



## Amnesty International contribution to EU-Africa strategy

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Amnesty International EU Office

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Amnesty International  
EU Office  
Rue d'Arlon 39-41  
B-1000 Brussels

Tel.: +32 2 502 14 99  
Fax: +32 2 502 56 86  
Email: [amnesty-eu@aieu.be](mailto:amnesty-eu@aieu.be)

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### 1. Regional Overview

The Constitutive Act of the African Union highlights the importance of the promotion and protection of human rights throughout the continent. In 2006, many of the institutions in the Act became fully operational. Eleven judges were elected to the newly established African Court on Human and People's Rights, and a draft legal instrument to merge the African Court of Human and People's Rights and the African Court of Justice is currently being negotiated.

Amnesty International recognises that some steps have been taken by the AU to apply principles of human rights and good governance. However, the expectations that were raised that African leaders were prepared to take a stand against abuses of human rights in AU member states, and to reverse the deteriorating human rights conditions that have characterised many parts of the continent for decades, remain largely unfulfilled. Amnesty International remains concerned about the grave human rights violations in many parts of Africa, including rape, torture and unlawful killings. In particular:

- Armed conflict still affects many countries, and civilians, including women, children and the elderly, continue to suffer human rights abuses as a consequence of this. Even in a number of countries where peace processes are underway, such as Sudan and the DRC, civilians continue to face attacks, and receive inadequate protection from their governments;
- Repression of dissent manifests itself in various ways in different countries, including restricting the work of journalists, the use of anti-terror and public order laws, and restriction of the work of human rights defenders. Amnesty International has condemned in the strongest terms recent reports of continuing brutal attacks on opposition activists in Zimbabwe;
- Impunity is widespread, due to lack of political will to address past grave human rights abuses, and weak or non-existent independent judiciaries;
- Law enforcement personnel in many parts of Africa continue to commit human rights violations, including unlawful killings, torture and other ill-treatment;
- Violations of the right to life, such as extrajudicial executions, and imposition of the death penalty, often after unfair trial, are committed in many countries in Africa;
- Economic, social and cultural rights are not realised for the majority of the population in the region for a wide number of reasons. Serious areas of concern include the widespread practice of forced eviction without legal basis, adequate compensation or provision of alternative shelter, and the ongoing threat from HIV/ AIDS, Tuberculosis and Malaria. The prevalence of gender-based violence places women and girls at particular risk from HIV/AIDS; and
- Regional institutions such as the African Commission on Human and People's Rights lack the resources or the political support to respond to widespread lack of respect for human rights, and for the rule of law;

The EU - while not without its own challenges in ensuring consistent respect of human rights within its own borders - should place a strong emphasis on the development of an EU-AU Africa strategy on the interlinking aspects of security, development, and human rights. The following paper sets out some key areas of concern which Amnesty International would want to see considered as part of any EU-Africa strategy. This input has been developed under three of the five thematic areas identified on the consultation web-site <http://europafrika.org>, which relate most closely to our work.

### 2. Peace and Security

The promotion of peace, security and stability in Africa is among the objectives identified by the Constitutive Act of the AU. Since its establishment in December 2003, the AU Peace and Security Council has increasingly started to address various conflict and post-conflict situations in Africa, notably Burundi, Chad, Central Africa Republic, Cote d'Ivoire, Darfur (Sudan) and Somalia. The AU has also established peacekeeping missions in Burundi, Darfur and Somalia.

Recently (on 28<sup>th</sup> March 2007), the UN Security Council recognised the growing contribution of the AU to addressing and resolving conflict in the African continent. It also highlighted the need for closer cooperation and sharing of information and best practices between the UN and the AU.

Amnesty International continues to receive reports of grave violations of human rights and international humanitarian law in many of the conflicts affecting the African continent. The organization has consistently called on the AU Peace and Security Council to ensure that the AU peacekeeping missions have the mandate and means to effectively protect civilians, as well as monitor and publicly report on the human rights situation in the countries of deployment.

The EU has played a critical role in supporting financially the AU mission in Darfur (AMIS) and the AU mission in Somalia (AMSOM). However, the current difficulties facing these missions underline the need for the AU and the EU to work more closely together to overcome the political, financial and logistical obstacles which obstruct the deployment of peacekeeping missions mandated and equipped to effectively protect civilians.

The EU can provide crucial political and financial backing to regional initiatives aimed at resolving conflicts in Africa, and the EU-Africa strategy offers an important opportunity to strengthen the conflict prevention and resolution mechanisms of the AU.

Further to this, Amnesty International recommends that the EU-Africa strategy develops common policies and actions related to assisting countries in post conflict situation. In this regard, co-operation and support by the EU should be progressively extended in the area of institution-building, notably for the restoration or strengthening of the rule of law, through independent justice systems conforming to international and regional standards of human rights.

### **3. Governance, Democracy and Human Rights**

#### ***Regional instruments***

The African human rights mechanisms, particularly the African Commission on Human and People's Rights (African Commission) and the African Court on Human and Peoples' Rights (African Court), continue to suffer from lack of funding and of political support by the main AU organs. Some progress has been made, notably in the African Commission, to enhance its effectiveness and bring its working methods in line with the best practices of other international and regional human rights bodies. In the African Court, the election of the eleven judges in 2006 and the progress made towards the full operation of the Court are positive initial steps.

However, Amnesty International remains concerned that, since the adoption of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on 9 June 1998, and despite numerous calls from AU organs and the African Commission, only 23 out of the 53 AU member states have ratified the Protocol and only two, Burkina Faso and Mali, have made the declaration under Article 34(6) of the Protocol, granting individuals and non-governmental organisations direct access to the African Court. Furthermore, while some initial steps have been taken, the registrar and other staff have not yet been appointed and, while Tanzania offered to host the Court, the Court room and other needs of the Court have not been identified.

The current consultation on the EU-Africa strategy provides a good occasion to assess the current opportunities and challenges to protect and promote human rights in Africa by strengthening the regional human rights mechanisms. In particular Amnesty International recommends that the EU-Africa strategy should:

- Support human rights mainstreaming in all organs of the AU;
- Include a commitment to support and strengthen existing regional human rights mechanisms; and
- Support of the prompt establishment of a voluntary fund, as envisaged by the decision of the AU Executive Council in January 2007.

### ***Reciprocity on migration***

Amnesty International has repeatedly raised concerns about the relationship between the EU and African states with regard to migration. There is a clear tension between Europe's immigration control agenda, and Africa's interest in increasing development aid and in opening legal channels of migration. It is deeply worrying that, as a result of these differing priorities, human rights and more specifically, protection of refugees' and migrants' rights are effectively absent from the debate.

As the Africa-Europe migration crisis has sharpened, Amnesty International has documented evidence of consistent patterns of human rights violations linked to interception, detention and expulsion of foreign nationals, including persons seeking international protection. Despite a sharp decline in asylum applications in most EU Member States, these same countries seem increasingly inclined to withdraw from their international commitments regarding refugee protection and to shift responsibility to neighbouring third countries. At the same time African countries are under increasing pressure to implement the EU's agenda in the fight against irregular migration often leading to serious violations of fundamental rights of migrants and refugees, including the principle of *non-refoulement*.

Amnesty International strongly recommends that the EU-Africa strategy includes short and long term objectives for a joint approach on migration, which balance European and African interests, and most importantly, have the protection of migrants' rights - as laid out inter alia in the International Convention on the protection of the rights of all migrant workers and members of their families, at their core. The strategy should also aim to tackle the root causes – including human rights violations – of migration more effectively.

### ***Partnership working in international fora***

The EU and AU should also use the discussions throughout 2007 to develop their partnership working on human rights at a global level, including in international institutions such as the new Human Rights Council (HRC) at the UN. This partnership should build on and take into account the broader political and economic relationship between the EU and Africa.

The historical relationship between many EU members and many African countries works both for and against an effective EU-Africa partnership in the promotion and protection of human rights. The relative levels of development of the two sides also play a similar simultaneous contradictory role. The EU must be sensitive to perceptions of historical grievance, which often lead African countries to be more hostile to co-operation with the EU in the UN human rights fora than an objective consideration of their domestic human rights situation would justify. The EU must also encourage African countries to identify more clearly their own priorities for the practical measures to promote and protect human rights.

Amnesty International sees a clear role for the EU in supporting African countries to recognise that international human rights fora can offer them real opportunities to pursue human rights objectives.

At the start of Germany's Presidency of the European Union, Amnesty International called for political attention to be given at the highest level to ensuring that a strong and credible HRC becomes a reality. This should include greater efforts to identify areas for cross-regional approaches to the work of the HRC. The EU and AU should use the opportunity of the dialogue in the run up to an EU-Africa summit to identify concrete subjects and initiatives for which they can develop their partnership in order to promote human

rights more effectively at the UN. In the immediate future, greater co-operation in connection with the institution-building activities of the Human Rights Council is an obvious objective.

#### **4. Key questions on development**

In order to move beyond statements on the importance of human rights, and to ensure that practical progress on their genuine protection and promotion is achieved by an EU-Africa strategy, key human rights concepts need to be systematically integrated into all agreements between the EU and the AU, and also those in bilateral relations. To ensure that the respect for human rights and democracy as an essential element of this relationship is effective and credible, these commitments must be systematically implemented. Amnesty International sees the EU-Africa strategy as a clear opportunity to develop a more strategic and coherent joint approach to the protection and promotion of human rights in Africa, including through the development of clear benchmarks at national and multilateral levels, a joint monitoring system and an enforcing mechanism

This process of benchmarking, including a human rights impact assessment, could become a core part of country analysis work which the EU takes forward with African counterparts, and should include looking at questions such as:

- Whether the government has signed, ratified or transposed to domestic law human rights related global and regional conventions;
- Whether fundamental freedoms are respected;
- Whether the death penalty has been abolished, and if not under what circumstances it is applied;
- Whether watchdog public institutions exist, and if so, do they exercise effective power;
- Is the principle of non-discrimination based on sex, race, colour, language, religion, political or other opinion, national or social origin foreseen by the law and effectively guaranteed; and
- Whether the judicial system guarantees the right of every citizen to a fair trial;
- Whether the law enforcement system guarantees security of citizens and upholds law, while respecting human rights.

More broadly, the EU should use the dialogue to embed a number of principles in its relations with third countries in order to ensure that the scope and effectiveness of its work on human rights improves. Firstly, economic, social and cultural rights are, and must be treated as, a core part of the human rights. The traditional treatment of human rights as being somehow distinct, even an alternative, to development and the fight against poverty represents a false dichotomy, which the current debate must move beyond. Poverty is a condition that is driven and perpetuated by a web of indivisible human rights violations and dwells on further abuses including discrimination, abuse of physical and mental integrity and denial of freedom of expression. Therefore, the interdependence of human rights and their indivisibility should be addressed as a principle in EU partnerships. Mechanisms must be developed and implemented to bring out accountability by those in power; policies and practices must be established to ensure access to rights for the most marginalised, and space must be created to allow the poor themselves to become part of the solution, shaping their own future.

Finally, the dialogue should encourage the EU to consider a larger vision including human rights impact of areas of its policy in addition to Common Foreign and Security Policy. Trade, and the Common Agricultural Policy are two key areas with an enormous impact on the economic, social and cultural rights. There is both a great need and a great potential for these human rights to be promoted in a positive and meaningful way if there is a genuine collective will to achieve this.