

# Pan-African Reparation Perspectives

## Special Bulletin on Reparation for Victims of International Crimes in Africa

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inhuman and degrading treatment and their right to express and disseminate opinions within the law.

The African Commission's decision is significant for several reasons. Firstly, the decision confirms that violence against women can amount to discrimination contrary to Article 18 (3) of the African Charter on Human and Peoples' Rights, thereby emphasizing the duty of the State to prevent discrimination against women. Secondly, the attacks against the victims were seen as being targeted, systematic and sexual in nature and the Commission considered that sexual violence was used as a tool to "keep women in their place" by denying them their right to protest and express their political opinions. Thirdly, the Commission also noted the significance of these attacks in a conservative society like Egypt, and the extra burden this adds to the experience of the victims.

Lastly, the African Commission concluded that the State was also responsible for a violation of Article 5 of the African Charter (the right to dignity and the prohibition of torture

## The 'Black Wednesday' case: sexual violence against protesters in Egypt

By Bahaa Ezzelarab, Egyptian Initiative for Personal Rights

### Background

On 25 May 2005, police forces and thugs sexually assaulted four female protesters, amongst others, while they were peacefully protesting in public against constitutional amendments that solidified the authoritarian rule of ex-President Hosni Mubarak in Cairo, Egypt. The women stated that they were called 'sluts' and 'whores' and were touched inappropriately on their breasts and private parts. Following the attack, the four women lodged complaints with the Egyptian Public Prosecutor's Office (PPO), who decided to close the files, arguing a lack of evidence. Having been unable to secure redress domestically, the four victims, supported by Interights and the Egyptian Initiative for Personal Rights, on 18 May 2006 submitted a complaint to the African Commission on Human and Peoples' Rights (the Commission), the only extra-territorial quasi-judicial forum available for Egyptian individuals.

### The Commission's decision

In March 2013, the Commission handed down its decision on Communication 323/06 (*Egyptian Initiative for Personal Rights and Interights v. Egypt*). The Commission found that the State of Egypt was responsible for sexual violence committed against the four women during the protest in May 2005. In particular, the Commission held that Egypt violated their right to equality and non-discrimination, right to dignity and protection from cruel



Rally in Egypt against President Hosni Mubarak in 2005, Photo: Turkairo

and cruel, inhuman and degrading treatment). This finding was reinforced by the fact that the state had taken no reasonable measures to secure the protection of the victims when they lodged their complaints and took no steps to investigate the attacks, prosecute suspected perpetrators and punish them accordingly and provide redress to the

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victims.

### Reparation and Implementation

The Commission, in its recommendations, urged Egypt to investigate and punish those found responsible of the crimes committed and also called for each of the claimants to be compensated by the exact sum of EP 57,000 (\$US 8,000) for the physical and emotional damage they suffered.

It is notable that the Commission decided to award a specific amount for monetary compensation, a practice that is highly uncommon in its previous decisions. However it would have been appropriate if the Commission had reassessed the amount of compensation in light of the six years that had passed since the claimants submitted their initial complaint in order to account for any additional costs, and inflation. The complainants had furthermore explicitly requested an "amendment to Article 268 of the Egyptian penal code to expressly exclude 'intention' as a requirement of the offence of assault on honour". The Commission did not grant the request yet instead recommended in rather general terms that Egypt amend its domestic laws to ensure it is not in contravention of the African Charter. This proves problematic, as the general nature of the Commission's recommendation allowed the state to respond to the Commission in an equally vague manner in its report on implementation. None of the legal amendments presented by the State as measures of compliance with the African Commission's recommendation to amend its domestic law were related to sexual violence, the issue at the heart of the matter. The State has also failed to implement the Commission's other recommendations, including the payment of compensation to the four victims, and has not initiated an investigation and prosecution of the perpetrators.

Attempts to negotiate means of implementation of the Com-

mission's recommendations by the State have so far proven futile. A letter sent by EIPR and Interights to the Ministry of Foreign Affairs on 21 April 2013 has not received a response or an acknowledgment of receipt. Media campaigns (both print and TV) have also failed to produce positive results.

### Conclusion

Even though it took the Commission seven years to decide on the case, it remains an important milestone in the Commission's jurisprudence on sexual violence, and, to an extent, also its approach to compensation for victims. While implementation remains challenging, in a positive first step, and arguably also in response to the Commission's decision, the Egyptian Cabinet of Ministers approved a draft law May 2014 which for the first time introduced the term "harassment" in the Penal Code, allowing for a broader recognition of the issues surrounding sexual violence in Egypt.

### Deep concerns over arrest of human rights defenders in Egypt

On 21 June 2014, Yara Sallam, winner of the human rights defenders' award for North Africa and Transitional Justice Officer at EIPR, was arrested along with about 30 others in the vicinity of a peaceful protest held against a repressive protest law. On 30 June, a misdemeanor Court decided to keep Ms. Sallam and 22 others detained. The next hearing is scheduled for 13 September. EIPR believes that charges against Ms Sallam are baseless and that her continued detention may be linked to the fact that she works in a human rights organization. EIPR has serious concerns about the conditions of detention, due process and the fairness of the trial. The African Commission's Special Rapporteur on the situation of Human Rights Defenders in Africa on 27 June expressed deep concern about the arrest and detention of human rights defenders in Egypt, calling for their immediate release. For further information: Bahaa Ezzelarab at [bahaa@eipr.org](mailto:bahaa@eipr.org).

## Reparations for Colonial Atrocities: the Case of the Mau Mau in Kenya<sup>1</sup>

By Andrew Songa, Kenya Human Rights Commission (KHRC)

### Brief History and Background to the Mau Mau

The Mau Mau was a significant resistance movement emanating from the quest to reclaim land lost to white settlers in addition to securing overall independence from the British. The Mau Mau embarked on an armed struggle against the colonial government and this eventually led to the declaration of a state of emergency by the colonial government from October 1952 to December 1959. In this period, numerous Kenyans accused of participating in the Mau Mau rebellion were either killed or incarcerated in detention camps. After a protracted struggle and eventual negotiations with African political leaders, Kenya finally attained its independence on 19 December 1963. Colonialism had however left behind a legacy of human rights violations that would require redress.

### Revisiting the Past and Supporting Mau Mau Veterans to

### Seek Reparations

In 2003, the Kenyan government expunged a subsidiary legislation that had proscribed the Mau Mau movement since 1950, enabling Mau Mau veterans and victims of the colonial detention camps to organize themselves and seek reparations for the harm they suffered at the hands of the colonial government.

With the support of the Kenya Human Rights Commission (KHRC), the Mau Mau War Veterans Association (MMWVA) was formed and a process of contacting and interviewing victims of the emergency period was undertaken, together with Leigh Day, a British law firm with experience in supporting victims of human rights violations. These efforts benefited from a series of studies on the state of emergency period which had exposed the use of systemic, widespread torture by the colonial government with the approval and

knowledge of the British government.<sup>1</sup>

Based on the evidence gathered, it was decided that a case would be filed against the British government on behalf of five lead claimants with the hope that if the case was successful it would result in communal reparations for the wider group of torture victims. In April 2011, Leigh Day, with the support of the KHRC, filed the case: *Ndiku Mutua & Others – v – The Foreign and Commonwealth Office Case No. HQ09X02666 of 2012*. The plaintiffs sought damages against the British government for negligence, false imprisonment, trespass to the person and torture. The relief sought included damages (general, exemplary and aggravated) and a declaration that the conduct of the British government during the emergency period was unlawful.

The British government argued that any liability arising from the colonial administration had been transferred to the Kenyan government at independence and that after over fifty years had passed since the crimes were committed, the plaintiffs' claim was time barred, rendering impossible a fair trial on the basis of the evidence available. The British High Court, however, agreed with the plaintiffs that the documentary evidence obtained from Kenyan and British archives showed that the British government was both negligent and jointly responsible for the actions of the colonial administration. The Court also considered that the documentary evidence available would allow for a fair trial, and decided that the case should proceed on the merits. In the course of these proceedings, however, the British government made a major concession that British colonial officials had in fact tortured the claimants. However, the British government filed an appeal against the High Court's decision on the time question.

KHRC and its partner organizations embarked on an advocacy campaign to pressure the British government to reach an amicable settlement with the claimants, some of whom were well advanced in age and might not have been able to benefit from an eventual judgment. In the same period, KHRC and partner organizations identified another 5,228 victims as having strong evidence of torture suffered at the hands of British authorities during the emergency period.

While waiting for a decision on its appeal, the British government elected to engage in negotiations with the claimants so as to reach an out of court settlement. The negotiations yielded a settlement on 6 June 2013 where the British government abandoned their pending appeal and further agreed to the following:

- i. A Statement delivered in the British Parliament acknowledging that Kenyans had been subjected to torture and other forms of ill treatment at the hands of colonial authorities and that the British government expressed "sincere regret" for the same.
- ii. A compensation package of £2,600 per claimant for the 5,228 victims identified by KHRC, MMWVA and Leigh Day.
- iii. Financing the construction of a memorial in Kenya in remembrance of the victims of torture during the colonial era.

iv. Paying all the legal costs of the case.

The [statement of regret](#) was issued by British Foreign Secretary William Hague at the House of Commons on 6 June 2013. The payments of the compensatory package have since been paid directly to each of the claimants after they were assisted by KHRC to establish bank accounts. KHRC in



Claimants in the Mau Mau Case, Photo: Leigh Day

consultation with MMWVA association and the British High Commission in Kenya are coordinating the construction of the [memorial monument](#) which will be unveiled on 20 October 2014.

## Conclusion

Despite the significant victories achieved for victims in the settlement, it is clear that the settlement was not depictive of the true scale of human rights violations committed during the colonial era. The settlement was based on the claims that could be identified and raised by KHRC, MMWVA and Leigh Day on the basis of the limited resources available to them. The precedent set by this case does however open the door to subsequent claims by other Mau Mau veterans who may not have benefited directly from this settlement.

It should also be noted that the primary motivation for this endeavor was not monetary compensation for victims. The Mau Mau veterans had long sought recognition for their contribution and sacrifices made in the realization of Kenya's independence along with an acknowledgement of the atrocities committed by the colonial government. On June 6, 2013 in the midst of celebrations, MMWVA Secretary General and veteran Gitu wa Kahengeri stated as follows, "We accepted the offer made by the British Government. No amount of money can ever be enough to compensate us for what we went through. My father and I were jailed for seven years. This is not about money. The fact that the British Government has apologized and acknowledged what it put us through, that itself is enough".

<sup>1</sup> Such studies include: "Imperial Reckoning: the Untold Story of Britain's Gulag in Kenya" by Professor Caroline Elkins and, "Histories of the Hanged: Britain's Dirty War in Kenya and the End of Empire" by Professor David Anderson; additional evidence was obtained from colonial documents at the Kenya National Archives and the Hanslope Archive in the United Kingdom.

# Twenty years later, a new momentum to provide reparation for genocide victims in Rwanda

By Albert Gasake, Survivors Fund (SURF)

As the world commemorates the 20<sup>th</sup> anniversary of the genocide against the Tutsi in Rwanda, renewed efforts supporting survivors to realise their right to reparation are gaining traction. Following a call from victim organisations in Rwanda for increased attention to the lack of a comprehensive reparation effort for victims of the genocide, the International Criminal Tribunal for Rwanda (ICTR) in December 2013 mandated the International Organisation for Migration (IOM) to conduct a study on the state of reparation for victims in post-genocide Rwanda. In light of similar studies the IOM has carried out in, for instance, Sierra Leone, Colombia and the former Yugoslavia, the IOM is expected to provide technical input to stakeholders on the tangible ways forward for reparation for genocide victims, including the identification of feasible and suitable mechanisms for implementing and funding a comprehensive effort. To this end, the IOM will carry out broad consultations throughout the country with survivors and survivor organisations, as well as government representatives and relevant international and regional actors.

In late February 2014, IOM carried out its first consultation visit in Rwanda, resulting in a collaboration with the government of Rwanda, as well as the main survivor organisations. This is sending important signals of hope for survivors: for the first time since the genocide the government of Rwanda - through the Minister of Justice and Attorney General of Rwanda - publicly recognised that survivors of the genocide have a right to reparation. The Minister of Justice expressed the government's commitment to support initiatives addressing the right to reparation. In addition to the IOM study, the government announced the establishment of a new national forum for discussion on reparation within the Ministry of Justice to serve as a joint think-tank on how best to realise the right to reparation.

These developments are long overdue. For the past twenty years, survivors and survivor organisations have continuously called on the government of Rwanda as well as the international community to provide adequate reparation to survivors. However, their calls remained mostly unheard, instead, emphasis was placed on the prosecution of the perpetrators before traditional 'gacaca' (community) courts and the ICTR. The majority, if not all of these prosecutions, relied heavily on survivors' testimonies. For many of those

who testified in proceedings before gacaca and the ICTR, their testimony came at a high price: survivors have been ostracized from their communities and continue to fear reprisals as a result of their testimonies. Women who were raped and who came forward with their testimonies frequently complain about being stigmatized and humiliated by their rapists. The closure of gacaca courts in July 2012, and the winding down of the ICTR left survivors disillusioned by the justice processes they have done so much to support. Failure by national and international processes to provide reparation for victims and survivors with reparation, has left a sense of unfinished business.

For genocide survivors, reparation is the most tangible manifestation of the state and the international community's efforts in acknowledging and repairing their lives. The IOM



Gacaca Trial, Photo: Scott Chacon

study, carried out in collaboration with the Government of Rwanda and civil society, is an encouraging step in the right direction. It is expected that the IOM's final report will outline the roadmap for the way forward and include recommendations for all actors involved including the government of Rwanda and the international community.

The real test however will be whether there will be the necessary political will to implement the recommendations in practice and provide adequate reparation to survivors.

## Reparation in South Africa: the 'unfinished business' of the TRC?

By Sufiya Bray, Centre for the Study of Violence and Reconciliation (CSVR)

South Africa continues to grapple with the economic, social and political legacies of its apartheid past even after twenty years of democracy and a significant period after the conclusion of its seminal Truth and Reconciliation Commission (TRC), prompting questions to be raised about the state's commitment to the TRC's accountability agenda. A critical aspect of this agenda is the burning issue of reparation for victims.

## Reparation in South Africa:...- continued from page 4

The obligation incumbent upon states to provide individual reparation for victims of human rights violations is well established in international law. In South Africa, the TRC's Reparations and Rehabilitation Committee (RRC) was tasked with designing a comprehensive reparation program for victims of apartheid. The RRC recommended providing interim, individual and symbolic reparation as well as taking legal and administrative measures and ensuring institutional reform. The recommendations of the RRC were included in the TRC's final report; however, the RRC lacked an enforcement mechanism and could thus only make recommendations to government. The implementation of the RRC's recommendations, therefore, remains dependant on the political will of the South African government.

The government insisted on waiting for the release of the final reports of the TRC before it would contemplate implementing the RRC's recommendations. The report of the RRC was finally presented to parliament in 2003 by the then President Thabo Mbeki, yet its recommendations have yet to be fully implemented. As a result of the government's failure to fully implement the recommendations of the RRC for the past 11 years, tensions between Government on the one hand and civil society and victims groups on the other increased – with the latter lobbying for the immediate and effective implementation of a comprehensive reparations policy.

### The South African Government's proposed reparations programme

#### Individual compensation

Of the countries that have implemented reparations based on truth commission recommendations, South Africa is the only one that has restricted the number of recipients to those registered by its TRC. In every other cases, the registration process continued after the conclusion of the commission in order to provide victims with a full and fair opportunity to come forward. In South Africa, that meant that compensation as proposed by the RRC was limited to the approximately 17, 000 victims identified through the TRC process.<sup>1</sup>

At the instigation of the RRC, a one-off payment of approximately \$4000 was paid out to over 15,000 victims and family members as urgent interim reparation (UIR). The one-off UIR payment of \$4000 did not reflect the recommendations of the RRC, nor was it sufficient to adequately meet victim's needs nor was it paid to all 17,000 victims as identified by the TRC.

This means that as of today, approximately 2,000 victims as identified by the TRC have yet to receive any compensation. In addition, those who had not been identified as victims have been entirely left out of the process, and may find it impossible to assert their right to compensation under the current system.

#### Community reparation

On 29 November 2013, the Department of Justice published 'General Notice 1178' in the Government Gazette,

inviting public comments on Draft Regulations Relating to Community Reparations. Beyond publication in the Government Gazette, the Government did not undertake any effort to ensure that victims are made aware of and understand the regulations and allowed less than three months for stakeholders to comment on the regulations.

The regulations provide for 'community reparation' for 18 communities in South Africa, selected by way of undisclosed criteria to be allocated R30 million each, to be "increased automatically by 6% annually". The nature of the projects contemplated include "infrastructure development", "school construction and improvement", "health and social services", and "skills development support".



Cartoon by ZAPIRO, published in The Sowetan on 09.06.2000

The South African Coalition on Transitional Justice (SACTJ) - involved in addressing post TRC issues –therefore has submitted a joint commentary stating that the regulations are inconsistent with the TRC's recommendations. In particular, the SACTJ criticized the arbitrary selection process of the communities to benefit from these projects, the narrow definition of eligible victims and the disguise of provision of such infrastructure and services- which fall under the normal responsibility and business of government - as measures of reparation in compliance with the RRC's recommendations.<sup>2</sup>

#### Conclusion:

The magnitude of the problem relating to the failure to provide reparations cannot be underestimated. The SACTJ has strongly expressed their concern regarding the scope of the regulations proposed as well as the DOJ's failure to meaningfully engage survivors and consider their needs during the drafting of the policy and the intended regulations.

<sup>1</sup> The real number of victims of apartheid is much higher. The Khulumani Support Group, one of the main victims organisations in South Africa, has a membership of over 60,000 victims all of whom suffered gross human rights violations during apartheid.

<sup>2</sup> SACTJ, 'Comments on the draft regulations published by the department of justice dealing with reparations for apartheid era victims', 31 January 2014, at <http://www.khulumani.net/khulumani/documents/category/8-government.html?download=139:sactj-comments-for-doj-community-rehabilitation-v1-30-jan-2014&start=20>.

# Interview with Joseph Dunia, President of the North-Kivu/ Goma Bar Association

## 1. As the president of the Goma Bar Association, can you provide an overview as to how the Bar Association and its members assist victims of sexual violence crimes in accessing justice in the region?

Free legal assistance to victims of sexual violence is an obligation on all lawyers in our Bar Association. We provide this assistance through our free Legal Assistance Commission and a free consultation office. We work with a roster of lawyers appointed to work with the public prosecutor's department, courts or tribunals. We also visit prisons and other detention centres. Recently, some of our lawyers visited mobile courts in remote villages: Masisi, Rutshuru, Lubero, Nyiragongo, Walikale, Minova and Kalehe. Currently, the Bar Association is engaged with cases involving prosecution of alleged perpetrators for crimes of rape and pillaging and other crimes committed by the military in Minova, Sake, Beni and Butembo.

## 2. What are some of the causes for, and who are some of the alleged perpetrators of sexual violence crimes?

Since the 1990's, the Eastern Democratic Republic of the Congo (DRC), (former Zaire), has been under constant attack from tribal-ethnic groups financed by a variety of actors with a hidden political agenda. Recurrent conflicts about land and nationality are a breeding ground for corruption. They contribute to insecurity and eventually foster the creation of many different armed groups including political-military armed groups from different regions within Congo, ex-Rwandese military since 1994, armed groups from Uganda and Burundi as well as undisciplined military and armed forces of the DRC's own armed forces. These groups are among the main perpetrators of these crimes.

## 3. What possibilities do victims of sexual violence have to seek justice under Congo's current legal framework?

In reality, victims have minimal chances to obtain justice. Either the perpetrators are not held accountable, and when they are, victims do not obtain reparation. There are many impediments depending on the status of the perpetrators of these crimes. For example, victims of sexual violence committed by the Congolese army cannot hope to obtain compensation from the perpetrators themselves. The officials' salaries are very low, almost insignificant in light of the costs of living, and cannot cover reparation and payment of damages to victims. The Congolese government seems unwilling to accept state responsibility for the military's actions [even in cases where it has been ordered to pay compensation *in solidum*].

## 4. What are some of the current legal and practical challenges for victims to obtain reparation?

The crimes committed by Congolese armed groups such as the May May, or armed groups from Rwanda, Burundi or Uganda are not addressed by the State at all, and it is the victims who suffer. The Bar association does what it can to ensure that proceedings and fair trials take place, and some important cases have proceeded to trial and perpetrators have been convicted. However, we are still in the process of identifying a suitable solution to ensure victims' right to reparation. The Congolese State has a duty to provide necessary funds for compensation, guarantee public order and reinforce discipline in the Forces Armées de la République Démocratique du Congo (FARDC).

There are significant legal challenges particularly under the Congolese (military) criminal procedural law: victims do not have the possibility to directly enforce reparation awards by the Court against the State. In addition, the initiative to institute an investigation rests solely with the public prosecu-



Rape Victim, Goma, Photo: Kate Holt, IRIN

tor or the military prosecutor. Protection of victims and witnesses who file a complaint or testify about crimes is another challenge, in particular in rural areas. In addition, these cases raise questions concerning the burden of proof, and the use of the evidence in a context where illiteracy is common. Our society does have an oral tradition, and we lack tools and/ or material to document crimes during investigations.

## 5. What role can the African Commission on Human and Peoples' Rights play in assisting victims to access justice?

There are so many centres of tension in the east of DRC, ranging from Uvira, Mwenga, Walungu, Fizi, Shabunda, Kabare, Kalehe, Masisi, Walikale, Nyiragongo, Rutshuru, Lubero, Beni and as far as Ituri. These are also centres where human rights violations are being committed. A Regional Mechanism like the African Commission is one of the mechanisms that the Nord-Kivu Bar Association could use to enforce the national, regional and even international dimension of the rights of the victims all places of tension.

# Updates on advocacy, events and judicial developments

## A General Comment on Article 5?

### PARI engagement with the CPTA

By Susan Mutambasere, Zimbabwe Human Rights NGO Forum

The Committee on Prevention of Torture in Africa (CPTA) is the working group created by the African Commission on Human and Peoples' Rights ('African Commission') charged with the promotion and the facilitation of the implementation of the Robben Island Guidelines (RIGs) in all member states of the African Union working towards the combating and the prevention of torture in Africa. Over the last few ordinary sessions of the African Commission, civil society working on the prevention of torture in Africa has deliberated on developing joint strategies to ensure that victims of torture are able to access redress. During one of these deliberations, the Pan African Reparation Initiative (PARI) was launched so as to address existing gaps in providing adequate reparation for victims of torture in Africa at national, regional and international levels.



Freedom Boat Photo on Robben Island, Photo: APT

On 9 December 2013, PARI highlighted their joint concerns on the right to reparation for victims of torture in a letter to the CPTA which included a proposal for the CPTA to develop a General Comment (GC) on Part III of the Robben Island Guidelines addressing States' obligation to provide reparation to victims of torture. A total of 21 civil society organisations working with victims of torture throughout Africa affixed their signatures to the letter and affirmed their commitment to supporting the CPTA and ensuring that cases of torture are adequately addressed and reparation guaranteed.<sup>1</sup> The PARI has since grown and currently includes 35 civil society organisations.

The CPTA responded by indicating that it is considering to draft a General Comment on Article 5 of the African Charter, rather than specifically on the Robben Island Guidelines, and sought relevant input from PARI members, given that reparation was an important component of Article 5. The Centre for the Study of Violence and Reconciliation (CSV) and REDRESS subsequently participated in a strate-

gy meeting of the CPTA in March 2014 in Banjul, the Gambia, to further discuss and provide input into the drafting process of a General Comment on Article 5. Commissioner Lawrence Mute, the Chair of the CPTA, then requested civil society to draft a competent technical paper, mapping existing instruments and jurisprudence at national, regional and international level, as well as state practice in relation to Article 5, so as to identify the areas in which a General Comment adopted by the African Commission could most usefully provide added value.

During the 55<sup>th</sup> session of the ACHPR in Luanda in April 2014, PARI members met with Commissioner Mute along the margins of the session to reaffirm its commitment to working with the CPTA and developing the technical paper. The CPTA had also identified the United Nations Office of the High Commissioner for Human Rights as a potential partner in this process. Commissioner Mute highlighted the CPTA's expectation to have an interpretative General Comment providing clarity to existing provisions for effective implementation of Article 5.

Civil society organisations have begun the process of drafting of the technical paper for the CPTA to consider at their meeting in October 2014. PARI sees this as an important opportunity to strengthen a good working relationship with the CPTA and the African Commission to allow for the continued fight for the promotion and the protection of victims' rights in Africa.

<sup>1</sup> The letter is available here: [http://www.redress.org/downloads/publications/Civil%20Society%20Letter\\_CPTA\\_Right\\_to\\_Reparation\\_91213.pdf](http://www.redress.org/downloads/publications/Civil%20Society%20Letter_CPTA_Right_to_Reparation_91213.pdf).

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## African Commission reports implementation of its decision by Cameroon

In its 35<sup>th</sup> Activity Report, the African Commission on Human and Peoples' Rights reported that Cameroon had implemented its decision in Communication 272/03, *Association of Victims of Post Electoral Violence & Interights v Cameroon*. According to the Commission, Cameroon paid compensation to the victims for the prejudice suffered during the post-electoral violence of 1992 in the North West Region. The Commission had decided in 2009 that Cameroon was in breach of its obligations under Articles 2, 4 and 14 of the African Charter, and recommended Cameroon to, inter alia, 'pursue its commitment to pay fair and equitable compensation to the victims or their beneficiaries.' For further information on the communication see: <http://bit.ly/1jNrMqQ>.

Furthermore, the Commission has indicated that it will include in future Activity Reports a more detailed section on State implementation of its decisions, thereby enhancing monitoring of State compliance.

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## APDH organizes workshop on Victims' Rights in Ivory Coast

By Eric-Aimé Semien, APDH

From 6- 7 May 2014, the 'Actions pour la Protection des droits de l'Homme' (APDH) organised a conference in Abidjan, Ivory Coast, on the rights of victims of the post-election violence. All national institutions involved in the 'transitional justice' process have participated in the conference and made presentations in a direct dialogue with the victims. As a conference aimed at raising awareness of the rights of victims, it was the first of its kind since the end of the crisis.

The special guest was Mrs. Marie Therese Bocoum Keita, UN Independent Expert on the situation of human rights in the Central African Republic. She gave a keynote address on the role of victims in the 'transitional justice' processes.



APDH Conference, Photo: APDH

The conference was part of APDH's project on providing legal and judicial assistance to victims of the Ivorian crisis, which started in 2012. The project to date included the identification of 476 victims of the post-election violence in 10 different localities of the country, as well as the training of their legal representatives on victims' rights and the different possibilities to access national courts and international mechanisms. As a next step, APDH will support victims' access to international courts and mechanisms. For further information on APDH's initiative in Ivory Coast, please con-

tact Eric-Aimé Semien, President of the APDH, at [semiener-ic@yahoo.fr](mailto:semiener-ic@yahoo.fr).

## African Court delivers first decision on Reparations

By Selemani Kinyunyu, Pan-African Lawyers Union (PALU)

The African Court on Human and Peoples' Rights delivered its first ever ruling on the issue of reparations on 13 June 2014. The ruling emanated from the cases of *Tanganyika Law Society (TLS) and Legal and Human Rights Centre (LHRC) and Rev. C. Mtikila v. Tanzania* in which the Applicants had alleged that Tanzania's legal and constitutional dispensation prohibited individuals from contesting presidential and parliamentary elections unless sponsored by a political party. This they alleged violated Articles 2, 3, 10 and 13(1) of the African Charter on Human and Peoples' Rights. At trial, the African Court found in favour of the Applicants and ordered a hearing on reparations. Only the third applicant Rev. Mtikila had requested reparations in the form of pecuniary and moral damages, costs and attorney's fees. After considering the evidence, the Court held that while entitled to reparations, Rev. Mtikila had not provided sufficient evidence to prove material damages, costs, attorney's fees. The Court however on its own initiative adopted measures of satisfaction and ordered Tanzania to publish a summary of the judgment of the Court within 6 months in both English and the widely used Kiswahili language as well as to publish the entire judgment on the website of the government for one year. As guarantees for non-repetition, Tanzania was ordered to report to the Court after six months on the constitutional, legislative and all other necessary measures it had taken to remedy the violations found by the Court.

The decision of the Court is welcomed as it reaffirms the rights of victims of violations of human rights to reparations. Tanzania which is currently undergoing a constitutional review process is now obliged to align its laws to allow independent candidacy. It does however appear that in developing its jurisprudence on reparations, the African Court will be keen to ensure that the right to reparations is substantially backed by evidence and compliance to procedural rules of the Court.

**This newsletter was edited by REDRESS and CSVr. It is a publication of the 'Pan-African Reparation Initiative', a network of NGOs and experts working with and advocating for the rights of victims throughout Africa. Current members of the network include:** Actions pour la Protection des Droits de l'Homme, African Centre for Treatment and Rehabilitation of Torture Victims, Article 5 Initiative, Association for the Prevention of Torture, Cairo Institute for Human Rights Studies, Centre for the Study of Violence and Reconciliation, Collectif Des Familles de Disparus en Algérie, Counselling Services Unit, Egyptian Initiative for Personal Rights, Fédération internationale des ligues des droits de l'homme, Human Rights Implementation Centre, Independent Medico Legal Unit, International Rehabilitation Council for Torture Victims, Kenyan Human Rights Commission, Khulumani Support Group, Medical Association for Rehabilitation of Torture Victims, Pan-African Lawyers Union, Prisoners' Rehabilitation and Welfare Action, Rehabilitation and Advocacy Unit, REDRESS, Rencontre Africaine pour la Défense des Droits de l'Homme, Rescue Alternatives Liberia, Solidarity Action for Peace, Save Congo, South Africa Trauma Centre, The Youth for Peace and Non Violence Association, University of Western Cape, World Organisation against Torture, Zimbabwe Human Rights NGO Forum, Zimbabwe Lawyers for Human Rights; for further information and/ or to join the Initiative, please contact Juergen Schurr, REDRESS at [juergen@redress.org](mailto:juergen@redress.org) or Annah Moyo, CSVr, at [amoyo@csvr.org.za](mailto:amoyo@csvr.org.za).

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