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THE PARTICIPATING STATES MUST CALL FOR THE PROTECTION OF THE RIGHTS TO FREEDOM OF ASSOCIATION, PEACEFUL ASSEMBLY AND EXPRESSION IN TOGO

Amnesty International public statement to 26th session of the UPR Working Group

Togo will be examined under the Universal Periodic Review (UPR) for the second time on 31 October 2016. Since Togo's first UPR in 2011, the human rights situation on the ground has stagnated. The authorities have ignored, or only partially implemented, several of the recommendations and continued to clamp down on peaceful demonstrations, journalists and human rights defenders. Human rights violations, including torture and unlawful killings, are still committed with impunity. States participating in the review should fully engage with Togo in addressing the human rights situation in the country, particularly in light of the closure in 2015 of the Office of the United Nations High Commissioner for Human Rights in Lomé.

In the last six months, the Togolese authorities have made efforts ahead of the review to implement some of the recommendations from the first review cycle. In September 2016, Togo ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. Also in September, the National Assembly adopted a revision of the Criminal Code which defines torture in line with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and makes torture a crime under Togolese law.

However, since Amnesty International and civil society alternative reports were submitted in preparation for this UPR¹, there have been concerning developments. In particular new bills have been introduced in Togolese government and parliament that could also be used to target human rights defenders, muzzle dissent and undermine the rights of asylum seekers and refugees.

Clampdown on freedom of association

In April 2016, the Council of Ministers adopted a bill on freedom of association that would unduly restrict the right of individuals to form associations and discriminate against foreign associations.

¹ Togo: Human Rights - A Long Way To Go (AFR 57/3852/2016), available at: <https://www.amnesty.org/en/documents/afr57/3852/2016/en/>

The Council of Ministers adopted the bill without adequate consultation with civil society. As of October 2016, parliament has not adopted the bill.

The bill imposes a prior authorisation requirement on “foreign or international associations”, which has a negative effect on civil society organizations. The law does not clearly establish what “foreign or international associations” are, referring to these only as associations whose main office is located outside of Togo or whose governing body is mostly comprised of foreigners. The bill would also grant the government increased powers to control the objectives and activities of associations through tax incentives. Associations may be dissolved by a decision of the Council of Ministers, or the Minister of Territorial Administration in the case of “foreign and international associations.” A clear procedure to appeal the decision is not provided. The bill also provides that all associations must respect national laws and morals. This requirement might be used to target civil society organizations.

Recommendation:

Amnesty International urges States participating in the review of Togo to recommend that the authorities bring the draft bill on associations in line with international and regional law and standards so that the right to freedom of association of all, including foreign nationals, is protected. Civil society should also be consulted in this process.

Excessive use of force

Amnesty International is concerned that the security forces, including the military, have used unnecessary and excessive force against peaceful demonstrators. When people of Abobo-Zéglé were demonstrating peacefully against being evicted from their land to accommodate an extraction company in August 2016, security forces hit them with batons and used tear gas in their houses.

Recommendation:

Amnesty International urges States participating in the review of Togo to recommend that the authorities prohibit the deployment of military armed forces in public order situations and ensure that security forces policing assemblies are under civilian command, fully trained in and compliant with international human rights law and standards.

Torture and other ill-treatment

Amnesty International continues to document cases of torture and other ill-treatment in Togo. In June 2016, three members of the police forces arrested Ibrahim Agriga at his home in Guerin Kouka, handcuffing him with his hands behind his back and thereafter taking him to the police station where he was beaten with batons on his buttocks and soles of his feet. He was released without charge after three days of detention. His injuries required hospital treatment. He filed a complaint in the Court of Guerin Kouka. However, although there have been disciplinary sanctions against one of the police, as of October 2016, there have been no charges in relation to the torture to which Mr Agriga was subject.

Recommendation:

Amnesty International urges States participating in the review of Togo to recommend that the authorities promptly, thoroughly and impartially investigate all allegations of torture and other ill-treatment and bring anyone suspected to be responsible to justice in a fair trial, in line with Togo's commitments made during its 2011 UPR.

Counter-terrorism legislation and rights of migrants, refugees and asylum seekers

In September 2016, the National Assembly adopted a revision of the Criminal Code that, among other things, broadens the definition of terrorism-related offences. Amnesty International is concerned that the new definition, which it considers vague, could be used to target political activists, journalists, human rights defenders and others who express dissent in the context where there is violence and destruction of public and private property. The law also includes sanctions for stowaways and people who assist them that could undermine the rights of migrants, refugees and asylum seekers who flee from, or transit through, Togo.

Recommendations:

Amnesty International urges States participating in the review of Togo to recommend the authorities to:

- amend the Criminal Code to provide a more precise definition of terrorism consistent with the guidelines issued by the UN Special Rapporteur on counter-terrorism and human rights;
- amend the Criminal Code to repeal criminal sanctions for stowaways and people who assist them, as well as provisions which undermine the rights of refugees and asylum seekers.