

FIDH – International Federation for Human Rights

24th Summit of the African Union

RECOMMENDATIONS

South Sudan : the African Union should publish the report of its Commission of Inquiry and support the establishment of mechanisms of justice

More than a year after the outbreak of the conflict between the forces loyal to Salva Kiir and those supporting Riek Machar, the parties have not yet concluded any effective political agreement. Meanwhile, armed clashes have continued to be reported and several testimonies have reported a proliferation of armed groups. Against this backdrop, internal displaced persons (more than 1.4 million) and refugees (almost 450,000) remain unsafe and those responsible for serious crimes remain at large.

During its mission to South Sudan, FIDH could notice that years of impunity have been recognised by many actors as one of the key factor of the serious crimes committed since the outbreak of the conflict in December 2013. A Presidential Committee has been established to shed light on the circumstances which led to the outbreak of the conflict and investigate the human rights violations perpetrated by both parties. FIDH interlocutors raised concerns over the weaknesses of this process, in particular the lack of independence and impartiality of the Committee and the lack of adequate protection for victims and witnesses. Similarly, while this Committee submitted its report to the President of the Republic in early December 2014, its conclusions and recommendations have not been made public.

The AU Commission mandated a Commission of Inquiry to shed light on the violations perpetrated by the belligerents. The Commission went to South Sudan on several occasions, collected evidence on the crimes, gathered testimonies from victims, from civil society organizations, from state representatives and other stakeholders and has potentially identified those allegedly responsible. The Commission concluded its inquiries in August 2014 and submitted its report to the President of the AU Commission in October. In a context of widespread impunity, high expectations have been placed in the publication of the conclusions and recommendations of the Commission's report.

FIDH [reiterates its recommendations addressed to the African Union concerning the situation in South Sudan](#), and insist in particular on those calling upon AU to :

- Publish without delay the report of the African Commission of Inquiry on South Sudan ;
- Support the establishment of mechanisms of justice, in particular a Special court court system to be set up within the national judiciary which would provide for South Sudanese and specially trained foreign investigators and judges to continue the investigations and try perpetrators of international crimes ; and a truth and reconciliation Commission ;
- Ensure that these mechanisms are impartial and independent and that they have the material and human resources necessary to the conduct of their mission ;
- Ensure that these mechanisms of justice guarantee the participation of victims into the proceedings and provide measures for their protection and the protection of witnesses ;
- Call upon IGAD to strengthen its mediation efforts and to guarantee that no amnesty or immunity is granted to those allegedly responsible for serious crimes ;
- Support the adoption, by the United Nations Security Council, of an embargo on arms and adopt individual sanctions in case of resumption of the fightings.

Central African Republic : the African Union should support the establishment of the Special criminal court

In Central African Republic (CAR), anti-balaka and ex-seleka continue to commit violations, as demonstrated by the exactions committed during the past months, in particular in the center of the country. The missions carried out in CAR by FIDH since 2003 have noticed that the authors and responsible of the crimes committed since the outbreak of the current conflict are often the same as those identified during previous conflicts. Thus, for FIDH, the *Ligue Centrafricaine des Droits de l'Homme* (LCDH) and the *Observatoire Centrafricain des Droits de l'Homme* (OCDH), setting aside these actors of instability would contribute to stop and prevent further crimes.

Following the recommendations formulated by our organisations, the president of the transition, Ms. Catherine Samba-Panza, and her government created, in April 2014, a Special Investigation and Examination Unit (CSEI) mandated to investigate the serious human rights violations and to prosecute the perpetrators of these crimes. On 8 August 2014, the United Nations and the authorities of CAR signed a memorandum of understanding providing for the creation of a [Special Criminal Court](#) (CCS), of which the CSEI will form one part, and which would be mandated to investigate and prosecute the international crimes perpetrated in the country. This CCS will be created and able to act after the adoption, by the National Council of Transition (CNT) of a specific bill. To complement these national mechanisms, the President of the transition had seized, in June 2014, the International Criminal Court to open an investigation on the international crimes committed in CAR since 2012. [The ICC Prosecutor opened such an investigation on September 24, 2014.](#)

Our organisations welcomed these important developments considering the scale and seriousness of the crimes committed in CAR. As the ICC will only prosecute those bearing the highest responsibility for the crimes committed, our organisations reiterate their call upon the establishment of the CCS without delay. This mechanism will contribute to the efforts aimed at restoring peace and security in this country as well as to the reconciliation process.

FIDH [reiterates its recommendations addressed to the African Union concerning the situation in CAR](#) and insist in particular on those calling upon the AU to :

- Call upon the National Council of transition (CNT) to adopt without delay the Bill establishing this special criminal court and to provide specialised investigators and judges to the Court ;
- Ensure that the CSEI and CCS have the material and human resources necessary to the conduct of their mission ;
- Ensure that these mechanisms of justice guarantee the participation of victims into the proceedings and provide measures for their protection and the protection of witnesses ;
- Cooperate with the International Criminal Court in the framework of its inquiry on the crimes committed in CAR since 2012, in particular through the transmission of information on the crimes under the jurisdiction of the Court which would have been documented by MISCA and MINUSCA ;
- Support the renewal, by the United Nations Security Council, of the mandate of the International Commission of Inquiry on the human rights violations.

Mali : the African Union should support the national judicial proceedings and the establishment of transitional justice mechanisms

The peace negotiations on Mali are crucial for the future of the country and the sub-region. According to Drissa Traoré, FIDH Vice-President. « ***The parties can either commit themselves to ending impunity to guarantee a lasting peace, or they can decide to grant amnesties to themselves and see the cycle of violence start again*** ». ***"We call upon all parties to make a clear and strong commitment to rule out amnesty, to support justice and not to ask for the liberation of alleged perpetrators of serious crimes or protect them"*** he added.

[FIDH and AMDH have noticed that since 2012](#), several events have led to concerns about manipulation of the justice system for political purposes. First, there has been successive liberations of alleged perpetrators of serious human rights violations committed in the North of the country. Then, the discussions aimed at having all procedures opened before national justice authorities referred to a special unit on the fight against terrorism and transnational crimes, which could lead to the pursuit of terrorism charges only, disregarding charges related to human rights violations.

These concerns have been raised during the [international seminar on transitional justice and reconciliation organised in Bamako by FIDH and AMDH](#). The 230 participants in the seminar have adopted a road-map for the reconciliation process in Mali which affirms victim's rights to justice and reparation ; which considers that the fight against impunity of those responsible for serious crimes should constitute a priority for transitional justice and national reconciliation ; and which refuse any amnesty which could be granted during the ongoing peace negotiations to those allegedly responsible for serious crimes.

FIDH and AMDH reiterate their recommendations formulated to ensure that the peace process in Mali are founded on the recognition of the need for justice and call in particular the AU to :

- Ensure that, within the framework of the negotiations, no amnesty or immunity is granted to those allegedly responsible for war crimes, crimes against humanity and other serious violation of international law ;
- Call upon the authorities of Mali to provide to the judges currently responsible for leading the ongoing proceedings on the crimes committed in Mali, with the mandate to investigate on the serious human rights violations ; or to consider the creation of a unit specialised in serious human rights violations, in particular those committed in the North ;
- Call upon the authorities of Mali to ensure the independence and impartiality of the Truth, Justice and Reconciliation Commission (TJRC) and to give to the Commission the material and human resources necessary to the conduct of its mission ;
- Ensure that the report of the African Human Rights Observers deployed in Mali are made public and that they contain recommendations on the fight against impunity of the authors of the most serious crimes.

Libya : the African Union should monitor the respect of the ceasefire and support the establishment of an International Commission of Inquiry on the human rights violations committed by the parties

Since May 2014, violent clashes between rival armed groups in Libya have intensified and have had major impacts on the protection of civilians in the country, as well as on peace and security in the sub-region. Between May and November 2014, the amount of death related to the conflict is estimated to around 2,800 victims, and almost 392,420 persons have been forced to displace within the country in order to flee the hostilities. Civilians have been the main targets of direct and indiscriminate attacks, extra-judicial killings, abductions, or act of torture and other ill-treatment. Attacks and assassinations also targeted human rights defenders, journalists and lawyers, and many have sought protection abroad thus limiting their ability to document the violations perpetrated. Besides, justice is almost completely parallelized and impunity prevails. The crisis has severely impacted on Libya's infrastructure, preventing entire regions from accessing fundamental resources (including water, electricity, fuel and health care). Libya's largest fuel reservoirs have been set alight, which has created a toxic cloud that has caused the evacuation of surrounding areas and resulted in an environmental disaster.

FIDH welcomes the declaration of unilateral ceasefire by the parties, made on 18th January, but raises concerns following the violations of these agreements in the following days and calls upon the adoption of concrete and effective measures aimed at their implementation. Our organization, also welcomes the African Union's initiatives within the framework of the International Contact Group on Libya (ICG-L) and considers that the AU has role to play to guarantee the ceasefire and contribute to the restoring of peace and security in Libya. To this effect, FIDH calls upon the AU to :

- Ensure, in coordination with the United Nations, the establishment of a mechanism to monitor the ceasefire agreed by the parties, and encourage the truce ;

- Ensure that no amnesties and immunity will be granted to those responsible for committing abuses and violations of international human rights and humanitarian law. In particular call upon the repeal of the law 38 of 2012 which provides for amnesties for “actions made necessary by the February 2011 revolution” ;
- Support the establishment of an International Commission of Inquiry Commission mandated to document the violations of international human rights and humanitarian law perpetrated in Libya since February 2011, to identify those responsible and to propose mechanisms providing justice and reparations to victims.
- Call upon the implementation of the Resolution 2174 (2014) which impose sanctions, in particular travel bans and asset freezes against individuals allegedly responsible for human rights violations.
- Call for a blanket embargo on arms, that prohibits Libya and any other entity involved from buying or selling arms.

Fight against terrorism : the African Union should guarantee the compatibility of the fight against terrorism with the protection of human rights

The massacre on 3 January 2015, by Boko Haram of more than a thousand people in Baga, North East Nigeria, recalls how armed groups carrying out terrorist actions (suicide bombings, massacres, bombings, etc.) and terror strategies have been permanently implanted on the continent. After the attacks in Nairobi and Dar el Salam in the 90's, Africa has experienced the horrors of terrorism in Algeria and the Islamist Shebab have sadly opened the twenty-first century in Africa. North Africa, the Sahel and the Horn of Africa are now directly threatened by armed groups, with a radical ideology, allying to cause chaos, terror and to establish archaic regimes.

Faced with Boko Haram, AQMI, Al Shabaab, Mujao and other terrorist groups, Member States of the African Union should be united in solidarity to protect the provisions of the African Union Constitutive Act and the rights of their citizens. Initiatives are taken to achieve the operationalisation of African forces, including the African Standby Forces (ASF) and the African Capacity for Immediate Response to Crisis (ACIRC). For FIDH, in order to fight efficiently against the terrorist threats, these initiatives should provide room for a holistic response which includes security measures, human rights protection and institutional measures. To this effect, FIDH calls upon the AU to :

- Guarantee an efficient coordination of the fight against terrorism, cross-border networks of financing and arming of terrorist groups;
- Ensure that measures adopted to fight against terrorism are compatible with State's obligations to respect and protect human rights. Integrate, with AU military missions a human rights section, responsible for collecting information on human rights violations perpetrated by terrorist groups and ensure respect for human rights in the conduct of operations against terrorism conducted by the forces of the AU.

Elections : the African Union should prevent the risks of conflicts and crisis in the countries planning to hold elections

Between 2014 and 2016, 52 elections, including 25 presidential elections are scheduled to be held in 27 African countries. Elections constitute in several countries moments of high risks, where violence can prevail, as currently observed in the [Democratic Republic of Congo](#). The African Union should act and take measures to prevent the risks of violence. AU should in particular :

- Call upon the organisation of free, transparent, credible and secure elections ;
- Condemn all attempt to maintain or take the power through unconstitutional means ; and Implement the sanctions provided for within African instruments ;
- Firmly condemn the acts of violence perpetrated during electoral processes, in particular the excessive and disproportionate use of force by the authorities to suppress peaceful demonstrations and to Call upon the authorities to ensure that those responsible for violations are held to account before competent jurisdictions ;

- Call upon States to guarantee fundamental rights and freedoms, including freedom of expression, opinion and assembly ; and to guarantee in particular the protection of the rights of human rights defenders and journalists ;
- Deploy long-term missions of electoral observation, in particular in situations presenting high risks such as DRC, Burundi or Guinea-Conakry ;
- Call upon States to ratify the African Charter on democracy, elections and governance and implement its provisions ;
- Cooperate with civil society organisations that are mobilised for the holding of credible electoral processes.

Human Rights Defenders : the African Union should call upon the immediate release of Dr. Amin Mekki Medani in Sudan and of Yara Sallam in Egypt

Sudan

On 6 December 2014, the Government of Sudan's NISS arrested Dr Amin Mekki Medani, former President of the organisation Sudan Human Rights Monitor (SHRM, FIDH member organisation in Sudan) and Mr Farouq Abu Eissa, political opposition figure, in Khartoum. Both men were detained after signing the "Sudan Call" on 3 December in Addis Ababa. The "Sudan Call" is a declaration that commits signatories to work towards the end of the conflicts raging in different regions of Sudan. The document also pledges to work towards legal, institutional and economic reforms. On 7 December, NISS also arrested Dr Farah Ibrahim Mohamed Alagar, who had also attended the Sudan Call negotiations in Addis Ababa but had not signed the resulting document.

On 21 December 2014, NISS raided the offices of the Sudanese Human Rights Monitor (SHRM) in Khartoum, founded by Dr Amin Mekki Medani. A workshop on the Universal Periodic Review of Sudan taking place on the premises was stopped and participants required to leave. A number of laptops and documents were confiscated.

These arrests and the raid on SHRM come following a pattern of detentions – and prosecutions - that appear aimed at silencing any form of criticism of the policies of the ruling party or the human rights violations committed against civilians in Darfur, South Kordofan and Blue Nile. The past six months have seen scores of political and youth activists, as well as prominent human rights defenders, detained.

FIDH calls upon the African Union to call upon the authorities of Sudan to :

- Immediately release Dr Amin Mekki Medani, M. Farouq Abu Eissa, and Dr. Farah Ibrahim Mohamed Alagar, and to respect without conditions their rights guaranteed under the African Charter on Human and People's Rights and the other regional and international human rights instruments ratified by Sudan.

FIDH reiterates its call upon the African Union to :

- Support the deployment of an independent commission of inquiry to shed light on the repression of September 2013 demonstrations, establish the responsibilities and bring those responsible before courts;
- Mandate an independent commission of inquiry into violations committed in the context of armed conflicts in South Kordofan, Blue Nile and Darfur and make its findings public as soon as possible, while reaffirming its commitment to see those responsible for international crimes being brought to justice and victims obtaining justice and reparation.

Egypt

In Egypt, on 28 December 2014, the appeal court handed down a two year jail sentence for Yara Sallam, Transitional Justice Officer at the Egyptian Initiative for Personal Rights (EIPR) and 23 other young activists, for allegedly violating Egypt's controversial Protest Law. Since its implementation in 2013, Egypt's Protest Law has been increasingly used to suppress and imprison political activists and dissenters, as well as human rights defenders. The judgment and sentence in this case is yet another example of the Egyptian judiciary effectively shutting down the democratic means by which citizens can question and/or criticise the current regime.

Human rights groups across Egypt and internationally have called the charges against Yara Sallam and the other activists baseless, describing the case as yet another "show-trial" based on scant evidence and intended to warn citizens against defying government policies. The Court's decision was adopted despite the lack of any credible evidence and clear inconsistencies in the police reports of the events.

FIDH calls upon the African Union to call upon the authorities of Egypt to :

- Guarantee in all circumstances the physical and psychological integrity of Ms. Yara Sallam and the 23 protesters and proceed to their immediate release ;
- Put an end to all acts of harassment, including at the judicial level, against human rights defenders ;
- Repeal or amend the Protest Law to allow for proper freedom of assembly in Egypt in accordance with its regional and international obligations.