

THE OBSERVATORY

for the Protection of Human Rights Defenders

L'OBSERVATOIRE
pour la Protection
des Défenseurs des Droits de l'Homme

EL OBSERVATORIO
para la Protección
de los Defensores de Derechos Humanos

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Contribution by
The International Federation of Human Rights (FIDH) and the World Organisation Against Torture (OMCT)

Under their joint programme
The Observatory for the Protection of Human Rights Defenders

Under the topic on the agenda:
"Situation of Human Rights Defenders"

The FIDH and the OMCT, under their joint programme, the Observatory for the Protection of Human Rights Defenders, would like to draw the attention of the members of the African Commission of Human and Peoples' Rights (ACHPR) on the worsening situation of human rights defenders in the African continent in 2005.

Indeed, this year was marked by numerous acts of violence, including killings, against human rights defenders in a great number of countries, in particular the Democratic Republic of the Congo, Sudan, Tunisia and Zimbabwe. These acts, along with the many forms of repression (death threats, arbitrary arrests, judicial proceedings, harassment etc.), amount to a flagrant violation of the provisions of the African Charter for Human and Peoples' Rights and of the Declaration on Human Rights Defenders adopted by the UN General Assembly on 9 December 1988.

Lastly, the acts of reprisal against human rights defenders in Africa have mostly gone unpunished.

I - Killings / Attempt of killings

In the *Democratic Republic of Congo* (DRC), where reprisals against human rights defenders have increased during 2005, two defenders were killed: Mr. **Pascal Kabungulu Kibembi**, executive secretary of the Human Rights Organisation "Heirs of Justice" (*Héritiers de la justice*), and vice president of the Human Rights League in the Great Lakes Region (LDGL), was shot dead during the night of 30/31 July 2005 in Bukavu. Two military officers, suspected of being involved in this killing, were arrested on 4 August 2005. However, to this date they have not appeared before the Military Court and have not been charged.

Furthermore, Mr. **Polycarpe Mpoyi Ngongo**, coordinator of the National Network for the Observation and Supervision of Elections in the Congo (RENOSEC) at its section in the Kasai Oriental province and head of the Centre for Training and Popular Education (CEFOP), was killed suddenly after being run over by a car of the Rapid Response Police (PIR), on 9 November 2005. A few days before these events, Mr. Mpoyi had received several death threats from the military police.

In *Sierra Leone*, Mr. **Harry Yansaneh**, former editor in chief of the independent newspaper *For di people*, and member of the Sierra Leone section of Amnesty International and of the National Human Rights League, died on 28 July 2005, as a result of being attacked on 10 May 2005 in Freetown. Some of his alleged assailants are members of the family of Mrs.

Fatmata Hassan, deputy and member of the Sierra Leone People's Party (SLPP), the ruling party. On 26 August 2005, an inquest by a coroner concluded that the cause of Mr. Yansaneh's death was involuntary manslaughter. That same day, on the basis of this report, Mrs Fatmata Hassan, Mr. Reginald Bull, caretaker for the premises of *For di people*, and Mr Olu Campbell, who were all present at the time of the attack, were arrested and taken into custody. However, they were released on bail and, to this date, no charges have been brought against them.

In *Niger*, Mr. **Nouhou Mahamadou Arzika**, president of the Equity/Quality Coalition against the high cost of living in Niger, was the victim of an attempt of killing, on 26 October 2005, by Mr Moussa Dan Foulani, a businessman known to be close to the government. Mr. Dan Foulani forced his way into Mr Arzika's office and threatened him with death before attempting to shoot him; but his gun jammed. Two men who were with Mr. Dan Foulani then lunged towards Mr. Arzika and beat him up. He finally managed to escape with the help of one of his colleagues.

Lastly, in the *Gambia*, the murder in December 2004 of Mr. **Deida Hydara**, a journalist committed to the defence of human rights, has still not been punished almost one year after the facts. The Chief Police Inspector who was in charge of the investigation into the murder, was imprisoned in February 2005 and charged with corruption. He had said that Mr. Hydara had been threatened on several occasions and that he was following definite leads into the matter. The *National Intelligence Agency* (NIA) then took charge of the investigation and on 3 June 2005, published a report that favoured the theory that this was a settling of scores or a case of "embezzlement of funds".

II – Attacks / Torture / Mistreatment

The Observatory is also concerned about other methods of reprisals involving the physical integrity of human rights defenders.

For example, in the *DRC*, during a demonstration protesting against the kidnapping, the day before, of Mr. **Golden Misabiko**, president of the African Association for Human Rights, Katanga section (ASADHO-Katanga), six human rights activists were arrested. They were: Mr. **Timothée Mbuya**, head of publishing at ASADHO-Katanga, Mr. **Hubert Tshiswaka**, executive director of Action against Impunity for Human Rights (ACIDH), Mr. **Peter Kaodi**, head of publishing at ACIDH, Mr. **André Murefu**, a member of Dag's Friends for Human Rights, Mr. **Emmanuel Impula**, a member of ACIDH and Mr. **Séraphin Kapenda**, a member of the Centre for Human Rights and Humanitarian Law (CDH). All of them, including Mr Misabiko, were forced to lie on the ground and look straight at the sun uninterrupted for two hours, under threat of being whipped, while being kicked by police officers who had their guns trained on them. Later they were all led into a damp dungeon and sprayed with an unidentified substance which irritated their nostrils and throats. They were all released in the evening of 3 June.

In addition, the home of Mr. **Dismas Kitenge Senga**, president of the Lotus Group in Kisangani, was set on fire by several unknown persons during the night of 22/23 September 2005, after he had made several statements on 16 September 2005, regarding human rights violations perpetrated by the Presidential Special Security Guard (GSSP) in the Kisangani region.

In *Kenya*, Mr. **Ojiayo Samson** and Mr. **Mithika Mwenda**, members of the Multi-Sectional Forum (MSF) - Yellow Movement, an organisation calling on the people participation in the process of revising the Constitution, were arrested and beaten while they were taking part in a demonstration in Maua on 18 June 2005. Mr. Samson was detained in a solitary confinement block at the police station in Njiru whilst Mr. Mwenda was admitted to hospital in Maua, chained to his bed and put under surveillance. On 21 June 2005, Mr. Samson and Mr. Mithika Mwenda were released on bail.

In *Tanzania*, Mr. **Christopher Kidanka**, head of information at the Legal Human Rights Centre (LHRC), was severely beaten by prison wardens in Dar es Salaam on 10 September 2005, while he was covering the forced expulsion of several inhabitants of the Ukonga quarter. Mr. Kidanka was trying to help Mr. **Bukuku**, a journalist at *The Citizen* who was also beaten up by the prison wardens. The wardens then arrested several people including Messrs. Kidanka and Bukuku, and locked them up for two hours in a car in full sunshine, without giving them any water or taking them to hospital although they were both bleeding profusely.

In *Tunisia*, human rights defenders are still being subjected to many acts of violence. For example, on 8 November 2005, Mr. **Mokthar Trifi**, president of the Tunisian Human Rights League (LTDH) was brutally hit in the eyes during the repression of a peaceful gathering in support of eight hunger strikers who were protesting against the deteriorating state of freedoms in Tunisia.

In *Togo*, Mr. **Jean-Baptiste Dzilan**, *alias* Dimas Dzikodo, an independent journalist and member of the Togolese Human Rights League (LTDH) and of the Journalists Human Rights Organisation (JDHO), was attacked and beaten up

by a dozen unknown armed men on 9 October 2005. His attackers also sprayed his face with tear gas, before trying to make him swallow an acid “pill”, made from unknown substances, which gave him several burns and dried up his mucous membranes.

In *Zimbabwe*, defenders continue to be the target of severe acts of violence. For example, five members of the Institute of Public Opinion Polls, Mr. **Officen Nyaungwe**, Mr. **Claris Madhuku**, Mr. **Sozwaphi Masunungure**, Mr. **Isaiah Makatura** and Mr. **Wilson Shonhiwa** were kidnapped on 25 October 2005, and brutally beaten for three hours by a group describing themselves as “war veterans” and by a soldier of the national army. These five men were conducting a research project into democracy in Africa. Their attackers then established that Mr Claris Madhuku was related to Mr. **Lovemore Madhuku**, president of the National Constitutional Assembly (NCA), and beat him even more brutally. Messrs. Officen Nyaungwe, Claris Madhuku, Sozwaphi Masunungure, Isaiah Makatura and Wilson Shonhiwa were admitted to the *Avenues* clinic where two of them were hospitalised due to the seriousness of their wounds.

III – Threats

In the *Central African Republic*, at least four victims of international crime who had taken part in a seminar, organised by the FIDH and the Central African Human Rights League (LCDH), in collaboration with the UN Bureau for Central Africa (BONUCA) on 19 September 2005, on the jurisdiction of the International Criminal Court (ICC) and on the organisation of victims and their rights in the ICC, were subjected to serious threats aimed at dissuading them from working with the FIDH, convincing them of the hopelessness of their efforts and urging them to tear up their membership cards of the Organisation for Compassion and Development of Families in Distress (OCODEFAD), which brings together about 800 victims of international crime.

In the *DRC*, Mr. **Jean-Claude Muyambo Kyassa**, national president of Katanga Solidarity, honorary director of the Human Rights Centre (CDH) and president of the Lubumbashi Bar Association, regularly receives threats of arrest, kidnapping and death.

Similarly, Mr. **Paul Nsapu**, president of the League of Electors (LE), was forced to leave the DRC in July 2005 because of repeated death threats. In particular, Mr. Kanga Bongo, a member of the People’s Party for Reconstruction and Democracy (PPRD, the ruling party) said that if Mr. Nsapu had taken part in the demonstration on 30 June 2005 against the prolongation of the transition period and during which several demonstrators were killed, “he would have been killed without any mercy or any other form of legal process”. On 29 August 2005, the LE also received several anonymous calls, when Mr. Nsapu and his family were insulted and threatened. Lastly, Mrs. Nsapu was told in an anonymous call that she was being followed constantly and that those making threats against her “knew her every movement”. Two armed men also came to her house and threatened her, saying that they were acting on the orders of the authorities. Mr. Nsapu is still the subject of a smear campaign, because of his refusal to play a role in the government institutions dealing with the transition process in the DRC, and his involvement in civil society organisations that monitor the respect of public freedoms.

In the *Ivory Coast*, defenders who condemned the violations perpetrated by the parties to the conflict have, since November 2004, been targeted with death threats, mainly by the authorities, such as members of the Ivory Coast Human Rights Movement (MIDH). On 29 January 2005, Mr. **Amourlaye Touré**, MIDH president, received an anonymous letter saying that the members of his organisation should consider themselves “bound for hell”. Moreover, he was later informed by different sources of the threat of punitive raids on the head office of his organisation as well as the likelihood of an attack against himself. On 21 March 2005, Mr. Touré received some more messages, advising him that his movements were being followed and he was being spied upon.

In *Togo*, following the presidential elections on 24 April 2005, human rights defenders have not only been prevented from working but their physical and psychological integrity has also been seriously threatened. Anyone wishing to observe the elections was prevented from doing so by the forces of order; the independent media were closed on the orders of the national authorities, and there was a communications blackout. Besides, a conference of the LTDH was disrupted on 13 May 2005 by persons close to the authorities with the support of about fifty militiamen. Mr. Begbessou, an ally of the government, punched Mr. **Estri Clumson-Eklu**, LTDH vice president, in the face and made threats against the organisation.

In addition, since June 2005, a smear campaign against the LTDH and the FIDH has been waged by the media following their joint mission in the Togo refugee camp in Benin. This mission in particular was described as the “dangerous and subversive activities of the FIDH and its acolytes in Benin and Togo” and the LTDH was described as “the criminal in chief”.

IV – Arrests / Arbitrary detentions / Judicial proceedings

Using the judiciary for repressive ends is still accepted practice in several countries. In addition, many defenders have been or are still detained arbitrarily, without any charge being made against them.

In *Cameroon*, Mr. **Alhadji Mey Ali**, president of the NGO *Organe de la société civile (OS_civile)*, and Mr. **Alhadji Mamat**, chief of the Sao district in Afadé, were summoned to appear before the court of first instance in Kousseri on 25 August 2005, charged with “slandering and defamation”. These lawsuits which, in mid November 2005, are still pending, followed two complaints lodged by Messrs. Mey Ali and Mamat with the head of the *gendarmérie* in the Far North province in Maroua, regarding “acts of torture and cruel treatment” perpetrated by sergeant Enama Pantaleon and/or his children against the inhabitants of the district.

In *Djibouti*, trade unionists continue to be the target for reprisals. Between 24 and 26 September 2005, more than 160 people, trade union leaders and activists, were arrested by the National Police Forces (FNP), following a general strike by Djibouti harbour workers that took place from 14 to 17 September 2005. In addition, 12 trade union leaders, taken into custody after their arrest, were brought before the Djibouti court of first instance on 2 October 2005. The court acquitted them and ordered their release. The Public Prosecutor of Djibouti appealed this decision.

In *Eritrea*, three trade unionists were detained in secret for seven months: Mr. **Tewelde Ghebremedhin**, president of the Federation of the Food and Drink Industries, Hotel Business, Tourism, Agriculture and Tobacco Workers, affiliated to the International Union of Food, Agriculture, Hotel/restaurant and Tobacco Workers and related branches (UITA), and Mr. **Minase Andezion**, secretary of the Federation of Textile and Leather Workers, were arrested by the security forces on 30 March 2005. A few days later, Mr. **Habtom Weldemicael**, president of the Coca-Cola Workers Union and a member of the executive committee of the Federation of the Food and Drink Industries Workers, was also arrested for having encouraged, according to the authorities, protest action in the company against the deterioration in the workers’ standard of living. Since then, there has been no further information regarding their situation.

In *Ethiopia*, the defenders who attempted to condemn human rights violations perpetrated at the demonstration of 8 June 2005 in Addis Abeba, during which 26 people were killed and about a hundred other people were injured, have been prosecuted. Mr. **Tadesse Chernet**, who was appointed by the Ethiopian Human Rights Council (EHRCO), Mr. **Tsegu Birhanu**, head of the Monitoring and Investigation department of EHRCO, and Mr. **Yared Halemariam**, his assistant, were also arrested and detained. On 4 July 2005, they were released on bail after a third court hearing by the Temporary Federal Court of Zeway, but are still charged with “trying to overthrow a legitimate government by force”.

In *Mauritania*, Mr. **Mohamed Ahmed Ould El Hadj Sidi**, lawyer, legal adviser for SOS-Slaves (and an active member of the Mauritanian Human Rights Association (AMDH) and of the Trade Union for Higher Education Teachers, was arrested on 25 April 2005, as part of a police operation against eleven religious and intellectual representatives, on the grounds that they belonged to a terrorist group. Mr. Mohamed Ahmed Ould El Hadj Sidi was taken to the Nouakchott Police Academy where he had no access to a lawyer, nor to a doctor, nor was he allowed visits from his family. He was released on 13 May 2005 without charge.

In *Sudan*, human rights defenders are still being prosecuted arbitrarily. For example, Mr. **Mudawi Ibrahim Adam**, and Mr. **Yasir Saleem**, photographer in the information unit of the Organisation for the Social Development of the Sudan (SUDO), were arrested on 8 May 2005 by officers of the National Security and Information Agency of the Sudan (NSA), and later transferred to the “Altanfeezi” detention centre in north Khartoum. Mr. Mudawi and Mr. Yasir were charged with spying, a crime punishable by death, and with “infiltrating and photographing military zones and activities”. Mr. Mudawi and Mr. Yasir were respectively released on 12 and 17 May 2005. However, the charges against them have not yet been lifted.

V – Constraints on Freedoms of Association, Assembly and Demonstration

In *Niger*, the National Commission for Human Rights and Fundamental Freedoms (CNDHLF) was hastily renewed by decree, in the Council of Ministers, in August 2005. The independent human rights associations were excluded from the process of appointing members of the Commission, whose composition was announced so hastily. Thus, two members of the Niger Organisation for the Fundamental Development of Human Potential (ONDPH) and the Human Rights Citizen Movement (MCDH), created in June 2005 for the occasion, were appointed as civil society representatives to the board of the Commission. This appointment violates the laws of Niger and the principles of Paris that stipulate that these representatives should be appointed by all the civil society organisations.

In *Sudan*, a decree on the activities of humanitarian organisations was signed on 4 August 2005 by the President of the Republic. This project is aimed, mainly, at giving the Sudanese authorities control over NGOs. In particular, the registration conditions for associations have been greatly tightened. The suspension of an organisation's activities, its closure or its dissolution and expulsion are the many sanctions that may be applied at the discretion of the authorities. Lastly, receiving funds from abroad must be authorised by the authorities.

The freedoms of association and assembly are still being flouted blatantly in *Tunisia*, where legal actions have been instigated against the Tunisian Human Rights League (LTDH), to obtain a prohibition against holding and preparing for its congress. These legal actions are the result of a joint petition by 22 people, alleging their membership to LTDH, but who are known to be affiliated to the Democratic Constitutional Rally (RCD, the ruling party). An interim ruling of 5 September 2005 ordered that the congress that was originally to be held on 9, 10 and 11 September 2005, be postponed until a final judgement was given. The first hearing of the merits of the case took place on 12 November.

In addition, the National Council of Freedoms in Tunisia (CNLT) was prohibited on several occasions from holding its annual general meeting by a large police presence of about a hundred officers.

Moreover, the office of the Association of Tunisian Magistrates (AMT) was closed at the end of August by the prosecutor of the court of first instance in Tunis, and several members of the AMT have been transferred, often far from their original jurisdiction.

Lastly, the Citizen Summit on the Information Society (CSIS), which was to take place alongside the official summit on 16 and 17 November 2005, was not able to be held due to the refusal of the authorities to give the participants a hall.

Finally, in *Zimbabwe*, there have been numerous arrests as part of a systematic repression of peaceful assemblies calling for the democratisation of the country. For example, Mr. **Lovemore Madhuku**, NCA president, and Mr. **Bright Chibvuri**, journalist for *The Worker*, a newspaper published by the Congress of Trade Unions of Zimbabwe (ZCTU), were arrested on 4 August 2005 in Harare at a demonstration for the adoption of a new constitution, in front of the building where a public meeting was being held on the proposed changes in the Constitution of Zimbabwe that were likely to undermine the respect of fundamental freedoms. Mr. Madhuku and Mr. Chibvuri were charged with "inciting riot, disorder and intolerance".

VI - Recommendations

In view of the upsurge in attacks against human rights defenders, the Observatory for the Protection of Human Rights Defenders calls upon:

– **the Member States of the African Commission for Human and Peoples' Rights to:**

- recognise the crucial role played by human rights defenders in implementing the Universal Declaration of Human Rights and other instruments relating to human rights, including the African Charter of Human and Peoples' Rights, and also in preventing conflicts, in the accession of the rule of law and in democracy,
- put an end to any form of repression against human rights defenders and comply with the provisions of the Declaration on Human Rights Defenders, in particular articles 1 and 12.2,
- ensure that the text of the Declaration on Human Rights Defenders, adopted by consensus in 1998, is distributed as widely as possible.

– **the African Commission for Human and Peoples' Rights:**

- to adopt at its 38th session a resolution renewing the mandate of the Special Rapporteur on Human Rights Defenders.
- to keep up and increase collaboration with the Special Representative of the UN Secretary General on human rights defenders, as well as with the other regional mechanisms protecting human rights defenders.

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