

ACHPR/Res.30 (XXIV)98: RESOLUTION ON THE CO-OPERATION BETWEEN THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS AND NGOs HAVING OBSERVER STATUS WITH THE COMMISSION

BACKGROUND

1. Article 45 of the African Charter on Human and Peoples' Rights sets out the mandate of the Commission as follows:
 - i. to promote human rights;
 - ii. to protect human rights;
 - iii. to interpret provisions of the African Charter;
 - iv. any other tasks that may be referred to the Commission by the OAU.

2. In the performance of its tasks and to enhance its efficiency, the Charter also makes provision for the Commission to work with other partners in the field of human rights. Article 45 (1) (c) of the African Charter on Human and Peoples' Rights provides that the Commission shall co-operate with other African and International Institutions concerned with the promotion and protection of human and peoples' rights. In accordance with this article, the African Commission on Human and Peoples' Rights has since its inception granted observer status to 231 human rights NGOs.

3. The granting of this status enables the NGOs to participate directly in the Commission's activities. Rules 75 and 76 of the Rules of Procedure of the African Commission ensure this participation in the Commission's Sessions by requesting the Secretary to the Commission to inform all NGOs with observer status of the days and agenda of the forthcoming Session, at least four weeks before the Session. NGOs with observer status can then authorize their representatives to attend and participate in the public Sessions of the Commission and its subsidiary bodies. Participation can be in either written or oral forms.

4. Apart from participating in the sessions, all documents such as final communiqués of the session and other relevant documents have to be sent by the Secretariat to all NGOs with observer status.

5. Another benefit enjoyed by NGOs with observer status is the preparation of 'shadow' reports on the human rights situation in their countries. These 'shadow' reports enable the Commission to have a constructive dialogue with a State representative when that country's periodic report is being considered.

6. During its 11th Ordinary Session held in Tunis, Tunisia, the Commission reiterated its desire to co-operate with NGOs in the promotion and protection of human and peoples' rights on the continent. In order to encourage and ensure reciprocal commitment on the part of its NGO partners, it was decided that all NGOs that have observer status with the Commission should submit their activity reports once every two (2) years from the date the said status was granted.
7. The Commission's readiness to co-operate with national, regional and international Human Rights NGOs is further emphasized, and its importance stressed in the Mauritius Plan of Action 1996 - 2001, which was adopted at the Commission's 20th Ordinary Session. The said Plan proposes the creation of an exchange and communication network, especially with regards to NGOs operating in Africa, to establish an appropriate mechanism for promotional and protective activities in Africa. This network is intended to enhance co-operation amongst NGOs and the Commission concurrently.
8. The present status of submission of the activity reports of NGOs in compliance with the decision taken at the 11th Ordinary Session of the Commission leaves much to be desired. Out of 231 NGOs that had been granted observer status by October 1998, 197 were expected to have submitted all due and overdue reports. Out of this number, only 26 have submitted all their reports up to date, 48 have submitted some of the reports and 114 have submitted none at all. This clearly shows the extent of the lack of commitment on the part of these NGOs.
9. It is also clear that the Commission continues granting observer status to NGOs, while it is not adequately informed by most of them about what work they are doing in the sphere of human rights or how they are helping to promote and/or protect human rights in Africa. The very essence of having NGOs as partners in creating a culture of recognition of and respect for human rights on the African continent is thereby betrayed.
10. Note must also be taken of the fact that some of these NGOs on occasion, have been found to use their granted status to raise funds which is sometimes totally misused, or is used for purposes other than the promotion and protection of human rights. The fear, therefore, that some of them may have either changed their mandate or shifted their focus to issues other than human rights becomes legitimate.
11. To address this situation, it is hereby recommended that the Commission revise its criteria for granting and enjoying observer status.
12. The Conference of the Heads of States and Governments of the Organization of Africa (OAU), as its Thirty-Fourth Ordinary Session [AHG/Dec. 126 (XXXIV)

para. 3], requested the African Commission to review its criteria for granting and enjoying observer status to NGOs.

Therefore,

The African Commission on Human and Peoples' Rights, meeting at its Twenty-Fourth Ordinary Session from 22 to 31 October 1998, in Banjul, The Gambia,

Recalling that the African Charter on Human and Peoples' Rights, which entered into force on 21 October 1986, mandates the African Commission on Human and Peoples' Rights under Article 45 (1)(c) to co-operate with other African national and international institutions concerned with the promotion and protection of human and peoples' rights;

Recalling further its decision taken during its Second Ordinary Session held in Dakar, Senegal, in February 1988, to grant observer status to NGOs working in the field of human rights in Africa;

Also recalling Rules 75 and 76 of the Commission's Rules of Procedure which further emphasise this co-operation;

Aware of the Mauritius Plan of Action which emphasises the importance of co-operation with NGOs,

Convinced that such co-operation will provide NGOs with the support and opportunity to work closely with the Commission, and recognising the invaluable role institutions such as NGOs can play in the enhancement of human rights in Africa;

Further convinced that for any meaningful co-operation to take place, there has to be commitment and reciprocity on the part of all parties;

Bearing in mind the decision taken at its 11th Ordinary Session requiring all NGOs having observer status to submit their activity reports to the Commission at least once every two years;

Convinced that the submission of activity reports by NGOs is a way of enhancing the protection of human rights, and the co-operation between the Commission and NGOs;

Firmly convinced that the said reports can be very invaluable not only to the Commission, but also to the ever increasing number of human rights workers around the world;

Considering the request of the Conference of Heads of State and Government of the OAU to review the criteria for granting observer status to NGOs;

EXPRESSES its profound appreciation to those NGOs which have submitted their reports regularly;

NOTES WITH CONCERN the fact that the majority of NGOs whose reports are due have not submitted their reports, and have ceased communicating with the Commission;

DECIDES that representatives of NGOs that have applied for observer status should be present to be interviewed during the consideration of their application;

DECIDES ALSO to review, in conformity with the Decision AHG/Dec.126 (XXXIV) by the Conference of the Heads of State and Government, the criteria for obtaining and enjoying observer status with the Commission;

INVITES NGOs which have observer status with the Commission but which have not yet submitted their overdue reports, to do so before the 27th Ordinary Session of the Commission.

DECIDES FINALLY to revoke observer status of any NGO that does not submit any activity report at the 27th Ordinary Session.

REQUESTS the Secretary to the Commission to submit a report on the implementation of this resolution at each Session.