



## **ORAL STATEMENT BY AMNESTY INTERNATIONAL**

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**56<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights,  
Banjul, The Gambia**

### **Agenda Item 3: Human Rights Situation in Africa**

Chairperson, Honourable Commissioners

Amnesty International welcomes this opportunity to address the African Commission on Human and Peoples' Rights on the situation of human rights in Africa.

This session is taking place in the wake of recent widespread and violent xenophobic attacks against migrants, refugees and their businesses in South Africa, and particularly in KwaZulu Natal and Gauteng provinces. In the past three weeks, nine people have been killed, many others seriously injured, shops looted and over 1,000 people displaced. These attacks are a result of the failure of the South African government since 2008 to establish a systematic program of prevention and protection of refugees and migrants across the country.

Amnesty International calls on the Commission to:

- Condemn in the strongest of terms the xenophobic violence in South Africa;
- Call on the South African authorities to ensure full, transparent and independent investigations into all xenophobic attacks that happened in the country and bring suspected perpetrators to account in order to stop the prevailing culture of impunity; and
- Call on the South African authorities to ensure that an urgent, effective and systematic program of prevention and protection of refugees and migrants across the country is adopted and urgently implemented to prevent the repetition of such violence and undertake effective emergency responses where needed.

In our previous statement delivered to the Commission during the 55<sup>th</sup> ordinary session in

Luanda, Angola, we brought to the attention of the Commission the broader context of conflict threats and human rights violations in Africa. At the time, we highlighted the dire situation in three specific countries: Central African Republic, South Sudan, and Nigeria. Close to one year later, the situation in these countries has not significantly changed, and in some instances the situation has worsened. Indeed, conflict and insecurity continues to blight the lives of countless people across Africa. A wider trend of repression is also taking root in the continent. In far too many countries, freedoms of expression, association and peaceful assembly continue to be severely curtailed.

This statement focuses on these two issues: the cost of conflict and violence on the continent and the persistent denial of freedoms of expression, assembly and association, especially in the context of elections.

### **The cost of conflict and violence**

Amnesty International is extremely concerned by the ongoing conflicts in the Central African Republic, South Sudan, Nigeria, DRC, Somalia, Sudan, and Libya. These conflicts are characterized by persistent abuses and atrocities committed by both government forces and armed groups. In addition many African countries, including Kenya, Somalia, Nigeria, Cameroon, Niger, Mali, and countries in the Sahel region are facing serious security challenges as a direct result of increased violence by radical armed groups, including al-Shabab and Boko Haram. Tens of thousands of civilians have lost their lives, hundreds have been abducted and countless others continue to live in a state of fear and insecurity.

The response of many governments have been arbitrary and indiscriminate, leading to mass arbitrary arrests and detentions, and extrajudicial executions. Impunity is also a common denominator in Africa's armed conflicts, with those suspected of criminal responsibility for crimes under international law rarely held to account.

In this statement, we wish to highlight the situation in five countries: Libya, Nigeria, Sudan, South Sudan and Kenya.

In **Libya**, the scale and gravity of human rights abuses and violations of international human rights and humanitarian law is alarming. Months of fierce fighting between several coalitions of armed groups and armed forces have displaced some 400,000 people across Libya and led to hundreds of civilian casualties, as well as a breakdown of basic services. The warring parties on all sides have committed violations which may amount to war crimes. Abductions of civilians, hostage-taking, torture and other ill-treatment and summary killings of captured fighters and abducted civilians are widespread. Despite the seriousness of documented abuses, the international community has done little to ensure that those responsible for human rights abuses and possible war crimes are held to account.

In **Nigeria**, Boko Haram has wreaked havoc and suffering on the lives of millions of people in north-east Nigeria since 2009. The armed group has killed more than 5,500 people since 2014,

abducted at least 2000 women and girls, and forced more than a million to flee their homes. The Amnesty International has documented the brutal methods used by Boko Haram in the north-east where men and boys are regularly conscripted or systematically executed and young women and girls are abducted, imprisoned and in some cases raped, forcibly married and made to participate in armed attacks, sometimes on their own towns and villages.

The government response to Boko Haram has been equally brutal, characterized by heavy-handed and indiscriminate attacks, mass arbitrary arrests, beatings, torture and extrajudicial killings. Communities already terrorized for years by Boko Haram have become increasingly vulnerable to violations by state security forces.

Evidence gathered by Amnesty International including video footages, images, and eye witness accounts strongly suggest that both Boko Haram and government security agencies may have committed crimes under international law including war crimes, crimes against humanity and other serious human rights violations and abuses.

Amnesty International applauds Resolution 298 of the Commission and further reiterates its call to the Commission to urgently initiate protection measures, including carrying out a fact-finding mission to Nigeria to investigate allegations of war crimes and crimes against humanity.

In **Sudan**, the conflicts in Darfur, Southern Kordofan and Blue Nile continues unabated, and has spread to Northern Kordofan. In **Southern Kordofan and Blue Nile** the armed conflict continues in both states with indiscriminate attacks by both parties, including aerial bombardments by the Sudanese Armed Forces (SAF). The situation of civilians in these conflict zones remains concerning with almost daily indiscriminate bombardments which have restarted since the end of the rainy season in November 2014. Sudan also continues to obstruct humanitarian access to areas controlled by the SPLA-North. In SPLM-N controlled areas of Blue Nile, hostilities including aerial bombardment, ground fighting, and attacks against civilians have been reported by human rights monitors.

In North and Central Darfur, Amnesty International has documented the involvement of members of the government forces, along with allied militias, in attacks against civilians.

Amnesty International calls on the African Commission to call on the Sudanese authorities to:

- immediately cease all attacks in violation of international human rights and humanitarian law, including deliberate attacks on civilians and indiscriminate aerial bombardments.
- allow humanitarian organizations and independent human rights monitors immediate and unhindered access to both Southern Kordofan and Blue Nile states.

In **Kenya**, following the attack on Garissa University College in which 142 students were killed, the government announced a move to close down refugee camps in the country, including Dadaab, which is the world's largest refugee camp. Forcibly returning around 350,000

refugees to Somalia would be a violation of Kenya's obligations under international law and put hundreds of thousands of lives at risk. Additionally Kenyan authorities published in the official government gazette a list of alleged supporters of terrorism. The list includes two human rights organizations: Haki Africa and Muslim for Human Rights (MUHURI). Immediately after the list was published, the Central Bank of Kenya instructed banks to freeze the accounts of those listed, including the human rights organizations. The list raises many questions as well as serious concerns that Haki Africa and MUHURI are being targeted for their important work documenting human rights violations committed by the security forces. It also raises serious concerns for due process, including proper time and opportunity to contest the designation and the right to be informed.

We also call on the Commission to:

- urge the Kenyan government to ensure protection for Somali refugees and asylum-seekers in Dadaab and elsewhere in the country and to reconsider its plan to close refugee camps and forcibly return Somali refugees contrary to its obligations under national and international law; and
- call on the Kenyan government to ensure protection of human rights defenders and organizations such as Haki Africa and MUHURI and cease all arbitrary measures and reprisals.

On the broader subject of rising conflicts and violence in Africa, Amnesty International reiterates its previous call to the Commission to play a more active role in responding to human rights violations in the context of conflicts and governments response to violence by radical armed groups. In particular, we wish to call on the Commission to:

- develop a comprehensive strategy and mechanism for addressing conflict-related human rights violations in Africa;
- utilise its powers under Article 58 of the African Charter on Human & Peoples' Rights to 'draw the attention of the Assembly of Heads of State and Government to these special cases';
- convene an open panel and interactive session on conflicts and human rights during the 57<sup>th</sup> Ordinary Session of the Commission, in order to open space for wider discussion and the adoption of more effective strategies to respond to conflicts in Africa;

### **Repression: Curtailment of freedoms of expression, assembly and association**

Amnesty International is deeply concerned about the continuing crackdown on freedoms of expression, assembly and association in many countries in Africa, including in countries that have held and scheduled to hold elections in 2015 and 2016. In this statement, we wish to highlight the situation in five countries: Sudan, Democratic Republic of Congo (DRC), Burundi, Swaziland and Gambia.

In the **Sudan**, the just concluded elections were characterized by clampdown of dissenting voices. The suppression of freedom of expression intensified as the elections approached. Since January 2015, the National Intelligence and Security Service have confiscated 15 print runs of 14 newspapers without giving any legal basis or rationale. Amnesty International has also documented the arbitrary closure, harassment and raid of several civil society organisations and their offices and the surveillance of their staff by National Intelligence and Security Service (NISS).

In January alone, the Sudanese authorities shut down three leading civil society organisations: Mohamoud Mohamed Cultural Centre, Sudanese Writers Union, and the Sudanese Civil Society Forum. We have also documented several cases of persecutions and intimidation of leading opposition figures. The case of Amin Mekki Medani and Farouk Abbu Issa who were arrested on 6 December in relation to signing the 'Sudan Call' is one such example. After more than four months in detention they were released on 10 April after the Minister of Justice dismissed their case.

Amnesty International calls on the Commission to call on the Government of Sudan to:

- immediately stop the ongoing arbitrary restrictions of freedoms of expression, assembly and association including arbitrary closures, harassment and surveillance of civil society organisations, media and opposition groups;
- investigate all allegations of arbitrary arrests, prosecution and harassment of civil society actors, journalists and opposition leaders and ensure accountability for violations.

In the **DRC**, crackdown on freedoms of assembly and expression has increased as the country heads for the 2016 elections and amid the debate over the amendment of the electoral law. On 15 March, security forces stormed a press conference in Kinshasa on youth civic engagement in political processes and arrested at least 30 people. On the morning of 17 March, 10 more activists from the youth movement Lutte pour le Changement (LUCHA) were also arrested in Goma as they staged a sit-in demonstration outside the provincial office of the *Agence Nationale des Renseignements* (ANR) protesting the arrests of their colleagues in Kinshasa. Although those arrested were later released, two youth activists are still held incommunicado in Kinshasa, and four more remain in detention in Goma Central prison.

Amnesty International calls on the Commission to call upon the Government of DRC to cease all arbitrary restrictions of freedoms of assembly and expression and immediately and unconditionally release all human rights activists arrested solely for exercising their right to freedom of expression and assembly.

In neighbouring **Burundi**, Amnesty International has over the last year documented an increase in violations of individuals' rights to freedom of association, peaceful assembly and expression, ahead of the elections that are set to start in May. Members of the opposition, civil society activists, lawyers and journalists are among those who have faced heightened restrictions. In recent months, there has been a sharp increase in politicized violence in

Burundi linked to the ruling National Council for the Defense of Democracy – Forces for the Defense of Democracy (CNDD-FDD) party. The youth wing of the CNDD-FDD, the *Imbonerakure*, has also been responsible for intimidation, harassment and violence, attacking and even killing members of the political opposition with impunity.

Amnesty International urges the Commission to call on the Burundian authorities:

- End harassment and intimidation of civil society activists and journalists and ensure that all individuals working to promote and protect human rights receive the full support of the state;
- Re-issue clear instructions to local officials and the *Imbonerakure* that violence targeting political opposition members will not be tolerated and will result in prosecution.
- Publicly reiterate that statements inciting violence are not lawful, and that all officials linked to the incitement of violence must be immediately investigated, and where there is sufficient evidence, prosecuted in fair trials.
- Independently investigate and, where there is sufficient evidence, prosecute in fair trials all allegations of human rights abuses linked to the army, police, the *Imbonerakure* and the local administrative authorities.

In **Swaziland**, Amnesty International is deeply concerned about the continued persecution of peaceful political opponents and critics by the Swaziland authorities. In the most recent incident, human rights lawyer Thulani Maseko was sent to three weeks solitary confinement as a disciplinary punishment for an alleged breach of prison rules at Big Bend prison where he is serving a two-year sentence for contempt of court. Long-term political activist, Mario Masuku, who is in remand custody along with youth leader Maxwell Dlamini, continues to be denied access to adequate and independent medical care, which he needs urgently.

In addition to using contempt of court charges against its critics, the Swaziland authorities are actively using the 2008 Suppression of Terrorism Act (STA) and the 1938 Sedition and Subversive Activities Act (SSA Act) to intimidate activists, further entrench political exclusion and to restrict the exercise of the rights to freedom of expression, association and peaceful assembly. Fourteen people are currently charged under these laws in five separate trials.

Amnesty International reiterates its call to the Swaziland government to:

- immediately and unconditionally release of Thulani Maseko, and *Nation* editor Bheki Makhubu, who it considers to be prisoners of conscience and who were convicted and sentenced to two years imprisonment in July 2014 for contempt of court after a grossly unfair trial merely for exercising peacefully their right to freedom of expression.
- Repeal or immediately amend, with a view to bringing into conformity with international law, the STA, as well as the SSA Act, withdraw all criminal charges currently made under these laws, release all prisoners held solely for exercising their human rights peacefully and to stop abusing the criminal justice system to violate the

rights of freedom of expression and association.

In **Egypt**, since the ouster of former President Mohamed Morsi in July 2013, the already limited space for civil society work in Egypt has shrunk even further. Human rights defenders and civil society activists, as well as the prominent youth leaders of the 2011 uprising, are either in jail or face the risk of imprisonment. Egypt's repressive Protest Law No 107/2014, which effectively bans all but government-sanctioned demonstrations and gatherings of more than 10 people, has sent thousands of activists and protestors to jail and paved the way for the security forces to use excessive and lethal force against peaceful protestors.

The authorities have also tightened their grip on civil society organizations. In September 2014, new restrictions introduced into the Penal Code (Article 78) ban individuals or groups from receiving money or materials, including foreign funding, with the intention of committing acts that would harm the "national interest", Egypt's "independence or unity or territorial integrity" or "disturb public security and safety". The terms are very broad and as such could be used to restrict foreign funding for human rights organizations. Some human rights organizations are already facing the blocking of funding, and delays these new restrictions cause, have resulted in funding crises for their organizations. Anyone charged with breaching these new restrictions could face up to life imprisonment and fines running into thousands of Egyptian pounds.

In September 2014, the government had also threatened civil society groups to register under the draconian Mubarak-era Law on Association no 82/2002 and warned that NGOs that will not comply with this measure will be held accountable under the law. In fact, when some NGOs tried to comply and register under the repressive law they were denied registration without being given a reason by the government. The government has also raided human rights organizations and arrested their staff. For example, in May 2014 the Egyptian Center for Economic and Social Rights was raided by police and staff were arrested, the second such incident for the organisation in less than 6 months.

Amnesty International calls on the Commission to call upon the Government of Egypt to:

- immediately and unconditionally release all individuals detained solely for peacefully exercising their rights to freedoms of expression, association and assembly, and drop all charges against them;
- release others, or else charge them promptly with a recognizably criminal offence and try them fairly in line with international standards, without recourse to the death penalty;
- repeal or amend, with a view to bringing into conformity with international law, the Law on Protests (Law 107 of 2013);
- repeal or amend, with a view to bringing into conformity with international law, the provisions of the Penal Code that infringe freedom of expression.

In the **Gambia**, the human rights situation in the country has severely worsened since October 2014 when an amendment to the Criminal Code was enacted to introduce even harsher sentences for LGBTI people who face a life sentence for “aggravated homosexuality”. At least 14 people were arrested in November and December 2014 because of their presumed sexual orientation.

Following the failed coup of 30 December 2014, law enforcement agencies have arrested relatives of those suspected of being involved in the failed coup. At least 30 people have been arrested since the beginning of January 2015. Some people have been released but other family members have not been heard from in almost three months and it is unclear how many remain in incommunicado detention. On 30 March 2015, a court martial that was set up to try three soldiers suspected of being involved in the coup were sentenced to death while three others to life imprisonment. The trial was held in camera without access to media or independent observers.

Amnesty International welcomes Resolution 299 of the Commission urging the Gambian government to invite the Commission to undertake a fact-finding mission to the country and calls upon the commission to follow-up on this request. We further call on the Commission to urge the Government of Gambia to:

- respect Resolution 275 of the commission and end all acts of violence and abuse against individuals on the basis of their imputed or real sexual orientation or gender identities, including by:
  - repealing or amending its Criminal Code;
  - dropping all charges brought against individuals by exercise of such domestic laws;
  - and ensuring proper investigation and diligent prosecution of perpetrators, and establishing judicial procedures responsive to the needs of victims
- commute the death sentences imposed on the three soldiers suspected of being involved in the coup to terms of imprisonment, pending a re-trial which meets internationally accepted fair trial standards and does not include the possibility of a death sentence.
- carry out prompt, impartial and independent investigations into the events that led to the coup and subsequent government response that led to arrests and detentions