

## WRITTEN INTERVENTION - THE OBSERVATORY

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### AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

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

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

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

FIDH and OMCT, in the framework of the Observatory for the Protection of Human Rights Defenders, once again express their grave concern about the situation of human rights defenders in Africa.

Since the last session of the Commission in April-May 2014, the Observatory has reported, with great concern, multiple violations of human rights defenders' rights and freedoms all across the continent, especially in **Algeria, Angola, Burundi, Cameroon**, the **Democratic Republic of Congo (DRC)**, **Egypt, Kenya, Libya, Mauritania, Rwanda, Sierra Leone, Sudan, Tunisia** and **Uganda**.

Judicial harassment based on trumped-up accusations, accompanied by arbitrary arrests and detentions, remains the most common harassment technique, especially in **Algeria, Burundi, Cameroon**, the **DRC, Egypt, Mauritania, Rwanda** and **Sudan**.

In several countries, including **Angola** and **Tunisia**, human rights defenders have also been subjected to threats and defamation campaigns, sometimes putting the safety of human rights in jeopardy.

Acts of intimidation have been particularly directed against those who defend the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, notably in **Cameroon**.

Major obstacles to the right to freedom of association were also reported on the continent, such as for instance in **Angola, Kenya, Libya** and **Rwanda**.

Violations were suffered, among others, by members of non-governmental organisations (NGOs), lawyers, journalists, bloggers, land and environmental rights activists, civil society organisations who defend the rights to freedoms of expression, association and peaceful protest, denounce human rights abuses by the State or powerful companies, and fight for the respect of the rights of LGBTI people and for fundamental freedoms in general.

## I. The increased use of arbitrary detention against human rights defenders

Arbitrary arrests and detention of human rights defenders are still used as a mean to persecute and silence human rights defenders throughout the African continent. As the commission meets dozens of human rights defenders are currently detained, often in deplorable conditions, particularly in **Algeria**, **Angola**, **Cameroon**, the **DRC**, **Egypt**, **Mauritania**, **Sudan** and **Swaziland**.

In **Algeria**, arrested in late January 2015, labour rights activists and members of the National Committee for the Defence of the Rights of Unemployed Workers (*Comité National pour la Défense des Droits de Chômeurs – CNDDC*), Messrs. **Rachid Aouine**, **Mohamed Rag**, **Khencha Belkacem**, **Brahimi Beelmi**, **Mazouzi Benallal**, **Azzouzi Boubakeur**, **Korini Belkacem**, **Bekouider Faouzi**, **Bensarkha Tahar** and **Djaballah Abdelkader**, remained in arbitrary detention ever since. Charged with “gathering” and “exercising pressure on the decisions of magistrates”, the ten activists were sentenced on February 11, to one year in prison with a 6-month suspended sentence and a fine of 5,000 Algerian dinars. Targeted since the beginning of 2013, Algerian authorities have been preventing labour rights activists from exercising their rights to freedom of peaceful assembly, association, expression as well as their right to form and maintain a union.

In **Angola**, human rights defenders and journalists denouncing issues deemed to be sensitive such as corruption, bad governance, forced demolitions, forced evictions or the human rights situation in Cabinda are the main targets of the authorities. Recent cases clearly illustrate this trend: on March 14, 2015, the police arbitrarily arrested former member of the organisation Mpalabanda **Marcos Mavungo** and lawyer **Arão Bula Tempo**, prior to a demonstration which was planned the same day to denounce the human rights abuses and bad governance prevailing in the province. Both men were transferred to the provincial office for criminal investigation, where they are still detained. On March 16, they were both charged with “sedition”. The two remain in detention at the Central prison of Yabi in Cabinda.

In **Cameroon**, Mr. **Franklin Mowha**, president of Frontline Fighters for Citizens Interests (FFCI), a human rights organisation operating in the Western region of the country, is arbitrarily detained and prosecuted since December 2013 for “destruction of public goods” and “insulting a public officer during the performance of his duties”. On the day of his arrest, Mr. Franklin Mowha was publicly beaten in the Brigade Ter yard by gendarmes of that group, who would have acted following orders of administrative authorities and of the Superior official of Bangangté. Mr. Mowha sustained injuries in the nose and ribs. He is detained in Bafoussam Central Prison. His trial is taking place in Bagangté and the next hearing is scheduled for April 24, 2015. Likewise, Mr. **Célestin Yandal**, president of the Touboro Youth Collective, an organisation defending the rights of young people in the Adamaoua region, is being kept in preventive detention since his arrest on November 23, 2013. Charged with “destruction”, “simple threats and violation of a Djavor official’s home”, “murder attempt” and “aggravated theft. Mr. Yandal was transferred to Tcholliré Prison and his trial will take place on May 21, 2015.

In the **DRC**, the trial of human rights defender, **Christopher Ngoyi Mutamba**, National Chairman of the NGO “*Synergie Congo culture et développement*” and Coordinator of the platform Civil Society of Congo, opened on March 4, without any prior notice to the defendant who is facing a heavy prison sentence. On March 18, 2015, several journalists and support of Mr. Ngoyi Mutamba were prevented from observing the hearing. In January 2015, Mr. Ngoyi Mutamba, had actively took part in several peaceful actions denouncing an electoral reform. On January 21, 2015, after visiting injured protesters, Mr. Ngoyi Mutamba was kidnapped by armed elements of the national guard in Kinshasa and held incommunicado for approximately twenty days by the national intelligence agency (ANR). He has been arbitrarily detained since then.

Other cases of arbitrary arrests and detentions were also reported in the **DRC**. On March 15, 2015, during a press conference to launch the citizen initiative Filimbi which promotes youth participation in electoral and democratic process, held in the premises of the Ba jeune Maboko Na Maboko Pona Congo NGO, in Kinshasa, **thirty pro-democracy activists and journalists** were arbitrarily arrested and further detained. Others were arrested on April 7, as they were protesting the detention of the activists arrested earlier. Two of them remain arbitrarily detained by the National intelligence agency (ANR) and would be detained at the Goma prison.

While the ACHPR expressed serious concerns over "the grave and rapid deterioration of the human rights situation in **Egypt** since the 2011 uprising, [in particular the] arbitrary detention, acts of torture and ill-treatment in detention centres, violations of rights of human rights defenders, sexual violence against women, violations of the right to freedom of expression, association and assembly and death sentences" in July 2014, the increasing number of arbitrary detentions reported since, illustrates a wider trend of repression against human rights defenders in the country. Many human rights defenders are arbitrarily detained for exercising their legitimate right to peaceful assembly. In late December 2014, Ms. **Yara Sallam**, Transitional Justice Officer at the Egyptian Initiative for Personal Rights (EIPR), who has been arbitrarily detained since June 21, 2014, was sentenced in appeal along with Ms. **Sanaa Seif**, member of the "No to Military Trials for Civilians" movement and 22 other protesters to two years' imprisonment, and two years' police surveillance. Likewise, on February 23, 2015, Mr. **Alaa Abdel-Fattah**, civil and political rights activist, blogger and member of the "No to Military Trials for Civilians" movement was sentenced to five years imprisonment, five years of police surveillance, and a fine of 100,000 EGP. Mr. Alaa Abdel Fattah was sentenced on charges of "organizing a protest without a permit", "organizing an illegal assembly that endangers public security", "blocking roads", "assembling illegally", "attacking and injuring a public servant". He is facing other charges in relation to another gathering. He has been arbitrarily detained since October 27, 2014.

In **Mauritania**, several **members of the Résurgence du Mouvement Abolitionniste en Mauritanie (IRA) initiative** have been arbitrarily detained since November 11, 2014. Three of them, Messrs. **Biram Dah Abeid**, **Brahim Bilal Ramdhane** and **Djibril Sow** were sentenced in January 2015 to two years in jail for "unauthorised gathering". They have all been working towards the abolition of slavery. At the time of their arrest, they were travelling across the country in a bus to raise public awareness on the issue. In addition, blogger **Mohamed Cheikh Ould Mkheitir** has been detained since January 2, 2014 on charges of "apostasy" for denouncing discrimination under the caste system. On December 24, 2014, he was convicted and sentenced to death. The conviction was appealed.

In **Swaziland**, on July 25, 2014, Messrs. **Thulani Rudolf Maseko**, prominent human rights lawyer, senior member of Lawyers for Human Rights Swaziland and the Southern Africa Human Rights Defenders Network and **Bheki Makhubu** columnist and Editor-in-Chief of *The Nation*, considered as the sole independent newspaper of the country, were sentenced to two years of prison without the benefit of bail on charges of "scandalising the judiciary" and "contempt of court" following the publication of articles criticising the judicial system. An appeal trial was ongoing.

In **Sudan**, while the release on April 9, 2015 of human rights defender Dr. **Amin Mekki Medani**, who was arbitrarily held for four months, is to be welcomed, the arrest, on April 16, 2015, of Mr. **Adil Bakheit**, member of the Board of Trustees of the Sudan Human Rights Monitor (SHRM), who is detained by the National Intelligence and Security Services (NISS), constitutes a new set-back. Three weeks prior to his arrest, on March 26, the laptop of Mr. Bakheit, which contains information about his human rights work, was confiscated when the NISS raided a workshop organised by Khartoum-based TRACKS for Training and Human Development, whilst it was hosting a training session on social responsibility. He is being prosecuted under the 1991 Criminal Act, on charges of "criminal joint acts in execution of criminal conspiracy", "criminal conspiracy", "calling for opposition to public authority by use

of violence or criminal force”, “publication of false news” and “impersonating a public servant”. Two additional charges brought up against Mr. Bakheit - “offences against the State undermining the constitutional system”, “waging war against the State” - are classified as crimes against the State and carry the death penalty.

Likewise in **Burundi, Niger, Rwanda, Sierra Leone, Uganda** and **Zimbabwe**, several human rights defenders have been victims of arbitrary arrest and detention.

## II. Continuation and intensification of the judicial harassment of human rights defenders

Judicial harassment remains a widespread practice in many countries, such as **Algeria, Burundi, Egypt** and **Tunisia**.

In **Algeria**, with already ten of their colleagues in detention, labour rights activists and members of the CNDCC, Messrs. **Abdelhamid Brahimi, Ferhat Missa** and **Youssef Sultani** are being judicially harassed for criticising the police on Facebook and for their participation to peaceful demonstrations in El Oued. Their trial is ongoing.

In **Burundi**, **Pierre Claver Mbonimpa**, who has been judicially harassed since may 2014 and further detained for several months, was arrested on April 27, 2015 for publicly speaking against a third mandate of President Pierre Nkurunziza, which would violate the Arusha agreements as well as the 2005 Constitution.

And whilst the release of Mr. **Bob Rugurika** in **Burundi**, was welcomed in 2014, the harassment against the human rights defender continues as charges held against him have not yet been dropped.

In **Egypt**, while she is not currently detained, Ms. **Mahienour El-Massry**, human rights lawyer known for her activism in favour of judicial independence and prisoners’ rights by organising peaceful protests, supporting activities for political prisoners and using social media to denounce human rights violations, is still facing continuous judicial harassment. Released on September 21, 2014, Ms. El-Massry, was sentenced on February 9, 2015, together with another lawyer **Amr Abu Elkhair** and eight activists to two years in jail. On March 23, 2015, Ms. **Azza Soliman**, human rights lawyer and founder of the Centre for Egyptian Women Legal Aid (CEWLA), was formally charged with “unauthorised protesting”, and “breach of security and public order”. Along with Ms. Soliman, sixteen others were criminally charged. Charges brought against Ms. Soliman are linked with her testimony denouncing the violent dispersal on January 24, 2015, of a protest commemorating the January 25 Revolution, which led to the shooting of political activist Ms. Shaimaa El Sabbagh.

In **Tunisia**, 2014 has seen an increased number of human rights defenders judicially harassed. Ms. **Héla Boujenah**, member of the Active New Generation Organisation, was attacked by police forces while she was on her way to the police station where her brother was held. She was then charged with “insulting an official in the exercise of his duty”. While she was acquitted, she had to pay a fine for breaching public tranquillity. Likewise, on July 8, 2014, Mr. **Ahmed Kaâniche**, activist and former Human Rights Watch research assistant was attacked by police forces and further prosecuted.

## III. Concerns over the growing harassment of land rights defenders

As shown in the 2014 Annual report, over the last years, the Observatory has been documenting an increasing number of cases of harassment targeting land rights defenders. authors of repression are often the police, the military, private security agents and “henchmen”. Their objective being to silence dissenting voices likely to slow down investment projects. Judicial bodies in countries where such violations occur are

characterised by a lack of independence, resources and expertise. Regarding the possibility of prosecuting business corporations responsible for human rights violations, the legal battle – if any – is often lengthy, perilous, unequal and costly. At the heart of the problem lies the issue of the participation of individuals and communities affected by the development policies and investment projects. On the African continent, especially in **Angola, Cameroon, Niger, Sierra Leone, Uganda**, and **South Africa**, land rights defenders remain particularly vulnerable.

In **Angola**, on March 24, 2015, a trial on charges of “criminal defamation” began in **Angola** against journalist **Rafael Marques de Morais**. Mr. Marques is accused of defamation following the publication, in 2011, of his book, “*Blood Diamonds: Corruption and Torture in Angola*” where he denounces the corruption and human rights violations allegedly committed by State agents and business entrepreneurs in the diamond-mining industry. The charges pending against Mr. Marques, the lack of access, by him and his lawyer, to all the documents related to the case, the transfer of the case to DNIAP upon request of the Attorney General, constitute serious infringements to Mr. Marques’ right to due process and illustrate the authorities’ willingness to hamper his freedom of expression and undermine his documenting and reporting activities. The trial is ongoing.

In **Cameroon**, Mr. **Nasako Besingi**, Director of the NGO Struggle to Economize Future Environment (SEFE), a local environmental organisation based in Mundemba, Ndian division, Southwest **Cameroon**, was attacked on August 29, 2012, by a group of men that he identified as junior managers of Herakles Farms while he was going to Mengwe village to deliver a public lecture about the impacts of the Herakles project on local populations. Mr. Besingi was pulled off his motorcycle, and beaten while he was on the ground. A group of journalists from France 24 then arrived on the spot and the attackers fled. Due to his aggression, Mr. Besingi suffered ocular and nerves injuries.

Mr. Besingi is now being prosecuted on charges of “publication of false news via the Internet”. Mr. Besingi’s trial, which began on January 14, 2014 in Mundemba court, has already been postponed 10 times. It resumed on June 24, 2014, and is still ongoing.

In **Niger**, cases of arbitrary arrests of human rights defenders were also reported. Indeed, Nigerian human rights defenders advocating for greater transparency and fairness in dealings between the government and extractive industries had been arrested on July 18, 2014 during the French president’s official visit. Activists denounced the opacity around business relations between the Niger government and extractive industries, in particular regarding uranium mining contracts with the French multinational company Areva. Although released shortly after their arrest, these human rights defenders are still at risk of being harassed and arrested.

In **Uganda**, Mr. **Gerald Kankya**, Executive Director of the Twerwaneho Listeners Club (TLC), which, since 2006, has been working to combat unlawful evictions from public community land, has been the target of a particularly harsh judicial and physical harassment since the beginning of 2015. On January 23, 2015, Messrs. Gerald Kankya and **Simon Amanyire** were assaulted by approximately 30 men wearing Queen Mother Best Kemigisa Nursery, Primary and Vocational Schools traffic reflectors jackets, armed with clubs and allegedly commanded by the District Police commander Mr. Geoffrey Kahebwa and another police officer. Despite Mr. Kankya’s grievous harm, medically ascertained, the police refused to record his complaint. In relation to this incident, Mr. Kankya is being prosecuted for “grave assault”. Later, on March 24, 2015, Mr. Gerald Kankya was arrested upon his arrival at the Fort Portal Police Station, where he came to visit a land activist who was detained the day before. It was reported that Mr. Kankya was arrested on allegations of assaulting a journalist earlier this year. This refers to an argument in January 2015 between Mr. Kankya, his colleague Mr. Simon Amanyire and Mr. Rodger Martin, manager of programs at Better FM, a local radio station, after the latter attempted to cancel a scheduled program produced by TLC. Although, Mr. Martin confirmed to the police that the argument was purely verbal, and that he had no intention to proceed with a criminal complaint, the police decided to file the

case to the Court on charges of “simple assault”. Mr. Kankya appeared before the Magistrates Court on March 24, 2015 and was released on bail with two sureties.

Two other TLC activists, Messrs. **Byaruhanga Salongo** and **Ibrahim** from Hakibaale, were arrested in July 2014 by the police for holding a public community meeting to discuss the land ownership status which a local member of Parliament was attempting to grab from an 89-year-old man. The Police also used tear gas to disperse the meeting before arresting the three activists along with Mr. Nyaruhuma Erikanjeru, the 89-year-old man. The Police released them a few hours later on the same following day TLC's intervention to inquire the reason for the arrest. The activist were not charged but they were repeatedly accused by the police of having held an illegal assembly.

In **Sierra Leone**, the ongoing judicial harassment against several members of the Malen Land Owners and Users Association (MALOA), who have been monitoring and denouncing the negative impact on human rights of the activities of Socfin Agricultural Company Sierra Leone Ltd (SAC) in Malen's district, in particular acts of land grabbing, via two criminal cases, including Mr. **Shiaka Sama**, MALOA Spokesperson and nine of his colleagues, Messrs. **Sima Mattia**, MALOA's secretary, **James Blango**, **Lahai Sellu**, **Musa Sellu**, **Foday Musa** and **Sylvester Kebbie**, MALOA members illustrates the harassment which land rights defenders are the target of in the country.

In **South Africa**, there have been several cases of violence, harassment and acts of intimidation against land rights defenders for several years now. On September 29, 2014, Ms. **Thuli Ndlovu**, Chairperson of the Abahlali base Mjondolo, which promotes land and housing rights, was killed in her house by an unidentified man who shot her seven times. An hour before the incident, Ms. Ndlovu is reported to have seen Mr. Muduzi Ngcobo, the local councillor known as Nqola, who is at the initiative of the contested “housing project”, moving around her house. Ms. Ndlovu is said to have warned her mother, who was also in the house, that “today, we are going to be shot”. On several occasions, members of AbM in KwaNdengezi, in particular Ms. Ndlovu, had reported cases of intimidation and harassment against them by Mr. Nqola. While members of AbM have filed complaints before the local police, all cases of killings, threats, arbitrary arrests and acts of torture have so far remained non-investigated and those allegedly responsible have never been interrogated.

#### **IV. The safety of human rights defenders in jeopardy**

In many countries, as they are the target of threats, acts of intimidation and attacks, human rights defenders are not able to carry out their peaceful and legitimate human rights activities. This is the case in particular in **Angola**, **Cameroon**, the **DRC**, **Egypt**, **Libya**, **Mauritania** and **Tunisia**.

The Observatory welcomes the important ACHPR's decision to uphold complaint of human rights defenders tortured in **Sudan**. Published on 13 February 2015, the African Commission called on Sudan to effectively investigate and prosecute the security and intelligence officers alleged to be responsible for the arbitrary arrest, torture and ill-treatment of three prominent human rights defenders; to reopen and unfreeze the bank accounts of a human rights organization shut down in connection with the case and to pay them compensation. The Observatory nonetheless deplores the fact that the Sudanese authorities have so far taken no steps to implement this decision. Human rights defenders **Monim Elgak**, **Amir Suliman** and the late **Osman Hummaida** were targeted for their supposed cooperation with the International Criminal Court in a pending case against the President of Sudan Omar Al Bashir arising from international crimes committed in Sudan's Darfur region. The three human rights defenders were arrested on 24 November 2008 by Sudan's National and Intelligence Services (NISS) and subjected to torture and ill-treatment for three days. After their release, they were effectively forced to flee Sudan because of their fear of further persecution, given the impunity enjoyed by the security and intelligence services and the inaction of the Sudanese government. Suliman was Director of the Khartoum Centre for

Human Rights and Environmental Development (KCHRED), which in 2009 was shut down by the Sudanese authorities and had its bank accounts frozen. Hummada, an ardent advocate for human rights who founded the Khartoum Centre and set up the ACJPS in Uganda, after his release, to ensure continued reporting of the human rights situation in Sudan, died in 2014. The complainants turned to the ACHPR in 2009. The Commission found their complaint admissible in 2012, agreeing that the Sudanese justice system prevented them from obtaining redress in Sudan. OMCT and FIDH intervened on their behalf at the ACHPR and the complaint was supported by the ICJ, ACJPS and REDRESS.

In **Angola**, the increasing insecure environment in which human rights defenders operate constitutes a direct threat to their work. On February 18, 2015, the premises of the organisation **Omunga**, well-known for its stance against forced demolitions and evictions, based in the province of Benguela, were burgled by two armed men, dressed in military uniforms, who assaulted the guard and robbed a camera and a phone. Despite the complaint filed by José Patrocino, the Coordinator of Omunga, and while members of this organisation are often subjected to acts of intimidation, no serious and impartial investigation has been conducted by the police up to now.

Threats against Mrs. **Maximilienne Ngo Mbe**, REDHAC Executive Director and Executive Secretary of the PRODHOP, and members of her family in **Cameroon**, must be taken seriously by authorities who should ensure their protection. In March 2015, Ms. Ngo Mbe, who was accused of being a foreign agent working for the American and French governments, was threatened to “be taken care of” on a radio.

Still in **Cameroon**, the investigation into the death of journalist and human rights defender committed to the protection of lesbians, gays, bisexuals, transgender and intersex people (LGBTI) rights, **Eric Ohena Lembembe** remains at a standstill. Eric Ohena Lembembe was the Executive Director of Cameroon Foundation for AIDS (CAMFAIDS). He was working in collaboration with several organisations such as Alternatives Cameroun and the “Association pour la défense des homosexuel-les” (ADEFHO). He had contributed in particular to the preparation and the dissemination of a report published by Human Rights Watch in March 2013 and had addressed recommendations during the Universal Periodic Review of Cameroon in front of the UN Human Rights Council in May 2013. He also contributed to the blog *Erasing 76 Crimes* and had taken part in the writing process of the book *From Wrongs to Gay Rights*. Eric Ohena Lembembe was found murdered in his home, at Yaoundé, on July 15, 2013. According to the testimonies, he was beaten to death by his attackers, his neck and feet were apparently broken, his face, hands and feet burnt with an iron.

Issued on February 25, 2015, a report entitled “*Cameroon, Homophobia and violence against defenders of the rights LGBTI persons*”, result of a fact-finding mission carried out in 2014, depicts the fragile environment of the defenders of the LGBTI persons’ right to health and to human rights and documented the intimidation aiming at defenders, in an environment that criminalises homosexuality between consenting adults. Indeed, increasing numbers of extremely serious violations are being committed, in some cases leading to murder, and nothing is being done to prosecute the perpetrators.

In the **DRC**, well-known for his involvement in sensitive case of political opponents and human rights defenders, Me **Peter Ngomo Milambo**, has been the target of a continuous harassment since August 2014. While he was in Court, the public prosecutor threatened to arrest him and said: “you’re brave to have come to the hearing”. Me Ngomo Milamba warned several times already the lack of neutrality and independence of General Tim Mukunto Kiyana, public prosecutor. It was then reported than General Mukunto Kiyana had the intention of arresting Me Ngomo Milambo on that day.

In **Egypt**, the premises of **Radio Horytna**, an online radio program established in 2007 at the initiative of AITAS to reach youth audience, were raided on April 4, 2015 by ten members

of the Egyptian police force. Without an arrest or a search warrant, the police searched the premises, interrogated the staff, and confiscated three computers and one microphone. Chief Editor, Mr. **Ahmed Samih** was detained and brought to Sayeda Zeinab police station, where he was subjected to a four-hour interrogation until 3am, followed by a six hour interrogation the following day. He was detained for more than 24 hours and released on bail of LE 5,000 on the evening of April 5, 2015.

In **Libya**, the assassination at her home of Ms. **Salwa Bouguiguis**, prominent Libyan human rights lawyer and women activist who advocated for gender equality and women's political participation, on June 25, 2014 must not remain unpunished. Ms. Bouguiguis had also actively participated in Libya's 2011 revolution that overthrew the regime of Muammar Gaddafi. A former member of the National Transitional Council, she was since the Vice-President of the Preparatory Committee for National Dialogue in Libya. Her husband who was in the family home at the time of the attack, has remained missing since then.

In **Mauritania**, life of Ms. **Aminetou Mint El Moctar**, Head of the Association des femmes chefs de familles (AFCF) is threatened since on June 6, 2014, the leader of a Mauritanian Islamic group "Ahabab Errassoul" launched a fatwa against her. Ms. El-Moctar was not able to file a complaint and both police forces and authorities have failed to ensure her protection so far.

In **Tunisia**, several cases of harassment of human rights defenders were also reported. While she benefited from police protection, blogger **Lina Ben Mhenni**, was attacked by police agents in front and inside Houmt Souk police headquarters. Her father, activist **Sadok Ben Mhenni**, informed of his daughter's aggression, immediately went there, only to be physically and verbally attacked by police officers. Likewise, unjustly accused of terrorists acts, Me **Imen Triki**, President of the Freedom and Equity association, is since December 12, 2013 and a press conference on cases of torture and ill-treatment, the target of groundless accusations by members of the police. In a similar case of allegations of terrorists acts, Me **Charfeddine Kellil**, who was very active in the defence of victims during the revolution, continues to be harassed and serious defamation campaigns organised by members of the police on TV as well as before the Court are still ongoing.

## **V. Major obstacles to freedom of association: repressive laws and practices**

In **Kenya** and **Rwanda**, major obstacles to freedom of association were reported through 2014 and 2015, including restrictive bills or laws.

In **Kenya**, the decision, on April 7, 2015, to freeze the accounts of two human rights organisations, **Haki Africa** and **Muslims for Human Rights (MUHURI)**, in the aftermath of the terrorist attack in Garissa, comes as an unfair retaliation measure against peaceful and legitimate human rights organisation. According to Gazette Notice 2326 of 7th April 2015, the Inspector General has listed five organisations under a list titled, "List of Terrorist Organisations". These are Al-Shabaab, Mombasa Republican Council, Al-Qaida, ISIS (Islamic State of Iraq and Syria) and Boko Haram. The same Gazette notice contains a longer list titled, "List of Entities Suspected to be Associated with Al-Shabaab." This list has 85 entities which appear to be companies, business organisations and individuals. MUHURI and Haki Africa have been listed here.

It was further reported that on April 20 and 21, 2015 the premises of Haki Africa and MUHURI were the targets of police raids. Documents and hard drives were confiscated. The office server of MUHURI was also dismantled.

There is no independent human rights organisation left in **Rwanda** since July 2013, when the **Rwandan League for the promotion and defence of human rights (LIPRODHOR)** was the target of an attempted takeover aiming its legitimate senior management, who are subjects of legal proceedings preventing them from pursuing their normal activities and from expressing themselves. Constantly threatened, members of the legitimate board of the

LIPRODHOR are either judicially harassed or in exile. The rejection of their appeal filed to the High Court of Kigali on March 23, 2015 to declare the nullity of the decision adopted by the illegitimate board of the LIPRODHOR, marks an alarming closure of the judicial process initiated in 2013. On December 29, 2014, was also ordered by the High Court of Kigali, the release of M. Daniel Uwimana, member of the legitimate board of the LIPRODHOR who has been judicially harassed and further jailed since November 2014.

The use of new legislations to criminalise and obstruct the work of NGOs is spreading throughout the continent. Such practices were reported in **Angola**, **Egypt**, **Kenya** and **Uganda**.

In **Angola**, in February 2015, a draft regulation on the activities of NGOs, was submitted by the Ministry of Social Assistance and Reinsertion and the Service of External Intelligence. Under the guise of preventing terrorism, the draft regulation, which is to be adopted by Presidential decree, contains a number of provisions that, if applied, will considerably jeopardise the work of independent human rights organisations in Angola. Among others, the regulation requires NGOs to provide their certificate of registration to be authorised to carry out their activities, failing which they risk suspension or closure. However, to date, most independent human rights organisations, have still not received the said certificate from the Ministry of Justice. Besides, several provisions of this regulation will result in an increasing control exercised by the authorities over the activities (design and planning of implementation), the accounts (origin of funding) and the internal management of NGOs (employment of staff, purchase of equipment). For example, NGOs will be required to solicit the approval of the authorities prior to implementing projects, to implement activities benefiting communities or purchasing equipment exclusively in the country.

In **Egypt**, on July 18, 2015, the Egyptian Ministry of Social Affairs published a notification in the newspaper Al-Ahram requiring all civil society entities to register as NGOs within a period of 45 days. The deadline was further postponed to November 10, 2015. This law empowers the government to shut down any group virtually at will, freeze its assets, confiscate its property, reject nominees to its governing board, block its funding, or deny requests to affiliate with international organisations. The draft law would create a Coordinating Committee made up of government officials, including representatives of the Ministry of Interior and the General Intelligence Services, who would have control over anything to do with the registration, activities, and funding of foreign nongovernmental organisations in Egypt, as well as over any foreign funding received by Egyptian nongovernmental organisations. The law also imposes harsher penalties than the current law of 84/2002, including prison sentences of up to three years and fines not less than US\$14,000 for activities that includes operating without a license, raising funds without permission or operating in association with an international group without permission from the government committee.

In **Kenya**, on 10 December 2014, the government of Kenya published the Security Laws (Amendment) Bill 2014, which notably restricts freedoms of expression and assembly – giving powers to the Cabinet Secretary to designate where and when certain public gatherings may be held – limit the access to justice and the rights of arrested and accused persons, – broadening the powers of security officials to arrest and detain people possibly violating due process rights – while expanding the powers of the National Intelligence Service (NIS) to search and seize private property, and monitor communications without a court warrant. As a consequence, on 16 December, 2014, the NGO Coordination Board of the Kenyan Ministry of Devolution and Planning held a press conference in which it announced the de-registration of 525 PBOs. On April 7, 2015, the Inspector General has listed five organisations under a “List of Terrorist Organisations”, including two human rights NGOs, **Haki Africa** and **Muslims for Human Rights** (MUHURI), in the aftermath of the terrorist attack in Garissa (see above).

In **Uganda**, published in the government's gazette on April 10, 2015, a new NGO bill would grant the internal affairs minister and the National Board for Non-governmental Organisations broad powers to supervise, approve, inspect, and dissolve all nongovernmental organisations and community based organisations, and would impose severe criminal penalties for violations. According to the text, organisations would be required to apply for an operating permit, which could be denied "where it is in the public interest to refuse to register the organisation, or [...] for any other reason that the Board may deem relevant". Furthermore, organisations which operates without a permit could face fines, prosecution and criminal penalties up to eight years in prison for the organisation's director.

Finally, in **Ethiopia**, the Law No. 621/2009 (CSO Law), which was adopted by the Parliament in 2009, which created a very restrictive environment for human rights defenders, continues to force them to sharply restrict their activities, in particular due to draconian restrictions on their funding sources.

### **Recommendations:**

1) 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. In that regard, States should immediately and unconditionally:

- Implement all the provisions of the 1998 United Nations (UN) Declaration on Human Rights Defenders, especially by guaranteeing in all circumstances their physical and psychological integrity and their capacity to operate in a safe and enabling environment;
- Release all defenders who are arbitrarily detained for merely exercising their rights to fundamental freedoms, in particular freedoms of expression, peaceful assembly and association;
- Develop differentiated measures for the protection of the most vulnerable groups of human rights defenders such as land rights defenders, defenders working in rural areas, woman human rights defenders or defenders working on LGBTI issues.
- Put an end to all acts of harassment - including at the judicial level - against human rights defenders;
- Order immediate, thorough, transparent investigations into allegations of violations of human rights 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 United Nations and ACHPR's Special Rapporteurs on Human Rights Defenders and facilitate their country visits.

2) The Observatory also calls upon the ACHPR to:

- Systematically raise the question of the situation of human rights defenders as well as denounce and condemn all human rights violations faced by human rights defenders during the examination of the periodic reports of the States parties to the ACHPR, and on the occasion of all visits conducted in a State party;
- Increase its capacities to respond to urgent situations faced by human rights defenders;

- Ensure the effective implementation of its resolutions, concluding observations and decisions on communications in order that everyone, including human rights defenders, be able to effectively enjoy all the rights and freedoms recognised by the ACHPR, the Universal Declaration of Human Rights and the UN Declaration on Human Rights Defenders;

- Continue and strengthen the collaboration with the United Nations Special Rapporteur on Human Rights Defenders, as well as with the other regional mechanisms for the protection of human rights defenders.

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