

*News**Sri Lanka**A crucial time for human rights*

Human rights are at a crucial juncture in Sri Lanka. The People's Alliance Government has repeatedly proclaimed its commitment to human rights and, since it came to power in August 1994, has introduced a number of safeguards to prevent torture and "disappearances". However, an AI delegation to the country found that grave violations of human rights continue to take place*.

Most human rights violations by members of the security forces have occurred in the context of renewed fighting, since April 1995, between the security forces and members of the Liberation Tigers of Tamil Eelam (LTTE), the main armed Tamil opposition group fighting for an independent state in the north and east of the country. The LTTE has itself been responsible for grave human rights abuses, including deliberate and arbitrary killings of Sinhalese civilians; summary executions of Tamil people considered to be "traitors"; torture and ill-treatment of prisoners; and coercing and sometimes forcing children to join the armed group.

Since April 1995 the security forces have arbitrarily detained thousands of Tamil people and have been responsible for torture as well as dozens of "disappearances" and extrajudicial executions. The navy has been accused of torturing prisoners. A 15-year-old girl, who had been recruited by the LTTE at the age of 12, reported how she was tortured by naval officers after she surrendered to them in Jaffna district in July 1995. She alleged that she was held naked and hung upside-down. Serious abuses have also been attributed to armed Tamil groups opposed to the LTTE, in particular to members of the People's Liberation Organization of Tamil Eelam (PLOTE) and Tamil Eelam Liberation Organization (TELO), who seem to be allowed to operate in some areas with almost total impunity.

Kandiah Vairamuthu "disappeared" in Eravur town, in Batticaloa district, on his way to obtain a travel pass. According to an eyewitness, he was arrested by an armed member of TELO. He was then reportedly handed over to the PLOTE. There are unconfirmed reports that Kandiah Vairamuthu was killed in detention shortly after his arrest and buried within the PLOTE camp in Chenkalady. As yet the authorities which have been informed of Kandiah Vairamuthu's "disappearance" by his family have taken no action to locate him.

The government's will to prevent and investigate such violations appears to be weakening. Some safeguards introduced in mid-1995 to protect the welfare of detainees are not being fully adhered to. Progress in a few court cases against members of the security forces charged in connection with "disappearances" and extrajudicial executions is slow, as are investigations into many other cases. The government has refused to amend several laws which fall far short of international standards and facilitate torture, deaths in custody, "disappearances" and extrajudicial executions. Impunity remains a serious concern.

AI is calling on the Sri Lankan Government to put its commitment to human rights into practice and to restore respect for human rights in the country. Abuses by armed opposition groups can never justify human rights violations by members of the security forces. The process of public acknowledgement of past human rights violations must be strengthened and those found responsible for violations be brought to justice. The organization has called on the LTTE to halt summary executions and other deliberate and arbitrary executions immediately, and has appealed for the release of prisoners of conscience held by the group.

* See Sri Lanka: Wavering commitment to human rights (AI Index: ASA 37/08/96).

Caption:

Antony Joseph, who was injured when shot by soldiers at Kumarapuram, receiving treatment at Trincomalee Base Hospital

Cuba

Dissidents harassed, imprisoned or forced into exile following crackdown

Following a crackdown on dissident activities in Cuba, at least four people have been imprisoned as prisoners of conscience, three have been forced into exile and dozens of others threatened with imprisonment if they do not leave the country or halt their activities*.

The four prisoners of conscience are all members of Cuban Concilium, or Cuban Council, a forum of some 140 unofficial groups which was set up in October 1995. Three of them, including the National Delegate, lawyer Dr Leonel Morejón Almagro, have been brought to trial on spurious minor charges and sentenced to between six and 15 months' imprisonment. The fourth, Roberto López Montañéz, who is reportedly suffering from a serious heart condition, also received a 15-month sentence.

AI believes that the real motive for their arrest and imprisonment was their attempt to peacefully exercise their rights to freedom of expression, association and assembly.

AI is also concerned at what appears to be a deliberate policy and new tactic on the part of the authorities to force dissidents to go into exile abroad by subjecting them to constant harassment and threatening them with imprisonment if they do not do so.

So far three people — Eugenio Rodríguez Chaple, a Cuban Concilium activist; and two independent journalists, Rafael Solano and Roxana Valdivia — have been forced to leave since May 1996. They were all informed that they would not be permitted to return to Cuba.

* See Cuba: Dissidents imprisoned or forced into exile (AI Index: AMR 25/29/96).

Areas under the jurisdiction of the Palestinian authority

Arrested for speaking out about human rights abuses

“There are so many arbitrary arrests now, without charge, without reason. The authority has nine security organizations, each with its own detention center. And people are systematically tortured.” Dr Iyad al-Sarraj, Commissioner General of the Palestinian Independent Commission for Citizens' Rights,

New York Times, 6 May 1996.

After giving this interview, Dr Iyad al-Sarraj was arrested and held for eight days. He had already been questioned in December 1995 about statements critical of the Palestinian Authority's human rights record.

On 9 June Dr Iyad al-Sarraj was again arrested and detained for 17 days. Initially, he was not charged with any offence nor given access to his lawyer. AI believes that he was a prisoner of conscience. The next day he smuggled a note out of prison, saying he had been beaten and that he was being framed with a drugs charge. He was later charged with possession of drugs, but was given bail by a Gaza Magistrates' Court for lack of evidence. The State Security Court then remanded him on charges of injuring a policeman. Dr Iyad al-Sarraj strongly denies this charge. A petition was put to the Palestinian High Court contesting the legality of his arrest and detention. This Court gave Attorney-General Khaled al-Qidrah five days to respond to the petition, but he gave no response. Dr Iyad al-Sarraj was released on the morning of 26 June. It is unclear whether the charges have been dropped.

AI has serious concerns about the detention of hundreds of individuals, including prisoners of conscience and possible prisoners of conscience, detained without any legal process in the areas under the jurisdiction of the Palestinian Authority.

Caption:

Dr Iyad al-Sarraj was arrested and held for eight days following an interview in the New York Times in which he criticized the Palestinian Authority's human rights record.

News in brief

An AI delegation visited India between 4 July and 10 August 1996. Delegates travelled to Delhi, Rajasthan and Karnataka, to strengthen contacts with non-governmental organizations (NGOs) and to do research on human rights violations in the country. Civil liberties groups, members of the National Human Rights Commission and the National Commission for Women were among those NGOs visited. This was only the second AI research visit to India in 16 years because of the government's refusal to grant visas.

AI is calling on the New York authorities to hold an independent inquiry into widespread allegations of ill-treatment, deaths in custody and unjustified shootings by police officers in New York City in the United States of America. Most of the victims belong to racial minorities and few officers have been prosecuted or disciplined in such cases. See United States of America: Police brutality and excessive force in the New York City police department (AI Index: AMR 51/36/96).

Worldwide Appeals

Australia

In June 1996 a Parliamentary Committee recommended that a judicial inquiry be set up to investigate many unresolved questions about the death in custody of Stephen Wardle and allegations of subsequent police harassment of the family.

Stephen Wardle was arrested on suspicion of drunkenness and held without charge in a Perth city police cell on the night of 1 February 1988. Police recorded no visible injuries upon him. At 5.05am the next morning, his body was discovered in a cell with rigor mortis well established, and bruises, bumps and abrasions clearly visible. AI is concerned that Stephen Wardle may have been ill-treated in custody and has received information that raises doubts about the precise time and circumstances of his death.

In 1989 a coroner's inquest found that Stephen Wardle died from the toxic effects of prescribed drugs and alcohol, "aggravated by lack of care". However, the coroner also found "many unexplained discrepancies" arising from the evidence and said that "a number of questions" remained unanswered since all 17 police officers on duty on the night of his death refused to be questioned during the inquest.

Since the inquest, the family have been targeted by police. Numerous petty charges have been laid against Ray Tilbury, Stephen Wardle's stepfather; almost all have resulted in acquittal. Since August 1994, armed plainclothes police have carried out four early morning raids on the family home which have been considered acts of harassment and intimidation.

+Please write, supporting calls for an independent judicial inquiry into the death of Stephen Wardle and into alleged police harassment of his parents, to: The Hon Richard Court, MLA/ Premier of Western Australia/ Office of the Premier and Cabinet/ 197 St George's Terrace/ Perth 6000/ Australia.

Caption:

Stephen Wardle

Haiti

Nobody has been brought to justice for the killing of a Catholic priest, Father Jean-Marie Vincent, who was shot dead on 28 August 1994 during the rule of the de facto military regime of General

Raoul Cédras. He was shot several times by unidentified men as he was entering the residence of the Montfortain Fathers in Port-au-Prince.

It is widely believed that Father Vincent was targeted by the security forces because he was a close friend and supporter of President-in-exile Jean-Bertrand Aristide. Father Vincent, who had worked for many years with peasants in the Jean-Rabel area, was the founder of a group of missionaries which organized a peasant movement called Tet Ansanm.

This case is under investigation by a team of foreign lawyers employed by the Haitian Government. However, although some progress has been made with other high-profile cases, no arrests have so far been made in connection with the killing of Father Vincent.

In September 1991 President Aristide, Haiti's first democratically elected president, was overthrown in a military coup which was followed by three years of gross and systematic human rights violations at the hands of the security forces. In October 1994 President Aristide returned to power in Haiti, following the arrival in the country of a United States-led Multinational Force. In February 1996 democratically elected René Préval succeeded Jean-Bertrand Aristide as President of Haiti.

Since October 1994, there has been a dramatic reduction in the kind of gross human rights violations that characterized the military government of General Raoul Cédras. However, so far little progress has been made in bringing to justice the perpetrators of human rights violations under previous governments. This is due to a number of factors, including the inadequacy of the justice system, the judges' fears of reprisals and an apparent lack of political will.

+Please write, urging that all necessary steps be taken to ensure that those responsible for the killing of Father Jean-Marie Vincent are brought to justice, to: M. René Préval/ Président de la République de Haiti/ Présidence de la République de Haiti/ Palais National/ Port-au-Prince/ Haiti.

Algeria

Abdelkader Hadj Benaâmane, a 38-year-old journalist for the Algerian news agency APS, who is married and the father of a three-year-old child, is currently serving a three-year prison sentence. AI considers him to be a prisoner of conscience and is calling for his immediate and unconditional release. Abdelkader Hadj Benaâmane was arrested on 27 February 1995 for revealing, in an internal APS wire, the place of detention of the banned Islamic Salvation Front (FIS) leader, Ali Belhadj, who is held in an undisclosed location. The wire was not made available to the general public. He was tried on 25 July 1995 before a military court in Ouargla and sentenced under a law which makes the publication of information considered to endanger state security or national unity punishable by up to 10 years' imprisonment.

In the past four years, and especially since a secret Ministry of the Interior decree was issued in June 1994, increasing restrictions and censorship measures have been imposed on the media in Algeria. Newspapers have been repeatedly seized and suspended and journalists have been arrested and detained for writing and publishing information considered by the authorities to "undermine state security". Such restrictions increase the pressure on Algerian journalists who already live in constant fear of death. Since May 1993 more than 50 journalists have been killed in attacks believed to have been carried out by armed opposition groups defining themselves as "Islamic" groups.

+Please write, calling for the immediate and unconditional release of Abdelkader Hadj Benaâmane, to: M. Mohamed ADAMI/ Ministre de la Justice/ Ministère de la Justice/ 8 Place Bir Hakem El-Biar/ Alger/ Algérie.

AI Week (14 to 20 October) – campaign for a permanent international criminal court

For the worst crimes in the world, we need a permanent International Criminal Court

Recent history shows that people are capable of committing terrible atrocities — war crimes and crimes against humanity like genocide or systematic rape — in all regions of the world. But these events are not inevitable: individuals are responsible for planning them. For half a century since the

Nuremberg and Tokyo tribunals, national judicial authorities have too often failed to investigate and bring those responsible to justice. Sometimes the state's authority collapses, sometimes criminals gain power and status.

WHY DO WE NEED A PERMANENT INTERNATIONAL CRIMINAL COURT?

The “disappeared” in Chile; those who suffered brutal atrocities in Iraq; the victims of Cambodian torture centres; those killed in the genocide in Rwanda — an International Criminal Court could have deterred those responsible for such suffering.

We need an international system of justice that complements existing national courts and helps to heal societies fractured by unchecked gross violations of human rights.

If the criminals go free, worse crimes may follow — until the culture of impunity is destroyed. We must build for the future and repair the damage of the past: peace and reconciliation are impossible without justice first. It is futile to rebuild the shattered schools and bridges of countries devastated by the worst atrocities if the principle of justice for all remains in ruins.

It is Time For A Permanent International Criminal Court

Get involved! Contact your national AI office for information about the campaign and the materials available.

Write a letter! The United Nations is due to meet shortly after AI week and will be making key decisions about the future of a permanent International Criminal Court. Now is the time to lobby your government on this issue: every country's vote in the United Nations General Assembly counts equally.

Dear... [minister for foreign affairs/
head of government]

I am writing to you in the spirit of respect for human rights, as understood all over the world, to urge you to support the establishment of a permanent International Criminal Court at the United Nations General Assembly.

The International Criminal Court will help safeguard human rights throughout the world. It would bring to justice those accused of the worst crimes in the world. Where communities have suffered war crimes, genocide or other crimes against humanity there can be no reconciliation without justice and truth.

The demand for justice is now: it is time for a permanent International Criminal Court. How is the government supporting the proposal?

Yours respectfully,

caption:

Top: mothers and grandmothers of the Plaza de Mayo protest over the “disappearance” of their relatives, on the 20th anniversary of the 1976 military coup in Argentina; Above: children of the “disappeared” in Chile, 1976; Right: Civilians killed in Bosanski Brod, Bosnia and Herzegovina, April 1992.

Amnesty International, 1 Easton Street, London WC1X 8DJ United Kingdom. Printed in the UK by Mercury Press.

Available on subscription at £7 (us\$13.00) per year. issn 0308 6887 AI Index: nws 21/09/96

Focus

The African Charter: words are not enough

The past 10 years have witnessed some of the most serious human rights violations on the African continent: civil strife in Somalia, genocide in Rwanda, killings by government troops and armed opposition in Algeria, and the worsening human rights situation in Nigeria, to cite just a few situations.

This decade has also been marked by an improvement in human rights in a few countries: improvements associated with the independence of Namibia, the end of the civil war in Mozambique, political changes in Uganda and the end of apartheid in South Africa, are a few examples.

This year marks the 10th anniversary of the African Charter on Human and Peoples' Rights (African Charter), which came into effect on 21 October 1986. The adoption of the African Charter by the Organization of African Unity (OAU) on 27 June 1981 marked a point of departure for African states, and represented a formal commitment to human rights, although not a political will to address with any earnestness human rights violations on the continent.

In June 1993 AI raised concerns about significant shortcomings in the African Charter and indicated that in some cases the guarantees it contains fall short of international standards. The weakness of the rights enshrined in the African Charter is compounded by the inclusion of claw-back clauses, allowing states to curtail rights by the adoption of national legislation. While the AI document, AI's observations of possible reform of the African Charter on Human and Peoples' Rights (AI Index: IOR 63/03/93) recognizes that a comprehensive review of the African Charter would be an ambitious and lengthy undertaking, it suggests that implementation procedures in the African Charter could be strengthened by the amendment of a few key provisions.

The African Commission on Human and Peoples' Rights (African Commission) recognizes the weaknesses in the African Charter's provisions and began a review of the Charter at its 19th session held in Burkina Faso during March 1996. There is little possibility of reaching consensus quickly among African states on amendments to the African Charter.

The African Charter allows the African Commission wide powers of interpretation. In considering complaints based on the provisions of the African Charter, the African Commission has the opportunity to interpret the African Charter consistently with current international standards and thereby address many of the limitations in its express guarantees. The African Charter permits the African Commission to "draw inspiration from international law" and "to take into consideration... other general or special international conventions", rules of interpretation which allow the African Commission many opportunities to fill the lacunae in the African Charter. Many non-governmental organizations (NGOs) have argued that the provisions of the African Charter do not provide adequate guarantees of women's rights. However, it is for the African Commission to determine the scope of Article 18(3) of the African Charter which provides for "the protection of the rights of the woman and the child... as stipulated in international declarations and conventions". Almost 40 African states have ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which provides the African Commission with a sound basis for the interpretation of Article 18(3). All African states were part of the consensus at the United Nations (UN) General Assembly which adopted the UN Convention.

While the African Commission has recently begun publishing brief interpretations of the African Charter in its decisions, it has yet to use this power to its fullest extent. It has generally shied away from adopting general comments of its interpretations of guarantees in the African Charter, except for the occasion, during its 11th session, when it adopted a resolution on the right to fair trial and another on freedom of association.

When the African Commission was established in July 1987 with the election of 11 Commissioners by the Summit of the OAU, it faced an almost formidable task: “to promote human and peoples’ rights and to ensure their protection in Africa”. The African Commission could not have expected to receive the willing support of the majority of African governments. It was created in an environment where African governments viewed human rights with extreme suspicion, where they considered NGOs as part of the political opposition rather than a legitimate part of civil society, and where there was largely a pretence at creating democratic governments, but without the intention to establish strong national institutions to hold governments accountable for human rights violations. However, the African Charter provides the African Commission with human rights standards to which it should hold African governments accountable and by which their actions regarding human rights should be measured. The African Commission is severely hampered by lack of resources. The OAU, its parent body, has not provided adequate personnel and financial resources to enable the Commission to function efficiently and effectively. However, it is appreciated that the OAU, like other intergovernmental organizations, is facing a financial crisis with many member states failing to pay their dues. The African Commission is therefore able to meet only twice a year for 10 days each time, a very limited period during which to undertake protection of human rights. While funding for promotional work has been made available to the African Commission by donors, Commissioners have failed to undertake adequate promotional visits to countries for which they have responsibility. Many opportunities are missed for promoting the African Charter and the work of the African Commission, as well as for making contact with NGOs and gathering first-hand knowledge of the human rights situation in African countries.

While the African Charter provides that the members of the African Commission shall be “chosen from amongst African personalities of the highest reputation, known for their high morality, integrity, impartiality and competence in matters of human and peoples’ rights...”, the independence and impartiality of some members of the African Commission have been a cause for concern. The process of nominating and electing Commissioners is left exclusively to governments, and lacks transparency. Experts in bodies such as the Commission who are too closely linked to their governments often appear to fail to act impartially. Some members of the African Commission have performed, and continue to perform, political functions on behalf of their respective governments; this raises questions about their perceived independence.

SPECIAL RAPPORTEURS OF THE AFRICAN COMMISSION

Extrajudicial executions continue to plague the African continent with such killings presently occurring in Burundi, Liberia, Somalia, Sudan, and Algeria, to name just a few countries. When the genocide in Rwanda was most intense, in March 1994, the African Commission was holding its 15th session in Banjul, the Gambia. After AI urged the African Commission, it appointed its first Special Rapporteur on extrajudicial, summary or arbitrary executions. Unfortunately, more than two years since his appointment no substantial work has been carried out, due to lack of funds, lack of initiative on his part and possibly also lack of support and information from NGOs.

At its 17th session, Penal Reform International presented a report to the African Commission on prison conditions in Africa and urged it to appoint a special rapporteur on prisons. This initiative received the support of several African and international NGOs. At that session the African Commission adopted a resolution on prisons but did not appoint a special rapporteur. At its 19th session the African Commission decided, in principle, to appoint a special rapporteur on prisons and will make the appointment at its 20th session to be held in Mauritius from 21 to 30 October 1996. The African Commission has also decided in principle to appoint a special rapporteur on women. The effectiveness of the special rapporteurs in drawing the attention of the African Commission and of the OAU to the issues pertaining to their mandate, extrajudicial executions, prisons and women’s

rights will depend to a great extent on the support they receive from NGOs and their willingness and ability to investigate human rights violations with seriousness.

PERIODIC REPORTS by STATES

The consideration of periodic reports by the African Commission forms the kernel of its monitoring function. Although there are only two African states which have not ratified the African Charter, Ethiopia and Eriteria, and Morocco, which is not a member state of the OAU, only 18 states have filed periodic reports with the African Commission as they are obliged to under the African Charter.

Despite numerous appeals by the African Commission, the number of states filing reports has only marginally increased over the last few years. The African Commission has also sought the assistance of the OAU Assembly of Heads of States and Governments, but besides adopting a resolution urging States Parties to file reports, no concrete attempts are being made by the OAU Assembly or Secretariat to exhort states to comply with their reporting obligations.

However, where reports by states are being considered by the African Commission, NGOs are provided with an excellent opportunity to provide information which can enable the African Commission to have meaningful dialogue with representatives of governments about the true human rights situation in their countries. Governments are always tempted to paint a picture of utmost respect for human rights despite the existence of widespread human rights violations. At the 19th session, Commissioner Julienne Ondziel raised many questions of concern to AI about human rights violations in Algeria with the representatives of the Algerian Government. Similarly, Commissioner Vera Duarte raised pertinent human rights issues with the delegates of the Mozambican Government. When governments become aware that their reports will be carefully scrutinized on the basis of alternative information available to the African Commission, they may exercise restraint in the preparation of reports which laud the virtues of their governments.

NGOs AT THE AFRICAN COMMISSION

Since its inception, NGOs have contributed to the work of the African Commission. The African Commission, to its credit, has allowed, unlike any other African intergovernmental body, maximum and intimate participation of NGOs in its work. The simplicity of its procedure for obtaining observer status has allowed a large number of NGOs to obtain such status. Currently there are 167 NGOs with observer status at the African Commission, and the overwhelming majority of these are African NGOs. While observer status allows for participation of NGOs in the sessions of the African Commission, in its recent meetings the African Commission has raised concerns about the failure of many NGOs with observer status to report every two years on their activities as required by the Rules of Procedure of the African Commission.

While the African Charter provides for States Parties to the Charter to file complaints against other states regarding violations of the rights enshrined in the Charter, as is familiar with other human rights treaties, it is unlikely that any state will file a complaint. It is therefore left to NGOs to file such complaints. The Commission, being a body of 11 part-time human rights experts, is unable to keep track of the human rights situation in every single African country which has ratified the African Charter. It is therefore of paramount importance that NGOs assist victims of human rights violations to file complaints.

Although NGOs have been using the complaints mechanism, and have become frustrated at the delays in consideration of these complaints by the African Commission, the number of complaints filed with the African Commission does not reflect the serious human rights situation on the continent. However, African NGOs such as the Constitutional Rights Project of Nigeria and the Rencontre Africain pour la Défense des Droits de l'Homme (RADDHO) in Senegal, have presented very well prepared complaints, on the basis of which the African Commission has been able to render sound decisions. Gradually, the African Commission has by way of its published decisions begun formulating

human rights jurisprudence which interprets the African Charter and has resulted in the emergence of African human rights reasoning.

The role of NGOs in the African Commission increased from October 1991 when the first NGO workshop prior to the ninth session of the African Commission was arranged by the International Commission of Jurists. The NGO workshops are held regularly twice a year, in March and October, before each session of the African Commission. While at the first workshop NGOs raised mundane concerns about lack of equipment and resources at the Secretariat of the African Commission, the 19th workshop, held in March 1996, dealt with substantive human rights issues such as the independence of the judiciary, and the human rights situation in various African countries. These workshops have been extremely beneficial in bringing together a range of African and international NGOs, has made the work of the African Commission more transparent, and has contributed to the effectiveness of the African Commission. Several African NGOs have also arranged workshops in collaboration with the African Commission.

THE OAU AND the PROTECTION OF HUMAN RIGHTS

Human rights do not feature prominently on the agenda of the OAU and have received little, if any, attention at the meetings of the Council of Ministers and of the Assembly of Heads of States and Governments of the OAU. Apart from the adoption of the African Charter more than 10 years ago and statements concerning South Africa and Namibia, the OAU Assembly has taken limited action in the field of human rights. The OAU, in particular the Assembly, is the political enforcement mechanism of the African Commission. However, no mechanism has been created within the OAU to provide the African Commission with the political support it requires to enforce its resolutions and decisions. Besides a cursory consideration of the report of the African Commission and resolutions supporting the work of the African Commission each year, the Assembly has failed to hold member states accountable for human rights violations brought to its attention by the African Commission. Furthermore, while the African Charter provides for situations of “serious or massive violations of human and peoples’ rights” to be brought to the attention of the Assembly and for it to request the African Commission to undertake an in-depth study, the Assembly has inevitably shied away from its responsibility by not responding to such requests from the African Commission.

PROPOSAL of an AFRICAN COURT OF HUMAN AND PEOPLES’ RIGHTS

At a workshop in Addis Ababa in November 1993, at which more than 50 African NGOs were represented, the International Commission of Jurists discussed the idea of establishing an African Court of Human and Peoples’ Rights to improve the mechanism for protecting human rights in Africa. The idea received the overwhelming support of the NGOs. It also received the support of the African Commission.

The African Court will incorporate the juridical element into the protection of human rights in Africa which has been lacking. It will also provide for the rendering of binding decisions on African states, most of which have, in practice, shown little respect for the African Charter or the African Commission. The additional protocol which will establish the African Court, also provides for victims to claim compensation against states and to enforce these orders in the domestic courts. The decisions of an African Court will contribute to the establishment of African human rights jurisprudence and provide interpretations of the African Charter on the basis of which African states may be held accountable for violations of human rights.

A meeting of government experts held in Cape Town, South Africa, during September 1995, prepared a draft Protocol to the African Charter which will first have to be approved and adopted by the OAU Assembly before it is open for signature and ratifications. This procedure may take many years. While efforts to establish an African court should be commended, it is clear that such a court will remain weak and ineffectual until the African Commission begins to function effectively and

efficiently. It is envisaged that most cases which are presented to the court will be referred to it by the African Commission. Therefore procedures for the consideration of complaints by the African Commission will have to be streamlined to curtail delays and to ensure that any remedy granted by the court is timely and that the court's ability to address human rights violations is not hampered. Much work has to be done by the African Commission, by the OAU, and by NGOs, to improve the African system of human rights protection before an African court is established.

CONCLUSION

The African system of human rights protection is far from effective. The lack of political will and the failure of African governments to adhere to human rights obligations which they have voluntarily undertaken makes the task of the African Commission an arduous one. The reluctance of the African Commission to act with earnestness and commitment to address the serious human rights problems facing the continent contributes to its ineffectiveness. However, it is not now sufficient for NGOs to merely criticize the ineffectiveness of the African Commission. The criticisms have to be accompanied by an offer by NGOs to work together with the African Commission to improve its effectiveness. NGOs have always been at the forefront of protection and promotion of human rights, and therefore they have a duty to assist the African Commission to fulfil its mandate.

What you can do:

- 1) Give copies of this article to as many people as possible. Organize meetings and discussions to explain the rights and protections guaranteed by the African Charter. Explain the working of the African Commission. (You can find more information in AI's Guide to the African Charter, AI Index: IOR 63/05/91.)
- 2) Decide how you will celebrate the 10th anniversary of the Charter's entry into force.
- 3) Write to the the Ethiopian or Eritrean Embassies in your country and urge these countries to ratify the Charter.
- 4) Write to the foreign ministry or embassy of one or more of the following countries which have not yet submitted their first periodic reports — due in 1988 — urging them to do so:
Burkina Faso, Botswana, Central African Republic, Comoros, Congo, Equatorial Guinea, Gabon, Guinea, Guinea Bissau, Liberia, Mali, Mauritania, Niger, Sao Tome and Principe, Sierra Leone, Sudan, Uganda, Zambia.

Quote:

The African Charter provides the African Commission with human rights standards to which it should hold African governments accountable.

Captions:

Refugees being greeted on return from exile. One of the distinctive features of the African Charter is that it gives people fleeing persecution the right to seek and obtain asylum.

© Christian Aid/Guy Tillim

Men carrying home the body of a friend allegedly killed by soldiers. Burundi, April 1995.

© Katz Pictures

The African Charter emphasizes that everyone has the right to education.

© Julia Martin

A seven-year-old boy accused of genocide in Rwanda

© Seamus Murphy/Panos Pictures

Women and children waiting to receive medical attention. Under the African Charter, governments promise to protect and promote the health of their people.

© Oxfam

A Beni Amer girl from Sudan

© Panos Pictures