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The Chairperson,  
African Commission on Human and Peoples' Rights  
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**ORAL STATEMENT BY AMNESTY INTERNATIONAL**

**Item 8: Activity Reports of Members of the Commission & Special Mechanisms**

**vii) Special Rapporteur on Human Rights Defenders in Africa**

Chairperson, Honourable Commissioners,

Amnesty International welcomes this opportunity to address the African Commission on Human and Peoples' Rights (African Commission or Commission) and the Special Rapporteur on Human Rights Defenders.

Amnesty International once again raises concern about the safety and protection of human rights defenders in many parts of Africa. Since the 54<sup>th</sup> Ordinary Session of the Commission in November 2013 in Banjul, The Gambia, Amnesty International has continued to receive reports of further incidents of harassment and threats made directly and indirectly to human rights defenders, including via friends and work colleagues. In particular, incidents of intimidation, harassment and other forms of attack against human rights defenders working in Angola, Ethiopia, Kenya, the Democratic Republic of Congo, South Sudan, South Africa and Nigeria continue to be reported. Amnesty International would also like to draw the attention of the ACHPR to the additional risk faced by human rights defenders who work in the areas of counter-terrorism and international justice.

The State has an obligation to protect human rights defenders, investigate violations and prosecute the perpetrators. Contrary to this obligation, human rights defenders in most places in Africa are often branded as enemies of the State.

In **Swaziland**, the unlawful detention of a respected magazine editor and a human rights lawyer for their criticism of the judiciary is an example of the persistent violations and the growing risks faced by human rights defenders. Bhekithemba Makhubu, editor of Swaziland's monthly news magazine The Nation and human rights lawyer Thulani Maseko are currently being held at Sidwashini Remand Prison in Mbabane, after highly irregular legal proceedings. They were arbitrarily arrested under defective warrants, denied access to their lawyers and remanded in custody after summary proceedings held behind closed doors. After a High Court decision ordering their release handed

down on 6 April 2014, they were subsequently rearrested and placed in custody again on the basis of the same defective warrants. The two remain in custody.

In **The Gambia**, the seat of the Commission, the government has failed to implement resolution 134 adopted at the 44<sup>th</sup> Ordinary Session of the Commission held in Abuja, Federal Republic of Nigeria, from the 10 – 24 November 2008 and resolution 145 adopted at the 7th Extraordinary Session of the Commission held in Dakar, Senegal, from 5 to 11 October 2009, which called on Gambia to guarantee the safety and security of HRDs. The government has on several occasions attempted to delegitimise the work of human rights defenders by publicly accusing them of being “foreign agents” spreading “nothing but lies.” President Yahya Jammeh, in a statement made in October 2013, criticized and threatened human rights defenders for promoting and protecting the rights of sexual minorities. Prominent Muslim cleric and human rights defender, Imam Baba Leigh, was subjected to torture and enforced disappearance in 2012. He had publicly condemned the government’s use of the death penalty. He was released following a presidential pardon in 2013. No one has been held accountable for his subsequent enforced disappearance and torture.

In **Uganda**, arrests and harassment of human rights defenders and attacks against civil society organisations have increased since the enactment of the Public Order Management Act in October 2013 and the Anti-Homosexuality Act in March 2014.

The Public Order Management Act requires organizations, groups and individuals who wish to convene a gathering, procession, demonstration or assembly in a public place to provide notice to, and seek approval from, the police at least three days in advance. The Act provides broad discretionary powers to the police to prevent or disperse these types of meetings. Whilst some groups are exempted from this law, it is clear that human rights defenders, civil society organisations and political opposition groups are suffering disproportionately from these restrictions.

In addition, the Anti-Homosexuality Act imposes greater penalties against people engaging in private, consensual same-sex sexual activity and includes the offence of ‘promotion of homosexuality’, which carries a maximum penalty of seven years’ imprisonment. This provision has wide-reaching implications for the work of human rights defenders and other individuals or organizations providing support to lesbian, gay, bisexual, transgender and intersex (LGBTI) people, with many activists now afraid to speak up on these issues for fear of reprisals from their community as well as arrest by the police. Since the Bill was signed in to law at the beginning of 2014, the Ugandan tabloid media have published articles which ‘out’ specific LGBTI activists and a number of them have been forced to close the offices of their organisations because of the increased threat of intimidation, harassment, arrest or attack. Some have fled their homes or been told to leave by their landlords because of the Act’s provisions against providing premises to anyone who is suspected of engaging in same-sex sexual activity.

In **Chad**, human rights defenders, including trade unionists and journalists, are often attacked or subjected to intimidation and harassment by government officials, including the police. In some instances, the judiciary has been used to silence them. The Chadian authorities regularly threaten and harass journalists. A previous media law, passed in August 2010, had introduced prison sentences of one to two years, fines and a ban on publication for up to three months for “inciting racial, ethnic or religious hatred and condoning violence”.

Amnesty International also has serious concerns with the revised media law currently before Parliament. Some journalists such as Eric Topona fled the country because of repeated threats including illegal detentions. Government officials continue to intervene in the work of the judiciary and to use the criminal justice system to harass political opponents.

In **Algeria**, authorities often resort to harassing persons active in protests and strikes with trade union and human rights activists being particularly targeted in an attempt to quell peaceful dissent and socio-economic grievances. Several members of the National Committee for the Defence of the Rights of the Unemployed (CNDDC) were prosecuted in relation to their participation in protests in 2012 and 2013. On 16 April 2014, CNDDC member Houari Djelouli was sentenced to a one year

suspended prison term and a fine of 50,000 Algerian dinars (approximately US\$ 630) by the Appeal Court of Ouargla *"for having distributed leaflets likely to undermine national interest"*.

After lifting the state of emergency, the Algerian authorities introduced repressive laws that place further restrictions on civil society and human rights groups. In particular, Law 12-06 on associations, promulgated in 2012, gives the government the power to refuse registration to associations deemed to threaten "national constants and values", public order, "morality" and Algerian law; and to suspend associations considered to interfere in the internal affairs of the country or attack "national sovereignty". The new law effectively criminalizes freedom of association by subjecting members of unregistered, suspended or dissolved associations to six months' imprisonment and a heavy fine of up to 300,000 Algerian dinars (approximately US\$3,820). The law also tightens restrictions on foreign funding for Algerian associations, threatening the ability of human rights groups to operate or function effectively.

Amnesty International calls on the African Commission on Human and People's Rights to adopt a resolution urging mention the states discussed above to:

- End continuing intimidation, harassment, arrest or other forms of attack against human rights defenders operating within their jurisdictions;
- Allow human rights defenders to operate freely, and to carry out their work without fear of persecution;
- Ensure that action is taken to investigate all threats or attacks against them, and to bring to justice those suspected to be responsible for such acts in trials that meet international fair trial standards;
- Respect and uphold the right to freedom of expression and association and to protect human rights defenders and political opponents against harassment and intimidation for exercising their human rights;
- Stop using the judiciary as a tool to silence dissent by trade unionists, journalists and other political opponents;
- Request the Special Rapporteur on Human Rights Defenders to draw the attention of African Union member states to the Commission's resolution ACHPR/Res. 119(XXXII) 07 on the Situation of Human Rights Defenders in Africa; and to monitor the implementation of the resolution, and to regularly report back to the Commission on the extent to which African Union member states are implementing the resolution;
- Urge African Union member states to fully implement in their national laws the UN Declaration on Human Rights Defenders, in accordance with the Kigali Declaration adopted by the African Union (AU) Ministerial Conference on Human Rights in May 2003;
- Urge states parties to the African Charter on Human and Peoples' Rights to include detailed information in their reporting to the Commission what measures they are undertaking to promote and ensure respect for the human rights of human rights defenders in their countries.