

African Court on Human and Peoples’ Rights
Submission of written observations on the Request for Advisory
Opinion No 001/2018

6 February 2019

Introduction

1. This submission is presented by the Centre for Human Rights, Faculty of Law, University of Pretoria and the Dullah Omar Institute for Constitutional Law,¹ Governance and Human Rights, University of Western Cape, in response to the invitation by the African Court on Human and Peoples’ Rights, dated 8 November 2018, to make submissions *In the matter of a request by the Pan African Lawyers Union (PALU) for an Advisory Opinion on the compatibility of vagrancy laws with the African Charter on Human and Peoples’ Rights and other human rights instruments applicable in Africa* (the Request).
2. This submission provides the Court with additional arguments and authority in relation to human rights violations caused by vagrancy laws, as defined in the Request, and related petty offences. Petty offences are defined in the African Commission on Human and Peoples’ Rights recently adopted Principles on the Decriminalisation of Petty Offences in Africa as:

‘minor offences for which the punishment is prescribed by law to carry a warning, community service, a low-value fine or short term of imprisonment, often for failure to pay the fine. Examples include, but are not limited to, offences such as being a rogue and vagabond, being an idle or disorderly person, loitering, begging, being a vagrant, failure to pay debts, being a common nuisance and disobedience to parents; offences created through by-laws aimed at controlling public nuisances on public roads and in public places such as urinating in public and washing clothes in public; and laws criminalising informal commercial activities, such as hawking and vending. Petty offences are entrenched in national

¹ Both organisations have observer status with the ACHPR. Please note that the Dullah Omar Institute was formerly (until 2015) known as the Community Law Centre.

legislation and, in most countries, fall within the broader category of minor offences, misdemeanours, summary offences or regulatory offences.²

3. This submission consists of four sections dealing with vagrancy legislation in general; the use of police discretion in enforcing petty offences legislation; the socio-economic impact of pre-trial detention, and the impact of pretrial detention on women in Africa.

Vagrancy laws

4. The Request (para 23) notes that some States which do not retain vagrancy laws in their penal codes or other national legislation may retain such provisions in by-laws. In this regard, it should be noted that retention of vagrancy provisions in by-laws, such as those adopted by South African municipalities, can have equally serious consequences as when these laws are enshrined in ordinary legislation. For example, in South Africa, anyone suspected of having committed an offence may be arrested in terms of the Criminal Procedure Act.³ By-laws provide that to violate them constitute an offence. For example, in eThekweni violation of by-laws can lead to a fine of up to 40 000 rand or two years imprisonment.⁴ Municipal by-law offences in South Africa include for example begging, sleeping in a public place and loitering.⁵
5. In this context it should be noted that the South African Constitutional Court has held that ‘the fundamental purpose of arrest ... is to bring the suspect before a court of law, there to face due prosecution.’⁶ In *The Sex Worker Education and Advocacy Task Force v The Minister of Safety and Security*, the Western Cape High Court held that the arrests were arbitrary since the police officers were aware ‘with a high degree of probability that no prosecutions would follow’.⁷ In this case, as in many others across the continent, it was clear that the arrests took place for the purpose of intimidation rather than prosecution. In South Africa, the National Commissioner of Police in 2005 issued a

² African Commission on Human and Peoples’ Rights (2018) *Principles on the Decriminalisation of Petty Offences in Africa*, Definitions.

³ S 40(1)(a) Criminal Procedure Act.

⁴ eThekweni Nuisance and Behaviour in Public Place By-law (2016).

⁵ For further discussion of South African by-laws and criminalisation of poverty see Killander M ‘Criminalising homelessness and survival strategies through municipal by-laws: Colonial legacy and constitutionality’ *South African Journal on Human Rights* (forthcoming, 2019).

⁶ *Ex Parte Minister of Safety and Security and Others: In Re S v Walters and Another* 2002 (4) SA 613 (CC) para 50.

⁷ 2009 (6) SA 513 (WCC) para 26.

circular to police station commanders to curb arrests for petty offences due to the high cost of civil claims against the police for unlawful arrest.⁸ Due to lack of official statistics on arrests for petty offences it is not possible to assess the effect of such interventions.

6. The Request has cited a number of developments illustrating the increasing recognition in many states, and by human rights monitoring bodies, that vagrancy laws and petty offences should have no place in modern society. Some further arguments and authority supporting this trend are set out below.
7. The United Nations Committee on Racial Discrimination (CERD) in its 2014 concluding observations on the United States expressed its concern over ‘criminalization of homelessness through laws that prohibit activities such as loitering, camping, begging and lying down in public spaces’ and called on the state to ‘[o]ffer incentives to decriminalize homelessness, including by providing financial support to local authorities that implement alternatives to criminalization, and withdrawing funding from local authorities that criminalize homelessness.’⁹
8. A recent case from India in which the criminalisation of begging was held to be unconstitutional is also of relevance. In this case, the High Court of New Delhi held:¹⁰

The State simply cannot fail to do its duty to provide a decent life to its citizens and add insult to injury by arresting, detaining and, if necessary, imprisoning such persons, who beg, in search for essentials of bare survival, which is even below sustenance. A person who is compelled to beg cannot be faulted for such actions in these circumstances.
9. The Court based its discussion on everyone’s ‘right to live with dignity’.¹¹ Clearly, the right to dignity is not only applicable in relation to begging but also other ‘offences’ linked to vagrancy laws. For example, the criminalisation of sleeping in the street as in some vagrancy laws, including many South African by-laws, create a situation where the law criminalises sleeping as the homeless may not sleep in any public place and

⁸ Para 4.

⁹ UN Committee on the Elimination of Racial Discrimination, ‘Concluding Observation on the Combined Seventh to Ninth Periodic Reports of the United States of America, CERD/C/USA/CO/7-9’; UN Human Rights Council, ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, Miloon Kothari: Mission to Australia, A/HRC/4/18/Add.2’ (2007) <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/125/72/PDF/G0712572.pdf?OpenElement>>.

¹⁰ W.P.(C) 10498/2009 & CM APPL. 1837/2010, High Court, New Delhi, 8 August 2018, para 33.

¹¹ Para 12.

have no lawful access to private property.¹² In the absence of a functioning social security system and sufficient shelters, this clearly violates the right to dignity.

10. Other vagrancy related offences are vague and should be struck down on this basis as has been held in a number of jurisdictions as set out in the Request. The South African Constitutional Court has held that ‘[t]he doctrine of vagueness does not require absolute certainty of laws. The law must indicate with reasonable certainty to those who are bound by it what is required of them so that they may regulate their conduct accordingly.’¹³ Many vagrancy laws, for example, prohibition of loitering, defined in the Oxford Dictionary as to ‘[s]tand or wait around without apparent purpose’, are clearly vague and should be scrapped for this reason.

The use of police discretion to arrest without a warrant

AChHPR Article 6: Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

11. In the enforcement of vagrancy laws, arrest and detention are frequently used to remove such persons from the streets. Whether there is a real intention on the part of the arresting officer to pursue a criminal prosecution is often not clear.¹⁴ It is because arrest is such a drastic intervention in the rights of the individual that this power should be exercised with caution.
12. The first important issue is that there are various ways to secure the attendance of a suspect at trial in most jurisdictions and that arrest ‘constitutes one of the most drastic infringements of the rights of an individual’ and a police official should therefore regard it as a measure of last resort.¹⁵ The second important issue is that most jurisdictions

¹² For discussion see Killander (n 4).

¹³ *Affordable Medicines Trust and Others v Minister of Health and Another* 2006 (3) SA 247 (CC) para 73.

¹⁴ *The Sex Worker Education and Advocacy Taskforce v Minister of Safety and Security and Others* (3378/07) [2009] ZAWCHC 64; 2009 (6) SA 513 (WCC) (20 April 2009).

¹⁵ ACHPR Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (para 2(b)); General Comment 35, Human Rights Committee, CCPR/C/GC/35; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Adopted by General Assembly resolution 43/173 of 9 December 1988; Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa; Communication 339/2007: *Patrick Okiring and Agupio Samson (represented by Human Rights Network and ISIS-WICCE) v. Republic of Uganda; Raduvha v Minister of Safety and Security and Another* [2016] ZACC 24, SAPS Standing Order (G) 341, para 3(1).

require reasonable suspicion or grounds for arrest.¹⁶ Police Standing Orders may further expand on this, requiring that a police officer must *really* believe or suspect that the person has committed or is about to commit an offence; this belief or suspicion must be based on certain facts from which an inference or conclusion is drawn which any reasonable person in view of the same facts would draw.¹⁷ As a general rule, the purpose of an arrest is to secure the attendance of the suspect at his or her trial and that the purpose is not to ‘punish, scare or harass such person’.¹⁸ The ACHPR Guidelines on arrest and detention state further ‘Arrests must not be carried out on the basis of discrimination of any kind such as on the basis of race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth, disability or any other status.’¹⁹

13. From the above it can be accepted that current legal frameworks provide adequate guidance on arrest without a warrant. Moreover, the legal frameworks cited provide two levels of discretion, first noting that a police officer ‘may’ arrest and is not compelled to arrest, and secondly, the police officer must have a ‘reasonable suspicion or grounds’ that an offence has been committed or is about to be committed. In short, as a measure of last resort, an arrest without a warrant may be affected if there is a reasonable suspicion or grounds to believe that an offence has been or is about to be committed.
14. The key issue remains the discretion exercised by the arresting officer and Plaskett notes that in addition to the suspicion being reasonable, (a) the arrester must have an open mind with regard to factors pointing to both innocence and guilt, (b) in the appropriate circumstances the suspect should have the opportunity to deal with allegations against him before being arrested, and (c) for the suspicion to be reasonable, it must extend to all elements of the offence.²⁰ Furthermore, when arresting without a warrant the arresting officer ‘would have to satisfy the court that he had considered and not merely paid lip service to, the rights of the suspect to human dignity and to freedom

¹⁶ See for example: Kenya Criminal Procedure Code, Section 29(a); Uganda Criminal Procedure Code Act, Section 10(a); South Africa Criminal Procedure Act Section 40(1).

¹⁷ SAPS Standing Order (G) 341 para 2(2).

¹⁸ SAPS Standing Order (G) 341 para 4(1).

¹⁹ ACHPR (2014) *Guidelines on the conditions of arrest, police custody and pre-trial detention in Africa*, para 2(b).

²⁰ Plasket C (1998) ‘Controlling the Discretion to Arrest without Warrant through the Constitution’ *SA Journal for Criminal Justice* 1(2), 186.

and had not relegated them to ‘a worthless level of subservience’.²¹ In short, the arresting officer must think twice before making an arrest without a warrant.²²

15. Whatever the context, it appears that people around the world who are perceived to have less power are particularly at risk of arrest without a warrant.²³ The problem is enabled on the one hand by a myriad of seemingly antiquated laws, municipal by-laws and petty offences, and on the other hand, notions of social order that have their roots in the colonial era. Where the police have the power to arrest but lacks the integrity to uphold the law, extortion is commonly practiced as a way of avoiding arrest; but those with the least power are frequently unable to avoid arrest or draw attention to unlawful and arbitrary arrest. Moreover, it is difficult to find evidence to support reasonable suspicion and the enforcement of these laws has little bearing on overall public safety.

Socio-economic impact of arrest and pre-trial detention

AChHPR Article 22: 1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind. 2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

16. Deprivation of liberty interferes with the ability of individuals to be agents of their own development. Such infringements by the state are only justified if they are within the ambit of democratic and rights-respecting laws, which *inter alia* implies proportionality between the alleged offence and the harm to individuals’ right to development. The enforcement of vagrancy offences and other transgressions of a petty nature, results in individuals being detained in pre-trial detention which interferes with their ability to be agents of their own and their dependents’ development, for offences that do not pose a material threat to public safety. A recent study in Kenya found the following, as shown in Table 1.²⁴ The first observation is that some 13.4% of female detainees are arrested

²¹ Plasket C (1998) ‘Controlling the Discretion to Arrest without Warrant through the Constitution’ *SA Journal for Criminal Justice* 1(2), 190.

²² *Brand v Minister of Justice* 1959 (4) SA 712 (A) cited in Plasket C (1998) ‘Controlling the Discretion to Arrest without Warrant through the Constitution’ *SA Journal for Criminal Justice* 1(2), 187.

²³ Muntingh, L. (2015) *Arrested in Africa: An Exploration of the Issues*, CSPRI Research Report, Bellville, p. 32.

²⁴ Muntingh, L. and Redpath, J. (2016) *Criminal Justice System in Kenya: An Audit Understanding pre-trial detention in respect to case flow management and conditions of detention*, Study commissioned for the National Council on the Administration of Justice in cooperation with LRF and RODI Kenya, pp. 175 and 183.

for two offences being State offences²⁵ and Nuisance offences,²⁶ and in the case of State Offences the median duration of pre-trial custody is 28 days. In the case of males, nearly 8% of male detainees were arrested for these two offences and the median duration of custody before trial for state offences is 76 days or two and half months. Such durations are highly likely negatively to affect individuals' and their dependents' socio-economic rights. Matters such as licensing infringements (common among State offences) should not be dealt with through the criminal law but administratively, as is commonly done with traffic offences.

Table 1

	Offence	% of pre-trial population	Median duration of detention (days)
Female	State offences	11.6	28
	Nuisance offences	1.8	
Male	State offences	6.0	35
	Nuisance offences	3.1	76

17. A recent study on the socio-economic impact of pre-trial detention in three African countries (Kenya, Mozambique and Zambia) made a number of notable findings on the pre-trial population profile which illustrate the impact of detention:

- The vast majority of pre-trial detainees are generally similar to most other people in their country, and tend to be integrally involved in supporting their families, whether financially or emotionally, or in other ways, and enjoy the respect of society.
- In each of the three countries infringements of both fair trial and socio-economic rights could be identified. In all three countries there is evidence to suggest that the failure to adhere to fair trial rights exacerbates the socio-economic impact. Lengthy periods of detention running into years in Zambia, infringes the right to a fair trial without unreasonable delay; unaffordable bail in Kenya, infringes the right to equality before the law; in Mozambique, not being taken to court to apply for bail, infringes the right to challenge one's detention. In each case the infringement may have led to a detainee remaining in detention longer than they may otherwise have done, thus increasing the socio-economic impact felt by families and associated households.

²⁵ Offences against the state (excluding drugs) comprised 12%, and of these, 64% related to the possession, manufacture, or sale of alcoholic drinks.

²⁶ Includes nuisance, disturbance, and drunk and disorderly.

- The evidence in this study suggests that the criminal procedural system metes out a ‘punishment’ in the form of a socio-economic impact on detainees and their families, before conviction, and regardless of guilt or innocence.
- The duration of detention can be extremely long and median durations ranging from 66 days (Mozambique), 112 days (Kenya) and 290 days (Zambia) were observed.
- Health impacts were notable in all three countries. In Kenya as many as 77% of male detainees and 56% of female detainees became ill since being detained.
- Assaults in detention (by both fellow prisoners and officials) were relatively common amongst male detainees in Kenya at 16%. Such assaults are seldom reported.
- Visitors to detainees bring cash for detainees, but it was reported in a minority of cases that cash is brought for bribes, giving further support to the observation that bribes are paid or solicited to avoid arrest and once this is refused or the person is unable to pay, the likelihood of paying a bribe seems to diminish. However, in Mozambique it was found that 28% of female detainees were offered to pay a bribe compared to 11% of male detainees.²⁷
- In all three countries less serious offences such as vagrancy and rogue and vagabond were evident among those suffering the negative socio-economic impacts of pre-trial detention. Such impacts are highly disproportionate to the “harm” being addressed by these offences.

18. Furthermore, it is further evident that it is poor people who cannot afford the bribe that end up in detention where they suffer significant health consequences. Whatever the context, it appears that people around the world who are perceived to have less power are particularly at risk of arrest without a warrant. The problem is enabled on the one hand by a myriad of seemingly antiquated laws, municipal by-laws and petty offences, and on the other hand, notions of social order that have their roots in the colonial era. Where the police have the power to arrest but lack the integrity to uphold the law, extortion is commonly practiced as a way of the potential arrestee avoiding arrest; but those with the least power are frequently unable to avoid arrest or draw attention to unlawful and arbitrary arrest; furthermore, they are least able to cope with the resultant socio-economic impacts.

²⁷ Muntingh, L. and Redpath, J. (2016) *The socio-economic impact of pretrial detention in Kenya, Mozambique and Zambia*, Bellville: ACJR. <https://acjr.org.za/resource-centre/socio-economic-impact-web-lowres.pdf>
Muntingh, L. and Redpath, J. (2018) The socio-economic impact of pre-trial detention in three African countries, *The Hague Journal on the Rule of Law*, Vol 10 Issue 1 pp. 139-164.

19. Health impacts were notable in all three countries. In Kenya as many as 77% of male detainees and 56% of female detainees became ill since being detained.
20. Visitors to detainees bring cash for detainees, but it was reported in a minority of cases that cash is brought for bribes, suggesting that bribes are paid or solicited to avoid arrest and once this is refused or the person is unable to pay, the likelihood of paying a bribe seems to diminish. However, in Mozambique it was found that 28% of female detainees were offered to pay a bribe compared to 11% of male detainees.²⁸

Women and detention

ACHPR Article 18: 1. The family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and moral. 2. The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community. 3. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.

21. Inasmuch as vagrancy laws in Africa have an impact on the socio-economic conditions of those who are found to be in violation, this is especially the case with regards to vulnerable groups in society, including women. The qualitative impact of detention of women (and their dependents) is severe, noting various socio-economic consequences such as: health concerns, social stigmatisation, emotional impact, financial impact, and relocation of family and children.²⁹ Indeed the social and economic consequences of arrest and detention of women for vagrancy offences are disproportionate and more harmful to women and particularly their children than the “crime” being committed, which is not harmful to society.
22. In Africa, vagrancy laws negatively impact on women in cases when the women are detained, resulting in her absence from the home as primary caregiver and when the breadwinner (husband or partner) is detained, the brunt of the household responsibilities

²⁸ Muntingh, L. and Redpath, J. (2016) *The socio-economic impact of pretrial detention in Kenya, Mozambique and Zambia*, Bellville: ACJR. <https://acjr.org.za/resource-centre/socio-economic-impact-web-lowres.pdf>
Muntingh, L. and Redpath, J. (2018) The socio-economic impact of pre-trial detention in three African countries, *The Hague Journal on the Rule of Law*, Vol 10 Issue 1 pp. 139-164.

²⁹ Muntingh, L. Redpath, J. (2015). *The Socio-Economic Impact of Pre-Trial Detention in Kenya, Mozambique and Zambia*. Dullah Omar Institute. University of the Western Cape.

fall upon the woman who is left in charge of maintaining the status quo, usually under dire conditions.³⁰

23. Women detained are much more likely than their male counterparts to be primary caregivers of minor children at the time of their imprisonment. The impact of detention of primary caregivers on the well-being of minor children is of particular concern, as children are extremely vulnerable to negative changes in the socio-economic position of the household. This is manifested in a number of ways, such as decreased access to schooling, food security, general security, lack of or limited supervision by adults, stigmatization and it increases the child's risk of entry into foster care.³¹
24. Furthermore, research conducted in three African countries has shown that the broader social and economic impact of pre-trial detention falls on women who must fill in the gaps that are left. For example, women must visit the detained person, care for the household alone, and make up for lost income while also supporting the detained person with inter alia food and emotional support.³²
25. Women in African countries are disproportionately affected by poverty and often engage in activities which may put them at risk of prosecution under outdated vagrancy laws.³³ Poorer women are highly likely to be arrested under vagrancy or nuisance related municipal by-laws related to their attempts to earn an income because the enforcement of such laws is highly discretionary. Vagrancy laws or nuisance related municipal by-laws are often used to exploit women in the informal sector such as street traders. Selling goods or produce is the only means of generating an income and this plays a vital role in poverty reduction. Women are more likely to be affected by demands for bribes within the justice system; and in many cases they are also subject to harassment or abuse by law enforcement officers.³⁴ The highly discretionary nature of law enforcement for vagrancy offences presents the ideal opportunity for law enforcement officials to take advantage of their vulnerability by extorting bribes. Street trade accounts for a significant proportion of informal non-agricultural employment in Africa, which is mainly comprised of poor women selling their products and produce

³⁰ Muntingh, L. and Redpath, J. (2016) *The socio-economic impact of pretrial detention in Kenya, Mozambique and Zambia*, Bellville: ACJR. <https://acjr.org.za/resource-centre/socio-economic-impact-web-lowres.pdf>

³¹ Muntingh, L. and Redpath, J. (2016) *The socio-economic impact of pretrial detention in Kenya, Mozambique and Zambia*, Bellville: ACJR. <https://acjr.org.za/resource-centre/socio-economic-impact-web-lowres.pdf>

³² Muntingh, L. and Redpath, J. (2016) *The socio-economic impact of pretrial detention in Kenya, Mozambique and Zambia*, Bellville: ACJR. <https://acjr.org.za/resource-centre/socio-economic-impact-web-lowres.pdf>

³³ Ackermann, M. (2014) Women in pre-trial detention in Africa – a review of the literature, CSPRI.

³⁴ UN-Women, 2011-2012 Progress of the World's Women: in Pursuit of Justice (2011) p54.

to earn a livelihood in order to sustain families, provide for their healthcare and education.³⁵ A 2013 International Labour Organization report indicates that in sub-Saharan African countries, for which data were available, trade in the informal sector employs the most people and women account for the majority of the employed.³⁶

26. According to Article 2(1) of the Maputo Protocol, “*State parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures*”.³⁷ The arrest of women under vagrancy and nuisance related offences are often carried out on a discriminatory basis against women based on the mere observation of women physical appearance because of the difficulty of producing evidence for other related charges for which law enforcement officials deem the conduct to be undesirable and or immoral. The ECOWAS (Economic Community of West African States) decision of *Dorothy Njemanze & 3 Others v The Federal Republic of Nigeria* wherein a group of four women were discriminated against based on the fact that they were outside at night and were arbitrarily arrested and assaulted on the presumption that they were prostitutes by police highlighted the complexities and discriminatory effect that some vagrancy laws contain. The plaintiffs who were four women (one Nollywood actress by the name of Ms. Njemanze and her three friends) challenged the state before the West African Regional Court. The ECOWAS court ruled in favour of the plaintiffs; citing that their arrest was unlawful on the grounds that it violated, amongst other points, their right to dignity and liberty, and their right to be free from cruel, inhumane and degrading treatment³⁸. The court challenged the state’s vagrancy laws that are often used to unfairly violate the rights of those who are deemed to be ‘poor’ or without any proper account of person. This case, like many others on the continent point to the fact that vagrancy laws and by-laws do indeed violate key human rights as highlighted both in the African Charter as well as the Maputo Protocol as they violate: the right not to be discriminated against (article 2), the right to dignity

³⁵ Muntingh L. & Petersen K (2015). *Punished for being poor: evidence and arguments for the decriminalisation and declassification of petty offences*, Bellville: ACJR.

³⁶ International Labour Office Women and Men in the Informal Economy: A Statistical Picture (2013).

³⁷ The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa. Article 2(1).

³⁸ Court Decision: *Dorothy Njemanze & 3 Ors V Federal Republic of Nigeria*, Suit No.: ECW/CCJ/APP/17/14. (2017). (ECOWAS Court, Abuja, Nigeria). Internet: <https://reprohealthlaw.wordpress.com/2017/11/30/africa-nigeria-ecowas-court-challenges-vagrancy-laws-that-target-women/>. Accessed: 29 January 2019.

and to be free from inhuman, cruel or degrading punishment and treatment (article 5) and the right to freedom of movement and residence (article 12)³⁹.

End.

³⁹ African Charter on Human and Peoples' Rights, adopted by the Organisation of African Unity (since replaced by the African Union) on 25 June 1981 and entering into force on 21 October 1986.