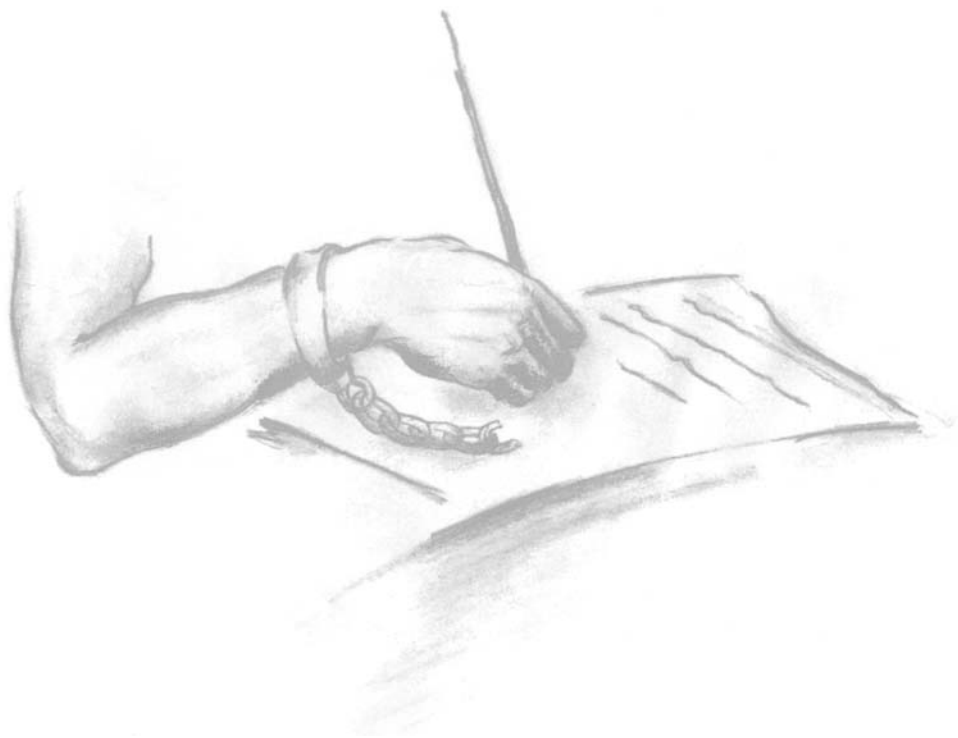


APPENDICES



AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS*

PREAMBLE

The African states member of the Organization of African Unity, parties to the present Convention entitled "African Charter on Human and Peoples' Rights";

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

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

Reaffirming the pledge they solemnly made in Article 2 of the said Charter to eradicate all forms of colonialism from Africa, to co-ordinate and intensify their co-operation and efforts to achieve a better life for the peoples of Africa and to promote international co-operation, having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights;

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

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

Considering that the enjoyment of rights and freedom also implies the performance of duties on the part of everyone;

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

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

Reaffirming their 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, the Movement of Non-Aligned Countries and the United Nations;

* Available on the websites of the African Commission and the African Union: www.achpr.org and www.africa-union.org

Firmly convinced of their duty to promote and protect human and peoples' rights and freedoms taking into account the importance traditionally attached to these rights and freedoms in Africa; Have agreed as follows:

PART I: RIGHTS AND DUTIES

CHAPTER I: Human and Peoples' Rights

Article 1

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

Article 2

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

Article 3

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

Article 4

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

Article 5

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

Article 6

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

Article 7

1. Every individual shall have the right to have his cause heard. This comprises:
 - (a) the right to an appeal to competent national organs against acts violating his fundamental rights as recognised and guaranteed by conventions, laws, regulation and customs in force;
 - (b) the right to be presumed innocent until proved guilty by a competent court or tribunal;
 - (c) the right to defence, including the right to be defended by counsel of his choice;
 - (d) the right to be tried within a reasonable time by an impartial court or tribunal.

2. No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which no provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender.

Article 8

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

Article 9

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

Article 10

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

Article 11

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

Article 12

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

Article 13

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

Article 14

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

Article 15

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

Article 16

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

Article 17

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

Article 18

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

Article 19

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

Article 20

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

Article 21

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

Article 22

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

Article 23

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

Article 24

All people shall have the right to a general satisfactory environment favourable to their development.

Article 25

State parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood.

Article 26

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

CHAPTER II: Duties

Article 27

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

Article 28

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

Article 29

The individual shall also have the duty:

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

PART II: MEASURES OF SAFEGUARD

CHAPTER I: Establishment and Organisation of the African Commission on Human and Peoples' Rights

Article 30

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

Article 31

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

Article 32

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

Article 33

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

Article 34

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

Article 35

1. The Secretary-General of the Organization of African Unity shall invite state parties to the present Charter at least four months before the elections to nominate candidates.
2. The Secretary-General of the Organization of African Unity shall make an alphabetical list of the persons thus nominated and communicate it to the Heads of State and Government at least one month before the elections.

Article 36

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

Article 37

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

Article 38

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

Article 39

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

Article 40

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

Article 41

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

Article 42

1. The Commission shall elect its Chairman and Vice-Chairman for a two-year period. They shall be eligible for re-election.
2. The Commission shall lay down its rules of procedure.
3. Seven members shall form a quorum.
4. In case of an equality of votes, the Chairman shall have a casting vote.
5. The Secretary-General may attend the meetings of the Commission. He shall neither participate in deliberations nor shall he be entitled to vote. The Chairman of the Commission may, however, invite him to speak.

Article 43

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

Article 44

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

CHAPTER II: Mandate of the Commission

Article 45

The functions of the Commission shall be:

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

CHAPTER III: Procedure of the Commission

Article 46

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

Communication from States

Article 47

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

Article 48

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

Article 49

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

Article 50

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

Article 51

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

Article 52

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

Article 53

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

Article 54

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

Other Communications

Article 55

1. Before each session, the Secretary of the Commission shall make a list of the communications other than those of state parties to the present Charter and transmit them to the members of the Commission, who shall indicate which communications should be considered by the Commission.

2. A communication shall be considered by the Commission if a simple majority of its members so decide.

Article 56

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

1. Indicate their authors even if the latter request anonymity;
2. Are compatible with the Charter of the Organization of African Unity or with the present Charter;
3. Are not written in disparaging or insulting language directed against the state concerned and its institutions or to the Organization of African Unity;
4. Are not based exclusively on news disseminated through the mass media;
5. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged;
6. Are submitted within a reasonable period from the time local remedies are exhausted or from the date the Commission is seized of the matter; and
7. Do not deal with cases which have been settled by the states involved in accordance with the principles of the Charter of the United Nations, or the Charter of the Organization of African Unity or the provisions of the present Charter.

Article 57

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

Article 58

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

Article 59

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

CHAPTER IV: Applicable Principles

Article 60

The Commission shall draw inspiration from international law on human and peoples' rights, particularly from the provision of various African instruments on human and peoples' rights, the Charter of the United Nations, the Charter of the Organization of African Unity, the Universal Declaration of Human Rights, other instruments adopted by the United Nations and by African countries in the field of human and peoples' rights, as well as from the provisions of various instruments adopted within the specialised agencies of the United Nations of which the parties to the present Charter are members.

Article 61

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

Article 62

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

Article 63

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

PART III: GENERAL PROVISIONS

Article 64

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

Article 65

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

Article 66

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

Article 67

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

Article 68

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

SAMPLE COMMUNICATION: INTRODUCTORY LETTER AND ADMISSIBILITY BRIEF



Via Email, Fax and Post

Secretary
African Commission on Human and Peoples' Rights
Kairaba Avenue
P.O. Box 673
Banjul
The Gambia
Fax: + 220 4392 962
Email: achpr@achpr.org

16 November 2005

Dear Sir,

Introduction of complaint: **Mr. — v. Egypt**

Pursuant to Article 55 and 56 of the African Charter on Human and People's Rights (the Charter) read with Rule 102 of the Rules of Procedure of the African Commission on Human and People's Rights (the Commission), this letter is submitted as an introduction of a communication, on behalf of Mr. — (the Applicant). The Applicant requests that the Commission recognise this as the initiation of a complaint for the purpose of seizure, and notes that a full communication will be submitted shortly.

The Applicant is a citizen of Egypt born on —. Prior to his arrest and detention, he lived at — in Cairo, Egypt. By profession, the Applicant is an engineer and Muslim scholar.

The Applicant is represented by:

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>A. Hossam Baghat
Egyptian Initiative for Personal Rights
2 Howd El-Laban Street
Garden City, App. 11
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Egypt
Tel/fax: + 202 795 0582- 796 2682
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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

The communication is filed against the state of Egypt (the Respondent State), which ratified the African Charter on 20 March 1984.

The Applicant confirms that pursuant to Article 56(7) of the Charter, he has not submitted this complaint to any other procedure of international investigation or settlement.

Statement of Facts

The Applicant received his religious training at — University in Cairo—the oldest and highest religious authority in Sunni Islam—where he obtained two bachelor degrees in Islamic Law and Arabic.

The Applicant finished his religious studies in 2001, and between 1999 and May 2003 he distributed copies of his unpublished religious research widely. Among others, he sent copies to the President Hosni Mubarak, the then Crown Prince of Saudi Arabia, the Secretary General of the League of Arab States, the then Iraqi President, and President Mubarak's political adviser Ossama Al Baz. He also sent copies to different universities and religious scholars in Egypt. The Applicant's study focuses on the idea of "coercion in Islam", which he believes has been falsely construed. The study relies on his training in linguistics and *fiqh* (Islamic jurisprudence) to refute two opinions often held among mainstream Muslim scholars, namely that it is the religious duty of Muslims to kill converts from Islam to other religions and that there is prohibition on Muslim women marrying non-Muslim men.

In March 2003, the Applicant was summoned for questioning at State Security Intelligence (SSI) headquarters in Giza several times. During these sessions officers discussed with the Applicant the ideas that he had expressed in his research and brought religious scholars from — University to debate these ideas and to refute them.

On 18 May 2003, the Applicant was arrested at his home in Cairo by the SSI. He was given no reasons for his arrest. Following his arrest, the Applicant spent 10 days in unlawful incommunicado detention at SSI headquarters in Giza and then in Istiqbal Tora Prison, where he remained until November 2003.

On 28 May 2005, the Interior Ministry issued an administrative detention order against him pursuant to Article 3 of Law 162/1958 on the State of Emergency (the Emergency Law). The Respondent State has been in an official State of Emergency since 1981. The relevant part of Article 3 allows the President, or the Minister for the Interior to order, orally or in writing, the arrest and detention of those who "pose a threat to public security".

Article 3 of Law 50/1982 on Amending the Emergency Law stipulates that detainees or their representatives may appeal their arrest or detention orders when 30 days lapse after the orders are issued. These appeals are considered by the Supreme State Security Emergency Court (the Emergency Court). If the Emergency Court finds in favour of the detainee the Ministry of the Interior has a window of 15 days to appeal the Court's decision, which is then considered final. A detainee has the right to file a new appeal against his/her detention order one month after the rejection of the previous appeal.

On 3 July 2003, the Applicant was transferred to the State Security Prosecutor's office where he was charged with "contempt of the Islamic religion" under article 98 (f) of the Penal Code. This section provides fines or imprisonment for any person who "exploits religion in order to promote or advocate extremist ideologies by word of mouth, in writing or in any other manner with a view to stirring up sedition, disparaging or contempt of any divinely-revealed religion or its adherents, or prejudicing national unity or social harmony."

The Applicant's case was registered as number —/2003 (Supreme State Security). On 29 October 2003, the State Security Prosecutor's office ordered the Applicant's release pending

investigation. To this day, no action on the investigation has been taken although the Applicant understands that the case file is still open.

Despite the order for his release, the Applicant was kept in detention until a new administrative detention decree was issued under Article 3 on 8 November 2003. He was transferred to Wadi Al-Natroun Prison.

The Applicant has filed seven appeals before the Emergency Court challenging the legality of his detention. In each of these cases the Court has held in his favour and ordered his immediate release (in orders dated 19 August 2003, 25 January 2004, 11 April 2004, 13 May 2004, 1 November 2004, 24 July 2005, 3 October 2005). However none of these court judgments has ever been implemented. Each time the Emergency Court has ordered the Applicant's release the Minister for the Interior, Mr. Habib El-Adli has issued a new administrative detention decree under Article 3 of the Emergency Law. The most recent release order was issued on 3 October 2005 in response to appeal number —/2005.

Until June 2005, the Applicant was held in Wadi Al-Natroun Prison. While in prison, he was routinely harassed and abused by other prisoners and prison guards on account of alleged disrespect of Islam. Rumours were spread among detainees from the Al Gamaa Al Islameya and Al Jihad groups that he was an apostate, he was called "Satan" and "Pig" routinely and he was attacked on numerous occasions. In his complaint to authorities dated 20 January 2003, for example, the Applicant reports that while at Istiqbal Tora Prison another detainee by the name of — had advocated his murder, amid rumours that he was an "infidel" who denied the Prophet's legacy. Shortly after, — and another detainee called — assaulted the Applicant causing facial swelling and bleeding.

On 19 June 2004, the Applicant complained to the authorities about their lack of response to his beating at the hands of — and —, stating that the failure to investigate had escalated assaults against him. The Applicant asked to be referred to the forensic medical authorities so his injuries could be documented, but no action was taken. His request to appear before the public prosecutor to file a complaint against the other detainees was denied by the authorities.

On many other occasions, the Applicant lodged official complaints concerning his treatment (specifically on 29 October 2003; 20 January 2004; 10 March 2004; 14 April 2004; 19 April 2004; 27 April 2004; 14 May 2004; 1 June 2004; 20 June 2004; 28 August 2004; 29 August 2004; 20 September 2004), requesting protection and investigation, but no action was taken. In October 2003, his request for special protection in view of fears for his life resulted in the Applicant being moved to a cell in solitary confinement. His cell had no sunlight, no electricity and was infested with mosquitoes.

The failure of the authorities to take his ill-treatment seriously resulted in the Applicant embarking upon a number of hunger strikes in 2004 and in June 2005.

On 30 June 2005, the Applicant was transferred to the remote Al-Wadi Al-Gadid Prison, apparently to punish him for staging the hunger strike. Initially, he was subjected to harassment and occasional violence by Islamist inmates because of his religious beliefs. Despite reports, the administration did nothing to protect him. He now stays in the hospital ward of the prison, where he is kept away from the mainstream prison population.

In addition to the abovementioned complaints, the Applicant has submitted a number of complaints to both the State Security Prosecutor's Office and to the National Council for Human Rights, drawing attention to the circumstance of his detention. He has not received any response to any of these complaints.

Despite the repeated release orders of the Emergency Court, the Applicant remains detained at Al-Wadi Al-Gadid Prison to this day.

Outline of violations of the Charter

The Applicant submits that his rights have been violated under Articles 2, 5, 6, 7 (1)(d), 8, and 9(2) of the Charter. The nature of these violations is set out briefly below. The full application will provide a more comprehensive review of the Commission's case law, along with relevant international and comparative jurisprudence.

As a preliminary matter, the Applicant notes that the violations of his rights outlined below have been made possible by the Respondent State's Emergency Law. On a number of occasions, this Commission has had the opportunity to consider the possibility of derogation from Charter rights during times of emergency. By reference to Article 1 of the Charter, the Applicant notes that the Commission has repeatedly emphasised that the Charter does not permit states to derogate from their responsibilities during states of emergency, and that this is "an expression of the principle that the restriction of human rights is not a solution to national difficulties" **Amnesty International/Sudan**, 48/90, paragraph 79; see also paragraph 42; see also **Media Rights Agenda/Nigeria**, 224/98, paragraph 73; **Commission Nationale des Droits de l'Homme et des Libertes/Chad**, 74/92, paragraph 21.

The Applicant respectfully urges the Commission to confirm that the fact that the Respondent State maintains a 24-year long State of Emergency cannot justify violations of his human rights in contravention of the Charter.

Article 2

The Applicant submits that he has been discriminated against in his enjoyment of Charter rights on the basis of his religious beliefs. This Commission has confirmed that Article 2 "abjures discrimination on the basis of any of the grounds set out", noting that "[t]he right to equality is very important." **Legal Resources Foundation/Zambia No. 211/98, paragraph 63**. Similarly, it has emphasized that Article 2 of the Charter "lays down a principle that is essential to the spirit of this Convention, one of whose goals is the elimination of all forms of discrimination and to ensure equality among all human beings" **Association Mauritanienne des Droits de l'Homme/Mauritania No. 210/98, paragraph 131**.

It is submitted that central to the Applicant's treatment by the authorities and his continued detention is the fact that he holds particular religious views. The discrimination is based not on the Applicant's religion *per se*, namely Islam, but his understanding of his religion. His approach to the religion has singled him out for discriminatory treatment in violation of Article 2. This is evidenced by the fact that his initial detention was a direct response to the distribution of his religious study, his interrogation about his beliefs at SSI headquarters in Giza and that he was originally charged with the offence of "contempt of the religion of Islam". The Applicant is being treated differently from other scholars purely on the basis of his religious beliefs, and this distinction is not reasonably justified. Accordingly, his rights under Article 2 have been violated.

Article 5

The Applicant submits that the conditions of his detention from May 2003 until June 2005 were inhuman in violation of Article 5. First, the Applicant notes that while in detention he endured prison conditions undermining of human dignity. As noted in the facts above, the Applicant was subjected to harassment and beatings, was held in solitary confinement and inhuman conditions. The full application will go into greater detail about specific incidents and the conditions of detention. It is submitted that this ill-treatment reaches the necessary threshold for inhuman treatment under Article 5 of the Charter.

Second, the Applicant submits that the Respondent State failed in its positive obligation to prevent ill-treatment, and its procedural obligation to effectively investigate the ill-treatment.

This Commission has recognised that Article 1 of the Charter requires that States not only recognise rights, but requires that they “shall undertake... measure to give effect to them”. **Legal Resources Foundation/Zambia**, 211/98, paragraph 62. When read with Article 5, it is submitted that this gives rise to positive obligations of States to take measures to protect against ill-treatment, and to effectively investigate allegations of ill-treatment when they occur.

Meaningful protection under Article 5 requires that States take measures to ensure that individuals within their jurisdiction are not subjected to inhuman treatment. This may include taking steps to protect individuals from harm from third parties, where the authorities knew or ought to have known that the individual was at risk (see European Court of Human Rights in *Z. v. U.K.*, judgment of 10 May 2001, paragraph 73; and *Pantea v. Romania*, judgment of 3 June 2003, paragraph 118). On numerous occasions (specifically on 29 March 2003; 29 October 2003; 20 January 2004; 10 March 2004; 19 April 2004; 26 April 2004; 14 May 2004; 1 June 2004; 20 June 2004; 28 August 2004; 29 August 2004; 25 September 2004), the Applicant wrote to the authorities reporting the abuse and requesting they intervene to stop him being mistreated by other prisoners. However no effective protective measures were taken and the Applicant continued to suffer abuse while in detention. The Applicant’s situation has only improved because he is now separated from other prisoners in a hospital block.

The Applicant also submits that the State failed in its procedural obligations to effectively investigate his allegations of ill-treatment, as required to ensure meaningful protection under Article 5. Such an investigation should be capable of identifying and bringing to justice those responsible for such abuse (See *McCann and Others v. the United Kingdom* judgment of 27 September 1995, paragraph 161). Despite numerous official complaints over a long period of time, no efforts have been taken to investigate the repeated allegations made by the Applicant, nor to bring those responsible to account. Accordingly, the Applicant submits that the State has failed in its procedural obligation under Article 5.

Article 6 and 7

As noted by this Commission, those rights enshrined in Article 6 and Article 7 rights are “mutually dependant, and where the right to be heard is infringed, other violations may occur, such as detentions being rendered arbitrary”. **Amnesty International/Sudan**, 48/90, paragraph 62. It is submitted that in this case, denials of process under Article 7 have led to arbitrary arrest and detention in violation of Article 6. Accordingly, the articles will be considered together.

The Applicant notes that his arrest was arbitrary in that he was not given any reasons for his arrest, and has been detained subsequently without charge, trial, conviction or sentence by a court of law. See paragraph 2(b), Resolution 4(XI)92 on the Right to Recourse and Fair Trial (1992) **Media Rights Agenda/Nigeria**, 224/98, paragraph 44 and paragraph 74.

The Applicant recalls the importance that this Commission has placed on effective remedies with respect to arbitrary detention (Article C (c)(4) Fair Trial Guidelines). While the Applicant has been able to challenge his detention before the Emergency Court on seven occasions and seven orders have been made for his release, he remains detained. The Applicant submits that the execution of judgments given by the Emergency Court must be regarded as an integral part of his right to due process under Article 7. The Respondent State’s domestic legal system has repeatedly allowed the final, binding judicial order of the authorised Emergency Court to be circumvented by a new administrative decree each time his release is ordered. In the Applicant’s case, each of these administrative decrees under Article 3 of the Emergency Law has been made on precisely the same basis as the previous decrees that the Emergency Court has deemed unlawful. The Applicant argues that in his case the guarantees afforded by Article 7 are rendered illusory by the continued application of the Emergency Law.

Further, with respect to Article 7(1)(d), the Applicant submits that his detention pursuant to the Emergency Law has denied him the right to be heard within a reasonable time. He has been held without trial since May 2003. By this Commission's own case law, a delay of over two years amounts to unreasonable delay and a violation of Article 7(1)(d). **Annette Pagnouille (on behalf of Abdoulaye Mazou)/Cameroon**, 39/90, paragraph 19.

Finally, it should be noted that this Commission has found that to detain someone on account of their political beliefs, especially where no charges are brought against them, renders the deprivation of liberty arbitrary *per se*. **Constitutional Rights Project, Civil Liberties Organisation and Media Rights Agenda/Nigeria**, 140/94, 141/94, 145/95, paragraph 51. The Applicant submits that the same is true, *mutatis mutandis*, with respect to detention based on religious beliefs.

Article 8

The Applicant submits that his right to profess his religion has been violated. At the heart of this case, is the Applicant's understanding of Islam – a religion to which he has dedicated his personal and work life. An integral aspect of freedom of religion is the ability of individuals to express religious beliefs and ideas. The Respondent State has severely interfered with the Applicant's freedom of religion by detaining him, and this interference cannot be objectively justified.

It is recognised that in certain circumstances freedom of religion can be restricted. Article 27(2) of the Charter requires rights to be exercised “with due regard to the rights of others, collective security, morality and common interest”. The Applicant's interpretation of Islam poses no threat to the collective security, morality or common interest in the Respondent State; indeed far from “inciting radicalism”, the Applicant professes a peaceful and tolerant approach to Islam. Even if there were some justification for interfering with the Applicant's right to freedom of religion, the measure of arbitrarily detaining the Applicant would not be a proportionate response. To allow such an interference with freedom of religion would erode the right “such that the right itself becomes illusory”. *Mutatis mutandis*, **Constitutional Rights Project, Civil Liberties Organisation and Media Rights Agenda/Nigeria**, 140/94, 141/94, 145/95, paragraph 42.

Article 9(2)

As recognised by this Commission, freedom of expression is a basic human right, vital to an individual's personal development and political consciousness, and to the conduct of public affairs and democracy of a state. **Constitutional Rights Project and Others/Nigeria** 104/94, 141/94, 145/95 paragraph 36, **Amnesty International/Zambia** 212/98, paragraph 79; also recognised in Resolution on Freedom of Expression, ACHPR/Res.54 (XXIX) 01

The Applicant submits that his right to freedom of expression guaranteed by Article 9(2) has been violated. The Applicant recalls that the Commission has noted, specifically with respect to freedom of expression, that there is no derogation in times of emergency, as “the legitimate exercise of human rights does not pose dangers to a democratic state governed by the rule of law” **Amnesty International/Sudan**, 48/90, paragraph 79.

The Charter strictly provides for freedom of expression and dissemination of opinions ‘within the law.’ This must not, however, be understood as covering only speech that is lawful under national law, but should be interpreted in line with international norms of free speech. **Amnesty International/Sudan** 48/90, 50/91, 52/91, 89/93, paragraph 79, 101/93 **Civil Liberties Organisation/Nigeria**, paragraph 15. This Commission has recognised that an individual's exercise of freedom of expression may be legally curtailed through the law of defama-

tion. However where governments opt to arrest and detain individuals without trial, Article 9 has plainly been violated. **Huri-Laws/Nigeria**, 225/98, paragraph 28.

In this case, the content of the Applicant's written work is plainly "within the law" – in none of his writing has the Applicant promote extremism, sedition or contempt of Islam, nor does he pose any threat to national unity or social cohesion in the Respondent State. To the contrary, the Applicant's writings advocate greater tolerance within Islam. Accordingly, there is no objective justification for the violation of the Applicant's right to freedom of expression under Article 27(2) of the Charter. The Applicant's free expression has in this case been exercised "with due regard to the rights of others, collective security, morality and common interest".

Exhaustion of domestic remedies

As noted above, the Applicant has appealed his detention numerous times before the State Security Emergency Court, the only judicial body designated for that purpose under the Emergency Law. The Court has issued seven judgments ordering his release. None of these rulings have been implemented. These rulings were, in consecutive order -

1. Appeal No. 21045/2003, pronounced on 19 August 2003
2. Appeal No. 40334/2003, pronounced on 25 January 2004
3. Appeal No. 7865/2004, pronounced on 11 April 2004
4. Appeal No. 15402/2004, pronounced on 13 May 2004
5. Appeal No32471/2004, pronounced on 1 November 2004
6. Appeal No.15506/2005, pronounced on 24 July 2005
7. Appeal No. 21618/2005, pronounced on 3 October 2005

The Emergency Court is the final court in the Respondent State to adjudicate on the Emergency Law, and accordingly, the Applicant has exhausted all available domestic remedies.

In addition, the Applicant has submitted five complaints to the State Security Prosecutor's office and ten complaints to the National Council for Human Rights. He has not received any responses to these complaints.

On 29 December 2004 the Egyptian Initiative for Personal Rights raised the Applicant's case in a complaint submitted to the General Prosecutor's Office (Number 18323/2004). The complaint requested the Applicant's immediate release, and asked for an investigation to be conducted in order to identify and hold accountable those responsible for his continued unlawful detention. No reply has been received.

Conclusion


The Applicant submits this introductory letter without prejudice to the later submission of additional facts and legal arguments under the Charter. In requesting the Commission to examine his case, the Applicant seeks the following –

1. recognition by the Commission of violations of the abovementioned articles of the Charter;
2. his immediate release from detention;
3. harmonisation of the Respondent State's legislation in line with the Fair Trial Guidelines; and
4. an order for compensation.

For the reasons set out above, the Applicant respectfully requests that the Commission be seized of this matter for the purposes of article 56(6) of the Charter. A detailed communication will be submitted in due course.

Yours sincerely,

Hossam Baghat
Director
Egyptian Initiative for Personal Rights



Andrea Coomber
Legal Officer
INTERIGHTS



Via Email, Fax and Post

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16 February 2006

Dear Sir,

Communication 312/2005 – INTERRIGHTS and the Egyptian Initiative for Personal Rights (on behalf of —) v. Egypt

We refer to your letter dated 19 December 2005, confirming that the African Commission on Human and Peoples' Rights (the Commission) has decided to be seized of this matter. As detailed in the introductory letter dated 16 November 2005, this communication concerns the arbitrary detention of the Mr. — (the applicant) following his expression of particular religious beliefs. The applicant submits that his rights have been violated under Articles 2, 5, 6, 7 (1)(d), 8, and 9(2) of the African Charter on Human and Peoples' Rights (the Charter).

Further to your request, the following are the applicant's submissions on admissibility.

Article 56 of the Charter which sets out the admissibility criteria for complaints provides:

Communication relating to Human and Peoples' Rights referred to in Article 55 received by the Commission, shall be considered if they:

1. *indicate their authors even if the latter request anonymity,*
2. *are compatible with the Charter of the Organisation of African Unity or with the present Charter.*
3. *are not written in disparaging or insulting language directed against the State concerned and its institutions or to the Organisation of African Unity.*
4. *are not based exclusively on news disseminated through the mass media,*
5. *are sent after exhausting local remedies, if any unless it is obvious that this procedure is unduly prolonged,*

6. *are submitted within a reasonable period from the time local remedies are exhausted, or from the date the Commission is seized with the matter, and*
7. *do not deal with cases which have been settled by these states involved in accordance with the principles of the Charter of the United Nations, or the Charter of the Organisation of African Unity or the provisions of the present Charter.*

The applicant submits that all of these criteria are satisfied, and that the only criterion requiring explanation to the Commission is the exhaustion of domestic remedies in the case.

The other criteria have been met incontrovertibly. In brief, the applicant in this communication has been identified and his relevant details provided to the Commission, along with the details of those individuals and organisations representing him. The communication is plainly compatible with the Constitutive Act of the African Union and with the Charter. The communication is presented in polite and respectful language, and is based on information provided by the applicant and on court documents, not on media reports. The applicant confirms that he has not submitted this complaint to any other procedure of international investigation or settlement.

Exhaustion of domestic remedies

In its jurisprudence the Commission has noted the exhaustion of domestic remedies under Article 56(5) to be one of the most important conditions for the admissibility of communications, as it gives the State concerned the opportunity to remedy the alleged violation through its domestic legal system (**Jawara/The Gambia**, 147/95, paragraphs 30 and 31).

In this case, the applicant submits that domestic remedies do exist in the Respondent State which would allow for his effective release. These remedies have been exhausted and indeed resolved in the applicant's favour, but the court orders have not been respected by the Interior Ministry. The State Security Emergency Court (the Emergency Court) is the only domestic court charged with overseeing detention under Law 162/1958 on the State of Emergency (the Emergency Law). As noted in the letter introducing this communication, the applicant was arrested on 18 May 2003. Since then, the applicant has applied to the Emergency Court for his release on eight occasions, and each time this Court has ordered his release, most recently in January 2006.

In consecutive order, these release orders have been -

1. Appeal No. 21045/2003, pronounced on 19 August 2003
2. Appeal No. 40334/2003, pronounced on 25 January 2004
3. Appeal No. 7865/2004, pronounced on 11 April 2004
4. Appeal No. 15402/2004, pronounced on 13 May 2004
5. Appeal No. 32471/2004, pronounced on 1 November 2004
6. Appeal No. 15506/2005, pronounced on 24 July 2005
7. Appeal No. 21618/2005, pronounced on 3 October 2005
8. Appeal No. 29398/2005, pronounced on 19 January 2006

None of these eight rulings have been implemented, and following each release order the Interior Ministry has issued a new administrative detention order under the same provision of the Emergency Law. As a result, the applicant has been continuously detained for 33 months.

Through this process, the Government has been given numerous opportunities to remedy the violations of the Charter alleged by the applicant, as required by the Commission (**Amnesty International and Others/Sudan**, 48/90, paragraph 32). It has simply chosen not to implement the judgments of its own Emergency Court.

In this regard, the applicant draws the Commission's attention to the European Court of Human Rights case of *Assanidze v. Georgia* (judgment dated 8 April 2004), which similarly concerned the detention of a person whose final release had been ordered by a competent court. In considering the admissibility of the case, the European Court noted that where a final release order was made, "the principle of legal certainty – one of the fundamental aspects of the rule of law – precluded any attempt by a non-judicial authority to call that judgment into question or to prevent its execution" (paragraph 131). Accordingly, the European Court found that domestic remedies had been exhausted.

In this case, the Interior Ministry has repeatedly prevented the execution of the Emergency Court's orders for the applicant's release, and there is no other court or body to which he can appeal.

In an effort to seek implementation of the Court's orders, the applicant has also submitted five complaints to the State Security Prosecutor's office and ten complaints to the National Council for Human Rights. He has not received any responses to these complaints. On 29 December 2004 the Egyptian Initiative for Personal Rights raised the applicant's case in a complaint submitted to the General Prosecutor's Office (Number 18323/2004). The complaint requested the applicant's immediate release, and asked for an investigation to be conducted in order to identify and hold accountable those responsible for his continued unlawful detention. No reply has been received.

As a result of the above, the applicant has gone further than required to exhaust all available domestic remedies for the purpose of Article 56(5). He has also submitted the communication within a reasonable time of exhaustion of domestic remedies pursuant to Article 56(6). As noted above, the violations alleged are ongoing in that the applicant has not been released. The communication was submitted within two months of the seventh final order for the applicant's release.

Official copies of the eight Emergency Court release orders, as well as copies of the complaints to the State Security Prosecutor, the National Council for Human Rights and the General Prosecutor's Office were sent to the Commission via post.

It is submitted that this communication satisfies the admissibility requirements of Article 56 of the African Charter on Human and Peoples' Rights in all respects. For the abovementioned reasons, the applicant respectfully requests the African Commission to declare this communication admissible.

Yours sincerely,

Hossam Baghat
Director
Egyptian Initiative for Personal Rights



Andrea Coomber
Legal Officer
INTERIGHTS

PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE ESTABLISHMENT OF AN AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS*

The member states of the Organization of African Unity hereinafter referred to as the OAU, state parties to the African Charter on Human and Peoples' Rights:

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

Noting that the African Charter on Human and Peoples' Rights reaffirms adherence to the principles of human and peoples' rights, freedoms and duties contained in the declarations, conventions and other instruments adopted by the Organization of African Unity, and other international organisations;

Recognising that the twofold 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, freedoms and duties;

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

Recalling Resolution AHG/Res 230 (XXX) adopted by the Assembly of Heads of State and Government in June 1994 in Tunis, Tunisia, requesting the Secretary-General to convene a Government Experts' Meeting to ponder, in conjunction with the African Commission, over the means to enhance the efficiency of the African Commission and to consider in particular the establishment of an African Court on Human and Peoples' Rights;

Noting the first and second Government Legal Experts' Meetings held respectively in Cape Town, South Africa (September 1995) and Nouakchott, Mauritania (April 1997) and the Third Government Legal Experts Meeting held in Addis Ababa, Ethiopia (December 1997), which was enlarged to include diplomats;

Firmly convinced that the attainment of the objectives of the African Charter on Human and Peoples' Rights requires the establishment of an African Court on Human and Peoples' Rights to complement and reinforce the functions of the African Commission on Human and Peoples' Rights;

HAVE AGREED AS FOLLOWS:

Article 1: Establishment of the Court

There shall be established within the Organization of African Unity an African Court on Human and Peoples' Rights (hereinafter referred to as "the court"), the organisation, jurisdiction and functioning of which shall be governed by the present Protocol.

* Available on the websites of the African Commission and the African Union: www.achpr.org and www.africa-union.org

Article 2: Relationship between the Court and the Commission

The court shall, bearing in mind the provisions of this Protocol, complement the protective mandate of the African Commission on Human and Peoples' Rights (hereinafter referred to as "the Commission"), conferred upon it by the African Charter on Human and Peoples' Rights, hereinafter referred to as "the Charter".

Article 3: 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 relevant human rights instrument ratified by the states concerned.
2. In the event of a dispute as to whether the court has jurisdiction, the court shall decide.

Article 4: Advisory Opinions

1. At the request of a member state of the OAU, the OAU, any of its organs, or any African organisation recognised by the OAU, the court may provide an opinion on any legal matter relating to the Charter or any other relevant human rights instruments, provided that the subject matter of the opinion is not related to a matter being examined by the Commission.
2. The court shall give reasons for its advisory opinions provided that every judge shall be entitled to deliver a separate or dissenting opinion.

Article 5: Access to the Court

1. The following are entitled to submit cases to the court:
 - a. The Commission;
 - b. The state party which has lodged a complaint to the Commission;
 - c. The state party against which the complaint has been lodged at the Commission;
 - d. The state party whose citizen is a victim of a human rights violation;
 - e. African Intergovernmental Organisations.
2. When a state party has an interest in a case, it may submit a request to the court to be permitted to join.
3. The court may entitle relevant non-governmental organisations (NGOs) with observer status before the Commission, and individuals to institute cases directly before it, in accordance with Article 34(6) of this Protocol.

Article 6: Admissibility of Cases

1. The court, when deciding on the admissibility of a case instituted under Article 5(3) of this Protocol, may request the opinion of the Commission which shall give it as soon as possible.
2. The court shall rule on the admissibility of cases taking into account the provisions of Article 56 of the Charter.
3. The court may consider cases or transfer them to the Commission.

Article 7: Sources of Law

The court shall apply the provisions of the Charter and any other relevant human rights instruments ratified by the states concerned.

Article 8: Consideration of Cases

The Rules of Procedure of the Court shall lay down the detailed conditions under which the court shall consider cases brought before it, bearing in mind the complementarity between the Commission and the court.

Article 9: Amicable Settlement

The court may try to reach an amicable settlement in a case pending before it in accordance with the provisions of the Charter.

Article 10: Hearings and Representation

1. The court shall conduct its proceedings in public. The court may, however, conduct proceedings *in camera* as may be provided for in the Rules of Procedure.
2. Any party to a case shall be entitled to be represented by a legal representative of the party's choice. Free legal representation may be provided where the interests of justice so require.
3. Any person, witness or representative of the parties, who appears before the court, shall enjoy protection and all facilities, in accordance with international law, necessary for the discharging of their functions, tasks and duties in relation to the court.

Article 11: Composition

1. The court shall consist of eleven judges, nationals of member states of the OAU, elected in an individual capacity from among jurists of high moral character and of recognised practical, judicial or academic competence and experience in the field of human and peoples' rights.
2. No two judges shall be nationals of the same state.

Article 12: Nominations

1. State parties to the Protocol may each propose up to three candidates, at least two of whom shall be nationals of that state.
2. Due consideration shall be given to adequate gender representation in the nomination process.

Article 13: List of Candidates

1. Upon entry into force of this Protocol, the Secretary-General of the OAU shall request each state party to the Protocol to present, within ninety (90) days of such a request, its nominees for the office of judge of the court.
2. The Secretary-General of the OAU shall prepare a list in alphabetical order of the candidates nominated 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 hereinafter referred to as "the Assembly".

Article 14: Elections

1. The judges of the court shall be elected by secret ballot by the Assembly from the list referred to in Article 13(2) of the present Protocol.
2. The Assembly shall ensure that in the court as a whole there is representation of the main regions of Africa and of their principal legal traditions.

3. In the election of the judges, the Assembly shall ensure that there is adequate gender representation.

Article 15: Term of Office

1. The judges of the court shall be elected for a period of six years and may be re-elected only once. The terms of four judges elected at the first election shall expire at the end of two years, and the terms of four more judges shall expire at the end of four years.
2. The judges whose terms are to expire at the end of the initial periods of two and four 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. All judges except the President shall perform their functions on a part-time basis. However, the Assembly may change this arrangement as it deems appropriate.

Article 16: Oath of Office

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

Article 17: Independence

1. The independence of the judges shall be fully ensured in accordance with international law.
2. No judge may hear 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. 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.
4. At no time shall the judges of the court be held liable for any decision or opinion issued in the exercise of their functions.

Article 18: Incompatibility

The position of judge of the court is incompatible with any activity that might interfere with the independence or impartiality of such a judge or the demands of the office, as determined in the Rules of Procedure of the court.

Article 19: Cessation of Office

1. A judge shall not be suspended or removed from office unless, by the unanimous decision of the other judges of the court, the judge concerned has been found to be no longer fulfilling the required conditions to be a judge of the court.
2. Such a decision of the court shall become final unless it is set aside by the Assembly at its next session.

Article 20: Vacancies

1. In case of death or resignation of a judge of the court, the President of the Court shall immediately inform the Secretary-General of the Organization of African Unity, who

shall declare the seat vacant from the date of death or from the date on which the resignation takes effect.

2. The Assembly shall replace the judge whose office became vacant unless the remaining period of the term is less than one hundred and eighty (180) days.
3. The same procedure and considerations as set out in Articles 12, 13 and 14 shall be followed for the filling of vacancies.

Article 21: Presidency of the Court

1. The court shall elect its President and one Vice-President for a period of two years. They may be re-elected only once.
2. The President shall perform judicial functions on a full-time basis and shall reside at the seat of the court.
3. The functions of the President and the Vice-President shall be set out in the Rules of Procedure of the court.

Article 22: Exclusion

If a judge is a national of any state which is a party to a case submitted to the court, that judge shall not hear the case.

Article 23: Quorum

The court shall examine cases brought before it, if it has a quorum of at least seven judges.

Article 24: Registry of the Court

1. The court shall appoint its own Registrar and other staff of the registry from among nationals of member states of the OAU according to the Rules of Procedure.
2. The office and residence of the Registrar shall be at the place where the court has its seat.

Article 25: Seat of the Court

1. The court shall have its seat at the place determined by the Assembly from among state parties to this Protocol. However, it may convene in the territory of any member state of the OAU when the majority of the court considers it desirable, and with the prior consent of the state concerned.
2. The seat of the court may be changed by the Assembly after due consultation with the court.

Article 26: Evidence

1. The court shall hear submissions by all parties and if deemed necessary, hold an enquiry. The states concerned shall assist by providing relevant facilities for the efficient handling of the case.
2. The court may receive written and oral evidence including expert testimony and shall make its decision on the basis of such evidence.

Article 27: Findings

1. If the court finds that there has been violation of a human or peoples' right, it shall make appropriate orders to remedy the violation, including the payment of fair compensation or reparation.

2. In cases of extreme gravity and urgency, and when necessary to avoid irreparable harm to persons, the court shall adopt such provisional measures as it deems necessary.

Article 28: Judgment

1. The court shall render its judgment within ninety (90) days of having completed its deliberations.
2. The judgment of the court decided by majority shall be final and not subject to appeal.
3. Without prejudice to sub-article 2 above, the court may review its decision in the light of new evidence under conditions to be set out in the Rules of Procedure.
4. The court may interpret its own decision.
5. The judgment of the court shall be read in open court, due notice having been given to the parties.
6. Reasons shall be given for the judgment of the court.
7. If the judgment of the court does not represent, in whole or in part, the unanimous decision of the judges, any judge shall be entitled to deliver a separate or dissenting opinion.

Article 29: Notification of Judgment

1. The parties to the case shall be notified of the judgment of the court and it shall be transmitted to the member states of the OAU and the Commission.
2. The Council of Ministers shall also be notified of the judgment and shall monitor its execution on behalf of the Assembly.

Article 30: Execution of Judgment

The state parties to the present Protocol undertake to comply with the judgment in any case to which they are parties within the time stipulated by the court and to guarantee its execution.

Article 31: Report

The court shall submit to each regular session of the Assembly, a report on its work during the previous year. The report shall specify, in particular, the cases in which a state has not complied with the court's judgment.

Article 32: Budget

Expenses of the court, emoluments and allowances for judges and the budget of its registry, shall be determined and borne by the OAU, in accordance with criteria laid down by the OAU in consultation with the court.

Article 33: Rules of Procedure

The court shall draw up its Rules and determine its own Procedures. The court shall consult the Commission as appropriate.

Article 34: Ratification

1. This Protocol shall be open for signature and ratification or accession by any state party to the Charter.
2. The instrument of ratification or accession to the present Protocol shall be deposited with the Secretary-General of the OAU.

3. The Protocol shall come into force thirty days after fifteen instruments of ratification or accession have been deposited.
4. For any state party ratifying or acceding subsequently, the present Protocol shall come into force in respect of that state on the date of the deposit of its instrument of ratification or accession.
5. The Secretary-General of the OAU shall inform all member states of the entry into force of the present Protocol.
6. At the time of the ratification of this Protocol or any time thereafter, the state shall make a declaration accepting the competence of the court to receive petitions under Article 5(3) of this Protocol. The court shall not receive any petition under Article 5(3) involving a state party which has not made such a declaration.
7. Declarations made under sub-article (6) above shall be deposited with the Secretary-General, who shall transmit copies thereof to the state parties.

Article 35: 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 adopt, by simple majority, the draft amendment after all the state parties to the present Protocol have been duly informed of it and the court has given its opinion on the amendment.
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 come into force for each state party which has accepted it thirty days after the Secretary-General of the OAU has received notice of the acceptance.

GUIDELINES AND MEASURES FOR THE PROHIBITION AND PREVENTION OF TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT IN AFRICA (THE ROBBEN ISLAND GUIDELINES)*

Part I: Prohibition of Torture

A. Ratification of Regional and International Instruments

1. States should ensure that they are a party to relevant international and regional human rights instruments and ensure that these instruments are fully implemented in domestic legislation and accord individuals the maximum scope for accessing the human rights machinery that they establish. This would include:
 - a) Ratification of the Protocol to the African Charter of Human and Peoples' Rights establishing an African Court of Human and Peoples' Rights;
 - b) Ratification of or accession to the UN Convention against Torture, Cruel, Inhuman and Degrading Treatment or Punishment without reservations, to make declarations accepting the jurisdiction of the Committee against Torture under Articles 21 and 22 and recognising the competency of the Committee to conduct inquiries pursuant to Article 20;
 - c) Ratification of or accession to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and the First Optional Protocol thereto without reservations;
 - d) Ratification of or accession to the Rome Statute establishing the International Criminal Court;

B. Promote and Support Co-operation with International Mechanisms

2. States should co-operate with the African Commission on Human and Peoples' Rights and promote and support the work of the Special Rapporteur on prisons and conditions of detention in Africa, the Special Rapporteur on arbitrary, summary and extra-judicial executions in Africa and the Special Rapporteur on the rights of women in Africa.
3. States should co-operate with the United Nations Human Rights Treaties Bodies, with the UN Commission on Human Rights' thematic and country specific special procedures, in particular, the UN Special Rapporteur on Torture, including the issuance of standing invitations for these and other relevant mechanisms.

C. Criminalisation of Torture

4. States should ensure that acts, which fall within the definition of torture, based on Article 1 of the UN Convention against Torture, are offences within their national legal systems.

* Available on the websites of the African Commission and the African Union: www.achpr.org and www.africa-union.org

5. States should pay particular attention to the prohibition and prevention of gender-related forms of torture and ill-treatment and the torture and ill-treatment of young persons.
6. National courts should have jurisdictional competence to hear cases of allegations of torture in accordance with Article 5 (2) of the UN Convention against Torture.
7. Torture should be made an extraditable offence.
8. The trial or extradition of those suspected of torture should take place expeditiously in conformity with relevant international standards.
9. Circumstances such as state of war, threat of war, internal political instability or any other public emergency, shall not be invoked as a justification of torture, cruel, inhuman or degrading treatment or punishment.
10. Notions such as “necessity”, “national emergency”, “public order”, and “ordre public” shall not be invoked as a justification of torture, cruel, inhuman or degrading treatment or punishment.
11. Superior orders shall never provide a justification or lawful excuse for acts of torture, cruel, inhuman or degrading treatment or punishment.
12. Those found guilty of having committed acts of torture shall be subject to appropriate sanctions that reflect the gravity of the offence, applied in accordance with relevant international standards.
13. No one shall be punished for disobeying an order that they commit acts amounting to torture, cruel, inhuman or degrading treatment or punishment.
14. States should prohibit and prevent the use, production and trade of equipment or substances designed to inflict torture or ill-treatment and the abuse of any other equipment or substance to these ends.

D. Non-Refoulement

15. States should ensure no one is expelled or extradited to a country where he or she is at risk of being subjected to torture.

E. Combating Impunity

16. In order to combat impunity States should:
 - a) Ensure that those responsible for acts of torture or ill-treatment are subject to legal process.
 - b) Ensure that there is no immunity from prosecution for nationals suspected of torture, and that the scope of immunities for foreign nationals who are entitled to such immunities be as restrictive as is possible under international law.
 - c) Ensure expeditious consideration of extradition requests to third states, in accordance with international standards.
 - d) Ensure that rules of evidence properly reflect the difficulties of substantiating allegations of ill-treatment in custody.
 - e) Ensure that where criminal charges cannot be sustained because of the high standard of proof required, other forms of civil, disciplinary or administrative action are taken if it is appropriate to do so.

F. Complaints and Investigation Procedures

17. Ensure the establishment of readily accessible and fully independent mechanisms to which all persons can bring their allegations of torture and ill-treatment.
18. Ensure that whenever persons who claimed to have been or who appear to have been tortured or ill-treated are brought before competent authorities an investigation shall be initiated.
19. Investigations into all allegations of torture or ill-treatment, shall be conducted promptly, impartially and effectively, guided by the UN Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (The Istanbul Protocol) .

E. Part II: Prevention of Torture

A. Basic Procedural Safeguards for those deprived of their liberty

20. All persons who are deprived of their liberty by public order or authorities should have that detention controlled by properly and legally constructed regulations. such regulations should provide a number of basic safeguards, all of which shall apply from the moment when they are first deprived of their liberty. these include:
 - a) The right that a relative or other appropriate third person is notified of the detention;
 - b) The right to an independent medical examination;
 - c) The right of access to a lawyer;
 - d) Notification of the above rights in a language, which the person deprived of their liberty understands;

B. Safeguards during the Pre-trial process

States should:

21. Establish regulations for the treatment of all persons deprived of their liberty guided by the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment .
22. Ensure that those subject to the relevant codes of criminal procedure conduct criminal investigations.
23. Prohibit the use of unauthorised places of detention and ensure that it is a punishable offence for any official to hold a person in a secret and/or unofficial place of detention.
24. Prohibit the use of incommunicado detention.
25. Ensure that all detained persons are informed immediately of the reasons for their detention.
26. Ensure that all persons arrested are promptly informed of any charges against them.
27. Ensure that all persons deprived of their liberty are brought promptly before a judicial authority, having the right to defend themselves or to be assisted by legal counsel, preferably of their own choice.
28. Ensure that comprehensive written records of all interrogations are kept, including the identity of all persons present during the interrogation and consider the feasibility of the use of video and/or audio taped recordings of interrogations.

29. Ensure that any statement obtained through the use of torture, cruel, inhuman or degrading treatment or punishment shall not be admissible as evidence in any proceedings except against persons accused of torture as evidence that the statement was made.
30. Ensure that comprehensive written records of those deprived of their liberty are kept at each place of detention, detailing, inter alia, the date, time, place and reason for the detention.
31. Ensure that all persons deprived of their liberty have access to legal and medical services and assistance and have the right to be visited by and correspond with family members.
32. Ensure that all persons deprived of their liberty can challenge the lawfulness of their detention.

C. Conditions of Detention

States should:

33. Take steps to ensure that the treatment of all persons deprived of their liberty are in conformity with international standards guided by the UN standard minimum rules for the treatment of prisoners.
34. Take steps to improve conditions in places of detention, which do not conform to international standards.
35. Take steps to ensure that pre-trial detainees are held separately from convicted persons.
36. Take steps to ensure that juveniles, women, and other vulnerable groups are held in appropriate and separate detention facilities.
37. Take steps to reduce over-crowding in places of detention by inter alia, encouraging the use of non-custodial sentences for minor crimes.

D. Mechanisms of Oversight

States should:

38. Ensure and support the independence and impartiality of the judiciary including by ensuring that there is no interference in the judiciary and judicial proceedings, guided by the UN Basic Principles on the Independence of the Judiciary. .
39. Encourage professional legal and medical bodies, to concern themselves with issues of the prohibition and prevention of torture, cruel, inhuman and degrading treatment or punishment.
40. Establish and support effective and accessible complaint mechanisms which are independent from detention and enforcement authorities and which are empowered to receive, investigate and take appropriate action on allegations of torture, cruel, inhuman or degrading treatment or punishment.
41. Establish, support and strengthen independent national institutions such as human rights commissions, ombudspersons and commissions of parliamentarians, with the mandate to conduct visits to all places of detention and to generally address the issue of the prevention of torture, cruel, inhuman and degrading treatment or punishment, guided by the UN Paris Principles Relating to the Status and Functioning of National Institutions for the Protection and Promotion of Human Rights.
42. Encourage and facilitate visits by NGOs to places of detention.
43. Support the adoption of an Optional Protocol to the UNCAT to create an international visiting mechanism with the mandate to visit all places where people are deprived of their liberty by a State Party.

44. Examine the feasibility of developing regional mechanisms for the prevention of torture and ill-treatment.

E. Training and Empowerment

45. Establish and support training and awareness-raising programmes which reflect human rights standards and emphasise the concerns of vulnerable groups.
46. Devise, promote and support codes of conduct and ethics and develop training tools for law enforcement and security personnel, and other relevant officials in contact with persons deprived of their liberty such as lawyers and medical personnel.

F. Civil Society Education and Empowerment

47. Public education initiatives, awareness-raising campaigns regarding the prohibition and prevention of torture and the rights of detained persons shall be encouraged and supported.
48. The work of NGOs and of the media in public education, the dissemination of information and awareness-raising concerning the prohibition and prevention of torture and other forms of ill-treatment shall be encouraged and supported.

Part III: Responding to the Needs of Victims

49. Ensure that alleged victims of torture, cruel, inhuman and degrading treatment or punishment, witnesses, those conducting the investigation, other human rights defenders and families are protected from violence, threats of violence or any other form of intimidation or reprisal that may arise pursuant to the report or investigation.
50. The obligation upon the State to offer reparation to victims exists irrespective of whether a successful criminal prosecution can or has been brought. Thus all States should ensure that all victims of torture and their dependents are:
 - a) Offered appropriate medical care;
 - b) Have access to appropriate social and medical rehabilitation;
 - c) Provided with appropriate levels of compensation and support;

In addition there should also be a recognition that families and communities which have also been affected by the torture and ill-treatment received by one of its members can also be considered as victims.

TERMS OF REFERENCE FOR THE SPECIAL RAPPORTEUR ON PRISONS AND CONDITIONS OF DETENTION IN AFRICA*

MANDATE

1. In accordance with its mandate under Article 45 of the African Charter on Human and Peoples' Rights (the Charter), the African Commission on Human and Peoples' Rights (the Commission) hereby establishes the position of Special Rapporteur on Prisons and Conditions of Detention in Africa.
2. The Special Rapporteur is empowered to examine the situation of persons deprived of their liberty within the territories of State Parties to the African Charter on Human and Peoples' Rights.

METHODS OF WORK

The Special Rapporteur shall:

- 3.1. examine the state of the prisons and conditions of detention in Africa and make recommendations with a view to improving them;
- 3.2. advocate adherence to the Charter and international human rights norms and standards concerning the rights and conditions of persons deprived of their liberty, examine the relevant national law and regulations in the respective State Parties as well as their implementation and make appropriate recommendations on their conformity with the Charter and with international law and standards;
- 3.3. at the request of the Commission, make recommendations to it as regards communications filed by individuals who have been deprived of their liberty, their families, representatives [,] NGOs or other concerned persons or institutions;
- 3.4. propose appropriate urgent action.
4. The Special Rapporteur shall conduct studies into conditions or situations contributing to human rights violations of prisoners deprived of their liberty and recommend preventive measures. The Special Rapporteur shall co-ordinate activities with other relevant Special Rapporteurs and Working Groups of the African Commission and the United Nations.
5. The Special Rapporteur shall submit an annual report to the Commission. The report shall be published and widely disseminated in accordance with the relevant provisions of the Charter.

DURATION OF MANDATE

6. This mandate will last for an initial period of two years which may be renewed by the Commission.

* Available on the websites of the African Commission and the African Union: www.achpr.org and www.africa-union.org

7. The Special Rapporteur shall seek and receive information from State Parties to the Charter, individuals, national and international organisations and institutions as well as other relevant bodies on cases or situations which fall within the scope of the mandate described above.
8. In order to discharge his mandate effectively, the Special Rapporteur should be given all the necessary assistance and co-operation to carry out on-site visits and receive information from individuals who have been deprived of their liberty, their families or representatives from governmental or non-governmental organisations and individuals.
9. The Special Rapporteur shall seek co-operation with State Parties and assurance from the latter that persons, organisations, or institutions rendering co-operation or providing information to the Special Rapporteur shall not be prejudiced thereby.
10. Every effort will be made to place at the disposal of the Special Rapporteur resources to carry out his or her mandate.

MANDATE PRIORITIES FOR THE FIRST TWO YEARS

11. In order to establish his or her mandate in the first two years, the Special Rapporteur shall focus on the following activities, while paying special attention to problems related to gender:

- 11.1. Make available an evaluation of the conditions of detention in Africa, highlighting the main problem areas.

This should include areas such as: prison conditions; health issues; arbitrary or extra-legal detention or imprisonment; treatment of people deprived of their liberty; and conditions of detention of especially vulnerable groups such as refugees, persons suffering from physical or mental disabilities, or children.

The Special Rapporteur shall draw on information and data provided by the States.

- 11.2. Make specific recommendations with a view to improving the prisons and conditions of detention in Africa, as well as reflect on possible early warning mechanisms in order to avoid disasters and epidemics in places of detention.
- 11.3. Promote the implementation of the Kampala Declaration.
- 11.4. Propose revised terms of reference, if necessary, at the end of this two-year period to the African Commission and an overall programme for the following stage.

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The World Organisation Against Torture (OMCT) coordinates the activities of the SOS-Torture Network, which is the world's largest coalition of non-governmental organisations fighting against torture and ill-treatment, arbitrary detention, extrajudicial executions, forced disappearances, and other serious human rights violations. OMCT's growing global network currently includes 282 local, national, and regional organisations in 92 countries spanning all regions of the world. An important aspect of OMCT's mandate is to respond to the advocacy and capacity-building needs of its network members, including the need to develop effective international litigation strategies to assist victims of torture and ill-treatment in obtaining legal remedies where none are available domestically, and to support them in their struggle to end impunity in states where torture and ill-treatment remain endemic or tolerated practices. In furtherance of these objectives, OMCT has published a *Handbook Series* of four volumes, each one providing a guide to the practice, procedure, and jurisprudence of the regional and international mechanisms that are competent to examine individual complaints concerning the violation of the absolute prohibition of torture and ill-treatment. This *Handbook on the Prohibition of Torture and Ill-treatment in the African Human Rights System* is the third of the series.

**THE PROHIBITION OF TORTURE AND ILL-TREATMENT
IN THE AFRICAN HUMAN RIGHTS SYSTEM:
A HANDBOOK FOR VICTIMS AND THEIR ADVOCATES**

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