

ACHPR/Res.31 (XXIV)98: RESOLUTION ON GRANTING OBSERVER STATUS TO NATIONAL HUMAN RIGHTS INSTITUTIONS IN AFRICA

BACKGROUND

In the preamble of the African Charter on Human and Peoples' Rights adopted at the Eighteenth Conference of Heads of State and Government in Nairobi in June 1981, Member States of the Organization of African Unity reaffirmed

"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 United Nations."

In the same preamble, African Countries pledged to "...coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa and to promote international cooperation having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights."

With the aim of concretizing this commitment, Article 26 of the African Charter on Human and Peoples' Rights stipulates that :

"States 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."

The use of the word "allow" suggests not just encouraging and promoting the establishment of National Institutions but also developing a mutually cooperative relationship in order to "promote and ensure, through teaching, education and publication, respect for the rights and freedoms contained in the present charter ..." (Article 25).

National Institutions, therefore, are an essential partner in the implementation of the Charter at National Level. It is noted that the Mauritius Plan of Action (1996-2001) envisages workshops on national institutions as one of its promotion activities. It also seeks the cooperation of national institutions in fulfilling its mandate of promoting and protecting human and peoples' rights.

Finally, the 2nd Seminar of Ambassadors of African States to the OAU held in Addis Ababa from 8 to 9 September 1998, recognized the importance of National Institutions and urged Governments to accord them appropriate support.

African States in general and the African Commission on Human and Peoples' Rights in particular took an active part in the deliberations of the World Conference on Human Rights which was held in Vienna in June 1993. The Vienna Conference's Declaration and Programme of Action reaffirmed:

"the important and constructive role played by national institutions for the promotion and protection of Human Rights, in particular in their advisory role to the competent authorities, their role at remedying human rights violations, in the dissemination of information and education in human rights."

The World Conference on Human Rights also encouraged:

"the establishment and strengthening of national institutions..." and recognized "that it is the right of each State to choose the framework which is best suited to its particular needs at the national level "

At this Conference a formal status was granted to the International Committee for Coordination of National Institutions as a statutory liaison instrument of the United Nations system. This Committee shall organize a biennial world meeting of national institutions.

At the International level, the United Nations Human Rights Commission approved by its Resolution 1992/54 of the 3rd of March 1992 under the heading "**Principles Relating to the Status of National Institutions**", also known as the Paris Principles, rules which define the mandate of such institutions. The General Assembly of the United Nations endorsed these principles in its Resolution 48/144 of 20th of December 1993.

The objective of these principles is to guarantee the independence of national institutions in their work and pluralism in their composition. The central mission of national institutions is to play an advisory role to the government, parliament and other relevant bodies and authorities involved in giving opinion and making recommendations on all issues related to the promotion and protection of human rights.

In Africa, the trend to establish national institutions has continued to develop especially after 1991. At present, Africa has more than twenty (20) national human rights institutions which are represented in the International Coordination Committee by Cameroon, Morocco, South Africa and Togo.

At the first conference of national human rights institutions in Africa held in Yaounde, Cameroon, from 5 to 7 February 1996, participants adopted the Yaounde Declaration which commended "...the creation of new National Institutions in Africa..." and expressed the hope that these institutions will be given "... a proper representative status on the African

Commission." At the 2nd Conference of African National Institutions held in Durban from 1 to 3 July 1998, the need for a clear relationship and a unique status in the African Commission were reiterated.

Since the Mauritius Session, the issue of African national human rights institutions has always been included on the agenda of meetings of the Commission. A paper on this subject was presented by Commissioner K. Rezag-Bara at the 21st Ordinary Session of the Commission held in Nouakchott, Mauritania in April 1997. The Commission decided at its 22nd Ordinary Session

held in Banjul in November 1997 to entrust Commissioners K. Rezag-Bara and N. Barney Pityana with the task of preparing a draft resolution on the advisory status of national institutions in the African Commission on Human and Peoples' Rights. The matter was deferred for finalization at the 24th Ordinary Session.

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,

Considering the preamble of the African Charter on Human and Peoples' Rights which reaffirms the adherence of African States to "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";

Considering that Article 26 of the African Charter on Human and Peoples' Rights stipulates that "States Parties to the present Charter shall have the duty to ... allow the establishment and the improvement of appropriate national institutions entrusted with the promotion and protection of rights";

Considering the recommendation adopted in the Programme of Action of the World Conference on Human Rights held in Vienna, Austria in June 1993 and United Nations resolutions on human rights, particularly resolution 1992/54 of 3 March 1992 of the Commission Human Rights and resolution 48/134 of 20 December 1993 of the United Nations General Assembly;

Considering the decisions, resolutions, recommendations and the final declaration adopted by the first conference of national human rights institutions in Africa held in Yaounde, Cameroon from 5 to 7 February 1996 and the 2nd Conference held in Durban, South Africa on 1 - 3 July 1998;

Convinced of the importance of the role of national institutions in the promotion and protection of human rights and in creating public awareness in Africa with regard to the institutional defense of human rights;

1. **COMMENDS** the increasing interests shown by African states in establishing and strengthening national institutions for the protection and promotion of human rights based on the principles of independence and pluralism.
2. **RECOGNIZES** that it is the right of each state to establish, according to its sovereign prerogatives and within the most appropriate legislative framework, a national institution charged with the promotion and protection of human rights according to internationally recognized norms.
3. **NOTES WITH SATISFACTION** the significant participation of African National Institutions in the deliberations of the sessions of the African Commission on Human and Peoples' Rights and registers positively the wish

expressed by several institutions to be granted an observer status with the Commission.

4. **DECIDES** to grant special observer status to any African national institution established in Africa and functioning according to internationally recognized norms and standards.
- a. that the following criteria for the status of affiliated institution shall apply:
 - the national institution should be duly established by law, constitution or by decree;
 - that it shall be a national institution of a state party to the African Charter;
 - that the national institution should conform to the Principles relating to the Status of National Institutions, also known as the Paris Principles, adopted by the General Assembly of the United Nations under Resolution 48/144 of 20 December 1993.
 - that a National Institution shall formally apply for status in the African Commission.
 - b. that such institutions shall have the following rights and responsibilities.
 - be invited to sessions of the African Commission according to rule 6 of the Rules and Procedures,
 - be represented in public sessions of the Commission and its subsidiary bodies,
 - participate, without voting rights, in deliberations on issues which are of interest to them and to submit proposals which may be put to the vote at the request of any member of the Commission.
 - c. that any national institution shall be required to submit reports to the Commission every two years on its activities in the promotion and protection of the rights enshrined in the Charter and;
 - d. that the National Institution will assist the Commission in the promotion and protection of human rights at national level.