

## ORAL INTERVENTION - THE OBSERVATORY

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### AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

54th ordinary session

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October 22 - November 5, 2013

### Contribution of the World Organisation Against Torture (OMCT) and the International Federation for Human Rights (FIDH)

In the framework of their joint programme,  
the Observatory for the Protection of Human Rights Defenders

Under agenda item 9:  
"Situation of human rights defenders"

Madam President,  
Madam the Special Rapporteur for Human Rights Defenders,  
Madam and Sir Commissioners,  
Madam and Sir Delegates,

The OMCT and the FIDH, in the framework of the Observatory for the Protection of Human Rights Defenders, reiterate their deep concern about the situation of human rights defenders in Africa.

Since the last session of the Commission in April 2013, the Observatory has reported, with great concern, multiple violations of human rights defenders' rights and freedoms all across the continent, especially in **Angola**, **Cameroon**, the **Democratic Republic of Congo (DRC)**, **Egypt**, **Mauritania**, **Rwanda**, **Senegal** and **Tunisia**.

Human rights defenders were attacked, received threats or were slandered in the **DRC**, **Senegal** and **Tunisia**. In some cases they were even killed, as in the **DRC** and in **Cameroon**, in a climate of impunity. Defenders, and in particular defenders of economic, social and cultural rights, also continued to be subjected to arbitrary arrests and judicial harassment in **Angola**, **Cameroon**, the **DRC**, **Egypt**, **Mauritania** and **Tunisia**. Obstacles to freedom of association were also recorded, as for instance in **Angola**, **Egypt** and **Rwanda**.

The defenders who saw their rights violated were, among others, members of non-governmental organisations (NGOs), lawyers, journalists, women's rights activists, judges and civil society organisations who defend the right to freedoms of expression, association and peaceful protest, denounce human rights abuses by State actors or powerful companies and fight for the respect of the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people and fundamental freedoms in general.

#### 1. Ongoing acts of violence against human rights defenders in the African continent

##### a) Assassination of human rights defenders in the DRC and Cameroon

All across the continent, human rights defenders have again been subjected to violent assaults and in some worse cases to assassination. This most extreme form of attack to human rights defenders and their work must be condemned in the strongest terms. The impunity of perpetrators of such awful acts, which too often remains the rule, is a sign of weakness and failure of States in their obligations to protect defenders, which may encourage perpetrators to commit further acts of violence against human rights activists.

Since the last session of the ACHPR, three cases of killing of human rights defenders were reported to the Observatory.

In the **DRC**, Mr. **Rocksy Tshimpaka** was killed on September 19, 2013, for denouncing on a television programme the torture and consequent killing of a Congolese citizen by the police in 2012.

On August 7, 2013, rebel groups savagely murdered Mr. **Godefroid Mutombo**, a member of the NGO **Libertas** who had denounced several human rights violations in which the Congolese militia and military were reportedly involved.

The Observatory also remains particularly concerned by the ongoing impunity for the assassination in June 2010 of Messrs. **Floribert Chebeya Bazire**, Executive Director of the Voice of the Voiceless (*Voix des sans voix* - VSV) and a member of OMCT General Assembly, and **Fidèle Bazana**, a member of VSV. While the complaint lodged by the two defenders' widows has remains unheard for more than three years now, it is urgent that General John Numbi is brought before an impartial and independent tribunal, so that he can face his responsibility for the murder of their husbands.

The Observatory was also shocked and saddened by the murder of Mr. **Eric Ohena Lembembe**, Executive Director of the Cameroonian Foundation for AIDS (CAMFAIDS), who was brutally assaulted and killed in July 2013 following an upsurge of threats to activists, lawyers and organisations engaged in the defence of lesbian, gay, bisexual, transgender and intersex (LGBT) rights in **Cameroon** in the previous months. The Government of Cameroon did not publicly condemn this killing, and police investigations have failed to produce results.

#### **b) Threats and slandering campaigns against human rights defenders**

On several occasions, human rights defenders were victims of threats or defamation campaigns as attempts to intimidate and silence them. Such acts were committed either directly by State agents or by non-State actors with the silent complicity of the authorities, therefore encouraging acts of violence against human rights defenders.

Such was the case in the **DRC**, where several defenders and lawyers representing the plaintiffs in the case of the murder of Messrs. Floribert Chebeya and Fidèle Bazana were subjected to threats and pressures ahead of the appeal trial that resumed in April before the Supreme Military Court. For instance, on the night of May 29 to 30, 2013, the cabinet of lawyer **Jean-Marie Kabengele Ilunga** was vandalised by unknown persons. A bag containing conclusions and notes on the trial was stolen on this occasion.

Still in the **DRC**, in June 2013, collaborators of the Governor of the Eastern Province started a defamation campaign against Mr. **Dismas Kitenge**, President of the Lotus Group and Vice-President of FIDH, accusing him of being a "puppet of the West", and announcing that he would be "corrected". They also incited the population not to listen to the "message of distraction, division and nostalgia" of human rights defenders. Subsequently, a group of unidentified individuals threw stones on Mr. Kitenge's home, promising to attack anyone who tried to sabotage the Governor's development activities.

In May 2013, the Executive Director of the branch of Amnesty International in **Senegal**, Mr. **Seydi Gassama**, was defamed and threatened with arrest by senior representatives of the Parliament and the Government following the presentation of a report that denounced the persistency in human rights violations in the country, despite the change of Government in 2012. The Observatory denounces these public accusations that aimed to discredit and more generally to silence human rights defenders in the country in an attempt to assimilate them to members of the opposition.

In **Tunisia**, the Observatory was concerned following the death threats that were issued in May 2013 against Ms. **Kalthoum Kennou**, President of the Association of Tunisian Magistrates (*Association des magistrats tunisiens* - AMT) and Judge at the Supreme Court, for defending the independence of the judiciary in the country, as they are indicative of the obstacles posed to the

proper functioning of the judiciary through acts of intimidation against impartial and independent judges.

## **2. Judicial harassment of defenders of economic, social and cultural rights in Africa**

In many countries of the continent, the judicial system remains used by the authorities as a tool of retaliation against human rights defenders activities. Such was the case in **Angola, Cameroon, the DRC, Egypt, Mauritania** and **Tunisia**, where the Observatory recorded in particular acts of judicial harassment against defenders of economic, social and cultural rights.

In **Angola**, journalist and human rights defender Mr. **Rafael Marques de Morais** is currently facing criminal charges of defamation related to the publication of his investigative book documenting violations of human rights and corruption issues associated to diamond mining industries in Lundas region.

Arbitrary arrests and detentions also remained frequent in the continent.

In **Tunisia**, the feminist activist Ms. **Amina Sboui** was arbitrarily detained from May 19 to August 1, 2013 as a result of her activities in favour of women's rights. The criminal proceeding against her was filled with irregularities and inconsistencies.

In **Mauritania**, on October 6, 2013, 25 members of the Initiative for the Resurgence of the Abolitionist Movement in Mauritania (*Initiative pour la résurgence du mouvement abolitionniste en Mauritanie* - IRA), who were peacefully protesting since September 9 against the inaction of the local authorities in Boutilimit in relation to a case of alleged slavery, were arbitrarily arrested, before being released without charge the same day. The sit-in was violently dispersed by the police. On September 30, 2013, five members of IRA had already been arrested in this framework and were charged with "unlawful assembly" and "membership to an unknown organisation" on October 1. Two of them, Messrs. **Abdallahi Ould Hemdy** and **Slama Ould Seyidi**, remain in custody in the prison of Rosso.

In **Egypt**, Mr. **Hassan Mustafa**, a human rights activist working on economic rights and police violence, remains arbitrarily detained since January 21, 2013 for requesting information on the situation and whereabouts of demonstrators arrested two days earlier. On June 15, 2013, he was sentenced in appeal to one year's imprisonment under the charges of "defamation" of a staff member of the Alexandria Prosecutor's Office, which he strongly denied. His arbitrary detention and sentencing in appeal is another sign of the weaknesses to protect and guarantee human rights defender's activities in the country.

In **Cameroon**, several members of the Mbororo Social and Cultural Development Association (MBOSCUDA), an organisation defending the rights of Mbororo pastoralists in North-Western Cameroon, have been subjected to judicial harassment on the basis of a complaint lodged by a local influential landowner, in relation to a criminal case on the assassination attempt of Mr. **Jeidoh Duni**, MBOSCUDA Para Legal Officer, on July 1, 2012. Those acts of harassment have increased after MBOSCUDA and its members submitted a report in early May 2013 in the framework of the United Nations Human Rights Council Universal Periodic Review (UPR) of Cameroon in Geneva, outlining the various obstacles faced by the Mbororo community.

Furthermore, in addition to judicial harassment, denials of justice and unjustifiable delays in judicial procedures continue to be a frequent way of targeting human rights defenders. For instance, in the **DRC**, nine members of the Association for the Advocacy of the Interests of the City of Bandundu (*Association pour la défense des intérêts de la ville de Bandundu* - ADIVB) remain currently detained in Bandundu prison after being sentenced in April 2013 for "contempt of the public authority", for calling upon the population to take part in a peaceful demonstration to protest against the raise of the prices of electricity and water. On August 26, 2013, the lawyers of the nine defenders filed a bail request before the Supreme Court in Kinshasa but, as of today, the decision of the Court has still not been made public, in contradiction with Congolese law.

### **3. Obstacles to freedom of association in African countries**

Since the last session of the ACHPR, the Observatory has also continued to record obstacles to freedom of association, as for instance in **Angola**, **Egypt** and **Rwanda**.

In **Angola**, the work of human rights NGOs is faced with structural impediments. The NGO registration process remains complex, costly and opaque and the NGO sector is crippled by a lack of human resources and financial sustainability.

The Observatory is also particularly concerned by alarming restrictions and criminalisation of civil society work in **Egypt**. We were particularly dismayed by the sentence issued by North Cairo Criminal Court on June 4, 2013, condemning 43 Egyptians and foreign staff members of five foreign civil society organisations to one to five years in prison for “managing unlicensed branches” of their organisations, “conducting research, political training, surveys, and workshops without licenses”, “training political parties and groups” and “illegally receiving foreign funding”. The court also ordered the confiscation of funds and the closure of Egypt-based branches of Freedom House, the International Republican Institute, the National Democratic Institute, the International Centre for Journalists (ICFJ), and Konrad Adenauer Foundation. The sentencing came at a time when a draft for a new Law on Associations was being discussed before the Shura Council, aiming to impose strict control over NGOs establishment, funding, daily activities, internal decisions and functioning.

In **Rwanda**, the board of the Rwandan League for the Promotion and Defense of Human Rights (*Ligue rwandaise pour la promotion et la défense des droits humains* - LIPRODHOR), one of the few independent human rights organisations in the country, was ousted on July 21, 2013 by a small number of members, and replaced by people believed to be favorable to the Government. A few days later, the Rwanda Governance Board (the public body in charge of the registration of associations) expeditiously recognised the new board. This takeover of an independent NGO took place following the decision of LIPRODHOR to withdraw from a Rwandan umbrella body for human rights organisations. On July 24, bank accounts of LIPRODHOR were frozen and the police canceled a training workshop organised by LIPRODHOR on how to submit evidence to the UN UPR. Reportedly, the police would also have threatened LIPRODHOR staff with imprisonment if they did not cooperate with the new board.

#### **Recommendations:**

In view of the above-mentioned elements, the Observatory reminds States Parties of their obligation to comply with all the provisions of the African Charter, in particular those relating to the protection of human rights defenders. Therefore, the Observatory calls upon the ACHPR to request all States to:

- Implement all the provisions of the 1998 United Nations (UN) Declaration on Human Rights Defenders, especially by guarantying in all circumstances their physical and psychological integrity and their capacity to operate in an enabling environment;
- Release all defenders who are detained for merely exercising their right to fundamental freedoms, in particular freedoms of expression, peaceful assembly and association;
- Put an end to all acts of harassment - including at the judicial level - against human rights defenders;
- Order an immediate, thorough, transparent investigation into allegations of violations of defenders' rights, in order to identify all those responsible, bring them before an independent tribunal, and apply them the sanctions provided by the law;
- Refrain from adopting any provisions that do not comply with international and African standards with respect to the exercise of the right to freedoms of expression, peaceful assembly and association, and abrogate or revise any such provisions that may be in force;

- Send a standing invitation to the UN and ACHPR's Special Rapporteurs on Human Rights Defenders and facilitate their visits.

The Observatory also calls upon the ACHPR to:

- Adopt the Guidelines on the rights to freedom of association and peaceful assembly prepared by the Study Group on Freedom of Association in Africa;
- Adopt a resolution on the fundamental right to freedom of association, including the right of NGOs to access funding.

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