promotional activities, the Commission decided to organize the following seminars:
 - i. the status of women under the African Charter in relation to specific socio-economic problems;
 - ii. refugees and displaced persons in Africa;
 - iii. right to fair trial to be organized by the Arab Lawyers Union;

iv. popular participation and informal education.

33. In order to give effect to the rights set forth in the African Charter, the Commission also adopted two resolutions, one the Right to Human Rights Education and another on the Promotion and Respect of Human Rights and International Humanitarian Law.
34. During its deliberations, the Commission received information that President Houphouët Boigny of the Ivory Coast had passed away. The Commission noted with regret that the death of President Houphouët Boigny is a great loss to Africa. The Commission observed a minute of silence and decided to send its condolences to the Government of the Ivory Coast.
35. The Commission reiterated its decision to continue to encourage African States to recognize 21 October as African Human Rights Day.
36. The Commission calls upon Ethiopia, Swaziland and Eritrea to adhere to the African Charter on Human and Peoples' Rights.
37. The Commission decided to hold its 15th Ordinary Session from 18 to 27 April 1994 in Banjul, The Gambia.

*Issued in Addis Ababa,
10 December 1993.*

***Resolution on Human and Peoples' Rights Education of the
14th Ordinary Session of the African Commission
on Human and Peoples' Rights***

***1 - 10 December 1993
Addis Ababa, Ethiopia***

The African Commission on Human and Peoples' Rights meeting in its 14th Ordinary Session in Addis Ababa, from 1-10 December, 1993:

Acknowledging that education in human and peoples' rights is a prerequisite for the effective implementation of the African Charter on Human and Peoples' Rights and other international human rights instruments,

Bearing in mind that the African Charter on Human and Peoples' Rights provides in Article 17 (1) for the right to education and that Article 17 (1) for the right to education and that Article 25 of the African Charter calls upon States parties to the Charter to promote human and peoples' rights through teaching, education and publication,

Recalling the Resolution on the African Commission on Human and Peoples' Rights, AHG/Res. 227 (XXXIX), published in the Commission's 6th Annual Activity Report, 1992-1993, which all States Parties are requested to "ensure among other things (a) that human rights are included in the curriculum at all levels of public and private education and in the training of all law enforcement officials, and (b) that education for human rights and democracy should involve every organ of the society as well as the media",

Taking note of the UNESCO Plan of Action adopted at the International Congress on Education for Human Rights and Democracy in Montréal during March 1993, which laid the foundation for the recommendation adopted at the World Conference on Human Rights in Vienna for a Decade of Human Rights Education to be declared,

Noting also the Declaration at the World Conference on Human Rights, Vienna 1993, encouraging all governments to include in the formal sector, curricula on the study of human rights in primary, secondary and tertiary institutions as well as those in the administration of justice, and for governments to be encouraged to undertake the promotion of human rights in the informal sector,

Taking into consideration the Program of Activities of the African Commission on Human and Peoples' Rights, 1992-1996, adopted at the 11th Session, March 1992,

Recognizing the importance of education as an active vehicle of inculcating the values and corresponding behaviours in a civil society based on full respect for human and peoples' rights, democracy, tolerance and justice,

Emphasizing the importance of propagating the principle of human rights law as well as international humanitarian law,

Taking into consideration further the great efforts made by the African Non-Governmental Organizations to promote and implement human and peoples' rights through education on both formal and informal levels, using popular participatory methods and through the media,

Having considered the item on human rights education upon the request of a number of Non-Governmental Organizations:

1. **Reiterate** its request for States Parties to include the study of human and peoples' rights in the curriculum at all levels of public and private education, including at law schools to ensure, *inter-alia*, that education and information regarding human and peoples' rights are included in the training of law enforcement personnel, civil or military, as well as medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment;
2. **Decides** to intensify the cooperation between the African Commission and the African Non-Governmental Organizations on human and peoples' rights education, bearing in mind in particular the activities contained in the Commission's Program of Activities, 1992-1996;
3. **Underlines** the importance of education, through appropriate means and techniques, being geared among other things to the need of specific groups such as women, children, refugees and internally displaced persons, victims of armed conflicts and other disadvantaged groups;
4. **Encourages** governments to take advantage of the activities of the Non-Governmental Organizations in the field of human and peoples' rights education to facilitate such efforts;
5. **Welcomes** the initiative taken by Non-Governmental Organizations to organize a workshop on human and peoples' rights education with a special reference to popular participation and non-formal education during 1994, and any further initiatives which would strengthen the long-term activities of the African Commission and Non-Governmental Organizations in the field of human rights education.

***Resolution on the Promotion and the Respect of International
Humanitarian Law and Human and Peoples' Rights of the
14th Ordinary Session of the African Commission
on Human and Peoples' Rights***

***1 - 10 December 1993
Addis Ababa, Ethiopia***

The African Commission on Human and Peoples' Rights at its 14th Ordinary Session in Addis Ababa, 1-10 December, 1993:

Considering that human rights and international humanitarian law (IHL) have always, even in different situations, aimed at protecting human beings and their fundamental rights,

Noting the competence of the International Committee of the Red Cross (ICRC) to promote the respect of the international humanitarian law,

Recalling the resolution CM/Res 1059 (XLIV), adopted at the 44th Ordinary Session of the Council of Ministers of the OAU, which reaffirmed the determination of the OAU to support the ICRC in its activities and to grant it the necessary facilities to carry out its mandate,

Recalling also the conclusions of the seminar, held in Banjul, October 1992, following the 12th Session of the African Commission on Human and Peoples' Rights on the national implementation of the African Charter on Human and Peoples' Rights, which underscored the need to disseminate and implement the provisions of international humanitarian law applicable in time of armed conflicts,

Considering the Resolution on Human and Peoples' Rights Education adopted by the African Commission on Human and Peoples' Rights at its 14th Session, December 1993,

Recognizing the need for a close cooperation in the field of dissemination of international humanitarian law and human and peoples' rights:

1. **Invites** all African States Parties to the African Charter on Human and Peoples' Rights to adopt appropriate measures at the national level to ensure the promotion of the provisions of the international humanitarian law and human and peoples' rights;
2. **Stresses** the need for a specific instruction of military personnel and the training of the forces of law and order in international humanitarian law and human and peoples' rights respectively;
3. **Stresses Further** the importance of regular exchange of information between the African Commission on Human and Peoples' Rights, the International Committee of Red Cross and human rights Non-Governmental Organizations, on the teaching and dissemination activities undertaken on the principles of human and peoples' rights and international humanitarian law, in the schools, universities and all other institutions;

4. **Decides** to participate, as much as possible, in the seminars, conferences or technical sessions organized by the ICRC on questions of mutual interest and urges the ICRC to reciprocate for the activities of the Commission.

***Final Communiqué of the 15th Ordinary Session of the
African Commission on Human
and Peoples' Rights***

***18-27 April 1994
Banjul, The Gambia***

1. The African Commission on Human and Peoples' Rights held its 15th Ordinary Session at its Headquarters in Banjul, Gambia from 18 to 27 April 1994 under the chairmanship of Professor Isaac Nguema.
2. The Session was preceded by the sixth workshop on NGO participation in the work of the African Commission on Human and Peoples' Rights organized by the International Commission of Jurists in collaboration with the African Commission and the African Centre for Democracy and Human Rights Studies.
3. The following Commissioners attended the Session:
 - i) Prof. Isaac Nguema, Chairman
 - ii) Dr. Mohammed H. B, Vice Chairman,
 - iii) Prof. Emmanuel V.O. Dankwa,
 - iv) Mr. Sourahata B. S. Janneh,
 - v) Mr. Robert H. Kisanga,
 - vi) Mrs. Vera Valentina B.S- Duarte-Martins,
 - vii) Mr. Youssoupha Ndiaye,
 - viii) Dr. Ibrahim Ali Badawi El -Sheikh
 - ix) Prof. U.Oji Umozurike
4. Mr. Alioune Blondin Beye and Mr. Atsu Koffi Amega could not attend and sent apologies.
5. The opening ceremony took place at 10 a.m. on 18th April 1994 at the Kombo Beach Novotel in the presence of the Honourable Mariama Alaba Mboge, Parliamentary Secretary, Ministry of External Affairs, the Gambia and Mr. Adama Dieng, Secretary-General of the International Commission of Jurists. Also present at the opening ceremony were:
 - Ambassadors and Heads of Diplomatic Missions;
 - Government officials;
 - Representatives of Intergovernmental and Non-Governmental Organizations;
 - Members of the press and other guests.
6. Prof. Isaac Nguema and Mr. Adama Dieng addressed the opening Session.

7. In his address, Mr. Nguema deplored the poor human rights situations in a number of African countries and in particular addressed the question of summary executions. He considered various theories on the origin of violence and dismissed the notion that violence is inevitable in Africa. He, however, expressed the view that ethnic rivalry and poverty are the main causes of violence in Africa.
8. In view of the widespread problems in Africa, Prof. Nguema recognized the need for the African Commission to be seen as a forum for action, solidarity, responsibility, a forum of liberty and truth, dialogue and tolerance.
9. In his address, Mr. Adama Dieng stressed the need to strengthen cooperation between the African Commission and NGOs. He emphasized the importance of NGO involvement in the work of the Commission as NGOs provide information on human rights and urged the Commission to continue to make use of NGO resources.
10. Mr. Adama Dieng described the last six months as a period of despair because of the systematic and serious violations of human rights in African countries, notably Rwanda and Burundi. He also referred to the issue of extra judicial executions in Africa. On behalf of the NGOs attending the Session, Mr. Dieng called on the African Commission to interpret the African Charter in a dynamic way in order to ensure the enjoyment of fundamental rights in Africa.
11. During its proceedings, the Commission dealt mainly with the following:
 - i) The situation in Rwanda and South Africa;
 - ii) Consideration of communications;
 - iii) Consideration of promotional activities;
 - iv) Administrative and financial matters;
 - v) Examination of Extra Judicial Executions;
 - vi) Cooperation with the United Nations in the promotion and protection of human rights in Africa;
 - vii) Consideration of applications for Observer Status,
 - viii) Preliminary Discussion of the question of establishing an African Human Rights Centre.
12. The following Non-Governmental Organizations were granted Observer Status:
 - i) Community Legal Resource and Advice Centre;
 - ii) The Botswana Centre for Human Rights was granted Observer Status subject to the provision of additional documents.
13. These increase to 131 the number of NGOs in Observer Status with the African Commission.
14. At the beginning of its proceedings, the Commission heard Statements from several African and International NGO representatives including:
 - i) Dr. Philip Amoah, International Commission of Jurists (ICJ);
 - ii) Mrs. Bernadette Palle, Coordinatrice du Réseau sous-regional femmes africaines et droits humains (REFAD);

- iii) M. Aref Mohamed Aref, Association pour la défense des droits de l'homme et des libertés;
 - iv) Mrs. Florence Butegwa, Women in Law and Development (WILDAF);
 - v) Mr. Salem Mezhoud, Anti-Slavery International;
 - vi) Mrs. Dorcas Coker-Appiah, International Federation of Women Lawyers (FIDA), Ghana;
 - vii) Mr. Kolawole Olaniyan, Constitutional Rights Project;
 - viii) Mrs. Ndouré Mbam Diarra, Association malienne des droits de l'homme;
 - ix) Mr. Anslem Odinkalu, Interights; and
 - x) Mr. Kwasi Gyan-Apenteng, African Topics.
15. Dr. Philip Amoah, ICJ Legal Officer for Africa presented the conclusions and recommendations of the NGO workshop. In addition, the NGO workshop presented a number of draft resolutions for consideration by the African Commission.
16. During its deliberations, the Commission noted with regret that it could not consider the periodic report of Mozambique as scheduled because the leader of the delegation of Mozambique who had the mandate to present the report could not turn up, although two members of the said delegation were in attendance.
17. The purpose of periodic State reports is to encourage States to implement voluntarily their human rights obligations, and State Parties are encouraged to ensure that their representatives are present to present their reports.
18. Furthermore, the Commission appealed to States Parties which had not yet done so to submit their reports as soon as possible.
19. As regards protective activities, eight new communications were submitted to the Commission. The Commission also considered 70 communications out of a total of 134 communications which have so far been submitted to it.
20. The Commission noted with concern the situation of massive violations of human rights in Rwanda. In this regard, the Commission appointed its Vice Chairman as Special Rapporteur for extra-judicial executions in Africa, and the Rapporteur has been requested to address the situation in Rwanda as a matter of urgency.
21. The Commission also noted with concern, the United Nations Security Council's withdrawal of peace keeping troops from Rwanda. The Commission issued a press communiqué deploring the Security Council's decision and urged the United Nations to send peace keeping troops to protect the people of Rwanda. The Commission also called on the OAU Heads of State to increase assistance to Rwanda in an effort to bring a speedy end to the sufferings of the people of Rwanda.
22. The Commission also passed a resolution calling for the cessation of violence and for a free and fair election in South Africa.
23. With respect to promotional activities, the Commission reiterated its decision to organize the following seminars:

- i) The status of women under the African Charter in relation to specific socio-economic problems (Scheduled to be held in Banjul, Gambia in October 1994);
 - ii) The right to fair trial and legal assistance to be convened in Cairo, Egypt;
 - iii) The implementation of the African Charter with particular reference to the reporting procedure (for French, Arabic and Portuguese speaking African countries) to be held in Tunis;
 - iv) Human Rights Education in South Africa in collaboration with Lawyers Association for Human Rights.
 - v) Informal education and popular participation.
24. The Commission accepted an invitation from the United Nations to participate in a regional seminar on the drafting and preparation of periodic reports, scheduled to be held in Abidjan, from 20-24 June 1994.
25. A report on a Seminar on African Refugees and internally displaced persons which was successfully held in Harare from 16-18 February 1994 was presented to the Commission.
26. The Commission considered in a preliminary way the question of establishing an African Court on Human Rights, and one Commissioner was entrusted to prepare for the 16th Session a Draft Resolution on the future possible action by the Commission on the matter.
27. The Commission calls upon Ethiopia, Eritrea and Swaziland to ratify the African Charter on Human and Peoples' Rights.
28. The Commission calls upon Ethiopia, Eritrea and Swaziland to ratify the African Charter on Human and Peoples' Rights.
29. The Commission decided to hold its 16th Ordinary Session from 31st October - 9th November 1994 in Banjul, the Gambia.

*Issued in Banjul,
27 April, 1994*

***Resolution on South Africa of the 15th Ordinary Session of
the African Commission on Human
and Peoples' Rights***

***18-27 April 1994
Banjul, The Gambia***

The African Commission on Human and Peoples' Rights meeting in its 15h Ordinary Session in Banjul, The Gambia, 18-27 April, 1994:

Noting the violence that has taken place in South Africa and the loss of lives that has assumed alarming proportions;

Reiterating the importance of protecting human lives and creating a climate conducive to a free and fair election;

Welcoming the positive developments that have emerged towards a consensus for holding the forthcoming election;

Urges all the parties concerned to cease the violence and create a peaceful atmosphere;

Urges the concerned parties in South Africa to take all necessary steps to create an atmosphere conducive to free and fair election;

Urges all political parties and others concerned in South Africa to accept the results of the election if it is declared to be substantially free and fair by the Independent Electoral Commission;

Urges the new government to ratify the African Charter on Human and Peoples' Rights and to ensure the protection of the human rights of all South Africans in accordance with the said African Charter and other relevant treaties and standards.

***Resolution on the Situation in Rwanda of the 15th Ordinary
Session of the African Commission on
Human and Peoples' Rights***

***18-27 April 1994
Banjul, The Gambia***

The African Commission on Human and Peoples' Rights meeting in its 15th Ordinary Session in Banjul, The Gambia, 18 to 27 April 1994:

Deeply concerned about the alarming human rights situation in Rwanda characterised by serious and massive human rights violations;

Noting the OAU Secretary-General's very energetic condemnation of the wanton killing of civilians and heinous acts perpetrated in this country;

Bearing in mind the recommendations made by the UN Special Rapporteur on extra-judicial, summary or arbitrary executions following his visit to Rwanda in 1993;

Condemns very strongly the cycle of violence and the massacre of innocent civilians by the different armed factions;

Urges the parties to the conflict to immediately cease hostilities and work towards a peaceful settlement through dialogue between all the peoples of Rwanda;

Calls on all parties to respect the African Charter on Human and Peoples' Rights, the principles of International Humanitarian Law as well as the activities of humanitarian organizations operating in the field;

Invites the Special Rapporteur on extra-judicial, summary, or arbitrary executions to pay special attention to the situation in Rwanda and report back to the 16th Session.

Part III

The Main Actions Taken by the Assembly of Heads of State and Government of the Organization of African Unity (OAU)

Resolution on the African Commission on Human and Peoples Rights

Twenty-Eighth Ordinary Session of the Assembly of Heads of State and Government of the Organization of African Unity

***29 June - 1 July 1992
Dakar, Senegal***

The Assembly of Heads of State and Government of the Organization of African Unity, meeting in its Twenty-Eighth Ordinary Session in Dakar, Senegal, from 29 June to 1 July 1992,

Considering the annual activity report of the African Commission on Human and Peoples' Rights, submitted by the Chairman Dr. Ibrahim A. Badawi El Sheikh in conformity with Article 54 of the African Charter on Human and Peoples' Rights.

Recalling that the Charter of the Organization of African Unity declares that freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations by the African peoples.

Recalling also the entry into force of the African Charter on Human and Peoples' Rights on 26 October 1986 and the Declaration on the Political and Socio-economic situation in Africa and the on-going changes in the world, adopted by twenty-Sixth Ordinary Session of the Assembly of Heads of State and Government in July 1990,

Convinced that the ability of the African Commission on Human and Peoples' Rights in Africa and hence the importance of providing it with all possible human and material resources it needs to carry out its work,

Considering that pursuant to Article I of this Charter, the Member States of the Organization of African Unity, parties to the present Charter, shall recognize the rights, duties and freedoms enshrined in this Charter and shall undertake to adopt legislative or other measures to give effect to them:

A. Fifth Annual Report on the Activities of the Commission

1. **Underlines the importance** of ensuring respect for human and peoples' rights with a view to enhancing peace, stability and development in Africa;
2. **Reaffirms** the necessity of promoting popular participation in the process of government and development in the context of a political atmosphere which guarantees human rights and the observance of the Rule of Law;
3. **Commends** the cooperation of the African States with the African Commission on Human and Peoples' Rights in the implementation of the African Charter on Human and Peoples' Rights;
4. **Requests** the Secretary-General of the Organization of African Unity to consider, in collaboration with the Advisory Committee on Administrative,

Budgetary and Financial Matters, possible ways and means to respond to the requirements of the African Commission to implement its programme of activities;

5. **Takes note with appreciation** of the Fifth Annual Report on the Activities of the African Commission on Human and Peoples' Rights and authorizes its publication.

B. Overdue Reports

1. **Expresses its deep appreciation** to the States parties which have submitted their initial periodic reports, Egypt, Libyan Arab Jamahiriya, Nigeria, Rwanda, Tanzania, Togo, Tunisia, Zimbabwe, Senegal, Cape Verde and The Gambia;
2. **Urges** the States parties to the African Charter on Human and Peoples' Rights which have not yet submitted their initial reports to submit them as soon as possible;
3. **Requests** that the States should report not only on legislative measures, but also on other measures taken to give effect to each of the rights and freedoms recognized and guaranteed by the African Charter on Human and Peoples' Rights and on the problems encountered in giving effect to these rights and freedoms;
4. **Encourages** States Parties which encounter difficulties in preparing and submitting their periodic reports to seek help as soon as possible from the African Commission on Human and Peoples' Rights which will arrange for assistance in this task through its own or other resources.

C. Promotional Activities

1. **Urges** all States Parties to the African Charter on Human and Peoples' Rights to reflect the rights and freedoms recognized and guaranteed by the African Charter in their law and practice;
2. **Requests** that all States Parties should implement Article 26 of the African Charter on Human and Peoples' Rights by establishing national institutions with responsibility for promoting and protecting human and peoples' rights where they do not exist and strengthening all such institutions;
3. **Further Requests** that all Member States should implement Article 25 of the African Charter on Human and Peoples' Rights by ensuring, *inter alia*, that human rights is included in the curriculum at all levels of public and private education and in the training of all law enforcement officials;
4. **Invites** States Parties to ensure that the right of individuals to receive information and to freedom of expression recognized and guaranteed by Article 9 of the African Charter on Human and Peoples' Rights is fully respected;
5. **Calls Upon** all States Parties to report on these questions in their periodic reports to the African Commission on Human and Peoples' Rights;
6. **Requests** the African Commission on Human and Peoples' Rights to report on the implementation of this resolution:

D. Ratification of the African Charter

Notes with satisfaction that many Member States of the OAU have ratified the Charter and **Calls on** those which have not yet acceded to it to do so as soon as possible.

Resolution on Overdue Reports

Twenty-Eighth Ordinary Session of the Assembly of Heads of State and Government of the Organization of African Unity

***29 June - 1 July 1992
Dakar, Senegal***

The Assembly of Heads of State and Government of the Organization of African Unity, meeting in its Twenty-Eighth Ordinary Session in Dakar, Senegal, from 29 June to 1 July 1992,

Noting with concern that as of (31 December 1991) only (seven) States Parties to the African Charter on Human and Peoples' Rights have submitted their initial periodic reports in accordance with Article 62 "on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognized by the African Charter on Human and Peoples' Rights are given effect in national law and practice.

Realizing the importance of the reporting procedure in helping the African Commission on Human and Peoples' Rights to assist States Parties to ensure that the rights and freedoms recognized by the African Charter on Human and Peoples' Rights are given effect in national law and practice.

Expressing its deep appreciation to the States Parties which have submitted their initial periodic reports, Egypt, Libyan Arab Jamahiriya, Nigeria, Rwanda, Tanzania, Togo and Tunisia.

Taking note of the benefits of the dialogue the African Commission on Human and Peoples' Rights and States parties which occurs during examination of periodic reports for the implementation of human and peoples' rights,

1. **Urges** the States Parties to the African Charter on Human and Peoples' Rights which have not yet submitted their initial reports to submit them as soon as possible,
2. **Requests** that the States should report not only on legislative measures, but also on other measures taken to give effect to each of the rights and freedoms recognized and guaranteed by the African Charter on Human and Peoples' Rights and on the problems encountered in giving effect to these rights and freedoms,
3. **Encourages** States Parties which encounter difficulties in preparing and submitting their periodic reports to seek help as soon as possible from the African Commission on Human and Peoples' Rights which will arrange for assistance in this task through its own or other resources.

Resolution on the African Commission on Human and Peoples' Rights

Twenty-Ninth Ordinary Session of the Assembly of Heads of State and Government of the Organization of African Unity

***28 - 30 June 1993
Cairo, Egypt***

The Assembly of Heads of State and Government of the Organization of African Unity, meeting in its Twenty-ninth Ordinary Session in Cairo, Egypt, from 28-30 June, 1993,

Considering the Sixth Annual Activity Report of the African Commission on Human and Peoples' Rights, submitted by the Chairman Dr. Ibrahim A.I. Badawi El Sheikh in conformity with Article 54 of African Charter on Human and Peoples' Rights,

Recalling that the Charter of the Organization of African Unity declares that freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations by the African peoples,

Recalling also, the entry into force of the African Charter on Human and Peoples' Rights on the 21 October, 1986 and the Declaration on the Political and Socio-Economic Situation in Africa and the On-Going Changes in the World, adopted by the Twenty-sixth Ordinary session of the Assembly of Heads of State and Government in July 1990,

Convinced of the need to strengthen the African Commission on Human and Peoples' Rights in Africa with all possible human and material resources it needs to carry out its work,

Considering that pursuant to Article 1 of the African Charter, States parties to it are required to recognize the rights, duties and freedoms enshrined in the Charter and to undertake to adopt legislative or other measures to give effect to them,

Noting with satisfaction that the African Charter is the first Treaty that sanctions the right to development as a Human Right:

A. Activities of the Commission

1. **Underlines the importance** of ensuring respect for human and peoples' rights with a view to enhancing peace, stability and development in Africa;
2. **Reaffirms** that the right to development is an inalienable human right by virtue of which every human being is entitled to participate in, contribute to and enjoy the economic, social, cultural and political development of the society;
3. **Strongly supports and encourages** the activities of the African Commission on Human and People's Rights to promote and protect

human and peoples' rights in Africa, particularly in its efforts aimed at encouraging States Parties to ensure strict implementation of their obligations under the African Charter on Human and Peoples' Rights to promote and protect the rights recognized and guaranteed in the African Charter;

4. **Recommends** that States Parties to the African Charter designate high ranking officials to act as focal points in the relation between the Commission and the States as such as focal points would facilitate the follow-up on the Commission's recommendations and contact between States and the Commission;
5. **Requests** the Secretary-General of the Organization of African Unity to consider possible ways and means to respond as a matter of urgency, to the requirements of the African Commission to enable it fulfil its mission.

B. Overdue Periodic Reports

1. **Expresses its deep appreciation** to the States Parties which have submitted their initial periodic reports: Benin, Cape Verde, The Gambia, Ghana, Egypt, Libya, Arab Jamahiriya, Mozambique, Nigeria, Rwanda, Senegal, Tanzania, Togo, Tunisia and Zimbabwe;
2. **Urges** the States Parties to the African Charter on Human and Peoples' Rights which have not yet submitted their reports to submit them as soon as possible;
3. **Requests** that the States should report not only on legislative measures, but also on other measures taken to give effect to each of the rights and freedoms recognized and guaranteed by the African Charter on Human and Peoples' Rights and on the problems encountered in giving effect to these rights and freedoms;
4. **Recommends** that the States in their periodic reports, give information on the implementation of the right to development;
5. **Encourages** States Parties which encounter difficulties in preparing and submitting their periodic reports to seek help as soon as possible, from the African Commission on Human and Peoples' Rights which will arrange for assistance in this task through its own or other resources.

C. Promotional Activities

1. **Urges** all States Parties to the African Charter on Human and Peoples' Rights to reflect the rights and freedoms recognized and guaranteed by the African Charter in their law and practice, and to ensure availability of appropriate recourse procedure in case of abuse of the said rights;
2. **Requests** that all States should implement Article 26 of the African Charter on Human and Peoples' Rights by establishing national institutions with responsibility for promoting and protecting human and peoples' rights where they do not exist and strengthening all such institutions;
3. **Further requests** that all States Parties should ensure among other things:
 - a) that Human Rights are included in the curriculum at all levels of public and private education and in the training of all law enforcement officials and;

- b) that education for Human Rights and democracy should involve every organ of the society as well as the media.

E. Publication of the Sixth Annual Activity Report

Takes note with appreciation of the Sixth Annual Report on the activities of the African Commission on Human and Peoples' Rights and authorizes its publication.

Resolution on the African Commission on Human and Peoples Rights

Thirtieth Ordinary Session of the Assembly of Heads of State and Government of the Organization of African Unity

***13 - 15 June 1994
Tunis, Tunisia***

The Assembly of Heads of State and Government of the Organization of African Unity, meeting in its Thirtieth Ordinary Session in Tunis, Tunisia, from 13 to 15 June, 1994,

Considering the Seventh Annual Activity Report of the African Commission on Human and Peoples' Rights presented by its Chairman Professor Isaac Nguema, in accordance with Article 54 of the African Charter on Human and Peoples' Rights,

Recalling that the African Charter on Human and Peoples' Rights entered into force on 21 October, 1986, and that 49 OAU Member States have already acceded to the Charter,

Recalling also that Article I of the African Charter on Human and Peoples' Rights stipulates that States Parties shall recognize the rights, duties and freedoms enshrined in the Charter and shall undertake to adopt legislative or other measures to give effect to them,

Recalling further the entry into force on 12 May, 1994, of the Treaty Establishing the African Economic Community which complements the African Charter on Human and Peoples' Rights,

Bearing in mind that the African Charter recognizes the right to development as a Human Right,

Aware of the need to strengthen the African mechanism for the promotion and protection of Human and Peoples' Rights,

Concerned by the situation obtaining in the area of Human and Peoples' Rights.

Finally recalling the provisions of Resolution AHG/Res. 227 (XXIX) Rev. I adopted at its Twenty-ninth Ordinary Session held in Cairo, Egypt, from 28-30 June, 1993:

1. **Reaffirms** the need for Member States to ensure respect for Human and Peoples' Rights and thereby further promote peace, stability and development in Africa;
2. **Consequently Calls on** States Parties to the Charter to take concrete measures towards the effective implementation of the provisions of the African Charter on Human and Peoples' Rights;

3. **Reaffirms** the relevance of all the provisions of resolution AHG/Res. 227 /XXIX) Rev. I and **APPEALS** to all the concerned parties and people to scrupulously conform to these provisions particularly those relating to endowing the African Commission with adequate resources to enable it accomplish its mission and to the submission of periodic reports by the States Parties;
4. **Requests** the OAU Secretary-General to convene a meeting of government experts to ponder in conjunction with the African Commission on Human and Peoples' Rights over the means to enhance the efficiency of the Commission in considering particularly the establishment of an African Court of Human and Peoples' Rights;
5. **Congratulates** the African Commission on Human and Peoples' Rights for having appointed its Vice-Chairman as Special Rapporteur on extra-judiciary, summary or arbitrary executions;
6. **Calls upon** the States Parties to the Charter to cooperate with the Special Rapporteur in carrying out his mandate.
7. **Appeals** to Member States to ratify the said Charter as early as possible if they have not yet done so;
8. **Strongly encourages** the African Commission on Human and Peoples' Rights to continue to pursue its activities aimed at promoting and protecting the rights recognized and guaranteed by the Charter;
9. **Takes note with satisfaction** of the Seventh Annual Activity Report of the African Commission on Human and Peoples' Rights and authorizes its publication.

Annex

Additional Protocol to the African Charter on Human and Peoples' Rights .

Annex

Additional Protocol to the African Charter on Human and Peoples' Rights

The African Member States of the Organization of African Unity, States Parties to the African Charter on Human and Peoples' Rights,

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

Considering further the African Charter on Human and Peoples' Rights reaffirms adherence to the principles of human and peoples' rights and freedoms contained in the declarations, Conventions and other instruments adopted by the Organization of African Unity, and other international organizations,

Recognizing that the two-fold objective of the African Charter on Human and Peoples' Rights is to ensure on the one hand promotion and on the other protection of human and peoples' rights and freedoms,

Recognizing further, the efforts of the African Commission on Human and Peoples' Rights in the protection and promotion of human and peoples' rights since its inception in 1987,

Recalling the decision by the Assembly of Heads of State and Government in its 29th Ordinary Session to strengthen the African Commission on Human and Peoples' Rights,

Firmly convinced that the objectives of the African Charter on Human and Peoples' Rights to ensure protection and promotion of human and peoples rights can best be realized by the establishment of an African Court of Human and Peoples' Rights to supplement the efforts of the African Commission on Human and Peoples' Rights,

Have Agreed as Follows:

Article 1 Establishment of the Court

There shall be established an African Court of Human and Peoples' Rights ("Court") whose jurisdiction and functioning shall be governed by the present Protocol.

Article 2 Relationship Between the Commission and Court

The Court shall supplement the protective mandate of the African Commission on Human and Peoples' Rights ("Commission") conferred upon it by the African Charter on Human and Peoples' Rights ("Charter").

Article 3 Composition

1. The Court shall consist of eleven judges, nationals of the Member States of the Organization of African Unity ("OAU"), elected in an individual capacity from among jurists of high moral character and of recognized competence in the field of human and peoples' rights, who must either possess qualifications required for appointment to high judicial office in conformity with the laws of the State of which they are nationals or of the State which proposes them as candidates or be jurisconsults of recognized competence.
2. No two judges shall be nationals of the same State. In this respect, a person who could be considered as a national of more than one State shall be deemed to be a national of the State in which that person is ordinarily resident.

Article 4 Nominations

States Parties to the Charter may each propose up to three candidates, at least two of whom shall be nationals of that State. States Parties shall ensure that in the Court as a whole there is representation of the main regions of Africa and of their principal legal systems. Consideration shall be given to adequate gender representation in the composition of the Court.

Article 5 List of Candidates

1. Upon the entry into force of this Protocol, the Secretary-General of the OAU shall request each State Party to the Charter to present, within ninety days, its candidates for membership of the Court.
2. The Secretary-General of the OAU shall prepare a list in alphabetical order of the candidates presented and transmit it to the Member States of the OAU at least thirty days prior to the next session of the Assembly of Heads of State and Government of the OAU ("Assembly").

Article 6 Elections

1. The judges of the Court shall be elected by secret ballot by an absolute majority of votes in the Assembly from the list referred to in Article 5(2) of the present Protocol.
2. The same procedure as set out in Articles 4, 5 and 6 shall be followed for the renewal of the Court and for the filling of vacancies.

Article 7 Term of Office

1. The judges of the Court shall be elected for a period of nine years. They may be re-elected only once. However, of the judges elected at the first election, the terms of four judges shall expire at the end of three years, and the terms of four more judges shall expire at the end of six years.
2. The judges whose terms are to expire at the end of the initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General of the OAU immediately after the first election has been completed.
3. A judge elected to replace a judge whose term of office has not expired shall hold office for the remainder of the predecessor's term.
4. The judges shall continue in office until the expiration of their term. However, they shall continue to serve with regard to cases that they have begun to hear

and that are still pending, for which purposes they shall not be replaced by the newly elected judges.

Article 8 Independence

1. The independence of the judges in the exercise of their functions shall be ensured. The Court shall decide matters before it impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter for any reason.
2. The judges of the Court shall enjoy, from the moment of their election and throughout their term of office, the immunities extended to diplomatic agents in accordance with international law. During the exercise of their official functions they shall, in addition, enjoy the diplomatic privileges necessary for the performance of their duties.
3. At no time shall the judges of the Court be held liable for any decisions or opinions issued in the exercise of their functions.

Article 9 Incompatibility

The position of judge of the Court is incompatible with any other activity that might interfere with the independence or impartiality of such judge or the demands of the office, as determined in the Rules of Procedure of the Court. Any doubt on this point shall be settled by decision of the Court.

Article 10 Cessation of Office

1. A judge shall not be suspended or removed from office unless, by a judgement of two-thirds of the judges of the Court, the judge concerned has been recognized to be manifestly unfit to hold the position of a judge by reason of a criminal act, gross or repeated neglect or physical or mental incapacity.
2. Such a judgement of the Court shall take effect immediately and will become final unless it is set aside by a two-thirds majority decision of the Assembly.

Article 11 Presidency of the Court

1. The Court shall elect its President and two Vice Presidents for a period of three years. They may be re-elected.
2. One of the above-mentioned judges shall perform judicial functions on a full-time basis and shall reside at the seat of the Court.

Article 12 National and *Ad-Hoc* Judges

1. If a judge is a national of any of the State Parties to a case submitted to the Court, that judge shall retain the right to hear the case.
2. No judge may participate in the decision of any case in which the same judge has previously taken part as agent, counsel or advocate for one of the parties or as a member of a national or international court or a commission of enquiry or in any other capacity. Any doubt on this point shall be settled by decision of the Court.

3. If one of the judges called upon to hear a case should be a national of one of the States Parties to the case, any other State Party in the case may appoint a person of its choice to serve on the Court as an *ad hoc* judge.
4. If among the judges called upon to hear a case none is a national of any of the States Parties to the case, each of the latter may appoint an *ad hoc* judge.
5. An *ad hoc* judge shall possess the qualifications indicated in Article 3(1) of the present Protocol.
6. If several States Parties to the Charter should have the same interest in a case, they shall be considered as a single party for the purposes of the above provisions. In case of doubt, the Court shall decide.

Article 13 Quorum

For the consideration of each case brought before it seven judges shall constitute the quorum of the Court.

Article 14 Budget

1. The judges of the Court shall receive emoluments and allowances in the form and under the conditions set forth in the Rules of Procedure of the Court.
2. To this end, the Court shall draw up its own budget which shall include the expenses of the Court and its Secretariat and submit it for approval to the Assembly through the General Secretariat of the OAU.

Article 15 Seat of Court

1. The Court shall have its seat at the place determined by the Assembly. However, it may convene in the territory of any Member State of the OAU when a majority of the Court consider it desirable, and with the prior consent of the State concerned.
2. The seat of the Court may be changed by the Assembly by a two-thirds vote.

Article 16 Secretariat of the Court

1. The Court shall appoint its own Registrar.
2. The office and residence of the Registrar shall be at the place where the Court has its seat. The Registrar shall attend the meetings that the Court may hold away from its seat.
3. The Court shall establish its Secretariat. It shall function under the direction of the Registrar of the Court, in accordance with the administrative standards of the General Secretariat of the OAU. In all respects the independence of the Court shall not be compromised.
4. The staff of the Court's Secretariat shall be appointed by the Secretary General of the OAU, upon the recommendation of the Registrar of the Court.

Article 17 Jurisdiction

1. The jurisdiction of the Court shall extend to all cases and disputes submitted to it concerning the interpretation and application of the Charter, this Protocol and any other African human rights Convention.

2. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by decision of the Court.

Article 18 Petitioners

1. Only the States Parties to the present Protocol, the Commission, and, subject to the provisions of Articles 20(2) and 21(1) of the present Protocol, persons, non-governmental organizations or groups of individuals shall have the right to bring a case before the Court.
2. Should a State Party consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene. It shall be for the Court to decide upon such a request.

Article 19 Conditions for Petition

1. The Court shall not consider a matter brought before it in accordance with article 47 of the Charter by a State Party to the Charter until such time as the Commission has prepared a report in terms of Article 52 of the Charter.
2. The Court may not consider a case originating from other communications and submitted to the Commission in accordance with Article 55 of the Charter unless the Commission has considered the matter and made a determination. The Court may only deal with a case after the Commission has acknowledged the failure of efforts for a friendly settlement and within three months of a determination having been made by the Commission.

Article 20 Exceptional Jurisdiction

1. Notwithstanding the provisions of Article 19(2), the Court may, on exceptional grounds, authorize persons, non-governmental organizations and groups of individuals to bring cases before the Court, without first utilising the procedures of Article 55 of the Charter.
2. In determining whether the Court will consider such a case, the Court will apply the principles enunciated in Article 56 of the Charter.
3. For the purpose of consideration whether the Court may hear the case, it shall be first submitted to a panel composed of three judges. The Court may receive representations from the Commission for the purposes for such consideration.
4. The Court may decide not to consider the case and to refer it to the Commission for consideration.

Article 21 Hearings and Representation

1. The hearing in Court shall be public. The Court may conduct proceedings in camera, in cases where it is strictly necessary in the interests of justice.
2. Any party to a case shall be entitled to be represented by a legal representative of the party's choice at the hearing of the case. Free legal representation may be provided where the interests of justice so require.

Article 22 Evidence

The Court shall receive written and oral evidence and other representations and it shall make a decision on the basis of such evidence and representations.

Article 23 Findings

1. If the Court finds that there has been a violation of a human or peoples' right, it shall, where appropriate, rule that the injured party be ensured enjoyment of the right that was violated. It shall also rule, where appropriate, that the consequences of the measure or situation that constituted the breach of such right be remedied and that fair compensation be paid to the injured party.
2. In the cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission.

Article 24 Judgement

1. The judgement of the Court shall be read in open court, due notice having been given to the parties.
2. Reasons shall be given for the judgement of the Court.
3. If the judgement of the Court does not represent, in whole or in part, the unanimous opinion of the judges, any judge shall be entitled to deliver a separate or dissenting opinion.

Article 25 Requests for Interpretation

1. The judgement of the Court shall be final and not subject to appeal.
2. In case of disagreement as to the meaning or scope of the judgement, the Court shall interpret it at the request of any of the parties, provided the request is made within ninety days from the date of notification of the judgement.

Article 26 Compliance with Judgement

1. The States Parties to the present Protocol undertake to comply with the judgement in any case to which they are parties.
2. That part of the judgement that stipulates compensatory damages may be executed in the country concerned in accordance with domestic procedures governing executions of judgements against the State.

Article 27 Execution of Judgement

1. The parties to the case shall be notified of the judgement of the Court and it shall be transmitted to the Member States of the OAU.
2. The Council of Ministers shall also be notified of the judgement and shall supervise its execution on behalf of the Assembly.

Article 28 Advisory Opinions

1. The Member States of the OAU may consult the Court regarding the interpretation of the Charter or of other treaties concerning the protection of human rights in the African States. The organs of the OAU, in particular the African Commission on Human and Peoples' Rights, or an African organization recognised by the OAU may in like manner consult the Court.

2. The Court, at the request of a Member State of the OAU, may provide that State with opinions regarding the compatibility of any of its domestic laws with the aforesaid treaties.
3. Reasons shall be given for the advisory opinions of the Court.

Article 29 Rules of Procedure

The Court shall draw up its own Rules of Procedure.

Article 30 Report

To each regular session of the Assembly the Court shall submit, for the Assembly's consideration, a report on its work during the previous year. It may specify, in particular, the cases in which a State has not complied with its judgement, making any pertinent recommendations.

Article 31 Ratification

1. This Protocol shall be open for signature and ratification by any Member State of the OAU which has signed the Charter. A Member State of the OAU may not ratify this Protocol without previously or simultaneously ratifying the Charter.
2. The instrument of ratification of the Protocol shall be deposited with the Secretary-General of the OAU.
3. The present Protocol shall come into effect one month after nine instruments of ratification have been deposited.
4. For any State Party ratifying subsequently, the present Protocol shall come into force on the date of the deposit of its instrument of ratification.
5. The Secretary-General shall inform all Member States of the OAU of the entry into force of the present Protocol.

Article 32 Amendments

1. The present Protocol may be amended if a State Party to the Protocol makes a written request to that effect to the Secretary-General of the OAU. The Assembly may only consider the draft amendment after all the States Parties to the present Protocol have been duly informed of it and the Court has given its opinion on it.
2. The Court shall also be entitled to propose such amendments to the present Protocol as it may deem necessary, through the Secretary-General of the OAU.
3. The amendment shall be approved by a simple majority of the State Parties to the present Protocol.
4. The amendment shall come into force for each State Party which has accepted it in one month after the Secretary-General of the OAU has received notice of the acceptance.