



## Boniface Umpula Nyembo: Arbitrary Detention of Human Rights Defender in the Democratic Republic of Congo (DRC)

14 November 2014

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**Boniface Umpula Nyembo**, of the leading Congolese human rights NGO, *Action contre l'impunité pour les Droits Humains* (ACIDH), was arrested in Lubumbashi on 10 November 2014, according to Congolese and international NGOs. Mr. Umpula Nyembo has been placed in preventive detention and charged with "incitement to civil disobedience" and "disseminating false rumours". Congolese NGOs have characterised his arrest as an arbitrary violation of the Constitution and of international agreements ratified by the Government of DRC, and are calling for his immediate release.<sup>1</sup>

ACIDH has long worked to protect human rights in DRC, including in instances of abuse involving companies. ACIDH works internally within DRC, as well as internationally with groups such as International Federation for Human Rights (FIDH), Business & Human Rights Resource Centre, Rights & Accountability in Development (RAID), and Centre for Research on Multinational Corporations (SOMO).

At the time of Mr. Umpula Nyembo's arrest, Congolese and international NGOs report that he was distributing a press release in the Courthouse (*Palais de Justice*). The order for his arrest was apparently made by Mr. Useni Sefu, Chief Prosecutor of the Court of Appeal (*Procureur Général*) of Katanga Province. The press release was issued by the *Syndicat Autonome des Magistrats du Congo* (SYNAMAC), the independent union of judges, calling for members of the union to strike in protest at the Government's failure to deliver a promised salary increase.

<sup>1</sup> ACIDH, Association congolaise pour l'accès à la justice (ACAJ), African Resources Watch (AFREWATCH), ASADHO/Katanga, Justicia asbl, "Les ONG de la Société Civile du Katanga qualifient d'arbitraire l'arrestation du défenseur des droits humains Umpula Nyembo Boniface et exigent sa libération sans délai ni condition", 13 Nov 2014: <http://www.congoindependant.com/article.php?articleid=9412>. See also "Grève des Magistrats : 80 Ongs exigent la libération de Boniface Umpula !": [http://laprosperiteonline.net/affi\\_article.php?id=4784](http://laprosperiteonline.net/affi_article.php?id=4784)

On 3 November, according to Radio Okapi, judges were urged by SYNAMAC's National Committee to strike across the country. The judges are demanding a basic salary of \$1600 per month, which President Kabila had publicly announced in September 2011, but which the government has not implemented in the three years since.

Studies by the United Nations<sup>2</sup> and the International Bar Association<sup>3</sup> have concluded that the main problems besetting the DRC's judicial system is a crippling lack of resources. The serious underfunding does not cover operating costs of courts and it makes it difficult for courts to achieve effective administration of justice. The IBA reported, "the percentage allocated to the justice sector in the DRC is only 0.03 per cent of the country's annual budget, or roughly US\$1.2 million. If this figure is correct, it is not sufficient to cover the salaries of the judiciary for even one month, with approximately 2,000 judges supposedly earning US\$800 per month, let alone the salaries of other legal staff and the inevitable administrative costs." DRC-based African Resources Watch (AFREWATCH) and other NGOs have noted that this underfunding hampers access to justice for victims of human rights abuse in cases involving companies and other non-state actors, as well as abuses by the government.

The undersigned organizations respectfully **urge the immediate and unconditional release of Boniface Umpula Nyembo.**

We further respectfully remind the Congolese authorities of their obligation under the United Nations Declaration on human rights defenders to "take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, ...pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to" in the Declaration.<sup>4</sup>

Phil Bloomer, Executive Director  
**Business & Human Rights Resource Centre**

Co-signed by:

**International Service for Human Rights**



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<sup>2</sup> See *United Nations Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003*, Aug 2010, paragraphs 900-928, pp. 413-422:

[http://www.ohchr.org/Documents/Countries/CD/DRC\\_MAPPING\\_REPORT\\_FINAL\\_EN.pdf](http://www.ohchr.org/Documents/Countries/CD/DRC_MAPPING_REPORT_FINAL_EN.pdf) (unofficial translation of French original); *Report of the Special Rapporteur on the Independence of Judges and Lawyers, Leandro Despouy – Addendum: Mission to the Democratic Republic of the Congo*, 11 Apr 2008, UN Doc. A/HRC/8/4/Add.2: <http://www.refworld.org/pdfid/484d2d5f2.pdf>

<sup>3</sup> International Legal Assistance Consortium and International Bar Association's Human Rights Institute, *Rebuilding courts and trust: An assessment of the needs and the justice system in the Democratic Republic of Congo*, Aug 2009: <http://issat.dcaf.ch/mkd/content/download/12040/121847/file/DRC-IBA-ILAC-Justice-Aug09.pdf>

<sup>4</sup> "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms", art. 12, adopted by United Nations General Assembly resolution 53/144 of 9 Dec 1998: <http://www.ohchr.org/en/ProfessionalInterest/Pages/RightAndResponsibility.aspx>