

Three Human Rights Organisations Based in Banjul, Africa

**The African Commission on Human and Peoples' Rights,
The African Centre for Democracy and Human Rights
Studies, The African Society of International and
Comparative Law**

**Lennart Wohlgemuth
Jonas Ewald
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**Department for Democracy
and Social Development**

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Sida Evaluation 98/35

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EXECUTIVE SUMMARY

This study was commissioned by Sida with the objective of assessing the three regional human rights organisations based in Banjul: *The African Commission on Human and Peoples' Rights* (African Commission), *The African Centre for Democracy and Human Rights Studies* (African Centre) and *The African Society of International and Comparative Law* (African Society) in the African context for promotion of democracy and respect for human rights, as well as the relations between the Raoul Wallenberg Institute and the respective organisations. The evaluation is expected to give Sida, the Raoul Wallenberg Institute and the three human rights organisations concerned a more profound and analytical understanding of their different roles and tasks and to provide a basis for consideration of possible Swedish (and other bilateral) future support to these organisations (see further the terms of reference in Appendix).

The assignment has been carried out through the study of available documents, reports and budgets, by interviewing management and employees of the organisations, members of the Boards, Commissioners, representatives of OAU, member governments, international NGOs and African human rights organisations, and by participating at the bi-annual meeting of the African Commission in Banjul at the end of October 1998.

The present situation in Africa as regards Human Rights is not very encouraging. The high hopes for the protection and promotion of human rights at the time of independence have materialised in only very few countries. Counter-forces have, however, developed in Africa as elsewhere. After strong pressure from the African public, NGOs and the international community the African Charter on Human and Peoples' Rights was adopted by OAU in June 1981 and came into force in October 1986. An African Commission on Human and Peoples' Rights was accordingly set up in July 1987.

Today human rights in Africa are monitored at the local level by an increasing number of very active local human rights organisations. In some countries a Commission on Human Rights has been created sometimes by the Government, sometimes by the civil society. On the African supranational level the African Commission is the only African owned and African administered institution in this field. Finally on the international level there are various institutions led by the UN High Commissioner for Human Rights and a number of very active international NGOs. To become effective all these actors must cooperate, an endeavour in which on the African level, the African Commission has a very important role to play.

African Commission on Human and Peoples' Rights

The African Commission is comprised of eleven Commissioners elected by the OAU. It meets twice a year and is served by a secretariat situated in Banjul. It has three major functions: promoting of human and peoples' rights in Africa, protecting these rights and interpreting the African Charter.

The African Commission has now been in operation for more than 11 years. It had a very difficult start with its performance only slowly picking up in 1994. Apart from the common problems all new institutions face in this very difficult area, (it took the European Commission of Human Rights more than 20 years to become accepted and perform efficiently), the Commission suffered from lack of acceptance among the member states and OAU. This took the form of insufficient funding, placement in a very remote place with unsatisfactory communications, and a questionable recruitment policy.

However, during the early period the Commission established close relations with human rights NGOs both inside and outside Africa. This relationship strengthened both parties and gave the Commission an important voice both within Africa and internationally. With the increased awareness of the importance of protecting and promoting human rights in the mid-nineties and with the help of the co-operating partners, the situation for the Commission has changed considerably in the past few years.

The Commission, as well as the Secretariat, has been strengthened with new and qualified African staff, accountability and efficient administrative routines have been introduced, the quality of work has improved, and additional funds have been secured from the international community. Although much still remains to be done in order to improve the effective running of the operations, the Commission is today a relatively well functioning institution which performs its duties with a reasonable amount of success.

The African Commission is today an important actor in the field of human rights in Africa. Its bi-annual meetings act as a meeting place twice a year for all parties concerned. Although it still has a long way to go, it is increasingly seen as a leading actor on the scene which states start to both fear and respect. The increasing number of state representatives participating at the meetings is an indicator thereof. It is now important that the African Commission pursues both its protection and promotional role even further and disseminates its findings widely and transparently.

However, a number of fundamental weaknesses have also been identified, which, unless they are addressed and resolved over time and with appropriate political sensitivity, will for ever impede the Commission from fulfilling the function which is to be expected of it. Such questions are for example the impartiality of the Commissioners and thereby the independence of the Commission; the question of revision of the charter; the question of the Commission having the right and duty to publish its own findings; the question of sufficient time and assistance for the Special Rapporteurs. The authority and credibility of the Commission will always be compromised as long as it is perceived to lack independence from political control. We completely understand that bringing about change in this situation can only be slow and progressive. Nonetheless we believe that this principle has to be recognised and that there are a number of steps that can be taken to begin the process of addressing this fundamental weakness.

The problem also remains to secure sufficient and sustainable funding to the Commission. As the founder and parent organisation OAU should be expected to meet its obligations and take on a substantial and increasing share of the costs required to run the institution efficiently. However, the African Commission being such an important force in promoting and protecting human rights in Africa, donors interested in this course should be prepared to meet the short-fall and thereby take on a considerable portion of these costs. The Danish and, to a lesser extent, the Swedish initiative in this direction should be followed by others.

The Danish model of multi-year agreements providing for support to specified core activities should be seen as a model for Sweden as well as others. It has to be a sustainable commitment and cleared with OAU. Funds should be channelled directly to a special account at the Commission with a special auditor appointed by the donor/s. Sida should channel its funds directly to the Commission via multi-year agreements directed to core activities of the Commission. The Raoul Wallenberg Institute should become an expert adviser to Sida and a dialogue partner with the Commission on matters of substance rather than act as a channel and supervisor of funds. In the case that this is not acceptable to Sida then we recommend that another organisation be identified that has both the experience and appropriate resources to act as the grants administrator.

The African Centre for Democracy and Human Rights Studies

The African Centre is an NGO based in the Gambia. Its objectives are to promote and protect human rights as well as democracy. After internal problems, financial irregularities and the military coup, it was re-launched in late 1995 as a pan-African organisation with a new board, director, organisation and status. It works mainly as a training institute for human rights NGOs and organises 4-7 courses/seminars annually. It has the ambition to facilitate regional networking, capacity building among NGOs and work as an interface between the African Commission and NGOs. It plays a role in the protection of human rights in the Gambia. The total income for 1998 was about USD 698,000. BILANCE of the Netherlands is the single most important donor. Sweden through the Raoul Wallenberg Institute channels SEK 350,000 to a five-day training course in international human rights procedures. Sida should continue directly supporting the Centre and include some support to the recruitment of high quality staff.

The African Society of International and Comparative Law

The African Society of International and Comparative Law is a membership organisation particularly for African lawyers. It is also an active grassroots NGO operating legal advice schemes in the Gambia and Ghana. It also provides publishing and lawyer recruitment services to the African Commission. The Society has offices in Banjul, Accra and London, and plans to open in Kampala

and Cotonou. Its principal activities are: organisation of an annual conference; publishing; provision of lawyers to the African Commission; operation of legal advice schemes; recruitment of new members; advocacy. The evaluation finds that the Society functions competently in all the above, but recommends a closer focus on justice and human rights topics for its annual conferences. The Society has been funded by Sida for nearly ten years but the annual grant (through the Raoul Wallenberg Institute) is now less than half its original value. Denmark is currently the largest funder. Sida should continue to support the Society at a higher level of funding.

FINDINGS AND RECOMMENDATIONS

The African Commission

The African Charter

The African Charter came into force more than 12 years ago. With time a number of weaknesses and obstacles and omissions have been identified, which should be dealt with. In addition interpretation of different clauses of the Charter has to be done continuously. Over the years, these interpretations seem to have become increasingly broader and bolder.

Recommendation 1. The Charter should be revised and the clawback clauses revoked at some point. Whether this should be attempted sooner or later, by complete revision of the Charter or by adding Protocols to it, is best judged by the Commissioners and the political managers of the OAU. In the meantime the Commission should continue to interpret the Charter both broadly and boldly.

The Functioning of the Commission

Progress has been made on both of the main functions of the Commission: protection as well as promotion of human rights. Remaining problems are 1) the limited time the Commissioners have at their disposal at each meeting as well as between the meetings for preparatory and promotional work – particularly as regards the Special Rapporteurs, 2) lack of funds for extension of sessions, travel and communications both for the Secretariat and the Commissioners and 3) insufficiently well prepared agendas for the Commission meetings. One important feature in the promotional work is the collaboration between the Commission and the NGOs. As the Commission has limited resources local NGOs have to take over in those areas which the Commission cannot reach. To make this possible and to further improve the performance, different African NGOs must become involved in these activities. The Commission and the NGOs, including the international NGOs and donors, have to reassess their way of working to make this possible.

To improve promotion of human rights in Africa the member states should be encouraged to produce their mandatory reports on the human rights situation in their respective countries. Refined guidelines, training of report writers, collaboration with the recipients of similar reports and political pressure from the OAU and donors are ways to come to grips with this problem.

Recommendation 2. The Commissions's meetings should be better prepared with a well thought through agenda and be of sufficient length to allow for the agenda to be exhausted.

Recommendation 3. The final decision on complaints should be well supported on legal grounds, well formulated and published as quickly as possible.

Recommendation 4. The Secretariat's plans for promotional activities should be financed and implemented. More countries should be visited by teams from the

Commission. The Commission must recognise and support the fact that local NGOs take over where the Commission does not reach.

Recommendation 5. NGOs and in particular international NGOs have to reassess their ways of working and find new avenues to broaden the involvement of local NGOs and other parties within the different African states.

Recommendation 6. Considerable efforts have to be made to increase the number of member states presenting their mandatory reporting to the Commission. Donors with an interest in human rights in Africa are also requested to assist in this endeavour.

Confidentiality and reporting

For the Commission to have an impact on the human rights situation in Africa, openness and transparency are a must. By publishing verdicts on human rights violations and reports on the human rights situation in countries the Commission can reach out to all of Africa and hopefully create a sense of “shame” towards such violations. In the past few years the Commission has become more open and transparent. However, much remains to be done.

Recommendation 7. The Commission should work out an information strategy including the quick and timely publication, in the necessary languages, of all decisions taken on state reports and complaints about human rights violations. The recently established Newsletter could be an important instrument for such a strategy.

The Structure of the Commission

The structure and working of the Commission has also improved in recent years. However, there still remain considerable imbalances as regards geographical and gender representation and the question of incompatibility (i.e. of some of the Commissioners also being full-time, high level government employees) is emphasised by many. The perceived independence of the Commission will be its strongest asset in the future. Procedures are required to guard against allegations of political partiality. Furthermore the issue of how much time Commissioners and in particular the Special Rapporteurs should work for the Commission both during and between the Commission meetings must be looked into.

Recommendation 8. Efforts should be made to improve the geographical and gender balance in the Commission, and there should be a review by the OAU of the procedures and criteria for nomination and appointment of Commissioners.

Recommendation 9. A study should be made on the issue of how much time Commissioners should be required to work for the Commission during and between meetings and the consequences of this as regards costs both for remunerations and for travel and communications. Particular consideration should be given to the needs of Special Rapporteurs. They require research assistants to produce substantial reports and publicity machinery to ensure wide attention for their findings.

The Secretariat

A well functioning secretariat is a prerequisite for the Commission to implement its functions efficiently. After a false start the performance of the Secretariat has slowly but steadily improved. Today although much still remains to be done the operations of the Secretariat function relatively well. It has at present an appropriate size and the staff is of good quality.

Recommendation 10. The Secretariat must now consolidate its operations. A strategic plan should be worked out on how to implement its duties with the present number of staff. Improved efficiency of the administration, accountability, transparency and a good recruitment policy should be emphasised. The plan should also assess the total costs necessary for the efficient operation of the Commission, an assessment which should be borne in mind for fund raising.

Financing and international assistance.

Sufficient funds for an efficient running of the Commission have hitherto never been secured. The funds allocated by OAU are far from adequate. The Commission has therefore since its founding had to rely on external sources for financing. This has been done on an ad hoc basis and never been enough. Only in very recent years has the Commission secured some funds on a more sustainable basis for core activities mainly from Denmark.

Recommendation 11. After having assessed the total costs required to run the Commission, the priority should be for OAU to meet a substantial part of those costs. Donors should open a direct dialogue with the OAU on this matter.

Recommendation 12. The Commission should strive to ensure that the shortfall is financed by a broad number of donors and to obtain multi-year commitments for the core activities identified in the strategic plan.

Swedish Assistance

Sweden through Sida has supported the Commission since 1991. Since 1993 all funds have been channelled through the Raoul Wallenberg Institute. The support has been earmarked for travel for Commissioners and for communications costs. Basically no funds have been paid directly to the Secretariat. The funds have been allocated to important functions but the administration thereof has been rather cumbersome. The Raoul Wallenberg Institute has had to concentrate its efforts on the day to day problems of implementation and not been able to use its special competence to maintain the dialogue with the Commission on matters of content.

Recommendation 13. Sida should in the future channel its funds directly to the Commission, in the form of three-year agreements providing support to specified core activities. A special account should be opened at the Commission which should be audited annually by an external auditor appointed by Sida. It would be preferable to do this jointly with one or more other donors.

Recommendation 14. The Raoul Wallenberg Institute should in the future be requested to act as an expert adviser to Sida and a dialogue partner to the Commission on matters of substance.

The African Court

In June 1998 OAU took a decision to create an African Court for Human and Peoples' Rights. It is too early to predict precisely what impact the Court will have on the work of the Commission. Duplications must be avoided and enough funds must be secured to run both institutions efficiently otherwise the high hopes for improving the human rights situation in Africa which so many have vested in the creation of the Court will be disappointed.

The African Centre for Democracy and Human Rights Studies

The work of the African Centre is relevant for the promotion of human rights through its linking of NGOs in different African regions, dissemination of information, training and contribution to capacity building among NGOs. It constitutes an interface between the African Commission and the NGOs. The Centre provides one of many contributions to the building of national and a pan-African civil society, and is recognised by the African and international NGO community. It has developed a considerable experience of organising workshops and seminars.

Recommendation 15. The support to the Centre shall continue. Considering the human rights situation, the need to strengthen the co-ordination among NGOs and the need to consolidate the democratisation process, it has a role to play in the future, even if there exist a number of other regional networks that do similar work.

Administrative capacity and organisational structure

The Centre has gone through a reform process and has a reasonable administrative capacity and competence to plan and implement its activities. Its finances are well managed and audited annual reports are delivered on time. The governing and the advisory councils take a large part in its work and an executive committee assists the management. There exist, however, severe weaknesses in the organisation and it is necessary to monitor the outcome of the organisational changes closely, as well as the development of other regional organisations/networks.

Recommendation 16. The organisational changes agreed upon should be implemented and closely monitored.

The Swedish support

The course Sweden has been supporting provides better knowledge on international and African human rights procedures and expands the NGO network. As with the courses on NGO-management, documentation, and women's human rights procedures, it is appreciated by participants and in great demand. The course is expensive, due to high travel and accommodation costs.

Recommendation 17. Arranging the courses in a cheaper way should be considered in order to allow for more participants and/or a prolonged course that could include more practical training and focus on African human rights procedures. The courses must be followed up and NGOs consulted in the planning of their structure and content. The courses could be arranged in connection with the NGO workshop in order to reduce travel costs.

Recommendation 18. The Swedish support should also enable a consolidation and institutional development of the organisation. It might be co-ordinated with that other donors in such a way to include core support to a legal and research officer/training officer. The programme should be on a two or three-year basis, with annual "check points". Limited support to the African interns' programme should also be considered, in order to facilitate an exchange of staff and competence.

The African Society of International and Comparative Law

The African Society functions well both administratively and within its six functions studied in this evaluation. Some weaknesses have, however, been identified which require attention by the Management of the Society. The support from Sida, administered by the Raoul Wallenberg Institute, has been of great value for the Society but has been short-term in character and therefore made long-term planning difficult for the Society.

Recommendation 19. The evaluators' recommendations include the following:

- Maintain/increase funding support but insist on a written plan with annual objectives and priorities.
- Agree a fixed annual grant for a forward period of three years.
- Stick to current activities but improve performance.

Conference

- Profile of participants to establish key target audiences.
- Review relevance of themes/topics.

Publishing

- Update mailing list and develop marketing strategy.
- Beware being side-tracked into marginally relevant work.

Relations with the African Commission

- Explore African intern scheme with African universities.

Legal Advice

- Planned expansion.

Membership/Offices

- Needs planning and investment.

Finance and Administration

- Discuss strategy with donors to accumulate a modest Reserves Fund.
- Review salary scales for administrative staff.
- Review staffing requirements, especially for planning and reporting.

The role of the Raoul Wallenberg Institute (RWI)

The Raoul Wallenberg Institute's main function lies in the field of research and training in human rights law. It is well equipped both as regards highly qualified staff and documentation, and is very well recognised internationally, something the evaluators have witnessed everywhere. As regards the three Banjul-based institutions, Sida has requested the Raoul Wallenberg Institute, as an exception to what it usually does, to take on a more detailed and administrative role. The Raoul Wallenberg Institute has had difficulties in this role and thereby has not been able to act in the areas where it has its special competence.

Recommendation 20. The Raoul Wallenberg Institute should not be requested to manage the detailed administration of the grants to the three organisations but rather act as an expert vis-à-vis Sida and a dialogue partner with the organisations on matters of content.

THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

Background

Human rights issues have come into sharper focus since the end of the Cold War. The number of internal conflicts and wars is rising sharply and human rights violations occur all over the world. To counteract that trend, legal frameworks and institutions are being created. The leading force behind this development is the UN and its major bilateral supporters, which in turn are pressurised by NGOs, political movements and individuals. Human Rights were already consecrated in the UN Charter in 1945, although in general terms. They were later elaborated in the Universal Declaration of Human Rights of 10 December 1948 which divided them into two main categories: 1) economic, social and cultural rights; and 2) civil and political rights. With its constant repetition and reaffirmation in subsequent instruments, universal and regional, as well as in national constitutions, it is argued that the declaration, at least in its essential principles, has become part of international customary law, binding on all states without their express consent (Umozurike). Two World Conferences on Human Rights have been held, the most significant in Vienna in 1993. A special institution in the UN High Commissioner for Human Rights, was created in 1994 to oversee the work in this field. Three documents deal with Human Rights on a continental basis: 1) the European Convention for the protection of Human Rights and Fundamental Freedoms, 1950; 2) the American Convention on Human Rights, 1969; and 3) the African Charter on Human and Peoples' Rights, 1981.

There is ample literature on the world wide human rights situation after the Second World War and on the efforts to come to grips with the various difficult situations. This is also true as regards Africa. The evaluators will therefore mainly refer to that literature and only very briefly discuss the general developments to date in the field (Ake, Ankumah, Welch, Umozurike, Viljoen). In order to assess the relevance and impact of various efforts in the field of Human Rights in Africa, which is the purpose of this evaluation, it is of utmost importance to understand the overall Human Rights situation on the continent.

Human Rights in Africa

Human rights principles were by no means absent in precolonial Africa. As Umozurike concludes:

Traditionally, the rights of full members of the society were fully integrated into the rights of the society as a whole; they were not held against the society but were complementary with societal rights. Human rights were conceptually linked with the traditions of the people, the observance of which was of immense interest to the people. Thus, human rights, at any rate those that were recognised by the community, were effectively enforced, but for the benefit of the members of the society. ... The rights-clamourers must be prepared to carry out

the obligations that went with them, for rights were intertwined with duties (Umozurike).

Relating individual rights to societal rights Claude Ake notes: *We put less emphasis on individuals and more on the collectivity, we do not allow that the individual has any claims which may override that of the society. We assume harmony, not divergence of interests, competition and conflict; we are more inclined to think of our obligations to other members of our society rather than our claims against them. (Ake).*

The period of the slave trade with its suppression and desecration of human rights, started the undermining of the traditional balance and the colonial period undermined most of what still remained. The deconstruction or denigration of African religion, culture, languages and traditions weakened African roots and was partly responsible for the continent's backwardness and underdevelopment. Colonialism denied people their basic right to determine their political, economic and social future (Umozurike).

With the liberation of Africa, starting with Ghana in 1957, there were high hopes for the protection and promotion of human rights and for the restoration of African dignity. Constitutions and legal systems were adopted, similar to those of the colonial powers, including everything that would allow for a positive development. However, with a few exceptions, the hopes never materialised. On the contrary, many of the practices from the colonial period reappeared, and the democratic development failed, opposition groups were suppressed and military leadership became prevalent. In many places, the rule of law changed to the rule of force. Indeed, respect for human rights reached a low watermark on the continent at the end of the 1970s (Umozurike), and there are signs that the situation is again deteriorating in the nineties.

As things worsened, counter-forces developed. As early as 1961, a first inter-African meeting took place between a great number of jurists who made important recommendations on the improvement of human rights in Africa under the title of "The Law of Lagos". The recommendations suggested for the first time an African Human Rights Charter with a court to which individuals and groups might have recourse. This idea was later developed at a number of professional meetings and later also politically under the auspices of the OAU. The OAU and its member states were, however, very reluctant to accept the proclamation of individual rights for African people. They justified their reluctance by relying on "the domestic jurisdiction principle" and the preoccupation with maintaining the African countries' political sovereignty and territorial integrity (Ankumah). After strong pressure from the African public, NGOs and the international community the African Charter was finally adopted by the 18th Ordinary Session of the Assembly of Heads of State and Government of the OAU, June 1981. The Charter came into force in October 1986.

The African Charter or the Banjul Charter, as it is occasionally called, is composed of four sections, a preamble and three main parts. The first part, Articles 2-30, lists human and peoples' rights and duties. The second part,

Articles 31-62, contains the safeguard measures, specifically the establishment and organisation of the African Commission on Human and Peoples' Rights. The third part, Articles 63-68, deals with general administration.

The African Charter reflects, to a great extent, the discourse on human rights prevailing internationally at the time of its development but also contains a number of distinctive features, in many ways purporting to reflect an African philosophy of law and conception of human rights and an attempt to embrace all three branches of human rights (civil and political rights, economic, social and cultural rights and solidarity rights, in particular the right to development). The most important of these features is the presence of "*peoples*" in the title, which refers to group rights or collective rights, among them the rights of people to self-determination, to development and to their environment and the right to freely dispose of natural resources. The African Charter also imposes duties upon the individual towards the State and community. Unlike other human rights treaties, many of the individual rights guaranteed by the Charter contain "clawback" clauses, restricting some rights e.g. by making the provision that a right is subject to law and order in the specific country. This could be construed to mean that the level of protection provided by the Charter is equated with the level of protection provided by domestic law (Viljoen). An example of this is article 10, which provides that every individual has the right to free association "provided he abides by the law".

The embracing of all three generations of Human Rights is a major strength but also a weakness in the Charter. The Human Rights discourse is to its nature etatistic and legalistic, as it is based on states and treaties among states, the states that often are the violators of human rights. In Africa with its weak or authoritarian states, ongoing or emerging conflicts in 20 countries and stalemated development, it is necessary to link the discussion on human rights with the process of democratisation, conflict resolutions and development, even if this makes it more difficult to make legal interpretations. Legitimate democratic procedures will be the only long term guarantee that a state that has ratified the charter also establishes a human rights regime, despite lack of political will in a ruling elite. In addition conflict resolution and development is necessary to establish security on individual as well as group and state level.

The Charter took effect on 21 October 1986, after it had been ratified by a simple majority of OAU members as required. By mid-1998, only Eritrea had not ratified or acceded to it; two states (Egypt and Zambia) had made reservations.

The African Commission

The Structure

In accordance with the Charter, a Commission on Human and Peoples' Rights was set up on 29 July 1987 with three major functions: the promoting of Human and Peoples' Rights in Africa, protecting these rights and interpreting the African Charter.

The Commission is composed of eleven members, called Commissioners and shall not include two nationals from the same State. They must be of the nationality of a state which is a party to the African Charter and are chosen "from amongst African personalities with the highest reputation, known for their high morality, integrity, impartiality and competence in matters of human and peoples' rights: particular consideration should be given to people having legal experience". They serve in their individual capacities and should be free from improper influence and bias (Ankumah). However, some Commissioners hold high government positions which might lead to conflicts of interest.

Commissioners are nominated by member states and elected by the Assembly of Heads of State and Government of the OAU for a six-year period and may be re-elected. The Commission elects its Chairman and Vice-Chairman for a two-year period and they are re-electable. The Commissioners have so far all been lawyers or diplomats, trained in public international relations. The working languages of the Commission are English, French and Arabic.

The Commission meets twice a year originally for 15 days but at present, due to lack of funds, for only 10 days. The balance between open and closed meetings at the sessions varies with the items on the agenda. Since the 15th Session the Commission has seemed much more interested in demonstrating an open attitude.

In past years the Commission has appointed Special "Rapporteurs" on subjects which are felt to be of special importance to be followed up and perused. Presently three Commissioners have been appointed as Special Rapporteurs for "Extra-Judicial Executions", "Prison Conditions" and "Women's Rights" respectively.

The Secretariat to the Commission

The Secretariat to the Commission has since June 1989 been situated in Banjul. Apart from the Secretary to the Commission, the staff was intended to consist of one legal officer, one accountant/administrator, one bilingual secretary, one filing clerk as well as support staff and security.

The main aim of the Secretariat is to assist the Commission in effectively carrying out its mandate, by handling all the technical and administrative work. This includes, among other tasks the preparation of:

- complaints against State Parties concerning human rights abuses submitted to the Commission for consideration;
- state reports to be examined by the Commission;
- all working documents for the session;
- all the necessary arrangements in connection with the organisation of the sessions; and
- all preparatory work for promotion activities.

The Secretary of the Commission shall be responsible for the activities of the Secretariat under the general supervision of the Chairman and particularly:

- assist the Commission and its members in the exercise of their functions;

- serve as an intermediary for all the communications concerning the Commission;
- be the custodian of the archives of the Commission;
- ensure follow up of decisions, resolutions and recommendations taken by the Commission during its sessions and handle all financial and administrative matters of the Commission and Secretariat in consultation with the OAU Headquarters; and
- bring, immediately, to the knowledge of the members of the Commission all the issues to be submitted to it.

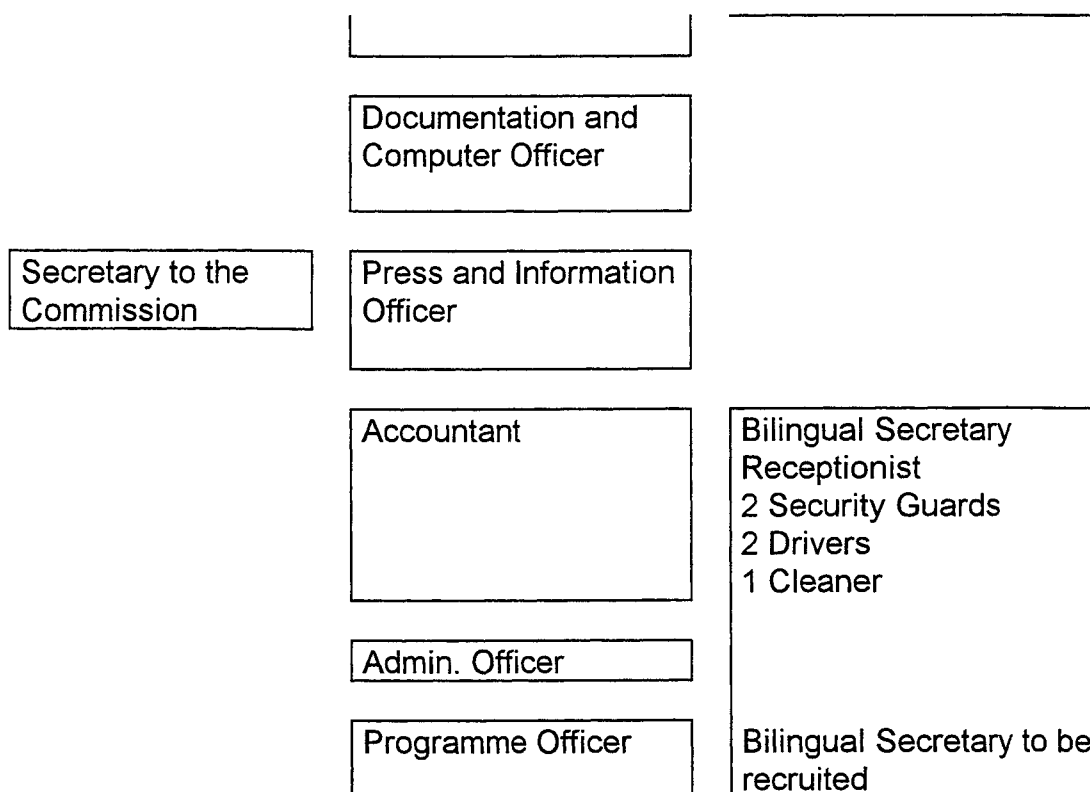
One cannot overemphasise the crucial role the Secretary to the Commission and the Secretariat play, considering the limited time the Commission has to implement its activities.

The OAU is the founding organ of the African Charter and the Commission. The OAU is supposed to bear the cost of the operation of the Commission and of the Secretariat. However the funding from the OAU is not sufficient, and has never even covered the cost for the minimum staff required to run the Secretariat, nor the funds needed for the proper running of the Secretariat and the Commission meetings. NGOs and international development agencies have therefore over the years been asked to fund various parts of the work of the Commission and the Secretariat. Some of the support has been in the form of providing interns, who for the most part have worked as volunteers and without pay as legal officers and covered a major part of the burden of preparing for the bi-annual meetings of the Commission. Up to 1995 most of these interns came from Denmark through the Danish Centre for Human Rights. After having assessed the output of these interns and in order to decrease the over-reliance on non-Africans and to assist the Secretariat to recruit African staff, Denmark decided in 1996 to fund the recruitment of six staff members (two legal officers, one documentalist, one information officer, one administrator and one bilingual secretary) (see organigram below and Table 1 in Appendix). At present, all but one of these officers are working in Banjul. An agreement between the Secretariat and the Danish Centre for Human Rights supports these efforts for a three year period up to mid-2000. In addition, the Society (with funding from Denmark and the EU) supplies a number of legal officers recruited in Africa (see Table 1). Sweden through the Raoul Wallenberg Institute, supports the Secretariat and the Commission by providing funds for travel (mainly for promotional work) and communication such as fax and telephone costs. Others giving some support to the Commission are the EU, the UN High Commissioner for Human Rights, Austria, Interights and the Friedrich Naumann Stiftung. The host country the Gambia also supports the Commission in accordance with the Headquarters Agreement signed between the OAU and the Gambia.

African Commission on Human and Peoples' Rights Organigram

Legal Officer

2 for protection 2 for promotion



Functions of the Commission

The Commission adopted its Rules of Procedure in 1988 and amended them in 1995. The 120 Rules are intended to make the Commission a "rational and functionally effective organisation". The functions of the Commission may be divided into two main categories: Promotional and Protective activities.

(i) Promotional activities

One of the Commission's major functions is to promote human and peoples' rights. To do this, it collects documents, undertakes studies and research and organises seminars, symposia and conferences. In this endeavour it collaborates with national and international institutions concerned with human rights. A special system of observer status for these organisations has been created. Over the years a great number of NGOs have applied for and been granted such observer status (231 in 1998). They have interacted at the bi-annual meetings, providing both useful information and assistance in implementing the tasks of the Commission. Since 1991 the International Commission of Jurists (ICJ) has organised and financed workshops for NGOs immediately before the sessions. These workshops have become very important, allowing the members of the Commission to interact with the NGOs and vice versa. The NGOs also participate in the public sessions of the Commission. In addition to ICJ, the African Centre as well as the two Dutch organisations, Novib and BILANCE, provide funds for NGO participation at the Commission meetings.

The major actors, when it comes to the promotional activities, are the Commissioners. They are expected to carry out these activities during the inter-

session period. The tasks are considerable since each Commissioner only works part-time for the Commission and is responsible for three to five countries. Therefore, they have to find ways to work through other organisations. As they often find it difficult to work through the states they also depend here to a very great extent on local NGOs.

As a basis for the promotional work, each member state is, according to article 62 of the Charter, required to present country reports every two years on the status of human and peoples' rights in their respective countries, for which the Commission has issued detailed guidelines. These reports are discussed during the bi-annual meetings where representatives from the state are present (something which was not the case in the early years). NGOs from the country in question are also invited to give their comments, which allows for interesting discussions. Very few countries submit their reports on time. By mid-1998, only nineteen states had submitted their initial reports, three their second and one its third.

Confidentiality and reporting

A cornerstone for the promotional activities is the openness of the Commission's transactions and the publication of its results. However, from the outset the Charter has been cited by the Commission as an imperative to total secrecy about its most important role, that of protection (Viljoen). In this interpretation the activities of the Commission remained concealed from public view and scrutiny. This was much criticised on the grounds that a restrictive interpretation of confidentiality is problematic as publicity and its resultant shame have major deterrent effects in preventing future human rights abuses (Ankumah).

Following strong pressures, particularly from the NGO community, those practices have changed over the years and today the Commission openly disseminates a full account of the procedures and reasoning behind all communications finally decided by the Commission and forwarded to the Heads of State and Government of the OAU. The documents which include the information mentioned above are the Final Communiqués which are issued at the end of each ordinary session, press releases, and the Annual Activity Report which becomes a public document after its adoption by the OAU Assembly of Heads of State and Government. It is particularly the latter that includes the most important information. With the help of the African Society, the Commission also publishes the *Review of the African Commission on Human and Peoples' Rights* which contains articles and information on the Commission. The African Centre publishes accounts from each session in their quarterly newsletter. Finally, the Commission is to publish its own Newsletter at regular intervals. The first issue was published in October 1998.

(ii) Protective activities¹

In order to protect the rights in the Charter, the Commission investigates and makes recommendations about communications from individuals as well as from State Parties. The protective activities thus consist mainly of receiving

¹ This section relies on Malmström.

communications and acting on them in accordance with the prescriptions of the Charter.

As of September 1998, 217 communications have been registered at the Secretariat. These 217 communications had been submitted as follows: 22 in 1988; 14 in 1989; 12 in 1990; 14 in 1991; 23 in 1992; 41 in 1993; 16 in 1994; 3 in 1995; 15 in 1996; 49 in 1997 and 8 in 1998. Within the same period of time, the Commission had finalised and made public the results of 134 communications. Of these communications, 80 were declared inadmissible, 27 were decided on merit, 6 had resulted in friendly settlements, 5 were withdrawn, 16 were closed without a finding being made while 83 communications are still pending (see Table 3 in the appendix).

The first consideration

The Secretariat receives and registers the communication before forwarding it to the members of the Commission. The communications are assigned a number and are entered in the permanent register.

The examination begins with the Rapporteur (one of the Commissioners), who presents the communication orally to the other members of the Commission. At the 15th Ordinary Session, in March 1994 the Commission decided to apply the principle of not assigning communications to a Commissioner from the state against which complaints have been made. In the interest of continuity and efficiency, the Rapporteur remains the same throughout the procedure.

The Commission may request the author of a communication to clarify it and supply the Commission with additional information. In practice the Secretariat is mandated to write to the author if the communication is incomplete to request further clarifications using a questionnaire adopted by the Commission.

Criteria to be considered for registration (seisin)

According to Article 55 of the African Charter, "a communication shall be considered by the Commission if a simple majority of its members so decide." In practice a majority of the decisions are taken unanimously. No communication concerning a State which is not party to the Charter shall be received by the Commission. Furthermore, the communication must deal with specific breaches of the African Charter.

The facts presented in the communication must, moreover, be coherent, understandable, and clear. All communications shall be brought to the knowledge of the state concerned prior to any substantive consideration, meaning prior to the decision on admissibility. The State concerned is to react and submit its information and observations. The Commission continues with the consideration on admissibility, if the state does not respond in writing within five months.

Admissibility

By declaring a communication admissible the Commission undertakes to ascertain the facts and places itself at the disposal of the parties with the view of

securing a friendly settlement. An inadmissibility decision is considered a final decision and the Commission submits it to the Assembly of Heads of State and Government of the OAU in its Annual Activity Report.

The first requirement for admissibility is that local remedies are exhausted. This principle is essentially defending the State's sovereignty, since it is founded on the principle of first allowing the State to redress the matter within the national judicial system. This rule has been the most frequent reason for declaring a communication inadmissible by the Commission.

A second requirement is that a communication shall be "compatible with the Charter of the Organisation of African Unity (OAU) and the African Charter and fall within the competence of the Commission". A further requirement is that the communication shall be submitted "within a reasonable period from the time local remedies are exhausted or from the date the Commission is seized of the matter", and that the Commission, "do not deal with cases which have been settled by these states involved in accordance with principles of the Charter of the United Nations, or the Charter of the Organisation of African Unity (OAU) or the provisions of the present Charter on Human and Peoples' Rights".

The "victim requirement" involves communications to be submitted by an individual who alleges that he is the victim or in his name. Any African or international NGO may submit communications on behalf of the victim and practice shows that communications have to a very large extent been submitted by NGOs.

Communications shall not be "written in disparaging or insulting language directed against the State concerned and its institutions or the Organisation of African Unity". The Commission has not, however, referred to this in any communication dealt with.

Admissible communications must be brought to the knowledge of the State concerned and the author. The time limit decided for explanations from the state after the communication has been declared admissible is two months.

Examination on merits

Like the procedure concerning registration and admissibility, the examination on merits takes place in closed sessions. The Commission shall inform the State concerned and the author of the communication about its readiness to consider the substantive issues of the communication and give them the opportunity to make oral or written representation. Oral hearings occurred for the first time during the 16th Ordinary Session in 1994.

The decisions on merits are sent to the author and the state concerned before they are submitted to the Assembly of Heads of State and Government for consideration. The decisions of the Commission are rather brief and only state the facts, the procedure and whether the Commission finds the facts presented to be a violation of the African Charter or not.

When the communication is declared admissible, the Commission also places itself at the disposal of the parties with the view of securing an amicable settlement in accordance with article 52 of the Charter. In practice the amicable settlement process has a flexible and informal character.

Both the African Charter and the Rules of Procedure are silent on the question of remedy. However, in practice it seems that over the years the Commission has become of the opinion that it has competence to decide on various kinds of remedy and has done so in a number of cases recently involving compensation by the states concerned.

Emergency situations

A very difficult question the Commission has to deal with is how to address cases revealing emergency situations, i.e. when a situation poses the risk of further human rights violations. The Charter therefore requests the Commission to submit, by letter to the Chairman of the Assembly of Heads of State of the OAU, such cases for further action. The Commission has adopted a creative approach in its interpretation of the Charter on this point by using interim measures allowing the Commission to resort to any appropriate method of investigation and to contact member States directly rather than through the OAU. Furthermore, the amended Rules of Procedure permit the Commission to suggest the application of interim measures to States to avoid irreparable prejudice pending the examination of a complaint. In emergency situations the Commission has the mandate to use the method of sending missions to the state concerned for fact finding and in-depth studies. Although there have been difficulties in persuading States to accept missions a number of such missions have been implemented in the past few years (Sudan, Mauritania, Togo, Senegal etc.). The Commission is presently considering the establishment of an early intervention mechanism in case of serious human rights violations on the continent.

Towards an African Court on Human and Peoples' Rights²

The idea of an African court was first raised in 1961 in connection with the first discussions on the African Charter, only to be put aside in 1981 for lack of adequate political support. By the early to mid-1990s, however, the OAU saw a need to strengthen Africa's protection mechanism again.

Against this background, African experts first met in Cape Town, South Africa, in September 1995, and drafted a protocol. It took some time before member states reacted to the draft with comments and observations. After one revision in Nouakchott, Mauritania, in April 1997 the text went through to a final version in Addis Ababa, Ethiopia, in December 1997. After endorsement by the OAU Council of Ministers on 27 February 1998, it was finally adopted by the OAU Assembly of Heads of State and Government in Ouagadougou in June 1998.

² This section relies on an IRIN message from June, 1998.

The Court will comprise 11 judges, with six-year mandates renewable once. Apart from the President (and the registrar) they will sit on a part-time basis, at least initially, in order to cut costs. The appointment process and the judges' independent status will be similar to those applying to the Commission. The Court elects its President and Vice-President for two-year mandates, renewable once.

The Court "shall complement the protective mandate" of the Commission, according to the protocol, and avoid any overlap. Its jurisdiction is potentially wide, extending to all cases and disputes submitted to it concerning the interpretation and application of the Charter, the protocol instituting the Court "and any other relevant Human Rights instrument ratified by the states concerned". In addition to strong interpretative powers, the Court may also provide advisory opinions, and determines its own rules and regulations.

The African Commission, litigants, defendants and states are all granted access to the Court, as are "African intergovernmental organisations". However, access to the Court by NGOs and individuals is contingent on member governments' special acceptance of the relevant provisions. Thus the Court will be one step behind the Commission.

The Court must "conduct its proceedings in public". This means that the evidence and the two sides of the debate are given public exposure. The Court's duly motivated judgement must similarly "be read in open court". These two provisions contrast with the confidentiality the original African Charter imposed on the Commission. However, no publicity is given to the Court's annual report, where it is specifically required to mention whether any member state has failed to comply with a Court judgement.

The court decides its own procedures. Its judgement is final and must be rendered within three months after deliberations are completed. The Court must transmit judgements to OAU member states, the African Commission and the OAU Council of Ministers.

In the event of a violation, the Court must provide for remedies, including "the payment of fair compensation or reparation". The Court may also prescribe provisional measures "in the case of extreme gravity and urgency, and when necessary to avoid irreparable harm to persons". A major difference when compared to the Commission is that the Court's judgements are binding and final. The OAU Council of Ministers monitors their execution "on behalf" of Heads of State and Government.

The Protocol requires ratification by 15 member states before the Court can be established. By comparison, it took an absolute majority of OAU member states (i.e., about two dozen) before the African Charter came into force. As with the Charter it will require considerable time and persuasion.

Analysis and findings

The African Charter

The African Charter came into force in 1986 more than 12 years ago. With time it has been established that the Charter contains a number of weaknesses, obstacles which ought to be dealt with. This can be exemplified by some of the clawback clauses (see above). A number of the Commissioners are presently analysing these shortcomings in order for the Commission to discuss these at a future meeting of the Commission. There are different opinions on the wisdom of attempting to bring about a revision of the Charter. One view fears that if member states are given the opportunity, they will bring forward regressive amendments that would weaken rather than strengthen the Charter. Another view (pronounced by the current Chairman) is that the mood and times have changed significantly in the twelve years since the Charter was adopted, and that there are enough progressive member states now to ensure that a revision can be carried out in such a manner as to address the shortcomings and strengthen the Charter. He cites the recent adoption of the protocol on the Court as evidence for this view. It is clear that the Charter will have to be revised at some point. The evaluators have an open mind on whether this should be attempted sooner rather than later. The issue is best judged by the Commissioners and the political managers of the OAU.

As regards the *interpretation* of the different clauses of the Charter the Commission seems to have started cautiously with a conservative, legalistic and careful approach. Over the years with increased experience the interpretations seem to have become broader and bolder. This process has been slow but steady but as noted by Viljoen "...this approach ensured a much more significant role for the Commission than would have been the case if the restrictive wording of the Charter had been followed literally". Today the Secretariat in its preparations for the decisions of the Commission on communications increasingly takes care to investigate all possibilities. In addition the Secretariat has recently prepared a document on the issue of interpretation for a discussion by the Commission at an upcoming meeting. The work done in this area by both the Commissioners and the Secretariat is of greatest importance and should be commended. It should be continued and supported because it undoubtedly strengthens the capacity of the Commission to influence the observance of human rights in Africa.

The Functioning of the Commission

In contrast to the earlier years of the Commission there appears to have been substantial progress since 1995 on both of the main functions of the Commission, that is : 'Protection' and 'Promotion' of Human Rights. The Secretariat has with its additional staff for the first time caught up with the serious backlog of unattended communications and built up an administrative system including proper filing, statistics etc. so that they have reasonable control over the situation. With the increased number of qualified legal officers the preparation of documents to be considered by the Commission is both done on time and is of good quality. A problem at present is the limited time the Commissioners have at their disposal at each meeting, which only allows for the discussion of very few communications. As they only meet every six months this

means considerable - if not extreme - delays of already prepared cases. Thus at the last meeting in April 1998 some very important decisions had to be postponed. Although the meeting could have benefited from tighter time keeping, nevertheless there was simply not sufficient time to attend to all required business.

The primary aim of the communication procedure before the Commission is, in the words of the Commission itself, "to initiate a positive dialogue, resulting in an amicable solution between the complainant and the state concerned" (Viljoen). A positive development, in this respect, is the increased participation by state representatives when communications and other matters which concern them are brought up and discussed.

The handling of urgent matters i.e. taking action on serious human rights violations taking place in some countries on a large scale has to be looked into further. At present the Chairman and the Vice Chairman, in consultation with the Secretary have the interim Mandate to take any appropriate action during intersessions and report to the Commission at the next meeting. However, if the Commission has any aspirations to having an impact on such cases it has to further develop the special system already in place and delegate additional power to the Chairman and some of the Commissioners and the Secretary.

At the same time as the performance in the carrying out of protective activities has improved considerably in the past few years the number of communications has not increased (see Table 3 in the appendix). This makes a good case for increased priority setting on the promotional work of the Commission. More promotion should mean more people being aware of their rights and therefore more communications to the Commission.

The Secretariat has developed bold plans for developing these activities further. Again with the staff now in place the Secretariat has divided the member countries among the legal officers who each follow the situation in their countries and prepare for visits to countries which would gain from such visits. The Secretariat is of the view that the Commissioner going on such a visit should be accompanied by the responsible legal officer - a viewpoint we find is fully justifiable. Among other things it would make the follow up of the visits, which is of great importance, easier. These plans are however dependent on both availability of time for the Commissioners and additional money. (See below).

There is no doubt that the Commission must increase its activities in the area of promotion. At the same time the competitive advantage of NGOs in some essential aspects of promotion must be recognised. Particularly local NGOs have to take over in areas where the Commission does not reach. The human rights NGOs both international and local have been extremely important as partners to the Commission since its start. In fact the NGOs and the Commission have been mutually supportive of each other. The NGOs have a forum where they meet most of the relevant people working which human rights in Africa during the Commission meetings and the Commission has been supported, legitimised and constructively criticised by the presence of the NGOs. The

pressure of challenges and criticism from NGOs has undoubtedly been an encouraging force in the improvement of the Commission's performance. NGOs have a vital role in continuing to act as a critical watchdog in this respect. The Workshops which have been initiated and financed by ICJ have contributed to this development and supported the Commission in its work and been a training ground particularly for local NGOs.

The time has now come to work out new ways to involve more and different African NGOs, particularly those coming from the grassroots level, in these activities. The African Centre as well as many others are actively propagating for this to happen. Without in any way minimising the very important contribution of the international NGOs headed by ICJ in the process thus far, it is our view that they too have to reassess their ways of working and find new avenues to broaden the involvement of local NGOs and other parties from the African states. They should take great care not to become complacent and stuck in the ways in which they operated in the past despite them having been so successful then. One good example is the inviting of legal people to participate in the past workshops. Another activity that many NGOs are actively pursuing is the training of local NGOs and groups in preparing communications for the Commission. The African Commission has taken this important question into consideration in the *Mauritius Plan of Action* adopted in October 1996.

Another important basis for the promotional work of the Commission is the requirement in the Charter for reports from the member states. Good reporting will allow the Commission to take up a dialogue with the states on how to improve the legislation and implementation thereof in the field of human rights. So far just 18 out of 52 member states have presented only their first report, 3 have also presented their second and 1 (Zimbabwe) its third too. Most of those delivered have been of low quality. Much more work has to be done to induce the States to fulfil their obligations. Preparation of new and simpler guidelines for the reporting, training of staff who are supposed to do the reporting and pressure through the Heads of State of OAU are important measures. Co-operation with the office of the UN High Commissioner for Human Rights, which also requires States to report on the human rights situation in the respective countries is another important venue. In addition some pressures from donors who are interested in the implementation of human rights could be conceived - from entering this question into the donor/recipient dialogue, to the stronger - and perhaps more effective - measure of making some part of a donor's bilateral aid conditional on the fulfilment of these reporting requirements.

With the aim of highlighting certain important issues, the Commission has started to appoint Special Rapporteurs among the Commissioners. So far three such Rapporteurs have been appointed one for Summary and Extra-Judicial Executions, one for Prison Conditions and one for the Rights of Women, all with the mandate of investigating and reporting on these investigations. These particular human rights issues are especially significant in the current context of many African countries. It is to the credit of the Commission that they have been prioritised in this way. The challenge now is to equip the Rapporteurs with the

resources necessary for them to fulfil their role effectively and provide them with the profile that will give impact to their reports.

Confidentiality and reporting

The requirement for confidentiality in the Charter is one of the areas where over the years the Commission has made increasingly bolder interpretations. Part of the criticism for lack of transparency in the first years could be refuted by the fact that there was very little to report. Thus in 1994 in only two out of the 52 cases considered during the six years the Commission had been in existence had explicit findings of violations been made. However, since the seventh annual report of the African Commission in 1994, the Commission has become increasingly open. In the past two years, an overview on the total process leading to the decisions on communications has been appended to the annual report. This very positive development should be further pursued. In particular, the latest annual reports should immediately be published in a readable volume and the plans for a newsletter be implemented and sustained. Furthermore communications being processed should be openly registered and published in e.g. the Newsletter and in the future in the Commission's website.

The Commission's structure

The performance of the Commission in its early years was poor. More recently there has been considerable improvement, but a number of fundamental questions remain and, unless they are openly acknowledged and progressively addressed, it is the opinion of the evaluators that the Commission will not be able to function as the effective instrument for improving the observance of human rights that Africa so urgently requires. As no provision was made in the Charter for geographic, legal or gender representation in the composition of the Commission, the question of nomination and election of Commissioners has become an important issue over the past few years. The geographical imbalance with the over-representation from West Africa, must be tackled. Although the States nominate Commissioners and the Assembly of Heads of State and Government of the OAU decide on their election or re-election, the Secretary and other actors including NGOs have become more active in the process by contacting countries and regions which are under-represented, to make them aware of this fact. On gender balance, some efforts are under way (there are now two women Commissioners) and should be continued. The question of incompatibility (i.e. of some of the Commissioners also being full-time, high level government employees) was raised by many of the persons interviewed by the evaluators as the most serious problem of the Commission. Here efforts will have to be made to make the nominating states aware of the issue and avoid nominating Commissioners with conflicting interests. The recent dialogue with the African Ambassadors in Addis (at the OAU) on this matter is an important step in that direction.

Also, the issue of how much time a Commissioner should be required (and paid for) to work for the Commission must be looked into further. At present the time allowed is demonstrably insufficient. If the Commissioners are to perform their duties efficiently, both as regards the Commission meetings and the promotional activities, they must be able to set aside enough time. A study on this issue

should be made by members of the Commission and the Secretariat leading to a proposal for funding to be sought for that purpose.

Another important issue is to make it possible for the Commissioners to also work in their inter-sessional time. They must be provided with funds and equipment to make this possible. So far they have received faxes for their communication. For the future the importance that e-mail/Internet access will represent to the Commission as a whole and to individual Commissioners must be emphasised. They should be aiming for most of their inter-sessional communications to be by e-mail in the near future. It will save them money, give them much easier/greater access to comparative information etc.

The lack of resources has been particularly damaging for the work of the Special Rapporteurs. They have not been able to fulfil their important tasks as they have neither time nor resources set aside to implement their work. This has to be looked into further with the aim of finding a proper solution.

The Secretariat

As stated above, a well functioning secretariat is a prerequisite for the Commission to implement its important functions. However, in the first years between 1989 and 1994, its performance left much to be desired. Funds available only sufficed for securing one legal officer and one accountant/administration officer plus some support staff, and most often not even these posts could be filled. The quality of administration and accounting was far from satisfactory, leading to complaints by the auditors and to badly prepared Commission meetings as well as low quality documentation. The reliance on short term, often not sufficiently qualified professional staff from outside Africa and from international NGOs became far too great for an African owned and run organisation.

With the appointment of the new Secretary in 1994, the situation has slowly but steadily improved. Important developments were the appointment of a qualified accountant in 1995 who introduced accountability into the organisation which is documented in the latest three external audit reports and, secondly Denmark's agreeing to give massive core support to make it possible for the Secretariat to recruit staff within Africa in addition to the staff provided by the regular OAU budget. This has in turn allowed the Secretariat to recruit 1) a full time administrator, permitting a new and strict working discipline at the Secretariat, a new filing system etc., 2) a documentalist for the first time allowing the Secretariat to build up a modern documentation centre for its own purposes and 3) an information and publications officer, again for the first time, making it possible for the Secretariat to publish (or to contract out) the actual printing and publication its own material—to start with a newsletter, and 4) a reasonable number of legal officers for the running of the promotional and protection activities of the Commission. In addition to those provided by Denmark, the African Society at present recruits three legal officers on a year by year basis (two financed by Denmark and one by the EU).

It is the view of the evaluators after having briefly gone through the accounts of the Commission (Table 2 in appendix), read the documentation prepared for the last Commission meeting, studied the administrative procedures and interviewed a number of the staff that the Secretariat, although much still remains to be done in order to improve the effective running of the operations, is today a relatively well functioning institution which can perform its duties reasonably well. The present number of staff is well suited to perform the duties of the Commission—the only worries are to find ways to supply the number of staff employed at present on a longer term basis than today and that a recruitment procedure is adopted which ensures the high quality of new recruits. While the financing for the 6 persons supported by Denmark is secured until mid-2000, three Legal Officers have only 12 months employment which may be extended yearly. Furthermore, the secured funds to run the Secretariat are also far from sufficient, particularly with the new staff on board. Basic funding for running costs, trips etc. must therefore be secured (see below). As was stated with regard to the Commissioners, the same need for vigilance to ensure that all the main languages (e.g. Portuguese and Arabic), cultures and regions are represented at the professional levels of staff in the Secretariat should also be noted.

The African Court for Human and Peoples' Rights

The Commission has been criticised on various grounds. Much of the criticism relates to the lack of effective enforcement due to the non-binding nature of the Commission's findings and the Commission's lack of power to act on its own initiative. This has led to the movement to adopt a Protocol to the African Charter in terms of which an African Court on Human and Peoples' Rights would be established to supplement the Commission's protective mandate (Viljoen).

The Commission which actively participated in the work to prepare for the decision on the Court, welcomed the decision taken by the Heads of State of OAU in June 1998. It is too early to predict precisely what impact the Court (if it does come into being) will have on the work of the Commission. The current Chairman believes that the Commission will develop - in a sense - as a court of first resort, or first instance, whilst the Court will function more as a Court of Appeal. Whatever becomes reality, donors would be well advised to learn from the experience with the Commission which shows, firstly that it will take considerable time before the decision on the Court is ratified and the details of the Court are established and, secondly, the importance of OAU really being prepared to set aside the funds necessary to implement the decisions in practice. Before these conditions are met, donors should not commit themselves on any funding. The risk of having two underfunded and therefore weak and ineffective institutions in this very important field is imminent and should be avoided at any cost.

International Assistance

As can be seen from above the Commission has been widely supported during its existence. The support received can be divided into four categories.

1) The financial contribution of the parent organisation OAU, which has been, as already stated, far from sufficient even to run the Commission at the minimum level originally identified. Today the OAU contribution adds up to some USD

500,000 annually. In 1998 OAU for the first time ever did allocate additional funds to the Commission during the ongoing budget year.

2) Additional contributions to the basic functions of the Commission. A number of bilaterals as well as NGOs have contributed in different ways by providing interns, temporary staff for the Commission and by arranging workshops and courses on behalf of the Commission. More recently some donors have provided funds for the activities implemented by the Commission itself. Denmark through the Centre of Human Rights as well as directly by Danida is in a category by itself both as regards the amounts involved and the trust in the Commission they have shown. They have at present committed more than USD 300,000 annually for the coming three years. Other major contributors in order of magnitude are Sweden (through the Raoul Wallenberg Institute, providing some USD 80,000 in 1998, the EU, Austria, Interights and the UN High Commissioner for Human Rights. Gambia also falls within this category covering a substantial part of the local costs such as rent and some of the meeting costs in Banjul.

3) Organisations which provide special services for the Commission and which are themselves largely sustained by donor funding. This is mainly the Centre which was originally created to assist the Commission to fulfil its objectives and the Society which publishes the Review and recruits staff for the Commission.

4) Institutions which provide auxiliary services which support the implementation of certain tasks of the Commission. Here there are a number of international NGOs which arrange training or workshops in order to promote Human Rights issues in Africa. ICJ has been particularly important in this respect most significantly arranging and financing the workshops which have taken place in conjunction with the annual Commission meetings. The African Centre with its Pan-African training programme must also be mentioned in this context. When it comes to these activities it would be of great importance to produce a map over the different actors and define in what area they have special competence and competitive advantage. Some specialise in training local NGOs in the use of relevant human rights law to air grievances and how to properly present communications to the Commission, others give training in litigation, others train relevant State officials in the preparation of state reports on human rights in their countries etc. As regards future work for all parties and in particular for the Commission it is of great importance to investigate who is doing what and doing it well and how to find ways to co-ordinate efforts in an efficient manner. Again we request the NGOs particularly the major international NGOs to assist in finding new ways to make the most of available resources.

The evaluators agree with the Secretariat that the present number of staff should be maintained. As already mentioned the OAU funds allocated at present do not suffice to run the Commission properly. Therefore there will remain a need to meet the gap between what OAU provides for at the moment and what a Secretariat of the present size would require i.e. funds for the additional 9 staff members not funded by the OAU, for running costs of the administration for trips made by the staff and the Commissioners to implement the promotion activities requested, for the Special Rapporteurs to work efficiently, and for the cost of holding Commission meetings long enough to be able to conclude all outstanding business prepared for that meeting. The details should be worked

out by the Secretariat in *the strategic plan* for the coming years, at present under preparation for the consideration of the Commission.

The priority should as before be to request the OAU to meet its obligations and increase its contribution as much as possible. However as it is an independent African institution overseeing the proper implementation of an improved Human Rights situation in Africa, donors interested in this cause should be prepared to meet the shortfall i.e. a considerable portion of these costs. Denmark and, to a lesser, extent Sweden have taken the lead and shown the way and others should follow suit.

It is therefore suggested here that the Danish model also be used by other donors allowing for multi-year agreements and providing for support to specified core activities. It has to be a sustained commitment and although channelled directly to the Commission be cleared with the OAU. The dangers with donor preferences for project rather than core funding should be kept in mind. This easily pushes the institution towards more peripheral activities rather than it concentrating on its main activities. Special accounts should be opened for each donor or if agreed jointly for donors who are willing to collaborate. To make core support easier for donors to accept a special auditor should be appointed by the donors to audit these accounts.

Swedish Assistance

Sweden through Sida was one of the first donors to support the Commission after its founding. The first support was offered in 1991 and since then some SEK 3.8 million has been used for the support of different activities of the Commission (see Table in the RWI section below). Basically all Swedish funds have been channelled through the Raoul Wallenberg Institute. The reasons for this are developed further in a separate section. However it was thought that the Raoul Wallenberg Institute with its special expertise in the field of human rights would be an appropriate partner for the Commission both content-wise and as a channel for funds and other resources.

The Raoul Wallenberg Institute presents a budget every year for all the activities it implements for Sida including a proposed budget for the Commission. However it bases itself on tentative figures already received by Sida. The support to the Commission has gone to its core activities, mainly for trips to implement the promotional activities of the Commission and to communications costs such as faxes etc. for the Secretariat and the Commissioners. On some occasions the Raoul Wallenberg Institute has given support for basic running costs, mainly for paying outstanding telephone bills. The activities supported by Sweden have been of great importance for the Commission. Basically no funds have been paid directly to the Secretariat, but the Institute has paid bills and travel costs. This is mainly due to the fact that the Secretariat until the mid-90s did not function very well. The Institute felt obliged to take on the task of detailed control and never had time for a dialogue on substance.

It is the opinion of the evaluators that the Raoul Wallenberg Institute has not been used by Sida in an optimal way. Rather than for detailed supervision of

direct payments the Institute should be requested to act as an expert adviser to Sida and a dialogue partner with the Commission on matters of substance. Instead Sida should itself channel its funds via multi-year agreements directed to the core activities of the Commission.

The Sida Evaluation Criteria

Relevance

To promote human rights and support the process towards democratic development internationally is one of the major objectives of Swedish as well as many other donor countries' development assistance. The African Commission has here a central role in promoting and protecting human rights in Africa. Its strength rests in the fact that it is African owned and run. Through a close collaboration with local African NGOs it extends its reach over Africa and inside the different countries far beyond what an institution of that small size would otherwise be able to do. The NGOs act as eyes and ears on the ground watching the Governments in each country and reporting to the African Commission on human rights violations, while the Commission being a supra-national institution can through its decisions on communication make Africa and the world aware of such violations. In the same way the NGOs can act as the extended hand of the Commission when it comes to promotion of human rights down to the grass root levels.

Impact

The developments in Africa in the recent past do not allow for very optimistic conclusions on any improvements when it comes to the human rights situation. However, the Commission has been an important actor together with many others in the fight to counterbalance power struggles, violence and human rights abuses. By ganging up with the NGOs, thereby giving strength to local initiatives and work, awareness of the rights of individuals as well as groups has increased in many places in Africa and a public opinion has been created for human rights. In interviews with representatives of Nigerian human rights NGOs they thus emphasised that the Commission was one important platform where they could air their grievances to an African audience, during the difficult years of Abacha's rule in the country. Furthermore by openly documenting and publishing the decisions taken by the Commission and giving the reasons for the decisions taken there are hopes that some countries will be more careful in the future. The increased participation of Government representatives in the discussions on communications relating to that particular country is a case in point. It is also important to note the increasing number of member states responding to the Commission's invitations to participate in its ordinary sessions without having any specific case pending before it.

Goal achievement

As can be seen from the above analysis the Commission has after a very slow start now increasingly been able to implement the programme which was originally outlined, although very roughly, in the Charter. It is now well under way to working through the backlog of communications not yet

processed and also well under way to implementing a rather ambitious human rights promotion programme. As mentioned elsewhere in this report, there are structural and procedural weaknesses that need to be addressed over time for the Commission to develop the powerful human rights role that Africa requires of it. In the short term, basic core funding for the Secretariat and Commission is an essential condition for it to carry out its activities.

Cost effectiveness and financial management

Analyses of cost-effectiveness have for some years been an important part of evaluations. In general, it is safe to say that cost-effectiveness analyses of projects are methodologically weak. They often suffer from lack of comparative data, and they rarely contribute to the assessment of the projects in question. This is certainly the case with evaluations of social sectors and of research.

For the Commission, the data available mainly covers expenditures. These can be found in the annual financial reports. The accounts of the Commission are audited annually by auditors appointed by the OAU in accordance with the rules and regulations of that institution. After some major problems in the past the accounts have in recent years been prepared and audited within three months after the year of account (1 June-30 May) ended. According to the auditors' reports the accounting and budgeting systems have been considerably improved in the past few years and appear today to fulfil all necessary requirements for a good internal control system.

The degree of cost-consciousness at the Commission is very difficult to assess. The major problem so far has been the extreme scarcity of funds which has hampered any effective use of resources. This has led to meetings having to close before the agenda was exhausted, and visits required for a proper preparation of background material for the preparation of documentation for the Commission having to be postponed or cancelled etc. On the one hand OAU rules and standards for setting of salaries, travelling expenditures etc. have made it difficult to make savings when possible while on the other hand lack of resources have enforced savings wherever possible. As a result of the recent improvement of the accounting and budgeting systems and the additional donor resources it should be possible to improve on the effective use of available resources and thereby on cost effectiveness in the future.

On a more global level a point could be made that the cost for prevention should be compared with the cost for taking care of the people after human rights violations have taken place and/ or a resulting conflict has emerged. Any positive indicators that an activity really helps prevent such events from occurring makes the efforts and money spent worthwhile.

Sustainability

As is further developed above the financial situation has improved over recent years so that the Commission has been able to recruit the staff needed (both quantitatively and qualitatively) in Africa. In that respect the Commission is becoming increasingly sustainable. It is today a relatively well functioning body with very little if any dependence, when it comes to its running or staffing, on

personnel from outside Africa. In some literature this is called technical sustainability.

As regards financial sustainability the situation is more complicated. The Commission being an institution under the OAU will always be a victim of the very severe lack of resources of that organisation. Although it is important to insist on an increased commitment by OAU it is not realistic to believe that OAU will be able to meet all the costs required to run the Commission efficiently. Thus the Commission will for the foreseeable future be dependent on funding from outside Africa. This funding will be required to uphold the technical sustainability and thus the African ownership of the Commission.

AFRICAN CENTRE FOR DEMOCRACY AND HUMAN RIGHTS STUDIES

Introduction

The African Centre for Democracy and Human Rights Studies (ACDHRS) is a non-governmental organisation based in the Gambia. It was created in 1989. After internal problems, financial irregularities and the military coup in the Gambia in 1994, the Centre was re-launched in late 1995 as a pan-African organisation with a new board, director, organisation and status. The new objectives of ACDHRS are to promote and protect human rights as well as democracy through: 1) organising and sponsoring workshops and conferences; 2) publishing periodicals and other relevant material; 3) maintaining a documentation centre; 4) developing and assisting in the implementation of HR-related projects in Africa, including research programmes.

Despite the broad objectives, ACDHRS works mainly as a training institute for human rights NGOs. It is a foundation and not an umbrella or membership organisation. It is not run by activists but governed by a Governing and an Advisory Council of HR-experts. It is managed by an executive director assisted by an executive committee. It has the ambition to be a regional network and offer its services to all African countries. However, most of its 17 staff and Council members originate from West Africa which the course participants also do. In addition it plays a role in HR-protection work in the Gambia. The total income for 1998 was around USD 698,000.

History

At its foundation it was considered necessary that the Commission should be supplemented with a NGO "window", that could act as an implementing arm of the Commission. A proposal from a feasibility study on a Centre was submitted to the Gambian parliament in 1989 and approved.³ The Government seconded staff, office space and core funding. The President was the patron of the Centre and the Attorney General the Chairman of its Governing Council. As no other African Government contributed to the Centre, it became dependent on the Gambian government for its core funding. The close relations to the Gambian Government made the situation even more delicate after the military coup in 1994.

The Centre's activities were hampered by lack of management and administrative capacity and funds from the outset. The staff were closely affiliated to the first Director and officials in the Gambian Government and were

³ The study was done by Justice K. Eso, Supreme Court Nigeria, Prof. M. Conley, ARCADIA University, A. Adieng ICJ, L. Wiseberg, HRI. They later became members of the first board and still play a role in the advisory or the governing council.

not recruited solely on professional grounds. Lack of regular core funding created uncertain employment conditions and anxiety among the staff. The Governing Council was not able to supervise the work of the Centre as they met once a year and had limited access to information. It did, however, play an important role in building up an international as well as African network, to contribute with experience and channels to funders.

After increasing discontent from various sources and reports on financial irregularities, a committee of inquiry was set up by the board in November 1994.⁴ It was found that at least USD 33,000 had been embezzled.⁵

The military coup in combination with the organisational problems led the committee to propose fundamental reforms, and a de-linking from the Gambia Government – in order to create an independent regional NGO with its own statutes. A number of staff contracts were terminated, among them those of the financial controller, the director and three programme officers. A new auditing firm was hired.

The Centre was re-launched in November 1995, with new statutes, organisation and director. New Governing and Advisory Council were recruited for the three-year period 1995-1998. In order to make the Centre a more African NGO, the international resource persons were detached from the Governing Council to an Advisory Council. The close relationship to the Commission was maintained, the chairman of the Commission is a Governing Council member. The formal link to the Gambian government was severed. The military ruled government, however, guaranteed ACDHRS autonomy and continued core support.

The new management and council initiated a change in the administration, the financial management as well as a revitalisation and expansion of the Centre's activities. An efficient and accountable administration has been built up and activities developed. External audit reports have been prepared on time since 1996. The Governing Council takes a more active part and the executive committee works closely with the management. The Advisory Council participates in fund raising, is used as a resource for discussions and its members teach on some of the courses.

The professional staff has, however, not been increased at the same pace as the expansion of activities. From 1997 a further development of the organisation was therefore considered necessary. Internal evaluations were made and it was decided to hire a professional management consultancy firm, Peat Marwick International, to evaluate the organisation, to propose, and assist in implementing, changes in administrative structures as well as rules and procedures. The main conclusions were that the Centre is understaffed on key

⁴ The Committee was comprised of members from the Governing Council: A Dieng, ICJ; L. Wiseberg, HRI; the present chairman Justice Kayode Eso and the Attorney-General of the Gambia and was financed by ICHDD and ICJ.

⁵ The auditing firm had neither reported irregularities nor concluded the auditing for 1994 – but had received full pay from the Centre.

positions, that the organisation must be revived and the activities be more focused. Comprehensive work descriptions, a staff development plan and a new salary structure for all the staff have been outlined and decided upon jointly by the staff, management and council.

Relationship between ACDHRS and the Commission

The two organisations have a number of formal and informal links: the Chairman of the Commission and one of the Commissioners are members of the Centre's Governing Council. ACDHRS enjoys observer status with the Commission and participates in the public sessions. The organisations are based in the same building and have interpersonal interaction. The Centre contributes to the work of the Commission through its training courses on the work of the Commission; through information, (a quarterly newsletter, posters and other publications); through its documentation centre; and through joint activities, and participation in the Commission's work (e.g., the work on the protocol for women's rights). The Secretary of the Commission and a number of Commissioners participate as resource persons in seminars arranged by the Centre. ACDHRS also facilitates the participation of NGOs in the work of the Commission. The Commission delegates some legal cases to the Centre, and the Centre refers cases to the Commission.

Activities

The initial mandate was broadened at the re-launch to include protection of human rights, as well as promotion and protection of democracy. The main activities so far have been training. Most of the work with documentation, information and network building is done in connection with the workshops. Besides training, the courses aim to contribute to networking over language barriers and are therefore bi-lingual (mostly English/French or English/Arabic, the lusophone area is under-represented). NGOs from the whole of Africa are invited, recruited on the principle that there should not be more than one NGO per country on each course and that new NGOs shall be reached.

The Centre organises at present four standard courses per year, beside a number of workshops and special courses. Up to 1998 a total of 25 courses have been organised, with around 400 participants from 150 different NGOs in 42 different African countries. 16 of the courses have been organised since 1995.

The eight programmes below emerge from ACDHRS's description of its work after the overhaul of the organisation in 1998. The programmes, however, still overlap and the division between them is fluid. Three of the programmes are annual one week-courses.

The education, training and research programme

The Education, Training and Research Programme is supposed to be the umbrella programme for the courses organised by the Centre. A broad spectrum of courses and seminars is organised on different human rights and democracy issues for different target groups (NGOs, police officers, Supreme Court judges, magistrates, teachers, senior military officers etc.). The *Research programme's* objective is to serve as an input to other programmes, carry out research on human rights violations and prescribe measures to address these. Due to lack of funds and qualified staff, research is currently mainly commissioned outside the ACDHRS. A project on prison conditions in Africa has been concluded. Two research projects are about to be finalised under the women's programme (see below) and three new ones are proposed: Democratisation Processes in Africa; Human Rights and Development; and Violence in Africa.

The international human rights procedures programme

The International Human Rights Procedures Programme aims at: a) making international human rights procedures more known/accessible and increasing the flow of information between the African HR-groups and the international machinery; b) encouraging and co-ordinating the participation of African HR-NGOs in the work of international treaty bodies, in particular that of the African Commission.

The annual five-day workshop for African HR-NGOs on how to use international human rights procedures has been organised since 1992. 25 NGOs/activists from different African, mainly West African, countries are invited and an additional 10 participants are allowed from the country in which the course is organised. The ambition is to arrange the course in different regions in Africa in collaboration with local NGOs. Five courses have been organised in Banjul, one in Tanzania and one in Uganda. The first three days are used for international procedures and the last two days for the African Commission. Each participant makes a statement on the human rights situation in his/her country of origin. The course includes training sessions on how to make a statement and write communications to the Commission. After the course the participants follow up human rights cases in their own country and re-assemble at the following NGO-workshop/Commission session. The participants are guided through the sessions, with preparatory meetings and discussions after each session by members from the council and advisory council. RWI and ICHDD are the main funders.

The African networking and institution building programme

The African networking and institution building programme aims to promote a dialogue and network between African HR-NGOs, and the African Commission; to organise and co-ordinate the contributions of African NGOs to the work of the African Commission; to enable NGOs with observer status to participate in the sessions of the Commission and to introduce them to the work of the Commission and the NGO-forum. Since 1995 the Centre has funding from NOVIB to bring 10-20 NGOs to the workshop. From 1998 the Centre has agreed with the ICJ to organise the NGO forum once a year. A database on human rights organisation in Africa has been built up.

The NGO management course

The NGO Management Course provides training in organisational and strategic management, effectiveness, financial management and basic computer skills. The annual five-day course targets newly established NGOs, as well as those which are more experienced. Three courses have been organised in Banjul, one in Cairo.

The documentation and information programme

A library with 4,300 titles of HR-material has been built up. The database is computerised and the library has links to African as well as international NGOs and databases. The library serves as an information source for other programmes of the Centre, the Commission, African NGOs, researchers and the public. It distributes information to grass roots organisations in the Gambia and Africa and exchanges publications with African and non-African institutions. A second aim is to enhance capacity among NGOs in information handling and documentation and to facilitate network building between librarians and documentation centres. A five-day course on information and documentation work is supposed to be organised annually. Two courses have been organised, one in Banjul (1994) and one in Tunis (1998).

Publications

A Newsletter is published four times a year and is distributed world-wide to 1,200 addresses. The autumn and spring issues report from the Commission sessions and are one of the few sources that disseminate information on the work of the Commission. The newsletters have been a year behind schedule due to staff shortages, but this had been rectified by October 1998.⁶ The publications include occasional papers, the workshop, seminar and conference reports, as well as a number of pamphlets, posters and an illustrated version of the African Charter. Posters on human rights issues have been produced in connection with the election in Gambia. The African Charter has been printed and distributed recently in an illustrated version by a local artist. All publications are bi-lingual. A home page will be on the Internet in 1998. In late 1998 ACDHRS will get its own computer based printing facilities.

The African women's human rights programme

The African Women's Human Rights Programme aims at the collection, analysis and publication of documentation of women's rights issues as well as organising training. An annual five-day course on International Human Rights Procedures for Women as well as shorter courses and seminars are organised. National legislations related to women are studied. The Centre participated in – and co-funded – the elaboration of the additional protocol to the African charter dealing with women's rights; it also participates in two research projects: 1) "The assessment of the rights and status of women in the African inheritance laws and marriage act"; 2) the study on the "Impact of armed conflicts on children".

The human rights internship programme

⁶ With the new publication officer and two interns, five numbers were produced in 1998.

The Human Rights Internship Programme accepts three types of interns: local (from the Gambia), African and Non-African (mostly students in colleges or universities under training from Europe or North America). The interns stay at the Centre from two weeks to nine months. They are given training and provide a valuable contribution to the work of the Centre. Between 1996 and 1998, four Non-African and 19 local interns have been at the Centre. A number of Africans apply for internship every year. No funds are available at present for African interns. At times funding has been provided for this by among others RWI.

Besides these programmes, the Centre, in close co-operation with the Commission, provides legal advice to mainly Gambian individuals, 2-300 cases each year.

Future plans

ACDHRS's first priority is to employ sufficient professional staff to consolidate ongoing activities, i.e. one programme officer for the training programme and one for the research and legal work. The legal officer is supposed to carry out the protective work now done by the Director. The Centre intends to work more with political rights and the democratisation process, e.g., through election observation and monitoring of democratic performance of African states as well as courses/workshops on different aspects of the democratisation process. A course on the "Independence of the Judiciary" was organised in October 1998, targeting Supreme Court judges.

The Centre will take part in a research project on Children's Rights with ECA and UNICEF. ACDHRS intends to establish regional offices where the members of the council reside. These offices should gather information on HR-abuses in the region and disseminate HR-information. ACDHRS has acquired a title deed from the Gambian government to a plot in an attractive area, with the aim of building an office and conference complex in the near future.

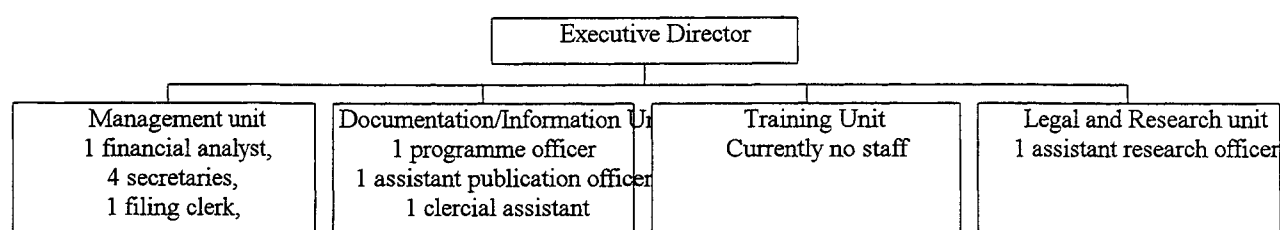
Organisational structure

The *Governing Council* is responsible for general policy directions, approves the annual work programmes and the budget. It appoints the executive director, a deputy and other staff as well as approves the conditions of their service. It convenes once or twice a year. The council is composed of 10 experts or activists from 10 African countries, currently headed by Kayode Eso, University of Ibadan (retired judge from the Supreme Court of Nigeria). The Chairman of the Commission and representatives from three different regions of Africa shall be members of the council. The *Executive Committee* is the operative body of the council, comprising the chairman, the vice-chairman and the two members of the council that live nearest to the Centre, and meets four times annually. The Council appoints an Advisory Committee. Currently it is constituted of six members originating from Senegal, Switzerland, the Netherlands, Zambia and Canada all with special qualifications in human rights work. The council

members are recruited on merit and elected by the council for a maximum of two three-year periods. A number of regional networks are represented on the board. Most members of the two councils were re-appointed in November 1998.

The Centre is supposed to be organised in four units: management; documentation and information; training; and a legal and research unit. So far it has not been possible to establish the proposed structure as core funding has been inadequate or erratic. The funded projects and the director have become the main organising principle. The aim of the current restructuring process is to make the programmes the responsibility of the units in order to co-ordinate the activities better and create a transparent and efficient structure that is more independent of individuals.

Proposed organisational structure and staffing



The director is supposed to be assisted by a co-ordination committee comprising the four heads of units and the financial controller. The committee is supposed to monitor, co-ordinate, make managerial decisions and prepare budgets as well as make annual staff reviews. Despite this the director still plays a dominant role as there is a lack of professional key-staff.

The study referred to above by Peat Marwick International has worked out a number of proposals for the organisation, done a staff audit as well as a review of rules and regulations. The four main conclusions from the staff audit were that a) in the absence of the Executive Director, the Centre is a ghost house; b) there is a lack of trust between the Executive Director and the staff; c) the wrong signals are being transmitted with a resulting concentration of work in the office of the Executive Director; d) the fulfilment of the Centre's mandate must begin with (changes within) the Centre. The Governing Council approved in November 1998 new rules and regulations as well as restructuring of its staffing structure.

Staff competence and facilities

Only four of the present 17 staff have an academic background. A professional financial manager will be recruited in October 1998 by an external consultancy agency. Two of the secretaries have a diploma in bilingual secretarial studies and do the internal translations. The ACDHRS is reasonably well resourced with facilities and equipment.

Networking

The Centre has come into being as a result of an INGO network and maintains links to around 30 INGOs such as ICJ, ICHDD, a network with around 200 African NGOs as well with the UN system (UNIFEM, UNICEF, UNHCR). It has

contact with African governmental bodies such as those in the OAU system as well as a number of governments. The most important INGO links are the present and former funding agencies: BILANCE, NOVIB, RWI, FNI, and ICHRDD (see Table 4 in appendix).

Funding of the ACDHRS

The main donors to the Centre are BILANCE, the Government of the Gambia, Danida, NOVIB, the Raoul Wallenberg Institute and the Government of the Netherlands.⁷ Total annual support has fluctuated between USD 350,000-865,000, with a dip in connection with the internal problems in 1996. The support increased considerably with BILANCE and the Netherlands government's, three-year support programme for 1997-2000. BILANCE is now by far the most important funder, contributing 36% of the total budget in 1997/98. The Gambian government was the single most important core-supporter until 1997. Its contribution has been in the range of 30-70% of the total core support or 15-35% of the total support. BILANCE provides 40% of the programme support, Danida 26%, NOVIB 11% and RWI 11%, respectively (see table below and Table 4 in the Appendix).

ACDHRS sources of income. Core funding, Projects and Funders 1997/98
(Converted to US dollars with exchange rate: 1US\$=10,5 Dalasis)

	Core funding	%	Project funding	%	Total	%
BILANCE	96,092	30%	163,954	40%	260,046	36%
Gambia Government	131,238	41%			131,238	18%
Danida			109,005	26%	109,005	15%
Other income, self-generated	62,034	19%			62,034	8%
NOVIB			46,621	11%	46,621	6%
Raoul Wallenberg Institute			43,779	11%	43,779	6%
Transfer from reserves			33,085	8%	33,085	5%
Netherlands Government	29,152	9%			29,152	4%
British High Commission			9,458	2%		1%
British Council			7,124	2%	7,124	1%
Total	318,516		413,027		731,543	

Source: Annual Audited Accounts 1997/98

Funds for 1999 have been secured from the Gambian Government, BILANCE and Denmark. The Westminster Foundation funds a legal officer for one year. Mauritius, Norad and Ford Foundation are all considering funding for 1999.

The Swedish support

⁷ BILANCE: Catholic development organisation Vastenactie/Cebemo, Netherlands. NOVIB: Netherlands Organisation for Development Cooperation

The first year RWI supported the internship programme and the second the Human Rights documentation programme. Since 1993 the support has been concentrated to the International Human Rights Procedures (IHRP) course. According to RWI, this was a deliberate strategy to avoid getting too involved in the, at that time, less than well-managed institution. Being a training and research institute, RWI did not have adequate resources to work with institution building. The annual support fluctuated between USD 25,000-70,000, with a peak in 1996. It can be noted that the level of this support is about one third to a half of the Gambian core-support or 7-30% of total programme support (see Table 4 in appendix and the section on the Raoul Wallenberg Institute).

The IHRP course is one of ACDHRS's main training programmes (see above). Altogether the Raoul Wallenberg Institute has provided around USD 340,000 to the Centre from 1992-1998. No impact analysis or follow-up has been done, besides the course evaluations. The courses and the course evaluations are, however, well documented. The evaluators have read through all the course documentation and evaluations and interviewed a number of participants. The course gets high marks but also viewpoints on the structure and content (see assessment).

The RWI and the ACDHRS meet two three times a year in connection with the Centre's annual fund-raising trip, RWI participation in the NGO forum/Commission sessions and occasional meetings in Strasbourg and Geneva. After informal consultations, RWI receives an annual application for funds from ACDHRS. The collaboration works reasonably well according to both organisations, on some occasions the applications have come late, on others the decision making process at RWI has dragged on until just the weeks before the course was intended to start. Another problem raised by ACDHRS was that they did not know from year to year if RWI would make available support and how much. Disbursements of funds are made in one instalment to ACDHRS's dollar account in London. ACDHRS prefers a three-year programme negotiated directly with Sida, with stipulated conditions.

The ACDHRS 's own funding

Renting out the Centre's translation equipment brings in enough to cover 19% of its core costs. To reduce the dependence on the Gambian government for office space and core support, the Centre intends to build an office complex and conference centre.⁸

Earlier evaluations

A self-assessment was carried out by an internal committee of inquiry in 1994 and an organisational assessment by Peat Marwick Management Consultancy

⁸ The Government has provided a plot just opposite the only five star hotel in the Gambia. Plans and estimated construction costs have been prepared by Gam Consult International. Funds should be generated through renting out shops, office space, organising training courses and seminars and reducing the cost for the current training activities. The Ford Foundation have expressed interest in funding parts of the complex.

on behalf of the Centre in 1997/98 (the conclusions are summarised above). In 1998 the Fritjof Nansen Institute and Ford Foundation made minor evaluations/assessments. The evaluators have had access to the two first studies and an early version of the one done by FNI. The objective of the FNI evaluation was to assess the research capacity of African NGOs. Its main conclusion is that the Centre is at present a training institute and does not have the capacity to carry out research. However, the ACDHRS is among the most important NGOs on human rights with a pan-African perspective in Africa. Relative to the resources it commands, its reach is wide and it plays a catalytic role vis-à-vis other African NGOs. The quality of activities appears generally high. It recommends that NORAD give high priority to new requests for assistance from ACDHRS. The Ford Foundation did an informal evaluation that is not available. The Netherlands Government plans to undertake an evaluation in October.

Findings and Assessment

Relative to its small size, the Centre plays an important role in promoting human rights and the African charter, linking NGOs in different African regions, encouraging capacity building among NGOs and it constitutes a valuable interface between the Commission and the NGOs. The Centre provides one of many contributions to the building of national and a pan-African civil society. It is, however, neither the only NGO that works on a regional level nor the only one that provides courses in human rights procedures, disseminates newsletters and provides training for NGOs working with the Commission. After consultations with a number of other NGOs and organisations the evaluators find that the Centre, with its closeness to the Commission, both has the prerequisites and the legitimacy to continue to be supported, as long as other NGOs are not excluded.

Training

The courses are appreciated by participants and in great demand. ACDHRS has the experience and machinery for a reasonably cost-effective organisation of courses, e.g., manifested in defined (written) work tasks for all staff. This capacity may be used further to increase training in different aspects of HR as well as in overall capacity building. Regarding content and structure of the courses, it appears that the International Human Rights Procedures course focuses too much on international procedures, compared to African procedures. One could also ask if it is necessary to bring European lecturers to the courses, even if they get good marks and contribute to developing the international network. That competence should be available in Africa.

The management course appears to cover too many subjects for a five-day course, which is also noted in course evaluations.

The courses are expensive. The major question is whether there is a way to provide less expensive courses, allowing for more participants or prolonged

sessions. Currently the cost per participant is in the range of USD 3,000-4,000 (or a total cost around USD 50,000-70,000 for a five-day course with 20 participants). The bulk of the costs is for travelling and accommodation. Two aspects should be looked into further: 1) reducing the number of participants from far way, e.g., through periodisation of the courses to different regions or arranging the courses with larger intervals but with longer sessions and arranging courses in connection with the NGO-session, (instead of bringing NGOs on two occasions from the whole of Africa); 2) reducing the cost of accommodation. Different types of courses could be organised in different ways. The basic training courses could be organised in a cheaper way than those targeting high level officials or experienced NGOs. Maybe a 1-3 month course in management could be organised in combination with an internship programme, resembling a college course. The often extensive documentation for each course, might be well intended but over-ambitious. Providing more background material should be considered.

There is a need for a follow-up of the courses after the participants have returned home to find out if the skills acquired have been useful and to involve targeted NGOs in the planning of the course.

Networking

The networking of the Centre is valuable for the weak African NGO community. There is a need for African NGOs to shoulder the functions of the International NGOs. Yet the structures and institutions for co-ordination of NGO activities are underdeveloped. This was clearly displayed when ICJ cancelled the NGO workshop at two weeks' notice in October 1998. The Centre was unable to take over as it had just organised a course in Mauritius. At the session, the international NGOs (Amnesty International, Interights and HRW) had to take the initiative to organise NGO-meetings. It has been claimed that ICJ had played out its role as organiser of the NGO-workshops and that it is time for African NGOs to take over the responsibility. Even if the Centre is only one of several NGOs working on a regional basis, it could contribute to a better organised African NGO community in a transition period until a broader network is established.

Documentation

The Centre's documentation unit provides a valuable source of information for different actors, as well as publicises relevant information in the newsletter. A number of African NGOs claimed however, that they did not receive the newsletter or that it came too late. The use of publications needs to be further looked into and followed up. The home page will give an opportunity to provide more updated information. The evaluators have observed a certain overlapping between the Centre, the Commission and the Society. Better co-ordination between these organisations would be desirable in order to utilise scarce resources as efficiently as possible, not least in the field of documentation and publication. Even if the documentation centres of the Commission and the Centre have different aims and target groups, it might be questionable to build up two libraries in the same building.

The internship programme

The internship programme is a valuable opportunity for African interns to be given experience and exposure. Extending the programme to include professionals from other organisations should be considered.

Considering the close linkage between HR and the democratisation process, it seems relevant to include democratisation issues in the work of the Centre. The reversal of the democratisation process and the HR record in a number of African countries calls for more protective work. The Centre has a role to play here, but the plan of action should be carefully designed in order not to duplicate work already done by other organisations. The practical experience of protective work can also provide a valuable input to the course work, as experienced by among others the Danish Centre for Human Rights. The same can be said about research, without a proper knowledge base, the promotional and protective work will not be efficient in the long run. It should, however, first be considered how the Centre could work closer with, e.g., other NGOs and universities that already have that knowledge or experience, rather than creating a new structure. On the other hand it appears as if the Centre pursues too many activities in too many fields and that there is a need for a further focusing of the activities. In this respect the donor community plays an important role and has to avoid distracting the Centre into new arenas in order to acquire project support. The focus must be on consolidating the activities already being undertaken and facilitating stability and adequate staffing.

Administrative capacity and competence

The Centre has reasonable administrative capacity and equipment as well as competence to plan and implement its activities. The competence is, however, superficial and the organisation highly dependent on its director.

In 1995 a process of major overhaul of the administrative structure was initiated, a painful restructuring that has resulted in a more professionally managed NGO, with well kept finances, reasonably clear organisational structure and working administrative machinery. Its governing council and advisory board both take active part in the development of the activities as well as monitor the performance. In 1998 an international management consultancy firm made an extensive assessment and pointed at severe weaknesses in the organisation and elaborated proposals for an overhaul of the organisational and administrative structure. The proposal has been elaborated in collaboration with the board, the director and the staff. It is well thought out and built on experience from a vast number of international centres and companies. The changing of the organisation is under way, but the outcome is still unclear and it is important to monitor the future development closely. The organisation must be broadened and deepened beyond the director. The changes and uncertain employment conditions have created tension among the staff. All the staff are not motivated and do not feel included in the process. That the director is a woman and from Southern Africa has at times been used as an excuse.

The administrative structure is not matched by a professional superstructure. The Centre is in a Catch 22 situation where lack of core support and dependence on annual project support makes it difficult to consolidate the organisation. There is great need for additional staff with legal competence and

research capacity as well as programme officers to co-ordinate the training activities—activities that at present have to be carried out by the Director. At the same time the concentration of work to the Director's office creates a lack of trust between the staff and the Director. The alternative would be to narrow down the activities. As the Centre is a foundation rather than an activist based NGO, the development of the organisation depends to a large extent on the quality of the staff and the organisational structure.

Financial management and cost effectiveness

The Centre's finances are well managed. Audited annual reports are presented on time. The bookkeeping is in good order, according to the evaluators' observations and interviews with the auditors.⁹ Starting in September 1998, the bookkeeping will be computerised, which will enable the management as well as donors to monitor the use of funds closely. The management displays a high degree of cost consciousness. The former financial officer lacked competence and his contract was terminated. His successor was recruited through a professional management firm using an open process with advertisements in relevant African papers.

The administrative costs in general seem reasonable, but the supportive staff may be unnecessarily large (12 out of 17 members of staff) in comparison with the number of professional staff.

Goal achievement

The Centre has achieved its goal to promote human rights and the African Charter, in general terms. It has, however, not done research and protective-legal work to the full extent of its mandate, due to lack of funds, which has inhibited the employment of sufficient staff.

RWI has not had an explicit goal for its support, but the course it has funded has worked well, according to both the evaluators and the course participants.

Impact

It is difficult to measure the impact of a small organisation such as ACDHRS. We, however, are of the opinion that the Centre has built up and now maintains an important network that plays a role in the promotion and protection of human rights—as well as supports human rights NGOs, with few resources. The courses have involved around 400 participants from 250 NGOs, increased knowledge on human rights issues, enhanced the capacity of the NGOs and contributed to institution and network building. The training in human rights procedures might have contributed to the fact that most communications to the Commission now are written by African NGOs, are better written and that an increasing number of NGOs participate in the work of the Commission. The newsletter disseminates important information on human rights issues and the Commission and has

⁹ The evaluators have not had the resources to make any deeper assessment of the financial management. At our visit the book-keeping was one week behind and audited accounts for the financial year 1997/98 were presented in September.

enabled more NGOs to participate in a better informed way in the human rights work as well as making the Commission, and human rights issues, better known to a wider public. Publications are one of the major means to make the work of the Commission more effective. The documentation centre and its publications enable both NGOs and individuals to be better informed on human rights issues. ACDHRS has built up a useful database that is used to strengthen the human rights work. ACDHRS, together with other NGOs, plays an important role as a "watch dog" to keep the Commission on its toes.

A number of courses and seminars have been organised with key decision-makers and have in a small way contributed to building a democratic culture in African governments.

Sustainability

The financial sustainability is low. Even if ACDHRS has core support from the Gambian government and generates part of its own funds, it will still be dependent on international funds to fulfil its mandate. The technical sustainability is relatively high as it is a reasonably well-managed organisation and is quite well established in the African and the international human rights community. The long-term sustainability is dependent on the outcome of the current re-organisation process.

THE AFRICAN SOCIETY OF INTERNATIONAL AND COMPARATIVE LAW

Summary

Although not explicitly 'a Human Rights organisation', the Society occupies a relevant niche and contributes functionally to the development of human rights observance in Africa. There are some uncertainties about its planning and strategy disciplines which are being corrected. The Society merits continued and sustained support from donors.

Background

General information

The Society was established in the same period as the African Commission. It was registered as a Charity in the UK in 1986, and awarded a grant from Sida to run its first annual conference in Lusaka in 1989.

The Head Office is in Banjul although, for ease of communications and availability of publishing facilities, a part of its work is carried out from a London office. A third office is in Ghana. The Society is essentially an African NGO. It is legally registered in 8 countries, and hopes to open offices in Kampala and Cotonou during the course of 1999.

The Society currently has 548 individual members and 602 institutional members. It has an additional mailing list of 850 (referred to as 'non-subscribing members'). Approximately half the individual members and the bulk of the institutions (mainly universities and law schools) are in Africa. Membership fees are £60 p.a. which includes a subscription to the quarterly Journal. There are discounts for students and Africa residents.

The governing body is comprised of approximately ten eminent trustees with Chair and Officers elected annually at the AGM which is held concurrently with the Annual Conference. The Society was created by Emile Yakpo who has been General Secretary since its inception. Each of the offices has a staff of three of whom at least one is a qualified lawyer.

In 1998 income and expenditure will be of the order of £335,000. Apart from a small amount derived from fees and miscellaneous income, the Society's income derives from grants as follows : Sida £35,000 ; Dutch Ministry of Co-operation £31,000 ; DANIDA £259,000 ; UK DfID £11,000.

Role and purpose

The Society is not explicitly a Human Rights organisation. Ostensibly it is a professional association which serves the interests of its members. In UK law its charitable purpose is the furtherance of education. It fulfils both of these roles but also functions as a small operational NGO which, in the words of its General

Secretary, "seeks to enhance the rule of law in Africa". The relationship of the Society to the African Commission for Human and Peoples' Rights is twofold : firstly it provides direct services to the Commission a) in publishing its reports, and b) in recruiting lawyers ; secondly it functions as a grassroots NGO in the field of law and human rights ; specifically through its operation of legal advice schemes. In this latter role, in common with many other NGOs, it is serving a function that is complementary to that of the Commission.

Funding from Sida through the Raoul Wallenberg Institute

From a high point of approximately SEK 1 million p.a. in 1992 and 1993, funding from Sida through the RWI has progressively fallen to less than half that amount in 1997 and 1998. It seems that Sida has expected RWI to play an administration role in the disbursement of these funds. Reference is made elsewhere to the weaknesses in the Society's planning disciplines, but these have certainly been exacerbated by uncertainties in both the timing and the amounts of Swedish funding provided in each year. It would be preferable for all parties if a fixed annual grant could be agreed for a forward period of say three years. It might be more straightforward for the annual grant to be paid direct by Sida.

Description and Critique of Activities

The main activities of the Society are the following : organisation of an Annual Conference ; publishing ; provision of lawyers to the African Commission ; operation of legal advice schemes ; recruitment of new members ; consultancy and advocacy.

Organisation of an Annual Conference

The conference is held in a different African capital each year with a total attendance of approximately 70 participants made up as follows : 50 African lawyers, academics and professional people in law-related fields ; 10 non-African law scholars ; and a varying number of diplomats and officials. A key feature of these conferences is that, of the 50 participants sponsored by the Society, at least 35 present learned papers that are subsequently published and circulated. Of the 10 conferences held by the Society so far, about half have been on major topics that fall squarely into the field of law and related fields that comprise the area of specific competence of the Society. The remainder of the conferences have been on themes that, although very important, are of a more general political and geopolitical nature. These more general topics are, or should be, to some extent covered by conferences and seminars organised by a wide range of other institutions and academic bodies. The Society should perhaps review its criteria for choosing Conference topics so as to address issues that it is specifically competent to promote, and which otherwise will receive little of the attention that they merit.

Another matter that deserves attention is the somewhat limited range of participants. There could be a more systematic approach to targeting particularly important groups. It would be good to see a greater representation of actual

practitioners in relevant law-related fields. Also there is little evidence of Arabic and lusophone participation. Finally the Society should be urged to make a more deliberate effort to substantially increase the number of women participants. There are a great number of African women lawyers, and indeed, associations of women lawyers in a number of countries. These should be more effectively targeted.

Publishing

The Society has developed considerable experience in the specialised business of bilingual publishing of technical and semi-technical legal material. A particular feature of the publishing activities of the Society is the role played by the Editorial Board. Each and every article is scrutinised by three members of the ten-strong Editorial Board plus an independent expert. The Society publishes its own Journal four times a year, commissioning relevant papers and articles by qualified experts. The print-run is 1,500 per issue, and a substantial part of the distribution to African law schools is funded by a grant from Sida through the Raoul Wallenberg Institute. Similarly the Proceedings of the Annual Conference are published and distributed to participants and a smaller selective list of about 600.

Twice a year the Society publishes a Review of the work of the African Commission, and separately, a Report on the Sessions of the Commission. The print-run is 500 in each case.

In all cases the publications are produced in English and in French. The reports relating to the African Commission are particularly important as, thus far, they have been the only formal public record of its work. Currently the publications are more than a year and a half behind schedule. This regrettable time lag appears to be caused by avoidable delays, both by the Commission in providing the material, and by the Society in processing translations. These problems should be addressed by both parties and resolved.

It is recommended that donors should continue to fund these publications and their distribution, but a clear tripartite agreement should be worked out by the Commission, the Society and the donors. The agreement should specify costs, payments and time frames. Such an agreement, although renewable annually, should be for a period of say three years.

Provision of lawyers as legal officers to African Commission

Currently the Society provides three qualified African lawyers as legal officers to the Commission, two financed by Denmark and one by the European Union. Although these lawyers are paid significantly less than OAU rates, they are apparently of high quality and work satisfactorily. Because of its wide network of contacts in the African legal world the Society is well-placed to provide this service. There appears to be some confusion about the status of these lawyers. The President of the Commission for instance referred to them as "interns". That is emphatically not the case. However the Commission could well consider establishing a formal intern programme ; to increase its staff resources; to provide valuable work experience to African student lawyers; and to widen

familiarity with its role and work on the African continent. Again the Society would be well placed to develop such a programme for the Commission, and donors should be encouraged to fund it.

Operation of legal advice schemes in the Gambia and Ghana

In the foreseeable future only a negligible proportion of the population of Africa will be able to pay market rates for legal advice and representation. At the same time, modern civil and criminal legal systems are going to touch the lives of more and more people in more direct ways. State-paid legal aid will only be minimally available. The working of the interlocked relationship between human rights and systems of law is going to require the strengthening and expansion of other structures and mechanisms, many of which are going to depend upon NGOs.

The legal advice schemes operated by the African Society in Gambia and Ghana are good examples of such mechanisms. It was a particular privilege for the evaluator to observe a full morning session of the Banjul Legal Advice Centre during which an experienced and sympathetic lawyer gave legal opinion and practical advice to a diversity of everyday cases in both civil and criminal justice. The service in Gambia, which is advertised on the radio, has attended to over 2,000 cases since its beginning in 1994. In Ghana a considerably higher number of cases have been handled in the ten centres that are operating. This is an effective low-cost means of providing advice and support to ordinary citizens, especially women. In collaboration with the UK international NGO, Action Aid, the Society is currently training a first group of para-legal advisers to operate in the rural areas of Gambia. The Society's principal aim in planning to open new national offices is to develop the legal advice scheme in more African countries. The strategy and resource planning for these ventures appears somewhat weak at present, perhaps because of lack of confidence that donor support will be forthcoming. Donors are urged to consider appropriate support for this aspect to be strengthened, as well as to support the actual establishment of new offices and schemes.

Recruitment of new members and opening of new offices

There appear to have been several attempts to increase the number of countries with offices of the Society, but for a diversity of reasons they have not so far succeeded. Whilst taking care not to over-stretch the management capacity, there is a strong case for targeting support to enable the opening of offices in Uganda and Benin, which are the locations currently favoured by the Society. Both countries apparently have active lawyer members of the Society, and the latter would give experience of operating directly in a francophone legal context. With regard to membership, there is a need to conduct a profile survey of existing members, and perhaps to engage in more deliberate targeting in prospecting for new members.

Advocacy

The Society has observer status at the African Commission, but also at the OAU, which is a rare prerogative only accorded to a handful of organisations. It is well placed to exert policy influence through the eminent individuals that comprise its main Board and also through its network of members and contacts particularly at

senior levels in national justice and legal circles. It advises on and advocates structural reforms in respect of relevant agencies of the OAU and national systems.

Finances and Administration

The Society is financially vulnerable in that it does not have any significant financial reserves and effectively spends each year's income in the same year.

In broad terms expenditure on the main activities breaks down as follows:

Annual Conference: £80,000
Publishing: £60,000
Lawyers for the Commission: £30,000
Legal Advice Schemes: £80,000
Salaries, administration and overheads: £80,000.

The accounts have not been examined in any detail by the evaluator, but the annual audited accounts for the 1997/98 financial year have been studied by the evaluator and found to be satisfactory. The administration appears competent and efficient. Salary levels are on the low side, particularly for administrative staff. It is likely that the organisation is approaching a point at which work overload on staff is becoming counterproductive. Consideration should be given to raising the salary levels of the lower grades of administrative staff and to adding a staff member who could take responsibility for planning, fund-raising, donor liaison and reporting.

Summary of strengths and weaknesses as observed in the course of the evaluation

* *Strengths*: bilingual legal/academic publishing - conference logistics - grassroots legal advice - contact network particularly in academic legal circles throughout Africa - recruitment of African lawyers - high commitment of staff - access/experience at both grassroots and elite levels.

* *Weaknesses*: lack of presence in francophone, lusophone, Arabic-speaking countries - narrow base and insecurity of funding - does not appear to be strategy-driven - apparent lack of marketing strategies for publication sales and member recruitment.

* *Sustainability*: the society's income from membership fees is very small. There is some scope for some of its publishing activities to be funded on a commercial contract basis. The society will require donor funding for its principal activities for the foreseeable future.

* *Uncertainties*: relevance of conference themes/topics - target audience of conference participants - planning disciplines.

Summary of recommendations

- Maintain/increase funding support but insist on a written plan with annual objectives and priorities.
- Agree a fixed annual grant for a forward period of three years.
- Stick to current activities but improve performance.

Conference

- Profile of participants to establish key target audiences.
- Review relevance of themes/topics.

Publishing

Update mailing list and develop marketing strategy.

- Beware being side-tracked into marginally relevant work.

Commission

- Explore African intern scheme with African universities.

Legal Advice

- Planned expansion.

Membership/Offices

- Needs planning and investment.

Finance and Administration

- Discuss strategy with donors to accumulate a modest Reserves Fund.
- Review salary scales for administrative staff.
- Review staffing requirements, especially for planning and reporting.

THE RAOUL WALLENBERG INSTITUTE OF HUMAN RIGHTS AND HUMANITARIAN LAW

Background

The Raoul Wallenberg Institute (RWI) was founded in 1984 at Lund University, Sweden and has since its establishment been co-operating with the Faculty of Law, University of Lund. In 1993 a chair of public international law, in particular human rights and humanitarian law, was created at the Faculty of Law, a chair which is linked to the institute. The purpose of the institute is to promote research, training and academic education in the fields of human rights and humanitarian law. The institute has expanded fast since 1989 and had, in 1998, 15 permanent staff members involved in research and academic education, international development, the library and secretariat.¹⁰ Visiting professors and scholars are invited to spend time at the Institute for research and teaching. The institute is a charitable trust under private law and governed by a Board of Trustees.¹¹ A vast network has been established of international as well as regional and national institutions and organisations.

The institute has been given core support from the Ministry for Foreign Affairs from 1989. Since 1991, Sida and the Ministry for Foreign Affairs have been the main financiers and have channelled considerable resources through the institute. The grants from Sida have increased ten-fold from SEK 3.4 million in 1990/91 to SEK 36.7 million in 1995/96 (18 months), SEK 34.9 million in 1997 and 30.2 million in 1998. In addition the Ministry for Foreign Affairs provided SEK 1.5 million in 1990/91 and 3.4 million in 1995/96 (18 months), 1.65 million in 1997 and 1.4 million in 1998. The programmes financed are:

Academic education: RWI co-operates closely with the Faculty of Law in respect of post-graduates studies. Accordingly, most LL.D. candidates in public international law are supervised by professors at the institute. Together with the Faculty of Law, the Institute is involved in organising courses and tutorials for the Swedish LL.M. Programme and for the Master of International Human Rights Law Programme (three semesters), which is in English and open to foreign students. Of the 21 graduates in 1996, 8 were from Africa, 2 from the Americas and 11 from Europe.

¹⁰ Professor Göran Melander is Director, Mr. Leif Holmström, Deputy Director and Professor Gudmundur Alfredsson, Co-Director. The core staff is composed of 5 programme officers, 1 information secretary, 1 publication officer, 1 librarian, 1 secretary, 1 course secretary and 2 accountants. In addition around thirty resource persons take part in the course work.

¹¹ Board of Trustees: Carl Gustaf Andrén, Chairman; Erland Aspelin; Gunnar Bergholtz; Leif Holmström; Göran Melander; Gudmundur Alfredsson, Deputy; Göran Rystad, Deputy and Ulf Strandmark, Deputy.

A research library in public international law, human rights and humanitarian law has been established.

Seminars and colloquies. Between 1992 and 1998 some 26 seminars were organised on different human rights themes, mainly in Lund.

Publications. The Institute issues different publications series. 28 publications have been issued up to October 1998.

International development programmes. RWI has become one of Sida's main co-operative partners with regards to human rights. Training courses in human rights, humanitarian law and refugee law have been developed in a number of countries in Africa, South East Asia and, occasionally, in Central and Eastern Europe. In total around 80 courses in 18 countries have been organised in the period 1990-1998. The main policy has been to attract categories of participants who in their professional life deal with matters related to human rights and democracy and who, through their positions in society, can have an influence on the conditions in their respective countries. The purpose of the training is to impart such knowledge that the participants will be able to carry out basic training in human rights. Another purpose is that the participants will be able to act as "attitude changers" and make sure that human rights law is implemented and respected at the respective authorities.

Donation of books, periodicals and documents in public international law, with the main emphasis on human rights and humanitarian law. Currently (1998), some 25 academic law libraries in Africa and Asia receive this support. A similar project has been initiated for criminal justice institutions in developing countries. Furthermore, in 1998, eight institutions are being provided with relevant human rights material.

Information. A newsletter about the Institute and its activities, is to be issued three times a year. Information about the Institute is available on the Internet.

Institutional support has been given to the Community Law Centre, University of Western Cape, and Community Peace Foundation and Community Peace Programme South Africa, the Belgrade Institute for Human Rights, and the Human Rights Institute in Sarajevo, and to the three Banjul-based organisations, *The African Commission on Human and Peoples' Rights*, *The African Society of International and Comparative Law* and *The African Centre for Democracy and Human Rights Studies*. The support to the three Banjul-based organisations is developed below.

Evaluation of the Raoul Wallenberg Institute in 1997

An external evaluation of the institute was done in 1997.¹² The evaluation commended the impressive proliferation of the activities at the institute and

¹² Mothander, Rodley, Sassarsson Cameron and Flodman-Becker 1997.

noted that the institute had expanded very quickly during a five-year period, both in terms of activities and number of countries. It made a highly positive assessment of the quality and quantity as well as the relevance of RWI's activities. The rapid expansion had not, however, been without strain for the organisation. Among the concerns raised in the evaluation report the following are specifically relevant to the organisations with which we are concerned:

- RWI had neither the resources nor the competence required for a more active involvement with the partner institutions, in their overall development, their research activities and in training. RWI ought rather to restrict its activities in institutional co-operation to joint course organisation with the aim of allowing the local partner to assume responsibility for the training activities thereafter acting as adviser, mentor and resource.

- RWI should not act in the role of funding agent. Although RWI had the competence to appraise applications for funding from human rights organisations, to act both as a joint course organiser and a conduit for channelling funds might lead to conflict of interests.

- Sida had, according to the evaluation, not initiated a dialogue with RWI to provide guidelines which would have assisted the RWI to concentrate its activities and resources to areas where it has a comparative advantage. Sida had exerted very little control resulting in superficial reporting and in an unsystematic work approach. This has also contributed to the fact that it has been difficult for RWI to separate its role of financing agency from that of a co-operating partner.

Most of the points raised in the evaluation but not mentioned here have now been addressed. With reference to the points raised above we find ourselves in broad agreement with these conclusions and believe that it will be to the benefit of all concerned that the role of RWI should change.

The evaluators' interviews and contacts have confirmed the high standing and reputation that RWI has in the international community of human rights and humanitarian law. The training at the institute, both academic and practical, is highly esteemed as is the professional advice of its scholars and staff, resources that are valuable in the development of capacities in the field of human rights in Africa.

The Support to the African Commission, the African Society and the African Centre—Summary

The Raoul Wallenberg Institute was initially approached by Sida in 1989 and asked to take over the support to the three Banjul-based organisations. No preparatory study was made either by RWI or by Sida, according to RWI. No clear strategic plans were elaborated nor any clear objectives for the

engagement. However, extensive consultations took place with international governmental and non-governmental organisations before the project was initiated. The Commission was regarded as an interesting agent for promotion of human rights in Africa and as an important organisation to support. The Centre and the Society were regarded as important support functions to the Commission and for the promotion of human rights in Africa. Moreover it was assessed that the Centre and the Commission played an important role in the promotion of regional networks among NGOs.

Here follows a summary of the activities supported by RWI in each of the three organisations. For details reference is made to the table below and to the special sections above on each of the organisations.

The African Commission

The Commission has received support from Sweden since 1991 in the form of support to seminars jointly organised by RWI and the Commission and means to improve the communications between the Secretariat and the Commissioners (fax machines and telephone costs) and funds to enable the Commissioners to implement promotional activities mainly through the funding of trips to member countries. Sweden has also financed the printing and distribution of the Commission's review. The support has ranged between SEK 500,000 and 1,400,000 per year. The administration of funds has at times been cumbersome with delays and problems on both sides. RWI has not been able to use its special competence sufficiently in the co-operation.

The African Society

Three activities have been funded: the publication of the African Journal of International and Public Law, the organisation of an annual conference and the Review of The African Commission on Human and Peoples' Rights. In the early years the support was of the order of SEK 1,000,000 but that has been reduced to less than half that amount over recent years. Additionally it has not been clear from year to year the amount of support the Society could rely upon.

The African Centre

The first year RWI supported the internship programme and the second the Human Rights documentation programme, since then support has been confined to the annual course in International Human Rights Procedures. The annual support has fluctuated between SEK 150,000 and 550,000 with a peak in 1996. According to both RWI and the ACDHRS the co-operation works well. After informal contact and a formal application, RWI disburses funds in one instalment to ACDHRS. Reporting and producing audited accountants are done in reasonable time. RWI is interested in continuing to work with the Centre and the Centre with RWI. Both institutions think that RWI's special competence could be used further, e.g., in developing an advanced course in international human rights procedures along the lines of the course RWI is organising in Southern Africa.

Assessment of RWI's role in acting as a channel of support for Sida

As seen from the above discussion and from the project reviews it is the view of the evaluators that RWI has not been utilised to implement tasks for which it has a special competence, but rather for those for which it has neither special competence nor resources. In line with the recommendations of the special evaluation on RWI from 1997, RWI should not be involved in the role of what is there called "funding agent" nor overall institution building. RWI should rather act as a dialogue partner on substance with Sida as well as with the three organisations involved rather than as an administrator of assistance.

It is consequently the view of the evaluators that Sida should itself conclude and administer agreements with the three Banjul-based organisations and that the role of RWI should become that of adviser to Sida and dialogue partner to the three organisations on matters of substance. This could be organised such that RWI is requested to visit the three organisations twice a year in order to take up discussions with each of them on substance and report back to Sida in accordance with a mutually agreed format. In the case that this is not acceptable to Sida then we recommend that another organisation be identified that has both the experience and appropriate resources to act as the grants administrator.

Financial support—African Commission on Human and Peoples' Rights 1991–1997

	SEK
1991	
Promotional missions	150,000
1992	
Seminar on the National Implementation of the African Charter on Human and Peoples' Rights in the Internal Legal Systems in Africa, Banjul, October 1992	411,920
1993	
Support to the Information and Documentation Centre, Banjul	100,000
Seminars	
Seminar on Reporting Procedures of the "The African Charter on Human and Peoples' Rights", Harare (English)	486,080
Missions	
Travel Commissioner Ibrahim Elsheikh - Vienna, World Conference on HR	14,627
Equipment	
Fax machine for commissioner Janneh	<u>6,193</u>
	606,900
1994	
Seminars	
Contribution to the Seminar on the Protection of the African Refugee and Internally Displaced Persons, Harare February 94 organised by SARDC and ACHPR	59,395

Seminar on Report Procedures, Tunis (French)	657,056
Missions	
Mission to Togo, Umuzurike	367,670
Mission to Maseru Manzini, Umuzurike	10,807
Mission to Cameroon, Umuzurike	38,421
Mission to Uganda, Kisanaga	23,888
	26,568
Review	
Printing and distribution of the Review of ACHPR	99,421
Printing and distribution of the Review of ACHPR	95,520
Equipment	
Fax machine for Commissioner Duarte	5,313
Fax machine for Commissioner O Umuzurike	8,796
Fax machine for Commissioner Dankwa	15,846
Fax machine for Commissioner Badawi	<u>13,670</u>
	1,422,375
1995	
Missions	37,466
Mission to Togo, H Ben Salem	13,039
Mission to Togo, Nguema	
Mission to Zimbabwe and Malawi, Dankwa	25,136
Mission to Togo, Umuzurike	11,380
Review	
Printing and distribution of the Review of ACHPR	84,022
Communication	
Telephone, fax machine, postage	27,414
Telephone, fax machine, postage	26,850
Fax communication - Nguema	6,109
Equipment	
Fax machine for Commissioner Kisanga	6,204
Fax machine for Commissioner Nguema	<u>9,824</u>
	247,447
1996	
Missions	
Mission to Ethiopia, Baricako, Nguema	44,957
Mission to Nigeria, Namibia, Botswana, Dankwa	36,218
Mission to Zambia, Kisanga	15,029
Mission to Mauretania, Ondzielgnelenga	22,054
Mission to Senegal, Nguema, Duarte	11,511
Mission to Mauritius, Ondziel, Nguema, Baricako, Buzingo	12,851
Mission to Sudan, Bara, Dankwa, Kisanga	105,242
	64,749
Review	
Printing and distribution of the Review of ACHPR	139,063
Equipment	
Fax machine for Commissioner Rezag. Bara	<u>6,676</u>
	458,352
1997	

Missions	
Mission to Zambia, Kisanga	13,529
Mission to Nigeria, Amega, Dankwa, Essombe	16,484
Mission to Sudan, Essombe	18,204
Per diem different missions Nguema, Duarte, Buzingo, Ondiziel, Baricako	75,510
Mission to Mauritius, Umuzurike	16,083
Trip to Sweden, Dankwa	9,518

Review	
Printing and distribution of the Review of AHCPR	173,760

Equipment	
Fax machine for Commissioner Amega	5,616
Fax machine for Commissioner Ndiaye	20,248

Communication	
Telephone	<u>158,218</u>
	507,174

TOTAL SEK	3,804,169
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Financial support—African Centre for Democracy and Human Rights Studies

1992–1997

1992	SEK
ACDHRS - Internship Programme	160,000
1993	
Training course on Human Rights Documentation and Information Handling	202,375
1994	
Human Rights Procedures Training Course	400,000
1995	
Human Rights Procedures Training Course	370,000
1996	
Human Rights Procedures Training Course	465,630
1997	
Human Rights Procedures Training Course	307,600
TOTAL SEK	1,905,605

Financial support—African Society of International and Comparative Law

1992–1997

1992	SEK
Fourth Annual Conference, Dakar	349,325
Rent of premises, salaries, London	150,000
Fourth Annual Conference, Dakar	100,000
Subscriptions and back issues AJICL	150,000
Subscriptions and back issues AJICL	<u>175,000</u>
	924,325
 1993	
Fifth Annual Conference, Accra	565,984
Subscriptions and back issues AJICL	409,082
Freight costs books (1,000 copies of Shaws's International Law)	
	<u>32,362</u>
	1,007,428
 1994	
Sixth Annual Conference, Uganda	428,580
Subscriptions: AJICL and Proceedings	<u>221,350</u>
	649,930
 1995	
Eighth Annual Conference in Egypt	302,494
Subscriptions AJICL	<u>280,812</u>
	583,306
 1996	
Eighth Annual Conference in Egypt	254,089
Subscriptions AJCIL	<u>131,307</u>
	385,396
 1997	
Ninth Annual Conference, Abidjan	162,063
Subscriptions: AJCIL and Proceedings	<u>287,937</u>
	450,000
TOTAL SEK	4,000,385

APPENDIX

Table 1. Total staff at the African Commission by source of finance

OAU STAFF MEMBERS

1) Mr. Germain Baricako	Secretary to the Commission
2) Dr. Joseph Essombè-Edimo	Legal Officer
3) Mr. Joshua Kioko	Assistant Accountant
4) Mr. Idrissa Kebe	Bilingual Secretary
5) Mrs. Anne-Marie Sambou	Receptionist
6) Mr. Abdoulie Ceesay	Driver
7) Mr. Ibrahima Bah	Cleaner
8) Mr. Ousamn Ngum	Security Guard
9) Mr. Ousman Sanyang	Security Guard

STAFF RECRUITED BY AFRICAN SOCIETY AND FINANCED BY DENMARK (12 months from October 1997)

1) Miss Jacqueline Harry Ukpaukure	Legal Officer, Protection activities
2) Miss Nana Asantewa Adu	Legal Officer, Promotion activities

STAFF RECRUITED BY THE COMMISSION AND FINANCED BY THE DANISH CENTRE (3 years from November 1997)

1) Mr. Jules Batchono	Legal Officer, Promotion activities
2) Miss Mariam-Guedam Syoum	Administrative Officer
3) Mr. Désiré Ahanhanzo	Documentation & Computer Officer
4) Mrs. Oulimata Sarr-Ndiaye	Information and Press Officer
5) Mr. Udeme Essien	Legal Officer, Protection activities
6) to be recruited	Bilingual Secretary

Mr. Lars Gustafsson	Data Processor
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STAFF RECRUITED BY AFRICAN SOCIETY AND FINANCED BY EUROPEAN UNION (12 months from February 1998)

1) Mr. Robert Wondeh Eno	Programme Officer
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Table 2. African Commission on Human and Peoples' Rights

Total Expenditures out of OAU budget
(in USD)

	1995/96	1996/97	1997/98
Salaries and wages	149,318	159,566	174,506
Other staff costs	83,055	132,140	104,978
Travel of staff	16,465	12,252	16,420
Rental/maintenance of equipment and premises	25,096	24,770	20,719
Communication	10,249	5,099	6,694
Miscellaneous supplies and services	12,010	16,324	15,825
Capital Assets		18,750	
Conferences and meetings	168,045	188,012	184,684
TOTAL	464,238	556,913	523,899

Table 3. African Commission on Human and Peoples' Rights

Statistics on Communications as at September 30, 1998
(for the period 1988–1998)

	-88	-89	-90	-91	-92	-93	-94	-95	-96	-97	-98	TOTAL
Registered	22	14	12	14	23	41	16	3	15	49	8 ¹	217
Finalised and made public	22	14	11	10	20	35	9	1	5	5	2	134
Declared inadmissible	18	8	6	4	6	26	5	-	1	4	2	50
Resulted in friendly settlements	3	-	1	1	1	-	-	-	-	-	-	6
Withdrawn	1	-	-	1	-	-	1	-	2	-	-	5
Decided on merits	-	2	4	4	6	7	1	1	1	1	-	27
Pending communications	-	-	1	4	2	6	7	2	10	44	6	82
Closed without decision	-	4	-	-	7	2	2	-	1	-	-	16
Double registration	-	-	-	-	1	-	-	-	-	-	-	1

Table 4: Incomes to the ACDHRS, Core Support and Project Support

Table 4a: Income, Core support (Dalasis)

	1998	1997	1996	1995	1994
Gambia Government	1,378,000	1,300,000	1,300,000	1,200,000	1,300,000
BILANCE	1,008,966	1,469,562	-	-	-
Other income	651,353	770,738	396,934	708,424	500,265
Netherlands Government	306,099	136,258	86,517	-	-
ICHDD	-	-	119,361	-	-
United States Government	-	-	-	138,289	-
Capitalised Project expenses	-	133,959	60,340	322,609	-
Total	3,344,418	3,810,517	1,963,152	2,231,033	1,661,976
Total (in USD)	318,516	362,906	186,967	212,429	158,283

Table 4b: *Income, project support (with program in parenthesis) and total income and expenditure for ACDHRS 1994-1998*

Dalasis	1998	1997	1996	1995	1994
Danida (NGO management; Education and training; Documentation)	1,144,55	1,931,87	138,205	1,753,54	-
BILANCE (Women's Programme)	1,721,51	770,955	-	-	-
NOVIB (NGO forum; African Commission)	489,525	1,101,22	433,564	393,540	-
Raoul Wallenberg Institute (International Human Rights Procedures; Intern program)	459,680	394,000	705,900	462,500	670,153
British High Commission (Documentation; Democracy at work)	99,309	-	90,910	-	-
Netherlands Government (International Human Rights Procedures; Women's Program)	-	1,084,32	-	-	1,462,13
ICHDD (International Human Rights Procedures; NGO Management)	-	-	170,000	310,500	227,540
NHRF (Newsletter)	-	-	108,671	90,500	89,371
ICJ (NGO Networking)	-	-	85,453	-	-
Commonwealth	-	-	-	-	264,000
UNHCR (Military training)	-	-	-	46500	46,500
CEBEMO	-	-	-	-	229,552
CECI (International Human Rights Procedures; HURIDOCs)	-	-	-	-	135,572
Total income projects (Dalasis)	3,989,38	5,282,37	1,732,70	3,057,08	3,124,61
	4	5	3	7	9
Total in USD (1 USD=10,5 D)	379,941	503,083	221,017	291,151	297,582
Total income, main centre and projects (USD)	698,457	865,990	351,986	503,631	
Total expenditure, main centre (Dalasis)	3,275,39	2,053,40	2,201,31	1,873,73	2,736,10
	0	9	8	5	8
Surplus/deficit (Dalasis)	69,098	1757,108	-238,166	357,298	-797,554

Source: *Audited Annual Accounts 1994-1998* (Financial year 1/7-30/6)

Table 5. Members of the Governing and Advisory Council, October 1998

Justice Kayoude Eso	Chairman	University of Benin, Nigeria
Mohammed Moneib Genedy	Vice Chairman	Cairo, Egypt
Joseph Joof	Executive member	(African Bar Association)
Sidiki Kaba	Executive member	Organisation National de droit
Julienne Ondziel	Ordinary member	(Commissioner) Lome, Togo
Joanna Foster	Ordinary member	WILDAF, Harare, Zimbabwe
Ben Lobolu	Ordinary member	HURIMOG, Arusha, Tanzania
Tsebeletso Makhetha	Ordinary member	Welfare and Population
Africa	Development, Social Security	Johannesburg, South
Youssoupha Ndiaye	Ordinary member	African Commission on
	Human and Peoples Rights	
Halidou Ouedraogo	Ordinary member	UIDH, Burkina Faso
Zoe Tembo	Executive Director	ACDHRS

Members of the Advisory committee

Bacre Waly Ndiaye	Senegal
Adrian Claude Zoller	Switzerland
Cees Flinterman	Netherlands
Fredrich Chomba	Zambia
Gay MacDougal	USA
Marshal Conley	Canada

LIST OF CONTACTS

NAMES	TITLE OR ORGANISATIONS
African Commission	
1. Yousoupha Ndiaye	Chairman of the Commission.
2. V. V. D. M. Duarte	Commissioner, Vice Chairman.
3. Barney Pityana	Commissioner.
4. Mohamed H. Ben Salem	Commissioner, Special Rapporteur.
5. Julienne Ondziek-Gnelega	Commissioner, Special Rapporteur, Women's Rights.
6. Germain Baricako	Secretary of the Commission.
7. Joseph Essombè-Edimo	Senior Legal Officer.
8. Mariam-Gued am Syoum	Administrator Officer.
9. Most of the other staff of the Secretaria	
African Centre (ACDHR)	
1. Zoe Tembo	Executive Director.
2. Dr Mohamad Fofana	Ass. Research Officer.
3. Lea Storry	Intern/Journalist.
4. Hannah Forster	Programme Officer.
5. Joseph Joof	Governing and Executive Council.
6. Touray Fatou	Supervisor. External Consultant.
7. Desmond Jones	External Management Consultant.
8. Most of the other staff	
African Society	
1. Emile Yakpo	General Secretary.
2. Matilda Sam	Administrative Officer, Gambia.
3. Awa Dabo	Administrative Officer, London.
4. Staff from London and Banjul Office	
State Representatives	
1. Traore Alain Edoard	Burkina Faso, Ministry of Foreign Affairs.
2. H. E. Eugen Nindorera	Minister for Human Rights, Burundi.
3. Ewosomsan Dieudonne	Togo, National Human Rights Commission, Lome.
4. Palan Mulonda	Ministry of Legal Affairs, Zambia.
5. Hulla Back-Tobi	Ministere des Affair Etrangers, Tunis.
International NGOs	
1. Brownwen Manby	Human Rights Watch, Africa Division, London.
2. Ahmed Motala	Amnesty International, London.
3. Ibrahima Kane	Legal Officer. Interights.
4. Mohamed Kamel Rezzag-Bara	Commissioner, President, Observatoire.
5. Tukombo Ize	Legal Officer. ICJ.
6. Eva Hellström	Swedish NGO Foundation for Human Rights.
7. Morten Kjeorum	Danish Centre for Human Rights.
8. Ivan Nielsen	Danish Centre for Human Rights.
9. Lea Storry	Intern/Journalist.

African Human Rights Organisation	
1. Alpha Fall	Institute for Human Rights and Development, The Gambia.
2. Julia Harrington	Institute for Human Rights and Development, The Gambia.
3. Olawale Fapohynda	Civil Liberties Organisation, Lagos.
4. Joyce Ogunyemi	Afronet Lagos.
5. Frances Ogwo	HURI-LAWS, Lagos.

6. S. A. Akpala	Society for the Welfare of Women. Prisoners, Enug
7. Chinony Obiagwu	Legal Defence and Assistance Project, Lagos.
8. Irene Dafonso	LIGA, Maputo.
9. Stella Michenge	WILDAF, Harare.
10. Shair Sabri	Egyptian Organisation for Human Rights.
11. Jouini Halima	Association Tunisienne Des Femmes Democraties, Tunis.
12. Joseph Whittal	Commission on Human Rights and Administrative Justice, Accra.
13. Saka Azimazi	National Human Rights Commission, Abuja.
14. Mohammed Sabiu	National Human Rights Commission, Abuja.
15. Joseph Otteh	Social and Economic Rights Centre, Lagos.
16. Innolen Chukomma	Centre for Law Enforcement Education, Lagos.
17. Alionwe Tine	Executive Secretary, RADDHO, Dakar.
18. Halidon Ouedraogo	Inter African Human Rights Commission.
19. Jody Kollapen	South African Human Rights Commission.
20. Mohamed Ould Borboss	S.O.S.-Enclaves, Nouakchott
21. Edetaen Ojo	Media Rights agenda, Lagos.
22. Festus Okoue Esq.	Human Rights Monitor, Kaduma.
23. Basil Ugochukwu	Legal defence Centre, Lagos.
24. John Soo Phir	Communication Officer, Malawi.
Universities etc.	
1. Prof. Christof Heyns	Acting Director, Centre for Human Rights.
2. Rolf Ring	Raoul Wallenberg Institute.
3. Chris Peter	Dept of Law, University of Dar es Salaam .
4. Peter Rosenblum	Director, Harvard Human Rights, Programme, Harv University Law School.
4. Göran Melander	Director, Raoul Wallenberg Institute.
OAU and UNHCR	
1. Ben Kioko	Dep. Legal Council, Legal Division, OAU Addis Ababa
2. Mutoy Mubiala	Human Rights Officer, UNHCR.

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2. Claude E. Welch, Jr., *Protecting Human Rights in Africa: Strategies and Roles of Non-Governmental Organisations*, University of Pennsylvania Press, Philadelphia, 1995.
3. U. Oji Umozurike, *The African Charter on Human and Peoples' Rights*, The Raoul Wallenberg Institute Human Rights Library, Martinus Nijhoff Publishers, The Hague, 1997.
4. Shadrack BO Gutto, *ICJ Workshops on NGO Participation in the African Commission on Human and Peoples' Rights 1991 to 1996: A Critical Evaluation*, International Commission of Jurists (ICJ), October 1996.
5. Susanne Malmström, *The Communication Procedure under the African Charter on Human And Peoples' Rights*, Graduate Thesis in Public International Law, Raoul Wallenberg Institute, Lund University, May 1995.
6. Christof Heyns (ed.), "Review of the African Commission on Human and Peoples' Rights: 21 October 1986 to January 1997", *Human Rights Law in Africa*, 1997.
7. *Africa Legal Aid*, October–December 1996.
8. Peat Marwick, *African Centre for Human Rights and Democracy. Review of Rules and Regulations*. 1998a-1998b, Staff Audits, Peat Marwick Management Consultancy.
9. *The Participation of Non-Governmental Organisations in the Work of the African Commission on Human and Peoples' Rights. A Compilation of Documents, October 1991–March 1996*, International Commission of Jurists, 1996.
10. The African Commission, ACDHRS and the African Society, various reports, studies, newsletters, financial statements and clippings.
11. Mothander, Rodley, Sassarsson-Cameron and Flodman-Becker, *The Raoul Wallenberg Institute of Human Rights and Humanitarian Law.*, a study of activities financed by Sida and an assessment of development co-operation capacity, Lund, 1997.
12. Raoul Wallenberg Institute, various agreements, reports and letters 1992–98.

LIST OF ACRONYMS

ABA	African Bar Association
ACDHRS	African Centre for Democracy and Human Rights Studies
ACHPR	African Commission for Human and Peoples' Rights
ADAW	Advice Desk on Abused Women
AFJB	Association des Femmes Juristes du Benin
CECI	Canadian Centre for Research and International Co-operation
CEMBO/BILANCE	Catholic Organisation for Development Co-operation
CHR	Centre for Human Rights, Geneva
CS	Commonwealth Secretariat
EOHR	Egypt Organisation of Human Rights
FIDA-K	International Federation of Women Lawyers
GG	Gambian Government
ICHRDD	International Centre for Human Rights and Democratic Development
ICJ	International Commission of Jurists
IHRP	International Human Procedures
ISHR	International Service for Human Rights, Geneva
MDI	Management Development Institute, The Gambia
NHRF	Norwegian Human Rights Fund
PNI	Penal Reform International
PROCMURA	Project for Christian/Muslim Relations, Gambia
WILDAF	Woman in Law and Development in Africa
WLAW	Womens Legal Watch, Mauritius

TERMS OF REFERENCE

Division for Democratic Governance, Sida
R Folkesson

1998-06-06

Evaluation of Regional Human Rights Organisations in the Gambia

1. Background

1.1 General

One of the overriding Goals for the Swedish development assistance is to promote democracy and respect for human rights. Swedish foreign policy, including Sweden's ratification of the six principal human rights conventions, provides the necessary framework for this policy. Sweden places particular emphasis on respect for the rights of women and for the rights of the child.

Being a financial aid organisation, the Swedish International Development Corporation Agency, Sida, has, based on the above mentioned principles, adopted a programme for Peace, Democracy and Human rights. The aim is to promote people's chances of living in peace and participation in developing the democratic process as well as to promote observance of and respect for human rights. This will be done i. a. through support to facilitate such processes and to strengthen relevant institutions, in both the state and civil society.

One important method to achieve the above mentioned goals is to support the development of effective regional organisations and regional networking. Regional organisations will probably become increasingly important when it comes to monitor and promote democracy and human rights. Regional co-operation initiatives and networking between NGOs and between NGOs and governments could be instrumental in this respect. Regional organisations could play an important role in peace-keeping and of developing a human rights culture as well as monitoring of the African states' human rights performances.

It is against the above mentioned background that an evaluation of the Swedish support to the Human Rights organisations based in Banjul in the Gambia should be seen.

1.2 African Commission for Human and People's Rights

The African Commission for Human and Peoples' Rights is a Pan African intergovernmental organisation under the auspices of the Organization of African Unity (OAU). The Commission was installed on 2 November 1987. The commission is composed of 11 members elected by the Assembly of Heads of States and Governments of the OAU. The Secretariat of the Commission is based

in Banjul, the Gambia. The Secretariat to the Commission who is the Head of the Secretariat is appointed by the Secretary General of the OAU.

The Secretariat is the administrative and technical organ of the African Commission. The Secretariat provides necessary support for the execution of the mandate of the Commission. It prepares meetings for the Commission, make arrangements for field missions, studies, communications and draft decisions for the Commission, etc.

The mandate of the Commission appears from Article 45 of the African Charter on Human and Peoples' Rights which reads:

"The functions of the Commissions shall be:

1. To promote human and peoples' rights and in particular
 - a) to collect documents, undertake studies and researches 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 people's 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 legislation;
 - 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 OAU or an African organisation recognised by the OAU.
4. Perform any other tasks which may be entrusted to it by the Assembly of Heads of State and Government."

The Commission holds two sessions of ten days each every year. During these meetings complaints submitted by individuals and organisations are handled; the Commission reviews also the human rights situation in various countries. The commission reports to the Assembly of Heads of State and Government of the OAU. Some of the proceedings and resolutions are confidential and are not made public until the said Assembly authorises to publish the report thereto.

1.3 African Centre for Studies on Democracy and Human Rights

Established in June 1989 as a regional Non-Governmental Organisation, the mandate of the African Centre is to promote, in co-operation with other African and international institutions, the observance of human and people's rights and democratic principles throughout Africa.

The African Centre is governed by a council of 10 African individuals selected from a wide range of independent experts. Their interests, actions and reputations have been duly established in the areas of human and peoples' rights, the rule of law and democracy. The Centre also has an International Advisory Committee of

specially qualified people in the area of human rights protection and promotion. The Governing Council is currently chaired by a man with a highly distinguished track record, a retired Judge of the Supreme Court of Nigeria and considered by many as one of the greatest jurists ever in Nigeria and the Pro-chancellor of the University of Benin, The honorary Justice Kayoed Eso.

On 11 August 1995, the Governing Council approved new statutes and regulations guaranteeing the independence and autonomy of the Centre. This created the New African Centre, making it a Pan African regional human rights non-governmental organisation, committed to the promotion of the African Charter on Human and Peoples' Rights, the respect and universality of human rights as enshrined in the international Bill of Rights and Democracy.

The African centre has eight areas of operation, namely

- Human rights procedures
- Documentation and information
- Publications
- Research
- Training and Education
- Women's programmes
- Internship
- African networking and institution building

The Centre is an NGO established under the Gambian law as a charitable organisation. The organisation is not based on membership, but is rather a Foundation where the Board renews itself by election of new Board members. The Centre is headed by an executive director and has four units, the Management Unit, the Legal and Research Unit, the Information Unit and the Training Unit.

1.4 African Society of International and Comparative Law

The African Society of International and Comparative Law is a non-political, non-governmental organisation, registered in The Gambia. The Society, established in 1986, is also registered in Botswana, Ghana, Uganda, Sierra Leone, Tanzania and London, to work for the achievement of the following aims;

- to provide in as many African countries as possible, a comprehensive legal aid system,
- to provide and exchange documentation on civil liberties in Africa and publish such other literature as will enhance the development of law in Africa,
- to set up a machinery for educating the public on civil liberties and, in collaboration with the law enforcement agencies, to organise periodic workshops for the police and other law officers on civil liberties,
- with the co-operation of local justice departments, to organise an itinerant ombudsman service for dispute settlement in rural areas,
- to publish a bilingual quarterly (English-French) legal journal for the dissemination of African aspects of International and Comparative Law and to

provide a respected legal review in which African scholars and Africanists may make contributions,

- to promote the African contribution to the development of International Law, and
- to hold Annual Conferences for the exchange of ideas on current legal issues and for the evaluation of the Society's work.

The Society has a board of trustees of eleven prominent lawyers, called the Governing Body, drawn from all the geographical and cultural regions of Africa and also includes two non-Africans. The Governing Body meets annually, but is consulted throughout the year as important matters arise. In addition to the Governing Body, the Society also has an Advisory Board, drawn from some of the world's most eminent lawyers.

Membership of the Society is currently about 2 000 world-wide, drawn from universities and government institutions and individuals. Over 350 African universities and individuals receive the Society's publication.

1.5 Swedish support

During the 1990's Sweden has through the Raoul Wallenberg Institute supported the above mentioned three regional organisations in Banjul. The support has been in the scope of 500 000 to each organisation per year during the last few years.

The Swedish support comprises i. a. financing of promotional activities, including fact finding missions, contributions to printing and distribution of the Review of the African Commission on Human and Peoples' Rights, the African Journal of International and Comparative Law and Proceedings, support to the yearly conference of the African Society of International and Comparative Law and courses and seminars.

2. Objectives

The overall objective of the evaluation is to give Sida, the Raoul Wallenberg Institute, and the three concerned Human Rights organisations in Banjul a more profound and analytical understanding of the role and tasks of the Banjul organisations, on the one hand, and their relations with the Raoul Wallenberg, on the other, but also to provide a basis for consideration of possible future Swedish support to these organisations.

Against an overall assessment of the three Banjul based organisations role in the African context for promotion of democracy and respect for human rights, the evaluation shall assess the competence, capacity and costs of the different organisations to plan, implement and follow-up their activities and programmes and projects.

Secondly, the evaluation shall assess the relations between the Raoul Wallenberg Institute and the respective organisation and how and to which extent the Wallenberg Institute has contributed to the development of the capacity of the organisations.

3. Scope of Work

3.1 General

The Consultant shall describe and analyse the areas indicated below, to the extent deemed convenient separately with regard to each one of the three organisations and, where possible, with special emphasis on women and children.

The Consultant should bear in mind that the three organisations are not only different in their organisational make up but also in their nature. It is important to describe the similarities and differences in order to expose their potentialities and problems in a more focused way.

In addition, the Consultant shall feel free to raise any issue he or she judges of relevance and interest for Sida, the Raoul Wallenberg Institute, and the organisations evaluated. If such an issue should constitute a major deviation from the scope of work according to these Terms of Reference, the Consultant shall obtain Sida's prior approval.

3.2 Capacity of the three organisations

3.2.1 Relevance

With respect to each one of the concerned organisations, the evaluation will especially look at the relevance of a) their policies and strategies regarding promotion of democracy and human rights and b) the programmes and projects or activities in relation to the overall political, social and economic situation in Africa. The evaluation shall also review the interrelation between the three organisations in the light of what have been said above.

An interesting approach might be to compare the African Commission with the UN human rights organs and analyse the differences in order to draw some lessons from the relative successes of the African Commission and/or the UN human rights organs.

With regard to the African Commission for Human and Peoples' Rights the evaluation shall also assess its role as an inter-regional state organisation in Africa and within the OAU system. The evaluation will especially assess the role of the organisations in promoting networks. When it comes to the African Commission for Human and Peoples' Rights, the role of the Commission within the OAU as regards the implementation of its mandate in the Charter, should be assessed.

The evaluation shall analyse the benefits the Commission has enjoyed from the OAU and from Africa in general since its inception.

The establishment of the African Court on Human Rights Violations is imminent. What might the consequences be, in particular with regard to the African Commission on Human and Peoples' Rights.

3.2.2 Cost analysis

It is not the intention to make a thorough analysis of the costs of the three organisations. The objective in this part is to make an overall assessment whether the costs of the three organisations are reasonable taken into account the specific purposes of each organisation and its achievements - if possible in comparison with other similar organisations.

3.2.3 Sustainability of the organisations

The evaluation shall analyse and describe to what the organisations has become well established and staffed.

An essential part of the evaluation will be to assess the capacity of the organisations to plan, implement and monitor projects and programmes and the reasons for shortcomings, if any. Issues related to the manning and the capacity of the secretariats of respective organisation to handle the programmes and projects and their activities as well as the accounting should be addressed.

As background information the evaluation should give an overall comprehensive statement, for a period to be decided upon by the Team Leader, of individual members fees, contribution from member organisations, whether state or private, and from the international donor community, own generated income etc. With regard to the African Commission what could be done to enable the Commission to mobilise other resources for its activities? Another aspect to consider is the co-ordination of donor support to respective organisation.

To what extent has the organisations been using a Logical Framework Approach in the planning, implementing and follow-up?

3.3 The relations between the Raoul Wallenberg Institute and the organisations

In this part the Consultant shall describe and analyse how the Raoul Wallenberg Institute and the organisations have defined the different areas of co-operation and how these areas of co-operation have contributed to increase the capacity of the organisations to fulfil their mandates. What has been the content of the co-operation and to what extent has the Raoul Wallenberg comparative advantages been used to support the organisations? To what extent have these areas of co-operation been of strategic importance to the development of the organisations?

4. Methodology

The main emphasis of the evaluation should be on the African Commission for Human and Peoples' Rights. Considering i. a. the different nature of the organisations, the Consultant shall provide three different reports, one for each organisation.

The assignment shall be carried out by studies of available documents, reports and budgets. The Consultant shall study the Ford Foundation and the Fritjof Nansen reports on the African Centre for Democracy and Human Rights Studies. Most documents would be found in the Gambia and some at the Raoul Wallenberg Institute in Lund. The main emphasis of the evaluation should be a field visit to Banjul in the Gambia during 7 - 10 days.

The consultants shall interview present employees of the organisations, members of the Boards, commissioners, representatives of some governments and other persons concerned, including representatives from NGOs being members of an organisation or having the status as observer. The consultants may also interview former employees of respective organisation as agreed upon between the Consultants and respective organisation. The consultants shall contact OAU headquarters and participate in the next semi-annual meeting with the African Commission, expected to be held in Luanda.

The evaluation shall be implemented in close co-operation with the Raoul Wallenberg Institute. The Raoul Wallenberg Institute shall be invited to take part in field visits and provide opinions, comments, and documents in particular regarding human rights issues, but is not responsible for elaboration of the evaluation report.

5. Manning and time schedule

The evaluation shall be carried out in August - October 1998 by two senior consultants and one junior consultant. One of the senior consultants shall be Team Leader. One of the senior consultants should have extensive experience from institutional support and capacity building and the other with experience from human rights issues. The junior consultant could be specialised in one area of importance for the evaluation or have a more general education and background in science of government.

6. Reporting

The Consultants shall present a draft written report in 4 copies to Sida in Stockholm, the Department for Democracy and Social Development, the Division for Democratic Governance, together with a diskette in Microsoft word, version 6.0. These drafts shall be presented not later than 30 November 1998.

The Draft report shall be presented at a seminar in the beginning of December 1998 or in January 1999 to be arranged by Sida and with the participation of representatives from the Raoul Wallenberg institute. Representatives from the three regional organisations shall be invited to take part in the seminar. Based on the comments received during the seminar and the further written comments that Sida and/or the reviewed organisation concerned may have the Consultants shall elaborate a Final report within four weeks from the date of the seminar.

The report shall be written in the English language. It shall be brief and concise, in principle not more than 40 pages. Additional material should be presented in annexes and appendices. The report shall contain an executive summary, main findings, conclusions and recommendations, and lessons learned. Further instructions are found in Annex "Sida Evaluation Report - Standardised Format".

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