

# KENYA

AFTER YEARS OF BROKEN PROMISES,  
WILL THE PBO ACT BECOME MORE THAN  
PAPER TIGER?

Briefing Note



July 2018



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**Directors of publication:** Gerald Staberock, Dimitris Christopoulos

**Editing and coordination:** Marta Gionco

**Drafting:** Marta Gionco, Marie-Aure Perreaut

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# KENYA: After years of broken promises, will the PBO Act become more than paper tiger?

## Introduction

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Two thousands days after the formal adoption of the [Public Benefits Organizations \(PBO\) Act of 2013](#), and eleven months after leading political parties committed to its implementation during the Third PBO Leaders' Summit<sup>1</sup>, the Observatory for the Protection of Human Rights Defenders (FIDH-OMCT) renews its call for the immediate implementation of this Act ahead of the Fourth PBO Leaders' Summit which will take place in July 2018<sup>2</sup>.

The PBO Act was signed into law by outgoing President Mwai Kibaki on January 13, 2013, with the aim to ensure a transparent and efficient regulation of civil space in Kenya, setting out clear rules on their registration and creating a system of incentives in support of organisations conducting public benefit activities. The law, which complies with the 2010 Constitution of Kenya, and with international standards on freedom of association, including the 2017 Guidelines on Freedom of Association and Assembly in Africa<sup>3</sup>, was adopted at the end of a highly participatory process lasting almost four years.

In spite of two court rulings ordering the commencement of the PBO Act, civil society in Kenya is still regulated by the restrictive framework set up by the 1990 NGO Coordination Act.

## An obscure and oppressive NGO law

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Presently, the establishment of a non-governmental organisation in Kenya is regulated by the [NGO Coordination Act of 1990](#), which requires all NGOs to apply for registration and gives the NGO Coordination Board ample and discretionary power to refuse such registration. Worse still, all organisations whose registration was not explicitly approved are deemed to be operating illegally and therefore criminalised.

Under this law, several ambiguous provisions can be used to prevent the registration and renewal of NGOs suspected to act against the government's interests, for instance on the ground of conflict with "national interests" (Sec. 14(a) and Sec. 15) or simply upon recommendation of the National Council of Voluntary Agencies (Sec. 14(c)). The NGO Coordination Board might also refuse the registration of organisations connected with any organisation or association of a political nature established outside Kenya<sup>4</sup>.

Any decision on NGOs registration, as well as further recommendations on their coordination, are to be adopted by the NGO Coordination Board, which is appointed by the Executive (Sec. 4). The NGO Coordination Board has demonstrated its ties with the Government on several occasions, specifically by abusing and exceeding its powers to curtail civil society space

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- 1 The PBO Leaders' Summit is convened by a group of civil society organisations led by the Civil Society Reference Group (CSRG) and involves government officials, civil society representatives and representatives from the international community in order to create a forum for discussion over the implementation of the PBO Act.
  - 2 The present note follows up on an International Fact-Finding Mission Report published by the Observatory in May 2017 ([http://www.omct.org/files/2016/05/24320/report\\_kenya\\_en\\_final\\_web\\_version.pdf](http://www.omct.org/files/2016/05/24320/report_kenya_en_final_web_version.pdf)). One of the main issues described in the report was the lack of effective implementation of the progressive legal framework sparked by the promulgation of the 2010 Constitution, and in particular the delay in the implementation of the 2013 PBO Act, combined with the many attempts to restrict it through draconian amendments before it even entered into force.
  - 3 See the African Commission on Human and Peoples' Rights, Guidelines on Freedom of Association and Assembly in Africa adopted in 2017 to strengthen and clarify the right to freedom of association and assembly established under Sections 10 and 11 of the African Charter on Human and Peoples' Rights (ACHPR). The ACHPR was ratified by Kenya in 1992.
  - 4 See the International Centre for Not-for-Profit Law, "Civic Freedom Monitor: Kenya", published on February 23, 2018 (<http://www.icnl.org/research/monitor/kenya.html>)
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even further. Moreover, the law does not set any time limit for the notification of the NGO Coordination Board's decision, nor does it require any obligation to motivate it, and it allows for the suspension or withdrawal of the registration subject to the same ambiguous criteria as established for their registration (Sec. 16).

Another provision of utmost concern is the criminalisation of any individual working for an organisation which did not obtain a certificate of registration under the NGO Coordination Act and as such could face a fine up to 50'000 KES (approximately 420 EUR) and eighteen months in prison (Sec. 22).

### Harassment of MUHURI and Haki Africa since 2015

On April 7, 2015, a few days after the terrorist attack at Garissa University College, the Inspector General of Police (IGP) ordered to publish in the Gazette Notice 2326 a "List of Entities Suspected to be Associated with Al-Shabaab", as provided for under Section 3(3) of the PoTA on "specified entities order"<sup>5</sup>. The list included 85 companies, businesses and individuals, together with MUHURI and Haki Africa, two human rights organisations based in Mombasa, that advocate for the respect of human rights in the fight against terrorism.

According to Section 3(2) of the PoTA, the IGP, before making a "specified entity order" listing groups suspected of involvement in terrorism, should provide the targeted entity the opportunity to prove its innocence. In violation of this provision, the two human rights organisations have had no contact with the IGP and were only informed about this decision when they read the Kenya Gazette<sup>6</sup>.

Being labelled as such an entity can trigger a number of measures, pursuant Section 46 of the PoTA on the "refusal of applications for registration, and the revocation of registration, of associations linked to terrorist groups". Among them is the freezing of the bank accounts of the suspected entities, which was done on April 8, 2015. Haki Africa's medical insurance cover for its staff members was also suspended.

On April 7, 2015, the two organisations wrote to the IGP, denouncing the baseless allegations of their links with Al-Shabaab, and providing all relevant documentation related to their work, audited accounts, program descriptions, list of board members and donors. Afterwards, MUHURI and Haki Africa applied to court to challenge their inclusion on the list. On June 11, 2015, the Mombasa High Court ordered that the Kenyan State remove both organisations from the list of entities suspected to be affiliated with Al-Shabaab.

On November 12, 2015, the same court ordered the unfreezing of their bank accounts, on the grounds that their freezing was unconstitutional. Moreover, on April 20 and 21, 2015, respectively, officers of the Kenyan Revenue Authorities (KRA) raided the premises of Haki Africa and MUHURI in Mombasa and seized computers, hard disks, documents and financial files, in the context of a criminal investigation on allegations of tax evasion.

On May 27, 2015, the two organisations were informed by the media that the NGO Coordination Board had again decided to de-register them and to cancel their licences. The reasons provided this time were the following: in the case of MUHURI, the failure to notify the NGO Coordination Board on the change in the composition of the board, allegations of tax evasion and employment of foreign personnel, while in the case of

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5 Under Section 3 of the PoTA, a "specified entity" is an entity that has committed, has attempted to commit, has participated or facilitated the commission of a terrorist act, or that is linked or in association with a terrorist group.

6 See Joint Communication of the UN Special Rapporteurs on the Promotion and Protection of the Right to Freedom of Opinion and Expression, on the Rights to Freedom of Peaceful Assembly and of Association, on the Situation of Human Rights Defenders and on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, April 20, 2015: [https://spdb.ohchr.org/hrdb/30th/public\\_-AL\\_Kenya\\_20.04.15\\_\(2.2015\).pdf](https://spdb.ohchr.org/hrdb/30th/public_-AL_Kenya_20.04.15_(2.2015).pdf)

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Haki Africa, operating without valid registration. The two were given a 14-day notice to prove their compliance with the law. Within the given timeframe, MUHURI proved its full compliance and obtained from the KRA a tax compliant certificate.

Afterwards, MUHURI filed a lawsuit for damages and defamation against the IGP, the Attorney General and the Central Bank, among others. As of June 2018, the case is waiting for trial before the Mombasa High Court.

On November 6, 2017, MUHURI Chairman was summoned before the NGO Coordination Board over claims of non-disclosure of the right information in its financial returns.

At the time of publication of this briefing note, the NGO Board is still refusing to register Haki Africa, despite their monthly follow-up letters inquiring on the status of their registration application. Haki Africa is currently registered as a Trust and is continuing its operations despite the judicial harassment faced.

Since its adoption, this legal framework has often been used to violate the right to freedom of association and clearly infringes international standards. The ACHPR Guidelines on Freedom of Association and Assembly in Africa recommend that, whenever the registration regime is adopted, applications can be rejected only on the basis of "a limited number of clear legal grounds, in compliance with regional and international human rights law" (Sec. 13). Moreover, associations shall only be required to register once and should not need to renew their registration (Sec. 17). Their suspension, or dissolution, can only be justified by a serious violation of domestic law and as a matter of last resort, and such decision shall only be taken by a court and upon exhaustion of all available appeal mechanisms (Sec. 59).

The restrictive legal framework established by the 1990 NGO Coordination Act is further reinforced by other repressive legislation. According to the 2012 Prevention of Terrorism Act (PoTA), organisations working "in association with" a terrorist group are subjected to severe sanctions and their certificate of registration can be revoked (Sec. 3 and 46). Moreover, the Security Laws (amendment) Act No. 19 criminalises the publication of "harmful" information concerning information related to terrorism acts (Sec. 15). These provisions equally violate international standards, insofar as they lead to a disproportionate limitation of the right to freedom of association and they are not subjected to the principle of fair trial.

In the past years, several NGOs have been victim of legal harassments and criminalisation in retaliation to their human rights activities. Between December 2014 and 2015, more than 1,500 NGOs were targeted for deregistration by the NGO Coordination Board<sup>7</sup>, based on claims that they failed to submit financial records. Several organisations were further accused of links with terrorism<sup>8</sup>, and their bank accounts were frozen while the work permits of foreign employees were withdrawn.

### **Recurring administrative harassment of KHRC between 2015 and 2017**

The Kenya Human Rights Commission (KHRC) was one of the organisation targeted in October 2015, during the massive crackdown launched by the NGO Coordination Board against Kenyan civil society organisations, with the announced de-registration of 957 NGOs for failure to account for funds and supporting terrorism. After the NGO Coordination Board refused to meet and reply to correspondence sent by KHRC inquiring on its case, the organisation filed a complaint on November 12, 2015 (Petition 495/2015).

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7 See Kenya Human Rights Commission, "A Status Human Rights Report and Manifesto", published in July 2017 (<https://www.khrc.or.ke/publications/170-a-status-brief-and-peoples-manifesto-for-political-and-policy-engagements/file.html>)

8 See the Kenya Gazette, published on April 7, 2015 (<https://www.nation.co.ke/blob/view/-/2679390/data/987688/-/vn59cw/-/TERROR-LIST.pdf>)

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The High Court ruled that the failure by the NGO Coordination Board to hear KHRC before deciding to cancel its registration violated the Constitution and that this failure was compounded when the NGO Coordination Board failed to respond in writing to the organisation.

However, one year later, on January 6, 2017 the NGO Coordination Board sent an email to KHRC, threatening to open an investigation regarding allegations of mismanagement and offences perpetrated by KHRC, which were included in an “internal memorandum” issued by the NGO Board on November 4, 2016. KHRC only learnt about this memorandum on January 8, 2017, from media reports which widely distributed the document<sup>9</sup>.

The document addressed several government agencies with a number of recommendations against KHRC. It advised the Central Bank of Kenya to take steps to freeze KHRC’s bank accounts. It requested the Directorate of Criminal Investigation to commence criminal investigations against KHRC and the KRA to commence measures to recover taxes that KHRC purportedly owed the government. The document contained further recommendations urging the Institute of Certified Public Accountants, the authority that regulates the public accountancy profession, to commence investigations against the two audit firms working for KHRC, Price Waterhouse Coopers (PWC) and PKF<sup>10</sup>.

### **Harassment and de-registration of KHRC and AfriCOG in the aftermath of the 2017 elections**

On August 14, 2017, three days after the contested official results of the Kenyan elections were announced, local media leaked a letter in which Mr. Fazul Mohammed, Executive Director of the NGO Coordination Board, stated that KHRC had been de-registered on grounds of tax evasion, illegal bank accounts and illegal hiring of expatriates. They also requested the Central Bank of Kenya to freeze KHRC’s assets and the KRA to recover accrued taxes. This letter has not yet been sent to KHRC.

Ahead of the elections, KHRC and FIDH published a joint report criticising the lack of reforms in the security and judiciary sectors<sup>11</sup>. KHRC had also been vocal in highlighting several concerns about the electoral process and violence in the aftermath of the electoral results. At the time, KHRC and its partners were considering the option of filing a petition to challenge procedural irregularities in the elections results.

In addition, on August 15, 2017, the NGO Coordination Board instructed the Directorate of Criminal Investigations to immediately shut down the Africa Centre for Open Governance (AfriCOG), an independent non-profit organisation working on governance and public ethics issues in both the public and private sectors to address the structural causes of the governance crisis in Kenya, as well as to arrest its directors for allegedly failing to register and operating illegal bank accounts. Prior to this, AfriCOG had filed a case seeking to compel the Independent Electoral and Boundaries Commission to open up the electoral roll for scrutiny.

On August 16, 2017, the police and KRA attempted to raid AfriCOG premises in Nairobi but failed after being denied entry over claims that the court order presented was illegal. Shortly after, Mr. Fred Matiang’I, who at the time was serving as acting Interior Cabinet Secretary, directed the NGO Coordination Board to suspend any actions

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9 KHRC Statement, January 11, 2017:

<http://www.khrc.or.ke/images/docs/StatementontheattacksbytheNGOboardagainsttheKHRC.pdf>

10 PWC is KHRC current auditor and PKF is KHRC previous auditor. The NGO Coordination Board is accusing both firms of helping KHRC in covering financial mismanagement.

11 See FIDH-KHRC joint report “Kenya’s Scorecard on Security and Justice: Broken Promises and Unfinished business”, August 2017.

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against KHRC and AfriCOG pending investigation to review the compliance status of the two organisations.

On December 18, 2017, Nairobi High Court quashed the NGO Coordination Board decision to de-register AfriCOG for operating illegally.

Other NGOs and foundations were targeted in the run up of the 2017 elections. In May and August 2017 respectively, the NGO Coordination Board had attempted to de-register and freeze the accounts of the Kalonzo Musyoka Foundation<sup>12</sup> and the Key Empowerment Foundation Kenya, two foundations working on different development issues and in support of local communities, associated with the two main opposition leaders at the time. Reasons forwarded by the NGO Board for these actions was alleged misappropriation of funds among other unsubstantiated reasons.

### **A new constitution and the failed promise of a new era**

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On August 4, 2010 a national referendum signed the entry into force of the new Kenyan [Constitution](#) adopted at the end of a highly participatory process during which civil society input was to a large extent reflected in the final version of the text. The promulgation of this text constituted, at least formally, a leap forward in the recognition of the rights of freedom of expression (Sec. 33), right to access to information (Sec. 35), freedom of association (Sec. 36) and freedom of assembly (Sec. 37). It constitutes one of the most far-reaching and progressive texts of this kind.

Under Section 36 of the Constitution, which recognizes and protects the right to freedom of association, any law requiring the registration of an organisation shall provide that "registration may not be withheld or withdrawn unreasonably" (Sec. 36(3)(a)) and that "there shall be a right to have a fair hearing before a registration is cancelled" (Sec. 36(3)(b)).

Following the adoption of the Constitution, civil society organisations underlined how the 1990 NGO Coordination Act clearly infringed the right to freedom of association as protected by Section 36 of the new Constitution. They accordingly started advocating for a new law regulating NGOs in a more transparent and efficient way. Consequently, four years of multi-stakeholder consultations brought to the adoption of the [Public Benefits Organizations \(PBO\) Act](#). The consultations were led by a group of several international and local civil society organisations in Kenya coordinated by the CSO Reference Group. The text, which is based on the self-regulatory model and intends to "create a conducive environment for the growth of the public benefit organisations sector" (Sec. 3(a)) was approved by the Parliament and signed into law on January 14, 2013 by the then President Mwai Kibaki.

The 2013 PBO Act, which will repeal the 1990 NGO Coordination Act, sets clear and straightforward criteria for registration (Sec. 6-13). Under the Act, a "public benefit organisation" is a "voluntary membership or non-membership grouping of individuals or organisations, which is autonomous, non-partisan, non-profit making and which (...) is registered as such by the Authority" (Sec. 5). Any decision on the registration of NGOs shall be taken by the Public Benefit Organisations Regulatory Authority (the Authority), which replaces the NGO Coordination Board. Contrarily to the NGO Coordination Act of 1990, the PBO Act sets a term for the issuance of a decision on the application for registration (Sec. 9), after which the applicant can ask the tribunal to issue an order requiring the authority to reply (Sec. 12). Moreover, under the PBO Act an application can be refused only for a specific number of reasons (Art. 16), which have to be notified in written to the applicant. The applicant has then 30 days to comply with the regulation (Sec. 9) and can appeal to the tribunal in case of a second refusal (Sec. 17).

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12 See Republic v Non-Governmental Organizations and Co-ordination Board ex parte Kalonzo Musyoka Foundation [2018] eKLR; MILIMANI JUDICIAL REVIEW NO. 218 OF 2017.

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## **The implementation of the PBO Act: a path fraught with obstacles**

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The text of the PBO Act reflects the joint commitment of different stakeholders and has been warmly welcomed by civil society in Kenya. It represents a progressive piece of legislation which would comply with national and international standards and contribute to ensure a transparent, efficient and accountable civil society sector.

Nonetheless, ever since its signature into law on January 14, 2013, the path towards its implementation has been fraught with attempts to curtail its impact and avoid its implementation. In 2014 only, as reported by the Convener of the Civil Society Reference Group (CSRG), a total of 54 amendments were proposed in order to narrow the scope of the PBO Act and impose further limitations on civil society organisations<sup>13</sup>.

In September and October 2016, a first attempt to commence the PBO Act and dissolve the NGO Coordination Board, started by the Cabinet Secretary for Devolution and Planning, Mr. Mwangi Kiunjuri, was met with strong opposition from the Board itself, which filed a suit, sought and obtained the reinstatement of the NGO Board's Director by claiming violations of procedural law. At the same time, an affidavit alleging that the Cabinet Secretary had been bribed by some NGOs to commence the PBO Act without amendments was lodged to the Ethics and Anti-Corruption Commission, with the purpose of discrediting the initiative.

Furthermore, two High Court judgements ordering the commencement of the Act were blatantly ignored by the Government. Following the first judgment, issued on October 31, 2016, the competence over the civil society sector was moved from the Ministry of Devolution and Planning to the Ministry of Interior with the aim to render ineffective the court ruling because it was formally directed at the former institution. A second ruling, issued on May 13, 2017, by Nairobi High Court ordering Interior Cabinet Secretary, Mr. Joseph Nkaissery, to publish the commencement date of the Public Benefit Organisation (PBO) Act 2013 in the Gazette within the next 30 days, was also ignored and, as of June 2018, the Act remains non-operational<sup>14</sup>.

## **The Fourth PBO Leaders' Summit: a new page for Kenyan NGOs?**

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The CSRG, an umbrella of international and national CSOs in Kenya which has been leading the consultation process during the preparation of the PBO Act, is currently at the forefront of the battle for the implementation of the Act. One of its strategies is the organisation of high level meetings, called PBO Leaders' Summit, which involve government officials, civil society representatives and representatives from the international community to create a forum for discussion over the implementation of the PBO Act.

During the Third PBO Leaders' Summit, in July 2017, right ahead of the general elections, several leading political parties, coalitions and candidates committed themselves to implement the PBO Act and to protect civil society space. The pledge to support the commencement of the PBO Act was signed by the six presidential aspirants, including Mr. Raphael Tuju who participated on behalf of President Uhuru Kenyatta. However, eight months after the elections this pledge has not yet been upheld and the PBO Act remains a paper tiger.

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13 See the Observatory Report "Kenya: 2017 elections: Broken promises put human rights defenders at risk" published on May 3, 2017, p 13.

14 See the Observatory Press Release, published on May 18, 2017.



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## Conclusion:

Two thousands day after the adoption of the PBO Act, civil society organisations in Kenya remain subjected to an outdated legislation, failing domestic and international standards on freedom of association. Vulnerable to harassment , smear campaigns, threats and abusive de-registration procedures, broken promises put human rights defenders at risk. It is urgent that Kenyan authorities improve the environment in which civil society organisations operate by immediately implementing the PBO Act.

In July 2018, the Fourth PBO Leaders' Summit will again gather national political leaders and national and international CSOs to discuss the PBO Act and its commencement. The Summit, entitled "Reclaiming Civic Space for Sustainable Development Effectiveness: The Time to Commence the PBO Act, 2013 Is Now!", will be an important occasion to remind the Kenyan authorities of their legal obligation to implement the PBO Act, and hopefully to demonstrate that their commitment was more than pure political propaganda.

## Recommendations:

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The Observatory urges the Kenyan authorities to:

- Put an end to any kind of harassment, including at the administrative and judicial level, against all human rights defenders and organisations, and ensure that they are not criminalised as retaliation to their legitimate human rights activities;
- Put an end to the public stigmatisation of human rights defenders and organisations and publicly recognise the legitimate and crucial role they play as pillars of democracy and watchdogs of the rule of law;
- Review existing laws and policies in close consultation with human rights defenders to ensure full compliance with human rights standards in order to create an enabling environment that allows human rights defenders to be able to work effectively and without threat of attack or judicial harassment by State or non-State actors; legislation that restricts their work, including in particular legislation that unnecessarily and disproportionately restrict the exercise of the rights to freedoms of association, expression and peaceful assembly should be ended, amended and/or repealed;
- In this connection, guarantee the fundamental right to freedom of peaceful assembly, notably by ensuring that demonstrations are not disrupted with unnecessary and disproportionate violence by the police forces, and that no unnecessary bans or limitations are imposed to peaceful demonstrations and protests;
- Implement the High Court ruling of October 31, 2016 so as to put an end to the current legal limbo concerning the regulations of NGOs and immediately implement the PBO Act of 2013, without any restrictive amendment that could undermine the principles enshrined in the Act as signed into law on January 14, 2013; in this connection create the new necessary institutions, such as the PBO Authority and the National Federation of PBOs, and allocate them the required human and financial resources so they can fully implement the Act;
- Ensure that any legislation adopted on the regulation of NGOs fully conforms to Kenya's national and international human rights obligations and ensure that the adoption of such a legislation is preceded by effective and meaningful consultation with CSOs and consideration of their concerns and recommendations;
- Adopt the Human Rights Defenders Policy that is being drafted upon the KNCHR's initiative in partnership with civil society, with the aim to increase the protection and improve the working environment of Kenyan human rights defenders; in this connection, put in place within the Policy a specific protection mechanism for WHRDs and LGBTI rights de-

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fenders, capable of tackling the discrimination perspective and the unique gaps and challenges for WHRDs and LGBTI defenders; in the implementation phase, make sure that the entities put in place have a protection outreach component to the informal settlements;

- Establish quarterly CSO-Ministerial roundtables, in order to facilitate a structured dialogue between civil society and Government officials, as well as provide a crucial arena for a civil society oversight on the implementation of the PBO Act of 2013;
- Fully implement the recommendations formulated by the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions following the visit he carried out in 2009 (UN Document A/HRC/11/2/Add.6) and the follow-up country recommendations his successor formulated in 2011 (UN Document A/HRC/17/28/Add.4);
- Fully implement recommendations accepted by Kenya during the Second Cycle of the Universal Periodic Review (UPR) in 2015, particularly concerning proper investigations on intimidation and harassment of human rights defenders and operationalising the PBO Act of 2013 (UN Document A/HRC/29/10);
- Comply with all the provisions of the United Nations Declaration on Human Rights Defenders adopted by the UN General Assembly on December 9, 1998, as well as with the provisions of ACHPR Resolutions on the protection of human rights defenders in Africa.



Created in 1985, the World Organisation Against Torture (OMCT) works for, with and through an international coalition of over 200 non-governmental organisations - the SOS-Torture Network - fighting torture, summary executions, enforced disappearances, arbitrary detentions, and all other cruel, inhuman and degrading treatment or punishment in the world and fighting for the protection of human rights defenders.

#### **Assisting and supporting victims**

OMCT supports victims of torture to obtain justice and reparation, including rehabilitation. This support takes the form of legal, medical and social emergency assistance, submitting complaints to regional and international human rights mechanisms and urgent interventions. OMCT pays particular attention to certain categories of victims, such as women and children.

#### **Preventing torture and fighting against impunity**

Together with its local partners, OMCT advocates for the effective implementation, on the ground, of international standards against torture. OMCT is also working for the optimal use of international human rights mechanisms, in particular the United Nations Committee Against Torture, so that it can become more effective.

#### **Protecting human rights defenders**

Often those who defend human rights and fight against torture are threatened. That is why OMCT places their protection at the heart of its mission, through alerts, activities of prevention, advocacy and awareness-raising as well as direct support.

#### **Accompanying and strengthening organisations in the field**

OMCT provides its members with the tools and services that enable them to carry out their work and strengthen their capacity and effectiveness in the fight against torture. OMCT presence in Tunisia is part of its commitment to supporting civil society in the process of transition to the rule of law and respect for the absolute prohibition of torture.

8 rue du Vieux-Billard - PO Box 21 - CH-1211 Geneva 8 - Switzerland  
Tel: +41 22 809 49 39 / Fax: +41 22 809 49 29 / [www.omct.org](http://www.omct.org)



#### **Establishing the facts**

Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis. FIDH has conducted more than 1,500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

#### **Supporting civil society**

Training and exchanges

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

#### **Mobilising the international community**

Permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

#### **Informing and reporting**

Mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.

17 passage de la Main-d'Or - 75011 Paris - France  
Tel: + 33 1 43 55 25 18 / Fax: + 33 1 43 55 18 80 / [www.fidh.org](http://www.fidh.org)



The Observatory  
for the Protection  
of Human Rights Defenders

**The Observatory for the Protection of Human Rights Defenders,  
a partnership of OMCT and FIDH**

Created in 1997, the Observatory is an action programme based on the belief that strengthened co-operation and solidarity among human rights defenders and their organisations will contribute to break the isolation they are faced with. It is also based on the absolute necessity to establish a systematic response from NGOs and the international community to the repression of which defenders are victims. The Observatory's activities are based on consultation and co-operation with national, regional, and international non-governmental organisations.

With this aim, the Observatory seeks to establish:

- a mechanism of systematic alert of the international community on cases of harassment and repression of defenders of human rights and fundamental freedoms, particularly when they require urgent intervention;
- the observation of judicial proceedings, and whenever necessary, direct legal assistance;
- international missions of investigation and solidarity;
- a personalised assistance as concrete as possible, including material support, with the aim of ensuring the security of the defenders victims of serious violations;
- the preparation, publication and world-wide dissemination of reports on violations of the rights and freedoms of individuals or organisations working for human rights around the world;
- sustained action with the United Nations and more particularly the Special Rapporteur on Human Rights Defenders, and when necessary with geographic and thematic Special Rapporteurs and Working Groups;
- sustained lobbying with various regional and international intergovernmental institutions, especially the Organisation of American States (OAS), the African Union (AU), the European Union (EU), the Organisation for Security and Co-operation in Europe (OSCE), the Council of Europe, the International Organisation of the Francophonie (OIF), the Commonwealth, the League of Arab States, the Association of Southeast Asian Nations (ASEAN) and the International Labour Organisation (ILO).

With efficiency as its primary objective, the Observatory has adopted flexible criteria to examine the admissibility of cases that are communicated to it, based on the "operational definition" of human rights defenders adopted by FIDH and OMCT: "Each person victim or at risk of being the victim of reprisals, harassment or violations, due to his or her commitment, exercised individually or in association with others, in conformity with international instruments of protection of human rights, to the promotion and realisation of the rights recognised by the Universal Declaration of Human Rights and guaranteed by the different international instruments".

