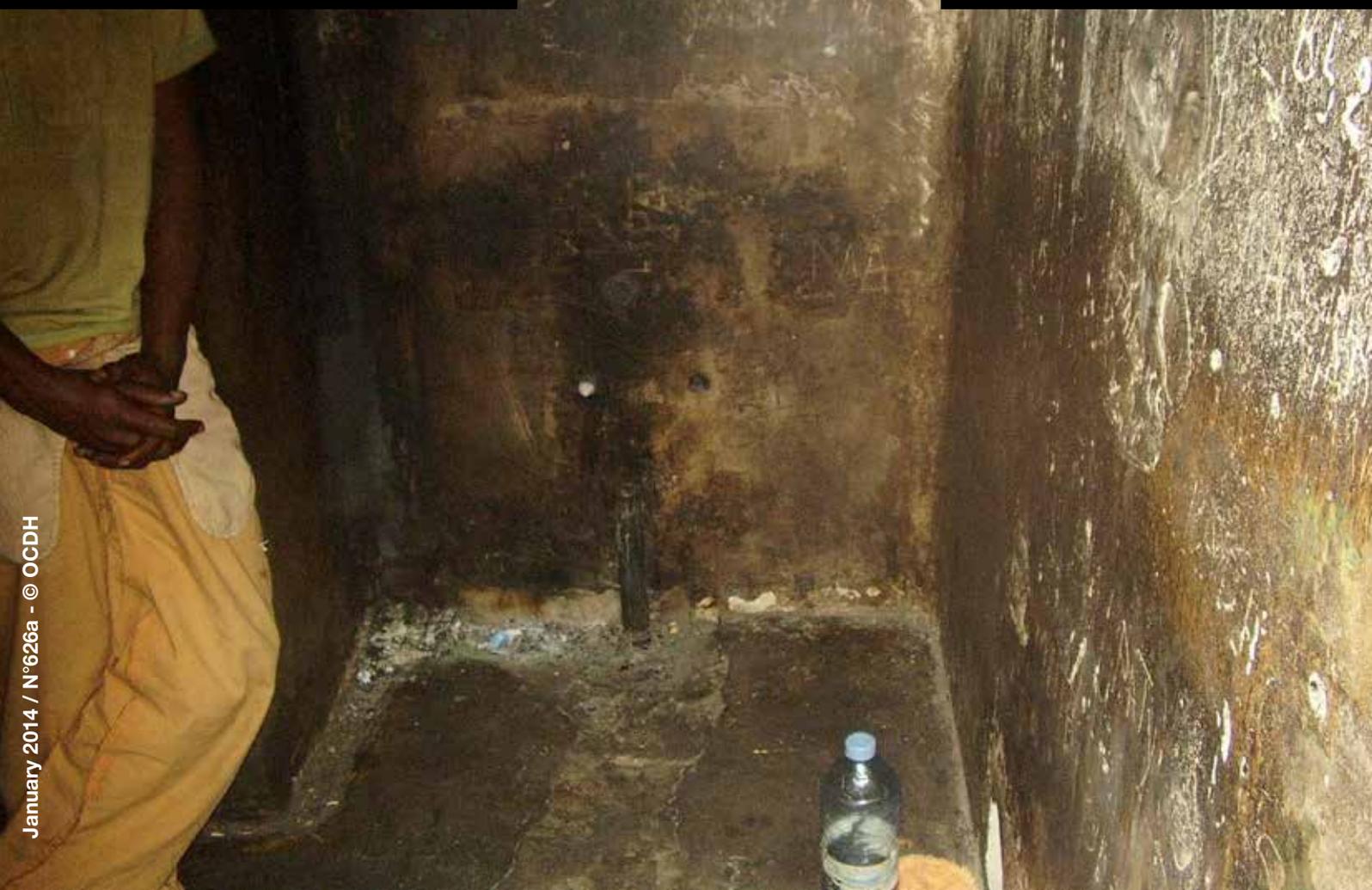


REPUBLIC OF THE CONGO : TORTURE, POLITICAL PERSECUTION AND ATTACKS ON TRADE UNION FREEDOMS

Position paper

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel,



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The FIDH and the Congolese Observatory for Human Rights (OCDH) express their serious concerns about the deterioration of human rights and fundamental freedoms in the Republic of the Congo, in particular the persistence of torture, the persecution of political activists and the manipulation of justice in order to silence any dissenting voices. In this paper, our organizations have recorded cases of torture and ill-treatment aimed at political activists (1) and discuss two cases currently in the news: torture and the illegal and arbitrary arrest of people suspected of collaboration or connivance with Colonel Marcel Ntsourou (2) and harassment of the leaders of teachers' unions by the Congolese government in order to break their strike (3).

1 – Torture and political repression

The practice of torture and degrading and inhuman treatment continues in the Republic of the Congo, against both ordinary individuals and political activists. Two recent cases show the extent of the phenomenon and the impunity the perpetrators enjoy.

According to information gathered, Mr **Jean EBINA**, the chairman of the Congolese Ecologist and Ethics Party (PCEE), was arrested at about 9 pm on 16 January 2014, obviously illegally. Arrested a few yards from his home, neither while committing an offence nor with a warrant, by about ten police officers from the Mfoa central police station (in the *Plateau des 15 Ans* district), he was severely beaten, stripped naked then taken to the Mfoa central police station in a vehicle on which was written 'CCP4' (Mougali central police station). "*This power doesn't belong to the Téké*," one of the police officers is alleged to have said to him while he was beating him, giving rise to the assumption that the reason for the arrest was political and ethnic. No mention was made in the police statement to justify the legal reasons for the arrest of Mr **Jean EBINA**. He was released at around 4 am on 17 January 2014 after having paid 50,000 francs CFA. These practices are an everyday occurrence in police and gendarmerie stations in the Congo. An investigation must be opened by the judicial authorities into the reasons for this arrest in order to identify the perpetrators of the ill-treatment received by Mr EBINA and bring them to justice. Up to now nothing has been done.

On 30 April 2013 Mr **Samson Mongoto**, suspected of complicity in theft, was arrested by police officers from the police station in the district of Diata. While in custody, on 1 May 2013, he was tortured and subjected to cruel, inhuman and degrading treatment. "*Stripped naked, handcuffed and with my legs tied together, I was hung between two supports with a heavy iron bar between my legs then beaten. The torture lasted approximately 3 hours in a part-built room within the police station*," said the victim. Because of his state of health as the result of this violence, Mr **Samson Mongoto** was taken to the hospital of Makélé-kélé where he was given intensive care. On 8 January 2014, OCDH met the Diata police superintendent and the Djoué central police superintendent to investigate the situation. They both refused to provide any information about what had happened and about the alleged perpetrators, hiding behind the duty of confidentiality, which they are required to observe as police officers. They advised OCDH to contact their superior, the Deputy Director General of the police, to obtain permission for his subordinates to provide information about this case. In addition, the medical certificate issued by the forensic medical examiner states: "*ugly scars on both hands, stiffness*

in the hands and fingers, almost permanent pain, loss of the hypothenar eminence". So far no inquiry or judicial procedure has been opened to identify the alleged perpetrators of these serious acts and bring them to justice.

OCDH and FIDH recall that the Republic of Congo is party to the United Nations Convention against Torture, under which the State has a duty to investigate and punish agents of the State responsible for torture. In addition, under the provisions of Article 2 para. 2 of the Convention, no circumstance may be invoked to justify torture and consequently the duty of confidentiality invoked by the agents of the State does not apply to crimes, especially crimes of torture, which, on the contrary, they have the duty to stop and if necessary report.

2 – The case of Colonel Marcel Ntsourou

On 4 March 2012 a munitions warehouse exploded in Brazzaville resulting in almost 350 dead, 1200 wounded and many others affected. Colonel Marcel Ntsourou, former number 2 in military intelligence and Deputy Secretary General of national security, was accused of having organized the explosion and brought before the court.

In July 2013 he stated in an interview¹ that he could prove that top-ranking military officers and the President, **Denis Sassou Nguesso**, were implicated in the execution and disappearance of 353 people in the Brazzaville Beach case in 1999², a case in which he was summoned to appear before the French examining magistrate.

On 9 September 2013, on conclusion of the trial dealing with the explosion, he was given a suspended sentence of 5 years' forced labour and placed under house arrest.³

On 16 December 2013 there were clashes at his home in Brazzaville between the Congolese Armed Forces (FAC) and members of Colonel Ntsourou's guard, resulting in official figures of between 20 and 42 dead and dozens wounded. After surrendering to the police Colonel Marcel Ntsourou was remanded in custody. Following these clashes some of his relatives were arrested and subjected to torture and degrading and inhuman treatment.

On 21 December 2013 Mr **Bouloukoué Albert Désiré**, Staff Sergeant at the Directorate-General of the Military Intelligence (DCRM), was summoned by his superior, Colonel **Ntodi**. On arrival at the DCRM he was questioned at length on the nature of his links with Colonel **Marcel Ntsourou**, with whom he had worked when the latter was Chief of military intelligence. Although he claimed to have had no further links with **Marcel Ntsourou** he was held in custody

1. Interview on Forum FM on 28/07/2013 (35th - 45th minutes – in French): <http://www.frtdh.org/fr/audio/le-colonel-marcel-ntsourou-se-defend-et-accuse-sassou-de-complot-contre-sa-personne-et-les-tekes-264.html>

2. For the Brazzaville Beach case, in which the FIDH and the OCDH are complainants in the judicial procedure in France, see <http://www.fidh.org/en/africa/Congo,296/The-Disappeared-of-the-Beach-Case/>

3. For all the sentences given to all those charged, see <http://www.rfi.fr/afrique/20130909-explosion-mpila-le-proces-est-terme> (in French)

for 8 days in various places, including the premises of the National Gendarmerie. Since 30 December 2013 he has been held in Brazzaville central remand and detention centre.

At about 2 pm on 14 October 2013 in street Moundzombo, Mougali, **Mr Destin Mpikinza**, commandant of the Congolese Armed Forces, and **Prudent Kikeni**, a driver recruited in September 2013, both relatives of Colonel **Marcel Ntsourou**, were chased by a group of around twenty members of the GRB police corps (*Groupement de Répression du Banditisme* – Anti-organized crime squad) armed with PMKs and pistols. When the driver, Mr **Prudent Kikeni**, tried to accelerate, he was shot in the side. The two men were finally stopped in their vehicle (Toyota Hilux double cabin, registration number 007 FF4).

Handcuffed, hooded then tortured, they were then taken to the Directorate-General of the National Surveillance (DGST – *Direction Générale de la Surveillance du Territoire*) where first aid was administered to **Prudent Kikeni**. The military authorities accused **Prudent Kikeni** and **Destin Mpikinza** of intending to “*plot to buy weapons in order to sow chaos and destabilize the institutions of the Republic*”. They were stripped naked then taken home where searches were carried out without a warrant. The family of Commandant **Destin Mpikinza** state that all his documents (service papers, medical certificate, identity documents and other documents) and his children’s registration documents were taken. The fact that these searches took place when the two men were naked and moreover in front of their families constitutes degrading and humiliating treatment.

During the ten (10) days of their arbitrary detention at the DGST they were allowed no visits from their relatives nor from their lawyers. On 24 October 2013 they were transferred to Brazzaville central remand and detention centre, where they were finally able to be visited by their families and receive two visits from their lawyers. The relatives of **Destin Mpikinza** who were able to visit him in detention state that his body was marked with injuries and that his face was swollen.

On 2 November 2013, without his lawyer and his family being warned and without having been interviewed by an examining magistrate, he was transferred by private jet to the remand centre in Ouessou (approximately 850 km from Brazzaville, in the north-west of the country). This measure, reserved for detainees who cause the authorities the most embarrassment, is equivalent to solitary confinement, especially as instructions from Brazzaville prohibit Mr **Destin Mpikinza** from communicating with his family. These measures indicate the desire of the authorities to keep him incommunicado.

According to information received, at the remand centre in Ouessou Mr **Destin Mpikinza**, who is diabetic, is detained in an overheated room measuring 3m by 3m, with no toilet, and he is not allowed to leave it. His medical certificate prohibits him from working outside Brazzaville and Pointe Noire because of the quality of the health facilities where he is treated. Consequently he has to inject himself with insulin morning and evening. The restrictions imposed on him mean that it is impossible for him to receive the health checks he requires from his doctor, who is in Brazzaville. These measures to keep him a long way from home and in isolation seem to be intended to prevent him from benefiting from the services of a lawyer. They cannot ensure his physical integrity healthy and are putting him in danger.

Mr **Prudent Kikeni**, whom OCDH was able to visit on 30 December 2013, bears on his body the marks of his bullet wound and of the blows that he states he received. He also declares that he has severe pains in the region of his heart and left clavicle, which he says are the consequences of the beating he received from the police officers. Mr **Prudent Kikeni** also complains about the conditions of his detention, in particular the quality of the food.

FIDH and OCDH remind the Congolese authorities that however they are detained or imprisoned people must not be subject to torture nor to cruel, inhuman or degrading treatment and must be treated with humanity and respect for human dignity. In accordance with the provisions of the United Nations Convention against Torture, no circumstance may be invoked to justify torture nor cruel, inhuman or degrading treatment.

3 – Harassment of union leaders

The teachers' union leaders of the Coalition for Improving the Teaching Profession (CRPE – *Concertation pour la revalorisation de la profession enseignants*) and Free Coordination of Teaching Unions of the Congo (COSYLEC – *Coordination syndicale libre des enseignants du Congo*) are still being persecuted by the Congolese government, which has managed to control and divide trade unionists in order to contain the social-protest movement and dissuade other unions from joining the strike.

Following promises that the public authorities did not fulfil, in particular the publication of the order increasing by 300 points the civil servants' salaries index, the order giving teaching staff special status and the order fixing the amounts and methods of allocating bonuses and allowances to national education staff, on 6 January 2014 the leaders of the CRPE and COSYLEC once again ordered a general strike, which since then has seriously disrupted primary and secondary education.

On the same day the government launched a major media campaign of intimidation, accusing the strike leaders of anarchy and wanting to destabilize the institutions of the Republic, and the Chairman of the Brazzaville Regional Court issued a judicial order banning the activities of the CRPE. Since then the union leaders targeted have been regularly visited at their homes by security agents acting without a warrant nor on any other legal basis. Attempts have been made since then to arrest them illegally and they have received death threats by telephone from agents of the Directorate-General of the National Surveillance and its regional branches.

At 6 am on Thursday 9 January State Security agents went to the home of Mr **Marcelin Ganka**, joint chairman of the CRPE. He was not at home but they arrested his wife and younger brother and took them to the premises of the Regional Directorate of the National Surveillance (DDST – *Direction départementale de la surveillance du territoire*). They were released at around 6 pm the same day after being severely threatened. The police gave them a message to pass on to Mr **Marcelin Ganka**: *“Tell your husband to come and sign a declaration of cessation of notification of strike, otherwise we’ll come and get him.”*

At around 6 am on Saturday 11 January DDST agents went to the home of Mr **Fidèle Nkouka**, also joint chairman of the CRPE. Not finding him, they arrested his wife and their four children, all minors, including a six-month-old baby, and took them to the DDST. They were not freed until they had been held for several hours and had been issued with serious threats.

Early the same day Mrs **Monique Ngakosso**, a member of COSYLEC and cosignatory of the strike notice, was arrested at her home by security agents and taken to the DDST. The security authorities accused Mrs **Monique Ngakosso** of having signed a strike notice. She spent two days at the DDST before being released.

Although the union leaders are not yet subject to court proceedings, the order of 6 January 2014 leaves them open to such proceedings if they refuse to comply.

These union leaders have gone back underground as they did last year, whereas the International Labour Organisation (ILO) Convention 87 on trade-union freedom, which has been ratified by the Congo and the provisions of which are incorporated in its Constitution, states that *“nobody*

must be either deprived of his freedom or punished for simply organizing or taking part in a peaceful strike". The Congolese government must take cognisance of the fact that *"all individuals have the right to freedom and personal safety."* Nobody may be deprived of his freedom except for reasons and in circumstances already enshrined in law.

Our organizations consider that the only aim of the court order of 6 January 2014 banning the activities of the CRPE was to prevent and stifle any union action and was taken on the basis of purely political considerations in order to stifle the teachers' demands. Instead of negotiating, the Government prefers to use violence.

4 – Freedom of assembly and political rights

On 10 January Mr **Hilaire Eyima**, a teacher of French at the *Lycée de la Révolution* in Brazzaville, was arrested by members of the DGST while he was teaching. He was taken to the DGST, where he was interrogated. According to the DGST's records Mr **Hilaire Eyima** had chaired a political meeting of the supporters of Mr **Okombi Salissa**, a former member of the ruling party, the Congolese Workers' Party (PCT – Parti congolais du travail), who lost his ministerial post, was recently expelled from the PCT and since then has been critical of the current régime. He denied the accusation and was therefore released. His arrest is a bad omen for respect for freedom of assembly, in particular for the political freedom of politicians, both men and women, deemed to oppose the régime.

Conclusion and recommendations

At the same time as the political situation in the Congo is deteriorating, the human rights' situation is also deteriorating. The international community must pay particular attention to the situation in the Congo in order to prevent the risk of a total disaster, which would jeopardize fundamental rights and freedoms in an already very troubled region.

In view of this unacceptable situation, which indicates lack of respect for human rights and confirms that perpetrators go unpunished, FIDH and OCDH urge the Congolese Government to:

- In view of the irregularities in the procedure, free Commandant **Destiny Mpikinza** and the other detainees mentioned in this report;
- Identify those who carried out this torture and bring them to justice;
- Put an end to arbitrary arrests and detention carried out by law-enforcement agents;
- Respect freedom of assembly and the right to demonstrate peacefully;
- Set up an independent Observatory of the prison system consisting of agents of the State and human-rights NGOs in order to inspect the system of placing people in detention; and ensure that detainees are protected against any form of cruel, inhuman and degrading treatment;
- Bring Colonel Marcel Ntsourou before an independent judge to give his version of the facts and responsibilities in the case of the Brazzaville Beach disappearances;
- Repeal the court order of 6 January 2014 banning the activities of the CRPE;
- Re-establish the trust of union leaders by conducting serious negotiations, thus ending the persecution of trade unionists;
- Comply with all the commitments freely entered into by the Republic of the Congo to protect human rights and fundamental freedoms.

We also urge the judicial service's union to:

- Take all necessary measures to restore the authority of justice since the Congolese police and army give themselves too much power and act in a totally arbitrary manner to the detriment of a strong and impartial judicial system that guarantees real democratic control and respect for human rights.



This publication has been produced with the support of the French Ministry of Foreign Affairs' General Directorate of Globalisation. The statements made in this publication are solely those of FIDH and OCDH and can in no way be taken to reflect the views of the French Ministry of Foreign Affairs.

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.

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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.

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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.



Created on 3 March 1994, **the Congolese Observatory for Human Rights (OCDH)** pursues the following objectives:

- The promotion of human rights, peace, democracy and the rule of law;
- The defense and protection of the rights and freedoms of individuals;
- The contribution to the harmonization and development of legislation in line with human rights' international standards, including conventions that Congo has ratified, and
- The fight against impunity for perpetrators of human rights' violations.

Through its work for the defense and promotion of human rights, OCDH attempts to sensitize the Congolese civil society to national and international legal instruments relating to human rights, in order to improve their understanding. OCDH also makes the documentation of human rights' violations a priority, in order to contribute to the fight against impunity and a better respect for human rights and fundamental freedoms. Moreover, OCDH conducts legal and medical assistance

programmes to support victims of human rights' violations. The organisation also carries out an active advocacy work before national institutions, regional and international organizations.

Winner of the 2006 prize of Human Rights of the French Republic, OCDH is a member organisation of the International Federation for Human Rights (FIDH) and the World Organisation against Torture (OMCT), and holds observer status with the African Commission on Human and Peoples' rights (ACHPR) of the African Union.

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Design: CBT

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inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest, detention or exile. Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. Article 11: (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty

ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

A broad mandate

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

A universal movement

FIDH was established in 1922, and today unites 178 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

An independent organisation

Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.

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