

Oral Statement during the 67th Ordinary Session of the African Commission on Human and People's Rights

AGENDA ITEM 8: ACTIVITY REPORT OF THE MEMBERS OF THE COMMISSION AND SPECIAL MECHANISMS ON HUMAN RIGHTS DEFENDERS AND FOCAL POINT ON REPRISALS IN AFRICA

Honourable Chairperson, Commissioners, State Delegates, and fellow participants,

FIDH and OMCT, within the framework of the Observatory for the Protection of Human Rights Defenders, would like to bring your attention to several worrying developments linked to the situation of human rights defenders on the continent.

1. The Observatory is particularly worried about the repression of human rights defenders within the context of pre-electoral or popular protests

Judicial harassment of human rights defenders, including journalists by the authorities has been reported and seems prevalent in pre-electoral context in order to stifle any criticism of leaders in place. This is the case notably in the **Democratic Republic of Congo** (DRC), in **Niger**, where **Moudi Moussa, Halidou Mounkaila, Maikoul Zodi** continue to face judicial harassment despite their provisional release, or in **Côte d'Ivoire**, where the police arrested in August 2020 **Pulchérie Gbalet** along with **Gédéon Junior Gbaou, Cyrille Djehi Bi**, and **Aimé César Kouakou N'Goran**, ahead of a peaceful demonstration organised in opposition to a third mandate of Alassane Ouattara. The charges against them ("disturbing public order", "participation in an insurrectional movement", "undermining the authority of the State", "wilful destruction of public property" and "inciting a gathering") refer to a demonstration that Pulchérie Gbalet did not even attend. The same scenario unfolded in **Guinea** where police attempted unsuccessfully to arrest **Ibrahima Diallo**, an emblematic figure of protest against a third mandate of Alpha Condé, and are still hunting him down, forcing him into hiding for fear for his life.

Meanwhile the peaceful Hirak movement calling for a "civil and non-military state" and a "free and democratic **Algeria**", which began over a year ago in opposition to a fifth mandate of Abdelaziz

Bouteflika, continues to be repressed. 21 human rights defenders are still facing judicial harassment, notably through the perpetual adjournment of hearings, maintaining their cases open and placing a Damocles sword over their heads as a warning not to protest. We note with great concern the sentencing of journalist **Khaled Drareni** to three years in prison on charges of "incitement to unarmed assembly" and "undermining national unity" for having covered the protests. In **Morocco**, journalists **Rabie Al-Ablak** and **Hamid El Mahdaoui** had also been arrested for covering a social protest movement in the Rif region in 2017. While Hamid El Mahdaoui has since been released, Rabie Al-Ablak is currently purging a five-year sentence and his health is rapidly deteriorating due to the multiple hunger strikes he has carried out in protest of his unjust detention.

2. Several countries continue to abusively resort to national security and counter-terrorism charges to stifle critical voices.

The Observatory is further concerned by the tendency of states to increasingly invoke threats to national security to criminalise human rights defenders.

This is the case in many countries, where human rights defenders, who by definition conduct peaceful activities, are prosecuted under such charges as "undermining State security" or "complicity in undermining State security", as it is the case for instance for **Oumar Sylla** in **Guinea**, or **Germain Rukuki**, **Agnès Ndirubusa**, **Christine Kamikazi**, **Egide Harerimana** and **Térence Mpozenzi** in **Burundi**.

As such, a variant charge of "receiving foreign funds to carry out propaganda activity to undermine State security" was brought against **Rabie Al-Ablak** and **Omar Radi** in two separate cases in **Morocco**, in what amounts to judicial harassment against journalists during the legitimate exercise of their activity and in line with their right to denounce human rights violations.

We further recall that journalist **Mancho Bibixy Tse** remains arbitrarily detained since November 21, 2016 for advocating for the rights of the Anglophone minority in **Cameroon**. In May 2018, he was sentenced to 15 years in prison for "terrorism", "secession", "rebellion", "inciting civil war", and "spreading false information through social media".

In **Egypt**, dozens of human rights defenders also remain detained under trumped-up terrorism charges, including **Mohamed El-Baqer**, **Alaa Abdel Fattah**, **Ibrahim Metwally**, **Ibrahim Ezz El-Din**, **Mahienour El-Massry**, **Esraa Abdel Fattah** and **Solafa Magdy**. Moreover, in August 2020 exiled Cairo Institute of Human Rights Studies Director **Bahey Eldin Hassan** was sentenced in absentia to 15 years in prison by an Egyptian Terrorism Court, while in July 2020, an Egyptian court rejected the appeals by the NGO Nazra for Feminist Studies and its Executive Director **Mozn Hassan** against the assets freeze order imposed on the NGO as well as against the travel ban on

the defender within the framework of the so-called "NGO Foreign Funding case". Ms. Hassan is still facing charges of "establishing an entity in violation of the law", "conducting activities that do not abide by the purposes of the organization with the intention of harming national security", "receiving foreign funding with the intention of harming national security" and tax evasion.

Just days ago, authorities arrested EIPR Directors, **Mohammed Besheer**, **Karim Ennarah** and Executive Director **Gasser Abdel Razeq** under charges of 'membership of a terrorist organisation' and 'using social media accounts to publish false news and information that may harm public peace and security' without any evidence whatsoever, and is furthermore detaining Gasser Abdel Razeq in degrading and inhumane conditions, putting his health at risk. Their arrest appears to be in retaliation for their organisation of a meeting with a dozen of foreign diplomats in Cairo on November 3rd.

3. Attacks on the physical integrity of human rights defenders

The Observatory strongly condemns attacks on the physical integrity of human rights defenders and calls on States to protect and maintain the physical integrity of its citizens.

The Observatory notably denounces the recent killings of **Freddy Kambale** in the **DRC** and **Samuel Wazizi** in **Cameroon**, as well as the death in custody of human rights defender **Shady Habash** in **Egypt**. Moreover, despite the arrest in September 2020 of Commanding Officer Christian Ngoy Kenga Kenga, who is considered a fugitive in the murder of **Floribert Chebaya** and **Fidèle Bazana** in the **DRC**, justice has still not been rendered ten years after the murder of the two defenders.

Furthermore, the Observatory has received disturbing information on the conditions of detention of **Abdallah Benaoum** arbitrarily detained in **Algeria** since December 2019 for social media posts critical of the repression against the peaceful Hirak movement and still awaiting his trial despite urgently needing heart surgery, which is being denied by the authorities.

The situation in the **DRC** is also extremely alarming, since multiple human rights defenders have reported receiving death threats against themselves and their family. This is the case of Groupe Lotus President **Dismas Kitenge**, and of Nobel Peace Prize Laureate **Denis Mukwege**.

4. Land and environmental human rights defenders particularly at risk

The Observatory remains concerned by the gravity of attacks against land and environmental rights defenders throughout the African continent.

In particular, the Observatory strongly condemns the killing of **South African** environmental human rights defender **Fikile Ntshangase**, Vice-Chairperson of a sub-committee of the Mfolozi Community Environmental Justice Organisation ("MCEJO"), in October 2020.

The Observatory is also concerned by the ongoing harassment of **MBAKITA** human rights defenders in **Angola** and of **Musa Usman Ndamba**, National Vice President of the Mbororo Social and Cultural Development Association (MBOSCUDA), in **Cameroon**. In September 2020 in **Uganda**, the police arrested journalists **Venex Watebawa** and **Joshua Mutale** on their way to a radio talk show where they were planning to call the population to participate in peaceful protests against the destruction of the Bugoma forest. Seven other human rights defenders, who had gone to the police station to negotiate their release, were in turn arrested. Before releasing them, the police department spoke publicly of a "preventive arrest", saying: "we want to make sure they don't have that demonstration today", "we have them, and at a later stage we shall be releasing them".

5. Ongoing criminalisation of human rights civil society on the continent

Further acts of judicial harassment continue to be reported across the continent, such as in the **DRC**, where attempts to bring fallacious charges against the President of the African Association in Defense of Human Rights (ASADHO) **Jean Claude Katende** seem to aim at silencing him for his legitimate activities in fighting impunity.

In **Chad** President of the Chadian Organisation for Human Rights **Baradine Berdei Targuio** remains detained since January 2020 for a post on social media deemed subversive. Meanwhile, authorities have launched a series of judicial measures amounting to judicial harassment for nearly a year against the Secretary General of the Chadian Convention for Human Rights **Mahamat Nour Ibedou**. In the latest of these episodes he has now been suspended from his position, following an unsubstantiated claim that he had an opaque management of the organisation. The Chadian League for Human Rights (LTDH) is also being continually physically harassed and openly monitored by police force and national security officers.

In **Togo**, on November 4, 2020, journalist and human rights defender **Ferdinand Mensah Ayité** was found guilty of defamation and sentenced to pay a fine of 2,000,000 CFA after, he wrote an article denouncing corruption in the country.

In **Tanzania**, **Tito Magoti** remains detained since his arrest on December 20, 2019, on trumped-up economic charges of "leading organised crime", "possession of a computer program designed for the purpose of committing an offence" and "money laundering".

In **Zimbabwe**, the Observatory is extremely concerned about the ongoing judicial harassment of journalist **Hopewell Chin'ono**. Released on bail on September 2, 2020 after spending 44 days in jail, he was rearrested on November 3, 2020, charged with contempt of court and targeted for his coverage of alleged corruption by the government of Emmerson Mnangagwa. The Observatory further condemns the subsequent judicial harassment of his lawyer **Beatrice Mtetwa**, solely targeted for defending her client, as well as the arrest of women's rights defender and renowned writer **Tsitsi Dangarembga** on July 31, 2020. On the next day, Ms. Dangarembga was released on bail but she remains accused of "participating in a gathering with the intention to incite public violence".

On a positive note, the Observatory welcomes the acquittal of **Samira Sabou** in **Niger** who had been prosecuted for denouncing corruption.

Recommendations:

1) In view of the above-mentioned elements, the Observatory calls upon States Parties to immediately and unconditionally:

- Guarantee in all circumstances the physical integrity and psychological well-being of all human rights defenders;

- Release immediately and unconditionally all defenders who are arbitrarily detained as their detention is merely aimed at punishing them for their legitimate human rights activities;

- Put an end to all acts of harassment - including at the judicial level - against all human rights defenders, and ensure in all circumstances that they are able to carry out their legitimate activities without any hindrance and fear of reprisals;

- Order immediate, thorough, transparent investigations into alleged 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;

- Ensure that the application of counter-terrorism and national security legislation is consistent with international human rights standards and is not used against human rights defenders in retaliation to their peaceful and legitimate human rights activities;

- Refrain from adopting any provisions that do not comply with international and African human rights standards, 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.

- Conform in all circumstances with the provisions of the Declaration on Human Rights Defenders, adopted on December 9, 1998 by the United Nations General Assembly as well as of the African Charter, in particular those relating to the protection of human rights defenders.

2) More generally, 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 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 capacities to respond to urgent situations faced by human rights defenders;

- Ensure the effective implementation of ACHPR 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.

Paris-Geneva-Nairobi, November 2020

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, the European Union Human Rights Defenders Mechanism implemented by international civil society.