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African Union Assembly Summit in Khartoum: An important opportunity to make progress on the protection of human rights in the Africa

In advance of the 6th Ordinary Session of the African Union (AU) Assembly in Khartoum Sudan, between 23 and 24 January 2006, Amnesty International today called on African leaders to prioritise and make progress on the protection of human rights throughout the continent. The adoption of the Constitutive Act of the AU in 2000 containing fine statements on the promotion and protection of human rights raised expectations that African leaders were prepared to take a public stand against abuses of human rights in member states, and to reverse the deteriorating human rights conditions that have characterised many parts of the region for decades.

Although some limited steps have been taken to implement the human rights mandate of the AU, grave human rights violations, including rape, torture and unlawful killings continued to be committed in many parts of Africa. Impunity for human rights violations remained widespread, despite some international and continental efforts to address the problem. There are continuing human rights problems in Darfur (Sudan) and Zimbabwe, among other countries in the continent. Furthermore, the establishment and operationalization of the African Court on Human and Peoples' Rights continued to be delayed, two years after the Protocol establishing it had entered into force.

It is important for the African leaders meeting in Khartoum to demonstrate that they have the political will to translate their expressed commitments into reality. The following recommendations highlight some areas which the AU Assembly should consider if it is to make progress towards the promotion and protection of human rights and fundamental freedoms across the region.

Addressing impunity across the region

One of the fundamental objectives of the Constitutive Act of the AU is to condemn and reject impunity. However, despite widespread and systematic violations of human rights, most perpetrators were not held to account, while victims have been frequently denied an effective remedy. In the past decades, numerous human rights abuses have plagued many parts of Africa. African men, women and children have been victims of genocide, war crimes, crimes against humanity and other crimes recognized under international law.

Of the 53 AU member states, 43 have signed or ratified the Rome Statute of the International Criminal Court (Rome Statute), including Chad and Senegal, which bars any immunity, including official capacity as head of state or government, from prosecutions of crimes under its jurisdiction. The Rome Statute

envisages trials of heads of state, former heads of state and other current or former government officials in The Hague before the International Criminal Court or in any national court exercising its jurisdiction over crimes under international law

Amnesty International is aware that the Republic of Senegal has proposed that the AU Assembly meeting in Khartoum consider the legal action that may be taken to bring the former President of Chad, Hissène Habré, to justice for serious violations of human rights he committed while in power. This request followed complaints lodged by some of his victims, initially in Senegal and then in Belgium, and subsequent indictment by a Belgian judge.

Amnesty International urges the AU Assembly to ensure that any decision it takes on the matter is consistent with member states obligations as mentioned above. It is important for African victims to see justice done in this case. Taking a decision on the side of justice and lending its authority to the promotion and protection of human rights will enhance the credibility of the AU, and will add value to the very reasons that led Africa to take the initiative to establish the International Criminal Tribunal for Rwanda, the Special Court for Sierra Leone, as well as to play a decisive role in the establishment of the International Criminal Court.

The Senegalese Minister of Foreign Affairs, Cheikh Tidiane Gadio, said on 27 November 2005 that Senegal "is very sensitive to the complaints of the victims who are demanding justice and will refrain from doing anything which could mean that Mr Hissène Habré is not brought to justice". The Chadian authorities have also publicly stated that Hissène Habré could not claim any type of immunity from extradition in the case of compliance with proceedings brought against him in a foreign court for crimes under international law.

Amnesty International fully supports these positions, and urges the AU Assembly to demonstrate leadership in favour of accountability, in line with the spirit and letter of the Constitutive Act, the African Charter on Human and Peoples' Rights and other international standards to which AU members are committed by ensuring that Senegal immediately fulfil its responsibilities under international law to extradite Hissène Habré to answer the charges that have been brought against him.

Darfur (Sudan)

Amnesty International acknowledges the critical role being played by the AU in finding solutions to the conflict in Darfur, both by mediating between the parties in the conflict and by deploying peacekeeping forces with the mandate of monitoring the ceasefire agreement and protecting civilians. Despite these efforts, as remarked by the UN Secretary General in its latest monthly report on Darfur to the Security Council, *"reports from the ground confirm the marked deterioration in the situation since September [...] Large-scale attacks against civilians continue, women and girls are being raped by armed groups, yet more villages are being burned, and thousands more are being driven from their homes"*

Amnesty International believes that the AU must clearly state to the Sudanese government and armed groups that the peacekeeping mission in Darfur intends to fulfil its mandate and that it will take action to protect civilians wherever they are in danger.

The deterioration of the human rights and humanitarian situation in Darfur has prompted the United Nations and the AU to reassess its response to the conflict. Amnesty International believes that the African Mission in Sudan (AMIS) or any other peacekeeping mission in Darfur must be given manpower, resources and logistics so that it can be deployed rapidly to all areas in Darfur where civilians are under threat. Although the AU needs international support to ensure this, it must itself take primary responsibility on the effective operation of AMIS.

Furthermore, AMIS or any peacekeeping mission in Darfur should investigate violations of international humanitarian law and human rights law by government forces or armed groups and should be able to

publish its reports independently. The AU should immediately conclude and put into effect the cooperation agreement with the International Criminal Court to ensure that those suspected of crimes under international law can be investigated and prosecuted.

Zimbabwe

Amnesty International remained gravely concerned by the continuing violations of human rights and the almost absolute impunity enjoyed by the perpetrators in Zimbabwe. On 16 November 2005, Amnesty International together with other international non-governmental organizations (NGOs) and African civil society organizations published an appeal addressed to the AU to express concern at the deteriorating human rights situation in Zimbabwe, including the situation of hundreds of thousands of internally displaced persons as result of the forced evictions and demolitions carried out by the government.

At its 38th Ordinary Session in November 2005, the African Commission on Human and Peoples' Rights condemned the deteriorating human rights situation in Zimbabwe. In its resolution, the African Commission urges *"the government of Zimbabwe to implement without further delay the recommendations contained in the African Commission Report of the 2002 Fact-Finding Mission to Zimbabwe and the recommendations in the July 2005 Report of the UN Special Envoy on Human Settlement Issues"* and makes a series of recommendations to improve respect for human rights in the country, including the right to freedom of expression, association and assembly and the independence of the judiciary.

Amnesty International urges the AU to publicly call on the government of Zimbabwe to respect its obligations under the African Charter on Human and Peoples' Rights and to encourage it to comply with the recommendations contained in the African Commission's resolution. Amnesty International also calls on the AU to renew the mandate of its Envoy to Zimbabwe to investigate the human rights implications and humanitarian consequences of the forced evictions and demolitions.

African Court on Human and Peoples' Rights

Amnesty International remained seriously concerned that the African Court on Human and Peoples' Rights has still not been established two years after the entry into force of the Protocol on 25 January 2004. Amnesty International is also concerned that, as of 14 December 2005, only 22 of the 53 AU member states have ratified the Protocol. Of these, only Burkina Faso has made the declaration under Article 34(6) of the Protocol, granting individuals and non-governmental organizations direct access to the Court.

However, Amnesty International welcomes the inclusion on the AU Assembly agenda the election of the eleven judges to the Court. We urge the AU Assembly to consider the following in the election of judges and in its efforts to make the Court operational and effective:

The AU Assembly should ensure that only judges of the highest quality, commitment and integrity are elected to the Court.

The AU Assembly should ensure a fair representation of men and women from the main regions and legal systems of Africa in the election of judges.

Once fully established, the AU Assembly should ensure that essential human and financial resources are provided to the Court, so that it is able to carry out its functions independently and effectively.

The AU Assembly should encourage member states that have not yet done so, to ratify the Protocol without further delay. States should also make the declaration under Article 34(6) of the Protocol.

