



## ORAL STATEMENT BY AMNESTY INTERNATIONAL

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### Agenda Item 4: 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.

As the Commission would recall, at the 56<sup>th</sup> ordinary session held here in Banjul, Amnesty International delivered a statement highlighting 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. Five months later, we are saddened to report that the situation pertaining to these two issues has not changed in any meaningful way. The stories from victims and the plight of civilians caught in conflicts is shocking. The protracted conflict situations in the Central African Republic (CAR), DRC, Libya, Sudan, South Sudan, and Somalia continue to devastate the lives of many. Thousands of civilians have lost their lives. Millions live in a perpetual state of fear and insecurity. Countries in west, central and east Africa, such as Cameroon, Chad, Kenya, Nigeria, Niger, and Somalia continue to face constant violence by radical armed groups, including al-Shabab and Boko Haram. Moreover, political crisis in Burundi and Burkina Faso has potentially put these countries on the verge of a full-blown conflict.

Restrictions on the enjoyment of freedoms of expression, association and assembly have been heightened in several countries across the continent, including in Algeria, Egypt, and Guinea. Attacks and reprisal against human rights defenders and activists is equally prevalent. The recent attempted assassination of a leading human rights activist in Burundi, the arrest and detention of human rights activists in Angola, Ethiopia, and DRC, and the threat by the Kenya NGO Coordination Board to de-register the Kenya Human Rights Commission, are illustrative examples of the great lengths that governments are willing to go in their efforts to silence and muzzle the voices of human rights defenders.

### Violations and abuses committed during crisis and armed conflict situations

It is extremely concerning that the defining characteristic of armed conflicts in Africa is the huge scale of violations and abuses committed by both armed groups and government forces, and the lack of accountability for these atrocities. In this statement, we highlight the situation in the Central African Republic (CAR), Cameroon, Nigeria, South Sudan, and Sudan.

In **Cameroon**, the Far North region of the country has come under repeated attack by Boko Haram, who have conducted a systematic widespread attack on the civilian population,



committing crimes under international law that may amount to war crimes. At least 770 civilians are estimated to have been killed by Boko Haram since 2013 in a series of attacks on border villages and, more recently, in a series of suicide bombings. Thousands of others have been abducted, tortured or had their property destroyed or stolen. Over 81,000 Cameroonians have been internally displaced.

In response, Cameroon has deployed thousands of security personnel to the Far North region, and have prevented Boko Haram from capturing territory. However, they have also committed serious crimes under international law for which there has been little or no accountability. Over 1,000 people have been detained in suspicion of supporting Boko Haram, often during cordon and search operations, where dozens and sometimes hundreds of people were arbitrarily arrested. Most were detained in inhumane and life-threatening conditions.

Amnesty International calls upon the African Commission to urge the Cameroonian government to:

- take all legal and necessary measures to protect civilians from Boko Haram;
- initiate thorough and independent investigations into human rights violations and take all measures to bring all those suspected of human rights violations to justice;
- ensure that state security forces respect international humanitarian law in their security operations;
- take immediate measures to improve prison conditions, and end practices such as mass arbitrary arrests, long pre-trial detentions and the use of military courts in trying civilians.

In **Central African Republic (CAR)**, there has been resurgences of violence in the recent past. MINUSCA and Sangaris peacekeeping forces have been able to contain violence on some occasions, but have not always been able to respond with sufficient speed or strength to fully protect populations across the country. The transitional authorities and the international community need to redouble efforts to better protect civilians and ensure accountability for crimes under international law.

The agreed establishment of the Special Criminal Court was a positive step for justice in CAR, and now requires financial and human resources, and logistical support, to become effective and operational. Few effective investigations have been carried out in relation to those suspected of being responsible for crimes under international law. The escape of more than 600 detainees from Bangui's main prison during recent violence is at once a blow for justice efforts and a clear sign that CAR's penal infrastructure needs support.

We urge the African Commission to support CAR's efforts to establish effective accountability mechanisms. We look forward to the report and recommendations of the fact-finding mission undertaken by the African Commission from 10 to 14 September 2014.

In **Nigeria**, despite recent advances by the military, Boko Haram fighters have continued to raid towns and villages without military presence, killing residents, stealing supplies and



setting fire to buildings. Bomb attacks across north-east Nigeria have routinely targeted markets, transport hubs, bars, restaurants and places of worship. Amnesty International believes that this is a continuation of a pattern of acts of war crimes and crimes against humanity committed by Boko Haram.

Amnesty International has also extensively documented acts amounting to war crimes and possible crimes against humanity by the Nigerian military. In a detailed report Amnesty International issued on 3 June 2015, the organisation identified current and former high ranking military officers who should be investigated for their potential individual and command responsibility for these crimes. In response to the report, President Muhammadu Buhari pledged to investigate these crimes and to bring them to an end. However, Amnesty International is not aware of any action taken to initiate these investigations. Thousands of victims, as well as their relatives, continue to wait for justice.

Further to its resolution passed on March 14 March 2014, Amnesty International calls upon the African Commission to urge the government of Nigeria to live up to its pledge and initiate a thorough, independent and effective investigations into crimes committed in the context of the ongoing conflict in north-east Nigeria, not only by the armed group Boko Haram, but also by the Nigerian armed forces. The Commission should also request a fact-finding visit to Nigeria, or if it has already done so, remind the government of Nigeria to promptly respond to its request.

In **South Sudan**, despite commitments to uphold a ceasefire by parties to the conflict, fighting has continued since the signing of the peace agreement in August. This has resulted in gross violations of international human rights and international humanitarian law and has taken a terrible toll on civilians. The atrocities include attacks on civilians, looting and destruction of civilian property, and acts of rape and other forms of sexual violence. In Upper Nile and Unity States, there has been a huge influx of people into civilian protection sites since August. Others are hiding in the bush and swamplands, cut off from humanitarian assistance. The continuance of conflict by both sides is demonstrative of the lack of interest and will to end this conflict.

There can be no compromise in ensuring accountability and justice for these widespread and serious crimes. The August peace agreement provides for the establishment of three components of transitional justice including a Truth, Healing and Reconciliation Commission, A Hybrid Court and a Compensation and Reparation Authority. We commend the African Union Commission for releasing to the public the report of the AU Commission of Inquiry on South Sudan. The report has the potential to shape the discussions around truth, reconciliation, justice and accountability in South Sudan.

We urge the African Commission to support the implementation of the accountability and transitional justice mechanisms in the August Peace agreement. As a first step, the African Commission should reiterate its 2014 resolution on the human rights situation in South Sudan and call for its implementation, including the urgent ratification and domestication of the African Charter by the government of South Sudan.

In **Sudan**, as the conflict in South Kordofan and Blue Nile states enters its fifth year, there is once again intensified military activity. There was a sharp increase in attacks by the



Sudan Armed Forces (SAF) in April 2015, making it one of the months with the highest number of attacks since the start of the armed conflict. Many of the attacks target civilian areas and objects without warning and without legitimate military targets. Between January and April 2015, the Sudanese Air Force dropped an estimated 374 Antonov, MiG and Sukhoi bombs in 60 locations across South Kordofan. The aerial bombardments and ground shelling resulted in the deaths of an estimated 35 civilians and injured a further 70 individuals. The fear of attacks dominates daily life in South Kordofan. Amnesty International has concluded that these attacks, together with the denial of humanitarian access, amount to war crimes.

Amnesty International calls on the African Commission to urge the Sudan government to:

- immediately end all attacks directed at civilians and civilian objects, as well as all indiscriminate aerial bombardment and other indiscriminate attacks in South Kordofan;
- allow unrestricted, independent humanitarian access to all areas of South Kordofan for the purposes of providing food, health services, support of the education system and other humanitarian assistance to civilians affected by the conflict; and
- launch prompt, independent, impartial and effective investigations into all violations of international human rights and humanitarian law in order to bring those suspected of criminal responsibility before ordinary civilian courts in fair trials without resort to the death penalty.

### **Violations of human rights committed in the context of elections**

Outside armed conflicts, serious violations of human rights, including curtailment of freedoms of expression, association and assembly, torture, arbitrary arrests, detention, and extrajudicial killings, have also occurred in the context of elections and political crises. This has been the case most recently in Burundi, Burkina Faso, DRC, Ethiopia, Guinea, and Sudan. We seek to shed light on the situation in four these countries: Burundi, Burkina Faso, DRC and Guinea.

After more than a decade of relative peace and stability following the end of the civil war, **Burundi** is once again in the midst of political crisis and risks a return to internal armed conflict. Amnesty International documented the violent repression of protests by police during the electoral period. The police used excessive and disproportionate force, including lethal force, against protesters, at times shooting at unarmed protesters running away from them. While Amnesty International has publicly identified a number of individuals in the security services alleged to be responsible for violations, none of them have been investigated or prosecuted. On the contrary, one has been appointed as head of a new anti-riot brigade within the police.

The crackdown on independent media has escalated since the failed coup in May. The four radio stations were destroyed remain closed. Burundian and international journalists have received threats from government officials. Newspapers can still operate, but under difficult circumstances. On 3 August, Pierre Claver Mbonimpa, a leading human rights defender, survived an attempted assassination by gunmen. Numerous human rights



defenders and journalists have fled the country or live in hiding.

In recent weeks there has been a deeply troubling intensification of acts of violence, especially in those neighbourhoods of the capital Bujumbura that largely supported the protests against President Nkurunziza's third term. The United Nations reported on 23 October that at least 198 people had been killed since April, and of those 63 were killed in the space of three weeks. There are frequent reports of bodies found tied up with apparent signs of torture.

Amnesty International has documented the use of torture and other forms of ill-treatment by the Burundi National Police and the National Intelligence Services in detention against people involved or suspected of being involved in the protest in order to extract forced confessions and to silence dissent. Victims described being beaten with iron bars, electric cables and batons; receiving electric shocks; and being forced to sit in battery acid.

Amnesty International welcomes Resolution 309 on the human rights situation in Burundi adopted in August by the African Commission at its 18<sup>th</sup> extraordinary session. The resolution urged the Burundian authorities to "urgently investigate human rights violations perpetrated during this period of crisis and to prosecute the alleged perpetrators". We call upon the African Commission to ensure that this recommendation is taken up and implemented by Burundian authorities.

In **Burkina Faso**, it would be recalled that serious human rights violations were committed by the now disbanded *Regiment de sécurité présidentielle* (RSP) in October and November 2014. At the time, the RSP shot dead at least 10 people, and injured hundreds of others, when they fired into crowds peacefully demonstrating against proposed changes to the constitution. Recently, in September 2015, the RSP once again shot dead 14 unarmed protestors and bystanders, and injured hundreds of others, as they sought to repress protests following the coup d'état. In both cases the RSP also attacked journalists, human rights defenders and political figures.

On 2 September 2015 the transitional authorities announced they would establish a Commission of Inquiry into the killing of protestors in 2014. This decision has not yet been implemented. Following the coup d'état a separate Commission of Inquiry was established to investigate those suspected of being responsible, but without an explicit mandate to investigate the killing of civilians by the RSP.

Amnesty International calls on the African Commission to urge the transitional authorities in Burkina Faso to ensure that the mandate of the Commission of Inquiry covers both recent and historical human rights violations by the security forces, including the killings of protestors in 2014 and 2015.

In the **DRC**, as presidential election draws closer, the rights to freedom of expression, association and peaceful assembly are increasingly under fire. Calls by politicians from the Presidential Majority and the opposition, religious leaders and activists for President Joseph Kabila to step down in November 2016 after his constitutionally mandated two-terms have grown, as has the government crackdown on those voicing these views.



Amnesty International has documented a pattern of arbitrary arrests, prolonged incommunicado detention by the National Intelligence Agency (ANR) and trials based on trumped-up charges violating the rights to liberty, freedom of expression and peaceful assembly. If the current clampdown intensifies, there is significant risk of socio-political unrest, which could spark additional violence in a country where armed conflict is ongoing in several provinces and where stability elsewhere remains fragile.

The African Commission should stand ready to act as developments in the DRC situation require. In the immediate, Amnesty International calls on the African Commission to:

- adopt a resolution expressing concerns about the pattern of using arrest and detention to hinder the enjoyment of the rights to freedom of expression and assembly of political opponents and human rights defenders and activists;
- urge the Government of the DRC to fully and effectively comply with the commission's Guidelines on the conditions of arrest, police custody and pre-trial detention and to end all practices of incommunicado and secret detention;
- call on the Congolese government to immediately and unconditionally release Fred Bauma, Yves Makwambala and all other individuals arbitrarily arrested and detained for the sole reason of exercising their rights to freedoms of assembly and expression;
- Call on the Congolese government to facilitate public debate, including on the electoral calendar and term limits, to defuse tensions and encourage a peaceful electoral process.

In **Guinea**, tensions around the electoral process have led to violence between supporters of different political parties, and between protestors and security forces that have often used excessive and lethal force to police demonstrations. Six people were killed by security forces in April and May 2015 in relation to demonstrations about the electoral calendar. Others, including children, were injured by live ammunition and misuse of riot equipment, while hundreds of protestors were arrested and charged for participating in unauthorised protests. Supporters of opposition parties were also arrested following confrontations between rival groups, including leaders who had not been engaged in violence.

In a positive move, Guinea enacted a new law on maintaining public order. The new law provides some improvement to Guinean legal framework governing the use of force and the right to peaceful assembly. However, the law still falls significantly short of international standards. In particular, the law place restrictions on freedoms of assembly which go beyond those permissible under international law. Under the legislation, an assembly can be prohibited and/or dispersed on vague grounds, for instance, when the assembly "may undermine public tranquillity" or if one person in the assembly is thought to be carrying or concealing a weapon. The application of the law has also resulted in violations. Assemblies in public require written prior notification. In practice, the prior notification requirement amounts to a requirement for authorization.

Amnesty International calls on the African Commission to urge the Guinean authorities to reform its legislative framework on the use of force and public assemblies to fully comply with international standards, and in particular with the UN Basic Principles on the Use of



Force and the African Commission's Guidelines on the Conditions of Arrest, Police Custody and Pre-trial Detention in Africa.

## **Crackdown on freedoms of expression, association and assembly**

In several parts of the continent, governments are going to great lengths to stifle dissent and muzzle the free expression of thought and opinion. Quite too often, peaceful assemblies are disrupted with brutal and excessive force. Many civil society and human rights defenders operate in an increasingly hostile environment, with laws aimed at restricting civil space being used to clampdown on their operations. The situation in Algeria, Angola, Egypt, Ethiopia, Gambia, Kenya, Uganda, and Zimbabwe is illustrative of this trend. In this statement we highlight the situation in three countries: Algeria, Angola, and Egypt.

In **Algeria**, peaceful demonstrations are routinely forcibly dispersed by security forces across the country and protesters are often arrested. In June 2015, the police forcibly dispersed a peaceful protest by members of SOS Disparus, a group campaigning on behalf of victims of enforced disappearance during the internal armed conflict of the 1990s. Algerian law still requires prior authorization to hold public gatherings and assemblies. In the capital Algiers, there has been an outright ban on public protests.

Courts have also prosecuted people including journalists who have posted online comments about protests. Amnesty International fears that the prosecutions were politically-motivated, in reprisals for activism and criticism of the authorities. Meanwhile, high-profile activists have reported surveillance and intimidation. Those who oppose government policies such as fracking and who protest about unemployment and economic disparities risk apparently malicious prosecutions and imprisonment.

Amnesty International calls on the African Commission to urge Algerian authorities to:

- put an end to the crackdown on peaceful protests as well as to arbitrary arrests and judicial harassment against all those exercising their right to peaceful assembly;
- ensure that any restrictions imposed on the right of peaceful assembly and association are compatible with international human rights standards;
- conduct prompt, impartial and independent investigations into all allegations of excessive or unnecessary use of force and other human rights violations by law enforcement agents during protests and to bring to justice those responsible to justice in fair trials;
- revoke the 18 June 2001 decree banning peaceful protests and all forms of public demonstrations in Algiers; and
- repeal Law 12-06 on associations and to elaborate a new law on associations that will be in conformity with applicable international human rights standards;

In **Angola**, 15 activists are currently detained solely for exercising their rights to freedom of expression. They were arrested in connection with a meeting they held to discuss governance issues in the country's capital Luanda on 20 June 2015. One of the activists, Luaty Beirão, was on hunger strike for 36 days since 20 September to protest against his



and his fellow activist's illegal detention.

Amnesty International calls on the African Commission to urgently issue an appeal to the Angolan authorities urging them to:

- immediately and unconditionally release the 15 youth activists as they are prisoners of conscience, imprisoned solely for the peaceful exercise of their rights;
- end the practice of harassment and intimidation of human rights defenders and activists through the misuse of the judiciary system and misapplication of laws, and uphold the rights to freedom of association, peaceful assembly and expression.

In **Egypt**, the authorities have overseen a sweeping crackdown in the name of security, targeting their political opponents and critics. Tens of thousands of people have been detained, indicted or sentenced as part of this crackdown, most on suspicion of belonging to or sympathizing with the outlawed Muslim Brotherhood movement. While Egypt's president pardoned 100 people from well-known cases in August 2015, many other high-profile activists and opposition figures remain detained on charges linked to political violence and "unauthorized protesting".

A new counter-terrorism law (Law 94 of 2015) passed in August 2015, has further eroded the rule of law in Egypt. It gives the Egyptian authorities sweeping, unchecked powers to combat "terrorist acts", offences which the law defines extremely broadly. The law gives the president the authority to "take necessary measures to ensure public order and security", comparable to those afforded by a state of emergency; as well as providing for special courts; extended periods of detention without investigation, charge or trial; and heavy fines for journalists who do not conform to the State narrative while reporting about "terrorism".

Mass unfair trials have become routine in Egypt. Civilians face trials before military courts. Reports of torture of detainees by state security forces is common. All the while, the authorities have largely failed to conduct effective, independent and impartial investigations into human rights violations by the security forces, including the deaths of hundreds of protesters at the hands of security forces.

Amnesty International urges 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;
- 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; and
- repeal or amend, with a view to bringing into conformity with international law, the Counter-terrorism Law (Law 94 of 2015) and the Law on Protests (Law 107 of 2013).





## **In conclusion**

It behoves the African Commission to step up measures to effectively and timely respond to violations committed in the different contexts we have identified in this statement. In the particular context of violations and abuses committed in armed conflicts, we wish to reiterate our previous call to the Commission to develop a more comprehensive strategy for addressing conflict-related human rights violations, including utilising its powers under Article 58 of the African Charter to “draw the attention of the African Union Assembly of Heads of State and Government to these special cases”. We also urge the Commission to convene an open panel and interactive session on conflict and human rights, in order to open space for wider discussion and the adoption of more effective strategies to respond to conflicts in Africa.