

**Statement by Lawyers for Human Rights at the  
African Commission on Human and Peoples' Rights' 85<sup>th</sup> Ordinary Session, October 2025:  
Ensuring Accountability for Apartheid in the draft Crimes Against Humanity Treaty**

Honourable Chairperson, Distinguished Commissioners, State Party Delegates, and Civil Society Colleagues,

In June, Lawyers for Human Rights joined experts and advocates at the Nelson Mandela Foundation to discuss how the draft UN treaty on crimes against humanity can advance apartheid accountability and ensure recognition for victims.

As we enter a new phase of negotiations, we face a question: How will international law define the crime of apartheid, and who will be protected? At stake is whether people facing long-term racist oppression, particularly Palestinians, will be recognized as victims under international law.

Apartheid has long been recognized as a crime, yet no one has ever been prosecuted, not in South Africa, nor in cases like Palestine.

Why has international law failed to address apartheid meaningfully? One issue lies in outdated definitions, especially in the 1973 Apartheid Convention and the 2002 Rome Statute.

These decades old frameworks rely on obsolete, biological concepts of race, ignoring decades of human rights law. Unlike the Rome Statute, the draft crimes against humanity treaty lacks safeguards to ensure alignment with developments in human rights law.

We now have an historic opportunity to modernize this definition.

Failing to update the definition risks repeating a legacy of exclusion—and denying justice to those most affected.

This is not an abstract concern. In South Africa and Namibia, apartheid was not just a legal concept, it was a lived reality with consequences that continue for those communities that were its targets, and for black women especially.

Today, Palestinians continue to face structural racist oppression. How we define apartheid now will shape who qualifies for redress. While we might see accountability for genocidal acts committed since October 2023, apartheid as a crime offers a framework to acknowledge the decades of institutionalized discrimination Palestinians have endured. It opens the door to reparative justice for a broader group of victims.

The crimes against humanity treaty process is also a space for affirming solidarity with victims across Africa, from Sudan to the DRC to Ethiopia, and to call for attention to the longstanding impunity for apartheid in South Africa and Namibia.

This is why African leadership is essential in these negotiations.

We respectfully urge the Commission to encourage AU Member States to support the inclusion of the phrase “based on race” in the treaty’s apartheid provision, rather than the narrower term “racial groups.”

As African Union Member States<sup>1</sup> engage in these negotiations, they bring with them a rich legacy of shaping international law. The African Charter on Human and Peoples’ Rights, grounded in the principle of solidarity, identifies colonialism, apartheid, and racial discrimination as interconnected. Importantly, the Charter uses the language “based on” before terms such as “race”<sup>2</sup>, which offers a strong legal foundation for improving the treaty’s definition of apartheid.

This change, already adopted by some UN bodies, would also align the treaty with human rights standards. This change would define apartheid as: “inhumane acts ... committed in the context of an institutionalized regime of systematic discrimination, oppression and domination by one group over another group or groups, based on race, and committed with the intention of maintaining that regime.”

We urge the Commission to support this call, consistent with its past resolutions backing accountability for apartheid and other crimes committed against the Palestinian people.<sup>3</sup>

Thank you.

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<sup>1</sup> [https://www.un.org/en/ga/sixth/79/pdfs/statements/cah/08mtg\\_african\\_group.pdf](https://www.un.org/en/ga/sixth/79/pdfs/statements/cah/08mtg_african_group.pdf).

<sup>2</sup> [https://au.int/sites/default/files/treaties/36390-treaty-0011\\_-\\_african\\_charter\\_on\\_human\\_and\\_peoples\\_rights\\_e.pdf](https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf).

<sup>3</sup> ACHPR/Res.611 (LXXXI) 2024 and ACHPR/Res.641 (LXXXIV) 2025.