AN ANALYSIS OF STATE COMPLIANCE WITH THE
RECOMMENDATIONS OF THE AFRICAN
COMMISSION ON HUMAN AND PEOPLES’ RIGHTS

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under the promotership of Professor Frans Viljoen

28 January 2005
DECLARATION

I declare that this dissertation is my original work and that it has not been submitted for the award of a degree at any other university or institution.

Signed: ____________________________________

Lirette Louw

Date: ________________________________
ACKNOWLEDGEMENT

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SUMMARY

The African Commission on Human and Peoples’ Rights (African Commission), the monitoring mechanism of the African Charter on Human and Peoples’ Rights (African Charter), takes decisions on individual communications submitted to it under the African Charter. When the African Commission finds that states have violated the African Charter, its decisions often contain recommendations to these states. The effectiveness of these recommendations depends on their implementation by the states concerned.

The African Commission has not put in place a follow-up mechanism or system to ascertain adherence or to ensure that states implement these recommendations. In the absence of research about state compliance with these recommendations, interviews were conducted to provide a first coordinated attempt at ascertaining the status of compliance with these findings. The study finds that there has been full state compliance in 14%, partial compliance in 20% and non-compliance in 66% of cases. This trend is similar in respect of the implementation by African states of the views of the UN Human Rights Committee, established under the International Covenant on Civil and Political Rights.

A number of diverse factors influence state compliance. Some factors, such as the weaknesses of the Organisation of African Unity (OAU) occasioning a lack of publicity and political pressure, and problems surrounding the institutional legitimacy of the African Commission, explain the general low rate of compliance. Other factors, such as the role of NGOs, the nature and extent of the violation and the form of government in the relevant state, explain (non-)compliance in particular cases.

Drawing on the experience of the United Nations, European and Inter-American human rights systems in addressing similar difficulties to ensure state compliance, the study concludes with extensive and pertinent recommendations to the African Commission and various organs of the African Union for a comprehensive and effective policy on and mechanism for the follow-up of its recommendations.
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<tr>
<th>Abbreviation</th>
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<tr>
<td>ABDP</td>
<td>l’Association Burundaise pour la Defense des Droits des Prisonniers (Burundi Association for the Protection of Prisoners' Rights)</td>
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<td>ACHPR</td>
<td>African Commission on Human and Peoples’ Rights</td>
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<td>ACTHPR</td>
<td>African Court on Human and Peoples’ Rights</td>
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<tr>
<td>ACJ</td>
<td>African Court of Justice</td>
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<td>ACJ Protocol</td>
<td>Protocol of the Court of Justice of the African Union</td>
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<td>AEC</td>
<td>African Economic Community</td>
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<tr>
<td>AHSG</td>
<td>Assembly of Heads of State and Government</td>
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<td>APRM</td>
<td>African Peer Review Mechanism</td>
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<tr>
<td>AU</td>
<td>African Union</td>
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<tr>
<td>CADHP</td>
<td>Commission Africaine des Droits de l’Homme et des Peoples (African Commission on Human and Peoples’ Rights)</td>
</tr>
<tr>
<td>CDDH</td>
<td>Steering Committee for Human Rights (Council of Europe)</td>
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<tr>
<td>CLO</td>
<td>Civil Liberties Organisation</td>
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<tr>
<td>CRP</td>
<td>Constitutional Rights Project</td>
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<tr>
<td>DRC</td>
<td>Democratic Republic of Congo</td>
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<tr>
<td>ECJ</td>
<td>European Court of Justice</td>
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<td>ECOSOC</td>
<td>Economic and Social Council</td>
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<td>Acronym</td>
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<tr>
<td>HRC</td>
<td>(UN) Human Rights Committee</td>
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<tr>
<td>HSGIC</td>
<td>Head of State and Government Implementation Committee</td>
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<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<tr>
<td>ICJ</td>
<td>International Court of Justice</td>
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<tr>
<td>IHRDA</td>
<td>Institute for Human Rights and Development in Africa</td>
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<tr>
<td>Interights</td>
<td>The International Centre for the Legal Protection of Human Rights</td>
</tr>
<tr>
<td>MRA</td>
<td>Media Rights Agenda</td>
</tr>
<tr>
<td>MBDHP</td>
<td><em>Mouvement Burkinabe des Droits de l’Homme et des Peuples</em> (Burkina Faso Human and Peoples’ Rights Movement)</td>
</tr>
<tr>
<td>NDDC</td>
<td>Niger Delta Development Commission</td>
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<tr>
<td>NEPAD</td>
<td>New Partnership for African Development</td>
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<tr>
<td>NGO</td>
<td>Non-governmental organisation</td>
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<tr>
<td>NHRC</td>
<td>National Human Rights Commission (of Nigeria)</td>
</tr>
<tr>
<td>NHRI</td>
<td>National Human Rights Institution</td>
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<tr>
<td>NNPC</td>
<td>Nigerian National Petroleum Company</td>
</tr>
<tr>
<td>OAS</td>
<td>Organisation of American States</td>
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<tr>
<td>OAU</td>
<td>Organisation of African Unity</td>
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<tr>
<td>OHCHR</td>
<td>Office of the High Commissioner for Human Rights</td>
</tr>
<tr>
<td>Acronym</td>
<td>Description</td>
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<tr>
<td>RADDHO</td>
<td>Rencontre Africaine pour la Défense des Droits de l'Homme (African Forum for Human Rights Protection)</td>
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<tr>
<td>SERAC</td>
<td>Social and Economic Rights Action Centre</td>
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<tr>
<td>SPDC</td>
<td>Shell Petroleum Development Corporation</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UNIP</td>
<td>United National Independence Party (Zambia)</td>
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