

OBSERVATORY FOR THE PROTECTION
OF HUMAN RIGHTS DEFENDERS

HUMAN RIGHTS DEFENDERS ON THE FRONT LINE

Annual Report 2004

FOREWORD BY LIDA YUSUPOVA



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ON THE FRONT LINE

**Observatory for the Protection of Human Rights
Defenders / FIDH and OMCT**

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on the Front Line**

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Foreword by
Lida Yusupova

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The Observatory thanks Marjane Satrapi, comic strip author and illustrator of the annual report cover, for her constant and precious support.

The Observatory thanks all partner organisations of FIDH and OMCT, as well as the teams of these organisations.

Distribution : this report is published in English, Spanish and French versions.

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FOREWORD

UNITED AGAINST HORROR

by Lida Yusupova

Human rights defenders in Chechnya have to work in an extremely difficult environment. For over ten years the war has been raging more or less in camera - almost no foreign journalist, no international human rights NGO can have access to this conflict zone.

Who are these people who are presently defending human rights in Chechnya? They are ordinary citizens, who were often far removed from such problems before the war: journalists, academics, lawyers, schoolteachers and students. We have joined forces to react and to try to oppose the violations of the rights of our compatriots, the arbitrary and criminal practices our people are subjected to.

Working alongside our friends and colleagues of the human rights centre Memorial, I found a place where I could be useful. We provide legal assistance to the victims and their families. In particular, we try to locate persons who have been abducted, and we help the families in their dealings with the administrative and judicial systems. We defend those who are arrested or arbitrarily detained. The detainees I see in prison have sometimes been tortured to such a degree that they can barely get up or sit down. Some do not dare to complain, for fear of reprisals. If I call for a doctor, the penitentiary administration usually refuses. We also keep a register of all the cases of violations brought to our knowledge. This mass of information, once processed and classified, is published regularly in the form of a chronicle of day-to-day violence.

We are aware of the risks. Since 2000, six lawyers who were trying to defend the population and obtain the application of the law have disappeared, and another was killed in his home in the presence of his family. Those remaining work under constant pressure.

We are cut off from the rest of the world. The community of States has abandoned thousands of victims to their tragic fate. The support of our Russian col-

leagues and of international NGOs is vital, and often in taking up our cause they represent our last hope. Another source of hope, more personal but nevertheless important, lies in the feeling that if a major problem were to arise, our fate would not pass unheeded, and that our friends will rise up to defend us and to continue our struggle.

For all these reasons, for me the 2004 Martin Ennals Award for Human Rights Defenders¹ was both an encouragement and an honour. I received it as a token of trust and encouragement.

The Observatory for the Protection of Human Rights Defenders, managed by the FIDH and the OMCT, is doing a remarkable job, which is absolutely necessary in a world in which those who defend the rights that belong to everyone are exposed to danger and injustice. Such solidarity is of immediate importance, and gives me the strength to persevere in my action. In the long run, such solidarity unites men and women thousands of miles apart, in their daily struggle against horror, for the sake of human dignity.

Lida Yusupova
Co-ordinator of the Memorial office in Grozny (Chechnya)
Martin Ennals Award, 2004

¹ The Martin Ennals Award for Human Rights Defenders (MEA), established in 1993, is a unique collaboration among eleven of the world's leading human rights NGOs, for the protection of human rights defenders. The following organisations are represented on the Jury: Amnesty International, Human Rights Watch, Human Rights First, International Alert, International Commission of Jurists, International Federation for Human Rights, International Service for Human Rights, World Organisation Against Torture, Diakonie Germany, Huridocs, Defence for Children International.

LET'S JOIN FORCES! TESTIMONIES

"I would like to thank you for all your valuable support that helped me getting through this hard time".

Shirin Ebadi, chairperson of the Defenders of Human Rights Centre in Iran, 2003 Nobel Peace Prize and FIDH member.

Iran, 14 January 2005.

"Thank you for all your efforts to save us".

Emmanuel Nsenguiyumva, president of the League for the Protection of Human Rights in Rwanda, in exile.

Burundi, 3 August 2004.

"I wish to thank the Observatory. My family and I are grateful for all the actions you unfailingly took to relieve our suffering lately".

Golden Misabiko, honorary president of the Association for the Defence of Human Rights / Katanga section.

Democratic Republic of Congo, 17 August 2004.

"I wish to express my most sincere thanks and gratitude to you all for your concern, appeals, support and solidarity which helped in my release from Jhapa district prison. I read the Observatory's appeals when I was detained and I drew a lot of strength and hope from them thinking I was not alone in this struggle. Thank you for your efforts which led not only to my release, but also to the release of other victims like me all over the world".

S.K. Pradhan, secretary general of the Peoples Forum for Human Rights and Development / Bhutan.

Nepal, 14 October 2004.

TESTIMONIES

"I would like to thank the Observatory for its support which arrived at a particularly difficult moment for me and my colleagues. Your help and support is of a great value to us all".

Stephania Koulaeva, president of the Memorial Anti-Fascist Commission, Saint-Petersburg.

Russian Federation, 1 September 2004.

"In the name of the MDDHL, I wish to express our deepest gratitude to the Observatory for its support. We can feel we are not alone and carry on a fight we chose knowing its legitimacy: the protection of human rights".

Abdoulaye Math, president of the Movement for the Defence of Human Rights and Freedoms (MDDHL).

Cameroon, 26 October 2004.

INTRODUCTION

Human rights stuck between relativism and denial

In April 2004 the United Nations Commission on Human Rights reaffirmed that "States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law"¹.

Many governments who see a convenient opportunity in the fight against terrorism for strengthening their power take no notice of this recommendation. The fundamental rights enshrined in the United Nations International Bill of Human Rights, and in particular those whose inviolability is proclaimed in the text itself, are regularly trampled, including in long-standing democracies.

Such violations have always existed but the trend today is to justify them in the name of defending other values, which are also part of the rule of law, such as freedom and democracy. In this regard, the announcement of the appointment of Mr. Alberto Gonzales, a former counsel to President George W. Bush, to the position of Attorney General in November 2004, is symptomatic. As a counsel to the President, Mr. Alberto Gonzales stated in a memorandum that the war against terrorism is "a new kind of war" and "this new paradigm renders obsolete Geneva's strict limitations on questioning of enemy prisoners and renders quaint some of its provisions". In the United Kingdom, a court ruled in August 2004 that evidence obtained under torture was "admissible", thus running counter to the obligations that this State has always endorsed.

¹ See UN document E/2004/23-E/CN.4/2004/127.

Other States assert even more blatantly disregard of human rights obligations laid down in international instruments, when they hinder the fight against terrorism. For instance, at an informal meeting held on the occasion of the July 2004 Summit of the Commonwealth of Independent States (CIS), nine member States severely criticised the Organisation for Security and Co-operation in Europe (OSCE) for granting too much importance to democracy and human rights, and for, thereby, "significantly" limiting its capacity to deal with other threats².

In such a context, where human rights are either sacrificed to Realpolitik or disregarded in the name of freedom and other interests, the women and the men who defend them are more than ever on the front line.

Defenders are up against a double difficulty: on the one hand, their task increases in importance with the rise of arbitrariness, social inequalities and violations concomitant with the "security first" principle; on the other hand, the values they defend are undergoing constant erosion, their freedom of expression is considerably curtailed and their message is ever more difficult to transmit. Whereas their action is all the more necessary, they could well suffer the same fate as the rights they defend.

Repression against human rights defenders continued in 2004, and even gained in intensity in certain parts of the world, notably in Asia and some Latin American countries. This repression is sometimes directly linked to a spurious use of the fight against terrorism. In certain countries, particularly in conflict-ridden areas (Colombia, Nepal), defenders are considered as rebels or terrorists, and/or are subjected to a restrictive security legislation, like the Mapuche leaders in Chile. More generally, in many countries, like Uzbekistan or Tunisia, defenders are treated like ordinary criminals.

Human rights defenders in situations of conflict

In 2004, wars and internal conflicts have continued to take a heavy toll of human rights defenders.

From Chechnya to Sudan, from Iraq to the Philippines, human rights defenders have been targeted for denouncing exactions commit-

² See Regional Analysis on Europe and the CIS, below.

ted by parties to the conflict, and paradoxically for advocating peaceful solutions that are respectful of human rights.

In most cases they are accused of being in favour of one side or the other, and find themselves in a seemingly inextricable situation of extreme danger. In some countries they are cut off from the outside world (Chechnya), or seriously restricted in their freedom of movement (Occupied Palestinian Territories).

Furthermore, in 2004 international humanitarian personnel were subjected to numerous acts of reprisal owing to support given to the civilian population in Iraq, Afghanistan or Sudan.

Defenders of economic, social and cultural rights

Many defenders have been assassinated or threatened for being an obstacle to certain economic interests. Many trade union activists, for instance, have paid with their own lives for defending workers in their negotiations with employers. In China, where the justification invoked for a productive system based on absolute discipline on the part of underpaid workers has been the need to attain growth targets, union leaders are subjected to systematic repression. Representatives of indigenous communities (Ecuador) have suffered the same fate for protesting against the establishment of firms and businesses on their territory, as well as defenders who have denounced grave harm to the environment exposing local populations to serious risks (Thailand).

In certain countries, large landowners continue to subject representatives of the landless populations (Brazil) or of the indigenous population (Bolivia) to severe reprisals.

Although the government is not always directly implicated in such violations, its implicit support, at national or local level, to those who hold economic power places human rights defenders in an extremely precarious situation: not only do they lack adequate protection, but most crimes committed against them remain unpunished.

Fight against impunity

Impunity, which unfortunately remains the rule in many authoritarian regimes, as in those eroded by paramilitarism, more than ever calls for courageous efforts on the part of human rights defenders for the victims to obtain judicial redress.

The possibility of initiating legal proceedings or of participating to judicial or quasi-judicial actions as plaintiffs, at national and international level, opens up new perspectives for defenders.

The International Criminal Court (ICC), which has now started to function, enables victims and their supporting NGOs to refer any situation implying war crimes, crimes against humanity or genocide to the Prosecutor. Under the Rome Statute, they can also participate and be represented in the framework of the Court proceedings.

Unfortunately, these historical breakthroughs might not be put into operation as long as victims and supporting NGOs are not guaranteed any protection against persecution and intimidation, as was the case in 2004 in the affairs of the "Disappeared of the Beach" in Congo-Brazzaville and the Relizane militia in Algeria.

Women defenders³

In many countries, the fundamental rights of women - reproductive health, the fight against female genital mutilation, polygamy and conjugal violence, etc. - are denied. Unfortunately, women often find themselves very much alone when it comes to fighting for the respect of these rights. In doing so they run considerable risks (assassination, disappearance, arbitrary detention, threats, harassment) and are often subject to discrimination and stigmatisation, like in China, where they are fighting drastic family planning policies, or in Pakistan and Iran where Islamic religious groups consider their struggle to be contrary to religion.

Beyond speech-making, women's rights are not really a priority for governments, who too often consider their claims to be too specific to be an element of general policy.

In addition, women defenders, i.e. women who defend fundamental women's rights and fight against gender violence, but also the ones who more generally defend human rights, also meet resistance within human rights movements themselves.

Ten years after the Beijing conference, the "women's rights are fundamental human rights" slogan still needs to be hammered out in order

³ On 25 November 2004, an international campaign on women defenders was launched on the initiative of 15 national and international NGOs.

to overcome inter-association barriers and to give renewed vigour to the fight for women's rights.

Regional and international protection

Undeniable progress has been made in the regional and international protection of human rights defenders. In 2004, the Observatory welcomed the appointment of Mrs. Jainaba Johm as Special Rapporteur on human rights defenders of the African Commission on Human and Peoples' Rights, as well as the adoption of the European Union (EU) Guidelines on Human Rights Defenders.

The question remains, however, of the effectiveness of some mechanisms and instruments. In the case of the European Union for instance, although the question of human rights defenders is raised in most intergovernmental meetings (Commission on Human Rights, UN General Assembly), it should be much more addressed at the bilateral level, in coherence with the recent adoption of the Guidelines and in order to complete in effect the "discreet diplomacy" the EU is engaged in. In 2004 for instance, the situation of human rights defenders was mentioned in none of the final declarations of the association and co-operation councils (Kyrgyzstan, Uzbekistan), or of the EU-China, EU-Russia and ASEM (Asia-Europe meetings) Summits.

Furthermore, the impact of the "Defenders" Unit of the Inter-American Commission on Human Rights (IACHR), set up in 2001, appears to be somewhat limited, in that States often neglect to implement the protective measures (*medidas cautelares*) laid down by the IACHR, while the IACHR is lacking the necessary funds for the Unit to engage in effective action.

The strategies applied by States for exercising national control over independent civil society are frequently extended to international or regional bodies.

At the level of the African Union (AU), a first "Draft Code of Ethics and Conduct for African civil society organisations" was presented in June 2003. This Draft Code specifies a number of obligations imposed on civil society organisations seeking accreditation with the AU. Furthermore, the Statutes of ECOSOCC, the standing consultative body composed of representatives of civil society organisations in AU member States, which were adopted in 2004, have been revised and

made more restrictive, in particular regarding the eligibility requirements for ECOSOCC membership.

At the level of the United Nations, an increasing number of initiatives aim at restricting the reactions of the protection mechanisms to allegations of violations transmitted by independent NGOs.

2004 is characterised by the evident lack of political will to respect human rights, and by the same token, those who defend them. As the last bastion against the multiform increase in arbitrary power, defenders continued to pay a heavy price for their commitment to the defence of our universal rights. Our solidarity with these exemplary men and women, to quote Lida Yusupova in Grozny, "is of immediate importance, and gives [them] the strength to persevere in [their] action". It is up to all of us to be worthy of their trust.

Repression against human rights defenders

The Observatory's 2004 Annual Report addresses the cases of 1,154 defenders and nearly 200 human rights organisations (NGOs, trade unions, institutions, etc.) targeted by acts of repression in about 90 countries⁴.

Although this report does not pretend to be fully exhaustive, the doubling of the number of cases handled by the Observatory in 2004 compared to the 2003 Annual Report is revealing of the deteriorating situation of human rights defenders - and thus, of the erosion of human rights in the world.

In 2004, the Americas, where the number of assassinations and death threats was the highest (Argentina, Bolivia, Brazil, Colombia, Ecuador, Guatemala, Haiti, Honduras, Mexico and Peru), remained the most dangerous region for human rights defenders. Moreover, the intensified criminalisation of social protest, notably through numerous infringements to freedoms of demonstration and assembly, as well as

⁴ The Observatory's 2004 Annual Report entails analyses of the situation of human rights defenders in each region of the world. They are followed by regional compilations of the cases handled by the Observatory in 2004, as well as updates and follow-ups of the cases presented in the 2003 Annual Report.

arbitrary judicial proceedings, particularly targeted defenders of economic, social and cultural rights (Chile, Colombia, Guatemala and Mexico).

In Asia, an increasing number of defenders were assassinated in 2004 (Afghanistan, Cambodia, India, Indonesia, Nepal, Pakistan, Philippines and Thailand), whereas the record of arbitrary detentions remained high (in particular in China and Vietnam). Further, defenders' security seriously deteriorated in Nepal.

In Africa, defenders carried on their activities under high pressure and hostility: they were subjected to threats, defamation and intimidation (Cameroon, Democratic Republic of Congo, Guinea-Bissau, and Mauritania), as well as to serious acts of violence (Gambia, Zimbabwe). The adoption of restrictive pieces of legislation became also more systematic as part of methods to neutralise civil society, whose role is still far from being accepted (Ethiopia, Rwanda, and Zimbabwe).

In Europe and the Commonwealth of Independent States (CIS), the crackdown against independent NGOs mainly consisted in hindering defenders' freedoms (Belarus, Russian Federation, Uzbekistan), thus confirming the governments' will to control civil society in the region, where violence and impunity were still the rule in 2004 (Azerbaijan, Russian Federation, Kyrgyzstan and Serbia-Montenegro).

Lastly, certain countries in Maghreb and the Middle East continued to deny the right to freely operating in favour of democratic reforms and the rule of law (Gulf States, Libya and Syria). The rights to create associations and to receive foreign funding were almost systematically retaliated, while freedom of expression remained blatantly violated.

AFRICA

THE SITUATION OF HUMAN RIGHTS DEFENDERS

In 2004, human rights defenders continued to be subjected to the hostility of their respective governments, although to different degrees. Repression mainly took the form of limiting their freedom of expression, since governments, always concerned with their image, poorly tolerated criticism of their policies and denunciation of human rights violations on their territories. Numerous cases of violence against human rights defenders were recorded, notably in *Cameroon*, *Democratic Republic of Congo (DRC)*, and *Zimbabwe*. Moreover, several States followed a more pernicious strategy of neutralisation and progressive paralysis of independent civil society, as for instance in *Ethiopia*, *Mauritania* and *Rwanda*. Defenders were also marginalised by campaigns aimed at discrediting them, organised by the authorities (*DRC*, *Mauritania* and *Togo*) and often relayed by pro-governmental NGOs that have become more and more present on both national and international scene. Although the war against terror remained on the political agenda of some States¹, few governments used the fight against terrorism as a pretext to undermine defenders' rights². However, 2004 was marked by an increasing number of particularly restrictive legislation with regards to freedom of association (*Ethiopia*, *Zambia*, and *Zimbabwe*). Finally, as well

1 The African Union's Centre for Study and Research on Terrorism, in particular, was inaugurated on 13 October 2004 in Algiers.

2 In *South Africa* for instance, the "Protection of Constitutional Democracy against Terrorism and Related Activities" Bill, which was adopted by the National Assembly in November 2003 and introduced before the Senate in February 2004, was finally withdrawn due to the large mobilisation of civil society and trade unions, who strongly protested against the broad definition given to "terrorist activities" and who denounced the risks entailed in this legislation with regard to freedom of association.

as being affected by the direct consequences of conflict throughout Africa, defenders denouncing human rights violations in Darfur (*Sudan*), *Côte d'Ivoire*, and in Kivu (*DRC*) were subjected to threats and severe hindrances to their activities.

At regional level, 2004 was marked by the institutional reinforcement of the African Union (AU), and its strong political mobilisation, notably in conflict resolution, was widely welcomed by the international community. Two years after it was launched, the AU facilitated action at regional level in terms of conflict resolution, civil society participation, and protection of human rights defenders. This was largely due to the effective establishment of institutions such as the Peace and Security Council, the Economic, Social and Cultural Council, the Pan-African Parliament, and the African Court on Human and Peoples' Rights. Meanwhile, the AU however showed its will to tighten its control over independent civil society, so following a tendency that could be observed both in its members States and at international level.

Legislative obstacles to freedom of association

Several bills that were adopted or proposed in 2004 provided for manifold legislative constraints aiming at controlling independent civil society (demanding, if not paralysing, conditions for registration; wide interference prerogatives granted to the executive power, strict control and restrictions placed upon NGOs' funding sources).

In *Ethiopia*³, an NGO Bill that had been under review by the Ministry of Justice since 2001 was presented in a revised form in July 2004. Although this draft law authorises associations to organise themselves in networks, it allows the Minister of Justice extensive powers to interfere in NGOs' internal affairs of and thus contributes to maintaining a strict control over civil society. If adopted, this legislation will entitle the Minister to order the administrative dissolution of any NGO, to dismiss its members - whether elected or not -, to seize its documents and order the search of the premises without a warrant.

³ See Compilation of cases below.

In *Rwanda*, a draft law regulating the activities of international NGOs operating in the country was presented on 12 July 2004. According to Article 3 of this bill, all international NGOs must register every year with the Ministry of Local Administration, which may be granted the right to scrutinise the nature and location of their activities. In addition, international NGOs also have to submit a yearly, detailed assessment of their activities to the relevant Ministries, whereas the government has the possibility to proceed to an "evaluation/audit of their activities (...) when appropriate" (Article 21). This law, which is in keeping with the Act on local NGOs that was adopted in 2001, was approved by the government in November 2004, and is expected to be examined by the Parliament in 2005.

In *Tanzania*, although the law on NGOs that was adopted in November 2002⁴ was not yet effective in 2004, it will most probably come into force in 2005, since several bodies it sets forth were established in 2004. This act, which was drafted by the Parliamentary Assembly of Tanzania without prior consultation with national NGOs, provides for criminal sanctions (fine and/or imprisonment) against members of NGOs that do not register, whereas the cases in which registration can be refused are not clearly defined. Besides, the NGOs Coordination Board and the National Council for NGOs set by this law are granted an important interference power in the associations' activities and remain under strict governmental control. Moreover, the 2004 Income Tax Act that was adopted in April 2004 and came into force in July 2004 greatly reduced the tax benefits and allowances for "charitable organisations", that can now be taxed on a wider amount of the gifts and donations they receive.

In *Uganda*⁵, the NGO Bill that was presented before the Parliament in 2000 was still under review by the Defence and Internal Affairs Committee at the end of 2004. If adopted, this Bill will impose fierce restrictions on the registration of NGOs that will for instance be obliged to regularly register with the Ministry of Internal Affairs and have a valid operating licence in order to carry out their activities, the legal

4 See Annual Report 2003.

5 See Annual Report 2002.

duration of which has not yet been fixed. Moreover, some provisions forbid the registration of associations criticising the governmental policy or contrary to "public interest".

In *Zambia*, the President Mr. Levy Mwanawasa announced in November 2004 that the government was considering a Bill on NGOs' funding. Alleging that foreign funds received by national NGOs were used to "criticise the government", Mr. Mwanawasa announced his intention of setting forth "parameters in which NGOs will operate" and limiting the use of foreign funds by local associations.

Lastly, in *Zimbabwe*, the tendency identified in 2003 was confirmed by the adoption, on 9 December 2004, of the NGO Act which replaced the Private Voluntary Organisations (PVO) Act enacted in 1967, the provisions of which had been reasserted in 2002⁶. This new Act requires the registration of all NGOs with the Ministry of Social Welfare and prescribes personal criminal sanctions - including imprisonment - against the board members of an NGOs that is not registered. In addition, the authorities may at any time cancel or revoke the certificate of registration. Lastly, local human rights NGOs will be severely hindered in their activities since they are prohibited from receiving any foreign funding whereas foreign NGOs working in the field of human rights are no longer authorised to work in the country.

Defamation and discredit of human rights defenders: A tougher stance

Repressive practices against human rights defenders continued and diversified in 2004.

A large number of defenders were subjected to manifold methods of repression⁷ (harassment, professional reprisals, threats, arrests, arbitrary detention, mistreatment, etc.). The lack of independence of the judiciary intensified the arbitrary nature of this crackdown and thus further weakened the position of human rights defenders, who were often deprived of any equitable judicial recourse. For instance, in the *DRC*, Mr. Golden Misabiko, honorary president of the African Association of

6 See Annual Report 2003 and Compilation of cases below.

7 In particular in *Cameroon*, *DRC*, *Ethiopia* and *Zimbabwe*, see Compilation of cases below.

Human Rights (Association africaine des droits de l'Homme - ASAD-HO) - Katanga section, is under close police surveillance since 23 December 2004, when he was gravely threatened by a person he later recognised as one of his former torturer⁸.

In 2004, the authorities also adopted pernicious strategies of discredit aiming at neutralising and paralyzing independent civil society, whilst reinforcing the position of pro-governmental organisations.

Many governments attempted to make independent human rights organisations lose their credibility with the public by orchestrating vast smear campaigns against them. In June 2004 for instance, shortly after an FIDH report on the human rights situation in *Togo* was published, both Mr. Adote Ghandi Akwei, president of the Togolese League for Human Rights (Ligue togolaise des droits de l'Homme - LTDH), and the FIDH were defamed by Mr. Pitang Tchallah, Minister of Communication, who declared the report "outrageous and revolting"⁹. In *Mauritania*, members of the Mauritanian Association for Human Rights (Association mauritanienne des droits de l'Homme - AMDH) and of the organisation SOS Slaves (SOS-Esclaves) continued to be described by the authorities as "extremists and fringes of society [...] specialists in distorting facts"¹⁰. Moreover, many governments did not hesitate to publicly slander independent human rights organisations before international institutions. Indeed, during the 36th session of the African Commission on Human and Peoples' Rights (ACHPR)¹¹, the president of the Community of Indigenous People of Rwanda (Communauté des autochtones rwandais - CAURWA) was personally threatened by representatives of his own country, after he presented an alternative report to the periodic report Rwanda submitted to the Commission¹².

Several independent organisations saw elected members of their administrative boards replaced, without prior consultation, by individuals close to the government. In *Ethiopia* for instance, this strategy, which had already been used in the 1990s against the Ethiopian Teachers' Association (ETA), was once more resorted to against the

⁸ See Compilation of cases below.

⁹ *Idem*.

¹⁰ *Idem*.

¹¹ Dakar, Senegal, 23 November - 7 December 2004.

¹² See Compilation of cases below.

Ethiopian Free Journalists' Association (EFJA), whose executive board was re-elected in January 2004 by a general assembly convened by the Minister of Justice and in the absence of EFJA members¹³.

In June 2004, one of the very last independent human rights NGOs operating in Rwanda, the League for the Protection of Human Rights in Rwanda (Ligue rwandaise pour la promotion et la défense des droits de l'Homme - LIPRODHOR), was accused of "divisionism" by a Parliamentary Commission that further recommended its dissolution. Short after the Parliament adopted a resolution taking up this recommendation, the independent leaders of the organisation were forced into exile due to the serious threats exerted against them¹⁴. In September 2004, a new administrative board, composed of sympathizers of the ruling party, took over the association and immediately issued a public apology for its past "erring". The case of the LIPRODHOR is symptomatic of the baneful use by Rwandan authorities of the charges of "divisionism" and "propagation of genocide ideology" in order to muzzle independent civil society in the country.

This locking strategy was equally visible on the international scene in 2004, through the alarming proliferation of pro-governmental human rights NGOs. In *Mauritania*, the Group for the Defence of the Rule of Law (Groupe pour la défense de l'état de droit), an association close to the government, was created on 15 October 2004 with the explicit objective to discredit the FIDH, the AMDH and SOS Slaves. Moreover, during the 36th session of the ACHPR, several Mauritanian representatives of pro-governmental NGOs tried to introduce themselves as AMDH members, paralysing the debates and undermining the work of independent NGOs. This practice, which conveniently allows State authorities to publicly produce compliant civil society representatives while discrediting and isolating independent human rights defenders, is a real threat that requires an enhanced vigilance on the part of international human rights bodies.

In the DRC, several pro-governmental organisations orchestrated a smear campaign against the League of Electors (Ligue des électeurs - LE) by their donors, thus expecting to reduce the LE funding sources and activities¹⁵

13 *Idem.*

14 *Idem.*

15 *Idem.*

Freedom of expression and freedom of the press

Human rights defenders issuing public statements or publishing reports on human rights violations perpetrated in their countries remained systematically subjected to threats and retaliation.

In the *DRC*, members of human rights organisations were gravely threatened after each of their publications¹⁶ and interventions, as for instance the members of the Co-ordination of Actions for the Promotion of Peace and Human Rights (Coordination des actions de promotion de la paix et des droits de l'humain - CAPDH), an association based in Isangi, Oriental Province. Following the publication of a CAPDH report on the human rights situation in the Isangi district from October 2003 to June 2004, Messrs Gaspard Bombile, Dieu-Merci Mombaya and François Malomalo were arrested on 16 August 2004 by a group of police officers led by the police commissioner Mr. Nyeko, who had been incriminated by the report for perpetrating violations. Transferred to Mr. Nyeko's office, the three CAPDH members were first questioned and threatened with torture before being placed under detention. They were released on the same day thanks to the mobilisation of civil society. Later on, on 28 September 2004, Mr. Faustin Motembo was arrested on the order of Mr. Nyeko for allegedly stealing a radio. As soon as Mr. Nyeko and the officers got aware Mr. Motembo was a CAPDH member, they violently beat him up before placing him in detention. He was released two days later.

In *Ethiopia*, a couple of days after the Ethiopian Human Rights Council (EHRCO) published a report on the assassination of civilians by the armed forces in the Gambella region in January 2004, the government denied this information and threatened to take "appropriate measures" against the association. This statement was widely relayed on television and in the newspapers¹⁷.

In *Guinea Bissau*, Mr. Joao Vaz Mane, vice-president of the Guinean League for Human Rights (Liga Guinense dos Direitos Humanos - LGDH), was arbitrarily arrested in March 2004 after he denounced a

16 Notably the League of Electors, the Lotus Group, the African Association of Human Rights (ASADHO) and the Centre for Human Rights and Humanitarian Law (Centre des droits de l'Homme et du droit humanitaire - CDH).

17 See Compilation of cases below.

police misconduct in a programme broadcast by the LGDH. As the police presented him as the perpetrator of a murder he had nothing to do with, Mr. Vaz Mane narrowly avoided being lynched by the population¹⁸.

Media associations and independent journalists denouncing human rights violations were also subjected to various pressures.

In 2004, the *Gambia* and *Zimbabwe* adopted particularly restrictive press laws prescribing heavy fine and imprisonment sentences for "defamation, libel, sedition and disseminating false information"¹⁹. Just as the legislation on NGOs, the crimes are so vaguely and broadly defined that these laws constitute a real sword of Damocles for independent journalists whose safety is at risk in many countries. In the *Gambia*, Mr. Deyda Hydara, co-owner of the independent weekly *The Point* and local correspondent for *Agence France Presse (AFP)* and Reporters without Borders (Reporters sans Frontières - RSF), was assassinated in the night of 16 December 2004, a couple of days after he criticised the new Gambian press laws²⁰.

In *Chad*, Mr. Tchanguiz Vathanka, director of *Radio Brakoss*, a private radio station regularly broadcasting programmes denouncing human rights violations perpetrated by the Chadian authorities, was arrested and tortured in February 2004. Moreover, members of the associative radio *FM Liberté* have been subjected to recurrent death threats since June 2004, when they broadcast the interview of an Ivorian musician who denounced dictatorships in Africa²¹.

In *Congo-Brazzaville*, Mrs. Catherine Nina, a journalist for *Radio France International (RFI)*, was questioned at length in the night of 7 August 2004 by two Congolese intelligence service agents who notably criticised her for leading an inquiry on the "Disappeared of the Beach" affair. In May 2004, the Minister of Communication had already threatened RFI with suspend after it broadcast the testimony of a high-ranking official who implicated the President of the Republic in the 1999 massacres.

In the *DRC*, on 20 June 2004, Mr. Modeste Shabani, director of the community radio *Sauti ya Mkaaji* (Peasant's Voice) in Kasongo,

18 *Idem*.

19 *Idem*.

20 *Idem*.

21 *Idem*.

Maniema Province, was violently beaten up by members of the armed forces who notably criticised him for "becoming far too involved in human rights issues" in the province.

In *Nigeria*, the State Security Services (SSS) arrested three employees of the *Insider Weekly* newspaper in Lagos on 4-5 September 2004. The three men were detained incommunicado at the SSS headquarters until 10 September 2004. They were accused of "attacking, disparaging and humiliating the person of the President, Mr. Olusegun Obasanjo (...), as well as other notable people in government". The three journalists were seemingly arrested following the newspaper's stand in favour of Nigeria's only trade union, the Nigeria Labour Congress (NLC).

In *Senegal*, Mr. Madiambal Diagne, chief editor of the daily newspaper *Le Quotidien*, was arrested in July 2004 on grounds of the particularly repressive Article 80 of the Criminal Code, which refers to "activities undermining public security or encouraging serious political disturbances, discrediting political institutions or their functioning, and contravening the country's legislation". Mr. Diagne remained in detention for 18 days and was released on bail thanks to the strong mobilisation of civil society and political opposition.

Defending human rights in conflict situations

Armed conflict situations

The signature of ceasefire agreements between North and South *Sudan*²² on the one hand, and *Senegal* and the Casamance separatist rebellion on the other, on 31 December 2004, is an undeniable sign of hope. The negotiations entered into by the government of *Uganda* and the rebels of the Lord's Resistance Army (LRA), although fragile, represent a step forward towards a peaceful conflict resolution. Meanwhile, the African continent however remained host to grave conflicts: the violent armed operations in the Darfur region (*Sudan*), where the conflict

²² The ceasefire agreed between the Sudanese government and the rebel forces of the Sudan People's Liberation Army (SPLA) resulted in the signature of comprehensive peace accords in Nairobi on 9 January 2005.

is ongoing since February 2003, the renewal of hostilities in Kivu (*DRC*) and in *Côte d'Ivoire*, implied the escalation of massive human rights violations perpetrated against civilian populations (summary executions, forced disappearances, arbitrary arrests and detentions, torture, rape, displacement of populations, etc.).

In this context, human rights defenders were in the frontline of violence, most particularly those who fought the ongoing impunity of international crimes perpetrators. Serious threats were hanging over them, while they had to face numerous obstacles to their activities in favour of human rights.

In *Sudan*, members of human rights NGOs operating in the Darfur region were regularly accused of undermining the State security. For instance, Mr. Mudawi Ibrahim Adam, president of the Sudan Social Development Organisation (SUDO) that is particularly active in Darfur, was arrested at his home in Ondurman by National Security Agency (NSA) agents in December 2003. Detained in the Kober prison, Mr. Mudawi was formally accused, in February 2004, of "undermining the constitutional system, waging war against the State, disclosure of military information, calling opposition to public authority by use of violent criminal force, and provoking hatred against or amongst sects". Mr. Mudawi was released in August 2004 after these charges were dropped²³.

In addition, the access to the Darfur region is far from being secure for international humanitarian personnel: on 12 December 2004, two Sudanese employees of the British NGO Save the Children, Messrs. Abbaker Al-Tàyebe and Yacoub Abdel Nabi Ahmed, were killed during the attack of their aid convoy, leading to the withdrawal of the association from the area. Moreover, on 14 December 2004, security forces arrested four Dutch and one Sudanese employees of the International Rescue Committee (IRC) at Nyala Airport (Southern Darfur State). The five aid workers were questioned at the Nyala central police station and accused of taking pictures inside Kalma and Douma refugee camps and interviewing internally displaced people (IDPs) about the security situation in the camps. They were released on bail on the same day, but

23 See Compilation of cases below.

charged with espionage against the country - which carries a death sentence -, entering and photographing military areas and provoking hatred against or amongst populations. As of the end of 2004, the proceedings were still pending.

Lastly, access to information remained strictly limited. Although censorship was officially lifted in 2003, journalists disseminating information about the situation in Darfur were fiercely repressed in 2004. For instance, Mr. Islam Salih Adam Belo, director of the Khartoum bureau of the Qatar-based *Al-Jazeera* television, was condemned to one month imprisonment and one million Sudanese dinars (3000 euros) for "disseminating false information" on 10 April 2004, following the broadcast of reporting notably covering the situation in Darfur. Mr. Islam Salih lodged an appeal before the High Court and finally served half of his jail term. However, *Al-Jazeera* offices in Khartoum remained closed since December 2003, on the order of the NSA.

In *Côte d'Ivoire*, the denunciation of the atrocities committed in the country was called into question and human rights defenders were caught in a stranglehold between the different parties to the conflict. Thus, Mr. Amourlaye Toure, president of the Ivorian Movement for Human Rights (Mouvement ivoirien pour les droits humains - MIDH), received death threats after MIDH published a report on the violent repression of opposition protests held in Abidjan on 25 March 2004. These threats notably criticised him for his "intransigence towards the regime" and accused him of supporting the rebel forces²⁴.

Serious obstacles to disseminating and gathering information were also recorded in 2004: on 13 May 2004, *RFI* was suspended from broadcasting for 24 hours by the National Council for Audiovisual Communication (CNCA), on grounds that the radio station had disclosed the conclusions of the report of the UN Commission of Enquiry set forth to investigate the 25 March 2004 events, even before this report was officially published²⁵. Moreover, although the murderer of journalist Mr. Jean Hélène, assassinated in October 2003, was sentenced to a 17 years jail term in January 2004, the circumstances in which the

²⁴ *Idem*.

²⁵ This decision was met in accordance with Article 3 of the 1991 Act on audiovisual communication, which stipulates that "public service shall contribute to the strengthening of national unity by developing a social communication".

Franco-Canadian independent journalist Mr. Guy-André Kieffer disappeared remain unresolved, despite the indictment of his presumed murderer, Mr. Michel Legré, brother in law of President Gbagbo's wife.

In the *DRC*, many defenders operating in North-Kivu were forced to leave the region after undergoing repeated attacks. For instance, Mr. Amato Mbunsu, member of the Human Rights Observers' Committee (Comité des observateurs des droits de l'Homme - CODHO), had to put an end to his activities in September 2004 after he was threatened with death by elements of the Congolese National Army²⁶. Likewise, Mr. Guy Kajemba, a member of the Provincial Network of Human Rights Organisations in Congo (Réseau provincial des organisations des droits de l'Homme du Congo - REPRODHOC) - North-Kivu section, Mr. Richard Bayunda, member of the Centre for Research and Study on Human and Humanitarian Rights (Centre de recherches et d'études sur les droits de l'Homme et le droit humanitaire - CREDHO), Mr. Azile Tanzi, member of the NGO Campaign for Peace and Mrs. Immaculée Birhaheka²⁷, coordinator of the Promotion and Support of Women's Initiatives (Promotion et appui aux initiatives féminines - PAIF), all received similar death threats in December 2004, shortly after they published a report denouncing weapons distribution to civilians in North-Kivu. Mr. Kajemba was forced to go into hiding along with his family in South-Kivu. Lastly, in Beni, members of the editorial staff of the community radio station *Télé-Graben Beni*, many of them also belonging to the ASADHO - Beni section, were regularly intimidated by the armed forces for reporting human rights violations in the region.

Post-conflict situations

The peace process in which *Ethiopia* and *Eritrea* engaged by signing the Algiers Agreement of Cessation of Hostilities on 12 December 2000 remains partially blocked since the proposed border demarcation was rejected by both countries in 2002. In 2004, renewed tensions arose between the two States, Ethiopia accusing Eritrea of sheltering armed Ethiopian opposition groups on its territory - most particularly the

²⁶ See Compilation of cases below.

²⁷ Winner of the Martin Ennals Award for Human Rights Defenders, 2000.

Oromo Liberation Front (OLF)²⁸ and the Ogaden National Liberation Front (ONLF). In this context, human rights defenders denouncing the violations of Oromo populations' rights were systematically repressed by the Ethiopian authorities. In 2004, members of the "Mecha Tulema" association for the defence of Oromos' rights, amongst others, were accused on several occasions of supporting the protest movement of Oromo students as well as having links with the OLF. Likewise, EHRCO, who denounced the acts of violence perpetrated against Oromos students, was also suspected of supporting the OLF²⁹.

In *Somalia*, the election of the President of the Federal Republic, Mr. Abdullahi Yusuf Ahmed, in October 2004, was a first step towards the political reconstruction of the country. Yet, the peace process was far from being effective across the whole territory and again in 2004, no independent human rights organisation could be created.

Defending economic and social rights

Trade union activities were closely watched by the authorities, and many trade unionists suffered from human rights violations because of their commitment to the promotion and protection of economic and social rights. In certain countries, environmental activists who denounced and fought the abuses of multinationals were also targeted.

In *Burundi*, *Djibouti*, *Nigeria* and *Zimbabwe*, trade unionists had to carry on their activities in a extremely tense climate, while union movements were sometimes violently repressed.

In *Burundi*, Messrs. Pierre Claver Hajayandi and Celestin Nsavyimana, respectively president and treasurer of the Trade Union Confederation of Burundi (Confédération des syndicats du Burundi - COSYBU), were arrested by security services in September 2004, and accused of "jeopardising national security". Some days beforehand, the two union leaders had urged COSYBU members to sign a memorandum criticising the adoption of a new Constitution by the Burundi Parliament. They were held for one week before being released³⁰.

28 Separatist rebel group operating in the South of the country, fighting for the creation of an autonomous State, Oromia, since 1995.

29 See Compilation of cases below.

30 *Idem*.

In *Djibouti*, union rights were severely restricted. For instance, in February 2004, following a dock workers' protest movement demanding the payment of retirement pensions, five of the protesters were appointed as delegates for the movement, on the request of the authorities. When these five persons arrived for negotiating with the government, they were immediately arrested, mistreated and placed under detention, before being given a suspended prison sentence of six months for causing a "breach of the peace".

In *Nigeria* and *Zimbabwe*, independent union movements were at risk of being weakened by the strategy of the governments, which resort to a fierce repression of their activities combined with the fragmentation of larger workers' groups into smaller units that are more easily controllable and thus subjugated to the authorities. In June 2004, Nigerian President Mr. Olusegun Obasanjo thus proposed a bill limiting the right to strike and providing for the creation of several union confederations. The introduction of this draft law followed national strikes and demonstrations called by the Nigeria Labour Congress (NLC) in June 2004 to protest against the leap in the price of petrol. This movement was violently repressed by the police forces, who also searched the home of the NLC president, Mr. Adams Oshiomole. The bill was adopted by the Senate in September 2004, but will only come into force once signed by the President.

Likewise, Zimbabwean authorities continued to register a large number of union groups in 2004, meant to be taken over by the pro-governmental Zimbabwe Federation of Trade Unions (ZFTU). The reinforcement of ZFTU jeopardised any effective trade union activity in the country, all the more that ZFTU often threatened workers with dismissal if they refused to join the union. In the meanwhile, the government subjected the Zimbabwe Congress of Trade Unions (ZCTU) to a fierce repression for the past years: indeed, ZCTU leaders were regularly arrested on grounds of the Public Order and Security Act (POSA) and prohibited the free exercise of their freedom of reunion³¹. In January 2004, Mr. Lovemore Matombo, ZCTU president, was also dismissed from his position at Zimbabwe Post (Zimpost) after he took

31 *Idem*.

part to the Congress of the Organisation for African Trade Union Unity (OATUU) held in Khartoum, Sudan, in December 2003. Although Mr. Matombo had complied with all requirements to obtain leave, his employers accused him of being absent of his post without prior official authorisation³².

Lastly, defenders denouncing abusive exploitation of mineral resources, notably in Katanga (*DRC*) and the significant risks of pollution for the local populations due to such practices were threatened with grave acts of reprisals³³.

The fight against impunity

With regard to the fight against impunity, 2004 was marked by some positive steps: the International Criminal Court (ICC) was referred to by *Uganda* in January, the *DRC* in March and the *Central African Republic* at the end of December, in order to investigate the international crimes committed on their respective territories since 1 July 2002³⁴. Investigations were opened by the ICC Prosecutor in the *DRC* and *Uganda*, respectively in June and July 2004.

However, the fight against impunity at national level seemed to have gone somewhat into reverse.

In *Chad*, the court of appeal in N'Djamena upheld, on 17 November 2004, the discharge of the assailants of Mrs. Jacqueline Moudeřina, legal officer at the Chad Association for the Protection and Promotion of Human Rights (Association tchadienne pour la dęfense et la promotion des droits de l'Homme - ATPDH). The discharge was first ruled by the N'Djamena correctional court on 11 November 2004³⁵.

The authorities in *Congo-Brazzaville* increased their threats and pressures against witnesses in the "Disappeared of the Beach" case, investigated by the Court of Meaux (France)³⁶. For instance, a new organisation,

32 *Idem*.

33 *Idem*.

34 Date the Rome Statute came into force.

35 See compilation of cases below.

36 In May 1999, hundreds of Congolese refugees returning to their country thanks to a humanitarian corridor placed under the auspices of the High Commissioner for Refugees were abducted by elements of the Presidential Guard, and executed within the very grounds of President Sassou Nguesso's palace.

the "Association to Defend the Interests of the Alleged Disappeared of the Beach", close to the ruling power, was set up in Brazzaville, whereas witnesses, their families as well as families of the victims were subjected to constant pressures and intimidations. In the meanwhile, the manoeuvring of Congolese authorities, obviously supported by the French ones, led to the cancellation, in November 2004, of all legal actions taken before French jurisdictions since 2001³⁷. The case is now laid before the French Supreme Court of Appeal (Cour de Cassation).

In *Senegal*, the Parliament adopted, on 7 January 2005, a law granting amnesty on all authors of events related to the local, regional and national elections as well as those related to the assassination of Mr. Babacar Sèye, Vice-President of the Constitutional Council, in 1993. This law, which is contrary to the rights of the victims, was severely criticised by human rights associations. Several constituents of Senegalese civil society, such as the National Organisation for Human Rights (Organisation nationale des droits de l'Homme - ONDH) and the African Association for the Defence of Human Rights (Rencontre africaine pour la défense des droits de l'Homme - RADDHO), organised a peaceful protest demonstration, scheduled for 7 January 2005. Although the prior notice to the authorities had been presented on time, a decree of the Prefect of Dakar prohibited the demonstration. In spite of this decision, numbers of participants gathered before the National Assembly on 7 January, before being violently dispersed by security forces.

These demonstrators intended to protest against the ongoing impunity prevailing in Senegal by underlining the importance of cases which had a deep impact on Senegalese public opinion in the past few years and were never judicially resolved, e.g. death threats against the journalist Mr. Abdou Latif Coulibaly and his lawyer Mr. Ousmane Seye

37 On 5 December 2001, the FIDH, the French League for Human rights (Ligue des droits de l'Homme - LDH) and the Congolese Observatory for Human rights (Observatoire congolais des droits de l'Homme - OCDH) filed a complaint for torture, forced disappearances and crimes against humanity before the Meaux jurisdiction, against Messrs Sassou Nguesso, President of the Republic of Congo, Pierre Oba, General and Minister of Home Affairs, Public Security and Local Administration, Norbert Dabira, Inspector General of the Armed Forces living in France, and Blaise Adoua, General, Commander of the Republican Guard (Presidential Guard).

(ONDH vice-president), against bishops of Dakar and the Christian minority³⁸ as well as the political opponent Mr. Amath Dansokho, the assassination of Mr. Balla Gaye, a student, or the raid against the premises of the *Wal Fadji* newspaper and the PSD/Jant-Bi party.

Mobilisation for regional and international protection of human rights defenders

United Nations

Mrs. Hina Jilani, Special Representative of the Secretary General on Human Rights Defenders, visited Angola from 16 to 24 August 2004. Her report will be available in 2005. She also received positive responses to the invitations she requested from the DRC, Nigeria and Senegal to visit the countries. Finally, she renewed her request to be allowed to visit Chad and Zimbabwe, to which no response had been given by the end of 2004.

In the report she presented at the 60th session of the UN Commission on Human Rights, in April 2004, Mrs. Jilani underlined that African countries were at the pole position for the absence of response to the communications she sent in 2003.

African Union (AU)

In 2004, several AU initiatives emphasised the importance of the participation of civil society in the mechanisms and programmes of the Union.

In this way, the effective inauguration of the African Peer Review Mechanism (APRM)³⁹, which was set up in the framework of the New Partnership for Africa's Development (NEPAD), represents an important potential of intervention on the part of defenders, since the Country self-assessment questionnaire refers to the UN Declaration on Human Rights Defenders adopted by the General Assembly of the

³⁸ See Compilation of cases below.

³⁹ The mandate of the APRM is to "ensure that the policies and practices of participating states conform to the agreed political, economic and corporate governance values, codes and standards contained in the Declaration on Democracy, Political, Economic and Corporate Governance".

United Nations on 9 December 1988⁴⁰. Conformingly to this reference, the first APRM support missions to Ghana (24-29 May 2004), to Rwanda (21-24 June 2004), to Mauritius (28-30 June 2004) and to Kenya (26-27 July 2004) widely took into account the representatives of civil society in these countries.

Furthermore, the Protocol relating to the establishment of the Peace and Security Council (PSC), which came into force in December 2003, became fully effective as the PSC was solemnly launched in May 2004. This Protocol provides for the participation⁴¹ in the PSC debates of civil society organisations, which shall also be invited to address the Council⁴².

Besides, the adoption of Statutes of the Economic, Social and Cultural Council (ECOSOCC)⁴³ by the 3rd Ordinary session of the Assembly of the AU held in Addis Ababa in July 2004⁴⁴ reinforced the establishment of the ECOSOCC, a permanent consultative body composed of civil society organisations representatives from the AU member States. A first consultative meeting shall be held in March 2005. Although the effective establishment of this AU organ represents an undeniable step as far as civil society participation is concerned, the statutes adopted in 2004 have been revised compared to the draft version proposed in 2003, and notably restrict the eligibility requirements for ECOSOCC membership. Moreover, the ECOSOCC Standing Committee⁴⁵ shall be responsible for the implementation of the "Draft Code of Ethics and Conduct for African Civil Society Organizations"

40 Focal point 1, Objective 3 of the questionnaire.

41 Article 8 Para. 10c) of the Protocol.

42 Article 20 of the Protocol.

43 The purpose of the ECOSOCC is to foster a real partnership between all segments of civil society and governments of the member States of the Union. The ECOSOCC also aims at promoting the participation of civil society in the development, implementation, supervising and monitoring of the economic, social and cultural programmes of the AU.

44 AU Document Assembly/AU/Dec.48 (III): "Decision on the Economic, Social and Cultural Council."

45 The ECOSOCC Standing Committee is composed of 12 representatives of civil society organisations elected by ECOSOCC civil society member organisations.

which was first presented in June 2003⁴⁶. This Draft Code is of a great concern for freedom of association within the AU. Indeed, this Code of conduct, stating that "many associations suffer from a lack of credibility", seeks to "lay down a set of standards of self-regulation and governance" and "benchmarks" that civil society organisations need to adopt and meet in order to be accredited with the AU⁴⁷. If approved, this Draft Code shall allow the AU to monitor and scrutinize, in the name of "the principles of transparency, legitimacy and accountability", the activities of civil society organisations, thus threatening their independence.

African Commission of Human and Peoples' Rights (ACHPR)

During its 34th session held in November 2003, the African Commission of Human and Peoples' Rights established a Focal Point on human rights defenders led by Commissioner Mrs. Jainaba Johm, although without defining her mandate.

On 19 and 20 March 2004, a "Consultative workshop on the role of the Focal Point on human rights defenders" was organised in Banjul, the Gambia, by the ACHPR and the African Centre for Democracy and Human Rights Studies (ACDHRS). This workshop, which the Observatory actively contributed to prepare, brought together Mrs. Johm, a representative of the office of Mrs. Hina Jilani, the person in charge of the "defenders" Unit of the Inter-American Commission on Human Rights, as well as representatives of international NGOs and regional human activists. The discussions allowed elaborating a draft resolution defining Mrs. Johm's mandate, to be submitted to the members of the Commission.

At the 35th session of the ACHPR (21 May-4 June 2004, Banjul), the Observatory made an intervention under the item dedicated to human rights defenders and notably recommended the adoption of a resolution

46 The Draft Code of Ethics and Conduct for African Civil Society Organizations was developed by a Provisional Working Group (PWG) established during the second African Union - Civil Society Conference in June 2002.

47 The AU observer status is currently under review and shall be adopted by the Executive Council of the Union in 2005.

clarifying Mrs. Johm's mandate. At the end of this session, the ACHPR appointed Mrs. Johm as "Special Rapporteur on Human Rights Defenders" and adopted a resolution based on the draft elaborated during the March workshop and specifying the terms of her mandate, which is to "seek, receive, examine and to act upon information on the situation of human rights defenders in Africa" as well as to "submit reports at every ordinary session of the ACHPR" and "develop and recommend effective strategies to better protect human rights defenders (...)⁴⁸".

On 18-19 November 2004, the Observatory organised, together with the ACDHRS and the International Service for Human Rights (ISHR), a joint "Consultative workshop on the situation of women human rights defenders in Africa", on the fringe of the 36th session of the ACHPR (23 November-7 December 2004, Dakar). Over 44 participants including a large number of women defenders took part to this workshop, at the end of which they adopted a resolution calling for an enhanced protection of women defenders in Africa. This event was organised in the framework of the International Women Human Rights Defenders Campaign that was launched on 25 November 2004 by a large range of NGOs all over the world.

African Court of Human and Peoples' Rights

Although its Protocol came into force in January 2004, the African Court of Human and Peoples' Rights only virtually exists for the time being. It was, however, envisioned to complete the human rights protection role of the Commission. Its effective establishment is thus essential for human rights defenders: indeed, Article 3 of the Protocol provides for the competence of the Court to decide of sanctions against member States' violations of the provisions of the African Charter of Human and Peoples' Rights (notably on freedom of association, Article 10 and 11) and any other international human rights instruments when national appeals are exhausted.

Further, according to the Protocol, the Court can be referred to by the ACHPR, State parties, African intergovernmental institutions, but also, through an optional process, by individuals and NGOs accredited

⁴⁸ See Document in Annex.

with the ACHPR observer status. However, human rights defenders will enjoy this possibility to refer to the Court only if the State concerned authorises such a procedure through a formal declaration under Article 34(6) of the Protocol. It is therefore important that States make such a declaration, so that this mechanism becomes an effective tool in the fight against impunity for victims of human rights abuses, notably defenders. To date, Burkina Faso is the only State that made the necessary declaration, amongst the 19 that ratified the Protocol.

Another element of concern regarding the implementation, efficiency and independence of the Court is the decision met in July 2004 by the Heads of State at the Assembly of the AU held in Addis Ababa (Ethiopia), to merge the Court with the African Court of Justice. If this decision were to be confirmed, it would be highly detrimental to the fast and effective implementation of the Court, which would depend on the coming into force of the Protocol of the Court of Justice, which has only been ratified, to date, by five countries out of the necessary fifteen. Moreover, the merger would conflict with the interests of the victims - including defenders - as well as the objectives set forth by the creation of the Court. Indeed, this decision does not take into account the fundamental differences between both courts, in particular the distinction between their mandates. The African Court of Human and Peoples' Rights is competent for dealing with breaches of the African Charter of Human and Peoples' Rights and other human rights instruments, whilst the African Court of Justice judges the enforcement of the Constitutive Act of the African union as well as the conformity of all other acts issued by other AU organs with the Constitutive Act. In addition, compared to the referral procedures of the Court, those of the Court of Justice do not allow victims of human rights abuses and NGOs to directly resorting to it. The decision to integrate or merge the two bodies would thus hamper the effective participation of the victims and defenders in their process, and would at the least further delay the implementation of the Court. This question will be on the agenda of all AU meetings in 2005 and one has to hope that the AU will come back on its decision and establish two separate courts.

International Organisation of the Francophonie

At the 10th Summit of the Francophonie held on 26-27 November 2004 in Ouagadougou (Burkina Faso), member States of the International Organisation of the Francophonie (Organisation internationale de la Francophonie - OIF) confirmed their "determination to promote the principles and commitments of the Bamako Declaration on best practices on democracy, rights and freedoms, as well as to implement the programme of action concomitant to this declaration". This programme of action notably aims at "giving a stronger support to the field initiatives and projects developed by NGOs and related to the nurturing of human rights, democracy, good governance and peace (...)" as well as "supporting the activities of networks and INGOs at national, regional and international level" (Chapter III.5). Moreover, the OIF programme of action plans to "provide support to human rights defenders by relying on existing structures and instruments", to "honour and empower the commitments of francophone countries with regards to the main international and regional human rights instruments and to observe their full application".

This Summit, as well as the NGO Forum held previously, gave the Observatory the opportunity to strengthen its collaboration with the OIF in the follow up to the Beirut Summit of the Francophonie, held on 12 and 13 October 2002⁴⁹. The Observatory also contributed to the Ouagadougou Summit by submitting a written intervention on the situation of human rights defender in OIF member States.

Commonwealth

From 7 to 10 September 2004, the Human Rights Unit of the Commonwealth Secretariat held a seminar on human rights defenders in Africa, in Nairobi (Kenya). A similar event had been organised for the Asian zone in Sri Lanka in 2003. The Nairobi seminar brought together representatives of African civil society as well as members of national

⁴⁹ See Annual Report 2002.

Human Rights commissions of certain Commonwealth member states. The Observatory submitted an oral intervention under the item on "the role of human rights defenders and international organisations in the protection of human rights".

European Union

On 6 October 2004, the Presidency of the European Union (EU) issued a declaration on "the Statement of the Rwandan Government to the Parliamentary Report on Genocidal Ideology"⁵⁰. The EU regretted that the "Government of Rwanda has not unequivocally stated that those mentioned in the parliamentary report are presumed innocent until the contrary is proven." The EU was also concerned at the liberal use of the terms "ideology and genocide" and "divisionism" and in this regard "would impress upon the government the need to clarify the definition of these terms".

Furthermore, on 16 December, the EU Parliament adopted a resolution on Zimbabwe, notably considering that "the Mugabe regime is intensifying its political oppression under the Public Order and Security Act and other such measures, as well as through additional repressive legislation, for example the Non-Governmental Organisations Act, which infringes fundamental human rights such as freedom of association".

Under Article 96 of the Cotonou Agreement implemented in cases of breach of democracy and human rights, the EU initiated or carried on negotiations with a number of African countries, such as Togo, Côte d'Ivoire and the Central African Republic, about violations of democratic principles and human rights on their territories. These consultations may lead to a partial or total suspension of European co-operation. This procedure allows human rights defenders to draw attention on the human rights situation in these countries and to insist upon greater respect of human rights in the negotiations. For instance, Togo com-

50 It is on the basis of this report that the dissolution of LIPRODHOR was formulated and its members were threatened in June 2004. Likewise, several independent NGOs were repressed in Rwanda, accused of "propagating genocide ideology" (see compilation of cases below).

mitted, after this consultation, to "reopen a credible national dialogue with civil society", to "guarantee without delay the stop of all harassment, censorship and intimidation of NGOs and civil society representatives" and to "ensure without delay the right of all civil society actors and all citizens to freely exercise their freedom of expression, the right to participate in peaceful meetings and demonstrations, publicly and on whole national territory, free from harassment, censorship and intimidation".

HUMAN RIGHTS DEFENDERS HARASSED

BURUNDI

Intimidation of Iteka members⁵¹

Intimidation, threats and harassment of Mr. Stany Mbazumutima

On 20 March 2004, when Mr. **Stany Mbazumutima**, a member of the Iteka League in Ngozi, was carrying out an enquiry on assassinations committed in Mubuga region by members of the National Council for the Defence of Democracy - Forces for Defence of Democracy (Conseil national pour la défense de la démocratie-Forces de la démocratie - CNDD-FDD), a rebel movement, the commander of the Ngozi public security police (police de sécurité publique - PSP), Mr. Emmanuel Ndayegamiye accused him of entering his district without prior authorisation and stated: "Even people working for the UN can be punished, imprisoned or even killed. If you do it again, I'll throw you in jail".

On 29 March 2004, when Mr. Mbazumutima requested that a young detainee who had just given birth be taken to the Ngozi hospital, a criminal investigation officer threatened to arrest him.

In July 2004, the Maranga brigade commander Appollinaire Bashirahishize ordered the immediate release of a man arrested for allegedly raping a young girl in Maranga commune. After the case was clo-

⁵¹ See Annual Report 2003.

sed, Mr. Mbumutima contacted Ngozi district commander Philippe Ndayishimiye in October 2004 to denounce the impunity granted to the people responsible for this situation. Mr. Ndayishimiye apparently replied: "people who work for the United Nations can be jailed and, if necessary, killed, without legal proceedings".

Intimidation of Mr. Christian Havyarimana

On 27 March 2004, Mr. **Christian Havyarimana**, member of the Iteka League in Kayanza, 70 km north of Bujumbura, was threatened and insulted by Mr. Marira, a prison guard in Matongo commune, when he came to inspect the detention facility and enquire about the detention conditions for prisoners. Mr. Marira refused to let him enter the prison.

After a new prison administrator was appointed, Mr. Havyarimana was finally able to visit the prison facility on 7 May 2004.

Arbitrary arrest and detention of Messrs. Pierre Claver Hajayandi and Célestin Nsavyimana⁵²

The intelligence services arrested Messrs. **Pierre Claver Hajayandi** and **Célestin Nsavyimana**, respectively chairman and treasurer of the Trade Union Federation of Burundi (Confédération des syndicats du Burundi - COSYBU), on 24 September 2004 at the headquarters of their organisation in Bujumbura for "jeopardising national security". During the arrest, the officers confiscated two computers, three floppy disks and various documents on the draft interim Constitution⁵³.

Their arrest occurred a week after the two union leaders had urged COSYBU members to sign a memorandum criticising the adoption of a new Constitution by the Burundi Parliament. The memorandum expressed concern over the impact that this new Constitution would

⁵² See Urgent Appeal BDI 001/0904/OBS 073.

⁵³ The post-transition interim Constitution of the Republic of Burundi was adopted by the transitional National Assembly and Senate meeting as a Congress on 17 September 2004 and promulgated on 20 October 2004. This constitution will remain in force until a post-transition Constitution is adopted by a referendum.

have on the political stability of the country and the role that would be granted to institutions guaranteeing the right to establish trade unions and the rights of the individual.

Messrs. Hajayandi and Nsavyimana were detained in the "national documentation" office (presidential police) without access to their lawyer.

They were released in the evening of 30 September 2004, a week after their arrest. Their electronic equipment was returned, but the intelligence services kept the floppy disks and the documents.

CAMEROON

MDDHL and its members subjected to continued judicial harassment and pressure⁵⁴

The members of the Movement for the Defence of Human Rights and Freedoms (Mouvement pour la défense des droits de l'Homme et des libertés - MDDHL) were repeatedly subjected to harassment and intimidation again in 2004.

There are ten legal proceedings that involve MDDHL currently before the courts, six of which were to be examined by the Maroua courts, Grand Nord province, on 22 December 2004. All the hearings that day were adjourned until 26 January 2005.

Judicial persecution of Messrs. Blaise Yacoubou and Aminou Mohamadou⁵⁵

On 30 April 2003, Messrs. **Blaise Yacoubou** and **Aminou Mohamadou**, members of the MDDHL, were arrested by the Ndoukoula district head while they were investigating the human rights situation in this region. The arrest was made in application of a circular

⁵⁴ See Annual Report 2003.

⁵⁵ See Annual Report 2003 and urgent appeal CMR 001/0803/OBS 039.2.

letter dated 10 January 2003 issued by Mr. Koué Kaokamla, public Prosecutor to the Diamaré district courts in Maroua, who instructed criminal investigation officers (police judiciaire) to take in all human rights activists in his jurisdiction and turn them over to his office for questioning. Messrs. Yacoubou and Mohamadou were released but their identity papers were not returned.

In August 2003, Messrs. Yacoubou et Mohamadou were summoned to the Maroua investigations unit, ostensibly to retrieve their identity papers. But when they presented themselves the next day, they were informed that they had been sought for several months so were considered fugitives, and were immediately arrested and put in jail for two days, without food or water. Mr. Kaokamla accused them of having entered the office of the Ndoukoula district head during their mission in April, threatening him before fleeing and leaving their identity papers behind.

Messrs. Yacoubou and Mohamadou were set free on 14 August 2003 but were not able to recover their papers until 2 September 2003, when released by the Prosecutor's office.

On 3 September 2004, Messrs. Yacoubou and Mohamadou received a summons signed by Mr. Koué Kaokamla, to appear before the Maroua court on 29 September. They were both indicted for "disturbing the functioning of a public service that they had nothing to do with", a criminal violation that can be punished by a sentence of one to ten years in prison. This accusation is a new legal rendition of liability dating back to 2003 and clearly reflects a new attempt by Mr. Kaokamla to punish the two MDDHL members.

When Messrs. Yacoubou and Mohamadou appeared in court on 29 September, the hearing was postponed until 22 December 2004, then until 26 January 2005, for the Ndoukoula district head, who was transferred to another district in the meanwhile, never appeared before the court.

*The Elise Monthé case*⁵⁶

On 10 December, a woman from Yaoundé, Mrs. Elise Monthé, entered the MDDHL premises in Maroua. After declaring that she was the

⁵⁶ See Annual Report 2003.

wife of the association's chairman, Mr. **Abdoulaye Math**, she threatened to accuse him of rape if he tried to throw her out. On 11 December, she physically attacked him. Mr. Math lodged a complaint for assault, battery, and destruction of property. Mrs. Monthé likewise lodged a complaint and changed its grounds on three occasions, the last version adopted by the public Prosecutor, Mr. Kaokamla, being for "swindling". These two cases were supposed to be heard on 28 January 2004, when the hearing was adjourned until 22 December 2004, then until 26 January 2005.

*The Semdi Soulaye case*⁵⁷

MDDHL filed three suits against Mr. Semdi Soulaye, a former member of the MDDHL executive board. Mr. Soulaye, - who had been elected coordinator of the Network of Human Rights Organisations and Associations (Réseau des organisations et des associations de défense des droits de l'Homme - ROADH), that was set up by MDDHL - seized MDDHL financial documents and apparently withdrew 2,177,000 CFA francs from the MDDHL's account at the Crédit du Sahel bank. Following these events, Mr. Soulaye was dismissed from the MDDHL permanent body. Although he was said to have left ROADH also, he kept his position for several months, until the MDDHL appointed another member to replace him.

The first suit lodged by MDDHL was for forgery and use of false documents, as well as for confiscation of all MDDHL financial documents. It was postponed several times and is to date scheduled to be heard on 26 January 2005.

The second suit was brought against Mr. Soulaye and the managing director of the Crédit du Sahel bank for forgery, use of false documents and aggravated breach of trust on 5 December 2003. It is currently being investigated, but as the end of 2004 no date has been set for the hearing.

The third suit, for usurpation of title, assault and blackmail, was initiated through a direct summons dated 5 January 2004. After the first hearing on 14 January 2004, the case was postponed until 22 December 2004, then 26 January 2005.

⁵⁷ *Idem.*

On his side, Mr. Soulaye filed two suits against MDDHL.

The first one, for breach of trust, was lodged in December 2003 and supposed to be examined on 27 October 2004. On that date, it was postponed until 26 January 2005.

Mr. Soulaye's second suit against MDDHL was for unfair dismissal without compensation. It was filed with the Maroua court of first instance which ordered the MDDHL to pay four million CFA francs to Mr. Soulaye in April 2004. The MDDHL appealed this decision on 6 April 2004 and obtained a certificate of appeal that suspended the case on 18 April. Although the appeal had not yet been heard, a bailiff from the Maroua court came to the MDDHL headquarters on 29 November and seized MDDHL properties, including part of the electronic equipment. The material was returned on 1 December 2004.

On 6 December, the appeal was dismissed without prior thorough investigation and the MDDHL decided to take the case to the Supreme Court of Appeal (Cour de cassation).

On 15 December 2004, MDDHL properties were seized again. By end December 2004, the confiscated material had not yet been returned.

The Ahmadou Ahidjo Jamot / CAMTEL case⁵⁸

The MDDHL complaint against Mr. Ahmadou Ahidjo Jamot, representative of CAMTEL, the national telecom company, for abuse of authority after the association's phone lines were cut in December 2002, has still not been investigated. Since the defendant never appeared in court, the hearing was adjourned first until 21 January 2004, then until 6 October 2004, and finally until 22 December 2004.

On that date, it was re-scheduled for 26 January 2005.

Obstruction of judicial observation by an Observatory's mission

The Observatory, together with the Swiss Human Rights League (Ligue suisse des droits de l'Homme), commissioned Mr. **Patrick Herzig**, a lawyer, to attend the MDDHL hearings of 22 December 2004 at the Maroua court. But on 17 December, Mr. Herzig was told he

58 *Idem.*

would not be able to get a visa, under the pretext that an official invitation had to be provided by the Cameroon Minister of Justice for this type of assignment. The Consulate of the Republic of Cameroon in Geneva explained that the Minister of Justice was in Nairobi, Kenya, and that he would not be able to sign an invitation letter before the deadline because of the jet lag. It is to be noticed that Mr. Herzig had deposited his visa application file in time and had been initially assured by the Consulate that the visa would be granted, respected the official schedule.

Because of this situation, the Observatory mandated Mr. **Jean de Dieu Momo**, an MDDHL lawyer, to defend the organisation at the hearings on 22 December 2004. For several years, Mr. Momo has been constantly harassed (surveillance, death threats, pressure on his relatives and clients, regular intrusions, burglaries in his building alone) because of his commitment to human rights in Cameroon. On 30 March 2004, for instance, fire broke out in his home in Douala. It was quickly brought under control, but was probably set on purpose. A similar incident occurred in his office a month later, on 30 April 2004, while he was in Maroua to defend Mr. Abdoulaye Math.

Pressure on members of the Cameroon House for Human Rights and ACAT-Littoral⁵⁹

Members of the Christians' Action for the Abolition of Torture in Douala (Action des chrétiens contre la torture - ACAT-Littoral) and the Cameroon House for Human Rights (Maison des droits de l'Homme du Cameroun - MDHC), which groups 12 Cameroonian human rights associations, including the ACAT-Littoral and the MDDHL, received anonymous telephone calls and were constantly threatened, tailed and called in to various security offices on a regular basis.

Continued harassment of Mrs. Madeleine Afité

On 3 June 2004, Mrs. **Madeleine Afité**, manager of ACAT-Littoral and MDHC, was called in to the State Security office, and a report was made of the visit. She was questioned for several hours about her acti-

⁵⁹ See Annual Report 2003 and Urgent Appeal CMR 001/0803/OBS 039.2.

vities and the denunciation, by the MDHC, of the situation faced by human rights defenders in Cameroon.

On 7 June 2004, Mrs. Afité was called in again to sign the report on her interrogation. The commissioner, accompanied by two inspectors, then asked her to take them to the MDHC premises and show them around; they closely inspected the office.

Mrs. Afité, furthermore, was still subjected to repeated harassment and threats.

Attempt to abduct Mr. Sylvanus Shukila Binla

On 8 July 2004, police in plain clothes attempted to abduct Mr. **Sylvanus Shukila Binla**, member of the MDHC, while he was trying to hail a taxi to take him home in front of the MDHC headquarters in Douala. A taxi that had clearly been waiting for him then drove up, with two men inside who turned out to be policemen in plain clothes. They accused Mr. Shikula Binla of "tarnishing the reputation of the country" through his activities and said that they had to take him to the police station.

Thanks to the help of passers-by, Mr. Shikula Binla was able to get out of the taxi and flee.

Mr. Ndi Richard Tanto aggressed

On 11 October 2004, Mr. **Ndi Richard Tanto**, provincial coordinator of the Ecumenical Services for Peace (Service oecuménique pour la paix - SEP, member of the MDHC) was told off and violently beaten up by 15 policemen belonging to the Mobile intervention group (Groupement mobile d'intervention - GMI) no.6 in Bamenda, while he was observing the presidential elections in this area.

GMI members were trying to prevent the vote count, thereby infuriating the local people; Mr. Tanto, who was an observer with a valid State accreditation, tried to intervene, but then was violently hit by the policemen.

CENTRAL AFRICAN REPUBLIC

Intimidation of Mr. Goungaye Wanfiyo⁶⁰

On 25 May 2004, Mr. **Goungaye Wanfiyo**, a lawyer, organised a press conference to publicly condemn the poor running of Central African justice, in particular the illegal extension of provisional detention, using as an example the case of two of his clients, Messrs. Oumarou and Boykota Zouketia, held in Ngaragba Prison in Bangui, in breach of the code of criminal procedure.

The same day, the Prosecutor general at the Court of Appeal in Bangui, Mr. Sylvain N'Zas, replied to these accusations in the press, indicating mainly to Mr. Wanfiyo "that he was reserving the right to refer the case to the bar council", in terms which were excessive and threatening to Mr. Wanfiyo.

CHAD

Arbitrary arrest and torture of Mr. Tchanguiz Vathankha⁶¹

On 9 February 2004, Mr. **Tchanguiz Vathankha**, director of the private station *Radio Brakoss* based in Moissala (600 km south of N'Djamena), which regularly broadcasts critical programmes, condemning in particular attacks on human rights committed by the Chadian authorities, was arrested by the local police. This arrest followed the airing, a few days earlier, of an interview with Mr. Saleh Kebzabo, leader of the National Union for Development and Renewal (Union nationale pour le développement et le renouveau - UNDR), an opposition party, who expresses his views on the socio-economic situation in Chad.

⁶⁰ See Urgent Appeal CAF 001/0604/OBS 042.

⁶¹ See Open Letter to the Chadian authorities, 24 February 2004.

While being held at the police station in Moissala, Mr. Vathankha was severely tortured, before being released on 11 February 2004. When examined in the hospital in Moissala, Mr. Vathankha was found to be in a critical condition as a result of violent blows to his head, which had caused an eye haemorrhage and damage to the retina, as well as to his legs and thorax.

In addition, *Radio Brakoss* was closed down on the orders of Mr. Douba Dalissou, Prefect of Bahr Sara (south), from 11 to 16 February 2004, when it was able to broadcast a limited programming.

Furthermore, when the new Minister for Communications visited *Radio Brakoss* in September 2004, a high-ranking officer from the Chadian army who accompanied the Minister publicly threatened Mr. Vathankha with death.

At the end of December 2004, the programmes of *Radio Brakoss* were no longer officially restricted, but Mr. Vathankha's health is still affected by the torture he underwent.

Continued harassment of *FM Liberté* and death threats against Messrs. Evariste Ngaralbaye and Allahissem Ibn Miangar⁶²

Between 15 and 20 April 2004, the radio station *FM Liberté*, created by independent human rights NGOs for which it has become the principal communications link in Chad, broadcast a spot calling for a revision of the Chadian Constitution.

On 5 May 2004, following this broadcast, the High Council for Communications (Haut Conseil de la Communication - HCC) issued a formal notice against the radio station.

On 5 June 2004, *FM Liberté* broadcast an interview with the Ivorian musician Mr. Tiken Djah Fakoly, which had been recorded on 31 May 2004 by Mr. **Evariste Ngaralbaye**, editor in chief and programme coordinator for *FM Liberté*, and Mr. **Allahissem Ibn Miangar**, radio presenter. During the interview, Mr. Djah Fakoly had spoken out against the dictatorial regimes in Africa, and had notably cited the President of Chad,

⁶² See Annual Report 2003 and Urgent Appeal TCD 001/1003/OBS 056.1.

Mr. Idriss Deby. On 9 June 2004, *FM Liberté* received a leaflet signed by the "death squads", accusing Messrs. Ngaralbaye and Ibn Miangar of inciting the listeners to revolt and threatening them with death. On that same day, *FM Liberté* received a telephone call from the director of the HCC demanding a copy of the interview with Mr. Djah Fakoly. A few days later, Mr. Ngaralbaye and the director of *FM Liberté* received a summons from the HCC, threatening the radio station with closure. This threat, however, was not carried out, after the board of directors negotiated with the HCC at the beginning of August 2004.

On 8 August 2004, Mr. Ngaralbaye received, at his home, a second leaflet from the "death squads", threatening "to step up a gear". Mid August 2004, the director general of the national police arrived at the editorial department of *FM Liberté*, and demanded, in the name of the President of the Republic, a copy of the recording of the interview with Mr. Djah Fakoly, which was returned to him that same day.

From June to September 2004, Mr. Ibn Miangar's house was constantly watched by unidentified men, in unregistered vehicles with tinted windows. Faced with this pressure, Mr. Ibn Miangar went into hiding at the end of September 2004, and today lives outside of Chad.

Finally, on 21 October 2004, Mr. Ngaralbaye was attacked by two men in front of his house, when he was about to return home. After beating him, the two attackers stole his mobile phone and his passport.

The radio station *FM Liberté* had been closed down by decree of the Ministry of Public Security and Immigration from 21 October to 17 December 2003, because of "illegal operations and deviant behaviour".

Assassination attempts against the president of the LTDH⁶³

On 22 February 2004, a man claiming to be a Chadian army officer arrived at the National Office for Rural Development (Office national de développement rural), where Mr. **Dobian Assingar**, president of the Chadian League for Human Rights (Ligue tchadienne des droits de l'Homme - LTDH) works. After he entered M. Assingar's office, the man pointed a gun at him. Mr. Assingar was, however, able to put his attacker to flight.

63 See Annual Report 2002.

On 20 October 2004, while Mr. Assingar was on his way to Moundou, in the south of the country, at the request of the National Cotton Company (Cotontchad), bullets were fired at the passenger side of his company car, where he was sitting. The shots, fired from a distance of about fifty metres, shattered the windscreen without hitting him, thanks to the speed of the vehicle.

Since none of the complaints lodged by Mr. Assingar following previous assassination attempts were investigated, he gave up taking any legal step to these attacks.

Impunity confirmed for the attackers of Mrs. Jacqueline Moudeïna⁶⁴

On 11 June 2001, during a peace march by women protesting against the electoral fraud observed during the presidential election, the security forces threw grenades at the demonstrators. Mrs. **Jacqueline Moudeïna**, legal officer at the Chadian Association for the Defence and Promotion of Human Rights (Association tchadienne pour la défense et la promotion des droits de l'Homme - ATPDH), a lawyer for the victims in the Hissène Habré case in Chad and Senegal, and laureate of the 2003 Martin Ennals Award, was seriously wounded on that occasion. On 18 March 2002, Mrs. Moudeïna and six other women lodged a complaint with the N'Djaména court against three police officers, Messrs. Mahamat Wakaye, Mahamat Idriss and Taher Babouri, for illegal violence and grievous bodily harm.

The decision of the N'Djaména correctional court, which had decided to acquit Mrs. Moudeïna's three attackers on 11 November 2003, was upheld by the N'Djaména Court of Appeal on 17 November 2004.

⁶⁴ See Annual Report 2003.

Threats and intimidation of MIDH⁶⁵

On 19 and 20 April 2004, a man who claimed to be an activist in the Rally of the Republicans (Rassemblement des Républicains - RDR, opposition party) entered the headquarters of the Ivorian Movement for Human Rights (Mouvement ivoirien pour les droits humains - MIDH) and said that he could provide information on efforts by people close to the government to organise an attempt to assassinate Mr. **Amourlaye Touré**, the MIDH president, who was at that time participating in the 60th session of the UN Commission on Human Rights held in Geneva from 15 March to 23 April 2004. Mr. Touré could only be informed of this threat on 2 May 2004.

This occurred while the MIDH was preparing a report entitled *Abidjan: fierce repression of demonstration organised by the opposition party: 25 March to 1 April 2004 (Abidjan : répression violente de la marche de l'opposition politique : 25 mars au 1^{er} avril 2004)* on police repression of the demonstration held in Abidjan on 25 March 2004 by the opposition and during which dozens of demonstrators were killed. The report was published on 28 April 2004. Until some time in May 2004, the MIDH headquarters in Abidjan received several anonymous phone calls threatening to kill Mr. Amourlaye Touré, Mr. **Drissa Traoré**, MIDH vice chairman, and some of their colleagues. Further, several leaders of the Alliance of the Young Patriots (Alliance des jeunes patriotes), a movement supporting President Gbagbo, were seen milling around the MIDH offices for a few days just after the report was published.

On 6 November 2004, two armed soldiers went to the Centre for the Promotion of Non-Violence and Democratic Culture (Centre pour la Promotion de la Non-Violence et de la Culture Démocratique - CNVD) created by MIDH in January 2004, and ordered the guardian of the building to let them into the offices. The Centre had stopped all of its activities on 4 November 2004, when hostilities were reignited between

65 See Annual Report 2003.

the government forces and the rebels, so the two soldiers left the building since there was no one in the CNVD office.

Further, as of end 2004, there was still no reaction to the complaint lodged by MIDH in April 2003 when the association's headquarters were attacked by three armed men who also violently beat up an employee on duty.

DEMOCRATIC REPUBLIC OF CONGO

Constraint upon freedom of assembly - Kinshasa⁶⁶

The NGOs which collectively make up the Organisations of Civil Society Dynamics/Driving Forces (Dynamique des Organisations de la Société Civile/Forces vives) wanted to organise a peaceful demonstration on 20 April 2004 to protest against war, poverty and the partition of the DRC and in favour of holding free and democratic elections.

The organisers of the event, including the National Council of Development Organisations (Conseil national des organisations de développement - CNONGD), the National Support Centre for Popular Participation (Centre national d'appui à la participation populaire - CENADEP), and the National Network of Human Rights Organisations in the DRC (Réseau national des organisations de droits de l'Homme en RDC - RENADHOC), sent a letter to Mr. David Nku Imbie, Governor of the city of Kinshasa, advising him about the organisation of this demonstration. In a letter dated 19 April 2004, the day before the event was to be held, Mr. Nku Imbie refused them the right to organise this march, on the grounds of the "possible effect of the demonstration on public order and the protection of people and their property". This letter was also sent to the Minister of the Interior, to the Provincial Police Inspector of Kinshasa, to the Provincial Director of the National Intelligence Agency (Agence nationale de renseignements -

66 See Open Letter to the authorities of the DRC, 23 April 2004.

ANR)/city of Kinshasa, to the city's Head of Division for culture and arts, and also to the Burgomasters of the Gombe, Kinshasa and Lingwala communes.

On 20 April 2004, the demonstrators gathered despite the Governor's prohibition. However, faced with a considerable police force deployed around the assembly site and all along the intended route, the peaceful march never took place.

Continued harassment of the League of Electors - Kinshasa⁶⁷

Campaign to discredit the LE towards its donors

Since January 2004, the League of Electors (Ligue des électeurs - LE) has been the victim of a smear campaign orchestrated by pro-governmental associations, such as the Congolese Civil Society (Société civile congolaise - SOCICO), towards its various sponsors. These NGOs in fact contacted the principal donors of the LE, by letter or by meetings, and advised them to stop their funding mainly by accusing the LE of not supporting the transition process and of inciting the people to revolt.

This strategy, which has deprived the League of the financial support of a number of institutions, has seriously limited its activities.

Intimidation of Mr. Paul Nsapu⁶⁸

On 26 April 2004, Mr. **Paul Nsapu**, president of the LE, was interviewed on the television channel *Antenne A* when he gave his views on the political situation in the DRC and the follow up to the referral to the International Criminal Court (ICC) on human rights violations in the eastern part of the country. This interview was recorded and broadcast by *Télé Kin Malebo (TKM)*.

During the night of 27 to 28 April 2004, when Mr. Nsapu was returning home in his car after attending a seminar organised by the International Organisation of the Francophonie (Organisation internationale de la francophonie - OIF), entitled "Managing the transition pro-

⁶⁷ See Annual Report 2003.

⁶⁸ See Annual Report 2003 and Urgent Appeal RDC 002/0404/OBS 030.

cess with regard to the role of democracy-supporting institutions", his vehicle was tailed and caught "in a vice" between two cars with tinted windows and disguised registration plates. The drivers of these two vehicles first tried to cause an accident, before chasing Mr. Nsapu to a service station, where he hid to escape them. His pursuers watched him for half an hour before disappearing.

In addition, on 23 July and 16 August 2004, Mr. Nsapu received anonymous calls on his mobile phone threatening him with death.

Arrest and arbitrary detention of Mr. Kabamba Kabamba

On 14 June 2004, Mr. **Kabamba Kabamba**, a member of the LE, published in the local press an article condemning the suspicious circumstances of the failed coup against the ruling power in the DRC, on 10 and 11 June 2004, which was presumed to have been organised by Major Eric Lengi, Commander of the Special Group for Presidential Security (Groupe spécial de la sécurité présidentielle - GSSP)

On 16 June 2004, Mr. Kabamba Kabamba was arrested at his home by agents of the ANR, and driven with his wife, Mrs. **Justine Bilonda**, to the ANR offices. Mr. Kabamba was questioned at length on his connections with Mr. Paul Nsapu, president of the LE, as well as on the association's sources of funding. Mr. Kabamba Kabamba and his wife were not released until 21 June 2004, without any charges being brought against them. They have since lived in hiding.

Arrest and arbitrary detention of Messrs. Robert Numbi Ilunga, Rodolphe Mafuta, Kally Kalala and Lems Kalema - Kinshasa⁶⁹

The Friends of Nelson Mandela Association for the Defence of Human Rights (Association des Amis de Nelson Mandela pour la défense des droits de l'Homme - ANMDH) interceded in May 2004 as a mediator for the authorities of Kinshasa at the request of the NGOs Bana Kalamu et Bana Matonge, two associations for the defence of citizens' rights in the city of Kinshasa, in a matter involving Mr.

⁶⁹ See Open Letter to the authorities of the DRC, 16 June 2004.

Martin Matabia Hayala, a businessman who was illegally erecting a private construction on public land in the Matonge II district of Kinshasa.

Whilst the case seemed to have been received favourably by the various authorities, such as the Governor of the city of Kinshasa, the Burgomaster of the commune of Kalamu and the Vice President of the Republic who heads the economic and finance commission, Mr. Matabia Hayala, lodged a complaint - the date and content of which were never communicated - against Mr. **Robert Numbi Ilunga**, president of the ANMDH, Mr. **Rodolphe Mafuta**, president of Bana Kalamu, and Messrs. **Kally Kalala** and **Lems Kalema**, respectively president and member of Bana Matonge.

All four were arrested on 7 June 2004, before being placed in police custody in the cellar of the police station. Whilst the legal time limit of police custody is 48 hours, the four men were detained there for five days, under particularly precarious conditions (cramped, overcrowded space, without air supply).

Messrs. Numbi Ilunga, Mafuta, Kalala and Kalema were only notified of the charges brought against them on 10 June 2004, after they were heard by the investigating solicitor general who accused them of "inciting the people to revolt" and of "malicious destruction" (Article 112 of the Criminal Code).

They were transferred on 12 June to the central prison of Kinshasa, before being released on bail - amounting to 450 US dollars each - on 16 June 2004.

At the end of December 2004, the action was still pending.

Continuing harassment of the members of the VSV - Kinshasa⁷⁰

On 4 July 2004, the Voice of the Voiceless (Voix des Sans Voix - VSV) published a press release reporting the arrest in Brazzaville (Congo) and extradition to the DRC of Major Eric Lengi⁷¹. In this press release, the VSV, fearing an out of court ruling on this failed coup, denounced the confidentiality of the arrest and extradition of Mr. Lengi, which were

⁷⁰ See Annual Report 2003 and Urgent Appeal RDC 003/0704/OBS 057.

⁷¹ See above.

otherwise refuted by the governments of both the Congo and the DRC.

On 6 July 2004, when Mr. **Floribert Chebeya Bahizire**, president of the VSV, was going to a meeting with a journalist from the newspaper *Le Potentiel* at the paper's offices, four armed men in plain clothes took him aside outside the paper's building and violently searched him under the pretext of looking for an anti-government leaflet.

The four men confiscated Mr. Chebeya's bag containing all his documents about the Lengi case, and took some money from him. These men, who were speaking amongst themselves in Swahili, seemed to be acting under the orders of one of them, whom the others called "captain", who spent a long time on the telephone, seemingly waiting for instructions. Mr. Chebeya took advantage of his captors' lack of attention to escape and hide in the offices of *Le Potentiel*.

Mr. Chebeya, who has already been subjected to verbal threats from senior representatives of the Military Order Court (Cour d'ordre militaire - COM, now dissolved), had to go into hiding from December 2002 to April 2003.

Threats of arrest against Mr. N'Sii Luanda Shandwe - Kinshasa⁷²

On 3 December 2004, at the hearing of the case "Department of public prosecution vs. Mr. Michel Bisimwa and others", the Military Prosecutor affirmed that the State Prosecutor had sent a summons to appear to Mr. **N'Sii Luanda Shandwe**, a lawyer and president of the Human Rights Observers' Committee (Comité des observateurs des droits de l'Homme - CODHO), who is acting as a defence counsel in particular in the case of Mr. Michel Bisimwa. The latter is being prosecuted for the assassination of the former President Laurent-Désiré Kabila. Mr. Shandwe was also informed that this summons would be pre-dated to August 2003 and that it would include notification of his indictment for "treason".

However, after various discussions with civil society representatives following this event, the judge of the High Military Court indicated that the

72 See Urgent Appeal RDC 004/0106/OBS 049.4.

reference to this summons to appear during the hearing had been a mistake and was no more topical. These facts nevertheless constitute an act of intimidation against Mr. N'Sii Luanda, in particular with regard to the recurring acts of repression to which he has been subjected for several years⁷³.

Moreover, on 28 November 2004, when Mr. N'Sii Luanda arrived at the Kinshasa Penitentiary and Re-education Centre (Centre pénitentiaire et de rééducation de Kinshasa - CPRK), along with Mr. **Amato Mbunsu Mahamba**, a member of the CODHO, to visit his clients in prison, the prison administrator, Mr. Kitungwa Killy Dido, advised him that from then on he was prohibited from visiting the inmates of Wing 1 (which houses those accused in the trial of former President Laurent Désiré Kabila's assassination) and that he had to meet his clients in the presence of the head prison supervisor, and in that official's office. Since the prison administrator refused to cede this last point, Mr. N'Sii Luanda felt obliged to leave the prison without being able to meet with his clients.

Arbitrary arrest and ill-treatment of several defenders - Katanga⁷⁴

On 6 April 2004, the Centre for Human Rights and Humanitarian Law (Centre des droits de l'Homme et du droit humanitaire - CDH), based in Lubumbashi, published a press release denouncing the situation of insecurity for nationals of the Equateur province living in Katanga. On 8 April 2004, the National Human Rights Observatory telephoned the members of the CDH, and told them about the "displeasure" on the part of the Governor of Katanga, Mr. Aimé Ngoi Mukena, following the publication of this press release.

On 10 April, Mr. **Dieudonné Been Masudi Kingombe**, executive director of the CDH, was arrested by ANR officers. When he was transferred to the provincial office of the ANR, Mr. Been Masudi Kingombe was violently beaten on his body and head, and an ANR officer attempted to bite off his ear. Mr. Been Masudi Kingombe was released two hours later in very poor condition, and without any reason for his arrest

73 See Annual Report 2003.

74 See Annual Report 2003 and Urgent Appeals RDC 00/1504/OBS 025 and 025.1.

being given to him.

Furthermore, on 15 April 2004, the provincial director of the ANR, Mr. Katumbwe Bin Mutundi, gave instructions to his officers to look for and arrest Mr. **Freddy Kitoko**, a lawyer and vice-president of the African Association for the Defence of Human Rights (Association africaine de défense des droits de l'Homme - ASADHO) - Katanga section and Mr. **Grégoire Mulamba Tschisabamka**, CDH secretary general. Since 10 April 2004, Mr. Tschisabamka had received anonymous calls several times a day threatening him with death.

The ANR also allegedly drew up a list of about 10 people to be arrested, including Mr. **Jean-Claude Katende**, president of the ASADHO/Katanga, Mr. **Oscar Rachidi**, president of the League against Corruption and Fraud (Ligue Contre la Corruption et la Fraude - LICOF) and Mr. **Hubert Tshiswaka**, executive director of the Action against Impunity for Human Rights (Action contre l'impunité et pour les droits humains - ACIDH).

Due to international pressure, none of these people was arrested, and the threats stopped in May 2004.

The CDH also filed a complaint against Mr. Kasongo Tshikala, head of the ANR/city of Lubumbashi, for the mistreatment of Mr. Been Masudi Kingombe. At the end of December 2004, the case was still pending.

Arbitrary arrest and cruel, inhuman and degrading treatment of CDH members - Katanga⁷⁵

On 1 July 2004, Mr. **Ferdinand Mukube Mbaya**, a CDH representative in Mufunga-Sampwe (Upper-Katanga district), interceded on behalf of a peasant who was being threatened by the military to make him pay a fine. The following day, Mr. Mukube Mbaya was arrested by five of these soldiers on his way home. The five men violently kicked him and beat him with their rifle butts, blaming him for "making them lose money" by intervening the day before, then they ran off.

Mr. Mukube Mbaya, who sustained a broken leg as a result of the injuries inflicted by the soldiers, had to be hospitalised.

⁷⁵ See Annual Report 2003.

In addition, on 18 October 2004, Mr. **Sylvain Kapende Dimbu**, a CDH member in Kambove (Upper-Katanga district), was arrested by armed plain clothes officers of the national police, when he was carrying out an education assignment into human rights in Kafira (Kasenga territory). Accused of being a "spy" in the pay of the Mai-Mai militiamen, Mr. Kapende was violently beaten up, before being transferred to the police station and locked in a cell which was infested with "binkufu" (a type of flea, used as a means of torture). The same day, Mr. **Polycarpe Kabela Shinka**, another CDH member in Kambove, came to the police station to inquire about Mr. Kapende Dimbu's situation, and was also locked up.

On 20 October 2004, Messrs. Kapende Dimbu and Kabela Shinka were forced by police officers to walk 25 km to Kambove, where they were set free.

Grave threats against Mr. Golden Misabiko - Katanga⁷⁶

Mr. **Golden Misabiko**, honorary president of the ASADHO/Katanga, was arrested and arbitrarily detained from 5 February till 13 September 2001 at the Kinshasa Penitentiary and Re-education Centre (Centre pénitentiaire et de rééducation de Kinshasa - CPRK), and forced to leave the country in 2002, as a result of repeated threats against him. After spending almost two years in exile in Europe, Mr. Misabiko returned to Katanga in June 2004 and then resumed his activities.

On 24 October 2004, Mr. Misabiko circulated an open letter among the ASADHO partner organisations, condemning the human rights violations committed against civilians during the conflict in the Kivu, and drawing attention to the dangers experienced by the population in the mining towns of Katanga, as a result of the abusive exploitation of the uranium reserves in this province.

On 23 December 2004, while Mr. Misabiko was with his two children in a place called the "Allilac Center" in Lubumbashi, he noticed that a car was tailing them. The same vehicle was still tailing them forty-five minutes later, when they had just returned to their car to go home.

⁷⁶ See Urgent Appeal RDC 001/1204/OBS 097.

Mr. Misabiko tried, in vain, to call someone at the United Nations Mission in the DRC (Mission des Nations unies en RDC - MONUC). He then stopped to buy some water, and two people got out of the car which was following them. Mr. Misabiko identified one of them as being one of his former attackers on 5 February 2001 and, in addition, as being one of his torturers during his seven months of detention. When Mr. Misabiko asked him the reason for this harassment and who was behind, the man immediately declared that he was not in any way connected with security services. Because of Mr. Misabiko's insistence, he replied that he was going to "call the boys to deal with [him]" and that "this time it [would] be more serious".

Since that date, Mr. Misabiko has noticed that he is under constant surveillance at his home and wherever he goes. On 27 December 2004, Mr. Misabiko further learnt from an unofficial source that several dozens of ANR members were instructed to follow his every movement, in order to "deal with" him.

Harassment of and death threats against several defenders - Katanga⁷⁷

In 2004, the members of the Meeting of Associations for the Defence of Human Rights in Katanga (Concertation des associations de défense des droits de l'Homme du Katanga - CADHOK), a platform of a dozen NGO's, including the ASADHO/Katanga, the CDH, the Evangelical Group for Non-Violence (Groupe évangélique pour la non-violence - GANVE) and the New Union Dynamics (Nouvelle dynamique syndicale - NDS), were subjected to reprisals because of their repeated denunciations of the abusive exploitation of mineral resources by several companies in the region, in particular the Mining Company of Katanga (Société minière du Katanga - SOMIKA). Indeed, this private company is established in a zone which was declared unsuitable for building development in 2000, close to the ground water of Kimilolo, which feeds into the pumping station of the Congolese National Water Distribution Company (Régie congolaise de distribution d'eau - REGI-

⁷⁷ See Urgent Appeal RDC 001/0105/OBS 001.

DESO) which provides drinking water for 70% of the population of Lubumbashi.

On 4 October 2004, the GANVE published, under its own name, a press release titled *Cela nous concerne tous (This affects us all)*, denouncing the risks of pollution at the REGIDESO pumping station. On 29 October 2004, the SOMIKA lodged a complaint for defamation before the Kenya Katuba (Lubumbashi) peace court. A hearing was scheduled for 11 January 2005.

On 2 December 2004, Mr. **Jean-Pierre Muteba**, secretary general of the NDS, had to be hospitalised in Lubumbashi, as a result of what the doctors diagnosed as "attempted poisoning". Mr. Muteba was transferred to Kinshasa to receive the appropriate care. He was later able to return to Lubumbashi, once he was out of danger.

In a letter dated 13 December 2004, the Deputy Minister for Mines, Mr. Cirimwami Muderhwa, ordered the SOMIKA to cease its operations at the Kimilolo site. This decision displeased the managers of the SOMIKA and the 350 employees at the works, mostly members the Association of Mining Developers and Workers of Katanga (association des Exploitants miniers et artisanaux du Katanga - EMAK), a professional association closely connected to the public authorities.

Since this date, the members of ASADHO-Katanga, CDH, GANVE and NDS have been subjected to continued harassment and serious threats.

So, in the evening of 16 December 2004, a group of men arrived at the ASADHO-Katanga headquarters. Although they assured the guard they were looking for Mr. **Marc Walu**, financial director of the association, they finally declared that they "would come back to look for him later", even though the guard had told them that Mr. Walu was in the office.

On 21 December 2004, five people, who held themselves out as being employees of the SOMIKA, burst into the "Maison Ekumène", a religious organisation and member of the GANVE, and threatened two Spanish voluntary workers, who had published the press releases by the CADHOK and the GANVE concerning the SOMIKA in their last newsletter.

On 23 December 2004, the ASADHO/Katanga, the GANVE and the NDS received an anonymous email threatening the members of these three organisations and their families. This email, sent from the address "First true", contained in particular the following message: "Look around you and you will understand that we are no longer going to let

you act as before. We know you. What you are doing. Where you live. Where you work. When any of you goes to work. When he finishes. It doesn't take long to remove your car's wheels. It doesn't take long to blow up your office. A visit to your home can be easily arranged. Stronger measures are what you need, and if you don't wish to think of your children.... If you are reasonable, contact us at this address".

On 28 December 2004, the ASADHO/Katanga, the GANVE, the CDH and the Congolese League for the Protection of Consumers' Rights (Ligue congolaise de sauvegarde des droits des consommateurs - LISCO) published, under the name of the CADHOK, a joint press release condemning the refusal on the part of the SOMIKA to comply with the decision of the Deputy Minister, as well as the threats made against their members.

On 29 December 2004, two officials from the EMAK arrived at the workplace of Mr. **Jean-Marie Kabanga**, a member of the GANVE. Mr. Kabanga was able to leave without being noticed. A few hours later, the same two officials were spotted in the neighbourhood where Mr. Kabanga lives, while questioning his neighbours as to his exact address and working hours.

On 31 December 2004, the ASADHO, the GANVE, the CDH and the NDS received a second email from "First true", and worded as follows: "You don't want to be reasonable. Some of your friends have been. We know each of you, your respective boards of directors. We are telling you that something is going to happen and you run the risk of not seeing your children any more. We know your habits and what you do with your time. If you have wives and children, think about them for a last time. Final warning and those who are in charge of you will not protect you". This email also named several members of the four organisations, including: Messrs. **Jean-Claude Katende** and **Freddy Kitoko**, respectively president and vice-president of the ASADHO/Katanga, Mr. Golden Misabiko, Mr. Walu, Messrs. **George Kapiaka** and **Thimothée Mbuyia**, ASADHO/Katanga members, Messrs. Muteba, **Cryspin**, Kabanga and **Thiya**, members of the GANVE, and Mr. **Grégoire Mulamba**, secretary general of the CDH.

On the same day, the CDH and the NDS received another email from someone claiming to be part of a plot organised by the SOMIKA, in collusion with the EMAK. In particular this person referred to the attempted poisoning of Mr. Muteba, and sought to warn the people cited in the second email from "First true" of similar deeds.

Continued harassment of members of the Lotus Group - Kisangani / Eastern Province⁷⁸

Smear campaign against the Lotus Group and threats against Mr. Dismas Kitenge Senga

On 23 September 2004, the Executive Secretary of the Congolese Liberation Movement (Mouvement de libération du Congo - MLC) held a press conference in Kinshasa, during which he affirmed that MLC members had not committed any violent acts nor had there been any human rights violations against the Pygmy communities in Ituri.

Reacting to these words, Mr. **Dismas Kitenge Senga**, president of the Lotus Group (Groupe Lotus), granted an interview to *Radio France International (RFI)* and *Okapi*, during which he recounted the violations committed by MLC troops against civilian populations and the Pygmy communities.

That same day, the Lotus Group received calls from MLC officers, protesting against these denunciations, before being subjected, for more than three weeks, to a vast smear campaign orchestrated by the authorities of the MLC through conferences and debates, as well as speeches on the radio.

In addition, Mr. Kitenge regularly received anonymous calls threatening him with death.

At the end of December 2004, these threats had not yet stopped.

Attack against Mr. Marc Koya Osoko - Opala

On 12 November 2004, Mr. **Marc Koya Osoko**, president of the Lotus Group branch in Opala, was violently beaten up by a soldier of the Armed Forces of the DRC (Forces armées de la RDC - FARDC) in Yate, 200 km from Kisangani, when he was trying to intervene in the arbitrary arrest of a villager by a group of soldiers.

Threats against Messrs. Okinani and Mambele - Opala

On 15 November 2004, the Lotus Group published, on the strength of information provided by Mr. **Okinani**, co-ordinator of the Lotus

⁷⁸ See Annual Report 2003.

Group in Opala, and Mr. **Mambele**, social services facilitator and a member of the Opala branch, a press release condemning the acts of torture perpetrated by Mr. Akili Mali, captain of the National Police Force in Balinga Lindja (Opala territory), and the acts of harassment committed against the population by the administrative authorities. This press release was widely broadcast by the private radio stations in Kisangani.

On 4 December 2004, Messrs. Ngandi Likala and Osandu Tolenge, "community heads" (an administrative authority recognised by the national authorities) of Balinga Lindja, issued notice of an inquiry against members of the Lotus Group branch in Opala.

At the end of December 2004, Messrs. Okinani and Mambele, who had to go into hiding, were still not been able to resume their activities.

Continued threats against Mr. Willy Loyombo - Opala

On 18 November 2004, Mr. **Willy Loyombo**, member of the Lotus Group in Opala and president of the Non-Governmental Organisation for the Settling, Literacy and Promotion of Pygmies (Organisation non-gouvernementale pour la sédentarisation, l'alphabétisation et la promotion des pygmées - ODAPY), was arrested by Mr. Akili Mali Kahindo, an MLC intelligence officer in Teturi, of Ituri province. Mr. Loyombo was speaking at the time with the Pygmies about the situation of the rights of indigenous peoples in the region, when Mr. Kahindo violently told him off, before driving him to the police station, where he was questioned at length about his activities and threatened with death.

Mr. Loyombo was released on the same day without charges.

Continued harassment of Justice Plus members - Ituri⁷⁹

The members of the association Justice Plus, based in Bunia, Ituri province, continue to be regularly harassed and threatened following the publication of their reports on the violations of human rights by the authorities, the national armed forces and the militiamen in Ituri.

⁷⁹ *Idem.*

Arbitrary arrest of and threats against Messrs. Christian Lukusha, Aimé Batsi, Joël Bisubu and Mrs. Odette Butsitsi - Bunia

At the end of September 2004, Justice Plus published a report on the administration of justice in Ituri, entitled *Justice in Ituri : breaches of procedure are undermining proceedings*.

With regard to the drafting of this report, Messrs. **Joël Bisubu** and **Christian Lukusha**, respectively training and research officers at Justice Plus in Bunia, visited the prison in Bunia on 7 and 8 August 2004, having received authorisation delivered on 7 August 2004 by the senior deputy Prosecutor.

On 28 September 2004, Messrs. Bisubu and Lukusha received a summons from the police department of Bunia, on the order of the Prosecutor of the Republic for the High Court of Bunia, ordering them to appear at the police department on 29 September 2004. The reason for the summons was not mentioned.

On 29 September 2004, as Mr. Bisubu was in Kinshasa, Mr. Lukusha turned up alone at the police department. Questioned by the chief inspector of the department, Mr. Lukusha was accused of visiting the prison without prior authorisation, and was immediately placed under provisional detention. When he was told about the situation, Mr. **Aimé Batsi**, a lawyer and member of Justice Plus, arrived at the Prosecutor's office to defend Mr. Lukusha. However, he too was placed in detention on the orders of the Prosecutor, who blamed him in particular for "participating in the drafting of a heinous report". Messrs. Lukusha and Batsi were transferred that same day to the detention centre of the police station in Bunia, before being released on 30 September 2004, as a result of pressure from Justice Plus and the Lotus Group.

Mr. Bisubu, on his return from Kinshasa on 1 October 2004, appeared on 4 October at the police department of Bunia, where he too was interrogated at length by a magistrate, on the orders of the Prosecutor.

On 12 October 2004, the local radio station *La Voix d'Allemagne (the Voice of Germany)* broadcast a programme condemning the acts of harassment against members of Justice Plus. This programme in particular stressed the association's co-operation with international organisations,

and its role in documenting human rights violations for the ICC. As a result of this intervention, between 13 October and the beginning of December 2004, Mr. Bisubu received many anonymous telephone calls threatening him with death. On 16 October 2004, Miss **Odette Butsitsi**, an organiser for Justice Plus, also received anonymous calls threatening her with death.

On 3 November 2004, Mr. Bisubu received a new summons to appear in court on 9 November 2004. As the date of the summons did not comply with the requisite eight clear days, he asked for an extension of the summons, which was not sent to him.

Messrs. Bisubu and Lukusha were also advised that the facts for which they were blamed had been amended by the Prosecutor, who charged them, in December 2004, with "harmful involvement", a criminal offence punishable by six months' imprisonment.

At the end 2004, the proceedings were still pending.

Threats against Mr. Samy Azabho - Aru

As a result of a memorandum published on 25 October 2004 by the branch of Justice Plus in Aru, condemning the killings and human rights violations committed by the Armed Forces of the Congolese People (Forces armées du peuple congolais - FAPC) within the territory of Aru, province of Ituri, Mr. **Samy Azabho**, director of Justice Plus section in Aru, received several verbal death threats from FAPC members. Faced with this pressure, Mr. Azabho had to stop his activities and leave Aru into hiding.

Death threats against Miss Julie Mwanza - Bunia

Miss **Julie Mwanza**, assistant in the Justice Plus programme for the fight against violence towards women, gave a speech at a conference for the launch of a report by Amnesty International on the violation of women's rights, which was held at Kinshasa on 26 October 2004. In particular, Miss Mwanza stressed the continued involvement of militiamen in violence against women in Ituri. Her proposals were broadcast by the *BBC* and *Okapi* radio stations.

When she returned to Bunia, Miss Mwanza was blatantly threatened with death by several members of the militia, who told her in particular that they were going to "beat [her] to a pulp". Miss Mwanza had to leave Bunia, and has lived in hiding since then.

Threats against and harassment of human rights defenders - Kivu

*Continued harassment of Messrs. Omar Kavota and Kalihi Pen Munongo - Beni*⁸⁰

On 19 December 2003, Messrs. **Omar Kavota** and **Kalihi Pen Munongo**, both members of the ASADHO section in Beni (North-Kivu), were arrested by the Congolese Assembly for Democracy (Rassemblement congolais pour la démocratie - RCD)/Kisangani in Mangina, for refusing to hand over to the soldiers a teenager who was a former Maï-Maï warrior. They were released on 20 December 2003, after having been subjected to cruel, inhuman and degrading treatment.

On 19 January 2004, three armed soldiers from the base of the Congolese Armed Forces, the armed branch of the RCD, in Mangina, arrived at the house of Messrs. Kavota and Pen Munongo, who were not at home at this time, with the obvious intent of arresting them again.

These threats are part of the recurring acts of harassment and threats against members of the ASADHO-Beni.

*Death threats against Mr. Amato Mbunsu - Wakilale*⁸¹

In August 2004, Mr. **Amato Mbunsu**, member of the Human Rights Observers' Committee (Comité des observateurs des droits de l'Homme - CODHO), was mandated by the association to inquire into the human rights violations committed in Wakilale, North-Kivu. From 6 to 10 September, officers of the National Congolese Army (armed branch of the RCD/Goma) arrived at his house by night on two occasions, and told him: "Staff headquarters of the National Congolese Army is aware of what you are doing here. We ask you to leave immediately, otherwise the UN will be coming to collect your body".

On 11 September 2004, Mr. Mbunsu was forced to stop his activities and flee from Wakilale.

⁸⁰ *Idem.*

⁸¹ *Idem.*

ETHIOPIA

The activities of human rights defenders in Ethiopia were often obstructed, as could establish the international fact-finding mission mandated by the Observatory in June-July 2004.

Obstacles to freedom of association and freedom of the press⁸²*Appointment of the Ombudsman and the head of the Human Rights Commission*

In compliance with Article 55 of the Ethiopian Constitution providing for the creation of national human rights institutions, the Human Rights Commission and the Ombudsman were officially established in July 2001. The Commission has been tasked with carrying out investigations on human rights violations committed on citizens, and has the possibility to propose amendments to the existing laws. Its role also includes the promotion of human rights and their teaching to the population and the police forces.

Parliament appointed the head of the Commission and the Ombudsman on 19 June 2004, without prior consultation with civil society, which expressed reservations about their competence and independence: the head of the Commission, Mr. Kassa Gebre Hiwot, is a former ambassador, without any particular experience in the field of human rights, and the Ombudsman, Mr. Abay Tekle Beyene, is a young academic and former member of the Amhara State Electoral Commission, which is close to the executive power.

Although the Parliament prepared guidelines covering the mandate of these two appointees, their exact attributions have not been made public yet.

Restrictive draft law on associations and NGOs

The legislation currently in force on freedom of association stems from the Civil Code's provisions on associations and the 1964 Associations Registration Regulation Act.

⁸² See Preliminary Conclusions of the international fact-finding mission mandated by the Observatory in Ethiopia from 26 June to 3 July 2004.

These laws oblige associations to register with the Ministry of Justice after completing a registration process that is essentially controlled by the authorities. To register, NGOs have to present the association's by-laws, the names and profiles of its members, a list of the activities planned inside and outside the country, as well as guarantees of solvency from its donors. The licence to carry out activities, which has to be periodically renewed, is granted by the Ministry of Justice, which is free to withdraw or modify it. Many human rights organisations have stressed the discretionary powers of the Ministry, which grants or renews registration in a selective manner. Organisations such as the Ethiopian Human Rights Council (EHRCO), the Ethiopian Teachers' Association (ETA) and the Ethiopian Free Press Journalists' Association (EFJA) have all had numerous problems in registering, all the more that there is no set time limit between filing for and receiving authorisation, while pro-governmental NGOs get registered very quickly and easily.

Since 2001, the Ministry of Justice has been studying a new draft law on NGOs. The first draft that was presented in 2001 had been severely criticised by various civil society associations that collectively had formed a working group. This group has been institutionalised in the form of a committee which has been invited to participate in the formulation of the new draft law. A public debate was held in July 2004 on the newly proposed text, but many independent human rights associations were not invited to participate.

Although this draft law authorises associations to organise themselves in networks, it allows the Minister of Justice extensive powers to interfere in NGOs' internal affairs and thus contributes to maintaining a strict control over civil society. The Ministry of Justice, for instance, can decide on the administrative dissolution of an association, dismiss its members (whether elected or not), and order confiscation of documents or a search of the premises without a warrant.

This bill is to be submitted to the Council of Ministers in 2005, and then to the Parliament for adoption as a law.

Draft proclamation to provide for freedom of the Press

Although freedom of expression and freedom of the press are guaranteed by Article 29 of the Ethiopian Constitution, the government presented a very restrictive draft law entitled "Proclamation to Provide for Freedom of the Press" in January 2003. This bill included many res-

trictive provisions and was staunchly rejected by civil society and international experts. The government very slightly modified it and then presented it again at the beginning of 2004.

On 27 February 2004, Mr. Simon Bereket, Minister of Information, announced his intention to submit the bill to the Council of Ministers before 5 March 2004. After being approved by the Council, it was to be submitted to the Parliament for adoption as a law. Protests from civil society and journalists convinced the Minister to convene a meeting with representatives of the Ethiopian media in Addis Ababa from 21 to 23 July 2004. After that consultation, to which independent journalists were not invited, a new version of the text was presented.

This new text, presented at the end of July 2004, was hardly different from the original one. Article 5 providing for the "Right to Carry on Press Activity" includes a list of conditions (including age, nationality, and legal background) to be met in order to obtain a licence (Articles 9 and 10), the whole process being under the control of the Ministry of Information. The bill also provides for the creation of a government-controlled Press Council in charge of drawing up a code of conduct for journalists, and give the courts pre-censorship powers. Lastly, Article 47 provides for heavy fines and prison sentences of up to 5 years for violating the law.

On 28 September 2004, another consultative meeting was convened by the Minister of Information. International organisations for the defence of journalists were also invited. Mr. Simon Bereket agreed to revise certain provisions of the bill, in particular on licensing journalists, the independence of the press council, and respect for confidentiality of source. However, the draft law which will be presented again in 2005, still provides for heavy penal and criminal sanctions for violating the press law.

EHRCO activities impeded⁸³

Legal proceedings against EHRCO

On 8 May 2001, Mr. **Mesfin Wolde Mariam**, chairman of the Ethiopian Human Rights Council (EHRCO), and Mr. **Birhanu Nega**,

83 See Annual Report 2003 and preliminary conclusions of the international fact-finding mission mandated by the Observatory in Ethiopia from 26 June to 3 July 2004.

chairman of the Ethiopian Economic Association, were arrested following the students' demonstrations of 17 and 18 April 2001 that the police had violently repressed. One of the main reasons for their arrest was the outspoken position they took on 9 April 2001 in support of academic freedom and respect of human rights, at a seminar held at Addis Ababa University. They were released on 5 June 2001 after going on a hunger strike to protest against their conditions of detention.

Since then, two charges were brought against Messrs. Wolde Mariam and Nega. On grounds of Articles 32-1 and 480 of the Criminal Code, they were accused of having encouraged students "to demand respect of their rights by rioting rather than through legal means". They were also charged, on the basis of Articles 32-1 and 250, of colluding with the Ethiopian Democratic League (EDL), an organisation considered illegal at that time (but which has been registered since) and seeking to "create a clandestine party in order to change the Constitution by illegal means". The hearing was adjourned over and over again since June 2001: on 28 July 2004, it was postponed for 5 August 2005.

Smear campaigns following publication of reports

On 5 January 2004, EHRCO published a report on human rights in the Gambella region, in the western part of Ethiopia, undergoing a violent ethnic conflict. This report, entitled, *A Ferocious Attack Committed in Gambella Region*, questioned the government's ethnic policy and denounced the assassination of at least 13 civilians by the Ethiopian armed forces. This information was confirmed thereafter by a fact-finding commission established by the Parliament in April 2004. On 18 January, however, the government denied that any civilians had been killed by the armed forces and threatened to "take the appropriate measures against EHRCO". This statement was widely broadcast on television and published in various newspapers.

In February 2004, EHRCO published a report on the observation of district elections held on 25 January 2004 in the eastern province (Somali). The report especially denounced the many cases of abuse of and violations against opposition party members and candidates. A few days later, the National Elections Council, in its gazette, warned EHRCO that its authorisation to observe elections in the country would be withdrawn if it did not disclose its articles to government authorities before publishing them.

Last, following the publication, on 7 May 2004, of an EHRCO report condemning the terrorist actions led in the Oromia region between March and May 2004, the Ministry of Information launched a vast smear campaign against the association on State radio and television channels. In the two main government-controlled newspapers, the Ministry accused EHRCO of having its own political agenda and of not being a human rights organisation.

Retaliation against Mr. Abebe Shambi

In March and April 2004, many teachers in Ambo city, 120 km west of Addis Ababa, were suspended following student protest movements in the region. Although he had not participated in these movements, Mr. **Abebe Shambi**, a civics teacher and the only representative of EHRCO in Ambo, was accused by the authorities and the administration of Ambo primary school where he taught, of "propagating the objectives of EHRCO amongst the students" and encouraging them to rebel.

On 26 April 2004, Mr. Shambi was suspended from teaching until September 2004, when he was transferred to the Odo Liben primary school in the outskirts of Ambo.

Pressure against EFJA⁸⁴

The Ethiopian Free Press Journalists' Association (EFJA), created in March 1993, is composed of over 150 journalists across the country. It strives to protect the independence of journalists and promotes freedom of expression. EFJA was registered with the Associations Registration Office and attained official recognition in March 2000.

Its executive committee, which was elected in December 2001, received a summons by the government on 10 November 2003, under the pretext that EFJA had not submitted its financial reports to the Ministry of Justice since 2000. Furthermore, the authorities demanded EFJA to submit the association's financial reports and audited accounts statement, although Ethiopian law waives this requirement only for organisations with budget below 55,000 Ethiopian birr (5,000 euros).

84 *Idem.*

Since EFJA directors feared the association's licence would not be renewed (according to Ethiopian law, all associations have to get their licence renewed regularly), they submitted the reports to the authorities and declared that an auditor would be appointed to check the accounts. Alongside this administrative harassment, EFJA was subjected to a sweeping denigration campaign in the pro-governmental media.

On 2 December 2003, the government officially announced its decision to suspend EFJA. The Associations Registration Office, in a letter (*Ref. no.11/2155/w-493*) to the EFJA executive committee, forbade in particular the following people to "carry out any further activities within EFJA": Messrs. **Kifle Mulat**, chairman of EFJA, **Taye Woldesmiate Belachew**, vice-chairman, **Sisay Agena**, treasurer, **Tamiru Geda**, public relations manager, and **Habtamu Assefa**, accountant.

On 5 December 2003, EFJA appealed this decision with the Ministry of Justice, which never took up the matter. Moreover, EFJA's accounts were frozen.

In the meanwhile, the government tried to take control of the association. On 4 January 2004, the Minister of Justice decided to set up and appoint a new executive committee. This attempt failed because of protests by EFJA members, so, the Minister imposed, on 18 January, the election of a new committee by a congress that was established and convened especially for the occasion, and in which none of the EFJA journalists participated. On 27 January 2004, following the election, the "genuine" EFJA lodged a complaint against the Ministry of Justice with the Federal First Instance Court, before most of its members resigned on 31 January 2004.

The "fake" EFJA started its activities, e.g. it participated in the seminar organised by the Ministry of Information on the new press law⁸⁵.

On 24 December 2004, the 4th Chamber of the Federal High Court ruled that the suspension of EFJA and its senior staff was illegal and declared the election of the new executive committee, organised by the Ministry of Justice, null and void, since EFJA congress shall be exclusively composed of permanent EFJA members.

As at the end of 2004, EFJA members were about to resume their activities but feared that the Ministry of Justice will lodge an appeal with the Federal Supreme Court.

85 See above.

ETA's freedom of association impeded⁸⁶

The Ethiopian Teachers' Association (ETA) was created in 1949 and has 2.5 million members throughout the country. It aims at promoting an equitable, fair education policy.

In the early 1990s, as a result of government interference and pressure, a "new" ETA was set up. In 1993, the independent ETA accounts were frozen, under the pretext that the association was not registered, while its leaders were arbitrarily arrested and detained, some of them even being murdered. As a consequence, two organisations with the same name are operating at present.

On 30 January 2004, the premises of the "first" ETA were sealed off under the pretext that the association was not registered.

On 15 December 2004, the Federal High Court ruled that the "old" ETA was the one legal and required its accounts to be unfrozen and the offices, unsealed. The government ignored this decision and the "new" ETA lodged an appeal with the Federal Supreme Court on 25 December 2004. The hearing is scheduled for 1 April 2005.

Infringement of lawyers' independence⁸⁷

Ethiopian lawyers are not allowed to exercise their profession unless they register with the Ministry of Justice, which set up a Committee of five people empowered to grant a professional licence to lawyers after examining their qualifications. This Committee is also authorised to transmit its recommendations on applications for registration, as well as on disciplinary sanctions, to the Ministry of Justice. This system thus places the lawyers under the direct authority of the Ministry. Many lawyers who defend human rights are subjected to fallacious accusations (followed by disciplinary sanctions) and threatened with having their licence withdrawn.

Arrest and arbitrary detention of Mr. Abebe Worke Wolde Yohannes

On 24 February 2004, Mr. **Abebe Worke Wolde Yohannes**, a lawyer, member of the Ethiopian Bar Association (EBA) and member of

86 See preliminary conclusions of the international fact-finding mission mandated by the Observatory in Ethiopia from 26 June to 3 July 2004.

87 *Idem.*

EHRCO's executive council, was sentenced by the Federal Supreme Court to 20 days of detention following a clash he had with one of his clients about his professional fees. While the Court was examining the client's claim, it decided to render judgement and sanctioned Mr. Wolde Yohannes, while it has no competence for taking such a step. Furthermore, the Minister of Justice threatened to revoke his lawyer's licence. By the end of 2004, the threat had not been taken any further yet.

Mr. Wolde Yohannes is the lawyer for ETA and for Messrs. Mariam et Nega⁸⁸. He regularly denounces State interference in these associations' activities, regularly edits articles in support of human rights in EHRCO publications, and defends victims of state persecution.

GAMBIA

Adoption of restrictive legislation on freedom of the press⁸⁹

On 13 December 2004, the Parliament abrogated the 2002 National Media Commission Act and adopted the Newspaper Amendment Act, the enactment of which invalidates registration of all media in the country and obliges them to re-register with the Registrar General's Office, that falls under the authority of the Ministry of Information, within two weeks of the coming into force of the Act. This law also imposes a five-fold increase in the sum that newspaper owners have to pay for their licence.

Moreover, on 14 December 2004, the Parliament adopted the Criminal Code Amendment Bill 2004, which provides for imprisonment of up to three years, without the option of a fine, for press offences, which include libel, (the definition of which was expanded), sedition and the dissemination of false news.

⁸⁸ See above.

⁸⁹ See Urgent Appeal GMB 001/1204/OBS 095.

The President, Mr. Yahya Jammeh, had not signed these two laws by end 2004. Apparently, discussions on these two texts were underway between the government and the Gambia's main press union.

Assassination of Mr. Deida Hy dara⁹⁰

Mr. **Deida Hy dara**, a journalist, was assassinated during the night of 16-17 December 2004 while driving home two of his colleagues, Mrs. **Ida Jagne-Joof** and Mrs. **Nyang Jobe**. Mr. Hy dara was killed at point-blank range by three shots in the head, by unidentified individuals whose car was passing his. His two colleagues were wounded in the legs and had to be taken to the hospital.

Mr. Hy dara used to work as the correspondent for the *Agence France Presse (AFP)* in the Gambia since 1974 and for Reporters Without Borders (Reporters Sans Frontières - RSF) since 1994. He also was the co-owner of the newspaper *The Point*. Mr. Hy dara was especially well-known for his commitment to freedom of the press and human rights, and had written two articles in his newspaper, just a few days before his death, criticising the adoption of the two aforementioned acts. He was also the initiator of the open letter dated 16 December that RSF sent to the President of the Republic of the Gambia, urging him not to sign the two bills into law.

The Gambian authorities promised to carry out a thorough investigation into this assassination, but the perpetrators had not yet been identified by end of December 2004.

⁹⁰ *Idem.*

GUINEA BISSAU

Continued harassment of Mr. Joao Vaz Mane⁹¹

On 18 March 2004, Mr. **Joao Vaz Mane**, vice chairman of the Guinean Human Rights League (Liga Guineense dos Direitos Humanos - LGDH), was arrested while at the LGDH office, on the order of chief police commissioner Bitchofla Na Fafé, for denouncing a police misconduct that seriously wounded a young man, in an LGDH radio programme. Mr. Vaz Mane's clothes were ripped while he was being arrested.

A little later, the police took Mr. Mane to the site of a murder that had been committed the preceding evening and told the people there that he was guilty of the crime. Several people lunged forward to strike him, but then other people recognised him and stopped the lynching.

Mr. Mane was then taken to the central police station of the "Segunda Esquadra" where he was insulted and subjected to death threats for five hours before being released.

Mr. Joao Vaz Mane had already been arbitrarily arrested and detained in January 2003. In July 2003 he also had been threatened by Mr. Bitchofla Na Fafé, who publicly denigrated the activities of the LGDH and accused Mr. Vaz Mane of disseminating false information after he denounced the criminal behaviour of certain police officers.

MAURITANIA

Campaign to slander human rights NGOs⁹²

During the 65th session of the United Nations Committee on the Elimination of Racial Discrimination (CERD), held in Geneva from 2

⁹¹ See Annual Report 2003 and Open Letter to the Guinean authorities, 30 March 2004.

⁹² See Annual Report 2003.

to 20 August 2004, the Forum of National Human Rights Organisations (Forum des organisations nationales de défense des droits de l'Homme - FONADH) presented an alternative report to the sixth and seventh periodical reports submitted by the Mauritanian government.

On 5 September 2004, Mr. Hamoud Ould Abdi, Minister of Communication and Relations with the Parliament, and government spokesman, held a press conference in which he mentioned CERD's apparent glowing remarks about Mauritania. During the conference, the Minister said, inter alia: "our country which has made major achievements, has just scored another victory against all outcasts, extremists and racists in the country and those hostile organisations that support this lamentable bunch of traitors. This bunch of outcasts which ruminates false propaganda stoked by hate, with a noteworthy example being FIDH and other organisations that constantly are contriving demeaning blows against our people, who are peaceful and attached to their religious, moral, and civic values (...). Testimony by CERD provide unambiguous denial of the false allegations supported by parties that are trying to tarnish our high reputation and credibility and the consideration we enjoy on the international scene". Mr. Ould Abdi went on to single out several defenders who participated in the preparation of the alternative report, namely, Mrs. **Fatimata Mbaye**, a lawyer and president of the Mauritanian Association for Human Rights (Association mauritanienne des droits de l'Homme - AMDH), Mr. **Abdoulaye Sow**, vice-president of AMDH, Mr. **Boubacar Ould Messaoud**, chairman of the association SOS-Slaves (SOS-Esclaves) and Mr. **Diabira Maroufa**, chairman of the International Study and Research Group on Democracy and Economic and Social Development in Africa (Groupe d'étude et de recherche sur la démocratie et le développement économique et social (GERDDES-Afrique).

These statements were broadly disseminated, in particular by the *Nouakchott-Info* of 6 September 2004, which stated that "the results of the 65th session of CERD was a complete success, contrary to allegation by parties specialised in distorting the facts, and these marginal groups, apostles of racism, as well as hostile organisations that specialise in dishonest, hateful propaganda such as FIDH".

Several women belonging to the Association of Detainees' Families subjected to legal proceedings and arbitrary detention⁹³

The Association of Detainees' Families (Collectif des familles de détenus) was created in September 2003 to defend the detainees' rights in the trial of the alleged perpetrators of the attempted coup of 8 and 9 June 2003 and denounce their conditions of detention -they are apparently being held in sheds and are not allowed to receive any visitors or medical care. More generally, the Collectif aims at defending the right to a fair trial in Mauritania.

On 21 November 2004, the national police forces (gendarmerie) arrested seven members of the Collectif - Mrs. **El Moumne Mint Mohamed Elemine**, Mrs. **Raky Fall**, Mrs. **Khadijetou Mint Maghlah**, Mrs. **Teslem Mint Oumar**, Mrs. **Mariem Mint Neyni**, Mrs. **Fatimetou Mint Khaya** and Mrs. **Mariem Fall Mint Chenouve** - during the opening session of the first hearing of the trial of the alleged putschists. These women, mostly mothers, sisters and wives of the accused, were taken to the Ouad Naga brigade where they were held in the hot sunshine, on the ground for the whole day. The brigade commander allegedly slapped Mrs. Mariem Mint Neyni, who was pregnant; she was released the next day.

On 22 November, Mrs. **Meye Mint Hamady** and Mrs. **Fatma Mint Hamady**, also members of the Collectif, were arrested when leaving the court room, after they protested to the gendarmes who were about the mistreat an elderly woman.

On 29 November, Mrs. Mariem Mint Neyni was arrested again.

The nine women were not told the grounds of their arrest but were questioned several times about the participation of two members of the Collectif in the 36th session of the African Commission for Human and Peoples' Rights (ACHPR), held in Dakar from 23 November to 7 December 2004.

On 30 November 2004, the nine women were accused of "having been caught in the act of distributing tracts" and "death threats", and were immediately transferred to the Nouakchott women's prison. Their friends and relatives were not allowed to visit them.

⁹³ See Urgent Appeals MRT 001/1104/OBS 089, 089.1, 089.2 and 089.3.

In the evening of 1 December, two guards took Mrs. Mariem Mint Neyni, who was about to give birth, to the Chiva clinic, where the baby was born. The guards, following the instructions they had received, sought to transfer the mother and her new-born back in the jail cell immediately after the delivery; thanks to requests from her lawyers, she was allowed to stay in the clinic and was released on parole on 5 December 2004.

On 6 December 2004, lawyers filed a request for the release on parole of the other eight women. Although the judge issued an order for their release for that same day, the Prosecution immediately lodged an appeal, thereby suspending the application of the order. The case was referred to the Nouakchott court of appeal.

The President of the Nouakchott Court of Appeal, on 16 December, supported the appeal lodged by the Prosecution and rejected the order for the release on parole of the eight women.

In the evening of 4 January 2005, the Prosecution of the Trarza regional court finally agreed to release the eight women. The women's lawyers immediately drew up an application for release that same day since the one-month warrant of commitment for the women had expired on 30 December 2004. The charges against these eight women and Mrs. Mariem Mint Neyni, who had been released earlier, were not dropped, and legal proceedings were still pending by end of 2004.

Threats against lawyers⁹⁴

The lawyers of the alleged putschists were repeatedly threatened. Mr. **Brahim Ould Ebety**, the lawyer for the defence and secretary general of the International Study and Research Group on Democracy and Economic and Social Development in Mauritania (Groupe d'étude et de recherche sur la démocratie et le développement économique et social - GERDDES-Mauritanie), was threatened with arrest on 30 November 2004, the day after he intervened at the 36th session of the ACHPR under the agenda item on torture. On 1 December, Mr. **Mohamed Ahmed Ould El Hadj Sidi**, also a lawyer for the defence, was arrested before the hearing was resumed. He was accompanied by a relative of

94 *Idem.*

one of the detainees. The pretext for the arrest was that the relative tried to appear as if he was a lawyer by carrying Mr. Sidi's robe over his arm. He was released the same day, after several hours of detention.

NIGERIA

Reports confiscated⁹⁵

On 14 October 2002, the customs office impounded 2,000 copies of the report published by OMCT and the Centre for Law Enforcement Education, Nigeria (CLEEN), entitled *Hope Betrayed? A Report on Impunity and State-Sponsored Violence in Nigeria*.

After the report was seized, CLEEN lodged a complaint against the customs services with the Federal High Court in Lagos which heard the case in June 2003. On 10 November 2003, after several adjournments, the CLEEN lawyers were able to submit their arguments. But because of an overburdened schedule, the court interrupted the hearing and postponed it until 26 January 2004.

On that date, the defence asked for the court's indulgence and for the hearing to be adjourned until he could get a certified copy of the legal action. The lawyer for the prosecution was not against this request, but reminded the court that the hearing had been scheduled for that day, and hence asked that the plaintiffs be awarded 5,000 naira (30 euros) as compensation. The judge agreed to adjourn the hearing until 24 March 2004 and awarded 2,000 naira (12 euros) to the plaintiffs.

On 6 October 2004, the Federal High Court of Lagos rendered a judgement in favour of CLEEN and against the Nigerian customs. The court declared that the confiscation and non-distribution of the reports violated "the freedom of expression of the claimants as guaranteed by section 39 (1) and (2) of the 1999 Constitution of the Federal Republic of Nigeria and, thus, were unconstitutional, null and void". The court also stressed that

⁹⁵ See Annual Report 2003.

this confiscation was in violation of the claimants' rights in application of section 44 (1) of the Constitution". The Court ordered the Nigerian customs office to pay compensation of five million naira (3,000 euros) and either return the 2,000 copies of the report within seven days, or pay an additional compensation of four million naira (2,400 euros).

At the end of December 2004 the reports had not yet been returned.

RWANDA

Arbitrary demand for dissolution of the LIPRODHOR and legal proceedings against its members⁹⁶

In April 2003, the League for the Promotion of Human Rights in Rwanda (Ligue rwandaise pour la promotion et la défense des droits de l'Homme - LIPRODHOR) was accused of "divisionism" by a parliamentary commission set up at the end of 2002 and tasked with investigating into the Democratic Republican Movement (Mouvement démocratique républicain - MDR), an opposition party dissolved since. At that time, the LIPRODHOR was accused of collaborating with the MDR and benefiting from political funding, and had to face up to a vast smear campaign, widely broadcast in the media.

At the end of 2003, a parliamentary commission tasked with investigating into the possible propagation of the ideology of genocide, prohibited by Rwandan law, was set up following the murders of several of the survivors of the 1994 genocide in the Gikongoro province.

On 27 June 2004, this commission submitted its conclusions to the Parliament, and in particular recommended that the LIPRODHOR, which was accused of "propagating the ideology of genocide in Rwanda", be dissolved, and legal action be undertaken against its members. The commission's report also asked for the dissolution of four

96 See Annual Report 2003 and Urgent Appeals RWA 001/0704/OBS 055 and 055.1.

other organisations for the same reason, namely the Forum of Rural Relatives (Forum des organisations rurales), Remembrances of Parents (Souvenirs des parents), SDA-Iriba and 11.11.11, an organisation based in Belgium.

On 30 June 2004, the Parliament adopted a resolution which repeated the terms of the commission's report, asking the government to dissolve the LIPRODHOR as well as the three other above mentioned local organisations. In addition, some members of the Parliament demanded the security forces and national justice to pursue and severely punish the managers, employees and members of these organisations, going as far as circulating a list of thirteen people of which nine were members of the LIPRODHOR: Mr. **Emmanuel Nsengiyumva**, president, Mrs. **Marthe Nyiranzeyimana**, assistant representative in Kigali, Mr. **Fabien Bakizanya**, head of the legal commission, Mr. **Balthazar Ndagijimana**, treasurer, Mr. **Aloys Habimana**, head of programmes, Mr. **Jean Bosco Molisho**, member of the LIPRODHOR branch in Kibungo, Mr. **Ruben Niyibizi**, administrative and financial manager, Mr. **Jean Damascène Ntaganzwa**, manager of the LIPRODHOR branch in Gitarama, and Mr. **Félicien Dufitumukiza**, head of logistics.

Given the seriousness of this measure and the threats hanging over their safety and integrity, these people were forced to go into exile, in particular to Kampala (Uganda) and Bujumbura (Burundi).

On 19 September 2004, the members of the LIPRODHOR in exile in Uganda were subjected to harassment and arbitrary arrests. Messrs. Bakizanya, Ndagijimana, Habimana, Molisho, Niyibizi, Ntaganzwa, and Dufitumukiza were arrested at their hotel in Kampala by the Ugandan police, probably at the request of the Rwandan authorities. These seven people were accused of taking refuge in Ugandan in order to destabilise the Rwandan government, and were released on 21 September 2004, as a result of international pressure.

In addition, on 18 and 19 September 2004, Mr. Emmanuel Nsengiyumva, president of the LIPRODHOR, and Mrs. **Yvonne Niyoyita**, member of the Cyangugu branch, both in exile in Bujumbura, were watched by an agent of the Immigration and Customs Office, known to be a member of the Department of Military Intelligence of Rwanda (DMI).

Given the danger which the members of the LIPRODHOR were encountering in Burundi and in Uganda, all of these people were taken

into the care of the UN High Commissioner for Refugees (HCR). By the end of 2004, all of them were resettled in Europe.

In the meanwhile, on 11 September 2004, an extraordinary general assembly of the LIPRODHOR was convened in Kigali, in the absence of the elected managers of the organisation, to proceed with the election of a new board of directors. Most of the members of the new board, who were closely connected with the authorities, then backed up the terms of the parliamentary commission's report, pointing out that this report "[showed] that certain members [were] responsible for the misconduct which was in the end attributed to the LIPRODHOR, whilst it had not in fact given them authority for this". The new board also decided to "take measures against the members responsible for this misconduct" and to "ask forgiveness from the Rwandan people and their government for the misconduct of certain members and employees which has been attributed to the league". Finally the general assembly "thanked the Rwandan government for its unfailing collaboration with the LIPRODHOR".

On 19 September 2004, the government published its conclusions on the parliamentary commission's report, and welcomed the fact that the "new" LIPRODHOR had separated from "its members who supported the ideology of genocide". The government also stated that "some Rwandans [were] still in favour of ethnic separation, led by the genocide ideology [...] in some associations, non-governmental organisations [...] as well as among civil society" and urged these organisations to "carry out a courageous self-criticism to right the criticism made against certain leaders (of the government), [...] and to severely punish their members".

Moreover, members of the "true" LIPRODHOR who were not able to leave Rwanda were subjected to a great deal of pressure. Mr. **Pasteur Nsabimana**, responsible for familiarising policy makers with human rights, and Mr. **Mérari Muhumba**, secretary, who did not have passports, were not able to leave the country in July 2004. They were notified by a letter from the "new" LIPRODHOR board of directors, dated 8 December 2004, of their dismissal from the league because of their "divisionism". As this letter was made public, the authorities became aware of the matter and placed Messrs. Nsabimana and Muhumba under house arrest. At the end of December 2004, this order had still not been lifted.

Restriction on the freedom of association and threats against members of the Community of Indigenous People of Rwanda⁹⁷

In a letter dated 28 June 2004, the Minister of Justice advised the Community of Indigenous People of Rwanda (Communauté des autochtones rwandais - CAURWA), an organisation defending the rights of the Batwas in Rwanda, that the organisation's request to be recognised as a legal entity was refused on the grounds that "the aim and name of the organisation [were] contrary to the constitutional principles of the Republic of Rwanda".

The Ombudsman explained this decision in a letter dated 8 October 2004, by indicating in particular that the names "indigenous" and "Batwa", which were used several times in the statutes and rules of procedures of the CAURWA, were contrary to the fundamental principles of the Constitution of Rwanda aimed at "eradicating finally the divisions based on tribal origin, regionalism and other division", thus inferring that the CAURWA was promoting "divisionism". The Ombudsman also advised the organisation to modify its status to bring them into line with these principles.

On 24 November 2004, the CAURWA received a letter from the Minister of Justice dated 9 November, repeating his refusal to grant legal status to the organisation on the grounds that it still did not conform to the Constitution, and demanding the suspension of its activities as long as the situation was not remedied.

There is every indication that this decision was part of the reprisals against the activities of the CAURWA at the 36th session of the African Commission of Human and Peoples' Rights (ACHPR). Indeed, Messrs. **Zéphirin Kalimba** and **Amédée Kamota**, respectively director and head of the human rights programme of the CAURWA, submitted in Dakar an alternative report to the periodical report by the Rwandan government, to which the members of the Commission referred when questioning the Rwandan Minister of Justice. Replying to the questions of members of the Commission, a representative of the Rwandan government directly threatened Mr. Zéphirin Kalimba, quoting in particular his name and making reference to his wife and one of his children.

⁹⁷ See Urgent Appeal RWA 002/1204/OBS 090.

At the end of 2004, the CAURWA - which operates throughout the whole territory and whose mandate is to condemn the discrimination to which the indigenous "Pygmy" populations in Rwanda are subjected - was continuing negotiations with the Rwandan government aimed at showing that the objectives of the organisation are not contradictory to the principles of the Constitution. The decision to modify or not the status of the CAURWA should be taken at the beginning of 2005 at its general assembly.

SENEGAL

Smear campaign against the ONDH⁹⁸

On 5 January 2004, the National Organisation for Human Rights (Organisation nationale des droits de l'Homme - ONDH) published a press release disclosing the existence of death threats against Msgr. **Théodore Adrien Sarr**, Archbishop of Dakar, and all Senegalese bishops. These threats, emanating from a group called the "Circle of Steel" (Cercle d'acier), had been received by the clergy on 9 December 2003, following the declaration issued by the bishops at the Tambacounda episcopal conference, at the end of November 2003, at which they voiced their anxiety as regards the political and social situation in the country.

On 6 January 2004, the "Sentinels for Political Change Movement" (Mouvement des sentinelles de l'Alternance), which was hitherto unknown, circulated a press release asking that the members of the ONDH be "heard by the police and pursued". In their opinion, the disclosure by the ONDH of the existence of the letter aimed at Msgr. Sarr represented a "dangerous operation of destabilisation and indoctrination about the President of the Republic", "which could throw Senegal into an unprecedented period of turbulence". The same press release also urged the religious leaders and the Senegalese people to remain vigilant

⁹⁸ See Urgent Appeal SEN 001/0104/OBS 004.

lest they be fooled by "these organisations which have become by devious means (...) political parties in disguise and which stir up the flames on a regular basis in the name of the Devil".

SUDAN

Arbitrary arrest and detention of Mr. Mudawi Ibrahim Adam⁹⁹

On 28 December 2003, Mr. **Mudawi Ibrahim Adam**, president of the Sudan Social Development Organisation (SUDO), was arrested at his Ondurman home by the forces of the National Security Agency (NSA). This arrest followed Mr. Mudawi's speech, on 27 December 2003, at a seminar on education in human rights organised by the SUDO in Shendi.

Mr. Mudawi was first placed in detention in an unknown place, without any charge being brought against him. On 3 January 2004, it was confirmed that he had been transferred to the Kober prison.

On 11 February 2004, Mr. Mudawi was accused on the basis of the 1991 Criminal Code of having "undermined the constitutional system (Article 50), conducted a war against the State (Article 51), revealed military information (Article 56), incited people to oppose the public authorities using violence and force (Article 63), incited hatred against or amongst sects (Article 64)", charges which carry a sentence of life imprisonment or death.

These charges were dropped on 4 August 2004, and Mr. Mudawi was released on 7 August 2004, after more than seven months in detention.

⁹⁹ See Urgent Appeal SDN 001/0104/OBS 001.

Arbitrary arrest and detention of Mr. Salih Mahmoud Osman¹⁰⁰

On 1 February 2004, Mr. **Salih Mahmoud Osman**, a lawyer and member of the Sudan Organisation Against Torture (SOAT), was arrested at his home, in Wad-Madani (Central-Sudan), by agents of the NSA. After being questioned in the NSA offices, Mr. Salih was imprisoned in isolation without charges. He was transferred on 3 February 2004 to the Dabak prison, while suffering from serious health problems (jaundice, diabetes and hypertension).

On 31 May 2004, Mr. **Amir Mohammed Suleiman**, a lawyer and SOAT member, submitted an official memorandum to the security department, demanding the immediate release of Mr. Salih, given the absence of charges against him and the expiry of the 90 days time limit for provisional detention, provided for by Article 32, section 2, of the 1999 National Security Act. However, on 20 June 2004, the director of the NSA replied that Mr. Salih had benefited from medical visits during his detention, the time limit for which had been extended beyond 90 days at the request of the NSA superior council on the basis of the National Security Act of 1991.

Mr. Salih went on a hunger strike from 30 June until 2 July 2004, before being released without charges on 4 September 2004.

Mr. Salih is a well-known lawyer and a writer, who provides legal assistance to hundreds of victims of human rights violations in Darfur, and who also represents the persons sentenced to death or to amputation in the region.

Arbitrary arrest and detention of Mr. Osman Adam Abdel Mawla¹⁰¹

On 5 May 2004, Mr. **Osman Adam Abdel Mawla**, a member of the SUDO, was arrested in Zalingy (Western Darfur), then taken to the offices of the security forces, although no charge was officially brought against him.

100 See Urgent Appeals SDN 002/0104/OBS 009, 009.1 and 009.2.

101 See Urgent Appeal SDN 003/0504/OBS 035.

Mr. Mawla was released on 18 May 2004, after thirteen days in detention during which he was neither interrogated, nor advised of the reasons for his arrest. After his release, the security services first refused to provide him with the necessary authorisation to leave Nyala.

Arbitrary arrest and detention of Messrs. Nour Eldin Mohamed Abdel Rahim and Bahr Eldin Abdallah Rifa¹⁰²

On 9 May 2004, Messrs. **Nour Eldin Mohamed Abdel Rahim**, *omda* (tribal chief) *fur* of Shoba, and **Bahr Eldin Abdallah Rifa**, *omda fur* of Jabal, were arrested by the security forces in Kabkabia (Northern Darfur), after taking part on the same day in a meeting about human rights violations in the Kabkabia region with the local authorities and representatives of the Red Cross. During this meeting, Messrs. Abdel Rahim and Abdallah Rifa gave the Red Cross representatives information on the existence of mass murders and graves, as well as other serious human rights violations against the civilian population of the region.

As of end 2004, no information was made available on their whereabouts, nor if they were released.

Arbitrary arrest and detention of Mr. Adel Abdullah Nasir Aldeain Saeed¹⁰³

On 16 June 2004, Mr. **Adel Abdullah Nasir Aldeain Saeed**, a lawyer and member of the SOAT in Nyala (Southern Darfur), was arrested at his office by agents of the security forces, then held incommunicado for five days in the premises of the security forces in Nyala.

He was released on 21 June 2004 without charges.

Mr. Aldeain Saeed provides legal assistance to persons who have been sentenced to death, amputation and other inhuman or degrading treatment. In April 2004, Mr. Saeed in particular took part, with other lawyers, in an appeal to the security forces of the Southern Darfur State, urging the authorities to immediately release all the detainees who had not been officially charged, and to guarantee them a fair trial.

102 See Urgent Appeal SDN 004/0504/OBS 036.

103 See Urgent Appeal SDN 005/0604/OBS 047.

Restrictions on freedom of the press

Although censorship in Sudan was officially lifted on 12 August 2003 by a presidential decree, the NSA announced, on 11 September 2004, the establishment of a "pre-censorship" programme, immediately applicable to all publications in the country, and banning the dissemination of any information regarding the situation in Darfur and the Popular National Congress (PNC, opposition party), which do not officially emanate from the government. The NSA agents are, amongst others, authorised to supervise publications, inspect, modify or order the withdrawal of certain articles before their publication.

*Questioning of Mr. Faiçal El-Bagir Mohammed*¹⁰⁴

On 16 September 2004, Mr. **Faiçal El-Bagir Mohammed**, a journalist and SOAT member, correspondent for RSF in Sudan and leader writer for the newspaper *Aladdwaa*, was summoned to the NSA offices, where he was held for almost nine hours. Mr. El-Bagir was questioned in particular about his editorial, which was to appear in that day's edition of the *Aladdwaa*, and which criticised the NSA's new pre-censorship policy, the crackdown on freedom of expression in Sudan and the 1999 National Security Act. As a result of pressure from the NSA, this article was withdrawn from the edition.

Mr. El-Bagir, whose activities have been regularly watched and controlled since 2001, has been repeatedly subjected to arbitrary arrest and summons by the security services. In 2003, he had been questioned in this way on five separate occasions by the NSA agents because of his stand in favour of human rights and freedom of expression.

104 See Annual Report 2003.

TOGO

Defenders of human rights likened to "delinquents"¹⁰⁵

The Togolese League for Human Rights (Ligue togolaise des droits de l'Homme - LTDH), its president Mr. **Adote Ghandi Akwei**, and the FIDH were victims of a smear campaign orchestrated by the government, following the publication of a FIDH report on the situation of human rights in Togo, dated 8 June 2004¹⁰⁶.

On 9 June 2004, the Togolese Minister of Communication, Mr. Pitang Tchallah, told *AFP* that he considered this report to be "outrageous and revolting".

On 11 June, the President of the Parliament, Mr. Fanbaré Outara Natchara, further declared during an interview broadcast by the Togolese radio station *Métropolys*, that the LTDH and the FIDH had "mistaken and distorted" his words, and concluded "that they were a bunch of dishonest liars" and "delinquents". Mr. Natchara also stated that the FIDH report that condemned the recurring violations of human rights in Togo was "a means of polluting [Togo's] discussions with the European Union (EU)", before accusing the FIDH of "relying on the support of the president of the Togolese League of Human Rights, an association of delinquents".

ZAMBIA

Harassment of Mrs. Sara Longwe's family members¹⁰⁷

The family of Mrs. **Sara Longwe**, a member of the UN Conference of NGOs (CONGO) and laureate of the 2003 Hunger Project African Leadership Prize, was subjected to serious acts of harassment.

105 See Press Release, 16 June 2004.

106 See Report by the FIDH, *Togo : l'arbitraire comme norme et 37 ans de dictature*, June 2004.

107 See Open Letter to the Zambian authorities, 19 February 2004.

On 5 January 2004, the Minister of Home Affairs signed a deportation order requiring her husband, Mr. **Roy Clarke**, a journalist and British citizen, to leave the country within 24 hours. Mr. Clarke's deportation order was based on the grounds that he had allegedly insulted the Zambian President in his weekly satirical column in *The Post* newspaper. Mr. Clarke and Mrs. Longwe went into hiding from 5 to 13 January to avoid his deportation. The Minister of Home Affairs reportedly revoked Mr. Clarke's permanent residence permit and announced that he would deport Mr. Clarke, despite a "stay of execution" that was ordered to allow for a judicial review of his case, which was heard on 26 January 2004 by a High Court judge. On 12 February 2004, Mrs. Longwe's eldest daughter was kidnapped while driving her mother's car. Her assailants threatened to kill her, after asking her where her mother was, and left her on a small road in the Chamba valley a few hours later. That same day, Mr. Clarke was arrested before being released on bail the next day.

ZIMBABWE

Renewed legislative obstacles to freedoms of association and expression¹⁰⁸

The 2004 NGO Act

In November 2002, the Zimbabwean government reported its intention to adopt a new law on NGOs to replace the 1967 Private Voluntary Organisations Act (PVO), some provisions of which had been reasserted in September 2002.

The 2004 NGO Act was adopted by the Parliament on 9 December 2004.

This law imposes heavy restrictions on freedom of association and especially targets human rights NGOs. Indeed, the legal definition of

¹⁰⁸ See Annual Report 2003 and Open Letter to the Zimbabwean authorities, 13 August 2004.

an NGO has been made much wider than in the PVO Act and, in particular, includes "any institution, the objects of which include or are (...) the promotion and protection of human rights and good governance" (Article 2[1]). Previously, human rights associations were operating under the same legal status as "trusts" which carried easier registration and financial conditions.

To comply with this new Act, all NGOs have to register with the NGO Council placed under the authority of the Ministry of Public Service, Labour and Social Welfare or will be liable to fines and imprisonment.

This Council, the establishment of which is provided for by Article 3, is composed of five civil society representatives and nine members of the government. It is not only responsible for registering the NGOs but also for investigating their administration, management and activities.

To be able to register, each organisation, inter alia, has to provide "the names, nationalities and addresses of its promoters, its sources of funding, and its plan of action or projected activities for the next three years..." thus enabling the authorities to control the NGO's activities; no details are given concerning the grounds for refusing the application for registration. Furthermore, Article 9[4]: states that "no foreign non-governmental organisation shall be registered if its sole or principal objects involve or include issues of governance", "issues of governance" including, according to Article 2, "the promotion and protection of human rights".

The Ministry of Public Service, Labour and Social Welfare also has substantial discretionary powers and, in particular, is entitled to dismiss the members (whether elected or not) from an association, call for the election of a new board of directors and cancel the certificate of registration.

Lastly, the 2004 NGO Act imposes various financial restrictions on local associations which, by virtue of Article 17 are not authorised to receive "any foreign funding or donation to carry out activities involving or including issues of governance".

At end 2004, the NGO Act had not come into force since Mr. Robert Mugabe, President of the Republic, had not yet signed the bill into law.

The AIPPA Amendment Act and the Criminal Law Codification and Reform Act

The Access to Information and Protection of Privacy Act (AIPPA) adopted in 2002 was amended by the Zimbabwean Parliament in November 2004. The amendment provides for sanctions of up to two years imprisonment for journalists who are not accredited by the Media and Information Commission (MIC). According to this law, "any journalist, not accredited, who continues to practice whether by himself or herself or in partnership or association with any other person" may be liable to imprisonment. President Mugabe signed this bill into law on 7 January 2005.

On 9 December 2004, the Parliament also adopted the Criminal Law Codification and Reform Act which provides for prison sentences of up to 20 years for any journalist communicating or publishing "false statements perceived to be prejudicial to (the security of) the State". By the beginning of January 2005, President Mugabe had not yet signed the bill into law.

Continued pressure against NCA members¹⁰⁹

On 4 February 2004, hundreds of members of the National Constitutional Assembly (NCA), a grouping of independent NGOs dedicated to the promotion of democracy and the rule of law in Zimbabwe, were violently dispersed by the police while demonstrating in front of the Parliament in Harare to call for a reform of the Constitution. Over 150 people were wounded and 116 demonstrators were arrested and taken to the police station where they were accused of disturbing peace and public order, according to Article 7 of the Miscellaneous Offences Act (MOA), and organising an illegal event. They were all released that same day, after having paid 10.000Z\$ bail each.

During these events, Mr. **Lovemore Madhuku**, chairman of NCA, was arrested and forced into a police vehicle that took him away. Six other people were also arrested, but they were released a short while thereafter. One of the policemen hit Mr. Madhuku violently and ano-

109 See Annual Report 2003 and Press Release, 18 February 2004.

ther one said: "since you are not afraid of prison, that's the gun you deserve". Mr. Madhuku was left for dead about 15 km from Harare on the road to Bulawayo. Later on, he was taken to a clinic for medical care.

On 25 February 2004, while on his way to a seminar organised by the Center for Peace Initiatives in Mutare, Mr. Madhuku was arrested at a police barrage 5 km from Mutare. One of the policemen said he had been instructed to "put him in detention because he is known for his involvement in various demonstrations". Mr. Madhuku was released on the same day thanks to the intervention of the Zimbabwe Lawyers for Human Rights association (ZLHR).

On 15 May, the NCA and the Civil Alliance for Social and Economic Progress (CASEP) organised a work session in Gweru. The police violently interrupted the meeting and arrested 80 people, including Messrs. Madhuku and **Lyson Mlambo**, national coordinator of CASEP. All detainees were released a few hours later, except Messrs. Madhuku and Mlambo, who were accused of having organised a public meeting without prior authorisation, as required by Articles 24(1) and 6 of the Public Order and Security Act (POSA). They were released on the next day without charges.

On 1 September 2004, Mr. Madhuku participated in an NCA-sponsored event to support constitutional reforms. On 9 September 2004, he was arrested at his home and taken to the Harare central police station but was not told the reasons why. After several hours of detention, he was accused of participating in a illegal gathering according to Article 26(5) of the POSA. He was released on the next day without charges.

In October 2004, an NCA member was attacked by security forces and left for dead just after he met with Mr. Madhuku. This person was again threatened on several occasions while being in hospital.

Continued pressure against members of ZimRights¹¹⁰

On 27 April 2004, Mrs. **Mabel Sikhosana**, representative of ZimRights in Masvingo, was arrested by agents of the Masvingo police station and accused of organising a meeting without prior notice to the authorities. She was released the same day without charges.

¹¹⁰ See Urgent Appeal ZWE 002/0504/OBS 032.

Mrs. Sikhosana was apparently arrested in connection with the peaceful march that had been organised on 28 April 2004 in Harare in support of democracy and reforming the Zimbabwean Constitution. Before and after the event, the police arrested many people who were suspected of participating.

On 28 April 2004, Mrs. **Sheba Dube Phiri**, vice president of ZimRights and a member of Amnesty International and the NCA, was arbitrarily arrested by policemen in plain clothes, and detained at the Bulawayo police station. The police searched her apartment without a warrant, and confiscated reports, files and documents concerning the activities of ZimRights, Amnesty International and the NCA.

Mrs. Dube Phiri was arrested along with Mr. **Félix Mafa**, a member of the Post Independence Survivors Trust (PIST), an NGO that provides assistance to the victims of the Gukurahundi massacres in the 1980s, Mr. **Goden Moyo**, a NCA member, Mr. **Reggie Moyo**, a member of Agenda Bulawayo, a group of activists advocating for democracy in Zimbabwe, and two other people. All five men were taken in for questioning and released two hours later without charges, although the police informed them that they might be called in again some time in the future.

Arbitrary detention and torture of Mr. Tinashe Lukas Chimedza¹¹¹

On 22 April 2004, Mr. **Tinashe Lukas Chimedza**, a student and defender of social and youth rights, was arrested at Mount Pleasant Hall in Harare while giving a speech on the right to education during a peaceful gathering.

He was taken to the Marlborough police station and brutally beaten up by policemen who kicked and hit him with their fists and sticks. He was hospitalised in an extremely critical condition after lawyers Mr. **Otto Saki**, a ZLHR member, Mr. **Jacob Mafume**, a member of the Forum for Human Rights and Mr. **Tonderai Bhatasara**, insisted that he be given medical care.

Mr. Chimedza apparently left the country shortly thereafter.

¹¹¹ See Urgent Appeal ZWE 001/0404/OBS 028.

Continued pressure against the members of WOZA¹¹²

On 14 June 2004, 43 members of Women of Zimbabwe Arise (WOZA) were arrested at a meeting in a community hall in Bulawayo. All 43 women (some with young children) were taken to the central police station in Bulawayo where they were interrogated about WOZA activities. The police apparently threatened them and slapped some of them. That same day, 39 of them were released. The other four were accused of having organised a meeting without prior authorisation from the police and were detained until the next day when they were released without charges. On 19 June 2004 WOZA-Bulawayo organised a demonstration to protest against the economic deterioration of Zimbabwe and to celebrate the international refugee day. The police encircled the group and arrested 73 women who were taken to the central police station. They were released the same day after paying a fine of 25,000 Z\$ each. While the women were still in detention at the police station, some WOZA representatives, who had avoided the police round-up, assembled another group of women and marched to the police station. Eleven of them, including Mrs. **Jennifer Williams, Magodonga Mahlangu, Memory Mushore, Anna Moyo, Erika Sithole, Edith Mbofana, Anna Dube, Emma Sibanda** and **Selina Ncube**, were arrested and taken to the Donnington police station. The 11 women were accused of disturbing public order (Article 7 of MOA); they were questioned by the court, and remanded in provisional custody. They were released on 6 July 2004.

Last, on 5 October 2004, close to 50 women, mostly WOZA members, were arrested and taken to the central police station in Harare for demonstrating in front of the Parliament in Harare in order to present a petition against the adoption of the NGO bill. They were only allowed access to their lawyers the next day.

The women were detained until 11 October 2004 when all the charges against them were dropped.

Further, Messrs. **Tsvangirai Mukwazhi, Desmond Kwande** and **Howard Burditt**, three journalists who were accredited and registered by the MIC, were arrested while filming the demonstration. They were

¹¹² See Annual Report 2003.

held until the next day, released without charges and were not informed of the grounds of arrest.

Continued pressure against members of ZCTU¹¹³

On 23 January 2004, Mr. **Lovemore Matombo**, chairman of the Zimbabwe Congress of Trade Unions (ZCTU), was dismissed from his job at the Zimbabwe post (Zimpost) for participating in the Congress of the Organisation of African Trade Union Unity (OATUU) in Khartoum from 5 to 12 December 2003.

Although Mr. Matombo had complied with all requirements to obtain a special leave, which his employers granted, the latter accused him of being absent of his post without prior official authorisation.

On 5 August 2004, Messrs. **Wellington Chibebe**, **Timothy Kondo** and **Sam Machinda**, respectively secretary general, advocacy coordinator, and vice chairman of the ZCTU central region branch, and Mrs. **Lucia Matibenga**, vice chairperson, were arrested in Gweru at a workshop on the repercussions of the tax increase on labourers, HIV/AIDS, and the conclusions of the annual meeting of the international labour conference of the International Labour Organisation (ILO).

They were at first accused of organising the workshop without prior permission from the police. The four ZCTU leaders were remanded for "disturbing public order", "uttering words (that could) provoke a breach of the peace", (Article 19-1b of the POSA).

Messrs. Chibebe, Kondo and Machinda and Mrs. Matibenga were released on bail (amounting 200,000 Z\$ each - 28 euros) on 6 August 2004 and summoned to appear before the court on 8 September 2004. On that date, the hearing was postponed until 3 November 2004, when the charges brought against Messrs. Kondo and Machinda and Mrs. Matibenga were dropped. However, proceedings against Mr. Chibebe were still pending, the next hearing being scheduled for 1 March 2005.

113 *Idem.*

AMERICAS

THE SITUATION OF HUMAN RIGHTS DEFENDERS

This year again, the Americas were one of the most dangerous regions in the world for human rights defenders. In 2004, defenders and their families were victims of assassination (*Argentina, Brazil, Colombia, Guatemala*), enforced disappearance (*Colombia*), torture (*Colombia*), attacks and death threats (*Bolivia, Colombia, Ecuador, Guatemala, Haiti, Honduras, Mexico, Peru*), as well as harassment and surveillance (*Colombia, Guatemala, Honduras, Mexico*). The perpetrators of these violations (representatives of the government authorities, the army, and armed or private groups) continued to enjoy the greatest impunity.

Defenders were also subjected to arrest, legal actions and arbitrary detention (*Argentina, Chile, Colombia, Cuba, Ecuador, Guatemala, Mexico*), and some countries such as *Argentina, Chile, Colombia* and the *United States* increasingly invoked legislation on national security to justify the retaliation for their activities. Lastly, human rights defenders were targeted by smear campaigns undertaken at the highest levels of the State (*Colombia, Venezuela*) in order to discredit them in the eyes of the population, which in some cases had direct repercussions on their personal safety.

Whereas human rights defenders play a major role in the region, notably with regard to the fight against impunity, the protection of economic and social rights and the defence of indigenous populations, they had to cope with a particularly hostile attitude from the authorities, which failed to meet their obligation to protect them - when they were not directly responsible for the violations perpetrated against them. Indeed, the State services, responsible for protecting defenders, were sometimes the very ones attacking or threatening them (*Colombia, Ecuador*). Because of these reprisals, some defenders had to leave their city, if not their country.

Moreover, in many countries in Latin America (*Argentina, Colombia, Ecuador, Guatemala, Mexico*), the lack of political will to bring the perpe-

trators of violations against defenders to justice led to a situation where absolute, structural and generalised impunity was encouraging further violations against them.

Abuse of the "security-first" concept and the erosion of human rights

For the past three years, in the context of the "international campaign against terrorism" that prevailed since the events of 11 September 2001, the re-activation of "security" legal provisions and the adoption of legislation supposedly meant to improve the society's security paradoxically worsened the situation of the women and men working to protect human rights.

In 2004 again, human rights defenders who denounced the new liberty-killing laws and the arbitrary nature of certain practices, as well as those defending economic, social and cultural rights were accused of being anti-patriotic or connected to terrorist groups.

In *Bolivia*, the overzealous judicial persecution against Mr. Francisco Cortés, former Colombian head of the Association of Rural Workers and Inhabitants (Asociación de Usuarios del Campo - ANUC-UR) in the Arauca province (Colombia), was symptomatic. Mr. Cortés, who was arrested on 10 April 2003 in La Paz, was still detained at the end of 2004. Because of grave threats he had received for several years in Colombia, Mr. Cortés went into exile in Bolivia in 2003. He was arrested there by an exceptionally large police force and in the presence of journalists who had been invited by the U.S. Embassy. Straight away described as a dangerous terrorist by the media, Mr. Cortés was then transferred to a high security prison where he was placed in solitary confinement. He was later accused of belonging to a Colombian guerrilla movement and of drug trafficking. On 6 December 2004, the La Paz court released him on parole, with a ban forbidding him to leave the territory. He also had to pay bail of US \$12,500 despite evidence of his extreme poverty given by defence, which appealed this decision. Whereas bail could be fully paid thanks to the mobilisation of international civil society, Mr. Cortés was placed in solitary confinement in a private prison on 10 January 2005, after the Prosecutor lodged an appeal¹.

¹ See Press Release, 17 January 2005.

In *Chile*, the anti-terrorism law promulgated on 17 May 1984 by Augusto Pinochet, the procedural provisions of which had been partially amended on 14 February 1991 under the civilian government, was applied in an abusive manner in 2004 to sanction the arrest and detention of Mapuche community leaders, who try to protect their traditional land rights by standing up to forestry companies². By the end of 2004, 120 Mapuches were allegedly subjected to legal proceedings, 25 of them being tried under the anti-terrorist law that notably authorises the appearance of anonymous hooded witnesses, concealing information from the lawyers for the defence and doubling the punishments provided for in the Criminal Code. In this context, the acquittal, on 4 November 2004, of seven Mapuches and a non-Mapuche sympathiser, accused of setting up "an illegal association in order to commit terrorist acts", could be considered as a victory. However, the public Prosecutor appealed the ruling.

In *Colombia*, since President Mr. Álvaro Uribe Vélez came to power, the number of arrests and arbitrary detentions of human rights defenders steadily increased, as they were more and more frequently charged with "rebellion" and "terrorist activities" on the ground of various provisions of the Criminal Code that were reinstated for the occasion. This trend, which started in 2003 with a rise in the number of arbitrary detentions, became more marked in 2004. This "new" method of repression was made easier to apply with the reform of the Code of Criminal Procedure. This reform, which was adopted as soon as Mr. Uribe became President, resulted in a significant loss of independence of the Colombian judicial system, especially due to the reappointment of judges and of the State public Prosecutor. This situation might well be worsening as an accusatory justice system, allegedly more equitable and transparent, comes into force on 1 January 2005. This new system creates an imbalance between the powers of the prosecution and those of the defence since certain information can be withheld from the defence³. This method was also made easier through the creation of a "network of informers" (red de informantes) in 2003, which can, if necessa-

² See Compilation of cases below.

³ See Law 003/2002, which amends articles 116, 250, 251 of the 1991 Political Constitution.

ry, become a collection of witnesses for the prosecution, paid to make false accusations. This system proved its effectiveness in 2004 as it was used in certain legal proceedings involving defenders, such as those undertaken against members of the Justice and Peace Commission (Comisión Justicia y Paz - CJP), who were accused of "corruption" and "rebellion"⁴. This system not only reduces the chances of having a fair, equitable trial, but also encourages an environment of already widespread impunity in Colombia.

Further, the Colombian authorities took advantage of the current "security first" climate to discredit human rights defenders by accusing them of being "auxiliaries or supporters of the guerrilla terrorist groups" (see below).

Finally, the Anti-Terrorist Statute (Bill 223), approved by the Congress on 10 December 2003, modifies the 1991 Colombian Constitution and gives increased power to the armed forces, e.g. by allowing them to make arrests, record or intercept communications and carry out searches without a warrant or judicial order. Since this Bill also empowers the security forces to investigate violations carried out by their own members, it compromises the principle of an independent enquiry. Although this reform remains a dead letter for the time being, since it was declared unconstitutional by the Constitutional Court on 31 August 2004, the government might decide to submit it again to the Congress in 2005, insofar as the court rejected it on the grounds of a procedural flaw, and not in its merits. If the Statute enters into force, it will unquestionably be used against human rights defenders and enhance the increasing tendency to use the courts against them. The UN Committee Against Torture expressed concern about this situation in its conclusions and recommendations dated February 2004, after its 31st session (November 2003). Paragraph 8(b), for instance, refers to "Constitutional reform bill No. 223/2003, which, if adopted, would seem to confer judicial powers on the armed forces and enable persons to be detained and questioned for up to 36 hours without being brought before a judge"⁵.

⁴ See Compilation of cases below.

⁵ See UN Document CAT/C/CR/31/1.

In *Jamaica*, the 2003 Terrorism Prevention Bill, in its present format, endangers the human rights of the individual, in particular those of defenders. The broad definition of "terrorism offences"⁶ could be used to criminalise certain political activities or protests, thus jeopardising freedoms of speech, association and opinion.

In the *United States*, measures adopted following the events of 11 September 2001 were also detrimental to human rights defenders, against whom the "war against terrorism" still created a climate of intimidation. The situation became especially difficult for lawyers, who had to cope with manifold restrictions to their work, notably because of the Patriot Act which was adopted on 24 October 2001⁷. Reprisals (lawsuits, threats, intimidation, insults, etc.) were particularly directed against human rights defenders and lawyers who defended presumed terrorists insofar as they were often assimilated to their clients. For instance, Mrs. Lynne Stewart, a known activist and lawyer for an Egyptian religious figure who is also a spiritual leader of international jihad, was accused of supporting a terrorist organisation under the 1996 Anti-terrorism Act. She was arrested in 2002 and could be sentenced to up to a 40 years imprisonment term. Likewise, threats loomed over the careers of certain military lawyers who were appointed to defend Guantanamo prisoners.

Fighting impunity in conflict and post-conflict situations

Reprisal (assassination, death threats, arbitrary arrest and detention) was often taken against women and men working for peace, fighting impunity and denouncing the perpetrators of violence, in particular in conflict and post-conflict situations.

⁶ Section 3(2), for instance, provides that a "terrorist crime" is an offence constituted by an act or omission referred to in the definition of "terrorist activity": "Any person who commits an act, or omits to act, in the circumstances referred to in subsection (4) commits an offence if the act or omission intentionally causes (...) serious interference with or serious disruption of an essential service, facility or system, whether public or private".

⁷ The Patriot Act authorises tapping telephones without a warrant; there is no provision for mandatory judicial supervision for this act of personal monitoring, nor on the nature or extend of the surveillance.

In *Colombia* for instance, civil society representatives who fought impunity and sought peaceful solutions to the conflict were stigmatised as being somehow connected to the guerrilla groups. This pernicious confusion reflects the extreme polarisation of Colombian society. In this context, human rights defenders were in the frontline for reprisals by paramilitary groups, often colluding with the army. There were many examples, e.g. academics and members of human rights associations such as the "José Alvear Restrepo" Lawyers' Collective Corporation (Corporación Colectivo de Abogados "José Alvear Restrepo" - CCAJAR), the Permanent Assembly for Corporation Human Rights (Asamblea Permanente de Derechos Humanos - APDH), Peace Communities and the Justice and Peace Commission⁸, whose members were victims of assassination, death threats and persecution. Similarly, for several years, a harassment and persecution campaign was directed against the Popular Women's Organisation (Organización Femenina Popular - OFP). On 28 January 2004, for instance Mrs. Inés Peña, 22, active member of the Youth Movement for the University Convention OFP-UNIPAZ (Movimiento Juvenil del Convenio Universitario OFP-UNIPAZ) and coordinator of OFP's "María Cano" documentation centre, was arbitrarily arrested, tortured, and mistreated by the paramilitary⁹.

In *Haiti*, those who called for bringing out the numerous human rights violations perpetrated under the former regime of President Mr. Jean-Bertrand Aristide were subjected to serious threats by former members of the now dissolved army, members of the pro-Aristide militia known as "chimeras" and other mafia groups.

Although the transition government established after the fall of President Aristide on 28 February 2004 seemed to have created a more enabling climate for human rights defenders, the latter were still being targeted by smear campaigns and legal proceedings. For instance, after the not guilty verdict, on 16 August 2004, for two suspects - including the second highest leader of the Revolutionary Front for the Advancement and Progress of Haiti (Front pour l'avancement et le progrès d'Haïti - FRAPH), a paramilitary organisation - who were involved in the 1993 murder of Mr. Antoine Izmerly, a supporter of former

⁸ See Compilation of cases below.

⁹ *Idem*.

President Aristide, the Minister of Justice criticised and mocked human rights defenders in both a statement to the press and at a ministerial meeting. Furthermore, on 25 August 2004, the National Coalition for Haitian Rights (NCHR), the Lawyers' Committee for the Respect of Civil Liberties (Comité des avocats pour le respect des libertés individuelles - CARLI), and the Platform of Haitian Human Rights Organisations (Plateforme des organisations haïtiennes des droits de l'Homme - POHDH), found out that they were being charged with "slander" for having told that at least one member of the jury had connections within the FRAPH. On 1 September 2004, the NCHR received a second summons to appear that was addressed to its director, Mr. Pierre Espérance, shortly after a report, entitled *The first criminal rulings of the post-Aristide period arise indignation*, was published¹⁰.

Similarly, in *Guatemala*, organisations fighting impunity for the crimes committed during the period of dictatorship (1980-1996) were often subjected to harassment and death threats. The especially heinous and humiliating attacks against NGOs' headquarters¹¹ not only aimed at dissuading their members from continuing their investigations but also to obtain information on the enquiries' goals and state of progress. One of the most serious threats for defenders came from the unceasing actions of illegal, clandestine armed groups that have connections with both organised crime and State agents. Impunity in the country reached such a level that the United Nations proposed, in 2003, the establishment of a Commission for the Investigation of Illegal Groups and Clandestine Security Organisations (Comisión de Investigación de Cuerpos Ilegales y Aparatos Clandestinos de Seguridad - CICIACS). Although an agreement on this subject was signed with the government in January 2004, it was rejected in May 2004 by Congressional members of the Presidential Human Rights Commission and the Governance Commission on the grounds that it allegedly violated the Constitution. Since the Constitutional Court declared several aspects of the agreement unconstitutional on 6 August 2004, the CICIACS will thus not be established. One of its main objectives was to draw attention to the vio-

10 More information is available on the website of the National Coalition for Haitian Rights: www.nchrhaiti.org.

11 See Compilation of cases below.

lations committed against human rights defenders, judges, witnesses and representatives of the civil society¹².

In *Peru*, human rights defenders working with the Truth and Reconciliation Commission (Comisión de la Verdad y Reconciliación - CVR), created in 2001 to identify perpetrators of human rights violations during the period of violence in Peru (1980-2000), were constantly threatened and their position became increasingly fragile in 2004. After the CVR remitted its report in August 2003, the trial of alleged perpetrators of violations was just beginning at the end of 2004, and defenders involved sensed a climate of retaliation. Thus, threats against Mrs. Gloria Cano on 20 October 2004¹³ took place in this context.

In *Venezuela*, Mr. Danilo Anderson, a State Prosecutor deeply involved in investigating the coup attempt of 11 April 2002, was assassinated on 18 November 2004 by a car bombing. He had already identified many people responsible for deaths during the unsuccessful coup, including policemen and mayors.

Discredit and smear campaigns against defenders

In many countries in Latin America, smear campaigns against human rights defenders were commonplace. The pro-governmental media often retransmitted the campaign messages, thus creating a climate of hostility against defenders and contributing to further isolating them from the population. Furthermore, these statements provided justification for attacks against defenders and, in certain cases, even triggered such violence.

In *Bolivia*, private groups sometimes defamed defenders' associations such as the Human Rights Permanent Assembly of Bolivia (Asamblea Permanente de los Derechos Humanos de Bolivia - APDHB). Indeed, APDHB members were subjected to several smear campaigns, as in Mr. Tamer Medina's case, who was insulted by persons

¹² This commission was mandated to investigate illegal armed groups and clandestine security organisations in the country. It is composed of three commissioners, one appointed by the Guatemalan government, one by the UN and one by the Organisation of American States (OAS).

¹³ See Compilation of cases below.

whose interests were closely connected to those of the transnational petroleum companies. Furthermore, at the end of 2004, a smear campaign was launched by an alleged "human rights defenders" group against the APDHB national executive committee's members, just when APDHB was contributing to legal proceedings against the former President Mr. Gonzalo Sánchez de Lozada, and was mobilising civil society to participate in the new constitutive assembly, scheduled to meet in February 2005. The APDHB members were accused, *inter alia*, of "protecting delinquents", "appropriating funds", "embezzlement", "nepotism" and "treason".

In *Colombia*, President Mr. Álvaro Uribe Vélez and certain members of his government issued an increasing number of statements depreciating the work of defenders, challenging their legitimacy and credibility, especially by assimilating them to terrorists or their backers. These declarations sanctioned arbitrary actions taken against defenders by members of the army and State authorities. Speaking before the European Parliament on 10 February 2004, President Uribe reiterated his criticisms of the work achieved by human rights organisations, notably singling out the "José Alvear Restrepo" Lawyers' Collective¹⁴. In his speech to the UN Commission on Human Rights on 16 March 2004, the Vice-President of Colombia, Mr. Francisco Santos Calderón, asserted that representatives of UN monitoring structures, who visited Colombia in 2003, had come with "preconceived ideas". Such statements seriously weakened the security of defenders in the country. After a speech in May 2004 by President Uribe in Apartadó (Antioquia province), in which he sharply criticised the San José de Apartadó Peace Community as well as the Peace Brigades International (PBI), army troops and representatives of the intelligence services moved into the centre of the city of San José and, while filming, took note of the activities carried out by the community's leaders. International organisations were also targeted by these attacks. On 16 June 2004, for instance, during a police promotion ceremony, President Uribe declared that Amnesty International "did not condemn violations of international humanitarian law committed by the guerilleros", "legitimated terrorism" and that the organisation should decide whether it wanted to "stand by [...] the terrorists who kill

¹⁴ *Idem.*

our policemen and our soldiers [...] or to stand by and respect the Colombian institutions". These declarations gave a free hand to paramilitary groups which, this year, increased the number of assassinations and death threats against defenders, whom they considered as "military targets", as stated in their pamphlets. On 5 August 2004, three spokespersons of social organisations working for peace and social justice in the Arauca region were shot dead at the home of one of them; their bodies were then disguised in guerrilla clothing and transported to a place where the army was carrying out a military operation. Although an enquiry into the situation showed that the whole scene was artificially created, some senior government sources stated, shortly after the event, that these people were "delinquents" and belonged to "a subversive movement"¹⁵.

In *Nicaragua*, a campaign was launched to discredit and harass the Nicaraguan Centre for Human Rights (Centro Nicaragüense para la Defensa de los Derechos Humanos - CENIDH) and its president, Mrs. Vilma Nuñez de Escorcia. On 21 October 2004, a government employee working for the national port authorities, Mr. Roberto Zelaya Blanco, published an editorial in the newspaper *La Bolsa de Noticias*, accusing CENIDH, *inter alia*, of covering human rights violations perpetrated by over 50,000 political prisoners and acts of international terrorism¹⁶.

In *Venezuela*, President Chávez almost systematically denounced the actions of certain organisations devoted to the protection and promotion of human rights, e.g. the Committee of the Relatives of the Victims of 27 February 1989 (Comité de Familiares de Víctimas del 27 de Febrero - COFAVIC), the Venezuelan Programme for Education and Action on Human Rights (Programa Venezolano de Educación y Protección de los Derechos Humanos - PROVEA) and the Apoyo Network in Support of Justice and Peace (Red de Apoyo para la Justicia y la Paz), purporting that they sought to heighten political unrest¹⁷. Furthermore, social organisations that receive foreign funds might be charged with "conspiring" or "betraying the country". This is for instance the case of Súmate, an association that was formally charged on 30 September 2004 by the 6th Bureau of the State Prosecutor's Office¹⁸.

15 *Idem*.

16 *Idem*.

17 *Idem*.

18 *Idem*.

Criminalisation of social protest and infringement to freedom of speech

In the United States as in several countries in Latin America, people who exercised their right to peaceful assembly in order to protest against State policies deemed contrary to human rights or against the excesses of globalisation were repressed. Peaceful gatherings and demonstrations were brutally repressed by an excessive and arbitrary use of force, leaving many victims in its wake (assassinations, mistreatment, and torture).

In *Argentina*, over 30 *piqueteros*¹⁹ were arrested in 2004 for having participated in protest actions, including Mr. Raul Castells, a leader of the Independent Movement of the Retired and Unemployed (Movimiento Independiente de Jubilados y Desocupados - MIJD), and members of the Territorial Liberation Movement (Movimiento Territorial de Liberación - MTL). On 25 June 2004, Mr. Martín Cisneros, *piquetero* and head of the Land and Housing Federation (Federación de Tierra y Vivienda - FTV), was shot dead in La Boca, Buenos Aires, just a few meters from a police station²⁰. This assassination was part of an intimidation campaign against the movement of the unemployed. It coincided with the commemoration of the second anniversary of the deaths of two other *piquetero* movement leaders, Mr. Maximilano KostECKI and Mr. Dario Santillan²¹. The *piqueteros* had to face a fierce hostility from the media, which often described them as uncontrolled, violent groups. Excessive use of force during *piquetero* events in Argentina was further illustrated by the arrest of 25 of them after a demonstration to demand jobs and held on 30 November 2004 in Las Heras, Santa Cruz province, in front of the offices of the OIL petroleum company. Mrs. Karina Sauco, a member of the Solidarity Co-ordination for the Unemployed of Santa Cruz (Coordinadora de Desocupados Solidaridad de Santa Cruz), participated in the demonstration and was arrested on that same day when she returned home.

19 Name given to the movement of unemployed workers who lost their jobs because of abuses linked to globalisation and to the poor management of Argentinian economy in the 1990s, and that significantly grew in December 2001.

20 See Compilation of cases below.

21 *Idem*.

Mrs. Sauco, who was pregnant at the time, lost her baby as a result of the ill-treatment inflicted on her during her detention at the police station. She was released on 4 December 2004, but the charges of "resisting authority" and "impeding economic development"²² were still pending as of December 2004. Furthermore, over 20 persons were still detained as of end 2004, for participating in demonstrations more than a year ago.

In *Cuba*, most prisoners of conscience who had been condemned to harsh sentences for their opinions were still being detained, although several of them were granted freedom on parole for health reasons. This was the case of Mrs. Martha Beatriz Roque, a member of the Assembly to Promote Civil Society (Asamblea para Promover la Sociedad Civil) and the Institute of Independent Economists, Mr. Oscar Espinosa Chepe, an independent journalist, and Mr. Marcelo Lopez, a member of the Cuban Commission of Human Rights and National Reconciliation (Comisión Cubana de Derechos Humanos y Reconciliación Nacional)²³. Furthermore, the defence of human rights was still not recognised as a legitimate activity; quite on the contrary, it was stigmatised as treason against Cuban sovereignty. Human rights defenders were subjected to systematic harassment, and none of the local human rights organisations has gained a legal status yet.

In *Ecuador*, four members of the Permanent Assembly for Human Rights (Asamblea Permanente de Derechos Humanos - APDH), Messrs. Fidel Narváez, Mauricio Gallardo, Mauro Castillo and Alexis Ponce, APDH spokesman, were brutally attacked in Quito on 16 November 2004, in the presence of the American Secretary of Defence, Mr. Donald Rumsfeld, during the 6th Defence Ministerial of the Americas. These four persons were peacefully demonstrating on the Plaza de Gobierno, their heads hooded as a reference to the prisoners tortured in Iraq, and were severely beaten when they approached the side entrance of the presidential palace. The crowd then prevented their arrest.

In *Mexico*, on 28 May 2004, during peaceful demonstrations held in Guadalajara, at the same time as the 3rd Summit of Heads of State and Government of Latin America, the Caribbean and the European Union,

²² *Idem.*

²³ *Idem.*

dozens of participants who were protesting against the lack of consultation with civil society in the negotiations and the implementation of free trade agreements (MERCOSUR, EU/Mexico, etc.) were arrested and detained, often in solitary confinement. At least six of them suffered cruel and degrading treatment and acts of torture. The decision taken by the Mayor of Guadalajara²⁴, on 19 August 2004, not to investigate these grave violations is particularly worrying²⁵.

In the *United States*, during the Republican convention held from 30 August to 2 September 2004, several hundreds of demonstrators were arrested in New York while peacefully protesting against the government's action, in particular the American policy in Iraq. Most of the people arrested were held in detention for two days.

Intensified attacks against defenders of economic, social and cultural rights

In the Americas region, a continent rife with inequality, 2004 was again a time of violence and judicial persecution of women and men fighting for the respect of trade unions rights, the rights to land and satisfactory environment, and the rights of indigenous populations.

Defending trade union rights

Colombia remained the most dangerous country in Latin America for trade unionists. In the context of the ongoing civil conflict, unions were likened to members of guerrilla groups, and business companies - including multinationals - did not hesitate to use violence, often hiring private security groups, to neutralise the unionists' actions especially in the context of social conflict. The security of Colombian trade unionists and their families thus deteriorated, despite the numerous recommendations issued by the International Labour Organisation (ILO). Furthermore, unions' freedom remained hindered by numerous legal obstacles. According to the National Union School (Escuela Nacional Sindical - ENS) statistics, bet-

²⁴ See FIDH Press Release, 25 August 2004.

²⁵ See Report dated 16 August 2004 of the National Commission on Human Rights.

ween 1 January and 30 April 2004, 20 Colombian trade unionists were assassinated, two kidnapped, 143 received death threats, two were victims of violations of domestic privacy, one of attempted assassination and two other were arrested. During the conference, entitled *International Trade Union SOS against the Annihilation of the Colombian Trade Union Movement* organised by the International Confederation of Free Trade Unions (ICFTU) and the World Confederation of Labour (WCL) in September 2004 (see below), the Colombian delegation stated that 48 trade unionists had been killed between January and September 2004, including 16 of their leaders and nine women unionists. Perpetrators of such crimes enjoyed almost total impunity. Moreover, on 30 October and 1 November 2004, the Colombian government expelled four representatives of international trade union organisations, namely, Messrs. Victor Baez Mosquera, secretary general of the regional branch of ICFTU in the Americas (Organización Regional Interamericana de Trabajadores - CIOSL/ORIT), Antonio Rodríguez Fritz of the International Transport Workers' Federation (ITF), Rodolfo Benitez of Union Network International (UNI) and Cameron Duncan of Public Services International²⁶.

In a separate incident, the 60-day visa of British, Irish and Spanish union leaders who came to Colombia to attend a meeting of women unionists was cancelled, and their stay in the country was reduced to three days. On 25 October 2004, Mr. Alexánder López Maya, a member of Parliament and former president of the Cali Trade Union of Municipal Service Workers (Sindicato de Trabajadores de Las Empresas Municipales de Cali - SINTRAEMCALI), received written death threats while he was in Quito, Ecuador. On 23 August 2004, Mr. López Maya was warned that a group of serving or retired soldiers were intending to assassinate several political and trade union leaders as well as human rights defenders in Cali, Medellín, Barranquilla, Ibagué and Bogotá and that his name was on the list together with that of Mrs. Berenice Celeyta Alayón, chairperson of the Association for Social Research and Action (Asociación para la Investigación y Acción Social - NOMADESC) and Mr. Luis Hernández Monrroy, president of SINTRAEMCALI.

²⁶ See Compilation of cases below.

In *Guatemala*, repression of trade unionists also continued. Mr. Julio Rolando Raquéc, secretary general of the Union Federation of Independent Labourers (FESTRI) and leader of the General Central of Guatemalan Workers (CGTG), was assassinated on 28 November 2004 and several trade union leaders were subjected to legal actions and threats²⁷.

In *Venezuela*, the situation of union rights defenders grew worse. In 2003, the government refused to recognise the elected leaders of the Workers Confederation of Venezuela (Confederación de Trabajadores de Venezuela - CTV) and issued an order to arrest the CTV secretary general, thus forcing him to leave the country. In 2004, the government persisted in its refusal to recognise the CTV and continued implementing its own policy, i.e. establishing pro-governmental trade unions in national enterprises.

Rights of the landless and indigenous populations

The very strong concentration of land in the hands of a small number of landowners and the unequal distribution of resources to the detriment of the civilian and indigenous populations, are key factors in the Latin American social unrest. In 2004, defenders were especially targeted because of their efforts to secure the rights of indigenous populations and peasants in *Bolivia, Brazil, Chile, Colombia, Guatemala, Honduras* and *Mexico*²⁸. They did not only receive direct threats from landowners and big businessmen but were also accused, even by the public at large, of obstructing the government's policy in support of a market economy. Their vulnerability was made even worse by the non-existence and/or ineffectiveness of State institutions in rural areas and the weakness of the judicial system, which often ruled in favour of those holding political and economic power.

In *Argentina*, on 21 and 24 October 2004, six members of the Santiago del Estero Movement of Small Farmers (Movimiento de campesinos de Santiago del Estero - Mocase) were arrested after landowners filed a complaint accusing them of "judicial disobedience", "incite-

²⁷ *Idem.*

²⁸ See UN Document E/CN.4/2004/94.

ment to commit an offence", "theft", "property damage", "illegal claims to land" and "grievous bodily harm". These six persons were all released on 26 and 27 October 2004. This was the latest in a series of incidents in Santiago del Estero that had lasted for months, since farmers were intimidated and threatened in order to drive them off their lands.

In *Bolivia*, although the concept of Ancestral Community Lands (Tierras Comunales de Origen - TCO) is legally recognised, those who defend small farmers' and indigenous communities' rights had great difficulties in securing the recognition of these groups' rights, particularly in the framework of the "reallocation" process (saneamiento) of rural lands implemented by the National Institute for Agrarian Reform (Instituto Nacional de Reforma Agraria - INRA). This was especially true for the Centre for Research and Training of Peasant Farmers (Centro de Investigación y Promoción del Campesinado - CIPCA) in San Ignacio de Moxos (Beni region), which was accused (by the murderer himself) of commissioning the assassination of the city's mayor who was killed on 19 December 2003. Although the murderer later acknowledged that the CIPCA had nothing to do with the killing, the Municipal Council of San Ignacio de Moxos adopted two resolutions (on 12 January and 16 February 2004) cancelling the operating licence of the CIPCA regional office in Beni, on the grounds of an alleged connection with the mayor's killer and on the pretext that its activities were designed to overthrow the municipal government. The Beni high court declared these resolutions null and void on 16 March 2004, a decision which the Bolivian Constitutional Court confirmed on 23 June 2004.

Furthermore, the authorities did not react to the publication of a press release issued on 15 September 2004, in which businessmen and landowners announced that they were decided to "defending themselves by their own means"²⁹.

In *Brazil*, the scourge of slavery and conflicts related to land and property rights remained issues still very much alive. The situation was particularly alarming in the State of Pará, where violence was endemic and where trade unionists, rural workers, NGO members and lawyers

²⁹ *Idem*.

remained targets of assassination, threats, intimidation and violence³⁰. On 7 February 2004, for instance, Mr. Ribamar Francisco dos Santos, agrarian policy coordinator of the Rural Worker's Union (Sindicato de Trabalhadores Rurais - STR) at Rondón do Pará, was killed by two unknown assailants³¹. Cases of grievous bodily harm were also recorded in the State of Minas Gerais, where several defenders of the landless were assassinated in 2004, as were three employees of the Ministry of Labour who were killed on 26 January 2004 while investigating the use of slavery in this State³². Although in some cases investigations led to the arrest and even the sentencing of persons who allegedly ordered the assassinations, a certain level of impunity still existed, notably by virtue of the Fleury Act that allows offenders condemned for the first time to remain free while pending appeals. For instance, the persons charged with the assassination of Mr. João Canuto de Oliveira were sentenced in May 2003 to 19 years and 10 months in prison but will remain free until all remedies for appeal have been exhausted³³.

In *Chile*, the Mapuche were still being criminalised, especially by accusations of terrorism (see above) and therefore were often targeted for reprisal. For instance, Mrs. Juana Calfunao Paillalef, Mapuche community leader, and her family were threatened with death on 26 September 2004 by a member of the National Indigenous Development Commission (Corporación Nacional de Desarrollo Indígena - CONADI), soon after the regional public Prosecutor had opened an investigation into the arson attack which had destroyed her home on 26 June 2004 and killed her uncle, Mr. Basilio Coñoena. Later in the day, shots were fired at the makeshift house where Mrs. Juana Calfunao Paillalef and her family were living since the fire.

In *Colombia*, illegal armed groups, both paramilitary and guerrillas, were retaliating against the indigenous communities and their leaders who opposed the conflict and attempted to prevent the "threat of arms" from ruling their territory. In 2004, according to official statements the Vice-President's human rights programme, 70 indigenous people were

30 See Annual Report 2003.

31 See Compilation of cases below.

32 *Idem*.

33 See Annual Report 2003.

assassinated, e.g. Mr. Mariano Suárez Chaparro Arhuacos, a 70-year old indigenous community leader who was killed by the FARC on 6 November 2004³⁴.

In *Ecuador*, the Sarayaku community was still being threatened because of its actions against the government-backed Argentinian oil company (Compañía General de Combustibles - CGC) that intends to continue working in the area although the Inter-American Commission for Human Rights (IACHR) demanded measures to be taken to protect the community. The glaring lack of protection by the Ecuadorian authorities was also obvious in the case of the Confederation of Indigenous Nationalities of Ecuador (Confederación de Nacionalidades Indígenas del Ecuador - CONAIE) whose president, Mr. Iza, received threats just after the CONAIE police escort had been withdrawn, without any warning or explanation³⁵.

In *Mexico*, Messrs. Isidoro Baldenegro López and Hermenegildo Rivas Carrillo, indigenous leaders of the Rarámuri de Coloradas de la Virgen community, in the municipality of Guadalupe y Calvo (Chihuahua State), were detained from 29 March 2003 to 23 June 2004 as a result of their campaign to stop all logging operations in the community's forests. Although the criminal charges were clearly based on trumped-up evidence, the authorities did not drop them. Furthermore, in the Sierra de Petatlán region, Guerrero State, numerous land rights defenders and ecologists were brutally repressed and detained in Acapulco since 1999. Many of them were farmers of Indian origins, mostly belonging to the Peasant Environmentalist Organisation (Organización de Campesinos Ecológicos de la Sierra de Petatlán y Coyuca de Catalán), and were sentenced to very long prison terms on the grounds of fallacious charges, such as illegally bearing arms or even murder, for their opposition to deforestation and to the violence of the *caciques* (powerful local notables) and of the army.

Lastly, the criminalisation of land rights defenders was particularly blatant in *Paraguay*, where hundreds of landless peasants - many of whom were members of the National Federation of Small Farmers (Federación Nacional Campesina - FNC) - were imprisoned. On 2 December 2004, 160 farmers were arrested as the police and the army

34 See Compilation of cases below.

35 *Idem*.

evicted them from the Carla María lands, in Caaguazú. Members of the Parliament who went to the area afterwards were able to see at first hand the violence of the security forces during this type of operations.

Mobilisation for regional and international protection of human rights defenders

Civil Society

The FIDH held its 35th International Congress in Quito, Ecuador, from 1 to 8 March 2004. The Congress especially focused on supporting Colombian human rights defenders. FIDH had originally planned to hold the Congress in Colombia but decided to change venues when President Álvaro Uribe Vélez, at the end of 2003, equated human rights defenders to terrorists. Prior to the Quito Congress, the FIDH nonetheless mandated a delegation composed of the FIDH president and Mrs. Shirin Ebadi, 2003 Nobel Peace Prize, to discuss the situation of defenders with the Colombian authorities.

The third Latin American Consultation on Human Rights Defenders was held in São Paulo, Brazil, from 25 to 27 August 2004. 87 representatives of human rights organisations and social movements from 20 countries throughout the Americas, representatives of the Organisation of American States (OAS), the Office of the UN Special Representative on Human Rights Defenders, members of international NGOs as well as African and Asian observers and activists met to analyse the changing context in which human rights defenders of the Americas are working, and tried to find solutions to violations of their rights. The final declaration highlighted the criminalisation of social protest as a new form of persecution against defenders. Indeed, "(some) States in the region have modified and others are planning to modify legislation to restrict or even criminalise human rights work and the legitimate right to protest, under the guise of anti-terrorist legislation". Special mention was also made of female defenders who suffer specific violations. Furthermore, the participants pledged to denounce the resort to intelligence services to interfere with and obstruct the work of human rights defenders.

On the occasion of the 10th anniversary of the presence of Peace Brigades International (PBI) in Colombia, PBI held a seminar in Bogotá on the situation of Colombian human rights defenders -attended by the

Special Representative of the UN Secretary General on Human Rights Defenders, Mrs Hina Jilani, - and two other events in Brussels and Luxembourg. At this meeting, the Observatory presented a report listing all cases of repression against Colombian human rights defenders in 2004³⁶.

From 15 to 18 September 2004, the International Confederation of Free Trade Unions (ICFTU) and the World Conference of Labour (WCL) held a conference in Bogotá, Colombia, on *The International Trade Union SOS against the Annihilation of the Colombian Trade Union Movement*. At the end of the conference, a programme for the promotion and the defence of human and trade unions rights in Colombia was adopted. 47 representatives of trade unions from 19 countries and the International Federation of Trade Unions (IFTU) met with Colombian government officials, the public Prosecutor, the bureau of the Ombudsman, the auditor general of the Republic, trade unions leaders, the media as well as social and political leaders. They also contacted embassies and the representative of the Office of the United Nations High Commissioner for Human Rights in Colombia.

United Nations (UN)

At the 60th session of the UN Commission on Human Rights, held in Geneva from 15 March to 23 April 2004, Mrs. Hina Jilani, Special Representative of the UN Secretary General on Human Rights Defenders, presented her report for the year 2003³⁷. She stressed that the largest number of responses to her communications came from governments in Latin America, but that, as in the preceding years, the largest number (27,5%) of communications sent from her office had been addressed to governments in the Latin American region.

The Colombian government agreed to meet with the Special Representative in 2005 on the occasion of her presence in the country, when she will follow up the recommendations made after her 2001 visit

36 See Observatory Report, *Commemoración del décimo aniversario del proyecto PBI-Colombia*, September 2004.

37 See United Nations Document E/CN.4/2004/94.

and see how the situation of the Colombian defenders has developed since.

Organisation of American States and Inter-American Commission on Human Rights

At its 119th ordinary session in March 2004, the Inter-American Commission on Human Rights (IACHR) reiterated its "concern for the vulnerability of human rights defenders in the Americas, especially following the comments made by high level authorities of some States about organisations dedicated to the defence of human rights". IACHR stressed that comments "questioning the work of human rights defenders could generate a grave risk to the life, personal integrity and work of activists and human rights defenders".

Furthermore, in a press release dated 28 October 2004, the IACHR referred to the concern it had expressed, at its 121st regular session, about the situation in Haiti. The Commission received allegations about "threats and other acts of violence and intimidation perpetrated against human rights defenders as well as journalists and the media". The Commission also observed on many occasions in the past "violations and coercion of this nature, if left undeterred, place human rights defenders (...) in vulnerable positions and effectively prevent them from carrying out their work". The Commission once again urged the "government to take all measures necessary to investigate, prosecute and prevent incidents of this nature".

At its 34th General Assembly, held from 6 to 8 June 2004 in Quito, Ecuador, the Organisation of American States (OAS) adopted a resolution entitled "Human Rights Defenders: Support for the Individuals, Groups and Organisations of Civil Society Working to Promote and Protect Human Rights in the Americas"³⁸. The General Assembly referred to the persisting conditions in the Americas that, directly or indirectly, prevent or hamper the work of individuals, groups or organisations working to protect and promote fundamental rights and stressed the importance of the work of human rights defenders to strengthen

³⁸ See Document of the Organisation of American States AG/RES.2036 (XXXIV-O/04).

democratic institutions and improve national human rights systems. The Assembly invited the IACHR to conclude its report on the situation of human rights defenders in the Americas some time during the second half of 2004. By the end of 2004, the report, which was provided for in the OAS resolution of 4 June 2004³⁹, had not yet been published.

On 21 October 2004, the FIDH, on behalf of the Observatory, attended a hearing on the defence of human rights in the Americas held during the 35th OAS General Assembly in Washington, with members of the IACHR, and in conjunction with the Third Latin American Consultation. Many situations prevailing in all countries in the region were considered, and IACHR was in particular requested to publish the report stipulated by the OAS resolution as soon as possible.

European Union (EU)

The European Economic and Social Committee (EESC), in an Opinion on "Social Cohesion in Latin America and the Caribbean" (LAC) adopted at its 406th plenary session on 25-26 February 2004, stressed that in this very region human rights defenders were frequently persecuted, slandered, tortured or murdered. The Opinion also stated that persecuting and criminalising peaceful social movements seriously undermined attempts to combat social exclusion and inequality. According to the EESC, "an EU programme to protect human rights defenders in LAC would be very welcome"⁴⁰.

At their 28-29 May 2004 meeting in Guadalajara, Mexico, the Heads of State and Government of Latin America, the Caribbean and the European Union, in section 7 of the Guadalajara Declaration, stated that they were committed to "provide coherent and effective support to those individuals, organisations and institutions, including human rights defenders, working for the promotion and protection of human rights". Considering this Declaration, it is astonishing that the EU did not make any public statement against the violent repression of participants in the peaceful demonstrations held in the wings of the Summit and the deci-

39 See OAS Resolution AG/RES 1842 (XXXII-0/02).

40 See Document of the European Economic and Social Committee REX/152 *Social cohesion in Latin America and the Caribbean*.

sion of the Mexican authorities not to investigate violations of human rights during these events (see above).

On 13 May and 11 June 2004, the EU called for the immediate release of all Cuban political prisoners and prisoners of conscience. In a resolution on Cuba, the European Parliament again condemned the arrest of more than 75 dissidents which constitutes an attack on the most basic human rights, in particular freedoms of expression and association⁴¹. In response to questions from the parliamentarians⁴², the European Commission mentioned that it was closely monitoring the question of imprisonment of human rights defenders and members of peaceful opposition in Cuba.

On 13 December 2004, at the 2630th meeting of the EU Council, under the "General Affairs and External Relations" item the Council stressed the importance of ensuring the safety of those individuals, organisations and institutions, including human rights defenders, working for the promotion and protection of human rights in Colombia, in keeping with the Guadalajara Declaration.

International Labour Organisation

On 10 June 2004, at the International Labour Conference organised by the International Labour Organisation (ILO), the OMCT took the floor to address the issue of trade unions in Colombia, emphasising that although Colombian labour laws guarantee the freedom of trade unionists, the assassination of union leaders continues and generally goes unpunished, thus revealing a serious breach of the State's duty to protect labour and human rights. While mention was made about the collusion between the authors of these crimes and certain sectors of the army, the governmental authorities and some private firms, the representative of the employers, Mr. Potter, asked that the speaker be interrupted, arguing that particular situations should not be discussed in a general debate as these are discussed, *inter alia*, in the Commission on Standards. Nobody expressed any dismay at this censorship, which was

41 See Resolution of the European Parliament on Cuba, P5_TA(2004)0379.

42 See written question of the European Parliament E-1751/04, 9 November 2004 - Answer given by Mr. Nielson on behalf of the Commission.

endorsed by the president of the session, despite the fact that the OMCT had been refused the right to speak on Colombia at the session of the Commission on Standards, due to the opposition, again, of the employers' group. However, the global report of the Director General contained a page-long box dedicated to the problems of trade union freedoms in Colombia⁴³.

Commonwealth

Human rights defenders from the Caribbean member States of the Commonwealth held a workshop at Kingston, Jamaica, on 4-5 February 2004. The workshop was attended by representatives of human rights NGOs, Caribbean State governments, the United Nations, and the IACHR. The agenda included, *inter alia*, discussions on the United Nations Declaration on Human Rights Defenders, new challenges in the international promotion and protection of human rights defenders, and relations between governments and national defenders. Finally, defenders called for the creation of a Caribbean Human Rights Foundation to support their work in the region.

43 See OMCT Press Release, 15 June 2004, *Coincidences*.

HUMAN RIGHTS DEFENDERS HARASSED

ARGENTINA

Assassination of Mr. Martín Cisneros⁴⁴

On 25 June 2004, on his way home from work, Mr. **Martín Cisneros**, head of the Land and Housing Federation (Federación de Tierra y Vivienda - FTV), was shot dead in La Boca district, in Buenos Aires, just yards from a police station. Initially, the police made no attempt to arrest the alleged killer, Mr. Juan Carlos Duarte, despite the fact that several witnesses denounced the murder. Under public pressure, Mr. Duarte, known to be a protected police informer, was finally arrested and held in provisional detention.

At the end of 2004, although Mr. Duarte was still in detention, the investigation had not produced any result yet. It should be noted that this assassination took place in the context of a campaign of intimidation and arbitrary detentions waged against the movement of unemployed Argentincans known as *piqueteros*.

⁴⁴ See Urgent Appeal ARG 001/0704/OBS 058.

Arbitrary arrest and ill-treatment of the secretary general of the ATE⁴⁵

In the night of 4-5 July 2004, Mr. **Juan Eduardo Riquel**, secretary general of the Association of State Workers (Asociación de Trabajadores del Estado - ATE), section in Castelli, Chaco Province, was arrested there by policemen who produced no warrant. Mr. Riquel was arrested for intervening a few hours earlier, when police assaulted members of the Toba community, who were celebrating a popular festival at the Sarmiento Club.

The policemen took Mr. Riquel to the police station, beating him up on the way. After more than an hour of ill treatment and violence, Mr. Riquel started to display serious breathing difficulties. The policemen then decided to take him to the hospital in the north of the town, claiming that he was a detainee who had resisted authority. After receiving the appropriate care, and thanks to the assistance of doctors who did not inform the police of his recovery, Mr. Riquel was able to go home. However, charges were brought against him by the provincial police for "assault" and "resisting authority". Mr. Riquel also received threats from the policemen who had arrested him, including Corporal Juan Carlos Samaniego, who resented the fact that he had lodged a complaint.

Despite the complaint that Mr. Riquel filed with the Prosecutor, those responsible for his kidnapping and ill treatment were not sanctioned. At the end of 2004, he was still facing charges.

BOLIVIA

Aggression against CEJIS members⁴⁶

Since 2003, the lawyers and members of the Centre for Legal Studies and Social Research (Centro de Estudios Jurídicos e Investigación Social - CEJIS) have been the target of threats and attacks

45 See Open Letter to the Argentinean authorities, 18 August 2004.

46 See Annual Report 2003 and Urgent Appeal BOL 001/ 0303/OBS 014.1.

due to their legal support for recognition of indigenous peoples' land rights. On 13 March and 25 September 2003 respectively, two CEJIS lawyers, Mr. **Cliver Rocha** and Mr. **César Blanco**, were assaulted in connection with their work.

On 12 November 2003, around 150 people burst into the regional CEJIS headquarters in Trinidad. They were looking for Mr. **Javier Aramayo**, regional director of the CEJIS, in order to assault him. These facts were the subject of a complaint lodged with the public Prosecutor.

Furthermore, on 5 January 2005, 30 armed members of the Association of Agricultural and Forestry Producers (Asociación de Productores Agrícolas y Forestales - ASAGRI) broke into the CEJIS offices in Riberalta and took away books, computers, fax machines and a short wave radio, all of which they burnt in a public square. Death threats were also issued against CEJIS staff.

BRAZIL

Assassination of three workers' rights lawyers⁴⁷

On 28 January 2004, Messrs. **Erastótenes de Almeida Gonçalves**, **Nelson José da Silva** and **João Batista Soares Lages**, three lawyers from the Brazilian Labour Ministry in Unaí, State of Minas Gerais, were shot dead in the head by strangers driving a Fiat Strada.

They were at the time heading for the estates of a big landowner (*fazendeiro*) in Minas Gerais State, in order to investigate a slavery case. Mr. **Aílton Pereira de Oliveira**, their driver, was seriously wounded, and died a few hours later in the hospital in Brasília.

On 25 and 26 July 2004, following an investigation conducted jointly by the federal, civil and military police forces and the federal public Prosecutor department, six suspects were arrested: Mr. Francisco Elder Pinheiro, believed to have hired the killers; the three hired killers them-

⁴⁷ See Press Release, 30 January 2004 and Open Letter to the Brazilian authorities, 30 December 2004.

selves, Mesrrs. Erinaldo de Vasconcelos Silva, Rogério Alan Rocha Rios and William Gomes de Miranda; and two alleged intermediaries who are thought to have made the payments, Mr. Hugo Alves Pimenta and Mr. José Alberto de Castro. Thanks to a link established between Pimenta and the Mânica brothers, big agricultural producers in the region, Mr. Norberto Mânica was identified as having ordered the assassinations of the three civil servants, of whom one - Mr. Nelson José da Silva - had imposed a fine on him for failure to observe proper working conditions on his estates. Mr. Norberto Mânica was arrested on 13 August 2004 and was also accused of having threatened civil servants from the Ministry of Labour in December 2003. In addition, he was still facing charges relating to the violation of employees' rights, as does his brother, Antério Mânica, who was elected mayor of Unai in October 2004.

On 10 December 2004, Judge Francisco de Assis Betti of the 9th federal court of Belo Horizonte (Minas Gerais State) decided that all the defendants (except Mr. Humbeto Ribeiro dos Santos) should be tried by a popular jury for homicide" and "forming a criminal group". Other landowners in the region might also be implicated in the assassination. Mr. Antério Mânica was allowed to take up his position as a mayor in January 2005, and this new status may force changes in how the case proceeds against him, in that civil officials are permitted to have their cases heard, in the first instance, by the State High Court (Tribunal de Justiça) rather than before a popular jury.

Since these events, inspectors of the Ministry of Labour in the region have been carrying out their work under police protection.

Sentences confirmed for those behind the assassination of Mr. João Canuto de Oliveira⁴⁸

On 23 May 2003, Mr. Adilson Laranjeira, former mayor of Rio Maria, and Mr. Vantuir de Paula, a farmer, were sentenced to 19 years and 10 months in prison by the popular court of Belém (Tribunal de Júri

48 See Press release, 7 April 2004; Open Letter to the Brazilian authorities, 30 December 2004; 2003 Annual Report; and report of the Observatory's judicial observation mission of 22-23 May 2003, *Trial of those behind the murder of João Canuto de Oliveira - Landless People and their defenders in the State of Pará*.

Popular de Belém), for having ordered the assassination of Mr. **João Canuto de Oliveira**, chairman of the Trade Union of Rio Maria Rural Workers, in 1985.

However, the judge decided to let the convicted free and to await the result of the appeal proceedings in accordance with the Fleury Act (1973), by which a person convicted for the first time may be set free while the appeal pending. Moreover, the Court of Justice of Pará (Tribunal de Justiça do Estado do Pará - TJE) refused to organise an appeal case heard by a jury.

Mr. Adilson Laranjeira and Mr. Vantuir de Paula lodged a request for the original sentence to be overturned. This request was unanimously rejected by the TJE on 14 September 2004.

On 8 October 2004, the convicted appealed this decision with the High Court of Justice (Superior Tribunal de Justiça) and the Federal Supreme Court (Supremo Tribunal Federal), in Brasília.

In December 2004, the appeal was still pending.

Assassination of Mr. Ribamar Francisco dos Santos⁴⁹

On 7 February 2004, Mr. **Ribamar Francisco dos Santos**, agrarian policy coordinator for the Trade Union of Rural Workers (Sindicato de Trabalhadores Rurais - STR) in Rondon do Pará, was shot dead in front of his home with two bullets in the head by two strangers. Mr. dos Santos had received threats for several weeks before his murder and his name had been added to a "death list". These facts had been reported to the authorities, but the security forces had offered him no protection.

At the end of 2004, the police had still not identified those responsible for the killing.

Since Mr. dos Santos's assassination, two other trade union leaders from STR-Rondon received death threats, often through anonymous phone calls. This was notably the case of Mrs. **Maria Joelma Dias da Costa**, chairwoman of the union and widow of Mr. **José Dutra da Costa**, former chairman of STR-Rondon, who was assassinated on 21 November 2000. Her name was also on the "death list" and she was regularly subjected to threats. Moreover, although her husband's mur-

⁴⁹ See Press release, 7 April 2004.

derer, Mr. Wellington de Jesus Silva, was detained in the Marabá prison, Pará State, the man believed to have ordered the killing, the *fazendeiro* José Décio Barroso Nunes, was held for 13 days and then released before evidence against him could be properly examined.

Defenders of land rights threatened, harrassed and assassinated⁵⁰

In certain Brazilian States, the agrarian issue remains particularly worrying. The situation grows worse with the existence of private militias working for some of the *fazendeiros*. In 2004, the number of peasants and rural leaders killed remained one of the highest in Latin America, and impunity increased the climate of insecurity suffered by human rights defenders: between 1985 and 2003, out of 1,349 cases of murders linked to the struggle for land access, only 75 went to court.

On 29 January 2004, Mr. **Ezequiel de Moraes Nascimento**, chairman of the Workers' Association of Santa Maria das Barreiras, was assassinated by two men at his home in Redenção (Pará State), in front of his wife and seven-year-old daughter. Mr. Nascimento had spoken out against the violence perpetrated by some of the region's *fazendeiros*, and had already received death threats. At the end of 2004, the investigation conducted by the state authorities had produced no result.

On 23 March 2004, Mr. **Epitácio Gomes da Silva**, head of the Independent Peasants' Movement (Movimento de Trabalhadores Rurais Independentes - MTRI), was assassinated in the town of Tailândia, Pará State. He had been coordinating a peasant action in preparation of a peaceful occupation of unexploited land. At the end of 2004, the Pará State had not revealed the results of the investigation.

From 3 to 9 June 2004, an international mission to investigate agrarian reform and human rights was conducted in Brazil, under the auspices of two international organizations for the defence of peasants' rights, Vía Campesina and FoodFirst Information & Action Network (FIAN). Some members of the mission were attacked by a *fazendeiro*, who fired

50 See Open Letter to the Brazilian authorities, 30 December 2004.

on them near the town of Montes Claros, Minas Gerais State. This man received a long prison sentence, but was then released in accordance with the Fleury Act (1973).

On 20 November 2004, a camp of the Landless Workers' Movement (Movimento dos Trabalhadores Rurais Sem Terra - MST), called Promised Land in Felisburgo, Jequitinhonha Valley, one of the poorest regions in Minas Gerais State, was attacked. Five landless peasants, who were among those responsible for organizing the camp, were killed, and 20 others were wounded.

CHILE

Sentencing of Mapuche leaders for terrorism⁵¹

In the context of the conflict between the Mapuche people and forestry companies and big landowners, the criminalisation of the Mapuche community leaders intensified in 2004.

On 2 January 2004, Mr. **Victor Ancalaf**, former leader of the Mapuche co-ordinating committee "Arauco Malleco", was sentenced to five years in prison, in accordance with the anti-terrorist Act 18314, enacted on 17 May 1984 by General Pinochet and modified under the first civilian government in February 1991. This law allows the prosecution to use anonymous witnesses, in violation of the right to a fair trial. At the end of 2004, Mr. Ancalaf remained in detention.

On 21 August 2004, Mr. **José Huenchunao Mariñan**, spokesman for the Mapuche coordinating committee "Arauco Malleco", and Mr. **Juan Millacheo Licán**, head of the Chekenko community, were sentenced by the court of Angol to ten years and one day in prison. At the end of 2004, they were still in detention. Three other members of the Mapuche community, Mrs. **Patricia Troncoso**, Mr. **Florencio Jaime**

⁵¹ See Press Release, 24 August 2004.

Marileo and Mr. **Juan Patricio Marileo Saravia**, also received prison sentences.

These persons were charged with starting a "terrorist fire" (an offence punished by anti-terrorist Act 18.314) on land owned by the Mininco forestry company on 19 December 2001. This trial had begun on 27 July 2004 against 11 Mapuches from the Tricauko, San Ramon and Chekenko communities, in Ercilla commune. All denied the charges. During the trial, only the five above-mentioned people, out of the 11 charged, came before the court. The others were declared "rebels" for having failed to appear, and a permanent warrant was issued for their arrest. Amongst them were four Mapuche leaders: **José Osvaldo Cariqueo**, head of San Ramon, **Luis Catrimil**, head of Tricauko, Mrs. **Mireya Figueroa**, a Tricauko leader, and **José Llanquileo**, leader of the "Arauco Malleco" coordinating committee.

The trial was marred by numerous irregularities, particularly in the testimonies of the prosecution's witnesses and experts, which displayed contradictions and there is every indication that the accused did not receive a fair and equitable trial. This case is also evidence that defenders of Mapuche rights are more and more classed as terrorists.

COLOMBIA

Summary executions

Assassinations and forced disappearances of trade unionists and peasant leaders

*Assassination of Mr. Jesús Rojas Castañeda*⁵². On 3 December 2003, in Barrancabermeja (Santander), Mr. **Jesús Rojas Castañeda**, a member of the Association of Municipal Teachers (Asociación de Educadores Municipales - ASDEM), brother of Mrs. **Jackeline Rojas Castañeda**,

⁵² See Annual Report 2003 and Colombia Special Appeal December 2003-April 2004.

member of the Popular Women's Organization (Organización Femenina Popular - OFP) and brother-in-law of Mr. **Juan Carlos Galvis**, vice-chairman of the National Food Industry Trade Union (Sindicato Nacional de Trabajadores de la Industria de Alimentos - SINALTRAINAL) was killed. The murder seems to be connected with the work of this trade union in the defence of workers. At the end of 2004, even though detailed testimonies were provided, no suspect had been arrested and the investigation seemed to be at a standstill.

*Assassination of Mr. Orlando Frias Parada*⁵³. On 9 December 2003, Mr. **Orlando Frias Parada**, leader of the Communications Workers Union (Unión Sindical de Trabajadores de las Comunicaciones - USTC), was assassinated in Villanueva (Casanare). The murder happened as the USTC was speaking out against irregularities in the process whereby the national telecommunications company *Telecom* and 12 associated companies were being put into liquidation and merged into one company, Colombia Telecomunicaciones S.A.

*Assassinations of Messrs. Ricardo Barragan and Deyton Banguera*⁵⁴. Between 16 and 18 January 2004, Mr. **Ricardo Barragan**, an active member of the Cali Trade Union of Municipal Service Workers (Sindicato de Trabajadores de las Empresas Municipales de Cali - SINTRAEMCALI), and Mr. **Deyton Banguera**, a bodyguard for members of the union, were murdered in Cali (Valle). Mr. Barragan had been very active during protests against the privatisation of the public company EMCALI, in charge of water, electricity and telecommunications services.

*Assassination of Mr. Carlos Raul Ospina*⁵⁵. On 24 February 2004, Mr. **Carlos Raul Ospina**, treasurer of the local union MERTULUA was killed. MERTULUA is the civil servants' union of EMTULUA, a municipal company in Tulúa (Valle del Cauca), and a subsidiary of the Civil Services Union (Sindicato de Trabajadores y Empleados de

53 See Colombia Special Appeal December 2003-April 2004.

54 *Idem.*

55 *Idem.*

Servicios Públicos, Autónomos e Instantes Descentralizados de Colombia - SINTRAEMSDES). This assassination, carried out by unknown individuals riding a motorbike, seems to be linked to a series of well-publicized complaints, made by the union, condemning waste and poor management in Tulúa's public companies and denouncing certain representatives from the municipal authorities. The trade unionists had been subjected to threats from armed groups from the time these denunciations began.

*Assassinations of peasant leaders in Arauca district*⁵⁶. On 26 February, 10 March and 13 March 2004, over 20 people, most of them peasants, were murdered in Sabanas de Cravo Norte, in Puerto Rondon and in the town of Arauca. Among the victims were numerous members and leaders of the Arauca district Farmers' Association (Asociación Departamental de Usuarios Campesinos - ADUC), including Mesrrs. **Tiberio Cardoso Dueñas, Eduar Alexander Vargas, Yiye Velandia, Urley Cisnero Castillo, Freddy Cisnero Castillo, Alvaro Cisnero, Fabian Vargas** and **Pedro Pablo Campo Pinto**. It is believed that these assassinations were carried out by paramilitaries.

*Assassination of Mr. Angel Maria Rodriguez*⁵⁷. On 3 march 2004, Mr. **Angel Maria Rodriguez**, a peasant leader from the commune of Villahermosa (Tolima), former chairman of the Community Action Committee and member of the Association of Small and Medium Sized Tolima Farmers (Asociación de Pequeños y Medianos Agricultores del Norte del Tolima - ASOPEMA), was assassinated by unknown individuals probably belonging to a paramilitary group.

*Assassination of Mr. Luis Torres Perez*⁵⁸. On 4 March 2004, Mr. **Luis Torres Perez**, an active member of the Barranquilla (Atlántico) section of the National Association of Hospital Workers (Asociación Nacional de Trabajadores Hospitalarios de Colombia - ANTHOC), was assassinated while working at the town's general hospital, by unknown individuals who then got away.

56 *Idem.*

57 *Idem.*

58 *Idem.*

*Assassination of the brother of Mr. Edgar Perea of a security agent and of his wife*⁵⁹. On 14 April 2004, Mr. **Edgar Perea**, leader of the Yumbo (Valle) section of the Union of the Pacific Iron and Steel Company (SINTRAMETAL), was the target of an attempt on his life, in which his brother, Mr. **Raul Perea Zuñiga**, was killed. On 2 May 2004, assailants again tried to assassinate Mr. Perea, killing instead a SINTRAMETAL-Yumbo bodyguard, Mr. **Hugo Fernando Castillo Sánchez**, and his wife, Mrs. **Diana Ximena Zuñiga**.

*Assassination of Mr. Carlos Alberto Chicaiza*⁶⁰. On 15 April 2004, Mr. **Carlos Alberto Chicaiza**, a committee member and publicity secretary for the Workers' Union of Civil Services (Sindicato de Trabajadores de la Empresa de Servicios Varios - SINTRAEMSIRVA), representing municipal employees, was assassinated while waiting for a bus in the town of Cali.

*Assassination of relatives of Mr. Efraín Guerrero*⁶¹. On 20 April 2004, several armed men entered the home of Mr. **Gabriel Remolina**, brother-in-law of Mr. **Efraín Guerrero**, a Coca-Cola worker and head of the Bucaramanga (Santander) section of SINALTRAINAL. The men fired indiscriminately at the whole family, killing Mr. Gabriel Remolina and his wife, Mrs. **Fanny Robles**, and injuring three of their children, including **Robinson Remolina**, who died a few hours later. Mr. Efraín Guerrero had taken part in a hunger strike of Coca-Cola workers in April 2004, in order to draw international attention to serious human rights violations inflicted on workers in the company⁶², and to demonstrate against the closure of ten production lines.

*Assassination of Mr. Fabián Burbano*⁶³. On 31 May 2004, Mr. **Fabián Burbano**, a temporary maintenance worker for the southern administra-

59 *Idem*.

60 *Idem*.

61 See Urgent Appeal COL 007/0404/OBS 027 and Colombia Special Appeal December 2003-April 2004.

62 See Urgent Appeal COL 004/0304/OBS 018.

63 See Colombia Special Appeal May-July 2004.

tive division of the Colombian Petroleum Company (Empresa Colombiana de Petróleos - ECOPETROL) in Orito (Putumayo), was assassinated. Mr. Burbano had taken part in the strike called from 22 April to 28 May 2004 by the Oil Industry Workers Trade Union (Unión Sindical Obrera - USO), to preserve ECOPETROL as a national and State company.

*Assassination of Mr. Luis Alberto Toro Colorado*⁶⁴: On 22 June 2004, Mr. **Luis Alberto Toro Colorado** was assassinated in the town of Bello (Antioquia). He was a member of the National Textile Workers' Union (Sindicato Nacional de Trabajadores de la Industria de Hilados, Tejidos, Textiles y Confecciones - SINALTRADIHITEXCO), affiliated to the Central United Organisation of Colombian Workers (Central Unitaria de Trabajadores - CUT), and sat on its governing council as a treasurer and a negotiator in union conflicts.

*Assassination of Mr. Miguel Espinosa*⁶⁵. On 30 June 2004, Mr. **Miguel Espinosa**, founding member of the national section of the CUT and of its section for the Atlántico region, was assassinated in Barranquilla (Atlántico).

*Assassination of Mrs. Carmen Elisa Nova Hernández*⁶⁶. On 15 July 2004, Mrs. **Carmen Elisa Nova Hernández**, treasurer for the Clinics and Hospitals Workers' Union in Santander (Sindicato de Trabajadores de Clínicas y Hospitales de Santander - SINTRACLINICAS), was assassinated while on her way home. Two men on a motorbike fired three shots, killing her almost instantly. Mrs. Hernández was a nurse at Bucaramanga clinic for almost 30 years, and had gradually become involved in the defence of workers' rights within SINTRACLINICAS. The assassination happened in spite of complaints and requests for protection lodged by SINTRACLINICAS with the Prosecutor's department, the Defender of the People

64 *Idem.*

65 *Idem.*

66 See Urgent Appeal COL 012/0704/OBS 060 and Colombia Special Appeal May-July 2004.

(Defensoría del Pueblo), the Ministry for Social Protection and institutions dedicated to the defence of human rights with the Colombian Vice President, following numerous other acts of harassment directed against the organisation, notably the attempted kidnap of the union's chairwoman in March 2002.

*Assassination of Mr. Benedicto Caballero*⁶⁷. On 21 July 2004, in the town of Mesitas del Colegio (Cundinamarca), Mr. **Benedicto Caballero** was assassinated as he was leaving the Tequendama Agrarian Cooperative (Cooperativa Agraria del Tequendama - COAGROTEMA). He was the vice-president of the National Federation of Agrarian Cooperatives (Federación Nacional de Cooperativas Agropecuarias - FENACOA) and coordinator of the COAGROTEMA. Mr. Caballero was shot dead by four hired killers on motorbikes.

*Assassinations of Messrs. Héctor Alirio Martínez, Jorge Eduardo Prieto Chamusero and Leonel Goyeneche Goyeneche*⁶⁸. On 5 August 2004, Mr. **Héctor Alirio Martínez**, chairman of ADUC, Mr. **Jorge Eduardo Prieto Chamusero**, chairman of ANTHOC in Arauca, and Mr. **Leonel Goyeneche Goyeneche**, director of the CUT, were assassinated. These three leaders were known as spokesmen for social organisations working for peace and social justice in Arauca, a district where inhabitants - indigenous and peasant communities as well as social movements - are subjected to recurrent human rights violations, especially since the implementation of the "democratic security" policy of President Álvaro Uribe Vélez (massacres, collective assassinations, forced disappearances, arbitrary detention, torture and degrading treatment). Since 2002, Messrs. Héctor Alirio Martínez and Jorge Eduardo Prieto Chamusero had both benefited from provisional protection measures (*medidas cautelares*) requested by the Inter-American Commission for Human Rights (IACHR) because of serious threats to their safety.

67 See Colombia Special Appeal May-July 2004.

68 See Urgent Appeal COL 013/0804/OBS 065 and Colombia Special Appeal August-December 2004.

According to the authorities, these executions happened during a military operation, conducted by members of the Revéiz Pizarro mechanised battalion of the army based in Saravena (Arauca), on 5 August 2004, in the village of Caño Seco. Following these events, the Vice President of the Republic and the spokesman for the aforementioned battalion accused the victims of belonging to a subversive movement. The Defence Minister claimed that they were "delinquents", that were armed and were under arrest warrants.

However, according to the results of the Prosecutor's investigation, there was no fighting in that village on 5 August 2004 and the three union members appear to have been summarily executed. The Prosecutor ordered the detention of a non-commissioned officer in the army, two soldiers and a civilian. At the end of 2004, this civilian, Mr. Daniel Caballero Rozo, alias "Patilla", an alleged hired killer, was in detention at the Combita high security prison, in the north of Bogotá.

*Assassination of Mr. Gerardo De Jesús Velez and attempted assassination of Mr. Henry González López*⁶⁹. On 5 August 2004 Mr. **Gerardo De Jesús Velez** and Mr. **Henry González López**, members of the Worker's Trade Union of the San Carlos Refinery (Sindicato de Trabajadores del Ingenio de San Carlos), in Valle del Cauca, were shot by two hired killers on motorbikes when travelling to work in the company bus. Mr. González López, who was driving the bus, was seriously wounded, and Mr. De Jesús Velez died.

*Assassination of Miguel Córdoba*⁷⁰. On 26 August 2004, Mr. **Miguel Córdoba**, secretary of the Trade Union of Valle de Cauca Sugar Cane Workers, Growers and Manufacturers (Sindicato de Trabajadores, Cultivadores y Procesadores de la Caña de Azúcar de los Departamentos del Valle del Cauca - SINTRACANÁVALC), was assassinated by three hired killers during an attack on the union.

*Disappearance of Mr. Gabriel Buitrago Duque*⁷¹. On 18 September 2004, peasant leader Mr. **Gabriel Buitrago Duque** disappeared on his way from

69 See Colombia Special Appeal August-December 2004.

70 *Idem.*

71 *Idem.*

Bogotá to his family home in Ibagué (Tolima). Mr. Buitrago had been one of the cornerstones of peasant mobilisation in 1995 in Tolima, and had been subjected to threats and forced removals for the past three years.

*Assassination of Mr. Juan de Jesús Miranda Uzula and assault on Mr. Arnoldo Cantilla*⁷². On 23 November 2004, taxi driver Mr. **Juan de Jesús Miranda Uzula**, affiliated to the Trade Union of Cartagena Taxi Drivers (Sindicato de Conductores de Taxi Cartagena - SINCONTAX-CAR), was attacked and killed in the San Francisco district of Cartagena. The following day, Mr. **Arnoldo Cantilla**, also affiliated to SINCONTAXCAR, was himself attacked and wounded in the El Carmelo district of the town.

*Mr. Diofanol Sierra Vargas's murderer condemned*⁷³. On 15 November 2004, paramilitary César Julio Reina was sentenced to 21 years and 4 months in prison for the assassination, on 8 April 2002 in Barrancabermeja, of Mr. **Diofanol Sierra Vargas**, leader of SINALTRAINAL and OFP collaborator. Paramilitaries had followed him through the streets and gunned him down in front of his family.

Assassinations and forced disappearances of civil society representatives

*Assassination of Mrs. María Lucero Heano and her son, and acts of torture*⁷⁴. On 6 February 2004, Mrs. **María Lucero Heano** and her 16-years old son, **Yamid Daniel**, were executed by individuals in plain clothes, probably belonging to paramilitary groups. These men forced them to leave their house in the village of Puerto Esperanza, near El Castillo (Meta). Mrs. Lucero Heano called to her mother and children, who came out to try and prevent the kidnapping, but the paramilitaries prevented them from following. A few minutes later, the family heard several gunshots, but stayed in the house for fear of paramilitary reprisals. At

⁷² *Idem.*

⁷³ See Annual Report 2002 and Colombia Special Appeal August-December 2004.

⁷⁴ See Urgent Appeal COL 002/0204/OBS 010.

dawn the next day, the bodies of Mrs. Lucero and her son were discovered. Yamid Daniel's body bore the marks of torture. Mrs. Lucero Heano had already been the target of one assassination attempt and had been threatened twice in the previous three years. She had spoken out against the situation of the people of Puerto Esperanza, who had been forcibly displaced, and to the continued presence of paramilitaries in the area. At the end of 2004, the investigation into these events had produced no results.

*Assassination of Mr. José Mendivil Cárdenas*⁷⁵. On 7 February 2004, Mr. **José Mendivil Cárdenas**, a human rights defender who worked for numerous social and human rights organisations, including Amnesty International, was assassinated in Barranquilla. The killing was carried out by two unidentified individuals who fired on Mr. Cárdenas's vehicle from their motorbike.

*Assassination of Mr. Carlos Berna and Mr. Camilo Jiménez*⁷⁶. On 1 April 2004, Mr. **Carlos Bernal**, a lawyer and member of the Permanent Committee for Human Rights (Comité Permanente por los Derechos Humanos - CPDH), and his bodyguard, Mr. **Camilo Jiménez**, were killed by an unidentified man in the Prado Norte district of Cúcuta city (Norte de Santander). Mr. Bernal was also a former union leader at the Free University, and had been involved in improving human rights in Cúcuta and in Norte de Santander, within various regional and municipal administrations.

*Forced disappearance of Mr. Carlos Alberto Hurtado Aramburo and arrest of Mr. Luis Bernabé Angulo Aramburo*⁷⁷. On 11 May 2004, two unidentified men arrived in a taxi at the home of Mr. **Carlos Alberto Hurtado Aramburo** in Buenaventura (Valle de Cauca), and kidnapped him. Carlos Alberto Hurtado Aramburo is the nephew of Mr. **Jorge Issac Aramburo García**, one of the most important leaders in the history of the

75 *Idem*.

76 See Press Release, 6 April 2004 and Colombia Special Appeal December 2003-April 2004.

77 See Urgent Appeal COL 008/0504/OBS 038 and Colombia Special Appeal May-July 2004.

Black Movement in Colombia, and leader of the community council of the United Blacks' Association of Río Yurumanguí (Consejo Comunitario y de la Asociación de Negros Unidos del río Yurumanguí - APONURY). This disappearance clearly constitutes an act of reprisal aimed at Mr. Aramburo García's family, intended to discourage him from pursuing his activities to promote the rights of the Afro-Colombian community.

Since 2000, 11 members of his family have been assassinated by paramilitary groups operating in Buenaventura. On 1 October 2003, the IACHR had asked for protection measures for Mr. Aramburo García and his family.

On 26 August 2004, another nephew of Mr. Aramburo's, Mr. **Luis Bernabé Angulo Aramburo**, was arrested by elements of the Navy's infantry division, with a warrant from the Prosecutor. Mr. Luis Bernabé Angulo Aramburo is a leading member of APONURY in Buenaventura. Suspected of having links with the Colombian Revolutionary Armed Forces (Fuerzas Armadas Revolucionarias de Colombia - FARC), he was charged with terrorism, kidnap and rebellion. When he was arrested, he had just received a grant for his community from the Colombian Institute of Electrical Energy, in his position as a treasurer of the Electrification Committee for the village of Río Yuramanguí (Comité de Electrificación de la Vereda Juntas del Río Yuramanguí).

*Assassination of Mr. Freddy Arias Arias*⁷⁸. On 3 August 2004, Mr. **Freddy Arias Arias**, director of the Kankuamo Indigenous Organisation in Vallepujar (Cesar), was assassinated by two unidentified persons. Mr. Freddy Arias Arias had spoken out against systematic human rights violations suffered by the indigenous populations of Kankuamo between 2002 and 2004, including the assassinations of more than 100 people, and the forced removal of more than 1,000.

*Assassination of Pr. Alfredo Correa de Andreis*⁷⁹. On 17 September 2004, Mr. **Alfredo Correa de Andreis**, a professor and member of the University Network for Peace, and his bodyguard, Mr. **Edward Ochoa**

78 See Urgent Appeal COL 013/0804/OBS 065 and Colombia Special Appeal May-July 2004.

79 See Press Release, 20 September 2004.

Martínez, were killed in Barranquilla. The two men were attacked by two hired killers on a moped, a few streets away from Mr. Correa de Andreis' home, in the El Prado district of the town. Mr. Correa de Andreis had worked for the past 23 years as a researcher at the Northern University and Simón Bolívar University and was a fervent defender of peace, democracy and human rights. He had previously been falsely accused by the Prosecutor's office in Cartagena (Bolívar) of being 'the ideologist of the Caribbean branch of the FARC and had been arrested on 17 June 2004, in Barranquilla, on the basis of the testimonies from three demobilized guerrilleras. He had been released in July 2004 for lack of evidence, thanks to national and international mobilisation.

*Assassination of Mrs. Teresa Yarse*⁸⁰. On 6 October 2004, Mrs. **Teresa Yarse** was assassinated. She was the head of the Women's Association of Independences (Asociación de Mujeres de las Independencias - AMI) in Medellín (Antioquia), and vice-chairwoman of the Community Action Committee for "Independence 3", an organisation affiliated to the AMI. Mrs. Yarse was near her home, on the local sports ground, when she was gunned down with three bullets. This crime is attributed to paramilitary groups, who control the working-class area of Medellín popular district Commune 13. The AMI is a women's organisation that not only promotes women's rights, but also tries to combat the poverty in which Commune 13's inhabitants live.

*Assassination of Mr. Mariano Suárez Chaparro*⁸¹. On 6 November 2004, Mr. **Mariano Suárez Chaparro**, indigenous leader and "Mamo" (one of the most highly respected authorities) of the indigenous Arhuaco Community in Sierra Nevada de Santa Marta, was executed in the village of El Chinchorro (Magdalena). At the time of his assassination, Mr. Suárez Chaparro was organising the establishment of a new site for his community on the banks of the Aracataca River. Members of the FARC, who are thought to be opposed to the creation of new indigenous settlements in this area, are probably behind the murder.

80 See Urgent Appeal COL 017/1004/OBS 079.

81 See Urgent Appeal COL 022/1104/OBS 087 and Colombia Special Appeal, August-December 2004.

Mr. Suárez Chaparro had played a major role in the process of unification and cultural revitalisation conducted for several years by the Arhuaco people. He had received threats from the Front 19 of the FARC for encouraging the union of the Arhuacos with members of the indigenous Kogui community.

*Assassination of Mr. José Joaquín Cubides*⁸². On 7 November 2004, Mr. **José Joaquín Cubides** was shot dead at his home, in front of his wife and children. He was a coordinator for the Civil Society Permanent Assembly for Peace (Asamblea Permanente de la Sociedad Civil por la Paz - APSCP) in the town of Fortul (Arauca) and general secretary of the Trade Union of Small and Medium-Sized Agricultural Producers (Sindicato de Pequeños y Medianos Productores del Agro - SINDEAGRO). His home had already been searched several times before his murder, the last time on 6 November 2004. The Assembly, which promotes a political, negotiated solution to the armed conflict tearing Colombia apart, is a civil initiative, whose members come from various churches and social, cultural, political and human rights organisations, across the country.

Arbitrary detentions

Arbitrary detentions of trade unionists and peasant leaders

*Arbitrary detentions of Mr. Policarpo Camacho and Mrs. Gloria Holguín*⁸³. On 8 January 2003, Mr. **Policarpo Camacho** and Mrs. **Gloria Holguín**, leaders of the National Unionist Unitarian Federation of Farmers (Federación Nacional Sindical Unitaria Agropecuaria - FEN-SUAGRO), were detained in Calarcá (Quindío), after their apartment was searched. While Mrs. Holguín was finally released without charges a few days after her arrest, Mr. Camacho was charged with rebellion. Because of his age (71), he was released in mid-March 2004, after 13 months in detention.

82 See Urgent Appeal COL 021/1104/OBS 086 and Colombia Special Appeal August-December 2004.

83 See Annual Report 2003.

*Arbitrary detention of Mr. Hermes Vallejo Jiménez*⁸⁴. On 12 August 2003, Mr. **Hermes Vallejo Jiménez**, a member of ASOPEMA, was arrested in Bogotá. On 26 October 2004, the Quinto Penal del Circuito court acquitted him and four other trade unionists, for lack of evidence. Witnesses, who afterwards turned out to have been manipulated during the trial, had accused them of belonging to a section of the National Liberation Army (Ejército de Liberación Nacional - ELN) known as the "Bolcheviques de Líbano".

*Arbitrary detention of SINDEAGRICULTORES leaders*⁸⁵. On 11 June 2004, in Sincelejo (Sucre), Mr. **Eliécer Florez**, treasurer for the Administrative Council of the Small and Medium-Sized Agricultural Workers' Union of Sucre (Sindicato de Pequeños y Medianos Agricultores de Sucre - SINDEAGRICULTORES), was arrested by agents of the Judicial Investigation and Intelligence Service (Seccional de Policía Judicial e Investigación - SIJIN). This detention comes in the context of a policy of mass detentions of peasants affiliated to the National Unionist Unitarian Federation of Farmers (Federación Nacional Sindical Agropecuaria - FENSUAGRO) in the Sucre and Cauca regions.

The same day, Mr. **Luis Miguel Gómez**, chairman of SINDEAGRICULTORES, was also arrested by police in the town of Coloso (Sucre). After two hours in detention, Mr. Gómez was released, only to be re-arrested that same evening. On this occasion, Mr. Gómez was subjected to threats and pressure in an attempt to make him join the network of police informers, which he categorically refused to do.

*Arbitrary detention of Mr. Eduardo Hernández Cabrera*⁸⁶. On 14 October 2003, Mr. **Eduardo Hernández Cabrera**, a trade union leader in the public companies of Espinal commune (Tolima), disappeared, after having been approached by some unknown individuals, probably members of the Unified Action Group for Personal Freedom

84 See Annual Report 2003 and Colombia Special Appeal August-December 2004.

85 See Annual Report 2003 and Colombia Special Appeal May-July 2004.

86 See Annual Report 2003.

(Grupo de Acción Unificada por la Libertad Personal - GAULA), made up of people from the Security Administrative Department (Departamento Administrativo de seguridad - DAS), the Technical Enquiry Corps (Cuerpo tecnico de investigaciones - CTI), the Prosecutor's office and the armed forces. In November 2003 he was said to be detained in Ibagué Prison. Meanwhile, his sister, Mrs. **Rocío del Pilar Hernández Cabrera**, was also arrested in Villavicencio (Meta). They were released without charges in June 2004 and February 2004 respectively.

*Assassination, arbitrary searches and arrests of members of the ACA*⁸⁷. Mrs. **Luz Perly Córdoba**, chairwoman of the Farmers' Association of Arauca (Asociación Campesina de Arauca - ACA), general secretary of the FENSUAGRO and head of its human rights department, had to leave Arauca to live in Bogotá, because of death threats by soldiers and paramilitaries. The IACHR had asked for measures to be taken for her protection.

On 18 February 2004, Mrs. Perly Córdoba was arrested by DAS members in Bogotá, who had a warrant from the Prosecutor. She was detained on DAS premises in Palo Quemao until the evening of 21 February 2004. She was then transferred to the "Buen Pastor" detention centre in Bogotá, where she remained at the end of 2004.

Following her arrest, her home was searched during a police swoop. Her computer's hard disk was seized, as well as floppy disks, documents and photos. Moreover, several members of the Judicial Investigation and Intelligence Police Authority (Dirección de Policía Judicial e Investigación - DIJIN), the CTI, the DAS, and the ordinary police force searched the offices of the ACA in Araucita, claiming to be looking for subversive documents, in accordance with a warrant issued by the Prosecutor, Mr. José Ramon Uribe. They confiscated documents and equipment. They also searched the house of Mrs. **Nubia Vega**, head of the ACA, and arrested Messrs. **Víctor Enrique Amarillo** and **Moisés Elías Eregua**, body-

87 See Urgent Appeals COL 003/0204/OBS 014, COL 018/1004/OBS 082, Colombia Special Appeals December 2003-April 2004, May-July 2004 and August-December 2004.

guards chosen by the Ministry of the Interior to protect ACA members, as requested by the IACHR.

On 19 February 2004, Mr. **Juan Jesús Gutiérrez**, ACA's treasurer, was arrested in Saravena and taken to the army's 18th Brigade, following the issue of arrest and search warrants by the Prosecutor's Support Unit (Fiscalía) in Arauca. He was denied a visit from a lawyer, as well as food and clothing.

On 3 March 2004, Mr. **Rodolfo Rios Lozano**, a defence lawyer for political prisoners, who was providing Mrs. Luz Perly Cordoba's defence, and who was regularly subjected to harassment and death threats, received telephone threats ordering him to leave the country.

Mrs. Luz Perly, Mr. Juan Jesús Gutiérrez and the whole executive council of the ACA, despite benefiting from the protection programme set up by the Ministry of the Interior and protection measures dictated by the IACHR, were accused of rebellion and criminal association. On 6 May 2004, Mrs. Luz Perly Córdoba abandoned her public defence in midst of preparations for her trial, due to the absence of procedural guarantees and to the disrespect of her rights.

On 23 February 2004, Mr. **Martiniano Mosquera Cosme**, a nursing auxiliary at the Health Centre in Saravena, was captured without a warrant by members of the army, in place of his brother, Mr. **Pedro Jaime Mosquera Cosme**, a leading figure in the ACA, whom the soldiers were unable to find. During this operation, several other members of the ACA were detained, including Mesrrs. **Andrés Pérez**, **Vicente Blanco**, **Fanny Quiroga**, **Abelardo Barajas**, **William Gómez**, **Héctor Carrillo**, **Neftalí Romero**, **Elver Ramírez**, **Luis Alfredo García Lamus**, and **Mauricio Lamus Flórez**.

It finally became clear that Mr. Pedro Jaime Mosquera Cosme had been assassinated in obscure circumstances. His body, which bore marks of torture, was found on 7 October 2004 in Arauca.

On 16 December 2004, Mr. **Oswaldo Martínez**, a member of the ACA, was detained in the offices of the DAS, without being informed of the reasons for his detention. At the end of 2004, he remained in detention in Bogotá and charged with rebellion.

*Arbitrary detention of Mr. Carlos Alberto Nuñez Flores*⁸⁸. On 1 March 2004, Mr. **Carlos Alberto Nuñez Flores**, vice-chairman of the peasants' group ADUC, was arrested in Saravena by members of the army, for the third time since December 2003. During these detentions, he was accused of being a guerrillero and an ideologue behind guerrilla operations.

*Arbitrary detention and legal proceedings against several ECOPETROL workers on strike*⁸⁹. Since the start of the nationwide strike called for by the Oil Industry Workers Trade Union (USO) with the aim of preserving ECOPETROL as a national and State concern, many trade unionists have been subjected to legal proceedings, and some were arbitrarily detained, sometimes in degrading conditions. This was notably the case of Messrs. **Fredys Fernández Suarez, Luis Roberto Schmalbach Cruz, Ignacio Vecino, Fernando Jiménez, Humberto Rodríguez, Sandro Efrey Suarez** and **Ricardo Harold Forero**. Mr. Humberto Rodríguez was arrested by the national police on 14 May 2004 in Barrancabermeja, without being told of the reason for his arrest and without a warrant. He was then informed that he was accused of threatening a colleague, and released 26 hours later. On 18 May 2004, Mr. Sandro Efrey and Ricardo Harold were arrested in Barrancabermeja by armed civilians, who then handed them over to members of the national police who arrived ten minutes later. They were accused of having insulted third parties and caused damage to their property. It was claimed that they had been caught in the act, despite the fact that the police were not present at the time of their arrest. They remained in custody for about four days in an improvised cell - in reality a bathroom - at the premises of the army's Magdalena Medio Special Operations Unit (COEMM).

*Arbitrary detention of M Ricardo Fabián Otalvaro Osorio*⁹⁰. On 19 June 2004, in the context of Operation Corinto III in the Cauca region, Mr. **Ricardo Fabián Otalvaro Osorio**, a farmer and affiliated member of the Corinto Association of Agricultural Reserves (Asociación Zonas de Reserva Campesina de Corinto), living in the village of Cominera, was

88 See Colombia Special Appeal December 2003-April 2004.

89 See Colombia Special Appeal May-July 2004.

90 *Idem*.

arrested by the DAS, agents of the Third Brigade, the CTI and the Prosecutor's Office. His arrest took place at dawn, at his mother's house. The doors were forced and he was violently dragged out.

At the end of December 2004, Mr. Ricardo Fabián Otalvaro Osorio was still imprisoned in the buildings of the army's Third Brigade and charged with rebellion.

*Illegal searches and detention of USO members*⁹¹. On 17 June 2004, members of the Barrancabermeja police arrested the trade union leader Mr. **Ramón Rangel**, after violently entering the USO offices in Barrancabermeja without a warrant. In all, nine workers were detained: Mesrrs. **Fernando Rojas**, **Debinson Noriega**, **Freddy Toro Galvis**, **Virgilio de la Rosa Diaz**, **Oscar Javier Celis**, **Jairo Carvajal**, **Hernando Ariza** and **Luis Daniel Polo**.

*Arbitrary detention of Mr. Adolfo Tique*⁹². On 18 July 2004, Mr. **Adolfo Tique**, a peasant leader and member of ASOPEMA, affiliated to FEN-SUAGRO, was arbitrarily arrested by troops from mobile brigade number 8, who forcibly detained him and took him to an unknown place. Mr. Tique had no access to a legal authority and no formal charge was brought against him at the time of his arrest.

*Arbitrary detention of Mr. Samuel Morales Flores and Mrs. Raquel Castro*⁹³. On 5 August 2004, Mr. **Samuel Morales Flores**, chairman of the CUT in Arauca, and Mrs. **Raquel Castro**, a member of the Arauca Teachers' Association (Asociación de Educadores de Arauca - ASE-DAR), were arbitrarily detained by members of the army's Revéz Pizarro mechanized battalion based in Saravena (Arauca), who carried out a military operation that same day, in the village of Caño Seco.

91 *Idem*.

92 *Idem*.

93 See Urgent Appeal COL 013/0804/OBS 065 and Colombia Special Appeal August-December 2004.

Arbitrary detentions of members of the civil society

*Arbitrary detention of the chairwoman of the Arauca section of the CPDH*⁹⁴. On 3 March 2003, Mrs. **Teresa Cedeño Galíndez**, a lawyer and chairwoman of the Arauca Section of the Permanent Committee for Human Rights (Comité Permanente de Derechos Humanos - CPDH) and member of the national "Eduardo Umaña Mendoza" Association of Defence Lawyers, was arrested and tortured in Bogotá by members of the national police force, after she protested about the fact that the national police force was exercising certain functions which properly belong to the CTI. Mrs. Cedeño was released on 4 March 2003, following national and international protests.

On 30 July 2003, Mrs. Cedeño was again arrested in Bogotá and charged with "technical fraud" after having given a speech at the Ministry of Foreign Affairs a few hours before to State representatives responsible for the implementation of protection measures. During this statement, she spoke out against the persecution of lawyers who defend human rights in Arauca and attributed responsibility for it to members of the Support Unit of the National Attorney General's Office, to military leaders and to some security organisations. On 1 August 2003, Mrs. Cedeño was hospitalised, before being transferred on 2 August to the women's prison "El Buen Pastor". On 6 August 2003, the Prosecutor's office confirmed the charges against Mrs. Cedeño and ruled that she should be released on bail on 8 August 2003.

In November 2004, Mrs. Cedeño Galíndez was summoned to appear before the court. The "José Alvear Restrepo" Lawyers' Collective Corporation (CCAJAR), representing her, appealed the summons.

At the end of October 2004, Mrs. Teresa Cedeño Galíndez was once again subjected to threats in Arauca and was forced to leave the country.

*Accusations against members of the Justice and Peace Commission*⁹⁵. On 21 August 2003, the general head of the armed forces, Mr. Jorge

94 See Annual Report 2003 and Colombia Special Appeal December 2003-April 2004.

95 See Annual Report 2003.

Enrique Mora Rangel, organised a press conference during which he accused members of the Justice and Peace Commission (Comisión Justicia y Paz - CJP) of "abuse of trust" and of "creating illegal groups", describing the communities of the CJP as "FARC concentration camps administered by an NGO called Justice and Peace". These declarations from General Mora Rangel were repeated in the press, which helped stigmatising and discrediting the CJP both nationally and internationally. It then turned out that criminal proceedings had been opened against the CJP in four separate cases, two for rebellion, one for creation of illegal groups and one for breach of trust. These accusations mentioned 15 members of the Coordinating Committee of the Cacarica community and the following members of Justice and Peace: Mr. **Danilo Rueda**, Father **Daniel Vásquez**, Mrs. **Ana María Lozano**, Mr. **Enrique Chimonja** and Mr. **Abilio Peña**. These proceedings were based solely on unverified testimonies, and some of the witnesses have admitted that they were paid for testifying.

On 28 January 2005, the Second Specialised Prosecutor (Fiscal Segunda Especializada) with the National Human Rights Unit dropped the charges for rebellion against them.

On 8 October 2003, the IACHR required the Colombian State to respect the right of members of the Justice and Peace Commission to a fair trial - in particular with regard to time limits and the cumulative nature of the proceedings - and that the remarks made on 21 August 2003 should be publicly rectified. Despite the IACHR's recommendations, the six months' duration for the preliminary phase of an investigation, inscribed in the Criminal Code, was not respected.

*Arbitrary detention of Mr. Ismael Uncacias*⁹⁶. On 2 March 2004, Mr. **Ismael Uncacias**, leader of the Indigenous Communities of Arauca and ex-chairman of the former Regional Indigenous Council of Arauca (CRIA), now the Association of Councils and Traditional Indigenous Authorities of Arauca (Asociación de Cabildos y Autoridades Tradicionales Indígenas de Arauca - ASCADITAR), was arbitrarily detained by Reinaldo Alarcon, a former guerrillero turned into an infor-

96 See Colombia Special Appeal December 2003 - April 2004.

mer who was travelling in an army patrol car, and taken to the battalion headquarters of the 18th mechanised group, where he was subjected to intimidation and threats. He was released after 28 hours.

*Arbitrary detention of Mr. Mauricio Avilez Álvarez*⁹⁷. On 10 June 2004, Mr. **Mauricio Avilez Álvarez**, a representative of the human rights group Colombia-Europe-United States Coordination (Coordinación Colombia-Europa-Estados Unidos - CCEEU), was arrested in Barranquilla by GAULA members. They took him to the local police cells. He was officially charged with rebellion, extortion and aggravated homicide, having been held responsible for planting a bomb that killed one person in the SAO shopping centre in Barranquilla on 16 December 2003. However, Mr. Avilez Álvarez was taking part in a coordination workshop that day, and so could not have been involved in the killing. It appears that he was since released.

*Arbitrary detention of Mesrrs. Hernan Rua, Leonardo Rua, Roland Higuita and "Pasajeros" band members*⁹⁸: On 12 June 2004, in Copacabana (Antioquia), the members of the rock band "Pasajeros" were arrested just as they were about to give a concert in solidarity with the community of northern Antioquia, an event organised by the CUT to protest about the "social tax" and the tax on increased property values (cobro de la valorización). During the assembly, unidentified individuals in civilian dress took photos and filmed the participants. Later, members of the Elite Anti-Terrorist Corps (Cuerpo Elite Antiterrorista - CEAT) demanded the identity papers of Mesrrs. **Hernan Rua Ceballos**, **Leonardo Rua Ceballos** and **Roland Higuita Marin**, and of all the band members of "Pasajeros", and informed them that they were going to be arrested, although no arrest warrant was produced. A few moments later, a local prosecutor arrived and ordered their detention under the pretext that they were suspected of participation in insurreccional movements. The members of "Pasajeros" were also charged with rebellion and terrorism.

97 See Urgent Appeal COL 011/0604/OBS 048.

98 See Colombia Special Appeal May-July 2004.

The Prosecutor of office 51, attached to the CEAT, ordered an investigation to be opened and an arrest warrant to be issued, without making any attempt to evaluate or challenge the witness statements taken by the criminal investigation police.

*Arbitrary detention of Mr. José Guillermo Larios Gómez*⁹⁹. On 29 November 2004, in Bogotá, Mr. **José Guillermo Larios Gómez**, a member of the Regional Corporation for the Defence of Human Rights (Corporación Regional para la Defensa de los Derechos Humanos - CREDHOS), was followed and then arrested by three men identified as being members of the DAS. On 30 November 2004, Mr. Gómez was said to be held in a room belonging to the DAS in Paloquemao, Bogotá. On 1 December 2004, the media announced that he was suspected of being a guerrillero and of complicity with terrorist acts.

*Questioning of, and legal proceedings against Father Joaquín Mayorga*¹⁰⁰. On 7 December 2004, Father **Joakín Mayorga**, head of Justice and Peace (Justicia y Paz) within the diocese of Magangué (Magdalena), was arrested and placed in detention following a legal investigation into his work in Magangué and his position as a priest and human rights defender. Father Joakín Mayorga was freed the same day and was then informed by officer Pérez, from the San Gil police station, that his detention was due to mistaken identity. Father Joakín Mayorga had already been detained under similar circumstances in August 2004 in the town of Onzaga (Santander).

At the end of 2004, Father Joakín Mayorga was facing trial for the alleged offences of slander and insults. The action was brought by members of the Colombian army's Nariño battalion, from the town of El Banco (Magdalena). The charge related to his public condemnation of the arbitrary detention, forced disappearance and assassination of three minors, Jiovanny Vega Atencio, Jairo Villalba and Nolberto Campusano Zuleta, and the forced disappearance of 13-year-old Osneider Solano Zuleta, in the village of El Coco at the end of January 2004¹⁰¹.

99 See Colombia Special Appeal August-December 2004.

100 See Urgent Appeal COL 023/1204/OBS 093 and Colombia Special Appeal August-December 2004.

101 See Urgent Appeal OMCT COL 161104 (grave human rights violations inflicted on populations in the south of Bolívar).

Threats, harassment and attacks

Threats, harassment and attacks against trade unionists

*Harassment and threats against members of SINALTRAINAL*¹⁰². On 28 January 2004, Mr. **German Cataño**, chairman of the Santa Maria (Magdalena) section of SINALTRAINAL, was threatened by armed unidentified individuals who turned up at the union's offices. These threats came when the union was trying to prevent the illegal closure of ten Coca-Cola production lines in a number of municipalities.

On 19 March 2004, the United Self-Defence Forces of Colombia (Auto-Defensas Unidas de Colombia - AUC) issued a press release threatening to turn SINALTRAINAL members into "military objectives" unless they left the town of Palmira (Valle de Cauca) within three months. These threats were made four days after SINALTRAINAL members in Bucaramanga, Cúcuta, Barrancabermeja, Carthagena, Valledupar, Cali, Medellín and Bogotá had begun a hunger strike to draw the international community's attention to serious human rights abuses suffered by Coca-Cola workers (assassinations, forced disappearances, acts of harassment, death threats, etc.).

Moreover, just a few days after the publication of the Palmira third civil court judge's decision ordering the reinstatement of two workers at the company of Burns Philp Colombia S.A., a letter written in the same tone arrived at the offices of the Palmira section of SINALTRAINAL. It stated that the association's leaders were instigating insurrection in the Cauca Valley.

On 14 April 2004, Mr. **Onofre Esquivel**, a member of the national leadership of SINALTRAINAL and a factory worker for the Nestlé multinational in Bulgalagrande (Valle), was threatened at his home by several individuals travelling in two vehicles. Mr. Onofre Esquivel had already received death threats from the AUC on 11 October 2003, and his house had been searched on 22 October 2003. These acts of harassment took place when workers affiliated to SINALTRAINAL were negotiating a list of demands with Nestlé.

102 See Urgent Appeals COL 004/0304/OBS 018 and COL 007/0404/OBS 027, and Colombia Special Appeal December 2003-April 2004.

*Threats against ASOINCA members*¹⁰³. On 9 January 2004, a letter addressed to the management of the Cauca Teachers Association (Asociación de Institutores del Cauca - ASOINCA), and containing threats against the academics, which it defined as "terrorists, disguised as democrats", was received at the association's headquarters in Popayan. From the beginning of January 2004 onwards, a number of phone calls were received at the headquarters of ASOINCA threatening its management. Moreover, on 15 March 2004, at 4.00 a.m. an individual who had already been noticed on three occasions near the house, loitered in front of the home of professor **José Elias Chanchi**, a member of the ASOINCA management. The same individual came back later that morning.

*Threats against Mr. Jesus Alfonso Naranjo and Mr. Mario Mora*¹⁰⁴. On 21 January 2004, Mr. **Jesus Alfonso Naranjo** and Mr. **Mario Mora**, trade union leaders of the sections of Barranquilla and Bolivar of ANTHOC, received a leaflet with the heading of the AUC of Magdalena Medio, in which they were accused of defending the guerrillas, and which consequently declared them to be "military targets". These statements came on top of other threats that these men had received in December 2003.

*Threats against ASEDAR*¹⁰⁵. On 23 January 2004, the management of the ASEDAR - which had met for a protest action against the departmental government's policy - received threats by the AUC. Mr. **Jaime Castillo**, president of the management committee, Mr. **Celedonio Jaimes**, general secretary, Mr. **Francisco Rojas**, former president and Mr. **Marcos Garcia**, affiliated professor, were directly denounced and threatened by paramilitaries through posters, leaflets and appeals.

*Threats and attempted attacks against SINTRAEMCALI*¹⁰⁶. On 6 February 2004, a bomb placed against the entrance of the SINTRAEMCALI was discovered only twelve hours after its president, Mr. **Luis Hernandez**, had denounced the serious threats and persecu-

103 See Colombia Special Appeal May-July 2004.

104 *Idem*.

105 *Idem*.

106 See Colombia Special Appeal December 2003-April 2004.

tion suffered by the union since the beginning of 2004 before a security council composed of the region's authorities (administrative, military and the police). Mr. Luis Hernandez particularly provided proof enabling the identification of the AUC as being responsible for the threats. He also denounced the assassination, in January 2004, of Mr. Ricardo Barragan, a member of SINTRAEMCALI, and of Mr. Deyton Banguera, a union body guard¹⁰⁷, as well as the telephone harassment suffered by the adviser of SINTRAEMCALI's Human Rights Department, Mrs. **Berenice Celeyta**, and the slanderous accusations brought publicly against the union by the Colombian President Mr. Uribe Vélez.

On 5 May 2004, a large police contingent consisting of members of the Mobile Anti-Riot Squad (Escuadrón Móvil Anti Disturbios - ESMAD) and the military police, attacked the workers affiliated to SINTRAEMCALI and the inhabitants of the district. As the workers were meeting in order to examine the implications of the Collective Agreement brought in the day before, the police fired several shots, throwing the district's inhabitants into a panic¹⁰⁸.

*Threats against members of USO*¹⁰⁹. On 7 February 2004, a letter was sent by fax to the USO headquarters in Carthagena (department of Bolivar), in which direct threats were addressed to Mr. **Rodolfo Vecino Acedo**, the director of the section, and to his family, to Mr. **Hernando Meneses Veladès**, director of the national USO, and to Mr. **Rafael Cabarcas Cabarcas**, adviser to the Carthagena section. The letter, as well as accusing the trade unionists of being "guerrilla collaborators", threatened them and their spouses, children and other family members, giving very precise details regarding their movements and activities.

In addition, on 6 November 2004, an unidentified person driving a motorcycle followed the security vehicle in which Mr. Cabarcas was travelling. On 21 October 2004, his nine-year-old son José Luis had been the victim of an attempted kidnapping in the district of la Concepción.

107 See above.

108 See Colombia Special Appeal May-July 2004.

109 See Colombia Special Appeals December 2003-April 2004 and August-December 2004.

*Surveillance and assassination attempt during a peaceful gathering*¹¹⁰. On 26 February 2004, on the occasion of the protest against the Free Trade Area of the Americas (Área de Libre Comercio de las Américas - ALCA), organised in Cali by the CUT section, two people were discovered illegally filming a union meeting. These individuals, who were trying in particular to film the union leaders, were detained until the arrival of the police. They then put the police in telephone contact with their superior, and immediately passed from the status of suspects to that of victims whom the police then tried to protect, which seems to point out to their being State security agents.

Shortly after these events took place, Mr. **Oscar Figueroa**, a trade union leader, was the victim of an attempted attack on the part of unidentified persons who pursued him by car and motorcycle as he was leaving the protest.

*Surveillance of the home of Mr. Tomas Ramos and search of his father's house*¹¹¹. On 22 April 2004, certain members of the family of Mr. **Tomas Ramos**, a leader of the CUT, reported that a van was watching their house while he was taking part in the Coordination of Human Rights in Barranquilla (which provides legal support for displaced persons) in his capacity of representative of the CUT. On 28 April 2004, the home of Mr. Ramos' father was searched by police officers who claimed to be looking for weapons.

*Aggression of Mr. Jorge Enrique Giraldo Reina and Mr. Luis Hernando Ortiz Bejarano*¹¹². On 29 April 2004, during the election of the new board of directors of the Cali section of the National Association of Officials and Employees of the Judicial Branch (Asociación Nacional de Empleados y Funcionarios de la Rama Judicial - ASONAL JUDICIAL), which was held at the law courts, the trade unionists Mr. **Jorge Enrique Giraldo Reina** and Mr. **Luis Hernando Ortiz Bejarano** were verbally and physically attacked by officer Carlos Meneses Patiño and lieutenant Omar Marino Muñoz Potes, police officers under the orders of commander Carlos Yimi Meneses Patiño. The two policemen ente-

110 See Colombia Special Appeal December 2003-April 2004.

111 See Colombia Special Appeal May-July 2004.

112 *Idem*.

red the building claiming that it was their intention to prevent the inauguration of a mural painted by the employees of the law courts affiliated to ASONAL JUDICIAL. Mr. Luis Hernando Ortiz, candidate to the executive board of the union, was then beaten by Mr. Carlos Meneses for insisting that the ceremony continue despite the arrival of the two policemen. Mr. Jorge Henrique Giraldo was also beaten by lieutenant Muñoz, and was sprayed with gas in his face.

*Threats and harassment against Mr. Oscar Arturo Orozco Sánchez*¹¹³. In May 2004, Mr. **Oscar Arturo Orozco Sánchez**, president of the vice-management of the Electricity Workers' Union of Colombia (Sindicato de la Electricidad de Colombia - SINTRAEECOL) and of the Caldas section of the CUT, received threats and was subjected to a harassment campaign, particularly in the form of a dismissal procedure started against him by Mr. Hugo Emilio Velez Melguizo, manager of the hydroelectric plant of Caldas (Central Hidroeléctrica de Caldas - CHEC). On the basis of a risk assessment study carried out by the DAS following these incidents, the Ministry of the Interior assigned him two escorts comprising two vehicles and five body guards, as well as the reinforcement of the premises of their trade union headquarters.

*Repression of trade union protests*¹¹⁴. On 1st May 2004, the workers and peoples' march organised by the workers associations of the country in Bogotá was brutally dispersed by ESMAD forces, which attacked the rear end of the march and brutalized the marchers. Moreover, during the protest which took place on the same day in Medellín, Ms. **Leydy Acevedo**, a student, was beaten up by a police officer and suffered a head injury.

*Threats against Mr. Pedro Galeano and Mr. Eduardo Rugeles*¹¹⁵. On 2 June 2004, teachers Messrs. **Pedro Galeano** and **Eduardo Rugeles**, leaders of the University Workers Union of Colombia (SINTRAUNICOL), linked with the University of Tolima, were threatened through the post both at their homes and at the union headquarters in the same town. The Ministries of the Interior and of Justice never followed up on

113 *Idem.*

114 *Idem.*

115 *Idem.*

the requests for protection submitted by the SINTRAUNICOL leaders following these incidents. On 12 July 2004, the trade unions also informed the University of Tolima of these facts and demanded that the lives of the threatened people be protected. On 19 July 2004, the management of the University of Tolima addressed a letter to Mr. Galeano and Mr. Rugeles, in which it stated that they should continue to work as usual at the university, otherwise they would be punished.

*Fierce repression of a demonstration in Barrancabermeja*¹¹⁶. On 17 June 2004, the Barrancabermeja police attacked and mistreated civilians and journalists who were starting out on a peaceful protest demonstration together with the leaders and members of the USO to claim for the respect of their rights as workers. The demonstration was brutally repressed by the ESMAD. A journalist of the *Télévision Enlace* channel, Mrs. **Luz Dary Innes**, was wounded, and Messrs. **Wilzon Lozano**, **Reinaldo Patiño**, **Jhon Jairo León** and **Ricardo Mejía**, journalists and photographers, were unable to perform their job of informing the public owing to police repression.

*Threats against Mr. Miguel Antonio Ruíz Beltrán and Mr. William José Paternina Hernández*¹¹⁷. On 24 June 2004, Mr. **Miguel Antonio Ruíz Beltrán**, a member of the board of directors of the SINTRAEMSDES, was approached by an individual who claimed to know him, saying that he had attended a trade union meeting of the section of Sucre of SINTRAEMSDES at which Mr. Ruíz Beltrán had also been present. According to this person, eight people who had also taken part in this meeting were preparing an assassination attempt against him. These eight people in particular would have enjoyed the logistic support of a worker of the organisation, who would have been paid for collaborating. Mr. Ruíz Beltrán had already received threats in 2002. Furthermore, Mr. **César Castillo Moreno**, the union's vice-president, was the victim of a phone harassment campaign.

116 *Idem*.

117 *Idem*.

*The AUC threaten with death Arauca social leaders and activists*¹¹⁸. On 22 October 2004, leaflets signed by members of the AUC, claiming to belong to the "Conquerors' Block of Arauca" (Bloque Vencedores de Arauca), were distributed in the town of Saravena, accusing the leaders of eleven trade unions and social organisations known for their commitment to the defence of human rights, of being "obstacles to the society", owing to their opposition to government policies, and warning them to leave the region as soon as possible. The paramilitaries also pointed out that they would not allow any opposition to the State's policies, which they consider to be right for the country. The following organisations were explicitly targeted: ANTHOC, CUT, the Regional Youth and Student Association (Asociación Juvenil y Estudiantil Regional - ASOJER), the Municipality Action Group (Asociación Comunal de Juntas - ASOJUNTAS), ASEDAR, the Community Aqueduct and Sewer Company (Empresa Comunitaria de Acueducto y Alcantarillado - ECAAS), the National Association of Peasant Workers (Asociación Nacional de Usuarios Campesinos - ANUC), Cooperativa (COOPE-CARNES), the Civil Servants' Trade Union of the Municipality of Medellín (Sindicato de Trabajadores de la Alcaldía Municipal - SIDEM), the Education Workers' Union in Arauca (Organización Sindical del personal administrativo y de servicios de los planteles educativos in Arauca - SINTRENAL), and SINTRAEECOL.

*Members of SINTRAUNICOL declared as military targets*¹¹⁹. On 30 October 2004, a pamphlet signed by the "National University Commandos" (Comandos Nacionales Universitarios) of the armed forces of the AUC, containing death threats against several of the union's members and demanding its dissolution, was sent to the offices of the Bogotá section of SINTRAUNICOL. Messrs. **Antonio Flórez, Milena Cobo, Ariel Díaz, Carlos Gonzáles, Ibagué Eduardo Camacho Rúaquesne** and **Alvaro Villamizar Mogollon**, who were declared "military targets" to be executed by the end of 2004, were specifically mentioned. The AUC claimed that

118 See Urgent Appeal COL 018/1004/OBS 082 and Colombia Special Appeal August-December 2004.

119 See Urgent Appeal COL 020/1104/OBS 085 and Colombia Special Appeal August-December 2004.

"certain members were openly ready for armed combat, while others pulled strings in the dark, including certain adherents of SINTRAUNICOL who disguised themselves as defenders of the workers and human rights and infiltrated universities and colleges in order to strengthen their military machine". In addition, the pamphlet proclaimed that these "University Commandos" aimed at "eliminating the communist threat posed by educational institutions, even if they had to use armed force to do so".

On 30 November 2004, the Bogotá section of SINTRAUNICOL once more received a pamphlet signed by the National University Commandos, containing death threats against several of its members, including Mr. **Álvaro Villamizar**, treasurer of the Bucaramanga section and a member of the National Coordination of Human Rights. In addition, on 16 December 2004, as he was leaving the industrial university of Colombia (UIS), Mr. Álvaro Villamizar was approached by two men who threatened and insulted him.

On 26 November 2003, the AUC paramilitaries had decreed various SINTRAUNICOL human rights leaders at a national level to be military targets, including Mesrrs. Antonio Flores Gonzáles, Alvaro Villamizar Mogollon, Ibagué Eduardo Camacho Rúguelles, Ana Milena Cobos, Carlos González, and Ariel Díaz.

On 6 May 2004, preventive measures were requested for the protection of teachers and workers of the University of Cordoba who had united in the Association of University Teachers (Asociación de Profesores Universitarios - ASPU) and SINTRAUNICOL - Cordoba, and on 30 June 2004 a request had been submitted to the human rights and international humanitarian law department of the Ministry of Foreign Affairs to the effect that, in keeping with these preventive measures, protection measures be implemented in favour of ASPU and of SINTRAUNICOL - Cordoba members.

*Expulsion of Victor Báez, Antonio Rodríguez Fritz, Rodolfo Benítez, Cameron Duncan and Pilar Morales*¹²⁰. On 30 October and 1 November 2004, several international trade union leaders, including Mesrrs. **Victor Báez Mosquera**, secretary general of the Inter-American Regional Organisation of Workers of ICFTU (Organización Regional

120 See Colombia Special Appeal August-December 2004.

Interamericana de Trabajadores - CIOSL-ORIT), **Antonio Rodríguez Fritz** of the International Transport Workers' Federation (ITF), **Rodolfo Benitez** of Union Network International (UNI), Mr. **Cameron Duncan**, secretary of Public Services International (PSI) and Mrs. **Pilar Morales** of the Trade Union Confederation of Workers' Commissions (Confederación sindical de comisiones obreras - CC.OO) of Madrid, who had been invited to participate in the 4th National Active Women Congress organised by the CUT in Colombia, were prevented from entering the country and were expelled by governmental order upon their arrival at the Colombian airport of El Dorado. The government is also believed to have published a list of trade union representatives banned from Colombia, which in particular is said to include the names of several members of an international solidarity mission in Colombia in September 2004, organised by the Confederation of Colombian Workers (Confederación de Trabajadores de Colombia - CTC), affiliated to ICFTU, the General Confederation of Democratic Workers (Confederación General de Trabajadores Democraticos - CGTD), affiliated to the World Confederation of Labour (WCL), the United Workers Central Organisation (Central Unitaria de Trabajadores - CUT), and the Confederation of Colombian Pensioners (Confederación de Pensionados de Colombia - CPC), ICFTU, WCL and their regional organisations CIOSL-ORIT and the Latin American Central of Workers (Central Latinoamericana de Trabajadores - CLAT/WCL). The mission had approached the government and President Uribe to end the assassinations of Colombian trade unionists and all other forms of anti-unionist repression widespread in the country. Three of the four above mentioned representatives had attended a meeting with the President, Mr. Uribe, on 16 September 2004.

*Harassment and threats against USO-Carthagena section*¹²¹. On 3 November 2004, in the Plaza de Toros in Carthagena de Indias, three officers of the national police intercepted the security van assigned to the Carthagene section of the USO, on board of which travelled Mr. **Jorge Ortega Hernández**, Mr. **Antonio de la Torre Goetz** and Mr. **Heriberto Bolívar Defex**, members of the USO management committee.

121 *Idem.*

On 6 November 2004, Mr. **Isaac Barcenas Barcos**, the general secretary of USO's Cartagena section, was subjected to harassment and threatened with death by two people on a motorcycle.

*Aggression against Mr. Jairo Machado Moreno*¹²². On 21 November 2004, some representatives of the criminal investigation police, as well as some members of the army and of the Attorney General's office carried out a brutal search of the home of Mr. **Jairo Machado Moreno**, leader of the Bolívar section of SINTRAELECOL, whose left hand was fractured.

Threats, harassment and attempted assassination against members of the civil society

*Threats against members of FUN and of MODEP*¹²³. In December 2003, the members of the National University Federation (FUN) and of the Movement for the Defence of the People (MODEP), which is also formed by members of the commissions of FUN, were threatened, denounced and intimidated by paramilitary groups. In particular, **Adriana Lozano**, **Miguel Angel Barriga**, **Yamil Garzón** and **Claudia Angélica Beltran**, members of FUN, have been made the object of direct denunciations and threats. Already in November 2003, five university students members of FUN had been arrested for 6 days on arbitrary charges in Cucuta, while they were returning from the 2nd Peoples' Congress in Caracas, Venezuela. Accused of being rebels, they had been the victims of intimidation and ill-treatment on the part of the authorities.

*President Uribe repeats his accusations against human rights activists*¹²⁴.

President Álvaro Uribe Vélez continued to discredit the work of human rights organisations in the name of the fight against terrorism,

122 *Idem*.

123 See Colombia Special Appeal December 2003-April 2004.

124 See Press Releases, 12 February and 1 June 2004, Open Letter to the Colombian authorities, 7 June 2004, and Colombia Special Appeal May-July 2004.

thus aggravating the climate of violence which activists face daily in Colombia.

In his statements before the European Parliament on 10 February 2004, in Strasbourg (France), President Uribe criticised the work of certain organisations for the defence and safeguard of human rights in Colombia, mentioning in particular the CCAJAR. He also accused some of these organisations of using the issue of human rights as a cover-up for terrorist acts, and the defenders were portrayed as auxiliaries or sympathizers of the guerrilla. These statements go to add to those of the 8 and 11 September 2003, in which President Uribe had accused certain NGOs of "hiding behind the banner of human rights" and of being "terrorism's spokespersons".

Moreover, in a statement made before a security council on 27 May 2004 in Apartadó, in the department of Antioquia, President Uribe criticized in lively terms the Peace Community of San Jose de Apartadó¹²⁵, as well as the members of the Peace Brigades International (PBI) and of several other NGOs operating in the region. He accused them of hindering the work of the authorities, in particular that of the Human Rights Unit of the Prosecutor's Office. He declared that the government was prepared to support this office with the help of the police and the armed forces, and that the arrest or expulsion of opponents on the charge of obstruction to justice was not to be excluded. He thus insisted on the fact that "foreigners who hinder the administration of justice in Colombia shall not benefit from any kind of immunity" and warned that "if it proves necessary to deport those who do not abide, it will be done".

Following this speech, army troops accompanied by representatives of the intelligence services - members of the DAS and of the SIJIN - circulated on 2 June 2004 in San José de Apartadó, filming the members of the community and demanding the names, addresses and activities of its leaders, including those of Mr. **Wilson David** and Mr. **Gildardo Tuberquia**. Information was also requested regarding the dates and reasons for the meetings held by these leaders. In addition, certain members of the DAS and of the SIJIN spoke to some PBI representatives

125 Name of a camp set up by displaced persons in the district of San José near the town of Apartadó.

who were in San José at the time and, despite the fact that their papers were in order, summoned them to appear the next day in order for their personal details to be verified at the DAS in Apartadó.

Finally, on 16 June 2004, during a promotion ceremony of the Colombian police, President Uribe accused Amnesty International of not condemning the violations of humanitarian law perpetuated by the guerrillas and of legitimating terrorism.

*Torture, threats and harassment of OFP members*¹²⁶

– *Attempted assassination of Mrs. Yolanda Becerra.* On 27 January 2004, a group of armed individuals fired against three members of the Popular Women's Organisation (Organización Feminina Popular - OFP), among whom was their leader, Mrs. **Yolanda Becerra**. The latter were accompanied by a humanitarian commission consisting of four delegates of the Norwegian Refugee Council, two representatives of the Consultants in Latin American Projects (Consejería en Proyectos Latinoamericanos) and a member of PBI, and intended to visit some accommodation projects run by OFP for displaced women and women who are the sole supporters of their families in the south of the department of Bolívar.

On 24 December 2004, Mrs. Yolanda Becerra learnt that a paramilitary of Barrancabermeja had claimed that he intended to assassinate her and that he had been constantly following her for a month.

– *Detainment and torture of Mrs. Inés Peña.* On 28 January 2004, Ms. **Inés Peña**, aged 22 and a militant of the Youth Movement of the University Convention OFP-UNIPAZ (Movimiento Juvenil del Convenio Universitario OFP- UNIPAZ), as well as the co-ordinator of the "María Cano" documentation centre of the OFP, was detained and tortured by paramilitaries. The latter forced her at gunpoint to get in a vehicle near the main police station of Barrancabermeja. Ms. Peña also hosts and is a member of the editorial committee of the television programme *La Mohana*, as well as a member of the human rights youth network of the regional Peoples' defender's Office (Defensoría Regional

126 See Annual Report 2003, Urgent Appeal COL 002/1003/OBS 053.1 and Colombia Special Appeal December 2003 - April 2004.

del Pueblo). The paramilitaries shaved her head and burnt the soles of her feet with boiling water; they also intimidated her to leave the OFP. She was then dumped behind the Coliseum Luis F. Castellano, a strategic spot regularly checked by the army.

No further threats or new aggressions on the part of the paramilitaries had been directed at Ms. Peña at the end of 2004. Nevertheless, following her reports to the authorities, the latter, rather than enquiring into the actions perpetrated against her, had decided to keep her under surveillance.

– *Attack against the OFP in Barrancabermeja.* On 6 March 2004, some OFP members found a Molotov cocktail in front of the door of the Casa de la Mujer (Women's Home), in Barrancabermeja, two days before Women's Day, on the occasion of which the OFP had planned several activities. This attack was probably carried out in retaliation against the Campaign for Civility that the women members of the organisation had carried out door-to-door in town the day before.

– *Impunity in the assassination of Mrs. Esperanza Amarís.* At the end of 2004, the enquiry into the assassination on 16 October 2003, of Mrs. **Esperanza Amarís**, an OFP member, following her kidnapping in Barrancabermeja on the part of three members of the paramilitary group the Bolívar Central Block (AUC), failed to identify those responsible. Witnesses of the assassination were threatened. For example, Mrs. **Graciela Alfaro**, also a member of the OFP and a key witness in the case, had to leave Barrancabermeja following threats issued by the paramilitaries against her and her family.

*Harassment of the Education Corporation COMBOS*¹²⁷. In February 2004, the Education Corporation COMBOS, a Colombian NGO which works to defend the rights of children and women of the poorer strata of the population, was subjected to acts of harassment. Unidentified men burst into the organisation's headquarters in Medellín on several occasions and intimidated the people present. On 17 February 2004 and

127 See Colombia Special Appeal December 2003-April 2004.

in the following days, Mr. **Pietro Carobbio**, a volunteer worker for COMBOS, was also threatened several times out on the street.

*Harassment of Mrs. Lilia Solano*¹²⁸. In March 2004, Mrs. **Lilia Solano**, who teaches at the National University of Bogotá and is the director of the NGO "Justice and Life Project" (Proyecto Justicia y Vida), was the victim of particularly serious harassment and threats endangering her life and safety as well as those of her students. Indeed, the Bolívar Central Block (AUC) accused her on their web site of being a "narco-guerrilla ideologist" who "corrupts the mind of the students".

*Harassment and threats against indigenous activists*¹²⁹. Threats were received by some members of the Colombian delegation which took part in the 35th World Congress of the FIDH which was held in Quito, in Ecuador, from 1 to 6 March 2004. On 2 March 2004, while Mr. **Gilberto Arlanht Ariza**, leader of the indigenous group Kankuamo, was speaking up at the congress against the mass killing which is being perpetrated against his people since 2001, an armed group broke into his home in Bogotá and attacked and threatened the people present, as well as Mr. Arlanht Ariza himself. In the same way, on 3 March 2004, leaflets were distributed during the General Assembly of the University of Tolima accusing two students who were taking part in the Quito congress, Mr. **Germán Acosta** and Mr. **Diego Sierra**, of being part of the guerrilla. The leaflets also accused other members of the University Welfare Students' Committee (Comité Estudiantil de Bienestar Universitario) of supporting violent protest actions.

128 See Urgent Appeal COL 014/0904/OBS 068 and Colombia Special Appeal August-December 2004.

129 See Open Letter to the Colombian Authorities, 25 March 2004 and Colombia Special Appeal December 2003-April 2004.

*Threats against the José Alvear Restrepo Lawyers Collective Corporation (CCAJAR)*¹³⁰

– *Threats on the part of the AUC*¹³¹. On 6 March 2004, the José Alvear Restrepo Lawyers Collective Corporation (Corporación Colectivo "José Alvear Restrepo" - CCAJAR) received a threatening letter signed by the AUC, which accused the members of the Collective, as well as "the communist revolutionaries of the departments of Risaralda et Cundinamarca" of being part of the guerrillas, thus marking them out as their potential targets. At the end of the letter was a list of persons directly designated as targets, including Mr. **Alirio Uribe Muñoz**, president of the CCAJAR, and Mr. **Reinaldo Villalva Vargas**, a lawyer belonging to the association.

– *Harassment of Mr. Pedro Julio Mahecha Ávila on the part of the DAS*¹³². Mr. **Pedro Julio Mahecha Ávila**, a lawyer member of CCAJAR, and currently part of a team of lawyers defending three Irish citizens - Messrs. Niall Connolly, James Monaghan and Martin Mc Kauley - was harassed by the DAS, who accused him of being a member of the FARC. On 14 May 2004, while he was in Cartagena for work reasons, he was followed by some persons who were identified as DAS officials. The pressures made on him were so strong that Mr. Mahecha Ávila was forced to ask for the help of the police and finally to leave the town and cancel his trip to Barranquilla, which was planned as part of the European Union's "Country, democracy and development" programme. Following a petition issued by CCAJAR, the head of the judicial section was questioned in relation with these incidents. The latter, while acknowledging the facts, denied any operation was underway concerning Mr. Mahecha Avila, and claimed that the harassment had been part of a wider crime prevention programme within the region.

130 See Urgent Appeals COL 008/0504/OBS 038, COL 010/0604/OBS 044, COL 014/0904/OBS 068, Colombia Special Appeals December 2003-April 2004 and May-July 2004.

131 See Colombia Special Appeal December 2003-April 2004.

132 See Urgent Appeal COL 010/0604/OBS 044 and Colombia Special Appeal May-July 2004.

– *Harassment of Mrs. Diana Teresa Sierra Gomez*¹³³. Mrs. **Diana Teresa Sierra Gomez**, a CCAJAR member who was to travel to The Hague (Netherlands) on 2 September 2004 to take part in the Assembly of States Parties to the International Criminal Court (ICC), was obliged to cancel her departure for fear of retaliations by the DAS. Indeed, on the same day, the CCAJAR was informed of a trustworthy witness according to whom the DAS intended to arrest Mrs. Sierra Gomez at the airport of El Dorado in Bogotá. Mr. Carlos Franco, the director of the Presidential Programme for Human Rights of the Vice-Presidency of the Republic stated that an enquiry would be carried out into the incident.

– *Harassment of and theft of information from a CCAJAR member*¹³⁴. On 1 October 2004, Mr. **Efraín Cruz Gutiérrez**, legal assistant for the CCAJAR, was followed by a jeep from the offices of the Prosecutor of Bogotá on his way to the Collective's offices. The Transport Secretariat later found that the registration plates of the car in question corresponded to those of an official vehicle registered with the municipality of Ubaté in the department of Cundinamarca.

The home of Mr. Efraín Cruz Gutiérrez had already been burgled on 15 September 2004, and his personal computer and fax stolen, among other things, while other objects which could have been more easily carried and of greater value had not been taken away. The stolen items contained important data relating to the work that Mr. Efraín Cruz is performing as a human rights activist for the CCAJAR.

– *Serious harassment and threats against Mrs. Claudia Julieta Duque*¹³⁵. On 7 September 2004, Mrs. **Claudia Julieta Duque**, a journalist who has been working for the CCAJAR since August 2003, took a taxi to return home but noticed that the driver - who was an employee of the taxi company "Tax Aeropuerto" - was behaving in a suspect manner, and questioned her concerning the phone conversation she had just had with some members of the Foundation for the Freedom of Press. After

133 See Urgent Appeal COL 014/0904/OBS 068.

134 See Urgent Appeal COL 014/0904/OBS 068.1.

135 See Urgent Appeals COL 015/0904/OBS 070 and 070.1 and Colombia Special Appeal August-December 2004.

dropping her off, the driver parked and took notes. On the same day, Mrs. Julieta Duque received a vulgar message on her answering machine in which she was threatened with death. These facts were reported to colonel Luis Alfonso Novoa, the director of the National Police's Human Rights Department and to sergeant Fabio Cepeda. The latter told Mrs. Julieta Duque that no enquiry could be carried out without an order of the Public Prosecutor's Office (*Procuraduría*) or of the Prosecutor General's Office (*Fiscalía*), which had decided not to follow up on the case as of the end of 2004.

Moreover, on 17 November 2004, Mrs. Claudia Julieta Duque received a call on her cell phone in which a male voice checked her identity and also mentioned the name of her 10-year-old daughter. Without identifying himself, the man then told her that he would be obliged to kill her daughter. The phone number from which the call was made was immediately tried, and a man finally answered, who said his name was Alex. In the background, the sound of walkie-talkies could be heard, like those commonly used by the State police. The man was then asked if he was in a CAI (Centro de Atención Inmediata de la Policía), at which he answered that he was at the corner of Caracas avenue and the sixth road. This address corresponds to the buildings of the SIJIN and of the headquarters of the police task force (Fuerza Disponible) and of the metropolitan police. These acts of harassment took place two days after the Protection Programme for journalists was finally approved by the Ministry of the Interior, and after a Security Plan was approved especially for Mrs. Julieta Duque, according to which she had been granted the use of an armoured vehicle as well as other protection measures.

On 15 December 2004, Mrs. Claudia Julieta Duque decided to leave the country because of the danger to herself and her daughter.

Already in June 2004, sergeant Fabio Cepeda had advised the journalist to leave her house for security reasons, advice which she followed until August 2004. On this occasion, Mrs. Duque had given sergeant Cepeda a list of phone numbers from which she had received threatening calls, as well as of number plates of cars which had followed her in the course of the year 2004. This situation was communicated to the Risk Assessment Committee (CRER) of the Ministry of the Interior, which communicated on 30 June 2004 that it would take security measures in this respect.

– *Slander of the CCAJAR by the governor of the department of Cesar.* On 11 October 2004, during a meeting held at Valledupar regarding the implementation of protection measures for the Kankuamo indigenous community of Sierra Nevada de Santa Marta, the governor of Cesar, Mr. Hernando Molina Araujo, verbally attacked the CCAJAR, explaining that he considered their work to be subversive and their critiques of the government to be an obstacle to peace in the country. These declarations followed a comment made by the lawyer Mrs. **Jomary Ortegón Osorio**, who expressed some anxiety regarding the governor's announcement of a government-supported plan of negotiations with the paramilitary groups of the region.

– *Escape of a soldier charged with several aggressions and assassinations of trade unionists*¹³⁶. On 3 November 2004, Mr. César Maldonado Vidales, a retired army major general, escaped from the structures of the military battalion of Bogotá where he had been held since 28 October 2004, when the High Court of Bogotá confirmed his sentence to 27 years imprisonment for his moral responsibility in the attack carried out in December 2000 against Mr. **Wilson Borja**, then president of the National Federation of State Workers (FENALTRASE) and today a member of Parliament¹³⁷. A few days after his escape, certain members of the family of Major César Maldonado Vidales and his lawyer, Mrs. Gloria Duarte, accused the CCAJAR of being responsible for his disappearance. The CCAJAR was the plaintiff for Mr. Wilson Borja and also represents - in another proceeding involving Major César Maldonado Vidales - the members of the families of trade unionists **Ramon Alirio Perez**, who survived, and **Nelson Ortega** and **Gerardo Lievano**, who were tortured and assassinated during events which took place in Bucaramanga in 1992. These facts pose a real threat to the CCAJAR, which had already been subjected to several acts of harassment linked to these cases¹³⁸.

136 Open Letter to the Colombian Authorities, 12 November 2004 and Colombia Special Appeal August-December 2004.

137 See Annual Report 2000.

138 See Annual Report 2002.

– *Enquiry into the attempted assassination and threats against Mrs. Soraya Gutiérrez Arguello*¹³⁹. On 14 February 2003, the car of Mrs. **Soraya Gutiérrez Arguello**, a lawyer belonging to the CCAJAR, had been intercepted by a vehicle from which several men armed with sub-machine guns had descended. Mrs. Gutiérrez had managed to lose her aggressors, but the front window of her car had been damaged by several bullets. In the days before, Mrs. Gutiérrez Arguello had received a number of anonymous phone calls at her home. She had reported her attempted assassination to the national police and her car had been taken to the DAS in order to carry out ballistic tests.

Furthermore, on 20 February 2003, the household help of Mrs. Gutiérrez had received three phone calls from a man asking where the latter was, and on 3 March 2003, a man phoned at Mrs. Gutiérrez's house and asked at what time her daughter came home from school. A few moments later, as the household help went to pick the little girl up from school, she noticed that she was being followed by a taxi, whose driver, having pulled up alongside her had asked whether she was going to pick up Soraya's daughter. He had then parked and got out of the car, and only driven off once the little girl had arrived. On that same day, the concierge of the building in which Mrs. Gutiérrez lives informed her that a man claiming to work for Cablecentro had asked for the number of her apartment. After checking, it was ascertained that Cablecentro had not sent anyone to that address. These extremely serious incidents had been reported to the Attorney General, who is in charge of enquiries into harassment and threats against the members of the CCAJAR.

Following the report of these two cases, despite the fact that an enquiry was officially opened, no investigations have been carried out at the end of 2004.

*Search of the headquarters of the Peace Community of San José de Apartadó*¹⁴⁰. On 12 March 2004, the headquarters of the organisation Peace Community of San José de Apartadó (Antioquia) was searched by collaborators of the Prosecutor General, accompanied by soldiers of the Berajano Muñoz battalion and of the DAS. Following this search and

139 See Annual Report 2003.

140 See Colombia Special Appeal December 2003-April 2004.

that of her own home, Mrs. **Diana Valderrama**, a member of the Internal Council of the Peace Community, was arrested for "possession of documents inciting the population to keep on the margin of the conflict and not collaborate with the armed forces, including the army". During the time she was detained, Mrs. Diana Valderrama was threatened and intimidated by hooded individuals. She was released 24 hours later without charges.

*Death threats against Mr. Ademir Luna and attempted assassination of one of his relatives*¹⁴¹. On 29 Mars 2004, two men on a motorcycle approached the taxi belonging to Mr. Eduardo Luna, the father of Mr. **Ademir Luna**, a journalist and member of the Regional Corporation for the Defence of Human Rights (Corporación Regional para la Defensa de los Derechos Humanos - CREDHOS) in Barrancabermeja.

Mr. **Fabian Correa**, who usually drives the vehicle, was forced to turn into a dead end. He was then threatened at gunpoint and told: "Are you Ademir Luna? We are going to kill you". Mr. Fabian Correa was then pushed against the car, and his attackers -, insulting him all the while - poured petrol over him and the car and threatened to set him on fire. They then tried, in vain, to do so, but as their lighter did not work they left. The taxi driver immediately reported the fact to the police. Mr. Ademir Luna had already been the victim of several threats and intimidations, including on 3 February 2004, when several men watched and loitered around his house.

His partner, Mrs. **Janeth Montoya**, who is also a journalist, had been forced to leave the town of Barrancabermeja in November 2003 and had given up her job at the newspaper *Vanguardia Liberal* following death threats against her issued by paramilitary groups.

*Threats and harassment against Mr. Guillermo Castaño Arcila and Mrs. Luz Adriana González Correa*¹⁴². In April 2004, Mr. **Guillermo Castaño Arcila** and Mrs. **Luz Adriana González Correa**, respectively president

141 See Urgent Appeal COL 006/0404/OBS 023 and Colombia Special Appeal December 2003-April 2004.

142 See Urgent Appeal COL 009/0504/OBS 040 and Colombia Special Appeal May-July 2004.

and secretary general of the Risaralda section of the CPDH, were harassed and threatened on several occasions. During more than three weeks, a group of armed men tailed Mrs. González Correa, and in February 2004, several individuals stationed at night in a white car in front of the door of the country house of Mr. Guillermo Castaño García. When questioned by the concierge, they started the car and drove off at high speed without proffering any explanation. The next day, on the same spot where the car had been parked, a bag was found containing blankets, clothes and two towels bearing the initials of the Colombian National Army. Two days later, two of the men came to claim their bag back, explaining that it contained provisions for a few days' fishing outing.

Subsequently, on 14 April 2004, on two occasions, a man claiming to be part of an illegal armed group phoned the apartment of Mr. Castaño Arcila demanding that he pay him 10 million pesos, or that they would set fire to his country house. Mr. Castaño Arcila complained with the DAS about the incident, but without success.

These events took place at the time when trustworthy sources claimed the existence of a conspiracy to assassinate Mr. Arcila and Mrs. Correa, in which persons close to the national intelligence services were said to be involved.

Paramilitary groups had already threatened Mrs. González Correa and Mr. Castaño Arcila through a press release distributed on 22 August 2002, and they had consequently been included - on 27 August 2002, together with several trade unionists and other members of the Committee - in an IACHR protection scheme.

*Search and harassment of the APSCP*¹⁴³. On 4 May 2004, four unidentified armed and hooded persons burst into the offices of the Permanent Assembly of Civil Society for Peace (Asamblea Permanente de la Sociedad Civil por la Paz - APSCP) and asked the person there for information regarding the office hours of the secretary general of the organisation. They then tied up his hands and feet and threatened him with automatic weapons. The criminals searched

143 See Urgent Appeal COL 021/1104/OBS 086 and Colombia Special Appeals May-July 2004 and August-December 2004.

the offices and stole a cell phone and the money contained in one of the cashboxes.

During the night of 10 November 2004, seven armed men, five of them hooded, burst into the APSCP premises in the La Soledad district in Bogotá. The men obliged the person who was in the office at the time to lie face down on the floor and then started to take the hard disks from the computers. Nevertheless, the attempted theft failed thanks to the help of neighbours and of the security guard of the nearby school of criminology of the Prosecutor General's Office (Escuela de Criminalística de la Fiscalía), who exchanged gunshots with the intruders.

*Threats against Mr. César Augusto González Ortiz*¹⁴⁴. On 29 June 2004, Mr. **César Augusto Gonzalez Ortiz**, a law student at the national university, received three consecutive messages on his mobile phone threatening him with death. Mr. César Augusto González Ortiz is a student leader, co-founder of the Student Council of the Law and Political and Social Sciences Faculty of the national university, as well as of the AURORA human rights project of the same faculty. He was also the instigator in 1999 of the campaign for the liberation of the USO leaders, and of the Colombian Platform for Human Rights, Democracy and Development (Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo)¹⁴⁵.

*Threats and harassment against two leaders of the League of Displaced Women*¹⁴⁶. On 2 July 2004, around midnight, a group of three people, two of them hooded, broke into the home of Mrs. **Ana Luz Ortega Vásquez**, a leader of the League of Displaced Women (Liga de Mujeres Desplazadas), in the Pozón district in Cartagena. The intruders then had everyone leave the house at gunpoint and kept Mrs. Ortega Vásquez and her seven children as hostages. They then stole some

144 See Colombia Special Appeal May-July 2004.

145 Colombian section of the Inter-American Platform for Human Rights, Democracy and Development, which is formed by various human rights NGOs, social organisations and other institutions of Colombian civil society.

146 Colombia Special Appeal May-July 2004.

valuable objects and threatened to take Mrs. Ortega Vásquez's eldest son, aged 15. The same mode of action was used the same evening in the home of Mrs. **Irene Leonor Toro Trios**, a leader of the same association who lives next to Mrs. Ortega Vásquez's house, and who was also kept hostage by force.

*Persecution and harassment of Mr. Rodrigo Villabón and Mr. Walter Mondragón*¹⁴⁷. From 13 to 17 July 2004, a mission to monitor the situation of human rights and of international humanitarian law was carried out in the region of Guaviare, commissioned by the CCAJAR, the Reiniciar Corporation, the CPDH, the FENSUAGRO and the National Solidarity Aid Association (Asociación Nacional de Ayuda Solidaria - ANDAS). Following this mission, in which they had taken part, Mr. **Rodrigo Villabón**, leader of the community of the town of Calamar (Guaviare), and Mr. **Walter Mondragón**, a lawyer of the Reiniciar Corporation, arrived in Bogotá on 21 July 2004, and were then subjected to acts of persecution and harassment. An unidentified person visited Mr. Villabón in a car with tinted windows, without a rear registration plate. The person insisted to be given Mr. Villabón's phone number, who refused. As for Mr. Mondragón, he declared that he was followed incessantly by an unknown person both near his office and in other places.

*Threats against Arauca social and trade union leaders*¹⁴⁸. On 23 and 24 October 2004, some pamphlets signed by the paramilitaries of the "Conquerors' Block of Arauca" (Bloque Vencedores de Arauca) once again addressed threats against some citizens as well as social and trade union leaders of Arauca, whom they claimed to be collaborators of the guerrilla. A list also designated certain members of social organisations as "military targets", including the president of the Arauca section of the CPDH, Mrs. **Teresa de Jesús Cedeño Galindo**, the municipal councillor of Saravena, Mr. **Donald Sánchez**, and the former councillor, Mr. **William Reyes Cadena**.

¹⁴⁷ *Idem*.

¹⁴⁸ See Colombia Special Appeal August-December 2004.

*Search, harassment and death threats against a member of CREDHOS*¹⁴⁹. On 25 October 2004, six men and one woman, some of whom armed, arrived at the apartment of Mrs. **Audrey Robayo Sánchez**, a member of the leadership of the CREDHOS and of the Women for the Future Foundation (Mujer y Futuro), in Bucaramanga. These individuals, who introduced themselves as members of the Prosecutor's Office, of the DAS and of the CTI, entered her apartment with a video camera and a search warrant. They filmed every detail, but never mentioned the reason for this. Subsequently, they asked Mrs. Robayo Sánchez and her mother to identify themselves and show their ID. The information thus obtained was communicated via radio.

After almost one hour of fruitless search, the people in question drew up a report; a document signed by a man identified as being the Prosecutor, a representative of the Immediate Reaction Unit (Unidad de Reacción Inmediata - URI), and by Mrs. Robayo Sánchez herself. According to this document, nothing had been found and nobody had been arrested. Finally, the Prosecutor said that they had been looking for weapons and explosives belonging to the FARC.

The IACHR has granted protection to Mrs. Robayo Sánchez since 2000, when she was forced to leave the town of Barrancabermeja owing to death threats directed at her by paramilitary groups.

Threats, harassment and attacks against civil servants involved in human rights protection

*Threats against Mrs. Alba Luz Pinilla*¹⁵⁰. On 15 January 2004, Mrs. **Alba Luz Pinilla**, peace councillor at the town hall of Bucaramanga, received death threats from the Bolívar Central Block of the AUC, who sent her pictures of a man who had pretended to be a "displaced" person a few months earlier, and who was under orders to kill her. On 25 February 2004, this person came to the town hall but did not managed to meet her.

149 See Urgent Appeal COL 019/1104/OBS 083 and Colombia Special Appeal August-December 2004.

150 See Colombia Special Appeal December 2003-April 2004.

*Search of the headquarters of the Human Rights Committee of the Senate of the Republic*¹⁵¹. On 30 March 2004 in Bogotá, some CTI agents brandishing an arrest warrant, searched the headquarters of the Human Rights Committee of the Senate of the Republic. The investigators tried to obtain information regarding various matters, took away copies of the Commission's documents and asked the names of about twenty people, including those of social, trade union, and political leaders, as well as of human rights activists who had recently left the country for security reasons. The search was carried out four days after two members of the Committee had received a summons to appear to answer for the alleged crimes of "traffic of emigrants and false complaint".

CUBA

Conviction of human rights activists¹⁵²

On 26 April 2004, several members of the Cuban Foundation for Human Rights (Fundación Cubana de Derechos Humanos), including its president, Mr. **Juan Carlos Gonzalés Leiva**, and independent journalists, were sentenced to harsh prison terms. They had been arrested on 4 March 2002 while peacefully demonstrating against attacks, that same day, against independent journalist Mr. **Jesús Alvarez Castillo**¹⁵³. There was no trial for two years. They were accused of "insulting the reputation of the Cuban President," "resisting and disobeying public authority," and "contributing to the disturbance of public order." Mr. Juan Carlos Gonzáles Leiva was sentenced to house arrest for four years.

Other members of the Cuban Foundation for Human Rights were also convicted, including Mr. **Delio Laureano Requeijo Rodriguez** (2 and a half years imprisonment with parole), Mr. **Virgilio Mantilla Arango** (7 years imprisonment), Mrs. **Ana Peláez García** and Mrs. **Odalmis Hernandez Marquez** (3 years' house arrest). The brothers Messrs. **Antonio** and Mr. **Enrique Garcia Morejon**, members of the

¹⁵¹ *Idem*.

¹⁵² See Annual Report 2003 and Urgent Appeal CUB 001/0504/OBS 033.

Christian Liberation Movement (Movimiento Cristiano Liberación - MCL) and supporters of the Varela Project¹⁵⁴, were sentenced to 3 and a half years imprisonment. Last, Mr. **Lázaro Iglesias Estrada** and Mr. **Carlos Brizuela Yera**, members of the Camagüey College of Independent Journalists (Colegio de Periodistas Independientes de Camagüey - CPIC), were sentenced to three years imprisonment.

Mrs. Marta Beatriz Roque, Mr. Marcelo Lopez and Mr. Oscar Espinosa Chepe released on parole¹⁵⁵

Mrs. **Martha Beatriz Roque**, a member of the Assembly to Promote Civil Society (Asamblea para la Promoción de la Sociedad Civil - APSC) and the Institute of Independent Economists (Instituto de Economistas Independientes - IEI), was released on 22 July 2004. She had been arrested on 20 March 2003 during a mass wave of arrests of Cuban human rights defenders carried out between 18 and 26 March 2003. On 7 April 2003, she was sentenced, along with 33 of the 79 persons arrested, to 20 years imprisonment for "conspiracy." There is every indication that she was released as a result of the pressure by the international community.

After a meeting between the Cuban minister of foreign affairs, Mr. Felipe Perez Roque, and the Spanish ambassador to Cuba, Mr. Carlos Alonso Zaldivar, on 25 November 2004, Mr. **Oscar Espinosa Chepe**, an independent journalist sentenced to 20 years imprisonment, and Mr. **Marcelo Lopez**, a member of the Cuban Commission of Human Rights and National Reconciliation (Comisión Cubana de Derechos Humanos y Reconciliación Nacional - CCDHRN) who was sentenced to 15 years imprisonment, were also granted parole ("licencia extrapenal") on 29 November 2004 for health reasons.

However, the majority of the 33 other dissidents, also arrested in March 2003, were sentenced to between 15 and 25 years imprisonment

153 See Annual Report 2002.

154 The Varela Project (2002) is calling for a referendum on freedom of expression and association, the opportunity to create businesses, the release of all political prisoners and changes in electoral law. As of May 2002, its petition had garnered 11,000 signatures.

155 See Annual Report 2003 and Urgent Appeal CUB 001/0403/OBS 018.1.

for conspiring with U.S. representatives in Cuba. In late 2004, most of them were still in prison, including Mr. **Marcelo Cano Rodríguez**, a member of the CCDHRN, Mr. **Hector Palacio Ruiz**, director of the Center of Social Studies (Centro de Estudios Sociales), and Mr. **Ricardo Gonzáles**, president of the Society of Independent Journalists (Sociedad de Periodistas Independientes Manuel Márquez Sterling) and the Cuban representative of Reporters Without Borders.

ECUADOR

Persecution of the CONAIE and its president¹⁵⁶

On 1 February 2004, Mr. **Leonidas Iza**, then president of the Confederation of Indigenous Nationalities of Ecuador (Confederación de Nacionalidades Indígenas de Ecuador - CONAIE), was the victim of an assassination attempt in Quito. He was outside the CONAIE offices with several family members when an unidentified group of men attacked and opened fire on them. Three of his family members were wounded.

This attack appears to be related to Mr. Leonidas Iza's work to protect indigenous populations and his public statements criticising the North American Free Trade Treaty, the Free Trade Area of the Americas Agreement and the current government's policies. In March 2004, following a request from the Centre for Economic and Social Rights (Centro de Derechos Económicos y Sociales - CDES), the IACHR asked for preventive measures to protect him. They were still in force in late 2004. However, the police escort that authorities provided CONAIE members was unable to prevent further acts of harassment.

On 13 October 2004, Mr. Iza received a death threat on his cell phone against him and his family. In addition, at daybreak on 14

¹⁵⁶ See Urgent Appeals ECU 001/0204/OBS 008 and 008.1.

October 2004, CONAIE headquarters in Quito were robbed. Several computers containing information critical to the indigenous movement were stolen. It should be noted that, unlike previous days, on the evening prior to the robbery, police officers responsible for protecting CONAIE headquarters were not present.

The theft and the threats against Mr. Iza were reported to the Prosecutor's office (Ministerio Fiscal), but as of the end of 2004, no investigation had been conducted into the matter and the complaints had not been pursued. The threats against Mr. Iza appeared to decline as the end of his term as CONAIE president approached.

However, when the organisation's convention opened on 21 December 2004, one of the candidates for CONAIE's presidency, Mr. **Marlon Monti**, director of Sarayaku's Kichwa community, received a threatening telephone call. He received another call from the same number the next morning, threatening him with death if he did not withdraw his candidacy. Mr. Monti and the members of the community he represents were granted protective measures by the Inter-American Court and Commission for Human Rights but authorities were unable to implement those measures.

Death threats and arbitrary imprisonment against Mr. Floresmilo Villalta¹⁵⁷

Mr. **Floresmilo Villalta**, president of the peasant organisation, "Free Ecuador" (Ecuador Libre), and 14 peasants from the Las Golondrinas region were arrested on 9 March 2004. Mr. Pedro José Arteta, a lawyer for the BOTROSA sawmill, accused Mr. Villalta of fomenting terrorist acts against the company. Mr. Villalta was later released and charges against him were dropped. Mr. Villalta had been subjected to numerous acts of harassment and persecution by this forest products company. He has received death threats since 1997 as a result of his activities.

Since 1998, the Las Golondrinas peasants have been involved in a conflict with the sawmill, which was awarded 3,123 hectares from the National Agricultural Institute (Instituto Nacional de Desarrollo Agropecuario - INDA) in the El Pambilar sector. This action was taken

157 See Urgent Appeal ECU 002/0404/OBS 020.

despite preliminary reports acknowledging peasant ownership of the lands. The adjudication was the basis for subsequent logging operations, which had adverse impacts on the forest heritage, and resulted in violations of the rights of the peasants in the area, who were subjected to imprisonment, persecution, violence, threats and legal action by the logging company.

Ecological and humanitarian organisations filed a complaint with the Esmeralda Defender of the People (Defensoría del Pueblo) alleging mistreatment and objecting to the illegal action of handing over land to the logging company. After several years of struggle, the region's peasants, working together through the Free Ecuador organisation, obtained protection from the Second Chamber of the Constitutional Court, which decided "to suspend the aforementioned adjudication."

Death threats against and harassment of Mr. José Serrano Salado¹⁵⁸

On 23 April 2004, Mr. **José Serrano Salado**, a lawyer and member of the Centre for Economic and Social Rights (Centro de Derechos Económicos y Sociales - CDES), was attacked and threatened with death as he was preparing to meet with the indigenous members of the Amazon community of Sarayaku, Pastaza province. On his way to Quito, three individuals, one armed, intercepted his vehicle and forced him to stop. They then forced him into their own vehicle, where they beat, insulted and threatened him, ordering him to stop defending the Indians of Sarayaku. They then released him, with a warning that next time they would kill him.

On 24 April 2004, Mr. Serrano Salado and other CDES members filed a complaint with the Pichincha Prosecutor's office.

Mr. Serrano Salado had previously received telephone threats. They were very probably related to the organisation's support of the indigenous community of Sarayaku, which opposed the plans of the General Fuel Company (Compañía General de Combustibles - CGC), an Argentine petroleum company supported by the government, to deve-

158 See Urgent Appeal ECU 003/0404/OBS 031.

lop its activities on their lands. By late 2004, no investigation had been launched regarding the complaint and those responsible for the attack against Mr. Serrana Salado had still not been identified.

The CDES also appeared before the IACHR, which extended protective measures on behalf of the Sarayaku community, Mr. Serrana Salado and other CDES members. The leaders of the Sarayaku people had received death threats in February 2003 for refusing to cede their lands in exchange for financial and material compensation offered by the CGC¹⁵⁹.

On 6 July 2004, at the Commission's request, the Inter-American Court of Human Rights also ordered provisional measures on behalf of the Sarayaku community and CDES members. However, the government and the courts had not yet taken any concrete action to implement that decision.

Following the Court's order, Ecuador's President Mr. Lucio Gutiérrez invited journalists from the Amazon region to meet with him in late August 2004. During that interview, he stated that NGOs with certain political views had turned the Sarayaku community's case into a political matter when it was merely a problem between two families. He also stated that the petroleum project and development on Sarayaku land would proceed.

GUATEMALA

Assassinations

*Assassination of Mr. Diego Xon Salazar*¹⁶⁰

On 3 April 2003, armed men kidnapped Mr. **Diego Xon Salazar**, a member of the Mutual Support Group (Grupo de Apoyo Mutuo - GAM) representing families of victims of human rights violations in

¹⁵⁹ See Annual Report 2003.

¹⁶⁰ *Idem*.

Guatemala, from his home in Comanchaj, Chichicastenango department. His body was found on 5 April 2003. As of late 2004, this killing remained unpunished and no investigation had been undertaken.

*Assassination of Mr. Hugo Oswaldo Gutiérrez Vanegas*¹⁶¹

On 5 June 2004, Mr. **Hugo Oswaldo Gutiérrez Vanegas**, president of the "Protierra de La Pita" Committee in Santa Ana (Petén region), was killed by machete blows while returning home after participating in a training session. Mr. Gutiérrez Vanegas, leader of a village community, opposed land expropriations in the region and had founded the group "Communities United", composed of the communities of La Pita, El Zapote, El Mango, La Sardina, El Juleque and Santa Ana Vieja to protest those actions. Mr. Gutiérrez was vice-president of the peasant group, which still faced obstacles to winning legal recognition from local authorities.

Two months before he was killed, there had been an attempt on Mr. Gutiérrez Vanegas' life but the authorities did not respond to this gunshot attack. Other human rights defenders and community leaders in the region fighting to protect their lands were subjected to regular death threats.

The Prosecutor responsible for the inquiry into Mr. Gutiérrez Vanegas' killing quickly concluded that it involved a "crime of passion." However, a criminal law attorney and his team of investigators proved that not only was the killing crime politically motivated but that local authorities - even the mayor of Santa Ana - might have been involved. The results of the investigation had not been made public in late 2004. In addition, the Apostolic Vicariate of Petén announced that it would resubmit the case so that legal proceedings would be initiated.

*Assassination of Mr. Julio Rolando Raquec*¹⁶²

On 28 November 2004, Mr. **Julio Rolando Raquec**, secretary general of the Union Federation of Independent Workers (Federación Sindical de Trabajadores Informales - FESTRI) and member of the

161 See Urgent Appeal GTM 002/0604/OBS 043.

162 See Urgent Appeal GTM 007/1204/OBS 091.

General Central of Guatemalan Trade Union Conference (Central General de Trabajadores de Guatemala - CGTG) was shot to death in Guatemala City when returning to his apartment. He was still alive when city emergency personnel transported him to the San Juan de Dios hospital, where he died of multiple wounds on the morning of 29 November.

In March 2004, Mr. Julio Rolando Raquec's home had already been searched; he had been the victim of violence and threatened with death if he notified the authorities. In June 2004, he was attacked and made a verbal complaint with former government Minister Mr. Conte Cojulun, asking that the area around his home be secured and that access to the area where he travelled be restricted. Mr. Rolando Raquec had also received threats that his daughters would be raped if he continued his activism on behalf of workers. However, despite the complaints filed, the individuals responsible for the threats were never identified and Mr. Rolando Raquec was never provided any protection.

An investigation into this murder was underway but produced no results as of late 2004. CGTG representatives met with the private affairs secretary of the public Prosecutor's office as well as with Guatemala's Vice-President, Mr. Eduardo Stein Barrillas, in a meeting that also included a representative from the public Prosecutor's office and from the government Ministry's Office (Gobernación). At that time, those officials promised to present the results of the investigation during a subsequent meeting.

Rumours circulated in the neighbourhood regarding the killers' intention to also murder family members, but as of the end of 2004, Mr. Julio Rolando Raquec's wife and daughters were believed to be safe and not to have received any direct threats.

Harassment and raids of organisations' headquarters

Harassment of the CNOC¹⁶³

During the night of 5 March 2004, unknown persons entered and raided the regional headquarters of the National Coordination of

163 See Open Letter to the Guatemalan Authorities, 22 July 2004.

Peasant Organisations (Coordinadora Nacional de Organizaciones Campesinas - CNOC) in Petén department. Several days earlier, the headquarters' employees had received threatening telephone calls. On 1 October 2003, the organisation's offices had been ransacked and files relating to land conflicts were stolen.

Threats, attacks, forcible confinement and harassment of members of the CALDH¹⁶⁴

On 11 March 2004, Mr. **Edwin Galicia**, driver for the Centre for Human Rights Legal Action (Centro de Acción Legal para los Derechos Humanos - CALDH), was forcibly held and his vehicle stolen and then abandoned. These events occurred one week after CALDH testified before an unofficial Canadian jury court¹⁶⁵ about killings perpetrated during the armed conflict.

On 14 and 15 July 2004, the home of Mrs. **Edda Gaviola**, CALDH director, was ransacked.

On 30 July 2004, the CALDH headquarters in Guatemala City received anonymous telephone calls warning that a bomb had been placed on its premises.

On 1 August 2004, the CALDH office in Rabinal, Baja Verapaz, received a written message threatening its members and, specifically, Mr. **Miguel Ángel Albizures**, the organisation's spokesperson, who witnessed the 1982 Plan de Sánchez massacre. The threats also targeted human rights organisations that condemned the Plan de Sánchez massacre¹⁶⁶.

Finally, on 11 September 2004, Mr. **Mario Minera**, coordinator of the local empowerment and democratic development program, was the vic-

164 See Open Letter to the Guatemalan Authorities, 22 July 2004, and Urgent Appeals GTM 004/0804/OBS 064 and 064.1.

165 A symbolic tribunal intended to draw public attention to violations that remain unpunished.

166 During this massacre, some 268 people (most of whom were from the Maya Aché community) were killed. The Inter-American Court for Human Rights found the Guatemalan government responsible for the events and the trials of those allegedly involved (specifically, highly-placed army officials serving during the presidency of General Rios Montt) were underway as of late 2004 before the Public Prosecutor, the Inter-American Court and the IACHR.

tim of an armed attack outside Guatemala City area while driving to Solola for a business meeting in a CALDH vehicle. Two armed men threatened him with death and forced him into their car. They held him for a half-hour, taking documents related to his activities with CALDH. In addition, Mrs. **Andrea Barrios**, a member of CALDH's women's rights program, with whom he was meeting, observed several strange cars that then tailed her.

Acts of harassment against the PDH and the human rights section of the Public Prosecutor's Office¹⁶⁷

Members of the Office of the Human Rights Prosecutor (Procuraduría de Derechos Humanos - PDH) and the human rights section of the Public Prosecutor's Office experienced multiple acts of harassment and threats.

On 11 March 2004, individuals riding a motorcycle chased the automobile carrying Mrs. **Thelma Ines Peláez Pinnelo de Lam**, a special prosecutor (fiscal) in the human rights section of the Public Prosecutor's Office who had previously been subjected to threats and harassment in 2003¹⁶⁸. After being cut off by Mrs. Peláez's bodyguards, the individuals identified themselves as army members and said that the prosecutor should "leave things alone." That same day, a car followed Mrs. Peláez's vehicle for more than an hour.

In September 2004, Mrs. Thelma de Lam was transferred to the appeals unit of the Public Prosecutor's Office (Unidad de Impugnaciones en el Ministerio Público), where she handles prosecutions dealing with human rights. Since that time, she had not received further threats but had experienced discrimination at work, where she faces obstacles to pursuing her investigations. In addition, her salary was reduced.

On 19 March 2004, Mr. **Erick Villatoro**, an assistant to the PDH in San Marcos, received multiple anonymous telephone death threats.

Finally, in late 2004, no one had yet been punished for the 11 June 2003 killing of Mr. **José Israel López López**, a lawyer and assistant at the

167 See Annual Report 2003 and Open Letter to Guatemalan Authorities, 22 July 2004.

168 See Annual Report 2003.

PDH. Those responsible for the crime had not yet been identified and the investigation provided no results¹⁶⁹.

Repression against trade union activists¹⁷⁰

Arbitrary detention and release of trade union activists¹⁷¹

Arrests of Mr. Victoriano Zacarías Mindez, Mr. Wilson Amelio Carreto López and Mr. Miguel Angel Ochoa. On 25 February 2004, Mr. **Victoriano Zacarías Mindez**, executive secretary of the CGTG and secretary general of the Drivers' Trade Union (Sindicato de Pilotos Automovilistas y Similares de Guatemala), as well as Mr. **Wilson Amelio Carreto López** and Mr. **Miguel Angel Ochoa**, directors of the Truck Drivers' Union (Unión de Pilotos de Transporte Pesado por Carretera) in Guatemala City, were arrested by State security forces. They were demonstrating against the implementation of measures to reduce the circulation of heavy trucks in the capital. The detainees were charged with terrorism because of a gasoline spill from two tanks placed at a crossroads in the city centre. However, these incidents were the work of other individuals who infiltrated the demonstration to provoke disorder. After four months of detention, they agreed to a plea bargain (pleading guilty to three of the six minor offences with which they were charged) and were released on parole on 2 June 2004. Although Mr. Victoriano Zacarias Mindez and Mr. Wilson Carreto returned to their activist work with the CGTG, Mr. Miguel Angel Ochoa lost his job and ended all activism.

Acquittal of Mr. Rigoberto Dueñas Morales. On 19 August 2004, the 11th chamber of the Criminal Sentencing Court (Tribunal undécimo de Sentencia) acquitted Mr. **Rigoberto Dueñas Morales**, deputy secretary general of the CGTG, and ordered his immediate release. The public Prosecutor's office, the Guatemala Social Security Institute (IGSS) and

169 *Idem.*

170 See Urgent Appeal GTM 003/0704/OBS 052 and Open Letter to the Guatemalan Authorities, 22 July 2004.

171 See Urgent Appeals GTM 001/0304/OBS 016, 016.1 and Open Letter to the Guatemalan Authorities, 22 July 2004.

the national Prosecutor general's office (Procuraduría General de la Nación) appealed the decision. The ruling in appeal will likely be issued in 2005. Mr. Dueñas Morales had been assumed guilty of crimes against the IGSS, including fraud and possession of stolen goods. His lawyer had requested that his client be freed for lack of evidence. The 10th criminal court of first instance denied the request. Later, the national attorney general, Mr. Carlos David de Leon Argueta, concluded that sufficient evidence was lacking to proceed against the CGTG leader and called for his release, an end to the trial and a ruling against those responsible. However, during the public hearing, the judge rejected the attorney general's position and Mr. Dueñas remained in detention.

Although he is now free, Mr. Rigoberto Dueñas Morales is not authorised to leave the country. He serves, again, as the CGTG's representative to the Ministry of Labour and Social Security's Tripartite Commission of International Affairs on Labour Matters (Comisión Tripartita en Asuntos Internacionales en Trabajo del Ministerio de Trabajo y Previsión Social), as provided for in Convention 144 of the International Labour Organisation (ILO)¹⁷².

*Threats against trade union leaders*¹⁷³

Threats against trade union leaders at the Kern's company. On 29 June 2004, death threats against trade union leaders at the food company Kern's were found at the company premises. These threats continued through late 2004. By the end of the year, no action had been taken in response to the complaint filed with the public Prosecutor.

Threats against Mr. Herminio González. On 30 June 2004, Mr. **Herminio González**, secretary general of the Union of Esquipulas municipality Workers and deputy secretary general of the National Federation of Civil Servants (FENASEP), a trade union that defends the rights of local government workers, received telephone death

172 Agreement on the tripartite consultations on international labour standards, 1976.

173 See Urgent Appeal GTM 003/0704/OBS 052 and Open Letter to the Guatemalan Authorities, 22 July 2004.

threats from an unknown person. This person warned that he was being watched and demanded that he leave his home, threatening him with death if he did not comply. The person who issued the threats also referred to the conflict that followed the municipal government's unlawful termination of Mr. González and 41 other employees on 17 September 2002, after they criticized human rights violations perpetrated against them.

In late 2004, Mr. Herminio González, who now worked for the CGTG, was still receiving telephone threats. To date, the complaint filed with the public Prosecutor had not been investigated.

Threats against Mrs. Imelda López de Sandoval. Mrs. **Imelda López de Sandoval**, CGTG and FENASEP executive secretary and secretary general of the Union of Civil Aviation Workers (Sindicato de Trabajadores de Aeronautica Civil - STAC) at Guatemala City's La Aurora airport, received anonymous telephone and written threats, discrediting her and demanding that she end her trade union activities. The first attack against her occurred in 2003, when the brakes and electrical system of the car she was driving were tampered with. After a second unsuccessful attempt, during the week of 18 October 2004, to provoke an accident by sabotaging her car, her superiors sought to transfer her to another unit. She refused. Mrs. Imelda López de Sandoval filed a complaint with the public Prosecutor, but as of late 2004, the enquiry had produced no results.

In November 2004, a car followed her for two days when she left work.

On 1 December 2004, Mrs. López de Sandoval was again the victim of a similar attack on her car. It also failed.

Following these events, the STAC filed a complaint with the Prosecutor's office of the Public Ministry and, subsequently, with the ILO.

Searches of organisations' headquarters¹⁷⁴

On 19 September 2004, break-ins were committed at the Guatemala City offices of the social welfare organisations, Migrants' House (Casa

174 See Urgent Appeal GTM 004/0904/OBS 072.

del Migrante) and Peace and Third World (Paz y Tercer Mundo). For more than 10 years, the Migrants' House has been investigating those responsible for human trafficking and has sought to ensure the rights of internal and international migrants. During the break-in, databases and files related to these enquiries were stolen. The premises of the organisation Peace and Third World, which addresses socio-economic and community development of uprooted peoples and victims of armed conflict, were also ransacked. Many files and data, as well as computer equipment and passport information, were also stolen. This organisation had been subject to acts of intimidation in May 2004, when its Ixcán office was targeted by gunfire.

In addition, several weeks earlier, the offices of two other Guatemala City social organisations, the Amatitlaneca Progressive Union and the COOSADECO Cooperative, had been ransacked. Files and important documents, as well as a large sum of money, were stolen.

As of late 2004, these four incidents had not been investigated.

Acquittal of Mr. Bruce Harris¹⁷⁵

On 30 January 2004, the 12th chamber of the Criminal Sentencing Court (Tribunal Duodécimo de Sentencia) announced that charges were being dropped against Mr. **Bruce Harris**, director of the NGO Casa Alianza.

Mr. Harris had been prosecuted for defamation and could have been sentenced to five years imprisonment for his statements during a 1997 press conference, at which he announced the results of an investigation into child trafficking and accused several lawyers of involvement in irregular adoptions.

175 See Annual Report 2003 and Press Releases, 22 January 2004 and 2 February 2004.

HAITI

Attack and harassment of CEDH leaders¹⁷⁶

In the night of 1-2 August 2004, Mr. **Jean Claude Bajeux** and Mrs. **Sylvie Bajeux**, leaders of the Ecumenical Centre for Human Rights (Centre oecuménique des droits de l'Homme - CEDH), a human rights organisation based in Port-au-Prince, were targeted at their home by two armed men. Warned immediately, police did not come to assess the situation until around 10.00 am. These events occurred during the 5th Citizens' Forum for the reform of criminal justice, for which Mr. Bajeux was the spokesperson. FIDH *chargés de mission* were also present in Haiti at the time, and had extensively benefited from the CEDH's assistance to organise their mission.

Mr. and Mrs. Bajeux had already been subjected to attacks and threats in the past because of their work in favour of human rights in Haiti. In October 2003, when returning to their home, they were attacked by armed men. Armed guards intervened by firing to the air, which caused the assailants to flee. Similarly, in July 2002, the Bajeux residence was taken under assault by men who, threatening with arms, confined Mrs. Bajeux and four employees who were present. It was not until they noticed that Mr. Bajeux was absent that they fled the scene.

HONDURAS

Death threats and new harassment against the CPTRT¹⁷⁷

The Centre for the Prevention, Treatment and Rehabilitation of Torture Victims and their Relatives (Centro de Prevención,

176 See Urgent Appeal HAI 001/0804/OBS 063.

177 See Annual Report 2003 and Urgent Appeal HND 001/0503/OBS 024.1.

Tratamiento y Rehabilitación de las Víctimas de la Tortura y sus Familiares - CPTRT) and its staff still faced acts of harassment and serious threats. The Centre's director, Mr. **Juan Almendares**, was the victim of death threats.

In the night of 26-27 October 2004, the CPTRT new offices in Tegucigalpa, the capital, were searched, and those responsible stole money, destroyed office equipment, and searched through documents and archives. Furthermore, those who committed the crime wrote threats on the walls and, as a death threat against the director, arranged books in the form of a cross on the floor of his office. This most recent attack against the CPTRT is likely linked to the support that this organisation gave, during a recent campaign, in favour of an independent legal system before the Honduras department of security. Ten judges had written a letter saying they were feeling threatened for having defended legal independence in Honduras. In this letter, the judges expressed their concern about the human rights situation in the country, and particularly about the increase in the number of violent deaths, and they referred to the anti-democratic attitude of the State Secretary of the Public Security Office (Secretario de Estado de la Oficina Publica de la Seguridad), Mr. Oscar Arturo Alvarez Guerrero. The CPTRT had supported some lawyers who had been dismissed from their duties at the Public Ministry for having also expressed their concern about human rights violations and corruption in the country, particularly through a letter written to the President of the Republic of Honduras.

The CPTRT offices had already been searched on 12 May 2003. On this occasion, the attackers broke the office door and searched the computers for confidential information and archives. Following these events, the CPTRT decided to move into the offices that were searched in October 2004.

Investigation into the assassination of Mrs. Digna Ochoa y Plácido¹⁷⁸

On 19 October 2001, Mrs. **Digna Ochoa y Plácido**, head of the legal department of the Miguel Agustín Pro-Juárez Centre for Human Rights (Centro de Derechos Humanos Miguel Agustín Pro-Juárez - PRODH) and eminent human rights defender, was killed by an unidentified person in her office in Mexico City. In 2003, the official investigation, led by the State Public Prosecutor of Mexico City (Procuraduría General de Justicia del Distrito Federal), concluded that it was a case of suicide. In June 2003, the IACHR presented the authorities with a report that revealed several irregularities in the investigation. The report particularly pointed out the lack of precision with which the first autopsy was performed, in addition to irregularities in the gathering, treatment and preservation of evidence, as well as the strange appearance, eighteen months after the events, of new determining information. The report also highlighted the lack of attention given to all the different investigative leads. Despite this criticism, the case was closed, apparently without any resolution of these shortcomings.

On 15 November 2004, the Counsel for the Law and Human Rights (Consejo para la Ley y los Derechos Humanos), a Mexican NGO, published a report on Mrs. Ochoa's murder after having conducted an independent investigation. This report stated that the official investigation was carried out in the non-respect of the national law and of the human rights of the victim and her family. It is also likely that the criminal investigation was manipulated. The NGO filed a complaint with the federal district Commission for Human Rights in order to prove that Mrs. Digna Ochoa y Plácido was indeed assassinated.

¹⁷⁸ See Annual Report 2001.

Threats against Mr. Arturo Solís¹⁷⁹

On 4 February 2004, Mr. **Arturo Solís**, chairman of the Centre for Border Studies and the Promotion of Human Rights (Centro de Estudios Fronterizos de Promoción de los Derechos Humanos - CEF-PRODHAC), received death threats over the telephone. He had previously received similar threats in January 2004, after having made public statements on the presumed responsibility of the Mexican police in the December 2003 assassination of businessman Mr. José Antonio Cervantes Ezpeleta.

Threats and harassment against a member of the Human Rights Committee¹⁸⁰

The Human Rights Committee, an affiliate of the Mexican League for the Defence of Human Rights (Liga Mexicana por la Defensa de los Derechos Humanos - LIMEDDH), received threats aimed particularly at Mr. **Fray Blas Alvarado**, secretary of the Tenosique section of the Committee in the state of Tabasco, on the Guatemalan border. On 6 February 2004, Mr. Alvarado received a threatening letter tied to an iguana's tail that was hidden in a plastic bag. Mr. Alvarado has been threatened since 2002 because of his activities in favour of illegal migrants, to whom he provides legal and social support.

Harassment of women's rights defenders in the State of Chihuahua¹⁸¹

Women's rights defenders in the State of Chihuahua, and particularly lawyer Mrs. **Luz Esthela Castro**, Mrs. **Guadalupe Ramos**, Mr. **Gabino Gómez**, husband of lawyer Mrs. **Alma Gómez**, all three members of "Justice for our Daughters" (Justicia para Nuestras Hijas), were harassed by the public Prosecutor of the State of Chihuahua.

179 See Urgent Appeal MEX 001/0204/OBS 012.

180 See Urgent Appeal MEX 003/0304/OBS 015.

181 See Open Letter to the Mexican authorities, 19 March 2004.

On 13 February 2004, the day before the celebration of "V-Day" (global movement "Against violence against women"), in which Mrs. Luz Esthela Castro, Mrs. Alma Gomez and Mr. Gabingo Gomez were to participate, the Prosecutor decided to open an investigation into serious crimes supposedly committed by Mrs. Castro, Mr. Gómez, and Mrs. Guadalupe Ramos, including acts of rebellion, individual resistance to authority, and denial of freedom, whereas none of the parties was aware of such incidents.

These incidents seem to be related to the activity of Mrs. Esthela Castro, Mrs. Alma Gómez and Mr. Gabino Gómez, and of members of organisations such as "El Barzon," an NGO that regroups numerous Mexicans affected by the fall of the peso in 1994, particularly farmers, peasants, and manual labourers. They occurred just a few weeks before the Chihuahua Court opened on 6 March 2004, for the judgment of government employees suspected of involvement in the assassination of women in the region. Mrs. Luz Esthela Castro and Mrs. Alma Gomez are lawyers known for their fight in favour of women's rights in Chihuahua and who closely work with the defence of women assassinated both in Ciudad Juarez and in Chihuahua¹⁸².

Arbitrary detention of the environmental activist Mr. Felipe Arreaga Sánchez¹⁸³

On 3 November 2004, Mr. **Felipe Arreaga Sánchez**, secretary of the Sierra de Petatlán Environmental Organisation (Organización Ecologista de la Sierra de Petatlán - OESP), in the State of Guerrero, was arrested by the ministerial police of the State of Guerrero in Petatlán while he was returning from the "Sierra". He was accompanied by the Parazal city commissioner, Mr. Damián Ruiz. Mr. Felipe Arreaga Sánchez is a known human rights defender involved in the fight against the deforestation of the Guerrero Sierra. In the past, he had already

182 Since 1993, more than 400 women and girls have disappeared and have been assassinated in Ciudad Juárez and in Chihuahua. These cases have gone unpunished, particularly because of corruption among police and legal authorities.

183 See Urgent Appeal MEX 004/1204/OBS 094.

been the victim of harassment by military and police authorities because of his activities.

Mr. Arreaga Sánchez's detention is founded on the charge of the homicide of Mr. Abel Bautista Guillén. Mr. Guillén was the son of Nino Bautista, known as the "Cacique" (someone who holds a lot of power in a region, sometimes including power over the region's authorities) and who worked in the region's wood business. The homicide occurred on 30 May 1998, near the village of Mameyal. Mr. Arreaga Sánchez was also accused of "criminal association." Yet six years ago, on the date of the crime, Mr. Sánchez was in the village of Las Mesas, recovering from a spinal column injury that prevented him from walking. According to the evidence produced, this accusation and the detention that followed are unfounded and seem to represent the beginning of a new surge in the repression of environmental defenders. On 9 November 2004, Mr. Sánchez was officially informed by the main criminal secretary, Mr. Alberto Gómez Ramírez, of the warrant issued against him and decreed by the main criminal judge, Mr. José Jacobo Orostieta Pérez. Later, on 15 November 2004, evidence proving Sánchez's innocence was presented. Yet the judge considered to be insufficient the statements by witnesses saying they had seen and aided Mr. Sánchez in the village of Las Mesas at the time Mr. Guillén was assassinated. The criminal judge, who issued the warrant, considered that the accused is responsible for providing the evidence.

In late 2004, Mr. Sánchez shared his cell with 15 other inmates in the prison of Zihuatanejo, and the extremely precarious detention conditions somewhat worsened his back pain.

The members of the Sierra de Petatlán environmental organisation have on several occasions been the victims of accusations, threats, persecutions, and even assassinations. Environmentalists Messrs. and Mrs. **Aniceto Martínez, Elena Barajas, Romualdo Gómez García, Salomé Sánchez Ortíz, Jesús Cabrera González, Sergio Cabrera Gonzáles**, members of the organisation, were assassinated between May 1998 and May 1999.

Slander and harassment of the CENIDH and its president, Mrs. Vilma Nuñez¹⁸⁴

On 21 October 2004, an editorial written by Mr. Robert Zelaya Blanco, a government employee working for the national ports authority, and published in the newspaper *la Bolsa de Noticias*, launched serious accusations against the Nicaraguan Center for Human Rights (Centro Nicaragüense para la Defensa de los Derechos Humanos - CENIDH) and its president, Mrs. **Vilma Nuñez de Escorcía**, who was victim of a campaign to harass and discredit her. Among other accusations, the CENIDH was accused of covering human rights violations perpetrated by over 50,000 political prisoners and acts of international terrorism. These accusations have had a serious impact on the reputation and work of the CENIDH, and particularly those of its president, and exposed them to reactions that could endanger their lives as well as their personal integrity.

These acts were allegedly provoked by the CENIDH's work in favour of human rights. In particular, the CENIDH denounced Mr. Zelaya Blanco's lack of effectiveness in the affair of the Puerto Cabezas and Bilwi harbour in the autonomous region of the North Atlantic. On 18 October 2004, it also criticized the government's recent use of the Inter-American Democratic Charter, through which the government invoked a possible interruption of constitutional and democratic order so that the Organisation of American States (OAS) would intervene; these manoeuvres were aimed at distracting public opinion from the investigations into the funding of the 2001 electoral campaign. Furthermore, in an article dated 27 October 2004, *La Bolsa de Noticias* published new information according to which a group of former political prisoners was involved in negotiations with the United States embassy in order to make sure that no visa allowing Mrs. Vilma Nuñez de Escorcía to enter that country would be issued.

¹⁸⁴ See Open Letter to the Nicaraguan authorities, 5 November 2004.

The CENIDH had already been the object of a campaign to discredit and harass it in 2001 following which the IACHR accorded protective measures for Mrs. Vilma Nuñez de Escorcía¹⁸⁵.

PERU

Threats against Mrs. Gloria Cano Legua¹⁸⁶

On 20 October 2004, Mrs. **Gloria Cano Legua**, a lawyer and head of the legal department of the Association for the Defence of Human Rights (Asociación Por Derechos Humanos - APRODEH) in Lima, received a threatening text message on her mobile phone while she was at her office. This message was sent from a public phone booth or from the Internet.

On 22 October 2004, Mrs. Cano Legua lodged a complaint right before leaving for Washington to participate in the hearings and work meetings of the IACHR's 121st session. This complaint was presented on 25 October 2004 by the APRODEH to the State public Prosecutor.

Mrs. Cano Legua received this message one day after the APRODEH published a press statement on 19 October 2004, in which the lawyer expressed her concern about the measures taken by the Third Special Criminal Court (Tercer Juzgado Penal Especial), which had accorded, before their sentencing, freedom to Mr. Vladimiro Montesinos Torres, former head of Peruvian secret services and presidential advisor of President Fujimori's administration during his presidency, Mr. Nicola de Bari Hermoza Rios, former General Commander of the army under Fujimori's regime, and Mr. Roberto Huamán Azcurra, former head of the army's intelligence department. These three men were detained for 18 months after the opening of a trial for the murder of three members of the Tupac Amaru

¹⁸⁵ See Annual Report 2001.

¹⁸⁶ See Urgent Appeal PER 001/0103/OBS 005.2.

Revolutionary Movement (Movimiento Revolucionario Tupac Amaru - MRTA) as part of the rescue operation known as "Operation Chavin Huantar" for hostages detained in the home of the Japanese Ambassador in Peru (1997).

Since 2001, Mrs. Cano Legua has been the lawyer for the families of this operation's victims before the national bodies and the IACHR.

In January 2003¹⁸⁷, as well as in March and July 2004, Mrs. Cano Legua and the APRODEH received threats due to their human rights activities. These threats were reported to the police but the case was closed as those responsible were not identified. Furthermore, after the threats received in 2003, Mr. Miguel Jugo, executive director of the Association, asked authorities for measures to be taken to protect APRODEH employees. Such measures had been accorded during five months in 2003 in the form of a police officer protecting the association's property. This protection has again been provided since March 2004, but only during working hours.

Harassment of Pr. Segundo Jara Montejo¹⁸⁸

On 20 December 2004, at dawn, 12 members of the Aucayacu national police, Tingo María province, Huánaco department, entered the home of Pr. **Segundo Jara Montejo**, chairman of the Alta Huallaga Human Rights Committee (Comité de Derechos Humanos del Alto Huallaga - CODAH) and executive director of the Alto Huallaga Human Rights Commission (Comisión de Derechos Humanos "Alto Huallaga" - CODHAH) in Aucayacu. The officers claimed that they had found in the area subversive pamphlets and red fabric, which were supposed to signify the presence of communist activities. During this intervention led by police chief Mr. Abelardo Serpa, Prosecutor Rubén López, accompanying the police, ordered the officers to enter Mr. Jara Montejo's home. Nothing compromising was found.

These events coincided with the opening, at the instigation of human rights organisations, of legal proceedings concerning human rights violations that took place in Peru during the particularly violent

187 See Annual Report 2003.

188 See Urgent Appeal PER 001/1204/OBS 098.

period of 1980-2000. These proceedings were the result of the work of the Truth and Reconciliation Commission, created to determine the circumstances of human rights violations committed by the Peruvian State and by armed opposition groups during this period. The Commission's report was published in August 2003.

VENEZUELA

Smear campaign against human rights NGOs¹⁸⁹

On 15 February 2004, during its weekly Sunday program *Alló Presidente*, retransmitted on radio and television, the President of the Republic of Venezuela, Mr. Hugo Chávez Frías, made several statements about the funding of different human rights organisations. In particular, the President indicated that some of these organisations received money from the United States government through the National Endowment for Democracy (NED), a body that receives and distributes funds from the United States government and Congress. He thus claimed that the Centre for Justice and International Law (CEJIL), an NGO with its headquarters in Washington, had received money from the NED to distribute or use in order to indoctrinate human rights NGOs in Venezuela, so that they would "attack and denounce the Venezuelan government within the Inter-American system of human rights." In his speech, the President also mentioned, among others, the Network in Support of Justice and Peace (Red de Apoyo por la Justicia y la Paz), the Committee of Parents of Victims (Comité de Familias de Víctimas del 27 de Febrero - COFAVIC) and the Venezuelan Programme for Education and Action in Human Rights (Programa Venezolano de Educación - Acción en Derechos Humanos - PROVEA).

¹⁸⁹ See Press Release, 19 February 2004.

Legal proceedings against members of **Súmate**¹⁹⁰

On 30 September 2004, public Prosecutor Mrs. Luisa Ortega Díaz, from the 6th Bureau of the State Prosecutor's office, asked the court 41 of the metropolitan region of Caracas for the enforcement of measures denying freedom to Mrs. **María Corina Machado**, Mr. **Alejandro Plas**, Mr. **Luis Enrique Palacios** and Mr. **Ricardo Esté**, four leaders of the **Súmate** organisation. The **Súmate** organisation is a non-profit association that works to defend freedoms of expression and opinion, individual freedoms, as well as the full exercise of constitutional rights and responsibilities. In particular, this organisation produces a follow-up of electoral processes and published a critical report on the recent referendum to dismiss Mr. Chávez.

Mrs. María Corina Machado and Mr. Alejandro Plas were accused of "conspiracy against the Republic," a crime provided for in article 132 of the Criminal Code, and Mr. Luis Enrique Palacios and Mr. Ricardo Esté were accused of complicity. In late 2004, the court had not yet made a ruling concerning these charges, but if confirmed, the four leaders of **Súmate** would be arrested.

On 2 November 2004, the Supreme Court of Justice (Tribunal Supremo de Justicia) ordered that the accused remain free during their trial, for which the preliminary hearing would be determined by the court 41.

190 See Urgent Appeal VEN 001/1004/OBS 076.

ASIA

THE SITUATION OF HUMAN RIGHTS DEFENDERS

Throughout 2004, human rights defenders faced an increasingly hostile environment in Asia. Not only did their security and working conditions deteriorate due to the persistently repressive context that followed the attacks on 11 September 2001, but in many places violence was perpetrated and/or condoned by government authorities. Defenders were also at risk in countries undergoing internal conflict or military operations, like in *Afghanistan, Indonesia, Nepal, Pakistan* and the *Philippines*. In several Asian countries, such as *Burma, China, Laos, North Korea* or *Vietnam*, freedoms of expression, assembly and association were so restricted that it was nearly impossible for individuals to get organised.

In Asia, in 2004, human rights defenders were victims of killing and extra-judicial execution¹ (*Afghanistan, Cambodia, India, Indonesia, Nepal, Pakistan, Philippines, Thailand*), death in custody (*Laos*), enforced disappearance (*Nepal, Pakistan, Thailand*), arbitrary arrest and detention (*Afghanistan, Bangladesh, Cambodia, China, India, Iran, Laos, Malaysia, Nepal* and *Vietnam*), violence and assault (*Bangladesh, China, India, Indonesia, Malaysia, Nepal, Pakistan, Philippines*), harassment and intimidation (*Cambodia, Indonesia, Malaysia, Nepal, Pakistan, Philippines*), legal prosecution aimed at hindering their human rights activities (*Bangladesh, China, Iran, Pakistan, Vietnam*), and other measures restricting their freedoms of expression, association and assembly. In addition, in a number of countries, defenders continued to be subjected to defa-

¹ In her report presented during the UN Commission on Human Rights, the Special Representative of the UN Secretary General on Human Rights Defenders pointed out that Asia was, after Latin America, the region where reports of assassinations of defenders were the most numerous (see United Nations Document E/CN.4/2004/94).

mation campaigns in government-run media. Such attacks appear to be aimed at discrediting their objectives, work and integrity in order to undermine financial and public support for their activities, and make them even more vulnerable to non-State violence. Impunity for authors of human rights abuses against defenders also remained widespread: indeed, far from fulfilling their duty of protection, a number of States criminalised the activities of defenders and tolerated, if not legitimated, the abuses perpetrated against them. As a result, defenders frequently had to face a lack of response by the authorities to their situations or complaints, and in some cases defenders were interrogated, investigated and detained for having reported such incidents.

Abuse of the "security first" concept and the erosion of human rights

In the wake of the terrorist attacks on 11 September 2001, and then of the Bali bombing in October 2002, many Asian governments adopted or strengthened anti-terrorist security policies and legislation, resulting in growing restrictions on rights and freedoms. The enforcement of security legislation and special measures for countering terrorism eroded in particular the right to be presumed innocent and to fair trial guarantees. This hostile context damaged the ability of human rights defenders to investigate and denounce rights abuses. In addition, there were instances of anti-terrorist and national security legislation being instrumentalised to curb peaceful dissent, including in some cases, to silence human rights defenders.

On 17 September 2004, *India* repealed the controversial Prevention of Terrorism Act (POTA) enacted soon after the September 11 attacks - with effect in October 2004. POTA ensured a virtual culture of impunity for India's security forces in Kashmir and allowed security agencies to hold suspects for up to 180 days without filing charges. The National Human Rights Commission had no rights of scrutiny over the army or the police, and in the name of national security the judiciary were loath to enforce their authority. In practice, the law was often used against marginalised communities such as Dalits (so-called "untouchables"), indigenous groups, Muslims, and the political opposition. However, while POTA was repealed, its provisions dealing with terrorism were simultaneously included in the Unlawful Activities Prevention (Amendment) Ordinance. Under Section 15 of the Ordinance, the defi-

inition of a "terrorist act" continues to be very broad, and the failure to provide a definition of "abatement" of terrorist acts may result in arbitrary entrapment. The scheduled listing of a terrorist organisation as one that may be "involved in terrorism" remains devoid of any statutory procedure or requirements. Finally, additional provisions were included, which, rather than amending the deficiencies of POTA, further eroded the rights of the accused (any interceptions collected, even without any authorisation, shall be admissible as evidence).

In *Malaysia*, besides the ongoing use of the Internal Security Act (ISA)² as an indispensable weapon against terrorism, the Criminal Procedure Code (Amendment) 2003, if adopted at the next 2005 parliamentary session, would provide additional police powers for arrests without warrants and the interception, by order of the Public Prosecutor's office, of all forms of communication whether "received or transmitted by post or a telegraphic telephonic or other communication received or transmitted by electricity, magnetism or other means"³.

In *Nepal*, the adoption of a new anti-terrorist ordinance was likely to aggravate the implication of security forces in the widespread enforced disappearance of civilians. Indeed, the day after the Terrorist and Disruptive Activities (Punishment and Control) Act 2058 expired on 12 October 2004, the government promulgated the Terrorist and Disruptive Activities (Control and Punishment) Ordinance 2061, which grants ever larger discretion to security officials in conducting arrests and detentions. In particular, Clause 9 of the Ordinance extends the powers of the security officials to keep suspects of terrorist activities on remand for up to one year without charge, trial or judicial control. The

2 The ISA allows the police to arrest without a warrant any person suspected of having acted, or who is likely to act, "in any manner prejudicial to the security of Malaysia". The suspect can be detained up to 60 days without trial and without access to legal counsel for the purposes of investigation. If the police believe that a person should be further detained, the Minister of Home Affairs will be advised accordingly, and may issue a two-year detention order, which can be renewed indefinitely. See Mission report of the Observatory, *Malaysia: Human Rights Defenders Under Close Surveillance*, March 2003.

3 See Human Rights First Report, *Defending Security: The Right to Defend Rights in an Age of Terrorism*, 2004.

Chief District Officer is empowered to detain any person for six months and may do so for a further six months on authorisation by the Home Ministry. This new Ordinance intervened at a moment when enforced disappearances of civilians, but also journalists, lawyers, human rights defenders, victims and witnesses of atrocities, were occurring on an alarmingly widespread scale across the country, along with arbitrary detentions, torture, and extra-judicial and summary executions. Besides, the systematic impunity of security officials annihilates any probability of seeing the human rights violations they committed addressed through the judicial system.

In *Pakistan*, since 9/11, the government of General Pervez Musharraf benefits from the support of the international community, which gives him a free hand to curb peaceful dissent in the country. That repression was exercised against human rights defenders, media and other representatives of civil society through a wide array of methods: use of restrictive legislation in the field of freedoms of expression, association and assembly (the anti-terrorist law, but also the blasphemy law, the Industrial Relations Ordinance 2002 and certain provisions of the Criminal Procedure Code); direct attacks by officials or non-State actors; defamation, etc. On 14 May 2004, for instance, Lahore District Bar Association secretary general Mr. Raja Rashid Jaral was arrested under the Anti-Terrorism Act (the arrest was linked to the arrival in town of former Punjab Chief Minister Shahbaz Sharif, which led to a frantic move by the authorities to arrest political activists, journalists, and independent organisations). He was released on bail on 16 May, but the case against him was still pending by the end of 2004. Only a few days later, on 17 May 2004, 70 lawyers were arrested in Kasur: Messrs. Qurban Dogar and Saeed Ahmad, respectively president and secretary general of the District Bar Association, were indicted on terror charges, while 20 other lawyers were charged with "criminal intimidation", "obstructing the discharge of official duty", "damaging public property", and "breaching public peace by hooligan acts". They had been participating in a peaceful procession on 17 May 2004, in support of their Pattoki colleagues⁴.

4 See FIDH investigation mission report *In Mala Fide, freedoms of expression, association and assembly in Pakistan, January 2005*, chap. II.1, "Non-governmental organisations", in the framework of the Observatory's mandate.

In the *Philippines*, all separatist movements were labelled as "terrorists" by the authorities while the conflict in Mindanao was escalating, resulting in the death, violence and displacement of numerous civilians. Longstanding counterinsurgency campaigns against rebels or armed separatists were recast as part of the war against terrorism. Human rights defenders were evolving in an extremely polarised climate where some of them were accused by government officials of being "fronts" for terrorist organisations, making them targets of the military and paramilitary forces engaged in counterinsurgency operations. Organisations like the May First Labour Movement (Kilusang Mayo Uno - KМУ) or the New Patriotic Alliance (Bagong Alyansang Makabayan - Bayan), for instance, were branded as "covers" for terrorist organisations and for the New People's Army-Communist Party of the Philippines, and their members were consequently harassed, threatened, and even summarily executed.

In *South Korea*, the National Security Law (NSL), drawn up in 1948, continued to be used to curb non-violent political activities, in particular with regard to sensitive issues such as North Korea and "socialism"; under the latter, trade unions were regularly targeted. The law provides for long sentences or the death penalty for "anti-State" and "espionage" activities, terms that are not clearly defined and have often been arbitrarily used against people peacefully exercising their basic rights to freedom of expression and association. It also prescribes five years imprisonment for failure to report "anti-State" activities. Although the government intended to repeal the National Security Law, nothing had been done by the end of 2004.

In *Thailand*, martial law was declared in the four Southern provinces (where the majority of the population is Muslim), after military barracks were attacked on 4 January 2004 and 400 rifles seized; security forces were reportedly responsible for numerous instances of extra-judicial killings. Mr. Somchai Neelaphajit, a lawyer who defended many human rights cases in the south of Thailand and protested against the use of martial law in those provinces, disappeared in March 2004⁵. Moreover, a proposal was being discussed in December 2004 to introduce a national security law similar to the Internal Security Act of Singapore and Malaysia⁶

5 See Compilation of cases below.

6 See Annual Report 2003.

that allows prolonged detention without judicial recourse. In that draft legislation, the definition of terrorist acts is all catching because too vague, and might result in the repression of peaceful dissent. The government finally retreated and renounced the draft following mobilisation of civil rights groups and the international community.

Defenders in times of armed conflict or military operations

In zones of conflict, military, paramilitary and rebel armed forces continued to be responsible for abuses against human rights defenders.

In *Afghanistan*, more than 40 humanitarian workers were killed in 2004, e.g., on 2 June 2004, five volunteers of the NGO Doctors Without Borders (Médecins Sans Frontières - MSF) were killed in the northwest of the country. The Mullah Abdul Hakim Latifi, a Taliban spokesman twice claimed to be responsible for these murders. Likewise, three members of the Afghan NGO Voluntary Association for the Rehabilitation of Afghanistan (VARA) were killed on 28 November 2004, in Delaram, in the province of Nimroze (south), when attackers, who were believed to be Taliban, beleaguered their office at dawn.

In *Indonesia*, human rights defenders were still at risk, particularly in Nanggroe Aceh Darussalam (NAD), where human rights organisations were among those publicly accused by the security forces of links with the Free Aceh Movement (GAM), an armed rebel group. Although not as far-reaching as the actions of the military, GAM rebels also carried out grave abuses against civilians including murder, kidnapping and extortion. On 19 May 2004, the government downgraded the martial law governing the province to a "civil emergency" and appointed a civil administrator. Although civil rule returned, troop numbers in the province were not reduced. An estimated 2,000 people were killed with thousands more alleged rebels captured or surrendering since the military operation began. Besides, there was no progress in resolving the cases of human rights defenders believed to have been extra-judicially executed or who had "disappeared" in NAD, in 2003.

Mrs. Sidney Jones, a prominent US political analyst for the International Crisis Group (ICG), had her Indonesian working visa revoked on 1 June 2004, along with that of her researcher. The government also announced that it had placed 20 international and local human rights organisations and individuals on a "watch list" as threats to

the country's security. There was evidence that Mrs. Jones' expulsion was directly related to her criticisms of the military's campaigns in Aceh and Papua.

Mr. Munir, a prominent Indonesian human rights activist, died on 7 September 2004, on board of a flight to Amsterdam, after being poisoned. Mr. Munir was one of the founding members of the Commission for the Disappeared and Victims of Violence (KONTRAS), and had played a leading role in investigating human rights violations committed by the Indonesian Army, notably in East Timor. He had also taken up numerous cases of disappeared activists in Indonesia, from Aceh to Papua, during the Suharto dictatorship⁷.

In *Nepal*, the repression of human rights defenders continued escalating in 2004⁸. Since the breaking off of the peace negotiations in August 2003, the number of extra-judicial executions, forced disappearances, torture and arbitrary arrests increased considerably. Human rights defenders, investigating reports of widespread human rights violations committed by members of the Royal Nepal Army (RNA) and the Communist Party of Nepal (CPN - Maoists), often found their lives, and those of their families, in danger from both sides of the armed conflict. The climate of impunity prevailing throughout the country condoned such threats and attacks.

On the one hand, the State's response to the CPN (M) was to grant increasing and dangerous primacy to a military-led solution to the conflict, at the direct expense of civil society, including human rights defenders. In particular, the security forces were granted sweeping powers to arrest any person suspected of being involved in "terrorist" activities - powers which they did not hesitate to use. Investigations into the widespread human rights abuses continued to be perceived as an attack on the war against terror and a tool to undermine the morale of the security forces. As a consequence, human rights defenders, lawyers and journalists were increasingly seen as CPN (M) sympathisers and "terrorists". On the other hand, the CPN (M) denounced

⁷ *Idem.*

⁸ See Preliminary conclusions of the Observatory's fact-finding mission in Nepal, in March 2004.

human rights organisations as tools of "US imperialism", and local staff working for international aid organisations were threatened and harassed by the CPN (M). This is why, in a joint press statement issued on 10 May 2004, ten international donors announced they were suspending their work in six districts of mid-western Nepal⁹.

From 8 April to 3 May 2004, there was a severe crackdown on peaceful demonstrations, leading to mass arrests, illegal and incommunicado detentions, ill treatment and violent repression in Kathmandu of hundreds of peaceful demonstrators calling for the reinstatement of an elected government¹⁰. It is estimated that well over 1,000 protesters were arrested during this period, when the Kathmandu District Administration declared the area within the Ring Road of Kathmandu Valley as "riot prone" under the Local Administration Act, thereby prohibiting public gatherings. Many protestors were also severely beaten in clashes with police.

A particularly alarming aspect of the conflict was the extent and intensity of acts of repression against lawyers, who were arbitrarily detained, tortured or victims of enforced disappearances¹¹. On 21 April 2004, between 300 and 500 lawyers were arrested during a demonstration¹². Its purpose was to protest against the government's decision to prohibit all demonstrations and against ongoing attacks on human rights defenders and the right to peaceful assembly. Likewise, mass arrests, beatings and even the killing of journalists covering or taking part in pro-democracy and human rights demonstrations were reported, e.g., on

9 These donors included the German Technical Cooperation (GTZ), the Swiss Agency for Development and Cooperation (SDC), the Canadian International Development Agency (CIDA), the British Department for International Development (DFID), the Netherlands Development Organisation (SNV), the European Union, the Japan International Cooperation Agency (JICA), the Royal Norwegian Embassy, the Danish International Development Agency (DANIDA) and the Embassy of Finland.

10 See Compilation of cases below.

11 See Press Release by the UN Working group on enforced or involuntary disappearances after its visit to Nepal, on December 14, 2004: "Human Rights defenders are widely reported to be under constant threat for their work on disappearances, in particular in the regions of Nepal outside of Kathmandu".

12 See Compilation of cases below.

11 August 2004, Mr. Dekendra Raj Thapa, an adviser to the independent Human Rights and Peace Society (HURPES) and a journalist at *Radio Nepal*, was executed by the CPN(M). Staff members of the National Human Rights Commission (NHRC) also received increasing numbers of death threats from people believed to be members of the RNA or supporters loyal to them, e.g., on 21 February 2004, unidentified plain clothed security forces personnel arrested lawyer Bal Krishna Devkota from his home in Kathmandu. He was blindfolded and held in unidentified army barracks for five days where he was questioned about the reasons why he had volunteered to join the NHRC investigation team¹³.

In *Pakistan*, the military campaign against Al-Qaeda operatives in the tribal areas of the North West Frontier province (NWFP) and Balochistan was stepped up in 2004, with reports of massive violations against civilians in the region. The military zones were closed to both NGOs and journalists, and the authorities did not hesitate to detain and harass those who ventured in the area.

In the *Philippines*, human rights defenders were in the front line when they documented and denounced the serious human rights violations perpetrated in the context of the anti-insurgency campaign waged by the government against the New People's Army (NPA), the armed branch of the communist party. Thus in February 2004, Mrs. Juvy Magsino, a human rights lawyer, chairperson of Mindoro for Justice and Peace and vice mayor of Naujan, in Mindoro Oriental, and Mrs. Leima Fortu, a volunteer at Mindoro for Justice and Peace and the acting secretary general of KARAPATAN-Mindoro Oriental, were killed, allegedly by the 204th Infantry Brigade of the Philippines Army, which is also suspected of involvement in the abduction and extrajudicial execution of Mrs. Eden Marcellana (secretary general of the Tagalog-South office of KARAPATAN) and Mr. Eddie Gumanoy (chairman of the Kasama-TK peasant group) in April 2003¹⁴. Furthermore, Mr. Joel Barrameda Baclao, regional coordinator of the Promotion for Church People's Response (PCPR) in Albay, and coordinator of Andurog-Bikol,

13 See Preliminary conclusions of the Observatory's investigation mission in Nepal, March 2004.

14 See Compilation of cases below.

a disaster relief programme of the United Church of Christ in Bicol, was killed outside his residence in Albay on 10 November 2004. Mr. Baclao lobbied strenuously against large-scale mining activities and continued militarisation in his province. He was also intensively involved in human rights activities like fact-finding missions. A week before his death, Mr. Baclao had been warned to take extra care because his name was already on a "list". It is believed that this list referred to an Order of Battle ("OB") released by the military. An OB usually contains names of rebels who are wanted by the government.

It should also be noted that the Communist Party of the Philippines (CPP) and its armed wing, the NPA, also used arbitrary killings in order to silence leftist leaders who do not share their views. Those extra-judicial killings of peaceful opponents contributed to a climate of fear which undermines freedom of expression and democracy; in this context, one can fear that human rights defenders who do not strictly share the political views of the NPA/CPP might be targeted. In December 2004, for instance, the name of Mr. Walden Bello, executive director of Focus on the Global South, an NGO working on the issue of globalisation, human rights and peace building, was included on a list of 14 names of "counter-revolutionaries", some of whom have already been killed, e.g., Mr. Arturo Tabara, chairman of a leftist party who was killed in Quezon City on 26 September 2004¹⁵. The names of Mrs. Lidy Nacpil and Mrs. Etta Rosales, two leaders of the Human Rights Committee of the Philippine House of Representatives, were also included in this list.

Restrictions to freedoms of expression, assembly and association

In *Bangladesh*, where civil society is extremely polarised, NGOs perceived to support Bangladesh National Party (BNP) worked undisturbed (and were sometimes co-opted by the government), whereas those perceived to be close to the Awami League were constantly targeted¹⁶.

15 The CPP said that Mr. Tabara "was slain while resisting arrest by a special team of the NPA tasked by the Special People's Court (SPC)". The latter is not an independent court but a body composed of CPP cadres and which definitely lacks all guarantees of a fair and impartial trial.

16 The BNP is the ruling party. The Awami League is the main opposition party.

Pressure on the latter was permanent and created a very vulnerable environment for those NGOs. They faced repeated attempts to curb their activities through administrative, legal, fiscal and other means, and their leaders were regularly detained and sued. This was particularly the case with Proshika, whose president, Mr. Qazi Faruque, was detained for two months from May until July 2004¹⁷ and was still facing personal charges by the end of 2004, (including "sedition"); 42 other cases were still ending against Proshika officials. International Voluntary Services (IVS)-Bangladesh and its executive director, Mr. Abdul Matin, faced a similar type of harassment. Mr. Matin faced five cases filed by the authorities, including three filed in September 2004 on charges of "corruption". In 2004, several human rights defenders were arbitrarily arrested, e.g., on 21 August 2004, Mr. Rafique Al-Islam, co-ordinator of the International Campaign to Ban Landmines in Bangladesh, was illegally arrested and conducted to the "joint interrogation cell" in Dhaka. He was released on 19 September 2004. Foreign funding for a number of development NGOs was blocked because of pending judicial procedures, thereby hindering their activities. The government is contributing to the dangerous climate faced by human rights defenders by discrediting human rights NGOs through defamatory statements. In addition, by the end of 2004, the National Human Rights Commission had not been established yet, in spite of the fact that it was foreseen in a 1999 law.

NGOs concerned with religious minorities (mainly Christians and Hindus) reported a definite increase in the harassment they face in their daily work, which left them feeling extremely vulnerable to non-State pressure, especially from fundamentalist groups. The government (which includes religious parties) did not offer them any protection or recourse in this regard.

Extremist religious groups and mafia linked to local politicians who attacked human rights defenders benefited from total impunity.

Moreover, the government proposed an Amendment Bill to the Foreign Donations (Voluntary Activities) Regulations Ordinance, which, in its current form, constitutes an attempt to jeopardise freedoms of expression and association as well as the independence of NGOs. As

¹⁷ See Compilation of cases below.

of December 2004, the Bill had not been passed. However, it is like a Damocles sword on the head of NGOs.

In *Cambodia*, the situation of human rights defenders clearly deteriorated in 2004¹⁸. Three human rights defenders were killed in 2004: two trade union leaders (see below) and Mrs. Mey Meakea, Cambodia programme manager for community development of the Christian Church World Service. She was killed on 4 October 2004 by an unknown assailant. She was deeply involved in promoting the rights of disadvantaged children and poor rural communities. She also worked on micro-disarmament and corruption. A police investigation was underway at the end of 2004. Associations fighting human trafficking were also targeted, such as the Srey Khan drop-in shelter of the NGO "Acting for Women in Distressing Situations" (AFESIP), which was attacked on 8 December 2004 in Phnom Penh. During the attack, 91 women and young girls were removed from the shelter by approximately 30 men - some in official uniform and armed. AFESIP staff members were threatened and their property damaged. The day before the attack, 83 young girls and women had been released by some members of the Anti-Trafficking and Juvenile Protection Unit of the Ministry of the Interior, together with monitors from AFESIP staff, from a hotel where they had been exploited as prostitutes and eight suspects had been arrested.

Defenders were regularly threatened in 2004 by soldiers, police, and local authorities, and through anonymous telephone calls and letters, etc. Discrediting statements were expressed at several levels of the government, in particular by high-profile figures such as Prime Minister Hun Sen; these declarations encouraged hostility towards defenders and undermined their security. In June 2004, the environmental NGO Global Witness, frequently targeted in the past few years for its outspoken criticism of the logging policy, was accused by the Prime Minister of lying in a new report about illegal, military-backed logging. Furthermore, in March 2004, the Ministries of the Interior and Foreign Affairs made inflammatory accusations against the UNHCR, including

18 For more information, see the Cambodian League for the Promotion and Defence of Human Rights (LICADHO) Briefing Paper, *Threats to Human Rights Defenders in Cambodia: 2004*, December 2004.

allegations that it was violating Cambodia's sovereignty and conducting "illegal activities".

Since the anti-Thai riots of January 2003, the authorities denied all requests by NGOs and other groups to hold marches, demonstrations and other public gatherings - with the exception of a December 2004 march through Phnom Penh by around 250 staff members of NGOs belonging to the Cambodian Human Rights Action Committee. But the police interfered with that march, which was organised to highlight the ongoing restrictions on freedom of assembly by the authorities, crackdowns on previous demonstrations and gatherings, and the negative impact that this had on democracy and development. The police at times violently dispersed demonstrations, and prevented attempts by human rights NGO staff to monitor them for excessive police brutality or other abuses. The authorities' ban on demonstrations was expanded so that it now prevents human rights NGO staff and civil society groups from holding public events to draw attention to pressing human rights and social problems¹⁹.

In 2004 in *China*, State controls increased and tightened as activism grew. The suppression of freedoms of information and expression on the Internet was increased through surveillance of online content and Internet cafes, as well as through legislation. These activities were considered by the authorities to be "subversive" or to "endanger State security". As a consequence, people continued to be detained or sentenced for expressing and disseminating their beliefs or information through the Internet. Many were denied due process and some were tortured or ill treated in custody²⁰. In early March 2004, the central government reportedly prohibited Internet news discussion chat rooms from running news forums about any subject not covered by State-run media. In April 2004, authorities in the Shanghai municipality and Shandong province announced new restrictions on the use of the Internet. The Shanghai Culture, Radio, Film and TV Administration said it would install video cameras and high-tech software to censor Internet use. As of June 2004, all customers of

¹⁹ *Idem*.

²⁰ See Compilation of cases below.

Shanghai's Internet cafes had to enter an identification number to access the Internet, and any access to "illegal content" would sent an automatic message to a "remote supervisory centre" that monitored all of the city's Internet cafes²¹.

More generally, repression of any form of dissent was still widespread, e.g., against pro-democracy activists, critical journalists, dissatisfied workers as well as underground churches and religious practitioners such as the Falungong.

In *Iran*, in 2004, the judiciary increasingly curtailed civil society activists' and human rights defenders' freedoms of expression and association²². The parliamentary elections of February 2004, which were neither free nor fair, strengthened the Conservatives in the Parliament. The authorities arrested many on-line journalists in 2004; most were subsequently released. Mrs. Mahboubeh Abbasgholizadeh, the editor of the women's rights journal *Farzaneh*, was for instance arrested at her home on 2 November 2004 and released on bail on 30 November 2004. The situation in December 2004 saw several other journalists involved in human rights still in prison merely because they exercised their right to freedom of expression, such as Messrs. Akbar Ganji, Hassan Yusefi Eshkevari, Hossein Ghazian, Abbas Abdi, Reza Alidjani, Taghi Rahmani, Hoda Rezazadeh-Saber, Iraj Jamshidi and Ensafali Hedayat. Mr. Nasser Zarafshan, a lawyer and human rights defenders, also remained in jail²³.

Furthermore, the authorities imposed a ban on foreign travel of human rights defenders Mr. Emaddedin Baqi²⁴, two members of the Human Rights Defenders Center (Messrs. Mohammad-Ali Dadkhah and Mohammad Seyfzadeh), Mrs. Azam Taleghani, head of the Society of Islamic Revolution Women of Iran, and Mr. Mohammad Maleki, former Dean of Tehran University.

Moreover, freedom of peaceful assembly remained very restricted in 2004. Thus, at the initiative of Mrs. Shirin Ebadi, 2003 Nobel Peace Prize and secretary general of the Defenders of Human Rights Centre, a meeting against capital punishment for juveniles was supposed to be

21 See Human Rights in China, Newsletter Mid-February-Early May 2004.

22 See Amnesty International, MDE 13/045/2004, November 10, 2004.

23 See Compilation of cases below.

24 *Idem*.

held on 9 November 2004. Authorisation to hold the meeting was requested one month in advance but the day before the planned gathering, the permit was denied by the Ministry of Foreign Affairs.

Furthermore, on 12 January 2005, Mrs. Shirin Ebadi was summoned by the Revolutionary Public Prosecutor's office of Tehran. The summons did not specify why Mrs. Ebadi was called in but indicated that if she did not appear before the investigating judge within three days, she would be arrested and taken to the investigating judge's office²⁵. At a news conference on 18 January 2005, the judiciary spokesman, Mr. Jamal Karimirad, admitted that the Revolutionary Court summons for Mrs. Shirin Ebadi was illegal and said the matter would be dropped.

In *Pakistan*, repression against NGOs activists took various forms: regular insinuations in government-controlled media stated that NGOs (especially those working in the field of human rights) were "unpatriotic" and "un-Islamic", thus creating an atmosphere in which fundamentalist and ultra-nationalist groups can seriously endanger the functioning of such NGOs - and sometimes, even the life of their members²⁶ - in all impunity; the establishment of pro-governmental human rights organisations ("Gongos"); the multiplication of administrative and fiscal requirements for NGOs, aimed at limiting and delaying their activities, and the selective use, by the authorities, of Section 144 of the Pakistan Criminal Procedure Code, which authorises restrictions on public demonstrations. While religious groups and pro-government political parties were allowed to demonstrate freely, NGOs, opposition parties and trade unions were regularly prevented from holding peaceful demonstrations and their members were also often harassed or arrested if they disobeyed.

Furthermore, the police charged a group of approximately 50 representatives of social organisations, trade unions, political parties, and Hindu Panchayat with "sedition against the State" after they held a protest demonstration on 17 October 2004, at the Lakhi Gate Tower Ghawk, in the Sindh province. They wanted to express their concern over growing insecurity of life and property due to deteriorating law and order in Shikarpur district²⁷.

25 See Urgent Appeal IRN 001/0105/OBS 003.

26 See FIDH investigation mission report *In Mala Fide, freedoms of expression, association and assembly in Pakistan*, January 2005, chap. II.1, "Non-governmental organisations", in the framework of the Observatory's mandate, January 2005.

27 *Idem*.

Moreover, a draft bill on NGOs was prepared by the Pakistani Centre for Philanthropy (PCP)²⁸, and submitted to the government in 2003. The bill provides for a degree of control over NGOs that could threaten their independence. By late 2004 it had not yet reached the stage of the Cabinet and had remained in limbo.

The situation of human rights defenders (and in particular women's rights organisations) was even more difficult in the North-West Frontier province (NWFP) and in Balochistan, where the provincial governments did not view the NGOs' activities favourably, and where religious groups were given a much freer hand. The tribal areas were probably the most difficult for NGOs to work in, especially the non-local NGOs which faced enormous hurdles - administrative, religious, cultural, legal, political and judicial - in exercising their activities, however development-oriented they may be²⁹. Two members of the Aga Khan Foundation in Chitral were for instance killed in the night of 25 December 2004 by unknown assailants. The Foundation was carrying out a health programme in the area.

In *Singapore*, laws and policies were still used to prevent human rights defenders from fully carrying out their activities, e.g., they could be sentenced if they spoke in public without prior authorisation.

In *South Korea*, legislation on meetings and demonstrations was amended on 29 December 2003, and enacted in March 2004. The amendment considerably restricts freedoms of expression, assembly and association, and gives the police the power to deny freedom of assembly whenever they see fit.

In *Thailand*, the situation of human rights defenders deteriorated in 2004, and space for freedom of expression was reduced. The killing of Mr. Somchai Neelaphaijit, a human rights lawyer active in the south of Thailand (see above) and of three environment activists (see below), were not properly investigated by the authorities.

28 The PCP is a new "NGO" formed in August 2001. Its most important mandate is two-fold: developing new laws regulating the work of civil sector organisations (and it is as such that the PCP drafted the latest version of the NGO bill) - and certifying NGOs for the purpose of registration. These two aspects obviously give it a tremendous power over other NGOs.

29 See Compilation of cases below.

The situation of Mrs. Supinya also illustrated that tendency. Mrs. Supinya, secretary general of the Campaign for Popular Media Reform (CPMR), was sued by the media conglomerate Shin Corp after she observed, in an article published in the *Thai Post* on 16 July 2003, that Shin Corp's profits had skyrocketed since Mr. Thaksin Shinawatra became Prime Minister. On 6 September 2004, the criminal court scheduled the first hearing into this libel suit for 19 July 2005, after the next general election in early 2005. Shin Corp also filed a Bt 400 million libel suit in the civil court against Mrs. Supinya and the *Thai Post* on 24 August 2004, with the approval of the criminal court. Shin Corp claimed that financial institutions downgraded its credit rating and that its credibility on the stock market was affected as a result of her comments in the article. On 11 October 2004, the civil court decided that the trial of this case would begin after the criminal court had decided on its case.

The authorities regularly labelled NGOs, notably in the government-controlled media, as "unpatriotic", thereby denigrating them in the eyes of the public. They also condoned impunity by asking people to "forgive and forget the past" and by instrumentalising Buddhism and the concept of "national unity". This was especially true for human rights violations in the south of Thailand.

In another vein, Burmese democrats and NGO activists based in Thailand were facing increasing difficulties in getting visas for Thailand. The immigration law was used as a barrier to their human rights activities. By preventing them from staying in Thailand legally, the Thai authorities made their situation much more vulnerable.

In *Vietnam*, several "cyber-dissidents" were still imprisoned for having spread human rights information on the Internet³⁰. Vietnamese cyber-dissident Mr. Do Nam Hai, for instance, was harassed for having openly criticised the authorities in articles posted on the Internet; he was arrested and held for two days in August 2004 and was questioned a dozen times by the police, usually in public places. Two months after being interviewed by the US-operated *Radio Free Asia* in October 2004, the police searched his home, took his computer and told him he would

30 See Compilation of cases below.

only be able to recover it "after the information on it has been erased". As of December 2004, four cyber-dissidents were in prison in Vietnam: Dr. Nguyen Dan Que³¹, former journalist Nguyen Vu Binh, Dr. Pham Hong Son and businessman Nguyen Khac Toan.

In addition, freedom of religion and the activities of religious organisations other than those approved by the State were still restricted by the government, and there were still no independent monitoring groups in Vietnam. The monks of the Unified Buddhist Church of Vietnam (UBCV), which was declared illegal by the government in 1981, were thus still subjected to systematic harassment and repression by the Vietnamese authorities because of their commitment to religious freedom, human rights and democracy in Vietnam³².

Economic, social and cultural rights

In several Asian countries, such as in *Cambodia, China, India, Indonesia, Nepal, Thailand* and *Vietnam*, human rights defenders were targeted because of their work on minority and land rights, and because they challenged economic interests. They were subjected to different forms of harassment and some were even assassinated.

In *Bangladesh's* Chittagong Hill Tracts region, Minority Rights Group's partners and their families reported regular, serious harassment and were threatened with violence for their minority rights activities.

In *Cambodia*, threats and interference at all levels of Cambodian authorities were reported against persons and organisations working to protect the rights of Vietnamese Montagnard asylum seekers in Cambodia as well as violence and intimidation against villagers, grass-roots groups and advocacy organisations lobbying against land or forestry concessions which harm the local communities³³.

In *China*, the government appeared to be cracking down harder on anyone defending the interests of the farmers. Mr. Zhang Youren, for

31 *Idem.*

32 *Idem.*

33 See the Cambodian League for the Promotion and Defence of Human Rights (LICADHO) Briefing Paper, *Threats to Human Rights Defenders in Cambodia: 2004*, December 2004.

instance, leader of a farmers group in Tangshan, who was protesting against the terms of the group's forced relocation, was arrested on 6 July 2004, two days before a visit to Tangshan by Chinese Prime Minister Wen Jiabao. As of December 2004, Mr. Zhang Youren was still under house arrest, although he was suffering from a serious illness³⁴. Recently, police detained a farmers' advocate, Mr. Li Boguang, and in September 2004 detained *New York Times* researcher and journalist, Mr. Zhao Yan, who had previously worked with farmers on their appeals to local and central authorities³⁵. Mr. Li Guozhu, another farmers' rights advocate, was arrested on 12 November 2004, after he investigated deadly ethnic clashes in Henan province, an area placed under martial law after violent clashes between Han Chinese and Hui Muslim communities. Eight police officers and the local village chief went to the office of Sanchun Dadi (Spring on the Land), a grass-roots advocacy group on the outskirts of Beijing where Mr. Li works as a volunteer, to question him about his Henan trip. The group assists farmers in petitioning for government redress in cases on corrupted officials, property seizures, and other rural abuses. He was then detained. Officials made no statements on his whereabouts or the charges against him. Mr. Li had already been detained then released in August and September 2004 without charges.

People struggling against corruption in real estate projects and forced relocation in Chinese big cities were also repressed. This was illustrated by the case of Mr. Zheng Enchong, a lawyer who has been working on housing rights by defending displaced residents in Shanghai³⁶. HIV/AIDS activists also faced constant harassment, including arrest. Messrs. Wang Guofeng and Li Suzhi, for instance, were arrested on 12 July 2004 and released on 8 August. They were further sentenced to house arrest on charges of fraud and disrupting social order. They had protested against inadequate healthcare and other discrimination against those infected with HIV/AIDS in their city.

In *India*, Sarita and Mahesh Kant, two land rights activists, were murdered on 24 January 2004³⁷. They had been working with the local

34 See Compilation of cases below.

35 *Idem.*

36 *Idem.*

37 See Urgent Appeal IND 300104.ESCR.

community in Shadbdo village over the past few years to achieve sustainable and equitable use of land resources. The situation of defenders who tried to obtain recognition of the rights of indigenous communities was also precarious. According to the NGO Minority Rights Group International (MRGI), on 11 October 2004, Indian rights defenders and Dalit rights activists were arrested in Tamil Nadu, when they protested against being denied their right to hold a public meeting to raise awareness of police abuses and rights violations.

In *Thailand*, three environment activists were killed in 2004, which makes a total of 18 human rights defenders killed in the country since 2001: Mr. Charoen Wat-askorn was protesting against a coal power plant project and exposed corruption on a public land claim in the Prachuap Khiri Khan province³⁸; Mr. Supol Sitichan had campaigned for forest conservation and had protested against illegal logging in Lampang province; Mrs Pakviapa Chalermklin had protested against a sand-shipping pier in the Ang Thong province.

Furthermore, in a number of Asian countries it was still very dangerous - if not completely impossible - to exercise activities in favour of labour rights. Restrictive legislation continued to be in force in a number of countries, while labour leaders continued to be persecuted, and strikes and protest actions were repressed. Certain countries (*Burma, China, Laos, North Korea, Singapore* and *Vietnam*) do not allow independent trade unions to be established.

In *Cambodia*, Mr. Chea Vichea, president of the Free Trade Union of the Workers of the Kingdom of Cambodia (FTUWKC), was killed on 22 January 2004 and Mr. Ros Sovannareth, president of the Trinonga Komara Garment Union and a member of the FTUWKC steering committee was killed on 7 May 2004. Yet the Cambodian government did not carry out a proper investigation into these murders, which were contract killings. Witnesses were threatened and key eye witnesses to the crimes disappeared, without giving testimony to the police. Furthermore, the judicial process was biased, and allegations of forced confessions and alibis were totally disregarded by the courts. Likewise,

³⁸ See Compilation of cases below.

on 23 June 2004, Ms. Lay Sophead, president of a union affiliated with the FTUWKC, was assaulted and left for dead.

In *China*, economic and social changes affecting workers in the context of globalisation produced a growing number of labour-related disputes (working conditions, unpaid salaries, and management corruption). The government responded by arresting and prosecuting the labour activists. Freedom of association, the right to organise and collective bargaining continued to be denied to Chinese workers, and trade unions at all levels were required to become affiliated to the All-China Federation of Trade Unions, which is controlled by the China's Communist Party. Mr. Wang Hanwu and eight other workers from the Tieshu Textiles Factory in Suizhou City, Hubei province, were detained by police following a mass public demonstration by over 1,000 workers on 8 February 2004. The Tieshu workers were protesting against the recent bankruptcy of the factory, which they alleged had resulted from extensive corruption on the part of the factory's managers. According to the now unemployed workers, the factory still owed them more than 200 million Yuan (around \$20 million) in unpaid wages and medical benefits, pension payments, and the shares of factory stock that workers were forced to buy some years ago and which are now worth only a quarter of their original value. "Disrupting social order" cases were successfully brought against three of the laid-off workers, resulting in sentences of up to one year in prison. In May 2004, ten workers from the Taiwan-invested Stella Shoe Factory in Dongguan City, Guangdong province, were arrested following a late-night protest against an arbitrary decision by management to count overtime pay at the weekday rate instead of the week-end rate, thus reducing their overtime pay substantially. The government's refusal of independent union organisations or genuine workers' representation resulted in an almost total absence of peaceful channels for the early resolution of disputes. In October and November 2004, the ten Stella workers were sentenced to prison terms of up to three and a half years³⁹.

In *Pakistan*, trade unions faced severe hardship. Government policies of interference in union politics, co-optation of leaders, setting up

39 See China Labour Bulletin website: www.clb.org.

of rival unions ("yellow unions") to break the strength of more autonomous unions, exclusion from all consultative processes, using undue influence in union elections, added to a lingering feudal mindset and a mind-numbing slowness of labour courts, weakened and factionalised trade unions in Pakistan. But the newly adopted Industrial Relations Ordinance 2002, which severely affects labour rights, probably constitutes one of the severest blows to trade union rights in Pakistan⁴⁰.

South Korea continued to use repressive measures against trade unions and their members. On 24 October 2003, South Korea started cracking down on undocumented migrant workers and their representatives, notably through forced deportation, arbitrary detention, and man-hunts⁴¹. In response to this situation, the Equality Trade Union-Migrants' Branch (ETU-MB) organised demonstrations and protests. Riot police and immigration authorities were said to have physically attacked ETU-MB members and supporters during the demonstrations. The government made it clear that it intended to break the ETU-MB and expel its leaders. On 1 April 2004, Mr. Samar Thapa, a prominent member of ETU-MB, was thus forcibly deported to Nepal, where Mr. Thapa is considered to be a terrorist because of his activities involving labour unions in South Korea⁴². Moreover, South Korea attempted again to introduce a bill on the Establishment and Operation of Public Officials' Trade Unions. The bill contains provisions restricting trade unions' rights and it is now being fast-tracked through official consultation procedures without regard to due process. On 19 October 2004, the government held a ministerial meeting to deliberate and confirm the bill, and decided to submit it to the National Assembly. The bill proposes, as originally drafted, that the Act will be enacted as the special law under the Trade Unions and Labour Relations Adjustment Act. While

40 In particular, it limits the right to strike, restricts the possibility for unions to be registered, reduces to nil the role of the National Industrial Relations Commission (NIRC), and no longer provides for mandatory reinstatement of unfairly dismissed workers. This is to be added to the fact that trade unions rights are already very limited in Pakistan, due notably to the broad extension of sectors prevented from forming trade unions.

41 See Compilation of cases below.

42 See Urgent Appeals KOR 120101.ESCR and KOR 120104.1.ESCR.

the Korean Government Employees' Union (KGEU) was holding a rally on 9 and 10 October 2004, in order to mobilise opposition to the proposed bill, the police responded violently, and ten union members were injured. Another 40 members were arbitrarily detained for 20 hours. Furthermore, at a press conference on 8 September 2004, the Minister of Government Administration and Home Affairs, Mr. Huh Sung Kwan, announced that all rallies and demonstrations would be banned, and organisers and participants charged with criminal acts. The Minister also announced that he might withhold subsidies from local government authorities negotiating collective agreements with KGEU, and that the Ministry would prevent KGEU from creating a "struggle fund", and prosecute the organisers. He further issued directives on 9 and 13 September 2004, prohibiting government departments from permitting the collection of union solidarity funds and the collection of union fees for the KGEU on the grounds that it is an illegal organisation⁴³.

Mobilisation for the regional, national and international protection of defenders

Civil society

On 14 September 2004, the Asian Forum for Human Rights and Development (Forum-Asia), on behalf of its thirty-six human rights member organisations, made a statement at the 7th International Conference for National Human Rights Institutions (NHRIs), in Seoul, South Korea. In light of continuing attacks against human rights defenders in Asia, it welcomed the timing (14 June 2004) of the adoption of the European Union Guidelines on the Protection of Human Rights Defenders. Participants requested National Human Rights Institutions to do the same by extending their full support to the work of the UN Special Representative of the Secretary General on Human Rights Defenders. They urged members of the Asia Pacific Forum on National Human Rights Institutions to explore the possibility of creating a

⁴³ See the website of the International Confederation of Free Trade Unions (ICFTU), www.icftu.org.

Human Rights Defenders Unit within its framework, which could facilitate a regional response to the calls for protection of human rights defenders.

United Nations (UN)

At the 60th session of the UN Commission on Human Rights held in Geneva from 15 March to 23 April 2004, the Special Representative of the UN Secretary General on Human Rights Defenders presented her report for 2003⁴⁴, in which she emphasised the number and type of violations being committed against human rights defenders. She noted that Asia had become the second region in terms of number of communications sent concerning defenders killed, allegations of death threats, physical assaults and frequency of assassination attempts. Communications were sent in this respect to the governments of China, India, Indonesia, Pakistan, Sri Lanka and Thailand. In 2003, 14.5% of communications sent by the UN Special Representative concerned Asia. During that year, the Special Representative reiterated her request to obtain invitations to visit India, Indonesia, Nepal and Pakistan.

The Special Representative also presented a report on her mission to Thailand from 19 to 27 May 2003⁴⁵. She pointed out the multiple arrests, detentions and prosecutions of defenders. She especially stressed the concerns of defenders who feared local police, in the context of the anti-drug campaign, would abusively target defenders who sought to bring out human rights issues. The Special Representative also emphasised that the role and security of Thailand's human rights defenders were not sufficiently assured by existing protection mechanisms, and that defenders supporting environmental and economic rights concerns on behalf of rural communities faced particular risks.

On 23 December, 2004, the Secretary General of the United Nations, Mr. Kofi Annan, expressed his concerns over the grave threats to the safety and security of human rights defenders in Nepal. The Secretary General further stated that: "the safety and ability of the

44 See United Nations Document E/CN.4/2004/94.

45 See United Nations Document E/CN.4/2004/94/Add.1.

National Human Rights Commission and all human rights activists to carry out their essential work should be guaranteed. In that regard, the recent signing of a Memorandum of Understanding between His Majesty's government of Nepal and the Office of the High Commissioner for Human Rights is a welcome step⁴⁶.

European Union

At the 20th inter-parliamentary meeting between the European Parliament and the People's Republic of China, held in Brussels in November 2003, the case of the "cyber-dissidents" was stressed, along with the repression of people carrying out so-called "subversive activities", as they were merely expressing themselves in Internet chat-rooms⁴⁷.

The European Parliament addressed the question of human rights defenders in several resolutions. On Burma, it noted that, in January 2004, the UN Special Rapporteur of the Human Rights Commission on the human rights situation in Burma reported that "the most urgent requirements today are the lifting of all remaining restrictions on the freedoms of expression, movement, information, assembly and associations; [and] the repeal of the related 'security' legislation"⁴⁸.

In its resolution on Cambodia, the European Parliament condemned the murder of Mr. Chea Vichea, president of the Cambodian Free Trade Union of Workers and a founding member of the Sam Rainsy Party, and regretted that the police investigations had been unsuccessful. It called on the government to put an end to the ongoing impunity in the country and bring the murderers of Mr. Chea Vichea to justice. It also urged the government to put in place the "much-needed reforms and law enforcement measures that would efficiently protect political and human rights activists from persecution"⁴⁹.

The Parliament also expressed its concern about the restriction of freedom of expression in Iran, in particular about the arrests of on-line

46 Statement attributable to the Spokesman for the Secretary General, New York, 23 December 2004.

47 See Report on the 20th EU/China Interparliamentary Meeting (PE 337.513).

48 See European Parliament Resolution on Burma, P5_TA(2004)0187.

49 See European Parliament resolution on Cambodia, P5_TA(2004)0101.

journalists, as well as about the travel ban that was imposed on journalist and human rights activist Mr. Emadeddin Baghi⁵⁰.

In its resolution on the Maldives, the Parliament qualified the imposition of a state of emergency as a "disproportionate reaction by the authorities to what was a largely peaceful demonstration" organised to demand constitutional reform and the release of political prisoners. It also denounced the arbitrary arrests, the incommunicado detentions, the lack of an independent judiciary as well as the restriction on individual freedoms, underlining that several public figures were being held in incommunicado detention, including Mr. Husnoo Alsnood, a lawyer and member of the National Human Rights Commission⁵¹.

Finally, the Parliament said it was extremely disturbed by the consistent problems related to freedoms of expression and assembly as well as arbitrary arrests in Pakistan⁵².

An EU Troika visited Nepal from 13 to 16 December 2004. The aim of the Troika was to offer EU support to all efforts aimed at promoting multi-party democracy and human rights as well as curtailing violence and renewing dialogue between the government of Nepal and the Communist Party of Nepal (Maoist) - CPN(M). The EU was gravely concerned about the rapidly deteriorating human rights situation in Nepal. In particular, the EU expressed "its full support to the efforts of the National Human Rights Commission (NHRC) and the human rights movement in Nepal", and emphasised that "intimidation and harassment of human rights defenders are absolutely unacceptable". The EU drew attention to the importance it attaches to ensuring the safety and protection of human rights defenders in Nepal. The EU also welcomed "the recent signing of a Memorandum of Understanding between the Nepalese government and the United Nations Office of the High Commissioner for Human Rights". The EU emphasised that urgent, targeted and concrete measures were needed to address a syste-

50 See European Parliament resolutions on Iran, P5_TA(2004)0166 and P5_TA(2004)0032, as well as compilation of cases below.

51 See European Parliament resolution on the political situation in the Maldives, P6_TA(2004)0017.

52 See European Parliament resolution on the situation concerning human rights and democracy in the Islamic Republic of Pakistan, P5_TA(2004)0374.

mic culture of impunity and to implement the government's human rights commitments of 26 March 2004. The EU will, in consultation with its other partners, revisit the human rights situation in Nepal at the 61st session of the Commission on Human Rights in Geneva in March-April 2005⁵³.

⁵³ See Council of the European Union, Press release 15858/04 (Press 352), "Nepal: EU Troika", 17 December 2004.

HUMAN RIGHTS DEFENDERS HARASSED

BANGLADESH

Legal restrictions on the independence of NGOs⁵⁴

The Amendment Bill to the Foreign Donations (Voluntary Activities) Regulations Ordinance proposed by the government continued to threaten Bangladeshi independent NGOs.

The Amendment Bill proposes the prohibition of "political activity", which "includes any activity which may be interpreted as political, or may affect politics, or such other activities which may be interpreted to be detrimental to national independence, sovereignty, culture, ethnic and religious sentiment (...)". The amendment fails to offer any guarantee that legitimate NGOs' activities, especially in the field of human rights, will not be targeted by the authorities under such a large and vague definition of political activities. In addition, the lack of precision as to what would be deemed "detrimental to (...) religious sentiment" reinforces apprehensions that women's groups, or organisations defending freedom of religion, might be undermined in their activities.

The proposed provisions also allow the authorities to remove the chief executive of an organisation if the government "is satisfied that the chief executive (...) has been responsible for any irregularity in respect of its funds or for any mal-administration in the conduct of its affairs, (...) or has caused the organisation to be involved in any political

⁵⁴ See Open Letter to the Bangladeshi authorities, 22 April 2004.

activity, or any activity influencing politics directly". This provision grants the government the power to interfere with internal NGO management. Moreover, the bill empowers authorities to dissolve an NGO and to liquidate its assets. If the bill is adopted, such a provision would annihilate the core of the NGOs' independence.

During an interview with an FIDH delegation in Bangladesh during the first week of April 2004, a high-ranking official of the NGO Affairs Bureau explicitly supported and justified the draft bill.

As of December 2004, the Amendment Bill had not yet been adopted.

Attack on the HRCBM⁵⁵

On 17 April 2004, at around 8 p.m., officers of the Bangladesh Nationalist Party (BNP), under the leadership of a local Member of Parliament, broke into the premises of the Human Rights Congress for Bangladesh Minorities (HRCBM) in Dhaka, ransacked and looted the offices, and physically assaulted the office assistant, Mr. **Kazi Shuash Hasan**, who was later taken to the Dhaka Medical College Hospital for treatment. The perpetrators of the attack occupied the premises until 22 April 2004, and threatened local members and staff of HRCBM, including Mr. **Dulal Choudhury**, a lawyer and vice president of HRCBM-Dhaka, of "serious consequences" if the incident was reported.

At first, the Lalbagh police station refused to register the case, but later agreed. Nonetheless, none of the perpetrators were arrested, although they were seen near the HRCBM offices.

HRCBM-Dhaka also filed a criminal case with the court of the Metropolitan Magistrate under section 145 of the Code of Criminal Procedure for restoration of the possessions of the HRCBM office. The Magistrate ordered the police to send an enquiry report, but in late 2004 the police had not submitted any report to the court and the case was still pending.

On 29 May 2004, members of the Jamaat-e-Islam party (ruling coalition partner) made defamatory statements in the national daily *Inqilab*,

55 See Urgent Appeal BGD 002/0404/OBS 029 and Open Letter to the Bangladeshi authorities, 10 June 2004.

asserting that HRCBM's work was "propaganda" planned to depict the country as militantly fundamentalist. On 30 May 2004, Mr. Moulana Matiur Rahman Nizami, Bangladeshi Minister of Industries and *Amir* (head) of the Jammāt-e-Islām party, made slanderous statements, essentially reiterating the commentary of the daily *Inqilab*. The news was published in the national daily *Jugantor* dated 31 May 2004.

Arbitrary arrests and harassment of Proshika members⁵⁶

Proshika, a development NGO working on women's rights and voters' education, has been targeted by the authorities since the BNP won the last election in October 2001, and has been under investigation for alleged mismanagement of funds for the past two years. The authorities also accused it of involvement in political activities, although no evidence supports these accusations. During this investigation, Proshika was not allowed to receive foreign funding, thus clearly hindering its ability to carry out its work. As of December 2004, the enquiry against Proshika had not yet been completed, and the association was still not allowed to receive foreign funding.

On 22 May 2004, two leaders of Proshika were arrested and detained in Dhaka. Dr. **Qazi Faruque Ahmed**, chairman of Proshika, was arrested while returning from the High Court, and Mr. **David William Biswas**, vice-chairman, was arrested at his home. Both were charged with "mismanagement of funds" and "fraud" under Section 402 of the Criminal Code. First, the lower court denied them bail, despite Dr. Faruque and Mr. Biswas' poor health (Dr. Faruque is a severe diabetic, and Mr. Biswas is partly paralysed). Since his detention, Dr. Faruque's health deteriorated. Finally, Mr. Biswas and Dr. Faruque were respectively released on bail beginning of June and end of July 2004, but had several cases pending against them. 17 fraud-and tax-related cases were filed against Proshika and/or Dr. Faruque. Recently, Proshika was accused of taking sides and campaigning for the Awami League (the main opposition party) during the last elections.

⁵⁶ See Open Letter to the Bangladeshi authorities, 10 June 2004.

Harassment against PRIP Trust⁵⁷

Mrs. **Aroma Dutta**, director of PRIP Trust (an NGO working in humanitarian and social fields) and member of the Proshika executive board, has been subjected to threats and harassment since 2001. In May 2004, Bangladeshi authorities threatened to arrest her upon her return to Dhaka from New York, where she was a witness in a hearing on repression of religious freedom in Bangladesh, organised by the United States Commission on International Religious Freedom on 30 April. Upon her arrival in Dhaka on 7 May 2004, she was escorted by US embassy officials, and also felt it necessary to obtain anticipatory bail to protect herself and her family in the event of her arbitrary arrest. As of December 2004, the government was still intimidating and harassing PRIP Trust, especially since Mrs. Dutta was actively working on the rights of minorities in Bangladesh.

CHINA

Crackdown on cyber-activists⁵⁸

Cyber-activists still in jail

As of December 2004, many cyber-dissidents involved in the promotion of human rights and democracy in China were still in jail, e.g., Mr. **Jiang Lijun**, sentenced in November 2003 to four years in prison for posting political views in favour of democracy on the Internet; Mr. **Huang Qi**, sentenced to five years in prison for publishing several articles about the Tiananmen massacre on his *Tianwang* website; Mr. **Tao Haidong**, sentenced to seven years in prison in January 2003 for publishing books and posting articles on web sites in China and overseas; Mr. **Luo Yongzhong**, sentenced to three years imprisonment with two years' subsequent deprivation of political rights in October

⁵⁷ *Idem*.

⁵⁸ See Annual Report 2003.

2003 after having published more than 150 articles online on topics such as the plight of the disabled and the need for constitutional reform; Messrs. **Jin Haike**, **Xu Wei** and **Zhang Honghai**, co-founders of the New Youth Society in May 2000, a study group that discussed political and democratic reforms, and Mr. **Yang Zili**, a New Youth Society member. The four of them were arrested in March 2001 and reportedly suffered harsh treatment in custody because of their refusal to admit guilt. Messrs. Jin and Xu were sentenced to ten years in prison in October 2003 while Messrs. Zhang and Yang were condemned to a eight years jail term. In June 2004, Mr. Xu Wei went on hunger strike to protest against the ill-treatment he was suffering in custody. Detention centre officials also refused to pass on a message to the four men by their families advising them to appeal their sentences.

Cyber-activists sentenced and/or still in jail

Moreover, some other cyber-dissidents who had been detained in 2002 or 2003 were sentenced to prison sentences at the very end of 2003 and in 2004, e.g.:

- Mr. **Ouyang Yi**, a political activist who had been arrested on 4 December 2002 and subsequently charged with "incitement to overthrow State power" for having criticised the Chinese government and used the Internet to spread his demands for democratic reforms. On 16 March 2004, the Chengdu Intermediate People's Court sentenced Mr. Ouyang Yi to two years in prison. He was tried in secret without any prior notice given to his family or even to his lawyer, who was unable to represent him in court. The evidence presented against him was a copy of the *Open Letter to the 16th Party Congress* disseminated through the Internet in mid-November 2002, initially drafted by Mr. Ouyang. The letter called for progress in China's democratisation and human rights, and was ultimately signed after finalisation by 192 dissidents.

- Mr. **Li Zhi** who, on 10 December 2003, was sentenced to eight years in prison on charges of "incitement to subvert State power", after having criticised official corruption. Mr. Li Zhi intended to make an appeal against this judgment but as of December 2004, the case was still pending.

- Mr. **Yan Jun**, another Internet activist, who was detained on 2 April 2003. He was sentenced to two years imprisonment for "subversion" on 8 December 2003 after he called for free labour unions, the release of

Mr. Zhao Ziyang, former secretary general of the Chinese Communist Party, and free press.

- Mrs. **Ma Yalian**, who, on 16 March 2004, was sentenced by the Shanghai's Administrative Committee for Reeducation Through Labour (RTL) to one and a half years of RTL⁵⁹. The decision claimed that "from July 2003 until February 2004, Mrs. Ma Yalian, on numerous occasions, posted [...] websites articles falsely accusing the Shanghai authorities of causing her physical injury". The decision also stated that Mrs. Ma Yalian had "turned petitioning into pestering." The main reason for Mrs. Ma's arrest was an article she posted on several websites entitled *A True Record of Being Turned Away from the National Petitions and Letters Office and the Petitions Bureau of the National People's Congress*. In this article, Mrs. Ma Yalian reported on physical abuses suffered by petitioners from police and officials outside of Beijing's main petitions offices. The article included accounts by many petitioners describing their brutal treatment at the hands of the authorities, providing names, location and dates of the incidents. Accounts of petitioners who committed suicide outside the petitions offices were also included. Mrs. Ma Yalian described her own experience of physical abuse and humiliation at the petitions offices. She spent many years petitioning the authorities over her forcible removal during an urban redevelopment clearance operation in Shanghai. The Shanghai Public Security Bureau previously had sentenced her to one year of RTL in August 2001. While serving that RTL sentence, Mrs. Ma Yalian had both her legs broken by police. She has been physically disabled ever since.

- Finally, Messrs. **Du Daobin** and **Luo Changfu**, who had organised a campaign in favour of the release of Mrs. **Liu Di**, (a cyber-dissident who was released on bail on 28 November 2003⁶⁰), were arrested in October 2003 by officers of the Public Security Bureau (PSB) of Yingcheng, Hubei province.

In November 2003 Mr. Luo Changfu received a three-year prison sentence and was still in detention at the end of 2004.

On 17 February 2004, Mr. Du Daobin was ultimately charged with "subversion" by the Hubei Prosecution Office. He was put on trial on 18

59 See Urgent Appeal CHN 002/0304/OBS 021.

60 See Annual Report 2003.

May 2004 in closed proceedings and without the benefit of his chosen defence counsel. His lawyer had only been notified a few days before the hearing that he was to present his defence statement on Du's behalf at the Xiaogan Intermediate People's Court. The Court sentenced Mr. Du Daobin to three years in prison for "incitement to subvert State power".

In June 2004, the Intermediate Court suspended his three-year jail sentence for four years, with two years' subsequent deprivation of political rights, and the obligation to report to his local Public Security Bureau every week. After his sentencing, Mr. Du was allowed to return home and reunite with his family. The Supreme People's Court of the Hubei province upheld the Intermediate Court's decision in appeal in August 2004.

Deteriorating health conditions of Messrs. Yao Fuxin and Xiao Yunliang⁶¹

In 2004, the situation of Messrs. **Yao Fuxin** and **Xiao Yunliang**, two labour activists, continued to deteriorate.

Messrs. Yao Fuxin and Xiao Yunliang were arrested in March 2002 as the leaders of a mass workers' demonstration against corruption and unpaid benefits in the city of Liaoyang, Liaoning province. On 9 May 2003, they were sentenced to seven and four years in prison respectively on charges of "subverting State power" (Article 105 of the Criminal Code). Their appeals were rejected by a higher court, and their health, already very poor, grew worse since their transfer on 8 October 2003, from the Jinzhou prison to the Lingyuan prison, considered to be one of the most brutal prisons in China.

In March 2004, without prior notification to the family, Mr. Xiao Yunliang was transferred to the Shenyang municipal Dabei prison, and it is likely that the two men were separated intentionally to create division between the two families.

In May 2004, his family found that his stomach and his face were swollen so badly that he had difficulty in sleeping, breathing and eating. In addition, Mr. Xiao Yunliang suffered from pleurisy and was almost

61 *Idem.*

entirely blind. On 2 June 2004, after many months of requests and pleas for improved medical care, Mr. Xiao, accompanied by his family, was sent to the Shenyang China medical university no. 2 hospital. He was found to have arteriosclerosis of the aorta, liver and gallbladder stones and chronic superficial gastritis - a possible symptom of other more threatening diseases. Despite this medical examination, Mr. Xiao was given no medicine and denied examination of his kidneys and lungs.

Mr. Yao was also still in a life-threatening situation despite some stabilisation in his condition. As of December 2004, he continued to suffer from intermittent heart failure and to lose consciousness regularly because of high blood pressure, which makes fear that he might have a heart attack at any moment. Further, he lost much of the use of his right leg, which began to turn black, and was deaf in his right ear due to an injury sustained while in detention in 2002.

Prison authorities treated Mr. Yao with particular harshness, fearing his continued influence among workers. He was not allowed to talk with other prisoners, to go outside for fresh air nor to read books or newspapers or telephone his family. Two prisoners were assigned to monitor Mr. Yao's every movement. Prison officials refused to issue padded garments to Mr. Yao or allowed his family to provide him with warmer clothes to ward off the winter chill. Finally, it was reported that prison officials threatened Mr. Yao with a curtailment of family visits if reports of his treatment and condition circulate outside. For that reason, Mr. Yao continued to bear his abusive treatment in silence for some time. However, instead of improving, his conditions deteriorated, and a letter to prison officials by his wife, Mrs. Guo Sujing, requesting better treatment, remained unanswered. As of December 2004, Mr. Yao had received no medical diagnosis or treatment.

Finally, in 2004, the wives of both men were forcibly removed from Beijing after vain attempts to raise the case of their husbands with the Provincial Supreme People's Court, the Ministry of Public Security and the Central Letters and Complaints Bureau, and to ask for a retrial. While at the Letters and Complaints Bureau, the women were picked up by officials from Liaoyang and taken to Huludao city where Liaoyang PSB officials forcibly took them back to Liaoyang. On their return, despite continued harassment, the two wives went again to the Provincial Supreme People's Court to demand a retrial. Their request was dismissed.

Arbitrary detention, harassment and ill treatment of activists involved in forced evictions

Detention of Mr. Zheng Enchong and abduction of his wife⁶²

Persecution of Mr. **Zheng Enchong**, a Shanghai lawyer involved in the defence of economic and social rights of displaced persons, and his family, continued in 2004.

Arrested on 6 June 2003, Mr. Zheng Enchong was sentenced in October 2003 to three years in prison and deprivation of his political rights for one year, on charges of "illegally providing state secrets to entities outside of China", by the Shanghai Second Intermediate People's Court. He was accused of sending two communications to the NGO "Human Rights in China". The Shanghai appeal court upheld the sentence on 18 December 2003⁶³.

On 13 January 2004, Mr. Zheng Enchong was transferred from the Shanghai municipal detention centre to Tilanqiao prison. He was kept in solitary confinement and suffered physical abuse.

On 28 February 2004, his wife, Mrs. **Jiang Meili**, went to Beijing to petition the National People's Congress on behalf of her husband. That night, five women and two men burst into Mrs. Jiang's hotel room, bound and gagged her. She was forced into a vehicle and taken to another hotel in Canzhou City, Hubei province. The next day, five people took her back to Shanghai, where she was held in the Guangdi Hotel. The persons involved in her detention included officials of the Shanghai Representative Office in Beijing, the Shanghai Letters and Petitions Office and the Shanghai municipal PSB. At no time was Mrs. Jiang Meili presented with an arrest warrant or given any reason for her detention.

She was finally released on 1 March 2004, and was allowed to return home. However, the police kept her under close surveillance, and she remained under house arrest. The authorities destroyed her two mobile telephones and disconnected her home phone line. On 4 March 2004, plain-clothed police officers prevented Mrs. Jiang Meili from leaving

62 See Open Letter to the Chinese authorities, 11 March 2004, and Urgent Appeal CHN 001/0803/OBS 041.4.

63 See Annual Report 2003.

her home to visit her husband. After she protested and continued walking, a group of people grabbed her by the hands and feet, and began to carry her away. After some struggling, her captors agreed to let her walk on her own feet and took her to the Guoqing Lu PSB. Mrs. Jiang Meili was released that same day. This was the third time Mrs. Jiang Meili was illegally detained since her husband was condemned.

At the end of July 2004, the police stopped watching her house, but they continued to visit her home from time to time.

On 10 November 2004, Mrs. Jiang Meili went to visit Mr. Zheng, along with other family members. During the visit, Mr. Zheng said he had been visited a number of times by the director of Shanghai's Judicial Bureau and Prisons Bureau, Mr. Miao Xiaobao, who told him that if he admitted wrongdoing, his three-year sentence would be reduced by one year. Mr. Zheng Enchong refused to do so.

Since the beginning of his imprisonment, Mr. Zheng has not been allowed to see his lawyer, and therefore has not been able to file an appeal against his sentence. His wife filed an appeal application on his behalf before the Shanghai Supreme People's Court but the Court did not register it.

During his wife's visit, Mr. Zheng also told his visitors that in spite of his relatively light sentence, he was housed in the prison's high security section, where he was obliged to share his 3.5 square meter cell with two other prisoners. In addition, repeated requests to telephone his family had been denied. Mr. Zheng also asked his wife to urge displaced residents to persevere in their legal action against Mr. Zhou Zhengyi, a wealthy property developer, and others involved in a redevelopment project. When he began speaking about this subject, prison guards immediately ended the visit, and five or six guards carried Mr. Zheng out of the visiting room.

Attack of Mrs. Mo Zhujie⁶⁴

On 5 March 2004, Mrs. **Mo Zhujie**, the mother of Mr. **Shen Ting**, a Hong Kong resident, was attacked by the Shanghai authorities because

64 See Open Letter to the Chinese authorities, 11 March 2004.

of her son's campaign on behalf of Mr. Zheng Enchong and other Shanghai residents displaced by urban redevelopment projects.

While Mrs. Mo Zhujie was watching television at the home of a displaced resident, Mr. Ding Jundi, a group of eleven individuals, some wearing police uniforms, abducted her (one of the individuals was later identified as Yan Haipeng of the Shimen Erlu PSB). They forced her into a police vehicle, placed a plastic bag over her head, and threatened to kill her.

Mrs. Mo Zhujie was finally freed shortly after midnight.

*Arrest and ill treatment of Mr. Hua Huiqi*⁶⁵

In mid-February 2004, Mr. **Hua Huiqi**, a protestant church leader and a social activist campaigning against forced evictions in Beijing, was placed under *de facto* house arrest.

On 5 March 2004, Mr. Hua Huiqi and his wife, Mrs. **Wei Jumei**, were forced into a police vehicle and taken to the Fengtai PSB station after attempting to leave their home. Mr. Hua was beaten by several police officers and had to be taken to the hospital. While they were at the hospital, the police broke into their home, ransacked the place and stole their money.

When Mr. Hua and his wife later left their home to go to the Fengtai PSB station to report the theft, they were once again beaten by the police officers, who tried to bar their way. Once at the police station, the police showed no interest in pursuing their complaint.

Arbitrary detention and house arrest of "Tiananmen Mothers"⁶⁶

On 28 March 2004, Mrs. **Ding Zilin**, Mrs. **Zhang Xianling** and Mrs. **Huang Jinping**, three "Tiananmen Mothers" were arrested and their homes were subsequently searched by the police. Mrs. Ding Zilin, a key spokesperson for the victims' families, was arrested at her home by three police officers without presenting any arrest warrant. Mrs. Zhang Xianling was apprehended in her home by two police offi-

⁶⁵ *Idem.*

⁶⁶ See Urgent Appeal CHN 001/0304/OBS 019 and 019.1.

cers, who presented a warrant stating that she was being detained under Article 50 of China's National Security Law. Police told her husband that the Tiananmen Mothers Campaign and the Tiananmen Mothers Network, as a group, were reactionary organisations through which entities inside and outside China were conspiring to harm national security and to incite subversion of State power. Mrs. Huang Jinping was arrested at her home by national security police bearing an arrest warrant.

The three women's arrest was linked with the importation of T-shirts from Hong Kong printed with a Tiananmen Mothers logo in commemoration of the 15th anniversary of the 1989 Tiananmen Massacre. It seems that a video CD that had been released earlier in Hong Kong, presenting the testimonies of six family members of June 4th victims, including Mrs. Ding Zilin, Mrs. Zhang Xianling and Mrs. Huang Jinping, was the alleged impetus for the arrests. This video CD had then been taken to Geneva by members of the Tiananmen Mothers Campaign, to be presented to the UN Commission's Working Group on Enforced or Involuntary Disappearances.

Mrs. Ding Zilin, Zhang Xianling and Huang Jinping were released on 1 April 2004, after confessing they had "conspired with overseas forces to evade Chinese customs and import illegal goods to China (...) and engaged in other activities in violation of China's State Security Law".

In May 2004, Mrs. Ding Zilin, Zhang Xianling and Huang Jinping and Mrs. **Yin Min**, also a member of the Tiananmen Mothers Network, were held under house arrest. They were planning to file a legal complaint with the Supreme People's Prosecution Office against former Prime Minister Mr. Li Peng on behalf of 126 people who lost a family member in the Tiananmen Massacre. Since then, no one was allowed to enter Mrs. Ding's home, and she and her husband were not allowed to leave home except for the purchase of basic necessities. On 25 May 2004, police warned Mrs. Ding Zilin not to go to the Prosecution Office.

On 28 May 2004, Mrs. Zhang Xianling and Mrs. Yin Min were again placed under surveillance. The police warned them not to file any legal complaints.

Up to December 2004, Mrs. Ding Zilin, Mrs. Zhang Xianling and Mrs. Yin Min were confined almost entirely to their homes, apart from closely monitored shopping trips.

Detention of a farmers group's leader⁶⁷

On 6 July 2004, public security police arrived at the home of Mr. **Zhang Youren**, the leader of a farmers group in Tangshan, Hubei province, who was protesting the terms of their forced relocation. They instructed him to pack his diabetes medication before taking him away - an indication that he would be held in custody for a certain period of time. After having arrested Mr. Zhang Youren, the police conducted a search of his home, and when his wife, Mrs. **Wang Yushu**, and his son, Mr. **Zhang Guodong**, declined to co-operate with the search, police officers beat Mrs. Wang and forcibly removed her to the local police station.

Mr. Zhang's detention was probably related to a visit to Tangshan by Chinese Prime Minister Wen Jiabao scheduled for 8-10 July 2004. The relocated farmers were planning to petition Wen Jiabao to intervene in their case, and the arrest of their leader was seen as an attempt to forestall any such action. Another peasant leader, Mr. **Li Tie**, anticipating similar treatment, fled the city.

As of December 2004, although seriously ill, Mr. Zhang Youren was still confined to his home under house arrest. Mr. Zhang is reported to be almost blind with glaucoma because his diabetic condition has become worse and the terms of his residential surveillance do not allow him to be in contact with other people and, thus, receive medical treatment.

Moreover, those assisting the peasant protesters have come under increasing pressure since Mr. Zhang Youren's detention. Indeed, Mr. **Zhao Yan**, a researcher for the Beijing bureau of the *New York Times* known for his reports on China's peasantry, has been held since 17 September 2004, and was formally arrested on 20 October on the charge of "divulging State secrets", which is punishable by the death penalty. Among other reasons, it seems that Chinese authorities wished to prevent Mr. Zhao Yan from starting a hunger strike on behalf of Mr. Zhang Youren. As of December 2004, Mr. Zhao was still detained, and his case was pending.

67 See Urgent Appeal CHN 003/0704/OBS 056.

Arbitrary detention, adjournment of court proceedings and release of Mr. Yan Zhengxue⁶⁸

In late 2003, while Mr. **Yan Zhengxue**, an outspoken human rights promoter and a well-known artist and dissident, was in the United States, his mother was intimidated by thugs sent by Mr. Zhu Yongjie, of the Taizhou City Prosecution Office. After Mr. Yan returned to China, he went to ask for protection at the Zhejiang local police station but the police refused to investigate the incident. Short after, Mr. Zhu Yongjie and a group of thugs demanded that Mr. Yan hand over his flat and threatened him with serious bodily harm. Mr. Yan Zhengxue went to the Jiaojiang district public security substation to ask for protection, but the police not only refused to help and to pursue the case but also tried to discredit him with slander.

In June 2004, Mr. Yan filed a complaint against the Beijing and Zhejiang public security authorities and the Jiaojiang District public security authorities for "slandering his reputation with false information", with the Beijing No.2 Intermediate Court and the Jiaojiang District Court in Zhejiang.

Following Mr. Yan's complaint for slander, a court hearing took place on 27 October 2004. The presiding judge called for an adjournment after Mr. Yan brought some arguments against the records produced by the Jiaojiang district public security substation. No date has yet been set for resumption of the proceedings.

Finally, in the lead up to the meeting of the Central Party Committee of the 16th Party Congress, Mr. Yan Zhengxue was arrested and secretly detained by the State Security Department police on 14 September 2004. Mr. Yan Zhengxue was taken away by car from Taizhou City at 2.35 p.m. by the Zhejiang province State Security Department police. He was released without charges soon after being detained.

68 See Urgent Appeal CHN 004/0904/OBS 071 and 071.1.

Physical attack on human rights activists⁶⁹

Mr. **Kailash Satyarthi**, chairman of the "Save the Childhood Movement" (Bachpan Nachao Andolan), was attacked, threatened and sued in his attempt to rescue children enslaved and victim of sexual abuse in the "Great Roman Circus" in Gonda district, Uttar Pradesh.

On 15 June 2004, Mr. Satyarthi, acting on the complaints of eleven parents and accompanied by four of them, conducted a peaceful raid of the circus to rescue the children enslaved there. Since the raid was to be conducted in co-operation with the Sub-divisional Magistrate, the latter accompanied Satyarthi and the group of activists to the circus. Yet, as soon as the group arrived, the Magistrate turned against them in conspiracy with the circus administration, who launched an attack on Mr. Satyarthi and the other activists with knives, iron rods and guns. A circus manager threatened to shoot Mr. Satyarthi, if he tried to take any children away, and Mr. Satyarthi later suffered head injuries and a fractured leg. The Magistrate threatened the activists, saying that if they took up the cause, they had to "get ready for a bashing as well".

On 18 June 2004, Mr. Satyarthi began a hunger strike outside the Uttar Pradesh State Legislative Assembly in Lucknow, demanding the immediate release of the children trapped in the circus, as well as an inquiry into the conditions of children working in all circuses throughout India. Approximately 25 supporters joined in the strike, which ended when the police forcibly admitted Mr. Satyarthi to the hospital on 22 June 2004.

Although charges were filed against Mr. Satyarthi for "illegal activity", no attempt to investigate the attack and threats toward the activists was made by the authorities, and no charges were filed against them, not even by the Magistrate. Some of the circus staff were charged with sexual abuse, but only two of them were arrested.

69 See Urgent Appeal IND 001/0704/OBS 053.

Violent dispersal of a peaceful meeting⁷⁰

On 21 August 2004, activists of the Jangipara branch of the Association for the Protection of Democratic Rights (APDR), based in West Bengal, organised a peaceful street meeting against state-repression in Hooghly, greater Kolkata. The local APDR members were joined for the occasion by Mr. **Sujato Bhadra**, APDR general secretary, Mr. **Amitadyuti Kumar**, APDR vice-president, Prof. **Sanjib Acharya**, secretary of APDR Hooghly district committee, Mr. **Gautam Munshi**, treasurer of the Hooghly district committee, and secretariat members Messrs. **Bapi Dasgupta**, **Raghunath Chakraborty**, **Shankar Nandy**, **Sukumar Tiwari** and **Tushar Chakraborty**.

As APDR members assembled at the Jangipara bus stand, they were attacked by a group of 50 to 60 members of the Communist Party of India - Marxist (CPIM), who attacked the gathering by kicking and beating the members with their fists and poles, and verbally abusing them. The victims of the attack, among which were Messrs. Amitadyuti Kumar and Gautam Munshi, were later admitted to Walsh Hospital, Srirampur.

Although police officers were posted nearby the place of the attack, and the victims rushed to the police station, no police officers came to stop the violence or arrest the perpetrators. After breaking up the APDR meeting, the attacking group then began its own meeting, labelling APDR members as part of an opposition party plot.

On 21 September 2004, the National Human Rights Commission of India (NHRC) requested the Chief Secretary of the government of West Bengal to submit "requisite information/report" within four weeks from the date of receipt of the notice (case number 553/25/2004-2005/UC).

As of November 2004, no action had been taken against the police officers.

⁷⁰ See Urgent Appeal IND 002/0804/OBS 066.

Arbitrary arrests, subsequent releases and deliberate disruption of human rights activities⁷¹

On 11 October 2004, several members of the People's Watch-Tamil Nadu (PW-TN), an NGO that promotes human rights through monitoring, intervention and education, and of the Federation of Consumer Organisations Tamil Nadu & Pondicherry (FEDCOT), two organisations belonging to the National Core Group on NGOs of the National Human Rights Commission (NHRC), gathered for a training session to prepare the Campaign Against Torture-Tamil Nadu (CAT-TN) at the Cuddalore (Tamil Nadu) town hall. Later on the same day, they were going to organise a press conference on human rights violations committed by Mr. Prem Kumar, police superintendent in Cuddalore district, including sexual harassment of women, arbitrary detentions, intimidation and coercion.

When the training session was about to start, a group of policemen headed by deputy superintendent of police Payas Ferozkhan Abdullah, forced their way into the training hall and interrupted the programme, under the alleged reason that a press briefing was not allowed. When the defenders protested, the police warned them that they would be arrested. When Mr. **Henri Tiphagne**, the executive director of PW-TN, demanded a warrant, the policemen headed by superintendent Payas Ferozkhan demonstrated excessive physical force on him and carried him off to the town hall police station.

Thirteen other defenders, among whom Mr. **Nizamudeen**, State secretary general of the National Core Group on NGOs, and Mr. **Murugappan**, regional monitoring associate at PW-TN, along with two bystanders, were also arrested and taken to the Cuddalore police station.

All these persons were held for over seven hours on a provisional detention order, before being released on bail. Neither at the time of their arrest, nor during their detention were they informed of the legal grounds for their arrest. In a custody memo, the registered cause of arrest was that the campaigners had obstructed a computer class for women at the town hall, nothing more. Later on, People's Watch was

⁷¹ See Urgent Appeal IND 002/1103/OBS 061.1 and Annual Report 2003.

officially notified that the defenders had been held for crime no.716/2004, under sections of the Criminal Amendment Act referring to rioting, assault or use of criminal force, disobedience to an order lawfully promulgated, and criminal intimidation, which contradictorily does not allow for release on bail.

On 11 October 2004, under national and international pressure, the NHRC registered the case and issued an order to the Director General of the police to conduct an investigation into the arrest of Mr. Tiphagne and his colleagues and provide a report on the facts within two weeks.

On 13 October 2004, PW-TN learned through the media that the State Human Rights Commission, Tamil Nadu (SHRC) had taken cognisance of the case *suo moto*. PW-TN addressed a letter to the SHRC's acting chairman requesting that the SHRC discontinue its enquiry, in application of section 36 of the Protection of Human Rights Act, and yield to the NHRC's prior motions on the case⁷². Nonetheless, the Inspector General of the police, Mr. Jangrid, responsible for northern Tamil Nadu including the district of Cuddalore, initiated his own enquiry.

Mr. Tiphagne had previously played a key role in having Mr. Prem Kumar convicted for human rights violations, in particular in the case of army veteran Mr. Subedhar Nallakaman, a resident of Vadipatti who was beaten and tortured in 1982, along with his wife and his son, by Mr Kumar, the then sub-inspector at the Vadipatti police station.

Furthermore, the police had raided the premises of PW-TN at Madurai, on 5 November 2003⁷³. Mr. Henri Tiphagne was at the time personally intimidated and threatened by senior police officials.

72 The founding articles of India's Human Rights Commissions specify that only one such body may take cognisance of a case; in this case, that power belongs to the NHRC, which was the first commission to have registered the case.

73 See Urgent Appeal IDN/002/1103/OBS 061 and Annual Report 2003.

Lack of investigation into the assassination and disappearance of two human rights volunteers⁷⁴

In late 2004, no progress had been made on the cases of the assassination and disappearance of Messrs. **Abdussalam Muhamad Deli** and **Raja Ismail**.

Mr. Abdussalam Muhamad Deli, a 23 year-old volunteer of the Human Rights and Legal Aid post East Aceh (PB-HAM), an NGO that carries out advocacy through data collection, campaigning and legal assistance, has been missing since 11 May 2003. He was travelling from Central Langsa on a small public bus to visit his family's village when his bus was stopped by unknown men in civilian clothing. They forced him out of the bus into a car and drove away in the direction of the city of Langsa. No news of his whereabouts has been heard since then.

On the same day, Mr. Raja Ismail, a volunteer of PB-HAM, was reportedly abducted outside Langsa. On 13 May 2003, his body was found in the Titi Kembar river in Langsa Lama village, East Aceh district. The corpse showed signs of strangling, as well as knife wounds and bruises.

Assassination of Mr. Munir, co-founder of KONTRAS⁷⁵

In 2002 and May 2003, Mr. **Munir**, co-founder of the Commission for the Disappeared and Victims of Violence (Komisi untuk Orang Hilang dan Korban Tindak Kekerasan - KONTRAS), and other members of KONTRAS had been attacked by members of the Veterans' Youth (Pemuda Panca Marga - PPM) for their criticism against the Indonesian government's policy in handling the Aceh problem⁷⁶.

Mr. Munir died on 7 September 2004, on board of a flight to Amsterdam. It was reported that he started feeling sick before his trans-

⁷⁴ See Annual Report 2003.

⁷⁵ See Open Letter to the Indonesian authorities, 1 December 2004.

⁷⁶ See Annual Report 2003.

it in Singapore and died shortly before landing in The Netherlands.

On 11 November 2004, the Dutch Forensic Institute made public the findings of an autopsy revealing the presence of a lethal dose of arsenic in Mr. Munir's body, which confirmed the fears that his death, during his travel from Jakarta (Indonesia) to Amsterdam (The Netherlands), was an assassination.

Mr. Munir, as a leader of KONTRAS, had played a leading role in investigating human rights violations committed by the Indonesian Army, notably in East Timor. He had taken up numerous cases of disappeared activists in Indonesia, from Aceh to Papua, during the Suharto dictatorship. He had also been active in the Legal Aid Institution.

On 20 November 2004, Mr. Munir's wife, Mrs. **Suciwati**, received a dead chicken by mail at her home with a threatening note warning her that if she linked her husband's murder to the TNI (the Indonesian Armed Forces), she would "end up like this chicken". She immediately reported the death threat to the police, who arrived at her house only four hours later. According to Mrs. Suciwati, she and her husband had received several threats in the past.

The Indonesian authorities initiated an enquiry into Mr. Munir's death following the announcement of the results of the autopsy. At a meeting in late November 2004, government representatives, Mrs. Suciwati and NGO representatives reportedly agreed upon the setting up of an independent team to investigate the case, in addition to the criminal investigation that was initiated, due to the seemingly political nature of the assassination.

Arbitrary detention and deteriorating health of Mr. Nasser Zarafshan⁷⁷

Mr. **Nasser Zarafshan**, a human rights lawyer, was still in prison at the end of 2004, despite several requests that his sentence be suspended for medical reasons.

Mr. Zarafshan, who is the lawyer of Mrs. Sima Pouhandeh, the widow of Mr. Mohammed Djafar Pouhandeh - a writer and human rights defender assassinated in 1998 -, was sentenced to three years in jail by the Tehran military court on 18 March 2002, for "possession of firearms and alcohol". He was also sentenced to two additional years of imprisonment and fifty whiplashes for his statements to the press regarding the lawsuit of the alleged murderers of Iranian intellectuals, which ended in January 2002.

The Tehran military court confirmed the sentenced in appeal on 15 July 2002, and Mr. Zarafshan was arrested in August 2002 and put in detention.

In December 2004, Mr. Zarafshan's health seriously deteriorated, following an nephritis attack while in detention. He was hospitalised on 2 December 2004, in the Evin prison. He was brought back to his cell three days later.

His family and his lawyer, Mrs. **Shirin Ebadi**, who visited him on 6 December 2004, asked for Mr. Zarafshan to be hospitalised outside the prison, but did not receive any answer.

Arbitrary detention and deteriorating health of Messrs. Akbar Ganji and Hassan Youssefi-Echgevari⁷⁸

The health of Messrs. **Akbar Ganji** and **Hassan Youssefi-Echkevari**, two journalists who were arrested in 2000 for having exercised their right to freedom of expression, deteriorated in an alarming way in 2004.

⁷⁷ See Annual Report 2003 and Urgent Appeal IRN 004/0012/OBS 125.6.

⁷⁸ See Annual Report 2003.

Mr. Youssefi-Echkevari was sentenced to seven years of imprisonment in October 2002. Mr. Akbar Ganji, of the daily newspaper *Sobh-é-Emrooz*, was sentenced to ten years of imprisonment in July 2001 on the charge of "undermining national security and propaganda against institutions of the Islamic State". This condemnation was linked to several articles suggesting the involvement of the Iranian regime in the assassination of dissident intellectuals as well as his participation in a conference on the Iranian legislative elections in Berlin in April 1998.

Both men were still being detained in the Evin prison at the end of December 2004.

Restrictions on Mr. Emadeddin Baghi's freedom of movement and subsequent legal proceedings⁷⁹

Mr. **Emadeddin Baghi**, president of the Society for Defending Prisoners' Rights, and editor-in-chief of the daily newspaper *Jomhouriyat* (Republic) - banned in September 2004 -, was prevented from leaving Tehran on 4 October 2004. He was going to participate in the 2nd World Congress Against the Death Penalty, organised by Penal Reform International and Together Against the Death Penalty (Ensemble contre la peine de mort) in Montreal, Canada, from 6 to 9 October 2004. His passport was confiscated.

Moreover, on 17 October 2004, the suspensive character of a judicial decision pronounced against him by the Revolutionary Tribunal of Tehran in December 2003, was lifted *in absentia*. Mr. Baghi had been condemned to a one year suspended prison sentence for "subversive activities against the Islamic Republic of Iran", following the publication of articles against the death penalty.

Mr. Baghi, who already spent three years in prison (2000 to 2003) for similar charges, appealed the sentence at the end of October 2004.

As of December 2004, Mr. Emadeddin Baghi was still forbidden to leave Iran, and his passport had not been returned to him.

⁷⁹ See Urgent Appeals IRN 001/1004/OBS 075 and 075.1.

Death while in custody of Mr. Khamphouvieng Sisa-Ath⁸⁰

In October 1999, five members of the "Lao Students Movement for Democracy of 26 October 1999", Messrs. **Thongpaseuth Keuakoun**, **Khamphouvieng Sisa-ath**, **Seng-Aloun Phengphanh**, **Bouavanh Chanhmanivong** and **Keochay**, were arrested and sentenced to 20 years of imprisonment for "generating social turmoil and endangering national security". The group had organised a peaceful march in Vientiane on 26 October 1999 to denounce social injustice and to call for the respect of human rights and democratic reforms in Laos.

In May 2004, new information, which was previously concealed by Laotian authorities, revealed that Mr. Khamphouvieng Sisa-ath had died in late 2001 as a result of mistreatment while in detention in Samkhe prison, which is located in a suburb of Vientiane. According to co-detainees who had witnessed his death and were subsequently released, Mr. Khamphouvieng Sisa-At died after being exposed to heat for a long period of time. Mr. Sisa-At's ashes were not returned to his relatives.

The Laotian government always refused to provide any coherent information on the whereabouts or health conditions of the other members of the 26 October Movement. Messrs. Thongpaseuth Keuakoun, Sengaloun Phengphanh, Bouavanh Chanhmanivong and Keochay were allegedly still detained in Samkhe prison at the end of 2004.

⁸⁰ See Annual Report 2003 and Urgent Appeal LAO 001/0604/OBS 041.

Mrs. Irene Fernandez sentenced⁸¹

In 1995, Mrs. **Irene Fernandez**, director of Tenaganita, an NGO working with migrant women, was charged with "publishing false information with malevolent intentions", following the publication of a report entitled *Memorandum on abuses, acts of torture and inhuman treatment towards migrant workers in detention camps*, which contained allegations of ill treatment of migrant populations, based on Mrs. Fernandez's interviews with over 300 migrant workers. Convicted and sentenced to 12 months in prison on October 2003 by the Magistrate's court 5B, in Kuala Lumpur, Mrs. Fernandez was granted bail for RM 3000 and she filed an appeal with the Kuala Lumpur High Court on 17 October 2003.

At the end of 2004, the appeal was still pending.

Since she has been convicted, Mrs. Fernandez was barred from standing as a candidate for the 2004 Malaysian parliamentary elections, and the government is limiting the use of her passport, which she had to surrender to the court as part of her bail. This means that she must apply to the government whenever she wants to leave the country. Many of her requests were denied by the Kuala Lumpur Magistrate's court, in particular, her applications for the release of her passport to attend several international meetings in 2003.

On 26 February 2004, Mrs. Fernandez decided to withdraw her application due to the delay by the Kuala Lumpur High Court in hearing her travel ban appeal, after Judge Abdull Hamid Embong had said that the matter had been rendered academic, as the international meetings she had intended to attend were already over.

Mrs. Fernandez's passport application to attend the Food and Agricultural Organisation (FAO) Regional Conference of the International Planning Committee on Food Sovereignty for Asia Pacific to be held from 15 to 21 May 2004 in Beijing, China, was also rejected by the Kuala Lumpur Magistrate's court on 6 May 2004, without stating

⁸¹ See Annual Report 2003.

the grounds for the rejection. An immediate appeal was made at the High Court over the magistrate's decision.

On 10 May 2004, Judge Y.A. Dato' Abdul Kadir Bin Musa of Kuala Lumpur High Court approved Mrs. Fernandez's application for the release of her passport to participate in the conference, but the judge set a few conditions. Among others, she was required to report at the Malaysian embassy in China upon her arrival on 14 May 2004 and 48 hours before departure from China, and to uphold "the Malaysian Flag" (the country's image) while in China.

Mrs. Fernandez had to return her passport on 24 May to the Magistrate's court.

Infringements to freedom of assembly, arbitrary arrests and ill treatment of several defenders⁸²

On 28 February 2004, members of 64 NGOs and political parties gathered outside the Bukit Aman police station, in order to hand a memorandum on the misuse of police powers to the Inspector General of the police. They were protesting against numerous incidents involving, in particular, the death of suspects while in police custody, police shootings, violations of remand procedures, and the dispersion of peaceful assemblies.

During this peaceful demonstration, the police detained the message bearer and ordered the demonstrators to disperse. Then they attempted to arrest Mr. **Fahmi Reza**, a member of Suara Rakyat Malaysia (SUARAM), a Malaysian human rights NGO. When the crowd protested and demanded his release, Mr. Reza was beaten and trampled on, and the police tried to take away his glasses and belongings. The police then used two water cannons that sprayed chemical-laced water to disperse the crowd. Following this police intervention, 17 members of political parties and representatives of civil society, including Mr. **Eric Paulsen**, Mrs. **Elizabeth Wong** and Mr. Fahmi Reza, all three members of SUARAM, were arrested and sent to the police station at Jalan Hang Tuah.

Later that same day, all 17 demonstrators were released on bail. They were told to report back to the police on 15 March 2004. No charges were made against any of them. Mr. **Tian Chua**, vice president of

⁸² See Open Letter to the Malaysian authorities, 5 March 2004.

the National Justice Party, and Mrs. Elizabeth Wong sustained bruises. Mrs. **Latheefa Koya**, another member of SUARAM, sustained minor injuries around her neck due to ill treatment in the hands of the police.

Reports against the police were filed by many groups.

As of December 2004, the only reaction to these reports came from the Human Rights Commission in Malaysia (SUHAKAM), which, in a letter, stated that the assembly was held without a permit and that organisers should have applied for it before the assembly. Yet, the 17 protestors had been arrested on the ground that one of them (Fahmi Reza) allegedly carried a sharp object and that the other 16 remained at the place even though they were asked to disperse. While SUHAKAM did not propose to investigate into the incident, the commission said it would raise the issue within the police forces in *fora* and workshops.

Physical attack and repeated acts of harassment against Mr. Ponnusamy Uthayakumar⁸³

On 27 April 2004, the windshield of the car of Mr. **Ponnusamy Uthayakumar**, a human rights lawyer, was smashed.

On 30 April 2004, he was arrested along with 11 other persons as they were about to file a complaint against the police concerning the death in custody of a 23 years old man.

On 10 May 2004, Mr. Ponnusamy Uthayakumar was attacked by three unidentified people wielding a sledge hammer, as he was on his way home from his office, on Jalan Medang Tandok road in the Bangsar area of Kuala Lumpur. During the incident one of the attackers pointed a gun at Mr. Uthayakumar. He managed to escape but suffered injuries to his body, face and head. Mr. Uthayakumar filed a report with the police alleging the attack was carried out by, or on the orders of members of the police forces. He requested the recently established Royal Commission on the police to investigate this attack.

A decision on this request was still pending at the end of 2004. Mr. Uthayakumar also applied for police protection and a firearms

83 See Urgent Appeal MYS 001/0504/OBS 037.

licence to protect himself; he did not receive a response to either application.

As of December 2004, the Malaysian government had not yet carried out a fair, impartial and independent investigation into the attack on Mr. Uthayakumar, and the perpetrators had not been brought to justice. His suit against the authorities for unlawful detention was adjourned to 14 February 2005. Furthermore, in late December 2004, the authorities lifted the overseas travel ban that has been imposed on Mr. Uthayakumar, and the income tax department sent him a letter that they would refund part of the income tax they had imposed on him earlier.

Mr. Uthayakumar had already been subjected to acts of harassment in the past. In particular, he was arrested in January 2003 and held for two days after attending an inquiry concerning a case of death in custody. During this detention, he was abused, humiliated, stripped to the underwear, and photographed and video-taped in front of nine police officers. Mr. Uthayakumar was also denied legal representation. He was initially charged under Section 228 of the Criminal Code (contempt of court) and Section 506 (criminal intimidation) but all charges against him were dropped after the High Court found that the charges were brought against him in bad faith.

NEPAL

Assassination of Mr. Chet Prakash Khatri⁸⁴

Mr. **Chet Prakash Khatri**, a human rights defender working in the Binauna Village Development Committee (VDC) in Banke district, was killed on his way home on 24 December 2003, by a group of unidentified individuals in Sarragaon, in the Rapti River area close to the Indian border. The victim's body had a cord mark on his broken neck and a wound on his chin.

⁸⁴ See Annual Report 2003.

Mr. Khatri was working as a facilitator for a peace programme launched by the Informal Sector Service Centre (INSEC) in that area. He was training students and locals on safety measures during conflicts. He was also working on children rights and was affiliated to the NGO Bheri Environmental Excellence Group (BEE Group).

The victim's family filed a complaint with the District police office of Nepalgunj in Banke district, but the government showed unwillingness to investigate the case. In December 2004, the case was, according to the police, still under investigation.

Continued harassment against the COCAP and Mr. Dinesh Raj Prasain⁸⁵

On 13 January 2004, Mr. **Dinesh Raj Prasain**, programme coordinator of the Collective Campaign for Peace (COCAP), was severely beaten by members of the Royal Nepalese Army (RNA) at his residence in Banasthali, Kathmandu.

Six or seven men dressed in civilian clothes identified themselves as security personnel and asked Mr. Prasain to open the door so they could search his apartment. The men were allegedly searching for a Maoist as well as documents and materials. When Mr. Prasain, fearful that the men were criminals, refused to open the door, one of the men pulled out a revolver and threatened to shoot him. The men broke the door and started to ruthlessly punch and kick him in the face, head, stomach, back and thighs. At least four of them participated in the beating. One of the men, whom the others referred to as the "Major", kept on beating Mr. Prasain while the others conducted the search. Some 15 members of the Nepalese Army in uniform surrounded the building during the incident.

A month earlier, Mr. Prasain had received death threats from a professional criminal gang after one of his articles exposing corruption within human rights NGOs was published (14 December 2003), in the *Nepal Samacharpatra*, a daily Nepalese newspaper.

Mr. Prasain lodged a formal application for a medical examination with the district police office in Kathmandu. He also faxed a petition to

⁸⁵ See Urgents Appeals NPL 001/0104/OBS 005 and 005.1.

the National Human Rights Commission and the Army's human rights cell calling for impartial investigations. However, by December 2004, no investigation had been carried out, and both the government and the Army systematically denied involvement in the beatings.

Thereafter, on 4 June 2004, three security agents from Anamnagar city police, in Kathmandu, arrived at the COCAP office and arrested Mr. Dinesh Prasain along with a photojournalist, Mrs. **Usha Titikchu**. As the officers were unable to produce the arrest warrants as Mr. Prasain and Mrs. Titikchu requested, the two of them refused to go with them. They were then forcibly taken into custody. Mr. Prasain was beaten by a police inspector. Approximately one hour later, the two detainees' lawyers, Messrs. **Govinda Bandi** and **Ramji Sharma**, visited the place of detention and were told by the police inspector that the order to arrest Mr. Prasain and Mrs. Titkchu had come from the Deputy Inspector General (DIG). The DIG stated that the two were to be detained "for their own protection". The arrests were probably intended to prevent a protest against the Indian military assistance to the Nepalese government, which was to take place during the visit of Indian Foreign Minister, Mr. Natwar Singh, in the afternoon of 4 June 2004.

Mr. Prasain and Mrs. Titikchu were released on 5 June 2004.

Crackdown on peaceful demonstrators and lawyers⁸⁶

Between 8 April and 3 May 2004, a severe crackdown on demonstrations led to mass arrests, illegal and incommunicado detentions, ill treatment and violent repression of hundreds of peaceful demonstrators in Kathmandu, who were calling for a return to multi-party democracy and the reinstatement of an elected government. Demonstrations were led especially by the country's five main opposition political parties. It was estimated that over 1,000 protesters were arrested during this period, when the Kathmandu District Administration issued an order banning public demonstrations and assemblies of more than five persons within the Kathmandu ring road and Lalitpur areas. Nepalese authorities justified the order by clai-

⁸⁶ See Open Letter to the Nepalese authorities, 26 April 2004.

ming that they had "information" showing that some of the protest organisers had links with the Communist Party of Nepal - Maoist (CPN-Maoist), currently engaged in an armed conflict against the Nepalese armed forces within the country.

In this context, on 9 April 2004, approximately 400 lawyers from the Nepal Bar Association (NBA), including its president, Mr. **Sambhu Thapa**, and its former vice-president, Mr. **Govinda Bandi**, were arrested by security personnel after a demonstration in front of the Supreme Court and taken to a governmental warehouse. The lawyers had organised and were participating in a peaceful rally in favour of the establishment of democracy. They were subsequently released.

On 15 April 2004, the armed police arrested over 1,000 peaceful demonstrators, including the president of the Nepalese Congress, Mr. **Girija Prasad Koirala**, in the Bagbazaar area in Kathmandu.

On 17 April 2004, Dr. **Bhogendra Sharma**, president of the International Rehabilitation Council for Torture Victims (IRCT) and the Centre for Victims of Torture-Nepal (CVICT), as well as nine staff and executive committee members of CVICT, were arrested by the Nepalese police and then taken to the police station, as they were monitoring a peaceful demonstration in Kathmandu. Eight human rights defenders, including Dr. Sharma, were released on the same day; one CVICT volunteer was detained overnight and released the next day.

Finally, on 21 April 2004, several hundred lawyers were arrested during another peaceful demonstration organised by the NBA in Kathmandu. The purpose of that demonstration was to protest against the government's prohibition of demonstrations and the ongoing repression against human rights defenders and people exercising their right to peaceful assembly. They were subsequently released.

Arbitrary arrest of Mr. Madhu Sudhan Dhungel⁸⁷

On 20 June 2004, security forces arrested Mr. **Madhu Sudhan Dhungel**, a member of the Forum for the Protection of Human Rights

⁸⁷ See Preliminary conclusions of the international mission of investigation mandated by the Observatory in Nepal, March 2004.

(FOPHUR), at his residence in Kathmandu. Five persons in plain clothes wearing masks and carrying pistols entered the house. Challenged by Mr. Dhungel's family, they refused to show proof of identity but assured them that they were members of the security forces. Mr. Dhungel was blindfolded and taken away. Despite a *habeas corpus* petition on 28 June 2004, his whereabouts were still unknown in December 2004.

Assassination of Mr. Dekendra Raj Thapa⁸⁸

On 26 June 2004, Mr. **Dekendra Raj Thapa**, a journalist at *Radio Nepal* and an adviser to the independent Human Rights and Peace Society (HURPES), was kidnapped by members of CPN (Maoist), that accused him of spying.

On 11 August 2004, Mr. Thapa was executed.

On 17 August 2004, following his killing, the CPN (M) issued death threats against nine other journalists.

Release of Mr. S. K. Pradhan and obstacles to his freedom of movement⁸⁹

On 19 September 2001, Mr. **S. K. Pradhan**, secretary general of the Peoples Forum for Human Rights and Development (PFHRD), a Nepal-based Bhutanese human rights association, who was actively associated with the movement for human rights and democracy in Bhutan for the last decade, was arrested at his home in Kathmandu by plain clothes policemen, who did not present him with an arrest warrant. On the next day, he was transferred to the Chandragari prison in Jhapa and charged with complicity in the murder of Mr. R.K. Budhahathoki, chairman of the Bhutan Peoples' Party (BPP). However, at the time of the murder (9 September 2001), Mr. Pradhan apparently was in Kathmandu, 500 km from Damak, on his way home from South Africa where he had attended the UN World Conference on Racism.

⁸⁸ *Idem.*

⁸⁹ See Annual Report 2003, Urgent Appeal NPL 002/0904/OBS 069, Open Letters to the Nepalese authorities, 6 May 2004 and 10 January 2005.

His request to be released on bail was rejected many times and on 2 May 2004, the District court of Chandragari postponed his trial to 9 May 2004. That was the 19th adjournment since his arrest. Finally, on 22 August 2004, the judgement of the District court of Chandragari, in Jhapa, Eastern Nepal, sentenced Mr. S. K. Pradhan to three years imprisonment, to be completed on 21 September 2004. He was effectively released that day.

Furthermore, Mr. S.K. Pradhan, and two members of his organisation, Mrs. **Sunita Pradhan**, his daughter, and Mr. **D.B. Bhandari**, PFHRD camp co-ordinator, were denied travel documents (needed to travel to the USA and Taiwan), on 25, 26 and 27 November 2004, and then on 10 December 2004. They had submitted their request to the Refugee Coordination Unit (RCU), Chandragari, Jhapa, on 10 November 2004.

Since then, their demand has been pending, although there was no official notification by the RCU officials, who simply kept saying that the application was being processed.

As a result, Mr. Pradhan was prevented from attending the World Forum for Democracy in Asia (WFDA) conference in Taiwan, which was held by the Taiwan Forum for Democracy from 14 to 17 December 2004. In the past, Mr. Pradhan had no problem in getting travel documents since he is a legally registered refugee.

PAKISTAN

Attack on women's rights NGOs⁹⁰

Khwendo Kor (KK), an NGO working for children and women's development in remote areas of the North-West Frontier province

90 See FIDH investigation mission report *In Mala Fide, freedoms of expression, association and assembly in Pakistan*, January 2005, chap. II.1, "Non-governmental organisations", in the framework of the Observatory's mandate.

(NWFP) and the Federally Administered Tribal Areas (FATA), faced tremendous difficulties in the past few years, such as systematic discrediting propaganda, religious verdicts (*fatwas*) against its female staff, death threats etc.

On 8 January 2004, KK Karak office was attacked by a bomb blast.

On 14 June 2004, *The News* reported that a pamphlet had been circulating around Timergara in the previous days, warning NGOs and their female workers to "leave the area within one week otherwise they would be responsible for dire consequences after the deadline". The pamphlet was reportedly signed by the organisation Al-Qaeda Khudkush, which accused these NGOs of "violating the Islamic rules and the traditions of the area".

On 16 June 2004, the NGO's car was attacked on its way back from a regular supervisory visit at a community-based girls school in Noor Musa Khel Narmi Khel in FR Bannu. Both the KK employees, Mrs. **Bushra Wazir**, and the driver, Mr. **Asgher**, were wounded.

In July 2004, Mrs. **Rukhshanda Naz**, director of the Peshawar office of the Aurat Foundation, a nationwide women's organisation that has faced specific difficulties and obstacles in the NWFP, received two anonymous phone calls at her residence, threatening her nephew.

Lack of investigation into the kidnapping of Mr. Baloch⁹¹

On 23 March 2003, Mr. **Akhtar Baloch**, co-ordinator of the Hyderabad office of the Human Rights Commission of Pakistan (HCRP) was kidnapped. He was released several days later. He stated that, during his detention, he was questioned on numerous occasions about the activities of the HCRP and how it was financed. This action could have been designed to intimidate the HRCR, which had criticised the action of the State and denounced human rights violations committed by the Pakistani government. The HRCR requested that the authors of this arbitrary detention, in which the secret services were involved, be prosecuted and brought to trial.

However, at the end of 2004, no investigation had been carried out yet, and the question of taking action against those responsible had not arisen.

⁹¹ See Annual Report 2003.

PHILIPPINES

Extra-judicial execution of Mrs. Juvy Magsino and Mrs. Leima Fortu⁹²

On 13 February 2004, Mrs. **Juvy Magsino**, a human rights lawyer and chairperson of Mindoro for Justice and Peace (MFJP) and vice mayor of Naujan, in Mindoro Oriental, and Mrs. **Leima Fortu**, a MFPJ volunteer and acting secretary general of the Alliance for the Advancement of People's Rights (KARAPATAN), were both executed.

Two alleged members of the 204th Infantry Brigade of the Philippines Army (IBPA) followed Mrs. Magsino and Mrs. Fortu while they were driving to Pinagsabangan to get a computer from a friend. In Barangay Amuguis, the two men, who were driving a motorcycle without a license plate, peppered Mrs. Magsino's vehicle with bullets and shot dead Mrs. Magsino and Mrs. Fortu.

Mrs. Leima Fortu was a public teacher and a member of the party-list group Bayan Muna, in the Calapan City Chapter.

Mrs. Juvy Magsino, who was running for mayor of Naujan in Mindoro Oriental against current mayor Norberto Mendoza, had received two death threats stating that she would not live past 15 February 2004. Mrs. Magsino was a outspoken critic of the increasing military deployment in the island province. She also spoke out against former 204th IBPA commanding officer, Col. Jovito Palparan Jr., whose promotion as brigadier general was confirmed in February 2004 by the Commission on Appointments although human rights groups had filed a complaint against him with the Philippine Commission on Human Rights in July 2003. Col. Jovito Palparan Jr. is indeed suspected of involvement in the abduction and extra-judicial execution of Mrs. **Eden Marcellana**, secretary general of the Tagalog-South office of KARAPATAN, and Mr. **Eddie Gumanoy**, chairman of the Kasama-TK peasant group, both kidnapped as they were investigating human rights violations committed in the eastern province of Mindoro, in April 2003⁹³.

92 See Urgent Appeal PHL 001/0204/OBS 011.

93 See Annual Report 2003.

In late 2004, the killers of Mrs. Marcellana and Mr. Gumanoy had not been brought to justice, in spite of an express request by the UN Human Rights Committee in December 2003. Likewise, the deaths of Mrs. Magsino and Mrs. Fortu remained unresolved at the end of December 2004.

Killing of Mr. Rashid Manahan⁹⁴

On 24 August 2004, Mr. **Rashid Manahan**, coordinator of the Movement for Restorative Justice (Mamamayang Tutol sa Bitay - MTB-Davao), a network of NGOs and human rights institutions involved in the struggle for the abolition of the death penalty, was killed in front of Ponce Suites, Bajada, Davao City, while he was on his way to attend a forum against the death penalty and salvaging at the University of the Philippines in Mindanao.

The assassination of Mr. Manahan took place during an OMCT mission that was part of the follow-up to the UN Human Rights Committee (HRC) recommendations. The mission was carried out together with the national coalition of NGOs (Task Force for Detainees in Philippines - TFDP, Women's Education, Development, Productivity and Research Organisation - WEDPRO and People's Recovery, Empowerment, Development, Assistance, Foundation - PREDA), which took part in the drafting of the alternative report submitted to the HRC in October 2003. During his stay in Manila, the OMCT coordinator, together with the national coalition of NGOs, had the opportunity to speak with the Chief State Counsel, and with Attorney Wilhem Dabu Soriano, commissioner at the Commission of Human Rights in the Philippines, about this killing and to request an investigation. Mr. Soriano said that the authorities would carry out an investigation into these events.

As of December 2004, the government of the Philippines had failed to carry out an impartial and independent investigation into the killing of Mr. Manahan, and the perpetrators of this crime had not yet been brought to justice. Yet, on 4 October 2004, Mr. Raul Gonzalez, Secretary of Justice, claimed that the Presidential Human Rights Committee

⁹⁴ See Open Letters to the Philippine authorities, 26 August and 3 September 2004.

(PHRC) endorsed the investigation of Mr. Manahan's case before the National Bureau of Investigation (NBI).

Staff members of KARAPATAN and the EMJP subjected to harassment⁹⁵

On 9 October 2004, staff members of the National Office of the Alliance for the Advancement of People's Rights (KARAPATAN) and of the Ecumenical Movement for Justice and Peace (EMJP), as well as relatives and victims of human rights violations that were staying at the KARAPATAN office and other families living within the compound, were awakened by loud banging on their gate. Five masked men wearing bonnets shouted invectives against KARAPATAN members for about 30 minutes. The harassers also called for justice for the 26 September 2004 slaying of Mr. Arturo Tabara, founder of the Revolutionary Proletarian Army (RPMP-RPA) in 1992, which merged with the Alex Boncayao Brigade (ABB) in 1997 to form the RPA-ABB.

After the men's departure, the staff found flyers on the floor and posters on their gate, on the trees and on other entrances to the building. These posters, signed RPA-ABB, contained baseless messages linking KARAPATAN to the New People's Army, which had admitted its responsibility in the killing of Arturo Tabara.

The attack against KARAPATAN might be related to the organisation's documenting of human rights abuses by RPA-ABB against civilians, particularly in the Negro provinces in Central Philippines.

Summary execution of Mr. Marcelino Beltran⁹⁶

On 8 December 2004, Mr. **Marcelino Beltran**, chairman of the Peasants' Alliance in Tarlac (Alyansa ng Magbubukid sa Tarlac - AMT), and vice chairman of the Peasants' Alliance in Central Luzon (Alyansa ng mga Magbubukid sa Gitnang Luzon - AMGL), was killed by military elements in front of his house in San Sotero, Santa Ignacia, Tarlac.

95 See Urgent Appeal PHL 002/1004/OBS 080.

96 See Urgent Appeal PHL 003/1204/OBS 095.

As his wife and children scrambled out of the house after hearing some gunshots, they saw some armed men leaving and Mr. Beltran, still alive, told them that he had been shot by military soldiers.

His family brought him to the clinic, which they thought was the nearest place Mr. Beltran could get treatment or first aid. When they got there, they saw two soldiers on a motorcycle who asked them if they had brought a wounded person from San Sotero. Mr. Marcelino Beltran's son denied that they had brought his father to the clinic and told the soldiers that the injured person was from Calapayan. Since the clinic did not seem safe, they took Mr. Beltran to a nearby hospital, which was not able to provide the appropriate care, and they were thus obliged to transfer Mr. Beltran to the Tarlac provincial hospital, 20 kilometres away. Mr. Marcelino Beltran died on the way to the hospital.

Prior to his death, Mr. Marcelino Beltran joined the strike of peasant workers in the Luisita Hacienda to give them his organisation's support. The farmer leading the strike is also said to be a witness in the massacre in Luisita Hacienda on 16 November 2004, during which 14 people were killed and several hundreds were injured by the Philippines national police and military belonging to the 69th and 703rd Infantry Battalion who were ordered by the hacienda's management and the Department of Labour and Employment (DOLE) to crack down on the workers' strike.

SOUTH KOREA

Forced deportation and prosecution of two trade unionists⁹⁷

During a demonstration on 26 October 2003, the South Korean police arrested two Bangladeshi activists, Mr. **Khademul Islam Bidduth**, a leader of the Equality Trade Union - Migrants' Branch (ETU-MB), and Mr. **Jamal Ali**, an active participant in the migrant movement. They

⁹⁷ See Urgent Appeal BGD 001/0104/OBS 003.

were protesting against the brutal crackdown against undocumented migrant workers launched by the South Korean government on 24 October 2003.

On 30 December 2003, the South Korean authorities forcibly deported Messrs. Khademul Islam Bidduth and Jamal Ali to Bangladesh where they remained in detention until 4 January 2004, when they were released on bail.

It was reported that members and supporters of ETU-MB, the only migrant workers' trade union in South Korea, were regularly physically attacked by riot police and immigration authorities during demonstrations. Between October 2003 and January 2004, around 27,000 migrant workers were allegedly deported or left the country.

As of December 2004, the South Korean government continued to impose repressive measures against undocumented migrant workers as well as against members and supporters of ETU-MB, whose leaders were still being deported or facing prosecution.

THAILAND

Enforced disappearance of Mr. Somchai Neelaphaijit⁹⁸

On 12 March 2004, Mr. **Somchai Neelaphaijit**, chairman of the Muslim Lawyers Group and vice chairman of the Human Rights Committee of the Law Society of Thailand, was taken from his car, which was found abandoned on Ramkhamhaeng road in Mor Chit, after having been hit from behind. Mr. Somchai was last seen in the Bang Kapi district. He had told close friends that he was receiving threatening anonymous phone calls and that he feared for his safety. He was informed in the last call he received that his name had

⁹⁸ See Open Letter to the Thai authorities, 18 March 2004, and Letter to Ministers for Foreign Affairs, Commissioner Patten, EU High Representative for CFSP, 31 March 2004.

been placed by security forces on a list of members of terrorists groups.

Mr. Somchai Neelaphaijit had collected 50,000 signatures to support the end of the martial law in that region, and worked for the promotion of the rule of law and justice for Muslims suspected of terrorist activities and treason. His disappearance followed public statements he made about the excessive use of force against five of his clients accused of taking part in the 4 January 2004 raid on an army camp in Narathiwat. Mr. Somchai also requested permission from the court to have his clients undergo a medical examination and be transferred from police hands. The court agreed to this request and had the five suspects transferred from the Special Branch jail, where they were allegedly beaten, to Bang Khen central prison. These various activities created tension between Mr. Somchai Neelaphaijit and the security forces in the southern Thai provinces and have probably led to his enforced disappearance.

Mr. Somchai might have been abducted by State authorities, and deputy national police chief Pol Gen Charnchit Bhiraleus did not rule out the possibility that the abduction could have been carried out by "low-ranking officers". On 23 March 2004, the Senate voted to form a special committee to study Mr. Somchai's disappearance. His case, they said, could have serious implications for the country's judicial system.

Five police officers were identified as the alleged culprits who had removed Mr. Somchai from his car. They were charged with "coercion by threatening bodily harm or death", "assault" and "gang robbery", but not with kidnapping.

On 9 June 2004, the criminal court released the following four suspects: Major Ngern Thongsuk, Lieutenant Colonel Sinchai Nimpunyakhomphong and Corporal Ransom Sithikhet of the Crime Suppression Division and Sergeant Chaiyaweng Phaduang of the Tourist Police Department, for a bail of 1,7 million Thai baht. At the same time, the special Senate committee, headed by Senator Sak Kosanguang, complained that the committee did not feel that the police were being cooperative in efforts to solve the case.

In September 2004, Mr. Somchai's wife, Mrs. **Angkana Neelaphaijit**, submitted the case of her husband's disappearance to the Special Investigation Department (SID), but a SID official refused to register it.

In October 2004, the Thai Minister of Justice, Mr. Pongthep Thepkanchana, declared that although the SID had not agreed to investigate Mr. Somchai's disappearance, SID intervention would be conside-

red if there was no further progress. Earlier, the Minister had stated that the SID was already investigating the matter, but this obviously was not the case. As of December 2004, no light had been shed on the whereabouts of Mr. Somchai, and the authors of his disappearance remained unpunished. Moreover, Mr. Somchai's family was still being intimidated.

Assassination of Mr. Charoen Wat-aksorn⁹⁹

Mr. **Charoen Wat-aksorn**, an environmentalist and president of the Love Bo Nok group, was murdered near his home in the province of Prachuap Khiri Khan on the night of 21 June 2004. The Love Bo Nok group, a local environmental protection organisation, became well known for its successful campaign against the opening of a coal-fired power plant on public lands. The lands that were to be the site of the new plant were initially leased to Gulf Electric until opponents of the project were elected to the local administrative organisation which subsequently refused to renew the lease. Following the cancellation of the lease, there were allegations that local officials were accepting bribes for issuing deeds to the public land.

On the day of his murder, Mr. Wat-aksorn met with the House Committee on Corruption Investigation, encouraging them to investigate these allegations. Mr. Wat-aksorn had also filed complaints with the Minister of the Interior, the National Counter Corruption Commission and various House and Senate committees concerning the alleged bribes. Upon his return from Bangkok on 21 June, he was shot dead, just after arriving in Bo Nok.

Mr. Wat-aksorn's widow, along with other human rights activists, requested that the investigation of Mr. Wat-aksorn's death be handled by the Ministry of Justice's SID rather than local police, to ensure transparency. However, Prime Minister Thaksin Shinawatra refused this request and instead instructed the Bangkok police to aid the local Prachuap Khiri Khan authorities in the investigation.

As of December 2004, no investigation had been carried out into this crime.

⁹⁹ See Urgent Appeal THA 001/0604/OBS 050.

Arbitrary detention and trials of cyber-activists¹⁰⁰

In the Socialist Republic of Vietnam, the communist authorities continued to blatantly stifle all form of criticism and dissent, as they increased the repression against all divergent opinions, thus increasingly restricting the freedoms of opinion and expression guaranteed by the 1992 Constitution.

Mr. **Nguyen Vu Binh**, a journalist, was sentenced to seven years imprisonment in 2003, and Mr. **Nguyen Khac Toan** was sentenced to twelve years and three months imprisonment in December 2002 for their human rights activities on the Internet. At the end of December 2004, they were still in jail.

Moreover, Dr. **Nguyen Dan Que**, a Vietnamese dissident and human rights activist, who was arrested on 17 March 2003 after publishing written statements denouncing infringements on freedoms of expression and of the press in Vietnam, was sentenced to two-and-a-half years imprisonment for "abusing democratic rights to jeopardize the interest of the State, and the legitimate rights and interest of social organisations and citizens", by the Ho Chi Minh People's Court, on 29 July 2004. Dr. Que did not have access to legal representation, and the trial only lasted three hours. At the beginning of the trial, he was allowed to make a statement in which he proclaimed his innocence. He was then removed from the courtroom to listen to the rest of the proceedings in a separate room. His health greatly deteriorated while in jail. He suffered from high blood pressure, a bleeding peptic ulcer, and kidney stones. His family provided the necessary medicine to the detention centre, but it was unclear if the medicine had reached him.

Colonel **Pham Que Duong**, a respected Communist Party veteran and military historian who had filed an application to set up an independent anti-corruption association and called for democratic reforms, and Mr. **Tran Khue**, a scholar, both arrested in December 2002 after they met in Ho Chi Minh City, were sentenced to prison terms in 2004.

¹⁰⁰ See Annual Report 2003.

On 3 February 2004, Mr. Pham Que Duong was charged with espionage for having links to foreign reactionary organisations, using the Internet to receive and distribute documents hostile to the communist regime, and working as a correspondent for a Canadian magazine. On 14 July 2004, he was sentenced to 19 months in prison on charges of "abusing democratic freedoms to infringe upon the interests of the State", the more serious charge of espionage being dropped.

On 9 June 2004, Mr. Tran Khue was charged with espionage and violating a house arrest order. On 9 July 2004, he was acquitted of the more serious charge of espionage, but sentenced to 19 months imprisonment on charges of "taking advantage of democratic rights to infringe upon the interests of the State" (Article 258 of the Criminal Code, which carries a maximum penalty of seven years imprisonment) and of violating a house arrest order.

As their sentences included time already served, Mr. Pham Que Duong was released on 29 July and Mr. Tran Khue on 30 July 2004.

Religious leaders in arbitrary detention¹⁰¹

Patriarch **Thich Huyen Quang** and his deputy **Thich Quang Do**, members of the Unified Buddhist Church of Vietnam (UBCV), remained under house arrests. Thich Huyen Quang has been under house arrest since 1982 and Thich Quang Do was put under house arrest in October 2003 just after being released from administrative detention in June 2003. On 9 October 2003, the spokesperson of the Ministry of Foreign Affairs stated that the two monks were accused of "carrying State secrets" (Articles 263/264 of the Criminal Code).

In a letter addressed to the Vietnamese authorities on 25 October 2004, Venerable Thich Quang Do expressed his fear that these accusations might be "a prelude to a much more serious accusation" - that of "espionage", under Article 80 of the Code, which is punishable by 20 years in prison, a life sentence or even the death penalty; or perhaps that of "deliberately disclosing state secrets" under Article 263 of the Code, punishable by 15 years of imprisonment.

101 See Annual Report 2003, and Letter to the Vietnamese authorities, 9 November 2004.

On 21 November 2004, Thich Quang Do received a two-hour visit from a delegation of US diplomats at the Thanh Minh Zen monastery in Ho Chi Minh City. This was the first time the UBCV deputy leader was allowed to receive visits since he was arrested in 2003. He told the delegation about the current plight of the banned UBCV, and the US delegation informed him of the State Department's recent decision to designate Vietnam as a "country of particular concern" for its egregious violations of religious freedom.

On the next day, the Vietnamese police intercepted a mini-van with Venerable **Thich Vien Dinh** and nine other UBCV members as they drove towards the Thanh Minh Zen monastery in Ho Chi Minh City. They were going to accompany Thich Quang Do to visit Thich Huyen Quang, who is seriously ill. Thich Huyen Quang had been taken into the Quy Nhon general hospital on 18 November 2004. After checking the vehicle's papers and the monks' identity cards - all of which were in order - the police announced they were going to tow the van to the police station. Thich Vien Dinh refused to let the police impound the van, and alerted the nearby Giac Hoa pagoda of the incident. After a tense 4-hour stand-off, in which 50 monks staged a sit-in protest around the vehicle and large crowds of people gathered on the scene, the police eventually allowed the UBCV monks to drive on to the Thanh Minh Zen monastery. When Thich Vien Dinh and the UBCV monks arrived at the monastery, the police tried to prevent Thich Quang Do from leaving. After an hour of discussions, the police finally let Thich Quang Do leave Ho Chi Minh City in the van, with security police in a jeep and on motorbikes following behind. However, as they reached Trang Bom, local security police intercepted the vehicle. They ordered Thich Quang Do to return immediately to Ho Chi Minh City where the local police had "invited" him to attend "working sessions" (interrogations). Thich Quang Do refused and remained inside the vehicle with the other monks. The monks were held on the road for four hours before the police forcibly escorted them back to Ho Chi Minh City, where they were summoned for questioning. On 23 December 2004, Thich Quang Do was able to visit Thich Vien Dinh, while 30 policemen were watching his Giac Hoa pagoda.

On 23 November 2004, Thich Quang Do received a summons from the Phu Nhuan Ward People's Committee in Ho Chi Minh City (the local Communist Party authorities) to come for a "working session" at

8 a.m. on the next day. The convocation stated that he was summoned to discuss his "appropriation of State secrets". The summons might be connected to the letter sent by Thich Quang Do to the communist leadership on 25 October 2004. Thich Quang Do was interrogated during four hours (from 8 am to 12 am). Following the questioning, Party officers presented him with a document that the police was said to have found on him at the time of his arrest on 9 October 2003, and which was the "State secret". However, this was not the document that had been confiscated on 9 October. The People's Committee finally allowed Thich Quang Do to go home to take the medicine for his heart and told him to come back in the next few days; Thich Quang Do refused. Vietnamese authorities thus strengthened the surveillance of the Zen Thanh Minh monastery (where Thich Quang Do lives) and cut all mobile telephone communications for reasons of "national security".

However, in mid-December 2004, the administrative detention of Thich Quang Do was relaxed, although he was still accused of possessing state secrets. On 23 December 2004, he was allowed to leave his pagoda to visit monks under house arrest in Ho Chi Minh City but he was accompanied by 30 policemen.

On 5 January 2005, the American ambassador in Vietnam, Mr. Michael W. Marine, was able to visit Thich Quang Do and talk to him.

This relatively new situation seems to result from strong American pressure, and in particular from the fact that the USA put Vietnam on the list of "Countries of particular concern" as regards religious freedom.

Release of Thich Tri Luc after completing sentence¹⁰²

Mr. **Pham Van Tuong**, a former monk and member of the UBCV known as **Thich Tri Luc**, was released on 26 March 2004, after 20 months in prison.

Mr. Pham Van Tuong had been arrested in Phnom Penh, Cambodia, having fled from Vietnam because of religious persecution in April 2002. At the time of his arrest, he was under UN protection in Cambodia since he had obtained the refugee status from the UN High Commissioner for Refugees (UNHCR) in Phnom Penh in June 2002.

102 See Annual Report 2003 and Urgent Appeal VTN 001/0903/OBS 048.1.

During the following year, his family did not know whether he was dead or alive, and Vietnamese authorities denied having any knowledge of his whereabouts.

In July 2003, Mr. Pham Van Tuong "reappeared" in a jail in Ho Chi Minh City, where he had been detained for 12 months. The Vietnamese Foreign Ministry admitted that security police had arrested him on 26 July 2002, allegedly at the Cambodian-Vietnamese border. His family was told that he would stand trial on 1 August 2003, but the trial was postponed indefinitely without any explanation.

On 12 March 2004, Mr. Pham Van Tuong was sentenced to 20 months in prison, at a closed trial at the People's Court in Ho Chi Minh City for "distorting the government's policies on national unity and contacting hostile groups to undermine the government's internal security and foreign affairs". Mr. Pham Van Tuong's trial lasted less than one hour, and he was not represented by a lawyer. His family was informed of the trial only the day before. As he had already served 19 months and 15 days in prison, he was released two weeks after the ruling.

During his 20 months in prison, Pham Van Tuong continually protested that he was a UN Refugee and claimed his right to UNHCR protection. Indeed, the original arrest warrant drawn up by the Vietnamese security police at the Tay Ninh border clearly stated that they had confiscated his refugee card upon his arrest. However, one month later, this warrant was replaced by a new one, signed by Ho Chi Minh City security police, which simply stated that Pham Van Tuong had been arrested on 26 July 2002, inside the Vietnamese border, with no mention of his refugee status. The Ho Chi Minh Police told Pham Van Tuong that his kidnapping in Cambodia was "none of their business", and they refused to allow him access to the UNHCR representative in Vietnam.

**EUROPE AND THE COMMONWEALTH OF INDEPENDENT STATES
(CIS)**

THE SITUATION OF HUMAN RIGHTS DEFENDERS

Human rights defenders working in many European and CIS countries faced a difficult environment in which there were still many restrictions to the exercise of the freedoms of association, speech and peaceful assembly.

In 2004, human rights defenders in the *Russian Federation* and Central Asian countries (*Kazakhstan, Kyrgyzstan, Uzbekistan*) found themselves in a situation increasingly dominated by the "security-first" concept applied in the fight against terrorism, extremism and separatism. Authorities in these countries used security-first as a pretext for reinforcing their power, and as a result human rights were pushed aside. Besides, the dictatorship in *Turkmenistan* left practically no room for independent associations to manoeuvre.

In *Belarus*, where an authoritarian regime is in power, civil society remained active but weakened by the wave of closures of independent associations in 2003. Members of associations attempting to work towards democratisation were still under constant pressure. Dissident voices in *Ukraine* were muffled, particularly during the November 2004 presidential elections. In countries of the Caucasus region, human rights defenders carried out their activities in a highly charged political context (*Armenia, Azerbaijan*). In *Georgia*, the new authorities - which came to power as a result of the December 2003 Revolution of Roses - strengthened their hold on the country, and independent associations - which remained neutral during the revolution - were ostracised. It should also be pointed out that the mobilisation of civil society at the heart of the democratic transition in Georgia had a "domino effect" in the region. Neighbouring countries, like *Kyrgyzstan* and *Uzbekistan*, feeling threatened by a similar phenomenon, tightened their grips on their own civil societies.

Human rights defenders in the *Balkans* were also still up against many obstacles in denouncing exactions committed during the war in

former Yugoslavia, while the authors of these exactions continued to benefit from impunity.

The situation in *Turkey* is worthy of note. Much progress was made at the legislative level, within the framework of discussions on opening negotiations for Turkey's entry in the European Union. However, the situation on the ground remained worrisome and it is important to remain extremely vigilant vis-à-vis the application of these legislative changes.

Also not to be forgotten are human rights defenders in conflict and post-conflict areas. Defenders in *Chechnya* were still at great risk, insofar as the conflict there is far from resolved - despite Russian authorities' efforts to make the international community believe the contrary.

Finally, it is important to remember that activists fighting for the rights of minorities, against trafficking in human beings and against far right groups were particularly targeted, above all by violent nationalist groups which, in most cases, act with complete impunity.

Abuse of the "security first" concept and the erosion of human rights

Abuses related to the security context - and their impact on human rights defenders - were primarily noted in the CIS. Indeed, on the one hand, measures adopted in some countries in the name of the fight against terrorism or extremism directly affected or might affect human rights defenders. On the other hand, activists were in some cases accused of terrorist links, as part of a general smear campaign to discredit them.

"Security first" was given even greater importance in 2004. A series of highly condemnable events provided the leaders of some countries - which were already lax with respect to regard for the rule of law -with a pretext for establishing or reinforcing their power in the name of security. For example, following the series of terrorist attacks that took place between 28 and 30 March 2004 in *Uzbekistan*, the President of the country, Mr. Islam Karimov, was immediately supported by the United States in his claim that the attacks had been carried out by members of al-Quaeda, even though many experts believe they were an internal reaction to social and economic conditions within the country. In the *Russian Federation*, the explosion of two planes on 24 August 2004, the

terrorist attack in Moscow on 31 August 2004 and the hostages taken on 3 September 2004 in Beslan (Northern Ossetia) - act for which Chechen war lord Chamil Bassaïev claimed responsibility - gave President Vladimir Putin a further excuse to extend his power. On 13 September 2004, the Russian President announced a series of measures that constituted a new stage in the erosion of the rule of law in Russia (suppression of the direct election of governors of provinces and presidents of Republics, changes in the means of electing deputies to the Duma, greater media censorship).

The fight against terrorism was also one of the main subjects addressed in meetings between member States of the Shanghai Co-operation Organisation (SCO)¹, an organisation founded in 2001 on the theme of security. At the 4th summit meeting of the SCO in Tashkent, Uzbekistan, on 17 July 2004, a regional anti-terrorist Structure was officially inaugurated as a permanent organ of the SCO. The purpose of the Structure is to provide a tool to help the six member States cooperate in the fight against the "three forces of evil: terrorism, separatism and extremism". The final communiqué of the meeting of the Prime Ministers of SCO member countries, which was held on 23 September 2004 in Bishkek, Kyrgyzstan, on the theme of economic cooperation and terrorism, made no mention of respect for human rights and fundamental freedoms.

The Council of Europe's Committee of Experts on Terrorism drew up a draft Convention on the prevention of terrorism, which rises serious concerns with regard to the respect of human rights. Indeed, the lack of references to the key notions of international and European human rights law², and the lack of precisions in the definition of "terrorist offences" and of "terrorism", entails risks of drifting into infringement of fundamental freedoms. Moreover, the first draft of the text was

1 The Shanghai Co-operation Organisation includes Kazakhstan, Kyrgyzstan, the Republic of China, the Russian Federation, Tajikistan, Uzbekistan.

2 The provisions of this draft Convention remain far beyond the guarantees provided for by international and European law with regard to crucial issues relative to the fight against terrorism, such as the respect for the right to a fair trial, the fight against torture and other cruel, inhuman and degrading treatments, the principle of non-discrimination, the protection of the right to asylum and the abolition of death penalty.

elaborated by intergovernmental bodies of the Council without prior consultation with civil society.

Besides, CIS member States also severely criticised the Organisation for Security and Co-operation in Europe (OSCE) during an informal meeting that took place during the CIS summit meeting on 3 July 2004 in Moscow. Leaders of nine of the twelve CIS member countries³ addressed a letter to the OSCE criticising the organisation for placing too much importance on democracy and human rights. The letter insisted on the fact that this attitude "significantly limits" the organisation's capacity to counter other threats. The OSCE was also accused of violating the principle of non-interference, of applying "double standards" in its policies and of "selective attention on certain States". Lastly, the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) was criticised for not taking into account "the realities and specific features" of individual countries in its electoral observation activities. The nine countries also sent a similar letter to the OSCE after the CIS summit meeting in Astana (Kazakhstan) in September 2004. In addition, at the 12th OSCE Council of Ministers in Sofia (Bulgaria) on 6 and 7 December 2004, the leader of the Uzbekistan delegation insisted on the "necessity of OSCE's adaptation to the essentially new conditions of regional and global security, elimination of disbalance among three dimensions of Organisation's activity by increasing the importance of military-political, economic and ecologic components", thereby leaving aside the human dimension. The Russian Minister of Foreign Affairs, Mr. Sergei Lavrov, repeated these calls and insisted on the "need for comprehensive reform". With the exception of a critical reaction on the part of the American delegation, the OSCE as an organisation did not publicly respond to the accusations formulated by the CIS States.

In this context of human rights marginalisation, it became even more difficult for human rights defenders to act, particularly since some States proposed legislation that clearly limited basic freedoms and might directly affect their room to manoeuvre.

³ Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldavia, the Russian Federation, Tajikistan, Ukraine, Uzbekistan. Azerbaijan, Georgia and Turkmenistan did not co-sign the text.

In *Kazakhstan*, an anti-extremism bill presented to Parliament on 10 April 2004 might impact negatively on the activity of human rights defenders. Article 13 of this bill states that the organisers of demonstrations and meetings will be held responsible for the participation of "extremists". This disposition, which could be applied arbitrarily, might discourage the organisation of meetings. In addition, amendments to certain "legislative texts on questions related to extremism" were proposed on 12 April 2004. The amendment to Article 374 of the Administrative Code holds leaders and members of associations responsible if their activities go beyond those stated in association bylaws.

In the *Russian Federation*, an anti-terrorist bill was adopted by the Duma on 16 December 2004 at first reading. Among other dispositions, the bill provides for the "declaration of a 60-day state of emergency" if a terrorist attack is simply "suspected", along with the cancellation of the right to demonstrate and obstacles to freedom of movement. The bill also provides for serious restrictions to the freedom of the press, particularly when covering violent attacks: a "designated" speaker is to be the only authorised source of information during anti-terrorist operations. The bill in fact legalises practices already implemented in similar cases. The attempted poisoning of Mrs. Anna Politkovskaia, reporter at the independent biweekly *Novaya Gazeta*, when she attempted to go to Beslan to propose her help in discussions with hostage takers, should not be forgotten. Mr. Andreï Babitski, reporter at *Radio Free Europe*, was also arrested as he was on his way to Beslan, upon arriving from his Prague-Moscow flight. He was held for several days and fined for "provoking security agents".

Last but not least, a link between human rights defenders and extremism or terrorism was sometimes fallaciously established simply to discredit activists. At the 23 October 2004 meeting of the *Kyrgyzstan* Security Council, the country's President, Mr. Askar Akaev, asked security agencies to take more severe action against terrorism and religious extremism. He also criticised the "so-called human rights defenders" who "attempt to present the judicial proceedings against [the religious party] Izb-Ut-Tahir as a means of repressing discordant views, even though [in Kyrgyzstan] no one is incarcerated for their opinions". *Turkish* Prime Minister Mr. Tayyip Erdogan, for his part, declared before the parliamentary assembly of the Council of Europe on 6 October 2004 that "the people who affirm that ideologically motivated acts of torture exist in Turkey are people with links to terrorist organisations".

A civil society criminalised and muzzled

2004 was characterised by an increase in the number of attempts to paralyse civil society. These attempts were part of a strategy to limit NGOs' room to manoeuvre, and included the adoption of a number of restrictive legislative measures, the opening of judicial proceedings to close down NGOs or at least weaken them through financial sanctions. They also included attempts to isolate NGOs using smear campaigns and other means of ostracism.

In *Azerbaijan*, some NGOs were still having problems getting registered. This was the case of the Committee of Homeless and Deprived Baku Residents despite the Constitutional Court's May 2004 verdict in its favour.

In *Belarus*, the wave of suppression of NGOs, which reached its height in 2003 with the closing of 51 NGOs through judicial means⁴, continued into 2004 with the closure of 21 associations during the first semester of 2004, among which the Independent Society of Legal Research and the Centre for Constitutionalism and Comparative Legal Studies. Proceedings were also brought against the few remaining NGOs such as, for example, the Belarus Helsinki Committee⁵. The creation of restrictive legislative measures continued with the adoption, on 4 October 2004, of presidential decree No. 495, which eliminated the fiscal benefits that NGOs and political parties previously received on rents⁶. A law complicating procedures for registering political parties and NGOs, particularly with regards to the number of members required, was believed to be in the works for adoption in 2005.

In *Georgia*, independent NGOs were somewhat ostracised. Following the election of Mr. Mikhail Saakashvili to the position of President of the Republic, presidential powers were extended by constitutional amendments in February 2004 (power to dissolve the parliament, to appoint and dismiss judges, etc.). According to the

4 See international fact-finding mission report *Belarus: The 'liquidation' of the independent civil society*, April 2004.

5 See Compilation of cases below.

6 *Idem*.

constitution, the amendments should have been published prior to their passage to allow for public debate, but this requirement was not met. In addition, independent NGOs such as the Human Rights and Documentation Center (HRIDC) and Former Political Prisoners for Human Rights were excluded from the Council for the Control of the Penitentiary System, which was established by the government in August 2004, while organisations close to the government - which participated actively in bringing Mr. Saakashvili to power during the Revolution of Roses - were given a place in the Council.

In the *Russian Federation*, the situation of NGOs worsened during the year 2004, as noted by an Observatory-mandated mission to Russia in 2003 and May 2004⁷. At the same time, executive powers were progressively extended at all levels (constitutional, media, civil society). A number of measures to better control civil society were expected to be adopted in 2005, in particular a bill on "taxes and tax collection" adopted by the Duma at first reading on 5 August 2004⁸. At the end of September 2004, President Putin signed a decree concerning "additional State measures to support the human rights movement in Russia". This decree provides, in particular, for the creation of a national Committee for the Defence of Human Rights in Russia and the integration of human rights NGOs in the work of consultative instruments created by the President's representatives at the regional level. Although the apparent purpose of this text is to consolidate civil society and respect for human rights, the real goal may be to better control NGOs by restricting their independence.

Russian NGOs had even less room to manoeuvre since the parliamentary elections of December 2003, because they had no longer relays within the Duma, and their means to sensibilise the Russian population diminished as censorship of independent media intensified. In addition, many smear campaigns - orchestrated at the highest State level and often involving NGOs' sources of funding - were launched against

7 See international fact-finding mission report *Russia: Human Rights Defenders Faced with the 'Dictatorship of the Law'*, September 2004, the preliminary conclusions of which were also published in the 2003 annual report.

8 See Compilation of cases below.

independent NGOs. Their purpose was not only to discredit NGOs with the population, but also to divide and weaken them⁹.

In *Turkmenistan*, where independent civil society was given very little room to manoeuvre - particularly since the attempted assassination of President Mr. Saparmurat Niyazov in 2002 - the repressive law on "public associations"¹⁰ adopted in October 2003 resulted in a drastic reduction in activities carried out by NGOs attempting to act independently. Members of these NGOs, fearing the penal sanctions provided for by the law - up to two years in prison - limited their action, and some foreign donors reduced their funding to avoid subjecting the NGOs to reprisals. In October 2004, a presidential decree obliged NGOs receiving foreign aid to re-register with the Ministry of Justice and to register all foreign donations and subsidies with the State service on foreign investment, which is under the control of President Niyazov. These measures were somewhat modified by the adoption on 2 November 2004 of a law decriminalising activities in the framework of unregistered NGOs.

In *Uzbekistan*, some organisations had trouble obtaining legal recognition. These included Mothers Against the Death Penalty and Torture, created in 2000 by Mrs. Tamara Tchikounova, the mother of a man executed for a murder he confessed to under torture. Mrs. Tchikounova also received death threats as a result of her activities. In addition, numerous decrees restricting the freedom of association were adopted in 2004¹¹. In February, for example, a decree providing for the transfer of all NGO funds of foreign origin to two national banks was adopted. Now NGOs must obtain agreement from the government before they can access their funds. A decree adopted in December 2003, according to which international NGOs based in Uzbekistan were obliged to re-register with the Ministry of Justice and the Ministry of Foreign Affairs, resulted, in April 2004, in a refusal to re-register the section of the Open Society Institute (OSI). Pushing this NGO to the sidelines, probably as a consequence of the role played by the OSI in the Georgian Revolution of Roses, seemed to be a direct

9 *Idem.*

10 See Annual Report 2003.

11 See Compilation of cases below.

result of the impact produced by this event in countries in the region¹². The independent news agency *Institute for War and Peace Reporting (IWPR)* was also denied accreditation for 2004.

The law on associations that became effective in October 2004 in *Turkey*, was an exception to this generally repressive context. The new law, which followed a number of positive amendments adopted in preceding years as part of discussions for opening negotiations for Turkey's entry in the European Union, recognised the right of any individual to create an association without prior authorisation, and eliminated the need to obtain official authorisation before receiving funds from abroad¹³. It is important, however, to remain vigilant vis-à-vis the actual application of this law as Turkish human rights defenders were still being systematically harassed through the judicial system¹⁴ and many associations and unions were repressed, particularly those defending the rights of minorities, Kurds in particular. For example, Egitim Sen, the largest union of high school and university professors, was taken to court and threatened with closure because its bylaws included the sentence "each person has the right to receive an education in his or her native language". Last but not least, the decision on 7 December 2004 of the President of the Izmir Bar association to close the association's Torture Prevention Group was troubling. The purpose of the Group was to provide, with the help of the many lawyers belonging to the Bar, for legal assistance to victims of torture who wished to bring charges against their torturers. One of the reasons given by the President of the Bar was that the Group received funds from the European Union, which he considered to "be attempting to divide Turkey", "in the name of human rights".

The right to broadcast information on human rights

The right to circulate information on human rights or to criticise State policy was extensively flouted in 2004.

12 *Idem.*

13 *Idem.*

14 *Idem.*

In *Armenia*, five journalists were beaten in April 2004 during demonstrations organised by the opposition parties, while they were filming acts of violence committed by a group of twelve men against protesters.

In *Azerbaijan*, Mr. Eldar Zeynalov, chairman of the Human Rights Centre of Azerbaijan (HRCA), and Mrs. Leyla Yunus, member of the Institute for Peace and Democracy, were accused of supporting terrorists and of providing false information to the European institutions, after having sent a list of political prisoners to the Special Rapporteur on political prisoners of the Parliamentary Assembly of the Council of Europe in May 2004¹⁵.

In *Bosnia-Herzegovina*, Mr. Branko Todorovic, president of the Helsinki Committee for Human Rights in Bosnia and Herzegovina (HchrBH), received death threats after having published articles in the press denouncing the lack of political will on the part of the government to arrest former war criminals, and the absence of result in the enquiry into an attack on a human rights defender in 2003¹⁶.

In the *Russian Federation*, the Kazan Human Rights Center (KHRC) was subjected to several investigations after having issued two publications on torture in the State of Kazan in May 2004, and some of its members received threats. Some Russian NGOs were also specifically targeted by smear campaigns in May 2004, after having published information on the situation in Russian prisons¹⁷.

In *Ukraine*, the son of Mr. Andriy Volynets, president of the Ukraine Confederation of Free Trade Unions, was abducted and violently beaten by his kidnappers on 7 March 2004, following a press conference given by his father on the violation of trade union rights in Ukraine.

In *Uzbekistan*, on 11 June 2004 the government signed a decree making it compulsory for NGOs to obtain prior approval from the authorities for all their publications. Furthermore, Mr. Tulkin Karaev, a journalist and a member of the Human Rights Society of Uzbekistan (HRSU), was detained for questioning in December 2004, after having met with OSCE observers¹⁸.

15 *Idem.*

16 *Idem.*

17 *Idem.*

18 *Idem.*

Obstacles to the freedom of peaceful assembly

In *Belarus*, the demonstrations organised in memory of certain disappeared political opponents were repressed. On 7 May 2004, Mr. Dzimtry Salawow, chairman of the Viasna office in Navapolatsk, was arrested while participating in a peaceful demonstration in the centre of Navapolatsk in support of the families of disappeared members of the political opposition. On 16 September 2004, Mrs. Tatiana Revyaka, a member of Viasna, and Mr. Garry Pogoniaïlo, vice-president of the Helsinki Committee for Human Rights, were arrested while participating in a similar peaceful assembly. Similarly, demonstrations against the referendum organised by Mr. Alexander Lukashenko on 17 October 2004 were severely repressed. Such was the case of a demonstration organised in the centre of Minsk, repressed by the anti-riot police against political opponents, defenders and journalists. Forty persons were arrested and accused of participating in an unauthorised demonstration. Among them were two members of the Maladi Front (Youth Front), an organisation of young Belarus activists working for democratic changes. Both were sentenced to 10 to 15 days of administrative detention.

In *Kyrgyzstan*, a demonstration denouncing the detention of an opponent, Mr. Felix Kulov, was put down in Bishkek, on 15 April 2004, and several human rights defenders were arrested¹⁹. Furthermore, a new law amending the act "on the right of citizens to demonstrate peacefully, unarmed, and to organise freely assemblies and demonstrations" was passed on 23 November 2004. This law specifies that prior authorisation must be applied for at least nine days in advance, and that demonstrations "in the proximity" of the residences of the President or the Prime Minister or close to law courts or prisons are forbidden. Also, demonstrations are not allowed to continue beyond 11 pm, which rules out any long-term action.

In the *Russian Federation*, a new law "on meetings, assemblies and demonstrations" was passed by the Duma on 4 June 2004, limiting the number of venues for such events and making it difficult to plan them²⁰.

¹⁹ *Idem.*

²⁰ *Idem.*

These obstacles could well be reinforced if the new anti-terrorist legislation was passed (see above).

In *Uzbekistan*, there were serious obstacles to the freedom of peaceful assembly, in particular in the town of Djizak. Several assemblies organised by the HRSU were broken up by force between October and December 2004. In particular, HRSU president, Mr. Tolib Yakubov, was beaten on 29 November 2004, when he was on his way to one of these assemblies. The purpose of these demonstrations was to lodge a peaceful protest against the human rights violations committed by representatives of the local and regional authorities²¹, and against the impunity they enjoy.

Defenders in armed conflict or post-conflict situations

It is worth out underlining the situation of defenders in conflict situations.

Those who defend human rights in Chechnya, or who speak out on such questions in other regions of the *Russian Federation*, still found themselves living in very dangerous circumstances. For instance, on 16 January 2004 the body of Mr. Aslan Sheripovich Davletukaev, a volunteer with the Society of Russian-Chechen Friendship (SRCF), was found near Gudermes, bearing traces of torture²².

This situation was all the more serious in that the defenders still operated almost completely cut off from the outside world. The few representatives of international humanitarian or human rights NGOs who dared enter the territory of Chechnya were subjected both to censorship from the Russian State and violence from certain Chechen groups. Mrs. Miriam Jevikova for instance, a Slovak journalist employed by the Organisation for Aid to Refugees, was taken hostage on 1 January 2004, when she was on her way from Pyatigorsk to Vladikavkaz. She was only released at the end of November 2004.

The situation deteriorated in *Ingushetia*, where there were numerous attacks and disappearances. In August 2004, the Chechen Committee for National Salvation, a human rights NGO based in Nazran, received a request to close down from the office of the Ingushetia Prosecutor, fol-

²¹ *Idem.*

²² *Idem.*

lowing the issuing of several press releases on the human rights situation in Chechnya. The Prosecutor desired that the releases be examined, so that their "extremist" nature be recognised.

Lastly, Russian NGOs that criticised President Putin's policy in Chechnya were not immune from retaliation. The Union of the Soldiers' Mothers Committees was subjected to serious smear campaigns, and to an investigation launched by a conservative member of the Duma. The Association of the Soldiers' Mothers of Saint - Petersburg was also being prosecuted²³.

Lawyers involved in defending Chechen civilians were subjected to serious reprisals. Mr. Stanislas Markelov, for instance, a lawyer acting for Mr. Zelimkhan Mourdalov, a Chechen student who died following acts of torture, was violently attacked by five men on 16 April 2004. No criminal investigation was initiated following his complaint, and the police officers considered that the medical certificate certifying the presence of cranial injuries was a forgery.

The security and rights of human rights defenders were also attacked in other countries where post-conflict or crisis situations prevailed.

In *Serbia-Montenegro*, defenders who denounced the acts of violence committed in Kosovo in March 2004 were subjected to smear campaigns in the press, and journalists working for the independent television channel *B92* were violently attacked²⁴. It was still difficult to denounce certain exactions committed during the war; the threats against Mrs. Svetlana Djordjevic, following the publication in July 2003 of her book *Witness Reports on Kosovo*, which described human rights violations committed by the police in Kosovo in 1998 and 1999, were a striking example of this. And on 3 May 2004, Mr. Masan Lekic, a *B92* journalist, was attacked while engaged on an enquiry on Mr. Milorad Lukovic, the main suspect in the assassination of former Prime Minister Mr. Zoran Djindjic in 2001.

In *Georgia*, four young members of the pro-democratic movement *Kmara!* (Enough!) were abducted in January 2004 by officers of the local Adjara authorities, and two of them were beaten up. These events occurred in the context of serious tension between the Georgian autho-

²³ *Idem.*

²⁴ *Idem.*

rities and the authorities of the autonomous Republic at the beginning of the year, when Mr. Aslan Abashidze, the Adjara leader, restored the state of emergency on 7 January 2004. Journalists working for the *Rustavi 2* channel were also violently attacked by groups linked to the same local authorities in January and March 2004²⁵.

Lastly, regarding the situation in Nagorno-Karabakh, Mr. Mikael Danyelian, co-ordinator of the Armenia Helsinki Association, was attacked in Erevan, in *Armenia*, after having expressed himself publicly on the relations between Armenia and Azerbaijan in the framework of the conflict. In *Azerbaijan*, Mr. Avaz Hasanov, Director of the Society for Humanitarian Research, was accused of having betrayed national interests in pro-government media in June 2004. The accusations followed his enquiries into the disappearances, hostage-takings and prisoners of war in Karabakh and Armenia. On 10 June 2004, after returning from a mission, his office in Baku was visited by a group of young nationalists belonging to the Karabakh Liberation Organisation. Mr. Hasanov received insults and death threats.

Defenders of minorities' and antifascists' rights

Special attention must finally be paid to defenders of minorities, and to defenders engaged in fighting fascist and extreme-right movements.

In *Georgia*, the 11-year old daughter of Mr. Nugzar Sulashvili, president of the International Union "Centre for the rights and security of foreign citizens and migrants", was victim of an attempt to abduct her on 26 May 2004. The event occurred following the publication by a Georgian newspaper of information that Mr. Nugzar Sulashvili had communicated confidentially to a parliamentary committee on cases of human trafficking and illegal migrations.

In *Serbia-Montenegro*, a citizen, Mrs. Natalia Lazic, was seriously threatened in October 2004 following her public denunciations of the authors of sexual abuse inflicted on a Rom youth. In addition, anti-Semitic graffiti were found on the door of the Humanitarian Law Center (HLC) in the night of 4 November 2004, accusing Mrs. Natasha Kandic, director of the Center, of being "a lackey of Jewish Zionism".

²⁵ *Idem.*

Two swastikas, and the mention "Serbia for the Serbs", were signed by the fascist group "Combat 18".

The situation was particularly serious in the *Russian Federation*, where there was a spectacular increase in xenophobic and nationalist aggressions. The defenders involved in denouncing such attacks were seriously threatened in 2004. On 20 June 2004, Mr. Nikolai Girenko, leader of the Commission of the rights of minorities of the Scientific union of Saint-Petersburg, was assassinated²⁶. Later, death threats were sent to several antifascist activists, such as Mr. Dimitri Kraïoukhine, an executive of the "United Europe" NGO, and main witness for the prosecution in the trial of the neo-Nazi organisation, "National Union of Russia". Likewise, on 23 August 2004 Mr. Andrey Yurov, an executive of the Youth Human Rights Movement (YHRM), and Mrs. Ludmilla Alexeeva, an executive of the Moscow Helsinki Group, received threatening letters at their offices, signed by the head of the Slav Union, a neo-Nazi organisation. The threats referred to the assassination of Mr. Girenko. The day before the closing down of the Slav Union website, which the YHRM had obtained, the representatives of the Slav Union appealed to all nationalists and neo-Nazis to use violence against human rights defenders and antifascists. It should be emphasised that human rights defenders received no support from the Russian authorities, which minimised the attacks on foreigners in Russia, refusing to recognise them as racist acts.

Mobilisation of the international community

United Nations (UN)

The Special Representative of the UN Secretary General on Human Rights Defenders, Mrs. Hina Jilani, presented the report of her visit to Macedonia from 26 to 30 January 2003²⁷ to the 60th Session of the Commission on Human Rights. She paid a visit to Turkey in October 2004, of which the conclusions will be presented in 2005. She also solicited a request for a visit to the Russian Federation. Her repeated requests to Belarus, Turkmenistan and Uzbekistan were still not answered at the end of 2004.

²⁶ *Idem.*

²⁷ See United Nations document E/CN.4/2004/94/Add.2.

During its 60th Session, the Commission on Human Rights passed a resolution on the human rights situation in Belarus²⁸. In particular, the Commission requested the government of Belarus to "release scientists and other individuals detained for politically motivated reasons; to cease harassment of non-governmental organisations, political parties, trade unions, independent media and democracy and human rights activists; to undertake a review of domestic laws and practices regarding the compulsory registration of NGOs [...]" and to "co-operate fully with all mechanisms of the Commission, including by extending invitations [...] to the Special Representative of the Secretary General on Human Rights Defenders". The Commission also decided to "appoint a Special Rapporteur [...] to establish direct contacts with the government and with the people of Belarus with a view to examining the situation of human rights in Belarus [...] and to report to the Commission at its 61st session". The Observatory contributed to the resolution in particular through the presentation of its mission report on Belarus²⁹ at a briefing on 13 April 2004, and the participation of Viasna President to this session.

The Commission also adopted a resolution on Turkmenistan "reaffirming that improving security and the fight against terrorism should be conducted in full respect of human rights and democratic principles", noting with grave concern "the abuse of the legal system through arbitrary detention, imprisonment and surveillance of persons who try to exercise their freedom of thought, expression, assembly and association, and harassment of their families". The Commission urged the government of Turkmenistan to "remove the new restrictions on the activities of public associations, including non-governmental organisations, stipulated in the new Law on Public associations³⁰, to "enable non-governmental organisations, particularly human rights organisations, and other civil society actors to carry out their activities without hindrance" and lastly requested "[...] the Special Representative of the Secretary General on Human Rights Defenders to consider visiting Turkmenistan" and called upon the government of Turkmenistan to "facilitate such a visit".

28 See Resolution 2004/14 of the Commission on Human Rights.

29 See Report of the international fact-finding mission, *Belarus, The 'liquidation' of the independent civil society*, April 2004.

30 See Annual Report 2003, chapter on "Europe and the CIS".

European Union

On 15 June 2004, the Council of the European Union (EU) adopted the Guidelines³¹ on human rights defenders. In so doing the Council recognised the role of defenders, and supported the principles enshrined in the Declaration on Human Rights Defenders adopted by the General Assembly of the United Nations in 1998. The purpose of the Guidelines, according to the EU Annual Report on Human Rights, is to "put forward concrete suggestions designed to improve EU action [regarding support to defenders]", in the framework of the Common External and Security Policy (CESP). They entrust EU missions in third countries with an important role, and emphasise the need to include the question of the situation of defenders in the dialogue between the EU, the third countries and the regional organisations.

The Observatory welcomes the adoption of these Guidelines, the implementation of which could lead to real progress. Ever since its creation in 1997 the Observatory has never ceased to urge the EU to draw up an instrument of this kind; it has contributed to its preparation, in particular by submitting a series of recommendations to the members of the EU Council Working Group on Human Rights (COHOM) in March 2004. The Observatory also participated, on 30 March 2004 in Brussels, in a meeting of international NGOs on this theme, and in a meeting organised in Dublin on 12 May 2004 by the Irish Presidency of the EU, attended by international NGOs involved in such matters and delegations of all member States. Finally, the Observatory participated in the EU NGO Forum on the implementation of the Guidelines, on 9-10 December 2004, and contributed to the drafting of a Handbook on the implementation of the Guidelines by EU representations and member States in third countries.

The Observatory stresses the need to increase budgetary appropriations for protecting defenders, and urges that an effort be made to harmonise the arrangements applicable in EU member States for the temporary protection of human rights defenders in danger. In that respect, the European Commission could draw up a binding legal instrument, instituting a coherent regime for receiving defenders on a temporary basis. Lastly, the Observatory stresses the need to establish a co-ordina-

³¹ See annex to the present report.

tion body within COHOM, which would be responsible for the permanent monitoring of the implementation of the Guidelines, to ensure their full implementation.

As to the positions adopted, however, in 2004, the EU was far less critical of Central Asian countries, in particular Kazakhstan, Kyrgyzstan and Uzbekistan during its meetings with these countries in the framework of the co-operation councils: on no occasion was the situation regarding human rights openly criticised, contrary to earlier years, although the situation on the ground continued to deteriorate. No mention of human rights violations nor of the situation of human rights defenders were made neither in the joint declarations published at the end of the EU-Russia Summit on 25 November 2004.

The Presidency issued three declarations³², however, expressing concern about the situation of the independent media in Ukraine, and about the lack of result in the enquiry into the assassination of Mr. Georgiy Gongadze, an Ukrainian journalist assassinated in 2000³³.

In a resolution adopted on 15 December 2004, on the eve of the meeting of EU Heads of State on the opening of accession negotiations with Turkey, the European Parliament expressed "its unconditional support for the civil society organisations and actors operating in Turkey in defence and promotion of fundamental rights and freedoms; call(ed) on the Council and the Commission to strengthen cooperation with such organisations in the process of monitoring Turkey's compliance with the political criteria of Copenhagen"³⁴.

In the EU member States, the Observatory supports the implementation of the German and Belgian resolutions adopted in 2003 by the respective parliaments of both countries, instituting a special regime for the support of defenders in danger. The Observatory is a member of a co-ordination group composed of several international NGOs and Belgian parliamentarians, which was set up in September 2004 for ensuring the follow-up of the resolution passed on 13 February 2003 by the Foreign Affairs Committee of the Belgian Chamber of Deputies on human rights defenders (doc. 50 2060/006).

32 See EU Council Declarations 7186/04, 12452/04 and 12696/04.

33 See Annual Report 2002.

34 See Resolution P6_TA-PROV (2004) 0096.

Organisation for Security and Co-operation in Europe (OSCE)

The Observatory organised, jointly with the International Helsinki Federation for Human Rights and the International League of Human Rights, a parallel event on the freedom of association in the CIS countries during the OSCE Human Dimension Implementation Meeting held in Warsaw, 4-15 October 2004. Defenders from Georgia, Belarus, the Russian Federation and Turkmenistan were able to describe the situation regarding the freedom of association in their country. The Observatory also facilitated the presence of a representative of the office of the Special Representative of the UN Secretary General on Human Rights Defenders.

The Observatory also intervened under the item of the agenda on the freedom of assembly and association. The Observatory welcomed the setting up, in December 2003, of a programme on the freedoms of association and peaceful assembly in the CIS, in the Office for Democratic Institutions and Human Rights (ODIHR) of the OSCE. The Observatory also drew attention to the strengthening of the legislative arsenal designed to restrict the exercise of the freedom of association and peaceful assembly in certain countries, such as the Russian Federation, Belarus and Uzbekistan.

In its recommendations, the Observatory called upon the OSCE to extend the mandate of the programme of the ODIHR, recommending in that respect that a "focal point" or a Special Rapporteur be created, with the task of: reacting publicly and immediately to cases of violations committed against defenders; solicit and question States, and answer them. This mechanism should also evaluate legislation on the freedom of association. The 12th Ministerial Council, held in Sofia, Bulgaria, on 6-7 December 2004, met in an inauspicious atmosphere, hostile to human rights - confirming *a contrario* the need to mobilise OSCE bodies for the protection of defenders.

Council of Europe

On 21 October 2004, Mr. Peter Schieder, President of the Parliamentary Assembly of the Council of Europe, condemned "the arrest of demonstrators [...] during assemblies of opposition supporters" following the referendum organised by President Mr. Alexander Lukachenko on 17 October 2004. Mr. Schieder declared that "measures

of repression and intimidation are aimed at all independent voices, in particular the media and those who act to promote human rights".

On the initiative of the Observatory, a working group entitled "Protection of Human Rights Defenders" was set up in the Human Rights Grouping, comprising several international NGOs with participatory status with the Council of Europe. The aim of the working party is to promote the necessary protection of human rights defenders in the various bodies of the Council of Europe. Among the recommendations sent to these bodies, the Council of Ministers was in particular asked to "take into consideration the situation of human rights defenders when preparing its visits to each member State, and again when drafting the conclusions and recommendations in the report of the visit". The members of the Parliamentary Assembly were also asked to "take up the question of human rights defenders, to adopt a public stance on the issue through declarations in writing, to appoint a Rapporteur with a view to drafting a recommendation or a resolution on the subject, and to invite, in that context, the Special Representative of the UN Secretary General on Human Rights Defenders to address the Assembly". Lastly, the working group asked the Advisory Committee of the Framework Convention for the Protection of National Minorities to take into consideration the situation of defenders acting in favour of the rights of minorities, during the examination of the reports submitted to it under Article 25§1 of the Framework Convention for the Protection of National Minorities. Finally, the Observatory continued to convey to the Commissioner for Human Rights of the Council of Europe information on human rights defenders in member States.

HUMAN RIGHTS DEFENDERS HARASSED

AZERBAIJAN

Arbitrary detention of Mr. Ilgar Ibrahimoglu³⁵

On 3 December 2003 the District Court of Nasimi in Baku issued a notice of detention of Mr. **Ilgar Ibrahimoglu**, co-ordinator of the Centre for the Protection of Conscience and Religious Freedoms (DEVAMM) and secretary general of the International Religious Liberty Association (IRLA) in Azerbaijan, for "active participation" in the political disturbances that arose in the aftermath of the presidential election in 2003. This notice, which in principle can be revoked at any moment, resulted in his provisional detention until his trial.

On 2 April 2004 the Court of Heavy Crimes gave Mr. Ibrahimoglu a suspended sentence of five years in prison. He was released the same day.

Subsequently, the Baku airport border police prevented him on three occasions from travelling abroad to attend international organisations' meetings, although his sentence carried no ban on leaving the Azerbaijani territory. On 13 September 2004, Mr. Ibrahimoglu was prevented from going to the Organisation for Security and Co-operation in Europe (OSCE) Conference on Tolerance and the Fight against Racism, Xenophobia and Discrimination, held in Brussels on 13 and 14 September 2004.

³⁵ See Annual Report 2003 and Urgent Appeal AZE 003/1203/OBS 068.1.

On 6 October 2004, he was unable to attend the OSCE Human Dimension Implementation Meeting held in Warsaw from 4 to 15 October 2004, although he previously took care to inform the Minister of Justice of his trip in a letter dated 5 October 2004.

He was again notified of this ban when he attempted to travel to Warsaw for the same meeting on 13 October 2004.

The harassment of Mr. Ibrahimoglu took place against a background of repression of DEVAMM. Indeed, since April 2004, the police attacked the Juma Mosque - headed by Mr. Ibrahimoglu - on several occasions during prayer and used violence to arrest the faithful. The public media regularly accused Mr. Ibrahimoglu and the Juma community of protecting Western interests, demanding that Mr. Ibrahimoglu choose between his activities as a human rights defender and his religious responsibilities.

Smear campaign against Mr. Eldar Zeynalov and Mrs. Leyla Yunus³⁶

From May 2004 on, a smear campaign was launched in the pro-Government media against Mr. **Eldar Zeynalov**, director of the Human Rights Centre of Azerbaijan (HRCA), and Mrs. **Leyla Yunus**, a member of the Institute for Peace and Democracy, after they both presented a list of Azerbaijani political prisoners to Mr. Malcolm Bruce, the Rapporteur on political prisoners of the Parliamentary Assembly of the Council of Europe (PACE), on 10 May 2004 during his trip to Azerbaijan. On 19 May 2004, they also presented the same list to Mr. Andreas Gross, PACE Special Rapporteur on Azerbaijan.

The electronic media, pro-Governmental television channels such as *ANS-TV*, *Space* and *Lider* as well as several newspapers notably accused Mr. Zeynalov and Mrs. Yunus of supporting terrorists and members of the "Chechen resistance movement" and of disseminating false information to European institutions.

This smear campaign started again following discussions, during the October 2004 PACE session, focusing on possible recommendations for

³⁶ See Annual Report 2003.

sanctions against Azerbaijan, due in particular to the detention of six political opposition leaders whose release has been demanded by the Council of Europe for several years. The radio station *Europa* notably broadcast a report by the pro-governmental Member of Parliament, Mr. Maqsd Ibrahimbeyov, accusing Mrs. Yunus of being a Russian spy.

Sentencing of Mr. Ramil Djarchiyev³⁷

Mr. **Ramil Djarchiyev**, a member of the Qazakh Human Rights Resource Centre, was arrested on 17 October 2003, as part of the fierce repression of those who denounced the irregularities in the presidential election of 15 October 2003. He had then been accused of "disturbing public order" (Article 220.1 of the Criminal Code) and of "resistance or violence against representatives of the authorities" (Article 315.2).

On 26 March 2004 the Court of Heavy Crimes gave Mr. Djarchiyev a suspended sentence of three years imprisonment. He was released the same day. However, he was not allowed to resume his activities as a History teacher in the village of Chayli, and was thus forced to find another job.

Halt to proceedings against Mr. Ilqar Altay³⁸

In December 2003, one of the Baku district courts halted the judicial proceedings against Mr. **Ilqar Altay**, an independent legal expert who took part in many missions investigating the human rights situation in Azerbaijan and who headed the Committee for the Protection of the Rights of Mr. Agazade, leader of the Umid party, who was arrested during the presidential elections in October 2003. Mr. Altay had been accused of "resisting the police" in October 2003.

³⁷ *Idem.*

³⁸ *Idem.*

BELARUS

At the beginning of 2004, the Minister of Justice officially announced that 51 organisations had been closed down through judicial proceedings in the course of 2003, when several decrees severely restricting freedom of association were also adopted³⁹.

This repressive trend continued in 2004.

Restrictive tax legislation⁴⁰

On 4 October 2004, presidential decree n° 495 of 30 September 2002 was modified to abolish the property rent tax benefits granted to NGOs and political parties. NGOs and political parties that rent offices must from now on pay the same rents as commercial organisations, an impossible situation for many of them. Furthermore the health and epidemiological services and local administrative authorities must give prior authorisation for the use of private homes as offices.

Crackdown on independent NGOs⁴¹*Continued harassment of Viasna*

Although the registration of the human rights NGO Viasna was cancelled through legal proceedings in 2003, its members remained active and consequently continued to be subjected to harassment in 2004.

Harassment of Mr. Dzimiry Salawyyow

On 1 March 2004, the office of the Navapolatsk prosecutor informed Mr. **Dzimiry Salawyyow**, chairman of the Viasna office in Navapolatsk, that if he were to represent or act on behalf of Viasna he could face charges.

On 7 May 2004, Mr. Salawyyow was arrested in the Navapolatsk city centre whilst participating in a peaceful demonstration urging for the

³⁹ *Idem.*

⁴⁰ *Idem.*

⁴¹ See Annual Report 2003, Press Release of 22 April 2004 and Report of the international fact-finding mission: *Belarus: The 'liquidation' of independent civil society.*

circumstances of the disappearance of political opposition members in 1999 and 2000 to be publicly clarified. He was charged under Article 167.1 of the Code of Administrative Offences, which punishes "violations against order, organising and participating in mass demonstrations".

On 10 May 2004, the Navapolatsk Court of Justice acquitted him on grounds that no administrative offence had been committed.

On 24 June 2004, Mr. Salawyow was arrested again while he was distributing leaflets against the referendum decreed by President Lukashenko on the renewal of his term of office. On 19 August 2004, the Administrative Commission of the Navapolatsk Executive Committee took legal action against Mr. Salawyow with the Navapolatsk court under Article 173.3 of the Code of Administrative Offences, which forbids the "distribution of published material that does not carry the publisher's imprint". The Navapolatsk court then revoked this decision, considering that the Commission had not respected procedural rules.

On 14 October 2004, the same Commission again charged Mr. Salawyow on similar grounds. He was sentenced to a fine of 95,000 roubles (34 euros).

Arrest of Mr. Valentin Stefanovitch

On 1 September 2004, Mr. **Valentin Stefanovitch**, a lawyer and vice-president of Viasna, was arrested whilst trying to defend a schoolboy who was violently beaten up by the security forces during a peaceful demonstration held in Minsk. This demonstration was organised by school students to claim for the right to education in the Belarus language. Mr. Stefanovitch was taken to the police station and released the same day with no explanation.

Harassment of the Brest branch

On 29 September 2004, the police entered the Viasna offices in Brest without a warrant and confiscated 137 copies of a booklet listing the violations of human rights perpetrated in Brest in 2003 and 2004. Mr. **Vladimir Vyalichkin**, president of the branch, was accused of "carrying out activities for an unregistered organisation" under Article 167.10 of the Administrative Code.

As at the end of 2004, the case was still pending.

*Harassment of the Helsinki Committee for Human Rights*⁴²

*Judicial proceedings against the Helsinki Committee for Human Rights*⁴³

In August 2003, the Belarus Helsinki Committee for Human Rights (BHC) received a warning from the Ministry of Justice for using letter-head paper and a stamp failing to comply with the statutes of the association.

The BHC was accused of tax fraud following an investigation carried out by the Moscow District in Minsk tax inspectors between August 2003 and January 2004. These accusations related to funds received from the European Union's Technical Assistance Programme (TACIS) between 2000 and 2002. The Tax Inspection of the Moscow District in Minsk based its decision on Decree No. 8, adopted in March 2001, providing for the "Receipt and Use of Foreign Financial Assistance" and the "omission to register foreign financial assistance" (Article 12). However, in accordance with the General Rules agreed by Belarus and the European Union in the "Memorandum on Financing" of 10 May 2004, this financing is exempt from tax and Decree No. 8 does not apply to foreign financial aid allocated under this programme.

On 27 January 2004, the Committee, required to pay 385,000,000 Belarus roubles (135,000 euros) by the Tax Inspection of the Moscow District of Minsk, appealed against this decision to the Minsk Tax Inspection.

On 29 March 2004, the Minsk Tax Inspection overruled the first decision and referred the case to the Tax Inspection of the Moscow District in Minsk, which reduced the amount to be paid to 155,000,000 roubles (55,520 euros). The BHC lodged an appeal against this decision with the Minsk Economic Court, which heard the case on 1, 9 and 14 June 2004. During the hearings, the Tax Inspection based its arguments on Presidential Decree No. 460, adopted on 22 October 2003, which refers to the "obligation to obtain the approval of the national authorities prior to the implementation of any national agreement". The BHC argued that the Decree had been adopted after the signature and imple-

42 See Annual Report 2003.

43 See Annual Report 2003 and Urgent Appeals BLR 001/0604/OBS 046 and 046.1.

mentation of the TACIS programme and that consequently it did not apply in this case, whilst the Tax Inspection stated that the Committee should retroactively comply with the terms of the Decree. The BHC also contested the impartiality of a senior official of the Ministry of Economy who was called as an independent expert by the judge.

On 23 June, after several hearings, the Economic Court dismissed the decision of the Minsk Tax Inspection and ordered the Moscow District Tax Inspection in Minsk to refund the money that had already been paid by the BHC (190,000 roubles - 67 euros), stating that the latter had acted in complete legality.

Nevertheless, as at the end of 2004, the BHC remained subject to financial investigations carried out by the Ministries of Justice, Tax, Economy and Foreign Affairs.

Furthermore, on 17 March 2004, on the basis of the findings of the investigation by the Moscow District Tax Inspection in Minsk, the Department of Financial Investigation of the Ministry of Finances opened a criminal case against Mrs. **Tatsiana Protsko**, president of the BHC, and Mrs. **Tatsiana Rutkevitch**, BHC chief accountant, for tax evasion. Both of them risk up to seven years' imprisonment and confiscation of their possessions. As at the end of 2004, the proceedings against Mrs. Protsko and Mrs. Rutkevitch remained pending.

Also, during summer, the Belarus public television channel *BT* broadcast a report accusing Mrs. Protsko of having purchased a car and a home using money that had been obtained through tax evasion. She initiated legal proceedings against *BT* arguing for the defence of her dignity, honour and professional reputation. However, the Minsk District Court refused to register her complaint.

Lastly, following the announcement of the organisation of a referendum on the renewal of the term of office of the Belarus President, the BHC wrote to the State authorities and the Supreme Court on 6 September 2004 to point out that the presidential decree for holding this referendum was anti-constitutional. The Supreme Court deemed the BHC action illegal and on 16 September 2004, the Ministry of Justice approached the Court to wind up the BHC. The Supreme Court suspended the investigation due to lack of evidence and referred the request back to the Ministry of Justice for further information. As the Ministry did not respond to the Court's request within the notified two-week period, the case was finally closed.

Harassment of Mr. Garry Pogoniaïlo and Mrs. Tatiana Revyaka

On 16 September 2004, Mr. **Garry Pogoniaïlo**, vice-chairman of the BHC and the lawyer for several families of disappeared, and Mrs. **Tatiana Revyaka**, a member of Viasna, were arrested whilst participating in a peaceful gathering in front of the Prosecutor's office in commemoration of the fifth anniversary of the disappearance of Mr. Viktor Gontchar, former Vice-President of Parliament and former director of the Central Committee of Elections, and of Mr. Anatoly Krasovsky, a businessman close to Mr. Gontchar. They were distributing booklets on the report by Mr. Christos Pourgourides, Special Rapporteur of the Council of Europe, which formed the basis for the adoption of a resolution by the Parliamentary Assembly of the Council of Europe during in its April 2004. Mr. Pourgourides' report, in particular, recommended adopting sanctions against Belarus due to the lack of progress in clearing up the murders of Mr. Youri Zakharenko, former Minister of the Interior who disappeared on 7 May 1999, of Messrs. Gontchar and Krasovski, who disappeared on 16 September 1999, and of the journalist Dimitri Zavadski, who disappeared on 7 July 2000.

The police took Mr. Pogoniaïlo and Mrs. Revyaka to the Minsk Central Department of Internal Affairs and accused them of contravening Article 173.3 of the Code of Administrative Offences which prohibits the "distribution of publications that carry no reference to the publisher and aim at harming society and the State, and the rights and interests of citizens".

They were both released after three hours of detention, and sentenced by the Administrative Committees of the General Administration to the pay a fine of 95,000 roubles (34 euros).

Moreover, on 30 November 2004, Mr. Garry Pogoniaïlo was informed that he was being prosecuted by the Minsk Prosecutor's Office for accusing the President of the Republic of having committed "serious crimes" punishable under Article 267.2 of the Criminal Code. In an interview with a journalist of the Swedish television channel *TV4* on 18 August 2004, Mr. Pogoniaïlo accused President Lukashenko of being likely involved in the disappearance of several opposition members and denounced the lack of rigour in the investigation process. Customs officials confiscated the videocassette of the interview from the *TV4* journalist when he left Belarus. This case remained pending as at the end of 2004.

*Judicial liquidation of the Minsk Independent Society of Legal Research*⁴⁴

The Minsk Independent Society of Legal Research was dissolved on 29 January 2004 for violation of Article 72 of the Code of Civil Procedure, on grounds that this Article forbids NGOs to represent one of the parties during a trial.

In the course of 2003, the Society had received three warnings for granting legal consultations to non-registered NGOs and for representing associations that were being prosecuted. These three warnings resulted by law in a liquidation lawsuit.

*Civil Initiatives' dissolution remains in force*⁴⁵

On 17 June 2003, the NGO "Civil Initiatives" had filed a complaint with the United Nations Human Rights Committee following its legal disbanding.

In spring 2004, the Human Rights Committee requested the Belarus Government to justify the liquidation of this NGO. However, no reply had yet been received by the Commission as at the end of 2004 and the dissolution of this organisation therefore remained in force.

Detention of Mr. Yuri Bandazhevski⁴⁶

Mr. **Yuri Bandazhevski**, an internationally renowned scientist specialising in medical research on nuclear radioactivity and former director of the Medical Institute in Gomel, revealed in his research the harmful effects of the Chernobyl disaster on the population of Belarus, in contradiction with the official claims by the authorities. He also criticised the misuse of Health Department funds, which he said should have been used for research in this area.

On 18 June 2001, Mr. Bandazhevski was sentenced to eight years imprisonment on the grounds that he sought bribes from the parents of pupils at the Gomel Institute.

⁴⁴ See Annual Report 2003.

⁴⁵ *Idem.*

⁴⁶ *Idem.*

On 31 May 2004, the Belarus Criminal Court commuted his prison term into a "restriction of freedom" sentence for good conduct.

At the end of 2004, Mr. Bandazhevski was living in Gyzgany, Grodnenski district, where he is obliged to work as a guard in a local collective farm (kolkhoze), whereas the complaint he filed with the United Nations Human Rights Committee had still not been examined.

BOSNIA-HERZEGOVINA

Attack on the Helsinki Committee for Human Rights and threats against its president⁴⁷

On 7 February 2004, Mr. **Branko Todorovic**, president of the Helsinki Committee for Human Rights in Bosnia and Herzegovina (HchrBH) based in Sarajevo, received death threats on his telephone answering machine. These threats accused him of being a NATO agent and warned him that if he went into hiding his family would be targeted. This followed the publication of an article on 3 February 2004 in the Banja Luka newspaper *Nezavisne Novine*, in which Mr. Todorovic had accused the Minister of the Interior, Mr. Zoran Djeric, of a lack of political will in the arrest of persons suspected of war crimes. Mr. Todorovic had also denounced, in a television broadcast on the *RTRS* channel on 6 February 2004, the lack of result in the investigation of the aggression of Mr. **Mladen Mimic**, president of the Milici Citizens' Association, who had been attacked in March 2003⁴⁸.

On 6 February 2004, Mr. **Dragan Jerinic**, editor-in-chief of *Nezavisne Novine*, also received death threats on his mobile phone, warning him he would be killed if he continued to publish Mr. Todorovic's writings.

On 8 February 2004, the Minister of the Interior stated that the police denied any involvement in these threats.

47 See Urgent Appeal BIH 001/0904/OBS 074.

48 See Annual Report 2003.

As at the end of 2004 investigations into these threats had produced no result.

On 26 September 2004, the office of the Helsinki Committee was burgled. Hard disks containing information on ongoing investigations were stolen together with a camera. However valuable equipment, including new computers that contained no files on the Committee's activities, was left untouched.

As at the end of 2004 the investigation into this burglary had produced no result.

On 22 November 2004, the home of Mr. Todorovic in Bijeljina was also burgled. Nothing was stolen, which leads to the theory that this was an act of intimidation. As at the end of 2004 this investigation had produced no result.

GEORGIA

Trial of the alleged murderer of Mr. Giorgi Sanaya⁴⁹

On 30 July 2004, the Tbilisi Regional Court confirmed the decision of 9 July 2003, by which the District Court of Tbilisi Gldani-Nadzaladevi sentenced Mr. Grigol Khurtsilava, a former state security officer, to 13 years in prison for the murder of Mr. **Giorgi Sanaya**. Mr. Sanaya, a journalist for television channel *Rustavi 2*, which regularly denounced Government corruption, was murdered on 26 July 2001.

On 24 November 2004, the appeals chamber of the Supreme Court examined the appeal lodged by Mrs. Rhatuna Chkhaidze, Mr. Sanaya's widow, to identify the person(s) behind the murder of Mr. Sanaya, and to requalify the crime, described as a common law crime, as a political crime.

However, on 6 December 2004, the criminal appeal chamber dismissed the political nature of the murder and indicated that

⁴⁹ *Idem*.

Mr. Khurtsilava had murdered Mr. Sanaya because Mr. Sanaya had tried to sexually harass him. The ruling contradicts Mr. Khurtsilava's statements during the initial trial that he had mistaken Mr. Sanaya, whom he did not know, for another man.

Continued harassment of television channel *Rustavi 2*⁵⁰

On 29 December 2003, a rocket was fired onto the premises of channel *Rustavi 2*, damaging the building. No result of the inquiry had been made public at end-2004.

On 4 February 2004, the television channels *Rustavi 2* and *Mze* simultaneously stopped broadcasting their highly popular political debate program, following a decision by the Government, which gave no explanation.

In Adjara, as part of the serious tensions that occurred at the beginning of 2004 between the newly elected Georgian authorities and the authorities of the autonomous republic, *Rustavi 2* journalists were targeted by the local authorities. During the night of 7 January 2004, members of the security forces prevented Mr. **Irakli Shetciruli**, a journalist at *Rustavi 2*, from crossing the administrative border of Chokoli. Mr. Shetciruli had just finished a report on the arrest of members of the youth movement "Kmara!" (Enough!). On 5 March 2004, Mr. **Vakhtang Komalhidze**, a journalist at *Rustavi 2* in Tbilisi, was violently beaten by several men, and the video tapes he was transporting in his car were stolen. After these events, two police officers were initially arrested then released shortly afterwards, with the result that these acts of violence remained unpunished at the end of 2004.

Legislation restricting the participation of independent NGOs in the Penal System Supervision Council⁵¹

On 11 August 2004, a new Penal System Supervision Council was introduced by presidential decree, entitling the members of some NGOs to visit penal detention centres when they wish and without need for a prior authorisation. The new Council replaces the former

50 *Idem.*

51 *Idem.*

one, established by the Ministry of Justice in 2000 and abolished in April 2004. The Council's function has not changed, however, the criteria according to which the new members were selected were not clearly defined and it seems that the choice was arbitrary. Council members include performers and members of NGOs that supported the members of the new Government during the Revolution of Roses and who now occupy high-ranking positions in the Georgian Government or Parliament. By contrast, independent organisations such as Former Political Prisoners for Human Rights and the Human Rights Documentation and Information Centre (HRIDC) were not selected for the Council, despite their applications, and now find themselves ostracised.

In the same context, threats were also made against members of both organisations.

In summer 2004, Mrs. **Nana Kakabadze**, president of Former Political Prisoners for Human Rights, received anonymous death threats by phone "if she didn't stop her activities". After the Revolution of Roses, this NGO revealed around 100 cases of torture and inhumane and degrading treatment in prisons. It also systematically reacted to Government pressure on and persecution of journalists and the media. The coordinator of the Rustavi branch of the NGO, Mr. **Levan Sakhvadze**, was beaten up on 4 May 2004 by unidentified assailants.

At the beginning of November 2004, Mr. Nicanadinadze, head of the legal department of the State Chancellery and advisor to the Prime Minister, telephoned the HRIDC, to ask the centre to cease its activities concerning the right of refugees. He indicated that the Centre might "have problems" if it refused to comply. Mr. Nicanadinadze accused the HRIDC of belonging to a political organisation and causing trouble for the Government.

Finally, inquiries conducted after attacks on and burglaries of the offices of the Foundation for the Defence of Human Rights in April 2003 had not produced any results as of end 2004.

Release of Mr. Giorgi Mshvenieradze⁵²

Mr. **Giorgi Mshvenieradze**, a representative of the Georgian Young Lawyers Association in Kutaisi, was arrested on 7 December 2003, while he was observing the Parliamentary elections. He was released several days later by decision of the court in Kobuleti, after he was pardoned by Mr. Aslan Abashidze, the former leader of the autonomous republic of Adjara. He had been sentenced to three months in preventive custody, after revealing major violations of electoral procedures at some polling stations⁵³.

At the end of the elections, the OSCE declared that the Autonomous Republic of Adjara was one of the Regions where irregularities had been most flagrant. Several NGO representatives were attacked, notably in Kobuleti, and 51 observers were prevented from carrying out their vote-counting operations under pressure from members of the Electoral Commission.

KAZAKHSTAN

Surveillance of Mr. Sergei Duvanov⁵⁴

In March 2003, Mr. **Sergei Duvanov**, editor-in-chief of the newsletter *Human Rights in Kazakhstan and the World*, published by the Kazakhstan International Bureau for Human Rights and the Rule of Law (KIBHRL), was sentenced to three-and-a-half years' in prison. On 29 December 2003, the District Court of Kaskelen reduced Mr. Duvanov's sentence. He was placed under surveillance in the Zarechnoye penal colony near Almaty.

On 15 January 2004, the Court decided that Mr. Duvanov could return home. After lengthy negotiations with KIBHRL, the penal colo-

52 *Idem.*

53 *Idem.*

54 See Annual Report 2003 and Urgent Appeal KAZ 001/0802/OBS 053.3.

ny of Almaty allowed Mr. Duvanov to resume his activities at the organisation.

However, he remained under surveillance and his working hours were clearly defined. He also had to report regularly to the authorities and was unable to attend certain public events, on the alleged grounds that he had been convicted of raping a minor.

On 26 August 2004, the District Court of Almaty acquitted him and all his rights were reinstated.

KYRGYZSTAN

Continued harassment campaign against KCHR and its members⁵⁵

Continuing prosecution of KCHR⁵⁶

The Kyrgyz Committee for Human Rights (KCHR) remained deprived of its legal status since it was "replaced" in November 2003 by an organisation with the same name. The new organisation was formed by former members of the KCHR who evidently have close ties to the Government. These members announced at a press conference on 25 August 2003, the appointment of a new board of directors of KCHR. On 28 November 2003, the Ministry of Justice registered the "new" KCHR in place of the "genuine" KCHR.

On 21 September 2004, the "genuine" KCHR was informed of the Bishkek City Court and Bishkek Regional Court's decision ordering the committee to pay \$5,276.50 (4,100 euros) in connection with several complaints filed by a former employee of KCHR, Mr. Eliseev, in 2001 and 2002. Since 1997, Mr. Eliseev has filed numerous complaints against KCHR, which led to a real hounding by the courts, clearly aimed at financially weakening the association. KCHR had to pay

⁵⁵ See Annual Report 2003.

⁵⁶ See Annual Reports 2002 and 2003 and Urgent Appeal KGZ 002/0803/OBS 044.4.

numerous fines and its property was also confiscated on several occasions, pursuant to the sentences passed.

Questioning of Mr. Asanaliev Makanbet

On 23 February 2004, Mr. **Asanaliev Makanbet**, coordinator of KCHR in the Issyk-Kul district, was summoned by the district administration of internal affairs. He was questioned about pamphlets criticising Mr. Askar Akaev, President of Kyrgyzstan, and his family. Mr. Makanbet replied that he was unaware of the existence of the pamphlets.

Mr. Makanbet was subsequently summoned by the national security service of Issyk-Kul district, where Lieutenant-Colonel Emil Abylgaziev and Senior Lieutenant Samat Mamadaliev accused him of working to "divide" society, and asked him to stop working for KCHR. He was released the same day.

Harassment and acts of violence against close relatives of Mr. Ramazan Dyrlydaev⁵⁷

In the evening of 3 July 2004, Mrs. **Ainura Aitbaeva**, daughter of Mr. **Ramazan Dyrlydaev**, president of KCHR currently in exile, was assaulted at her home. Unknown individuals entered her apartment, where she was with her two children, and violently beat her up, until she lost consciousness. The assailants left without taking any valuables. She was subsequently admitted to hospital suffering from trauma and remained there for 11 days.

On 4 November 2004, Mrs. Aitbaeva was assaulted again. While walking home with her husband, two men in a car, who looked like the men who had assaulted her on 3 July, ran over her. She did not file a complaint with the police, because the complaint she had filed after the previous assault had not led to an inquiry.

End of 2004, Mrs. Aitbaeva decided to flee Kyrgyzstan and sought refuge abroad.

On 22 October 2004, the home of Mrs. **Gulmira Tokombaeva**, wife of Mr Dyrlydaev, in Ankara, Turkey, was burgled after she received phone calls from a suspicious source. Nothing was stolen. Mrs. Tokombaeva did not receive any information about any inquiry.

57 See Annual Report 2003 and Urgent Appeals KGZ 002/0803/OBS 044.3 and 044.5.

Abduction and acts of torture against Mr. Tursunbek Akunov⁵⁸

On 16 November 2004, Mr. **Tursunbek Akunov**, president of the Human Rights Movement of Kyrgyzstan, was abducted, after responding to a summons by members of the National Security Services in Bishkek. He was locked in a cell for two weeks, remaining blindfolded for most of the time. He remained unconscious for his first three days in custody, after being hit on the head and forced to breathe in an unknown gas. Mr. Akunov stated that he recognised members of the National Security Services and the Ministry of the Interior, one of whom had often been sent in the past to monitor demonstrations in which Mr. Akunov participated.

On 1 December 2004, Mr. Akunov was found near Bishkek Hospital, suffering from severe head pain. Soon after his admission to hospital on a stretcher, Mr. Akunov was questioned by the police about the circumstances of his disappearance. The security forces immediately took control of the hospital entrance, only permitting Mr. Akunov's wife and a few colleagues to enter after lengthy negotiations. The doctors found Mr. Akunov to be suffering from profound psychological trauma and would probably need to receive medical treatment at home.

Since 1 November 2004, Mr. Akunov and his colleagues had been collecting signatures in downtown Bishkek, demanding the resignation of Mr. Askar Akaev as President of Kyrgyzstan for failing to comply with democratic principles.

The authorities denied that Mr. Akunov was the victim of a forced disappearance. At a press conference on 2 December 2004, Mr. Busurmankulov, spokesperson for the Ministry of the Interior, and Mr. Mamyrov, director of the National Security Services, stated that they suspected Mr. Akunov of attempting to attract publicity and discredit the judicial authorities. In particular, they tried to prove that Mr. Akunov's testimony was incoherent and that he took himself to hospital. As of the end of 2004, an inquiry into the veracity of his testimony was in progress.

⁵⁸ See Urgent Appeals KGZ 001/1104/OBS 088 and 88.1.

Harassment of Mrs. Aziza Abdurasulova⁵⁹

On 26 November 2004, Mrs. **Aziza Abdurasulova**, president of the human rights NGO "Kylým Shamy", which was, in particular, investigating Mr. Akunov's disappearance, attended an appointment made by a supposed telephone operator to receive a prize. A person who introduced himself as Mr. Daniyar Saparbekov, an officer from the criminal police, accused her of possessing a stolen telephone and attempted to force her into his car. Mrs. Abdurasulova managed to escape. She was subsequently contacted by phone by Mr. Kadyraliev, deputy director of the Bishkek criminal branch and by Mr. Taalai Duishenbiev, deputy director of the Bishkek police, who asked to meet her. Mrs. Abdurasulova refused, on the grounds that she had not been presented with an official summons.

On 29 November 2004, at a press conference organised by Mrs. Abdurasulova, Colonel Bursurmankulov Joldoshbek, president of the press service of the Ministry of the Interior accused her of trying to draw attention to herself by claiming to have escaped from an attempted abduction by the police.

Repression of a peaceful demonstration⁶⁰

On 15 April 2004, 18 people were arrested and taken to the Department of Internal Affairs in Pervomaiskiy Rayon after a peaceful demonstration organised in support of Mr. Felix Kulov, director of the Ar-Namys opposition party, currently serving a seven-year prison sentence. Those arrested were reported to include Mrs. Aziza Abdurasulova, who was beaten and mistreated during her detention, Mr. Tursunbek Akunov and Mr. **Tolekan Ismailovan**, director of the Civil Society Against Corruption. All of them were released the same day. Mr. Akunov was charged with "hooliganism" (Article 394 of the Administrative Code), "disobeying the law or an order given by a member of the police force" (Article 371) and "organisation of a meeting or demonstration" (Article 392). The Pervomaiskiy Court sentenced Mr. Akunov to a fine of 1,000 soms (20 euros).

⁵⁹ *Idem.*

⁶⁰ See Open Letter to the Kyrgyz authorities, 7 May 2004.

RUSSIAN FEDERATION

Since his election as President of the Russian Federation, Mr. Vladimir Putin has put the restoration of order at the core of his political project, which he himself has called the "Dictatorship of the Law".

The concrete implementation of this project has translated into a growing tendency to control governmental and nongovernmental actors. In this context the Russian State intends to restore order in terms of relations with civil society and associative movement, as was established by an international fact-finding mission mandated by the Observatory in September and December 2003, and again in May 2004⁶¹.

Vladimir Putin has undertaken a policy of rapprochement between the State and the many non-profit associations created since the demise of the USSR, intending to ensure the efficiency, rationalization and co-ordination of the activities of the State and the associations. In reality, this may express a will to control the associations, particularly those devoted to the defence of human rights in the country.

The methods used by the Russian authorities to control the associations effectively consist primarily in strengthening the legislative arsenal. In addition, the Russian Government uses the pretext of the financial support provided by some of the major Russian businessmen to certain human rights associations in order to discredit the latter. Finally, the many pressures and direct attacks on human rights defenders are carried out with the greatest impunity.

In the meanwhile, human rights defenders have lost the little support on which they could still count in the Duma and are concerned about the crushing domination, within the Parliament, of the nationalist and patriot parties that are facilitating the adoption of laws severely restricting fundamental liberties. They are also gradually losing their intermediaries within the independent media, which is itself increasingly controlled, and therefore find it more and more difficult to make their activities known by the population.

61 See report of the international fact-finding mission *Russia: Human Rights Defenders faced with the 'Dictatorship of Law'*, September 2004 and Press Release, 12 October 2004.

Indirect obstacles to the activities of human rights defenders

Restrictive legislation

Renewed tax pressures⁶²

A draft law on taxation and tax collection was adopted at first reading by the Duma on 5 August 2004. Three readings are required for the final adoption of this text.

This draft law provides for the list of organisations whose subsidies are exempt from tax to be extended to include Russian foundations, whereas this exemption only applied to international organisations and foundations so far. This means *de facto* that the subsidies of foundations that are not included in the list will be taxed and there is every indication that this list will be drawn up based on arbitrary criteria.

Furthermore, the new bill provides that NGOs, if they wish to benefit from the tax exemption provided by the law, must register their subsidies with a special commission. This commission has been in existence since 1999, but registering was optional.

Restrictive legislation on demonstrations⁶³

A new law on "meetings, rallies and demonstrations" was adopted by the Duma on 4 June 2004 and signed by President Putin on 21 June 2004. In spite of a revision of the initial draft which was considered to be too restrictive, this law seriously limits freedoms of assembly and demonstration and creates considerable obstacles to the planning and holding of such events. A request for prior authorisation, including the programme of the event on an hour by hour basis, must be submitted to the authorities at least ten days in advance, and there is a ban on demonstrations close to the residence of the President of the Republic, to court rooms and to prisons. As no safety guidelines are specified in this law, there are left to the discretion of the authorities. Furthermore, demonstrations may not take place after 11:00 p.m., thereby banning all long-term demonstrations. Finally, local authorities are allowed to chan-

62 *Idem.*

63 See Press Release, 13 July 2004.

ge the location of the event and inform the organisers of this decision only three days in advance. This law contravenes Article 31 of the Russian Constitution that states that every Russian citizen has the right to demonstrate freely if he is not armed.

*Creation of a National Committee for the Protection of Human Rights*⁶⁴

At the end of September 2004 President Putin signed a decree relating to "additional state measures for supporting the human rights movement in Russia" and providing for the creation of a National Committee for the Protection of Human Rights in Russia and the integration of human rights NGOs in the work of the consultative bodies created by representatives of the President at regional level. This Committee was established on 9 November 2004 and took over the Presidential Human Rights Commission. It is composed of former members of this Commission as well as members of Russian human rights NGOs. Although the outward aim of this new piece of legislation is to consolidate civil society and the respect of human rights, there is a fear that it is in fact just another way of controlling more effectively the movement of NGOs.

*Smear campaign against independent NGOs*⁶⁵

In 2004, NGOs were targeted by virulent smear campaigns orchestrated at highest State level. These campaigns mainly focused on NGOs' sources of funding and inclined to compare their members with criminals. These campaigns not only aimed at discrediting human rights defenders in the eyes of the population but also at weakening them by establishing a pernicious distinction between "good" and "bad" NGOs.

- On 7 May 2004, during a press conference on the situation of Russian prisons, General Valerii Kraev, head of the General Direction of Sentence Enforcement of the Ministry of Justice, declared that human rights

64 See report of the international fact-finding mission *Russia: Human rights Defenders faced with the 'Dictatorship of Law'*, September 2004 and Press Release, 12 October 2004.

65 See Open Letter to the Authorities, 24 May 2004, Press Release, 28 May 2004 and Report of the Fact-Finding Mission referred to above.

NGOs were funded by "criminal groups". He also accused certain NGOs of destabilising the Ministry of Justice by putting pressure on the prison administration system and by disseminating false information in the press. General Kraev declared that his accusations were based on information obtained through "phone tapping" and "on the Web", without going into greater detail. He also stated that 163 organisations "claiming to defend human rights" were in fact financed by oligarchs, and he specifically mentioned the following NGOs: the Tchelabinsk and Ural branches of Amnesty International, the Irkutsk Civil Information Initiative, the All-Russian Public Movement for Human Rights and the Committee in Support of the Detainees. He also mentioned that it was possible to work with more than 360 other human rights organisations, including the Moscow Helsinki Group and the Committee for Civil Rights, thus making a distinction between "good" and "bad" associations. These declarations followed the condemnation by these NGOs of the poor conditions of detention in Russian prisons. Mr. **Lev Ponomarev**, head of the Movement for Human Rights, immediately filed a complaint against General Kraev for slander. During a press conference held on 14 May 2004, General Kraev denied having accused Mr. Ponomarev and his NGO. In late 2004, the Moscow Zamoskvoretsky Court was investigating the case and a hearing was scheduled for 21 January 2005.

- On 26 May 2004, Mr. Vladimir Putin stated in his speech to the upper chamber of the Duma that the "main objective of some of these organisations is to receive funds from influential foreign foundations, while for others the aim is to serve dubious groups and commercial interests". Mr. Putin added that when it came to violations of human rights and "to the real interests of the people, these organisations remain silent. And there's nothing happenstance about that; they simply cannot bite the hand that feeds them". These words referred in particular to businessmen Boris Berezovsky and Vladimir Gousinsky, both in exile, and to Mikhail Khodorkovsky, currently in prison. All three were being prosecuted for fraud, which the NGOs condemned as being due to the fact that they were well-known political opponents.

- On 19 July 2004, in a radio interview, the patriarch of Smolensk and Kaliningrad Cyrille, head of the foreign affairs department of the Russian Orthodox Church, asked the human rights movement to find new leaders, and claimed that "the most well-known so-called human

rights organisations do not like Russia. They try to find human rights violations all over this country, but never investigate into violations against Russians in Baltic countries and in the North Caucasus or elsewhere." He added that newly-elected leaders of such associations should "be able to face up to bureaucrats, to be incorruptible and not even to think of accepting foreign subsidies"⁶⁶.

Direct attacks on defenders and human rights defence associations

Saint Petersburg

*Extrajudicial execution of Mr. Nikolay Girenko and death threats against Mrs. Stepania Koulaeva*⁶⁷

On 20 June 2004, Mr. **Nikolay Girenko**, head of the Minority Rights Commission of the Saint Petersburg Scientific Union and president of the Ethnic Minority Rights Association, one of the most active organisation fighting against racism in Saint Petersburg, was murdered at his home by unidentified individuals who rang his doorbell and shot him dead through his house door while enquiring after the identity of the visitors. This murder was a reprisal against the work carried out by Mr. Girenko, who was known for his expertise provided at trials of fascist groups, including of Skinheads, in Saint Petersburg and all across Russia.

Since the murder of Mr. Girenko, Mrs. Matvienko, Mayor of Saint Petersburg, has declared on regular occasions during press conferences that this murder was a criminal act and had no political significance.

As at the end of 2004, the investigation into Mr. Girenko's assassination had produced no result.

A few days after Mr. Girenko was killed, Mrs. **Stephania Koulaeva**, president of the Anti-Fascist Commission and of the Northwest Centre for Social and Legal Protection of Roma (Memorial Saint Petersburg), received several telephone calls threatening her with death. The

⁶⁶ See report of the international fact-finding mission, *Russia: Human rights Defenders faced with the 'Dictatorship of Law'*, September 2004.

⁶⁷ See Urgent Appeal RUS 003/0604/OBS 049.

authors of these threats alluded in particular to Mr. Girenko's assassination, saying that this was "just a start" and she was next on their list. The next day, the door to her apartment was covered with swastikas and insults. When Mrs. Koulaeva filed a complaint, the police advised her to leave Saint Petersburg for a few months, but she nevertheless stayed at home.

As at the end of 2004, none of the results of the investigation had been made public.

*Continued judicial harassment of the Association of Soldiers' Mothers of Saint Petersburg*⁶⁸

The legal proceedings for defamation initiated in June 2003 by Mr. Bukin, director of the Nachimov military school, against the Association of Soldiers' Mothers of Saint Petersburg⁶⁹ and the newspaper *Smena*, are still pending. *Smena* had published information supplied by the association concerning the physical and psychological torture of pupils, and these acts had already been acknowledged by Mr. Kuroedov, admiral of the Russian fleet, who had stated that the officers responsible had been punished. The Kuibychev Court had adjourned the trial until 18 January 2005.

Moreover, in 2003, an enquiry had been opened against Mr. Bukin by the general prosecutor at the request of the mothers of the pupils, so that the crimes of torture should be recognised. The Court announced that the results of this investigation would be made public at the end of January 2005.

Finally, on 17 July 2004, the prosecutor of the Kalinin district of Saint Petersburg opened a criminal investigation against Mr. **Sergueï Mikhailov**, an orthopaedic doctor who worked as medical expert with the Association of Soldiers' Mothers of Saint Petersburg. Dr. Mikhailov was accused of "complicity" in cases of desertion. At the end of 2004, the proceedings were ongoing.

68 See Annual Report 2003.

69 In 2004, the Association of the Soldiers' Mothers of Saint Petersburg was awarded the Aachen Peace Prize.

*Attacks on Mr. Vladimir Schnittke*⁷⁰

On 26 September 2003, Mr. Vladimir Goliakov was arrested in relation to the investigation into the attacked on 14 August 2003 on Mr. **Vladimir Schnittke**, president of the Saint Petersburg Memorial association, and two of his colleagues. Mr. Goliakov was arrested after Memorial had hired private detectives because of police inaction in the investigation. Another assailant identified by detectives was left free.

On 22 June 2004, Mr. Goliakov was given a suspended sentence of five years imprisonment by the Kuibyshevsky Federal Court of Saint Petersburg for the attack on M. Schnittke, and was then released. The political nature of the attack was not acknowledged.

On 11 December 2004, Mr. Schnittke was attacked a second time. He was hit on the head with a club at the entrance to his home. His laptop computer was stolen from him and he suffered from cerebral trauma. An investigation was opened, which remained ongoing as at the end of 2004.

MOSCOW

*Judicial proceedings against members of the Sakharov Museum*⁷¹

Following a resolution of the Duma dated 2 September 2003, the Moscow Prosecutor initiated legal proceedings against Mr. **Yuri Samodorov**, executive director of the Sakharov Museum, Mrs. **Ludmila Vasilevskaya**, in charge of the exhibition "Beware, Religion" and Mrs. **Anna Mikhailchouk**, one of the artists in the exhibition, for contravening Article 282.2 of the Criminal Code ("incitement to racial, ethnic and religious hatred"). On 25 December 2003, the investigator for the Moscow prosecutor's office, Mr. Tsvetkov, indicted the artists and organizers of "incitement to hatred" and of attacking the dignity of certain religious groups.

In the course of these proceedings, the defence of the Sakharov Museum members refused to acknowledge the expert report on the exhibited works of art produced by non-specialist experts, and requested on several occasions that the Court mandate new experts. The

⁷⁰ See Annual Report 2003.

⁷¹ *Idem*.

Court always refused to take this request into account and endorsed the first expert report.

Many witnesses were heard during sessions held in November and December 2004, including those responsible for vandalising the exhibition on 18 January 2003, and who were released shortly after the events. On 22 August 2004, the trial of the attackers was closed for lack of grounds for prosecution.

Mr. Samodorov, Mrs. Vasilevskaya and Mrs. Mikhalchouk have been banned to leave the city of Moscow since 25 December 2003. The judge announced that the verdict would be returned in February 2005.

*Smear campaign against the Union of Soldiers' Mothers Committees*⁷²

On 19 October 2004, Mr. Viktor Alksnis, deputy of the Duma and member of the "Rodina" ("motherland") party, introduced a request to the Duma for opening an investigation into the funding of the Union of Soldiers' Mothers Committees. Since its creation in 1991, this organisation has regularly condemned the human rights violations perpetrated within the Russian army, and actively advocates for a peaceful resolution of the conflict in Chechnya. On 13 October 2004, the Union published a statement titled *Give peace a chance* in support of initiating negotiations between the Russian authorities and representatives of the Chechen separatists.

On 20 October 2004, Mr. Alksnis justified his initiative in a radio interview, during which he accused the Union of "undermining Russian defence capabilities" and of being "funded by the West for at least the past ten years". Mr. Alksnis stated that the members of the Committees were not soldiers' mothers but "political professionals who received a salary, who head hundreds of offices throughout Russia and organised propaganda activities".

On the evening of 20 October 2004, Mr. Alksnis repeated his accusations on *NTV*, one of the main Russian television channels. He accused the organisation of receiving 15 million dollars a year from abroad for "anti-military promotion and for helping citizens to avoid military service".

On 22 October 2004, during another press conference, Mr. Alksnis announced that he had lodged a complaint with the Ministry of Justice

72 See Urgent Appeal RUS 006/1004/OBS 081.

and the General Prosecutor in the name of the Duma, so that an enquiry into the Union's funding could be opened.

At the beginning of December 2004, inspectors from the economic crimes police department showed up at the organisation's headquarters and requested its financial documents. The organisation complied with this request; however it later learnt that the documents had been sent to Mr. Alksnis.

As at the end of 2004, this case remained pending.

Repression of NGOs in the Krasnodar Region

*Judicial proceedings against the Krasnodar Centre for the Defence of Human Rights*⁷³

The Krasnodar Centre for the Defence of Human Rights, headed by Mr. **Vassily Rakovitch**, has been subjected to suspension proceedings since 2002 under the 2002 law against extremism, for having carried out "activities contrary to the statutes of the organisation".

In February 2004, the Russian Federal Supreme Court referred the case to the Krasnodar Regional Court for re-examination into the background of the case. Following a longer period than legally allotted, the Court ruled that the activities of the Centre should not be suspended and decided that 1,500 roubles (41 euros) should be paid to the Centre as partial refund of the trial costs.

In October 2004, the Centre took the case to the Supreme Court of Appeal to demand the refund of the full amount of the trial costs (50,000 roubles - 1,385 euros). Following referral of the case by the Supreme Court, the Krasnodar Regional Court ruled that 2,000 roubles (55 euros) should be refunded to the Centre, which again appealed this decision. As at the end of 2004, the case remained pending.

In the meanwhile, in 2003, the Krasnodar Centre for the Defence of Human Rights referred to the European Court of Human Rights about the suspension order. The Centre was at the end of 2004 considering modifying this request to ask the ECHR to also rule on the refund of its legal costs.

⁷³ See Annual Report 2003 and Report of the International Fact-Finding Mission *Russia: Human rights Defenders faced with the 'Dictatorship of Law'*, September 2004.

*Harassment of Mrs. Tatiana Roudakova*⁷⁴

On 17 May 2004, Mrs. **Tatiana Roudakova**, leader of the Mothers' Civil Organisation for the Protection of Prisoners, was arrested in the Republic of Adygheya, Krasnodar region, while she was on her way to penal colony An5/1, accompanied by family relatives of detainees and her driver, in order to verify information alleging ill-treatment of the prisoners. A policeman got into their car and forced them to drive to the police station. Mrs. Roudakova and her car were searched without a warrant. Mrs. Roudakova was then taken to the office of the Prosecutor, who informed her that a criminal investigation had been opened against the detainees in the colony for possession of weapons and drugs and that she would be called in as a witness. The authorities also accused her for demonstrating in front of the penal colony from 1 to 10 May 2004, with the sole aim of distracting the attention of the wardens from the traffic that was being organised amongst the prisoners.

As of the end of 2004, the enquiry against her remained pending.

Since then, a smear campaign was launched against Mrs. Roudakova and her organisation in the Krasnodar and Moscow media, which presented Mrs. Roudakova as an alcoholic and a drug addict and asserted that she was accused in a case of arms and drug trafficking. Mrs. Roudakova filed several complaints for attack on her dignity against several newspapers and television channels.

In October 2004 she won her case against the director of the Press Service of the Republic of Adygheya Department of Sentence Enforcement. As of the end of 2004, the other complaints she lodged had not been brought to trial.

*Repression against the Kazan Human Rights Centre and its members - Tatarstan*⁷⁵

On 5 May 2004, members of the Security Division of the Ministry of the Interior asked for a copy of a report published by the Kazan Human

⁷⁴ See report of the international fact-finding mission *Russia: Human rights Defenders faced with the 'Dictatorship of Law'*, September 2004.

⁷⁵ See urgent appeal RUS 001/0604/OBS 045.

Rights Centre (KHRC), entitled *Torture in Tatarstan, Facts and Figures*, to be forwarded to the Ministry for editing prior to publication.

On 6 May 2004, the KHRC held a press conference for launching another report entitled *The Law and Its Victims, Torture in Tatarstan*, released jointly with Khater, a publishing company. This report is a compilation of articles that were published on human rights violations perpetrated by the Tatarstan police, and based on 140 complaints filed between April and May 2004. Pressure was put on local journalists attending the conference to limit dissemination of the report. On 7 May 2004, the second broadcast of the press conference held on 6 May was cancelled, while it had already been broadcast in the previous evening during the *Time of Kazan*, a programme on television channel *Varian T*. The cancellation by the channel's managers was justified by the journalist's and chief editor's alleged lack of objectivity.

On 13 May 2004, the Ministry of the Interior opened a judicial inquiry into fraudulent use of Khater's logo, on the basis of a complaint filed by Khater, which denied being associated with the publication of the book. Several days earlier, however, Khater had informed KHRC that they had encountered "problems" relating to the publication of the book. On 1 December 2004, the Arbitration Court of the Republic of Tatarstan dismissed Khater's complaint.

Within the framework of this investigation, the Office for the Fight against Economic Crime (OFEC) of the Ministry of the Interior, started auditing KHRC's accounts on 14 May 2004, in the absence of the KHRC director, Mrs. **Natalia Kablova**. The audit, which covered financial documents, lists of KHRC members, as well as professional activities and family information of KHRC employees, did not reveal any irregularities.

Furthermore, on 25 May 2004, the Ministry of Justice's Head Office for the Republic of Tatarstan announced the official launch of an investigation concerning the activities of KHRC, starting on 1 June 2004. The one-day enquiry did not reveal any misappropriation of funds.

The human rights defenders working with KHRC and their families also received threats. An F-1 grenade was found near the apartment door of Mr. **Vladimir Chikov**, father of the former KHRC president Mr. **Pavel Chikov**. Mr. Vladimir Chikov had also been contacted by the Office of Economic Crime Department on 17 May 2004, in connection with the audit of KHRC accounts.

An investigation into the presence of the grenade was opened and then suspended *sine die*, since the instigators could not be identified.

On 27 May 2004, KHRC premises were broken into and ransacked after a press conference denouncing the harassment of KCHR was organised jointly by KHRC, the Nizhny Novgorod Committee Against Torture and the Civil Verdict Foundation. Two men wearing masks and gloves broke into the premises, destroyed computers, a scanner and a television set, and then fled.

An official inquiry was opened and then suspended *sine die* as the two individuals were not identified.

Repression against NGOs in Chechnya and Ingushetia

The Society of Russian-Chechen Friendship targeted⁷⁶

- Abduction, torture and extrajudicial execution of Mr. Aslan Sheripovich Davletukaev⁷⁷

On 10 January 2004, Mr. **Aslan Sheripovich Davletukaev**, a volunteer with the Society of Russian-Chechen Friendship (SRCF), who had been investigating human rights violations in Chechnya since 2000, was abducted from his home in the village of Avtury in Shali Region, Chechnya, by around 50 soldiers from the Russian armed forces.

On 16 January 2004, Mr. Davletukaev's body was found by the roadside by a Russian army patrol, near the city of Gudermes. His body showed evidence of torture and mutilation. His arms and legs were broken, and there was evidence of wounds caused by a blunt metal object. Mr. Davletukaev was killed by a bullet in the head.

Two criminal inquiries were opened. The Shali Prosecutor opened an investigation into Mr. Davletukaev's abduction, whereas the Gudermes Prosecutor opened an enquiry into his murder. The two investigations were merged and then suspended *sine die* in August 2004, since the perpetrators could not be identified.

- Threats against Mr. Imran Ezhiev⁷⁸

Mr. **Imran Ezhiev**, president of the SRCF Information Centre in the Northern Caucasus and regional coordinator of the Moscow Helsinki

76 See Annual Report 2003.

77 See Urgent Appeal RUS 001/0104/OBS 006.

78 See Urgent Appeals RUS 001/0303/OBS 012.1 and 012.2.

Group, came under tighter surveillance in January 2004. He was constantly followed, and his home and office in Ingushetia were permanently watched by four vehicles without registration plates. The surveillance was mainly related to his enquiry into the murder of Mr Davletukaev.

On 29 January 2004, Mr. Ezhev, accompanied by Mr. **Khamchiev Kuchiev** and Mr. **Adlan Ibragimov**, two other SRCF members, were arrested by a group of armed men wearing military uniforms, as they were driving to meet Mrs. Ella Pamfilova, head of the Presidential Human Rights Commission, in order to visit Chechen refugee camps in Ingushetia. They were then taken to the police station in Sunzhenskoye, in the village of Sleptosovskaya, Ingushetia, where Mr. Ezhev was violently beaten up and threatened with death. In addition, one of the policemen offered to release them if they "confessed" several unsolved thefts. In the end, they were released later in the day on Mrs. Pamfilova's request.

When Mr. Ezhev tried to file a complaint for arbitrary detention with the Ingush Ministry of the Interior on 5 February 2004, Mr. Alayaludin Kutjev, Vice-Minister of the Interior, told him that the police had complied with the law that stipulates that only State representatives are entitled to visit refugee camps.

In March 2003, Mr. Ezhev had been abducted in Chechnya by masked individuals while investigating human rights violations. He had been released after three days of detention as a result of international pressure⁷⁹.

- Hampering dissemination of SRCF newspaper

On 11 March 2004, after the Territorial Division of the Ministry of Communication filed a complaint against the newspaper *Pravozaschita*, published jointly by the Nizhny Novgorod Human Rights Society and SRCF, officers from the financial crime investigation division of the Nizhny Novgorod regional police seized 5,000 copies of the newspaper from the Riyad Balakhna printing company. The police officers presented a search warrant for the printers' storage facilities and completed a declaration of temporary seizure of all equipment and financial documents. The newspaper covers events in Chechnya and this particular

⁷⁹ See Annual Report 2003.

edition contained articles criticising the action of the Russian authorities, notably that of President Vladimir Putin in Chechnya.

In May 2004, the Sovietsky District Court in Nizhny Novgorod ruled on the territorial division's complaint, accusing the newspaper of failing to provide the full names of the newspapers' founders, and sentenced the editor-in-chief to a fine of 500 roubles (13 euros). The Court ruled that the seized copies should be returned, which was done several days later.

- Illegal search and arbitrary detention⁸⁰

On 12 July 2004, police officers entered SRCF premises in Karabulak, Ingushetia, without a warrant. More than 20 armed men searched the third floor of the building, while other officers guarded the entrance, including the chief of police of the Republic of Ingushetia, Mr. Ruslan Khamkhjoyev. The police confiscated computer equipment and documents (testimony of victims of human rights violations by the Russian federal forces in Chechnya, the names of the suspects and the details of vehicles used for abductions), before making the people present sign a blank document, evidently a search warrant.

Shortly afterwards, armed men found two empty jars of powder and Mr. **Khamzat Kuchiyev**, SRCF correspondent who was in the premises, was taken to the Department of Internal Affairs of Karabulak on suspicion of "terrorist activities". Mr. Kuchiyev was released the same day, after Mrs. Pamfilova called the President of Ingushetia, on Mr. Ezhiev's request. Mr. Ezhiev was advised not to file a complaint about these events.

However, the SRCF lodged a complaint with the Ingushetia and Karabulak Prosecutors' offices, denouncing the illegality of the search of 12 July 2004, the arbitrary detention of Mr. Kuchiev and the fabrication of evidence. Mr. Ezhiev expressed his fear that the jars of powder had been placed in their office deliberately by the police.

At the end of 2004, no official investigation had been opened.

*Abduction of Mrs. Fatima Gazieva and Mr. Ilyas Ataev*⁸¹

On 3 September 2004, Mrs. **Fatima Gazieva**, co-founder of the human rights organisation Echo of War, and her husband Mr. **Ilyas Ataev**, were

80 See Urgent Appeal RUS 004/0704/OBS 059.

81 See Urgent Appeals RUS 005/0904/OBS 067 and 067.1.

abducted by armed men in Kalinovskaya, Naur Region, Chechnya. They were taken to Shelkovskaya district, then to the military base in Hancala. While being detained, Mrs. Gazieva was questioned about her activities at Echo of War. She and her husband were released the next day.

*Harassment of members of Memorial in Nazran*⁸²

In February 2003, an armed group went to the permanent address in Grozny of Mrs. **Libkhan Bazaeva**, one of the directors of Memorial's office in Nazran, Ingushetia, to find her. The house had been bombed in October 1999 by the Russian air force and is inhabitable since then. On two different occasions - in October and November 2003 - a group of masked men broke into Mrs. Bazaeva's family home in Grozny, and terrorised the people present. Not having found Mrs. Bazaeva, they left again. The many letters that Memorial had sent to the Russian authorities asking for an inquiry into the attacks at her family home since October 2003 had received no positive reply.

In October 1999, the column of Chechen refugees, with which Mrs. Bazaeva and her family were travelling, was bombed by the Russian air force and Mrs. Bazaeva lost all her possessions. When the inquiry into the bombing was closed for lack of results, Mrs. Bazaeva referred the matter to the European Court of Human Rights (ECHR). In January 2003, her complaint was judged admissible; the first hearing took place on 15 October 2004.

SERBIA-MONTENEGRO

Harassment of the Helsinki Committee for Human Rights in Serbia⁸³

On 26 March 2004, the offices of the Helsinki Committee for Human Rights in Serbia (HCHR), based in Belgrade, were searched by

⁸² See Annual Report 2003 and Letter to the Prosecutor General of the Russian Federation, 11 May 2004.

⁸³ See Open Letter to the authorities of Serbia-Montenegro, 5 May 2004.

the military police on an order issued by the magistrate M. Vuk Tufegdžic.

During the search, copies of the book *Military Secret* were seized. The book contains the minutes of the meetings of the Supreme Military Council from 1999 - 2000 on the activities carried out by the Government of the Federal Republic of Yugoslavia against the opposition. At the end of 2004, the confiscated books had still not been returned.

The author of the book, Mr. **Vladan Vlakovic**, was charged with "divulging military secrets" (art. 224§1 and § 2 of the Criminal Code) and placed under temporary detention on 18 March 2004, immediately after the publication of his book. Although he was set free on 16 April 2004, the formal charges brought against him were not lifted. In late 2004, the case was part of the case brought against General Perisic, an opponent of the Government who was accused of revealing confidential information to members of the US armed forces.

Kosovo: a forbidden subject

Defamation of NGOs⁸⁴

Following the resurgence of violence in Kosovo in March 2004, a defamation campaign was launched in a certain number of newspapers and television channels against some female members of human rights NGOs. Mrs. **Natasha Kandic**, director of the Humanitarian Law Centre (HLC), Mrs. **Sonja Biserko**, director of the Helsinki Committee for Human Rights, Mrs. **Biljana Kovacevic**, director of the Committee of Jurists for the Protection of Human Rights, and Mrs. **Borka Pavicecic**, director of the Centre for Cultural Decontamination were all personally attacked after having accused the Government of Serbia and the police of being the instigators of the violence. They were all accused of dealing in politics and of having no compassion for the Serbs who were also victims of violence in Kosovo; they were called "unpatriotic". On 28 March 2004, Mr. Vojislav Kostunica, the Prime Minister of Serbia, declared on the television station *BK TV* that it was because of NGOs that Serbia had a poor image.

⁸⁴ See Open Letter to the authorities of Serbia-Montenegro, 28 September 2004.

This hostile attitude was also directed to journalists who exposed human rights violations. On 28 March 2004, a bomb was found under a vehicle belonging to a team of television journalists working for the independent television station *B92*. They had just come back from Kosovska Mitrovica in Kosovo, where they had been covering the violence that had led to the death of approximately 30 people.

*Assault and threats against Mrs. Svetlana Djordjevic*⁸⁵

On 27 June 2004, Mrs. **Svetlana Djordjevic**, a journalist specialised in Kosovo, was assaulted in her home in Vranje, by a masked assailant who poured a liquid substance into her mouth, injected her with an unknown substance and threatened her with death if she did not publicly state that what she had written was not true. The assailant left her unconscious with a red rose in her hand, the symbol of the former Serbian secret service. He told that she "had fifteen days to publicly state, on channel *B92*, that everything [she] had written or said was a lie." He added that it was a "warning", that "[they] did not play around and would be back". Mrs. Djordjevic was then taken to the hospital.

Mrs. Djordjevic is the author of a book entitled *Witness Reports on Kosovo*, which was published by HLC in July 2003. The book describes human rights violations committed by the Kosovo police in 1998 and 1999 (expulsions, ill-treatment, the executions of Albanian civilians and the burning down of their homes). The book lists the names of the persons who carried out these acts.

After the attack, Mrs. Djordjevic left her home in order to protect her family and requested special protection from the police. The members of the police force who were assigned to protect her were however the same people who accused her of treason. The situation continued to worsen, forcing Mrs. Djordjevic to leave her home. She was living in hiding since the latter part of 2004.

⁸⁵ *Idem.*

TURKEY

Legislation on freedom of association⁸⁶

2004 was marked by many changes in the legislation relative to freedom of association.

At the beginning of the year, two particularly restrictive circulars were issued. The first one, dated January 2004, stipulated that associations and foundations would only be given provisional authorisation to collaborate with foreign organisations. Moreover, each year, organisations have to furnish authorities with a description of all of the activities they have undertaken with foreign organisations. Public meetings attended by foreigners have to be reported to the General Directorate for Security. The second circular, published in May 2004 by the General Directorate of Foundations, stipulated that foundations were required to request authorisation to participate in calls for projects financed by international organisations, including the European Commission.

Both circulars were issued despite the fact that draft legislation on associations was being debated by Turkish Parliament. New Law No. 2953, went into force on 22 November 2004 and constitutes a major step forward for Turkish associations and foundations. The restrictions put into force by the circulars were to be revised early in 2005, for the purposes of compliance with new legislation.

The main changes brought about by Law No. 2953 are as follows:

- Acknowledgement of the right of all persons, including moral persons - except the members of the Turkish armed forces, security officers and civil servants in certain circumstances - to found an organisation; the need for prior authorisation no longer applies.
- Prior authorisation is no longer required to open branches of an organisation abroad, to become affiliated with a foreign organisation or to meet with foreigners.
- Local authorities no longer have to be informed of general assemblies.

⁸⁶ *Idem.*

- Governors have to issue warnings before starting legal proceedings against organisations.
- Local law enforcement agencies are not allowed to enter the premises of organisations without prior authorisation from the courts.
- Authorisation is no longer required to receive funds from abroad, although district governors have to receive prior notification.
- Criminal sanctions against organisations for "breaching" their statutes have been lowered.

However, the new Criminal Code described as "Euro-compatible" by the European Commission, and approved in September 2004 will go into force in April 2005 and it still contains repressive provisions that may affect human rights defenders. In particular, article 302 comprises most of the provisions of article 159 of the former Code, which has been widely criticised and used as the basis for legal proceedings against human rights defenders on numerous occasions. Article 302 provides for prison sentences for "insulting the Turkish identity, the Government and military institutions". Article 306 provides for long sentences for activities against "national interests". Article 216 was written in the spirit of the amendment introduced in 2002 to article 312, stipulating that a person can only be punished for "inciting hate" in cases where his words constitute "clear and imminent danger". However, human rights defenders continued to be charged on the basis of the amended article, as can be seen from the case of the organisation Gök-Der, described below.

The IHD and its members targeted

Headquarters and the Ankara Branch

Search of IHD's Ankara premises⁸⁷

On 6 March 2003, the headquarters of the Human Rights Association (IHD) in Turkey and the offices of their branch in Ankara were raided by the special anti-terror forces on instructions from the

⁸⁷ *Idem.*

Security Court, as part of a preliminary investigation and proceedings for "aiding an illegal organisation" (article 169 of the Criminal Code).

In 2004, after having examined the documents seized, the prosecution office of the State Security Court decided that the case did not fall under the jurisdiction of the Court and the case was referred to the ordinary Prosecutor's general office. The case was dismissed and closed.

*Proceedings against 46 members of IHD Board of Directors*⁸⁸

46 members of the IHD Board of Directors who had been charged with "possession of prohibited documents" (article 526/1 of the Criminal Code), following a police raid on organisation's premises in January 2001, appealed to the High Court after having been sentenced to pay a fine of 249,130,000 Turkish liras (146 euros) each. In 2004, the High Court accepted their appeal and they were acquitted.

Istanbul Branch

*Harassment of Mrs. Eren Keskin*⁸⁹

On 14 October 2004, the court issued an arrest warrant for Mrs. **Eren Keskin**, a lawyer and former president of the Istanbul branch of the IHD. The arrest warrant was issued after she failed to provide the judge with a statement in a case dating from July 2002, in which she is accused of "inciting hatred" (article 312 of the Criminal Code). At the end of 2004, this arrest warrant had still not been revoked.

Besides, on 8 April 2002, following a speech made in Germany during which she described how women in Turkish prisons were the victims of sexual assault, Mr. Fathi Altayli, a journalist, said on the radio that he would willingly sexually assault her. Mrs. Keskin lodged a complaint. In March 2004, the Sisli Criminal Court of First Instance N°3 sentenced Mr. Altayli to pay a fine of 500 billion Turkish Lira (292 euros).

*Mrs. Kiraz Biçici sentenced*⁹⁰

The conviction against Mrs. **Kiraz Biçici**, head of the Istanbul Branch of the IHD, was revoked at the end of 2003. Mrs. Biçici was sentenced to

88 See Annual Report 2003.

89 *Idem.*

90 *Idem.*

a 45-month prison term for "providing support to various illegal organisations, including the PKK", in an interview that was retransmitted on *Media TV*, during which she spoke about type F prisons⁹¹.

*Bingöl Branch*⁹²

Mr. **Ridvan Kizgin**, president of the Bingöl Branch, and Mr. **Fevzi Abkulut**, secretary of the same branch, were acquitted of breaking the law on demonstrations (Law No. 2911). They had been arrested for attending, as observers, a press conference organised by the Kurdish party HADEPP in 2002. They were held for two months. Despite the acquittal, the members of the Bingöl branch of the IHD were still under pressure from the authorities and Mr. Kizgin still had 35 charges pending against him as of the end of 2004.

*Diyarbakir Branch*⁹³

On 21 June 2003, during a demonstration organised in the Benusen quarter of Diyarbakir, certain representatives of human rights organisations took the floor and made reference to their commitment to a peaceful and democratic solution to the Kurdish conflict as well as general amnesty for militants in prison.

Following these events, the State Prosecutor of the Republic of Diyarbakir opened a judicial investigation. The heads of human rights organisations were heard by law enforcement authorities and brought before the State Security Court in Diyarbakir.

On 27 April 2004, the Observatory appointed a *chargé de mission* to serve as an observer during the trial of Messrs. **Selahattin Dermitas**, president of the Diyarbakir Chapter, **Ali Önc**, spokesperson for the Platform for Democracy in Diyarbakir, and **Nejdet Atatay**, member of the Platform. They had all been accused of violating article 312-2 of the Criminal Code, "inciting hatred and animosity".

⁹¹ Type of prisons built in 2000 where prisoners are kept in absolute solitary confinement.

⁹² See Annual Report 2003.

⁹³ See Annual Report 2003 and Report of judicial observation mission, *Turkey: two human rights defenders face trial*.

On that date, due to the absence of the State Prosecutor, the presiding judge decided to provide the prosecution with a copy of the arguments to that he could reply. The judge also asked the Prosecutor for additional information.

On 25 May 2004 the court reached a verdict, acquitting Mr. Dermitas and the other two co-defendants.

Legal proceedings against HRFT members

Charges brought against the members of the Board of Directors of the HRFT⁹⁴

On 28 July 2003, the General Directorate of Foundations started legal proceedings before the Ankara Civil Court of first instance against nine members of the Board of Directors of the Human Rights Foundation in Turkey (HRFT). Charges were filed against Messrs. **Yavuz Önen**, president, **Selim Olcer**, secretary general, **Sabri Dokuzoguz**, treasurer, and **Mehmet Vurale**, **Mustafa Cinkilic**, **Gunseli Kaya**, **Sukran Irencin**, **Okan Akhan**, **Sedat Aslantas**, members.

The members of the Foundation were all formally accused of:

- collecting donations on the Internet without prior authorisation;
- translating into English and circulating to the international community the "Special Report on the Problem of Prisons in Turkey", drawn up by the Foundation's documentation centre;
- turning over documents on forced disappearances and summary executions in Turkey to the United Nations Special Rapporteur on extra-judicial, summary and arbitrary executions;
- turning over documents on type F prisons and on police operations in prisons in December 2000 to the Rapporteur on Turkey in the European Parliament;
- transmitting to the Human Rights Commissioner of the Council of Europe an evaluation report assessing the human rights situation in Turkey, and providing information on forced migration.

On 9 March 2004, the Civil Court of the first instance No.5 in Ankara heard the case. Because the Directorate, who had started the

94 See Annual Report 2003.

proceedings, was not present at the hearing, the Court ruled to close the case on the basis of article 409/5 of the Code of Judicial Procedure. As the plaintiff did not appeal the ruling within the three months provided for by the law, the case was definitely closed.

*Charges brought against Mr. Alp Ayan*⁹⁵

On 10 December 2003, the Observatory had appointed an observer at the trial of Mr. **Alp Ayan**, a psychiatrist and member of the HRFT Centre for the Rehabilitation Victims of Torture in Izmir, before the Izmir High Criminal Court. The Court had decided to postpone the trial to 3 March 2004, so as to hear testimony from new witnesses and from a woman who had also been indicted. Mr. Alp Ayan was charged with "insulting the Ministry of Justice" (article 159 of the Criminal Code), in a statement he made to the press on 10 February 2001, during which he spoke out against a police operation carried out against prisoners on 19 December 2000 that led to the death of 32 people.

On 26 April 2004, the Court acquitted Mr. Alp Ayan.

*Charges brought against Mr. Alp Ayan and Mrs. Günseli Kaya*⁹⁶

The Observatory appointed a *chargé de mission* to act as an observer during the trial of Mr. **Alp Ayan** and Mrs. **Günseli Kaya**, both members of the HRFT. They were brought before the Aliaga Criminal Court of first instance on 26 January 2004. Charges were brought against them, and others, on the basis of articles 32-1 and 32-3 of Law 2911 relative to meetings and demonstrations, for "using violence to resist law enforcement officers" during the funeral of Nevzat Ciftci, a prisoner killed during police operations on 30 September 1999. They had been attacked by a group of policemen who wanted to keep them from attending funeral services. Sixty-nine persons had been arrested, and 14 persons, among them M. Alp Ayan and Mrs. Günseli Kaya, had been placed in custody pending trial for four months. The trial date was moved forward to 13 February 2004.

95 See Press Release, 15 December 2003.

96 See Open Letter to the Turkish authorities, 30 January 2004 and Press Release, 16 February 2004.

On that date, and after a trial that lasted four years, Dr. Alp Ayan was sentenced to a prison term of 18 months and one day. Mrs. Günseli Kaya, and 28 other persons under indictment, were sentenced to a prison term of 18 month. Mr. **Adnan Akin**, who had also been indicted, was sentenced to a three-year prison term. All of the others were acquitted. At the end of 2004, the case was still pending before the highest court of appeals.

Legal proceedings against Messrs. Alp Ayan and Mehmet Barindik

On 10 June 2002, Messrs. Alp Ayan and **Mehmet Barindik**, an executive member of the trade union LIMTER-IS, had been sentenced to prison terms of one year and one day and one year, respectively, on the basis of article 159 of the Criminal Code. The case was referred to the Supreme Court for evaluation of some expressions used in the press release that both men had read in public, with respect to the amendments made to article 159, on 2 August 2002. Criminal Chamber No.9 of the Supreme Criminal Court had reversed the decision made by Izmir Criminal Court No.4. On 19 June 2003, during the hearing, the prosecution requested for an acquittal because the expressions that had been used could not be described as "criticism". The court, however, maintained the one-year prison term to which both human rights defenders had been sentenced and the case was referred back to the Supreme Court.

The Supreme Court referred the case back to the Izmir Criminal Court who then acquitted both human rights defenders on 16 September 2004, on the basis that the statements they had made did not violate the amended 2002 version of article 159.

Legal proceedings against Messrs. Alp Ayan and Ecevit Piroglu⁹⁷

The Observatory appointed a *chargé de mission* to act as an observer during the trial of Mr. Alp Ayan and Mr. **Ecevit Piroglu**, former member

97 See Annual Report 2003 and *Report of the judicial observation mission, Turkey: two human rights defenders face trial.*

of IHD Izmir Branch, which was held on 26 April 2004 before the Izmir Criminal Court of first instance. They stood accused of "insulting the armed forces and the Minister of Justice", in connection with a statement they had published in February 2001, protesting human rights violations committed by the police in Type F prisons. Both men were acquitted.

Legal proceedings against Mr. Yavuz Önen

On 24 September 2003, the office of the Izmir State Prosecutor appealed to the Highest Court of Appeals, asking the Court to quash the decision of the Izmir Criminal Court of the first instance that acquitted Mr. **Yavuz Önen**, president of the HRFT. Mr. Önen had been sentenced to a prison term and a fine - the sentence was subsequently commuted to a heavy fine - on 27 March 2001 for having expressed his indignation with respect to the charges brought against Mrs. Kaya and Mr. Ayan in an article published in the daily *Cumhuriyet* on 19 January 2000. He had been acquitted by the Izmir Criminal Court of first instance on 23 September 2003 after having entered an appeal.

The trial was still underway at the end of 2004.

Conviction of the president of GÖC-DER⁹⁸

Mrs. **Sefika Gürbüz**, president of the Turkish NGO GÖC-DER (Immigrants for Social and Cultural Co-operation), and **Mehmed Barut**, member of GÖC-DER were charged, under article 312/2 of the Turkish Criminal Code, with "inciting hostility and hatred on the basis of class, race, religion, beliefs, and regional origin". The charges were brought for statements made during a press conference organised by GÖC-DER in April 2002 for the presentation of a report on the forced displacement of the Kurdish population.

On 19 January 2004, the Observatory appointed a *chargé de mission* to act as an observer during the trial, which was brought before the State Security Court in Istanbul. The Court sentenced Mrs. Sefika

⁹⁸ See Press Release, 21 January 2004.

Gürbüz, to a fine of 2,180 million Turkish liras (1,280 euros). Mr. Mehmet Barut was acquitted.

The court convicted Mrs. Sefica Gürbüz despite the fact that the amendment made in August 2002 to article 312/2 restricted its application. Since that date, no one can be convicted on the basis of this article unless the incitement in question risks endangering the peace and public order.

Mrs. Sefica Gürbüz appealed the decision to the highest appellate court (Cour de cassation).

At the conclusion of 2004, the case was still pending.

TURKMENISTAN

Continued harassment of Mrs. Natalia Shabunts⁹⁹

On 26 August 2004, members of Special Services did not allow Mrs. **Natalia Shabunts**, director of the human rights NGO Civic Dignity, to board a plane for northern Turkmenistan, where she was to participate in a seminar organised by the US organisation Consortium International. No explanation was provided.

On 27 August 2004, Mrs. Shabunts filed a complaint with the Ministry of National Security and requested that her name be taken off the "black list", a list of persons who are not allowed to travel freely inside of Turkmenistan or abroad.

In September 2004, reacting to international pressure, the authorities decided to allow Mrs. Shabunts to travel abroad but maintained restrictions concerning travel inside Turkmenistan.

⁹⁹ See Annual Report 2003.

UNITED KINGDOM

Progress on the investigation into the murders of Mr. Patrick Finucane and Mrs. Rosemary Nelson¹⁰⁰

On 21 January 2004, the High Court of Justice in Belfast admitted the application of the families of Mrs. **Rosemary Nelson** and Mr. **Patrick Finucane** to reverse the decision of the Secretary of State for Northern Ireland, Mr. Paul Murphy. On October 2003, Mr. Murphy had refused to make public the report by Canadian judge Peter Cory, mandated by the British and Irish Governments to inquire into collusion between members of the British security forces and Northern Irish paramilitaries in the murders of Mrs. Rosemary Nelson and Mr. Patrick Finucane¹⁰¹.

Judge Cory's report, which recommended in particular the opening of a public inquiry into the two murders, was finally made public on 1 April 2004. At the same time, the British Government announced its determination to appoint a panel as soon as possible to inquire into the murder of Mrs. Nelson. However, they refused to open a public inquiry into the murder of Mr. Finucane.

On 16 November 2004, Mr. Murphy announced the members of the panel that would inquire into the murder of Mrs. Nelson. The Secretary of State declared that the "inquiry will have full powers to compel disclosure of documents and attendance of witnesses". He added that the panel would start working as soon as possible.

Concerning the Finucane case, the Government agreed to re-examine the case once the trial in progress is over, contrary to Judge Cory's recommendations and although a legal decision of October 1999 establishing that a criminal trial in progress should not prevent a public inquiry into collusion by the British security services.

100 *Idem*.

101 Mrs. Nelson, a lawyer and member of the Committee on the Administration of Justice (CAJ), was murdered on 15 March 1999 in Lurgan, Northern Ireland. Mr. Finucane, a lawyer known for his views in favour of human rights, was murdered in Belfast in 1989.

In this respect, the trial of Mr. Kenneth Barrett, a suspect arrested in 2003, began on 13 September 2004. On 16 September 2004, after pleading guilty from the opening of the trial, the accused, a former loyalist paramilitary, was given a life sentence for the murder of Mr. Finucane.

On 23 September 2004, although there was no longer any obstacle to opening a public inquiry, the Secretary of State for Northern Ireland announced that an inquiry would be opened only on the basis of a new law that would have to be passed by Parliament and not on the basis of the law that usually governs public inquiries (Tribunal of Inquiry Act /1921).

On 26 November 2004, the British Government released its Inquiries Bill. The bill has been strongly criticised because it severely restricts the independence of public inquiries. Indeed, the Government, and no longer the Parliament, has oversight of public inquiries and the text gives the Government the power to define the mandate of an inquiry, to appoint the presiding judge, to close some hearings to the public, and to prevent the publication of evidence or of the inquiry's findings. Mr. Finucane's family has announced that they will not collaborate in an inquiry based on such a law.

UZBEKISTAN

Restrictive legislation on freedoms of association and expression¹⁰²

Additional registration procedures

In December 2003, a decree was passed requiring international NGOs working in Uzbekistan to register with the Ministry of Justice and the Ministry of Foreign Affairs by 1 March 2004. The deadline was subsequently extended to 1 April 2004. Previously, accreditation with the Ministry of Foreign Affairs was sufficient. According to the Uzbek

¹⁰² See Open Letter to the Uzbek authorities, 13 August 2004.

authorities, this is the enabling decree for the law on NGOs and non-commercial organisations passed in May 1999, which stipulates, in Article 21, that "international NGOs (...) must be registered with the Ministry of Justice of the Republic of Uzbekistan". The authorities justified the adoption of the decree by the growing number of international NGOs in Uzbekistan and by the need to combat terrorism.

Another decree, which came into force on 27 May 2004, stipulates that NGOs working to defend women's rights must now register with the governmental Committee for Women's Affairs, under the authority of the Vice Prime Minister, by 1 November 2004. The decree does not list any criteria for the registration of NGOs that must comply with this measure, nor the reasons for this campaign.

Restrictions on NGOs' funding

In February 2004, a decree was passed, which requires all NGO funds from foreign donors to be transferred to the National Uzbek Bank or Asaka Bank. Furthermore, NGOs must now obtain prior approval from the Government to access their funds.

Restriction on NGOs' freedom of expression

In February 2004, the definition of the crime of treason, provided for by Article 157 of the Criminal Code, was extended to include the "dissemination of secret information to organisations". This Article could be used as an instrument of repression against human rights defenders.

On 11 June 2004, the Government signed a decree requiring NGOs to obtain approval from the authorities for all their publications.

Closure of the Tashkent branch of the Open Society Institute¹⁰³

On 14 April 2004, the authorities closed the Tashkent branch of Open Society Institute (OSI). The Ministry of Justice refused to renew OSI's accreditation on the basis of the decree passed in December 2003, obliging international NGOs working in Uzbekistan to register with the

¹⁰³ See Open Letter to the Uzbek authorities, 26 May 2004.

Ministry of Justice and the Ministry of Foreign Affairs by 1 March 2004 (see above), particularly for the reason that the material distributed to Uzbek universities "discredited the Government's policies".

Violence against members of HRSU / Hampering freedom to demonstrate peacefully¹⁰⁴

One week before a peaceful demonstration planned for 1 June 2004 near the premises of Uzbek television, to protest against the impunity enjoyed by representatives of the police force, Mr. **Bakhodir Tshriev**, a member of the Human Rights Society of Uzbekistan (HRSU) in the city of Chakhrisabz, Kachkadarin region, and organiser of the demonstration, was stopped by four individuals, who forced him out of his car and violently beat him up. He lost consciousness and spent two weeks in hospital in a serious condition. Once he returned home, Mr. Tshriev was placed under de facto house arrest. Every time he went out, he was immediately taken to the police station by officers standing guard outside, even though no warrant was ever shown to him.

On 15 October 2004, between 25 and 30 people met in front of the regional administration building in Djizak to peacefully demonstrate against human rights violations (beatings, arbitrary arrest and detention) committed against farmers in the region by the police and representatives of the local authorities. A group of 50 people in plain clothes, including Messrs. Ergashev and Mamatkul, directors of collective farms and State farm enterprises, with prior assault convictions, surrounded the demonstrators. They cornered them near a fountain, grabbed several posters, tore them up and threw them into the fountain. Some of the demonstrators were beaten, including the children of one farmer currently in custody. Instead of stopping the violence, the police who were there arrested some of the demonstrators. Mr. **Bahtier Hamraev**, president of the regional branch of HRSU in Djizak, Mr. **Djuma Hazratov**, president of the regional branch of HRSU in Arnasai, and Mr. **Mamaradjab Nazarov**, president of the regional branch of Ezgulik, a human rights NGO based in Zarbdorskiy, were arrested for infringing

104 See Open Letter to the Uzbek authorities, 28 October 2004 and urgent appeal UZB 001/1204/ OBS 092.

Article 201(violent demonstrations) of the Administrative Code, and taken to the police station in Djizak, where they were questioned. They were released the same day.

On 5 November 2004, a representative of the Tashkent police warned Mr. Tolib Yakubov, president of HRSU, that the organisation should cease its activities or be disbanded.

On 20 November 2004, Mr. Tolib Yakubov notified the regional Prosecutor in Djizak that a demonstration would be organised on 29 November 2004 in front of the Djizak regional administration building, to protest against the impunity enjoyed by the police and the judicial authorities, and against the arbitrary nature of certain judicial inquiries opened by the Prosecutor's office.

On 28 and 29 November 2004, representatives of the regional administration building went to Mr. and Mrs. Yakubov's home to persuade them to cancel or postpone the meeting.

On 29 November 2004, as Mr. and Mrs. Yakubov were heading to the demonstration, their car was stopped by police officers stationed near their home. The car keys and posters were seized. As they were walking towards the Prefecture, they were assaulted by two men. Mr. Yakubov was thrown to the ground and violently beaten. One of the men took all Mrs. Yakubova's remaining posters.

Mr. Yakubov finally managed to get up and join the demonstration. All the surrounding streets had been closed off. Mr. Yakubov asked for permission to meet the regional Prosecutor, and was able to speak with him outside the regional administration building. In particular, Mr. Yakubov asked the Prosecutor why some of the complaints he had filed concerning human rights violations had not been taken into account by his office. The Prosecutor left without answering.

In the evening of 29 November 2004, the Yakubovs' home was placed under surveillance by the military.

On 7 December 2004, as Mr. Yakubov and his son, Mr. **Olim Yakubov**, were walking to the now daily demonstration in front of the Djizak regional administration building, they were stopped by Mr. Karim Soatova, president of the Djizak Council of Elders. More than 100 people in plain clothes, on the orders of Mr. Soatova, surrounded them and threatened them verbally, insulting them and asking them not to take part in the demonstration. These people then took Mr. Yakubov and his son to the premises of the local administration where they were asked to explain the purpose of the

demonstration. The people present told them they were "a disgrace to the Uzbek people".

On 7 and 8 December 2004, the demonstration was interrupted after Mr. Ravcham Mouchitdinov, Prosecutor for Djizak region, agreed to discuss the issue of arbitrary detentions. On 9 December 2004, Mr. Mouchitdinov met Mr. Yakubov, but the situation was not resolved and Mr. Yakubov decided to organise more demonstrations.

On 10 December 2004, five members of HRSU, Mr. Talib Yakubov, Mr. Olim Yakubov, Mr. **Mamir Azimov**, Mrs. **Hurshida Togaeva** and Mrs. **Saida Kurdonova**, as well as Mrs. Gulsora Ubaidullaeva and Mrs. Mavjuda Sultonova, gathered to demonstrate. Mrs. Julia Kim, an employee of the American embassy, was present to observe the demonstration. However, as soon as she left, a group of men and about 10 women who looked like prostitutes tore up and destroyed their placards. Representatives of the Djizak administration and the Department of Internal Affairs observed the entire scene without intervening. As they tried to flee the provocation, the demonstrators were violently beaten by the women. The demonstrators rushed to the nearest police station (Police Station No.8) for help. The police station, usually always open, was shut. The women caught up with the demonstrators and beat them again.

On 11 December 2004, an inquiry was opened by the Djizak Department of Internal Affairs against the group of women who perpetrated the violence against the demonstrators. The authorities summoned several demonstrators to give evidence and undergo a medical examination, but did not actually receive them in the end.

Prosecution of Mr. Olim Yakubov¹⁰⁵

The trial of Mr. Olim Yakubov, son of Mr. Tolib Yakubov, following a complaint for beatings and injury filed by Mrs. Arzoumanyan in 2003, began in October 2003. The inquiry showed that Mrs. Arzoumanyan had been contacted by Mr. Rakhim Richov, a police officer in Tashkent, before filing her complaint. The case was closed in January 2004.

¹⁰⁵ See Annual Report 2003.

Detention of Mr. Muidinjon Kurbanov¹⁰⁶

On 16 February 2004, Mr. **Muidinjon Kurbanov**, director of the regional branch of HRSU in Zarbdor and head of the Coalition of Human Rights Organisations, was arrested after the police claimed to have found weapons, drugs and documents belonging to the Hizb-Ut-Tahir Party in his home. Everything suggests that these items had been placed in his home previously. He was accused of violating Article 248 of the Criminal Code ("possession of weapons and narcotics"). Mr. Kurbanov was unable to meet his lawyer until 19 February 2004. The lawyer denounced the strong psychological pressure on his client during custody. Mr. Kurbanov allegedly "admitted" his guilt after an interrogation by six police officers.

In March 2004, the Zarbdor Criminal Court found Mr. Kurbanov guilty and sentenced him to a fine of 272,000 sums (200 euros). The clemency of the decision can be attributed to the strong pressure of national and international NGOs and journalists. The decision is unusual as the Court usually gives up to 15 years prison sentences in similar cases of arms or drug trafficking. Mr. Kurbanov had previously been involved in defending small farmers, victims of official corruption.

On 3 September 1998, Mr. Kurbanov had been arrested by the Djizak authorities on false charges of possessing narcotics. He had been detained incommunicado for three weeks, tortured, then sentenced to three years in prison. He had been released at the end of 1998 during an amnesty.

Harassment of Mr. Tulkin Karaev¹⁰⁷

On 15 April 2004, Mr. **Tulkin Karaev**, correspondent for the *Institute for War and Peace Reporting (IWPR)* and the Iranian radio station *Voice of the Islamic Republic*, a member of HRSU and founder of the Organisation for the Protection of the Rights and Freedoms of Journalists in Uzbekistan, was threatened. The threats followed articles he wrote on anti-terrorism measures in Uzbekistan. Officers from the national security service accused him of disseminating "false information" and threa-

106 *Idem.*

107 *Idem.*

tened to have him prosecuted if he did not cease his publications. The threats were not however acted on.

On 11 December 2004, a lieutenant from the army came to Mr. Karaev's home in Karshi. He did not give his identity, but ordered the journalist to come to the army post at 9 am. Mr. Karaev was received by three military personnel and was criticised for having met and spoken to two OSCE observers in Karshi on 10 December. The soldiers asked Mr. Karaev to write a note detailing the content of the conversation. When the journalist refused, the soldiers threatened to put drugs in his pocket, a method used frequently by the security services to fabricate charges. They then asked two people to draft a report on Mr. Karaev's refusal to obey a legal request from the military.

The soldiers then sent a note to the head of the municipal office of the Interior, stressing that they had witnessed the journalist's refusal to obey a legal request from the military.

Mr. Tulkin Karaev was taken to the office of the Ministry of the Interior in Karshi and later released.

Detention of Mr. Ruslan Sharipov¹⁰⁸

Mr. **Ruslan Sharipov**, founder of the Union of Independent Journalists of Uzbekistan, was the target of continued repression for several years for his articles denouncing human rights violations in Uzbekistan.

Mr. Sharipov was sentenced in appeal on 25 September 2003 to four years in prison after having been found guilty - after a trial marred by irregularities - of homosexual behaviour, inciting minors to engage in antisocial behaviour, and of having sexual intercourse with minors.

On 23 June 2004, after a closed hearing, the Khamzincki District Court (Tashkent region) commuted the sentence of four years' imprisonment to two years' hard labour in the penal colony of Tavaksai, in the city of Bukhara. In September 2004, before being transferred, Mr. Sharipov escaped and was granted political asylum in the United States.

On 25 November 2004, Mr. Sharipov was awarded the 2004 press freedom prize by the World Association of Newspapers (WAN).

108 *Idem.*

MAGHREB AND THE MIDDLE EAST

THE SITUATION OF HUMAN RIGHTS DEFENDERS

In 2004, human rights defenders in Maghreb and the Middle East were victims of serious infringements to their freedoms of expression, reunion and peaceful assembly.

In many countries of the region, it was therefore extremely difficult to form associations, whereas criticising the ruling power, calling for democratic reforms or denouncing human rights violations was a constant challenge. Those who took the risk to carry out these activities continued to be subjected to grave reprisals: death threats (*Iraq*), violence (*Syria*, *Tunisia*, and to a lesser extent *Lebanon* and *Morocco*), arbitrary detention and legal proceedings (*Algeria*, *Bahrain*, *Saudi Arabia* and *Syria*), harassment and intimidation (*Syria*, *Tunisia*), obstacles to freedom of movement (*Occupied Palestinian Territories*, *Syria*) and professional reprisals (*Algeria*, *Iraq*).

Defenders, including international humanitarian workers, were in the front line in conflict zones in *Iraq* and in the *Occupied Palestinian Territories*.

Obstacles to freedom of association

Independent associations faced great difficulties obtaining legal recognition in all countries of the region, whether they are to register on the basis of an authorisation (*Egypt*, *Gulf States*¹, and *Syria*) or a notification system, which is often a mere disguised form of authorisation system since the authorities in fact issue registration receipts according to arbitrary criteria, as for instance in *Tunisia*.

¹ *Kuwait*, *Oman*, *Qatar*, *Saudi Arabia* and *United Arab Emirates*.

The situation remained extremely critical in the most closed countries, where no opposition to the authorities was tolerated. Most defenders operating in these countries were forced to take individual action, since activities within independent organisations were not authorised, as in *Libya* or Gulf States (*Oman, Qatar, Saudi Arabia, and United Arab Emirates*), where the few existing associations emanate from the authorities. In *Saudi Arabia* for instance, although the United Nations Committee against Torture, in its recommendations adopted in June 2002, had urged the Saudi authorities to take appropriate steps to allow the creation of independent non-governmental organisations², the independence of the National Human Rights Committee, an organisation that was officially created by the government in March 2004, was far from being guaranteed. In the *United Arab Emirates*, the registration request filed in March 2004 by a group of about twenty intellectuals for the creation of the very first human rights organisation in the Emirates³, had not been acknowledged in late 2004, although the Ministry of Labour and Social Affairs, in charge of the registration process, had a one month period to respond according to the law. A positive step, however, was to be noted in *Kuwait*, where the Kuwait Human Rights Society, an independent NGO, was finally granted the legal registration it had been refused for over ten years.

In other countries where human rights defenders benefited from a more open space to operate in an organised manner, many restrictions still hung over freedom of association, the situation of which even deteriorated in some States. In *Bahrain* for instance, where positive steps were to be noted in the past few years, the Ministry of Labour and Social Affairs decided, on 29 September 2004, to close down the Bahrain Centre for Human Rights (BCHR). This decision was certainly not taken all of a sudden: indeed, the Ministry had issued several warnings to the BCHR over the past few months, threatening the association with dissolution on the grounds that it was carrying out "political activities". The closing of the Centre was motivated by statements by the BCHR executive director, which led to his arrest and detention for

² See United Nations Document CAT/C/28/5, para.8 (k).

³ See Letter to the United Arab Emirates, 23 July 2004.

several weeks⁴. In *Syria*, the Committees for the Defence of Human Rights and Democratic Freedoms in Syria (CDF) and the Human Rights Association in Syria (HRAS) were again not legally recognised in 2004.

In *Egypt*, associations still came within the particularly restrictive provisions of the Law on associations adopted in June 2002⁵. Several organisations, such as the Civil Observatory for Human Rights, the Transparency-Egypt association, and the Egyptian Association Against Torture, were refused legal registration in 2004 on the basis of this law.

In *Tunisia* alike, freedom of association remained severely infringed and a large number of independent Tunisian associations were refused registration, such as the National Council for Freedoms in Tunisia (Conseil national des libertés en Tunisie - CNLT), the International Association for Solidarity with Political Prisoners (Association internationale pour le soutien des prisonniers politiques - AISPP), the Tunisian Association Against Torture (Association de lutte contre la torture en Tunisie - ALTT), the Centre for the Independence of Justice and Lawyers (Centre pour l'indépendance de la justice et des avocats - CIJA), the Assembly for Alternative International Development (Rassemblement pour une alternative internationale de développement - RAID-Attac Tunisia), the League of Free Tunisian Writers (Ligue des écrivains libres) and the Observatory for the Freedoms of the Press, Publishing and Creation (Observatoire pour la liberté de presse, d'édition et de création - OLPEC). In addition, the heads of these associations were confronted with a frantic hostility on the part of the government and public authorities. The violent reprisals taken against the founding members of the ALTT in the course of their renewed attempt to register the statutes of the organisation with the Tunis governorate in June 2004 were a blatant example of this situation⁶. Duly registered associations, such as the Tunisian League for Human Rights (Ligue Tunisienne des Droits de l'Homme - LTDH), were not spared either. So, the financial aid the LTDH should have received from the European Union (EU) in 2003 for restructuring and modernisation,

4 See Compilation of cases below.

5 See Annual Report 2002.

6 See Compilation of cases below.

remained frozen by the Tunisian authorities, as well as another funding granted by the EU in 2004 for developing a programme on the administration of justice. More generally, the anti-terrorist legislation adopted in December 2003 posed a great threat to the independent Tunisian associations as this law places them under strict financial monitoring, thus establishing a blueprint for the control, restriction and even prohibition of NGOs' funding⁷.

In other countries such as *Lebanon* or *Morocco*, infringements to freedom of association targeted NGOs with more specific mandates. In *Lebanon* for instance, the Palestinian Human Rights Organisation (PHRO) had still not been granted legal recognition. In *Morocco*, in spite of positive steps taken in 2004 in terms of respect for cultural rights - notably with the possibility, from now on, of studying in Berber language -, some Amazigh associations were still not legally recognised, such as the TADA Confederation of Amazigh Cultural Associations in Morocco (Confédération TADA des associations culturelles amazighes du Maroc), which is composed of twenty or so Amazigh associations, or the Morocco National Association of the Unemployed Graduates (Association nationale des diplômés chômeurs du Maroc - ANDCM).

The right to form unions also remained greatly restricted throughout the region. In the Gulf States, it was only granted in *Bahrain* and *Kuwait*. In *Bahrain*, however, only company employees were entitled in practice to create unions. In January 2004, the Bahraini Ministry of Labour refused to issue a certificate of legal recognition to seven unions created within ministerial services⁸. The Bureau of Civil Service also issued a circular to all ministerial departments prohibiting the creation of unions within the ministries. The General Federation of Bahrain Trade Unions (GFBTU) filed a complaint against the Bureau in June 2004. In *Egypt*, although the right to establish unions is guaranteed by the Constitution, the existing unions and professional organisations

7 See Annual Report 2003. Law "supporting the international effort to combat terrorism and money laundering" (Law no. 2003-75, ratified and published in the Official Gazette on 12 December 2003).

8 The Ministry of Public Works, the Post Office, the Ministry of Health, civil servants of the Ministry of the Interior, the Bureau of Civil Service, the Ministry of Electricity and Water, the Retirement Fund.

have been set up by the executive and their impact was consequently particularly limited. On 29 December 2004, the court nevertheless ruled in favour of the Engineers' Union, which had filed a complaint after having been placed under government control and prevented from holding internal elections since 1995. In other countries, members of independent trade unions were repeatedly harassed, as for instance the members of the Independent National Union of Civil Servants (Syndicat national autonome des personnels d'administration publique - SNAPAP) in *Algeria*. Indeed, the authorities tried to set up a union wearing the same name and composed of former members of the "genuine" SNAPAP, with the support of the Ministry of Labour⁹.

Obstacles to freedom of expression and the right to disseminate information on human rights

Those who dared raising their voice to call for democratic reforms and political pluralism, as well as those denouncing and condemning human rights violations committed by their respective authorities, were victims of manifold reprisals throughout the region.

In *Iraq*, where the government of Prime Minister Mr. Iyad Allaoui failed to guarantee the respect for fundamental freedoms so far (re-introduction of the death penalty on 8 August 2004, cases of torture and ill-treatment, arrests and arbitrary detentions), numerous acts of reprisal were reported against those who condemned this situation. For example, Mr. Zuhair Al-Maliki, Chief Investigative Judge of the Criminal Court of Iraq, was dismissed from his functions by decision of the Council of Justice on 17 October 2004, after Mr. Al-Maliki publicly condemned the new authorities' practices (arbitrary detention, torture and corruption, etc.). Furthermore, against the background of the comeback of religious extremism, including in the field of politics, women who condemned the erosion of their rights were particularly targeted. At the beginning of 2004, Mrs. Yanar Mohamed, founder of the Organisation for Women's Freedom in Iraq, was threatened with death by the Jaish al-Sahaba group (Army of Companions of the Prophet),

⁹ See Compilation of cases below.

after she publicly condemned the adoption of Resolution 137 by the Iraqi Governing Council (IGC), which places the family code under the jurisdiction of Islamic law (Sharia).

In *Libya*, Mr. Fathi Al-Jahmi was abducted on 4 April 2004, a couple of weeks after he was released from prison, where he was held for several years following his repeated calls for democratic reforms. He was placed in detention and was still imprisoned as at the end of 2004¹⁰.

In *Oman*, in July 2004, the Ministry of Information formally prohibited two intellectuals from making statements to the media, after they expressed their doubts about the government's willingness to carry out democratic reforms¹¹.

In *Saudi Arabia*, 12 intellectuals were arrested and placed in solitary confinement after they demanded political reforms, criticised the lack of independence of the National Committee of Human Rights (see above), and submitted a request for the registration of an independent human rights organisation, which, in addition, was never acknowledged. Three of these intellectuals, namely, Messrs. Ali Al-Doumani, Matrouk Al-Faleh and Abdullah Al-Hamed, remained imprisoned at the end of 2004 whereas their lawyer himself was held in detention since October 2004 for having circulated a letter to the *Agence France Presse (AFP)* in which his clients complained about their conditions of detention¹².

In *Syria*, Mr. Aktham Naisse, president of the CDF, was arrested and detained for five months (from April to August 2004), after having initiated a public protest movement to demand, amongst other things, the lifting of the state of emergency in the country. His arrest was more particularly linked with the publication of the CDF annual report denouncing human rights violations in Syria, and with the recent statements of the organisation listing the acts of violence committed against the Kurdish population in the north of the country in March 2004¹³.

Journalists committed to the defence of human rights were also strongly targeted, as in *Algeria*, where Mr. Ghouli Hafnaoui, a journalist and head of the Algerian League for the Defence of Human Rights

10 *Idem.*

11 See Ifex, <http://www.ifex.org>.

12 See Compilation of cases below.

13 *Idem.*

(Ligue algérienne de défense des droits de l'Homme - LADDH) in Djelfa, faced a relentless judicial harassment because of his articles and spent several months in prison in 2004. Several journalists were also harassed in *Tunisia*: on 13 January 2004 for instance, the Tunisian authorities denied for the third time Mrs. Sihem Ben Sedrine, editor-in-chief of the weekly Internet news site *Kalima* and CNLT spokesperson, the issue of the official certificate authorising a printer to put a publication to press.

The difficulty met by human rights activists in the region to communicate via the Internet must also be emphasised. In a certain number of countries, such as *Syria* or *Tunisia*, anonymous e-mail services such as "Hotmail" were often unavailable, forcing Internet users to resort to accounts that could be easily checked by the intelligence services. Since 2002 in *Tunisia*, control over communications has been strengthened by the setting-up of a true "cyberspace police force" that enables "cyber dissidents" to be caught and access blocked to "subversive" sites such as those of international NGOs, information sites or even electronic journals such as *Kalima* or *TUNEZINE*.

This extremely alarming situation is of a great concern regarding the World Summit on the Information Society (WSIS), which Tunisia will host in November 2005. During the first preparatory meeting of the second phase of the WSIS held in Hammamet, Tunisia, from 24 to 26 June 2004, attempts were made to obstruct the NGOs plenary session. Troublemakers were driven to the conference site by bus whilst others, who claimed to belong to the "Tunisian civil society", made disinformation statements. Participants were also subjected to violent verbal attacks. These operations were notably meant to prevent a LTDH representative to give a speech on behalf of the participating independent organisations, and aimed at impeding the adoption of the text produced by the drafting committee mandated by the civil society plenary session.

Lastly, in 2004, the various restrictions imposed on the freedom of expression of human rights defenders and on their right to disseminate information were also directed at members of international organisations. The *Algerian* and *Libyan* authorities, for example, did not reply to the repeated requests by FIDH in 2004, while it was not authorised to send a fact-finding mission to *Saudi Arabia*. Similarly, Human Rights Watch was refused the authorisation to carry out fact-finding missions in *Libya* and in *Syria*. In this country, Western observers, including diplo-

matic representatives, encountered great difficulties in attending the trial of Mr. Aktham Naisse with the State Security Court¹⁴. Lastly, Mr. Patrick Baudouin, FIDH honorary president, was turned back upon his arrival in *Tunisia*, where he was to participate in a press conference organised jointly by LTDH and FIDH on 14 April 2004 to launch the Observatory 2003 Annual Report¹⁵.

Obstacles to the freedoms of reunion and peaceful assembly

In 2004, freedom of assembly remained widely hampered in most countries in the region.

In *Algeria*, a conference organised by the LADDH/Tizi Ouzou section, due to be held at the Tizi Ouzou House of Culture as part of the celebration of the International Human Rights Day, was prohibited on two different occasions on the grounds that the LADDH did not comply with the Law on Associations. Furthermore, the Tizi Ouzou branch of the Amnesty International's Algerian section was denied permission by the wali (prefect) to organise a photo exhibition and a conference to be led by Mr. Arezki About, a former Berber Spring protagonist. Peaceful demonstrations organised by the families of disappeared persons continued to be violently dispersed in 2004, in particular the meetings and marches called for to protest against the proposal by the National Consultative Commission for the Protection and Promotion of Human Rights (Commission nationale consultative pour la protection et la promotion des droits de l'Homme - CNCPPDH) to close the cases by paying compensation to the families¹⁶. In spite of their repeated requests, the Algerian authorities refused to legally recognise several associations of families of disappeared persons, such as SOS Disparus and the National Association of Families of the Disappeared (Association nationale des familles de disparu(e)s) and the Regional Association of Families of Disappeared in Constantine (Association régionale des familles de disparu(e)s de Constantine). On 20 November 2004, Mr. Farouk Ksentini, president of the ad hoc Committee in char-

14 *Idem.*

15 *Idem.*

16 *Idem.*

ge of disappearance cases¹⁷, accused these associations "allegedly representing the families, [to be] responsible for holding up the dossier" and further asserted that "the families [had] nothing against this measure".

In *Jordan*, the Senate adopted in February 2004 a new law on public meetings and assemblies, requiring the government's prior authorisation for holding a demonstration. Be the authorisation process not complied with, organisers of such events may be sentenced to serve up to six months jail terms.

On 7 April 2004, in *Lebanon*, the police violently disrupted a peaceful demonstration that gathered over 500 people in Beirut to support a delegation to the United Nations Economic and Social Commission for Western Asia (ESCWA) headquarters. The delegation, which intended to submit a petition demanding the release of Lebanese prisoners in Syria, signed by various student movements, was finally not able to meet with ESCWA¹⁸.

In *Morocco*, ten activists of the National Association of Unemployed Graduates (ANDCM, see above) were arrested at Ksar el Kabir on 26 October 2004, while participating to an ANDCM national protest movement. On 4 November 2004, another peaceful demonstration organised by the ANDCM in front of the Ministry of Finance in Ksar el Kabir was violently dispersed, injuring four people.

In *Tunisia*, members of independent organisations encountered recurrent difficulties in holding meetings, in addition to being repeatedly targeted by police violence. On 3 January and 26 June 2004 for instance, a forcible police deployment prevented the general assemblies of respectively the AISPP and RAID-ATTAC from being held. Similarly, on 11 December 2004, CNLT members were kept from meeting at the organisation's headquarters by over 150 policemen, who violently beat up and seriously injured several activists¹⁹. Moreover, on 30 July 2004, journalists were prevented by a large police force from entering the Tunis law court where a press conference was due to be held by the national council of the 'Tunisian Magistrates' Association to denounce the pressures hanging over the association and to call for an enhanced independence of the judiciary.

17 This Committee was set up by the CNCPPDH in September 2003.

18 See Compilation of cases below.

19 *Idem*.

Human rights defenders in conflict and post-conflict situations

In 2004, Maghreb and the Middle East were marked by the Iraqi conflict that remained stuck in stalemate and the ongoing *Israeli-Palestinian* conflict.

In *Iraq*, the increased number of attacks and hostage-taking perpetrated by extremist militia and/or unidentified groups resulted in a critical deterioration of the security situation in the country, which affected the very whole of the civilian populations and those trying to help them. In this regard, humanitarian workers, especially members of international NGOs who were accused of operating in the pay of Western countries, were subjected to grave onslaughts; the assassination of Mrs. Margaret Hassan, director of the Iraqi office of Care International on 16 November 2004, the execution of a Swiss national and three Nepalese working for the NGO "Helvetas" on 14 December 2004, the murder of Mr. Salvatore Santoro, member of a British NGO, on 16 December, and the 21 days confinement of Mrs. Simona Torretta and Simona Pari in September 2004, were blatant examples of this situation. A large number of humanitarian agencies and intergovernmental organisations participating in the country's reconstruction consequently suspended or reduced their activities and staff, as did the United Nations since the attack on the Baghdad headquarters in 2003. The repeated attacks against journalists further bear witness to a context in which armed groups have taken advantage of the locked-up situation of the country to spread terror within. According to Reporters Without Borders (Reporters sans Frontières - RSF), 31 journalists and media collaborators were killed in 2004 under circumstances directly related to their professional assignments.

In the *Occupied Palestinian Territories*, human rights defenders continued to sustain the repercussions of the Israeli-Palestinian conflict, notably the repeated obstacles to their freedom of movement by the Israeli authorities. In 2004 again, many of them were unable to travel abroad to attend civil society conferences or meetings of intergovernmental bodies and were thus prevented from transmitting information on the human rights situation in the Territories. They were also at times accused by the Israeli authorities of representing "a threat to security in the region", as was the case of Mr. Abdul Latif Gheith, president of the administrative board of the Palestinian asso-

ciation Addameer²⁰. Palestinian, Israeli and international journalists covering the conflict were targeted as well. Mr. David Benchetrit for instance, an Israeli journalist, was beaten up and seriously injured in front of the Ministry of Defence while preparing a report on conscientious objectors²¹.

In *Morocco*, the situation of human rights defenders in Western Sahara seems to have improved in the course of 2004. The establishment of the Justice and Reconciliation Commission (Instance Équité et Justice - IER)²², which, amongst other, investigates the detention and disappearance of Sahrawi prisoners²³, most certainly played an important role in this improvement. The Sahara section of the Moroccan Truth and Justice Forum (Forum marocain Vérité Justice - FMVJ) was thus able to carry out its activities and organise events such as the seminar on transitional justice held in Laâyoune, which gathered more than 25 civil society associations. Furthermore, official instructions were seemingly given to resolve the matter of the forced transfer of 20 Sahrawi teachers committed to the defence of human rights who, in 2003, had been reassigned to various towns in Morocco, far from Laâyoune. Following an agreement with the authorities in March 2004, seven of these civil servants chose to work in a new town in Morocco and in October 2004 the other 13 people were informed that they could take up their former position again. However, FMVJ's legal recognition had not yet been renewed since it was disbanded on 18 June 2003, and its members remained under close police surveillance. Furthermore, freedom of information sustained constraints in the region. Two French journalist and photographer were expelled from Morocco on 28 January 2004 as they were about to travel to Laâyoune to meet with human rights activists supporting the right to self-determination.

²⁰ *Idem*.

²¹ See Ifex, <http://www.ifex.org>

²² The IER was created by royal decree on 7 January 2004 and holds a mandate for investigating and establishing the facts related to enforced disappearances and arbitrary detentions in Morocco from 1956 to 1999, for redressing prejudices, rehabilitating victims and promoting national reconciliation.

²³ See Compilation of cases below.

On 5 April 2004, a Norwegian journalist was deported from Laâyoun under similar circumstances²⁴.

International and Regional Mobilisation

United Nations (UN)

In her report to the 60th session of the UN Commission on Human Rights (15 March - 23 April 2004), the Special Representative of the UN Secretary General on Human Rights Defenders, Mrs. Hina Jilani, noted that in 2003, 14.5% of her communications concerned countries in Maghreb and the Middle East. In 2004, the Special Representative renewed her requests for visiting Egypt and Tunisia, which had not been responded to as at the end of 2004.

European Union (EU)

As part of the Barcelona Process, the EU concluded an Association Agreement with Egypt²⁵. As any other agreement reached between the EU and the countries in the region, it includes a human rights clause (Article 2) which sanctions human rights as a key element in the relations between the parties.

This human rights clause shall also be encompassed by the final version of the EU-Syria Association Agreement, which was under negotiations until 19 October 2004. In order to come into force, this Agreement must be approved by the Council of the EU, signed by all parties and ratified by both the European and the Syrian Parliaments. In this respect, it is of a particular importance that the situation of human rights defenders in Syria be fully integrated in the debates preceding the vote in the European and the national Parliaments: in its 2003 Report on Human Rights in the World, the European Parliament (EP) insisted that "all political prisoners should be set free, at the latest before the signing of the [EU-Syria] Association

24 See Reporter without Borders (RSF), <http://www.rsf.org>.

25 This Agreement, which was signed on 1 June 2001, came into force on 1 June 2004.

Agreement, as this would significantly facilitate Parliament's assent²⁶.

The Association Agreements with Algeria and Lebanon were still at ratification stage.

In addition to the Barcelona Process, the EU also started to implement its New Neighbourhood Policy²⁷, and negotiated within this framework several Action Plans with Israel, Jordan, Morocco, the Palestinian Authority and Tunisia. These Plans were published on 9 December 2004 and should be officially adopted at government level by the parties involved.

Although these Actions Plans in general include items on issues such as freedoms of expression and association, the degree of precision and detail relating to human rights headings varies from one plan to the other since they are individually negotiated with each country. In this regard, it is highly unfortunate that the EU-Israel Action Plan makes no mention to these issues. Moreover, none of the Action Plans refers to the specific situation of human rights defenders, although the EU adopted Guidelines for the protection of human rights defenders in June 2004.

The Standing Committee on Political, Security and Human Rights Issues of the Euro-Mediterranean Parliamentary Assembly established on 2 and 3 December 2003 held its first session on 21 September 2004. The Assembly monitors the implementation of the Association Agreements and is entitled to adopt resolutions and make recommendations to the Ministerial Conference. It is thus all the more important that the members of the Assembly, whether in plenary sessions or in Political Committee's working sessions, raise the question of the repression of human rights defenders in the Mediterranean region, and adopt resolutions on this topic.

26 See European Parliament resolution on human rights in the world in 2003 and the European Union's policy on the matter (2003/2005(INI)), A5-0270/2004.

27 See Communication from the Commission of European Communities, "Wider Europe-Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours", COM (2003) 104 final, 11 March 2003.

*World Summit on the Information Society (WSIS)*²⁸

The FIDH, the OMCT and the Euro-Mediterranean Human Rights Network (EMHRN) addressed an open letter to several EU institutions on the occasion of the EU-Tunisia Association Council due to be held on 31 January 2005, notably recalling the incidents that had occurred at the first preparatory meeting of the second phase of the WSIS, in June 2004 (see above). The three organisations deplored that "General Habib Ammar, former Minister of the Interior, against whom the OMCT and Track Impunity Always (TRIAL) filed a complaint for torture in September 2003 for acts of torture, had been maintained as head the preparatory committee of the second phase of the WSIS". FIDH, OMCT and EMHRN, together with the organisers of the Summit, further requested the Tunisian authorities to "take the necessary steps in the future to ensure an appropriate climate of peace and mutual respect to foster the work organisation" and emphasised that "whilst the WSIS claims to be exemplary in the opening of the United Nations to improved participation of civil society, [they] expect that the host countries' authorities turn these words into concrete measures".

Civil society

On 8 and 9 December 2004, a civil society conference was held in Rabat, Morocco, in the fringe of the Forum for the Future organised by the G8, Maghreb and the Middle East States²⁹. In their final recommendations, the conference participants - civil society representatives of thirteen Arab countries and nine international organisations - insisted that "civil society should be considered an equal partner not just during

28 According to the terms of its resolution 56/183 (21 December 2001), the United Nations General Assembly approved the holding of a World Summit on the Information Society (WSIS) in two phases, the first of which took place in Geneva, at the invitation of the Swiss Government, from 10 to 12 December 2003 and the second of which will be held in Tunis, at the invitation of the Government of Tunisia, from 16 to 18 November 2005.

29 The Forum for the Future derives from the "Partnership for Progress and a Common Future with the Broader Middle East and North Africa" (BMENA), an initiative adopted by the G8 Heads of State and leaders at the Sea Island Summit, USA (8-10 June 2004).

the Forum but also on a daily basis". They further urged the Arab governments not to "harass the civil society NGOs or delegations taking part in the Forum" and stated that "governments should demonstrate their commitment to engage in reforms by immediate amendment of the laws providing for the creation of NGOs in compliance with international standards". Participants finally demanded the "development of mechanisms for the participation of civil society in the Forum, [...] and an enhanced involvement in working-out the agenda".

HUMAN RIGHTS DEFENDERS HARASSED

ALGERIA

Harassment of families of the disappeared and their defenders

Harassment of Mr. Mohamed Smaïn³⁰

In October 2003, the FIDH and the French League for Human Rights (Ligue française des droits de l'Homme - LDH), backed by the Relizane section of the Algerian League for the Defence of Human Rights (Ligue algérienne de défense des droits de l'Homme - LADDH) and the Association of the Families of the Disappeared in Algeria (Collectif des familles de disparue(e)s en Algérie), filed a complaint for torture, acts of barbaric crime and crime against humanity with the public Prosecutor of the High Court (Tribunal de grande instance) in Nîmes (France).

On 20 March 2004, Mr. **Mohamed Smaïn**, president of the LADDH in Relizane, testified with the criminal investigation police department in Montpellier (France) and took civil action as a representative of the LADDH.

³⁰ See Annual Report 2003 and Urgent Appeals DZA 001/0404/OBS 024 and 024.1.

On 29 March 2004, Messrs. Abdelkader and Houcine Mohamed, former members of the Relizane militia now living in France and key suspects in the case, were both indicted and put on probation.

Following their indictment, Mr. Smaïn was subjected to reprisals and harassment by the Algerian authorities. On 10 April 2004, he was arrested with two journalists investigating enforced disappearances perpetrated by the Relizane national police force (gendarmerie), and his car registration papers were confiscated. After being held in custody for 20 hours, Mr. Smaïn was informed that legal proceedings had been taken against him for "insulting State authorities". He was released on 11 April after the Prosecutor dropped these charges. His car registration papers were not returned until 14 May 2004.

Mr. **Fethi Azzi**, who had given evidence against the Mohamed brothers along with Mr. Smaïn in March 2004, was also subjected to pressures upon his return in Algeria. On 5 April 2004, as he was supposed to resume his work at the sub-prefecture, he was immediately dismissed without an explanation. Moreover, he subsequently received threats on several occasions in Jdiouia, Relizane district, where he lives.

On 16 May 2004, Mr. Smaïn was called in by the criminal investigation department of the Relizane police station, where he was questioned under charges of "defamation" and "reporting fictitious crimes", on the basis of a complaint filed in May 2004 by Mr. Abed Mohamed, the executive delegate of the commune (délégué exécutif communal)³¹ of Jdiouia and father of Messrs. Abdelkader and Houcine Mohamed.

On that same day, the public Prosecutor in Relizane dropped the charges and considered the matter closed.

Since February 2001, Mr. Smaïn is also prosecuted with "defamation, calumny and reporting fictitious crimes" following a complaint filed by Mohamed Ferghane, former head of the Relizane militia, and another eight militiamen, after Mr. Smaïn notified the Algerian press of the exhumation of a mass grave by the gendarmerie. On 24 February 2002, Mr. Smaïn was sentenced in appeal to one year imprisonment and a 5,000 dinars (54 euros) fine, and ordered to pay 30,000 dinars (320 euros) in damages to each of the plaintiffs. He challenged this decision

³¹ A non-elected administrative authority.

with the Supreme Court of Appeals (Cour de cassation). As of end 2004, the proceedings were still pending.

*Arbitrary arrests and intimidation of the families of the disappeared - Constantine*³²

On 20 September 2004, police forces violently disrupted a peaceful meeting held in front of the interim office of the *ad hoc* Committee of the National Consultative Commission for the Protection and the Promotion of Human Rights (Commission nationale consultative pour la protection et la promotion des droits de l'Homme - CNCPPDH) in Constantine.

A number of people were beaten up, including Mrs. **Farida Ouaghlissi**, the wife of a disappeared. Moreover, members of the mobile brigade of the criminal investigation police force (Brigade Mobile de la Police Judiciaire - BMPJ) violently arrested Mr. **Hmamlia**, a bystander who tried to provide assistance to those mishandled by the police, and Mrs. **Louisa Naïma Saker**, secretary general of the Constantine Association for the Families of the Disappeared (Association des familles de disparus de Constantine - AFDC). Mrs. Saker was held in custody at the police station in the Palma district of Constantine for several hours, and was subjected to intimidation from intelligence officers who, inter alia, brandished a knife and a tear-bomb in front of her, and threatened to charge her with "breach of the peace". Her family and her lawyer, Mr. **Sofiane Chouiter**, were denied the right to visit her while in detention.

Mrs. Saker and Mr. Hmamlia were released without charges after being held for several hours.

*Arbitrary arrest and ill-treatment of members of the Collective of the Families of the Disappeared in Algeria - Algiers*³³

Families of disappeared persons, together with the Collective of the Families of the Disappeared in Algeria (Collectif des familles de dispa-

32 See Annual Report 2003 and Urgent Appeals DZA 001/0301/OBS 018.3 and 018.4.

33 See Annual Report 2003 and Urgent Appeals DZA 001/0301/OBS 018.5 and 018.6.

rus en Algérie) and SOS Disappeared (SOS-Disparus) and organised a peaceful demonstration due to be held on 5 October 2004 in front of the presidential palace in Algiers, in protest against the proposal by the CNCPPDH to close the cases by paying compensation to the families.

On the morning of 5 October, police arrested 18 members of families of disappeared from Relizane, accompanied by Mr. Mohamed Smaïn³⁴, as they were about to enter Algiers to take part in the demonstration. They were all taken to the Said Hamdine police station and released in the early evening that day, after being threatened by police officers who notably declared: "Don't do it again or you'll see what happens if you do...".

Several women, relatives of disappeared persons from Oran, were also stopped right upon their arrival in Algiers. They were subsequently taken to the railway station and forced by the police to board trains back to Oran.

Moreover, many other women were prevented from reaching the assembly point as the whole area had been cordoned off by the police forces. Mrs. **Sâadia Belmokhtar**, the 74-years-old mother of a disappeared, was violently beaten up before being taken to the police station in an alarming physical condition.

Demonstrators who could manage to reach the venue were forcibly dispersed as they began marching towards the United Nations office. Several women were beaten up by policemen, such as Mrs. **Lila Ighil**, head of the Families of the disappeared Committee in Tipaza. Over a hundred people were arrested and detained in several police stations in Algiers, including Mrs. **Djedjigha Cherguit** and Mrs. **Fatma Zohra Boucherf**, vice-presidents of "SOS-Disparus".

All these persons were released without charges in the night of 5 to 6 October 2004.

³⁴ See above.

Legal proceedings and harassment against LADDH members

*Judicial harassment of Mr. Ghoul Hafnaoui*³⁵

On 15 February 2003, Mr. **Ghoul Hafnaoui**, a journalist and chairman of the Algerian League for the Defence of Human Rights (Ligue algérienne de défense des droits de l'Homme - LADDH) in Djelfa, went to the Prefecture in Djelfa together with other press correspondents, in order to meet with the Wali (Prefect). Security officers then prevented them from entering the building. Although no acts of violence were reported during this incident, the security officers filed a complaint against Mr. Hafnaoui and one of his colleagues for "insulting and attacking national security officers".

Following the publication in the *El Fadjr* newspaper, on 1 April 2004, of a LADDH press release pointing out the many fraudulent practices during the presidential campaign³⁶, the Wali and his supporters lodged a complaint for "defamation" against Mr. Hafnaoui.

On 15 May 2004, Mr. Hafnaoui was called in to the Djelfa police station upon his return from Algiers, where he had attended a meeting of the South Movement for Justice (Mouvement du Sud pour la justice - MSJ), an unregistered organisation for which he is the spokesperson, and that advocates for a greater equality between Algerian regions as well as the rehabilitation of the South of the country. Mr. Hafnaoui was questioned about his activities within both the LADDH and the MSJ. The police officers explicitly threatened him and his family with death if he were to "persist" in his operations.

In an interview published in the national daily *Le Soir d'Algérie* on 17 May 2004, Mr. Hafnaoui sharply criticised the situation of human rights in Algeria, the pressure exerted on journalists as well as the poor hygiene conditions in the Djelfa public hospital. Straight after this interview, the Wali and the director of the Public Health department in Djelfa lodged two complaints for "defamation" and "insulting State authorities".

35 See Urgent Appeals DZA 002/0504/OBS 039, 039.1, 039.2 and Press Release, 2 December 2004.

36 The presidential election was held on 8 April 2004.

On 23 May 2004, Mr. Hafnaoui published a critical article in the *Djazair News* paper, assessing the poor management of public funds by the Wali in Djelfa. Short after, the Wali and his supporters - including the principal private secretary, the chief of protocol, executive directors and mayors - filed fourteen complaints for "defamation" against him.

On 24 May 2004, Mr. Hafnaoui was arrested by police officers in plain clothes and detained on remand in the Djelfa prison. He was charged with violating Articles 123 and 124 of the Code of Criminal Procedure which, however, provides for suspects to be held on remand only in cases of *in flagrante delicto*, lack of fixed permanent address, or when the suspect's life may be endangered and/or may pose a threat to witnesses or other evidence.

On 26 May 2004, Mr. Hafnaoui was convicted by the Djelfa court of first instance (tribunal de première instance) and sentenced to a six-month jail term as a result of the complaint filed in the *El Fadjr* case.

On 9 June 2004, the court of first instance convicted him in the *Soir d'Algérie* affair and condemned him for "insult and defamation" to two months imprisonment and a 10,000 dinars (106 euros) fine, as well as damages to pay out to both the Wali and the director of the Public Health department in Djelfa amounting 300,000 dinars (3,199 euros) each. On 11 July 2004, the Djelfa court of appeal upheld this ruling and increased the prison sentence by one month.

On 23 June 2004, the Djelfa court of first instance acquitted Mr. Hafnaoui of the charges brought by the Prefecture security officers. On that same day, however, he was sentenced to two months imprisonment with a 50,000 dinars (533 euros) fine for the charges related to the *Djazair News* case. In addition, he was ordered to pay 300,000 dinars in damages to the Djelfa Prefecture, and a further 100,000 dinars (1,066 euros) to each of the thirteen other plaintiffs. On 8 August 2004, the Djelfa court of appeal upheld this verdict and sentenced him to an additional month in prison.

On 24 June 2004, Mr. Hafnaoui sent a letter to his daughter commenting on his legal situation and the conditions of his detention. The document was published in the daily newspaper *Essabah El Djadid* on 30 June. On 2 August 2004, the Djelfa court of first instance gave Mr. Hafnaoui a two-month jail term with a 2,000 dinars (21 euros) fine for "illegally removing a document from prison". The trial was conducted without his lawyers in attendance. The verdict was upheld in appeal on 29 August 2004.

On 12 July 2004, the Observatory submitted Mr. Hafnaoui's case to the United Nations Working Group on Arbitrary Detention.

On 26 September 2004, the Djelfa court reduced in appeal the sentence for the *El Fadjr* case from six to three months.

Mr. Hafnaoui was set free on 25 November 2004 after the criminal chamber of the Ouragna court of appeal approved his request of parole. He was apparently released thanks to substantial mobilisation, both nationally and internationally. In all, Mr. Hafnaoui was sentenced to 11 months imprisonment - and served 6 of them - and an amount of 2,262,000 dinars (24,330 euros) fines and damages.

Mr. Hafnaoui referred his four convictions to the Supreme Court of Appeals. As at end of 2004, the proceedings were still pending.

Arbitrary arrest and detention of Messrs. Tahar Larbi³⁷, Slimane Tahri and Zoubir Bessaci

Between 1 and 4 June 2004, Messrs. **Tahar Larbi** and **Slimane Tahri**, respectively president and member of the LADDH section in Labiodh Sidi Cheik (El-Bayadh region), travelled to Ouargla, 800 km south of Algiers, to meet Mr. **Zoubir Bessaci**, an MSJ member likely to open a LADDH section in Ouargla. During the visit, Messrs. Larbi, Tahri and Bessaci also attended a meeting with MSJ members held at the home of Mr. **Termoune**, an MSJ member, in order to organise a joint initiative calling for the release of Mr. Ghoul Hafnaoui³⁸.

On 4 June 2004, as they were about to leave Ouargla, Messrs. Larbi and Tahri were arrested by the security services and taken to the Ouargla prison. On the same day, the police also took Mr. Bessaci into custody, along with six other MSJ members.

These nine persons were detained on remand and accused of "operating within an unregistered association" and "distributing leaflets posing a possible threat to the national interests". This second charge was related to a petition launched on 15 March 2004 on the initiative of the Ouargla district committees, calling on the Sonelgaz company to

37 See Annual Report 2003.

38 See above.

reduce gas and electricity rates. However, Messrs. Larbi and Tahri allegedly did not sign this document.

The same charges were brought against Mr. Ghoul Hafnaoui, who was at that time detained in Djelfa.

These ten people were also at first accused with "criminal conspiracy", a charge that was dropped in mid-July 2004 after Messrs. Larbi, Tahri and Bessaci went on a hunger strike from 26 June to 10 July 2004.

On 10 July 2004, Messrs. Larbi and Tahri were separated from the other detainees and transferred to the Touggourt prison, 100 kilometres from Ouargla.

On 25 October 2004, the Ouargla court sentenced Messrs. Larbi and Termoune to eight months imprisonment. The other accused, including Mr. Tahri, were condemned to six months jail terms, whereas Mr. Ghoul Hafnaoui, who was detained in the Djelfa prison at that time, was acquitted. However, his brother, Mr. **Ahmed Hafnaoui**, another MSJ member who had been summoned to appear on the day of the hearing, was charged, convicted and given a six months prison sentence. The court's decision was upheld in appeal on 7 December 2004.

On 7 December 2004, the persons handed-down six months of prison were released after serving their sentence, except for Mr. Ahmed Hafnaoui, who had only be indicted on the occasion of the hearing and placed in detention soon after the verdict. He was expected to be released in late March 2005, whilst Mr. Larbi should be set free on 5 February 2005.

On 5 October 2003, Mr. Larbi and five other members of his family had been placed in custody at Labiodh Sidi Cheikh prison, after participating in a peaceful demonstration in support of the Independent National Union of Civil Servants (Syndicat national autonome des personnels de l'administration publique - SNAPAP) in September 2003. On 3 November 2003, Mr. Larbi had been beaten up by the prison director and his guards. On 9 November 2003, the LADDH filed a complaint for ill-treatment with the public Prosecutor of the Saida court, where the case remains pending. On 24 November 2003, Mr. Tahar had received a three months' suspended prison sentence by the El-Bayadh court, along with the five other participants. They were all released after the trial and appealed against the verdict. In late December 2004, the case was still pending.

Harassment and arbitrary arrests and detentions of LADDH members in Ghardaia

On 11 October 2004, shopkeepers in the city of Ghardaia, 630 kilometres south of Algiers, went on strike after an inspection by customs, tax and price control authorities.

On 13 October, as demonstrators were peacefully gathering to demand the Wali to intervene, police forces took violent action, stirring up the anger of the population and triggering riots in the city. Given the seriousness of the situation, the Ghardaia section of the LADDH proposed to act as a mediator and set up an emergency response unit.

On 14 October 2004, the Wali referred to the Prosecutor of the Ghardaia court to initiate legal proceedings on charges of "unlawful gathering and incitement to unlawful gathering", "obstruction of public thoroughfare" and "destruction of public property". These charges were brought against some thirty persons including the five members of the LADDH section. A warrant was issued for the arrest of Messrs. **Mohamed Djelmani, Mohamed Oubaya, Ahmed Djeädi, Hamou Mesbah** and **Kamel Fekhar**, the latter also being a local elected representative of the Socialist Forces Front (Front des forces socialistes - FFS, an opposition party).

Mr. Fekhar has been detained ever since he was arrested on 31 October 2004, while Messrs. Djelmani, Oubaya, Djeadi and Mesbah were still covered by the arrest warrant issued on 14 October 2004.

Obstacles to the holding of a conference

The Tizi Ouzou section of the LADDH organised a conference, due to be moderated by Mr. **Ali Yahia Abdenour**, a lawyer and president of the LADDH, as part of the celebration of the International Human Rights Day on 10 December 2004. The conference was to be held at the Mouloud Mammeri cultural centre; the date was brought forward to 8 December as the auditorium was not available on the date requested. As a result, the LADDH section was unable to meet the 3-days allotted time for requesting prior authorisation of the authorities and the conference had to be cancelled.

On 27 December 2004, the LADDH section submitted another request for authorisation with the General Affairs and Regulation department of the Prefecture to hold the conference on 6 January 2005.

However, the Prefecture officials refused to acknowledge this request and gave verbal notice that the authorisation would not be granted on the alleged grounds that the LADDH did not comply with the Law on Associations. The LADDH, which is in fact legally recognised, addressed the Wali requesting a written explanation of this refusal. By late December 2004, the LADDH section had not received any response from the Wali or his services.

Legal proceedings against Mr. Abderrahmane Khelil³⁹

On 20 May 2002, Mr. **Abderrahmane Khelil**, head of the "SOS-Disappeared" Committee (Comité SOS-Disparus) and LADDH member, was arrested following a visit he made to the University of Bouzaréah to investigate into the arrests of students during protest movements on 18 May 2002. He was detained in the El-Harrache prison in extremely precarious conditions, and received a six months' suspended prison sentence for "encouraging unarmed assembly" on 26 May 2002. Mr. Khelil appealed against this decision.

As of end 2004, the proceedings were still pending.

Harassment of SNAPAP members⁴⁰

In 2004, members of the Independent National Union of Civil Servants (Syndicat national autonome des personnels de l'administration publique - SNAPAP) continued to face regular pressure on the part of the authorities.

On 20 January 2004, Mr. **Salim Mechiri**, SNAPAP national secretary and LADDH vice-president, together with Messrs. **Fodhil Agha** and **Djilali Bensafi**, members of the union section office of the Oran teaching hospital, were arrested following the release of statements announcing a general strike in the healthcare sector. The three men were released after several hours in custody.

³⁹ See Annual Report 2003.

⁴⁰ *Idem*.

Moreover, seven board members of the SNAPAP office in Oran were arrested and suspended from their functions on the order of the Wali of Oran in March 2002, following a hunger strike they started in protest against the closure of the SNAPAP office in Oran⁴¹. In October 2002, they were given a three-month suspended prison sentence and 5,000 dinars fine. In January 2003, this verdict had been commuted to a 5,000 dinars (54 euros) fine but the administration maintained their suspension. As at the end of 2004, these had still not been reinstated in their functions, and the appeal they submitted to the Supreme Court in 2003 remained pending. In addition, these seven persons were subjected to repeated pressure from the authorities in the course of 2004: they were notably asserted that they would be reinstated if they agreed to express public criticism of SNAPAP activities and its secretary general, Mr. **Rachid Malaoui**.

Such methods were part of recurring smear campaigns, widely broadcast in pro-governmental media, targeting Mr. Malaoui and other SNAPAP members, who were regularly accused of spying in the pay of foreign interests and of embezzling funds.

In November 2004, the Algiers court of first instance condemned Mr. Malaoui to a suspended prison sentence of one year with a 5,000 dinars fine for "defamation", following a complaint filed by the secretary general of the Algerian General Workers' Union (Union générale des travailleurs algériens - UGTA, pro-governmental union) for facts dating back to 2001. At that time, Mr. Malaoui publicly criticised the UGTA's takeover of the union scene and denounced the repeated attacks on independent trade unions. Mr. Malaoui, who was not in court when the verdict was handed down, appealed this decision. By late 2004, no date had been set for the hearing.

Lastly, in December 2003 and May 2004, former SNAPAP members, backed by the Ministry of Labour, held a congress to establish another union, wearing the same name. In June 2004, the "genuine" SNAPAP filed a complaint with the Algiers court of first instance for "usurpation". A first hearing was scheduled for 9 February 2005. Although *de facto* recognised by the Ministry of Labour, the "new" SNAPAP was not legal-

41 The SNAPAP office in Oran was closed down on the order of the authorities in 2002. In early 2004, the premises were taken over for use by the police.

ly registered and thus submitted the case to the court in El-Harrach in July 2004 to be granted legal status. In October 2004, the court ruled that the case did not come under its jurisdiction and made an urgent application for it to be transferred to another jurisdiction. By late 2004, no other jurisdiction had received a submission from the "new" SNA-PAP and the proceedings had been left pending.

BAHRAIN

Repression of the BCHR

*Arbitrary Arrest of and legal proceedings against Mr. Abdul-Hadi Al-Khawaja*⁴²

On 24 September 2004, Mr. **Abdul-Hadi Al-Khawaja**, executive director of the Bahrain Centre for Human Rights (BCHR), criticised the government's policy during a symposium on "poverty and economic and social rights in Bahrain", held at the Al-Oruba Club. He also called for the resignation of the Prime Minister, who has been in power for over 25 years.

On 26 September 2004, Mr. Al-Khawaja was arrested and charged with "encouraging hate of the State" and "disseminating false news and rumours" on the basis of Articles 165 and 168 of the Bahraini Criminal Code. He was immediately placed in custody in the Howdh Aljaf detention centre and held there for 45 days.

His trial began on 16 October 2004, before the third chamber of the Lower Criminal Court that refused to release him on bail on the same day.

On 28 October 2004, Mr. **Abdul Rawf Al-Shayeb**, spokesman of the National Committee for Martyrs and Victims of Torture in Bahrain, and Mr. **Mahmud Ramadan**, a board member of the Committee, were arrested by the anti-riot police, together with several dozens demonstrators

42 See Press Release, 27 September 2004 and Urgent Appeals BHR 001/0704/OBS 054, 054.1, 054.2, 054.3, 054.4 and 054.5.

during a protest march organised by the Committee, in order to call for the release of Mr. Al-Khawaja.

On the same day, Mr. Al-Khawaja's wife received a telephone call summoning her to appear at the police department under threat of arrest.

On 21 November 2004, Mr. Al-Khawaja, who had been on a hunger strike since 14 November 2004, was sentenced to one year imprisonment by the Lower Criminal Court. Later at night, His Majesty King Hamad ben Issa Al-Khalifa issued a decree granting pardon to Mr. Al-Khawaja and ordered his release. Mr. Al-Shayeb and Mr. Mahmud Ramadan, who too had been on hunger strikes since 15 November, were also granted pardon and consequently released, together with 11 other protesters detained since the parade on 28 October 2004.

On 6 January 2005, the Al-Oruba Club, which had been closed down by the government for 45 days for hosting the BCHR symposium on 24 September, was allowed to resume its activities.

Closure of the BCHR⁴³

In October 2003 and June 2004, the Minister of Labour and Social Affairs, Mr. Majeed Al-Alawi, addressed some letters to the BCHR, threatening them to withdraw the Centre's operating license if they continued their "political activities", as they would contradict Law No. 21 of 1989 on Societies.

On 30 June 2004, in the course of an interview broadcast by *Arabiya TV Channel*, the Minister threatened to permanently close down the BCHR because of its alleged "political activities". He described the BCHR as a "political opposition body with a political agenda"; he severely criticised the organisation's use of demonstrations as well as articles and letters to defend and protect human rights in Bahrain.

On 26 September 2004, after Mr. Al-Khawaja⁴⁴ had been arrested, Mr. Majeed Al-Alawi set up a committee comprised of members from different government institutions for the purpose of taking punitive measures and adopting legal sanctions against BCHR.

⁴³ *Idem.*

⁴⁴ See above.

On 29 September 2004, Mr. Al-Alawi published a press release announcing that he issued an order providing for the dissolution of the BCHR the night before, the order coming into force that same day under the pretext that the BCHR violated Law No. 21 of 1989 on Societies, without any other precision.

On 30 September 2004, in another statement published in the *Al-Wasat* newspaper, Mr. Majeed Al-Alawi threatened the BCHR and its members, especially its president, Mr. **Nabeel Rajab**, to take punitive actions against the board members of the organisation, if they were to keep trying to breach the Ministry's order of dissolution, campaigning for the BCHR rehabilitation and the release of its executive director, Mr. Al-khawaja, detained since 26 September 2004.

On 12 October 2004, the BCHR initiated civil action against the Minister of Labour and Social Affairs, filing the case with the High Civil Court; the first hearing took place on 23 October 2004. By late 2004, the proceedings were still underway and a further hearing was scheduled for 16 January 2005.

On 6 January 2005, the BCHR announced that it would resume its activities despite the decision by the authorities to dissolve the Centre.

EGYPT

Continued harassment against the ECHR and its members⁴⁵

Refusal to register the ECHR rescinded

On 14 May 2003, the Egyptian Centre for Housing Rights (ECHR) submitted the required documents to register the association with the Ministry of Social Affairs, as stipulated by the Law No. 84 on associations, passed in 2002.

However, on 13 September 2003, the Ministry informed the ECHR that its request for registration had been refused under Article 11 of

⁴⁵ See Annual Report 2003.

Law No. 84 which, *inter alia*, bans any activity "threatening national unity" or "promoting discrimination".

The ECHR lodged an appeal with the Ministry of Social Affairs to have the decision rescinded.

On 22 February 2004, the administrative court ruled that the Ministry's refusal to register the association was illegal and recommended that the State Council rescind the decision.

Although the ECHR was considered as legal as of end 2004, it still had not been given a registration number. Further, a National Security Intelligence (NSI) officer, Mr. Walled Al-Dessoki, reportedly declared on several occasions that he would firmly refuse to allocate a registration number to the Centre.

Moreover, Mr. **Manal El Tibe**, ECHR executive director, was targeted by numerous smear campaigns initiated by Mr. Al-Dessoki in the course of 2004.

Obstacles to ECHR activities

From 19 to 22 February 2004, the ECHR held a training course on housing rights in Port Said. Over these four days, the venue of the seminar was kept under close surveillance by NSI officers who disrupted the course on several occasions and followed participants on their field visits.

On 4 October 2004, the ECHR and the Housing and Land Rights Network held a joint seminar to celebrate the World Habitat Day. NSI officers were deployed around the ECHR headquarters throughout the entire event.

On 24 November 2004, the tents and equipment that the ECHR had supplied in May 2004 to give shelter to 18 homeless families in the region of Duweiqqa, were seized by the authorities. On that same day, the mayor of Munsha-at-Nasser threatened to confiscate ECHR equipment and to take action against the association. Mr. **Khaled Abd Al-Hameed**, an ECHR delegate, subsequently received a telephone call from a police officer in Munsha-at-Nasser, who insulted and threatened him.

The tents and equipment were eventually returned to ECHR, albeit in poor condition.

Harassment targeting the Nadeem Centre⁴⁶

On 11 July 2004, the Nadeem Centre for the Rehabilitation of Victims of Violence, based in Cairo, was subjected to an "abusive" inspection. A committee of three persons came to the Center and presented an official document issued by the Private Medicine Department of the Health Affairs Office (Cairo Governorate). The document warranted an inventory of the medical equipment of the clinic and a report on its conformity with sanitary laws. However, instead of checking the equipment, the inspectors arbitrarily searched and photographed the office, as well as documents related to the patients that are legally protected by medical confidentiality, and confiscated some of the doctors' personal belongings. Moreover, these individuals refused to give a copy of the inspection report to the managers of the Centre.

On 19 July 2004, the Directorate of Health Affairs sent a letter informing the Nadeem Centre that it was in violation of law 51 adopted in 1981, regarding the regulation of medical establishments. The letter further stated, that *inter alia*: the Center was operating for objectives different from those for which it was registered; it lacked medical and first aid equipment; the association was no longer located at the address it had declared for registration; the medical director was not present at the time of the inspection while the committee noticed the presence of a previously unreported doctor. According to article 11 of law 51, the governor can order the administrative closure of an establishment that does not rectify these breaches within a maximum period of 30 days.

Faced with this threat, the Nadeem Centre decided to devote one part of the premises to health care, and to move out its human rights to another apartment, so as to comply with the committee's requirements. By end 2004, the Nadeem Centre was apparently no longer subjected to any threat of suspension.

Legal proceedings against Mr. Hafez Abu Sa'eda⁴⁷

Legal proceedings against Mr. **Hafez Abu Sa'eda**, secretary general of the Egyptian Organisation for Human Rights (EOHR), were still

46 See Urgent Appeal EGY 001/0704/OBS 061.

47 See Annual Report 2003.

pending as of end 2004. Mr. Abu Sa'eda is being pursued on the basis of Decree No. 4 of 1992 for having accepted, in 1998, an unauthorised subsidy from the British Embassy.

ISRAEL AND THE OCCUPIED PALESTINIAN TERRITORIES

Situation in Israel

Legal proceedings, detention and release of conscientious objectors opposed to the occupation of the Palestinian Territories

Release and ongoing trial of Mr. Jonathan Ben Artzi⁴⁸

Mr. **Jonathan Ben Artzi**, a pacifist student who had been detained in military prison No. 4 since 8 August 2002, appeared before the military court in Jaffa on 11 March 2003 for refusing to serve in the Israeli armed forces. His lawyers then lodged an appeal with the Supreme Court, arguing that the refusal to serve in the army could not be tried by a court martial for disobeying a military order. However, on 15 April 2003, the Supreme Court dismissed this argument and maintained the procedure with the military court.

On 12 November 2003, the Jaffa military court recognised Mr. Ben Artzi as a pacifist, but still found him guilty of "insubordination".

On 8 January 2004, Mr. Ben Artzi was released after the court recommended that he appears once again before the "military conscience committee". The hearing took place on 16 February 2004.

On 19 February 2004, the committee decided to discharge him from the army on the grounds that he was "unfit, due to lack of motivation" but did not acknowledge that Mr. Artzi was a "pacifist". In April 2004, Mr. Ben Artzi, who challenged the qualification of "unfit" and demanded that his status of "pacifist" be recognised, appealed this decision

⁴⁸ See Annual Report 2003 and Press Releases, 5 and 19 January, 23 April, 20 July and 27 September 2004.

with the Civil Supreme Court. The hearing was initially scheduled for 18 October 2004, but was postponed until 10 February 2005.

On 21 April 2004, the Jaffa military court handed down its final verdict and sentenced Mr. Ben Artzi to another two months in prison and a of 2000 NIS (new Israeli shekels, 350 euros) fine. This ruling stipulated that if he did not pay the fine, he would serve an additional sentence of two months in prison. Mr. Ben Artzi appealed both the conviction and the sentence with the High Military Court of Appeal. The case was heard, without being judged, on 9 and 16 July 2004. As at the end of 2004, no further hearing had been scheduled.

*Release of Messrs. Haggai Matar, Matan Kaminer, Shimri Zameret, Adam Maor and Noam Bahat*⁴⁹

Mr. **Haggai Matar**, held in detention since 23 October 2002, and Messrs. **Matan Kaminer**, **Shimri Zameret**, **Adam Maor** and **Noam Bahat**, detained since December 2002, were summoned to appear before the Jaffa military court on 15 April 2003 for refusing to do their military service.

Although they were not opposed to the concept of military service, these five "selective objectors" refused to serve in an "occupying force" and called into question the operations conducted by the Israeli army in the Occupied Palestinian Territories.

On 4 January 2004, the Jaffa military court condemned Messrs. Matar, Kaminer, Zameret, Maor and Bahat to one year imprisonment for "insubordination" and recommended that the army re-examine their exemption once their sentence served. The five objectors, who were held in "open detention" throughout their trial, were immediately transferred to military prison No. 6 in the outskirts of Haifa.

On 15 January 2004, the United Nations Working Group on Arbitrary Detention stated in its final Opinion concerning these cases, submitted by the Observatory in May 2003, that the repeated penalties imposed on Messrs. Jonathan Ben Artzi, Matan Kaminer, Maor and Bahat were arbitrary and contravened the principle of *non bis in idem*, according to which "no one shall be liable to be tried or punished again

⁴⁹ *Idem*.

for an offence for which he has already been finally convicted or acquitted (...)”⁵⁰.

On 14 July 2004, the military conscience committee decided to reduce the sentences of Messrs. Haggai Matar, Matan Kaminer, Shimri Zameret, Adam Naor and Noam Bahat, who were released on 15 September 2004 (instead of January 2005). On 20 September 2004, their exemption from the military service was officially acknowledged.

*Closing of the investigation into Adalah's activities*⁵¹

On 23 August 2002, the association Adalah - "Legal Centre for Arab Minority Rights in Israel" -, received a letter from the Register of Associations services of the Ministry of the Interior, confirming that an official enquiry was being initiated into the activities of the organisation.

Adalah, which denounces violations of the civil, political, economic and social rights of Arab citizens in Israel, was targeted by a vast smear campaign after the opening of the enquiry was announced. The organisation appealed this decision with the Ministry of the Interior on 5 December 2002.

In May 2003, the Ministry's legal counsel submitted a list of 25 questions to the organisation as part of the investigation.

On 7 February 2004, the Minister of the Interior, Mr. Avraham Poraz, decided to uphold the appeal lodged by Adalah, therefore closing the enquiry into the association's activities.

*Release of Mr. Daoud Dirawi*⁵²

On 21 February 2003, Mr. **Daoud Dirawi**, a lawyer and co-ordinator for the programme on juvenile justice of Defence for Children International/Palestine Section (DCI/PS), was arrested by Israeli soldiers in Jerusalem on the occasion of an identity check.

50 See Article 14.7 of the International Covenant on Civil and Political Rights of 1966, ratified by Israel on 19 April 1966.

51 See Annual Report 2003 and Press Release, 19 February 2004.

52 See Annual Report 2003.

Mr. Dirawi was then detained on remand for 12 days in the Asyun prison where he was severely beaten up by the soldiers who threw him to the ground, kicked and hit him with their fists and rifle butts before subjecting him to cruel, degrading and inhuman treatment.

On 3 March 2003, the military authorities ordered that Mr. Dirawi be held in administrative detention for six months on the grounds that he was "a threat to the security of the region" and that he was suspected of being a member of the Popular Front for the Liberation of Palestine (PFLP). On 1 September 2003, he was informed that the administrative detention order was renewed for a further six months.

On 4 December 2003, the public Prosecutor, who was referred to by the Ofer military court in October 2003, decided to maintain Mr. Dirawi in administrative detention and recommended his trial by a military court so that he could be judged for his activities as a student in 1995-1996, even though he had already been tried and condemned to six months on remand for these facts in 2001⁵³.

Mr. Dirawi, who was scheduled for release on 2 March 2004, was set free on 29 January 2004, as part of a prisoner exchange between Israel and the Hezbollah. All charges brought against him were then dropped.

Situation in the Occupied Palestinian Territories⁵⁴

The closure of the Gaza Strip and the West Bank since the beginning of the second Intifada in 2000, the increased number of checkpoints and the building of the "separation Wall", together with the manifold legal and administrative obstacles imposed by the Israeli authorities, severely impaired the freedom of movement of Israeli, Palestinian and international NGOs, thereby reducing their scope for action and assistance⁵⁵.

53 Mr. Dirawi was found guilty on the grounds of his activities as an active member of the Student Workers' Front (SWF), which the Israeli authorities believe to be linked to the PFLP. He was released in March 2002.

54 See Annual Report 2003.

55 See the report of the international fact-finding mission mandated by the Observatory and the Forefront organisation: *Bridges instead of walls: conditions and challenges experienced by human rights defenders in carrying out their work*, June 2004.

Obstacles to the freedom of movement of Palestinian and Israeli human rights defenders

In August 2004, Mr. **Rami Abu Shabban**, an accountant with the Palestinian Centre for Human Rights (PCHR), was prevented to travel to Dublin (Ireland) to participate in a training course on "Accountancy for NGOs", run by Development Cooperation Ireland⁵⁶, due to the complete closure of Rafah. Between 12 December 2004 and 20 January 2005, as access to the Gaza Strip was totally banned, NGOs defending human rights or providing humanitarian assistance, as well as UN representatives, were mostly unable to conduct their activities. Members of human rights organisations based in Israel, as all Israeli citizens, were not been allowed to enter the Occupied Palestinian Territories, forcing many associations, such as B'Tselem, to rely only on their Palestinian staff who had to develop their own programmes and activities in the Occupied Territories.

Members of NGOs denouncing human rights abuses and violations of humanitarian law committed in the Occupied Territories were hit by legal and administrative decisions made by the Israeli authorities and designed to restrict their movements. In March 2004, Mr. **Sha'wan Jabarin**, head of the legal department of Al-Haq, an organisation defending the rights of the Palestinians, was not allowed to travel to Lebanon to attend a conference held jointly by the Euro-Mediterranean Human Rights Network (EMHRN), the Cairo Institute for human rights and the FIDH. On 30 June 2004, Israeli authorities placed a ban on Mr. Jabarin leaving the Occupied Territories, preventing him from attending a one-year course at the Galway university (Ireland), from August 2004 to September 2005. Mr. Jabarin was eventually granted his visa on 12 August 2004, after Al-Haq announced that it would bring the case before the Supreme Court.

Palestinian human rights defenders under the age of 35 wishing to travel from one city to another required special authorisation (referred to as "coordination") issued by the Israeli authorities, and they were particularly targeted when travelling abroad.

⁵⁶ A programme of the Irish Department of Foreign Affairs, providing aid and assistance to developing countries.

Mr. **Hanny Abu Nahalla**, a member of the PCHR, was banned from travelling to Strasburg (France) to attend a seminar on the protection of human rights, organised by the International Human Rights Institute (Institut international des droits de l'Homme) in July 2004, when the Israeli authorities refused to grant the "coordination" approval.

In December 2004, Mr. **Ashraf Nassaralla**, a lawyer with the PCHR, was unable to attend a seminar on legal proceedings and litigation in Amman (Jordan). The request for authorisation was lodged as required, but the PCHR did not receive any response from the Israeli authorities.

Since September 2004, Israeli authorities have systematically refused to acknowledge any requests for access to the Gaza Strip submitted by international and Palestinian humanitarian organisations.

A number of human rights defenders, in particular Palestinians, were accused by the Israeli authorities of posing a threat to the security in the region. Mr. **Abdul Latif Gheith**, head of the board of directors of the Prisoners' Support and Human Rights Association "Addameer", a Palestinian human rights NGO founded in 1992, was arrested by Israeli armed forces on 29 July 2004, at the military checkpoint at Qalandiya⁵⁷. He was questioned by an officer from the general security services (Shabak) about his activities with Addameer and about the association staff; Mr. Gheith was taken to Giva'at Ze'ev, an Israeli settlement near Jerusalem, then transferred to Benyamin military detention camp on the military base in Ofer, on the outskirts of Ramallah. Mr. Gheith is a resident of Jerusalem and as such should not have been subjected to military rules applying in the West Bank and under which Israeli authorities are entitled to hold any Palestinian citizen in custody for one week without stating any reason for the arrest. Mr. Gheith did not have access to his lawyer until 4 August 2004, when he was sentenced to six months administrative detention, on orders given by the Israeli military commander of the West Bank, and on the grounds that he was a "threat to the security in the area". Mr. Gheith was scheduled for release on 5 February 2005.

⁵⁷ Qalandiya, located between Jerusalem and Ramallah, is the main military checkpoint on the West Bank.

Restrictions and attacks on Israeli and international humanitarian workers and pacifists

International human rights defenders and humanitarian workers also had to contend with the restrictions on freedom of movement imposed in the Palestinian Territories. On a number of occasions in 2004, various international organisations and institutions had to suspend their activities because of incursions by Israeli armed forces into the Occupied Territories, thereby depriving the Palestinian communities of access to health care and food distributions provided by these organisations.

In September 2004, Mr. **Peter Hansen**, Commissioner General of the United Nations Relief and Works Agency for Palestine Refugees (UNRWA), was unable to travel to Amman (Jordan) where he was scheduled to attend the annual meeting of the agency's advisory commission, as the Occupied Territories had been completely closed and the Israeli authorities provided no assistance. The Israeli authorities also targeted the UNRWA through smear campaigns; e.g. on 1 October 2004, Israeli armed forces broadcast a video designed to prove that an ambulance belonging to the agency had been transporting a rocket. The Israeli authorities refuted these allegations on 13 October 2004.

A number of members of the International Solidarity Movement (ISM) were also refused entry to Israel on the grounds that they posed a "threat to the security of the State".

On 23 June 2004, Mrs. **Ann Robinson-Potter**, an American citizen and member of ISM, was arrested upon her arrival at Ben-Gurion airport in Tel-Aviv. Mrs. Potter was suspected of having links with terrorist organisations and was detained for 28 days before being released and allowed to enter Israel once the ruling was handed down by the court of Tel-Aviv.

On 13 December 2004, Mrs. **Kate Raphael Bender**, a member of the International Women's Peace Service in Palestine (IWPS), was arrested during a peaceful demonstration in Bil'in protesting against the building of the Wall, and was sentenced to be expelled by the authorities. Mrs. Bender lodged an appeal against the ruling with the court of Tel-Aviv.

On 7 November 2004, a peaceful march in Kufr Thulth protesting against the expulsion of Palestinian residents was crushed by Israeli soldiers; the victims of this violence included a journalist and two Israeli human rights defenders who were struck.

LEBANON

Infringements to freedom of assembly⁵⁸

On 7 April 2004, in Beirut, close to 500 people - students, families of detainees, NGO representatives -, gathered in response to an initiative by the Committee of the Families of the Lebanese Detainees in Syria and the NGO "Support of Lebanese in Detention and Exile" (Soutien aux Libanais détenus et exilés - SOLIDE).

This gathering intended to support a civil society delegation to the United Nations Economic and Social Commission for Western Asia (ESCWA) headquarters in Beirut, to submit a petition circulated by various student movements and signed by over 10,000 people, demanding the release of Lebanese prisoners in Syria.

The army brutally dispersed participants by spraying them with water canons. Several of them were beaten with truncheons, including elderly members of the detainees' families, such as Mr. **Ghazi Aad**, head of SOLIDE, whose wheel chair was broken into pieces. At least one of the students had to be taken to the hospital. The delegation was finally not able to meet with Mr. Rawdha, the ESCWA human rights officer, as was initially planned.

Investigation into the questioning of Mrs. Samira Trad⁵⁹

On 10 September 2003, Mrs. **Samira Trad**, director of the Frontiers Center, an NGO for the defence of non-Palestinian refugees in Lebanon, received a summons by the General Security office of the Beirut General Directorate. Mrs. Trad was then questioned, *inter alia*, about the statutes of the Frontiers Center and about a report on Iraqi refugees seeking asylum outside of Lebanon that she circulated for comment to the Embassy of the United States and to the office of the UN High Commissioner for Refugees (HCR) in Beirut in June 2003. She was released on 11 September and later informed that she was

58 See Press Release, 8 April 2004

59 See Annual Report 2003.

accused of "defamation against the authorities" (Article 386 of the Criminal Code) in connection with the aforementioned report.

Mrs. Trad's lawyers subsequently found out that the HCR office in Beirut, had transmitted the report to the General Security office. On 4 February 2004, they demanded the HCR Office of the Inspector General in Geneva to investigate the role played in her arrest by the HCR staff in Beirut.

An enquiry revealed that the Lebanese authorities were in possession of an internal email to the HCR in Beirut, which concerned Mrs. Trad.

In September 2004, the HCR head office in Geneva addressed a letter to the Lebanese authorities expressing concern for the way the document had been obtained and used, adding that the HCR had no complaint against Mrs. Trad and hoped she would be able to freely carry out her activities.

Finally, in September 2004, Mrs. Trad decided to transmit the Frontiers Center statutes to the Ministry of the Interior so that the Center could be registered as an NGO (until then, the Centre was registered as a "private company"). As of end 2004, this request was not acknowledged.

Besides, the HCR investigation was still underway at the end of 2004, and the proceedings for "defamation" against Mrs. Trad were still pending.

Judicial proceedings against Mr. Muhamad Mugraby⁶⁰

On 8 August 2003, Mr. **Muhamad Mugraby**, a lawyer at the Bar of Beirut and human rights activist, in particular renowned for his commitment to fighting corruption in Lebanese legal circles, was arrested following a complaint lodged by the Bar of Beirut, accusing him of having made illegal use of his title of lawyer. The Bar notably accused Mr. Mugraby of continuing to practise law whereas two disciplinary commissions had withdrawn this right on 4 April 2002 and on 17 January 2003, following proceedings brought against him for "defamation of judicial power". These decisions, however, were not enforceable, as Mr. Mugraby had appealed against them and that appeal was still

⁶⁰ *Idem.*

under-way. He was released on 29 August 2003, but remained prosecuted for "defamation of judicial power" under Article 111 of the Code for the organisation of the profession of lawyers (COPL) and Articles 391 and 393 of the Criminal Code. Mr. Mughraby, who in addition was debarred, appealed the verdict with the Supreme Court.

On 10 March 2004, the third chamber of the Supreme Court of Appeals ruled in Mr. Mughraby's favour and moreover dismissed the two decisions of the disciplinary commissions (April 2002 and January 2003), arguing the merits of the accusation under the Article 111 of the COPL. However, Mr. Mughraby remained liable of being further accused on the grounds of Articles 391 and 393 of the Criminal Code.

On 15 April 2004, he took legal action against thirteen judges involved in his arrest in August 2003. As at the end of 2004, the proceedings were ongoing.

Finally, on 22 May 2004, Mr. Mughraby also introduced legal proceedings against the Bar Association and its former head, who initiated the complaint which led to his arrest in 2003. By the end of 2004, this file had still not been registered.

LIBYA

Forced disappearance and arbitrary detention of Mr. Fathi Al-Jahmi⁶¹

In 2002, Mr. **Fathi Al-Jahmi**, an engineer and human rights defender, was sentenced to five years in prison for having called for the introduction of a Constitution and democratic reforms.

He was released on 12 March 2004 thanks largely to pressure from the United States on the eve of a U.S. official visit to Libya.

After being released, Mr. Al-Jahmi gave several interviews to the Dubai-based *Al-Arabiya* and the US-based *Al-Hurrah* Arab-speaking

⁶¹ See Open Letter to the Libyan authorities, 20 April 2004.

stations and reiterated its statements on need for democratic reforms in his country.

On 19 March 2004, members of the Revolutionary Party Committee rummaged through and ransacked his son's Internet café and threatened Mr. Al-Jahmi with the kidnap of his wife and daughters if he dared expressing his views about Libya again to the foreign media. Furthermore, on 26 March 2004 he was violently assaulted and beaten up by unidentified individuals, in the presence of police officers, outside his home in Tripoli.

On 4 April 2004, unidentified members of a security group took away Mr. Al-Jahmi, his wife, Mrs. **Fawzia Ghoga Al-Jahmi**, and their eldest son Mr. **Mohamed Al-Jahmi**. All three were detained in an unknown place.

Mr. Mohamed Al-Jahmi was released on 23 September and Mrs. Al-Jahmi on 4 November 2004. They reported that they had been kept in Benghazi, in the east of the country, together with Mr. Fathi Al-Jahmi.

Mr. Fathi Al-Jahmi was to be accused of "defaming the Head of State" and to be heard by the People's Court on 23 November 2004, when the hearing was postponed⁶².

By end 2004, Mr. Al-Jahmi was apparently still being detained in Benghazi, without a court of competent jurisdiction (the People's Court was abolished on 12 January 2005) or a date having been selected for the hearing.

MOROCCO

Aggression against Mr. Abdelhamid Amine⁶³

Mr. **Abdelhamid Amine**, president of the Moroccan Human Rights Association (Association marocaine des droits humains - AMDH), was assaulted by police officers during a peaceful sit-in in front of the

⁶² This information could not be confirmed since Mr El-Jahmi's whereabouts remain unknown.

⁶³ See Press Release, 16 February 2004.

Parliament in Rabat on 28 January 2004. Mr. Abdelhamid Amine remained unconscious for several minutes after the attack.

A large number of human rights defenders were also targeted for carrying out their activities: for instance, while responding to a call from the Coalition for the Right to Medical Care and Access to Drugs, and the Artists' Coalition for Cultural Diversity, several activists were violently beaten by the police.

Continued harassment and repression of Saharawi organisations and their members

Obstacles to freedom of movement and refusal to return passports⁶⁴

On 27 March 2003, 13 human rights activists and members of families of disappeared Saharawi persons were arrested at the airport in Casablanca while on their way to Switzerland to participate in meetings on forced disappearances in Western Sahara, organised by the International Bureau on the Respect of Human rights, and to attend the 59th session of the UN Commission on Human Rights.

The persons in question were Messrs. **Brahim Dahane** and **Bacher Lakhfaouni**, former disappeared and members of the Co-ordinating Committee of Saharawi Families, Mr. **Sidi Mohammed Daddach**, former prisoner and winner of the 2002 Rafto Foundation prize for human rights (Norway), Messrs. **Brahim Noumri** and **Brahim Guarhi**, former disappeared and members of the Moroccan Truth and Justice Forum - Sahara section (Forum Marocain Vérité et Justice - section Sahara - FMVJ), Mr. **Khaya Cheikh**, former prisoner, as well as Messrs **Sihi Mohamed Salem Zaidan**, **Mohamed Mahmoud Moumen**, **Hammia Ahmed**, **Walad Cheikh Mahjoubn**, **Aghlabouha Meimouma**, **El Qotb Hamma** and **Kiraoian M'Barka Alina**.

They were immediately released, but their passports were not returned.

By the end of 2004, notwithstanding numerous requests, their passports had still not been returned.

64 See Annual Report 2003 and letters to the Moroccan authorities, 3 March and 28 October 2004.

*Continued harassment of FMVJ-Sahara section**FMVJ-Sahara section offices closed*⁶⁵

On 18 June 2003, following a request by the criminal investigation police in April 2003, the Lâyyoun court of first instance decided to disband the Sahara section of the Moroccan Truth and Justice Forum (Forum marocain Vérité et Justice - FMVJ), for carrying out illegal and separatist activities in breach with its own statutes. The verdict also included a ban on all meetings of members of the section, the closing of its premises and the liquidation of the section's assets which were to be transferred to the FMVJ executive office.

As at the end of 2004, the verdict had still not been legally transmitted to the office of the court registrar, although this procedure is mandatory by law for appealing a decision.

Therefore, the Sahara section of FMJV had not yet been able to appeal the verdict, and its head office, including equipment and documents, were still sealed off.

*Intimidation of members of the section*⁶⁶

On 8 March 2004, when the United Nations Mission for the Referendum in Western Sahara (Mission des Nations unies pour l'organisation d'un référendum au Sahara Occidental - MINURSO) had just launched a programme to visit families of disappeared Saharawis in Tindouf, Mr. Aarbib Hariz, the head of the general intelligence services, personally threatened Messrs **Sidi Mohammed Daddach, Salek Bazid, Alismaili Ibrahim, Baba Mayara** and **Hmad Hammad**, members of the FMVJ-Sahara section.

Furthermore, members of the section travelling across the region were closely watched. On 20 June 2004, for instance, several police cars tailed Messrs Daddah, Ali Salem and Hmad's car while driving on their way to visit Saharawi families that had come from refugee camps as part of a visit programme organised by the Office of the High Commissioner for Refugees. When on mission, members of the section were further

⁶⁵ See Annual Report 2003.

⁶⁶ *Idem.*

often intimidated by policemen at the police and "gendarmerie" road-blocks.

Moreover, the president of the FMVJ-Sahara section, Mr. **Lahoussine Moutik**, was still being subjected to constant administrative harassment. Mr. Moutik was dismissed from his job as a director of the accounts and IT department of a large company, following an interview with the *ad hoc* commission on Western Sahara of the European Commission in February 2002. Although the Lâyyoun courts of first instance and appeal ruled in his favour, Mr. Moutik, had still not received his severance pay as of end 2004. Furthermore, the financial consultancy firm he created in 2002 was under permanent surveillance by secret services officers (Direction de surveillance du Territoire - DST) and his clients were subjected to pressure to discourage them from using his services. In 2003, the registrar of the Lâyyoun court of first instance refused, with no apparent reason, to issue a certificate confirming that Mr. Moutik's company was properly registered. On 4 May 2004, the administrative court of Agadir, referred to by Mr. Moutik in 2003, declared it was not competent for judging the case. By the end of 2004, it had been referred to the court of first instance and was still pending.

*Delivery of a passport for Mr. Ali Salem Tamek*⁶⁷

Mr. **Ali Salem Tamek**, a member of the FMVJ-Sahara section, was sentenced to two years in prison and a 10,000 dirhams (900 euros) fine for "undermining State security". On 7 January 2004, he was granted a presidential pardon and released.

The Moroccan authorities, however, repeatedly refused to issue him a passport. He applied again on 21 October 2004 since, among other reasons, he needed to go abroad to receive the medical care he required as a result of his numerous hunger strikes while in prison. As the authorities did not respond his request, he went on a sit-in in front of the Prefecture in Assa (Western Sahara) on 25 October 2004. On 30 October 2004, the Moroccan authorities finally delivered the passport, thus enabling Mr. Ali Salem to travel to Spain for receiving due medical care.

67 See annual report 2003 and letter to the Moroccan authorities, 28 October 2004.

Conviction of workers in the Evitima factory confirmed⁶⁸

In September 1999, 21 workers of the Evitima factory, all members of the Moroccan Labour Union (Union marocaine du travail - UMT), were ill-treated and tortured while under arrest after they went on strike. On 12 December 2001, they received a two months suspended prison sentence with a 500 dirhams (45 euros) fine.

On 27 July 2004, the sentence was upheld by the court of appeal. The legal proceedings against the alleged perpetrators of the ill-treatment they were subjected to were still pending as at the end of 2004.

SAUDI ARABIA

Arbitrary arrest and detention of several human rights defenders⁶⁹

On 9 March 2004, the Saudi authorities officially reiterated the announcement of the establishment of the National Human Rights Committee (first publicised in May 2003)⁷⁰, and that it would be chaired by a president to be appointed by the government. Twelve persons, known for their active involvement in human rights advocacy and the promotion of democratic reforms, sharply criticised the lack of independence of this Committee: Messrs. **Adnan Al-Shakhess**, **Khalid Al-Hameed**, **Matrouk Al-Faleh**, **Abdulla Al-Hamad** and **Towfiq Al-Qaseer**, academics, **Hamad Al-Kanhel**, **Mohammed Said Al-Taib**, **Abd Rab Al-Ameer Mussa Al-Bukhamseen**, and **Shaikh Sulaiman Al-Rashoud**, human rights activists, **Ali Al-Deminy** and **Najeeb Al-Khanizee**, writers and political advocates, and **Abd Al-Rahman Allahim**, a lawyer and human rights defender.

Short after, the same twelve individuals submitted a request for the creation and registration of an independent human rights organisation.

⁶⁸ *Idem*.

⁶⁹ See Urgent Appeals SAU 001/0304/OBS 017, 017.1 and 017.2.

⁷⁰ See Annual Report 2003.

On 15 March 2004, Messrs. Al-Shakhess, Al-Hameed, Al-Faleh, Al-Hamad, Al-Qaseer, Al-Kanhel, Al-Taib, Al-Bukhamseen, Al-Rashoud, Al-Deminy and Al-Khanizee were arrested by Saudi intelligence officers and held in solitary confinement in the Ulayasha prison, in Riyadh.

On 17 March 2004, Mr. Allahim was also arrested and held in custody, following an interview broadcast by *Al-Jazeera satellite* during which he had called on the government to release the other eleven activists.

On the same day Messrs. Al-Shakhess, Al-Kanhel, Al-Bukhamseen and Al-Hameed were released without charges. Messrs. Al-Taib, Al-Qaseer and Al-Khanizee were released on 18 March 2004, Mr. Allahim on 25 March and Mr. Al-Rashoud on 29 March. The nine of them were forced to sign a pledge that they would cease their campaign in favour of political reforms and human rights in order to be released.

Messrs. Al-Hamad, Al-Faleh and Al-Deminy, who refused to sign the document, were held in custody without access to their lawyers.

On 6 November 2004, Mr. Allahim, spokesman for the defence of the three detainees, was again arrested after disclosing to the *Agence France Presse (AFP)*, the letter addressed by his three clients to Prince Abdullah Al-Saud, concerning the arbitrariness of their detention.

On 1 December 2004, Messrs. Al-Hamad, Al-Faleh and Al-Deminy were brought before the administrative court in Riyadh, charged with acts intended to destabilise the regime, the dissemination of false information and criticism of prison authorities. As Mr. Allahim was still being detained, the three human rights defenders had no defence. The court stated that the case did not come under its jurisdiction and referred it to the criminal court of first instance.

As of late 2004, no date had been set for a hearing, whilst Mr. Allahim was still being detained without charges.

Moreover, the request submitted by the twelve activists to register an independent human rights association was neither acknowledged nor processed.

Restriction to the freedom of movement of Mr. Haytham Al-Maleh⁷¹

In 2003, Mr. **Haytham Al-Maleh**, a lawyer and director of the Human Rights Association in Syria (HRAS), was prevented from leaving the country for several months. The ban was lifted in December 2003, when Mr. Al-Maleh was officially invited by the German Parliament, which he addressed on 10 December 2003 to denounce the situation of human rights in Syria and the enforcement of the state of emergency legislation in his country. On the occasion of this visit, the Syrian Ministry of the Republic Presidential Affairs asserted that Mr. Al-Maleh was not banned from leaving the country in any way.

On 10 February 2004, Mr. Al-Maleh received two different summonses from the Syrian security services. He was then questioned for several hours, and security services agents accused him of disseminating false information about the government and the situation of human rights in the country through his public stance and speeches. The next day, on 11 February 2004, Mr. Al-Maleh was prevented from leaving the Damascus international airport as he was on his way to the Emirates on a family visit.

Infringements to freedom of assembly, arbitrary arrest and detention of CDF members⁷²

On 8 March 2004, over 400 members and supporters of the Committees for the Defence of Human Rights and Democratic Freedoms in Syria (CDF) peacefully gathered in front of the People's Parliament to call for the withdrawal of the state of emergency legislation, the release of political prisoners and the introduction of democratic reforms.

⁷¹ See Urgent Appeal SYR 001/0204/OBS 013.

⁷² See Urgent Appeal SYR 002/1504/OBS 026, Press Release, 19 March 2004 and Open Letter to the Syrian authorities, 15 April 2004.

The demonstrators were violently repressed by the security forces, who arrested 102 persons, including Mr. **Aktham Naisse**, president of the CDF, Mr. **Daniel Se'oud**, Mr. **Nidal Darwich** and Mrs. **Mozon Morched**, all three members of the CDF board of directors. All these people were released without charges after a few hours of detention.

Yet, several CDF members were subsequently subjected to retaliation and intimidation. For instance, military security services arrested Mr. **Ahmad Khazen** on 15 March 2004 and Mr. **Hassan Watfa**, on 16 March, in Homs, 160 km north of Damascus. They were both sentenced to 45 days imprisonment in pursuance of the martial laws in force under the state of emergency. Both men decided to stop their activities within the CDF once their jail term served.

Moreover, Ms. **Mania Al-Andari**, a 23-years-old student and a member of the CDF, who had been arrested and then released together with her sister on 8 March 2004, was called in by the military security services in Suweida, in the south of Syria, on 3 April 2004. She was questioned for over seven hours by security agents who severely blamed her for participating in the 8 March demonstration. Ms. Al-Andari was released the same day, after being ill-treated and threatened with rape.

Arrest and arbitrary detention, ill treatment and legal proceedings against Mr. Aktham Naisse⁷³

On 11 February 2004, Mr. Aktham Naisse, president of the CDF, was called in by the military security services in Damascus and interrogated by two high-ranking officers for several hours. Mr. Naisse, whose telephone is tapped, was accused of being the "worker of Europe, the United States and Israel", as a follow up to a CDF online petition *To end the state of emergency in Syria* launched by the CDF at the end of January 2004. Considering that this petition had been signed by over 3,500 persons, the security services claimed they had evidence that the CDF had "illegal" international contacts. While in detention, military officers verbally harassed Mr. Naisse, who was supposed to travel abroad a few days later. They notably threatened to prevent him from leaving the country

73 See Urgent Appeals SYR 002/1504/OBS 026 and 026.1 and Press Releases, 13 February, 21 April, 22 April, 27 July, 17 August 2004 and 12, 14 and 17 January 2005.

or not letting him return and further suggested that other accidents "might occur". Mr. Naisse was released without charges on 12 February 2004.

In March 2004, the CDF published their annual report on human rights violations in Syria and issued several statements denouncing violence against Kurdish communities in the north of the country.

On 13 April 2004, Mr. Naisse was arrested again in Latakia and held incommunicado by the military security services. For over ten days, no information on his whereabouts was transmitted to his relatives. During the first week of his detention, Mr. Naisse, who suffers from diabetes and a poor general health condition, had a cerebral stroke and had to be hospitalised for several days in the Tishrin military hospital near Damascus. On 20 April 2004, however, he was transferred to the Saidnaya prison, which is known for the very harsh conditions of detention imposed on political prisoners, and where he was placed in solitary confinement, in the department for ordinary prisoners.

On 22 April 2004, Mr. Naisse was officially indicted by the Supreme State Security Court (SSSC) for "affiliating with international organisations", "undermining the objectives of the revolution" and "disseminating false information aiming at weakening the State", charges that carry sentences up to 15 years of hard labour.

On 28 April 2004, the Observatory submitted Mr. Naisse's case to the UN Working Group on Arbitrary Detention.

His relatives were allowed to visit him on 20 June 2004 only, whereas he had already been in detention for three months.

On 15 July 2004, the court dropped the charge for "affiliating with international organisations", which is punishable by three years in prison, following an amnesty granted by the President of Syria.

Mr. Naisse's trial before the SSSC⁷⁴ started on 26 July 2004. The Observatory mandated two observers who, after lengthy negotiations, were finally authorised to attend the hearing, one of the reasons being that they were Arabs. The representatives of the European Union

⁷⁴ The usual criminal proceedings ensuring a fair trial are not applicable before this Court (according to Decree 47 passed in 1968). Moreover, the SSSC does not come under the responsibility of the judiciary but under the authority of the National Security Office of the Baas Party and there is one military judge among the three judges. Lastly, the SSSC decisions are final and can not be appealed.

member States (Netherlands and Great Britain), of the delegation of the European Commission in Syria and the United States were not allowed in the courtroom. The hearing was postponed until 16 August 2004.

On that date, Mr. Naisse was released on bail, amounting 10,000 Syrian pounds (146 euros), in the presence of a representative of the Observatory. At the following hearing, held on 24 October 2004, the case was adjourned again until 16 January 2005. The observer mandated by the Observatory could not attend this session, since he was denied a visa by the Syrian authorities. The hearing was postponed until 24 April 2005.

In addition, Mr. Naisse was again subjected to harassment after he was released. In November 2004, the Syrian security prevented him from leaving the country to attend a civil society conference that sided the Forum for the Future organised by the G8 member States and the countries of North Africa and the Middle East in Morocco. Mr. Naisse won the 2005 Martin Ennals Award for Human Rights Defenders (MEA)⁷⁵.

Detention of human rights defenders⁷⁶

In September 2001, Messrs. **Kamal Labwani**, member of the CDF board of directors, **Aref Alilah**, professor of economics and human rights defender and **Habib Hissa**, a lawyer and a founding member of the HRAS, had been arbitrarily detained in a wave of arrests targeting ten opponents and/or human rights activists. In August 2002, the SSSC respectively sentenced them to five, ten and five years in prison and deprived them of their civil and political rights.

⁷⁵ The Martin Ennals Award (MEA) for Human Rights Defenders, created in 1993, brings together the eleven most important international human rights organisations to offer protection to human rights defenders. The Jury is composed of: Amnesty International, Human Rights Watch, Human Rights First, the International Federation for Human Rights, the International Commission of Jurists, the World Organisation Against Torture, Diakonie Germany, the International Service for Human Rights, International Alert, Huridocs and Defence for Children International.

⁷⁶ See Annual Report 2003.

They were still being detained at the end of 2004, whilst their health seriously deteriorated in the course of the year.

TUNISIA

Continued harassment of the LTDH and its members

Legal proceedings

Proceedings against the steering committee of the LTDH⁷⁷

The appeal to quash the proceedings against the steering committee of the Tunisian League for Human Rights (Ligue tunisienne des droits de l'Homme - LTDH), following its 5th congress, is still under way. On 21 June 2001, the Tunis court of appeal confirmed the verdict of the court of first instance to cancel the proceedings of the last LTDH congress (October 2000), on the basis of a complaint lodged by four LTDH members, supporters of the Democratic Constitutional Party (Rassemblement constitutionnel démocratique - RCD, ruling party).

Legal proceedings against LTDH sections⁷⁸

- *Gabès section.* In December 2002, after the congress of the Gabès section was held in spite of the ban issued in October 2002, a participant lodged a complaint to have the proceedings cancelled. The cancellation was confirmed by a decision of the Gabès court of first instance on 12 May 2003. At the end of 2004, since the LTDH had still not been legally notified of the verdict, it has not been able to appeal yet.

- *Korba and Kébilia sections and Hammam-Lif Ez-zahra and Radhès sections.* Summary judgements were handed down against the LTDH on 29 November and 20 December 2003, respectively cancelling the gene-

⁷⁷ *Idem.*

⁷⁸ *Idem.*

ral assemblies of these sections on account of the refusal by certain RCD members to merge the Korba and Kébilia sections and the Hammam-Lif Ez-zahra and Radhès sections. On 5 January 2005, the Tunis court of first instance confirmed the summary judgement in the case of the Hammam-Lif Ez-zahra and Radhès sections. The judgement on the merits in the case of the Korba and Kébilia sections was to be ruled on 26 January 2005 by the Tunis court of first instance.

- *Sfax section*. On 18 January 2003, four members of the Sfax section, RCD supporters, lodged a complaint against the LTDH, which had convened a congress for 1 and 2 February 2003 in order to set up a second branch in Sfax. On 30 January 2003, the judge in chambers decided to stay the committee's decision to hold the two congresses. This ruling was confirmed by both the Tunis court of first instance on 25 June 2003, and the Tunis court of appeal on 29 June 2004. As at the end of 2004, the LTDH had not been able to appeal with the Supreme Court of Appeals (Cour de Cassation) since the League had not been legally notified of the verdict.

- *Monastir section*. In 2002, the owner of the premises of the section obtained cancellation of the tenancy contract which had just been signed with the LTDH, stating that she was not in full possession of her faculties at the time of signing. The LTDH, which appealed the decision, was able to rent another office as from September 2003. However, the appeal proceedings were still under way as at the end of 2004.

- *La Goulette - Le Kram and La Marsa sections*. The merger of La Goulette - Le Kram and La Marsa sections was to be announced at a congress on 9 May 2004. However, the urgent applications judge in chambers ruled on 6 May to stay the committee's decision to hold this congress, after LTDH members, also RCD supporters, lodged several complaints. The judgement on the merits of the case was adjourned until 16 March 2005.

- *Touzeur and Nefta sections*. On 6 October 2004, after complaints were lodged by RCD members, the judge in chambers decided to stay the decision of the LTDH committee to hold a congress on 10 October 2004 in order to merge the Touzeur and Nefta sections. The merits of the case were supposed to be examined on 16 March 2005.

- *Le Bardo, El-Omrane and El-Menzah sections.* After the announcement of the merger of the Le Bardo, El-Omrane and El-Menzah sections, which was to be confirmed at a joint congress on 5 December 2004, some RCD members lodged a complaint. On 4 December, the judge in chambers decided to stay the committee's decision to hold the congress. The judgement on the merits of the case was scheduled for 12 February 2005.

*Continued obstacles to LTDH funding*⁷⁹

In April 2001, the European Union (EU) granted funding to the LTDH for its modernisation and restructuring under the European Initiative for Democracy and Human Rights (EIDHR). While the first volume of the grant was allocated, the second volume has been frozen by the Tunisian authorities since August 2003, on the grounds of Law No. 154 (1959) and the decree of 8 May 1922 on charities "recognised of national interest", although the LTDH does come under this status.

On 9 January 2004, in reply to a question in Parliament concerning EU funding of independent NGOs in Tunisia, the European Union's Commissioner for External Relations, Mr. Christopher Patten, stated that the "European Commission had raised the issue with the Tunisian authorities" and that they had "explained that Law (No. 154) is indeed applicable to all Tunisian NGOs receiving foreign funding", but that "in a spirit of tolerance and conciliation" it had not been applied to the first payment by the Commission within the framework of this project. Moreover, the authorities recalled that the LTDH had been the object of a court ruling restricting its activities to the preparation of its forthcoming general assembly and re-election of its board of directors.

In 2004, the BIAT bank where the LTDH had its account registered returned the second volume of funding to Brussels.

On 27 December 2004, a second funding contract for developing a programme on the administration of justice was signed between the LTDH and the EU. However, shortly before the contract was signed, the Tunisian authorities informed the EU delegation in Tunis that the LTDH would only be able to receive the funding once the judgement, limiting its activities to the preparation of a congress, had been execu-

⁷⁹ See Annual Report 2003 and Urgent Appeal TUN 001/0504/OBS 034.

ted. It should be noted that this second refusal by the Tunisian authorities did not include any legal basis justifying the decision.

Without this funding, the LTDH faced serious financial difficulties, thus restricting its activities.

*Legal proceedings and harassment of LTDH leaders and members*⁸⁰

A complaint was lodged in December 2002 against Mr. **Hamda Mezguich**, member of the Bizerte section, by a member of the LTDH, RCD supporter of the Jendouba Section, for alleged "acts of violence" during the Jendouba Congress (September 2002). The proceedings were still under way.

At the end of 2004, the legal proceedings against Messrs. **Mokhtar Trifi** and **Slaheddine Jourchi**, president and first vice-president of the LTDH, were still under way. They were charged with "failing to abide by a court verdict" in December 2000 and "circulating false information" in March 2001.

On 12 February 2002, Mr. **Khémaïs Ksila**, LTDH secretary-general forced into exile, was sentenced in absentia to 10 years in prison and a 10,000 dinars (6,350 euros) fine on a common-law charge. The sentence was confirmed on 12 February 2004, in the absence of Mr. Ksila's lawyers.

Numerous acts of harassment were perpetrated in 2004 against Mr. **Mongi Ben Salem**, president of the Gabès section. Mr. Ben Salem and his wife also received many anonymous telephone calls over the year.

Mrs. **Safia Mestiri Chebbi**, president of the La Goulette-Le Kram-La Marsa section, was sentenced on 30 June 2004 by the Carthage Cantonal Court to a 60 dinars (37 euros) fine, on the fallacious charge of "insulting a civil servant". On 8 December 2004, the sentence was upheld in appeal by the Tunis court of first instance. Mrs. Mestiri Chebbi appealed this decision with the Supreme Court, and the proceedings were still under way as at the end of 2004.

⁸⁰ See Annual Report 2003.

*Obstacles to the activities of the LTDH**Obstacles to freedom of assembly*

On 24 January 2004, the LTDH organised a "national prisoners' day". Peaceful demonstrations were planned in front of various prisons throughout the country to demand the right to visit detention centres, monitor the conditions of detention and ensure that prisoners' rights were respected. LTDH delegations were also to meet with prison directors.

In Tunis, Mr. Mokhtar Trifi, president of the LTDH, along with steering committee members and activists, were tightly surrounded by the police, as they were walking to the 9 of April Prison. A significant police force, deployed around the prison, blocked access to the building, and policemen forced back anyone suspected of coming to attend the demonstration.

In Bizerte, Jendouba, Kairouan, Sousse and Sfax, LTDH members and delegations were prevented from approaching the prisons by police blockades on access roads. The offices of these sections were also surrounded by the police. In Mednine and Monastir, delegations were able to approach the prisons, but were refused interviews with the directors.

Obstacles to holding a conference⁸¹

On 28 November 2004, a few weeks after the presidential and parliamentary elections of 24 October 2004, the Kairouan section of the LTDH organised a conference and debate on the Tunisian Electoral Code, to which numerous well-known figures, activists, civil society organisations and representatives of political parties were invited.

The day before the conference was due to be held, the president of the Kairouan section of the LTDH, Mr. **Massoud Romdhani**, was summoned by the local authorities and police, who told him he would not be permitted to hold the conference if representatives of the Communist Workers' Party of Tunisia (Parti Communiste Ouvrier de Tunisie - PCOT), an "unauthorised organisation", were invited to attend the event. In the name of freedoms of assembly and opinion, Mr. Romdhani nevertheless decided to allow all the guests invited to attend the conference. On the morning of 28 November, a significant

81 See Open Letter to the Tunisian authorities, 2 December 2004.

police force was deployed around the office of the Kairouan section of the LTDH, where the conference was to be held, and on the roads to the city. Several participants were stopped as they entered Kairouan, including Mr. **Mohamed Jmour**, a member of the Tunisian Bar Association, and Mr. **Khelil Zaouia**, a member of the LTDH steering committee. The police, on the orders of the Kairouan district chief, also prevented the activists gathered in front of the section office from entering the premises, before violently breaking up the gathering. Several persons were roughly handled, including Mr. **Abderrahmane Hedhili**, a member of the LTDH steering committee, and Mrs. **Radhia Nasraoui**, a lawyer and president of the Tunisian Association Against Torture (Association de lutte contre la torture en Tunisie - ALTT), who was pushed around and forced into her car. Mrs. Nasraoui's husband, Mr. **Hamma Hammami**, spokesperson for the PCOT, was violently kicked by the policemen.

Pressure on the CNLT and its members

*Mrs. Sihem Ben Sedrine assaulted*⁸²

Mrs. **Sihem Ben Sedrine**, spokesperson for the National Council for Freedoms in Tunisia (Conseil national des libertés en Tunisie - CNLT), a writer and a journalist, was assaulted on the street on 5 January 2004 as she was walking to her home, which is also the CNLT head office in Tunis.

She was knocked to the ground by an unidentified individual who attacked her in the presence of two associates. Mrs. Ben Sedrine was punched several times, her lip was split and she was badly bruised.

It is believed that the assault was carried out on the orders of the Tunisian security services, which keep the CNLT building under constant surveillance.

*Om Zied's sentence confirmed*⁸³

On 25 September 2003, Mrs. **Neziha Rejiba**, *alias Om Zied*, was accused of "illegally possessing foreign currency". She is the editor of

⁸² See Press Release, 8 January 2004.

⁸³ *Idem*.

Kalima - a newspaper banned by the Tunisian authorities - and in charge of communications for the liaison committee of the CNLT. She was accused of having given 170 euros to a relative of a Tunisian political refugee, upon her return from France.

On 18 November 2003, Om Zied was given an 8 months suspended jail sentence in and 1,200 dinars (760 euros) fine by the court of first instance of Tunis.

On 28 February 2004, the Tunis court of appeal confirmed this sentence. Om Zeid refused to attend the hearing to protest against the political nature of her trial and was therefore sentenced *in absentia*.

For several years, Om Zied had been harassed because of her articles and criticism of the Tunisian authorities. Her home was under constant surveillance by a team of policemen in plain clothes and her phone was bugged. Her family was also being harassed: on 19 June 2004, the border police held her son **Amine** for more than three hours at the Tunis international airport, as he was about to travel abroad. His luggage was searched, without any warrant nor explanation. However, one of the policemen told him that they had received "orders from higher up".

Harassment of several members of CNLT⁸⁴

Mr. **Hammad Ali Bedoui**, brother of Dr. **Moncef Marzouki**, former LTDH president and spokesman of the CNLT, was forced into exile in 2004 and now lives in Europe. Mr. Ali Bedoui, who had been systematically harassed and persecuted by the authorities for the past few years, was placed under house arrest on 3 January 2004.

In July 2004, Mr. **Sami Nasr**, a researcher at the CNLT, was informed of the refusal of the Ministry of the Interior to enrol him as an assistant in Sociology, in spite of the positive notice of the jury. There is every indication that this measure aimed at punishing Mr. Nasr's activities within the CNLT.

In 2004, Mr. **Abderraouf Ayaydi**, a lawyer and CNLT member, continued to be subjected to recurrent acts of harassment. His office was

84 See Annual Report 2003 and Urgent Appeal TUN 001/0105/OBS 007.

under constant surveillance as well as his every move, whilst his clients were regularly threatened by the police forces. In November 2003, he addressed the Tunisian Bar Association of his situation and lodged a complaint against the Ministry of the Interior for hindering his professional activities. As of end 2004, no follow-up was given to this case.

*Obstacles to freedom of reunion and ill-treatment*⁸⁵

On 11 December 2004, the police prevented the general assembly of the CNLT from being held. Over 150 policemen surrounded the organisation's headquarters in Tunis, verbally and bodily threatened the CNLT members to keep them from entering the building before violently dispersing the participants. At that time, Mr. **Mongi Ben Salah**, a trade-unionist and vice-chairman of the Monastir section of the LTDH was dragged on the ground for several meters, insulted and beaten on his body, stomach and face by about ten policemen. The treasurers of the liaison committee of CNLT, Messrs. **Lofti Hidouri** and **Nouredine Ben Ticha**, were also severely beaten. Mrs. Sihem Bensedrine and Mr. **Ahmed Kilani**, CNLT members, were violently pushed and shoved while they tried to assist those who were being ill-treated. The victims were even harassed by the police all the way into the medical centers where they were taken in order to receive cares. They lodged a complaint with the Public Prosecutor; at the end of 2004, no follow-up had been given to these proceedings.

Faced with this situation, the CNLT general assembly was postponed until 16 January 2005, when the police again surrounded the organisation's headquarters. They told the members that they had been firmly instructed to prevent by any means the meeting from being held. Under such a threat, CNLT members were forced to cancel the event.

Further harassment of ALTT and its members

*Refusal to register the ALTT*⁸⁶

Since 2003, the numerous requests of the Tunisian Association Against Torture (Association de lutte contre la torture en Tunisie -

85 See Urgent Appeal TUN 001/0105/OBS 007.

86 See Annual Report 2003 and Urgent Appeal TUN 001/0105/OBS 030.1.

ALTT) to get registered with the authorities have systematically been rejected. The ALTT was unable to submit the required documents for its legal recognition to the offices of the Governorate of Tunis, which, according to the law, is an essential condition to obtain a legal receipt for these documents.

On 8 June 2004, Mrs. **Radhia Nasraoui**, president of the ALTT, Mr. **Ali Ben Salem**, vice-president, and Mr. **Ridha Barakati**, treasurer of the association, were denied access to the department in charge of the requests' deposit, and were verbally and physically aggressed by government representatives and members of the State security police.

Faced with this violence and the impossibility of registering their organisation, ALTT members decided to organise a sit-in in front of Governorate headquarters. They were violently dispersed and Mrs. Radhia Nasraoui was taken to a little, isolated street by several policemen who kept her there for almost two hours whilst seemingly awaiting further instructions. Mr. Ben Salem was forced into the subway and Mr. Barakati was sent away in a taxi.

Threats and harassment of Mr. Chokri Latif⁸⁷

On 10 July 2004, Mr. **Chokri Latif**, ALTT secretary general, was called in by the police for the second time that week. He was questioned as to his personal responsibility for publications which are deemed "illegal" and his membership in an organisation that is "not recognised by law". After the questioning, he was officially informed that he was liable to be taken to court on these grounds. Mr. Latif is also a writer and a member of the Assembly for Alternative International Development (Rassemblement pour une alternative internationale de développement - RAID-ATTAC) and of the Tunisian section of Amnesty International.

Continued harassment of Mrs. Radhia Nasraoui⁸⁸

For several years now, Mrs. Radhia Nasraoui has been closely watched by the police and hindered in her activities as a lawyer. Upon her

87 See Urgent Appeal TUN 001/0105/OBS 030.2

88 See Annual Report 2003 and Open Letter to the Tunisian authorities, 2 December 2004.

return from Côte d'Ivoire in October 2004, where she took part in an UN enquiry commission for three months, she, her family and her clients were subjected to an increased harassment (tighter tailing, also aimed at her younger daughter, closer police surveillance of her office and her house, as well as of her mother's home, etc.).

A meeting organised at her house on 17 November 2004 was disrupted by an important police force who cordoned off the neighboring area. This meeting intended to gather activists in support of Messrs. **Najib** and **Jalel Zoghلامي**, brothers of the journalist Mr. **Taoufik Ben Brick** legally defended by Mrs. Nasraoui. As she was coming home, the police tried to open her car door to force one of her relatives out. About 20 people on hunger strike were supposed to meet at Mrs. Nasraoui home, yet only six of them who were able to enter the building as they arrived before the police.

Pressure on the AISPP and its members⁸⁹

In spite of the numerous requests submitted by the International Association for the Support of Political Prisoners (Association internationale pour le soutien des prisonniers politiques - AISPP), created in November 2002, to obtain legal recognition with the Ministry of the Interior, the organisation was still not recognised by the Tunisian authorities.

On 3 January 2004, a major deployment of police officers prevented the AISPP from holding its annual general meeting.

The receipt for the deposit for the registration application was not returned to the association until 22 March 2004. On 22 June 2004, the AISPP received notification of the authorities' refusal to register the association without any explanation, in breach of Article 5 of the law No. 154 of 1959 on associations, which provides that reasons must be given for any decision to refuse a constitution.

In August 2004, a major police operation took place to prevent the association's annual general meeting from being held. This meeting had already been postponed following its ban on 3 January 2003. The weekly meetings of the executive committee, held at the organisation's

⁸⁹ See Annual Report 2003, Press Release, 8 January 2004 and Urgent Appeal TUN 002/0704/OBS 051.

head office or at the homes of its members, were systematically impeded by major deployment of police forces.

In addition, the movements and professional activities of Mr. **Mohamed Nouri**, AISPP chairman, were closely watched throughout 2004. In particular, several police officers in plain clothes were posted every day near to his office, and his clients were regularly intimidated.

Pressure on RAID-ATTAC⁹⁰

As at the end of 2004, the Assembly for Alternative International Development (Rassemblement pour une alternative internationale de développement - RAID-ATTAC) had still not been legally recognised by the Tunisian authorities.

The association's second congress⁹¹, which was to be held first at the LTDH headquarters then at the head office of the Democratic Progressive Party (Parti démocratique progressiste - PDP, an opposition party), in Tunis, on 26 and 27 June 2004, was banned by the Ministry of the Interior.

It was postponed to 24 and 25 October 2004, when it was again prohibited by the authorities.

Harassment of the League of Free Tunisian Writers and its members⁹²

The League of Free Tunisian Writers (Ligue des écrivains libres), which was set up in 2001, had still not received legal status as at the end of 2004 and its members and activities remained severely repressed in the course of the year.

On 27 June 2004, for example, the police prevented Mr. **Habib Hamdouni**, a member of the League, from attending a conference on freedom of association organised by the Sfax section of the LTDH.

⁹⁰ *Idem.*

⁹¹ In 2001, the Ministry of the Interior tried to prevent the first congress from being held and the police acted violently against the RAID-ATTAC members.

⁹² See Annual Report 2003.

Moreover, on 15 July 2004, a meeting, arranged at the home of Mr. **Jalloul Azzouna**, chairman of the League, to commemorate the third anniversary of the creation of the association, was impeded by the police, who cordoned off the area, preventing the participants from entering the building, and mishandled some of them.

Tunisian activists prevented from taking part in an international conference⁹³

As a result of strong pressure, Mr. **Mokhtar Trifi**, Mrs. **Khedija Cherif**, vice-president of the Tunisian Association of Women Democrats (Association tunisienne des femmes démocrates - ATFD) and Mr. **Alya Cherif Chammari**, a member of the board of the 95 Maghreb Egalité Collective and of the Centre for the Independence of Justice and Lawyers (Centre pour l'indépendance de la justice et des avocats - CIJA), were prevented from attending a regional conference held in Sanaa (Yemen) on "democracy, human rights and the role of the International Criminal Court". This conference took place from 10 to 12 January 2004, on the joint initiative of the authorities of the Republic of Yemen and of the international association "No Peace Without Justice", with financial backing from the European Commission⁹⁴.

As a result of the Tunisian authorities' opposition to the participation of the three guests representing Tunisian civil society, they were told they would not be welcome in Yemen. After numerous interventions in an attempt to obtain visas for Mrs. Cherif and Mrs. Cherif Chammari (Mr. Trifi cancelled his departure on principle), the Yemen Consul in Tunisia acknowledged that the Tunisian authorities had exercised pressure so that the visas would not be granted.

93 See Press Release, 8 January 2004.

94 This conference was preceded by a workshop organised by the FIDH together with the Yemenite association "Sisters Arab Forum for Human Rights" (SAF) and the Coalition for the International Criminal Court (CICC).

Mr. Patrick Baudouin refused entry⁹⁵

On 13 April 2004, Mr. **Patrick Baudouin**, lawyer at the Paris Bar and honorary president of the FIDH, was turned back upon his arrival at the Tunis-Carthage airport by the Tunisian authorities without explanation.

Mr. Patrick Baudouin was flying to Tunis to take part in a press conference to launch the publication of the Observatory's 2003 Annual Report. The conference, due to be held in Tunis on 14 April 2004, was organised in partnership with the LTDH.

Mr. Patrick Baudouin has been denied entry to the Tunisian territory on three occasions since 1996.

Judicial harassment of Mr. Taoufik Ben Brick and his family⁹⁶

Mr. **Taoufik Ben Brick**, a journalist and founding member of the CNLT, has been prosecuted, since 1 November 2004, on the fallacious charge of "offences against morality" (article 226 bis of the Criminal Code), an offence carrying an up to 6 months jail term.

The first hearing took place on 24 November 2004, when the case was adjourned until 8 December 2004, and then until 6 January 2005. On that date, although the judge had decided to handle a confrontation between the plaintiffs, the witnesses for the prosecution and Mr. Ben Brick, his lawyers, including Mrs. Radhia Nasraoui, were barred from attending the hearing, on the grounds that "their presence was intimidating for the judge and the parties". The defence lawyers were finally able to attend the hearing, following the intervention of the Bar Council. However, the hearing was once again adjourned until 12 January 2005.

In addition, Mr. **Najib Zoghlami** and the journalist Mr. **Jalel Zoghlami**, brothers of Mr. Ben Brick, were arrested in September 2004 and sentenced, on 4 November 2004, to one year imprisonment on 11 fallacious common-law charges (including: carrying knives, damaging the property of others, attempted assault, offences against morali-

⁹⁵ See Press Release, 13 April 2004.

⁹⁶ See Press Release, 2 December 2004.

ty, being inebriated, theft). This sentence was reduced to eight months' imprisonment by the Tunis court of appeal on 29 December 2004.

Two of Mr. Ben Brick's brothers (including Mr. Jalel Zoghlami), his sister and his brother-in-law, were summoned to appear, on 17 December 2004, for disrupting the hearing on 10 August 2004 during the trial of Mr. Jalel Zoghlami. On that date, the hearing was adjourned until 25 February 2005.

Moreover, Mrs. **Ahlem Belhadj**, Mr. Jalel Zoghlami's wife and president of the Tunisian Association of Women Democrats (Association tunisienne des femmes démocrates - ATFD), was subjected to constant acts of harassment (close surveillance of her home and telephone lines, professional reprisals, etc.).

Lastly, Mrs. Belhadj and her children, as well as all the relatives of Messrs. Najib and Jalel Zoghlami, respectively imprisoned in the Mornag (25 km south of Tunis) and Borg el-Amri (25 km west of Tunis) prisons, were subjected to numerous constraints to obtain visiting rights.

INTERNATIONAL AND REGIONAL PROTECTION

DECLARATION ON HUMAN RIGHTS DEFENDERS
ADOPTED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS
DECEMBER 9, 1998

General Assembly resolution 53/144

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

The General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Taking note of Commission on Human Rights resolution 1998/7 of 3rd April 1998, See Official Records of the Economic and Social Council, 1998, Supplement n° 3 (E/1998/23), chap. II, sect. A. in which the Commission approved the text of the draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms,

Taking note also of Economic and Social Council resolution 1998/33 of 30th July 1998, in which the Council recommended the draft declaration to the General Assembly for adoption,

Conscious of the importance of the adoption of the draft declaration in the context of the fiftieth anniversary of the Universal Declaration of Human Rights, Resolution 217 A (III).

1. Adopts the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect

Universally Recognized Human Rights and Fundamental Freedoms, annexed to the present resolution;

2. Invites Governments, agencies and organizations of the United Nations system and intergovernmental and non-governmental organizations to intensify their efforts to disseminate the Declaration and to promote universal respect and understanding thereof, and requests the Secretary-General to include the text of the Declaration in the next edition of Human Rights: A Compilation of International Instruments.

85th plenary meeting – 9th December 1998

The General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Reaffirming also the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights Resolution 2200 A (XXI), annex. as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

Stressing that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfil this obligation according to the Charter,

Acknowledging the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, natio-

nal unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

Reiterating that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

Stressing that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

Recognizing the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels,

Declares:

Article 1 – Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 2

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

Article 3 – Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework

within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

Article 4 – Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights,² the International Covenants on Human Rights and other international instruments and commitments applicable in this field.

Article 5 – For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;
- (c) To communicate with non-governmental or intergovernmental organizations.

Article 6 – Everyone has the right, individually and in association with others:

- (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
- (c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Article 7 – Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

Article 8

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.

2. This includes, *inter alia*, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

Article 9

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, *inter alia*:

(a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;

(b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;

(c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

Article 10 – No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

Article 11 – Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

Article 12

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

2. The State shall 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, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in

reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Article 13 – Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

Article 14

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include, *inter alia*:

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;

(b) Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.

3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

Article 15 – The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

Article 16 – Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, *inter alia*, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

Article 17 – In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Article 18

1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.

2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.

3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

Article 19 – Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.

Article 20 – Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non-governmental organizations contrary to the provisions of the Charter of the United Nations.

INTERNATIONAL PROTECTION (UN)

MANDATE OF THE SPECIAL REPRESENTATIVE OF THE UN SECRETARY GENERAL ON HUMAN RIGHTS DEFENDERS

Resolution on Human Rights Defenders adopted by the United Nations Commission on Human Rights on 26 April 2000, during the 56th session¹

The Commission on Human Rights,

Recalling General Assembly resolution 53/144 of 9th December 1998 by which the Assembly adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,

Reiterating the importance of this Declaration and its promotion and implementation,

Emphasizing the important role that individuals, non-governmental organizations and groups play in the promotion and protection of all human rights and fundamental freedoms,

Noting with deep concern that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms are often subjected to threats, harassment, insecurity, arbitrary detention and extrajudicial executions,

1. Welcomes the report of the Secretary-General (E/CN.4/2000/95) on ways for effective promotion and implementation of the Declaration

¹ Resolution: E/CN.4/RES/2000/61.

on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, submitted pursuant to Commission resolution 1999/66 of 28 April 1999;

2. Calls upon all States to promote and give effect to the Declaration;

3. Requests the Secretary-General to appoint, for a period of three years, a special representative who shall report on the situation of human rights defenders in all parts of the world and on possible means to enhance their protection in full compliance with the Declaration; the main activities of the special representative shall be:

(a) To seek, receive, examine and respond to information on the situation and the rights of anyone, acting individually or in association with others, to promote and protect human rights and fundamental freedoms;

(b) To establish cooperation and conduct dialogue with Governments and other interested actors on the promotion and effective implementation of the Declaration;

(c) To recommend effective strategies better to protect human rights defenders and follow up on these recommendations;

4. Urges all Governments to cooperate with and assist the Special Representative of the Secretary-General in the performance of his or her tasks and to furnish all information in the fulfilment of his or her mandate upon request;

5. Requests the Secretary-General to provide the Special Representative with all necessary assistance, in particular the staff and resources deemed necessary to fulfil his or her mandate;

6. Requests the Special Representative to submit annual reports on his/her activities to the Commission and to the General Assembly and to make any suggestions and recommendations enabling him or her better to carry out his or her tasks and activities;

7. Decides to consider this question at its fifty-seventh session under the agenda item entitled "Promotion and protection of human rights";

[...]

Nomination of the Special Representative

On 18 August 2000, Mrs. Hina Jilani from Pakistan was appointed as Special Representative of UN Secretary General on Human Rights Defenders.

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THE PROTECTION OF HUMAN RIGHTS DEFENDERS IN THE ORGANIZATION OF THE AMERICAN STATES (OAS)

Press release on the creation of the «special unit on defenders» within the Inter-American Commission on Human Rights (IACHR), 7th December 2001²

Press release n° 32/01: The Executive Secretariat Creates Unit for Human Rights Defenders

The Executive Secretary of the Inter-American Commission on Human Rights (IACHR), Dr. Santiago A. Canton, decided to create a Human Rights Defenders Functional Unit within the Office of the Executive Secretary to coordinate the activities of the Executive Secretariat in this field.

The Unit's main function will be to receive information regarding the situation of human rights defenders in the Hemisphere, keep in touch with nongovernmental and governmental organizations, and coordinate the work of the Executive Secretariat with regard to human rights defenders in the Americas.

This initiative takes into account resolution AG/RES. 1818 (XXXI-O/01), adopted by the General Assembly of the OAS at its thirty-first regular session, which requests the Inter-American Commission on Human Rights to continue to pay due attention to the situation of human rights defenders in the Americas and to

² Press Release no. 32/01: The Executive Secretariat Creates Unit for Human Rights Defenders,
<http://www.oas.org/OASpage/press2002/sp/año99/año2001/diciembre01/CIDH12701-32.htm>

consider preparing a comprehensive study in this area, which, *inter alia*, describes their work, for study by the pertinent political authorities.

The Executive Secretary said this was an important step to protect the rights of those whose fundamental mission it is to defend the human rights of all human beings disinterestedly, risking their own lives and safety in the process.

Any communication may be sent to IACHR headquarters or by e-mail to CIDHDefensores@oas.org or fax: + 1 202 458 39 92.

Resolution AG/RES 2036 (XXXIV-O/04) adopted by the General Assembly of the OEA, on 8th June 2004

*Human rights defenders in the Americas: support for the individuals, groups, and organizations of civil society working to promote and protect human rights in the Americas*³

The General Assembly,

Having seen the Annual Report of the Permanent Council to the General Assembly (AG/doc.4265/04 add. 3 corr. 1) as it pertains to this topic and resolution AG/RES. 1920 (XXXIII-O/03), "Human Rights Defenders: Support for the Individuals, Groups, and Civil Society Organizations Working to Promote and Protect Human Rights in the Americas";

Concerned that situations persist in the Americas that, directly or indirectly, prevent or hamper the work of individuals, groups, or organizations working to protect and promote fundamental rights;

Considering that member states support the work carried out by human rights defenders and recognize their valuable contribution to the promotion, observance, and protection of human rights and fundamental freedoms in the Americas, and to the representation and defense of individuals, minorities, and other groups of persons whose rights are threatened or violated;

³ <http://www.oea.org/default.htm>

Taking note that in 2003, in its decisions granting provisional measures, the Inter-American Court of Human Rights highlighted the importance of the work of human rights defenders to the development of democracies in the Americas;

Taking into account the work accomplished by the Unit for Human Rights Defenders of the Inter-American Commission on Human Rights and the member states' replies to the questionnaire drawn up by that unit with a view to preparing a comprehensive report on the subject; and

Underscoring that the performance by human rights defenders of their tasks contributes actively to strengthening democratic institutions and improving national human rights systems,

Resolves:

1. To reiterate its support for the work carried out, at both the national and regional levels, by human rights defenders; and to recognize their valuable contribution to the promotion, observance, and protection of human rights and fundamental freedoms in the Hemisphere.

2. To condemn actions that directly or indirectly prevent or hamper the work of human rights defenders in the Americas.

3. To encourage human rights defenders to continue to work selflessly for the enhancement of national human rights systems for the consolidation of democracy, in accordance with the principles contained in the United Nations Declaration on Human Rights Defenders.

4. To urge member states to continue stepping up their efforts to adopt the necessary measures to safeguard the lives, freedom, and personal safety of human rights defenders, and to conduct thorough and impartial investigations in all cases of violations against human rights defenders, ensuring that the findings thereof are transparent and publicized.

5. To invite the Inter-American Commission on Human Rights (IACHR) to conclude its comprehensive report on the situation of human rights defenders in the Americas, in keeping with resolution AG/RES. 1842 (XXXII-O/02), for presentation to the Permanent Council and consideration, if possible, in the second half of 2004.

6. To request the IACHR to:

a. Continue to give due consideration to this matter at the level it deems appropriate;

b. Continue intensifying its dialogue and cooperation with the Special Representative of the United Nations Secretary-General on Human Rights Defenders; and

c. Include in its annual report a section on the work of the Unit for Human Rights Defenders of the IACHR.

7. To invite member states to promote the dissemination and enforcement of the instruments of the inter-American system and the decisions of its bodies on this matter, as well as the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

8. To invite member states to consider the preparation and implementation of national plans to apply the principles contained in the United Nations Declaration mentioned in the preceding paragraph, for which purpose they may also request the advisory services of the IACHR.

9. To urge member states that have not yet done so to reply to the questionnaire prepared by the Unit for Human Rights Defenders of the Inter-American Commission on Human Rights.

10. To request the Permanent Council to report to the General Assembly at its thirty-fifth regular session on the implementation of this resolution, which will be carried out in accordance with the resources allocated in the program-budget of the Organization and other resources.

THE PROTECTION OF HUMAN RIGHTS DEFENDERS IN THE AFRICAN UNION (AU)

Communiqué announcing the creation of a «Special Rapporteur» on Human Rights Defenders within the African Commission on Human and Peoples' Rights (ACHPR), June 2004⁴

1. The African Commission on Human and Peoples' Rights (African Commission) held its 35 Ordinary Session in Banjul, Republic of The Gambia, from 21st May to 4th June 2004, presided over by Commissioner Salamata Sawadogo.

2. The following Members were in attendance:

- Commissioner Yassir S. A. El Hassan, Viceperson;
- Commissioner Mohammed A. Ould Babana;
- Commissioner Andrew R. Chigovera;
- Commissioner Vera M. Chirwa;
- Commissioner Emmanuel V.O. Dankwa;
- Commissioner Jainaba Johm;
- Commissioner Angela Melo;
- Commissioner Sanji M. Monageng;
- Commissioner Bahame Tom Mukirya Nyanduga;
- Commissioner Kamel Rezag Bara.

4 Final communiqué of the 35 ordinary session held in Banjul, the Gambia, from 21st May to 4th June 2004.

http://www.achpr.org/Final_Communique_35th_Session__eng_.doc

14. The African Commission considered issues relating to the protection of the defenders of human rights, the refugees and internally displaced persons as well as the strategies for prompt ratification of the Protocol establishing an African Court on Human and Peoples' Rights and the Protocol relating to the Rights of Women in Africa. In addition, the African Commission looked into its cooperation with the different bodies and structures of the African Union, including the African Court of Justice, the African Peer Review Mechanism, the Pan African Parliament, the Peace and Security Council, New Partnership for Africa's Development (NEPAD) and Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA).

18. The African Commission reviewed the Guidelines for the Review of the Special Mechanisms of ACHPR and decided to appoint:
– Commissioner Jainaba Johm, Special Rapporteur on Human Rights Defenders in Africa.

21. The African Commission adopted resolutions on the following issues :
– Protection of Human Rights Defenders in Africa.

Resolution on the mandate of the Special Rapporteur on Human Rights Defenders within ACHPR

Resolution on the Protection of Human Rights Defenders in Africa

The African Commission on Human and Peoples' Rights meeting at its 35th Ordinary Session held from 21st May to 4th June 2004, in Banjul, The Gambia;

Recognising the crucial contribution of the work of human rights defenders in promoting human rights, democracy and the rule of law in Africa;

Seriously concerned about the persistence of violations targeting individuals and members of their families, groups or organisations working to promote and protect human and peoples' rights and by the growing risks faced by human rights defenders in Africa;

Noting with deep concern that impunity for threats, attacks and acts of intimidation against human rights defenders persists and that this impacts negatively on the work and safety of human rights defenders;

Recalling that it is entrusted by the African Charter on Human and Peoples' Rights with the mandate to promote human and peoples' rights and ensure their protection in Africa;

Reaffirming the importance of the observance of the purposes and principles of the African Charter for the promotion and protection of all human rights and fundamental freedoms for human rights defenders and all persons on the continent;

Bearing in mind the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders);

Mindful that in the Grand Bay (Mauritius) Declaration, the Organisation of African Unity called on Member States "to take appropriate steps to implement the UN Declaration on Human Rights Defenders in Africa";

Mindful that the Kigali Declaration recognises "the important role that the human rights defenders play in the promotion and protection of human rights in Africa"

Recalling its decision to include on its agenda the situation of human rights defenders and to nominate a Special Rapporteur on human rights defenders;

1. Now decides to appoint a Special Rapporteur on Human Rights Defenders in Africa for a period of two years with the following mandate -:

(a) To seek, receive, examine and to act upon information on the situation of human rights defenders in Africa;

(b) To submit reports at every ordinary session of the African Commission on the situation of human rights defenders in Africa;

(c) To cooperate and engage in dialogue with Member States, National Human Rights Institutions, relevant intergovernmental bodies, international and regional mechanisms of protection of human rights defenders, human rights defenders and other stake holders;

(d) To develop and recommend effective strategies to better protect human rights defenders and to follow up on his/her recommendations;

(e) To raise awareness and promote the implementation of the UN Declaration on Human Rights Defenders in Africa;

2. Further decides to nominate Commissioner Jainaba Johm as Special Rapporteur on Human Rights Defenders in Africa for the current duration of her mandate within the African Commission;

3. Reiterates its support for the work carried out by human rights defenders in Africa;

4. Calls upon Member States to promote and give full effect to the UN Declaration on Human Rights Defenders, to take all necessary measures to ensure the protection of human rights defenders and to include information on measures taken to protect human rights defenders in their periodic reports;

5. Invites its members to mainstream the issue of human rights defenders in their activities;

6. Urges Member States to co-operate with and assist the Special Rapporteur in the performance of his/her tasks and to provide all necessary information for the fulfilment of his/her mandate;

7. Requests the African Union to provide adequate resources, assistance and support in the implementation of this Resolution.

Done in Banjul, The Gambia, 4 June 2004

THE PROTECTION OF HUMAN RIGHTS DEFENDERS WITHIN THE EUROPEAN UNION (EU)

Ensuring Protection - European Union Guidelines on Human Rights Defenders⁵

I. Purpose

1. Support for human rights defenders is already a long established element of the European Union's human rights external relations policy. The purpose of these Guidelines is to provide practical suggestions for enhancing EU action in relation to this issue. The Guidelines can be used in contacts with third countries at all levels as well as in multilateral human rights fora, in order to support and strengthen ongoing efforts by the Union to promote and encourage respect for the right to defend human rights. The Guidelines also provide for interventions by the Union for human rights defenders at risk and suggest practical means to support and assist human rights defenders. An important element of the Guidelines is support for the Special Procedures of the UN Commission on Human Rights, including the UN Special Representative on Human Rights Defenders and appropriate regional mechanisms to protect human rights defenders. The Guidelines will assist EU Missions (Embassies and Consulates of EU Member States and European Commission Delegations) in their approach to human rights defenders. While addressing specific concerns regarding human rights defenders is

⁵ These Guidelines were adopted by the Council of the European Union on 15 June 2004.

their primary purpose, the Guidelines also contribute to reinforcing the EU's human rights policy in general.

II. Definition

2. For the purpose of defining human rights defenders for these Guidelines operative paragraph 1 of the "UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms" (see Annexe I), which states that "Everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels" is drawn upon.

3. Human rights defenders are those individuals, groups and organs of society that promote and protect universally recognised human rights and fundamental freedoms. Human rights defenders seek the promotion and protection of civil and political rights as well as the promotion, protection and realisation of economic, social and cultural rights. Human rights defenders also promote and protect the rights of members of groups such as indigenous communities. The definition does not include those individuals or groups who commit or propagate violence.

III. Introduction

4. The EU supports the principles contained in the Declaration on the Right and responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms. Although the primary responsibility for the promotion and protection of human rights lies with states, the EU recognises that individuals, groups and organs of society all play important parts in furthering the cause of human rights.

The activities of human rights defenders include:

- documenting violations;
- seeking remedies for victims of such violations through the provision of legal, psychological, medical or other support; and
- combating cultures of impunity which serve to cloak systematic and repeated breaches of human rights and fundamental freedoms.

5. The work of human rights defenders often involves criticism of government's policies and actions. However, governments should not see this as a negative. The principle of allowing room for independence of mind and free debate on a government's policies and actions is fundamental, and is a tried and tested way of establishing a better level of protection of human rights. Human rights defenders can assist governments in promoting and protecting human rights. As part of consultation processes they can play a key role in helping to draft appropriate legislation, and in helping to draw up national plans and strategies on human rights. This role too should be recognised and supported.

6. The EU acknowledges that the activities of Human Rights Defenders have over the years become more recognised. They have increasingly come to ensure greater protection for the victims of violations. However, this progress has been achieved at a high price: the defenders themselves have increasingly become targets of attacks and their rights are violated in many countries. The EU believes it is important to ensure the safety and protect the rights of human rights defenders. In this regard it is important to apply a gender perspective when approaching the issue of human rights defenders.

IV. Operational Guidelines

7. The operational part of the Guideline is meant to identify ways and means to effectively work towards the promotion and protection of human rights defenders in third countries, within the context of the Common Foreign and Security Policy.

Monitoring, reporting and assessment

8. EU Heads of Mission are already requested to provide periodic reports on the human rights situation in their countries of accreditation. The Council Working Party on Human Rights (COHOM) has recently approved the outline of fact sheets to facilitate this task. In line with these fact sheets Missions should address the situation of human rights defenders in their reporting, noting in particular the occurrence of any threats or attacks against human rights defenders. In this contexts HoMs should be aware that the institutional framework can have a major impact on the ability of human rights defenders to undertake their work in safety. Issues such as legislative, judicial, administrative or

other appropriate measures, undertaken by States to protect persons against any violence, threats retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of any of the rights referred to the UN Declaration on Human Rights Defenders are all relevant in this regard. Where it is called for, HoMs should make recommendations to COHOM for possible EU actions, including condemnation of threats and attacks against human rights defenders, as well as for demarches and public statements where human rights defenders are at immediate or serious risk. HoMs should also report on the effectiveness of EU actions in their reports.

9. The HoMs reports and other relevant information, such as reports and recommendations from the Special Representative of the Secretary General for Human Rights Defenders, UN Special Rapporteurs and Treaty Bodies as well as non-governmental organisations, will enable COHOM and other relevant working parties, to identify situations where EU actions are called upon and decide actions to be taken or, where appropriate, make recommendations for such action to PSC / Council.

Role of EU Missions in supporting and protecting human rights defenders

10. In many third countries EU Missions (Embassies of EU Member States and European Commission Delegations) are the primary interface between the Union and its Member States and human rights defenders on the ground. They therefore have an important role to play in putting into practice the EU's policy towards human rights defenders. EU Missions should therefore seek to adopt a proactive policy towards human rights defenders. They should at the same time be aware that in certain cases EU action could lead to threats or attacks against human rights defenders. They should therefore where appropriate consult with human rights defenders in relation to actions which might be contemplated. Measures that EU Missions could take include:

- co-ordinating closely and sharing information on human rights defenders, including those at risk;

- maintaining, suitable contacts with human rights defenders, including by receiving them in Missions and visiting their areas of work, consideration could be given to appointing specific liaison officers, where necessary on a burden sharing basis, for this purpose;
- providing, as and where appropriate, visible recognition to human rights defenders, through the use of appropriate publicity, visits or invitations;
- attending and observing, where appropriate, trials of human rights defenders.

Promotion of respect for human rights defenders in relations with third countries and in multilateral fora

11. The EU's objective is to influence third countries to carry out their obligations to respect the rights of human rights defenders and to protect them from attacks and threats from non-state actors. In its contacts with third countries, the EU will, when deemed necessary, express the need for all countries to adhere to and comply with the relevant international norms and standards, in particular the UN Declaration. The overall objective should be to bring about an environment where human rights defenders can operate freely. The EU will make its objectives known as an integral part of its human rights policy and will stress the importance it attaches to the protection of human rights defenders. Actions in support of these objectives will include:

- where the Presidency, or the High Representative for the CFSP or EU Special Representatives and Envoys, or European Commission are making country visits they will, where appropriate, include meetings with, and raising individual cases of, human rights defenders as an integral and part of their visits to third countries;
- the human rights component of political dialogues between the EU and third countries and regional organisations, will, where relevant, include the situation of human rights defenders. The EU will underline its support for human rights defenders and their work, and raise individual cases of concern whenever necessary;
- working closely with other like minded countries with similar views notably in the UN Commission on Human Rights and the UN General Assembly;

- promoting the strengthening of existing regional mechanisms for the protection of human rights defenders, such as the focal point on human rights defenders of the African Commission on Human and Peoples' Rights and the special Human Rights Defenders Unit within the Inter-American Commission on Human Rights, and the creation of appropriate mechanisms in regions where they do not exist.

Support for Special Procedures of the UN Commission on Human Rights, including the Special Representative on Human Rights Defenders

12. The EU recognises that the Special Procedures of the UN Commission on Human Rights (Special Rapporteurs, Special Representatives, Independent Experts and Working Groups) are vital to international efforts to protect human rights defenders because of their independence and impartiality; their ability to act and speak out on violations against human rights defenders worldwide and undertake country visits. While the Special Representative for Human Rights Defenders has a particular role in this regard the mandates of other Special Procedures are also of relevance to human rights defenders. The EU's actions in support of the Special Procedures will include:

- encouraging states to accept as a matter of principle requests for country visits by UN Special Procedures;
- promoting via EU Missions, the use of UN thematic mechanisms by local human rights communities and human rights defenders including, but not limited to facilitating the establishment of contacts with, and exchange information between, thematic mechanisms and human rights defenders;
- since the Special Procedures are unable to carry out their mandate in the absence of adequate resources, EU Member States will support the allocation of sufficient funds from the general budget to the Office of the High Commissioner for Human Rights.

Practical supports for Human Rights Defenders including through Development Policy

13. Programmes of the European Community and Member States aimed at assisting in the development of democratic processes and institutions, and the promotion and protection of human rights in develo-

ping countries are among a wide range of practical supports for assisting human rights defenders. These can include but are not necessarily limited to the development co-operation programmes of Member States. Practical supports can include the following:

- bi-lateral human rights and democratisation programmes of the European Community and Member States should take further account of the need to assist the development of democratic processes and institutions, and the promotion and protection of human rights in developing countries by, inter alia, supporting human rights defenders through such activities as capacity building and public awareness campaigns;
- by encouraging and supporting the establishment, and work, of national bodies for the promotion and protection of human rights, established in accordance with the Paris Principles, including, National Human Rights Institutions, Ombudsman's Offices and Human Rights Commissions;
- assisting in the establishment of networks of human rights defenders at an international level, including by facilitating meetings of human rights defenders;
- seeking to ensure that human rights defenders in third countries can access resources, including financial, from abroad;
- by ensuring that human rights education programmes promote, inter alia, the UN Declaration on Human Rights Defenders.

Role of Council Working Parties

14. In accordance with its mandate COHOM will keep under review the implementation and follow-up to the Guidelines on Human Rights Defenders in close co-ordination and cooperation with other relevant Council Working Parties. This will include:

- promoting the integration of the issue of human rights defenders into relevant EU policies and actions;
- undertaking reviews of the implementation of the Guidelines at appropriate intervals;
- continuing to examine, as appropriate, further ways of co-operating with UN and other international and regional mechanisms in support of human rights defenders;
- reporting to Council, via PSC and COREPER, as appropriate on an annual basis on progress made towards implementing the Guidelines.

ANNEXES

ANNEX 1

PARTNER ORGANISATIONS AND CONTRIBUTORS

International NGOs

Agir ensemble pour les droits de l'Homme
Amnesty International
Avocats Sans Frontières (ASF)
Droits et démocratie - Centre international des droits de la personne et du développement démocratique
Fédération internationale d'action des chrétiens pour l'abolition de la torture (FIACAT)
Foundation Martin Ennals
Forefront
Frontline
Human Rights First
Human Rights Internet
Human Rights Watch (HRW)
International Commission of Jurists (ICJ)
International Confederation of Free Trade Unions (ICFTU)
International Freedom of Expression Exchange (IFEX)
International Gay and Lesbian Human Rights Commission (IGLHRC)
International League for Human Rights (ILHR)
International Rehabilitation Council for Torture Victims (IRCT)
International Service for Human Rights (ISHR)
Minority Rights Group
Peace Brigades International (PBI)
Reporters Without Borders (RSF)

Regional NGOs

Africa
Afronet
African Centre for Human Rights

Institute for Human Rights and Development in Africa
Union interafricaine des droits de l'Homme (UIDH)

Americas

Central Latinoamericana de Trabajadores (CLAT)
Centro por la Justicia y el Derecho Internacional (CEJIL)
Coalición de las ONG por la Corte Penal Internacional
Comisión Latinoamericana por los Derechos y Libertad de los Trabajadores y los Pueblos (CLADEHLT)
Comisión para la Defensa de los Derechos Humanos en Centroamérica (CODEHUCA)
Enlace Mapuche Internacional
Equipo Nizkor
France Amérique Latine
Latin American Consultation on Human Rights Defenders
One World América Latina
Organización Regional Interamericana de Trabajadores (ORIT)
Red Solidaria por los derechos humanos (REDH)

Asia

Asian Center for the Progress of Peoples (ACPP)
Asian Human Rights Commission (AHRC)
Forum Asia
South Asian Human Rights Documentation Centre (SAHRDC)

Europe

Equipo Nizkor
International Helsinki Federation for Human Rights (IHF)

Maghreb / Middle East

Cairo Institute for Human Rights Studies (CIHRS)
Réseau Euro-méditerranéen des droits de l'Homme (REMDH)

National NGOs

Algeria

Association des familles de disparus en Algérie
Collectif des Familles de Disparus en Algérie
Ligue Algérienne de défense des Droits de l'Homme (LADDH)
SOS disparus

Argentina

Asociación Abuelas de la Plaza de Mayo
Asociación Madres de la Plaza de Mayo
Centro de Estudios Legales y Sociales (CELS)
Comité de Acción Jurídica (CAJ)
Federación de Tierra y Vivienda (FTV)
Liga Argentina por los Derechos del Hombre

Azerbaijan

Human Rights Center of Azerbaijan (HRCA)
Center for the Protection of Conscience and Religious Freedom (DEVAMM)

Bahrain

Bahrain Centre for Human Rights (BCHR)
Bahrain Society for Human Rights (BHRS)

Bangladesh

Bangladesh Human Rights Commission (BHRC)
Bangladesh Rehabilitation Centre for the Victims of Torture (BRCT)
Human Rights Congress for Bangladesh Minorities (HRCBM)
ODIKHAR

Belarus

Belarussian Association of Journalists
Helsinki Committee for Human Rights

Bhutan

People Forum for Human Rights and Development (PFHRD) (based in
Katmandu, Nepal)

Bolivia

Asamblea Permanente de Derechos Humanos (APDHB)
Centro de Estudios Jurídicos e Investigación Social (CEJIS)

Bosnia-Herzegovina

Helsinki Committee for Human Rights

Brazil

ACAT-Brasil
Centro de Justiça Global (JC)
Movimento dos Trabalhadores Rurais Sem Terra (MST)
Movimento Nacional dos Direitos Humanos (MNDH)

Burkina Faso

Mouvement Burkinabé des Droits de l'Homme et des Peuples (MBDHP)

Burundi

Ligue Burundaise des Droits de l'Homme (ITEKA)

Cameroon

ACAT-Cameroun
Human Rights Defence Group
Mouvement pour la défense des droits de l'Homme et des libertés (MDDHL)
Maison des droits de l'Homme du Cameroun

Central African Republic

Ligue centrafricaine des droits de l'Homme (LCDH)

Chad

Association tchadienne pour la promotion et la défense des droits de l'Homme (ATPDDH)
Collectif des Associations de défense des droits de l'Homme (CADH)
Ligue tchadienne des droits de l'Homme (LTDH)

Chile

Comité de defensa de derechos del pueblo (CODEPU)

China

Human Rights in China

Colombia

Asamblea Permanente de la Sociedad Civil por la Paz
Central Unitaria de Trabajadores (CUT)
Asociación para la Promoción Social Alterniva (MINGA)
Colombia Campesina
Comision Colombiana de Juristas (CCJ)
Comision Intereclesial de Justicia y Paz
Comité Permanente por la Defensa de Derechos Humanos (CPDH)
Comité Permanente para la Defensa de los Humanos " Héctor Abad Gómez "
Comité de Solidaridad con los Presos Políticos (CSPP)
Corporación Colectivo de Abogados "José Alvear Restrepo" (CCAJAR)
Corporación Juridica Libertad
Corporación para la Defensa y Promoción de los Derechos Humanos (REINICIAR)
Corporación Regional para la Defensa de los Derechos Humanos (CREDHOS)
Corporación Servicios Profesionales Comunitarios (SEMBRAR)
Fundación Comité de Solidaridad con los Presos Políticos (FCSPP)
Organización Femenina Popular (OFP)
Organización Internacional de Derechos Humanos - Acción Colombia (OID-HACO)
Organización Nacional Indígena de Colombia (ONIC)

Congo-Brazzaville

Observatoire congolais des droits de l'Homme (OCDH)

Congo (Democratic Republic of)

Association Africaine de Défense des Droits de l'Homme (ASADHO)
Centre des droits de l'Homme et du droit humanitaire (CDH)
Comité des observateurs des droits de l'Homme (CODHO)
Coordination des actions de promotion de la paix et des droits de l'Humain (CAPDH)
Groupe évangélique pour la non-violence (GANVE)
Groupe Lotus
Journalistes en Danger (JED)
Justice Plus
Les Amis de Nelson Mandela

Ligue des Electeurs
Voix des Sans Voix (VSV)

Côte d'Ivoire

Ligue des Droits de l'Homme (LIDHO)
Mouvement Ivoirien pour les Droits Humains (MIDH)

Cuba

Comisión Cubana de Derechos Humanos y Reconciliación Nacional

Ecuador

Assemblée permanente des Droits de l'Homme (APDH)
Centro de Derechos Económicos y Sociales (CDES)
Centro de Documentación de Derechos Humanos " Segundo Montez Mozo "
(CSMM)
Confederacion de Nacionalidades Indígenas del Ecuador (CONAIE)
Fundación Regional de Asesoría en Derechos Humanos (INREDH)
Minga Informativa de Movimientos Sociales

Egypt

Cairo Institute for Human Rights Studies (CIHRS)
Egyptian Center for Housing Rights (ECHR)
Egyptian Organisation for Human Rights (EOHR)
Hisham Mubarak Center for Law
Human Rights Association for the Assistance to Prisoners (HRAAP)

Ethiopia

Action Aid Ethiopia
Ethiopian Human Rights Council (EHRC)
Ethiopian Free Press Journalists' Association (EFJA)
Ethiopian Teachers' Association (ETA)

Federal Republic of Yugoslavia

Humanitarian Law Center (HLC)
Helsinki Committee for Human Rights in Serbia

France

ACAT
Amnesty International - French Section

Gambia

Gambian Press Union

Georgia

Former Political Prisoners for Human Rights
Human Rights Information and Documentation Centre (HRIDC)

Guatemala

Casa Alianza
Central General de Trabajadores de Guatemala (CGTG)
Centro de Acción Legal en Derechos Humanos (CALDH)

ANNEXES

Grupo de Apoyo Mutuo (GAM)
Vicariato Apostólico de Petén

Guinea-Bissau
Guinean League of Human Rights

Haiti
Centre œcuménique des droits de l'Homme (CEDH)
Haitian Human Rights Organizations Platform (POHDH)
National Coalition for Haitian Rights (NCHR)
Justice et Paix

Honduras
Comité para la Defensa de los Derechos Humanos (CODEH)

India
People's Union for Civil Liberties (PUCL)
People's Watch - Tamil Nadu

Iran
Centre for Human Rights in Iran
Ligue pour la Défense des Droits de l'Homme en Iran (LDDHI)

Israel
ACRI
Adalah
B'Tselem
Palestinian Human rights Monitoring Group

Kazakhstan
Kazakh-International Bureau for Human Rights and the Rule of Law
(KIBHRRL)

Kyrgyzstan
Kyrgyz Committee for Human Rights (KCHR)

Laos
Lao Movement for Human Rights (MLDH)

Lebanon
Frontiers Center
Palestinian Human Rights Organisation (PHRO)
Soutien aux Libanais détenus arbitrairement (SOLIDA)

Liberia
Liberia Watch for Human Rights (LWHR)

Lybia
Libyan League for Human Rights

Malaysia
Suara Rakyat Malaysia (Suaram)

Mauritania

Association mauritanienne des droits de l'Homme (AMDH)
SOS Esclaves

Mexico

Centro de Derechos Humanos "Fray Bartolomé de Las Casas"
Comisión mexicana de defensa y promoción de los derechos humanos
(CMDPDH)
Ligue Mexicaine pour la Défense des Droits de l'Homme (LIMEDDH)

Morocco

Association Marocaine des Droits Humains (AMDH)
Forum Vérité Justice
Organisation Marocaine des Droits Humains (OMDH)

Nepal

Advocacy Forum Nepal
Centre for Victims of Torture (CVICT)
Informal Sector Service Center (INSEC)
International Institute for Human Rights (NSHR)

Nicaragua

Centro Nicaraguense de Derechos Humanos (CENIDH)

Niger

Association nigérienne de défense des droits de l'Homme (ANDDH)

Nigeria

Civil Liberties Organisation (CLO)

Northern Ireland

Committee on the Administration of Justice (CAJ)

Occupied Palestinian Territories

Addameer
Al-Haq
Al-Mezan Centre for Human Rights
Palestinian Centre for Human Rights (PCHR)

Pakistan

Human Rights Commission of Pakistan (HRCP)
Human Rights Education Forum Pakistan (HREF)

Peru

Asociación Pro Derechos Humanos (APRODEH)
Coordinadora Nacional de Derechos Humanos (CNDDHH)

Philippines

Alliance for the Advancement of People's Rights (KARAPATAN)
May First Labour Centre (Kilusang Mayo Uno - KMU)

ANNEXES

PREDA Foundation

Task Force Detainees of the Philippines (TFDP)

Russian Federation

Association of the Soldiers' Mothers of Saint - Petersburg

Comité Tchétchénie, France

Echo of War

Human Rights Centre of Krasnodar

Kazan Human Rights Centre

Memorial

Russian-Chechen Friendship Society (RCFS)

Union of the Soldiers' Mothers Committees

Rwanda

Communauté des Autochtones Rwandais (CAURWA)

Ligue Rwandaise pour la Promotion et la Défense des Droits de l'Homme (LIPRODHOR)

Réseau International pour la Promotion et la Défense des Droits de l'Homme au Rwanda (RIPRODHOR)

Senegal

Organisation nationale des droits de l'Homme (ONDH)

Rencontre africaine des droits de l'Homme (RADDHO)

Serbia - Montenegro

Center for Anti-War Action (CAA)

Humanitarian Law Center (HLC)

Helsinki Committee for Human Rights in Serbia

Singapore

Think-Center-Singapour

South Korea (Republic of Korea)

Korean Confederation of Trade Union (KCTU)

Sudan

Sudanese Human Rights Group (SHRG)

Sudan Organization Against Torture (SOAT)

Syria

Comités de Défense des Libertés Démocratiques et des Droits de l'Homme en Syrie (CDF)

Human Rights Association in Syria

Togo

ACAT-Togo

Ligue Togolaise des droits de l'Homme (LTDH)

Tunisia

Association de lutte contre la torture en Tunisie (ALTT)

Association internationale pour la soutien des prisonniers politiques (AISSP)

Comité pour le Respect des Libertés et des Droits de l'Homme en Tunisie (CRLDHT)

Conseil National pour les Libertés en Tunisie (CNLT)

Ligue Tunisienne des Droits de l'Homme (LTDH)

Section Tunisienne du Mouvement International ATTAC (RAID)

Turkey

Human Rights Association (IHD)

Human Rights Foundation in Turkey (HRFT)

United States of America

Centre for Constitutional Rights (CCR)

Uganda

Foundation for Human Rights Initiative

Uzbekistan

Human Rights Society of Uzbekistan (HRSU)

Legal Aid Society (LAS)

Venezuela

Comité de Familiares de Víctimas del 27 de Febrero (COFAVIC)

Red de Apoyo por la Justicia y la Paz (REDAPOYO)

Vietnam

Vietnam Committee for the Defence of Human Rights

International Buddhist Information Bureau

Zimbabwe

Zimbabwe Human Rights Association (ZIMRIGHTS)

Zimbabwe Lawyers for Human Rights (ZLHR)

ANNEX 2

THE OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS: AN FIDH AND OMCT JOINT PROGRAMME

Activities of the Observatory

The Observatory is an action programme based on the conviction that strengthened co-operation and solidarity among defenders and their organisations will contribute to break the isolation they are faced with. It is also based on the absolute necessity to establish a systematic response from NGOs and the international community to the repression against defenders.

With this aim, the Observatory seeks:

a) a mechanism of systematic alert of the international community on cases of harassment and repression against defenders of human rights and fundamental freedoms, particularly when they require an urgent intervention;

b) the observation of judicial proceedings, and whenever necessary, direct legal assistance;

c) international missions of investigation and solidarity

c) a personalised assistance as concrete as possible, including material support, with the aim of ensuring the security of the defenders victims of serious violations;

d) the preparation, publication and world-wide diffusion of reports on violations of the rights and freedoms of individuals or organisations, that work for human rights around the world;

e) sustained action with the United Nations (UN) and more particularly the Special Representative of the Secretary General on Human Rights Defenders and as necessary with geographic and thematic Special Rapporteurs and Working Groups

f) sustained lobbying with various regional and international intergovernmental institutions, especially the African Union (AU), the Organisation of American States (OAS), the European Union (EU), the Organisation for Security and Co-operation in Europe (OSCE), the Council of Europe, the International Organisation of the Francophonie (OIF), the Commonwealth, the League of Arab States and the International Labour Organisation (ILO).

The Observatory's activities are based on the consultation and the co-operation with national, regional, and international non-governmental organisations.

With efficiency as its primary objective, the Observatory has adopted flexible criteria to examine the admissibility of cases that are communicated to it, based on the "operational definition" of human rights defenders adopted by the OMCT and FIDH:

"Each person victim or risking to be the victim of reprisals, harassment or violations, due to his compromise exercised individually or in association with others, in conformity with international instruments of protection of human rights, in favour of the promotion and realisation of rights recognised by the Universal Declaration of Human Rights and guaranteed by several international instruments".

To ensure its activities of alert and mobilisation, the Observatory has a system of communication devoted to defenders in danger.

This system, known as the Emergency Line, is accessible through:

Email : observatoire@iprolink.ch

Tel : + 33 (0) 1 43 55 20 11 / Fax : + 33 (0) 1 43 55 18 80 (FIDH)

Tel : + 41 22 809 49 39 / Fax : + 41 22 809 49 29 (OMCT)

Animators of the Observatory

From the headquarters of FIDH (Paris) and OMCT (Geneva), the Observatory's Programme is supervised by Antoine Bernard, Executive Director of FIDH and Juliane Falloux, deputy Executive Director, and Eric Sottas, Director of OMCT and Anne-Laurence Lacroix, deputy Director.

At FIDH, the programme is managed by Catherine François, Programme Officer of the Observatory, with the assistance of Isabelle Brachet, Alexandra Koulaeva, Bénédicte Grandin, Alexa LeBlanc, Antoine Madelin, Chadi Sidhom, Jimena Reyes, Rosa Sanchez, Stéphanie David, Elin Wrzoncki, Marceau Siveude, Carole Berrih, Beatrice Quadranti, Gaël Grillhot, Daniel Bekoutou, Florent Geel, Nicolas Barreto-Diaz and Bénédicte Piton.

At OMCT, the Observatory is managed by Mariana Duarte and Delphine Reculeau, chargées de mission, with the assistance of Clemencia Devia Suarez, Catherine Ferry, Alexandra Kossin, Hannes Opelz, Katrin Weilhammer and Laëtitia Sedou.

The Observatory's activities are assisted by the local partners of FIDH and OMCT.

Operators of the Observatory

FIDH

The International Federation for Human Rights (FIDH) is an international nongovernmental organisation for the defence of the human rights enshrined in the Universal Declaration of Human Rights of 1948. Created in 1922, it includes 141 national affiliates throughout the world. To date, FIDH has undertaken more than a thousand missions for investigation, observation of trials, mediation or training in more than one hundred countries. These last years the FIDH has developed with its partners organisations, an action programme for economic,

social and cultural rights and for the promotion of international justice and helping victims to achieve greater justice. In recent years, FIDH has adopted legal intervention as a mode of action.

FIDH has either consultative or observer status with the United Nations Economic and Social Council, UNESCO, the Council of Europe's Permanent Human Rights Committee, the African Commission for Human and Peoples' Rights, the Inter-governmental Organisation of the Francophonie, the International Labour Organisation, and the Organisation of American States (OAS).

FIDH is also in constant and systematic contact with the European Union, the United Nations and the International Criminal Court (ICC) through its permanent delegations in Brussels, in Geneva and in the Hague. FIDH facilitates each year the access and use of existing international mechanisms to more than 200 representatives of its member organisations, and also relays and supports their activities on a daily basis.

The International Board is comprised of: Sidiki Kaba, President ; Catherine Choquet, Olivier de Schuter, Driss El Yazami, Philippe Kalfayan, Luis Guillermo Perez, Secretaries general ; Philippe Vallet, Treasurer ; and of Dobian Assingar (Chad), Souhayr Belhassen (Tunisia), Akin Birdal (Turkey), Juan Carlos Capurro (Argentina), Karim Lahidji (Iran), Fatimata Mbaye (Mauritania), Siobhan Ni Chulachain (Ireland), Vilma Nuñez de Escorcía (Nicaragua), Jose Rebelo (Portugal), Raji Sourani (Palestine), Peter Weiss (United States), Pie Ntakarutimana (Burundi), Michel Tubiana (France), Alirio Uribe (Colombia), Vo Van Ai (Viet Nam), vice-presidents.

OMCT

Created in 1986, the World Organisation Against Torture (OMCT) is currently the largest international coalition of NGOs fighting against torture, summary executions, forced disappearances and all other types of cruel, inhuman or degrading treatment. It co-ordinates the SOS-Torture network that is made up of 282 nongovernmental organisations in more than 90 countries and seeks to strengthen and accompany their activities on the field. The structure of the SOS-Torture network has allowed OMCT to reinforce local activity while favouring the access of national NGOs to international institutions. Support is granted to individual victims or potential victims of torture through urgent campaigns (notably in favour of children, women, and human rights defenders) and urgent legal, social and medical assistance. It is also more general in nature, through the submission of reports to the various United Nations mechanisms.

A delegation of the International Secretariat has been appointed to promote activities in Europe. OMCT has either consultative or observer status with the United Nations Economic and Social Council (ECOSOC), the International Labour Organisation (ILO), the African Commission on Human and Peoples' Rights and the Council of Europe.

Its Executive Council is composed of: Elisabeth Reusse-Decrey, President, Denis von der Weid, Vice-President, Olivier Mach, Vice-President, José Domingo Dougan Beaca, Treasurer, Catherine Fauchier-Magnan, José

Figueiredo, Alphonse Mac Donald, Florence Notter, Pascal O'Neill, Christine Sayeg and Katherine Shiraishi. Delegates Assembly, elected in December 2001 is composed of twenty four members. For Africa: Madeleine Afite, Innocent Chukwuma, Aminata Dieye, Osman Hummaida and Guillaume Ngefa; for Latin America: Ernesto Alayza Mujica, Helio Bicudo, Alberto León Gómez, and Alicia Pérez Duarte; for North America: Al Bronstein, for Asia: Joseph Gathia, Sanjeewa Liyanage, Ravi Nair, Elisabeth P. Protacio and Khalida Salima ; for Europe : Panayote Elias Dimitras, Nazmi Gür, Hélène Jaffe, Tinatin Khidasheli and Frauke Seidensticker ; for North Africa and Middle East: Mohammad Abu-Harthich, Hassam Moosa, Radhia Nasraoui and Lea Tsemel.

Thanks

The Observatory wishes to thank for their support the Swedish International Development Cooperation Agency (SIDA), HIVOS, the French Ministry for Foreign Affairs, Inter-governmental Agency of the Francophonie, OAK Foundation, the Foundation Un Monde par Tous, along with all the persons, national and international organisations, intergovernmental organisations and media which responded to the Observatory's requests and supported its actions.

TABLE OF CONTENTS

Foreword by Lida Yusupova, Martin Ennals Award	5
Let's join forces! Testimonies	7
Introduction	9
Africa	17
Americas	103
Asia	207
Europe and the CIS	283
Maghreb and the Middle East	357
International and Regional protection	425
Declaration on Human Rights Defenders	427
International protection (UN)	437
Protection of Human Rights Defenders within the Organisation of American States (OAS)	441
Protection of Human Rights Defenders within the African Union (AU)	445
Protection of Human Rights Defenders within the European Union (EU)	449
Annexes	457
Partner Organisations and Contributors	459
The Observatory for the Protection of Human Rights Defenders, a joint FIDH and OMCT Programme	469

« The community of States has abandoned thousands of victims to their tragic fate. The support of our Russian colleagues and of international NGOs is vital, and often, in taking up our cause they represent our last hope. Another source of hope [...] lies in the feeling that if a major problem were to arise, our fate would not pass unheeded, and that our friends will rise up to defend us and continue our struggle. [...] The Observatory for the Protection of Human Rights Defenders is doing a remarkable job, which is absolutely necessary in a world in which those who defend the rights that belong to everyone are exposed to danger and injustice [...]. In the long run, such solidarity unites men and women thousands miles apart, in their daily struggle against horror, for the sake of human dignity."

Lida Yusupova,
Co-ordinator of Memorial in Grozny (Chechnya),
Martin Ennals Award, 2004.

The Annual Report 2004 of the Observatory for the Protection of Human Rights Defenders (FIDH-OMCT) addresses the cases of 1,154 defenders and nearly 200 human rights organisations, targeted by acts of repression all over the world. More than ever, defenders suffer directly from an international environment in which human rights are denied or instrumentalised for political ends.

The Observatory is a programme of alert, protection and mobilisation, established by the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT). It aims to establish a systematic response from the international community in the face of the repression against defenders and to free them from their isolation.



World Organisation
Against Torture

HUMAN RIGHTS
DEFENDERS
ON THE FRONT LINE



International Federation
for Human Rights

18 €

