

WRITTEN INTERVENTION - THE OBSERVATORY

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

61st Ordinary Session

Banjul, The Gambia

November 1 - 15, 2017

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

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

Madam Chairperson, Distinguished Commissioners and State Delegates,

The World Organisation Against Torture (OMCT) and FIDH, in the framework of the Observatory for the Protection of Human Rights Defenders, thank the African Commission on Human and Peoples' Rights (ACHPR) for this opportunity to raise some of the key issues with respect to the situation of human rights defenders in Africa.

While States have the duty to protect human rights defenders and to ensure that they operate in a safe and enabling environment, attacks, threats, judicial harassment, criminalisation, legislative and administrative restrictions, as well as smear campaigns against them continue to perpetuate an environment of hostility towards their activities.

1. Pursuit of criminalisation threats and violence to silence human rights defenders

In several countries, we are concerned that human rights defenders are criminalised in retaliation of their peaceful and legitimate human rights activities recognised and protected under regional and international human rights instruments. Furthermore, their human rights are often violated while they are arbitrarily detained or subjected to arbitrary legal proceedings.

In **Cameroon**, the endless judicial harassment since 2013 of Mr. **Célestin Yandal**, President of the *Collectif des jeunes de Touboro*, a youth human rights organisation in the Adamaoua region of Cameroon, continues as he being prosecuted in two different cases under trumped up charges, for denouncing human rights violations committed by Rey-Bouba's traditional leader (Lamido) against Touboro's youths. Hearings in his case are continuously postponed since the opening of the trial. The Observatory denounces a flagrant violation of his right to a fair trial which includes the right to be tried within a reasonable delay.

Recently, **Egyptian** authorities have targeted human rights organisations and individuals providing legal support to Giulio Regeni's family members in the investigation of Italian graduate who was abducted and tortured to death in Egypt in 2016. The Egyptian Commission for Rights and Freedoms (ECRF) is amongst them. Likewise, Mr. **Ibrahim Metwally Hegazy**, human rights lawyer, Co-founder and Coordinator of the Association of the Families of the Disappeared in Egypt, who has provided legal support to Giulio Regeni's family, was forcibly disappeared on September 10, 2017, at Cairo International Airport before boarding a flight to Geneva, where he was travelling in response to an invitation by the United Nations (UN) Working Group on Enforced and Involuntary Disappearances to attend the proceedings of its 113th Session at the UN Human Rights Council. The whereabouts of

Mr. Metwally Hegazy remained unknown from that date until September 12, when he was reported to be located in State Security Prosecution custody, in Al-Tagammo' al-Khamis on the outskirts of Cairo, where he had been interrogated by the State Security Prosecution (SSP). During his interrogation, he reported being tortured and his home was searched by security forces. On September 20, 2017, Egypt's High State Security Prosecution renewed the preventive detention of Mr. Ibrahim Metwally Hegazy for 15 days pending investigation. Mr. Ibrahim Metwally Hegazy is being suspected of "founding and leading an organisation that was created illegally" (i.e. the Association of Families of the Disappeared), "spreading false news" and "communicating with foreign entities in order to undermine national security". He is currently detained at the 'Scorpion' (Al-Aqrab) high security wing of Tora prison complex, in solitary confinement, in a cell with refuse and no electricity. He is being denied access to his lawyers and family.

Human rights lawyer at Egyptian Center for Economic and Social Rights (ECESR), Mr. **Tarek Hussein** (aka **Tito**), was arbitrarily arrested on June 17, 2017, under accusations of "joining an illegal organisation" and "calling for a protest". Mr. Tarek Hussein was held incommunicado until July 27, 2017, preventing his family and lawyers to visit him. Following his enforced disappearance while in detention, Mr. Tarek Hussein's family and lawyers filed three successive complaints regarding the various violations suffered by Mr. Tarek Hussein. In an attempt to justify his detention, authorities claimed that at least 13 verdicts had been issued all over the country against an individual named "Tarek Hussein", and in one of the cases, police claimed he was sentenced for "stealing electricity in 1993", his birth year. During the nearly 40 days of his illegal detention, his lawyers submitted documentation and evidence to the authorities to prove that he was not the "Tarek Hussein" in question. One such case is still pending and will be heard on November 9, 2017. In addition, Mr. Tarek Hussein is being investigated under charges of "inciting protest" by the general prosecution. Mr. Tarek Hussein's arrest and arbitrary detention occurred amidst protest over Tiran and Sanafir islands' transfer to Saudi Arabia, which he had been vocally opposing.

Furthermore, on June 14, 2017, Ms. **Esraa Fehead**, Founder and Executive Director of Horeya for Human Rights Organisation in Port Said and member of the Regional Coalition for Women Human Rights Defenders in the Middle East and North Africa, was arrested in front of the Governorate Administration Building in Port Said, at the same time as Mr. **Mahmoud Naguib**, former member of the April 6 Youth Movement. Their arrests coincide with the June 14, 2017, peaceful protests opposing the transfer of Tiran and Sanafir Islands to Saudi Arabia, that have resulted in the arrest of 60 activists throughout the country. Many of those arrested were forcibly removed from the street or their homes, while security forces used excessive force to disperse demonstrators. Mr. Mahmoud Naguib and Ms. Esraa Fehead were both held in detention and Ms. Fehead was interrogated by the Port Said Prosecution from June 15 to June 18, 2017. She was subsequently charged with numerous offenses including: "inciting demonstrations", "disrupting public and general security", "disrupting production and citizens' welfare", "affecting public governmental facilities", "blocking roads and transportation", "disrupting traffic", "attacking people and private and public possessions, and subjecting them to danger". On June 18, 2017, Ms. Fehead and Mr. Naguib were released on a bail of EGP 10000 (approx. 495 EUR).

In **Morocco**, the Observatory reiterates its concerns about the ongoing judicial harassment under charges of "threat to State security" of Messrs. **Maâti Monjib**, historian, journalist and President of the association "Freedom Now" for freedom of expression in Morocco, **Hisham Almiraat**, President of the *Association des droits numériques* (ADN), **Hicham Mansouri**, Project Officer at the *Association marocaine pour le journalisme d'investigation* (AMJI), **Mohamed Essabr**, President of the *Association marocaine d'éducation de la jeunesse* (AMEJ), **Abdessamad Ait Aicha**, former training project Coordinator of the *Centre Ibn Rochd*, journalist and member of the AMJI. Furthermore, Mr. **Rachid Tarik** and Ms. **Maria Moukrim**, respectively President and former President of the AMJI are accused of receiving

foreign funding without notifying the authorities. On October 11, 2017, the court decided to postpone their hearing for the eighth time, rescheduling it on December 27, 2017.

On May 20, 2017, authorities in **Niger** arrested Mr. **Ali Idrissa** from his house outside of Niamey. As the national coordinator of the *Réseau des Organisations pour la Transparence et l'Analyse Budgétaire* (ROTAB) and of *Publiez ce que vous payez-Niger* (PCQVP), Mr. Ali Idrissa has been documenting transparency issues within the country's uranium industry. He was arrested following the ban of a protest planned on May 20, calling for the respect of human rights and individual freedoms in Niger as well as denouncing President Issouou Mahamadou's poor governance record. Mr. Ali Idrissa was arrested on allegations that he gave interviews to media after the protest ban. He was released later this day and further interrogated on May 22, 2017. On that day, he was notified that an investigation for "inciting rebellion" against him was still pending.

In **Uganda**, on June 23, 2017, Mr. **Erasmus Irumba**, Coordinator of the Twerwaneho Listeners Club (TLC), was set to meet with Uganda People's Defence Forces (UPDF) senior officials in the province of Ntoroko, at Butungama trading center. Although Mr. Irumba was summoned to "discuss matters of public importance" he was told not to be suspicious as he had no criminal record and since no criminal charges were pending against him. During the meeting, Mr. Erasmus Irumba and another member of the community, Mr. Siet Kanyoro who was accompanying him, were both shot in the leg. Whilst still alive, they were both put in the boot of a private car, driven to a rural area and shot dead at a close range. Both lifeless bodies were taken to Buhinga Regional Referral Hospital in Fort Portal, on the wee hours of June 24, 2017. The Observatory condemns in the strongest terms the murder of Mr. Irumba and urges authorities in Uganda to adopt effective measures to ensure the protection of human rights defenders in the country.

In addition, since 2016, the Observatory has documented a pattern of harassment against TLC members who have been threatened, assaulted and judicially harassed by Ferdsult Engineering Services Limited, a Uganda-based engineering, procurement and construction (EPC) company accused of land grabbing in the Rwenzori region of Uganda. On September 12, 2017, TLC member, Mr. **James Rukanpana** was shot in both legs by armed guards hired by Ferdsult Engineering Services Limited in Kasenda, Western Uganda. Mr. James Rukanpana had been advocating for the rights of local communities, and opposing the takeover of over 20 crater lakes by Ferdsult Engineering Services Limited. He has actively participated in radio talk shows and mobilized communities on the issue. TLC and local communities filed a civil court case against the company to secure the rights of local communities to access crater lakes for water and domestic fishing. On June 7, 2017, the court found that the exclusive use of crater lakes by Ferdsult Engineering Services Limited following the lease by Kabarole District was an abuse of the rights of local communities, and ruled in favour of local communities. Mr. James Rukanpana had been instrumental in the success of the court case.

Parallel to the civil case filed by TLC against Ferdsult Engineering Services Limited and Kabarole District Local Government, a criminal case filed by Ferdsult Engineering Services Limited has been targeting Messrs. **Suleiman Trader**, **Jackson Magezi**, **Fred Kyaligonza** and **Prosper Businge**, four TLC members who had challenged the legality of Ferdsult Engineering Services Ltd's acquisition of 20 crater lakes and eviction of communities in Kabarole District. After being briefly detained on April 28, 2017, Messrs. Suleiman Trader and Jackson Magezi were released on April 29, 2017, on court bail pending trial. On May 3, 2017, the four human rights defenders have been charged under criminal offenses related to the use of explosives, electronic gadgets and the poisoning of fish under Chapter 197 of the 1970 Fish Act following allegations by Ferdsult Engineering Services Limited. The case is pending before Fort Portal Magistrates Court and if convicted they would face up to seven years in jail.

In **Tanzania**, the Observatory is extremely concerned by the wider campaign targeting human rights defenders working on HIV/AIDS on allegations of “promoting homosexuality”. On September 17, 2017, 20 people were arrested in hotel in the Stone Town area of Zanzibar City (Unguja island) as they were attending a training about HIV/AIDS education programmes.

On October 17, 2017, Tanzanian police raided a legal consultation convened by Strategic Litigation in Africa (ISLA) and Community Health Services and Advocacy (CHESA) at Dar es Salaam’s Peacock Hotel. Thirteen people, including ISLA Executive Director Ms. **Sibongile Ndashe** and CHESA Director Mr. **John Kashiha** were detained and subsequently granted bail on the same day without being charged. However, on October 20, 2017, the bail was revoked without any reason provided by the authorities. This followed a statement by the Police Regional Commissioner Mr. Lazaro Mambosasa, on October 18, 2017, referring to the “arrests of twelve people who were promoting homosexuality”. All twelve human rights defenders were arrested, taken into custody to Dar es Salaam Central Police Station and released on bail on October 26, 2017. However, their passports were confiscated upon release.

In addition, on June 3, 2017, Tanzania Students Networking Programme (TSNP), known for advocating and supporting the role of human rights defenders in public life and civil society at large, was denied access to the Blue Pearl Hotel, in Dar es Salaam, where they were about to organise the launch of the book Sauti ya Watetezi wa Haki Vyuoni (The Voice of Human Rights Defenders in Universities), which illustrates the harassment tactics used to remove human rights defenders from positions in higher education institutions in Tanzania, authored by Mr. Alphonse Lusako, TSNP Secretary General. The Hotel informed TNSP that they could not enter without a permission letter from the police. Three police vehicles then arrived at the hotel while event organisers were negotiating with hotel management out-front and arrested Mr. **John Baraka**, TSNP Coordinator. When Mr. **Ole Ngurumwa Onesmo**, National Coordinator of the Tanzania Human Rights Defenders Coalition (THRDC), objected his arrest, he was then immediately arrested too. Both were transported to Magomeni Police Station without being notified of any charges pending against them. When THRDC lawyer Mr. **Jones Sendodo** asked the police about the nature of the charges, they were unable to confirm any charges and informed him they were awaiting orders from superior authorities. On the same day, Messrs. Onesmo and Baraka were later charged with criminal trespass, after Blue Pearl Hotel filed a complaint stating the men had forced the hotel to host the launch event for their colleague Mr. Alphonse Lusako. Messrs. Onesmo and Baraka were released on bail that same day, with instructions to report to the police on June 5, 2017. Reporting to the station on June 5, the men were informed that the Blue Pearl Hotel had not yet filed the documentation required to formalize its complaint. They were ordered to return on June 7, 2017. Besides, when contacted by Mr. Onesmo on June 6, the Blue Pearl Hotel had claimed to be unaware of any criminal complaint against Messrs. Baraka, and Onesmo, on June 7, Blue Pearl representatives confirmed that they had filed a complaint at the direction of an “unknown authority”. The incident described above is not the first attempt to hinder the book launch event, that was initially planned to be held at the Commission of Science Technology (COSTECH), an institution affiliated with the government of Tanzania, which, in violation of a contractual agreement, cancelled, forcing the organisers to move the event to Blue Pearl Hotel, where THRDC had already organised several events without any issue.

2. Constant reprisals against human rights defenders and civil society organisations promoting democracy and electoral rights, particularly within electoral contexts

The Observatory has documented a concerning number of cases of harassment and criminalisation targeting human rights defenders and civil society organisations promoting democracy or electoral rights, including within electoral contexts.

In **Burundi**, since April 2015, following President Pierre Nkurunziza's third term bid, human rights defenders continue to face increased intimidation, harassment, physical attacks and in the most worrying cases, enforced disappearance. Many have had to flee the country and continue to face intimidation in their country of relocation.

Mr. **Germain Rukiki**, *Association des juristes catholiques du Burundi* (AJCB) staff member, President of « Njabutsa Tujane », a community-based organisation fighting against poverty and hunger, and former *Action des chrétiens pour l'abolition de la torture* (ACAT-Burundi) staff member, has been arbitrarily detained since July 13, 2017. The Observatory has documented several infringements to his right to a fair trial since his arrest. Initially detained within the National intelligence services (SNR) premises, where he did not have access to his lawyers and family members, Mr. Rukiki was transferred after 14 days of detention to Ngozi prison where he remains detained to date. His detention was confirmed by the Tribunal de Grande Instance of Ntahangwa on August 14, 2017. Mr. Rukiki appealed the decision and on October 27, 2017. On October 31, 2017, Bujumbura's Court of appeal upheld the decision and ordered Mr. Rukiki's remand in custody. Mr. Rukiki is accused of "undermining State security" and "rebellion" for his cooperation with ACAT-Burundi in organising protests against President Nkurunziza's third term bid and publishing reports on the human rights situation in Burundi.

In addition, the Observatory remains particularly concerned by the fate of Ms. **Marie-Claudette Kwizera**, Treasurer of the *Ligue Burundaise des Droits de l'Homme* « ITEKA », who was forcibly disappeared on December 10, 2015. To date, Burundian authorities have refused to provide any information about her fate or whereabouts.

In **Cameroon**, Ms. **Maximilienne Ngo Mbe**, *Réseau des défenseurs des droits humains en Afrique centrale* (REDHAC)'s Executive Director, has received on several occasions, including on May 30, and June 10, 2017, death threats via text messages. These threats occur in a context where REDHAC, through Ms. Ngo Mbe, has publicly spoken about the repression of the independence movement in Anglophone Cameroon since November 2016.

In the **Democratic Republic of Congo (DRC)**, the Congolese government's widespread crackdown on human rights and pro-democracy activists opposing President Joseph Kabila's effort to remain in power beyond his constitutionally mandated two-term limit, continues as police forces regularly arrest members of pro-democracy and youth movements ahead of or during protests and sit-ins.

On July 14 and 15, 2017, ahead of a country-wide peaceful protest denouncing the national electoral commission's failure to publish an electoral calendar, what many considered to be a critical step to ensuring that elections will be held by the end of 2017 scheduled on July 31, 2017, the National Intelligence Agency (ANR) arrested LUCHA members Messrs. **Nicolas Mbiya Kabeya**, **Josué Cibubua Kalonda**, **Kabongo Kadima**, and Ms. **Mamie Ndaya** in Mbuji-Mayi. The four LUCHA members were freed on September 29, 2017, after two and a half months in arbitrary detention.

On July 31, 2017, authorities arrested at least 128 people in nine cities during protests across the country, including 11 journalists and several human rights defenders. Amongst them Mr. **Timothée Mbuya**, lawyer, Justicia Asbl President and member of the NGO Coalition for the respect of the Constitution, **Jean-Pierre Tshibitshabu**, Congolese Civil Society (SOCICO) member and journalist on Kasumbalesa radio-television, **Jean Mulenda**, LUCHA member, **Eric Omari Omba** and **Patrick Mbuya Kwecha**, members of the Bomoko

Foundation were arrested in Lubumbashi and to date remain in arbitrary detention at Kasapa Lubumbashi' central prison. The five human rights defenders are being accused of "inciting civil disobedience". On August 29, 2017, Jean-Pierre Tshibitshabu, Jean Mulenda, Eric Omba Omari and Patrick Mbuya Kwecha were sentenced to eight months in prison. The first appeal hearing in their case took place on October 27, 2017 and was postponed to November 3, 2017. Mr. Timothée Mbuya will appear before court on November 10, 2017.

As pressure was mounting ahead of the August 8, 2017 Presidential elections in **Kenya**, human rights defenders involved in monitoring, documenting and observing the electoral campaign and primaries were attacked, harassed, threatened and even arbitrarily arrested. Journalists and human rights defenders were also barred from documenting, entering or forced to leave campaign meetings. Furthermore, during these political rallies, intimidating statements and negative rhetoric against human rights defenders have been used by politicians, government and party officials, accusing them of influencing the outcome of the elections.

In the elections' aftermath, Kenya's Non-Governmental Organisation (NGO) Coordination Board de-registered the **Kenya Human Rights Commission (KHRC)** and the **Africa Centre for Open Governance (AfriCOG)** and instructed authorities to restrain their work, on grounds of tax evasion, illegal bank accounts and illegal hiring of expatriates. The NGO Coordination Board also requested the Central Bank of Kenya to freeze KHRC's assets and the Kenya Revenue Authority (KRA) to recover accrued taxes. Both organisations were at the frontline of elections monitoring and had been vocal in highlighting several concerns about the electoral process and the violence in the aftermath of the electoral results. KHRC is regularly harassed by the NGO Coordination Board which has been leading a smear campaign against the organisation on similar baseless grounds since 2015. These same allegations were successfully challenged by KHRC before the High Court in 2015. Yet, the NGO Coordination Board revived these matters in late 2016 and now against the backdrop of the disputed elections.

Furthermore, after the official announcements of the disputed results and the Kenyan Supreme Court ruling to cancel the elections results and order new elections, human rights defenders who have witnessed or attempted to document the excessive and disproportionate use of force by Kenyan security forces - including the indiscriminate use of teargas and live bullets, and extra-judicial killings - have subsequently been targeted by police, harassed and received threats.

In **Morocco**, amidst a growing social unrest in the Rif region, which rapidly spread to other regions of the country, several human rights defenders have been targeted by the authorities. Mr. **Hamid El Mahdaoui**, director of news website *Baldil.info*, and Mr. **Rabie Al-Albak**, journalist with *Baldil.info* in Al Hoceima, have respectively been arbitrarily detained since May 28 and July 20, 2017, for covering the protests. On September 20, 2017, Mr. Hamid El Mahdaoui was sentenced by Al Hoceima Court of Appeal to one year in prison and a 20,000 Dirhams fine (approx. 1 798 Euros) under charges of "incitement to commit a serious offence through public speech". Mr. Hamid El Mahdaoui is also being prosecuted under charges of "failure to report attempts to undermine State security". The trial is ongoing. Mr. Rabie Al-Albak, is being accused of receiving foreign funding to carry out propaganda activities and undermining State security. The Observatory is particularly concerned by the psychological and physical integrity of the two human rights defenders who have reportedly started long-lasting hunger strikes to protest their detention and judicial harassment.

As the Parliament of **Uganda** discusses the constitutional amendment to lift presidential age limit to allow President Yoweri Museveni, 73, to run for another term in 2021, authorities have attempted to silence several human rights organisations. On September 20, 2017,

police raided the premises of **ActionAid Uganda (AAU)** and **Great Lakes Institute for Strategic Studies (GLISS)** in Kampala, as well as the house of GLISS Executive Director, Mr. **Godbar Tumushabe**. Search warrants included allegations of “illicit transfer of funds for funding unlawful activities”. Following the search, on October 4, 2017, Mr. **Arthur Larok**, Country Director, and Mr. **Bruno Ssemaganda**, Head of Finance of AAU, were summoned to appear before the Criminal Investigation Directorate (CID) on October 6, 2017. They were both further interrogated by the CID on October 10, 2017, although no charges have been levelled against them yet. On October 13, 2017, the Deputy Governor of the Bank of Uganda ordered the freezing of the five accounts held by AAU, because of the investigation the CID is conducting against the organisation under allegations of “conspiracy to commit a felony” and “money laundering”. In addition, on October 11, 2017, the Ministry of Internal Affairs requested 27 NGOs to submit specific ‘financial information’ to the NGO Bureau within a week. The information requested include bank statements of the organisations over the past three years, annual reports clearly stating activities and sources of funds from 2014 to 2016, all bank account numbers and lists of directors and executive directors’ names. The list of organisations includes AAU, GLISS and several organisations working on human rights, development, humanitarian aid and democracy¹. Following the publication of the list, on October 14, 2017, State Minister for Internal Affairs, Mr. Obiga Kania, told the press that “in fact they (the NGOs listed) should be closed until they submit their financial information”.

In **Zimbabwe**, on September 24, 2017, Pastor **Evan Mawarire**, prominent anti-corruption activist who led last year’s #ThisFlag protests which encouraged Zimbabweans to hold protests against President Robert Mugabe accusing him of corruption, was arbitrarily arrested and subsequently detained at Harare central police station. Pastor Mawarire had initially been charged with “subverting a constitutional government” under Section 22 (2) of the Criminal Law (Codification and Reform) Act, Chapter 9:23. Pastor Mawarire was taken to the Prosecutor General’s office on September 26, 2017. On the same day Harare Magistrates Court, ordered his release on the ground that under the Constitution of Zimbabwe, no one can be detained more than 48 hours without appearing before a court of law. Charges related to his arrest were consequently dropped. Similar charges levelled against him in February 2017 were dropped on September 29, 2017.

3. Legislative and administrative restrictions to freedom of association and assembly, and access to funding for NGOs

The worldwide trend undertaken by some States to restrict freedom of association and hinder the work of human rights defenders by enacting an arsenal of restrictive laws has been particularly spreading across Africa, where authorities increasingly aim to control, paralyse or even eradicate independent civil society, in blatant breach of basic human rights standards.

Civil society in **Egypt** is on the brink of collapse as authorities continue to intensify their wave of attacks against human rights organisations. On May 30, 2017, Egypt’s draconian NGO law was published in the Official Gazette after Egyptian President Abdel Fattah el-Sisi officially ratified the repressive NGO law that Egyptian Parliament approved in November 2016. The

¹ African Field Epidemiology Network (AFENET), Agency for Technical Cooperation and Development (ACTED), Association of Human Rights Organisations in Uganda, Be Forward Uganda, Citizens Coalition for Electoral Democracy in Uganda (CCEDU), Civil Society Budget Advocacy Group (CSBAG), Development Network for Indigenous Voluntary Associations (DENIVA), Educate Uganda, Feed the Children Uganda, Finnish Refugee Council, Ford Foundation, Foundation for Human Rights Initiative (FHRI), Forum for Women in Democracy (FOWODE), Global Refuge International Uganda, Good Neighbours, Human Rights Centre Uganda (HRCU), Human Rights Network (HURINET), Mercy Corps, MIFUMI, Solidarity Uganda, Synagogue Church of All Nations, Teso Anti-Corruption Coalition, Uganda National NGO Forum (UNNGOF), Uganda Youth Network (UYONET) and Uhuru Institute for Social Development.

law handcuffs NGOs with regulations and strangles their funding mechanisms, essentially eliminating civil society in Egypt under the guise of national security.

NGOs will now have one year to register with the, yet to be formed, National Authority for the Regulation of Non-Governmental Foreign Organisations, created by Law 70 of 2017 for Regulating the Work of Associations and Other Institutions Working in the Field of Civil Work. This authority includes representatives of Egypt's top national security bodies. No representatives from civil society will serve on it, instead it will be composed of representatives from the Defense Ministry, the Interior Ministry, the Foreign Ministry, the Justice Ministry, the General Intelligence Directorate, the Administrative Control Authority, the International Cooperation Ministry, and the Money Laundering Unit. Under Law 70 of 2017 for Regulating the Work of Associations and Other Institutions Working in the Field of Civil Work, all NGOs are prohibited from conducting activities that "harm national security, public order, public morality, or public health," vague terms that can be abused to constrain any legitimate activity. The National Authority will oversee the work of NGOs, including any funding or cooperation between Egyptian associations and any foreign entity. The law prohibits any Egyptian government body from making agreements with NGOs without the authority's approval.

The law also strictly controls the funding of NGOs. It states that associations must obtain permission from the authority 30 days in advance to receive donations from Egyptian entities or individuals inside Egypt and must inform the Social Solidarity Ministry upon the receipt of such funds. The law further states that associations may receive funding or grants from foreign entities inside Egypt or Egyptian or foreign entities outside Egypt as long as the Authority is notified within 30 days of receipt. The Authority then has the right to reject the funding within a 60-day period following its notification. Associations may not use these funds within the 60-day review period.

Additionally, the law gives the government the authority to monitor and challenge NGOs' day-to-day activities, from choices in leadership to the schedule of internal meetings, creating a blanket and ambiguous provision authorizing the Egyptian government to cancel a foreign NGO's license at any time if its work is deemed to be harming national security, public safety or disturbing public order, or per the principle of reciprocity. The Observatory denounces a legislation contravening Egypt's commitment to international and regional human rights law and undermining the essence of the right to freedom of association itself.

Egyptian authorities also continue their relentless judicial harassment of civil society organisations and human rights defenders as part of the case known as the "foreign funding case No. 173", a five-year-old investigation into the funding and registration of independent human rights groups.

Mr. **Mohamed Zaree**, Egypt Director of the Cairo Institute for Human Rights Studies (CIHRS), and winner of 2017 Martin Ennals Award, was summoned to appear on May 15, and 24, 2017, before the investigative judge within the framework of the "foreign funding case No. 173". During the interrogation session, Mr. Zaree was accused of harming Egypt's reputation by contributing to the country's Universal Periodic Review (UPR) report, undermining the country's reputation including before the European Parliament and drafting false reports about the human rights situation in Egypt through his work at CIHRS. Mr. Zaree is charged — jointly with others human rights defenders — with receiving foreign funds for an unregistered entity (CIHRS) and using them for unlawful activities, with the intent of harming national security and interests. The Observatory recalls that CIHRS was amongst the 37 NGOs listed in the 2011 Government Fact-Finding Committee report that could be targeted under the "foreign funding case No. 173". On September 17, 2016, the Cairo Criminal Court in Zeinohm ordered the freezing of CIHRS' assets and those of its Director, Mr. Bahey el din

Hassan, as well as those of several other defenders and NGOs. Several CIHRS members have also experienced various acts of harassment and threats.

Further infringements to the right to freedom of association were reported as on September 20, 2017, a committee from the Investment Authority, accompanied by National Security officers and a police van, entered ECRF's headquarters office in Cairo, claiming to hold a warrant to close down the organisation and attempted to put a wax seal on the office's door on grounds that remain unknown. No warrant was effectively presented. Lawyers present at the office rejected these claims and prevented the closure arguing that it would be illegal since ECRF is a law firm operating in accordance with national legislation. Nonetheless, the committee threatened to come again. This unannounced raid and closing attempt occurs several days after the Egyptian government blocked ECRF's website on September 5, 2017, and one month after the publication of ECRF's report on enforced disappearances in Egypt. The report documented 378 cases of enforced disappearances between August 2016 and August 2017, and labelled the Egyptian security apparatuses as the main actor to be held accountable for these grave human rights violations.

The Observatory expresses its concerns over the on-going attempt by the **Nigerian** National Assembly to pass a NGO regulatory bill to control the operations of NGOs in violation of Nigeria's constitutional guarantees of freedom of association and assembly. The bill seeks to establish an NGO Regulatory Commission competent to register civil society organisations. According to the bill, the Commission may refuse the registration of an organisation, which would be mandatory every two years, if it deems its activities to not be in the national interests. As drafted, the NGO Bill would enlarge governmental powers to regulate, monitor the funding and operation of civil society organisations. Accordingly, civil society organisations are under the obligation to disclose sources of funding ahead of any project implementation. Furthermore, the use of funds without the commission's permission would amount to a crime punishable by a prison term of up to 18 months.

In **Tanzania**, the implementation of repressive laws has allowed the ban of eight media houses and the arrest of more than twenty-seven journalists and human rights defenders. Since 2010, the government of Tanzania has enacted several laws putting additional barriers to online freedom of expression and to the work of human rights defenders. Among these new laws, the Cybercrimes Act, which came into force in September 2015, has been used as a tool to censor dissent voices and journalists and to further restrict the right to freedom of expression. The judicial harassment of JamiiMedia Managing Director Mr. **Maxence Melo** and shareholder Mr. **Mike William** illustrates this worrying pattern. On December 15, 2016, the police searched both JamiiMedia premises and Mr. Maxence Melo's home without any warrant. Furthermore, the police interrogated some Jamii Media staff members at their office premises in Mikocheni, Dar es Salaam, and later at the Central Police Station. The police kept Mr. Melo in custody for more than 48 hours without interrogation and in absence of charges against him, in violation of Tanzanian legislation which sets a four-hour limit for police interrogation without charges. However, on December 16, 2016, that the Resident Magistrate Court of Dar-es-Salaam at Kisutu indicted Mr. Maxence Melo under three sets of charges: "obstruction of a police investigation" under the 2015 Cyber Crimes Act; "not complying with an order of disclosure of data"; as well as "managing a domain not registered in Tanzania" in contravention of the requirements of the Electronics and Postal Communications (2010) Act, Mr. Maxence Melo was eventually granted bail on December 19, 2016 pending trial. The three cases are currently being heard before Kisutu Resident Magistrate Court.

5. 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 their activities of promotion and protection of human rights and 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 and environmental 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 the rights of human rights defenders, 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 freedom 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 country visits.

2) More generally, the Observatory also calls upon the ACHPR to:

- Highlight the importance of the legitimate work carried out by human rights defenders, and the need for their protection from harassment and attacks, including through public speech by States Presidents and high government officials;
- Systematically raise the question of the situation of human rights defenders as well as denounce and condemn all human rights violations they face during the examination of the periodic reports of States parties to the ACHPR, and on the occasion of all visits conducted in a State party;
- Denounce the impunity that prevails with regard to these violations, and urge States to hold all those responsible to account;
- Increase its capacities to respond to urgent situations faced by human rights defenders;
- Ensure the effective implementation of ACHPR's 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 to strengthen the collaboration with the UN Special Rapporteur on the Situation of Human Rights Defenders, as well as with the other regional mechanisms dedicated to the protection of human rights defenders.

Thank you for your attention.

Banjul, November 2017

The Observatory for the Protection of Human Rights Defenders (the Observatory) was created in 1997 by the World Organisation Against Torture (OMCT) and FIDH. The objective of this programme is to prevent or remedy situations of repression against human rights defenders. OMCT and FIDH are both members of [ProtectDefenders.eu](https://www.protectdefenders.eu), the European Union Human Rights Defenders Mechanism implemented by international civil society.

To contact the Observatory:

- Email: Appeals@fidh-omct.org
- Tel and fax OMCT: + 41 22 809 49 39 / + 41 22 809 49 29
- Tel and fax FIDH: + 33 1 43 55 25 18 / +33 1 43 55 18 80