

ORAL INTERVENTION - THE OBSERVATORY

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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

Madame Chairperson, Distinguished Commissioners and State Delegates,

OMCT and FIDH, within the framework of the Observatory for the Protection of Human Rights Defenders, thank the African Commission for this opportunity to raise some of the key issues with respect to the situation of human rights defenders in Africa.

Throughout the African continent, the space for civil society and human rights defenders continues to shrink, due to three major challenges tied together: the lack of alternation of power in some African countries, driving the authorities to exercise greater control on civil society; the high number of planned elections on the African continent, putting civil society organisations at the forefront of repression; and the question of natural resources, fuelling the repression against land and environmental rights defenders.

In such contexts, State representatives and non-State actors commonly resort to political, economic, cultural, religious and security pretexts to undermine human rights principles, their universality, their indivisibility and their monitoring bodies, resulting in increased vulnerability for human rights defenders.

Human rights defenders are routinely portrayed as “obstacles to development”, enemies and traitors, criminals who must be combated. Such discourse is contrary to the spirit and letter of the African Charter on Human and Peoples’ Rights as well as the UN Declaration on Human Rights Defenders. It promotes the repression of human rights defenders. It justifies their criminalisation.

1. In many African countries known for repressing dissenting voices, human rights defenders are criminalised in relation to their peaceful activities, including in the framework of electoral contexts.

In **Burundi**, since President Pierre Nkurunziza’s third term bid in April 2015, the authorities have silenced independent media, and hundreds of human rights defenders have fled the country by fear of reprisals. Many of those who remain in Burundi continue to be subject to intimidation, harassment and physical attacks.

The Observatory is particularly concerned by the enforced disappearance of Ms. **Marie-Claudette Kwizera**, Treasurer of the Iteka League, since December 10, 2015, when she was abducted and forced into a vehicle of the National Intelligence Service. Since that date, Burundian authorities have refused to provide any information about her fate or whereabouts.

While taking note of the fact-finding mission carried out by the African Commission to Burundi in December 2015, the Observatory calls on the Commission to publicly release the detailed conclusions of its investigation, to continue to closely monitor attacks on defenders and their families, and to urge the Government of Burundi to immediately end such violations and to bring those responsible before independent and impartial courts.

In **Angola**, Mr. **José Marcos Mavungo** remain arbitrary detained since March 2015, following his sentencing, in September of the same year, to six years in prison for organising a peaceful demonstration against human rights violations and bad governance in the province of Cabinda.

On March 28, 2016, the Luanda Provincial Tribunal sentenced the 16 pro-democracy activists who were arrested in June 2015 for organising peaceful protests against the 35-year regime of Angolan President Eduardo Dos Santos to jail terms ranging from two years and three months to eight years and six months for “preparatory acts of rebellion” and “association of criminals”.

In **Chad**, **five human rights activists remain detained** at Am Sinéné prison in N’Djamena, facing trial for planning to organise peaceful demonstrations to protest against President Idriss Deby’s bid for re-election for a fifth mandate. They risk six months in jail. Besides, proceedings were reportedly launched in view of arresting the President of the Chadian League for Human Rights.

In the **Democratic Republic of Congo (DRC)**, human rights defender **Christopher Ngoyi Mutamba** has remained arbitrarily detained since January 2015. His arrest followed his participation in protests held in Kinshasa against proposed amendments to the Electoral Code Law and the Constitution to extend the term of President Kabila beyond December 2016. On February 24, 2016, six members of the LUCHA youth movement were sentenced to two years in prison on charges of “attempting to incite disobedience”. The six were arrested on February 16 in Goma, before a general strike held in protest against delays in organising the 2016 general elections. Similarly, two members of the Filimbi citizens’ initiative, Messrs. **Yves Makwambala** and **Fred Bauma**, also a member of the LUCHA movement, have remained detained since March 2015.

2. Throughout the African continent, our organisations remain concerned by the scale of attacks against economic, social and cultural rights defenders, in particular land and environmental rights defenders.

In **South Africa**, Mr. **Sikhosphi Bazooka Rhadebe** was murdered on March 22, 2016 for leading his community in resisting attempts from Australian-owned mining company MRC and its local subsidiary TEM to access its titanium-rich Xolobeni coastal dunes, which would result in disruption of the community’s way of life.

In **Cameroon**, on January 21, 2016, environmental activist Mr. **Nasako Besingi** was sentenced to 25,000 FCFA in fines and more than 400,000 FCFA in court charges or face one year in prison. Mr. Besingi was convicted for “unlawful assembly”, in relation to the distribution of T-shirts against the company Herakles Farms and the project of his local subsidiary to build a large-scale palm oil plantation, which would lead to massive deforestation and threaten the livelihoods of residents.

On February 4, 2016 in **Sierra Leone**, Messrs. **Shiaka Sama, Sima Mattia, James Blango, Lahai Sellu, Musa Sellu and Foday Musa**, members of the Malen Land Owners and Users Association (MALOA), were found guilty of “destruction of growing plants belonging to SAC”, “destruction of growing plants”, “conspiracy” and “incitement” for allegedly brushing palm oil plants belonging to Socfin Agricultural Company Sierra Leone Ltd (SAC). Messrs. Lahai Sellu, Musa Sellu and Foday Musa are currently in detention pending payment of a fine.

3. In some African countries authorities continue to exercise restrictions to freedom of association.

In recent years, authorities in **Ethiopia** have passed a host of laws attacking the media and civil society that have made independent human rights work in the country almost impossible.

Moreover, in **Rwanda**, independent civil society organisations have become extremely weak as a result of years of State intimidation and infiltration. The only remaining effective human rights group, the LIPRODHOR, was taken over by members sympathetic to the government in 2013.

Last but not least, the Observatory is extremely concerned by the unprecedented crackdown on human rights organisations and defenders recently observed in **Egypt**, where the authorities have summoned human rights workers for questioning, banned them from travel and attempted to freeze their personal funds and family assets. Scores of human rights organisations and defenders have reportedly been enlisted in 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. On March 29, 2016, Ms. **Mozn Hassan**, Executive Director of Nazra for Feminist Studies, was summoned for questioning as a defendant in the case. On April 5, officials of the Ministry of Health attempted to close the El Nadeem Center for the Rehabilitation of Victims of Violence and Torture, invoking an administrative order alleging that it was performing unlicensed work.

4. 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 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;
- 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 against human rights defenders;
- 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) The Observatory also calls upon the ACHPR to:

- Highlight the legitimate work carried out by human rights defenders, and the need for their protection from harassment and attacks;

- 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 those responsible to account;
- 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;
- 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.

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