

# Steadfast in Protest

Foreword by Roberto Saviano



The Observatory  
for the Protection  
of Human Rights Defenders

**ANNUAL REPORT 2009**



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**/ STEADFAST IN PROTEST**

OBSERVATORY FOR THE PROTECTION  
OF HUMAN RIGHTS DEFENDERS

**FIDH / OMCT**

**/ STEADFAST IN PROTEST**

**ANNUAL REPORT 2009**

*Foreword by*

Roberto Saviano

*And with the testimonials of*

Anwar Al-Bunni,

Bakhtior Khamroev,

Aída Quilcué,

Amir Mohamed Suliman,

Sousan Tahmasebi

**Drafting, editing and co-ordination:**

Alexandra Poméon, Hugo Gabbero, Juliane Falloux and Antoine Bernard (FIDH)  
Delphine Reculeau, Carlos Pampín García, Anne-Laurence Lacroix and Éric Sottas (OMCT)

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**Graphic Design:** Bruce Pleiser

**Photographer:** FIDH / Gaël Grilhot

**Printing:** Éléna Ferran

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**FIDH – International Federation for Human Rights**

17, Passage de la Main-d'Or

75011 Paris – France

Tel. + 33 (0) 1 43 55 25 18

Fax. + 33 (0) 1 43 55 18 80

fidh@fidh.org / www.fidh.org

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**OMCT – World Organisation Against Torture**

8, Rue du Vieux-Billard, Case postale 21

1211 Genève 8 – Switzerland

Tel. + 41 (0) 22 809 49 39

Fax. + 41 (0) 22 809 49 29

omct@omct.org / www.omct.org

# / FOREWORD

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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**Roberto Saviano**

Italian journalist and writer

Human rights: whoever pronounces these words in our Western democracy seems to be chanting a traditional litany, a sacred litany, certainly, but one that we now listen to with a distracted ear. Something to be spoken, repeated and celebrated, a ritual habit. Respected but nothing more. At worst, television forces on us a humanitarian slot about distant countries, nations with uncertain names whose borders seem to be drawn using a ruler, like those of deepest Africa; talks to us of regions in the Middle East where we now see images of children who are bleeding and in tears, of veiled women shouting, of new massacres and sometimes new protests, new UN interventions, just as useless as the previous ones. But in most cases: nothing. Human rights seem to have become a domain for specialists, paper shufflers in specialist agencies or independent NGOs. The West does not often feel concerned by these problems and when it claims to be interested, it is as though it is giving a gift to a second-class country, democracies making a concession to States that are still on their knees, poorly developed and deformed. As though the question of human rights were always asked somewhere else, in concrete terms, as though it is still, and always will be, someone else's problem.

Sometimes it is difficult to prove that, on the contrary, the problem affects us all, wherever we are, not just for moral reasons or because of a pang of conscience. It must be demonstrated that the world is one and indivisible and that our borders, our democratic constitutions are not enough to protect us against the forces that govern this world in reality and for whom the Charter of Human Rights is just a scrap of paper.

This publication is a tribute to the women and men who, during this year of 2008, sometimes risking their lives, have fought because they are inhabited by the idea that human rights concern us all. This year,

in addition to armed conflicts, electoral or institutional crises, and the fight against the multiple “terrorisms”, the battle for respect of human rights has been profoundly marked by a global food crisis and a global financial crisis.

The financial crisis is sinking the economies of all the industrialised countries and risks having a lasting effect on the fragile economies of the developing countries and plunging them all into an abyss whose depth no one can measure or imagine. Above all, no one is able to assess how long the fall will last, nor the pain the shock will cause on impact.

The most healthy businesses are struggling or going under and we have even stopped counting the people who find themselves unemployed or at least poorer, consumption is declining inexorably and anyone or anything that succeeds in finding a place in this vicious circle can suddenly seem like a safety valve. Usurious credit rates are resorted to because there is no longer access to credit lines from banks, and in general we have stopped worrying about the origins of capital, investments or finances – wherever they come from, they are now welcomed as manna from heaven and that is one of the most dangerous phenomena.

The “crises” in 2008 have already resulted in an increase in social protest movements. In Cambodia, Cameroon, South Korea, Tunisia, Colombia, Zimbabwe and elsewhere, women and men have poured onto the streets to demand respect for their social and economic rights, and the peaceful leaders of these demonstrations are too often the targets of repression. Is this a taste of what is in store for us in the framework of the current crisis and the social movements to which it will legitimately lead?

While it is true that somebody always profits from moments of crisis, the ‘somebody’ at the present time is above all the economy of crime. In the face of the abdication of responsibility of the institutions whose job it is to manage the State, particularly the judicial and executive authorities, organised crime is taking advantage of complacent deregulation and developing a parallel economy. This criminal economy – transnational and global, as is the crisis itself – sells arms to Africa to buy coltan today and diamonds yesterday, to smuggle drugs that are destined for

the most remote markets, and brings about the fall of State leaders. The massacres during which human rights are trampled seem in most cases to be triggered by religious ideologies, ethnic hatred, or mere ferocity and thirst for power: they hide their true smell, the smell of the blood they cause to flow. This blood stinks of money. Always. In every case. Not just in Africa but in Europe too, and in the Balkans. Where very often militia leaders who slit the throats of civilian populations from rival ethnic groups were at the same time in control of illicit trafficking between themselves, between colleagues. Business is business, as usual.

In countries where crime is rampant, criminal organisations suppress human rights and constrain any possibility of developing freedom. Often these organisations eventually become one – or almost one – with the political power. Organised crime will never accept the rule of law, as is abundantly proven by our own mafias, which the rest of the world regards as a reality and a founding myth. The criminal economy is currently prospering and progressing, its people and its assets turning up in every country in the world. It is like a cancer gnawing at the very foundations of our democracies. Human rights are in danger everywhere.

In this environment of decline, organised crime eventually undermines weak States, imposing its bloody and brutal logic. It exacerbates inequalities, developing a parallel economy in which human life is of no value. Human rights defenders who condemn the violations and abuses often find themselves in the firing line of the perpetrators of these crimes.

Yet international law reminds us that it is the primary responsibility of States not only to fight against human rights violations, but also to protect the human rights defenders who denounce these violations and to ensure a favourable environment in which they can carry out their work.

This is why there is no more current debate today than the debate on human rights. It is the fundamental debate that should permit us to define what a human being is, where his or her path leads and, above all, to confirm once again that where there is no freedom to be, to speak, to express oneself, to decide one's own destiny, a human ceases

to be a human. The year we are experiencing is perhaps the one when, because of the crisis, every citizen realises that human rights are a daily requirement, not just in countries that are distant or imaginary, deserts or bombed-out worlds. Human rights are part of the air we breathe, and giving up knowing, understanding and acting means completely giving up one's self, other people and giving up the future of what we will be.

Let us not forget those women and men who fight for freedom, equality and justice. Together, we can and must see that this fight imprisons no one but sets us all free.



# / INTRODUCTION

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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Repression of demonstrations, trade union members arrested, NGOs under surveillance: for years these facts have been related to situations of economic and social imbalance and inequity. The rise in social discontent linked to the world economic crisis has increased the repression recorded in recent years. In inverse proportion to the fall of the stock exchanges, the inflation of freedom-killing practices and laws relating to the control of the social body was one of the significant characteristics of the problems encountered by human rights defenders in 2008. From Tehran (*Iran*) to Harare (*Zimbabwe*), via Seoul (*Republic of Korea*) and Buenos Aires (*Argentina*), criminalisation of social protest has become more intense, increasingly affecting the so-called democratic countries. A situation that is all the more unacceptable in that it is coupled with attacks on all other forms of peaceful challenges of Government policies that impact human rights.

## **Social tension**

Although a sense of proportion is called for in observation of the level of violations, a tension that is alarming is spreading in the countries or continents most seriously affected by this economic and social upheaval. We all have in mind the images of the hunger riots that shook the African continent and *Haiti* at the beginning of 2008. All of them were severely repressed and resulted in numerous obstacles to the freedom of expression and the freedom to demonstrate, and arbitrary arrests. A backlash that affected all the protesting bodies, starting with the continent's human rights organisations. Worse still, in Latin America, disproportionate use of force in reaction to social movements led to real bullets being fired on demonstrators (*Peru*), and even to the assassination of leaders of social movements (*Colombia, Guatemala, Honduras*).

The systematic obstruction by certain States of any form of social protest can sometimes be measured in a very concrete manner, through the obstacles put in place against the emergence of independent union

representations. When this is not done purely and simply by prohibiting all forms of peaceful protest against the economic and social decisions of Governments. In *Djibouti*, the logic is taken to its furthest extreme, with the creation of puppet union confederations that are completely subservient to the Government in power. Methods that are pernicious and endanger unions that are really independent, whose members are regularly harassed or dismissed and so deprived of any means of support. A particular illustration of this phenomenon is the repression of activists in the Gafsa mining basin, in *Tunisia*. Demonstrations against the workers' worsening living conditions were very severely repressed throughout 2008 and resulted in the arrest and trials of more than 200 people, including many union leaders. After seven months of proceedings and following trials that were marred with flagrant irregularities, over thirty leaders of the Gafsa movement were given sentences of up to eight years' imprisonment.

All over the world, this tension has had repercussions on the freedoms of assembly, association and expression, exceeding by far the context of the defence of labour rights or social rights alone. In *China*, current events showed us the extent to which the illusions still fostered by some people concerning the hypothetical positive contribution of the Olympic Games to the human rights situation vanished once and for all. And defenceless defenders paid for their commitment, often in the firing line in the fight against the ravages of corruption. Arbitrary arrests, judicial harassment, almost Orwellian surveillance of their activities: this was the price paid by the barefoot lawyers who, in spite of everything, try to protect the weakest against forced evictions, destructive industrial projects, where the arbitrary decisions of local despots still weigh heavily.

### **“Vultures of the 21st century”**

Furthermore, the crisis is an additional element in making NGOs financially fragile. It provides an excellent reason for restricting civil society's room for manoeuvre. Although the financial effort devoted to strengthening security policies, especially in the field of new technologies, is not diminishing in general, even during a crisis period, funding lacks cruelly for NGOs to carry out their mandate under good conditions. Additionally, the increase in laws or draft laws that aim to control or even ban foreign funding (particularly in *Cambodia*, in *Ethiopia*, in *Indonesia* or in *Jordan*) are in many respects an obstacle to their func-

tioning. This is the perspective in which the words of the Minister for Agriculture of *Peru* must of course be taken when he termed national NGOs as “vultures of the 21<sup>st</sup> century”, accusing them of wanting to receive “more money from abroad”. Accusing critical organisations of playing the game of enemy powers, of being “imperialist puppets”, or “traitors to the country” is certainly a familiar tune. Castro has kept on humming it since 1969, and nowadays the chorus of Presidents Chavez and Ortega has taken up the refrain.

Of course, violations are not restricted solely to the criminalisation of social protest; in many countries repression also affects all those who fight against any form of attack on freedoms. Humanitarian workers and journalists in conflict zones, lawyers or election observers are also concerned by this gradual suffocation of freedoms. Repression aimed at defenders of marginalised populations – women, migrants, indigenous populations and ethnic, religious and sexual minorities – has also increased in the context of this crisis. Is it coincidental that these new problems arise when defenders are increasingly successful in their initiatives in the fight against impunity? No one can say exactly, but it must be agreed that 2008 will go down in History as a unique year in the annals of Justice, whether national or international. The official application to the International Criminal Court for a warrant for the arrest of a Head of State in office in *Sudan*, preparation of the trial of the Khmers Rouges in *Cambodia*, and the trial of former President Fujimori in *Peru*: none of these complex cases could have succeeded without the determination and courage of the victims, their families, their lawyers and the organisations that represent them. In this respect, if it weren't so tragic, intensified repression against human rights defenders might almost seem to be a kind of homage to their fighting spirit and effectiveness.

### **Regression of democracy**

Clearly to a lesser degree, but one that is worrying as it symbolises a real regression, defenders are also faced, in certain countries such as *France*, with reinforced control of their action as well as with deterrent measures and practices. In 2008, the increase in obstacles against the “helpers” of the illegal immigrants known as “*sans-papiers*” - including the criminalisation of assistance to foreigners - was particularly worrying, especially since it appears to be representative of a more general wave of restrictions of the rights of defenders in States that up to now

were considered exemplary in this field. Roberto Saviano, who has honoured us with his foreword to this year's edition, makes us also think on the link between the economic crisis, organised crime and human rights defence, especially in *Italy*.

To end on an optimistic note, this report also refers to countries in which the overall situation has improved, in spite of the difficulties. Some States, such as *Bangladesh*, *Bolivia*, *Burkina Faso*, *Mali* or *Zambia*, have seen an increase in opportunities for citizens to debate freely on public policies. But here again, these few victories are of course the result of long work, often little publicised, of making the population and the authorities aware of the need to improve the situation of fundamental rights. These few improvements are largely due to the devotion and commitment of thousands of women and men throughout the world. It is more important than ever, during these times of crisis, to support them in their work.

## **/ METHODOLOGY**

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The 2009 Annual Report of the Observatory for the Protection of Human Rights Defenders presents an analysis by region of the situation in which human rights defenders operated in 2008. The analyses are followed by country fact-sheets, which provide for the political context that prevailed at the national level during the year, and the most prevalent forms of repression against defenders, which are duly illustrated by concrete cases. However, given the amount of information gathered for the “Western Europe” region, it was decided to treat cases of obstacles for defenders in the regional analysis rather than in separate fact-sheets.

The regional analyses and country fact-sheets presented in the printed report are supplemented, in the form of a CD-Rom attached to the report, by regional compilations that cover all cases handled by the Observatory during 2008, as well as follow-up on some cases from previous years. The cases presented reflect activities of alert, mobilisation and support carried out by the Observatory on the basis of information received from member organisations and partners of FIDH and OMCT<sup>1</sup>. We would like to take this opportunity to express our appreciation and heartfelt thanks for their collaboration and their vital contributions.

This Annual Report is not exhaustive insofar as it relies on information received and addressed by the Observatory in 2008. In some States, systematic repression is such that it renders impossible any independent activity or organised defence of human rights. In addition, some conflict situations also make it extremely difficult to isolate trends of repression that aim exclusively at human rights defenders. Situations that are not covered by this report are nevertheless referenced as much as possible in the regional analyses.

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1./ See Annex 1, p. 506.

# **/ ACRONYMS MOST FREQUENTLY USED IN THE REPORT**

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ACHPR	African Commission of Human and Peoples' Rights
AIDS	Acquired Immune Deficiency Syndrome
ASEAN	Association of Southeast Asian Nations
AU	African Union
CIS	Commonwealth of Independent States
CoIDH	Inter-American Court on Human Rights
ECHR	European Court on Human Rights
EU	European Union
FIDH	International Federation for Human Rights
HIV	Human Immuno-Deficiency Virus
IACHR	Inter-American Commission on Human Rights
ICC	International Criminal Court
ILO	International Labour Organisation
HCR	United Nations High Commissioner for Refugees
LGBT	Lesbians, Gays, Bisexuals and Transgenders
NAFTA	North American Free Trade Agreement
NGOs	Non-Governmental Organisations
OHCHR	Office of the High Commissioner for Human Rights
OMCT	World Organisation Against Torture
OSCE	Organisation for Security and Cooperation in Europe
UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organisation



# **/ SUB-SAHARAN AFRICA**

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## / REGIONAL ANALYSIS SUB-SAHARAN AFRICA

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Thanks to the dissemination, the awareness and the appropriation of the United Nations Declaration on Human Rights Defenders by the African human rights mechanisms, the issue of human rights defenders is now more visible on the African continent, to which the African Commission on Human and People's Rights (ACHPR) has largely contributed. The issue however is still not one to which the integrated institutions of the African Union – such as the High Authority, the Peace and Security Council or the Conference of the Heads of State and Government – are particularly sensitive. The inclusion of the issue in the work programmes of these bodies, the access of defenders to their various meetings and the activation of the future African Court of Human and People's Rights for the protection of human rights defenders will therefore be the challenges to be faced in the years to come.

While some African States have for some years tolerated the freedom of expression of human rights defenders (*Burkina Faso, Mali, Togo, Zambia*), others on the contrary have remained completely opposed to any independent examination of the human rights situation, as is the case, for example, of *Eritrea* or *Equatorial Guinea*. In *Gambia*, owing to the systematic violations of human rights, African and international NGOs have for several years been campaigning for ACPHR headquarters to be transferred to a country more respectful of human rights. In other countries, owing to the absence of the rule of law, as in *Somalia*, or the tense attitudes of authoritarian regimes striving to remain in power, such as in *Cameroon, Gabon* or *Zimbabwe*, or in conflict or post-conflict situations such as in *Burundi*, the *Central African Republic (CAR)*, *Chad*, the *Democratic Republic of Congo (DRC)* or *Sudan*, defenders have been targeted for denouncing human rights violations and the ongoing impunity, and have often been considered as political opponents, terrorists or agents working for the West.



And indeed, in 2008, repressive practices aiming at hindering and punishing the activities of human rights defenders continued and intensified. Again, too many Governments attacked the freedoms of peaceful assembly (*Kenya, Mauritania, Nigeria, Uganda, Zimbabwe*) and of association (*Angola, Rwanda, Uganda, Zimbabwe*), and many defenders were targeted by particularly serious and repeated acts of repression, notably arbitrary arrests and detentions, threats, judicial proceedings and direct acts of violence (*Burundi, Cameroon, CAR, Chad, DRC, Kenya, Republic of the Congo, Sudan, Uganda, Zimbabwe*).

### **Repression of defenders in the context of elections or political crises**

In 2008, defenders reporting human rights violations were particularly targeted in the context of the numerous elections held on the continent (*Angola, Djibouti, Gambia, Guinea-Bissau, Republic of the Congo, Rwanda, Zimbabwe*). In *Angola*, a few months before the elections, the Office of the United Nations High Commissioner for Human Rights was closed down, and on the eve of election day, a closing down process was reactivated against a human rights organisation that had been denouncing irregularities in the run-up to the elections. In *Zimbabwe*, defenders denouncing irregularities and post-electoral violence were considered as belonging to the political opposition, and were constantly threatened, arrested, attacked or harassed.

Even outside the election periods themselves, defenders were also often in the front line of repression in crisis situations, whether linked to earlier elections marred by irregularities and violence (*Kenya*), to coups or attempted coups (*Chad, Mauritania*), or to constitutional manipulations connected with future elections (*Cameroon*). Human rights defenders were indeed systematically harassed for having born witness to, protested against or condemned human rights violations committed in the framework of such events contrary to democratic principles. In some cases, such as in *Chad*, they had to leave the country momentarily.

### **The precarious situation of defenders in conflict areas**

In certain conflict areas, defenders, in particular humanitarian workers, continued to be exposed to considerable danger regarding their physical integrity. In *Somalia* and in *Sudan* for instance, numerous humanitarian workers were kidnapped and killed in 2008, causing several humanitarian

organisations and agencies to temporarily suspend their activities. In *Ethiopia*, several defenders were arrested while collecting information on human rights violations.

In other regions, such as the Cabinda region in *Angola*, human rights activities were often considered to be akin to armed opposition, and human rights defenders were treated as terrorists by the authorities. Likewise, defenders trying to work in certain regions of countries where there was considerable internal tension (*Burundi, Kenya, Niger, Nigeria, Uganda*) continued to be perceived as supporting the rebels or the armed groups, and were interrogated, threatened and intimidated. In the *DRC*, human rights defenders denouncing the violations committed by all parties to the conflict were also seen as opponents, “traitors” and “agents of the West”.

### **Obstacles against the activities of defenders fighting against impunity**

The obstacles continued in 2008, especially against defenders fighting impunity and defending the rights of victims, in particular before the International Criminal Court (ICC). The repression – attacks, intimidation, threats and public accusations of harming the image of the country – even intensified in the *DRC* and the *CAR* following the arrest of Mr. Jean-Pierre Bemba in May 2008, and the developments in the Lubanga case. Likewise in *Sudan*, the request by the ICC Prosecutor to issue a warrant for the arrest of President Omar Al-Bashir for “war crimes”, “crimes against humanity” and “genocide” led to the defenders engaged in fighting impunity being considered traitors to the nation. In *Liberia*, defenders denouncing the delays of the Truth and Reconciliation Commission and the climate of impunity prevalent in the country were also subjected to pressure.

### **Repression against defenders of economic and social rights**

#### **Defenders denouncing corruption, plundering of natural resources, organised crime or embezzlement of public funds**

Several countries of the continent took political steps towards fighting corruption (*Chad, Liberia, Republic of the Congo, Tanzania*) by signing international commitments or by defining policies such as setting up anti-corruption observatories. In practice, however, defenders who called for transparency and expose corruption scandals, organised crime,

plundering of natural resources, the environmental consequences of mining and logging activities and the embezzlement of public funds, were subjected to reprisals: raiding and wrecking of NGO premises (*DRC, Tanzania*), attacks and death threats (*Burundi, DRC*), judicial proceedings under false pretences (*Burundi, Cameroon, CAR, Gabon, Guinea-Bissau*), NGOs excluded from monitoring mechanisms contrary to commitments (*Chad*), threats of NGO closures (*Chad, Gabon*), obstacles to freedom of peaceful assembly and arbitrary arrests following demonstrations (*Cameroon, Kenya, Nigeria*).

### **Repression of protests against the high cost of living and the shortage of staple commodities**

Owing to the food crisis, social protest demonstrations, involving members of NGOs and of trade unions, occurred in several African countries, calling on the Governments to take steps to meet the economic crisis and the lack of purchasing power. Such protests were often put down with violence, giving rise to arbitrary arrests (*Guinea, Mauritania, Niger, Zimbabwe*).

### **Repression against the trade union movement**

In 2008 repression against the trade union movement was brought to bear at several levels: systematic repression of protests and arrests of trade union leaders (*Mauritania, Nigeria, Zimbabwe*), unfair dismissals, forced transfers, threats against trade union leaders (*Burundi*), or obstacles to the freedom of association of trade unions (*Kenya, Nigeria*). Other more pernicious methods, revealing a political will to smother the trade union movement, were employed in *Djibouti*, where the Government set up trade unions that were neither independent nor representative and which usurped the name, the titles and the role of existing trade unions. Also, in early 2008, a trade unionist was assassinated in *Nigeria*.

### **Harassment of women human rights defenders**

In 2008 women defenders were again subjected to acts of harassment. In *Somalia*, two women defenders engaged in the defence of women's rights, seriously at risk in view of the political context, were killed. In *Zimbabwe*, women defenders were also especially repressed and several were subjected to police violence and ill-treatment. In the *DRC*, women human rights defenders denouncing sexual violence were particularly threatened, and even attacked. Indeed several women human rights

defenders had to flee the country following such acts. In *Guinea-Bissau*, women human rights defenders fighting traditional practices such as female genital mutilation received threats, and were unable to visit certain communities.

### **Obstacles to freedom of association**

The adoption of restrictive legislation on freedom of association (*Ethiopia, Rwanda, Uganda*), and the use of administrative or judicial obstacles (*Angola, DRC, Zimbabwe*) remained, in 2008, very effective ways of controlling the civil society. In *Ethiopia* for instance, the adoption, early in 2009, of the Bill on NGOs that had been under discussion for several years created a very restrictive environment for human rights defenders, any NGO with more than 10% of foreign funds, which is presently the case for 95% of Ethiopian NGOs, now being subject to very restricting rules. Furthermore, in the *DRC*, several human rights associations are still not recognised by the Congolese authorities, despite having fulfilled all the administrative formalities. As a result, the members of these associations were regularly subjected to acts of harassment, intimidation and threatened with arrest by the administrative and security services. In *Zimbabwe*, the authorities again restricted access to foreign financial resources through a system requiring foreign exchange to be deposited with the Federal Reserve. NGOs sometimes had to wait several months before having access to their funds, which placed their activities in jeopardy.

### **Silencing the media and smear campaigns in the media against the work of defenders**

Throughout the year, the freedom of the press continued to be trampled in numerous African States. Several methods were used against journalists who reported on sensitive subjects and denounced human rights violations. Repressive legislation was adopted in 2008 in *Rwanda* and *Chad*, where, under cover of the state of emergency, new press offenses were introduced, such as “collaborating with the enemy”, “endangering the security of the State”, “contempt of the Head of State”, which incur heavy prison sentences and which can be invoked against anyone denouncing violations committed by Government officials. In this context, several journalists were harassed and had to leave the country momentarily for having denounced human rights violations (*Gambia, Somalia*). In *Gambia*, the security services even went to *Senegal* to harass and threaten journalists who had been obliged to leave the country.

Journalists were also considered as members of the political opposition for their denunciation activities, and were prosecuted (*Senegal*). Furthermore, in *Uganda*, the anti-terrorist legislation criminalises any attempt from a journalist to meet with, or talk to persons or groups considered to be terrorists, which restricts their activity, especially in the north of the country. In the *CAR*, instead of suing for slander, which only entails fines, the charge of “disturbing the peace” was used regularly for sentencing journalists denouncing corruption.

In other countries, censorship continued to be practiced on a large scale. In *Sudan*, for instance, security services frequently raided press editorial offices, showing a particular interest in articles on the rebel attack on Khartoum in May and its consequences, on the situation in Darfur, and on the ICC.

Finally, in several African countries the authorities made again public statements on radio or television denigrating the work of defenders, presenting them as “enemies of the people and manipulators” (*Burundi, Niger*), accusing them of “bad faith and intent to harm” (*Cameroon, Chad*), of “being paid to insult members of the Government” (*Guinea-Bissau*), of being “individuals working for foreign interests” (*DRC, Republic of the Congo*), etc. Such statements impair the credibility of the defenders in the eyes of the population, and constitute an obstacle to their work.

## Urgent Interventions issued by The Observatory in 2008 on countries of the region for which there is no Country Fact-sheet<sup>1</sup>

COUNTRIES	Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
GABON	<b>Sound Growth, Environment, Environmental Education</b> <i>(Croissance saine, environnement, éducation environnementale</i> - CADDE), Africa Horizon (Afrique horizon), Struggle More for Gabon ( <i>Euvrer plus pour le Gabon</i> ), SOS Consumers ( <i>SOS consommateurs</i> ) and Women, Environment and development ( <i>Femme environnement et développement</i> - FENSED)	End of proceedings for suspending associations	Press Release	January 16, 2008
GUINEA-BISSAU			International Fact-Finding Mission Report	November 10, 2008
SWAZILAND	Mr. Musa Hlophe and Mr. James Maina	Threats / Harassment	Urgent Appeal SWZ 001/1108/OBS 196	November 21, 2008

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1./ See the Compilation of cases in the CD-Rom attached to this report.

# / TESTIMONIAL

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## **AMIR MOHAMED SULIMAN**

Director of the Khartoum Centre for Human Rights and Environmental Development (KCHRED), Sudan

A Sudanese citizen born in 1969, I have directed the Khartoum Centre for Human Rights and Environmental Development (KCHRED) since 2001. I completed my studies in different regions of Sudan, which allowed me to appreciate the incredible diversity of the Sudanese people, culture, religions and ethnicities. I witnessed the emergence of democracy in my country and its fall into the cycle of dictatorship that began with the military coup of 1989. I observed the situation of human rights and freedoms under three different regimes: that of Numairi (1969-1985), who was deposed by the civil power, then the democratic experiment from 1985 to 1989, which was destroyed by the military coup of June 1989 led by current President Omar Hassan Al-Bashir.

I started my university studies in law school after the military coup of Al-Bashir. The older students, who had begun their academic years under the democratic regime, started to carry out political activities within the university. They were harassed by students loyal to the military regime, and some were arrested by the security services. They talked all the time to us, the newcomers, about life under the democratic regime, and deplored the situation after the military coup. They were targeted by the authorities because the Government knew that in Sudan students played a key role in challenging the dictatorial regimes. The Government began to destroy student movements of this kind after having dismembered institutions inherited from the democratic regime: the Parliament, the elected Government, trade unions, political parties and the Constitution.

It is in this political context that I began my studies and my activities as a human rights defender. At the time, thousands of Sudanese activists were arrested and placed in detention in secret places that people called "Ghost Houses". All detainees were severely tortured, many died, oth-

ers were disabled for life and all were permanently affected. They also lost their jobs and their families obviously suffered enormously. My father was also an activist. He was elected President of the Union of Veterinarians under the democratic regime and was dismissed during a very large wave of repression against political activists and trade unionists. Thousands of them were fired. From that moment, my father was arrested by the authorities on numerous occasions. He spent a total of three years in detention, including one year for “political activities”, after he joined the National Democratic Alliance (NDA), a group of several opposition parties in Sudan.

In 1993, with some friends, we founded the first student human rights group in Sudan, and initiated our first outreach to the student community in order to raise its awareness in favour of fundamental freedoms. We published a journal called *Al-Ensan* (“Human being”). Publications continued for a year, until our university was requisitioned by the Government of Sudan, putting an end to most student activities, including the activities of our group.

In 1996 I joined the Khartoum Bar Association. I worked for a major law firm in Sudan (Ghazi Suliman & Partners), in the framework of which we created a year later the Sudanese Group for Human Rights, one of the first human rights NGOs under that regime, whose mandate was to increase awareness of human rights in the Sudanese courts, but also to provide free legal aid to victims of human rights violations and to issue press releases reporting on the situation of human rights in the country. This group provided services and assistance to hundreds of people, and it is precisely for this reason that many members of the group were detained several times.

In May 2001, we created the KCHRED with other human rights activists from different sectors of civil society, including lawyers, journalists, doctors and students.

As Chairman of the Centre, I was arrested several times with other members of our organisation, the authorities’ goal being to hinder our actions. Each time, we were questioned about activities and funding of the Centre. In 2008, authorities launched a media campaign against the KCHRED and its members, accusing us of having received funds from abroad and suspecting us of corruption. This smear campaign continued



throughout the year, but did not affect the credibility of the KCHRED within the Sudanese population. In 2008, the authorities also froze our funds, affecting the operational capacity of the KCHRED. But the commitment of KCHRED members and the support of its friends kept the organisation alive.

In November 2008, I was arrested by the National Intelligence and Security Services (NISS), with two other human rights activists, **Osman Hummaida** and **Abdel Monim Aljak**. During our detention, we suffered torture and harassment because of our presumed links with the International Criminal Court (ICC). On November 26, 2008, at around 9pm, I was called to the premises of NISS in Khartoum-Bahri. An NISS officer accompanied me into an office. Upon entry, the room lights were turned off. The officer asked about the suitcase that Osman Hummaida was carrying, and about his laptop. I replied that I did not know what he was talking about, that I was driven in a NISS car and I was not with them when they were arrested. He called me a liar and said that I would regret it. He then left the office and left me with members of the NISS, who asked me to remove my glasses and my shoes. They took out sticks and black pipes and ordered me to stay standing in front of a cabinet. They started yelling at me to get me to confess to the whereabouts of the suitcase and laptop of Osman Hummaida, saying otherwise they would torture me. After half an hour, an officer of the NISS came and took me to another office, where I found two officers and Osman Hummaida, who was in a state of extreme fatigue, lack of sleep and who had been subjected to torture. They asked me to come back the next day with his bag and his laptop, saying that Abdel Monim Aljak would bring it to me. They took me into the corridor, and within a few minutes, brought in Abdel Monim Aljak, who bore signs of torture and could not stand. He leaned on my shoulder and we went down the stairs, accompanied by a NISS officer, to the gate. The officer set an ultimatum to return the bag and the computer before 11am the next day or the torture would continue. I therefore brought Osman Hummaida's bag and the laptop to the NISS building and we sat in the office, Osman and I, while they searched the contents, until 3pm; I was then released but Osman stayed in custody until November 28, 2008.

International support, first and foremost that from the Observatory for the Protection of Human Rights Defenders, allowed us to regain our

freedom. However, the work to be done to build a Sudan that respects human rights is still immense. We call today on the mechanisms and procedures established within inter-governmental organisations, but also civil society organisations, to redouble their efforts to end the harassment suffered by human rights defenders and, more generally, violations of fundamental freedoms. In early 2009, just days before the announcement of the decision of the ICC to issue an arrest warrant against President Al-Bashir, the KCHRED was closed down and its assets were frozen. I myself had to leave my country. But my determination for a Sudan that respects the rights of its citizens remains intact. The struggle continues.

/ **ANGOLA**OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009**Political context**

Angola held in September 2008 its first legislative elections since 1992. The Popular Movement for the Liberation of Angola (MPLA), which rules the country since 1975, won most of the seats, holding now 191 out of 220. The elections were recognised as valid by the European Union observer mission, which noted the absence of significant incidents but some important gaps and the lack of clarity in the regulations governing two fundamental aspects in the exercise of suffrage<sup>1</sup>. Next presidential elections being scheduled in 2009, President José Eduardo Dos Santos, who has been in power for 29 years, has been mentioning throughout the year the possibility to be elected through indirect elections rather than universal direct elections as provided for in the Constitution.

Human rights reporting in the region of Cabinda has long been inexistent since “Mpalabanda”, the only human rights organisation operating in the Angolan Province, was banned in 2006. Furthermore, on September 19, 2008, Mr. Fernando Lelo, a correspondent for *Voice of America*, who wrote articles critical of the Memorandum of Understanding for Peace and Reconciliation in Cabinda and the peace process was sentenced by a military Court to 12 years’ imprisonment on charges of crimes against the State security and instigating a rebellion in Cabinda. He had been arrested in Cabinda on November 15, 2007<sup>2</sup>.

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1./ These regulations concern the effective and compulsory use of voters’ lists in each and every polling station, as well as the procedures for the exercise, transmission and counting of special ballots. See in European Union Observation Mission, *Final report, Angola, Parliamentary Elections, September 5, 2008*, September 22, 2008.

2./ See Amnesty International Press Release, September 22, 2008. Cabinda is an exclave located on the territory of the Democratic Republic of Congo.

## **Restrictions faces by defenders of economic, social and cultural rights**

In its concluding observations, the United Nations Committee on Economic, Social and Cultural Rights expressed concern in November 2008 that NGOs involved in the realisation of economic, social and cultural rights were allegedly still under strict oversight, coordination, evaluation and inspections carried out by the Technical Unit of the Coordination of the Humanitarian Assistance (UTCAH), and that human rights defenders were still subjected to many legal as well as *de facto* restrictions, which constitutes a serious obstacle to the promotion and protection of economic, social and cultural rights<sup>3</sup>.

## **Restriction of freedom of association in the context of the elections**

Though NGOs are regulated by a declaratory regime, meaning they only have to inform about their creation, NGOs continued in 2008 to experience difficulties to get a proper registration certificate from the Ministry of Justice. This implies that they can be considered as illegal at any moment. In the electoral context, the authorities have radicalised their position against human rights monitoring. Indeed, on April 18, 2008, a few months before the elections, the Office of the United Nations High Commissioner for Human Rights, present in Angola since 2003, announced that the Government had asked it to close its offices by May 31<sup>4</sup>. Furthermore, the Association for Justice, Peace and Democracy (*Associação Justiça, Paz e Democracia - AJPD*), one of the most active human rights organisation in Angola, which in June 2008 had called on the Angolan authorities not to unilaterally change the electoral law and extend the elections over two days, rather than one, was reminded that its was considered as an illegal organisation. Prior to the elections, AJPD had also put out statements condemning alleged electoral irregularities and vote-buying. On September 4, 2008 – on the eve of the polling – the Constitutional Court informed AJPD that it had 15 days to challenge proceedings aiming at the closure of the organisation<sup>5</sup>. On September 19, AJPD presented its defence. In

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3./ See UN Document E/C.12/AGO/CO/3, December 1, 2008.

4./ See UN News Centre Press Release, April 18, 2008.

5./ A legal complaint against AJPD had been lodged by the Attorney General in 2003 on the grounds that the organisation's statutes did not conform to the law.

a new submission the General Prosecutor changed the content of its legal action that aims no longer at the extinction of the association but at suppressing or rewriting those articles that are considered to be contrary to the Law of associations. Articles challenged include in particular Article 6 paragraphs b and c on the objectives of the association since the Prosecutor considers that denouncing human rights violations committed by State agents is a State prerogative. AJPD had also argued that the matter was not constitutional but rather civil and administrative and in consequence the case should be heard by a lower court. As of the end of 2008 no further notice had been delivered on the situation of the legal action. Meanwhile, AJPD was able to continue operating since there is a presumption of legality until the Court has taken its decision. If the decision is in favour of the association, the Ministry of Justice will have to issue a registration certificate. If not, and depending on the arguments of the Court, the association shall be requested to re-write this article or appeal the decision.

### Urgent Interventions issued by The Observatory in 2008<sup>6</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
<b>Association for Justice, Peace and Democracy (AJPD)</b>	Obstacles to freedom of association	Urgent Appeal AGO 001/0908/ OBS 149	September 8, 2008
		Joint Press Release	October 2, 2008

6./ See the Compilation of cases in the CD-Rom attached to this report.

# / BURUNDI

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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## Political context

In spite of progress in implementing the peace agreement with the Party for the Liberation of the Hutu People – National Liberation Forces (*Parti pour la libération du peuple hutu – Forces nationales de libération* - PALIPEHUTU-FNL)<sup>1</sup>, the last active rebel movement in the country, Burundi continued in 2008 to face a crisis of political dialogue likely to compromise the free and democratic elections due to be held in 2010 and to affect the stability of the country. The United Nations Independent Expert on the human rights situation in Burundi even stigmatised the lack of dialogue between the political parties as creating “a highly explosive situation in Burundi”<sup>2</sup>. Indeed, despite members of the Front for Democracy in Burundi (*Front pour la démocratie au Burundi* - FRODEBU) and the Union for National Progress (*Union pour le progrès national* - UPRONA) entering the Government in November 2007, tensions between the political parties worsened against a background of growing insecurity in the capital, grenade attacks against opposition members of Parliament (MPs) and the continued recruitment of PALIPEHUTU-FNL<sup>3</sup>. The replacement in June of 22 opposition MPs, following a decision by the Constitutional Court that was “widely seen as politically inspired rather than legally correct”<sup>4</sup>, enabled the ruling party to regain its two-thirds majority

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1./ PALIPEHUTU-FNL adopted the name “National Liberation Forces Movement” (*Mouvement Forces nationales de libération*) at the beginning of January 2009.

2./ See Report of the Independent Expert on the human rights situation in Burundi, United Nations Document A/HRC/9/14, August 15, 2008.

3./ See Joint Statement by FIDH, the International Union for Human Rights (*Union internationale des droits de l'humain* - UIDH), the League for Human Rights in the Great Lakes Region (*Ligue des droits de la personne dans la région des Grands lacs* - LDGL), the Forum for the Reinforcement of Civil Society (*Forum pour le renforcement de la société civile* - FORSC), the Observatory for Government Action (*Observatoire de l'action gouvernementale* - OAG) and the Burundi Human Rights Iteka League (*Ligue burundaise des droits de l'Homme Iteka*), February 18, 2008.

4./ See Report of the Independent Expert on the human rights situation in Burundi, United Nations Document A/HRC/9/14, August 15, 2008.

in the National Assembly and demonstrated its desire to silence the opposition, the media and human rights defenders.

In this context, Burundi civil society associations made public a memorandum in September 2008 expressing their concern regarding the upsurge in criminality and armed attacks, conflicts over land rights and the proliferation of weapons held by the civilian population<sup>5</sup>. They also questioned the delays in consultations on implementation of the transitional justice mechanisms and the purpose of a Senate enquiry regarding ethnicity, political affiliation and gender in public services, which was the subject of great controversy amongst politicians and civil society<sup>6</sup>.

The stands taken by these associations put them in a particularly difficult position<sup>7</sup>. They denounced the upsurge in acts of harassment, intimidation, threats, legal red tape and police tailing to which civil society actors are subject and the obstruction of press freedom, which went against the spirit of and will for normalisation of relations between the Government and civil society that had prevailed during the meeting with the President of the Republic in June 2007.

### **Harassment and acts of intimidation against defenders who denounce corruption and trafficking in natural resources**

On December 9, 2008, International Anti-Corruption Day, the Observatory for the Fight Against Corruption and Economic Embezzlement (*Observatoire de lutte contre la corruption et les malversations économiques* - OLUCOME), an NGO, indicated that it was handling over 470 cases of corruption and economic embezzlement. Due to its denunciation activities, OLUCOME has as a result continued to be the target of blackmail and intimidation, in particular for having denounced the lack of transparency in mineral extraction in the north of the country and the complicity of agents of the Burundi authorities in smuggling activities. Thus, on August 18, 2008, the Bujumbura

5./ See Iteka League Press Release, September 4, 2008.

6./ See Human Rights Council, *Draft Report of the Working Group on the Universal Periodic Review - Burundi*, United Document A/HRC/WG.6/3/L.3, December 4, 2008, and Iteka League Press Release, December 3, 2008.

7./ See Report of the Independent Expert on the human rights situation in Burundi, United Nations Document A/HRC/9/14, August 15, 2008.

Prosecutor questioned Mr. **Gabriel Rufyiri**, President of OLUCOME, and informed him that a judicial enquiry was being opened against him due to his denunciations of corruption involving high State authorities. No charge was brought against him during this hearing, but afterwards he received anonymous messages informing him that everything would be done to charge him, and he learned on August 19 that members of the presidential police force had obtained sound archives for radio *Bonesha* programmes in which reference was made to his activities. He later received anonymous telephone threats, for which those responsible had still not been identified as at the end of 2008. Furthermore, on August 6, 2008, in Nyamurenza village, in the north of the country, a policeman fired at Mr. **Jean Niyongabo**, a member of the local supervisory group set up by OLUCOME. Mr. Niyongabo was then severely beaten by police officers and has been handicapped since then. As at the end of 2008, no action had been taken against either the policeman who shot at him or the policemen who beat him<sup>8</sup>.

Similarly, trade union members and officials who denounced economic and financial embezzlement in 2008, particularly within the Ministry of Justice, were targets of all kinds of harassment, with the general aim of breaking up the trade union movement in Burundi. During the first six months of the year, the Iteka League had already recorded 17 cases of violations in relation to unions, which took the form of unwarranted dismissal, compulsory job transfer and threats against trade union officials. As an example, the Free Trade Union of Workers of the Cotton Management Company (*Syndicat libre des travailleurs de la compagnie de gérance du coton - COGERCO*) was subjected to a great deal of harassment (principally unwarranted transfers) after it denounced the bad management and cases of embezzlement of which the managing director was guilty. Similarly, Ms. **Yolande Ndayongeje**, President of the Union of General Management of Prison Affairs (*Syndicat de la direction générale des affaires pénitentiaires - SYTRAPEN*), was threatened in February 2008 for having denounced cases of bad management and embezzlement that had, however, been confirmed by the State General Inspectorate in its report on February 14, 2008<sup>9</sup>. This was also the logic behind the imprisonment of Mr. **Juvénal**

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8./ See OLUCOME.

9./ See Iteka League Press Release, February 2008.



**Rududura**, an official of the union of non-magistrate staff at the Ministry of Justice, since September 15, 2008 at the Mpimba central prison, for having called for independent enquiries to be opened into a number of injustices committed in the attribution of positions at the Ministry<sup>10</sup>.

### **Stigmatisation and judicial harassment of human rights defenders**

In 2008, Burundian defenders were exposed to acts of stigmatisation and judicial harassment in the context of a case based on mere accusations, without evidence and with no legal grounds. On July 23, 2008, radio station *Rema FM* broadcast information accusing two Iteka League staff members of being behind a manipulation plan intending to accuse police and army officers of planning to eliminate members of the opposition party. On the basis of this information, the Prosecution Office at Bujumbura town hall opened a case against Mr. **Jean-Marie Vianney Kavumbagu**, President of the Iteka League between November 2003 and February 2008, Mr. **Joseph Mujiji**, Assistant Executive Secretary of the Iteka League, Ms. **Chantal Niyokindi**, Executive Secretary of the Iteka League, and Mr. **Willy Nindorera**, a researcher with International Crisis Group. This case appears to have been opened in order to prejudice the Iteka League's human rights work. There had been no developments in this case as at the end of 2008.

### **Obstacles to denunciations of human rights violations committed by PALIPEHUTU-FNL**

In 2008, there continued to be a price to pay for denouncing human rights violations committed by PALIPEHUTU-FNL rebels (thefts, murders and rapes). Once again this year, journalists who investigated human rights violations in the areas controlled by PALIPEHUTU-FNL and who attempted to interview families were vulnerable to threats and reprisals by the rebels. For instance, Mr. **Minani Tharcisse**, a journalist with *Radio publique africaine*, was threatened by PALIPEHUTU-FNL soldiers on May 17, 2008 when he tried to interview the family of a chief of the Muyira area in Bujumbura rural province, who had been kidnapped by soldiers from the same movement.

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10./ See Iteka League.

**Urgent Intervention issued by The Observatory in 2008<sup>11</sup>**

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
Messrs. <b>Gabriel Rufyiri, Jean-Marie Vianney Kavumbagu, Joseph Mujiji, Willy Nindorera and Ms. Chantal Niyokindi</b>	Defamation / Harassment / Intimidation / Threats	Urgent Appeal BDI 001/0808/OBS 140	August 21, 2008

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11./ See the Compilation of cases in the CD-Rom attached to this report.



## / CAMEROON

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

The television appearance on February 27 of President Paul Biya, in power since 1982, during which he announced a draft amendment to Article 6.2 of the Constitution allowing him to seek additional terms and to re-run for the 2011 presidential elections, in a context of economic problems, brought things to a head. A transporters' strike, launched on February 25, 2008, in particular by taxi drivers, quickly transformed into a popular movement of social demands, paralysing the country for four days. According to the Minister of Communication, the violence left 40 dead, and over 1,500 people were arrested<sup>1</sup>. The 2008 riots were also widely used as a pretext to launch unfair criminal proceedings and suppress the opposition and civil society. The EU<sup>2</sup> and representatives of the civil society condemned the disproportionate use of force by security forces, the scale of indiscriminate arrests, and the treatment of the arrested persons<sup>3</sup>. Despite these events, on April 10, 2008 the National Assembly adopted on final reading the draft revision of the Constitution by a large majority<sup>4</sup>, as members of the

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1./ See Human Rights House of Cameroon (MDHC).

2./ While recalling that the Constitution adopted in 1996 was the result of political dialogue and the democratic expression of people's will, the EU stressed the importance of submitting proposals for constitutional revision in a debate largely free and open, including all elements of Cameroonian society. It also denounced the violence in late February and the attempts at ethnic manipulation that followed. See Statement by the EU Presidency, March 27, 2008.

3./ Human rights NGOs have put the figure of at least a hundred dead. But since human rights defenders did not have access to the morgues, this figure is an estimate. Several thousand people were arrested - rioters and demonstrators, but also people unjustly arrested. Cases of torture were reported and, more generally, in addition to the expeditious rulings, Prosecutors would have used all the resources provided by the Criminal Code to accuse the persons brought, with charges ranging from "failure to submit an identity card" to "demonstrations on the streets, gathering and carrying weapons, destruction, rebellion and violence with regard to group officials, looting and theft" etc.

4./ The overwhelming majority of MPs belong to the ruling party, the Cameroon People's Democratic Movement (CPDM).

opposition party, the Social Democrat Front, did not vote in order to protest against this “constitutional coup”.

These tensions highlighted the problems in the country, including the lack of democracy and good governance. Corruption, impunity, obstacles posed to civil society participation in public life, and recurrent human rights violations, including economic and social rights such as access to natural resources, public services, labour, health, education, housing, etc., remain commonplace. In this context, human rights defenders continued to be threatened throughout 2008.

### **Harassment of defenders who denounced the repression of riots in February 2008**

During the February riots, human rights NGOs denounced the indiscriminate repression they experienced, as well as the disproportionate use of force by the security forces. Because she denounced these violations, especially to the international media, Ms. **Madeleine Afité**, President of the Human Rights House of Cameroon (*Maison des droits de l'Homme du Cameroun* - MDHC), received several death threats in March, and her car was ransacked. On March 7, 2008, during prime time television, a presenter even accused her of wanting to destroy the image of Cameroon abroad<sup>5</sup>. Mr. **Philippe Njaru**, member of the MDHC in Kumba, was arrested on several occasions in 2008 and was threatened with death while trying to identify victims of the riots and shed light on their situation. Because of the seriousness of these threats, he had to leave Cameroon, and was still in exile in late 2008<sup>6</sup>. Pressure would also have been exerted on journalists and the media when they did not relay official information<sup>7</sup>. For example, the radio station *Magic FM* had to suspend its program after holding a debate on February 27 during which the President was severely criticised about the cri-

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5./ On this day, during the 1 pm news edition on Cameroon Radio Television (CRTV), the presenter, Mr. Marc Mouzom, spoke of “an unknown person, out of nowhere, a woman claiming to a human rights defender and being heard at the international level when she says nothing true”, targeting Ms. Afité, who had expressed herself several times in the international media. See Press Release on the situation in Cameroon of the Special Rapporteur of the ACHPR on human rights defenders, March 11, 2008.

6./ See MDHC.

7./ See Press Release on the situation in Cameroon of the Special Rapporteur of the ACHPR on human rights defenders, March 11, 2008.

sis management and his willingness to amend the Constitution. The suspension was only lifted on July 4, 2008, by decision of the Minister of Communication<sup>8</sup>. Since the February riots, all the members of the Action of Christians for the Abolition of Torture (*Action des chrétiens pour l'abolition de la torture* - ACAT) and the MDHC have been subjected to permanent surveillance<sup>9</sup>.

### Harassment of defenders fighting corruption

The denunciation of corruption remained a high-risk activity in Cameroon. For instance, Mr. **Paul-Eric Kingue**, former Mayor of the city of Njombé-Penja, was arrested on February 29, 2008 and prosecuted for “complicity in group looting and incitement to revolt” in the context of the riots of February 25 – 28, 2008, which took place in the city of Njombé-Penja, and for “forgery of documents” and “embezzlement of public property” in connection with his mandate as mayor. These indictments would be linked to his actions against corruption, as since his election in July 2007 Mr. Paul-Eric Kingue has dismantled a network of corruption established by his predecessor, with the help of the banana plantation companies Haut Penja (PHP) of Njombé-Penja, and denounced the abuses suffered by employees of these companies. As of late 2008, investigations in the case for “false documents” and “misuse of public property” were still pending, after his lawyers appealed because of procedural flaws. On January 19, 2009, after several adjournments in the case for group looting, the Nkongsamba High Court, in Mungo, sentenced Mr. Kingue to six years’ imprisonment and to the payment of eight hundred million francs CFA (about 1,220,000 Euros) in damages to PHP and four million francs CFA (about 6,098 Euros) to Mr. Daniel Nsonga, the strawman who brought the claim in damages for PHP.

In addition, on December 10, 2008, a protest organised by the Citizens’ Association in Defence of Collective Interests (*Association citoyenne de défense des intérêts collectifs* - ACDIC) against misappropriation and corruption within the Ministry of Agriculture and against the corn crisis, was violently repressed by the police forces, wounding several people. That morning, riot police from the Mobile

8./ See Reporters Without Borders (*Reporters sans frontières* - RSF) Press Release, July 7, 2008.

9./ See MDHC.

Intervention Group (*Groupe mobile d'intervention* - GMI) went to the headquarters of the association, where demonstrators were given appointments, preventing people to enter and leave premises. Nine protesters, including Mr. **Nono Théophile** and Mr. **Mowha Franklin**, members of the ACDIC, and the President of the Association, Mr. **Bernard Njongang**, were arrested and taken to the police station. They were all released on the evening of December 11 and ordered to appear before court on the morning of December 12, 2008. Following their appearance, all were released, but charges for “illegal demonstration” were still pending against them at the end of 2008<sup>10</sup>. On December 11, the Solidarity Association for the Advancement of Human and Peoples’ Rights (*Solidarité pour la promotion des droits de l’Homme et des peuples* - PRODHOP), member of the MDHC, issued a press release denouncing the arrests. Since the issuance of this press release, Ms. **Maximilian Ngo Mbe**, Executive Secretary of PRODHOP, Secretary of the MDHC and member of the Human Rights Defenders Network in Central Africa (*Réseau des défenseurs des droits de l’Homme en Afrique centrale* - REDHAC), has been subjected to anonymous calls, intimidation, and serious threats in the middle of the night against her and her family<sup>11</sup>. PRODHOP also denounced the numerous violations committed by security forces during the February riots.

### **Human rights defenders defending the rights of detained persons harassed and assimilated with criminals**

In the framework of their activities, many defenders, including lawyers, faced obstacles, particularly in police stations, where they go to defend the detainees. In 2008, cases of abuse, confiscation of documents, arrest of defenders for false reasons, attempts to discredit them or threats of prosecution against human rights organisations remained widespread. Mr. **Mamsour Hamadou**, member of the Movement for the Defence of Human Rights and Freedoms (*Mouvement pour la défense des droits de l’Homme et des libertés* - MDDHL), had his membership card confiscated and was accused of “usurpation of title” and “trouble” while he was trying to be recognised as the adviser of a detainee whom he visited

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10./ See Front Line Press Release, December 12, 2008.

11./ These threats were continuing as of late 2008.

on November 22, 2008<sup>12</sup>. This was also the case, in October 2008, of Mr. **Jean-René Manfo Songong**, lawyer to the Bar of Cameroon and Head of the legal unit of ACAT-Littoral and the MDHC, who was insulted and threatened by police while inquiring about the reasons for the arrest for questioning of his client, Mr. **Ngalle Moussobo**. As of late 2008, Mr. Jean-René Manfo Songong continued to receive threats, especially for defending of his clients, Mr. Paul-Eric Kingue and Mr. **Pierre Roger Lambo Sandjo**, suspected following the hunger strikes on February 25-28, 2008.

Representatives of the judiciary were also guilty of such pressure, such as the Prosecutor of the Republic with the Courts of First Instance in Maroua, who, on March 28, 2008, called Mr. **Abdoulaye Math**, President of the MDDHL and leader of the Regional Observatory of Human Rights of the Greater North (*Observatoire regional des droits de l'Homme du Grand nord*), on his mobile phone to threaten and warn him that any contact with detainees would be henceforth prohibited. In violation of the criminal law of Cameroon, prison guards blocked access to the prison in a case where he was acting as a court-appointed lawyer. For his part, Mr. **Gaston Tagaï**, a member of MDDHL falsely accused of theft and arrested in September 2008, was shown on national television with handcuffs along with two other individuals, wearing a sign on his chest presenting him as one of the “authors of the theft of a squad weapon in 2006”, in an attempt to associate him with criminals. This staging occurred while the MDDHL was preparing to open an office in Roua, for which Mr. Tagaï would be responsible. Since then, the proposed antenna office has been called into question. Mr. Tagaï, who had been deferred to the Garoua prison, was provisionally released in December 2008, pending trial.

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12./ Mr. Hamadou was released on November 22, 2008 but in late 2008, a procedure was initiated against him before the Public Prosecutor of Maroua.

**Urgent Interventions issued by the Observatory in 2008<sup>13</sup>**

<b>Names of human rights defenders</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Mr. Abdoulaye Math</b>	Death threats / Harassment	Urgent Appeal CMR 001/0408/OBS 047	April 3, 2008
<b>Mr. Gaston Tagaï</b>	Arbitrary arrest / Harassment	Urgent Appeal CMR 002/1008/OBS 161	October 8, 2008
<b>Mr. Jean-René Manfo Songong, Mr. Ngalle Moussobo, Mr. Paul-Eric Kingue and Mr. Pierre Roger Lambo Sandjo</b>	Arbitrary detention / Judicial proceedings / Harassment	Urgent Appeal CMR 003/1008/OBS 163	October 16, 2008
<b>Mr. Mamsour Hamadou and Mr. Abdoulaye Math</b>	Arbitrary arrest / Judicial harassment / Threats	Urgent Appeal CMR 004/1208/OBS 208	December 5, 2008

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13./ See the Compilation of cases in the CD-Rom attached to this report.





# / CENTRAL AFRICAN REPUBLIC

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

## Political context

Despite the Libreville peace and ceasefire agreement of June 21, 2008 and the General Amnesty Law adopted on September 29, 2008, fighting continued in October and November in the north of the Central African Republic (CAR), between the Central African Armed Forces (*Forces armées centrafricaine* - FACA) and rebel groups, and was accompanied by grave violations of human rights and international humanitarian law. Members of FACA units were still responsible for the summary execution of civilians, extortion of money and arbitrary arrests. In addition, several sources reported arbitrary detentions, acts of torture and mistreatment of presumed rebels carried out by the Central African security forces in detention centres. Some rebels from the Popular Army for the Restoration of the Republic and Democracy (*Armée populaire pour la restauration de la République et la démocratie* - APRD) also executed civilians after the passing by emergency courts of expeditious sentences, looted the population and carried out kidnappings.

This is the context in which the “Inclusive Political Dialogue” was held from December 5 to 20, 2008, mediated by the President of Gabon Omar Bongo Ondimba and bringing together around 200 delegates representing the Government, the opposition forces and civil society, in order to examine the obstacles to the advent of a lasting peace and to adopt a social and economic programme<sup>1</sup>. The Dialogue led to the appointment in January 2009 of a “consensus” Government and the establishment in February 2009 of a monitoring committee made up of representatives of parties that took part in the Dialogue, charged with preparing the general elections planned for 2010 with a revision of the Electoral Code and setting up an Independent Election Commission.

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1./ See International Crisis Group, *Central African Republic: Untangling the Political Dialogue*, Africa Briefing No. 55, December 9, 2008.

Human rights defenders expressed great regret that the fate of victims of the conflicts in CAR since 2002 was not on the Dialogue agenda.

In this context, the situation of defenders remained very difficult, since any determination to denounce human rights violations was perceived as undermining peace efforts and even as support for the rebels who are active in the north of the country.

### **Threats against defenders who fight against impunity**

In 2008, the authorities perceived any attempt to fight against impunity as a threat. Organisations that defend victims' rights were a particular target following the arrest in May of Mr. Jean-Pierre Bemba Gombo after the issue of an arrest warrant by the International Criminal Court (ICC). The former Vice-President of the Democratic Republic of Congo and President and Commander in Chief of the Congo Liberation Movement (*Mouvement de libération du Congo* - MLC) is accused in particular of war crimes, systematic or generalised acts of torture and rape and crimes against humanity for acts carried out by men under his authority in 2002 and 2003, at the time of their intervention in support of the Central African troops against the rebel forces of General Bozizé. In May 2008, shortly after the announcement of the arrest of Mr. Jean-Pierre Bemba Gombo, two members of the Organisation for Compassion and Development for Families in Distress (*Organisation pour la compassion et le développement des familles en détresse* - OCODEFAD) were victims of threats and acts of intimidation warning them against pursuing the case. Furthermore, while one of the persons threatened, Ms. **Bernadette Sayo**, OCODEFAD founder and President, was then Minister of Tourism, she was given no protection, unlike her other colleagues. Mr. **Nganatouwa Goungaye Wanfiyo**, a lawyer and President of the Central African Human Rights League (*Ligue centrafricaine des droits de l'Homme* - LCDH), also received threats because of his ICC activity on behalf of victims and linked to the arrest of Mr. Jean-Pierre Bemba Gombo. On June 17, 2008, an unknown person notified him, amongst other things, that he should be careful that the same thing did not happen to him as had happened to two other defenders; one of the latter had been killed and the house of the second person had been attacked in 2006. His death, on December 27, 2008, in unclear circumstances that had still not been elucidated as of the end of 2008, leave room for the possibility of an assassination, due to his central role in the denunciation of human

rights violations in the country and the support he was bringing to victims before the ICC<sup>2</sup>.

### Judicial harassment of journalists who denounce corruption

Although on November 25, 2004 the transitional Central African Parliament abolished the law providing for prison terms for all press offences, in 2008 the Central African authorities continued to deprive journalists of their freedom by unfairly sidestepping the Press Law<sup>3</sup>. Thus, instead of starting proceedings for libel, solely punishable by fines, the authorities had no hesitation in making use of the State apparatus against people who denounced fraud and corruption, such as Mr. Faustin Bambou. Mr. **Faustin Bambou**, Director of the newspaper *Les Collines de l'Oubangui*, was arrested on January 11, 2008 for having published an article accusing two ministers of receiving several billion CFA francs from the French nuclear group AREVA in December 2007. The Prosecutor of the Republic, who considered that his article had contributed to reinforcing the strike of civil servants who claimed payment of salary arrears, recommended a two-year prison sentence and payment of a fine of three million CFA francs (around 4,500 Euros). On January 28, 2008, the Bangui Magistrates' Court (*Tribunal correctionnel*) finally sentenced Mr. Bambou to six months' imprisonment for "incitement to revolt", "libel" and "insults", and to pay a symbolic one CFA franc in damages to the two ministers who were the plaintiffs in the case. Mr. Faustin Bambou was released on February 23, 2008 after being granted a presidential pardon. At the opening of his trial, his lawyers had withdrawn as a sign of protest. In their opinion, their client should have been prosecuted under the 2004 Press Law, which protects journalists from prison sentences, and not under criminal law.

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2./ The NGO community and the EU Presidency paid homage to Mr. Goungaye Wanfiyo following his death and saluted his support for the work of the ICC and his role in the forum on the Inclusive Political Dialogue. See Declaration by the EU Presidency, December 31, 2008.

3./ See Reporters Without Borders (*Reporters sans frontières* - RSF) Press Release, January 16, 2008.

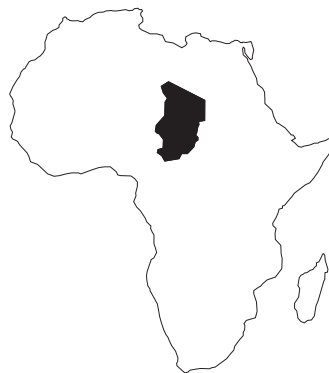
**Urgent Interventions issued by The Observatory in 2008<sup>4</sup>**

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Mr. Erick Kpakpo and Ms. Bernadette Sayo Nzale</b>	Death threats / Acts of intimidation	Urgent Appeal CAF 001/0508/OBS 092	May 28, 2008
<b>Mr. Nganatuwa Goungaye Wanfiyo</b>	Death threats	Urgent Appeal CAF 002/0608/OBS 106	June 18, 2008

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<sup>4</sup>/ See the Compilation of cases in the CD-Rom attached to this report.

## / CHAD

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009**Political context**

In February 2008, three rebel groups, heavily armed by Sudan<sup>1</sup>, joined forces in a new attack on the capital N'Djamena, demonstrating once again the instability in the country and effecting public freedoms, especially after a state of emergency was proclaimed on February 18. A number of security measures were also taken, with the consequent restriction of political freedoms and citizens' rights: house searches, restrictions of freedom of movement, and a whole series of forcible expulsions and the destruction of homes in entire districts of N'Djamena, resulting in the displacement of thousands of people, in most cases with no compensation<sup>2</sup>. When Chadian Government forces regained control of the capital they set themselves two goals, to identify the rebels hidden within the population and search for people who were suspected of having helped and collaborated with the rebels and who were considered traitors. Political opponents, civil society representatives, journalists or simple citizens were victims of arrest, summary and extrajudicial execution, acts of torture, extortion, rape and other forms of reprisal by units from the Government forces, especially the presidential guard, supported by the Justice and Equality Movement (JEM), a Sudanese rebel group.

The state of emergency additionally served as a pretext for the adoption, on February 26, 2008, of a Regulation on the Press Regime, which

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1./ The Union of Forces for Democracy and Development (*Union des forces pour la démocratie et le développement* - UFDD), the UFDD-Fundamental (*UFDD-Fondamentale* - UFDD-F) and the Rally of Forces for Change (*Rassemblement des forces pour le changement* - RFC). See report of the Chadian Human Rights League (*Ligue tchadienne des droits de l'Homme* - LTDH), *Quand le pays sombre dans le chaos*, June 2008.

2./ See International Crisis Group, *Chad: A New Conflict Resolution Framework*, Africa Report No. 144 September 24, 2008.

notably made the creation of newspapers more difficult<sup>3</sup> and which also introduced new press offences such as “collaborating with the enemy”, “damaging State security”, “offence against the Head of State” or the criminalisation of words inciting “tribal, racial or religious hatred”, all of which were liable to sentences of up to five years’ imprisonment and fines of 2,500,000 CFA francs (around 3,800 Euros). As a result, any denunciation of military brutality was now considered as threatening institutions. Emblematic of the hard line that was taken was Ms. Sonia Rolley, correspondent for *Radio France internationale* (RFI) and the last foreign journalist in Chad, who was notified on March 18, 2008 that her accreditation had been withdrawn<sup>4</sup>.

Faced with the situation of persistent insecurity for refugees, displaced persons, the local population and staff of the United Nations agencies and humanitarian organisations in the east of Chad, the deployment of the United Nations and African Union hybrid force in Darfur was intended to contribute to the stabilisation of the country in 2008, in particular by preventing janjaweed militia incursions. But the National Coordination of Backup for the International Force in Eastern Chad (*Coordination nationale d’appui au déploiement de la force internationale à l’est du Tchad* - CONAFIT)<sup>5</sup>, a Government body set up at the end of 2007 by the Chadian Government to support the international forces in carrying out their mandate and to organise international community aid, slowed the deployment of the UN Peace-keeping Mission in the Central African Republic and in Chad (*Mission des Nations unies en République centrafricaine et au Tchad* - MINURCAT) and the European Force (EUFOR)<sup>6</sup>.

The Chadian authorities set up a national commission of inquiry to investigate the grave human rights violations carried out after the attempted coup in Chad. The commission included international

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3./ See Regulation No. 005/PR/2008 of February 26, 2008 on the Chad Press Regime.

4./ See Reporters Without Borders (*Reporters sans frontières* - RSF) Press Release, March 20, 2008.

5./ See Decree No. 896/PR/2007 on the creation, organisation and attributions of CONAFIT.

6./ See International Crisis Group, *Chad: A New Conflict Resolution Framework*, Africa Report No. 144 September 24, 2008.

observers and independent civil society organisations<sup>7</sup>. The commission report, published in September 2008, stressed the responsibility of the state of Chad for the disappearance of political opponent Ibni Oumar Mahamat Saleh<sup>8</sup> and other violations committed in February 2008. On September 20, 2008, the President adopted a decree to set up a monitoring committee to “prepare and submit for Government approval the set of measures relating to the recommendations included in the report of the commission of enquiry”. At the end of 2008, this committee, exclusively composed of ministers and excluding international observers and civil society participants, had not followed up any of the recommendations made by the commission of enquiry.

### **Threats against defenders who denounce human rights violations linked to the attempted coup d'État**

Following the events of February 2008, several human rights defenders received threats and were subject to acts of intimidation, including Mr. **Dobian Assingar**, Honorary President of the Chadian League of Human Rights (*Ligue tchadienne des droits de l'Homme - LTDH*), Ms. **Jacqueline Moudeïna**, President of the Chadian Association for the Promotion and Defence of Human Rights (*Association tchadienne pour la promotion et la défense des droits de l'Homme - ATPDH*), Ms. **Delphine Djiraibe Kemneloum**, Vice-President of ATPDH, Mr. **Massalbaye Tenebaye**, President of LTDH, Mr. **Jean-Bernard Padaré**, lawyer and member of LTDH, Mr. **Clément Dokhot Abaïfouta**, member of the Association of Victims of Crimes and Political Repression (*Association des victimes de crimes et de la répression politique - AVCRP*), Mr. **Lazare Kaoutar Djelourninga**, Vice-President of ATPDH and Director of the radio station *FM Liberté*, Mr. **Djacko Guila Sackou**, Executive Secretary of ATPDH, and Mr. **Lou Hingané Nadji**, member

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7/ See Decree No. 525/PR/2008 “Commission of enquiry into the events in the Republic of Chad from January 28 to February 8, 2008 and their consequences”.

8./ According to the report, Mr. Mahamat Saleh was arrested on February 3, 2008 after the rebels withdrew from N'Djamena. The soldiers who came to arrest Mr. Mahamat Saleh at his home “were wearing Chadian army uniforms” and “although it has not been possible to obtain any information or element of proof regarding his fate [...], it is probable that he is now dead”. See Report of the Commission of Inquiry into the events in the Republic of Chad from January 28 to February 8, 2008 and their consequences (Unofficial translation).

of the Moundou branch of LTDH<sup>9</sup>. During the months of February and March 2008, the ATPDH head office received several visits from units of the National Security Agency (*Agence de sécurité nationale - ANS*), the Government political police, which tried to find out whether ATPDH had contacts abroad, and intimidated head office support staff. At the end of 2008, threats continued to be made against these defenders.

In addition, the authorities orchestrated a smear campaign against LTDH following the presentation by Mr. Massalbaye Tenebaye, during an interview at *RFI* on July 19, 2008, of an LTDH inquiry report into human rights violations committed during and following the rebel forces' attack on N'Djamena in February 2008<sup>10</sup>. On July 20, Mr. Tenebaye, Mr. **Baldal Oyamta**, LTDH Secretary General, and Mr. **Dominique Touadé**, in charge of LTDH communications department, received telephone calls from the Main Secretary of the Ministry of Human Rights, who insisted that they should send him the report as soon as possible. On July 21, 2008, the Minister of Communications and Government Spokesman spoke about the report on *Radio Tchad* in a threatening tone, accusing LTDH of lying and of wanting to cause harm. On July 22, 2008, the Minister of Human Rights, Ms. Fatimé Issa Ramadane, summoned Messrs. Tenebaye and Oyamta to her office to express her strong disapproval that the report had been published without previously informing the Ministry. On the evening of July 22, the presenter of the eight o'clock evening news on national television declared that the LTDH report was "(...) a tissue of inappropriate statements and lies". However, the report of the national commission responsible for investigating the human rights violations committed in February 2008, published in September 2008, fully confirmed the LTDH analysis of the facts and the State's responsibility for the grave human rights violations committed on this occasion.

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9./ The ACPHR Special Rapporteur on human rights defenders in Africa expressed grave concern about the precarious situation of defenders in Chad. See Press Release on the situation in Chad, March 24, 2008.

10./ The LTDH report, entitled *Quand le pays sombre dans le chaos*, was published in mid-June.



## Attempt to shut down a human rights organisation

On July 30, 2008, Mr. Clément Dokhot Abaifouta, the newly elected President of AVCRP board, was called by the N'Djamena judicial police for a hearing after the previous AVCRP board had filed a complaint that had resulted in the Minister of Interior issuing an order to shut down AVCRP on the grounds that the association was not registered. On July 31, 2008, Mr. Abaifouta went to the offices of the judicial police accompanied by his lawyer. He was taken in for questioning on the orders of the Prosecutor of the Republic, and placed in custody for “forgery and use of forged documents” and “incitation to tribal hatred”. In the police report, the police superintendent in charge of the investigation established the existence of “technical flaws since the closure was ordered without the different parties being heard” and because “this case was handled by two authorities: the judicial police and the Ministry of Interior”. On August 1, 2008, Mr. Abaifouta was brought before the N'Djamena Court, which dismissed the case against him. As a result Mr. Abaifouta was released at the end of proceedings whose sole objective appeared to be to discredit the work of his organisation.

## Acts of harassment against defenders who denounce corruption

In 2008, human rights defenders denouncing corruption within State bodies were subjected to acts of harassment. On January 16, 2008, *FM-Liberté*, the radio station created in 1998 by the Union of the Chad Trade Unions (*Union des syndicats du Tchad* - UST) and the Collective of Human Rights Associations to Promote Democracy (*Collectif des associations de défense des droits de l'Homme pour promouvoir la démocratie*), was shut down following a police raid, and its Director, Mr. Lazare Kaoutar Djekourninga, was arrested for “broadcasting false information”, following the broadcast of a press release issued by the Association for the Defence of Consumers' Rights denouncing the corruption of certain civil servants, in particular the practice of demanding money paid under the table in order to obtain an identity card. Mr. Kaoutar Djekourninga was released in the days that followed and the radio station reopened on May 27, after the court declared that it was incompetent to judge the case.

Civil society continued to be kept at a distance from the mechanism established to manage oil revenues, in violation of the Chadian law that provides for the presence of two NGO representatives within the Oil

Resources Management and Monitoring College (*Collège de contrôle et de surveillance des ressources pétrolières - CCSRP*)<sup>11</sup>. In 2007, Mr. Dobian Assingar, a civil society representative within CCSRP, had already been replaced following a decision by the Chadian Government. At the beginning of 2008, when the scope and supervisory powers of the College should have been strengthened, its composition was radically altered. Mr. Michel Barka of the UST and the two other members representing civil society were replaced by people considered as more amenable by the Government<sup>12</sup>.

### Urgent Interventions issued by The Observatory in 2008<sup>13</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Dobian Assingar, Ms. Jacqueline Moudeïna, Ms. Delphine Djiraibe Kemneloum, Mr. Lazare Kaoutar Djelourninga and Mr. Lou Hingané Nadji	Threats to security	Urgent Appeal TDC 001/0208/OBS 016	February 6, 2008
Mr. Massalbaye Tenebaye	Threats to security	Urgent Appeal TDC 001/0208/OBS 016	February 6, 2008
	Threats / Acts of intimidation	Urgent Appeal TDC 002/0708/OBS 124	July 23, 2008
Mr. Jean-Bernard Padaré	Threats to security / Harassment	Urgent Appeal TDC 001/0208/OBS 016	February 6, 2008
	Threats to security / Harassment	Urgent Appeal TDC 001/0208/OBS 016.1	23 February 2008
Mr. Clément Abaifouta	Threats to security	Urgent Appeal TDC 001/0208/OBS 016	February 6, 2008

11./ See Chapter 4 of the Law No. 1 of January 11, 1999 on the management of oil earnings, and International Crisis Group, Chad, a new conflict resolution framework, Africa Report No. 144, September 24, 2008.

12./ See International Trade Union Confederation (ITUC) Press Release, Chad, peace heads the list of union demands, June 10, 2008.

13./ See the Compilation of cases in the CD-Rom attached to this report.

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
	Arbitrary arrest	Urgent Appeal TDC 003/0808/OBS 131	August 1, 2008
	Liberation / End of judicial proceedings	Urgent Appeal TDC 003/0808/OBS 131.1	August 4, 2008
Messrs. Baldal Oyamta and Dominique Touadé	Threats / Acts of intimidation	Urgent Appeal TDC 002/0708/OBS 124	July 23, 2008



# / DEMOCRATIC REPUBLIC OF CONGO

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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## Political context

The year 2008 was marked by the war that took hold again in the east of the country, the heightening of tensions between the Congolese political stakeholders and, in this context, a significant restriction of fundamental freedoms that was seriously detrimental to human rights defenders. Indeed, the Goma Peace Agreement signed in January 2008 and the “Amani Leo” (“peace now” in Swahili) programme were undermined by the violent fighting that started again in August between the troops of the National Congress for the People’s Defence (*Congrès national pour la défense du peuple* - CNDP) of the dissident General Laurent Nkunda and the DRC Armed Forces (*Forces armées de la RDC* - FARDC), to gain control in particular of natural resources and certain areas of North Kivu province. International humanitarian law and human rights law were totally violated during the clashes. The civilian population was victim to summary execution, rape, forcible recruitment, theft, pillaging and other violations committed by the armed forces involved. The population en masse was forced to escape the fighting and go either to displacement camps or to Uganda.

Faced with this situation of open conflict, the position of the Government authorities and the rebels hardened with regard to any voice raised in protest, whether by the political parties or civil society, and that, in their view, might undermine their authority. Freedom of expression, peaceful assembly and association were particularly impaired in 2008: several independent media, such as the *Molière* television channel, were closed down by decree of the Ministry of Communications, or were attacked by the security services, in particular after broadcasting interviews with members of the opposition. Several journalists were arrested in this regard and were still being held in arbitrary detention as of the end of 2008. In addition, despite the introduction of an information policy under Article 26 of the Constitution, the organisation

of public demonstrations remained in practice subject to arbitrary Government approval<sup>1</sup>.

The increased tensions can also be explained by the crucial progress made in international justice in 2008: on May 24, the Belgian authorities arrested Mr. Jean-Pierre Bemba Gombo, President of the Movement for the Liberation of Congo (*Mouvement pour la libération du Congo* - MLC) and former presidential candidate in 2006, in compliance with the international arrest warrant issued by the International Criminal Court (ICC) for crimes allegedly committed by the latter and by men under his command in the Central African Republic between 2002 and 2003. In addition, the trial of Mr. Thomas Lubanga, former rebel chief of the Union of Congolese Patriots (*Union des patriotes congolais* - UPC)<sup>2</sup>, which opened on June 23, was due to resume in 2009 in The Hague.

Broadly speaking, human rights defenders in DRC paid a heavy toll in 2008 and were given no protection by the Government.

### **Campaigns of stigmatisation and threats against NGOs and defenders fighting against impunity and supporting the work of the International Criminal Court**

In 2008, civil society organisations and their members involved in the fight against impunity for the authors of serious human rights violations, particularly by supporting international justice, and who demand full respect for the Congolese Constitution and the establishment of a democratic regime in DRC, continued to face repression by the authorities in power.

Members of the Voice of the Voiceless (*Voix des sans voix* - VSV) were subject to acts of intimidation after they denounced the killing of a member of the family of Mr. Laurent-Désiré Kabila in January 2008. VSV called, in particular, for a fair trial following this murder.

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1./ In October 2008, violence was used to break up marches organised by teachers and students calling for an improvement in teachers' working conditions, of which the authorities had been notified.

2./ UPC is a militia group operating in Ituri. Mr. Lubanga was the first person to be handed over to the ICC in March 2006, accused of recruiting children under 15 years old and making them take active part in the 2002-2003 hostilities.

Since then, VSV members have regularly been the target of tailing and telephone taps, and their offices were put under surveillance by security agents. Further, in June 2008, the Alliance of Patriots for the Refundation of the Congo (*Alliance des patriotes pour la refondation du Congo* - APARECO) published a press release on its Internet site titled “J. Kabila is extremely angry and orders the killing of **Floribert Chebeya**, President of the Voice of the Voiceless”, in which President Joseph Kabila ordered the National Intelligence Agency (*Agence nationale des renseignements* - ANR) to eliminate physically Mr. Floribert Chebeya Bahizire, accusing VSV of having seized the diplomatic authorities, in particular the French Ambassador in the DRC, to intervene on behalf of former members of the Zaire armed forces who had allegedly been kidnapped, arrested, held in secret detention and, in some cases, summarily executed<sup>3</sup>. Similarly, in March 2008, Mr. Christophe Ngulu Maene, a member of the local Goma branch of the Committee of Human Rights Observers (*Comité des observateurs des droits de l’Homme* - CODHO), was subjected to death threats made by the military. On July 5, 2008, while Mr. **Christophe Ngulu Maene** was in France for the World Forum on Human Rights, unknown persons, claiming to be from the army in Goma, made death threats by telephone to his wife, in the following terms: “Your husband has gone to Europe to make accusations against us to the ICC, we’ll be waiting for him, as soon as he gets back, we’ll cut off his head [...]. He’s the one at the CODHO office who handles the cases of the deaths of Major Lumoo Buunda and his aunt Véronique Ndoole Furaha after Ms. **Chantal Sifa Bunyere** escaped<sup>4</sup>. He will pay for it dearly”. Fearing for his safety, Mr. **Christophe Ngulu Maene** was obliged to extend his stay in Europe<sup>5</sup>. In addition, in November 2008, Mr. François Batundi Lunda, a member of the CODHO team of researchers in the CNDP-occupied administrative districts of Masisi and Rutshuru, was forced to escape from DRC after death threats were made by several officers of

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3./ See VSV.

4./ In February 2008, Ms. Chantal Sifa Bunyere, President of the Women’s Association for Assistance to the Underprivileged (*Association des Femmes pour l’assistance aux défavorisés* - AFAD), received death threats from unknown persons claiming to be soldiers, after she had denounced to the military justice those allegedly responsible for the murder of Major Lumoo Buunda during the night of February 16, 2008 in Goma and of his aunt Véronique Ndoole Furaha, who was killed one month earlier. As at the end of 2008, threats continued against Ms. Sifa Bunyere.

5./ See Committee of Human Rights Observers (CODHO).

the CNDP army while he was on a mission in the Rutshuru district in north Kivu, where grave violations were committed against the civilian population<sup>6</sup>.

NGOs that work closely with the ICC were particular targets throughout the year. As an example, FIDH, the African Human Rights Association (*Association africaine des droits de l'Homme* - ASADHO), the Lotus Group (*Groupe Lotus* - GL) and the League of Electors (*Ligue des électeurs* - LE) were insulted and threatened by persons linked to or belonging to the MLC, especially following the arrest of Mr. Jean-Pierre Bemba in May 2008. For example, Mr. **Dismas Kitenge**, President of GL and Vice-President of FIDH, was accused on May 28, 2008 of having “sold Bemba to FIDH and to the Westerners”, and was warned of the fate in store for him if Mr. Bemba was found guilty. Furthermore, in June 2008, UPC members threatened Messrs. Christian Lukusha and **Joël Bisubu**, members of Justice Plus working in Bunia, after they spoke out publicly on the decision by the ICC Trial Chamber on June 13, 2008 to suspend proceedings against Mr. Thomas Lubanga. Mr. Christian Lukusha had expressed his reaction on *Radio Okapi*, accusing in particular the United Nations of having refused to grant repeated requests by the ICC Prosecutor’s office to lift the confidentiality of the documents that had been transmitted, and considering this decision to be an impediment in the fight against impunity and the establishment of international justice. Mr. Joël Bisubu expressed himself in similar terms on the BBC. These defenders had to leave Bunia, as they feared for their physical safety. In addition, in July 2008, relatives of Ms. **Carine Bapita**, a member of the organisation Women and Children for Human Rights (*Femmes et enfants pour les droits de l'Homme* - FEDHO) and a Congolese lawyer representing victims at the ICC in the Thomas Lubanga case, had to go into hiding after being subjected to threats and acts of intimidation.

The Network of Interdependent Youth Organisations of Congo-Kinshasa (*Collectif des organisations des jeunes solidaires du Congo Kinshasa* - COJESKI-RDC) was threatened after publishing a statement in September 2008 in which it called on the Head of State to use his constitutional privileges to put a definitive end to the war and the

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6./ Idem.

insecurity that was tearing the country apart. In particular, Several COJESKI-RDC regional coordinators received threats made through anonymous phone calls. Furthermore, during the night of October 22, 2008, armed soldiers unsuccessfully tried to force the gate of the COJESKI-RDC headquarters in Kinshasa. They also threatened the COJESKI-RDC security guards who refused to let them in. As at the end of 2008, the members of COJESKI-RDC continued to receive threats<sup>7</sup>.

### **Judicial harassment: a tool to muzzle defenders**

In 2008, judicial harassment was still used as a tool to muzzle dissident voices in the country, and members of organisations that denounce the violations in eastern DRC and in the rest of the country were treated as enemies of the State or traitors and suffered fierce repression by the Government as well as the militia and armed groups. Human rights defenders therefore remained a favourite target, as was the case with Mr. **Georges Mwamba Wa Mwamba**, GL Public Relations Officer, who was arrested while he prepared to deliver an invitation to a university event to the ANR Director in Kisangani. He was placed in detention, subjected to ill-treatment by ANR agents and accused of “spying” and “destabilising the Head of State”, charges that were later re-qualified as “attempted arson” and “communicating with a political detainee”. He was released on June 10, 2008 but his case had still not been closed as at the end of 2008. In addition, on July 16, 2008, the Advocate General to the Kinshasa/Gombe High Court informed Mr. **Amigo Ngonde**, Honorary President of ASADHO, that a complaint had been filed against him by Mr. Théodore Mugalu, head of President Joseph Kabila’s “civil house”<sup>8</sup> for “defamation” and “damaging allegations”, following the written denunciation by Mr. Ngonde of the arbitrary arrest of a women’s rights activist at the beginning of 2008. As at the end of 2008, Mr. Ngonde was still required to remain available for further questioning by the court.

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7/ See VSV.

8./ The “civil house” of the Head of State is an institution attached to the Presidency of the Republic and is responsible for dealing with the family affairs of the President and his family.



## Attacks and threats against defenders supporting the victims of sexual violence

En 2008, the lives of defenders who denounced sexual violence continued to be at risk, as was the case of Ms. **Wabihu Kasuba**, in charge of monitoring activities on behalf of the organisation Voice of Those with No Voice or Freedom (*Voix des sans voix ni liberté* - VOVOLIB) and councillor at the Panzi Support Centre for Victims of Sexual Violence, who was killed on May 18, 2008 in south Kivu<sup>9</sup>. In March 2008, Ms. Thérèse Kerumbe, member of the association Women's Solidarity for Peace and Integrated Development (*Solidarité féminine pour la paix et le développement intégral* - SOFEPADI), received threats while she was in Europe to take part in an advocacy mission organised by FIDH on the fight against impunity and sexual violence in DRC. Requests for protection made to the local authorities by SOFEPADI went unanswered and, with threats increasingly made against her, Ms. Kerumbe had to escape from Bunia, in Ituri. Despite repeated applications to the Prosecutor, SOFEPADI had received no assurance of her safety and it remained impossible for her to return as at the end of 2008. Further, in November 2008, SOFEPADI Coordinator Ms. **Noella Usumange Aliswa** and her family were attacked at their home in the town of Bunia. She was seriously injured and had to be evacuated to South Africa to receive appropriate care. This attack appeared to be directly linked to the work of SOFEPADI in support of women victims of the conflict. In July 2008, the staff of the Psychological and Medical Centre for the Rehabilitation of Torture Victims (*Centre psycho-médical pour la réhabilitation des victimes de la torture* - CPMRVT/Kitshanga) were the target of threats and acts of harassment by CNDP, which wanted to get hold of the medical registers containing the identities of victims of sexual violence treated by the Centre<sup>10</sup>.

## Impunity for the murder of journalists defending human rights

In 2008, the United Nations Mission in DRC (*Mission des Nations unies en RDC* - MONUC) referred to the tense atmosphere that prevailed in Bukavu and to the threats made against defence lawyers in

9./ See ACHPR Special Rapporteur on human rights defenders Press Release, June 17, 2008.

10./ These threats followed reports by MSF/Holland referring to a great number of women victims of sexual violence in the area under CNDP control.

the appeal trial following the murder of Mr. **Serge Maheshe**, a journalist with *Radio Okapi*, a radio station that plays an essential role in the fight against violence and arbitrary acts, especially in eastern DRC<sup>11</sup>. In March 2008, several NGO members who observed the trial were intimidated by the military Auditor General for having revealed the serious violations of norms concerning the right to a fair trial. In this climate of impunity, on November 21, 2008, Mr. **Didace Namujimbo**, also a journalist with *Radio Okapi*, was shot and killed near his home in Bukavu. Although the Bukavu General Prosecutor opened an investigation, those responsible for the killing had still not been identified as at the end of 2008.

### **Harassment of defenders fighting against illegal exploitation of natural resources**

The authorities are particularly sensitive to anything concerning natural resources, and defenders of economic, social and cultural rights who denounce the effects of mining and forestry on the environment, or cases of corruption, are exposed to threats and obstacles to their work. As an example, on March 21, 2008, Mr. **Hubert Tshiswaka**, then Executive Director of Action for Impunity against Human Rights (*Action contre l'impunité pour les droits de l'Homme - ACIDH*), based in Lubumbashi, and currently a member of the Open Society Institute for Southern Africa (OSISA), was arrested by ANR for distributing a leaflet denouncing the lucrative contracts signed between the Congolese Government and certain multinational corporations in the Katanga mining region, and the misappropriation of public funds by the Congolese authorities. He was released the same day due to the absence of charge against him. Furthermore, at the end of 2008, proceedings were still pending against 27 human rights defenders from Bumba, in Equateur province, for “defamation and damaging allegations”, after they had addressed a petition to the Government denouncing abusive forestry exploitation by the Industrial and Forestry Company of DRC (*Société industrielle et forestière de DRC - SIFORCO*). This petition

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11./ See MONUC Human Rights Division, *Human Rights Monthly Assessment - April 2008*, June 17, 2008.

had been drawn up during a seminar organised by VSV in Bumba in September 2006<sup>12</sup>.

### Threats against freedom of association

In 2008, many human rights associations continued to work without legal status in spite of completing all the required administrative formalities. Members of these associations were routinely the target of harassment, intimidation and threats of arrest by the administrative and security services. On September 9, 2008, the Minister of Justice and Human Rights published in the national press a long list of 140 NGOs, including ASADHO, GL and VSV, presenting them as operating illegally despite the fact that they hold licences to operate, as do many others. He accompanied this publication with a smear campaign against human rights NGOs. The campaign was taken up by the State media, especially the Radio télévision nationale.

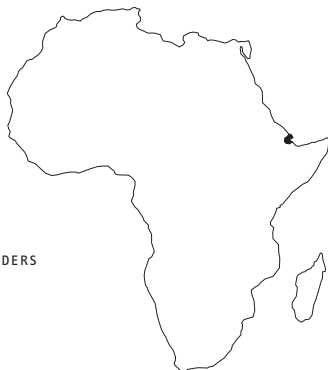
### Urgent Interventions issued by the Observatory in 2008<sup>13</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Ms. Thérèse Kerumbe and Ms. Julienne Lusenge	Death threats / Acts of intimidation	Urgent Appeal COD 001/0408/OBS 048	April 4, 2008
		Urgent Appeal COD 001/0408/OBS 048.1	April 9, 2008
Mr. Georges Kapiamba	Death threats / Acts of intimidation	Urgent Appeal COD 002/0408/OBS 050	April 9, 2008
Ms. Sophie Roudil, Mr. Jean Bedel, Mr. Jean-Pol Ngongo and Mr. Dieudonné Sango	Death threats / Harassment	Urgent Appeal COD 003/0408/OBS 059	April 21, 2008

12./ In February 2008, the High Court of Mongala district based in Lisala declined jurisdiction to rule on the complaint filed by SIFORCO in March 2007 against these 27 defenders. Following this decision, SIFORCO filed a complaint with the Appeal Court in Mbandaka, capital of Equateur province. On June 28, 2008, the Deputy General Prosecutor went to Bumba, where he heard two of the defenders, Messrs. Michel Gala Komanda and José-Maria Mokwele. Since then the case has remained pending before the Mbandaka Appeal Court.

13./ See the Compilation of cases in the CD-Rom attached to this report.

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
Ms. Thérèse Kerumbe and Ms. Julienne Lusenge	Death threats / Acts of intimidation	Urgent Appeal COD 001/0408/OBS 048	April 4, 2008
Mr. Georges Mwamba Wa Mwamba	Arbitrary detention / Threats	Urgent Appeal COD 004/0608/OBS 098	June 9, 2008
	Release / Judicial harassment / Ill-treatment	Urgent Appeal COD 004/0608/OBS 098.1	June 18, 2008
Mr. Joël Bisubu, Mr. Christian Lukusha and Mr. Godefroid Mpiana	Serious threats	Urgent Appeal COD 005/0708/OBS 111	July 1, 2008
Ms. Carine Bapita, Mr. Amigo Ngonde and Mr. Paul Nsapu	Threats / Stigmatisation / Harassment	Urgent Appeal COD 006/0708/OBS 120	July 15, 2008
		Urgent Appeal COD 006/0708/OBS 120.1	July 22, 2008
Mr. Amigo Ngonde	Judicial harassment	Urgent Appeal COD 007/0708/OBS 122	July 17, 2008
Mr. Arnold Djuma, Mr. Elie Lwatanga and Solidarity for the Social Promotion and Peace ( <i>Solidarité pour la promotion sociale et la paix</i> - SOPROP)	Threats / Harassment	Urgent Appeal COD 008/0808/OBS 132	August 1, 2008
Mr. Lucien Kalinde Bin Kalinde et Mr. Trésor Kibangula Helali	Arbitrary arrest / Ill-treatment / Release	Urgent Appeal COD 009/1108/OBS 180	November 4, 2008
Ms. Noella Usumange Aliswa	Attacks / Acts of intimidation	Urgent Appeal COD 010/1108/OBS 185	November 11, 2008
Mr. Didace Namujimbo	Murder	Urgent Appeal COD 010/1108/OBS 197	November 24, 2008
		Joint Press Release	November 26, 2008
		Situation note	December 24, 2008



## / DJIBOUTI

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

Unsurprisingly, the legislative elections of February 8, 2008 allowed the People's Rally for Progress (*Rassemblement populaire pour le progrès* - RPP), the party of President Ismail Omar Guelleh, to win the 65 seats at stake. Indeed, the opposition parties had decided to boycott this election to protest against the lack of reforms of the Electoral Code, which were claimed since the parliamentary elections of 2003<sup>1</sup>. The election period in Djibouti was also once again marked by the silencing of both the opposition and civil society.

### Assimilation of defenders with political opponents in the electoral context and ongoing judicial harassment against those denouncing the use of force by the authorities

As the elections of February 2008 approached, human rights defenders were subject to intimidation. While several leaders of the opposition parties were under house arrest on February 1 to prevent an opposition rally organised in the framework of the election campaign<sup>2</sup>, Mr. **Jean-Paul Noël-Abdi**, President of the Djibouti League of Human Rights (*Ligue djiboutienne des droits humains* - LDDH), was prevented on the same day from leaving his home by members of the armed forces. The reason given by the authorities was to prevent the opposition rally. This confirms the assimilation by those in power of human rights defenders with political opponents. In December 2007, Mr. Noël-Abdi had already been arrested following a press release denouncing the risk of electoral fraud.

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1./ In these elections, all the seats in Parliament had been allocated to the presidential party while opposition parties obtained 38% of the vote.

2./ Mr. Ahmed Youssouf Ahmed, President of the Republican Alliance for Development (*Alliance républicaine pour le développement* - ARD), Mr. Ismael Guedi Hared, President of the Union for Democracy and Justice (*Union pour la démocratie et la justice* - UDJ), and Mr. Souleiman Farah Lodon, Vice-President of the Movement for Democratic Renewal and Development (*Mouvement pour le renouveau démocratique et le développement* - MRD).

Moreover, defenders denouncing the use of force by authorities were also subjected to harassment. On November 29, 2008 for instance, the trial of Mr. Jean-Paul Noël-Abdi before the Supreme Court was postponed *sine die*. This trial was initiated in 2007 following the publication by the President of LDDH of an informational note on the discovery of a mass grave in the village of Day, which included the bodies of seven civilians who were killed by Government forces in 1994. Throughout the trial, irregularities marred the proceedings. Several written requests formulated by the attorney appointed by the Observatory, by which the latter asked permission to appear before the Supreme Court, went unanswered, even though other Djiboutian and foreign lawyers pleaded before this court in other cases.

### **Systematic muzzling of the trade union movement**

Since the entry into force of the new Labour Code in 2006, and despite repeated calls by the International Labour Conference to Djiboutian authorities in June 2007 to comply with their international obligations, the rights of trade unionists continued to be violated and several muzzling strategies were implemented (confiscation of travel documents, judicial harassment, restrictions on freedom of association). In early May 2008, Mr. **Adan Mohamed Abdou**, Secretary General of the Djiboutian Labour Union (*Union djiboutienne du travail* - UDT), was summoned twice by the Government and threatened with reprisals if he did not renounce his responsibility in the leadership of UDT. In 2008, the Government also actively contributed to the establishment of non-independent and non-representative trade unions that usurp the name, qualifications and role of existing trade unions.

Given the seriousness of the situation of trade unionists, a “direct contacts mission” of the International Labour Organisation (ILO) visited Djibouti in January 2008. The mission recommended the inclusion of UDT within the delegation of workers for the 97<sup>th</sup> session of the International Labour Conference, held in June 2008. To fulfil this recommendation, the Government formally included UDT in the delegation but used a subterfuge to prevent it from participating. Thus, Mr. Adan Mohamed Abdou was informed upon arrival at the Conference that he had been dismissed by false documents signed by Mr. Mohamed Youssouf Mohamed, former President of a pro-Government organisation that usurped UDT’s name. The ILO Credentials Committee reported that it had been referred to by Mr.

Adan Mohamed Abdou and Mr. **Kamil Diraneh Hared**, Secretary General of the General Union of Djiboutian Workers (*Union générale des travailleurs djiboutiens* - UGTD), who requested the invalidation of the credentials of the Djiboutian delegation. In a supplementary communication, the authors of the referral alleged that Mr. Mohamed Youssef Mohamed improperly used UDT's letterhead and proceeded to false signatures on the orders of the Government<sup>3</sup>. In its report to the 97th session of the International Labour Conference, the Committee considered that these practices were representative of non-compliance with the principles of freedom of association in the country and acts of interference by the Government in trade union affairs. In addition, for the Committee, "it now seem[ed] clear that there is a problem of legitimacy of the people supposedly representing UDT"<sup>4</sup>. The Committee urged "the Government to guarantee the implementation of a procedure based on objective and transparent criteria for the nomination of the Workers' representatives in future sessions of the Conference", and stressed that it expected "the nomination can be finally made in the spirit of cooperation between all the parties concerned, in a climate of confidence that fully respects the ability of the workers' organizations to act in total independence from the Government, in accordance with ILO Conventions Nos. 87 and 98".

### Urgent Interventions issued by The Observatory in 2008<sup>5</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Jean-Paul Noël-Abdi	Harassment / House arrest	Urgent Appeal DJI 001/0208/OBS 014	February 1, 2008
	Judicial harassment	Press Release	November 14, 2008
	Judicial harassment	Press Release	December 4, 2008

3./ See International Labour Conference, *Provisional Record 4c, 97<sup>th</sup> session, Second Report of the Credentials Committee*, 2008, para. 36.

4./ *Idem*.

5./ See the Compilation of cases in the CD-ROM attached to this report.



# / ETHIOPIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

## Political context

In April 2008, the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) won a landslide victory in the local elections, amid cases of violence and intimidation reported by opposition parties and NGOs<sup>1</sup>. As a consequence, two parties, the United Ethiopian Democratic Forces (UEDF) and the Oromo Federalist Democratic Movement (OFDM), decided to pull out of the electoral process a few days before the poll. Local authorities are said to have prevented the registration of opposition candidates in many constituencies where the opposition had achieved good results in 2005. As a result, the EPRDF won 559 seats out of the 623 districts in the country and all but one of the 39 Parliament seats.

Even before the elections, frequent human rights violations in the country were reported, notably arrests and detentions without charge or trial of critics of the Government by the Ethiopian police, as well as the extrajudicial killing of a political activist<sup>2</sup>. Many dissidents, members of the former regime or opponents to the present Government remained in detention at the end of 2008<sup>3</sup>.

Furthermore, the country was still facing ethnic tension in several regions where civil population were hostages of both the Ethiopian army and the rebels of the Ogaden National Liberation Front (ONLF). NGOs documented severe abuses such as displacement of rural communities, burning villages, confiscation of livestock, restricted access to water or to food. Torture in custody, arbitrary detention and extrajudi-

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1./ See Human Rights Watch (HRW), *World Report 2008*, January 2009.

2./ See in particular Ethiopian Human Rights Council (EHRCO), *Regular Report n°31*, July 2008.

3./ See European Union Note on the situation in Ethiopia, Directorate-General for External Policies of the Union, DGExPo/B/PolDep/Note/2008\_183, October 2008.



cial killings of civilians by the Ethiopian forces and non-State actors were also reported<sup>4</sup>.

2008 nonetheless witnessed some positive developments, with the release by a Presidential grace on March 28, of human rights defenders Messrs. **Daniel Bekele**, Head of Policy Research and Advocacy Department of Action Aid Ethiopia, and **Netsanet Demissie**, founder of the Organisation for Social Justice in Ethiopia (OSJE), who had been convicted of “incitement” related to the 2005 elections by the Federal High Court, as well as the release of all journalists detained in relation to their work since the November 2005 crackdown. However, about eight newspapers were still being denied licenses to operate and a number of Ethiopian journalists in exile were still afraid to return home for fear of reprisals<sup>5</sup>. And if the New Media Law passed by the Parliament on July 1 eliminates the practice of pre-trial detention for journalists, it was not applied in 2008.

### **Obstacles to human rights defenders’ access to information in zones of rebellion and arbitrary arrests**

In 2008, the Government remained very suspicious of anyone who tried to collect information on human rights violations in zones of rebellion, in particular in the Oromia region. For instance, on October 30, 2008, Messrs. **Obsa Wake**, **Fekadu Negri** and **Belay Korme**, three members of the Ethiopian Human Rights Council (EHRCO), an NGO that produced periodic reports on human rights violations committed as a result of ethnic clashes in the Oromia region, were arrested in Nekmte, before being released on November 2 without charges, on a 2,000 Birr bail each (around 140 Euros). They had been arrested on suspicion of having links with the Oromo Liberation Front (OLF) and possession of firearms. Moreover, at the end of 2008, Mr. **Abdi Abate**, a member of EHRCO who had been arrested in July 2007 in Nekmte, remained detained and charged with the crime of supporting the OLF. His court case before the Federal High Court was adjourned until February 9, 2009.

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4./ See EHRCO, *Regular Report n°31*, July 2008 and HRW Report, *Collective Punishment: War Crimes and Crimes Against Humanity in the Ogaden Area of Ethiopia’s Somali Regional State*, June 12, 2008.

5./ See EHRCO.

## **Obstacles to humanitarian stakeholders operating in conflict zones**

In 2008 again, the Ethiopian Government continued to put obstacles to humanitarian work in conflict zones. For example, in July, the Swiss branch of Doctors Without Borders (*Médecins sans frontières* - MSF) withdrew from Ethiopia's Somali region (Ogaden), condemning the authorities' attitude towards humanitarian organisations that led to recurrent arrests of MSF Switzerland staff without charge or explanation, and arguing that repeated administrative hurdles and intimidation had prevented the agency from bringing urgently needed medical aid to the population<sup>6</sup>. Both the International Committee of the Red Cross (ICRC) and MSF Belgium had been expelled by the Government in August and September 2007.

## **Adoption of a law restricting freedom of association**

On January 6, 2009, a new law on freedom of association, called the Law Charities and Societies, was adopted by Parliament, although it had been condemned by international observers<sup>7</sup>. Even though the civil society was consulted in the elaboration of the text, the overwhelming majority of the elements submitted by NGOs throughout the consultations were ignored by the authorities. This new law creates a very restrictive environment for human rights defenders and seriously impairs the independence of civil society insofar as it aims at strictly controlling and monitoring civil society, in particular with the forthcoming elections of 2010. Thus, the text extends the definition of a "foreign NGO" to all NGOs in Ethiopia receiving more than 10% of foreign funding, and bans such NGOs from carrying out a high number of human rights related activities. It also strengthens the capacity of the executive to refuse registration, pronounce dissolution and interfere in the activities of associations.

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6./ See MSF Press Release, July 10, 2008.

7/ See Council of the European Union, Document 14146/2/08 REV 2, *Annual Report on Human Rights 2008, November 7, 2008*, and Declaration of Ms. Mary Robinson, former UN Human Rights Commissioner, to IRIN News, January 6, 2009.



## / GUINEA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

In 2007, Guinea had been faced with a revolt of the people against the Government of late President Lansana Conté, who had been in power for 23 years. Following negotiations, an agreement had been reached on January 27, 2007<sup>1</sup> regarding the formation of a new Government led by Mr. Lansana Kouyaté, appointed Prime Minister by consensus and given extensive executive powers for a three year transitional period, during which parliamentary and presidential elections were to be organised<sup>2</sup>. The dismissal of the Prime Minister in May 2008, and his replacement by Mr. Ahmed Tidiane Souaré, clearly demonstrated the lack of willingness from the General-President to carry out reforms and to organise transparent elections before the end of 2008, with a view to presidential elections being held in 2010<sup>3</sup>. In addition, the President of the National Independent Election Commission (*Commission électorale nationale indépendante* - CENI) announced on October 20 that the election could not be held within the allotted time due to considerable delays in organising the voting process.

From the beginning of 2008, trade unions and civil society organisations led peaceful protests against the violations of the January 27, 2007 agreements. The commission of enquiry in charge of elucidating the circumstances of the human rights violations committed during the demonstrations in 2007 and those responsible for such violations was unable to complete its mission due to lack of resources<sup>4</sup>, and its mandate

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1./ The agreements were signed by the trade unions, the employers, the National Assembly, the Supreme Court and the Economic and Social Council.

2./ The last parliamentary elections, in 2002, had been boycotted by most of the opposition parties. The current National Assembly is consequently largely dominated by the presidential party and its allies, who hold 90 of the 114 seats.

3./ See International Crisis Group, *Africa Briefing No. 52*, June 24, 2008.

4./ The funds allocated in particular by the European Union for the functioning of this commission were blocked with no official reason given by the Presidency.

ended in December 2008. In addition, the National Observatory on Democracy and Human Rights (*Observatoire national de la démocratie et des droits de l'Homme* - ONDH), set up by the Prime Minister in July 2008 to investigate and report on human rights violations, to lead initiatives in human rights education, essentially with the security forces, and to advise the Government on matters relating to human rights and humanitarian law, was still not operational as at the end of 2008, due to finance problems.

Following the announcement of the death of President Lansana Conté on December 23, 2008, the National Council for Democracy and Development (*Conseil national pour la démocratie et le développement* - CNDD) came to power in a coup led by Captain Moussa Camara. In accordance with an EU demand, the CNDD appointed a civilian Prime Minister, Mr. Kabine Komara<sup>5</sup>. The CNDD met with civil society, the political parties and women's and young people's associations from the beginning, leaving hopes of a new start within the public opinion. However, some civil society organisations, including the Guinean Human Rights Organisation (*Organisation guinéenne des droits de l'Homme* - OGDH), showed their concern regarding the presence, amongst the members of the CNDD and within the Government, of individuals responsible to varying degrees for human rights violations, acts of corruption, and other serious crimes. They also alerted public opinion on the risks of jeopardising the rule of law and establishing arbitrary justice, especially after a statement made by some CNDD members according to which "if there's a criminal around, he must be killed on the spot"<sup>6</sup>. They called on CNDD to repeal the ban on all political and union activity that had been imposed on December 23, 2008. At the end of 2008, the NGOs were still waiting for a response to their views.

### **Abusive use of force during peaceful demonstrations**

Amid the context of impunity that reigned throughout 2008, particularly regarding human rights violations committed during the 2007

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5./ The EU also called for presidential and parliamentary elections to be held before the end of the first half of 2009. See Declaration by the EU Presidency on the situation in Guinea, December 31, 2008.

6./ See OGDH.

demonstrations, the Guinean security forces used excessive force every time peaceful demonstrations called for political reforms or improvements in the economy. This was particularly the case during the demonstrations that took place in several regions of the country between September and October 2008 against the high cost of living and the shortage of basic commodities, focusing in particular on demands for improved access to electricity, water and land to cultivate. At least five people were killed, around twenty were injured and many people were tortured in detention following the repression by the security forces. Furthermore, following a demonstration on October 31, 2008, at least ten people were arrested and taken to a military camp, where they were tortured. All these people were later released without charge<sup>7</sup>.

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7/ *Idem.*



## / KENYA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

The December 2007 Presidential elections were marred by serious irregularities, and set off a wave of violence throughout Kenya until the end of February 2008, which claimed over 1,000 lives and displaced over 300,000 people<sup>1</sup>. Serious human rights violations included organised violence by militia, gender-based violence, and spontaneous, disorganised uprisings of mobs protesting the flaws, during which there was a disproportionate and excessive use of force by the police against protesters, mainly in opposition strongholds. After the signing in February 2008 of a power-sharing agreement between President Mwai Kibaki and the opposition, a new government was formed in April 2008, headed jointly by the President and, as Prime Minister, by the opposition leader Raila Odinga.

Following the election violence, a Commission of Inquiry led by Justice Philip Waki was set up to investigate the violations<sup>2</sup>. In October 2008, the Waki Commission found that Kenyan politicians from both sides had organised and financed attacks on supporters of their opponents. It also denounced the use of excessive force against civilians by security forces, including extrajudicial executions as well as crimes ranging from looting to rape. It recommended the establishment of a special tribunal to try major perpetrators of the violence. Following the political agreement decided by President Kibaki and Prime Minister

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1./ See Report of the Commonwealth Observer Group, January 2008, Press Release of the EU Election Observation Mission, January 2008, and Kenya Human Rights Commission Press Release, February 7, 2008.

2./ See East and Horn of Africa Human Rights Defenders Project Report, *The Situation of Human Rights Defenders in the East and Horn of Africa, Report to the Forum on the participation of NGOs at the 44<sup>th</sup> session of the African Commission on Human and People's Rights (ACHPR)*, Kenya Chapter, November 2008.

Odinga on December 17, 2008, this special tribunal should have been established by January 30, 2009 – but the deadline was missed<sup>3</sup>.

Furthermore, in early March 2008, the Kenyan army was deployed in the Mount Elgon district (western province of Kenya) to clamp down on the activities of the Sabao Land Defence Forces (SLDF) in an action called “Operation Okoa Maisha”. The SLDF was accused of carrying out an increasing number of attacks on villages, killing people, stealing cattle and destroying homes. According to the Kenyan NGO Independent Medico-Legal Unit (IMLU), the military operation reportedly resulted in mass arrests and subsequent prosecution of over 1,200 persons with most of the persons arrested raising complaints of torture<sup>4</sup>.

### **Threats, assaults and harassment of defenders denouncing post-electoral human rights violations**

In the post-election context, the lives, safety and security of human rights defenders were placed at great risk and their work severely impaired, especially when denouncing post-electoral human rights violations<sup>5</sup>: in its concluding observations in November 2008, the UN Committee against Torture noted “with concern allegations of reprisals, serious acts of intimidation and threats against human rights defenders, especially those who report acts of torture and ill-treatment, and in particular human right defenders involved in addressing the post-election violence”<sup>6</sup>. The establishment of the Grand Coalition Government also had a negative impact on civil society by bringing both the Government and the opposition together in a shared consensus to limit the space accorded to civil society and to restrict efforts to shed light on violations committed by both parties<sup>7</sup>.

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3./ Parliamentarians rejected the special tribunal twice, on January 29 and February 13, 2009, after a constitutional amendment motion to institute the tribunal by the Government was defeated.

4./ See IMLU, *Preliminary report of medico-legal investigation of torture by the military at Mount Elgon “Operation Okoa Maisha”*, April 2008.

5./ See Memorandum to the ACHPR on the human rights situation in Kenya signed by 27 Kenyan organisations, 43<sup>rd</sup> extraordinary session of the ACHPR, February 15, 2008.

6./ See UN Document CAT/C/KEN/CO/1, November 21, 2008. The Committee also noted the common practice of unlawful and arbitrary arrest by the police and the widespread corruption among police officers, which particularly affects the poor living in urban neighbourhoods.

7./ See East and Horn of Africa Human Rights Defenders Project, Report above-mentioned.

For instance, on January 25, 2008, Mr. **James Maina**, a member of “Bunge La Mwananchi” (the People’s Parliament), reported that he received a series of death threats from members of the militia Mungiki for having shared details of attempts by the President’s Party of National Unity to involve Mungiki in the organised counter-attacks. At the end of January, Mr. Maina was forced to change his phone number and the place where he was staying, and subsequently fled the country. Likewise, in late January 2008, Mr. **Maina Kiai**, Chairman of the Kenya National Commission on Human Rights (KNCHR), and Mr. **Haroun Ndubi**, lawyer and member of the Kenya Domestic Observers Forum, also received phone calls from anonymous people who told them that they would “cut off their heads” if they went on criticising the outcome of the elections. In January 2008, human rights defenders, including Ms. **Muthoni Wanyeki**, Executive Director of the Kenya Human Rights Commission (KHRC), Ms. **Gladwell Otieno**, Director of the Africa Centre for Open Government, Ms. **Njeri Kabeberi**, Executive Director of the Centre for Multi-Party Democracy, as well as Messrs. Maina Kiai, Haroun Ndubi, **Ndung’u Wainaina**, member of the National Convention Executive Council, James Maina and **David Ndiu**, co-founder and Director of the Kenya Leadership Institute, were also termed as traitors by a criminal group calling itself the “Thagicu” Renaissance Movement. On January 10, they had denounced the irregularities in the elections and submitted a complaint on behalf of the Kenya for Peace, Truth and Justice Coalition to Kilimani police station against the Electoral Commission of Kenya with regard to criminal offences, including the fabrication of false certificates, the neglect of duty, the disobedience of statutory duty, the forgery of judicial or official documents, etc. The death threats became true when Mr. **Kiriinya Ikunyua**, a driver for the police force who wished to testify on unlawful killings by police forces, was shot at his front door on October 16, one day after the release of the Waki report by the Commission of Inquiry<sup>8</sup>.

A new challenge for human rights defenders also arose at the end of the year with regards to the discussions on the establishment of the special tribunal for Kenya to investigate and prosecute perpetrators of the last election violence. Many NGOs gathered in the Kenya for

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8./ *Idem*.



Peace, Truth and Justice Coalition indeed feared that defenders who will be willing to witness the serious human rights violations they have documented before the special tribunal will face serious threats and harassment if no real protection is guaranteed.

### **Harassment of human rights defenders denouncing human rights violations in the Mount Elgon district**

The report of the Waki Commission failed to investigate the violence in Mount Elgon or to include it into its recommendations of issues to be dealt with once a national tribunal is established – primarily because the SLDF was not directly involved in the post-elections violence. This situation has constituted a significant threat to human rights defenders who spoke out against the violations taking place, and several activists were reported to have been intimidated and interrogated. For instance, on August 14, 2008, Dr. **Walter Wekesa Nalianya**, who participated in documenting human rights violations in Mount Elgon Hospital Kitale in regard to Mount Elgon torture cases<sup>9</sup>, was summoned by police and taken to Kakamega’s Provincial Criminal Investigation Office. The police alleged that Dr. Wekesa Nalianya was not registered under private practice and thus ought not to have documented the Mount Elgon torture allegations. The police then told him to write a report on his involvement in the Mt. Elgon torture allegations made by the KNCHR. Dr. Walter Wekesa Nalianya was released later on the same day. In addition, “Mwatikho”, a human rights organisation working in western Kenya, lost its registration on the basis that it was carrying out activities of an NGO when in fact it had registered as a community organisation. This measure was clearly linked to its release of a statement in April 2008 accusing the Government of torture and enforced disappearances in Mount Elgon district<sup>10</sup>.

### **Curtailment of freedoms of peaceful assembly and association**

In 2008, regulations were increasingly being interpreted in a restrictive manner, which undermined the work of defenders and their rights,

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9./ Dr. Wekesa Nalianya documented human rights violations in Mount Elgon Hospital Kitale for a KNCHR report that was released in May 2008. He has also actively collaborated with IMLU, a registered NGO working for the rights of torture victims in Kenya, on examining torture cases.

10./ See Mwatikho, Western Kenya-Human Rights Watch (WKHRW) and Human Rights Watch Joint Statement, April 2, 2008.

notably freedom of assembly. For example, IMLU, along with several other civil society organisations, sought to organise a peaceful procession on June 26, 2008 to mark the UN International Day in support of victims of torture. In accordance with Kenyan law, IMLU sent a prior notification to the police on the event, but their notification was rejected on security grounds. The march was called off but participants nonetheless gathered on the given day and were dispersed by the police using tear-gas. As of the end of 2008, IMLU was seeking to bring this case to court based on the principle that the police's decision to reject the notification was illegal and unconstitutional as under the Public Order Act organisers are only bound to inform the police and are not subject to their approval<sup>11</sup>.

In addition, police officers continued to use excessive force in dispersing peaceful processions. Thus, on May 30, 2008, the police violently dispersed a peaceful procession organised by the grass root movement "Bunge La Mwananchi" to protest against the soaring food prices. Yet, the organisation had given a notice to the police as required by the law. The police further arrested six members of Bunge La Mwananchi, Mr. **Gacheke Gachihi**, Mr. **Jacob Odipo**, Ms. **Hellen Ayugi**, Mr. **Samson Ojiayo**, Mr. **Fredrick Odhiambo** and Mr. **Stephen Gitau**. They were later arraigned in court but the charges were subsequently dropped after the police failed to prove their case. Members of Bunge La Mwananchi were on different occasions in 2008 arrested, harassed and intimidated by the police, and their meetings were termed illegal, further compromising on their right to association.

Furthermore, in November 2008, the UN Committee on Economic, Social and Cultural Rights expressed concern about reported delays in the registration of trade unions, closure based on vague grounds, interference by officials with the Office of the Registrar of Trade Unions and the Ministry of Labour in the management and operation of trade unions, and excessive restrictions on the right to strike, in particular in the Export Processing Zones (Article 8)<sup>12</sup>.

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11./ *Idem*.

12./ See UN Document E/C.12/KEN/CO/1, November 19, 2008.

## Urgent Interventions issued by The Observatory in 2008<sup>13</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Members of the Kenyans for Peace with Truth and Justice Initiative (KPTJ) and Mr. Maina Kiai	Threats	Urgent Appeal KEN 001/0108/OBS 005	January 14, 2008
Ms. Muthoni Wanyeki, Ms. Gladwell Otieno, Ms. Njeri Kabeberi, Messrs. Maina Kiai, Haroun Ndubi, Ndung'u Wainaina, James Maina and David Ndi	Death threats	Urgent Appeal KEN 001/0108/OBS 005.1	February 6, 2008
Dr. Walter Wekesa Nalinya	Summoning / Intimidation	Urgent Appeal KEN 002/0808/OBS 135	August 14, 2008
	Release	Urgent Appeal KEN 002/0808/OBS 135.1	August 19, 2008

13./ See the Compilation of cases in the CD-Rom attached to this report.



# / LIBERIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

## Political context

2008 witnessed some positive developments in the fight against impunity in Liberia, as cases involving Liberian officials responsible for crimes committed during the conflict in Sierra Leone were addressed in 2008 by foreign and international jurisdictions. At the end of 2008, the trial of Mr. Charles Taylor, former President of Liberia, was still ongoing before the Special Court for Sierra Leone in the Hague<sup>1</sup>, while Chuckie Taylor, Mr. Charles Taylor's son, was tried on October 30, 2008 in the United States and found guilty of torture and related crimes committed while serving as the head of the former Liberian President's Anti Terrorist Unit.

At the national level, there was also some formal progress in the fight against impunity but obstacles remained. On January 8, 2008, the public hearings of the Truth and Reconciliation Commission<sup>2</sup> (TRC) were officially opened<sup>3</sup>. On November 30, 2008, the TRC published a list of 198 names of individuals suspected of having perpetrated war crimes and other serious human rights violations between 1979 and 2003, and called on these individuals to appear before it to respond to the

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1./ 'See Liberia Watch for Human Rights. The Special Court for Sierra Leone is an ad hoc court established in 2002 through an agreement between the United Nations and the Sierra Leonean Government. The court's mandate is to "prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law" committed in Sierra Leone and also violations of Sierra Leonean law committed in the country. The alleged crimes committed by Mr. Taylor cover murdering and mutilating civilians, using women and girls as sex slaves, abducting adults and children, and forcing them to perform forced labour or become fighters during Sierra Leone's conflict.

2./ Appointed in February 2006, the TRC is mandated to investigate gross human rights violations and violations of international humanitarian law as well as abuses that occurred during the period from January 1979 to October 14, 2003.

3./ See United Nations Mission in Liberia, *Report on the Human Rights Situation in Liberia*, November 2007 - June 2008.

allegations<sup>4</sup>. However, individuals holding senior positions made it publicly clear that they would not cooperate and would oppose stringent resistance to the TRC and its recommendations, thus undermining the impact of this list. Human rights organisations continued to denounce the impunity of high authorities such as senators also before domestic courts and the weakness of the judicial system.

In addition, despite the progress being made by the TRC, Liberia was still plagued by ethnic tensions that cut across many segments of the society. The prevalence of law and order incidents, including mob justice and random violence, which have become a major national security concern, underlines the tenuous state of the security situation in the country<sup>5</sup>.

In 2008, the Government continued to pursue its programme of political and constitutional reforms as well as national reconciliation including the appointment of a Governance Commission to make recommendations to the legislature. However, journalists and human rights defenders denouncing bad governance remained subject to reprisals. For instance, in Grand Gedeh county, in February 2008, *Smile FM* radio station was temporarily closed following an action by the Office of the County Superintendent. This action seems to be a reprisal as it followed action taken by the same Superintendent and his office only a few months earlier in October 2007 to interrupt radio broadcasting following discussions organised by civil society and aired on the radio station accusing Government officials of mismanaging funds and bad governance practices<sup>6</sup>. In May 2008, the Parliament adopted a law for the establishment of the Liberia Anti-Corruption Commission following requests made by the World Bank and the International Monetary Fund to address endemic corruption in the country. In September, the President appointed the commissioners and chairman. This decision was criticised by civil society who had been part of the process of passing

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4./ See Amnesty International Press Release, December 5, 2008. So far the court has heard 84 witnesses and prosecution has indicated that there are fewer than 10 witnesses left to testify when the Court resumes work on January 12, 2009.

5./ See UN Security Council, Document S/2008/553, *Seventeenth progress report of the Secretary-General on the United Nations Mission in Liberia*, August 15, 2008.

6./ See United Nations Mission in Liberia, *Report on the Human Rights Situation in Liberia*, November 2007 - June 2008.

the bill but was not consulted for the nomination of Commissioners. The Commission does not include members of civil society showing the lack of will to have an independent body. Civil society organisations also continued to ask for the establishment of an Independent National Commission on Human Rights (INCHR)<sup>7</sup>.

### **Harassment of defenders fighting against impunity and defending the rule of law**

According to the UN Secretary General's report, although the human rights situation in the country continued to improve, the weakness of rule of law institutions still impeded the protection of human rights<sup>8</sup>. Therefore, defenders engaging in the fight against impunity still faced harassment from both State and non-State actors. For instance, on October 10, 2008, Senator Kupee threatened the Director of Liberia Watch for Human Rights, Mr. **Thompson Ade-Bayor**, after he had attended several talk shows on radio and television and asked for justice to be made in the murder on February 11, 2008 of a young man aged 15, in Zorzor district, Lofa county. Liberia Watch said it had in its possession pictures and documents linking Senator Kupee to the death. Despite the police warrant of arrest and several demonstrations asking that Senator Kupee be brought to court, the Ministry of Justice continued to protect the Senator. In a letter dated September 30, 2008, Liberia Watch reminded the Ministry that nobody was above the laws of Liberia. It also called on the President to put an end to this situation of impunity<sup>9</sup>. On November 11, 2008, during a demonstration in Lofa county asking for justice on the occasion of the visit of the President, Senator Kupee also accused Liberia Watch of "mobilising the people". At the end of 2008, he had still not appeared before a court.

Furthermore, a number of human rights defenders who engaged in the promotion of the rule of law in different communities of the Grand Gedeh county also faced threats in 2008. As an example, on April 10, 2008 a rule of law workshop conducted by animators of the Carter

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7/ Although the act establishing the INCHR was enacted and came into force in 2005, the Commission has remained inoperative due to the continued delay in the appointment of its commissioners.

8./ See UN Security Council, Document S/2008/553, *Seventeenth progress report of the Secretary-General on the United Nations Mission in Liberia*, August 15, 2008.

9./ See Liberia Watch for Human Rights.

Centre and the Inter-Religious Council of Liberia for members of Sentrue village, Konobo district, was interrupted by one of the elders who threatened to bring the “country devil” to the session because he did not agree with the message conveyed by the animators. This resulted in all the participants fleeing the workshop. By the end of April 2008, the animators had been unable to continue their activities in the communities<sup>10</sup>.

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10./ See United Nations Mission in Liberia, *Report on the Human Rights Situation in Liberia*, November 2007 - June 2008.



# / MAURITANIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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## Political context

The year 2008 was marked by the coup d'état that overthrew President Sidi Ould Cheikh Abdallahi, who had come to power in April 2007 and was the first democratically elected President since the country became independent in 1960. His accession to power had resulted in some progress in the field of human rights, in particular the adoption of laws aimed at settling the “humanitarian backlog”, in particular on the question of the return of refugees, whose situation was a consequence of the ethnic and racial crises that had divided the Mauritanian society in the 1980s and 1990s. In addition, despite the continued human rights violations, especially the generalised use of torture to obtain confessions from people accused of links with Islamic groups, the safety of human rights defenders had improved.

The coup d'état of August 6, 2008, carried out by General Abdelaziz, a former captain of the presidential guard who had been dismissed by the Head of State on August 5, 2008, created a completely new situation<sup>1</sup>. The international community, led by the African Union, unanimously condemned the military junta<sup>2</sup> and rallied to call for the

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1./ The Prime Minister had formed a new Government in mid July to put an end to two weeks of political crisis after the previous cabinet resigned on July 3 under threat of a motion of censure in Parliament.

2./ See EU Presidency Declaration August 6, 2008. In addition, on September 22, 2008, the Peace and Security Council of the African Union warned the actors of the coup and their civilian supporters of the risk of sanctions and isolation if they did not give a positive response to the demand made on October 6, 2008 for the return to constitutional order. However, sanctions were not adopted at either of the two consultative meetings held in Addis-Ababa on November 10 and 21 at the African Union headquarters, or the coordination meeting on the situation in Mauritania held in Brussels on December 12, 2008. Due to the junta's lack of reaction in this regard, on October 20 the EU opened consultations in the framework of Article 96 of the Cotonou Agreement and several consultations also took place under the umbrella of the African Union. In the case of violation by one of the parties of certain essential elements of the Agreement (respect for human rights, democratic principles and the rule of law), this mechanism provides for increased consultation in order to resolve the situation.



immediate release of President Sidi Ould Cheikh Abdallahi and the return to constitutional order. Two weeks later, the junta released the Prime Minister, the Minister of the Interior and the Director of the National Agency for the Support and Integration of Refugees (*Agence nationale d'appui et d'insertion des réfugiés*), who had been arrested at the same time as the President. The President of the Republic was finally released during the night of December 21, 2008, following the visit of a high level mission to Nouakchott on December 7, 2008, which was seen as the last chance before the adoption of sanctions<sup>3</sup>. The AU nevertheless maintained the threat of sanctions if the return to constitutional order had not been achieved by February 6, 2009. The next presidential elections were also set for May 2009 following the "Special Consultation on Democracy" (*États généraux de la démocratie*), which took place from December 27, 2008 to January 6, 2009, in spite of being boycotted by the clan of overthrown President Sidi Ould Cheikh Abdallahi.

In this context, any voice calling for a return to democracy and denouncing violations committed by the junta and the police force was repressed and the situation of defenders became extremely precarious once again. In addition, all fundamental freedoms – freedoms of expression, assembly and association – severely regressed. Information was blocked and, for example, all references to events prior to August 6 were erased from the Mauritanian Information Agency website. Similarly, after a television debate organised by *Télévision mauritanienne* on the subject of "the outcome of the political crisis", a former minister of the deposed Government, Mr. **Isselmou Ould Abdel Ghader**, was prosecuted before the Mauritanian courts, the Director of the national television was dismissed and the journalist who had convened and organised the on-screen debate was sacked.

### **Repression of the freedom of peaceful assembly**

Following the coup d'état, all peaceful assemblies and demonstrations that did not support the junta were banned. But a great many members of civil society, including members of human rights NGOs and trade union members, still took part in peaceful demonstrations

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3./ The high level mission was led by the AU and included representatives from the UN, the International Organisation of Francophonie, the Islamic Conference and the Arab League.

calling for the return to constitutional order and respect for economic and social rights. The security forces used violence to repress several of these peaceful protests. On August 19, 2008 for instance, although the demonstration had been authorised, several union officials, including Mr. **Samory Ould Beye**, Secretary General of the Free Confederation of Mauritanian Workers (*Confédération libre des travailleurs de Mauritanie* - CLTM), were molested by the police and forcibly taken to the Tevrag Zeina I police station in Nouakchott, before being subsequently released. This situation was repeated in October when six Mauritanian trade unions<sup>4</sup> had called a peaceful demonstration in Nouakchott to celebrate World Day for Decent Work on October 7, 2008. Around twenty demonstrators were injured and several were taken to Tevrag Zeina I police station, including Mr. Abderrahmane Ould Boubou, Secretary General of the Mauritanian Workers' Union (*Union des travailleurs mauritaniens* - UTM). Violence seems to have become the only response of the new military authorities and the High State Council (*Haut conseil d'État* - HCE) to defenders' claims. On October 8, 2008, during a demonstration organised by the political parties to call for the return to constitutional order, the headquarters of the Mauritanian Human Rights Association (*Association mauritanienne des droits de l'Homme* - AMDH), where demonstrators had sought refuge, was wrecked by the police, who fired tear gas grenades into the premises and broke down the main door.

### **Intimidation, threats and stigmatisation of defenders**

In 2008, both before and after the coup d'état, human rights defenders continued to be threatened regularly in the press, on Internet, during sermons in mosques, or by telephone. They were subjected to telephone taps and were tailed. These threats further increased after the coup d'état. Civil society was indeed made responsible for the sanctions adopted by the international community against the junta. During a meeting in Akjoujt in October, a Member of Parliament called for the dissolution of all human rights NGOs and for all defenders "to be

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4./ The Mauritanian Workers' Union (*Union des travailleurs mauritaniens* - UTM), the General Confederation of Mauritanian Workers (*Confédération générale des travailleurs de Mauritanie* - CGTM), the CLTM, the Federation of Free Trade Unions in Mauritania (*Union des syndicats libres de Mauritanie* - USLM), the National Union of Mauritanian Workers (*Union nationale des travailleurs de Mauritanie* - UNTM) and the National Confederation of Mauritanian Workers (*Confédération nationale des travailleurs de Mauritanie* - CNTM).

beaten up". In addition, from October 2008, Ms. **Aminetou Mint El Mokhtar**, President of the Association of Women Heads of Families (*Association des femmes chefs de familles - AFCF*), received anonymous death threats each time she published articles on-line denouncing human rights violations in Mauritania. On December 14, 2008, a man approached her and threatened her with death and tried to run her over with his vehicle.

### Urgent Interventions issued by The Observatory in 2008<sup>5</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Trade-union members, including <b>Mr. Samory Ould Beye</b>	Obstacles to freedom to demonstrate	Press Release	August 21, 2008
<b>Members of the Mauritanian Workers' Union (UTM), the Free Confederation of Mauritanian Workers (CLTM), the General Confederation of Mauritanian Workers (CGTM), the Federation of Free Trade Unions in Mauritania (USLM), the National Union of Mauritanian Workers (UNTM) and the National Confederation of Mauritanian Workers (CNTM)</b>	Obstacles to freedom to demonstrate	Press Release	October 9, 2008

5./ See the Compilation of cases in the CD-Rom attached to this report.



## / NIGER

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

After the start of an armed rebellion in 2007, President Mamadou Tandja decreed a “state of alert” in the Agadez region in the north of the country on August 24, 2007. This exceptional measure, which restricts individual and collective freedoms, is provided for in the Constitution of Niger. As a result, all power passed to the army. Subsequently, targeted summary executions, arbitrary arrests, the destruction of nomads’ means of subsistence, displaced persons and NGO bans were reported.

In addition, the journalist Mr. Moussa Kaka, correspondent with Radio France Internationale and Director of the private radio station Radio Saraouniy, became the symbol of the muzzling of the media. He was detained from September 20, 2007, accused of “complicity in a plot against State authority” for having been in regular contact with the NigerMovement for Justice (*Mouvement des Nigériens pour la justice* - MNJ)<sup>1</sup> in the framework of his job, and was finally released on October 6, 2008. His release was the result of large-scale international mobilisation but it did not mean the end of judicial proceedings<sup>2</sup>. The case of Mr. Kaka took place in an increasingly difficult environment for freedom of expression: closure in July 2008 of the Press House (*Maison de la Presse*) after the Ministry of Communication issued a press release that implied that such a place reflected foreign interests; suspension for one month of the private radio and television group *Dounia* by the High Council of Communication in August, following a letter that merely referred to “non respect of terms of reference”; threats to suspend twenty directors of publication of private newspapers. It is also

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1./ The Niger Movement for Justice (MNJ) calls for respect for the 1995 agreements signed by the Government, improved distribution of wealth, in particular the income from uranium, and measures to support families displaced because of the exploitation of the uranium deposits.

2./ The chamber of accusation of the Niamey Appeal Court indeed decided to rename the charges against him to “an act likely to harm national defence”, an offence, and no longer a crime, liable to one to five years in prison and a heavy fine.

to be noted that, on April 22, the High Council ordered the closure of *Sabara FM*, the principal radio station of Agadez for an indefinite period, after it broadcast testimony by victims of acts of brutality by Niger soldiers<sup>3</sup>.

Niger also continued to experience serious economic problems<sup>4</sup>. Although the 2005 food crisis, which had caused a steep rise in prices and caused a serious economic and social crisis, ended, citizens' groups continued to criticise the management of services such as water, electricity, health care, gas and oil.

### **Civil society organisations accused and discredited by the authorities**

Once again this year, the Niger authorities tried, through the media, to discredit the work of human rights organisations when the latter denounced violations for which the authorities were responsible. Following the adoption by Parliament on May 5, 2008 of a new law awarding a number of indemnities and benefits to elected members of the National Assembly (indemnities relating to the work carried out during and outside Assembly sessions, as well as indemnities intended to cover the medical expenses of all their family members aged under 25), two human rights NGOs, the Citizen's Movement (*Mouvement citoyen*) and Citizen's Convergence (*Convergence citoyenne*), organised several demonstrations calling on the people to protest against this law. Following the people's demonstrations and the stand taken by the two organisations against the unequal treatment inferred in the text in question, Mr. **Nouhou Arzika**, a member of the Citizen's Movement, Mr. **Badié Hima**, Vice-President of the Niger Human Rights Association (*Association nigérienne pour la défense des droits de l'Homme - ANDDH*), and coordinators from other civil society structures were attacked by members of Parliament during a session that was repeatedly broadcast on national television on May 20, 2008. Messrs. Arzika and Hima were referred to in particular as "enemies of the people" and "manipulators". Despite being seized by the President of the Republic, the Constitutional Court, in a decree issued on June

3./ See Reporters Without Borders (RSF) Press Release, August 20, 2008.

4./ See United Nations Development Programme (UNDP), *National Report on Progress towards Achieving the Millennium Development Goals*, 2008.

13, 2008 upholding the view of the civil society organisations declared the law to be in contravention of the Constitution<sup>5</sup>. Furthermore, on December 2, 2008, an application to demonstrate made by the Citizens' Movement was turned down. The aim of this demonstration was to denounce Parliament's non-respect of the ruling of non-conformity issued by the Constitutional Court, thereby maintaining MPs' indemnities and benefits. Similarly, in a response broadcast on national television on October 5, 2008, the Director of Penitentiary Affairs and Pardons attacked Messrs. Badié Hima and **Moustapha Kadi**, President of the Collective of Defenders of the Right to Energy (*Collectif des défenseurs du droit à l'énergie*) and threatened to suspend the Collective of Organisations for the Defence of Human Rights and the Promotion of Democracy (*Collectif des organisations de défense des droits de l'Homme et de promotion de la démocratie* - CODDHD) and its partners, after the CODDHD published a report on the poor conditions in which the former Prime Minister, Mr. Hama Amadou, was held in preventive detention at the Koutoukalé civilian high security prison. The report had been drawn up following a visit made by members of the Collective inside the prison, with the authorisation of the Minister of Justice<sup>6</sup>.

### **Acts of harassment against defenders denouncing attacks on economic and social rights and environmental rights**

In 2008, defenders fighting on behalf of economic and social rights were targets of various acts of harassment because of their work, as was the case of the Collective of Niger Civil Society (*Collectif de la société civile nigérienne* - CSCN). CSCN regularly organises marches followed by meetings on the "place de la concertation" in Niamey, to call for an audit of the President of the Republic's Special Programme, which objective is sustainable human development in Niger, the end of the instrumentalisation of a part of the judiciary, and the resolution of

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5./ The court considered that under the terms of Article 93 of the Constitution, "the provisions and amendments tabled by deputies are inadmissible when their adoption results in a reduction in public resources, whether through the creation of or an increase in public expenses, unless they are accompanied by a proposal for an increase of receipts or for savings of an equivalent amount" (Unofficial translation).

6./ See CODDHD, *rapport de visite à la prison civile de haute sécurité de Koutoukalé*, October 2008.

social problems through measures aimed at reducing the cost of living, the construction of social infrastructures for the underprivileged areas of the capital, etc. On March 2, 2008, the car of Mr. **Mahamane Hamissou**, CSCN Coordinator, caught fire at the organisation's headquarters. The latter filed a complaint but, as of the end of 2008, this had not been followed up and the cause of the fire remained unknown. The Collective was also victim of obstacles to freedom of peaceful assembly, as the demonstrations it convened on November 9 and December 21, 2008 to denounce the poor governance and call for an audit of the President of the Republic's Special Programme, were arbitrarily banned.

Furthermore, the Government remained unreceptive to civil society questioning of the State's management of basic services and natural resources<sup>7</sup>, and routinely resorted to manoeuvres of containment to suppress its activities, for example by considerably delaying the issuance of authorisations to demonstrate. In addition, the extraordinary turn-out of security forces at the time of demonstrations organised by organisations for the defence of economic and social rights was generally perceived by their members and, more broadly, by actors of civil society, as being a manoeuvre to intimidate people with the aim of dissuading them from participating.

### **Impunity for acts of harassment against defenders denouncing violations in the context of the conflict in the north**

Since the conflict began in the north, several organisations have taken a stand to condemn the use of weapons as a means of achieving

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7/ In a joint declaration of September 6, 2008, the Coordination of Arlit Civil Society (*Coordination de la société civile d'Arli*) and the Collective for Defence of the Right to Energy (*Collectif pour la défense du droit à l'énergie* - CODDAE) criticised, for example, the dilapidated water distribution installations used by the Niger Water Exploitation Company (*Société d'exploitation des eaux du Niger* - SEEN) and its effects on the deficiencies in the supply of drinking water, denouncing the lack of concern and the negligence of the parties involved. See Coordination of Arlit Civil Society and CODDAE, *déclaration conjointe sur la situation de l'alimentation en eau potable de la ville d'Arli*. Amongst other campaigns, CODDAE led a national campaign on human rights in the energy domain and another on the damaging effects of the mining industries. It also engaged in the fight against the high cost of living in the following energy fields: hydrocarbons, water, electricity, gas. Other groups such as Citizens' Convergence intervened on the issue of electricity to call for an unconditional end to untimely electricity cuts and to prevent any form of privatisation of public enterprises, including NIGELEC. See Memorandum of Citizens' Convergence, July 10, 2008.

demands in a democratic environment, at the same time calling on the Government to recognise the rebellion and to make contact with a view to entering into dialogue with MNJ. Despite the open letter addressed to the President of the Republic in January 2008 by several leaders of human rights organisations<sup>8</sup> who had received threats in 2007 after condemning the humanitarian drama and the human rights violations in the north that were due to the conflict, the authors of these threats, which ended following this letter, had still not been identified as at the end of 2008.

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8./ Including ANDDH, the Niger Citizens' Alternatives Spaces Group (*Groupe alternatives espaces citoyens Niger*), CODDHD and the Network of Human Rights Organisations (*Réseau des organisations de défense des droits de l'Homme - RODDHAD*).





## / NIGERIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

Despite the transfer of power from the military to the civilians in May 1999, Nigeria continued in 2008 to face violations of his citizen's rights by both State and non-State actors, large scale corruption<sup>1</sup> and ethnic clashes. Moreover, the Niger Delta question remained this year again the key human rights concern in the country with conflicts going on in Bayelsa, Delta and River States. For decades, the region has been subjected to the exploitation of resources by transnational oil companies and the Government, accompanied by environmental contamination, expropriation of farmlands, increased militarisation, etc<sup>2</sup>. The security forces, including the military, also kept on committing human rights violations, including extrajudicial executions, torture and other ill-treatments and the destruction of homes<sup>3</sup>. Communities in the Delta whose human rights were affected by oil operations faced difficulties in securing remedy and redress.

In the autumn, tensions arose in northern Nigeria when riots took place on November 28–30 in Jos city, Plateau State. During these riots caused by the victory of the mainly Christian-backed ruling party – the People's Democratic Party – in State (local Government) elections, 200 people were killed, and some 7,000 displaced. The Government declared a temporary curfew to avoid further violence. The Nigerian Inter-Religious Council held a meeting in Jos under the chairmanship of the Sultan of Sokoto and Catholic Archbishop John Onaiyekan to help prevent future outbreaks<sup>4</sup>. However, the crisis cannot be said to

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1./ In 1999 Nigeria was ranked the most corrupt nation by Transparency International. According to the 2008 Corruption Perception Index it now ranks 121st out of 180 countries.

2./ See Civil Liberties Organisation (CLO), with the support of FIDH, *Submission for the Universal Periodic Review of Nigeria for February 2009*, September 2008.

3./ See Amnesty International, *Submission to the UN Universal Periodic Review, Fourth session of the UPR, February 2009*, September 1, 2008.

4./ See International Crisis Group, *CrisisWatch Bulletin*, December 2008.

be a religious crisis. It is rather a political crisis embedded in religion with a strong ethnic component.

The Government also restricted freedom of expression, in particular publications on the state of health of President Umaru Yar'Adua. For instance, on September 16, 2008, Channels TV was closed by the State Security Service (SSS) and some of its staff arrested after broadcasting a report, previously made by the Agence France Presse, according to which the President was planning to resign due to his health condition. Following a protest organised by a coalition of human rights and pro-democracy organisations named the "United Coalition for Democracy", including members of the Nigeria Union of Journalists, Civil Liberties Organisations (CLO) and the Campaign for Democracy on September 20, 2008, the National Broadcasting Commission (NBC) lifted the suspension and the staff was released. However the NBC said that the SSS would be continuing its investigation on the TV station. Several arrests of on-line journalists posting political or satirical articles also took place this year<sup>5</sup>.

### **Harassment of human rights defenders denouncing human rights violations, including corruption**

In 2008, human rights defenders who denounced human rights violations were subjected to various acts of harassment. For instance, Mr. **Chiadiadi Ochiagha**, a member of CLO, was arrested in October 2008 by the Enugu State police command on the allegation that he was not a member of CLO. He was at the time investigating on behalf of CLO on the case of Ms. Esther Ezenwamadu, whose husband was allegedly abducted at the palace of his traditional ruler at Akpakuma-Nze in Udilga of Enugu State in 2007. In the course of the investigation, several suspects were arrested and charged. It is believed that the people of the community ganged up against Mr. Ochiagha with the police and arrested him. He was finally released without charge in November 2008<sup>6</sup>.

In particular, corruption remained a major issue, while the Law on freedom of information, considered as essential by human rights

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5./ See CLO and Reporters Without Borders (*Reporters sans frontières* - RSF) Press Release, November 18, 2008.

6./ See CLO.

defenders to fight against corruption, failed to be adopted. This law had been adopted by the former Parliament but the then President Olusegun Osabanjo had refused to promulgate it. The law was presented again in 2008 before the current Parliament, which set up a new committee to examine it. Human rights defenders voiced their concern that this exercise was intended to empty it thus encouraging secrecy in governance and lack of participation<sup>7</sup>. The NGOs and human rights defenders who continued to fight endemic corruption and asked for the establishment of an effective police accountability system and improving police pay and conditions, as requested by the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions in his 2006 report<sup>8</sup>, therefore remained subjected to various acts of harassment throughout the year.

Meanwhile, 2008 was marked by several social protest movements intended to denounce corruption. These movements brought together civil society organisations, students, movements against corruption, workers and trade unionists. They appeared in April 2008 in several cities including Lagos, Abuja and Oshogbo and were ongoing throughout the year. These actions were severely repressed as it was the case in Oshogbo, Osun State, where the peaceful protest organised on July 11, 2008 to condemn the corrupt practices of members of a court in a case concerning the challenged election of the State Governor was repressed by police officers at the request of the State Government. As a result, Mr. **Waheed Lawal**, Chairman of the Campaign for Democratic and Workers' Rights, and Mr. **Debo Adeniran**, Coordinator of the Coalition Against Corruption Leaders, as well as 22 other activists were arrested and detained until July 23, at Ilesha Prison. They were charged with "conspiracy", "disturbance of public peace", "unlawful gathering", "seditious statements on placards" and "seditious publication". Later, they were released following mass protest of civil society and the charges were abandoned<sup>9</sup>.

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7./ See Transparency International Nigeria, *Memorandum submitted by Transparency in Nigeria (TIN) to the Senate Committee on information on the occasion of the public hearing on the freedom of information bill*, June 2, 2008.

8./ See UN Document E/CN.4/2006/53/Add.4, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mission to Nigeria*, January 7, 2006.

9./ See CLO.

## Impossibility to monitor the human rights situation in the Niger Delta

Due to the current conflict, increasing militarisation and human rights violations taking place in the Niger Delta, it was almost impossible for defenders to report on the situation without being perceived as political actors. In addition, many human rights defenders faced increased insecurity and were therefore forced to flee the region. One among others, Mr. **Isine Ibanga**, a journalist with the *Punch Newspaper* and member of CLO, was attacked and injured by police officials on patrol while walking to his residence in Port Harcourt, Rivers State, in November 2008. This attack coincided with recent threats against Mr. Ibanga and the *Punch Newspaper* by the Abonnema Local Government Area Chairman, following a news story he reported concerning victims of rape by gun-carrying young men, against female members of the National Youth Service Corp, serving in the area<sup>10</sup>.

## Attacks and harassment against trade unionists and students

The right to organise and the right to strike remained limited in Nigeria. Workers taking strike action that is deemed to be illegal were liable to both a fine and an imprisonment sentence up to six months. In addition, Nigerian labour law prohibits and criminalises strikes that are deemed to relate to conflicts of interest or any strikes relating to economic issues, including strike action to protest against the Government's social or economic policy affecting workers' interests. In that context, on January 6, 2008, Mr. **Alhaji Saula Saka**, Lagos State Chairman of the National Union of Road Transport Workers (NURTW), was killed by four men. According to his family, the assassination was clearly linked to his trade union activities and leadership. At the end of the year, the investigation conducted by the State Criminal Investigations Department had still not identified the murderers.

Students were also repressed for claiming the right to unionise. In 2008, a conflict that had started the year before at the university of Obafemi Awolowo continued. In 2007, ten student activists including the Students' Union President, Mr. **Saburi Akinola**, the Speaker of the Students' Parliament, Mr. **Andrew Ogumah**, and the Public Relations Officer, Mr. **Olatunde Dairo**, had been arrested, detained and expelled

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10./ See Institute of Human Rights and Humanitarian Law Press Release, November 11, 2008.

from the university for their struggle for better welfare conditions and respect for students' right to unionise and association. They were detained for over seven months at Oshogbo Prison in Osun State. They were released on bail in February 2008 due to local and international protest in particular from the Students' Union, labour, civil society activists as well as the international campaigns led by the Committee for a Workers International (CWI), who also called for their reinstatement. In a public statement posted on campus on December 31, 2008, the university authorities announced the recall of three of the targeted student activists. Conditions for their reinstatement included a letter of apology/undertaking and withdrawal of cases instituted against the university from courts.

### Urgent Intervention issued by The Observatory in 2008<sup>11</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Alhaji Saula Saka	Assassination	Urgent Appeal NGA 001/0108/OBS 008	January 16, 2008

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11./ See the Compilation of cases in the CD-Rom attached to this report.



## Political context

Originally scheduled for January 20, 2008, local and municipal elections were finally held on June 29, 2008, officially to address the technical and organisational failures recorded during the general elections held in June and August 2007<sup>1</sup>. According to local NGOs<sup>2</sup>, the process took place in a peaceful climate throughout the country but was marked by high abstention and experienced major malfunctions<sup>3</sup>. NGOs primarily deplored the fact that the Government did not involve various stakeholders – in particular, opposition parties and organisations defending human rights and promoting the rule of law – in the preparation of the ballot. On December 1, 2008, the Government initiated a revision of electoral rolls, which continued until January 20, 2009 in preparation for the presidential election in July 2009. However, it is feared that, as in the municipal elections, defenders questioning the free and transparent nature of the elections continue to be harassed by the authorities.

The country also continued to face serious problems of corruption, in particular within the administration of justice, police services, and taxes and customs. However, positive steps were made with the creation in September 2007 of the Observatory for the Fight Against Corruption, Extortion and Fraud (*Observatoire de lutte contre la corruption, la concussion et la fraude*), an independent body with the responsibility

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1./ The elections had been boycotted by several opposition parties and marred by numerous irregularities. The presidential party, the Congolese Labour Party (*Parti congolais du travail*), thereby obtained the majority in Parliament.

2./ See in particular Meeting for Peace and Human Rights (*Rencontre pour la paix et les droits de l'Homme* - RPDH) Press Release, July 4, 2008.

3./ Incomplete voter lists, failures in the allocation of electoral materials to various polling districts, insufficient number or absence of ballot papers of several candidates, some voters having several voting cards, errors of the identities of voters, multiple entries, etc.

to monitor and evaluate audits undertaken by public institutions in all public sectors, the implementation of the Government's plan of action in the fight against corruption, and governance reforms initiated by the Government. The nine members of this body come from the judiciary, the National Assembly, the Senate, the State General Inspectorate, trade unions, the private economic sector, the Ecumenical Council of Churches, civil society and the Executive Committee to implement the Extractive Industries Transparency Initiative (EITI)<sup>4</sup>.

### Threats and assimilation of human rights defenders with political opponents

As in 2007, the National Commissioner of the Police, General Ndengue, continued to discredit the work of defenders by treating them as political opponents, accusing them of being in the pocket of foreign powers and tarnishing the image the country. For instance, on January 11, 2008, Mr. **Roger Bouka Owoko**, Executive Director of the Congolese Observatory of Human Rights (*Observatoire congolais des droits de l'Homme* - OCDH), was summoned to the Directorate-General of Police. This summoning followed the publication by OCDH, on January 8, 2008, of a press release sent to members of the Government, public institutions, and African and Western diplomatic missions in the Republic of the Congo. In this document, OCDH requested the postponement of local and municipal elections to allow for the establishment of a commission to organise truly independent elections and the update of electoral rolls through a special administrative census. The Directorate-General of the Police stated that the request for the postponement of elections by OCDH was a political demand which, according to them, was not the responsibility of a human rights NGO. They also made it clear to Mr. Bouka Owoko that when they provide evidence of "collusion" between OCDH, the opposition and foreign powers to destabilize Congo, "they will [shoulder their] responsibilities". Similarly, on October 3, 2008, the newspaper *La Semaine africaine* published an article highly virulent against OCDH. In this

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4./ EITI was launched in 2003 in Johannesburg (South Africa) during the World Summit on Sustainable Development, and aims at increasing the transparency of revenues paid to the Government and/or its dismemberment by oil, gas and mining companies by providing to third parties a summary of payments. Congo was accepted as a candidate to EITI at a Board meeting in Accra held on February 22, 2008. The country must now have its candidacy validated by EITI by March 9, 2010.

article, the spokesman for the command of the national police accused the organisation of networking with the French and U.S. intelligence services (Central Intelligence Agency - CIA) and threatened to apprehend those responsible for endangering State security. Furthermore, he asserted that the organisation “[was] not acting to defend human rights, but rather to serve as an instrument for the arsonists who find pleasure in seeing our country set ablaze”. This article was published after a press luncheon held on September 19, 2008 by OCDH on the defence of the teachers’ union and echoed another article published in the same newspaper on June 17, 2008, in which OCDH was accused of being funded by the CIA and Mr. Bouka Owoko was accused of having received in 2006 the French Republic prize for human rights from French intelligence services.

### Urgent Interventions issued by The Observatory in 2008<sup>5</sup>

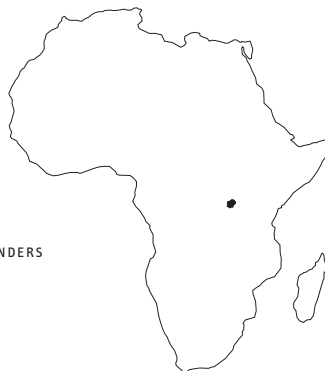
Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of issuance
Congolese Observatory of Human Rights (OCDH), including Mr. Roger Bouka Owoko	Threats / Harassment	Urgent Appeal COG 001/0108/OBS 006	January 15, 2008
	Threats	Urgent Appeal COG 001/0108/OBS 006.1	October 14, 2008

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5./ See the Compilation of cases in the CD-ROM attached to this report.



## / RWANDA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009**Political context**

Parliamentary elections were held from September 15 to 18, 2008 and won by the ruling Rwanda Patriotic Front (*Front patriotique rwandais* - FPR) with a large majority<sup>1</sup>. These were the second elections since the adoption of the Constitution in June 2003, which put an end to the post-genocide transition period. According to the European Union Observation Mission, the elections took place in a peaceful environment, despite a number of irregularities being noted<sup>2</sup>. The mission also referred to instances of intimidation and a number of short-term arrests, mostly related to allegedly “illegal campaigning”<sup>3</sup> by the Social Democratic Party and the Liberal Party.

In 2008, the country still faced the major challenge of making the reconciliation process a success and washing away the deep stain left by the genocide. In this regard, the country is involved in a judicial process, in particular before the “Gacaca”<sup>4</sup> people’s tribunals, with the aim of trying people suspected of having taken part in the 1994 genocide. The Rwandan Parliament passed a law on February 21, 2008 that extends the courts’ jurisdiction to permit them to try the “first category of planners” and to pronounce sentences up to life imprisonment. In November

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1./ The next presidential elections are planned for 2010 and the local and Senate elections for 2011.

2./ Irregularities included the total or partial absence of seals on the ballot boxes at the opening of polling stations, the non-reconciliation of ballots, the non-verification of electors’ fingers for ink to prevent multiple voting and the non-rigorous verification of voters on the voter list. See EU Election Observation Mission Final Report, *Legislative Elections to the Chamber of Deputies 15 - 18 September 2008*, November 21, 2008.

3./ In some instances, the local authorities accused members of the opposition parties of campaigning illegally, arguing in particular that their opponents had not informed them of their intentions. See Rwandan Association for the Defence of Human Rights and Public Liberties (*Association rwandaise pour la défense des droits de la personne et des libertés publiques* - ADL).

4./ The Gacaca tribunals include more than 250,000 judges at around 10,000 courts throughout the country.

2008, it voted a law that introduced discriminatory treatment by abolishing life sentences for cases transferred by the International Criminal Tribunal for Rwanda (ICTR), in order to prompt the transfer of cases<sup>5</sup>. However, these tribunals remain characterised by their political nature<sup>6</sup> and by grave dysfunction, such as cases of corruption, abuse of power and use for personal goals.

This year was also marked by a hardening towards independent journalists who criticised the Government, with the adoption of a new Press Law by Parliament on May 7, 2008. Several members of Parliament had already expressed concern in debate about certain provisions that could endanger freedom of the press, in particular the articles relating to press offences, which stipulate that it is possible to resort to preventive detention of journalists if they are suspected of publishing false information, libel and insults, or of publishing attacks on morals<sup>7</sup>. A few days before the adoption of this law, on May 2, 2008, the new Minister of Information, Ms. Louise Mushikiwabo, banned three directors of independent publications – the private weekly *Umuseso*, the bi-monthly *Rushyashya* and the bi-monthly *Umuwugizii* – from attending the ceremony to commemorate the International Press Freedom Day<sup>8</sup>. In addition to the Press Law, a Law on the Interception of Communications on Grounds of National Security was adopted on September 9, 2008, which would be used in an abusive manner against human rights defenders and journalists<sup>9</sup>. This law has indeed a broad impact since it authorises all kinds of acts of tapping surveillance, recording, storage and decoding of communications, as well as any other type of surveillance of communication networks and data without the knowledge or explicit authorisation of the user. In order to do this, Rwanda has invested considerable sums in sophisticated technologies for intercept-

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5./ See Law No. 6620/2008 of November 21, 2008, which modifies and complements Organic Law No. 3120/2007 of July 25, 2007 relating to the abolition of the death penalty, published in the Official Journal (*Journal officiel*) No.23, December 1, 2008.

6./ It is, for example, virtually impossible for victims to obtain justice for crimes committed by soldiers belonging to the Rwandan Patriotic Army (*Armée patriotique rwandaise* - APR), the armed branch of FPR and protected by the latter. See LIPRODHOR.

7./ See League for Human Rights in the Great Lakes Region (*Ligue des droits de la personne dans la région des Grands lacs* - LGDL) Press Release, May 9, 2008.

8./ See Reporters Without Borders (*Reporters sans frontières* - RSF) Press Release, May 6, 2008.

9./ See LIPRODHOR.

ing any message sent by telephone or Internet. To this should be added the interception of correspondence sent by post.

### **Impossibility of independent observation of elections**

During the parliamentary elections, some human rights defenders were the target of pressure and acts of harassment to prevent them from carrying out independent observation during the election campaign and on voting day. The Civil Society Election Observation Mission (*Mission d'observation électorale de la société civile* - MOESC) was organised by the Civil Society Platform (*Plateforme de la société civile*) at the Government's initiative and set up a country-wide observation programme. Any organisation wishing to observe the elections was obliged to do so via the Platform, which brings together 700 civil society organisations. "Long term" observers were recruited before the start of campaign operations, as well as "short term" observers. On August 14, 2008, the League for the Promotion and the Defence of Human Rights (*Ligue pour la promotion et la défense des droits de l'Homme* - LIPRODHOR) was refused accreditation by the National Election Commission (*Commission nationale des élections* - CNE) on the grounds that LIPRODHOR was already involved in observation activities through MOESC since it was a member of the Collective of Human Rights Leagues and Associations (*Collectif des ligues et associations de défense des droits de l'Homme* - CLADHO), itself a member of MOESC, and that no organisation could participate in two different observation missions. However, LIPRODHOR had not proposed observers to MOESC through CLADHO because it planned to set up an independent field mission. Following CNE's refusal, LIPRODHOR finally took part in MOESC with two "short term" observers but was not able to deploy long term observers and file a report. CNE also refused accreditation to the League of Human Rights in the Great Lakes Region (*Ligue des droits de la personne dans la région des Grands lacs* - LDGL) for members of its observation group who were at the same time members of LIPRODHOR, although this had not been a problem for other organisations. It may also be noted that the President of CNE attacked the LDGL report, arguing that its president had changed the preliminary version of the report in order to make it more critical<sup>10</sup>.

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10./ See Human Rights Watch (HRW), *World Report 2008*, December 2008.

## Obstacles to the work of international NGOs

In December 2008, a law was published in the official journal, identifying three types of NGOs: those constituted under national law, those under foreign law and those representing a religious faith<sup>11</sup>. A specific law relating to the organisation and functioning of each category was due to be voted at a later date and civil society organisations expected new restrictions. The adoption of this law, which lays down strict rules for foreign organisations, in particular requiring them to prove that they have worked with national organisations that are already registered, demonstrates the desire to bring these organisations under control.

In 2008 hostility also took the form of obstacles to the entry of international NGOs members<sup>12</sup>. On two occasions, the Rwandan Government refused permission for Dr. **Alison Des Forges**, Principal Advisor to Human Rights Watch (HRW), to enter Rwanda, firstly on September 4 and then on December 2, 2008, as she came to take part in an international conference on legal aid. On this occasion, Rwandan officials prevented her from leaving the plane and sent her back to Belgium. It is worth noting that Dr. Des Forges was an expert witness at 11 ICTR trials for genocide, in particular that of Colonel Théoneste Bagosora and two other people who were convicted on December 18. She also gave evidence during trials for genocide in national courts of Belgium, Switzerland, the Netherlands and Canada. On several occasions, most recently on December 12, 2008, HRW called on the ICTR Prosecutor to ensure that he carried out his mandate to examine the allegations made against FPR. On December 3, 2008, the Rwandan authorities blocked another member of HRW for one day; he was finally authorised to enter Rwandan territory in the evening.

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11./ On October 12, 2007, the draft law specifying the methods of registration and recruitment of personnel and operational methods for international NGOs established in Rwanda was applied by ministerial decree without being adopted by Parliament or promulgated by the President.

12./ See HRW Press Release, December 23, 2008.



## / SENEGAL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

Politics in the year 2008 were dominated by the launch by the opposition parties of a National Dialogue (*assises nationales*) in June. By boycotting the parliamentary elections in June 2007, the opposition parties had indeed allowed President Abdoulaye Wade's Senegalese Democratic Party (*Parti démocratique sénégalais* - PDS) to win the National Assembly and the Senate with an overwhelming majority. Faced with the country's worsening economic situation and Government tensions, on June 1, 2008 these parties grouped together as the Front Siggil Senegal and launched a national dialogue that was also joined by trade unions, employers' organisations, various civil society and human rights organisations, such as the African Assembly for the Defence of Human Rights (*Rencontre africaine pour la défense des droits de l'Homme* - RADDHO) and the National Human Rights Organisation (*Organisation nationale des droits de l'Homme* - ONDH), and personalities from all kinds of domains. The organisers explained that this was not a subversive exercise or a plot and that the President was invited to take part, but they did not hide the fact that the intention was to examine his achievements and to prepare for the local elections in March 2009, which had been delayed on two occasions. Nevertheless, the social climate was increasingly tense during the year. For instance, violence occurred in October on the periphery of a protest against the high cost of living and against electricity cuts.

In 2008, human rights defenders continued to denounce the use of torture that persisted in places of detention and the willingness of placing the judiciary under supervision notably through reinstating the Supreme Court and abolishing the Constitutional Court. Furthermore, the right of magistrates to form a trade union was still not recognised, and their ability to command respect for their rights and their independence was therefore restricted. Civil society organisations that fight for respect of human rights also contested the fact that, two years after

the solemn undertaking by Senegal to implement the decision of the African Union mandating it to “ensure that Hissène Habré is tried, on behalf of Africa”, no proceedings had been opened against the former Chadian dictator, who was accused of crimes against humanity, crimes of war and torture.

In this context, the Government became extremely sensitive to any criticism, particularly with regard to journalists, who were assimilated with political opponents. On July 26, 2008, during a news broadcast of the *Radio télévision sénégalaise* (RTS), Mr. Farba Senghor, Minister of Craft Trades and Air Transport and PDS National Secretary, who is close to the President, called on his militant supporters to boycott the media that supported the opposition. He also called on public sector companies and the administrative authorities to “suspend all advertising contracts” with these media and assimilated journalists with politicians<sup>1</sup>. He was subsequently identified as instigating the vandalising of the premises of the private daily newspapers *L’As* and *24 heures* during the night of August 17 to 18, 2008. Following these serious, repeated attacks on the independent media’s freedom of expression (death threats, vandalising of offices, arrests, etc.), Mr. Senghor was dismissed from the Government so that the judiciary could question him<sup>2</sup>.

In addition, although Senegal hosted the 15<sup>th</sup> International Conference on AIDS and Sexually Transmitted Infections in Africa (ICASA) from December 3 to 7, 2008 and, as host country, undertook to reduce the impact of HIV/AIDS on sexual minorities, this remained contradicted by its laws, which continued to treat homosexual relationships as crimes. On December 21, 2008, police officers arrested nine men who were preparing to carry out activities for HIV prevention. On January 6, 2009, these nine men were given eight years’ prison sentences<sup>3</sup> and a fine of 500,000 CFA francs (around 762 Euros) for “indecent or unnatural acts with a person of the same sex” and for “forming a criminal association”<sup>4</sup>.

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1./ See Reporters Without Borders (RSF) Press Release, July 30, 2008.

2./ See *Jeune Afrique*, September 7, 2008.

3./ The Prosecutor had called for a five years’ prison sentence.

4./ See RADDHO. As of the end of 2008, the nine men were still held at the Dakar prison camp.

## Repression of journalists who denounced human rights violations

Against the background of the deterioration of the political situation and of respect for rights, journalists who denounced human rights violations have become a favourite target for repression. For instance, Mr. **El Malick Seck**, Publishing Director of *24 Heures*, was jailed on August 28, 2008. On September 15, 2008, Mr. Seck was sentenced at the first hearing to three years in prison for “disseminating false news”. His newspaper had claimed that President Abdoulaye Wade and his son, Karim Wade, were involved in laundering money stolen in a hold-up at the Central Bank of West African States (*Banque centrale des Etats de l’Afrique de l’ouest* - BCEAO) in Bouake, Côte d’Ivoire, in August 2002<sup>5</sup>. Furthermore, several journalists were the target of repeated, unexpected summons by the Criminal Investigation Division (*Division des investigations criminelles* - DIC), as was the case for Mr. **Madiambal Diagne**, General Director of the Future Communication Group (Groupe avenir communication), who was summoned to appear by the Brigade of General Affairs on July 14, 2008. On July 13, 2008, in a broadcast on *Radio Futurs Média* (RFM), Mr. Diagne had stated that he was in possession of information showing that the writer and journalist Mr. **Latif Coulibaly**, a special correspondent with the newspaper *Sud Quotidien*, would be summoned by the judge to be notified that he was charged with “concealing documents”<sup>6</sup>. Mr. Latif Coulibaly is being prosecuted after the publication of his latest book *Loterie nationale sénégalaise : Chronique d’un pillage organisé*, in which he denounced the serious cases of corruption in management of the Senegalese National Lottery (LONASE) following the return of Baïla Alioune Wane as Executive Director. On July 1, 2008 he received a summons to appear before the judge of the first examiner’s office for the Dakar Regional Tribunal on July 12 and 17. Since then, he must appear before the judge at least once a month and as of the end of 2008 the case against him was still pending<sup>7</sup>.

Unexpected police raids on publishing offices to demand copies of forthcoming editions of newspapers that contravened requirements for

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5./ See RADDHO and ONDH.

6./ See *Le Quotidien*, July 15, 2008.

7./ See RADDHO.

legal registration were also registered, as was the case of the newspaper *Le Populaire* in August 2008. The Managing Director of the *Com7* press group that edits the newspaper filed a complaint for assault and violation of a residence against one of the police officers, who were formally identified. The newspaper possessed sensitive information relating to cases of corruption involving Mr. Farba Senghor. The case was still pending as of the end of 2008<sup>8</sup>.

In addition, members of the Gambian National Intelligence Agency (NIA) carried out operations on Senegalese territory to intimidate exiled journalists despite the fact that it is the responsibility of the State of Senegal to protect all persons under its jurisdiction. On March 10, 2008, three NIA agents appeared at the Dakar home of Mr. **Yahya Dampha**, a former journalist with the daily newspaper *Foroyaa*, with the intention of taking him away to “talk about his activities”, a kidnapping attempt that was short-lived thanks to the intervention of his neighbours. After the security forces made a new visit to his family, Mr. Dampha left Senegal to go to Sweden, where he obtained refugee status in June 2008. He had been arrested in Banjul in October 2007 when he accompanied an Amnesty International mission to investigate arbitrary arrests, attacks on freedom of the press and torture in detention. He had been released by the Gambian authorities after a few days without charge but, because of the repeated visits to his home by NIA agents and fearing for his safety, he had had to leave Gambia to take refuge in Senegal. Members of the Gambian security forces also obtained information concerning Mr. **Mohamed Oury Bah**, a former Sierra Leonean journalist for *The Independent* newspaper, who fled Gambia on January 20, 2008 after being arrested several times and threatened by the intelligence services, because of his fight for press freedom<sup>9</sup>. In particular, they questioned his neighbours about his movements.

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8./ *Idem*.

9./ See RSF Press Release, March 14, 2008.

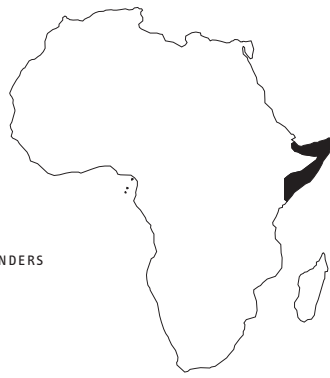


**Urgent Intervention issued by The Observatory in 2008<sup>10</sup>**

<b>Names of human rights defenders</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
Mr. Yahya Dampha	Kidnapping attempt / Fear for safety	Urgent Appeal SEN 001/0308/OBS 040	March 19, 2008

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10./ See the Compilation of cases in the CD-Rom attached to this report.



## Political context

Despite the support of the Ethiopian army since December 2006, the Transitional Federal Government (TFG) has been unable to consolidate the State in Somalia. In 2008, the situation has continued to deteriorate into one of the worst humanitarian and security crises. Fighting was perpetrated in violation of humanitarian and human rights law. Many hundreds civilians died because of indiscriminate shelling and bombings. All major towns in south-central Somalia were captured by one faction or another of the Islamist insurgents except for Mogadishu, where TFG control is contested, and Baidoa. At the end of 2008, the Islamists dominated nearly as much territory as they did before the Ethiopian invasion<sup>1</sup>.

The signing in June of a UN-facilitated peace accord, known as the Djibouti Agreement, by the TFG and the Alliance for the Re-liberation of Somalia (ARS), by which both sides agreed to end their conflict and called on the UN to deploy an international stabilisation force, was a positive step. Yet, the failure by important parties to the insurgency, including the extremist movement known as “Al Shabaab”, to participate meant that little of the expected outcomes had yet been achieved as of the end of 2008<sup>2</sup>. The question of the withdrawal of the Ethiopian troops, which started in January 2009 as part of the Djibouti Agreements, also remained at the heart of the conflict. While noting the progress made in the Djibouti peace process, the UN Secretary General stated in January 2009 that conditions were not yet right for a UN peacekeeping operation in Somalia<sup>3</sup>.

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1./ See International Crisis Group (ICG), *Somalia: To move beyond the failed State*, Africa Report No. 147, December 23, 2008.

2./ See UN News Centre, Press Release, December 22, 2008.

3./ See ICG, *Somalia: To Move Beyond the Failed State*, Africa Report No. 147, December 23, 2008.

On December 29, 2008, President Abdillahi Yusuf resigned following a confrontation with Parliament and the Prime Minister. International observers, and in particular the UN Secretary-General Special Representative for Somalia, praised this decision as being the first time in Somalia's modern history that a President decided to leave office peacefully<sup>4</sup>. This decision could have a positive impact in the future on the peace process.

In this environment, those who provided assistance to the civilian population and exposed abuses – human rights defenders, journalists<sup>5</sup>, humanitarian and aid workers – were themselves targeted by all parties involved in the conflict through abductions, torture and murder<sup>6</sup>. The lack of investigation into these violations entrenched firmly impunity in this country and left defenders at even greater risk<sup>7</sup>.

### Threats and intimidation faced by humanitarian workers

The provision of humanitarian assistance in south and central Somalia remained critical in 2008. Convoys delivering food and humanitarian assistance faced illegal “taxation” at numerous temporary checkpoints. Food deliveries by ship were hijacked by pirates in Somali waters<sup>8</sup>. Access to humanitarian assistance – such as food and basic amenities, water and sanitation, and primary medical care – was also compromised by threats and intimidation of aid personnel and the targeting of actual aid operations by various parties<sup>9</sup>. These acts of violence were

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4./ See UN News Centre, Press Release, December 29, 2008.

5./ According to the National Union of Somali Journalists (NUSOJ), 35 Somali journalists have fled to Kenya since May 2007, 15 have fled to Djibouti, four to Ethiopia and three to Uganda.

6./ See East and Horn of Africa Human Rights Defenders Project (EHAHRDP), [www.defenddefenders.org/html/advocacymaterial.html](http://www.defenddefenders.org/html/advocacymaterial.html), and UN Political Office for Somalia, Press Release 0035/2008, December 10, 2008.

7./ Once again, in 2008, the UN Independent Expert on the situation in Somalia condemned all attacks on aid workers, journalists and human rights defenders and called upon all Somali authorities to provide full protection and independence to journalists and media personnel, human rights defenders and international humanitarian aid personnel operating in Somalia. See Human Rights Council, *Report of the Independent Expert appointed by the UN Secretary-General on the situation of human rights in Somalia, Mr. Ghanim Alnajar*, UN Document A/HRC/7/26, March 17, 2008.

8./ See Reporters Without Borders (*Reporters sans frontières* - RSF) Press Release, January 10, 2008.

9./ *Idem*.

mainly committed by local groups targeting some relief agencies but also, increasingly, by some insurgent groups. Local grievances against NGOs usually revolve around “unfair” recruitment policies, insensitive to clan balance, poor salaries and perceived bias in the awarding of contracts. Increasingly, criminal gangs targeted NGOs for their assets. It was also becoming lucrative to kidnap NGO workers for ransom<sup>10</sup>.

On January 28, 2008, Mr. **Victor Okumu**, a Kenyan surgeon, Mr. **Samien Lehalle**, a French logistics expert and their Somali driver, Mr. **Mohamed Abdi Ali**, were killed near Kismayo in a car attack by a bomb set off by remote control. The car belonged to the Dutch branch of Doctors Without Borders (*Médecins sans frontières* - MSF). On July 11, 2008, Mr. **Mohamed Mohamud Khayre**, Deputy Director of “Daryeel Bulsho Guud” (DBG), a local humanitarian organisation, was also killed<sup>11</sup>. The increase in attacks and kidnappings of humanitarian workers forced MSF to reduce its operations. Eighty-seven international staff working on 14 projects were evacuated after this attack<sup>12</sup>. At the end of March and considering the needs, MSF decided that part of the personnel should return to the areas where the security conditions were acceptable<sup>13</sup>. Other international NGOs such as CARE International also suspended their operations in parts of Somalia due to the climate of fear and threats against their personnel. They denounced that in all the cases against local or international organisations, no parties or individuals were held to account<sup>14</sup>. At the end of 2008, two international staff from MSF, kidnapped near the Ethiopian border on September 22, and four from Action Against Hunger (*Action contre la faim* - ACF), kidnapped at Dhusa Mareb airport to the north of Mogadishu on November 5, still remained hostages. The insurgents were claimed to keep them to negotiate the release of Somali prisoners held in Ethiopia.

United Nations staff members were also targeted. For instance, on January 6, 2009, three masked gunmen shot and killed a Somali national

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10./ See ICG, *Somalia: To Move Beyond the Failed State*, Africa Report No. 147, December 23, 2008.

11./ See EHAHRDP Press Release, July 18, 2008.

12./ See MSF Press Release, February 1, 2008.

13./ See MSF Press Release, March 20, 2008.

14./ See CARE Press Release, June 20, 2008.

working for the World Food Programme (WFP) while he was monitoring school feeding in school<sup>15</sup>. Mr. **Muktar Mohammed Hassan**, a UNICEF staff member, another WFP staff, Mr. **Abdinasir Aden Muse**<sup>16</sup>, and Mr. **Osman Ali Ahmed**, Head of the United Nations Development Programme (UNDP) in Somalia<sup>17</sup>, were also killed in 2008.

### **Attacks against journalists and restrictions of freedom of expression**

The situation of media professionals has been dangerous over the past two years, and in 2008 journalists continued to be persecuted, killed, arbitrarily arrested and harassed in Africa's most dangerous country for the media. Reporting news on the conflict and security issues was indeed considered as a form of treason by all parties to the conflict and independent media were continuously targeted both by the TFG authorities and the insurgents<sup>18</sup>. In 2008, two journalists were killed, several journalists were arrested and international reporters continued to be kidnapped while covering stories, and in particular while reporting on human rights abuses in the country. Thus, on June 7, 2008, Mr. **Nasteh Dahir**, Vice-Chairman of the National Union of Somali Journalists (NUSOJ), and *BBC*-Somali service reporter, was shot by two insurgents while walking home from an Internet café in Kismayo. The two men followed him from his office in Kismayo, called out his name, and then shot him as he turned around. It appears that his murder was an act of reprisal for his work as he had been reporting on a conflict over distribution of tax revenue in Kismayo<sup>19</sup>. On November 25, 2008, Mr. **Hilal Sheik Shuayb**, the manager of the privately-owned *Radio Warsan* in Baidoa, was arrested on the orders of the province's Governor after a Baidoa court's verdict in a soldier's trial for murder was broadcast live by the station. He was released four days later<sup>20</sup>.

The authorities also continued to put pressure on journalists in order to avoid independent reporting on human rights violations, and impeded

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15./ See WFP Press Release, January 6, 2009.

16./ See UN News Centre Press Release, November 5, 2008.

17./ See EHAHRDP Press Release, July 18, 2008.

18./ See EHAHRDP.

19./ See EHAHRDP Press Release, June 9, 2008.

20./ See RSF Press Release, December 10, 2008.

journalists from leaving the country, thus impairing on their freedom of movement. For example, on January 4, 2008, Mr. **Mohammed Shidane Daban** of *Radio Banadir* was arrested by the Federal Government security forces at Mogadishu's international airport. His arrest could be an attempt to stop the continuing exodus of journalists, which phenomenon reflects badly on the Government's image<sup>21</sup>.

International reporters also continued to be the target of abductions. On November 26, 2008, two journalists from Spain and the United Kingdom, Messrs. **Colin Freeman** and **Jose Cendon**, who were in the region for a week to report stories on piracy were kidnapped in Bossaso, Puntland. They were released on January 4, 2009<sup>22</sup>.

### **Attacks against women human rights defenders**

As showed by the stoning to death on October 27 of a woman who had been charged of adultery with men who had allegedly raped her, the situation in Somalia is one of increased intolerance towards women. In this context, women human rights defenders were particularly targeted, especially in areas where the Islamist insurgency was most present. This year, two were killed. On October 25, 2008, Ms. **Duniya Sheikh Doon**, Chairwoman of the local branch of the Women's Development Organisation (IIDA), a Somali women's development organisation in the town of Guriel, was killed. The organisation provides housing, counselling, education, training and jobs for women displaced by war and victimised by violence and rape. Likewise, Ms. **Mariam Dabayarey Aden Mohamed**, Chairwoman of the Bay region Women's Organisation in Baidoa, was killed on November 3, 2008<sup>23</sup>. Furthermore, on July 9, 2008, the Coalition for Grassroots Women Organisation (COGWO), a prominent coalition of women's rights organisations based in Mogadishu, was amongst a list of organisations named in a threatening letter that was published and posted in several public places across Mogadishu. In particular, the coalition members were accused of being "infidels" as a result of their efforts to empower women. In addition, on July 13, 2008, a local radio station in Mogadishu

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21./ See RSF Press Release, January 10, 2008.

22./ See RSF Press Release, November 27, 2008.

23./ See Press Release by the Independent Expert on the situation of human rights in Somalia, November 5, 2008.

broadcast an interview in which an anonymous interviewee threatened to kill COGWO staff members in particular and human rights activists in general. COGWO also received a series of menacing emails notably one on July 15, in which Ms. **Sharifa Adow**, Chairperson of COGWO, was personally threatened by people believed to be members of the Al-Shabaab militia group<sup>24</sup>.

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24./ See EHAHRDP Press Release, July 18, 2008.



## / SUDAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

This year was marked by the attack on Khartoum launched on May 10, 2008 by members of the Darfurian Justice and Equality Movement (JEM). This was the first time a Darfur-based armed opposition group had reached the capital since the start of the conflict in 2003. The fighting that took place entailed violations of international human rights and humanitarian law reportedly committed by both sides. The Government's response in the weeks after the attack entailed serious violations of civil and political rights, including a broad wave of arrest of people perceived as belonging to political parties sympathetic to JEM, including some human rights defenders<sup>1</sup>.

In Khartoum and other parts of northern Sudan, the National Intelligence and Security Services (NISS) systematically used arbitrary arrest and detention against political dissidents. According to allegations received by the United Nations, NISS detention can typically be accompanied by additional serious human rights violations such as incommunicado detention, ill-treatment, torture or detention in unofficial places of detention<sup>2</sup>. The UN also documented numerous cases in which the NISS arbitrarily arrested and detained political

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1./ See Human Rights Council, *Report of the Special Rapporteur on the situation of human rights in the Sudan, Sima Samar*, UN Document A/HRC/9/13, September 2, 2008. In the Khartoum area, 481 people were detained and then released again in the immediate aftermath of the attack. Other sources reported that several hundred civilians were arbitrarily arrested and detained without charge in the aftermath of the attacks, in addition to combatants and some 90 alleged child combatants. At the end of July, two and a half months after the attacks, some 500 were feared to be still in NISS detention, their whereabouts unknown, and the authorities had provided no specific information on those in detention to relatives or human rights workers. See Khartoum Centre for Human Rights and Environmental Development (KCHRED).

2./ See Office of the High Commissioner for Human Rights, *Tenth periodic report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Sudan, Arbitrary arrest and detention committed by national security, military and police*, November 28, 2008.



dissidents, among them human rights defenders. In all of these cases, essential procedural safeguards guaranteed by applicable international law, including detainees' rights to be promptly brought before a judge and to consult with legal counsel, were not met. NISS agents operating in plain clothes and using cars not marked as belonging to the security forces often carried out arrests without identifying themselves, or informing the target person about the reason for the arrest. Arrested persons were usually not allowed to contact their families or a lawyer. In some cases, NISS agents acted on their own. In others, the police first arrested the concerned individuals before handing them over to the NISS for interrogation<sup>3</sup>.

Although the International Criminal Court (ICC) issued in May 2007 arrest warrants against former Sudanese Interior Minister Ahmed Harun and militia leader Ali Kushayb for alleged "war crimes" and "crimes against humanity" in Darfur, as of the end of 2008 Khartoum was still refusing to hand them over to face trial<sup>4</sup>. On July 14, 2008, the ICC Prosecutor announced the request of a warrant for the arrest of President Omar Al-Bashir on charges of "war crimes", "crimes against humanity" and "genocide". The authorities then engaged in a diplomatic campaign aimed at convincing UN Security Council members to suspend the case. Furthermore, the Government made a number of public statements proclaiming its willingness to pursue justice in national courts and to achieve peace in Darfur, and claimed that the situation on the ground had improved. For instance, President Al-Bashir claimed in a TV interview on October 17 that the situation in Darfur was now "very normal"<sup>5</sup>. However, between July and October 2008, the Government's bombing and fighting in north Darfur led to the displacement of some 90,000 people. Even in November, following the Government's declaration of a "unilateral, unconditional ceasefire"<sup>6</sup>, the Sudanese army continued to bomb villages in north and west Darfur. Despite

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3./ *Idem*.

4./ Instead, Mr. Harun was allowed to continue as Minister of State for Humanitarian Affairs and in September 2007 was appointed to a committee responsible for investigating human rights abuses in Darfur. In the same month, Mr. Ali Kushayb was reportedly released from custody in Sudan because of a lack of evidence against him.

5./ See Human Rights First, Save Darfur Coalition and Human Rights Watch Report, *Rhetoric vs. Reality: The Situation in Darfur*, December 2, 2008.

6./ See Declaration by the EU Presidency, November 18, 2008.

the Government's rhetoric on fighting impunity, it also continued to grant senior posts to individuals such as Mr. Musa Hilal, considered to be janjaweed Top Commander and who has been subjected to a UN travel ban and asset freezes since 2006.

Rebel groups and bandits were also responsible for abuses against civilians and attacks on humanitarian operations and peacekeepers, and in November 2008 the ICC Prosecutor sought three arrest warrants for rebel leaders accused of directing one such attack that killed 12 peacekeepers at Haskanita in September 2007.<sup>7</sup> In addition, the UN/African Union Peacekeeping Force (UNAMID) was at less than 50% of its mandated strength and also repeatedly came under attack. The result was an insecure environment for Darfuris and humanitarian workers alike.

In this context, the Sudanese authorities initiated in 2008 a campaign to intimidate all prospective supporters of the ICC, notably human rights defenders involved in the fight against impunity. On February 20, the Manager of the NISS, Mr. Salah Gowsh, announced publicly, in all newspapers, that the Sudanese authorities would amputate anyone cooperating with the ICC. Mr. Mohamed Alsary Ibrahim, a Sudanese national, was the first person in Sudan to be targeted and prosecuted for allegedly cooperating with the ICC, though the latter denied any link with the Court. He was sentenced to 17 years of imprisonment on January 28, 2009. Additionally, Mr. Ali Mahmoud Hassanein, Vice-President of the Unionist Democratic Party (UDP), an opposition party, was arrested on December 29, 2008 after he expressed his support with the ICC and was released two days after without any charge.

### **Campaign of harassment and intimidation of human rights defenders fighting against impunity**

In November 2008, with the arrest of three human rights defenders by the NISS for interrogation on the ICC, the human rights community was warned that dealing with international justice issues would be severely repressed. On November 24, Messrs. **Osman Hummaida**, a Sudanese and British human rights researcher residing in the

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<sup>7</sup>/ See Human Rights First, Save Darfur Coalition and Human Rights Watch above-mentioned report.

United Kingdom, **Abdel Monim Aljak**, a human rights defender residing abroad, and **Amir Mohamed Suliman**, Chairperson of the Khartoum Centre for Human Rights and Environmental Development (KCHRED), were arrested by the NISS offices in Khartoum north for interrogation purposes related to their human rights activities in Sudan and particularly Mr. Hummaida's relationship with the ICC. The three human rights defenders were interrogated several times in the absence of any legal counsel, threatened and two of them were subjected to acts of torture and ill-treatment, including water-boarding and severe beatings, until they accepted to hand over their belongings, i.e. computers and documents. While the two others were arrested and released several times, Mr. Hummaida, was held continuously until November 28, 2008 when he was released in the middle of the night. Due to his bad health and the acts of torture and ill-treatment suffered during interrogation, he was hospitalised twice. None of the three human rights defenders had been charged as of the end of 2008.

### **Attacks on humanitarian staff**

The Sudanese Government continued in 2008 to obstruct the delivery of assistance through bureaucratic constraints, harassment of humanitarian staff and lack of compliance with the Joint Communiqué on the Facilitation of Humanitarian Activities in Darfur it signed with the UN on March 28, 2007. Attacks against humanitarian agencies also continued this year. Incidents of violence against aid workers in the first eight months of 2008 had already outnumbered the records in 2007<sup>8</sup>. Thus, between January and March 2008, 170 aid workers were abducted and 11 killed<sup>9</sup>. On November 17, 2008, the moratorium facilitating humanitarian aid included in the Joint Communiqué due to expire in January 2009 was extended until January 2010 but its implementation remains to be tested. In August 2008, Doctors Without Borders (*Médecins sans frontières* - MSF) suspended their activities in north Darfur as a result of repeated attacks against their personnel and assets<sup>10</sup>. As a result, 65,000 civilians were temporarily left without medical

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8./ See UN Security Council, Secretary-General *Report on African Union–United Nations Operation in Darfur*, UN Document S/2008/659, October 17, 2008.

9./ See Human Rights First, Save Darfur Coalition and Human Rights Watch above-mentioned report.

10./ See MSF Press Release, August 1, 2008.

assistance<sup>11</sup>. Likewise, the suspension of activities in north Darfur by the German Agro Action, a key World Food Programme partner, after several banditry attacks on its staff, meant that 450,000 civilians were left without food assistance<sup>12</sup>.

## Restrictions to freedom of expression

Media organisations, NGOs and human rights defenders all reported increasing harassment and censorship by the Government and especially NISS, in particular in relation to any reporting on the rebel attack on Khartoum in May and related arrests of alleged suspects, the situation in Darfur, and the ICC<sup>13</sup>. On May 14, 2008 for instance, NISS officers searched the premises of the Arabic-language newspaper *Alwan*, confiscated property and indefinitely suspended the publication of the paper. Reportedly, the reason for the raid and the suspension were allegations that *Alwan* had disclosed sensitive military information by publishing a story about a Sudanese military aircraft that was allegedly shot down by JEM during their attack on Khartoum. From May 2008, several journalists were also summoned or detained, and hundreds of articles, of which more than 50 related to the conflict in Darfur, were removed or partly removed by NISS media censors. On November 17, 2008, over 60 journalists were arrested at a peaceful demonstration in Khartoum against censorship by the Government. All were released later on the same day<sup>14</sup>. On November 18, 10 newspapers suspended publication for one day to protest Government censorship and the detention of journalists<sup>15</sup>.

Furthermore, the NISS undertook throughout 2008 a defamation campaign against journalists who were at the forefront of the defence

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11./ See Office of UN Deputy Special Representative of the UN Secretary-General for Sudan UN Resident and Humanitarian Co-ordinator, *Darfur Humanitarian Profile No. 33*, October 1, 2008.

12./ See World Food Programme Sudan, *Monthly Situation Report Issue 2008/8*, August 2008.

13./ See Human Rights Council, *Report of the Special Rapporteur on the situation of human rights in the Sudan*, Sima Samar, UN Document A/HRC/9/13, September 2, 2008.

14./ See Reporters Without Borders (RSF) Press Release, November 25, 2008. The security agencies began their repressive work on February 10, removed an article from *Al-Sahafa*. In the days that followed, they prevented *Al-Rai al-Shaab* from publishing, they interrogated the editors of *Al-Ahdaht* and *Al-Watan* at length, they interrogated the editors of *Al-Wifaq*, *Al-Midan*, *Al-Sudani* and *Al-Rai al-Aam*, and they made nightly visits to *Al-Midan*'s printing press to have articles removed. The list of incidents has not let up since then.

15./ See Committee to Protect Journalists (CPJ) Press Release, November 19, 2008.

of freedom of expression. For instance, some were accused of receiving “foreign money” and portrayed as journalists taking orders from outside of the country. Those allegations were circulated on October 13, 2008 by some newspapers linked to security services like *Akbir labza*. No legal action was brought against any of these journalists. The 16 prominent journalists who were specifically targeted for their articles condemning human rights violations in Sudan included Mr. **Faisal Elbagir**, a member of KCHRED as well as a correspondent of Reporters Without Borders (*Reporters sans frontières* - RSF) and *Al-midan* newspaper in Sudan, Mr. **Alhaj Warraj**, a journalist for the daily *Agras Al-hurria*, Mr. **Faisal Salih**, column writer of the daily *Al Akhbar*, Ms. **Lubna Ahmed Husain**, Officer of UNMIS Public Information Unit, Ms. **Madiha Abdallah**, a journalist working for the newspaper *Alayam*, and Ms. **Hanadi Osman**, a journalist of the daily *Alray Alaam*<sup>16</sup>.

### Urgent Interventions issued by The Observatory in 2008<sup>17</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Hassan Eltaib Yassin	Acts of harassment and intimidation	Urgent Appeal SDN 001/0508/OBS 084	May 16, 2008
Mr. Amir Mohamed Suliman, Mr. Osman Hummaida and Mr. Abdelmonim Aljak	Arbitrary arrests / Release / Arbitrary detention	Urgent Appeal SDN 002/1108/OBS 199	November 25, 2008
		Urgent Appeal SDN 002/1108/OBS 199.1	November 26, 2008
	Ill-treatment and torture / Arbitrary detention	Press Release	November 27, 2008
	Release	Press Release	November 28, 2008

16./ See KCHRED.

17./ See the Compilation of cases in the CD-Rom attached to this report.



# / TANZANIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

## Political context

In 2008, President Jakaya Kikwete, following strong and continuous public pressure, took action against corruption, one of the major issues in the country. In January, the Governor of the Bank of Tanzania, the late Mr. Daudi Balali, was sacked following an audit revealing losses through fraudulent transactions relating to external payment arrears on the account of the Central Bank of Tanzania (BOT). Moreover, on February 7, after a report of the Special Parliamentary Committee of Inquiry revealed a number of irregularities in the procurement process in respect of emergency power supply in Tanzania, the former Prime Minister, Mr. Edward Lowassa, as well as former and current Ministers for Energy at the time, Messrs. Ibrahimu Msabaha<sup>1</sup> and Nazir Karamagi respectively, resigned after being indicted for those irregularities. Corruption within police forces was also seen as a factor contributing to mob violence, together with delay in investigation and judicial proceedings, economic hardship, lack of knowledge of judicial proceedings, public resources being in the hands of a few and corrupt figures, and revenge<sup>2</sup>.

In Zanzibar, the political situation has remained tense since the general elections in 2005. “Mwafaka”<sup>3</sup> talks ended on April 1, 2008 without reaching a consensus on power sharing between the ruling political party “Chama Cha Mapinduzi” (CCM) and the opposition Civic United Front (CUF). In addition, the regulation of NGOs matters is

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1./ Mr. Ibrahim Msabaha was Minister for Energy in 2006. He then became Minister for East African Cooperation.

2./ See East and Horn of Africa Human Rights Defenders Project Report, *The situation of Human Rights Defenders in the East and Horn of Africa, Report to the Forum on the participation of NGOs at the 44<sup>th</sup> Session of the African Commission on Human and People’s Rights (ACHPR) and Southern African Human Rights NGO Network (SAHRiNGON)*, Tanzania Chapter, November 2008.

3./ “Mwafaka” is a Swahili term that refers to political agreement.

not part of the Union's matters<sup>4</sup>, meaning that Tanzania mainland and Zanzibar have separate laws on this matter. As a consequence, NGOs registered in Tanzania mainland under the NGO Act (2002) cannot legally operate in Tanzania Zanzibar and vice versa. NGOs consider this situation as a potential obstacle to freedom of association.

### Harassment of journalists denouncing corruption

Despite the efforts carried out by President Kikwete against corruption and the adoption of the Prevention and Combating of Corruption Act in 2007, journalists denouncing corruption of Government officials continued in 2008 to be intimidated. It is also to be noted that Section 37(1) of this Act prevents the media and individuals from reporting alleged offences under investigation by the Prevention and Combating of Corruption Bureau (PCCB)<sup>5</sup>. For instance, on January 5, 2008, Mr. **Saed Kubenea**, journalist, Editor and Managing Director of the Swahili weekly investigative newspaper *MwanaHALISI*, and Mr. **Ndimara Tegambwage**, a veteran journalist for the media house "Habari Cooperation", were assaulted in the office of the newspaper in Dar es Salaam. This attack is believed to be linked with reports published throughout 2007 by the two journalists and that implicated senior Government officials. Indeed, the newspaper reported on several corruption scandals related to agreements made between the Government and foreign companies and the misuse of public funds through illegal public procurement procedure, such as for instance the engagement of the Richmond Company for emergency supply of electricity in Tanzania between 2007 and 2008. Mr. Kubenea filed a complaint but, by the end of the year, there had been no investigation into the assault. Subsequently, Mr. Kubenea received several death threats on his mobile phone asking him to stop reporting investigative stories about public leaders and the misuse of funds. As of the end of 2008, his case was still pending in court<sup>6</sup>.

4./ The United Republic of Tanzania is the union of Tanganyika and Zanzibar.

5./ See the Coalition for Advocacy for Freedom of Information and Expression, which includes the Media Council of Tanzania, Media Owners Association, Tanzania Media Women's Association, the Legal and Human Rights Centre, Tanzania Gender Network Programme and the Tanganyika Law Society.

6./ See Legal and Human Rights Centre (LHRC).

## Arbitrary arrest of economic, social and cultural rights defenders, in particular land rights defenders

Despite the fact that incidents against human rights defenders were scarce in 2008, the latter continued to be perceived as a threat to the Government rather than an active player for the improvement of the human rights situation in the country. In particular, human rights defenders and village leaders who were providing information on land rights and fighting against forced evictions in communities were subjected in 2008 to fallacious judicial proceedings designed to hinder their activities. These proceedings intimidated other villagers from coming forth for their rights. For instance, in April 2008, Mr. **Ibrahim Koroso**, a community leader and a member of the Legal and Human Rights Centre (LHRC) in Serengeti district, who has been involved in judicial cases against Government officials in relation to forced eviction cases, was arrested on the allegation of “unlawful possession of goods” contrary to the provisions of the Wildlife Conservation Act. He was denied both police bond and court bail. His case was lodged at Serengeti District Court and he was sent to Mugumu prison. The intervention of human rights activists including LHRC members facilitated his release on bail on May 7, 2008. Ultimately, in November 2008, Mr. Koroso’s charges were dropped by the Government and he was acquitted for lack of evidence. Since 2000, when M. Koroso started to act as a representative for 134 families from his village in a case against the then District Commissioner and Officer Command of District (OCD-Police) concerning forced evictions related to the expansion of Ikongoro Game Reserve<sup>7</sup>, he has been arrested several times and released each time due to lack of evidence. It is to be noted that his arrests often coincided with the times when he was due to appear before the Commission for Human Rights and Good Governance. This was also the case in April as he was to testify in the same case before the Court of Appeal of Tanzania<sup>8</sup>.

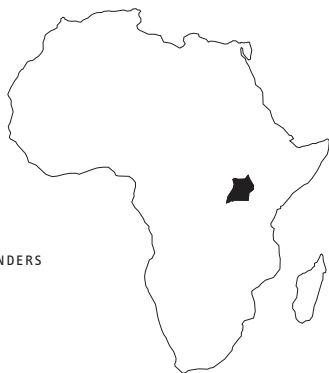
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7/ In 2001, Mr. Koroso lodged a complaint before the Commission for Human Rights and Good Governance, to which LHRC provided legal representation. The Commission ordered in December 2004 adequate and fair compensation to the villagers for their properties that were destroyed. It also called upon the Government to provide emergency humanitarian assistance to the people to restore them back to their normal life. Despite the fact that the evictions were considered illegal, the Government refused in 2005 to adhere to the Commission’s recommendations.

8./ See LHRC.



## / UGANDA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009**Political context**

As part of the peace talks carried out under Sudan mediation and known as the “Juba process”, the Government of Uganda and the Lord’s Resistance Army (LRA) signed on February 19, 2008 an important annex to their agreement dated June 29, 2007. This annex includes a cease-fire and principles for disarmament, demobilisation and reconciliation, as well as the adaptation of the judiciary system in order to prosecute war crimes. Following the signing of the peace agreement, the security situation improved<sup>1</sup>.

However, a final peace agreement should have been signed in April but LRA leader Joseph Kony failed to appear, thus raising questions on his commitment to the peace negotiations. Mr. Kony was given a second chance to sign a peace agreement on November 29, 2008 but, again, he made no appearance. On December 14, 2008, the situation worsened, when the military from Uganda, southern Sudan and the Democratic Republic of Congo lodged a joint attack, known as Operation “Lightning Thunder”, on Mr. Kony and the LRA rebels. Some journalists reporting on this operation were harassed, as was the case of two journalists from *The Monitor* newspaper, summoned on January 7, 2009 by the police and the Criminal Investigations Department (CID), and questioned about an article they wrote on Operation “Lightning Thunder”, which the Government considered prejudicial to the country’s security. These journalists were held on police bond, which was cancelled after three weeks<sup>2</sup>.

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1./ To that extent, the European Union considered that for the first time in many years, there was a real chance for reconstruction and long-term development in northern Uganda. It insisted that peace and justice should pave the way for reconciliation and was to be compatible with the wishes of the local communities, national law and the Rome Statute of the International Criminal Court (ICC). See Declaration of the EU Presidency concerning the Juba peace process, February 6, 2008.  
2./ See Foundation for Human Rights Initiative (FHRI).

Impunity was one of the issues that remained in 2008 at the heart of human rights debates in the country. Human rights defenders would like to see justice prevail, whether through the International Criminal Court (ICC) or through the traditional justice system (*mato-put*), to ensure that victims and survivors have an access to full and effective reparations. However, the search for domestic alternatives to ICC prosecutions to support the peace agreement initiative was criticised by the international community as undermining arrest warrants issued by the ICC against four LRA leaders<sup>3</sup> on charges of crimes of the utmost gravity: crimes against humanity including murder, enslavement, sexual enslavement, and rape; and war crimes, including murder, intentionally directing an attack against a civilian population, pillaging, incitement to rape, and forced enlisting of children. Moreover, civil society organisations have raised serious doubts regarding the cooperation of Ugandan authorities with the ICC.

### **Legal obstacles to the work of human rights defenders**

In 2008, independent civil society organisations continued to raise awareness on some provisions of the NGO Registration (Amendment) Act adopted in 2006 by Parliament, which could threaten their autonomy and independence. However, this Act had still not been implemented by the end of 2008, since the guidelines for its implementation have yet to be adopted<sup>4</sup>.

Under the terms of the 2006 Registration (Amendment) Act, NGOs have to renew licences on a regular basis and must provide written recommendations issued by two entities deemed “acceptable” to a NGO Regulatory Body established within the Ministry of Internal Affairs, called “NGO board”, composed of a very limited number of members

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3./ In July 2005, the court issued warrants for the arrest of the top five LRA leaders - Messrs. Joseph Kony, Vincent Otti, Okot Odhiambo, Raska Lukwiya, and Dominic Ongwen - for crimes against humanity and war crimes. See Human Rights Watch, *Benchmarks for Justice for Serious Crimes in Northern Uganda Human Rights Watch Memoranda on Justice Standards and the Juba Peace Talks*, May 2007 - February 2008.

4./ The 2006 Registration (Amendment) Act amends the 1989 NGO Registration Act (that had so far been implemented according to guidelines provided by the 1990 NGO Regulations). New guidelines are required for the 2006 Registration (Amendment) Act to be implemented. National NGOs have voiced concerns about restrictive provisions of the 2006 Registration (Amendment) Act, and there was hope throughout 2008 that these concerns would be addressed in the new guidelines that still had to be adopted.

from civil society, the majority of the board members coming from different ministries including of Internal and External Security ones. Without a clarification on the concept of acceptability, this provision could be used to silence more critical NGOs. Another provision of the Act stipulates that organisations are prevented from making direct contact with local people in rural areas without giving a seven days notice in writing to the district authorities. This is likely to further undermine their work, particularly activities of human rights monitoring. The Amendment Act also expands the powers of the Ministry of Internal Affairs to regulate the dissolution of NGOs.

After a meeting held in January 2008 between Government and NGO representatives, a committee composed of representatives from both sides was formed to renegotiate the final text of new guidelines, which are designed replace the existing ones in order to implement the 2006 Registration (Amendment) Act. The Committee met three times in 2008. Despite efforts made by NGO committee representatives to address concerns, the latest version of the text still gives broad powers to the “NGO board” to control the operations of NGOs in Uganda. At the end of the year, the new regulations were forwarded to the Minister of Internal Affairs for his signature.

Sedition laws and other criminal laws also continued to be a tool against journalists who were seen as critical of the authorities. In particular, the provisions of the Anti-Terrorist Act of 2002, which criminalises any attempt by a journalist to meet or speak with persons or groups regarded as terrorist and punishes such initiatives with death penalty, still seriously hinder the capacity of journalists who wish to denounce human rights violations in particular in northern Uganda, where the Government continued to use the war on terrorism to curb its internal conflict and rebellion.

### **Human rights defenders at risk when denouncing torture and extrajudicial killings**

In a context where security and war on terrorism continued to prevail, the space for human rights defenders remained limited in 2008, and the latter still faced legislative obstacles, in particular when touching upon issues such as torture and extrajudicial killings. Indeed, the legislation criminalising torture had still not been adopted by the end

of 2008<sup>5</sup> and individuals and NGOs denouncing such cases continued to be at risk in 2008. For instance, in October 2008, the Coordinator of the Human Rights Network for Journalists, Mr. **Sebagala Wokulira**, escaped a kidnapping attempt after an interview at Metro FM, during which he had asserted that hundreds of people were being detained and tortured in military “safe houses”<sup>6</sup>. At the end of the year, he was still hiding as he feared for his security.

### Harassment of human rights defenders working on LGBT rights

Lesbian, gay, bisexual, and transgender (LGBT) activists continued in 2008 to be exposed to arbitrary arrests and judicial proceedings, as well as to be subjected to ill-treatment whilst in detention, primarily at the hands of the Ugandan police due to homophobic attitudes. For instance, in June 2008, three activists, **Usaam “Auf” Mukwaya**, **Onziema Patience** and **Valentine Kalende**, were arrested by the police force at the 2008 HIV/AIDS Implementers’ Meeting during a peaceful protest to highlight the current failure by the Government to offer HIV/AIDS prevention programmes and treatment to LGBT persons in Uganda. They were released on bail after having been charged with “criminal trespass” on June 6, 2008. On August 15, 2008, the prosecution withdrew the case. In September 2008, two other defenders, **George Oundo**, Co-chairperson of the Sexual Minorities in Uganda (SMUG), and **“Kiiza” Brendah**, were arrested and arbitrarily detained for a week and then released on bail, after being charged for “involvement in indecent practices”. They were mistreated whilst in detention and interrogated by the police in order to identify other LGBT individuals, thus raising serious concerns about the security of other LGBT human rights activists.

On a positive note, on December 22, 2008, the High Court of Uganda gave its final judgement in the case of Ms. **Victor Juliet Mukasa**, President of SMUG. In the night of July 20, 2005, her house had been illegally raided by Government officials without a search warrant. The High Court ruled that the Government had violated the rights of

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5./ See United Nations Document CAT/C/CR/34/UGA, *Conclusions and Recommendations by the Committee against Torture*, June 21, 2005.

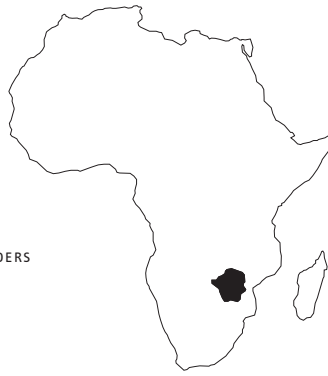
6./ Safe houses are unauthorised secret detention centres used by Ugandan security agencies.

Ms. Victor Juliet Mukasa and Ms. Yvonne Oyoo (a guest at her house), and declared that Ugandan constitutional rights apply to LGBT people regardless of their sexual identity or orientation. The Government will consequently be required to pay damages to both Ms. Musaka and Ms. Oyoo for violating their rights and seizing Ms. Musaka's documents. This Court ruling gives hope that Government and law enforcement agents will better respect LGBT human rights and their defenders.

### Urgent Interventions issued by The Observatory in 2008<sup>7</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Onziema Patience, Ms. Valentine Kalende and Mr. Usaam Mukwaya <i>alias</i> Auf	Arbitrary detention / Harassment	Urgent Appeal UGA 001/0608/OBS 096	June 5, 2008
	Release on bail / Judicial proceedings	Urgent Appeal UGA 001/0608/OBS 096.1	June 6, 2008
	Judicial proceedings / Harassment	Urgent Appeal UGA 001/0608/OBS 096.2	June 20, 2008
	Threats of torture	Joint Press Release	July 30, 2008
	End of judicial proceedings	Urgent Appeal UGA 001/0608/OBS 096.3	August 18, 2008
Ms. Victor Juliet Mukasa	Court ruling	Press Release	December 23, 2008

<sup>7</sup>/ See the Compilation of cases in the CD-Rom attached to this report.



## Political context

In 2008, Zimbabwe has experienced a major crisis linked to its national elections. The violence that culminated during the March 29 elections – with summary executions and enforced disappearances of political opponents – continued under other forms after the Zimbabwe African National Union – Patriotic Front (ZANU-PF), for the first time since the independence of the country, lost control of Parliament to the opposition Movement for Democratic Change (MDC). In addition, the results of the first round of the presidential elections – held on the same day and withheld for over a month<sup>1</sup> – gave MDC leader Mr. Morgan Tsvangirai 47.9% against 43.2% for Mr. Robert Mugabe. The run up to the second round of the presidential election, scheduled for June 27, 2008, saw a generalisation of the use of force and acts of violence including arbitrary arrests and detentions, death threats, disappearances, acts of ill-treatment and torture, intimidation, visits and breakdown of offices perpetrated by the army, Government-backed militias and ZANU-PF supporters. Their objective was to silence human rights defenders, NGOs and journalists reporting on the irregularities noticed in the framework of the electoral process and on the deteriorating human rights situation, as well as political opponents and ordinary citizens perceived as supporting the opposition.

On June 22, 2008, Mr. Morgan Tsvangirai announced his decision to withdraw from the poll to curb the politically instigated violence, leading to the “re-election” of Robert Mugabe as a sole candidate five days later. Mr. Mugabe’s re-election was considered as illegitimate

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1./ See Declaration of the EU Presidency calling for the expeditious release of the presidential election results, in accordance with the due process of law, April 16, 2008.

by a number of international observers<sup>2</sup>. With the mediation of the South African Development Community (SADC), a power-sharing agreement on the formation of a new Government was reached on September 15, 2008 between ZANU-PF and the opposition leaders of the two factions of the MDC, Messrs. Morgan Tsvangirai and Arthur Mutambara. However, no significant progress was made leading to a political turmoil that left the country in a situation of vacuum with no Government. State violence and a devastated economy, with inflation rates reaching the world's highest rate<sup>3</sup> and severe shortages of food and basic services<sup>4</sup> remained the order of the day as of the end of 2008.

In view of the gravity of the situation in December, the United Nations and Commonwealth countries urged international action on Zimbabwe's humanitarian crisis in view of the fact that "nearly six million people require emergency food aid and that the outbreak of cholera has killed hundreds in Zimbabwe and now spread to its neighbours"<sup>5</sup>. They warned of the collapse of essential services, such as health, sanitation and education. In an attempt to stop the circulation of information on Zimbabwe, on December 12, the Permanent Secretary for Information and Publicity Mr. Charamba threatened to ban accredited foreign offices or local reporters working for foreign news organisations accusing them of embarking on a propaganda assault against Zimbabwe<sup>6</sup>. According to the UN Special Rapporteur on Human Rights Defenders, the crisis was compounded by the use of unjustified

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2./ See Statement by the UN Secretary-General, UN Document SG/SM/11650, AFR/1716, June 23, 2008, and EU Council Conclusions on Zimbabwe, 2886<sup>th</sup> External Relations Council meeting Brussels, July 22, 2008. The SADC had deployed more than 400 observers, the African Union over 60 and the Pan-African Parliament 30, while the United Nations had provided logistical and technical support to SADC. While the observers had been harassed and intimidated, they had reported many irregularities, including a requirement that voters report the serial numbers of their ballots to officials of the ZANU-PF party.

3./ In its 2008 *World Economic Outlook* issued in October 2008, the International Monetary Fund (IMF) argues that "no projections for 2008 and beyond are shown because Zimbabwe is in hyperinflation, and inflation can no longer be forecasted in a meaningful way. Unless policies change, inflation can increase without limit".

4./ See UN Security Council, UN Document SC/9387, July 8, 2008.

5./ See Commonwealth Press Release, December 8, 2008.

6./ See Media Institute of Southern Africa Press Release, December 2008.

force by the authorities in response to peaceful demonstrations and the recent abductions of human rights defenders<sup>7</sup>.

### **Repression faced by human rights defenders monitoring the election process and denouncing the climate of political violence**

Following the pre-election campaign of intimidation, the already precarious situation of human rights defenders deteriorated after the results of the March 29 poll were made public. By the end of June 2008, the Special Rapporteur of the ACHPR on Human Rights Defenders explained that there had not been a single day without her being informed of a violation of their rights including threats, attacks, arrests and harassment<sup>8</sup>.

In 2008, the usual pattern of repression of peaceful demonstrations applied to demonstrations linked to the monitoring of the elections. For instance on May 28, 2008, 13 members of Women of Zimbabwe Arise (WOZA) and a member of Men of Zimbabwe Arise (MOZA) were arrested in Harare while demonstrating against the wave of political violence in front of the *Zambian Embassy*. Ms. **Jennifer Williams**, WOZA National Coordinator, and her deputy Ms. **Magodonga Mahlangu** were granted bail on July 3, 2008 after spending a considerable period of time in remand prison. The 14 defenders were all charged with “distributing materials likely to cause a breach of the peace” under Section 37 of the Criminal Law (Codification and Reform) Act. After several postponements of the trial, the 14 defenders who were to appear before Harare Magistrate’s Court on October 15, 2008 were all removed off remand by the Magistrate because the State was not ready to prosecute.

Furthermore, on December 3, 2008, a group of 15 unidentified armed men abducted Ms. **Jestina Mukoko**, Director of the Zimbabwe Peace Project (ZPP) and Board Member of the Zimbabwe Human Rights NGO Forum, from her home. Ms. Mukoko had been denouncing political violence. After almost three weeks during which her whereabouts

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7/ See UN Press Release, December 22, 2008.

8./ See Press Releases by the Special Rapporteur of the ACHPR on Human Rights Defenders in Africa, April 19 and June 23, 2008.



were unknown, she appeared before the Harare Magistrates Courts on December 24, 2008 with eight other accused on charges of “treason”, allegedly arising from recruiting people for banditry training to overthrow the Government, which carries a potential death sentence in the event of conviction. The appeals made by the lawyers to the High Court to grant her bail were vain as the State challenged the Court decision through an appeal to the High Court and she was taken to Chikurubi maximum security prison, where she remained as of the end of 2008.

## Obstacles to freedom of association

### Visits and breakdown of offices

In 2008, several human rights organisations had to close their offices following attacks and threats to their members, and operations of international NGOs were forcibly suspended by Government, thereby undermining efforts to bring human rights violations to the attention of the international community<sup>9</sup>. In this regard, on June 11, 2008, uniformed members of the Zimbabwe Republic Police forced the National Constitutional Assembly (NCA) Matebeleland south office to close, on the grounds that NGOs must not be operating as decided by a recent directive of the Government. The day before, ZANU-PF militias had ordered the closure of the NCA office in Masvingo, following the shuttering of the windows of the premises on June 6, 2008.

Moreover, one of the common tactics used by the Central Intelligence Organisation to intimidate human rights defenders and spread fear among them was to put human rights defenders under surveillance, visiting their offices and tapping their telephone lines. In the electoral context, acts of repression of this kind intensified. For example, in April 2008, national police officers raided the offices of the Zimbabwe Election Support Network (ZESN) as well as the house of its Director, Ms. **Chipfunde-Vava**, to search for subversive documents. They confiscated computers and other materials. Likewise, on June 9, 2008, ZANU-PF members and war veterans stormed into the Gokwe offices

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9./ In a Press Released dated August 30, 2008, the UN Secretary-General welcomed the announcement of the Government of Zimbabwe to lift the suspension of field operations of non-governmental and private voluntary organisations.

of the Progressive Teachers' Union of Zimbabwe (PTUZ), ransacked the office, grabbed a number of documents that they took away with them, and ordered that the union ceases its business. Two days before, Mr. Moses Mhaka, PTUZ Coordinator for Gokwe, had been severely beaten up by the same persons.

### **Hindered access to financial resources and restriction on bank transactions**

In 2008, the Government continued to control financial resources of human rights NGOs through the Reserve Bank of Zimbabwe (RBZ). For instance, in early 2008, the Zimbabwe Lawyers for Human Rights (ZLHR) had to wait for two months in order to undertake a programme because they had not received their money from the RBZ<sup>10</sup>.

### **Repression against defenders denouncing the ravages of the economic crises on the population**

With the current economic crisis and shortage of food and fuel supplies in Zimbabwe, the majority of the population in the country – particularly in the rural areas – have been heavily dependant on food aid and supplies according to quotas provided by the Government and the other relevant agencies controlled by the Government. Defenders reporting on this situation were not only repressed, but the Government also used the denial of food supply and other basic services as a weapon against them. This was particularly the case for members of the Save Zimbabwe Campaign and members of the Zimbabwe Congress of Trade Unions (ZCTU), whom representatives reported in January 2008 that the Zimbabwean officials had informed them that suspected supporters of ZCTU usually received less food than the average population, and that they would have to distant themselves from such organisations if they wanted to receive food supplies according to the official quotas.

In addition, peaceful demonstrations to denounce the alarming economic and social situation led to arrests and violence, as was the case for instance on October 16, 2008, when a march of about 200 people

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10./ When an NGO deposits money in a bank, the financial police require that it be transferred to the Federal Bank of Zimbabwe. The NGO has to solicit the Federal Bank for any activity requiring funds. Considerable time can elapse before obtaining an answer, and it can happen that the activity cannot be carried out, thereby creating a situation in which the NGO fails to satisfy the requirements of the donor.

organised by WOZA was repressed, resulting in the arrest of nine members, including the two WOZA leaders Ms. Jennifer Williams and Ms. Magodonga Mahlangu. Seven of the arrested were released without charge on the same day. However, the two leaders were only released on bail on November 6, 2008. They were held at Mlondolozu female prison in deplorable conditions. As of the end of 2008, they remained charged for allegedly “disturbing the peace, security or order of the public” under Section 13(1)a of the Criminal Law (Codification and Reform) Act. Likewise, on December 3, 2008, following a peaceful march organised by ZCTU to protest against the financial crisis by delivering petitions to the RBZ Governor and offices, more than 69 demonstrators, leaders and members of ZCTU, including Mr. **Wellington Chibebe**, ZCTU Secretary General, and Mr. **Lovemore Matombo**, its President, were arrested. On December 8, all were released and, at the end of 2008, it was not known whether some of them would be prosecuted.

The International Labour Conference (ILC) that took place in Geneva in June 2008 expressed deep concern at the “surge in trade union and human rights violations” and the regime’s “massive violence against teachers”. It “further regretted the continual recourse made by the Government to the Public Order and Security Act (POSA) and lately, to the Criminal Law (Codification and Reform) Act of 2006, in the arrest and detention of trade unionists for the exercise of their trade union activities, despite its calls upon the Government to cease such action”. It also “took note with deep concern of [...] the ongoing threats to trade unionists’ physical safety”. It further deplored the Government’s refusal to accept ILO assistance to improve the situation and called on it to “immediately halt all arrests, detentions, threats and harassment of trade union leaders and their members, drop all charges brought against them and ensure that they are appropriately compensated”<sup>11</sup>.

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11./ See ILC, 97<sup>th</sup> Session, *Conference Committee on the Application of Standards: Extracts from the Record of Proceedings*, 2008.

**Urgent Interventions issued by the Observatory in 2008<sup>12</sup>**

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
		International Fact-Finding Mission Report	March 19, 2008
<b>Ms. Rindai Chipfunde-Vava, Ms. Irene Petras, Mr. Dzikamai Machingura, Mr. Barnabas Mangodza, Ms. Jestina Mukoko, Mr. Clever Bere, Dr. Francis Lovemore, Mr. Alois Chaumba, and Mr. Earnest Mudzengi, Mr. Noel Kututwa and Zimbabwe Election Support Network (ZESN)</b>	Searches / Harassment	Urgent Appeal ZWE 001/0408/OBS 068	April 28, 2008
<b>Mr. Lovemore Matombo and Mr. Wellington Chibebe</b>	Arbitrary detention / Judicial proceedings	Urgent Appeal ZWE 002/0508/OBS 075	May 14, 2008
<b>Mr. Raymond Majongwe</b>	Arbitrary detention	Urgent Appeal ZWE 002/0508/OBS 075.1	May 16, 2008
	Release on bail	Urgent Appeal ZWE 002/0508/OBS 075.2	May 20, 2008
<b>Ms. Jennifer Williams, Mr. Philimon Sajeni and Ms. Magodonga Mahlangu as well as members of members of Women of Zimbabwe Arise (WOZA) and Men of Zimbabwe Arise (MOZA)</b>	Arbitrary detention / Judicial proceedings / Harassment	Urgent Appeal ZWE 003/0608/OBS 094	June 4, 2008

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12./ See the Compilation of cases in the CD-Rom attached to this report.

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
	Release on bail / Arbitrary detention	Urgent Appeal ZWE 003/0608/OBS 094.1	June 13, 2008
	Release on bail	Urgent Appeal ZWE 003/0608/OBS 094.2	July 4, 2008
<b>Ms. Jennifer Williams and Ms. Magodonga Mahlangu</b>	Arbitrary detention / Use of police force / Ongoing harassment / Judicial proceedings	Urgent Appeal ZWE 006/1008/OBS 164	October 17, 2008
		Urgent Appeal ZWE 006/1008/OBS 164.1	October 27, 2008
	Release on bail	Urgent Appeal ZWE 006/1008/OBS 164.2	November 6, 2008
<b>Mr. Tinarwo and Mr. Moses Mhaka</b>	Harassment / Ill-treatments	Urgent Appeal ZWE 004/0608/OBS 100	June 12, 2008
<b>Mr. Biggie Bangira, Mr. Musa Mabika and Mr. Leon Chiimba</b>	Obstacles to freedom of association / Arbitrary detention / Death threats / Ill-treatments	Urgent Appeal ZWE 005/0608/OBS 101	June 13, 2008

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
<p>Mr. Wellington Chibebe, Mr. Lovemore Matombo, Mr. Tonderai Nyahunzvi, Mr. Canwell Muchadya, Mr. Hillarious Ruyi, Mr. Cde Tarumbira, Mr. Joseph Chuma, Ms. Getrude Hambira, Ms. Angeline Chitambo, Ms. Tecla Masamba, Ms. Martha Kajama, Ms. Mirriam Katumba, Mr. Japhet Moyo, Mr. Ben Madzimure, Mr. Fungayi Kanyongo, Mr. Raymond Majongwe, Mr. James Gumbi, Mr. Osward Madziwa, Mr. Gideon Shoko, Mr. Charles Chikozho, Mr. Isaac Thebethebe, Mr. Moses Mhaka, Mr. Wilbert Muringani, Mr. Benard Sibanda, Mr. Elinas Gumbo, Mr. Ndodana Sithole, Mr. Nicholas Zengeya, Mr. Isaac Matsikidze, Mr. Sarudzai Chimwanda, Mr. David Moyo, Mr. Enoch Paradzai and Mr. Kenneth Nemachena, as well as Zimbabwe Congress of Trade Unions (ZCTU) and Progressive Teachers' Union of Zimbabwe (PTUZ)</p>	<p>Arbitrary arrests / Obstacles to the freedom of assembly</p>	<p>Urgent Appeal ZWE 007/1208/OBS 205</p>	<p>December 3, 2008</p>
<p>Ms. Jestina Mukoko</p>	<p>Abduction / Enforced disappearance</p>	<p>Urgent Appeal ZWE 008/1208/OBS 206</p>	<p>December 4, 2008</p>
<p>Mr. Broderick Takawira and Mr. Pascal Gonzo</p>		<p>Urgent Appeal ZWE 008/1208/OBS 206.1</p>	<p>December 9, 2008</p>



# / AMERICAS

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

# / REGIONAL ANALYSIS AMERICAS

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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Even though the election on November 5, 2008 of Mr. Barack Hussein Obama as President of the *United States of America* and the adoption of new constitutions in *Ecuador* at the end of 2008 and *Bolivia* at the beginning of 2009 gave rise to great hope for change throughout the region, the situation in 2008 remained much the same as in previous years. In *Colombia*, where internal armed conflict continued, the situation of defenders, union members, indigenous peoples and journalists remained the greatest concern in the region. In 2008, the conflict also had disastrous consequences for the civil population, especially the forced displacement of more than 250,000 persons, in an environment in which a negotiated solution to the conflict seemed distant. Furthermore, *Guatemala* continued to suffer from profound democratic and institutional fragility. In 2008, various diplomatic crises erupted, the most serious being between *Colombia*, *Ecuador*, *Venezuela* and *Nicaragua*, following the bombing of Ecuadorian territory by *Colombia*.

The States were also confronted by the people's dissatisfaction with their Governments' handling of important social issues such as health, education or work (*Honduras*), sometimes despite a favourable economic climate (*Peru*). *Bolivia* was affected by a profound political and social crisis, racial violence and attempts to destabilise constitutional order, against a background of opposition and attempts by the governors of the wealthy region of Media Luna to de-construct the country. In *Venezuela*, the Government was also faced in 2008 with domestic challenges to the central authorities. Finally, in *Nicaragua*, the current Government was at the origin of the polarisation of the population, especially with municipal elections that were marked by irregularities, pressure and acts of intimidation.

There were a great many social protest movements in 2008, mainly motivated by conflicts relating to land control, environmental protection



and the exploitation of natural resources (*Bolivia, Brazil, Chile, Colombia, Cuba, Guatemala, Mexico, Nicaragua, Peru*). In many cases, these conflicts relate to the ancestral lands of indigenous peoples, exploited by various stakeholders, often violating their fundamental rights (*Chile, Colombia, Guatemala, Peru*). These peoples also continued to be marginalised and to be subject to discrimination and repression in several of the continent's countries (*Bolivia, Chile, Colombia, Ecuador, Guatemala*). In this context, demonstrations organised to call for the respect of rights were frequently repressed (*Chile, Colombia, Guatemala, Peru*). In addition, many peasant farmers were *de facto* forced out from their lands so that they could be exploited by agro-industrial transnational companies, or by paramilitary groups, as occurred in *Colombia*. It is to be feared that this situation will deteriorate if the production of agro-fuels becomes widespread.

Despite progress made in the fight against impunity, of which the trial of former Peruvian President Alberto Fujimori for crimes against humanity is the most symbolic, and to which should be added the adoption of laws aimed at classifying certain violations committed during military dictatorships as crimes against humanity, including forced disappearances and genocide (*Argentina, Chile*), or again the mission of especially established bodies to fight against impunity (*Guatemala*), the latter remained the norm with regard to proceedings against the authors of violations committed against human rights defenders.

This climate of impunity also promoted violence, especially against women. In 2008, many women continued to be victims of violence, especially sexual violence and even murders, in several of the region's countries. The expression "femicide", in common use in the last few years in *Mexico* and *Guatemala*, illustrates the scale of the phenomenon.

The scale of violence became excessive in some States in 2008 (*Guatemala, Mexico*), particularly in the context of conflict between Governments and drug traffickers and those who practice organised crime. While several Governments used the fight against drug trafficking and organised crime to justify the adoption of harsh policies (*Mexico, Peru*), the continued implementation of policies to combat these phenomena, such as "Plan Colombia" or the "Mérida Initiative" (*Iniciativa Mérida*), promoted by the *United States of America* and

agreed between the *United States of America, Mexico* and the Central American countries (*Belize, Costa Rica, El Salvador, Honduras, Nicaragua, Panama*), aiming to strengthen cooperation between these States on the issue, contributed to serious human rights abuses.

The obsession with security was also the reason for the adoption of laws and measures to control people's acts and deeds, more particularly in the framework of social movements (*Brazil*). It was also typical of constitutional reforms of the criminal justice system, certain elements of which are in contradiction with international human rights norms (*Mexico*), or the adoption of security laws that restrict constitutional guarantees such as the freedoms of movement, assembly, expression, or the freedom to protest (*Guatemala, Peru*).

### **Methods used to hinder human rights activities**

In many countries, defenders have had to face growing hostility on the part of the authorities, which in 2008 made particular use of Government-orchestrated defamation and smear campaigns, as well as statements by political officials against human rights organisations and their members. In *Colombia*, civil society organisations and defenders were on many occasions the subject of slanderous statements made by President Uribe and his Government to damage the legitimacy of all human rights activities by accusing them of being members or sympathisers of the guerrillas. In *Peru*, in August 2008, the Agriculture Minister, Mr. Ismael Benavides, termed NGOs the “vultures of the 21<sup>st</sup> century”, accusing them of wanting to receive “more funding from abroad”. Defenders were additionally described, amongst other things, as “terrorists” (*Cuba, Peru*), “prostitutes”, “murderers” and “mercenaries” (*Cuba*), or again “oligarchs”, “traitors to the country” and “imperialist puppets” (*Nicaragua, Venezuela*). In *Venezuela* and *Nicaragua*, the authorities on several occasions accused human rights NGOs of receiving funds from the United States and of being relays for the opposition. Finally, in *Cuba, Nicaragua* and *Peru*, partisans of the Governments in office used “acts of repudiation” to put pressure on defenders, in the course of which State agents grouped in front of defenders' homes or organisations' offices to insult or even physically attack them.

In addition, in several of the region's countries, the authorities frequently tried to place human rights organisations under surveillance, with activities ranging from the interruption of telephone lines to

attempts to destroy their premises (*Colombia, Cuba, Peru*), searches of premises and the seizing of material and documents (*Chile, Colombia, Ecuador, Honduras, Mexico, Nicaragua, Peru*). As part of the fight against terrorism in the *United States*, the Bush administration reportedly drew up blacklists of people who were a potential danger to the security of the country, including human rights organisations such as the World Organisation for Human Rights USA, which would have been wiretapped.

Some States tried to investigate the funding of civil society organisations (*Brazil, Nicaragua*). Moreover, *Nicaragua* and *Peru* announced their wish to increase surveillance of NGO activities, revising the legal framework in which they operate or granting new competencies to already existing State bodies, in order to exercise greater control of their sources of funding and their activities and so restrict their independence and freedom to act.

Finally, States increasingly had recourse to using the judicial system to punish the work of defenders who had been subject to prosecution, arrest or detention generally on the basis of evidence that had been cobbled together (*Brazil, Chile, Colombia, Cuba, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Venezuela*). In *Mexico*, defenders of migrants' rights and environmental rights were particular targets.

### **Continued repression of defenders fighting against impunity**

In 2008, human rights defenders engaged in the fight against impunity were again the target of acts of harassment, threats and even murder attempts (*Argentina, Brazil, Colombia, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Peru*). In *Colombia*, the Government tried to discredit civil society organisations and human rights defenders who took part on March 6, 2008 in the march of homage to the victims of the paramilitary and of State crimes, stating in particular that the march had been organised by the Revolutionary Armed Forces of Colombia (FARC). These accusations were followed by a wave of killings and death threats against defenders. In *Peru*, throughout the year 2008, defenders and civil society organisations that fight for justice and truth in the Fujimori case were the target of attacks and intimidation by the former President's support groups. In *Argentina*, NGO members, lawyers, trial witnesses and officials of the judicial system who fought against impunity for human rights violations committed during the

dictatorship were also targeted. In *El Salvador*, the Director of the El Salvador Human Rights Commission (*Comisión de Derechos Humanos de El Salvador* - CDHES) received threats after his organisation held an international seminar on the fight against impunity and the international Criminal Court, during which he had in particular dealt with the issue of impunity for crimes committed in El Salvador between 1980 and 1991.

### **Repression of defenders of trade union freedom and workers' rights**

In 2008, many defenders again paid dearly, sometimes with their lives, for their fight for workers' rights and for trade union freedoms. Today, *Colombia* remains the country in which the greatest number of trade union members in the world were murdered. In 2008, the United Confederation of Workers of Colombia (*Central Unitaria de Trabajadores de Colombia* - CUT) denounced the killing of 49 trade union members and leaders, a figure that had increased by 25% compared with 2007. Similarly, in *Guatemala*, an unprecedented number of 47 attacks against union members were recorded during the year and three union leaders were killed. In *Honduras*, trade union members were also the subject of death threats, attacks and were even killed. In *El Salvador*, public sector employees who defended their labour rights were subjected to harassment and criminalisation of their activities. Finally, in *Chile*, trade union members who called for improved working conditions were arrested and subjected to ill-treatment by the police force.

### **Criminalisation of social protest and repression of defenders of land rights and of indigenous communities**

In 2008, the Americas region was particularly marked by the criminalisation of social protest, mainly relating to conflicts regarding the issue of the ownership and abusive exploitation of lands and their resources without prior consultation of the population concerned, in particular by multinational corporations, very often affecting the rights of indigenous peoples (*Colombia, Guatemala, Mexico, Peru*), in violation of Convention No. 169 of the International Labour Organisation (ILO) concerning Indigenous and Tribal Peoples of June 27, 1989,

which, as of the end of 2008, had been ratified by most States in the region<sup>1</sup>.

Furthermore, the women and men who tried to defend indigenous communities were often subjected to threats, acts of harassment, sometimes at the judicial level, and defamation campaigns by both the national and local public authorities, in order to discredit them and hinder their activities. In *Bolivia*, journalists affiliated to an association for the defence of indigenous communities were attacked, threatened with death and detained for several days. In *Colombia*, leaders of indigenous communities were again the victims of particularly serious reprisals that threatened their physical integrity and their right to life, as was sadly illustrated by the killing of the husband of an indigenous leader after she had promoted the day of community, social and popular unity (*Minga Nacional de Resistencia Indígena y Popular*) in October 2008 and taken part in the Universal Periodic Review on Colombia. In *Chile*, people defending the rights of the Mapuche people were victims of searches, whilst the leaders of this community were subjected to arbitrary detention. In February 2008 in *Ecuador*, the wife of the President of the Confederation of Indigenous Nationalities of Ecuador (*Confederación de Nacionalidades Indígenas del Ecuador - CONAIE*) was kidnapped by three individuals who interrogated her concerning her international contacts and her plans for mobilisation in support of the indigenous cause. In *Mexico*, two journalists, who were preparing a report on an indigenous community in the State of Oaxaca, were killed in an ambush.

Defenders of the right to the environment and the right to land also found themselves in the firing line of repression, especially when they denounced excessive exploitation of natural resources by multinational corporations that damages the environment and harms the inhabitants' way of life. Defenders of the right to the environment were subjected to attacks, death threats, act of judicial harassment, arbitrary detention and assassination attempts in *Ecuador, Guatemala, Honduras, Mexico* and *Peru*. In *Brazil*, the Landless Workers' Movement (*Movimiento dos Trabalhadores Rurais Sem Terra - MST*) was a particular target

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1./ *Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Guatemala, Honduras, Mexico, Paraguay, Peru, and Venezuela.*

and eight of its members were the subject of a complaint for “taking part in assemblies to overthrow the rule of law”.

### **Repression of defenders of women’s rights**

The women and men who defended women’s rights and tried to obtain compensation and justice for the victims of sexual violence and their families were also the target of many acts of repression in several of the region’s countries. In *Mexico*, defenders of women’s rights were vulnerable to arrest and arbitrary judicial proceedings and were also the target of threats, including death threats, when they denounced the prevailing impunity for the murder of women, particularly in the context of the femicide occurring in Ciudad Juárez. In *Colombia*, one of the main women’s rights organisations was subjected to repeated threats throughout the year 2008. In addition, an NGO Director and certain members of her family were killed shortly after the release of a book on violence against women in times of war. In *Nicaragua*, acts of harassment against the leaders and members of feminist organisations that denounce cases of violence and sexual abuse against women remained also frequent, especially when they defended therapeutic abortion. In *Argentina*, a defender who denounced the existence of a prostitution network in Buenos Aires and the abuse committed against prostitutes by certain police officers and political officials was the target of judicial harassment. Finally, in the *United States*, defenders of women’s rights, especially those who fight for the right to abortion, also continued to be subjected to threats and attacks by people who disagree with these practices. During the 133<sup>rd</sup> session of the Inter-American Commission on Human Rights (IACHR), in October 2008, women defenders from the United States talked about their situation and stated that they did not feel they were given sufficient protection either by the police or by the judicial system.

### **Mixed results of the implementation of protection measures for defenders**

Although, in many of the region’s countries, protection measures granted by certain Governments has permitted an improvement of the situation of many people, in certain cases they have turned out to be ineffective or insufficient to protect defenders who are threatened because of their human rights activities. They have even sometimes been used as a reason for not tackling the real causes of violence against defenders or the crucial problem of the fight against impunity.

Furthermore, in a number of countries, protection measures granted by the IACHR or the Inter-American Court of Human Rights for human rights defenders were often implemented along with all kinds of restrictions and as a result were generally ineffective. While in *Guatemala* and *Nicaragua* there was a regrettable lack of political will on the part of the authorities regarding their application, defenders in *Colombia* or *Venezuela* complained that they had been attacked by the people responsible for their protection. In *Colombia*, many defenders who benefited from protection measures provided on the initiative of the Government or the IACHR were killed. In *Ecuador*, judicial proceedings were opened against a human rights defender who benefited from IACHR protection measures. In *Honduras*, a prosecutor who fought against corruption was the victim of an assassination attempt although he benefited from IACHR protection measures. In *Guatemala*, *Nicaragua* and *Peru*, the system of protection for defenders was made unequal by the insufficient protection granted by the authorities with regard to people who benefited from measures accorded by IACHR or the Inter-American Court of Human Rights. Finally, the authorities often not only failed in their duty to protect human rights defenders but also misappropriated measures of protection by turning them into a tool to control and repress their supposed beneficiaries (*Colombia*, *Venezuela*).

### Urgent Interventions issued by The Observatory in 2008 for countries of the region for which there is no Country Fact-sheet<sup>2</sup>

Countries	Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
ECUADOR	Messrs. Alexis Ponce and Fernando Cordero and Ms. Miriam Cisneros	Attacks / Harassment	Urgent Appeal ECU 001/0308/ OBS 033	March 5, 2008
ECUADOR	Ms. María Espinosa	Arbitrary detention / Judicial proceedings	Urgent Appeal ECU 002/0608/ OBS 103	June 17, 2008

2./ See the Compilation of cases in the CD-Rom attached to this report.

<b>COUNTRIES</b>	<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
EL SALVADOR	<b>Mr. Miguel Rogel Montenegro</b>	Threats	Urgent Appeal SLV 001/0508/ OBS 081	May 15, 2008
UNITED STATES OF AMERICA	<b>Mr. Athemay Sterling</b>	Arbitrary detention / Obstacles to freedom of movement	Urgent Appeal USA 001/0708/ OBS 116	July 9, 2008



# / TESTIMONIAL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009



## **AÍDA QUILCUÉ**

Chief Council of the Cauca Regional  
Indigenous Council (CRIC), Colombia

For us, indigenous peoples, being human rights defenders entails that collective and individual rights are inseparable from the balance between mankind and nature, and fulfilment of mankind in harmony with nature. Therefore, life and dignity prevail over all other interests.

Unity, Land, Culture and Autonomy are the pillars on which lies the indigenous movement. These principles are the framework for the defence of the collective and individual rights of indigenous peoples. Therefore my work begins at the grassroots level, and aims at strengthening local organisations that defend our rights. Through this process, I bear witness in a privileged manner to the various situations we Colombian citizens are all faced with, and in particular situations experienced by indigenous peoples.

First of all, the plundering of the land led to forced displacements of the populations, selective assassinations, abusive judicial proceedings and other violations of human rights and international humanitarian law.

Furthermore, the indigenous movement has been putting forward, throughout the years, concrete peace proposals aimed at solving overall structural problems faced by the indigenous communities and social problems of the country. However, in our view, the policies designed by the Colombian are in line with a strategy intended to follow by the book economic development policies imposed by the globalisation process. These policies have led to the dismantling of the rights though they are enshrined in the Constitution, thereby generating new standards that violate fundamental rights. Likewise, it is worth underlining that the so-called “democratic security” policy, allegedly aimed at fighting

guerrillas and drug-trafficking, ultimately targets civilians. In addition, Government armed forces are responsible for these crimes, as in the case of my husband's death, José Edwin Legarda<sup>1</sup>. His assassination, which was carried out as another case of the so-called "false positives"<sup>2</sup>, orchestrated by the authorities to demonstrate to the national and international public opinion that terrorists had infiltrated the National "Minga" for Social and Community Resistance (*Minga Nacional de Resistencia Social y Comunitaria*), as President Uribe had stated on various occasions. Another example is the behaviour of the police force following my husband's death or again the orders given to buy false denunciations from members of our communities. Reward for informing on us<sup>3</sup>, indigenous leaders, who are involved in process to claim our rights.

In Colombia, it is very complicated to obtain justice since the system is often in the Government's pay. It is about time that, for unsolved crimes, alternative mechanisms are found in order to bring justice, as in the case of my husband Edwin Legarda. As of now, this case was not yet brought before a court because, allegedly, the process for the collection of evidence has not come to an end, and the authors have not yet stood trial.

To conclude, being a human rights defender involves being part of the people's collective strength, reflecting the experiences and feelings of all those who, due to impunity and the law of silence, cannot speak out. This means accepting all risks of persecution, including giving one's own life.

The solidarity expressed by human rights bodies and their denunciation of acts undertaken against the indigenous movement have been and remain essential insofar as they provide us with true support

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1./ Assassinated on December 16, 2008.

2./ The expression "false positives" is used to describe a specific case of extrajudicial execution in Colombia: members of the armed forces assassinate peasants or civilians in marginalised areas and dress them up as guerrilla members in order to present them to the public opinion as terrorists killed by the armed forces.

3./ The Colombian Government resorts to compensation as a means to encourage guerrilla members to denounce and hand over drug trafficking leaders. The mechanism of reward is often manipulated and leads to bear false witness.

when the indigenous movement was faced with critical situations. Their action is indeed a way to put pressure upon the Colombian Government to respect peoples' rights. This objective may have not been fully reached yet but it helped to reduce the risks the indigenous movement are facing. This is why we are calling for a permanent vigilance of those human rights bodies regarding future developments in Colombia so that they can make all they can to prevent the possible extermination of peoples.

It is my responsibility to seek justice for the death of my husband and of all the others. Although I had to pay a high price in my fight for justice, i.e. the life of a loved one and being persecuted, I am still strong. I know that we have to go all the way in the most difficult situations to bring light eventually. With your help and that of many others in the world, including that of the indigenous communities and leaders, we shall be able to keep our civil resistance going.

This is also why we call for the need to further build upon existing links between nations and peoples convinced that the future will bring change and positive benefits for our children.

# / ARGENTINA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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## Political context

In 2008, Argentina got a new Government, led by Ms. Cristina Fernández de Kirchner, elected on October 28, 2007. The country went through a political crisis between March and July, during which groups of rural producers protested against Government measures tending to increase withholdings (export taxes) with an aim of improving income distribution. The demonstrations shook the country and led to the resignation of the Minister of the Economy, Mr. Martín Loustean.

Judicial proceedings within the “Truth Trials” (*Juicios por la Verdad*) have been initiated by victims or their families since 2005, and continued in 2008. Since the Supreme Court annulled the amnesty laws in 2005, about 340 judicial proceedings for crimes against humanity committed under the military dictatorship (1976-1983) have been opened and remain pending. As of the end of 2008, eight oral and public trials had been held, leading to the sentencing of key State terrorism figures. Despite this progress, however, only one sentence had been confirmed by the Supreme Court at the end of 2008, and 74% of the cases were only at a preliminary stage. This lack of speed in the proceedings led the Supreme Court to order several detainees to be released in December 2008, after the limit for pre-trial detention was overstepped. In this case, however, this decision “should not be implemented immediately”. It must also be added that more than 190 of the accused are already dead<sup>1</sup>.

In connection with the trials related to the dictatorship, human rights organisations have on several occasions underlined central issues that the Government needs to address urgently, and that are important to the advancement towards truth and justice: the unjustified delays in the trials and the officials’ indolence. Also, the new push to the truth and

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1./ See Centre for Legal and Social Studies (*Centro de Estudios Legales y Sociales* - CELS).

justice trials was accompanied by numerous threats and acts of harassment against witnesses and victims linked with the trials, who cannot trust police protection. This situation results from various factors: victims and witnesses are deeply involved in identifying the responsible persons as the latter carry the burden of proof; the State witness and victim protection programme has flaws; and acts of harassment and intimidation lack efficient investigation. For instance, Mr. Jorge Julio López, one of the key witnesses in the trial against Mr. Miguel Etchecolatz, remains disappeared since September 2006. Similarly, Mr. Juan Evarista Puthod, a detainee and a victim of enforced disappearance under the military dictatorship and a witness for the prosecution in various trials, in particular against former Superintendent Luis Abelardo Patti, was kidnapped for 24 hours on April 29, 2008 as he was preparing a homage to Mr. Pereyra Rossi and Mr. Cambiasso, detained by former Superintendent Patti and missing during the dictatorship. Mr. Puthod later said that he had been threatened and abused during his detention. He had also received threats before. As of the end of 2008, however, the investigation into his harassment had not yielded concrete results.

### **Acts of intimidation against defenders fighting against impunity**

Defenders who fought the impunity of human rights violations committed during the dictatorship, especially NGO members, lawyers, witnesses and judges, continued to be subjected to acts of harassment and intimidation in 2008. For instance, on April 25, 2008, Ms. **María del Carmen Verdú**, a lawyer and member of the Coordinating Committee Against Police and Institutional Repression (*Coordinadora contra la Represión Policial e Institucional* - CORREPI), was threatened by two men on a motorcycle as she was leaving a demonstration organised by CORREPI in commemoration of the 17<sup>th</sup> anniversary of the assassination of Mr. Walter David Bulacio<sup>2</sup>. No progress had been made in the investigation into those events as of the end of 2008.

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2./ Mr. Walter David Bulacio was a young Argentinean who was murdered by officers from the Argentinean federal police in 1991, and whose death became a symbolic case of police brutality. In 2003, the Argentinean State was sentenced by the Inter-American Human Rights Court (*Corte Inter-Americana de Derechos Humanos* - CoIDH) for these events. However, Argentina has still not implemented the sentence and the responsible police officers have not been sanctioned. See Committee of Judicial Action (*Comité de Acción Jurídica* - CAJ).

Furthermore, Ms. **Viviana Beigel**, a lawyer for the Ecumenical Movement for Human Rights (*Movimiento Ecueménico por los Derechos Humanos* - MEDH) in Mendoza, received several anonymous telephone threats in November, after she opposed the presence in the provincial Government of a person responsible for human rights violations during the dictatorship and who was not convicted. In addition, a woman looking like her was raped in front of her own house in April 2008. Moreover, Ms. **Alicia Morales**, the President of the Permanent Assembly for Human Rights (*Asamblea Permanente por los Derechos Humanos* - APDH) in San Rafael, Mendoza, was threatened with red ribbons on the railing in front of her house on November 13, 2008<sup>3</sup>. Likewise, since 2002, Ms. **Laura Figueroa**, a lawyer and human rights defender in the Tucumán province<sup>4</sup>, was subjected to threats and various acts of harassment, in connection with hearings against persons responsible for human rights violations in Tucumán during the dictatorship. In August 2008 for instance, two former police superintendents who had escaped custody and who should have been in prison for crimes against humanity threatened Ms. Figueroa as she left court. On the morning of November 20, 2008, the same men made serious threats and insults during a radio interview, urging the population to support them in their resistance to their arrest warrant.

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3./ Ms. Alicia Morales is a survivor of the clandestine detention centre that existed under the Department of Police Intelligence (D2) in Mendoza. The D2 was created by Law No. 3677 in 1970, and included divisions of information collection and investigation. Its main goal, however, was to gather data on activists, organisations, institutions and anyone else who was suspected of having political activities. Ms. Morales stated before the court that she recognised the retired Superintendent Carlos Rico Tejeiro, currently Deputy Security Secretary in Mendoza, in the camp. Mr. Rico Tejeiro remains in his position despite complaints by human rights organisations and the national Government. See Permanent Assembly for Human Rights (APDH).

4./ Ms. Laura Figueroa is one of the few lawyers in Tucumán still appearing in cases related to human rights violations committed during the dictatorship. She was a plaintiff in the so-called "Pozo de Vargas case", related to enforced disappearances in Tucumán during the dictatorship. Witnesses asserted that the army dumped dozens of corpses of disappeared detainees at Pozo de Vargas, which lies 20 minutes from the Tucumán provincial capital, from 1975 to 1977. Judge Terán opened an investigation, in the framework of which excavations are made by Tucumán University technicians and experts. Moreover, the Federal Prosecutor in charge of the investigation, Mr. **Emilio Ferrer**, was also threatened, albeit less intensively.

## Repression of defenders of economic and social rights

In a still very fragile economic environment, defenders of economic and social rights were once again victims of harassment. For example, students and teachers from the Don Orión de Wilde school, as well as other activists from the “People’s Children” organisation (*Chicos del Pueblo*), were subjected to threats, acts of intimidation, attacks and kidnappings, in connection with the “Hunger is a Crime” Campaign (*El hambre es un crimen*), which condemns malnutrition among children in Argentina. Indeed, some young persons who were taking part in the campaign were kidnapped and threatened so that they put an end to their demands. On July 24, 2008, a boy from the Don Orión charity’s John XXIII orphanage (*Hogar Juan XXIII*), in Gerli, was kidnapped, taken into a car and threatened by a group of heavily armed masked men. In the night of September 26, 2008, a teacher from the John XXIII orphanage was kidnapped and brutally beaten by a group of hooded people believed to be parapolice, and who demanded that he stop taking part in the above-mentioned campaign. Later, on October 3, 2008, an activist and teacher from the same orphanage was threatened in the street with the same message. Even though the victims were released after each of these incidents, these actions obviously aimed at intimidating a group whose slogan clearly questions the system of capital accumulation<sup>5</sup>. The Avellaneda Prosecutor’s Office is currently investigating the attacks linked with the campaign, which the Congress has declared of national interest<sup>6</sup>. However, the movement claims that although the prosecution is doing all it can, this kind of incidents can never be investigated efficiently unless the intelligence apparatus is restructured.

Several human rights defenders were also convicted in 2008 after taking part in demonstrations in favour of economic and social rights. This trend was especially observed in the city of Buenos Aires and its suburbs, where union leaders of the Argentinean Workers’ Confederation (*Central de Trabajadores de la Argentina - CTA*), including the Institutional Relations Secretary, Mr. **Víctor de Gennaro**, the Deputy Secretary, Mr. **Pablo Micheli**, and the Secretary General, Mr. **Hugo Yasky**, were

5./ See Service for Peace and Justice (Servicio Paz y Justicia - SERPAJ).

6./ See Grandmothers of Plaza de Mayo (Abuelas de Plaza de Mayo), SERPAJ and the “Pelota de Trapo” Foundation (Fundación Pelota de Trapo).

prosecuted. At the end of 2008, their trial for “road obstruction” was being prepared, in connection with a demonstration that took place in October 2008 against the policies of the Buenos Aires city and the national Government on wage, unemployment and precarious work<sup>7</sup>. As of the end of 2008, no date had been set for the trial. On October 4, 2008, twelve workers and union leaders from the National Institute of Industrial Technology (*Instituto Nacional de Tecnología Industrial - INTI*), who had organised a union assembly in front of the Institute in October 2007 in connection with a wage conflict, were acquitted of charges of “road obstruction” by the Criminal Court No. 26. However, the Prosecutor appealed the verdict, and requested 15 days’ imprisonment as well as great limitations to the individuals’ trade union rights. At the end of 2008, the charges remained pending<sup>8</sup>.

### Urgent Intervention issued by The Observatory in 2008<sup>9</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Ms. Viviana Laura Beigel, Ms. Laura Figueroa and Ms. Alicia Noli	Threats / Fear for safety / Harassment	Urgent Appeal ARG 001/1208/OBS 204	December 3, 2008

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7/ The demonstration took place in front of the Argentinean National Institute of Statistics and Census (*Instituto Nacional de Estadística y Censos - INDEC*) in support of INDEC’s union delegates, who were being persecuted for demanding clarity in statistics that the Government manipulated, which was condemned by the media and all other sectors, including the business sector.

8./ See CAJ.

9./ See the Compilation of cases in the CD-Rom attached to this report.



# / BOLIVIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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## Political context

In 2008, Bolivia was characterised by strong contrasts and tensions between, on the one hand, the working class, indigenous peoples and farmers, who are in majority in the Andean part of the country, in the west, and, on the other hand, the population that are mostly of mixed race living in the so-called “Media Luna”, consisting of the wealthiest departments, Santa Cruz, Beni, Pando and Tarija, where powerful groups are present. These tensions led to a widespread racist discrimination against the indigenous peoples – although they constitute the majority of Bolivia’s inhabitants – and against the populations in the west. Although these tensions are historical, it became more obvious after the election in December 2005 of President Evo Morales Ayma, candidate for the Movement for Socialism (*Movimiento al Socialismo* – MAS), the country’s first indigenous President and a coca growers’ union leader.

Since then, the elites’ trend to retreat at the regional level has grown even stronger, and they have been trying to block, at all cost, every measure undertaken by the Government, in particular the Constituent Assembly and the land registration by the National Agrarian Reform Institute (*Instituto Nacional de Reforma Agraria* - INRA)<sup>1</sup> – although they were being implemented according to laws that were passed before President Morales came into power, and are in accordance with Bolivia’s regional and international commitments<sup>2</sup>, such as the recommendations of the Inter-American Commission on Human Rights (IACHR),

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1./ This is because many landowners do not necessarily comply with the constitutional requirements of the economic and social function of land and not all properties have been legally registered.

2./ The cleaning-up process is required, *inter alia*, through the United Nations Declaration on Indigenous Peoples’ Rights, which was adopted by the General Assembly on September 13, 2007 and made into a law by Congress in October 2008, and which grants indigenous peoples the right to land.

which also condemned the existence of servitude and slavery in parts of the country<sup>3</sup>.

In addition, the opposition Governors (the “Media Luna” Governors), strengthened by their new legitimacy<sup>4</sup> and together with their allies in Chuquisaca and, until the August 10, 2008 recall referendum<sup>5</sup>, the Cochabamba Governor, took local measures that are on the fringes of the law, such as organising autonomy referendums in May 2008<sup>6</sup>. The attitude of the Governors threw the country into a deep political crisis during which acts of racism and discrimination burst in violently: the opposition, led by the Santa Cruz Governor, Mr. Rubén Costas, promoted separatism and ethnically and socially based hatred through the Civic Committees (*Comités Cívicos*)<sup>7</sup>, in particular the Pro-Santa Cruz Civic Committee and the Santa Cruz Youth Union (*Unión Juvenil Cruceñista* - UJC), the Committee’s armed wing.

The year 2008 particularly witnessed important incidents: the humiliation of indigenous peoples in Sucre on May 24, 2008<sup>8</sup>, the Pando massacre on September 11, 2008, the occupation of public institutions on September 9 and demonstrations of force to impede the registration of land in April. In addition to the racism and severe discrimination of some parts of the population, these events illustrate the current Government’s inability to respond and to control the entire

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3./ See IACHR Press Release No. 26/08, June 13, 2008.

4./ In December 2005, Governors were for the first time elected rather than being appointed by the President. In addition, their election coincided with the presidential election.

5./ On August 10, 2008, a national recall referendum (*referéndum revocatorio*) was held for the President, the Vice-President and eight of the nine Governors. Mr. Evo Morales remained in power with 67.41 % of the votes, but so did his most ardent adversaries, the Santa Cruz, Beni and Tarija Governors, and the tension therefore did not diminish.

6./ It should be emphasised that Santa Cruz’ autonomous status, in addition to being unconstitutional and to go beyond of the decisions of the National Electoral Court (*Corte Nacional Electoral*), has “a racist character (...), which would be highly harmful for the indigenous peoples of the department”, particularly in its Article 161, as underlined by the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, Mr. Rodolfo Stavenhagen, in his Press Release dated April 10, 2008.

7./ The Civic Committees are citizen’s groups.

8./ See Bolivia Office of the United Nations High Commissioner on Human Rights Press Release, May 26, 2008.

national territory<sup>9</sup>. The Pando massacre in September was without doubt the most serious incident since Mr. Morales came into power. On September 11, 2008, farmers on their way to a regional rally in Cobija organised by the Unique Trade Union Federation of Rural Workers' of Pando (*Federación Sindical Única de Trabajadores Campesinos de Pando*) were ambushed by opponents to Mr. Morales' Government in Tres Barracas and Porvenir, among them Pando Government civil servants. The incident was characterised by a "disproportionate use of non conventional firearms in view of the farmers' defencelessness", as well as the subsequent repression of the persons who had escaped<sup>10</sup>. At least 19 persons were killed and 53 were injured in the attack, and several dozen, mostly farmers, disappeared.

In the first days of September, after the President announced his intention of holding a referendum to approve the Constitution in December, the opposition, which was already discontent with the redistribution under the direct oil and gas tax (*Impuesto Directo a los Hidrocarburos* - IDH), proceeded to carry out violent takeovers of State institutions in Santa Cruz, Cobija, Tarija and Trinidad. More serious still, the vandalism and takeovers led to attacks on military personnel and threats by the opposition to take over army prisons. On September 21, 2008, the Bolivian National Congress approved the new project of constitution as well as the holding of a referendum so that the people might approve it on January 25, 2009<sup>11</sup>.

The new Constitution would provide better protection of and respect for human rights. Also, it reflects the State's willingness to be a "unitary, pluralistic and multi-ethnic State", and gives greater importance to economic, social and cultural rights, acknowledging these rights as

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9./ See Permanent Assembly for Human Rights (*Asamblea Permanente de los Derechos Humanos* - APDHB).

10./ See Ombudsman (*Defensor del Pueblo*), *Informe Defensorial de los hechos de violencia suscitados en el mes de septiembre de 2008 en el departamento de Pando*, November 27, 2008. A commission of the Union of South American Nations (*Unión de Naciones Suramericanas* - UNASUR) also made a report after an investigation confirming the events, which was handed to the President on December 3.

11./ Mediators and observers from the UN, the Organisation of American States, the UNASUR and the EU, as well as the Catholic and Protestant Churches of Bolivia, welcomed this progress. See, *inter alia*, Statement of the UN Secretary-General's Spokesperson, October 21, 2008.

fundamental. It includes several provisions aimed at ensuring equality, social justice and protection for indigenous peoples and the poor population. The conditions for human rights defenders would hopefully also be improved if they are able to work within a legal framework with more well-defined rights. Moreover, in December 2008, the President promulgated the National Human Rights Action Plan (*Plan Nacional de Acción de Derechos Humanos*). Promoted by the Vice-Ministry of Justice and Human Rights, it was elaborated in cooperation with human rights organisations, and could also contribute to improving the conditions for defenders, as it includes a chapter dedicated to supporting, protecting and facilitating their work, with an earmarked budget.

### **Attacks on defenders assimilated with political opponents, especially defenders of indigenous peoples' rights**

In this context, human rights defenders were threatened and harassed by opponents to President Morales' Government. This is partly because the opposition considers everyone who belongs to or supports indigenous or farmer communities as de facto followers of Mr. Morales and his party, MAS. Therefore, human rights defenders who fight for these communities' rights, which is the case of almost every NGO in Bolivia, as they work for the majority of the population, but at the same time the most vulnerable one, were assimilated with MAS by the opposition and were victims of numerous attacks.

On April 13, 2008 for instance, Guaraní lawyer **Ramiro Valle Mandepora**, Counsellor to the Assembly of the Guaraní People (*Asamblea del Pueblo Guaraní - APG*), Ms. **Tanimbu Guiraendy Estremadoiro Quiroz** and Mr. **Fernando Alexis Cola**, both journalists working for the APG, who were making a documentary about the cleaning-up of Guaraní land and the living conditions of Guaraní captive communities for the Centre for Legal Studies and Social Research (*Centro de Estudios Jurídicos e Investigación Social - CEJIS*) and the International Work Group for Indigenous Affairs (IWGIA), were brutally assaulted. The van they were driving in was ambushed by hundreds of persons who attacked them, pulled them out of the vehicle, beat them and took their equipment, including their accreditation documents. Although Mr. Cola was able to escape, Ms. Estremadoiro was taken to various places, threatened, insulted, mistreated and tied to a pole in the rain. A man also tried to rape her. She was released the following day and handed over to the military, which protected her. According

to the reports, the Cuevo municipal authorities themselves took part in these attacks and arrests<sup>12</sup>.

Likewise, on September 11, 2008, in the Santa Cruz department, the offices of the Indigenous Confederation of Eastern Bolivia (*Confederación Indígena del Oriente Boliviano* - CIDOB) and the Coordinating Committee of Ethnic Peoples of Santa Cruz (*Coordinadora de Pueblos Étnicos de Santa Cruz* - CPESC) were attacked and destroyed<sup>13</sup>. On September 16, 2008, Mr. Mario Aguilera B., a civic leader, and Mr. Marcos Jáuregui, Vice-President of the Riberalta Regional Civic Committee (Comité Cívico Regional de Riberalta), accused the northern branch of the Centre for Research and Training of Peasant Farmers (*Centro de Investigación y Promoción del Campesinado* - CIPCA), the Riberalta branch of the CEJIS and the Institute for Man, Agriculture and Ecology (*Instituto Para el Hombre, Agricultura y Ecología* - IPHAE) of having provided financial support to farmers and crop workers (zafros) who had travelled from Riberalta to Pando in order to demonstrate and of having provoked the September 11 incident. In addition, they warned them that they should leave Riberalta within 24 hours, saying that the Civic Committee President could not guarantee what would happen if they failed to do so.

#### Urgent Intervention issued by The Observatory in 2008<sup>14</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Members of the Centre for Legal Studies and Social Research (CEJIS), Centre for Research and Training of Peasant Farmers (CIPCA) and Institute for Man, Agriculture and Ecology (IPHAE)	Threats / Defamation / Harassment	Urgent Appeal BOL 001/0908/OBS 152	September 18, 2008

12./ See APDHB.

13./ *Idem*.

14./ See the Compilation of cases in the CD-Rom attached to this report.

# / BRAZIL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009



## Political context

In 2008, Brazil continued to be characterised by large socioeconomic inequalities. The socioeconomic polarisation of the Brazilian population was somewhat reduced thanks to reforms carried out under the Government of Mr. Luiz Inacio Lula da Silva, who was first elected in 2003 and re-elected in 2006. These led to a reduction in poverty and a more even distribution of income<sup>1</sup>. Despite this evolution, Brazil still has one of the largest disparities in income distribution in the world<sup>2</sup>.

Nevertheless, one of the greatest problems Brazil faced during 2008 was the conflict about land management and environmental issues in general. In May 2008, Ms. Marina Silva resigned from her post as Minister for the Environment, due, amongst others, to her strong disagreement with the Government and with powerful lobbies privileging exploitation for agriculture, livestock or biofuel at the expense of preserving the Amazon forest. Ms. Silva's successor as Minister for the Environment, Mr. Carlos Minc, declared a "zero deforestation" policy. However, in 2008 deforestation continued, due to biofuel projects involving national and international capital, and the increased share of public funds dedicated to such projects. As a consequence, funds destined for local agricultural producers shrank drastically.

In addition, the Agrarian Reform<sup>3</sup> remained at a standstill. During 2008, a low number of landless families were relocated, representing

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1./ See "Justiça Global".

2./ According to the State Institute of Applied Economic Research (*Instituto de Pesquisa Econômica Aplicada* - IPEA), the poverty rate, which was of 35% in 2003 and showed a downwards tendency in the following years, should be about 24.1% in 2008. Nevertheless, in 2008, a mere 10% of the population controlled 75.4% of the country's wealth. See IPEA, [www.ipea.gov.br](http://www.ipea.gov.br), 2008.

3./ The Government must adopt a number of measures in order to increase the number of family farms and improving the distribution of land in Brazil.

only 20 per cent of the families relocated in 2007. Furthermore, the situation in north-eastern Brazil was critical. In some areas, factories indeed contributed to a constant degradation of the environment through, amongst others, deforestation and pollution of rivers. These practices strongly affected local workers and communities, who received no compensation. In this context, hundreds of families continued to be evicted due to the interests of powerful landowners, and groups or individuals who dare to defend the right to land were repressed.

### **Stigmatisation and criminalisation of the defenders of the right to land**

In 2008, in the framework of land management in Amazonia, defenders of the right to land were increasingly criminalised, and significant defenders who have been active for many years were increasingly stigmatised by the Government. Following the conclusions of an investigation carried out by the Superior Council of the Rio Grande do Sul State Public Ministry and led on the grounds that the Landless Rural Workers' Movement (*Movimento dos Trabalhadores Rurais Sem Terra* - MST) could constitute a threat to national security<sup>4</sup>, the Public Ministry lodged a complaint on March 11, 2008 against eight suspected members of the MST for "constituting a group aiming at changing the rule of law and the established order in Brazil, and which committed crimes of political nonconformity". The National Security Law that served as the basis for the complaint was promulgated under the military dictatorship and then tacitly revoked under the new constitutional and democratic order<sup>5</sup>. As of the end of 2008, the charges against the MST members remained pending.

June 2008 saw an increase in the number of obstacles against MST activities, such as investigations and judicial proceedings, prohibition of marches and demonstrations, closing of MST schools in Rio Grande do Sul State and evictions from MST camps through the use of force by

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4./ In December 2007, the Superior Council decided, *inter alia*, to promote the registration of complaints aimed at dissolving the MST and declaring the movement illegal, to launch judicial proceedings to prohibit MST marches and other activities and to carry out investigations about its members living in camps as well as its leaders for organised crime and mismanagement of public funds.

5./ The provisions of Brazil's Constitution, which was promulgated in 1988, rendered the National Security Law incompatible with the new constitutional and democratic order.

the police. For instance, on June 16, 2008, two employees of the Public Ministry ordered, on the basis of a complaint<sup>6</sup>, the evacuation of two camps, claiming that they were “operational bases for criminal activities” that “caused great damage to landowners and society”. The following day, several hundred families of landless workers were therefore evicted by force from the two camps in the Coqueiros do Sul municipality by a military squad. Houses, crops, farms, the health clinic and school built by the landless workers were destroyed, and the landowners were threatened for “supporting the MST”. At the end of 2008, the families were still taking refuge on an area near the road, without minimum food or health conditions.

It is worth mentioning in this context that the military squad of the Rio Grande do Sul State operates under Notice of Operational Instructions No. 006 EMBM/2007, under which regional police commanders have orders to keep an up-to-date registry of all rural and urban areas that could be occupied, and which shall include information about the leaders or units present in each area. The instructions can be applied to “social movements in general as well as specific protest occupations”, and the police thus have to register and identify the “invaders” and arrest them when necessary. In September 2008, the Council for the Defence of the Rights of the Human Person (*Conselho de Defesa dos Direitos da Pessoa Humana - CDDPH*) visited the Rio Grande do Sul State to assess the situation in the area, on the ground that the Notice, which is specific to the State, is unconstitutional, and in the light of the human rights violations that took place in the area<sup>7</sup>. Subsequently, on September 11, 2008, the CDDPH made a request to the Public Ministry that Notice No. 006 be declared unconstitutional<sup>8</sup>. The request was rejected by the Public Ministry on October 31, but

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6./ The complaint was based on an investigation conducted by the Public Ministry, but also on two previous reports - one that called the MST a revolutionary movement threatening public order, and another from June 2006, according to which the camps were supported by public funds, international aid and the Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia - FARC*), which would influence the MST in a strategic plan for creating a State without authorities, a “free State”.

7./ The reason for the CDDPH’s visit was the harassment and persecution to which the MST was subjected.

8./ It was suggested to the Public Ministry that it presents a case for unconstitutionality before the Supreme Federal Court, which has the power to declare laws unconstitutional.



the Superior Council accepted that the representative of the Prosecutor General submits a new case calling for the annulment of the Notice. However, as of the end of 2008, the Notice remained in force.

Furthermore, on May 20, 2008, Mr. **Jaime Amorim**, leader and member of the MST National Coordination, in the Pernambuco State, was sentenced to four months in “open prison”<sup>9</sup> by the Criminal Court of First Instance for the Enforcement of Sentences. Mr. Amorim had taken part in a peaceful demonstration on November 5, 2005 in front of the United States embassy, for which he was arrested on August 21, 2006 for “incitement to commit a crime”. The sentence was the result of a nearly two-year process that lacked impartiality, as several witnesses were not heard. Moreover, on June 12, 2008, Mr. **José Batista Gonçalves Afonso**, lawyer for the Pastoral Land Commission (*Comissão Pastoral da Terra - CPT*), was sentenced to two years and five months’ imprisonment by the Federal Justice of Marabá for “kidnapping”. The sentence was motivated by the fact that Mr. Afonso acted as an advisor to the MST and the Federation of Agricultural Workers (*Federação dos Trabalhadores na Agricultura no Estado de Mato Grosso - FETAGRI*) in April 1999 in their negotiations with the National Institute of Agrarian Colonisation and Reform (*Instituto Nacional de Colonização e Reforma Agraria - INCRA*). At a moment of dissatisfaction with the slow and inefficient negotiations, the workers had prevented the participants in the negotiations from leaving INCRA’s official building, and Mr. José Batista Gonçalves Afonso was accused of taking part in this action.

### Threats against defenders fighting against impunity

In 2008, defenders who dared to denounce the perpetrators of human rights violations and the resulting impunity continued to receive threats. On May 6, 2008 for instance, Mr. **Erwin Krautler**, Bishop of Xingu, Mr. **José Luiz Azcona Hermoso de Marajó** and Mr. **Flávio Giovenale**, Bishop of Abaetetuba, filed a complaint before the CDDPH about repeated death threats they had received because of their human rights

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9./ This implies having to spend the night in prison but being free during the day.

activities<sup>10</sup>. At the end of 2008, the threats against Mr. Krautler continued. The common cause of the three men is the fight against child exploitation. In addition, Bishop Giovenale had denounced the year before the imprisonment of a teenage girl in the same cell as several men in Abaetetuba. As a result, she was ultimately released and the police officers who were responsible were suspended. Messrs. Krautler and Azcona also defend community rights against powerful landowners in the land conflict. In addition, Mr. Krautler has been under 24-hour police protection since 2007, due to the numerous threats he received in connection with the complaint he filed about the impunity in the murder of Sister **Dorothy Mae Stang**, a missionary representing the CPT and an activist in the National Movement for Human Rights (*Movimento Nacional de Direitos Humanos - MNDH*), who was shot dead in 2005<sup>11</sup>.

In the Dorothy Stang case, 2008 represented a step backwards in terms of impunity. Indeed, on May 6, 2008, Mr. Vitalmiro Bastos de Moura, one of the suspected masterminds behind the murder, was acquitted in appeal. In addition, Mr. Regivaldo Pereira Galvão, the fifth suspect, who admitted, at an INCRA meeting, to be the owner of the property where the murder took place (which he had previously denied), remained free and had not been prosecuted as of late 2008 for lack of evidence. He was initially arrested for fraud and unlawful appropriation of land, but it was then known that he was also involved in the murder. The other four suspects were sentenced, except for Mr. Vitalmiro Bastos de Moura, whose sentence the Public Ministry appealed, claiming that the decision had been contrary to the facts the

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10./ See Resolution No. 102 of the Special Secretariat for Human Rights of the Presidency of the Republic (*Secretaria Especial dos Direitos Humanos da Presidência da República - SEDH/PR*), CDDPH, April 23, 2008.

11./ Sister Dorothy Mae Stang was murdered on February 12, 2005 because of her support to rural workers in settlement projects that would preserve the Amazon forest in Pará State. On April 26, 2006, Mr. Amair Feijóli da Cunha, alias "Tato", was sentenced to 18 years in prison for "complicity" in Sister Dorothy Mae Stang's murder. His two accomplices, Messrs. Rayfran das Neves Sales and Clodaldo Carlos Batista, had been sentenced by the Court of Belém in Pará State to 25 and 17 years in prison respectively, on December 9 and 10, 2005. The three men are supposed to have acted on the orders of Mr. Regivaldo Galvão and Mr. Vitalmiro Bastos de Moura, two landowners, who were put in pre-trial detention in 2005.

evidence showed and requesting a new trial. As of the end of 2008, the appeal still had to be heard by the Pará State Court of Justice.

### Urgent Interventions issued by The Observatory in 2008<sup>12</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Eli Dallemole	Assassination	Urgent Appeal BRA 001/0408/OBS 046	April 3, 2008
Ms. Dorothy Mae Stang	Impunity	Press Release	May 7, 2008
Mr. Jaime Amorim	Sentencing	Urgent Appeal BRA 003/0806/OBS 101.5	June 11, 2008
Landless Workers' Movement (MST)	Stigmatisation	Press Release	July 8, 2008

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12./ See the Compilation of cases in the CD-Rom attached to this report.

# / CHILE

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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## Political context

The year 2008 marked the 18<sup>th</sup> anniversary for the restoration of democracy in Chile. However, this democracy still suffers from shortcomings, for instance in the electoral system, since the Constitution promulgated by General Pinochet in 1980 remains in force. Although it has undergone reforms, it lacks social legitimacy, and the need for a new constitution is growing.

The work of the judiciary in connection with human rights violations committed under ex-President Augusto Pinochet's dictatorship continued to advance gradually, but with some serious contradictions. First, most judges working exclusively on cases of enforced disappearances or extrajudicial killings have chosen to respect international human rights standards, which exclude granting amnesty or prescription for such crimes, and have consequently given the perpetrators sentences that are relatively well proportionate to the gravity of their crimes. However, when the cases were brought before the court of last instance, i.e. the Supreme Court, the latter has sometimes considerably reduced the sentences, granting *de facto* impunity for the perpetrators of these serious crimes. Chile still has serious flaws, as it has not yet adapted its legislation to the Convention Against Torture, which the country has ratified, and the military courts still have much power over the civilians. The Parliament still poses a problem when it comes to approving other international instruments and establishing human rights institutions, such as the bills on a Human Rights Institute and Ombudsman (*Defensor del Pueblo*). In June 2008, a bill was presented in the Senate, which interprets Article 93 of the Criminal Code as to exclude genocide, crimes against humanity or war crimes – which are the subject of the international treaties Chile has ratified –, from periods of limitation for penal responsibility by way of amnesties, pardons or prescription. A similar bill was presented by the executive branch on August 28,

2008<sup>1</sup>. However, at the end of 2008, these bills were still under consideration<sup>2</sup>. In addition, the victims' right to reparation is largely insufficient: even though almost 30,000 victims were registered by the truth commissions, several thousand persons were left out due to the commissions' reduced capacities.

Furthermore, in 2008, a great challenge for the Chilean State was the lack of respect for indigenous peoples, mostly Mapuche, who continued to be subjected to severe discrimination and a lack of acknowledgment of their culture and rights, despite the International Labour Organisation's (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples being ratified and entering into force on September 15, 2008, after being debated in Parliament for over 17 years. This is nevertheless an important milestone in the acknowledgment of these peoples. However, the areas that the indigenous peoples claim as their ancestral land continued to be plundered and occupied by large companies exploiting natural resources. These areas were also conflict zones where large armed police forces protected the interests of transnational companies, and during which assaults, arrests and arbitrary detentions took place. The confrontations even led to the death of a young Mapuche student: on January 3, 2008, Mr. Matías Catrileo Quezada was shot by *carabineros* (uniformed police belonging to the armed forces) while he and twenty other persons were taking part in a demonstration reclaiming the ancestral land of Vilcún's Llepucu community in the Araucanía region<sup>3</sup>. In addition, in 2008, the indigenous communities in the Bío Bío and Araucanía regions were victims of house raids and other serious acts of harassment, while perpetrators did not distinguish between adults and children<sup>4</sup>. Some of these violent acts attributable to the *carabineros* and the investigation division of the police constituted acts of torture under the Convention Against Torture. Four cases of

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1./ Not only could this bill have contributed to specifying the legal framework and improving the efficiency of proceedings to try the persons responsible for such crimes during the dictatorship, but it could also have given Chile the right to claim in the future its competence to try such crimes recognised at the international level within its territory.

2./ See the Citizens' Observatory (*Observatorio Ciudadano*) and the Centre for Mental Health and Human Rights (*Centro de Salud Mental y Derechos Humanos - CINTRAS*).

3./ See Citizens' Observatory.

4./ *Idem*.

torture were registered in 2008<sup>5</sup>. The majority of the acts of repression were committed against the Mapuche, who claim their ancestral lands. Those who have been imprisoned were subjected to degrading treatments, and racist insults were common<sup>6</sup>. Although Ms. Bachelet's Government committed to no longer employing the Anti-Terrorism Law in the conflict between the Mapuche and the State, on October 30, 2008, two students from Temuco Catholic University, Mr. Fénix Delgado Ahumada and Mr. Jonathan Vega Gajardo, were accused of throwing an incendiary bomb against the police during a street demonstration on the outskirts of the city. They were both arrested under the Anti-Terrorism Law<sup>7</sup>.

### **Repression of indigenous leaders and defenders of the rights of indigenous peoples**

General repression by the police of indigenous peoples and their leaders continued in 2008. They were frequently victims of arbitrary detention, harassment, threats, violent acts and judicial proceedings. On April 22, 2008 for instance, the *Lonko* (traditional authority) of the Pascual Coña community, Mr. **Avelino Meñaco**, was released for lack of evidence after four months in detention for allegedly committing arson during a hunger strike carried out by Mapuche political prisoners on October 12, 2007. Only one week later, however, on April 30, 2008, the Special Prosecutor for Mapuche cases, Mr. Mario Elgueta Salinas, revoked the release authorised by the Cañete Court before the Concepción Court of Justice. A new order was thereby issued for Mr. Meñaco's arrest, based on alleged new evidence. Mr. Meñaco was finally released on January 2, 2009 after lengthy judicial proceedings<sup>8</sup>.

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5./ See Report presented by the Citizens' Observatory at the fifth session of the Universal Periodic Review (May 4-15, 2009), also signed by the following NGOs: the American Association of Jurists (*Asociación Americana de Juristas - AAJ*), the Corporation for the Promotion and Defence of the Rights of the People (*Corporación de Promoción y Defensa de los Derechos del Pueblo - CODEPU*), the Corporation OPCIÓN, the Ethical Commission Against Torture (*Comisión Ética contra la Tortura*), CINTRAS, the Coordinating Committee of Human Rights of Professional Schools in Chile (*Coordinador de Derechos Humanos de los Colegios Profesionales de Chile*) and the Chilean Network of NGOs for Childhood and Youth (*Red de ONG Infancia y Juventud Chile*).

6./ *Idem*.

7./ *Idem*.

8./ Including an acquittal on November 3, 2008, followed by a request for annulment by the Prosecutors Ángel Velásquez and Mario Elgueta, and an appeal lodged by the defence against this request. See CINTRAS.

Moreover, on July 28, 2008, the leader of the Yeupeko Mapuche community, Mr. **Mauricio Huaiquilao Huaiquilao**, was approached by two policemen on his way home. The officers brought him to the police station, accusing him of being drugged and drunk. After interrogating him, they confiscated several of his belongings, including money, before they undressed him, beat him and threatened to kill him. Mr. Huaiquilao Huaiquilao was released at around 6 am on the next day without further notice<sup>9</sup>. At the end of 2008, the *Lonko* of the Juan Paillalef Mapuche community in the Cunco commune in Temuco, Ms. **Juana Calfunao Paillalef**, was still being detained and in very poor health condition. Ms. **Patricia Troncoso Robles**, Mr. **José Huenchunao** and Mr. **Jaime Marileo Saravia**, as well as other Mapuche leaders, also remained detained at the end of 2008. It must be stressed out that Mapuche prisoners, like all other prisoners, are being held under extremely poor conditions, which constitute mistreatment under international law.

Defenders of the rights of indigenous peoples had to work in a complex environment. They were subjected to threats and acts of harassment, including undergoing rough identity checks when entering conflict zones, receiving degrading treatments when visiting political prisoners and being subjected to unjustified interrogations and house raids. For instance, Ms. **Yénive Cavieres Sepúlveda**, a lawyer and member of the Chilean branch of the American Association of Jurists (*Asociación Americana de Juristas - AAJ*), who has defended Mapuche leaders in several trials, was arrested by *carabineros* while she was taking part in a peaceful demonstration protesting for the death of Mr. Matías Castrileo Quezada. A witness of the arrest of Ms. Orielle Núñez, Ms. Berna Castro and others demonstrators, Ms. Cavieres Sepúlveda tried to plead with the *carabineros* in her capacity as a lawyer, in order to defend the right to freedoms of expression and peaceful assembly. The police violently repressed the demonstration, and arrested Mr. **José Pallial**, a Mapuche leader, as well as his 11-year old son and 14 other Mapuche. Likewise, on May 7, 2008, Ms. **Elena Varela**, a documentary film maker, was detained and harassed by the police, who also confis-

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9./ See Report to the Government by the Campaign "Stop! No More Police Violence" (*Alto ahí! Basta de violencia policial*), September 9, 2008, written by several NGOs: Citizens' Observatory, Amnesty International, AAJ, CODEPU, Corporation OPCIÓN, Ethical Commission Against Torture, CINTRAS and the Chilean Network of NGOs for Childhood and Youth.

cated all her film material. Ms. Varela was shooting the documentary “Newen Mapuche” about Mapuche communities affected by increased activity by logging companies in Araucanía and the severe repression by the police of the protests, as well as how Mapuche are subjected to judicial harassment under the Anti-Terrorism Law. Ms. Varela was released in wait of her sentence after almost ten days remand imprisonment for “constituting a danger to society”, and has not retrieved her film material, despite the Government’s commitment to help her in this regard<sup>10</sup>. In addition, on December 9, 2008, an unjustified house raid was carried out against the home of Mr. **Lorenzo Morales Cortés**, a lawyer who has defended several members and leaders of the Mapuche community. During the raid, which was ordered by the Judge of the Seventh Court of Guarantee (*Séptimo Juzgado de Garantía*), Mr. Morales Cortés’ computer was confiscated, along with important documents pertaining to trials he was working on<sup>11</sup>, and his documents and files were photographed.

### **Criminalisation of social protest**

Social protest movements were persistently criminalised in 2008. A highly worrying issue in this connection was the repression of students who took part in demonstrations. Indeed, in various demonstrations against measures adopted by the Government, such as the General Education Law (*Ley General de Educación - LGE*), students were arbitrarily and randomly detained, such as in the case of the student leader **María Jesús Sanhueza**. In other cases, students were victims of brutal police actions during which they were beaten and gas was employed against them, as in the case of Ms. **Carolina Angulo**<sup>12</sup>. It is

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10./ *Idem*.

11./ Including his entire defence for the December 15 trial at the San Miguel Appeals Court in Santiago, where he had planned to protest against the request for annulment of the acquittal of Mr. Avelino Meñaco for his arson charges.

12./ One of the most dramatic events occurred on June 16, 2008, providing evidence for the police’s use of gas and water mixed with chemicals in their water cannons, which was testified to by a number of complaints and images from the protests that appeared in the media. At 2 pm on this day, a water cannon vehicle (*guanaco*) dispersed a student demonstration. Fleeing from the smell of the liquid, Ms. Carolina Angulo suffered a cardiac arrest. Students complained that the police did not pay sufficient attention to the girl lying on the ground and that the water cannon vehicle passed by the spot where she laid, firing liquid with toxic gases. This was corroborated by a video recorded at the time. See Report to the Government by the Campaign “Stop! No More Police Violence”, September 9, 2008.



worth noting that, in the framework of the student mobilisations in 2008, the national authorities repeated that unauthorised demonstrations would not be tolerated, that students should be in class, not in the streets, and that violence was linked to the peaceful takeovers of educational institutions. Even though there was some violence, and in some cases damage, these cases were much fewer in relation to the number of students participating in demonstrations over the past two years. At the same time, the authorities urged educational institutions to apply internal sanctions and to resort to courts to empty occupied buildings.

Similarly, various workers' demonstrations were organised throughout 2008, during which workers and several trade union leaders were brutally assaulted by the police. On January 24, 2008 for instance, Ms. **Claudia Álvarez**, leader of the Copiapó Temporary Agricultural Workers' Union (*Sindicato de Trabajadores Eventuales y Transitorios del Sector Agrícola de Copiapó*), and Mr. **Javier Castillo**, leader of the Workers' United Confederation in Chile (*Central Unitaria de Trabajadores - CUT*), were arrested and accused of "encouraging the violence" when 500 armed special force policemen intervened in a demonstration organised by a group of temporary workers who demanded higher wages and better working conditions in Los Loros in the Tercera region. In addition, on August 20, 2008, Mr. **Leonel Báez Orellana**, leader of the National Union of the San Felipe Ltd Construction Company Workers (*Sindicato Nacional de Trabajadores de la Empresa Constructora San Felipe S.A.*), was brutally beaten and detained along with other union members during a peaceful demonstration in Tocopilla, which was interrupted by heavily armed policemen. On the following day, Mr. Baéz had to undergo surgery for the severe injuries he sustained during the police action<sup>13</sup>.

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13./ See Report to the Government by the Campaign "Stop! No More Police Violence", September 9, 2008.

**Urgent Interventions issued by The Observatory in 2008<sup>14</sup>**

<b>Names of human rights defenders</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Ms. Yénive Cavieres Sepúlveda and Mr. José Pallial</b>	Arbitrary detention	Press Release	January 11, 2008
<b>Ms. Juana Calfunao Paillalef</b>	Worrying health condition / Arbitrary detention	Urgent Appeal CHL 001/0705/OBS 056.9	June 18, 2008
<b>Mr. Lorenzo Morales Cortés</b>	House raid / Harassment / Fear for safety	Urgent Appeal CHL 001/1208/OBS 214	December 16, 2008

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14./ See the Compilation of cases in the CD-Rom attached to this report.



# / COLOMBIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

/ AMERICAS

## Political context

In 2008, the Colombian population continued to suffer the consequences of the internal armed conflict that has ravaged the country for the last 40 years. The different actors in the conflict, the regular forces (army and police), paramilitary groups and the guerrilla groups committed violations against human rights and international humanitarian law in the form of, *inter alia*, extrajudicial executions, disappearances and forced displacements, torture and kidnapping against the civilian population. In this context, at the end of September 2008, a scandal was unveiled concerning the extrajudicial execution by the police of poor young people, who were later described by the army as guerrilla fighters killed in combat<sup>1</sup>. This practice, commonly known as “false positives”, falls under the “democratic security” policy promoted by President Uribe in the fight against the guerrilla. It includes a reward system for soldiers, depending on the number of deaths of alleged guerrilla fighters. As a result of these events, an investigation was opened at the end of 2008 and up to forty soldiers were dismissed<sup>2</sup> but very few were prosecuted. In a Press Release on October 29, 2008, the United Nations High Commissioner for Human Rights repeated its recommendation, formulated in her 2007 Annual Report handed over to the Government and to the armed forces commanders, to continue with their efforts to eradicate extrajudicial executions, adopt measures to prevent, investigate, sanction such acts, and make them public.

The guerrilla of the Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia* - FARC) continued to carry out numerous violations of international humanitarian law, although

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1./ The Colombian Commission of Jurists (*Comisión Colombiana de Juristas* - CCJ) recorded 1,205 cases of extrajudicial executions directly attributed to the police force between July 2002 and June 2008.

2./ See Colombia-Europe-United States Coordination (*Coordinación Colombia-Europa-Estados Unidos*), September bulletin 2008.

they seem to have been weakened by the Government's operations in 2008, which resulted in the capture and execution of various important members. On March 2, 2008, the Colombian army executed the second in command of the FARC, Mr. Raúl Reyes, during an operation in Ecuadorian territory, which created political tensions with Ecuador and Venezuela. In addition, on different occasions in 2008, 27 hostages held by the FARC were freed, both in the framework of unilateral releases or releases resulting from Government operations. For instance, in Operation "Jaque" on July 2, 2008, 15 people were released<sup>3</sup>.

There were a few advances in the Colombian judicial system regarding the fight against impunity, such as the detention and the opening of trials against more than 70 members of the Congress of the Republic, linked to investigations into alleged connections with paramilitary groups, carried out by the Supreme Court of Justice. This laudable work by the Court was nonetheless discredited by President Alvaro Uribe Vélez.

At the beginning of 2008, President Uribe had lodged a complaint against the President of the Supreme Court, Mr. César Julio Valencia Copete, for "libel and slander" in the framework of an investigation and a trial held by the Supreme Court of Justice to dismantle the paramilitary structures infiltrated in the Colombian State<sup>4</sup>. On this occasion, President Uribe also accused the Supreme Court of Justice of organising a "conspiracy" against him and on June 26, 2008, he reproached judges for "applying selective justice" and "falling into the trap of agonising terrorism"<sup>5</sup>. Then, at the end of June 2008, the Minister for Social Protection and the Commissioner for Peace demanded that the Accusation Committee of the Chamber of Representatives investigate the magistrates of the Supreme Court in connection with drug trafficking and for false charges.

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3./ Following the liberation of these 15 hostages, the EU Presidency expressed its satisfaction with this happy outcome, whilst reasserting its determination to continue mobilising its resources until the liberation of all hostages. See Declaration of the EU Presidency, July 2, 2008.

4./ See José Alvear Restrepo Lawyers' Collective (*Colectivo de Abogados José Alvear Restrepo - CCAJAR*).

5./ See President of the Republic's Press Release, June 26, 2008. For the Supreme Court's reply, see *La Tercera* (Chile) July 1, 2008.

On May 13, 2008, the Government authorised the extradition of thirteen paramilitary group leaders and one drug dealer to the United States, where they face charges of drug trafficking. In total, 17 paramilitary group leaders were extradited in 2008. These individuals were extradited after they had begun to confess their participation in serious human rights violations, in the framework of the implementation of the Justice and Peace Law. This thwarted the course of these trials and promoted the impunity for these violations, preventing the victims from having access to their right to truth, justice and reparation. The Inter-American Commission of Human Rights (IACHR)<sup>6</sup> and the United Nations High Commissioner for Human Rights expressed their concern regarding these extraditions<sup>7</sup>.

Along with the Afro-Colombian population, indigenous peoples make up the majority of those displaced within Colombia. This is one of the country's main problems, which greatly contributes to the lack of respect of their rights and the failure to recognise their communities. Towards the end of 2008, the Colombian Government recorded more than 2,8 million internally displaced persons in the country. NGOs such as the Consultancy on Human Rights and Displacement (*Consultoria para los Derechos Humanos y el Desplazamiento* - CODHES) consider that the figure is much higher, exceeding four million persons displaced by the internal armed conflict since the mid 1980s<sup>8</sup>. In a recent report, CODHES stated that forced displacement increased by 24.47% in comparison with 2007. According to the same report, at least 76,172 family groups were compelled to leave their homes in 2008<sup>9</sup>.

Colombia was considered under the United Nations Universal Periodic Review on December 10, 2008. During the review, various subjects requiring special attention from the Colombian Government were highlighted by other countries. These included impunity for human rights violations, human rights violations by public forces, para-

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6./ See CIDH Press Release No. 21/08, May 14, 2008

7./ See Press Release of the Office of the High Commissioner for Human Rights (OHCHR) in Colombia, May 13, 2008.

8./ See United Nations High Commissioner for Refugees (UNHCR), <http://www.acnur.org/crisis/colombia/desplazamiento.htm>. According to UNHCR, in 2008 Colombia was the second country, after Sudan, in terms of the number of displaced persons.

9./ See CODHES, *Boletín Informativo N° 75*, April 22, 2008.

military groups and guerrilla groups, the worrying situation of human rights defenders, the need to take complementary steps to reinforce internal legislation on enforced disappearances, and the need to adopt necessary measures to reduce the number of displaced persons within the country<sup>10</sup>.

### **Wave of repression and threats against defenders following the March 6, 2008 rally**

As a result of the rally that was organised on March 6, 2008 by various organisations to pay tribute to victims of paramilitarism and State crimes, high-ranking Government officials publicly declared that it had been organised by the FARC. Furthermore, the rally led to a strong wave of repression through threats, attacks and even the murder of human rights defenders and union leaders between February and April 2008, for having organised the rally<sup>11</sup>. As a result of these accusations, four people were murdered<sup>12</sup>. Human rights violations against defenders were encouraged, *inter alia*, by public declarations such as the ones made by Mr. José Obdulio Gaviria, principal advisor to President Uribe, in an interview to *Caracol Radio*, on 10 February 2008, in which he claimed that the rally had been organised by the FARC. In this context, Ms. **Adriana González Correa**, Executive Secretary of the section of the Permanent Committee for the Defence of Human Rights (*Comité Permanente por la Defensa de los Derechos Humanos* - CPDH) in the department of Risaralda, was the victim of an assassination attempt on February 29, 2008. On the same day, Mr. **Guillermo Castaño Arcila**, President of the CPDH in Risalda, Mr. **Mauricio Cubides**, member of the Agricultural Worker's Union (*Federación Sindical de Trabajadores Agrícolas* - FENSUAGRO), and Mr. **Diego Macías**, member of the Peasants' Corporation for Sustainable Development (*Corporación Campesina para el Desarrollo Sustentable* - CORPOCAM), received threats that designated them as military targets. Moreover, Mr. **Iván Cepeda Castro**, the representative of the National Movement for Victims of State Crimes (*Movimiento*

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10./ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review, Colombia*, United Nations Document A/HRC/10/82, January 9, 2009.

11./ The IACHR, in its Press Release No. 15/08 dated April 10, 2008, expressed its concern about these threats and urged the Colombian State "to investigate, prosecute, and punish those responsible for these threats and to guarantee the security of human rights defenders and social leaders".

12./ See Press Release of the OHCHR Office in Colombia, May 13, 2008.

*Nacional de Víctimas de Crímenes de Estado*), was criticised and discredited following his rejection of the allegations of the presidential advisor Mr. José Obdulio Gaviria on *Caracol Radio* on February 10, 2008, and his restatement that the members of his movement and the organisers of the rally were against all illegal armed group, “whether they be FARC or paramilitary groups”. He also explained that the date of March 6 was chosen since it coincided with the opening of the Fourth National Gathering of Victims of Crimes against Humanity, Genocide and Human Rights Violations, to be held in Bogotá. On February 11, 2008, the National Movement of Demobilised Self-Defence Groups (*Movimiento Nacional de Autodefensas Desmovilizadas*) criticised the rally planned for March 6 in a statement that discredited Mr. Cepeda Castro and suggested that there were links between the March 6 rally organisers and FARC.

### **Threats and harassment against defenders from paramilitary groups**

In 2008, human rights defenders continued to be subjected to threats and acts of harassment, particularly from paramilitary groups. For instance, on April 10, 2008, a threat was sent to various email addresses signed by the paramilitary group “Black Eagles, northern block of Colombia” (*Aguilas Negras, Bloque Norte de Colombia*), in which it declared that members of the Farmers and Mining Federation of Southern Bolívar (*Federación Agrominera del Sur de Bolívar - FEDEAGROMISBOL*), the Corporation Sembrar, the Programme for Development and Peace in Magdalena Medio (*Programa de Desarrollo y Paz del Magdalena Medio*), as well as the priests of Regidor and Tiquisio were declared as military targets. In all threats, it was stated that “their names are on the national Government’s list of undesired persons who must be eliminated” and it designated them as helpers or members of guerrilla groups. Those defenders and organisations were not only threatened, but also followed in the municipalities of Tiquisio, Arenal, Morales, Aguachicha, La Gloria and Regidor.

Human rights defenders and organisations working in the Nariño region were often the victims of threats and their activities declared illegitimate on several occasions. On February 12, 2008, the Indigenous Unity for the Awa People (*Unidad Indígena del Pueblo Awá - UNIPA*) organisation, in the department of Nariño, which belongs to the National Indigenous Organisation of Colombia (*Organización*

*Nacional Indígena de Colombia* - ONIC), along with 13 other social organisations in Nariño, received threats via email from the paramilitary group “New Generation” (Nueva Generación). In addition, on October 23, 2008, various organisations such as the CPDH, the Nariño branch of the National Movement of Victims and the Judicial Corporation Humanity in Force (*Corporación Jurídica Humanidad Vigente*), as well as organisations for the defence of indigenous rights, received a statement via email from the paramilitary group “Gaitanist Self-Defence Forces of Colombia” (*Autodefensas Gaitanistas de Colombia*), which accused them of having connections “with the guerrilla terrorist groups operating in the Nariño region”. For this reason, the paramilitary group felt obliged to continue with what they called “the anti-subversive fight in defence of the States’ interests”. They also urged “all persons, communities and other so-called human rights organisations in Nariño to begin an internal purge to end their connections with guerrilla terrorist groups for once and for all...”. On another occasion, on November 11, 2008, the aforementioned human rights organisations and the Foundation for Development and Peace (*Fundación Desarrollo y Paz* - FUNDEPAZ), the Nariño section of the CPDH, UNIPA and the Judicial Corporation Humanity in Force received telephone threats in which they were warned that they had 30 days to leave the region. Although the authors of these threats remained unidentified, the threatened human rights organisations believe that they were linked to the threats received on October 23, 2008. Likewise, on November 11, 2008, various human rights defenders received threats. These people included Ms. **Jahel Quiroga**, Director of the Corporation for the Defence and Promotion of the Human Rights (*Corporación para la Defensa y la Promoción de los Derechos Humanos* - REINICIAR), Mr. **Fernando Escobar**, Spokesperson for the municipality of Soacha, Mr. **Gustavo Petro**, Senator of the Republic, Mr. **Jorge Rojas**, Director of CODHES, and Mr. Iván Cepeda, who had all reported the forced recruitment and subsequent extrajudicial execution of 11 young men from Soacha, who had been identified by the Colombian army as “guerrilla fighters killed in combat” (in the case of above-mentioned “false positives”).



## **Defamation by the authorities and criminalisation of the activities of defenders fighting against impunity and denouncing human rights violations**

Throughout 2008, civil society organisations and human rights defenders were subjected on numerous occasions to slanderous declarations by the Colombian Government, coming from both the President of the Republic and his presidential advisers and ministers. Apart from the incendiary declarations made by Mr. José Obdulio Gaviria after the March 6, 2008 rally, on May 6, 2008 whilst in the city of Montería, President Uribe totally discredited human rights activities, thereby putting defenders and human rights organisations at risk. The President stated that “there are people in Colombia, like Dr. Iván Cepeda, who hide behind and thrive on the protection of victims to lead NGOs in order to ask funds from the international community. They use the protection of victims to instigate human rights violations against the people that do not share their ideas. And nothing happens to them. They make use of the protection of victims to travel abroad and discredit the Colombian Government and institutions...”. In the afternoon of the same day, whilst repeating some of the statements made in Montería, President Uribe again referred to and criticised human rights activities during the commemoration of the 99<sup>th</sup> anniversary of the Superior School of War in Bogotá. Similarly, on September 9, 2008, on National Human Rights Day, the Defence Minister, Mr. Juan Manuel Santos, used his speech to discredit both the report of the International Observation Mission on Extrajudicial Executions (*Misión Internacional de Observación sobre las Ejecuciones Extrajudiciales*) and the Colombia-Europe-United States Coordination in front of the media and the commanders of all ranks of the armed forces. The Minister proceeded to make dubious allegations about a report that had not yet been made public and he announced its future publication, raising questions about the way in which the Defence Ministry obtains or uncovers information pertaining to NGOs and social organisations. A few days before, information was circulated amongst different communication channels that claimed that intelligence units had established that people linked to the PC3<sup>13</sup>, the FARC political organisation, were “behind the Final Report of the International Observation Mission on Extrajudicial Executions and

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13./ The PC3 is the Clandestine Communist Party (*Partido Comunista Clandestino*).

Impunity in Colombia”. On November 1, 2008, during a community council in Envigado (Antioquia), the President referred to the work carried out by Amnesty International and Human Rights Watch, and particularly to the Director for the Americas of the latter, Mr. **José Miguel Vivanco**, by saying “I simply want to tell Mr. Vivanco and Amnesty International fellows that they do not need to teach us about human rights, Christian values or democratic convictions...I would like to remind Mr. Vivanco that he is not our human rights teacher, we do not accept him as such, and here we have lost all respect for him a long time ago”<sup>14</sup>.

Human rights defenders saw also the criminalisation of their activities and were subjected to judicial harassment and arbitrary detentions. On November 4, 2008 for instance, national police and district units of the Prosecutor’s office carried out massive arrests in the municipality of Arauquita, in the Arauca department. Mr. **Martin Sandoval**, President of the CPDH for that department, was arrested along with thirteen social leaders of the region, and charged with rebellion. They had all reported numerous human rights violations committed against the population during the implementation of the “democratic security” policy. At the end of 2008, Mr. Sandoval remained under arrest and his trial for “rebellion” was awaiting further elements for the investigation.

### **Murders, serious acts of repression and attacks against defenders of trade union rights and worker’s rights**

In Colombia, trade unionists are amongst the activists who suffer most repression and, for many years, they have been subjected to repeated threats, acts of harassment, as well as murders. In 2008, the situation did not improve: murder statistics showed an increase in comparison with 2007. According to the Central Workers Union of Colombia (*Central Unitaria de Trabajadores de Colombia* - CUT)<sup>15</sup>, there were 49 murders of trade union members and leaders, which represents a 25 % increase compared with the figures recorded in 2007 (which

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14./ See CCJ.

15./ See CUT Press Release, February 26, 2009. The CCJ, which only counts cases targeting trade union leaders and not militants, reported 14 cases of assassinations or disappearance of defenders, whilst the National Trade Union College (*Escuela Sindical Nacional* - ESN) registered 49 assassinations of trade unionists in 2008.

amounted to 39). At the end of 2008, the total number of murdered trade unionists in the last 23 years was estimated around 2,694. In this context of strong intimidation, Messrs. **Domingo Flórez, Luis Javier Correa Suárez** and **Luis Eduardo García**, leaders of the National Union of Food Industry Workers (*Sindicato Nacional de Trabajadores de la Industrias de Alimentos - SINALTRAINAL*), received death threats on February 12, 2008, signed by the Black Eagles paramilitary group.

In addition, the murder of trade union leaders due to their defence of workers' rights continued. In a short succession of days in March 2008, Ms. **Carmen Cecilia Carvajal**, a member of the North Santander Teachers' Association (*Asociación de Institutores Norte Santandereanos - ASINORT*), Mr. **Leonidas Gómez Rozo**, leader of the National Union of Bank Employees (*Unión Nacional de Empleados Bancarios - UNEB*), Mr. **Goldardo Antonio Gómez Alzate**, delegate for the Antioquia Teachers' association (*Asociación de Institutores de Antioqui - ADIDA*), and Mr. **Carlos Burbano**, member of the Board of Directors for the Association of Colombian Hospital Workers (*Asociación Nacional de Trabajadores Hospitalarios - ANTHOC*), were murdered in Bogotá, Ocaña (northern Santander), Medellín and San Vicente del Caguán (Caquetá). Similarly, on March 22, 2008, Mr. **Adolfo González Montes**, leader of the Barrancas section of the Coal Industry Workers' National Union (*Sindicato Nacional de los Trabajadores de la Industria del Carbón - SINTRACARBON*), was tortured and then murdered in his residence in the city of Riohacha, Guajira. In addition, Mr. **Jesús Heberto Caballero Ariza**, substitute attorney for the Atlántico section of the National Apprenticeship Service Trade Union (*Sindicato Nacional del Servicio Nacional de Aprendizaje - SINDESENA*), was found dead on April 17, 2008, his body showing evident signs of torture. Mr. **Guillermo Rivera Fúquene**, President of the Public Servants' Union of Bogotá (*Sindicato de Servidores Públicos de Bogotá - SINSRVPUB*), a member trade-union of the Colombian Workers Confederation (*Confederación de Trabajadores de Colombia - CTC*), who had disappeared on April 22, 2008, was found dead, his body showing signs of torture, two days after his disappearance, in the city

of Ibagué, in the Tolima department. However, his family was not notified until July 15, 2008<sup>16</sup>.

### **Serious acts of repression and assaults against defenders of indigenous peoples' rights**

In 2008, the leaders of the indigenous and displaced communities were again victims of particularly serious reprisals, which threatened their integrity and their right to life. Those reprisals came as a result of their defence of the interests and the rights of indigenous peoples. Mr. **Jesús Emilio Tuberquia**, legal representative of the San José de Apartadó Peace Community (*Comunidad de Paz de San José de Apartadó*), was the victim of an attack by two paramilitaries on November 1, 2008. The displaced community and its members have been subjected to threats and other forms of harassment, including murders, for various years. Moreover, on December 16, 2008, Mr. **Edwin Legarda**, the husband of Ms. **Aída Quilcué**, indigenous leader and Chief Council of the Cauca Indigenous Regional Council (*Consejo Regional Indígena del Cauca- CRIC*), who promoted the National Minga of Indigenous and Popular Resistance (*Minga Nacional de Resistencia Indígena y Popular*) on October 12, 2008<sup>17</sup>, was murdered by members of the regular army as he was driving a van allocated to his wife. The day before, Ms. Quilcué had returned from Geneva, Switzerland, where she had

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16./ Subsequent to the aforementioned assassinations, the Special Representative of the Secretary-General on the situation of human rights defenders, Ms. Hina Jilani, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and Mr. Philip Alston, the Special Rapporteur on the independence of magistrates and lawyers, Mr. Leando Depouy, recalled that in the first months of 2008, 21 trade-unionists and civil society leaders were murdered, and death threats were sent to defenders from all backgrounds. The Special Procedures called on the Colombian Government to take the necessary measures and to acknowledge the importance of their work, as well as to stop the endemic impunity for the crimes and violations committed against human rights defenders in Colombia. See OHCHR Press Release, April 30, 2008.

17./ A National Minga of Indigenous Resistance is a day of community, social and popular unity during which demonstrations and rallies for the respect of the rights of indigenous populations, and in particular their right to land ownership, were carried out. In this case, the Minga was organised by ONIC on the anniversary of the discovery of America, on October 12, with the aim of, *inter alia*, recalling that since 1492 indigenous populations have been systematically exterminated, as well as to demonstrate in favour of the defence of life and territorial, political, environmental and food rights of indigenous populations. Moreover, the Minga was organised to demand the fulfilment of the Government's promises regarding the distribution of land and to reject the repression they have been victims of. Armed forces retaliated by opening fire against demonstrators, claiming that terrorists were infiltrated amongst them.

participated in the United Nations Human Rights Council Universal Periodic Review<sup>18</sup>.

### Acts of repression against women's rights defenders

In 2008, defenders and organisations who advocate for women's rights continued to be subjected to acts of harassment, threats and even assassinations. For instance, the members of the Women's Popular Organisation (*Organización Feminina Popular - OFP*) received threats throughout the year. On June 21, 2008, hooded men riding a motorbike distributed a pamphlet in various districts of Barrancabermeja, in which they threatened various organisations, including the OFP. In the night of September 24, 2008, during events that took place in the city of Medellín that night, Ms. **Olga Marina Vergara**, leader of the Antioquia section of the NGO Women of the Peaceful Route (*Ruta Pacífica de las Mujeres - RPM*), who was leading the activities of the RPM in the districts of the north-eastern part of Medellín, was murdered in her residence in el Prado, one of the city's central districts. A group of hit men arrived and fired various times at her, her son, her daughter-in-law and five-year old grandson. These crimes took place at the same time as the RPM was launching in Bogotá its book *Las violencias contra las mujeres en una sociedad en guerra*. This organisation also fights against the recruitment of young people by illegal armed groups and armed forces, using the slogan "We don't give birth for war" (*no parimos hijos para la guerra*).

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18./ See EU Presidency Declaration after the violent death of Mr. Edwin Legarda, December 19, 2008.

**Urgent Interventions issued by The Observatory in 2008<sup>19</sup>**

<b>Name of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Mr. Armando Montañez and Mr. Jutínico Gomez</b>	Murder / Harassment	Urgent Appeal COL 001/0108/ OBS 010	January 25, 2008
<b>Mr. José Domingo, Mr. Luis Javier Correa Suarez and Mr. Luis Eduardo García</b>	Death threats	Urgent Appeal COL 023/1207/OBS 166.1	February 19, 2008
<b>Mr. Iván Cepeda Castro, Indigenous Unity for the Awa People (UNIPA), National Indigenous Organisation of Colombia (ONIC) and 11 NGOs in Nariño</b>	Defamation campaign / Threats	Press Release	February 20, 2008
<b>Mr. Iván Cepeda Castro</b>	Acts of harassment and intimidation / Fear for personal integrity	Urgent Appeal COL 010/0508/ OBS 078	May 15, 2008
<b>Mr. David Ravelo Crespo</b>	Death threats / Serious harassment	Urgent Appeal COL 002/0208/ OBS 025	February 26, 2008
<b>Ms. Adriana González Correa, Mr. Guillermo Castaño Arcila, Mr. Mauricio Cubides and Mr. Diego Macías</b>	Death threats	Urgent Appeal COL 003/0308/ OBS 034	May 5, 2008
<b>Mr. Leonidas Gómez Rojo and Mr. Rafael Boada</b>	Murder / Grave attack / Serious harassment	Urgent Appeal COL 004/0308/ OBS 037	March 13, 2008

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19./ See the Compilation of cases in the CD-Rom attached to this report.

Name of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
<p>Ms. Ana Maria Rodríguez, Ms. Luz Helena Ramírez, Ms. Diana Marcela Gomez Correal Diana Sanchez, Ms. Jahel Quiroga, Mr. Albeiro Betancourt, Lizarazo, Mr. Luis Sandoval, Ms. Viviana Ortiz, Ms. Diana Gomez, Mr. Francisco Bustamante, Ms. Nancy Carvajal, Ms. Luz Estella Aponte, Mr. Pablo Arenales, Ms. Yulieth Tombe, Mr. Juan Pineda, Ms. Virgelina Chara, Ms. Nubia, Ms. Ester Marina Gallego, Ms. Nancy Fiallo, Mr. Omar Hernandez, Ms. Diana Marcela Caicedo, Ms. Sislsa Arias, Mr. Jorge Ramirez, Ms. Nelly Vellandia, Ms. Blanca Sarmiento, Mr. Libardo Pedrozo, Mr. Alfonso Silva, ONIC, Women of the Pacific Route, Civil Society Permanent Assembly for Peace, the National Movement of Victims (MOVICE), the Association for Alternative Social Promotion (MINGA), the Corporation for the Defence and Promotion of the Human Rights REINICIAR, FUNDIP, ASOPRON, National Association for Solidarity Support (ANDAS), ASDEGO, the National Federation of Agrarian Cooperatives (FENACOA), the Association for the Development and Integrity of Women, Youth and Children (ASOMUJER), The Advisory for Human Rights and Displacement (CODHES) and the Colombian Central Union for Workers (CUT)</p>	<p>Death threats / Serious harassment</p>	<p>Urgent Appeal COL 005/0308/OBS 038</p>	<p>March 17, 2008</p>

<b>Name of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Ms. Carmen Cecilia Carvajal, Mr. Leonidas Gómez Rojo, Mr. Rafael Boada, Mr. Gildardo Antonion Gómez Alzate, Mr. Carlos Burbano</b>	Murder	Press Release	March 19, 2008
<b>Mr. Darío Tote, Ms. Ingrid Vergara Chávez, Mr. Pedro Geney</b>	Threats	Press Release	March 19, 2008
<b>Mr. Adolfo Gonzalez Montes</b>	Murder	Urgent Appeal COL 006/0408/ OBS 043	April 1, 2008
<b>Ms. Ingrid Vergara</b>	Death threats / Harassment	Urgent Appeal COL 007/0408/ OBS 052	April 10, 2008
<b>The Farmers and Mining Federation of Southern Bolívar (FEDEAGROMISBOL), Corporation for Professional Community Services SEMBRAR, Magdalena Medio Peace and Development Programme and priests of Regidor and Tiquisio</b>	Death threats / Harassment	Press Release	April 14, 2008
<b>Mr. Jesús Heberto Caballero Heriza</b>	Murder / Torture	Urgent Appeal COL 008/0408/ OBS 062	April 23, 2008
<b>Mr. Jorge Enrique Gambo Caballero, Ms. Carolina Rubio, Mr. Principe Gabriel Gonzalez, Mr. David Florez, Mr. Javier Correa, Mr. Alfredo Valdivieso, Mr. Juan Jaimes, Mr. Rafael Ovalle, Ms. Martha Díaz, Mr. Miguier Conde, Mr. Mauricio Martínez, Ms. Norma, Mr. José Bautista, Ms. Maria Cardona, Mr. Nicanor Arciniegas, Mr. Pablo Vargas, Mr. Fernando Porras, Ms. Teresa Baez, Ms. María Cedeño, Mr. Nicolás Castro, Mr. José Humberto Torres and Mr. Jesús Tovar</b>	Attempted murder / Death threats	Open Letter to the authorities	April 28, 2008



Name of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Guillermo Rivera Fúquene	Alleged enforced disappearance	Urgent Appeal COL 009/0408/ OBS 067	April 28, 2008
	Death / Torture	Urgent Appeal COL 009/0408/ OBS 067.1	July 29, 2008
Mr. Andrés Gil, Mr. Oscar Duque, Mr. Mario Martínez, Mr. Evaristo Mena, Mr. Ramiro Ortega, Mr. Miguel Angel González Huepa	Release / Judicial harassment / Arbitrary detention	Urgent Appeal COL 019/1007/OBS 122.1	May 20, 2008
Mr. César Tamayo, Mr. David Florez, Mr. Javier Correa, Mr. Cesar Plazas, Ms. Martha Diaz, Mr. Fernando Porras, Mr. William Rivera, Mr. Gustavo Mendoza, Ms. Carolina Rubio, Ms. Nohora Villamizar, Ms. Belcy Rincón	Threats	Open Letter to the authorities	June 24, 2008
Mr. Guillermo Castaño Arcila, Mr. Mauricio Cubides, Mr. Diego Macías	Death threats	Urgent Appeal COL 011/0608/ OBS 110	June 26, 2008
The Feminine Popular Organisation (OFP), the Regional Corporation for the Defence of Human Rights (CREDHOS), the Peace and Development Programmes (PDP), the Workers' Union (USO), the National Trade Union of Workers of Petroleum, Petrochemical and Related Contractors, Services Subcontractors and Activities (SINDISPETROL), the Trade union of the company Colombian Fertilisers (FERTICOL)	New threats	Urgent Appeal COL 012/0708/ OBS 123	June 23, 2008

Name of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Ms. Elizabeth Gómez, Ms. Luz Marina Arroyabe, Ms. Senaida Parra, Ms. Andrea Abello, Ms. Tania Halle, Ms. Yimmi Jansasoy, Mr. Fabio Ariza, Mr. Carlos Torres and Mr. Eduard Mina	Death threats / Harassment	Urgent Appeal COL 013/0808/ OBS 143	August 26, 2008
Mr. Luis Mayusa Prada, Mr. Manuel Erminso Gamboa Meléndez, Mr. José Omar Galeano Martínez and Mr. Alexander Blanco Rodríguez	Ongoing assassinations	Open Letter to the authorities	September 2, 2008
Mr. Yimmi Jansasoy, Mr. Abilio Peña, Mr. Danilo Rueda, Ms. Elizabeth Gómez, Mr. Eduard Mina, Mr. Fabio Ariza, Ms. Luz Marina Arroyabe, Ms. Andrea Abello and Mr. Carlos Torres	Increase in death threats / Harassment	Open Letter to the authorities	September 5, 2008
Ms. Dora Lucy Arias and Mr. Juan Carlos Valencia	Death threats / Harassment	Urgent Appeal COL 014/0908/ OBS 154	September 19, 2008
Domingo Tovar Arrieta, Rodolfo Vecino Acevedo, Nelso Berrio, Rafael Cabarcas, Lenin Fernández, Angel Salas, Juan Mendoza, Miguel Bobadilla, Eberto Díaz, Luis Sandoval, Omar Hernández, Viviana Ortiz, Albeiro Betancourt, Álvaro Londoño, Yesid Camacho, Gilberto Martínez, Ever González y Hernando Hernández, as well as CUT, Corporation Reiniciar, Association for Alternative Social Promotion Minga, USO, ANDAS, FENACOA, National Association of Hospital Workers (ANTHOC), José Alvear Restrepo Lawyers' Collective (CCAJAR) and the Foundation Committee for Solidarity with Political Prisoners (FCSP)	Death threats / Harassment / Murder	Open Letter to the authorities	September 24, 2008

Name of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Ms. Olga Marina Vergara	Murder	Urgent Appeal COL 015/1008/ OBS 159	October 1, 2008
Mr. Walberto Hoyos Rivas	Murder	Urgent Appeal COL 016/1008/ OBS 167	October 21, 2008
Mr. Jesús Emilio Tuberquia	Attempted murder / Harassment	Urgent Appeal COL 017/1108/ OBS 179	November 4, 2008
Mr. Martín Sandoval, Mr. Olegario Araque, Mr. Santiago Gómez, Mr. Gonzalo Losada, Mr. Carlos Botero, Mr. Guillermo Díaz and Mr. José Santos Ortiz and the Permanent Committee for the Defence of Human Rights (CPDH), the Movement of Victims and the Judicial Corporation Humanity in Force	Arbitrary detentions / Ongoing death threats	Urgent Appeal COL 018/1108/ OBS 181	November 4, 2008
Development and Peace Foundation (FUNDEPAZ), UNIPA and MOVICE	Death threats	Urgent Appeal COL 018/1108/OBS 181.1	November 12, 2008
Ms. Diana Nocua Caro	Death threats / Intimidation	Urgent Appeal COL 019/1108/ OBS 184	November 7, 2008
Mr. Fernando Escobar, Mr. Jahel Quiroga Carrillo, Mr. Gustavo Petro, Mr. Iván Cepeda, Mr. Jorge Rojas	Death threats / Serious harassment	Urgent Appeal COL 020/1108/ OBS 186	November 11, 2008
Mr. Carmelo Agamez Berrio	Arbitrary detention / Judicial proceedings	Urgent Appeal COL 021/1108/ OBS 202	November 26, 2008
Mr. Edwin Legarda, Ms. Aida Quilcué, Mr. Joel Pérez Cárdenas	Murder	Press Release	December 17, 2008

# / CUBA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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## Political context

On February 24, 2008, Mr. Fidel Castro was officially replaced by his brother Raúl Castro as President of the Council of State and therefore as the Head of State, following a vote by the National Assembly. This took place 19 months after all political and institutional functions had been delegated to him. In order to ease the dialogue, the European Union decided to definitively lift sanctions in June 2008. Nevertheless, as of the end of 2008, the drastic embargo imposed by the United States for the last 46 years remained in force. The latter has serious repercussions on Cuban fundamental rights, such as the rights to food and health.

The change in political leader coincided with the signing of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights on February 28, 2008. This marked an important step towards a greater respect for human rights. However, in spite of what had been officially announced, at the end of 2008 neither of the covenants had been ratified or published at the national level. Moreover, human rights defenders and citizens who had petitioned the Government to make these covenants known to the population were victims of repression. Such repression took the form of arbitrary detentions, threats and harassment against the activists and their families, and in some cases prison sentences<sup>1</sup>. In 2008, Cuba had a eight and ten years backlog respectively regarding the submission of reports to the Committee Against Torture and the Committee on the Rights of the Child<sup>2</sup>. Whilst these human rights

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1./ See Cuban Democratic Directory (*Directorio Democrático Cubano*).

2./ See Human Rights Council, *Compilation prepared by the Office of the High Commissioner for Human Rights, in accordance with paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1 - Cuba*, UN Document A/HRC/WG.6/4/CUB/2, December 18, 2008.

commitments with the international community could contribute to a greater respect for human rights, in the run-up to the 50<sup>th</sup> anniversary of the Cuban Revolution in 2008 acts of repression continued against political dissidents, independent journalists and human rights activists.

Furthermore, according to the Cuban Commission for Human Rights and National Reconciliation (*Comisión Cubana de Derechos Humanos de Reconciliación Nacional* - CCDHRN), at the end of January 2009, Cuban prisons were housing 205 political prisoners, including 66 prisoners of conscience, compared to the 234 at the beginning of 2008<sup>3</sup>. These imprisonments were characterised by conditions that contravened, amongst others, the right to dignified treatment and personal dignity and the right to private and family life. The following violations were indeed denounced: over-crowding, poor food quality, acts of harassment and torture<sup>4</sup>, violence, internment in punishment cells, transfers to penitentiary centres often far from the prisoner's family residence, deprivation of religious assistance, interruptions of family visits and deprivation of medical treatment. Moreover, prisoners of conscience and other political prisoners were forced to share their cells with common criminals, who were utilised by the authorities in order to harass the political prisoners<sup>5</sup>. In February 2008, in a positive move, the Government authorised four prisoners to leave the territory due to their critical health condition, so that they could travel to Spain, on the condition however that they be considered as being into exile. In 2008, few prisoners were granted releases or suspended sentences for health reasons. Nonetheless, in 2008 the CCDHRN reported that around 100 prisoners had died following suicide, neglect of prison authorities or crimes committed by common prisoners. In addition to these long-term sentences and detentions, one could note an increasing trend in political and social repression through hundreds of short-term arbitrary detentions: in 2008, over 1,500 cases were registered throughout the country<sup>6</sup>.

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3./ See Cuban Commission for Human Rights and National Reconciliation (CCDHRN), *Cuba en el año 2009: La situación de derechos civiles, políticos y económicos*, February 2, 2009.

4./ See Cuban Democratic Directory.

5./ *Idem*.

6./ See Council of Human Rights Rapporteurs of Cuba (*Consejo de Relatores de Derechos Humanos de Cuba*).

In 2008, repression against dissidents and human rights defenders in Cuba continued to be a matter of concern and their harassment proved to be continuous. In addition, the legislative framework does not allow for the creation of independent organisations and associations as it is required that a State representative must participate in all meetings and the State must also be notified prior to any publication. Moreover, Article 208 of the Criminal Code provides for sentences of one to nine months' imprisonment for members of unauthorised organisations. Participation in radio and television programmes or the publication of documents that are considered to be in favour of the United States policy are also sanctioned with up to five years' imprisonment, which could sometimes lead to arbitrary detentions.

### **Systematic harassment of human right defenders**

Individuals committed to fighting for human rights, in particular for the freedoms of association and expression, free access to information, the right to a fair trial and for a safer and more respectful prison system, continued to be subjected to acts of harassment by Government agents. Thus, threats, physical violence, constant surveillance through the telephone lines being tapped and interrupted, and systematic attempts to damage the infrastructure of human rights organisations were common practices. "Acts of repudiation" (*actos de repudio*) also became a common Government tool against civil society members, which consist in gathering Government officers as well as sympathisers of the regime in front of defenders' homes to insult and sometimes physically attack them. For example, Mr. **Juan Carlos González Leiva**, President of the Cuban Foundation for Human Rights (*Fundación Cubana de Derechos Humanos*) and Executive Secretary of the Council of Human Rights Rapporteurs (*Consejo de Relatores de Derechos Humanos*), was subjected to various acts of repudiation and harassment in the past few years. In 2008, his telephone line was suspended from the beginning of February till the end of March<sup>7</sup>. In addition, on November 1, 2008, the members of the Council of Human Rights Rapporteurs were thrown out of the building in which they had based their offices for the previous 16 months, following pressure put on the owner by State security. The telephone line in the building that they subsequently used was suspended for a

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<sup>7</sup>/ See Council of Human Rights Rapporteurs, *Informe del Primer Semestre de 2008*, July 22, 2008.

few weeks and the owner of the premises also received serious threats from State security<sup>8</sup>. Furthermore, Ms. **Laura Pollán Toledo**, leader of the Ladies in White (*Damas de Blanco*)<sup>9</sup>, a movement that has suffered from harassment since its establishment in 2003, reported that she had been followed by State agents on July 1, 2008. They would also have set up a security camera near her residence, which also housed the movement's official headquarters.

### Arbitrary detentions of human rights defenders

In 2008, one of the most serious and common forms of harassment against human rights defenders was that of arbitrary detention, following sentences pronounced by a judicial system that is completely lacking independence. One of the charges used against them was that of being “socially dangerous with a disposition to commit a crime” (*peligrosidad social pre-delictiva*), which is liable to a sentence of up to four years in prison (Articles 72 to 85 of the Criminal Code)<sup>10</sup>.

At the end of 2008, 55 of the 75 defenders and independent journalists who were arrested in March 2003 during a wave of repression against members of civil society remained detained in appalling conditions, including Mr. **Normando Hernández González**, Director of the Camagüey College of Independent Journalists (*Colegio de Periodistas Independientes de Camagüey - CPIC*), who is serving a sentence of 25 years' imprisonment. On May 7, 2008, after he was discharged from hospital, he was transferred to a punishment cell in Camagüey's Kilo 7 prison despite his precarious health condition. At the end of 2008, Mr. **Oscar Elías Biscet**, Founder and President of the Lawton Foundation, also remained detained, serving a 25-year prison term in a high-security facility.

Another case was that of Mr. **Juan Bermúdez Toranzo**, National Vice-President of the Cuban Foundation for Human Rights, who was

8./ See Council of Human Rights Rapporteurs, *Informe Anual 2008*, January 13, 2009.

9./ Ladies in White emerged spontaneously in April 2003, when a group of brave and worthy women suffered the unjust imprisonment of their relatives during a period known as the Black Spring of 2003. Today, the group gathers women with different creeds and ideologies from all around Cuba, united by the steady aim of achieving the release of their relatives.

10./ There are no exact figures but, according to the CCDHRN, it is alleged that several thousands Cubans are imprisoned under this charge, including human rights defenders.

sentenced on May 4, 2008 to four and a half years' imprisonment for three attack offences and one offence of damage to property, in a trial carried out under "extreme police security measures" and following three and a half months of "detention on remand", since November 21, 2007. In addition, on April 16, 2008, Mr. Bermúdez was pressured by prison authorities to make him take part in political activities that went against his own opinions. On August 7, 2008, he was beaten up in his punishment cell by a soldier, causing him serious side-effects. At the end of 2008, he was detained in the "El Pre de Santa Clara" prison, to which he had been transferred on August 12, 2008. Furthermore, on January 11, 2008, Messrs. **José Luis Rodríguez Chávez** and **Jesús Rosales Ceagraña**, respectively Vice-President and member of the Cuban Foundation for Human Rights in La Habana, were arrested and subsequently released. On February 4, 2008, Mr. José Luis Rodríguez Chávez was again arrested, along with Mr. **Leodán Mangana López**. On February 11, 2008, the Municipal Tribunal of San Miguel del Padrón, in the city of Havana, sentenced them both to four years' imprisonment for being "socially dangerous with a disposition to commit a crime", in a summary trial held in camera and in the absence of their relatives. Mr. Rodríguez Chávez' wife was subsequently arrested for having protested before the authorities against her husband's arbitrary arrest. Although she was pregnant, she was transferred to the eleventh unit of the local police, and kept in jail for five days, without water and in inhuman conditions. On May 6, 2008, she was sentenced to a year's deprivation of liberty for alleged "disrespect"<sup>11</sup>. At the end of 2008, Mr. Rodríguez Chávez remained detained in the forced labour camp of the city of Havana, while Mr. Mangana López was detained in the Calderon forced labour camp, in the Alquizar municipality, in the province of La Habana.

Finally, the President of the Cuban Human Rights Movement "Miguel Valdés Tamayo" (*Movimiento Cubano por los Derechos Humanos "Miguel Valdés Tamayo"*), Mr. **Julian Antonio Monés Borrero**, was arbitrarily arrested on September 30, 2008, after having been physically attacked three days before by a plain-clothes recruit,

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11./ See Council of Human Rights Rapporteurs.



who beat him up for wearing a white pull-over with the words “Change” printed on it. On his first day in prison, he began a 43-day hunger strike to demand his release. On November 26, 2008, he was sentenced to three years of deprivation of liberty for “outrage to authority” by the Municipal Tribunal of Baracoa, in the Guantanamo province, although it was demonstrated that the testimony used against him was false. On December 12, 2008, the sentence was confirmed on appeal. Both trials led to strong repressive measures from the authorities, which carried out a series of operations to prevent human rights activists from attending the trials. Several activists were arrested or placed under house arrest. At the end of 2008, Mr. Monés Borrero was detained in the Boniato provincial prison in Santiago de Cuba<sup>12</sup>.

### Obstacles to the freedom of peaceful assembly

In 2008, defenders that dared to meet and demonstrate in favour of the defence of human rights were discredited and saw their activities being hindered, not only by State security agents, some of which were dressed in plain clothes, but also by the Cuban civil population. For instance, the crowd branded the Ladies in White as “terrorists”, “prostitutes”, “murderers”, “mercenaries” and “bastards” during a peaceful rally held on March 15, 2008. On April 21, 2008, a group of about 100 people, including civilians and policemen, assaulted Ms. **Laura Pollán Toledo**, Ms. **Alejandrina Garcia de la Riva**, Ms. **Dolia Leal**, Ms. **Berta Soler** and Ms. **Noelia Pedraza**, members of the Ladies in White, who were accompanied by women from the Martha Abreu Feminine Movement (*Movimiento Femenino Martha Abreu*) and the Peace, Love and Freedom Movement (*Movimiento Paz, Amor y Libertad*), from Villa Clara and Matanzas<sup>13</sup>. They were violently thrown out of the Square of the Revolution, where they were peacefully demonstrating in order to hand over a letter to the Ministry of Interior, Mr. Abelardo Colomé Ibarra, and request a meeting with him to discuss the release of their imprisoned husbands. Besides, on May 25, 2008, during a dem-

12./ See Cuban Democratic Directory.

13./ See Coalition of Cuban-American Women (*Coalición de Mujeres Cubano-Americanas*).

onstration in Placetras in honour of Pedro Luis Boitel<sup>14</sup>, demonstrators were attacked and arrested by the police<sup>15</sup>, including Messrs. Ángel Raúl Pérez Gavilán, Ricardo Pupo Sierra, Alejandro Tur Valladares and Marte Antonio Valdes Ibagollín<sup>16</sup>, members of the Council of Human Rights Rapporteurs. They were released the following day.

## Obstacles to the freedom of movement

Obstacles to the freedom of movement continued to be common practice in 2008, in particular through the requirement of a “white card”, a type of visa or permit for anyone leaving or re-entering Cuba. The implementation of this measure meant that various human rights defenders were unable to leave their country when invited by foreign Governments or international NGOs. For instance, Mr. **Elizardo Sánchez**, a founding member of the CCDHRN, has not been able to leave Cuba for the past seven years. Cuban authorities prevented him from leaving again in June 2008, while he had been invited to partici-

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14./ Disappointed by the turn the Cuban Revolution was taking, the student leader Pedro Luis Boitel created the underground organisation “Movement to Recover the Revolution” (*Movimiento para Recuperar la Revolución* - MMR), for which he was arrested in 1961 and accused of conspiring against the State. He died in prison in 1972 after carrying out an hunger strike for 53 days as well as undergoing several years of ill-treatments and torture. Despite the four requests the Inter-American Commission on Human Rights made between 1966 and 1972 to put an end to the violation of his human rights, the Cuban Government never reacted. Today, Mr. Boitel is considered as the emblem of peaceful resistance against the oppression of the Castro regime.

15./ On May 25, 2008, the following human rights activists were arrested in several cities in the framework of commemorative acts in memory of Pedro Luis Boitel: Mr. Jorge Luis García Pérez Antúnez, Ms. Nitzza Rivas Hernández, Ms. Ana Margarita Perdigón Brito, Mr. Bienvenido Perdigón Pacheco, Mr. Jorge Toledo Figueroa, Mr. Alejandro Tur Valladares, Mr. Ricardo Pupo Sierra, Mr. Guillermo Pérez Yera, Mr. Benito Ortega Suarez, Mr. Ernesto Mederos Arozarena, Mr. Jesús Raúl Figueroa Castro, Mr. Ángel Raúl Pérez Gavilán, Ms. Donaida Pérez Paseiro, Mr. Fernando Díaz Hernández, Mr. Freddy Yoel Martín Fraga, Mr. Fidel Rodríguez García, Mr. Luis Sarriá Hernández, Mr. Lenin Córdova García, Mr. Alejandro Gabriel Martínez Martínez, Mr. Loreto Hernández García, Mr. Marte Antonio Valdés Ibagollín, Mr. Blas Fortún Martínez, Mr. Amado Ruiz Moreno, Ms. Idania Yánes Contreras, Ms. Yesmi Elena Mena Zurbano, Mr. Yuniesky García López, Mr. Jorge Luis Artilés Montiel, Mr. Lázaro de Armas, Mr. Carlos Michael Morales Rodríguez, Mr. Ángel Luis Gallardo Mena, Mr. José Abreu Álvarez, Mr. Luís Silvano Agüero Hernández and Ms. Olga Lidia Dârias Barroso. Subsequent to these arrests, the State security sent Government related groups to the house of Mr. Jorge Luis García Pérez “Antúnez” to commit a “repudiation act” against his wife and other activists who were gathered there. All detained activists were released on the following day. See Cuban Democratic Directory.

16./ See Council of Human Rights Rapporteurs, *Informe Anual 2008*, January 13, 2009.

pate in a seminar on migration organised by FIDH on June 16, 17 and 18 in Mexico, although Mexico had granted him a visa.

### Urgent Interventions issued by The Observatory in 2008<sup>17</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Ladies in White	Harassment / Acts of repudiation	Urgent Appeal CUB 001/0308/OBS042	March 25, 2008
Ladies in White / Ms. Laura Pollán Toledo	Harassment	Urgent Appeal CUB 001/0308/OBS	July 4, 2008
Mr. Juan Bermúdez Toranzo	Arbitrary detention / Harassment / Lack of medical attention	Urgent Appeal CUB 002/1107/OBS	April 22, 2008

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17/ See the Compilation of cases in the CD-Rom attached to this report.



## / GUATEMALA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

Since he was elected on November 4, 2007, President Álvaro Colom Caballeros has faced complex and tangible challenges, such as violence of all kinds, impunity and challenges in relation to environmental issues and land ownership. Progress were made through Government reforms and signs of a willingness to solve these problems, as demonstrated by the ratification of the Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on June 9, 2008. However, the positive effects of such actions remain to be seen.

President Colom also launched the “100-Day Plan” (*Plan Cien Días*), which was implemented from January 15 to April 24, 2008 and aimed at the country’s poorest municipalities – consisting mostly of indigenous peoples – chosen on the basis of indicators of extreme poverty. The plan’s objective was to create 700,000 jobs and build 200,000 houses. The initiative turned out to be overly ambitious and, at the end of the 100 days, the expected outcomes had not been achieved. The initiative was also criticised by some for being designed with excessive optimism. The reforms also concerned the national civilian police, with the aim of identifying and dismissing corrupt officers, but the expected effects were not witnessed in this area either<sup>1</sup>.

The genocide that took place in Guatemala between 1960 and 1996 continued to have after-effects, due to the widespread impunity that prevails in the country. As of the end of 2008, the crimes committed

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1./ See Group of Mutual Support (*Grupo de Apoyo Mutua - GAM*), *Informe No 12 sobre la Situación de Derechos Humanos y Hechos de Violencia al Mes de Diciembre 2008*, December 2008.

during the genocide indeed remained unpunished<sup>2</sup>. This impunity for past crimes not only violates the victims' rights to know the truth and to receive justice and reparation, but also impedes a "purge" of State bodies and institutions, in particular the armed forces, as well as punishment of persons responsible for grave human rights violations (genocide, crimes against humanity and torture). This led to a wave of extreme violence that has continued to increase, with the crimes committed nowadays also enjoying an almost total impunity, a situation condemned by, among others, several United Nations institutions<sup>3</sup>.

The Government took measures to fight impunity for current crimes, but the results remain to be seen. The International Commission Against Impunity in Guatemala (*Comisión Internacional Contra la Impunidad en Guatemala - CICIG*)<sup>4</sup>, established in August 2007, continued its mission of fighting and investigating impunity and corruption<sup>5</sup> in close and strengthened cooperation with various State institutions. The Commission's work could contribute to significant progress in investigations, as long as the Public Ministry cooperates in the criminal investigations and prosecutions, and the Congress adopts the necessary reforms for the Commission to function efficiently<sup>6</sup>.

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2./ In January 2008, the Spanish National Court (*Audiencia Nacional*) decided to continue its investigation into crimes such as genocide, torture, assassinations and unlawful imprisonment against Guatemalan civilians. In addition, on March 10, 2008, the first trial for enforced disappearance began against a former military superintendent for events that took place between 1982 and 1984.

3./ For instance, after a visit to Guatemala in February 2008, the UN Special Representative of the Secretary-General on Human Rights Defenders stressed the high degree of violence in the country, commenting that 98% of offenses remained unpunished. See United Nations Press Release, February 20, 2008.

4./ The Commission was created with the aim of investigating and dismantling criminal organisations responsible not only for committing organised crime in Guatemala, but also for paralysing the judiciary system through its infiltration of State institutions. The CICIG has a renewable mandate of two years, and is also charged with reinforcing the penal system and giving recommendations on the development of policies aiming at countering criminal organisations.

5./ See International Commission against Impunity in Guatemala (CICIG), *Informe: un Año Después*, September 2008.

6./ The CICIG presented two specific reform proposals. The first one relates to the Law on Arms and Ammunition, the Law on the Action of "Amparo", the Law on the Privilege of "Antejucio", the Criminal Procedure Code and the Law Against Organised Crime, as well as regulations reforms. The second proposal, which should be presented in early 2009, suggests reforms of the disciplinary system of the Public Ministry, the national civilian police and the judiciary, as well as reforms to prevent trafficking of migrants and help prosecute corrupted civil servants.

The level of violence in Guatemala nevertheless remained high in 2008, especially from August<sup>7</sup>. The violence mainly stemmed from organised crime, clandestine security groups and juvenile gangs of Central American origin coming from the United States (the so-called “maras”)<sup>8</sup>. Violence against women also remained at a very high level. According to the Unit for Protection of Human Rights Defenders in Guatemala (*Unidad de Defensores y Defensoras de Derechos Humanos de Guatemala* - UDEFEGUA-Guatemala), 6,228 cases of various types of assaults on women were registered in 2008, making the use of the term “femicide” widespread<sup>9</sup>.

Criminalisation of social protest worsened in 2008<sup>10</sup>. On several occasions, the Government actually declared “states of prevention” (*estados de prevención*) – situations governed by the Law on Public Order (*Ley de Orden Público*)<sup>11</sup>. The rights of union members and workers were gravely violated without those violations being investigated. In this context, some multinational fruit companies have been employing for

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7./ This coincided with the appointment by the Ministry of Interior (*Ministerio de Gobernación*) of a person who promoted democratic security policy and tried to purge the Ministry of Interior and the national civilian police, which provoked reactions from organised crime. According to GAM, the total number of violent homicide victims in 2008 was 3,305, representing little change from 2007, when it was 3,319. See GAM, *Sin Cumplimiento de las Palabras de Álvaro Colom, Informe sobre la Situación de los Derechos Humanos y Hechos de Violencia al Mes de Diciembre 2008*, December 2008.

8./ Institutional impunity is considered as a mechanism of tolerance of many of these manifestations of violence, especially of some clandestine security groups and organised crime groups. These two types of groups have infiltrated the Supreme Court, the Public Ministry and State institutions and can work from within these, making it difficult to investigate them. At the beginning of the 1980s, the prominent gangs “Mara Salvatrucha” and “18” were formed in Los Angeles, California, by a large number of young Central American immigrants. They were subsequently displaced and are now fighting in Central America.

9./ On May 15, 2008, the Law Against Femicide and Other Forms of Violence against Women came into force, after being approved by Guatemala’s Congress on April 9. The efficient implementation of the law would help fight impunity of violence against women in Guatemala and consequently lead to a decrease in such violence.

10./ This is exemplified, among others, by the increase in assaults on union members in 2008.

11./ See Article 138 of the 1985 Constitution of the Republic of Guatemala. The state of prevention limits constitutional rights by suspending the articles related to freedom of action, arrest, interrogation of detainees and prisoners, freedom of movement, freedom of assembly, freedom of thought, the right to carry arms and the regulation of strike among State employees. After being ordered by the President, the state of prevention must be approved by the Congress in order to be valid.

several years local firms to cultivate their plantations. However, these local companies often resort to anti-union practices, leading to an increase in violence against union members in Guatemala<sup>12</sup>. Some of these social protests were related to problems of land ownership and abusive exploitation by multinational companies, which often affected the rights of indigenous peoples. The indigenous populations were on several occasions the victims of violent police raids as well as of criminal proceedings. The Government organised national negotiations in April between peasants and the authorities in order to deal with this situation. At the end of 2008, the negotiations were moving forward, but without the participation of the municipalities affected by violence.

After visiting Guatemala in February 2008, the UN Special Representative of the Secretary-General on Human Rights Defenders called attention to human rights defenders' low level of protection and to the high degree of repression against defenders of economic, social and cultural rights in particular<sup>13</sup>. One month prior to the visit, in January 2008, the Ministry of the Interior, in cooperation with the Prosecutor General's Office, had created the Institute for the Analysis of Attacks Against Human Rights Defenders (*Instancia de Análisis de Ataques contra Defensores de Derechos Humanos*), which processes complaints of attacks against human rights defenders. The Institute has been at the origin of some coordination and confidence, which has led to certain results. Although these results remained weak insofar as the Public Ministry did not prosecute the perpetrators, they were strong in the sense that they constituted a step towards better protection for human rights defenders under attack.

### **Assassinations and harassment of trade union leaders**

2008 was yet another period of serious violations against trade unionists in Guatemala. According to UDEFEGUA, 47 attacks against union members were recorded, the highest number of attacks ever on this category of defenders in the country. In addition, three union leaders defending workers' rights were assassinated. On March 2, 2008, Mr. Miguel Ángel Ramírez Enríquez, Co-founder of the Union of

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12./ See International Trade Union Confederation (ITUC) Report, *Guatemala: los Sindicatos Impulsan la Lucha contra la Impunidad*, March 2008.

13./ See United Nations Press Release, February 20, 2008.

Banana Workers of the South (*Sindicato de Trabajadores Bananeros del Sur - SITRABAN*), was assassinated in the department of Escuintla, on the Olga María plantation, which is owned by the multinational Chiquita Brands. Eight months earlier, a group of workers had decided to form the union, which was legally registered. However, through its security service, the company began a series of harassment and intimidation acts against the workers and their families, including detaining several members and 12 trade union leaders and forcing them to quit their jobs. At the end of 2008, the assassination had still not been investigated. On May 13, 2008, Mr. **Sergio Miguel García**, the National Health Workers' Union (*Sindicato Nacional de Trabajadores de la Salud de Guatemala - SNTSG*) Coordinator for malaria eradication, was assassinated by unknown assailants in the department of Izabal. Five months earlier, his predecessor in the same position had died in similar circumstances. A first investigation was conducted after the assassination, but the Public Prosecutor's Office did not take any action on that case. Moreover, on September 21, 2008, Mr. **Israel Romero Ixtacuy**, Secretary General of the Union of the Retalhuleu Municipal Electricity Company Workers (*Sindicato de Trabajadores de la Empresa Eléctrica del Municipio de Retalhuleu*), was shot in the head at a meeting with other union leaders. The investigation into Mr. Ixtacuy's murder was conducted with support from the Special Prosecutor for the CICIG. At the end of 2008, however, those responsible had still not been identified.

### **Serious violations against defenders of the environment and of the rights of indigenous peoples in relation to the conflict on land ownership and exploitation**

In 2008, six cases of attacks on defenders of the environment and five cases of attacks on defenders of the rights of indigenous peoples were recorded. On March 31, 2008, a nun from the San Marcos diocese was threatened by persons who told her to convey a death threat to Monsignor **Álvaro Ramazzini**, Bishop of the diocese. Monsignor Ramazzini is a prominent figure in the fight for indigenous peoples' rights as well as for the protection of their land and the environment<sup>14</sup>. In January 2008, he expressed his content with the result of the

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14./ Monsignor Ramazzini is known for supporting community referendums in the San Marcos region, denouncing the negative effects of extractive industries, defending the rights of indigenous peoples and peasants, and participating in the debate about reforms to the Law on Energy and Mining.



September 2007 municipal election, which was won by the Sipakapense Civic Committee (*Comité Cívico Sipakapense - CCS*), an organisation advocating peaceful defence of the land and environment from mining. At the end of January 2005, Monsignor Ramazzini had already been victim of an assassination attempt due to his support in favour of peasants in the region in their fight against mining development. Furthermore, on August 1, 2008, an attempt was made on the life of Mr. Amilcar de Jesús Pop, a lawyer, notary and President of the Association of Mayan Lawyers and Notaries (*Asociación de Abogados y Notarios Mayas*). Mr. **Amilcar de Jesús Pop** supports 60 community leaders in San Juan Sacatepéquez in their fight for protection of natural resources from the projects of a large cement company. Worse still, on August 7, 2008, Mr. **Antonio Morales López**, a member of the Farmers' Unity Committee (*Comité de Unidad Campesina - CUC*) and leader of the defence of indigenous peoples' rights, was assassinated in the Huehuetenango department. Mr. Morales López was a notorious defender of indigenous peoples' rights and the environment, and was particularly opposed to open-pit mining projects in the department.

Human rights defenders who tried to mediate in conflicts were often accused of defending criminals, supporting terrorism and inciting violence. The accusations were made by farms owners and companies (especially mining companies) and sometimes civil servants of the judiciary system, and put the defenders' lives at risk. Most of those defenders are community defenders who fight for their rights against large companies and transnational corporations. To that extent, the case of Mr. **Carmelino López** and Mr. **Eswin Ranferí López** is worth mentioning. Both are members of the Nueva Florencia Farm Workers' Union (*Sindicato de Trabajadores de Finca Nueva Florencia*) who were unlawfully dismissed in 1997 along with other workers after forming a union. On January 5, 2008, Mr. Carmelino López and Mr. Eswin Ranferí López were arrested by four armed and hooded security guards of the Nueva Florencia farm, allegedly for bringing a cow to the farm and thereby violating the orders of the owner, who had forbidden peasants to own livestock. They were released the following day at 4 pm, but the Nueva Florencia farm administrator, Mr. Patricio Tunchez Ocampo, has been constantly harassing them in order to make them withdraw the complaint they lodged with the Public Ministry against him and

the owner of the farm. The case was reported to the Public Ministry, but the latter did not take any action<sup>15</sup>.

### **Ongoing threats against defenders who fight against impunity**

Persons who dared to fight against impunity and advocate justice, either within organisations or by virtue of positions in the judiciary system, received continuous threats throughout 2008. Thirty-nine cases of attacks against human rights defenders fighting against impunity were recorded. On May 19, 2008 for instance, members of the Guatemalan Forensic Anthropology Foundation (*Fundación de Antropología Forense de Guatemala* - FAFG) received death threats via email. Among the members were Mr. **Fredy Peccerely**, Executive Director, Mr. **José Suassnavar**, Deputy Director, Mr. **Omar Bertoni Girón**, Head of the Forensic Anthropology Laboratory, and Ms. **Bianka Peccerely**, the Director's sister and the Laboratory Coordinator's wife. The threats came after a photo of an exhumation carried out by FAFG in Plan de Sánchez was published, in connection with an article in the *Prensa Libre* about the investigation led by Judge Cojolún, which was about to send testimonies to Spain. Judge **Eduardo Cojolún**, who has been compiling the testimonies of victims and experts in accordance with a Letter Rogatory issued by Judge Santiago Pedraz of the Spanish National Court (*Audiencia Nacional Española*)<sup>16</sup>, also received death threats, in particular on May 20 and June 12, 2008. In addition, on June 12, 2008, the Judge's two bodyguards were relieved from their duties, officially because they needed "a holiday". They were replaced following Mr. Cojolún's protests.

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15./ See UDEFEGUA, *Informe sobre la Criminalización del Movimiento Social*, July 7, 2008.

16./ On January 16, 2008, the Spanish National Court issued an order stating that it had decided to proceed with the investigation of crimes such as genocide, torture, assassinations and unlawful arrests against Guatemalan civilians, mostly Mayans. The decision was made after the Constitutional Court of the Republic of Guatemala rejected on December 14, 2007 the extradition of Mr. Ángel Aníbal Guevara Rodríguez, former Defence Minister, and Mr. Pedro García Arredondo, former Head of the police, to Spain.

## Urgent Interventions issued by The Observatory in 2008<sup>17</sup>

Name of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Carlos Enrique Mancilla García	Acts of intimidation / Assault	Urgent Appeal GTM 001/0108/OBS 002	January 10, 2008
Mr. Miguel Ángel Ramírez Enríquez	Assassination / Threats	Urgent Appeal GTM 002/0308/OBS 035	March 7, 2008
Monsignor Álvaro Ramazzini	Death threats / Harassment	Urgent Appeal GTM 003/0408/OBS 045	April 3, 2008
Mr. Carlos Enrique Cruz Hernandez	Assassination	Urgent Appeal GTM 004/0508/OBS 072	May 2, 2008
Mr. Danilo Méndez	Harassment	Urgent Appeal GTM 004/0508/OBS 072	May 2, 2008
Mr. Sergio Miguel García	Assassination	Urgent Appeal GTM 005/0508/OBS 083	May 16, 2008
Mr. Jorge de Jesús Mérida Pérez	Assassination	Urgent Appeal GTM 006/0508/OBS 087	May 21, 2008
Mr. Fredy Peccerely, Mr. José Suassnavar, Mr. Leonel Paíz, Mr. Omar Bertoni Girón and Ms. Bianka Peccerely	Death threats / Harassment	Urgent Appeal GTM 007/0507/OBS 055.1	May 22, 2008
		Urgent Appeal GTM 007/0507/OBS 055.2	July 31, 2008
<b>Sons and Daughters for Identity and Justice Against Oblivion and Silence</b> ( <i>Hijos y Hijas por la Identidad y la Justicia y en contra del Olvidio y el Silencio - HIJOS</i> )	Death threats / Harassment	Urgent Appeal GTM 007/0608/OBS 109	June 25, 2008
Mr. Eduardo Cojolún	Threats / Fear for the safety	Open Letter to the authorities	June 26, 2008

17/ See the Compilation of cases in the CD-Rom attached to this report.

Name of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Ms. María Marti Domingo, Ms. Fabiana Ortiz Sales, Mr. Aparicio Pérez and Mr. Rafael González	Arbitrary detention / Death threats	Urgent Appeal GTM 008/0708/OBS 114	July 4, 2008
Mr. Amilcar de Jesús Pop	Assassination attempt / Death threats / Harassment	Urgent Appeal GTM 009/0808/OBS 134	August 13, 2008
Mr. Antonio Morales López	Assassination / Harassment	Urgent Appeal GTM 009/0808/OBS 142	August 25, 2008
Mr. Yuri Melini	Assassination attempt	Urgent Appeal GTM 011/0908/OBS 148	September 8, 2008
Mr. José Israel Romero Ixtacuy	Assassination	Urgent Appeal GTM 012/1008/OBS 162	October 9, 2008
Mr. Miguel Arturo Albizures Pedrosa	Assassination attempt / Harassment	Urgent Appeal GTM 013/1108/OBS 183	November 7, 2008
Ms. Ruth del Valle Cobar and Mr. Miguel Ángel Albizures	Search / Harassment	Urgent Appeal GTM 014/1108/OBS 191	November 14, 2008

# / HONDURAS

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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## Political context

After three years in power, the Government led by Mr. Manuel Zelaya Rosales has not been able to carry out the reforms it promised as regards healthcare, education, energy and security, contrary to what it announced at the beginning of its term<sup>1</sup>. The existing deficits in these areas led to significant discontent and social protests, as well as complaints linked to problems such as the protection of the environment, the negative social, health and economic impact of mining and forestry activities, the consequences of crime, rising unemployment, corruption and the energy crisis. This situation led to occasional verbal “skirmishes” between the political institutions in charge, giving rise to prejudice and leading above all to the restructuring of the ruling party as well as the opposition, before the November 2009 general election.

Impunity remained a challenging issue, both in relation to crimes of the past and recent cases, including corruption. This situation endured as law enforcement bodies are still undermined by crime and corruption among their own personnel, and are therefore not very efficient, or not efficient at all, in dealing with the exponential increase in, among others, organised crime (including the so-called “maras”), drug trafficking, human trafficking and common crime. Moreover, Honduras was a dangerous place for certain politicians. Mr. Mario Fernando Hernández, one of the three Congress Vice-Presidents and candidate to be re-elected to Congress, and Mr. Marcos Collier, a candidate for a congressional seat travelling with him, were shot dead in the street on November 22, 2008, one week before primary elections to choose candidates for the functions of President, Vice-President, mayors and deputies. At the end of 2008, the perpetrators of these assassinations

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1./ His term will end on January 10, 2010, and the general election is scheduled for November 2009.

had not been arrested. These events illustrate the level of political violence as well as the impunity in the country.

In 2008, the indigenous Garífuna populations continued to suffer from discrimination and a lack of attention from the Government. A series of violations against them were reported in connection with the exercise of their community rights, and at least two members of the community were killed by the members of the Honduran navy. In addition, repression was intensified by the European and South American reality TV shows shot in Cayo Paloma<sup>2</sup>. In relation to environmental issues in general, the Government of Honduras spurred foreign investment and activities by large multinationals, which led to the overexploitation of natural resources, and the authors failed to be held accountable.

At the level of the legal framework, there was an initiative for a Legislative Decree for the Protection of Human Rights Defenders, but it was not brought to the plenary session of the Legislative Assembly for approval. With the same aim of providing protection to defenders, a Special Convention for Institutional Cooperation (*Convenio Especial de Cooperación Institucional*) was drawn up in February 2006, incorporating the following institutions: the Supreme Court of Justice, the Secretary of Interior and Justice (*Secretaría de Gobernación y Justicia*), the General Prosecutor's Office of the Republic, the Secretary of Security, the Secretary for Foreign Affairs and the Public Ministry. Nonetheless, at the end of 2008, the bill appeared to have been abandoned.

### **Repression of defenders fighting against impunity and corruption**

In 2008, individuals and organisations that tried to achieve a greater level of transparency and justice within State institutions were subject to threats, harassment and even assassination attempts, and some defenders even went into exile because their lives were in danger. On April 3, 2008 for instance, Mr. **Luis Gustavo Galeano**

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2./ See Committee of Relatives of Disappeared and Detainees in Honduras (*Comité de Familiares de Detenidos Desaparecidos en Honduras* - COFADEH). These programmes have indeed an enormous impact on the vital environment of indigenous peoples, and the lack of respect for their environment increases their anti-Western feelings.

**Romero**, Coordinator of the Social Audit Programme in the departmental delegation to the National Commissioner for Human Rights (*Comisionado Nacional de los Derechos Humanos* - CONADEH) in Colón, was assassinated. He was in charge of auditing and inspecting municipal corporations in order to ensure transparent management of their funds. At the end of 2008, the investigation into his assassination had not progressed. In July 2008, the offices of the Committee of Relatives of Disappeared and Detainees in Honduras (*Comité de Familiares de Detenidos Desaparecidos en Honduras* - COFADEH) were searched and destroyed, and its General Coordinator, Ms. **Bertha Oliva de Nativí**, was followed and her telephone was tapped for two months. These events could be related to the previous conviction of four police officers who killed two environmentalists and members of the Environmental Movement of Olancho (*Movimiento Ambientalista de Olancho*), Mr. **Heraldo Zúñiga** and Mr. **Roger Iván Cartagena**, in 2006<sup>3</sup>, and happened a couple of months prior to the discovery of a long list of names of social leaders and human rights organisations in the hands of two police officers in September. At the end of 2008, a discrediting campaign was also launched against Ms. Oliva de Nativí<sup>4</sup>, violating the statement the Inter-American Court of Human Rights<sup>5</sup> (*Corte Interamericana de Derechos Humanos* - CoIDH) issued in 2007 urging the Government to avoid discrediting human rights defenders.

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3./ The four police officers were found guilty and sentenced to forty years in prison for “assassination” on September 18, 2008. In October 2008, three of the officers escaped from a military base in the Olancho department. On November 26, 2008, the officers’ lawyers appealed before the Supreme Court of Justice, which at the end of 2008 had not notified the parties of whether it would consider the appeal.

4./ On December 10, 2008, International Human Rights Day, President Manuel Zelaya Rosales sent to COFADEH an Executive Decree establishing a National Reparation Programme for Victims of Human Rights Violations in the 1980s (*Programa Nacional de Reparaciones para víctimas de violaciones a los derechos humanos de los años ochenta*). The decree also ordered the peaceful resolution of two cases under consideration by the Inter-American Commission of Human Rights (IACHR). On the next day, on December 11, 2008, a campaign to discredit Ms. Bertha Oliva de Nativí began, as well as a campaign promoting hate and violence against her. During several weeks, several newspapers printed material misinforming the population about the content of the decree, claiming that it was excluding and would only benefit Ms. Oliva de Nativí and the lawyer Milton Jiménez Puerto. This material was widely reproduced after December 11, 2008. Apart from serving to discredit Ms. Oliva de Nativí as COFADEH General Coordinator, they also contributed to compromising her safety considerably.

Furthermore, Mr. **Misael Cárcamo**, a social activist who has been working for several years with appointing transparency commissions<sup>5</sup> in Santa Rosa de Copán, in western Honduras, received a number of telephone threats in 2008<sup>6</sup>, and death threats were also written on his front door<sup>7</sup>. In April and May, several prosecutors working for the Public Ministry went on a 38-day hunger strike, demanding that the Public Ministry start an investigation into acts of corruption among politicians and entrepreneurs. A couple of weeks later, on September 1, 2008, Mr. **Luis Javier Santos**, another defender fighting corruption and a prosecutor at the time, who also took part in the hunger strike, was very nearly killed in an assassination attempt<sup>8</sup>. At the time the attempt on his life was made, Mr. Santos' police guard was not with him, and he subsequently had to go into exile. Persons working closely with the Government were also threatened, persecuted and subjected to arbitrary transfers. This was the case of some members of the Prosecutors' Association (*Asociación de Fiscales*), which fights against corruption within public institutions, therefore implicating persons holding important political and economic positions in the country<sup>9</sup>.

## **Violent repression of defenders of economic, social and cultural rights**

### **Defenders who protest exploitation of natural resources that affects the rights of indigenous peoples and the right to land**

Defenders of the environmental rights continued to be victims of assassinations, judicial harassment, arbitrary detentions and other acts of harassment in 2008, especially for denouncing abusive exploitation of natural resources by companies whose activities threaten both the environment and the way of living of the population that lives or works nearby.

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5./ The transparency commissions are part of the Honduran Municipal Transparency Project, of which Mr. Misael Cárcamo is a member.

6./ In particular on September 2 and 4, 2008.

7./ See COFADEH.

8./ IACHR has granted him precautionary measures since August 2007 after he received several threats to his safety and personal integrity due to his investigations into and documentation of various cases of corruption.

9./ See COFADEH.



Several environmentalist groups and individuals were victims of judicial harassment and accused of hindering development projects. Through the Prosecutor's Office, the Public Ministry took legal action against individuals who exercised social rights, but not against persons who violated these rights. In May 2008, the Public Ministry opened a criminal case against 16 defenders of the right to environment who opposed logging and contamination of the few community water sources in the Orica municipality in the Francisco Morazán department. The Judge ordered a provisional stay of proceedings in the case put forward by the Public Ministry<sup>10</sup>. At the end of 2008, this decision remained in force. In addition, on February 26, 2008, in the Agua Blanca community, in the Talanga municipality, Francisco Morazán department, eight environmentalists<sup>11</sup> were arbitrarily and brutally detained by the special operations police squad (*Comando de Operaciones Especiales*) and subsequently subjected to judicial proceedings<sup>12</sup>. At the end of 2008, they were at liberty, but the charges against them remained pending<sup>13</sup>. Likewise, on July 20, 2008, Messrs. **Raymundo Rodríguez, Abel Hernández, Jairo Domingo** and **Franklin Martínez**, members of the Orica and Agalteca Environmental Committee (*Comité Ambientalista de Orico y Agalteca*)<sup>14</sup>, in the Francisco Morazán department, were arrested without warrant and taken to the San Francisco police station, in Orica. They were released on August 17, 2008 and the Public Ministry did not press charges or present evidence against them. They subsequently filed a complaint against the police officers who had detained them for "unlawful detention", "abuse of authority" and "failure to carry out official duties". At the end of 2008, the complaint was being investigated by the Public Ministry's Human Rights Prosecutor's Office. Mr. Raymundo Rodríguez had to be hospitalised for several days in Tegucigalpa due to fractured ribs and other injuries he suffered

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10./ *Idem*.

11./ Messrs. **Ángel Adrián Turcios, Santos Margarito Gálvez Almendarez, Omar Orlando Gálvez Almendarez, Luis Amílcar Hernández Munguía, Juan Pablo Turcios, Pedro Roberto Turcios, Ms. Nohemí Salgado Gutiérrez** and Ms. **Rosa Maribel Vázquez**.

12./ The environmentalists opposed logging activity that affected their community by blocking a road. Shortly after, the owner of the lumber company arrived, accompanied by the police, who ordered the demonstrators to leave. After they refused, criminal proceedings were initiated against them for causing loss of income and disobeying the authorities.

13./ See COFADEH.

14./ The Environmental Committee defends the environment and natural resources.

in police custody. The COFADEH later lodged a complaint with the Internal Affairs Unit of the Ministry of Security, the Special Human Rights Prosecutor's Office and the Ministry of Security. At the end of 2008, there had been no progress in these investigations<sup>15</sup>.

Defenders of the rights of indigenous peoples and the right to land were also victims of physical assaults and even assassinations in 2008. In May 2008, Ms. **Karla Patricia Jiménez**, member of the Committee for the Defence of Human Rights in Honduras (*Comité para la Defensa de los Derechos Humanos en Honduras - CODEH*), was subject to harassment. Ms. Jiménez lives in the Mangos community in the Villa de San Antonio municipality, Comayagua department, and is known for defending community rights affected by the construction of the Canal Seco<sup>16</sup>. In addition, on July 10 and November 14, 2008, attacks were made on Ms. Jiménez' home<sup>17</sup>. After the last attack, precautionary measures were adopted and she was moved to another community<sup>18</sup>. After receiving four threatening phone calls, on May 2, 2008, a man approached her to photograph her and another CODEH member, Mr. **Ricardo Vanegas**. On May 12, 2008, another man approached her and asked where she lived. From this date on, vehicles began to stay at night in front of her house. Furthermore, in a context of strong tensions between exploitation companies and peasants who were defending their lands, several local peasant leaders were assassinated<sup>19</sup> after the Decree 18-2008 came into force on April 29, 2008, allowing the land conflict in connection with the former Regional Military Training Centre (*Centro Regional de Entrenamiento Militar - CREM*) to be resolved<sup>20</sup>. The statements made by some leaders of the peasant movement provoked

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15./ See COFADEH.

16./ The Canal Seco is defined as CA-5 in the framework of the projects derived from the Puebla Panamá Plan and will link the Pacific in El Salvador (Puerto La Unión) with the Atlantic in Honduras (Puerto Cortes). In the community of Puerto Cortes, the construction company PRODECON destroyed a community cemetery, which the population opposed.

17./ During the violent eviction of the populations in connection with the destruction of the cemetery, Ms. Jiménez was hit twice, and consequently had to be admitted to an emergency ward. In addition, she lost the child she was expecting. A complaint was lodged with the Public Ministry, and at the end of 2008 the investigation was still open.

18./ See CODEH Press Release, August 14, 2008.

19./ See COFADEH.

20./ This new land legislation makes it easier to transfer former army property to peasant families that fight for it.

reactions from landowners and breeders, who not only made an appeal for legal protection (*recurso de amparo*) before the Supreme Court of Justice, but also carried out evictions against and threatened principal peasant leaders. On May 23, 2008 for instance, Mr. **Israel García**, the leader of a group affiliated with the National Association of Honduran Peasants (*Asociación Nacional de Campesinos de Honduras - ANACH*), was assassinated by the bodyguards of the entrepreneur of a company who had been claiming the land where these peasants live since 1982<sup>21</sup>. In the same context, on June 11, 2008, Mr. **Irene Ramírez**, a member of the rural workers cooperative “July 14” of the Aguán Peasant Movement (*Movimiento Campesino del Aguán*) of the National Centre for Rural Workers (*Centro Nacional de Trabajadores del Campo - CNTC*), was assassinated in Trujillo, in Colón. At the end of 2008, this crime remained unpunished, and the Prosecutor’s Office had not yet requested an indictment. Likewise, on June 22, 2008, Mr. **Lino Herrera Quiroz**, a peasant leader and President of the ANACH, was assassinated together with his wife by men who shot at them from a car<sup>22</sup>. The defence of the right to land was reportedly also the reason why three community leaders were assassinated: Messrs. **Fredis Osorto** (on October 2), **Eliás Murcia** (on October 9) and **Ubence Aguilar** (on October 14), in Cofradía, Cortés department. They were organising activities in favour of the recognition of the right to land and filing complaints concerning the delays in the work of the Land Administration Programme’s (*Programa de Administración de Tierras - PATH*) in the region<sup>23</sup>.

### Repression of trade union leaders

Trade unionists were also targets of criminal acts in 2008 for defending labour and workers’ rights. On April 23, 2008, Ms. **Rosa Altgracia**

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21./ See COFADEH. The peasant association and the victims’ families held the company accountable for this murder, since they were subjected for some months to constant threats and evictions, which had been reported to the National Agrarian Institute (*Instituto Nacional Agrario*) but the latter had been unable to solve the conflict.

22./ See COFADEH. The Prosecutor’s Office for Common Crimes in the northern region opened an investigation, but has not yet been able to find any conclusive information about the perpetrators or the masterminds of the crime. ANACH attributed the assassination to a business owner from San Pedro Sula, Mr. Miguel Carrón, who has a long history of land conflict. He bought land from the current Mayor of San Pedro Sula, Mr. Rodolfo Padilla Sunceri, after the peasants had taken the land.

23./ See COFADEH. The Prosecutor’s Office for Common Crimes initiated a summary trial against the perpetrators, but without the awaited results and no subsequent indictment.

**Fuentes**, Secretary General of the Honduras Workers' Confederation (*Confederación de Trabajadores de Honduras - CTH*) and substitute member of the recently founded Trade Union Confederation of the Americas' (TUCA) Executive Committee, and Ms. **Virginia García de Sánchez**, member of the CTH Executive Committee and leader of the INFOP National Institute for Professional Formation Workers' Union (*Sindicato de Trabajadores del Instituto Nacional de Formación Profesional INFOP - SITRAINFOP*), were assassinated in their car. Ms. Altigracia Fuentes had already been watched for a while. At the end of 2008, Mr. José Rafael Reyes was arrested in the capital of El Salvador. He was wanted in Honduras as a suspect of the double assassination, but still had to be extradited. Moreover, on September 11, 2008, Ms. **Lorna Jackson García** and Ms. **Juana Leticia Maldonado Gutiérrez**, leaders of the Motor Vehicle SITRAFL Workers' Union (*Sindicato de Trabajadores de Vehículos a Motor SITRAFL*), were shot at in an assassination attempt, but escaped unharmed. Furthermore, the six members sitting at the executive committee of the last-mentioned trade union also received constant telephone threats as well as death threats from unknown armed men in the street. The threats began before the assassination attempt and continued afterwards. As a consequence, the victims considered it necessary to leave their homes and move every two weeks during four consecutive months. They lodged a complaint with the Progreso Yoro General Investigation Office, but at the end of 2008 little progress had been made in the investigation<sup>24</sup>.

### Urgent Interventions issued by The Observatory in 2008<sup>25</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Luis Gustavo Galeano Romero, Ramón Custodio, Mr. Juan Antonio Frañó López, Ms. Elena Judith Marriaga Aranda, Ms. Luz del Carmen Fúnez Osorio, Mr. Rossel Marel Padilla Mejía	Assassination / Fear for safety and personal integrity	Urgent Appeal HND 001/0408/OBS 054	April 11, 2008

24./ See COFADEH.

25./ See the Compilation of cases in the CD-Rom attached to this report.

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Ms. Rosa Altagracia Fuentes and Ms. Virginia García de Sánchez</b>	Assassination / Fear for safety and personal integrity	Urgent Appeal HND 002/0408/OBS 070	April 29, 2008
<b>Mr. Iban Guardado</b>	Assassination	Urgent Appeal HND 003/0508/OBS 076	May 14, 2008
<b>Ms. Bertha Oliva de Nativí</b>	Looting / Harassment	Urgent Appeal HND 004/0708/OBS 117	July 11, 2008
<b>Mr. Irene Ramírez</b>	Assassination	Open Letter to the authorities	August 4, 2008
<b>Mr. Luis Javier Santos</b>	Assault / Assassination attempt	Urgent Appeal HND 005/0908/OBS 146	September 5, 2008

# / MEXICO

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## Political context

2008 was marked by a noticeable increase in violence caused by the war amongst the main drug cartels<sup>1</sup>. To that extent, there is no hope for the battle against drug trafficking if social inequalities are not tackled. About 60% of Mexicans live in poverty and are unable to satisfy basic needs, in a context where women make up more than 60% of this population. Over the last few years, many Mexicans were forced to emigrate in order to survive. It is also worth highlighting that some States concentrate the highest levels of social exclusion, repression and violence. These include the States of Oaxaca, Guerrero and Chiapas, where generalised corruption, impunity, extreme poverty, discrimination and the denial of indigenous peoples' rights was combined with conflicting interests vying to exploit natural resources and carry out megaprojects to produce energy. Both of these were carried out without any consideration of local communities' rights. As for the State of Chihuahua, it suffered from a high level of delinquency, crimes, corruption and impunity during the war between drug cartels, which only worsened in 2008. In this context, the crime of femicide did not diminish, particularly in Ciudad Juárez and in the city of Chihuahua, which have registered since 1993 more than 500 murders and an undetermined number of disappeared women and girls, which all remained unsolved as of the end of 2008.

On December 3, 2008, the United States of America and Mexico signed an agreement to launch the Merida Initiative (*Iniciativa Mérida*)<sup>2</sup>, which aims at strengthening the collaboration between the

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1./ According to the newspaper *El Universal*, the "narcowar" caused the unprecedented figure of 5,630 victims only for the year 2008. See *El Universal*, article dated January 1, 2009 and published on January 27, 2009.

2./ The aim of the Merida Initiative is to allow Mexico and Central American countries to contribute, jointly with the United States of America, to the fight against organised crime and drug trafficking. This initiative was already passed by the Mexican Executive.

United States, Mexico and the States of Central America in the fight against drug trafficking. This initiative could have negative effects on human rights regarding, for example, the criminalisation of social protest and the treatment of migrants in transit. Mexico is a country with three dimensions with regards to migrants: a country of origin, a hosting country and a country of transit. Despite the possible step backward that the enforcement of the Merida Initiative could have, Mexico amended the General Law of Population (*Ley General de Población* - LGP) in mid 2008, abolishing the articles that criminalised irregular entry into the country<sup>3</sup>.

The environmental situation also continued to be one of the main problems in 2008. Regions such as Chiapas have significant natural resources that attract large national and international companies, reflected in Mexico's adoptions of various commercial agreements. The last of these is the agricultural chapter of the North American Free Trade Agreement (NAFTA), which came into force on January 1, 2008. This has had a very negative effect on agriculture, the environment and natural resources, but it has also affected the rights of workers and indigenous communities, as well as their lands. The increase in the price of maize has been particularly critical. This measure, which aims at encouraging the production of biofuels, is causing an unprecedented food crisis in the country.

Faced with these complex situations, the Government of President Felipe Calderón continued to use militarisation to fight against organised crime. This included the reinforcement of the armed forces' central role, the militarisation of civil institutions charged with maintaining public order, and the adoption of reforms in the judiciary system. This led to the increasing criminalisation of social protest through use of force and detentions without judicial authorisation, which sometimes resulted in excessive sentences against social actors, including human rights defenders.

In this context, on June 18, 2008, constitutional reforms were passed on the criminal justice system. Although they entail progresses that could contribute to strengthening individual guarantees to a fair trial,

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3./ See Without Borders (*Sin Fronteras*).

there are also worrying elements since some regulations contravene international human rights standards. One of the constitutional articles codifies a series of crimes for which preventive detention (*arraigo*) is mandatory. This violates the principle according to which preventive detention should only be used in exceptional cases, considered individually. Preventive detention is a form of detention whereby the Public Ministry, with a judicial warrant, can order the detention of any person for a period of almost three months without them being charged. In the case of alleged organised crime, preventive detention can be extended from forty to eighty days in a detention centre (*centro de arraigo*), and it restricts the guarantees regarding the probative value of the evidence presented in court against the defendant. This provision creates a subsystem of exceptions for people accused of belonging to organised crime, which limits the procedural laws applied in such cases. It is all the more dangerous as the definition of organised crime is very wide<sup>4</sup> and allows for the accusation of members of social movements, including human rights defenders, of belonging to organised crime. This situation can encourage the use of torture in order to obtain information from the detainee during the period of preventive detention<sup>5</sup>. It should be noted that preventive detention was qualified as an “arbitrary form of

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4./ “When three or more people decide to organise or to organise themselves to carry out, either permanently or repeatedly, actions that, separately or in conjunction to others, have the aim or the result of committing one or several crimes relating to [*inter alia*, terrorism, arms stockpiling and trade, trade of undocumented people, organ trading, corruption of minors or slave trade]”, Federal Law Against Organised Crime (*Ley Federal contra la Delincuencia Organizada*), Official Diary of the Federation, November 7, 1996, Article 2.

5./ The most emblematic case of preventive detention (*arraigo*) in 2008 was the following: on September 15, 2008, Mr. Carlos Solís Reina, correspondent for the newspaper *El Bravo Matamoros*, and Mr. Luis Alberto Salas Barajas were arrested by federal police in Matamoros. To begin with, the federal police accused Mr. Solís Reina and Mr. Salas Barajas of having murdered a girl, but witnesses declared that the policemen had shot the girl. The detainees were not sent before the Federal Public Ministry nor in front of the Fifth Agency of the Public Ministry of the city of Matamoros. They were transferred to Mexico City and they appeared before the Deputy Prosecutor General’s Office Specialised in Investigations into Organised Crime. Mr. Solís Reina and Mr. Salas Barajas stated that during the transfer to Mexico City, they were submitted to various acts of torture to force them to make false declarations and to confess that they were guilty. They were transferred to the facilities of the National Preventive Detention Centre (*Centro Nacional de Arraigo*) in Mexico City. Both men remained under preventive detention (i.e. without being given any penal accusation) for 36 days, until October 20, 2008, when they were told that they would be brought before the Sixth District Judge in the State of Tamaulipas, based in Matamoros. They were then transferred to the Third Centre for Social Rehabilitation based in Matamoros, Tamaulipas.



detention” on several occasions by international organisations, such as the United Nations Working Group on Arbitrary Detention<sup>6</sup>.

### **Violent harassment and murders of environmental defenders**

Defenders fighting for the right to land and the environment continued to be the victims of harassment and even assassinations. Besides, the assassination, on May 15, 2007, of Mr. **Aldo Zamora**, an environmental rights activist struggling against illegal deforestation and the son of a community leader, in the State of Mexico, remained unpunished one year later<sup>7</sup>. On March 14, 2008, Mr. **Armando Villarreal Martha**, Head of the National Agrodynamic Organisation (*Organización Agrodinámica Nacional - OAN*), was murdered by an armed commando. Mr. Villarreal was a community leader, recognised both nationally and internationally for his defence of the rights of the farming sector. Over the past few years, he had come to hold a prominent position due to his battle, alongside farmers and producers, for the Government to revise electricity rates, as well as the price of fuel and fertilisers for agricultural consumption. Repression also took other forms. On February 6, 2008, several defamatory and slanderous articles were posted around the work place of Ms. **Yara Fernández Moreno**, a doctor in ecology, a researcher<sup>8</sup> and an employee of the “Miguel Álvarez del Toro” zoo (ZOOMAT). At the same time, news articles about the deforestation of “El Zapotal”, an ecological reserve in Tuxla Gutierrez, State of Chiapas, which Ms. Fernandez had denounced, were ripped

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6./ See Committee Against Torture, *Conclusions and Recommendations*, UN Document CAT/C/MEX/CO/4, February 6, 2007, and Commission on Human Rights, *Report of the Working Group on Arbitrary Detention on its visit to Mexico*, UN Document E/CN.4/2003/8/Add.3, December 17, 2002.

7./ Following those events, the ministerial authorities of the Tenancingo municipality in the State of Mexico opened the corresponding prior investigation. The Judge based in the same municipality then issued an arrest warrant against those allegedly responsible. However, as of the end of 2008, only Mr. Fernando Jacinto Medina and Mr. Silvestre Jacinto Medina had been arrested, whilst both Mr. Luis Encarnación Neri and Mr. Alejo Encarnación Neri continued to be fugitives, despite the commitment made by President Felipe Calderon in 2007 that his Government would collaborate with the local authorities to ensure that justice was carried out in the case of Mr. Aldo Zamora’s murder.

8./ Ms. Yara Fernandez Moreno has been working at the Natural History and Ecology Institute (*Instituto de Historia Natural y Ecología - IHNE*) for nearly 17 years, carrying out investigations in the environmental reserve *El Zapotal*. She wrote works of reference on the issue of urban environmental reserves and denounced the transformation of the aforementioned reserve into a tourist destination, which would cause irreparable ecological damage.

out. In addition, Sister **Consuelo Morales Elizondo**, Director of the organisation Citizens in Support of Human Rights A.C. (*Ciudadanos en Apoyo a los Derechos Humanos A. C.* - CADHAC) in the State of Nuevo León, received phone threats and her house was watched in May 2008. These events took place at a time when the CADHAC was supporting environmental organisations and the social movement that called for the protection of the environmental reserve of Valle de Reyes, on which there are projects to build a high-class residential complex.

### **Acts of harassment against defenders fighting against impunity and for prisoners' rights**

In 2008, defenders fighting against impunity, for prisoners' rights and against the poor conditions in the country's detention facilities continued to be subjected to harassment. On April 24, 2008, Mr. **Francisco**, Ms. **Emiliana** and Mr. **Alejandro Cerezo Contreras**, members of the Cerezo Committee (Comité Cerezo), received threats via email<sup>9</sup>. In addition, Mr. **Elias Sánchez Gomez**, a member of the group of former prisoners "Innocent Voices" (Voces Inocentes)<sup>10</sup>, was followed and threatened with death on July 2, 2008, by three members of the Organisation for the Defence of Indigenous and Peasant Rights (*Organización para la Defensa de los Derechos Indígenas y Campesinos* - OPDDIC)<sup>11</sup> and from the Busiljá community. Mr. Sánchez and his family had been previously arrested and accused by the OPDDIC of abduction and fire-arms. They were released on March 31, 2008 after a 22-day hunger strike, on condition that they did not return to their community. The residence of Mr. **Abdallán Guzmán Cruz**, an activist for the "Diego Lucero A.C." Foundation (*Fundación "Diego Lucero A. C."*)<sup>12</sup>, was raided in July and August 2008. In the first raid, documents

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9./ The Cerezo Committee is an organisation that defend the human rights of political prisoners, prisoners of conscience and prisoners wrongly associated with political motives.

10./ The group of former prisoners "Innocent Voices" fights for the release of the prisoners of La Voz de El Amate, La Voz de los Llanos and the Zapatista group and it denounces human rights violations suffered by persons deprived of their liberty.

11./ The Organisation for the Defence of Indigenous and Peasant Rights is a paramilitary-style organisation, established by the ex-MP for the Institutional Revolutionary Party (*Partido Revolucionario Institucional*), Mr. Pedro Chulín Jiménez, which aims at harassing and threatening members and autonomous communities linked with the Zapatista National Liberation Movement (*Movimiento Zapatista de Liberación Nacional*).

12./ The "Diego Lucero A.C." Foundation is a human rights organisation that campaigns so that disappeared detainees in Mexico be found alive.

and important information that had been gathered over many years of investigation into five detainees who have disappeared since 1974 were stolen. In the second raid, six armed soldiers who claimed to be carrying out a routine inspection came to interrogate Mr. Guzmán and his wife without providing a search warrant.

### **Serious acts of harassment against women human rights defenders**

In a country in which women's safety can be very low in certain areas, the security of people fighting for women's rights continued to be extremely precarious. On February 7, 2008, Ms. **Dora María Avila Betancourt**, a member of the Centre for Women's Rights Nääxwiin, A.C. (*Centro para los Derechos de la mujer Nääxwiin, A.C.*), in the State of Oaxaca, where she is in charge of the administrative counselling and training for indigenous women who are victims of domestic violence as well as of a sexual and reproductive health youth programme, was followed and arrested for eight hours because the car she was driving had allegedly been reported as stolen. She was released after long negotiations but, on February 17, 2008, the Judge issued a formal order of imprisonment against Ms. Avila on these charges<sup>13</sup>. At the end of 2008, the Second Unitary Tribunal acquitted her of all the charges.

Furthermore, in the region of Chihuahua, and especially in the cities of Ciudad Juárez and Chihuahua, women continued to be subjected to kidnappings, crimes and torture. In this context, those campaigning against impunity and for an effective judiciary system were victims of threats and severe harassment. For example, Ms. **Luz Estela Castro**, Director of the Centre for Women's Human Rights, A.C. (*Centro de Derechos Humanos de la Mujeres A.C.*) and lawyer for the organisation "Justice for Our Daughters" (*Justicia para Nuestras Hijas*), in the State of Chihuahua, received two death threats on May 14, 2008, via her mobile phone. Since that date and until the end of 2008, Ms. Castro continued to receive threats despite being escorted by two security guards. Three members of the organisation "May Our Daughters Go Home" (*Nuestras Hijas de Regreso a Casa*), Ms. **Marisela Ortiz Rivera**,

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13./ An order of formal imprisonment is a judicial decision that means that the detainee has to go into preventive detention while waiting the beginning of his or her trial for the crime he or she is being prosecuted, and/or which will require the person to remain at the courts disposal.

Ms. **María Luisa Andrade** and Ms. **Norma Andrade** received continuous death threats aimed at themselves and at their children in the framework of the first screening of the film “Bajo Juárez”, a documentary on the murders in the State of Chihuahua, which denounced the powerful city’s gangs and hinted at the authorities’ negligence and possible tolerance towards the cruel murders of women.

### **Repression against defenders of indigenous peoples’ rights**

In 2008, repression against defenders of indigenous peoples’ rights was very severe, as shown by the registered cases of arbitrary detentions and murders. On April 7 for instance, Ms. **Felicita Martínez Sánchez** and Ms. **Teresa Bautista Merino**, two journalists working for *La Voz que Rompe el Silencio* radio, were ambushed and assassinated whilst they were working on a report on the Triqui indigenous community in the State of Oaxaca. Moreover, several members of the Me’Phaa Indigenous People’s Organisation (*Organización del Pueblo Indígena Me’Phaa* - OPIM), in the State of Guerrero, were subjected to judicial proceedings and one of them was murdered. Mr. **Lorenzo Fernández Ortega**, one of the OPIM leaders, was kidnapped on February 9, 2008. His lifeless body was found the next day with evident signs of torture. On various occasions, Mr. Fernández had denounced the forced sterilisation of 30 indigenous women in 1998. As of the end of 2008, the investigation into his murder had made no progress. In addition, on April 17, 2008, Messrs. **Raúl Hernández**, **Manuel Cruz**, **Orlando Manzanarez**, **Natalio Ortega** and **Romualdo Santiago**, all members of OPIM, were arrested and accused on January 1, 2008 of the murder of Mr. Alejandro Feliciano García, an army informer, in the community of El Camalote, in Guerrero State<sup>14</sup>. Due to the irregularities in the trial, one may fear that the accusation was staged in order to frighten other OPIM members and to weaken their activities. At the end of 2008, the five defenders were still under arrest in the Centre for Social Rehabilitation in Ayutla de los Libres<sup>15</sup>.

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14./ Charges would also have been pressed against at least ten other indigenous persons, including various members of the OPIM, although their names were not known.

15./ On October 20, 2008, a federal judge granted them protection (*amparo*) and ordered the release of four of them, Messrs. Manuel Cruz Victoriano, Orlando Manzanarez Lorenzo, Natalio Ortega Cruz and Romualdo Santiago Enequina, when he established that the evidence presented did not concern them. However, they were not released since the Prosecutor General of the Republic appealed against the decision of protection.

## Acts of harassment against defenders of migrant rights

In 2008, following the clamp down on migration policy in Mexico, defenders of migrant rights found themselves in a very vulnerable position, being subjected to acts of harassment within shelters or communities. For instance, Mr. **Ireneo Mújica Arzate**, a well-known human rights defender and community organiser for the Migrant Civil Rights Centre (*Centro de Derechos Civiles para los Migrantes*) in Arriaga, in the State of Chiapas, was arrested along with some migrants following an operation to stop Central-American immigrants who were trying to cross the border. Before being arrested, he was stripped of all his belongings. He was subsequently transferred to a detention centre for immigrants, even though he is a Mexican national. State agents insulted him, calling him a “*pollero*”<sup>16</sup>, before releasing him after five hours. Furthermore, the catholic priest **Alejandro Solalinde Guerra**, who has repeatedly denounced attacks by federal and local authorities against illegal migrants, in both national and international forums, was visited by about 40 people led by the municipal Mayor, Mr. Gabino Guzmán Palomec, the Secretary of Municipal Public Security and around 14 municipal policemen. His visitors arrived at the shelter “*Brothers in the Way*” (*Hermanos en el Camino*) in Oaxaca, for which he is responsible, and threatened him with setting fire to the centre if he did not close it down within 48 hours, alleging that delinquency and insecurity had increased since the arrival of migrants.

## Urgent Interventions issued by The Observatory in 2008<sup>17</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Ms. Yara Fernández Moreno	Harassment / Defamation campaign	Urgent Appeal MEX 001/0208/OBS 022	February 20, 2008
Ms. Dora María Ávila Betancourt	Harassment / Defamation campaign	Urgent Appeal MEX 002/0208/OBS 029	March 4, 2008

16./ The words “pollero”, “coyote” and “pateros” are used for people who are specialised in the illegal transfer of undocumented migrants, in exchange for large sums of money. These people are also often responsible for attacks, theft and other crimes against migrants.

17./ See the Compilation of cases in the CD-Rom attached to this report.

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Mr. Armando Villarreal Martha</b>	Assassination	Urgent Appeal MEX 003/0408/OBS 044	April 1, 2008
<b>Mr. Irineo Mújica Arzate</b>	Threats / Arrest / Harassment / Fear for safety	Urgent Appeal MEX 004/0408/OBS 065	April 23, 2008
<b>Mr. Aldo Zamora and Mr. Ildefonso Zamora</b>	Impunity / Harassment	Press Release	May 16, 2008
<b>Ms. Luz Estela Castro</b>	Death threats / Harassment	Urgent Appeal MEX 005/0508/OBS 088, issued as MEX 004/0508/OBS 088	May 21, 2008
<b>Ms. Consuelo Morales Eliozondo</b>	Threats / Harassment	Urgent Appeal MEX 006/0608/OBS 093, issued as MEX 005/0608/OBS 093	June 4, 2008
<b>Mr. Martin Amaru Barrios Hernández and Ms. Reyna Ramírez</b>	Threats / Judicial proceedings / Attacks	Urgent Appeal MEX 001/0106/OBS 002.2	June 18, 2008
<b>Mr. Alejandro Solalinde</b>	Harassment / Intimidation	Urgent Appeal MEX 007/0708/OBS 113, issued as MEX 003/0708/OBS 113	July 3, 2008
<b>Mr. Elías Sánchez Gómez</b>	Harassment / Attacks	Urgent Appeal MEX 008/0708/OBS 115, issued as MEX 004/0708/OBS 115	July 8, 2008
<b>Mr. Abdallán Guzmán Cruz</b>	Searches / Harassment	Urgent Appeal MEX 009/0708/OBS 121	July 16, 2008
		Urgent Appeal MEX 009/0708/OBS 121.1	September 3, 2008
<b>Ms. María Luisa Andrade, Ms. Marisela Ortiz Rivera and Ms. Norma Andrade</b>	Serious threats / Harassment	Urgent Appeal MEX 010/1108/OBS 188	November 12, 2008



# / NICARAGUA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

## Political context

Since Mr. Daniel Ortega, the candidate for the Sandinista National Liberation Front (*Frente Sandinista de Liberación Nacional* - FSLN), became President on January 10, 2007, there has been a marked increase in the trend to subordinate State institutions to the interests of the FSLN and the Constitutionalist Liberal Party (*Partido Liberal Constitucional* - PLC), as well as an increased lack of a clear separation between the State and the political party, as illustrated for instance by the decision made by the President of the Republic to direct Government business from the FSLN secretariat.

Moreover, political pluralism was severely restricted during the November 2008 municipal elections due to a two-party system that left no room for other parties criticising the agreement made between the FSLN and the PLC, such as the Conservative Party (*Partido Conservador* - PC) and the Sandinista Renovation Movement (*Movimiento Renovador Sandinista* - MRS). The FSLN and the PLC shared out power quotas between themselves and so harnessed all the State institutions. This is how the legal representative of the PLC, Mr. Carlos Wilfredo Navarro Moreira, was able to call for the cancellation of opposition parties' legal personality on May 20, 2008 and, as a result, on June 11, 2008, the Supreme Electoral Council (*Consejo Supremo Electoral* - CSE) proceeded to cancel the legal personality of the MRS. It also declared that, despite its 100 years of existence, the PC had not met with the prior qualifying requirements to participate in the municipal elections. Both parties were therefore not able to participate in the November municipal elections<sup>1</sup>.

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1./ Mr. Carlos Wilfredo Navarro declared that the registration of the candidates for the Nicaraguan Liberal Alliance (*Alianza Liberal Nicaraguense* - ALN), the MRS, the Nicaraguan Resistance Party (*Partido Resistencia Nicaraguense* - PRN) and the PC was invalid since they had not fulfilled the Electoral Law requirements. As a consequence, he asked for the cancellation of the parties' legal personality, which was duly carried out by the Supreme Electoral Council for the MRS and the PC, but on different legal grounds.

The municipal elections of November 9, 2008 were carried out in the absence of independent and impartial electoral observers as the Government refused to accredit national non-governmental electoral observers such as Ethics and Transparency (*Ética y Transparencia*) and the Institute for Development and Democracy (*Instituto para el Desarrollo y la Democracia* - IPADE). This was also due to the unprecedented failure of the CSE to invite some of the international observers that had traditionally monitored the elections over the past 15 years, including the European Union, the Organisation of American States and the Carter Centre. This provoked criticism from the Presidency of the Council of the European Union, which deplored “the denial of accreditation to the national and international observers whose absence makes it difficult to evaluate the regularity of elections”<sup>2</sup>. Following the publication of the results, according to which the FSLN won 105 of the 153 municipalities, the opposition decided to demonstrate on November 18 to show their rejection of the results, which they considered to have been obtained through irregularities and fraud. Demonstrators were physically assaulted by FSLN supporters and Government employees, in particular by health workers and civil servants from the General Income Directorate (*Dirección General de Ingresos* - DGI)<sup>3</sup>. On the same day, the buildings of *Radio Dario*, *Radio Metro Stereo* and *Radio Caricias* in the city of León were raided and ransacked by about forty armed and hooded people. Throughout November, as the electoral process continued, at least twenty communication professionals were assaulted and injured<sup>4</sup>.

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2./ See Declaration of the Presidency of the Council of the European Union on the Municipal Elections in Nicaragua, November 12, 2008.

3./ See Nicaraguan Centre for Human Rights (*Centro Nicaragüense de Derechos Humanos* - CENIDH), *Derechos Humanos en Nicaragua, Informe 2008*, February 2009.

4./ See CENIDH. In this matter, the European Parliament “regret[ed] deeply the way in which the local elections of November 9, 2008 were conducted, and believe[d] that the results lack all democratic legitimacy”, “the fact that the climate of suspected fraud in some municipalities has provoked demonstrations and clashes between supporters of different parties, leaving a number of people injured and aggravating an already profound political crisis” and “that two political parties were unable to take part in the local elections, and expresses its concern regarding the progress of democratic consolidation and governance in Nicaragua, especially with respect to the processes of inclusion and active participation”. See Resolution P6\_TA-PROV(2008)0641 of the European Parliament, December 18, 2008.



Worse still, in the context of these events, the Government reactivated anti-subversive groups resorting to violence (made up of FSLN militants, Government supporters and citizens with criminal records) both in the capital and in the regions. President Ortega also replaced various high-ranking civil servants in the police department who were close to the First Commissioner of the national police, Ms. Aminta Granera, Director General of the national police. In total, in 2008, 13 senior commissioners were forced into retirement, constituting an unprecedented event<sup>5</sup>. This trend is worrying in the long-run since it could have negative repercussions on the defence of human rights.

Furthermore, President Ortega's Government tried to silence dissident voices and criticisms of Government policies through members of the Government who verbally assaulted demonstrators and human rights defenders as well as the Citizens' Councils (*Consejos de Poder Ciudadano* - CPC)<sup>6</sup> who hampered the NGOs activities and physically assaulted defenders. In this context, 2008 saw numerous attacks against human rights defenders and attempts to obstruct their activities. In addition, the exclusion of human rights defenders from places and buildings devoted to the citizens' participation became common place. Many inter-institutional buildings used by civil servants, representatives of NGOs and social movements to discuss social problems were closed down and some were taken over by members of the CPC<sup>7</sup>.

At the international level, during its 94<sup>th</sup> session, held from October 13-31, 2008, the United Nations Human Rights Council noted "with concern a growing number of reports alleging systematic persecution and death threats against human rights defenders by individuals,

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5./ See CENIDH, *Derechos Humanos en Nicaragua, Informe 2008*, February 2009.

6./ The CPC are a presidential initiative resulting from Decree 003-97. This type of organisation is nothing other than the new form of the FSLN's partisan organisation, faking citizen's participation but with a strong influence within public institutions. It is an influential organisation due to its privileged access to Government resources, and its role as a vehicle to benefit from Government programmes. This proves the establishment of a Party-State, to the detriment of the country's institutionalism. The CPC have also been used to weaken citizen participation forums, which were previously crucial in influencing Government plans and actions, and they attempt to act as a link between the Government and the citizens. The President's wife, Mrs. Rosario Murillo, is responsible for the CPC at national, regional and local levels.

7./ See CENIDH, *Derechos Humanos en Nicaragua, Informe 2008*, February 2009.

political groupings and bodies connected to the State authorities” and expressed its concern “at the de facto restrictions on the exercise by human rights organisations of their right to freedom of [association]”. To that extent, the Committee recommended that “the State party should guarantee organisations of human rights defenders the right to freedom of expression and association in the conduct of their activities”<sup>8</sup>. Likewise, on December 18, 2008, the European Parliament called “on the Government of Nicaragua to take urgent measures to pacify the situation created, and ask[ed] the Nicaraguan authorities to respect the work of the human rights organisations”<sup>9</sup>.

### **Attempts to discredit and control human rights organisations**

In 2008, the authorities continued their verbal attacks against any human rights organisation or defender who dared to criticise the policies of President Ortega or his Government. These attacks were systematically and continuously taken up by the official or pro-Government media such as *Canal 4*, *Radio Ya* and *Semanario El 19*, which exacerbated the attitudes of Government supporters and put the lives of human rights defenders at risk. Defenders were described as “puppets of imperialism”, “oligarchs”, “traitors to the country” and “devils”. Such was the case of the members of the Nicaraguan Centre for Human Rights (*Centro Nicaraguense de Derechos Humanos* - CENIDH), who were labelled as “agents of imperialism” and “defenders of oligarchy” by television and radio programmes as well as by media close to the ruling party<sup>10</sup>.

In addition, the authorities took several measures to obstruct the work of human rights organisations and silence all criticisms. In September 2008, the Ministry of the Interior (*Ministerio de Gobernación*) ordered an investigation against 17 NGOs, including Oxfam Great Britain, the Investigation Centre for Communication (*Centro de Investigación de la Comunicación* - CINCO)<sup>11</sup> and the Independent Movement for

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8./ See Human Rights Committee, *Concluding Observations of the Human Rights Committee*, United Nations Document CCPR/C/NIC/CO/3, December 12, 2008.

9./ See European Parliament Resolution P6\_TA-PROV (2008)0641, December 18, 2008.

10./ See CENIDH, *Derechos Humanos en Nicaragua*, Informe 2008, February 2009.

11./ CINCO is an institution that specialises in the communication, culture, democracy and public opinion studies. In 2007, it issued a report about an alleged corruption scandal that involved the Supreme Court of Justice and the Secretariat General of the FSLN, from which President Ortega works.

Women (*Movimiento Autonomo de Mujeres - MAM*) for “money laundering” and “triangulating funds”<sup>12</sup>. During the penal investigation that followed the Deputy Minister of the Interior’s complaint, the Deputy Public Prosecutor asked the NGOs to provide all their accounting documents linked to the use of donation funds from 2003 to 2008, while no complaint was lodged by donors. Moreover, on October 10 and 11, 2008, illegal searches were made on the premises of the CINCO and MAM organisations. Indeed, the warrant for the searches did not state what was being reproached to MAM representatives. The search of the MAM was ordered by Prosecutor José Abraham Rojas, whilst Prosecutor Douglas Vargas was responsible for the search of the CINCO. Both searches resulted in the confiscation of documents and IT material. The MAM search lasted 11 hours, after which the police took away three computer units in which the organisation stored all its financial and work-related information. In addition, 140 important documents for the NGO activities were confiscated. The computer units and the accounts documents were not returned to CINCO until January 27, 2009, i.e. more than three months later, and the items confiscated from MAM were not returned until January 28. It is worth mentioning that following the investigations, the Ministry of Interior called on representatives of the organisations to appear before the Public Prosecutor: Mr. **Carlos Fernando Chamorro**, Head of CINCO, Ms. **Juana Jimenez**, Head of MAM, and Ms. **Sofia Montenegro**, Director of CINCO and a member of MAM<sup>13</sup>, were indeed summoned, under threats of incarceration if they did not appear<sup>14</sup>. On January 26, 2009, the Public Prosecutor announced that the charges were dismissed since they were result offences and the donors had not filed a complaint as the aggrieved party – therefore the offences were

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12./ “Triangulation of funds” entails the “illegal” use of cooperation funds received from foreign Governments and organisations, which are sent to other civil society organisations in the country. In fact, organisations with administrative capacities tend to support organisations that lack a legal personality, so that they can carry out their human rights activities. This is not illegal since the right of association is recognised by Article 49 of the Constitution.

13./ Ms. Montenegro supported Ms. Zoilamérica Narváez, who accused her step-father Daniel Ortega of rape ten years ago.

14./ On October 22, 2008, the EU Presidency expressed its “concern for the acts of harassment to which several NGOs and, through them, several personalities of the civil society were subjected” and wondered “about the real aims of these intimidation manoeuvres targeting NGOs and those members of the civil society”. See French EU Presidency Press Release, October 22, 2008 (Unofficial translation).

not constituted. However, the Public Prosecutor's decision left the way open for a future court case against these organisations, thus undermining their legal security.

Another action taken against human rights defenders during 2008 was the auditing of organisations exercising their legitimate right to freedom of association. On October 1, 2008, the Deputy Minister for Foreign Cooperation, Mr. Valdrack Jaentschke, announced publicly that a revision would be carried out on conventions agreed with international NGOs and the legal framework governing national and international NGOs. He also announced the creation of a mechanism of "joint audit" of all the funding received by NGOs. Most of the organisations he mentioned had criticised President Ortega's administration, such as the Civil Coordinating Committee (*Coordinadora Civil*), which mobilised thousands of people in 2008 to protest against poverty and to defend democracy. In addition, in September 2008, the Government opened an investigation into the management of 4,500 NGOs that are registered in Nicaragua, of which 700 were being investigated under allegations that they were not fulfilling legal requirements. On the same day, Deputy Minister Jaentschke announced on *Canal 4's* "En Vivo" programme that he will not allow NGOs to "adulterate" or receive funds from abroad (in particular from international cooperation) for "political activities": according to Mr. Jaentschke, demonstrations, the hiring of buses and the price of blankets for demonstrators were "illegal", and did not fall under any of the organisations' "operational plans". He declared that no NGO had the right to "triangulate" funds for political purposes. During his speech, he made direct reference to various NGOs such as Oxfam Great Britain and the CINCO Centre. He also called for the Ministry of the Interior to be particularly vigilant in that respect and he showed his support for the inclusion of a specific clause into conventions agreed with NGO related to "non-intervention in political affairs" in Nicaragua.

### **Acts of violence against human rights defenders**

The authorities' behaviour led to and exacerbated violence against human rights defenders. For instance, a demonstration organised at the

initiative of various organisations<sup>15</sup> on September 20, 2008 to protest against the Government's policies had to be suspended due to acts of violence from FSLN supporters and members of the CPC. Likewise, in the afternoon of October 16, 2008, members of the CPC physically and verbally assaulted CENIDH members while accompanying members of the Civil Coordinating Committee who were going to appear before the Public Ministry for alleged illegal activities. The CENIDH also indicated that they had received several threatening emails from anonymous addresses. These attacks particularly targeted Ms. **Vilma Nuñez de Escorcía**, CENIDH President and FIDH Vice-President. In the early morning of September 26, 2008, individuals driving a car stopped outside Ms. Nuñez' residence in León and threw 16 paint-filled light bulbs at the front of the house, covering it with black and red paint, evoking the death threats used during the Somocista dictatorship. As a consequence, on November 11, 2008, the Inter-American Commission on Human Rights (IACHR) granted precautionary measures for Ms. Nuñez and CENIDH members. However, the Government did not manage to reach an agreement with the beneficiaries as to the form these measures would take, which therefore were limited to the presence of one to three members of the national police at the CENIDH headquarters.

Human rights defenders were also subjected to acts of intimidation in the framework of the 60th anniversary of the Universal Declaration of Human Rights and the 10th anniversary of the UN Declaration on Human Rights Defenders. On December 10, 2008, the CENIDH organised a peaceful march to commemorate the adoption of these two texts, in which took part human rights activists from the "Padre César Jerez" Network (*Red Padre César Jerez*) who had come from different parts of the country, members of the Civil Coordinating Committee, the Permanent Human Rights Commission (*Comisión Permanente de Derechos Humanos - CPDH*), the Network of Women Against Violence (*Red de Mujeres contra la Violencia*), the Nicaraguan Coordinating Committee of the Federation of NGOs that work with Children and

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15./ The organisations that organised the demonstration included the Western Democratic Coalition (*Coalición Democrática de Occidente*), the Citizen's Coalition for Democracy (*Unión Ciudadana por la Democracia*) and the Civil Coordinating Committee, a body that gathers hundred of NGOs and social networks.

Teenagers (*Federación Coodinadora Nicaragüense de Organismos No Gubernamentales que trabaja con la Niñez y la Adolescencia* - CODENI), MAM and other organisations. The Government did everything in its power to prevent the demonstration by sending its supporters, headed by the Human Rights Prosecutor, Mr. Omar Cabezas, joined by other officers from the same institution, as well as members of the Workers' National Front (*Frente Nacional de los Trabajadores* - FTN) and the CPC, to verbally and physically assault the participants to the peaceful commemoration of such important dates. Prosecutor Omar Cabezas took the opportunity to reiterate his criticisms of the CENIDH, claiming that "it was an organisation financed by the United States embassy in order to destabilise the current Government"<sup>16</sup>.

### Constant repression of women's rights defenders

2008 was characterised by continuous and systematic acts of harassment against the leaders of social and women's organisations that reported cases of violence against women and sexual abuse. Women's rights defenders were victims of repression on two grounds, firstly for working for NGOs that criticised the Government policy, and secondly for defending, *inter alia*, the importance of therapeutic abortion<sup>17</sup>. Indeed, although therapeutic abortion had been authorised for 169 years, it was unconstitutionally penalised by the National Assembly, through Law 603 it voted in 2006. This penalisation is also reflected in Article 143 of the Criminal Code. In 2007, more than 67 appeals were lodged for unconstitutionality before the Supreme Court of Justice by various organisations of the civil society. Despite protests at national and international levels, the Court did not pronounce itself. This only confirms the lack of commitment from the ruling party, which controls the Supreme Court of Justice, regarding a decision that is of so much importance, in particular for poor women, as they are the ones who have to resort to clandestine abortions when either their life or health is in danger.

Amongst the arguments put forward to discredit the activities of NGOs that defend women's rights, the weekly *Semanario El 19*,

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16./ See CENIDH, *Derechos Humanos en Nicaragua, Informe 2008*, February 2009.

17./ Therapeutic abortion is generally used for women who have been the victims of rape, incest or whose pregnancy puts their life at risk.

regarded as the Government mouthpiece, accused in its edition published in the week of September 18, 2008 the MAM and CINCO of making a profit out of the debate on therapeutic abortion. Likewise, on October 1, 2008, following a press conference organised by CENIDH, two *Canal 4* journalists publicly accused Ms. Nuñez of defending “oligarchs” and asked her three times about her position regarding abortion, when this had nothing to do with the subject that was being discussed.

In addition, the judiciary was used against women defenders: in 2008, the criminal proceedings initiated in October 2007 against Ms. **Ana María Pizarro**, Ms. **Juana Antonia Jiménez**, Ms. **Lorna Norori Gutiérrez**, Ms. **Martha María Blandón**, Ms. **Luisa Molina Argüello**, Ms. **Martha Munguía Alvarado**, Ms. **Mayra Sirias**, Ms. **Yamileth Mejía Palma** and Ms. **Violeta Delgado Sarmiento**, nine leaders of women’s rights organisations<sup>18</sup>, remained pending for various crimes, including “rape concealment”, “illegal association with intent to commit an offence” and “apology of crime”. This came as a result of their support in favour of “Rosita”, a girl who was raped by her step-father, and whom they helped to abort in order to save her life, at a time when therapeutic abortion was still legally permitted<sup>19</sup>. Eighteen months after the accusation was made, the Public Ministry has still not come to a decision, therefore undermining the women’s rights organisations legal security and by doing so trying to intimidate women’s rights defenders.

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18./ These nine leaders belong to different networks such as the Network of Women Against Violence, the Feminist Movement (*Movimiento Feminista*), MAM, the Nicaraguan Coordinating Committee of the Federation of NGOs that work with Children and Teenagers, and the September 28 Campaign (*Campaña 28 de Septiembre*).

19./ During its 94th session, the UN Human Rights Committee “note[d] with concern the criminal investigations mounted against defenders of reproductive rights, including the criminal charges pending against the nine women defenders of women’s rights involved in the interruption of an abortion conducted on an under-age girl who had been raped, which occurred at a time when therapeutic abortion was still legally permitted”, and “recommend[ed] that the State party take the necessary action to put a stop to alleged instances of systematic persecution and death threats, particularly against the defenders of women’s rights mentioned above, and ensure that those responsible are duly punished”. See Human Rights Committee, *Concluding Observations of the Human Rights Committee*, United Nations Document CCPR/C/NIC/CO/3, December 12, 2008.

**Urgent Interventions issued by The Observatory in 2008<sup>20</sup>**

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
Mr. Ernesto Cardenal	Judicial harassment	Press Release	September 9, 2008
Ms. Vilma Nuñez de Escorcía	Threats / Harassment	Urgent Appeal NIC 001/1008/OBS 160	October 1, 2008
Feminist and human rights organisations	Harassment and threats	Open Letter to the authorities	October 16, 2008

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20./ See the Compilation of cases in the CD-Rom attached to this report.



## / PERU

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

The year 2008 was characterised by little progress in terms of human rights, as no ad hoc public policies were promoted and the advances in democratisation recommended by the Truth and Reconciliation Commission (*Comisión de Verdad y Reconciliación* - CVR) came to a standstill. In addition, an eagerly awaited Law on Human Rights Defenders did not come up for debate in Congress<sup>1</sup>. Equally worrying were the conflicts related to the environment and the land of farmers and indigenous peoples, as well as the small and slow advances in the process of truth, justice and reconciliation<sup>2</sup>.

Over the past years, the Government has abandoned dialogue in order to tackle the large number of social demands, and has adopted a confrontational stance based on a series of measures that only serve to criminalise social protest. In addition, the Government privileged the interests of large economic groups to the detriment of those of the population, as evidenced by bills benefiting extractive industries, as well as by the Government's defence and promotion of mining and oil projects in areas where they could affect the population's health and land ownership relations. The so-called "Forest Law" (*Ley de la Selva*)<sup>3</sup>,

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1./ On November 12, 2008, the National Human Rights Coordinating Committee (*Coordinadora Nacional de Derechos Humanos* - CNDDHH) presented Prime Minister Yehude Simon with a Bill for the Protection of Human Rights Defenders that would provide them with a legal framework for the protection they would enjoy while exercising their activities.

2./ See CNDDHH, Informe Anual 2008, *El Difícil Camino Hacia la Ciudadanía*, March 2009.

3./ Through Law No. 29157, the Congress of Republic granted the executive branch the authority to issue legislative decrees. In this context, the executive branch promulgated Legislative Decrees No. 1015, 1073 and 1079, which stimulated private investment in land belonging to indigenous and farmer communities, and enabled the communities to decide to sell the land with a 50 per cent plus one approval, rather than requiring their general assemblies to agree (by two thirds in Peru's forest and mountain regions). The decrees, which called into question the rights of indigenous peoples, e.g. those protected under the ILO Convention No. 169, by which Governments are obliged to consult interested indigenous peoples, were revoked by the Plenary Session of Peruvian Congress on August 22, 2008.

which consists of various legislative decrees issued by the Government, is considered by farmers and indigenous communities as contrary to their interests. They united in order to protest against the destruction of the Amazon and dangerous mining and oil and gas extraction. The law was revoked in August 2008 after large demonstrations by indigenous peoples. Moreover, State officials did not follow the procedure of prior and informed consultation of populations on whose land and subsoil they authorised mining by, mostly, Chinese, Canadian or American companies.

In the fight against impunity of human rights violations committed during the internal armed conflict, the extradition of Mr. Fujimori and the judicial proceedings against him, which began on December 10, 2007, represent important and highly symbolic advances<sup>4</sup>. Nevertheless, in order to hinder the judicial proceedings related to the Fujimori period, clandestine groups supporting former President Fujimori frequently harassed and threatened relatives, witnesses and lawyers involved in these cases, as exemplified by the threats against retired General Rodolfo Robles and his family as well as against Dr. Avelino Guillén, Prosecutor in the Fujimori case. Another serious matter in this respect concerns the Bill No. 02848/2008-CR, proposed before the Congress on November 6, 2008 by the President of the Defence Commission in Congress, Mr. Edgar Núñez. The bill, which would grant amnesty to members of the military accused or convicted for human rights abuses committed during the internal armed conflict, received the support of several members of Congress, and must be approved by Parliament. It is a clear threat to the fight against impunity and it contravenes international law, which prohibits such amnesty in relation to human rights violations. Indeed, in its 2001 decision in the “Barrios Altos” case and 2006 decision in the “La Cantuta” case, the Inter-American Court of Human Rights (*Corte Interamericana de Derechos Humanos* - CoIDH) had already denounced an amnesty law approved in 1995, which was declared void by the CoIDH resolution.

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4./ At the end of 2008, Mr. Fujimori was being prosecuted for his alleged responsibility in the extrajudicial execution of 15 persons in Lima's Barrios Altos district in November 1991, as well as in the enforced disappearance and death of nine students and one teacher from La Cantuta University in July 1992.

At the international level, Peru was examined through the UN Universal Periodic Review (UPR) on May 6, 2008. During the review, UPR Member States highlighted the following issues that the Government needs to attend to: the worrying situation of human rights defenders (despite the concern already expressed by the Special Representative of the UN Secretary General on Human Rights Defenders in 2006), the high incidence of child labour, the fact that one third of the population does not have identity documents and that marginalised communities do not have access to healthcare, the extremely poor conditions of detention in prisons, including overcrowding, the reopening of discussions about the death penalty in Parliament in 2007 and the removal of the National Human Rights Coordinating Committee (*Coordinadora Nacional de Derechos Humanos* - CNDDHH), the Episcopal Commission for Social Action (*Comisión Episcopal de Acción Social* - CEAS) and the National Evangelical Council (*Concilio Nacional Evangélico* - CONEP) from the National Human Rights Council (*Consejo Nacional de Derechos Humanos* - CNDH), of which they had been observers since 1986<sup>5</sup>.

### **Acts of harassment against defenders fighting against impunity, particularly in the Fujimori case**

In 2008, defenders and civil society organisations fighting for justice and truth in the Fujimori case continued to face continuous attacks and threats carried out by pro-Fujimori groups. According to the CNDDHH, about ten cases of harassment of defenders in relation to the Fujimori trial were registered over the year<sup>6</sup>. Members of the Association for Human Rights in Peru (*Asociación Pro Derechos Humanos* - APRODEH) were subjected to threats and several defamation campaigns carried out by Government members. Its offices were attacked by large groups on three occasions. For instance, on May 8, 2008, 80 activists from a pro-Fujimori group gathered in front of the NGO headquarters. On June 10, 2008, a demonstration with 400 participants

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5./ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Peru*, United Nations Document A/HRC/8/37, May 28, 2008. The Peruvian National Human Rights Council consists of 67 associations and NGOs, including the Catholic Church, the Protestant Church and the CNDDHH.

6./ See CNDDHH, *Informe Anual 2008, El Difícil Camino Hacia la Ciudadanía*, March 2009. In 2008, the CNDDHH recorded 73 cases of incidents against defenders. In 2007, it had recorded 53 cases. This represents a 30 % increase in only one year.

carrying anti-APRODEH banners took place<sup>7</sup>. Subsequently, the APRODEH and its Director, Dr. **Francisco Soberón**, were the victims of a serious media campaign of defamation. In addition, Mr. Francisco Soberón was accused of praising terrorism and committing treason by several members of the Government. First Vice-President Luis Giampietri even described Mr. Soberón as a “prominent agitator of the masses, who will one day be held accountable by the Peruvian State”. The association had responded to a request by several members of the European Parliament concerning the existence of the Túpac Amaru Revolutionary Movement (*Movimiento Revolucionario Túpac Amaru* - MRTA), to which APRODEH had replied that “this organisation has not been active since April 1996, and to overestimate its presence could lead to the criminalisation of social protest”.

Officers of justice also received threats in relation to the opening of Mr. Fujimori’s trial. For instance, Mr. **Avelino Guillén**, Supreme State Prosecutor, who had requested a 30-year sentence for Mr. Fujimori for supposedly masterminding the crimes committed by the “Colina Group” (*Grupo Colina*), received telephone death threats on December 9, 2008 as well as on the previous days. Furthermore, on August 28, 2008, the memorial “The Crying Eye” (*El Ojo que Llora*), erected to raise awareness and spur reflection about the years of the armed internal conflict, was attacked by unknown persons during a ceremony in connection with the fifth anniversary of the CVR report.

On April 28, 2008, the Peruvian Executive took another step limiting dialogue with civil society, through a decree signed by the Ministry of Justice and which removed 67 NGOs that were members of the CNDDHH from the CNDH, which is a body under the Ministry of Justice charged with promoting and monitoring the defence and guarantee of human rights. This brutally cut back the mechanism that had allowed these NGOs to participate in the national human rights debate. The exclusion of NGOs was justified on the basis of a confidentiality clause that in reality NGO members do not have to respect. In addition, there was an attempt during 2008 to enlarge the oversight power of the Peruvian International Cooperation Agency (*Agencia Peruana de Cooperación Internacional* - APCI), so that this institution

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<sup>7</sup>/ See APRODEH.

might exercise more control over NGOs, by reducing their autonomy and freedom of action. In this context, it is worth recalling that on September 3, 2008, Mr. Carlos Pando, the Head of APCI, declared it necessary to carry out a new “integrated” audit<sup>8</sup> of the Legal Defence Institute (*Instituto de Defensa Legal* - IDL), a human rights organisation working especially on impunity and corruption, even though the APCI audited the IDL twice in 2007, with good results. This reflects the constant harassment on the part of the APCI. After its powers were increased, the agency has indeed become a tool for persecution and harassment in the context of the significant above-mentioned media campaign against organisations like the IDL. It should be highlighted that the situation of human rights defenders was also affected throughout 2008 by the inefficient protection programme the State provides for witnesses, victims and defenders, as well as by the lack of State protection for persons who benefit from provisional measures of protection granted by CoIDH<sup>9</sup>.

### **Reprisals against defenders of the environment and of communities affected by exploitation projects of big extraction companies**

The year 2008 provided a generally adverse context for human rights defenders and organisations working in favour of the protection of the environment. According to the CNDDHH, 44 cases of harassment against defenders of the environment were recorded in 2008<sup>10</sup>. Besides, some newspapers supporting Mr. Fujimori and his advisor Mr. Vladimiro Montesinos continued their campaign trying to discredit and defame several human rights NGOs and organisations working on environment protection.

Reprisals continued in 2008 against defenders who opposed private extraction projects that affect the environment as well as local communities of farmers and indigenous peoples. The Government stamped these persons as terrorists and troublemakers, and a stigmatisation campaign

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8./ This is a difficult and onerous process for an organisation. The APCI normally selects certain NGOs to be controlled each year, but the IDL was picked three times in only two years.

9./ See CNDDHH, *Informe sobre Derechos Humanos en el Perú - Examen Periódico Universal*, May 2008.

10./ See CNDDHH, *Informe Anual 2008, El Difícil Camino Hacia la Ciudadanía*, March 2009.

was launched against them<sup>11</sup>. On February 25, 2008, a discrediting campaign was launched against the priest **Marco Arana**, leader of the Training and Intervention Group for Sustainable Development (*Grupo de Formación y Intervención para el Desarrollo Sostenible - GRUFIDES*) and a mediator between the Government and mining companies, in which he was accused of resisting development and called an “anti-miner” and a “terrorist”<sup>12</sup>. Also, on March 24, 2008, a complaint was filed against 24 leaders and mayors who organised a local referendum near the mining company Río Blanco Copper SA, in the Sugunda and Cajas community in the Ayabaca province. The complaint for “terrorism and other crimes” was filed by the Civil Association Unity Front of the Peasant Community of Segunda and Cajas (*Asociación Civil Frente de Unidad de la Comunidad Campesina de Segunda y Cajas*), an organisation that supports the mining industry and was previously sanctioned for actions against local farmer communities and environmental damages. As of the end of 2008, the charges remained pending against the 24 defenders. In connection with the protests in the “Selva”, the priest **Francisco Muguir**, Vicar of Jaén, was accused on August 20, 2008 on the webpage of the national police of inciting protest in the Amazon through the regional Catholic radio station *Radio Maratón*. Subsequent to several reactions in favour of the priest, the accusations were withdrawn<sup>13</sup>.

Furthermore, some NGOs that had supported indigenous communities opposed to the “Forest Law” were also victims of harassment. In this climate of hostility towards NGOs, the Minister of Agriculture, Mr. Ismael Benavides, referred to NGOs as “the vultures of the 21<sup>st</sup> century” in an interview with RPP Noticias on August 21, 2008. He accused them of wanting to keep indigenous communities in poverty in order to “receive more international funding”. On August 28, 2008, Messrs. **Humberto Paredes Vargas**, Regional Coordinator of the “Selva Central del Bloque Amazónico”, **Francisco Solano Cantoral Huamani**, Secretary of the Chanchamayo Defence Front (*Frente de Defensa de*

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11./ See Association for Life and Human Dignity (*Asociación por la Vida y la Dignidad Humana - APORVIDHA*).

12./ See APRODEH and the Centre for Studies and Action for Peace (*Centro de Estudios y Acción para la Paz - CEAPAZ*).

13./ See APRODEH and CEAPAZ.

*Chanchamayo*), and **Fredy Palomino Ñahuero**, President of the Civic Front of Defence and Development of Farmers and Native Communities of Pichanaki (*Frente Cívico de Defensa y Desarrollo de los Agricultores y Comunidades Nativas de Pichanaki*), were accused along with eight other persons of “threatening national heritage, security and law and order”. In addition, a warrant for arrest was issued against them. At the end of 2008, the judicial proceedings against them remained pending, although they were free, with an obligation to appear in court (*condición de comparecencia*). This followed the demonstration organised by the Pichanaki Defence Front (*Frente de Defensa de Pichanaki*) on March 17, 2008 in the Pichanaki district in the Junín department, Chanchamayo province, against the “Forest Law”. The demonstration led to a confrontation between protesters and police, and several persons sustained gunshot wounds. Likewise, the Interethnic Association for the Development of the Peruvian Forest (*Asociación Inter-étnica de Desarrollo de la Selva Peruana - AIDSESP*) was also subjected to harassment on two occasions in 2008. On August 18, unidentified persons attacked the association’s premises and stole 10,000 soles and on September 2, three APCI officials came to audit the organisation, due only to its actions against the “Forest Law”. The APCI investigation showed that everything was in order. As for the investigation of the robbery, the case had not been solved as of the end of 2008.

**Urgent Interventions issued by The Observatory in 2008<sup>14</sup>**

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
Messrs. Javier Jahncke Benavente, Juan Aste Daffós, Nicanor Alvarado, Carlos Martínez Solano, Humberto Marchena, Euler Jave Díaz, Práxedes Llagsahuanca, Fidel Torres Guevara, Edward Gómez Paredes, Quique Rodríguez Rodríguez, Wilson Ibáñez Ibáñez, Servando Aponte Guerrero, Cenesio Jiménez Peña, Alfonso Meléndez Clemente, Eusebio Guerrero, Alfonso Huayama Guerrero, Pascual Rosales, Edilberto Neyra Alberca, Mario Tabra, Manuel Campos Ojeda, Edgardo Adrianzén Ojeda, Miguel Palacín Quispe, Ms. Julia Cuadros Falla and Ms. Deyber Flóres Calle	Judicial proceedings	Press Release	April 3, 2008
Association for Human Rights in Peru (APRODEH) and Dr. Francisco Soberón	Defamation campaign	Open Letter to the authorities	April 30, 2008
		Joint Open Letter to the authorities	May 6, 2008
NGOs	Defamation campaign	Press Release	August 26, 2008
Legal Defence Institute (IDL)	Harassment	Press Release	September 8, 2008
Messrs. Humberto Paredes Vargas, Francisco Solano Cantoral Huamani and Fredy Palomino Ñahuelo	Arbitrary detention / Accusations	Urgent Appeal PER 001/0908/ OBS 156	September 24, 2008
Mr. Avelino Guillén	Threats / Harassment / Fear for safety	Urgent Appeal PER 002/1208/ OBS 213	December 16, 2008

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14./ See the Compilation of cases in the CD-Rom attached to this report.



# / VENEZUELA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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## Political context

2008 marked ten years since Mr. Hugo Chávez Frías took on the Presidency of the Republic of Venezuela. His Government has been characterised by the so-called “Bolivarian Revolution”, with an announced willingness to promote the “21st century socialism”, which was accompanied by a strong political polarisation in the country. In terms of economic, social and cultural rights, President Chávez undertook a programme of generalised nationalisations in various sectors, such as the oil industry and telecommunications, as well as various social programmes. According to the Office of the United Nations Development Programme (UNDP) in Venezuela, regarding the Millennium Development Goals (MDG), these massive social programmes (known as missions) that were implemented from 2003 “have led to considerable progress in achieving fair and widely based policies, including those sectors that were for years denied access to their social rights”<sup>1</sup>. However, the opposition kept on denouncing the undermining of civil and political rights, and criticising the Head of State for concentrating all power, manipulating State institutions and lacking pluralist policies. The opposition also continued to denounce that trade unions have lost their capacity of action due to the strict control they are submitted to<sup>2</sup>. As for the Government, it continued to stigmatise the political opposition, particularly after the failed coup of April 2002.

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1./ See Office of the UNDP in Venezuela, *Situación de los Objetivos de Desarrollo del Milenio en Venezuela, 2009*, available on UNDP website (Unofficial translation).

2./ To this extent, the International Trade Union Confederation (ITUC) declared that “there was a progressive weakening of collective bargaining rights and the right to strike, which were arbitrarily denied based on political bias and other reasons. The criminalisation of strikes and demonstrations and the undermining of trade union autonomy through the interference of the National Electoral Council (*Consejo Nacional Electoral - CNE*) in trade union elections are compounding these problems”. See ITUC, *Annual Survey of Violations of Trade Union Rights, 2008*.

Moreover, one of the State's greatest challenges remained the situation in the penitentiary system. Prisons are faced with problems of overcrowding and poor conditions for inmates, leading to violence within prisons. Indeed, in 2008, 422 inmates died from violence and another 854 were injured<sup>3</sup>, particularly due to the weakness of security and the corruption of the guards, which allow armed gangs to control the prisons. Overcrowding and the deterioration of detention facilities were also causes for violence.

### **Defamation campaign against human rights organisations**

The polarisation of the political scene had repercussions on the work of human rights defenders, who were accused by the Government of receiving funds from the United States and of only aiming at encouraging opposition to the ruling power. Accordingly, the Government orchestrated campaigns of harassment against organisations that it considered as the voices of the opposition. Indeed, in 2008, defamation campaigns continued, which were carried out by Government representatives through defamatory declarations on official media. Human rights organisations were often accused of being partial, of collaborating with the opposition parties and of having links with the United States, a country that is openly criticised by President Chávez. Thus, on February 28, 2008, accusations were posted on the website of the pro-Government organisation "People's Revolutionary Assembly of the Bolivarian Republic of Venezuela" (*Asamblea Popular Revolucionaria República Bolivariana de Venezuela*) against the Committee of the Relatives of the Victims of the events that occurred between February 27 and early March 1989 (*Comité de Familiares de Víctimas de los sucesos ocurridos entre el 27 de febrero y los primeros días de marzo de 1989* - COFAVIC) for taking advantage of the suffering of the poor to run its "business". Between 2002 and 2008, 42 articles were published that criticised COFAVIC and its Executive Director, Ms. **Liliana Ortega**<sup>4</sup>. Moreover, on November 15, 2008, Ms. Eva Golinger, a renowned American-Venezuelan lawyer, declared during the International Conference "Revolution and Intervention in Latin America" (*Revolución e Intervención en América Latina*), which was

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3./ See Venezuelan Prison Observatory (*Observatorio Venezolano de Prisiones - OVP*), *Situación Sistema Penitenciario Venezolano, Informe 2008*, January 2009.

4./ See COFAVIC.

broadcast by the television channel Telesur, that the NGO SINERGIA, an observatory on guarantees and the exercise of rights to participation to public life and association in Venezuela, was financed by US agencies and that it belonged to a subversive movement aiming at rejecting the constitutional reform agreed upon in 2007<sup>5</sup>. Lastly, the Annual Report of the Venezuelan Programme of Education-Action in Human Rights (*Programa Venezolano de Educación-Acción en Derechos Humanos - PROVEA*) on the situation of human rights in Venezuela, published on December 10, 2008, was subjected to strong criticisms from various important figures. Among others, on December 10, 2008, the Minister of People's Power for Health, Mr. Jesús Mantilla, declared that "the figures provided by this NGO are false (...), [PROVEA] does not represent the interests of an organisation supposedly fighting for human rights and freedom (...). It hasn't made any reports on human rights violations committed by the American army during the war in Iraq (...)" and, on December 16, 2008, the Minister of People's Power for Interior and Justice, Mr. Tarek El-Aissami, declared that: "in the eyes of the people, the PROVEA report is ridiculous (...); they deserve that shoes be sent at them for lying" [in reference to the incident in Iraq on December 14, 2008, when a journalist threw a shoe at President Bush]<sup>6</sup>.

This hostile environment did not only affect activists working for organisations based in Venezuela, but also foreigners working for the international NGO Human Rights Watch. Thus, on September 18, 2008, Mr. **José Miguel Vivanco**, Director of the Americas division of this NGO, along with his Deputy, Mr. **Daniel Wilkinson**, were expelled from the country on the orders of the Minister of People's Power for Foreign Affairs, a day after they had presented the report *A Decade Under Chávez: Political Intolerance and Lost Opportunities for Advancing Human Rights in Venezuela*. This report denounced the lack of independence of the judiciary, the Government's intimidation of human rights defenders and NGOs, and the use of discriminatory measures to limit the right of expression, the right of association and the freedom for civil society to promote human rights in the country.

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5./ *Idem.*

6./ See COFAVIC and PROVEA.

## Harassment of defenders who address the Inter-American human rights system

2008 saw an increase in the harassment by the authorities of defenders who addressed the Inter-American human rights system, which was linked to an increase in the cases of human rights violations in Venezuela denounced before this system, in particular before the Inter-American Court of Human Rights (*Corte Interamericana de Derechos Humanos* - CoIDH) and the Inter-American Commission on Human Rights (IACHR)<sup>7</sup>. Accordingly, on various occasions, the authorities discredited the work of defenders who collaborated with these regional institutions. On April 23, 2008 for instance, Mr. **Humberto Prado**, Director of the Venezuelan Prison Observatory (*Observatorio Venezolano de Prisiones* - OVP), was accused by a Member of Parliament from the United Socialist Party of Venezuela (*Partido Socialista Unido de Venezuela* - PSUV), President Chávez's party, of benefiting economically from the country's penitentiary situation and of receiving funds from the opposition party<sup>8</sup>. These declarations coincided with the prison crisis in Venezuela, Mr. Prado's participation in audiences within the IACHR and the publication of reports on the prison situation. Moreover, on May 8 and 9, 2008, the State channel *Venezolana de Televisión* (VTV) repeatedly broadcast spots in which Mr. **Carlos Ayala Corao**, former President of the IACHR and current President of the Andean Commission of Jurists (*Comisión Andina de Juristas*), of having been involved in the coup in 2002 and of being financed by the United States Government to direct a conspiracy against Venezuela. These accusations coincided with Mr. Ayala's participation as a representative of the victims in a case handled by the CoIDH regarding alleged attacks suffered by employees of the private television channel *Globovisión*<sup>9</sup>.

In addition to these acts of defamation, not only did the authorities not always respect their duty to protect human rights defenders, even when they were granted provisional measures of protection by the CoIDH, but in some cases, the implementation of these protection

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7/ See COFAVIC

8./ Mr. Humberto Prado was accused of "organising prison strikes", "benefiting economically from the inmates' problems", "being financed by the opposition" and "serving the interests of the United States".

9./ See COFAVIC.

measures turned into a new form of repression against their beneficiaries. On December 12, 2008, Mr. **Carlos Nieto Palma**, Director of the NGO “A Window to Freedom” (*Una Ventana a la Libertad*), reported that he had been verbally attacked in his own residence by three metropolitan police officials charged with his protection. Mr. Nieto Palma was benefiting from provisional measures of protection granted by the CoIDH. He reproached the agents for not being present to protect him on some days. Officials from the same police body also falsified 52 minutes of interviews with him during the period he was under protection, in order to prove that they had provided him with adequate protection<sup>10</sup>. Moreover, on September 29, 2008, the Control Tribunal 33 in Caracas rejected all complaints lodged following acts of harassment and threats against COFAVIC members, upon the orders of the Public Ministry<sup>11</sup>, without even granting the victims the right to be heard, even though the latter had been given provisional measures of protection by the CoIDH<sup>12</sup>.

### Urgent Interventions issued by The Observatory in 2008<sup>13</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Venezuelan Prison Observatory (OVP)	Judicial harassment / Acts of intimidation / Defamation campaigns	Urgent Appeal VEN 001/0508/OBS 079	May 15, 2008
Messrs. José Miguel Vivanco and Daniel Wilkinson	Expulsion / Harassment	Press Release	September 22, 2008

10./ See COFAVIC, PROVEA and OVP.

11./ Part of the Governments responsibility in implementing provisional measures is to investigate the events and sanction those responsible for the attacks against the beneficiaries of these measures.

12./ See COFAVIC.

13./ See the Compilation of cases in the CD-Rom attached to this report.



# / ASIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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## / REGIONAL ANALYSIS ASIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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In 2008, elections and referendums took place in a number of Asian States, many of which (*Burma, Cambodia, Iran*) were characterised by irregularities, intimidation and pressure by the authorities, and other undemocratic practices. In addition, in *Malaysia* and in *Pakistan*, the hope that electoral alternation would trigger stronger human rights policies from the Government was not met with concrete results. In *Nepal*, although the run-up to the historic elections was tense and the election campaign was marred by serious acts of violence, intimidation and violations of human rights by all parties, the elections of April 2008 largely passed off in a transparent and peaceful manner. Yet, violence and intimidation, in particular by armed groups, persisted after the elections. 2008 was also a period of political instability in *Thailand*, which experienced anti-Government protests. In *China*, the expectations that the holding of the Olympic games in Beijing would induce the authorities to pay greater respect for human rights was not met either, on the contrary: the repression increased in the months leading up to the Olympics, and has been continuing since then.

Many States also continued to be ravaged by internal conflicts (*India, Indonesia, the Philippines, Sri Lanka, Thailand*), which, together with terrorist attacks (*India, Pakistan*), added to the climate of mistrust and fear; the authorities increasingly using those tensions as a pretext for repression in these countries.

Furthermore, the economic and financial crisis that started at the end of 2008 has had a terrifying impact on economic and social rights in Asia, migrant workers, women and people working in the informal sectors being the first victims. The repression of social protest was a major trend in the region in 2008 (*Cambodia, China, Malaysia, South Korea* and *Viet Nam* notably), and one may expect further protests in connection with the crisis, and increasing repressive reactions by the Governments in place.

Last but not least, a number of countries in the Asian region continued to prevent the development of any nascent civil society movement active in the field of human rights, and their borders remained closed to external scrutiny by international human rights NGOs – *Burma, Laos, North Korea, Viet Nam* – and, in a certain extent, *China* and *Iran*, where one of the main independent human rights NGO was closed in December 2008.

In December 2008, the Charter of the Association of Southeast Asian Nations (ASEAN) entered into force, and the developments concerning the establishment of an ASEAN human rights body, as foreseen in the Charter, are a reason for hope. The mandate of the human rights body will be defined in the course of 2009: terms of reference will be proposed by a high level panel appointed by the ASEAN Governments, and then adopted by the Committee of Ministers of Foreign Affairs. There are serious risks that this mandate will be very limited (promotion rather than protection of human rights), but civil society in the ASEAN region is very much mobilised for this body to be independent, effective and open to civil society participation.

In such a context, acts of repression against human rights defenders in 2008 by both State and non-State actors remained widespread in Asia. In particular, defenders seeking to expose violations (past or present) by the authorities or armed opposition groups, and seeking redress for such violations, were victims of extrajudicial killings (*Bangladesh, Cambodia, Nepal, Philippines, Sri Lanka, Thailand*); arbitrary arrests and condemnation to harsh prison sentences were also registered in several countries in the region (*Cambodia, Indonesia, Iran, Malaysia, Viet Nam*). Furthermore, impunity remained the rule for acts of reprisals committed against defenders in the entire region, the perpetrators, be they State or non-State actors, continuing to go unpunished.

### **Use of repressive legislation to curtail the rights to freedoms of expression, assembly and association**

In the Asian region, human rights defenders continued in 2008 to work in a restrictive environment characterised by repressive legislation abusively used to curtail the rights to freedoms of expression, assembly and association. Under the guise of national security, human rights defenders were arbitrarily arrested and condemned to harsh prison sentences (*China, Iran, Malaysia, Viet Nam*). In *Thailand*,



the lèse-majesté law was increasingly used to silence dissenting voices, while the adoption in 2008 of the Law on Electronic Information and Transactions in *Indonesia*, which includes harsh penalties for defamation, represented an additional threat to freedom of expression.

Legislation seeking to control the activities of NGOs (through, for example, restricting funding) or criminalising the activities of human rights organisations also continued to prevent defenders from carrying out their activities freely: in *China*, restrictions on the establishment of independent NGOs and trade unions persisted; in *Indonesia*, the Ministry of Home Affairs approved in August 2008 a decree requiring State approval of foreign funding of Indonesian organisations. It is feared that the new regulation might be used to impede freedom of association in the country, in particular through restricting foreign funding of NGOs wanting to monitor the 2009 legislative and presidential elections. Besides, the Bank of Indonesia also issued in December 2008 a policy that request all banks in Indonesia to ask their customers about the usage of money received abroad. Finally, in *Cambodia*, the restrictive environment to human rights activities was highlighted when, in September 2008, Prime Minister Hun Sen announced that the Law on Associations and NGOs would be a priority for the new Government. It is feared that this law will introduce regulations to repress the activities and restrict funding of NGOs.

### **Defenders at risks in areas of conflict and disaster zones**

In countries undergoing internal conflict or deep political crisis (such as *Bangladesh, India, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand*), the situation for human rights defenders was particularly precarious. Not only did increased military presence adversely affect the capacity of human rights defenders to carry out their work, but they were also open to attack from all sides to the conflict. In militarised areas, the authorities either failed to protect defenders (frequently caught up in the conflict) and take action against the perpetrators of violence (*India, Nepal, the Philippines, Sri Lanka*), or the police, paramilitary and other security forces committed violations themselves (*Bangladesh, India, the Philippines, Sri Lanka, Thailand*).

Moreover, human rights defenders were frequently demonised by the authorities or Government-supporters as “terrorists”, separatists or supporters of anti-State forces (*India, Indonesia, the Philippines, Sri*

*Lanka, Thailand*) in order to discredit their activities and saw their activities restricted through surveillance and monitoring (*Indonesia*), criminalisation, attacks on freedoms of expression and assembly, interrogation, arrests, detention and fabricated charges (*India, Indonesia, the Philippines, Sri Lanka, Thailand*). In these areas, anyone criticising Government policy or exposing violations were at risk of attack, as were those who were critical of the actions of armed groups. For example, in *Sri Lanka*, journalists reporting on human rights violations were threatened, intimidated, violently assaulted and even murdered, and in *Nepal* journalists received death threats. Additionally, journalists, both national and foreign, were frequently prevented from covering protests in conflict areas (*China*), from accessing conflict zones (*Sri Lanka*) and from reporting on natural disasters (*Burma, China*).

Obstacles were also faced by intergovernmental organisations, such as UN aid agencies and international NGOs in these areas. In addition to frequently being caught up in internal conflicts, in some States humanitarian relief workers were denied access to the worst affected areas and also faced significant travel restrictions (*Burma, Sri Lanka*). Aid workers were also the target of threats, abductions (*Afghanistan, the Philippines, Sri Lanka*) and even murder (*Afghanistan, Sri Lanka*). Additionally, national aid workers, including citizens who attempted to assist those affected by disasters, were treated with suspicion and were intimidated, interrogated and arrested in *Burma* and *China*.

### **Human rights lawyers under attack**

Lawyers defending human rights activists or involved in cases considered sensitive by the authorities were frequently targeted. In *Burma*, lawyers were detained and sentenced for representing activists. In *China*, lawyers saw their freedoms of movement and expression restricted and also faced detention for the promotion of human rights and, in *Sri Lanka*, lawyers representing suspected terrorists were labelled “traitors to the nation” and were the victims of death threats and physical attacks. In *the Philippines*, both lawyers and judges were the victims of attacks, including acts of harassment, intimidation and murder. In *Iran*, lawyers involved in human rights cases were prevented from leaving the country or victims of slanderous campaigns.

## Silencing the media

In 2008, a restrictive media environment could be seen in most States in Asia. The media were frequently subjected to tight controls and intimidated into self-censorship through the use of criminal legislation rather than civil charges (*Indonesia*), threats – including death threats – (*Bangladesh*), arbitrary arrests and detentions (*Bangladesh, Burma, Sri Lanka, Viet Nam*), harsh sentences (*Burma, Viet Nam*), fabricated charges (*Bangladesh*), physical attacks (*Bangladesh*) and even murder (*Cambodia, Sri Lanka, Thailand*). Journalists across the region who were critical of the authorities frequently faced repression and censorship. For example, those reporting on corruption (*Bangladesh, Burma, Malaysia, Nepal, Thailand, Viet Nam*), police malpractice (*Bangladesh*) and human rights violations by State security forces (*Bangladesh*) were particularly targeted, as were those exposing political scandals, reporting on protests or criticising Government policies (*China, Malaysia, Viet Nam*). In addition to journalists, newspaper organisations were also frequently intimidated and threatened for writing reports critical of the authorities (*Bangladesh*), refused publishing licences (*Malaysia*) or were shut down or suspended for alleged failure to comply with censorship rules (*Burma*). Cyber-dissidents and the Internet also came under attack. Websites were frequently blocked or shut down by the authorities (*Iran, Malaysia, Thailand*) or were directly censored (*China*). In *Burma*, Internet cafes were required to monitor and report on user activity to the military. Cyber-dissidents expressing political opinions and reporting critically on Government policies received harsh sentences in *Burma* and were harassed and detained in *China*.

## Defenders of economic, social and cultural rights – a favourite target of repression

In addition to defenders of civil and political rights, those protecting and promoting trade union and labour rights and protesting against forced evictions continued to face repression in 2008.

### Trade union and labour rights activists

Trade union activists remained targeted in many countries, through arbitrary arrests and detention (*Bangladesh, Iran, South Korea*), sometimes deportation (*South Korea*), fines and physical attacks (*Iran*) and assassination (*the Philippines*). In *China*, restrictions continue to prevail in law and in practice on the establishment of independent trade unions, as was the case in *Laos, North Korea* or *Viet Nam*. In addition

to restrictions on trade union activities, those campaigning for labour rights and investigating violations came under attack; two activists were detained for investigating working conditions in *Bangladesh*, a labour activist working against the recruitment of child soldiers and forced labour was imprisoned in *Burma*, and protesters in the garment industry were physically injured in *Cambodia*.

### **Defenders advocating for the right to land, against forced evictions and illegal exploitation of natural resources**

In many States, community activists and defenders advocating for the right to land, adequate housing and against illegal exploitation of natural resources came under attack from the authorities. Collusion of the authorities with private groups having strong economic interests was common in the region and those challenging those huge economic interests were facing high risks. In *China*, people mobilised against forced evictions from their home or their land were assaulted, and those in detention faced harsh sentences, harassment and ill-treatment and torture. In *Cambodia* and *the Philippines*, repression took the form of surveillance, physical assault, threats, arrests, detentions and fabricated criminal charges. Further, a significant number of peasant activists in *the Philippines* were the victim of enforced disappearances, torture and extrajudicial executions. Whilst many of these attacks were committed by State forces, some were attributed to non-State actors including landowners. In India, defenders of indigenous land rights were arrested and accused of having links with armed Maoist groups. In *Indonesia*, land right activists in the conflict area of Aceh were arrested and convicted after distributing leaflets relating to evictions from a palm oil plantation.

### **Repression of women's rights defenders**

Those fighting for equality or advocating women's economic, social and cultural rights faced repression in the form of death threats and harsh sentences (*Afghanistan*) and murder (*Nepal*). In *Indonesia*, defenders of women's human rights were particularly vulnerable to violence by Islamic fundamentalists. In *Pakistan*, people committed to the defence of women's rights also remained targeted in the context of the heightened repressive actions of extremist groups. In *Iran*, the authorities continued their systematic campaign of repression against the "One Million Signatures Campaign", which calls for the end of legal discrimination against women, through harassment, restrictions to

freedom of movement, interrogations, arrests, setting of high bail and harsh sentences. Websites were also blocked. In *India*, those fighting against human trafficking and forced prostitution were the victims of threats, intimidation and fabricated cases.

### Repression of defenders of indigenous and minority rights

Defenders of indigenous and minority rights were also targeted by the authorities. In *Bangladesh*, indigenous activists in the Chittagong Hill Tracts were victims of arrest and re-arrest as well as continuous harassment. In *India*, repression of promoters of the rights of Dalits and other marginalised communities took the form of opposition to accreditation of national human rights organisations, physical attacks and threats. In *Iran*, detention and harsh sentences were used to repress defenders of Kurdish human rights, whilst defenders of other minorities received death threats and were the target of slandering campaigns. In *Malaysia*, non-Muslim NGOs were threatened not to interfere in Muslim affairs and the Hindu Rights Action Force (HINDRAF), fighting against the marginalisation of Indian Malaysians, was banned by the Government, whilst five of its leaders continued to be detained without trial in deplorable conditions as of the end of 2008.

### Urgent Interventions issued by The Observatory in 2008 on a country of the region for which there is no Country Fact-sheet<sup>1</sup>

Country	Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
AFGHANISTAN	Mr. Pervez Kambaksh	Death sentence / Arbitrary detention	Urgent Appeal AFG 001/0208/OBS 023	February 20, 2008
			Urgent Appeal AFG 001/0208/OBS 023.1	October 23, 2008

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1./ See the Compilation of cases in the CD-Rom attached to this report.

## / TESTIMONIAL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### **SOUSAN TAHMASEBI**

A member of the One Million Signatures Campaign,  
in Iran

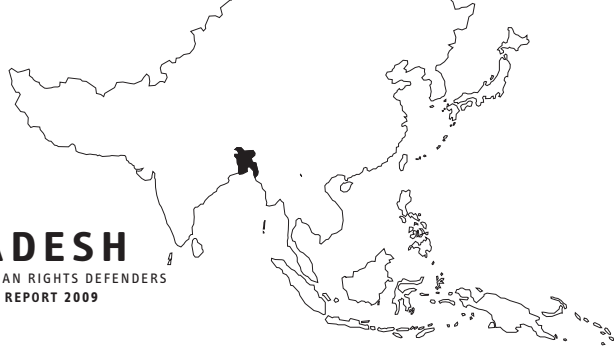
The situation of Iranian women is paradoxical. Sixty-five percent of university students are female, the fertility rate in Iran stands at 2.9%, the average age of marriage is 25, women are lawyers, doctors, entrepreneurs, even members of Parliament. Still Iranian women face structural and legal constraints. Most importantly, Iranian law discriminates against women. To address the disparity between the social and legal status of women, we started a Campaign, called the One Million Signatures Campaign. We use a face to face approach to engage in discussions with the public and to raise awareness and educate fellow citizens about the negative impact of discriminatory laws on women's lives and on society as a whole. Additionally, in the framework of the Campaign we collect signatures in support of a petition addressed to Parliament asking them to reform laws that discriminate against women. In the Campaign we are seeking: equal rights for women in marriage, equal rights for women to obtain divorce, the right for women to have the guardianship and custody of their children, an end to polygamy and temporary marriage, an increase in the age of criminal responsibility to 18 years old for girls and boys, equal compensation for bodily injury and death (blood money) for women, equal inheritance rights for women, equal testimony rights for women in court, the right for women to pass on their nationality to their spouses and children, and an end to laws that reduce punishments for honour killings.

Despite the peaceful and civic nature of the approach we use in the Campaign, we have systematically faced security pressure. We have been denied space for convening our meetings and have been forced to hold meetings in our homes. But these meetings are not tolerated either and they have repeatedly been broken up by police and security forces. Our members have been summoned for interrogation, summoned to court for questioning, they have been arrested for collecting

signatures, for writing on our website, or for holding meetings in their homes, inculpated with security charges such as endangering national security, and some have even been sentenced to prison. In an effort to isolate activists in the Campaign from the international community and to minimize the international support they receive, many have even been barred from travelling abroad. During interrogations, activists are often denied access to lawyers and they are often charged with vaguely worded security charges for their peaceful activism on behalf of women's rights.

In relation to a peaceful protest we organised in June 12, 2006 in support of women's rights, I was charged with endangering national security and sentenced to two years in prison, six months of which is mandatory. My case is still in appeal. On the day of my trial, along with four others, our friends gathered outside the courtroom to support us. When police began arresting them, we too exited the courtroom and were arrested. Thirty-three women's rights activists were imprisoned on that day (March 4, 2006). I have also been barred from travelling on several occasions, and recently, my home was also searched and my property seized. But none of us are deterred by these pressures. We believe that the work that we do is in fact legal and we believe that change is always difficult but we are willing to pay a price to ensure that the legal status of Iranian women is in line with their social gains.

International human rights organisations like FIDH and OMCT, in the framework of the Observatory for the Protection of Human Rights Defenders, have always been very supportive of Campaign activists as they have faced pressures and crackdowns. International human rights organisations play a critical role in bringing national and international attention to our cause and giving us support when we face harassment, arrest and violation of our rights. This type of publicity encourages the Government to re-evaluate its treatment of peaceful activists, like the ones involved in the Campaign. It's nice to know that there are people out there who care and are watching and supporting us in our struggle for women's rights.



## / BANGLADESH

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

Despite both domestic and international calls, the state of emergency declared by President Iajuddin Ahmed on January 11, 2007 was not lifted until December 16, 2008, twelve days before national elections. Under the draconian legal framework of the emergency powers – the Emergency Powers Ordinance (EPO) and the Emergency Power Rules (EPR), both issued in January 2007 –, the police and the military continued to arrest and detain thousands of people without charge or trial, violating basic due process rights<sup>1</sup>. The decision of the Appellate Division of the Supreme Court on April 23, 2008 that the prohibition on considering bail applications in EPR matters applied to all courts (including the Supreme Court itself) further exacerbated the situation, giving *carte blanche* to the Government to arrest and detain those considered as a threat. Torture of persons in custody, in some cases even leading to death, continued to be routine as did extrajudicial killings by the security forces, in particular the Rapid Action Battalion (RAB) and the police<sup>2</sup>. Impunity also continued to prevail with no RAB or other law enforcement agent being held accountable for any killing.

In the course of 2008, the unelected Caretaker Government, which by its very nature had no authority to promulgate legislation unless it related to the holding of general elections<sup>3</sup>, passed or brought into effect

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1./ In 2008, the human rights NGO Odhikar recorded 50,215 cases of arbitrary arrests. See Odhikar, *Human Rights Report 2008*, January 15, 2009.

2./ In 2008, Odhikar recorded 149 extrajudicial cases (See report above-mentioned), and the NGO Hotline Human Rights recorded 168 extrajudicial killings by RAB and police forces.

3./ The High Court Division of the Supreme Court of Bangladesh made this ruling on July 13, 2008 and also declared all ordinances made by the Caretaker Government to be unconstitutional, although it stayed this order for one month. See Asian Legal Resources Centre, *Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work*, August 21, 2008.



122 controversial laws. The Anti-Terrorism Ordinance, promulgated on June 11, 2008 without any prior consultation or public debate, contains a very broad definition of terrorist acts, which includes property crimes as well as physical attacks, contrary to recommendations by the UN<sup>4</sup>. It also allows the Government to ban an organisation based on “reasonable allegations” of involvement in terrorist activities, criminalises the financing of terrorist groups where there is “reasonable suspicion” that money may be used for terrorist activities<sup>5</sup>, and criminalises speech in support of a banned organisation, without the requirement to show that the speech incited criminal conduct<sup>6</sup>. The Ordinance could be used as a tool to persecute the political opposition, human rights defenders, trade unionists and other activists under the guise of ensuring the security of the State.

Two ordinances were adopted which, at first glance, appeared to promote human rights: the Right to Information Ordinance (October 20, 2008) and the National Human Rights Commission Ordinance (September 1, 2008). However, both have a number of shortcomings. A large number of authorities are excluded from the scope of the Right to Information Ordinance; some of these exceptions are legitimate, others are not, such as the blanket exclusion of information relating to tax, exchange rates, interest rates and the monitoring or administration of

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4./ See Report by the Secretary General's High Level Panel on threats, challenges and changes, *A more secure world: a shared responsibility*, 2004, in which the High Level Panel proposed the following definition: “any action, in addition to actions already specified by the existing conventions on aspects of terrorism, the Geneva Conventions and Security Council resolution 1566 (2004) that is intended to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such an act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act”. In his recommendations following a visit to Turkey, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism stated that definitions of crimes constituting acts of terrorism should be confined to “acts of deadly or otherwise grave violence against persons or the taking of hostages” (See UN Document No. E/CN.4/2006/98/Add.2, March 24, 2006).

5./ This is a lower standard of proof than the criminal law requirement of “beyond a reasonable doubt”.

6./ This is contrary to freedom of expression under international law.

economic bodies<sup>7</sup>. The National Human Rights Commission Ordinance provides for the establishment of an “independent” body to safeguard rights. This independence is, however, questionable, as the Commission will rely on grants and contributions from the Government, and members of the Commission will be selected by a committee predominantly made up of Government officials. Furthermore, the Ordinance provides for the resolution of cases by arbitration or mediation, which may discourage or prevent criminal action against perpetrators.

At the very end of the year, on December 29, 2008, national elections took place, which saw the victory of the Grand Alliance led by the Awami League of former Prime Minister Sheikh Hasina, who won more than 75% of seats at the National Assembly.

### **Harassment of those seeking to expose human rights violations**

In 2008, human rights organisations and defenders continued to be harassed by the authorities. This frequently took the form of threats as well as the monitoring of activities and funding sources. For example, Odhikar, a Bangladeshi organisation monitoring human rights violations, received intimidating calls from various intelligence agencies in 2008 and on May 27, 2008 its offices were visited by a person claiming to be the Deputy Assistant Director of National Security Intelligence, who stated that he was to investigate Odhikar’s activities and asked a number of questions regarding funding and on-going projects. When asked, he refused to show any official identification or authorisation for the investigation, claiming that he was entitled to carry out the investigation without official authorisation. A further example is Dr. **Hasan**, a leading member of the War Crimes Fact Finding Committee, who received death threats after the publication on April 3, 2008 of a list of people allegedly responsible for war crimes during the War of Independence in 1971. This highlights the culture of impu-

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<sup>7/</sup> The Ordinance provides eight security and intelligence agencies are totally excluded from the purview of this law. They are: National Security Intelligence Agency (NSI), Directorate of Forces Intelligence (DGFI), Defence Intelligence Units, Criminal Investigation Department of Bangladesh Police (CID), Special Security Forces (SSF), National Revenue Board’s Intelligence Cell, Special Branch of Bangladesh Police, RAB Intelligence Cells. Most of these agencies are responsible for serious human rights violations. This provision generates the unaccountability of said agencies.

nity that began with the failure to prosecute those responsible for war crimes during the War of Independence and persists today.

### **Continuing restrictions on freedoms of assembly and association**

At the beginning of November 2008, the Government partially relaxed the restrictions under the EPR on freedoms of expression, assembly and association. However, this applied only to meetings, gatherings and rallies that were related to the upcoming elections. Human rights defenders and other civil society groups were therefore still prohibited from exercising these fundamental rights and the security forces as well as non-State actors continued to clamp down on any protest. For example, on March 30, 2008, at least ten people were injured whilst trying to prevent the eviction of the socio-cultural organisation “Lekhak Shibir” (Writers’ Guild) by hoodlums, who considered that the activities of the organisation were anti-Islamic, and who were assisted by the security forces. Three days later, cultural activists who were standing in a human chain protesting against the illegal eviction were again attacked by hoodlums in the presence of security forces.

### **Silencing the media**

Throughout 2008, the Government continued its control over the media and journalists: 115 incidents of violence against journalists or pressure on freedom of expression were recorded<sup>8</sup>. Threats (including death threats), arrests, fabricated charges and physical attacks were all used to intimidate the media into self-censorship. Newspapers received intimidating calls or visits from law enforcement agencies threatening them not to publish reports that were critical of the Government and journalists were threatened with arrest without a warrant to prevent them writing such reports.

In that context, journalists reporting on human rights violations, harassment and corruption by the security forces and officials were particular targets. For example, Mr. **Jahangir Alam Akash**, a journalist who was initially arrested and imprisoned on an extortion charge on October 24, 2007, but then released on bail at the end of November 2007, continued to face harassment in 2008. On January 7, 2008, a

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8./ See Odhikar, *Human Rights Report 2008*, January 15, 2009.

new warrant for his arrest for extortion was issued. On October 21, 2008, Mr. Akash appeared before a magistrate. At this hearing, the prosecution reportedly guided and prompted witnesses in recalling evidence against him, leading to concerns that he is being denied due legal process. This ongoing harassment and abuse of legal process are believed to be a result of his investigative reporting of extrajudicial killings and other human rights abuses by law enforcement agencies and corruption as well as his allegations of torture whilst in custody<sup>9</sup>. Another journalist faced an attack by prison guards on May 24, 2008. Mr. **Mirza Shakil**, a reporter for *The Daily Star*, was severely beaten by the guards, when working on a report on the harassment of visitors and corruption in the local prison. No action has been taken against the prison officials or the guards<sup>10</sup>.

On March 28, 2008, Mr. **Robiul Islam**, a journalist for *The Sunshine*, a Rajshahi-based newspaper, was arrested at his house without a warrant and taken to Durgapur police station where he was detained for approximately 12 hours until two a.m. the following morning. During his custody, the police intimidated him into signing a confession admitting his involvement in a robbery case. It was only after his relatives intervened and provided statements from the victim of the robbery confirming that Mr. Islam was not involved and from a suspect who confirmed he had been coerced into making a statement implicating Mr. Islam, that the police released him. Mr. Islam had written a number of reports of police malpractice, including arrests on fabricated charges and subsequent extortion of money from those detained, and it is believed that his arrest and detention were in retaliation for his reports revealing police malpractices.

### **Labour rights activists remained a target**

With the lift of the state of emergency on December 16, 2008, all the bans that had been put in place were cancelled by the Government, including the ban on trade union activities. This enabled trade unions to hold elections on December 17, for the first time in 18 months. However, in practice, they were still not allowed to conduct other activities, therefore being forced to remain as ineffective as under the EPR.

9./ See IFEX Press Release, October 28, 2008.

10./ See Hotline Human Rights, *Hotline Newsletter, April-May 2008*, 154<sup>th</sup> Issue.

Indeed, throughout the emergency period, although the Government allowed professional organisations of lawyers and university professors to carry out their activities, blue collar workers and their trade-unions were not allowed to do so, therefore having no means of pressing for their demands, in particular for higher wages, which led to unrest and violence. In the course of campaigning for full payment of wages and other labour rights, many workers in jute mills and garment factories were arrested for violating the state of emergency.

In addition to restrictions on trade unions, labour rights activists were threatened, subjected to constant surveillance and also arrested under the EPR. For instance, early in January 2008, the Government brought criminal charges for breach of the EPR against several leading trade unionists, including members of the Bangladesh Independent Garment Workers' Union Federation (BIGUF). On January 22, 2008, Mr. **Ranjit Halder**, a Bangladeshi employee of the American Centre for International Labour Solidarity, was arrested and briefly detained after taking part in a workers' rights clinic. On January 24, 2008, Mr. **Mehedi Hasan** of the Workers Rights Consortium (WRC) was arrested in Dhaka by the Bangladesh Intelligence Service. The WRC is an independent labour rights monitoring organisation that carries out investigations of working conditions in factories worldwide. Mr. Hasan, had been carrying out a monitoring mission in Bangladesh, together with Mr. **Bent Gehrt**, WRC South East Asia Field Director and a Danish national. Mr. Hasan was remanded to police custody on January 25, 2008 for the purposes of "further interrogation". He was released on February 3, 2008 with no charges against him. Mr. Gehrt was arrested and interrogated for about an hour at Dhaka airport as he was about to board a plane to Thailand. He was released after being questioned about his and Mr. Hasan's activities over the past few weeks.

### **Repression against indigenous and minority rights' defenders**

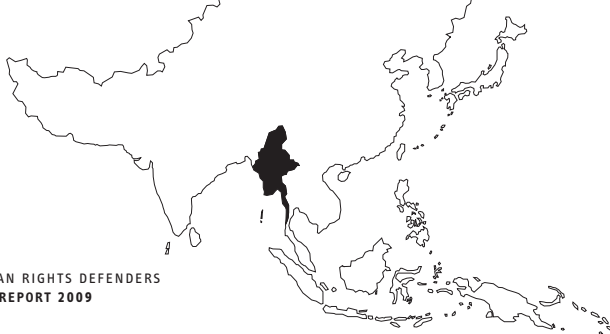
Following the horrific torture and resulting death of Mr. **Cholesh Ritchil**, leader of the Garo community, in March 2007, the security forces and army continued in 2008 the repression of indigenous and minority rights defenders. Frequently, this took the form of re-arrests of indigenous activists, particularly in the Chittagong Hill Tracts (CHT), soon after their release or bail from court, so as to keep them in detention for months. For example, Mr. **Rang Lai Mro**, an indigenous Murong community leader and head of the NGO Mrochet in

the CHT, remained detained throughout 2008 in Chittagong District Jail and refused medical treatment, despite a serious heart condition which could lead to a heart attack at any time. Mr. Rang Lai Mro, who had been arrested on January 27, 2007, was finally released on bail on January 8, 2009. In 2007, Mr. Rang Lai Mro had been convicted and sentenced to 17 years' imprisonment after an unfair trial for possession of an unlicensed pistol. Following his arrest, he was hospitalised after being severely beaten by army officers and it was discovered that he had suffered a heart attack. The torture inflicted by the army officers has never been investigated. It is believed that Mr. Rang Lai Mro was targeted as a result of his activities to improve facilities for the Mro people in the CHT.

### Urgent Interventions issued by the Observatory in 2008<sup>11</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Mehedi Hasan and Mr. Bent Gehrt	Arbitrary arrest / Interrogation	Urgent Appeal BGD 001/0108/OBS 012	January 29, 2008
	Release	Urgent Appeal BGD 001/0108/OBS 012.1	February 4, 2008

11./ See the Compilation of cases in the CD-Rom attached to this report.



## / BURMA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

Perhaps the most significant event of 2008 in Burma was the grave humanitarian crisis caused by Cyclone Nargis, which hit the country on May 2-3, 2008, resulting in an estimated 140,000 dead or missing and an estimated 2.4 million people severely affected<sup>1</sup>. Despite immediate offers of humanitarian assistance from the international community, the Burmese authorities initially denied international humanitarian aid operations access to the affected areas and refused to grant visas to aid workers and humanitarian experts. This restricted access exacerbated the already colossal scale of the disaster. When the regime did finally accept humanitarian aid, reports were made of corrupt practices in the distribution of aid and the diversion of aid funds for personal benefit<sup>2</sup>. There were also reports of numerous human rights violations committed by members of the ruling State Peace and Development Council (SPDC) following the cyclone, including the recruitment of child soldiers, forced labour of cyclone survivors to carry out reconstruction work, confiscation of farmland and forced return of internally displaced persons to areas where they did not have access to aid<sup>3</sup>.

The other key political event occurred shortly after Cyclone Nargis hit the country. A new Constitution, which had been finalised by the SPDC in February 2008, was adopted through a referendum held on May 10 and 24, 2008. Despite the devastation caused by Cyclone Nargis and calls by the United Nations Secretary-General, Mr. Ban Ki-moon, to focus attention on and dedicate all resources to the emergency humanitarian response as a matter of priority<sup>4</sup>, the authorities

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1./ See UN Document A/63/356, *Situation of human rights in Myanmar: Report of the Secretary-General*, September 17, 2008.

2./ See Alternative ASEAN Network on Burma (ALTSEAN), *Burma Bulletin Issue 22, October 2008*.

3./ See ALTSEAN, *Burma Bulletin Issue 22, October 2008*. See also UN Press Release, June 18, 2008.

4./ See UN Document A/63/356, *Situation of human rights in Myanmar: Report of the Secretary-General*, September 17, 2008.

decided to go ahead with the referendum on May 10, 2008, only postponing the referendum until May 24 for those areas most affected by the cyclone. The run up to the referendum was marked by a number of irregularities, intensified intimidation and violence by the regime to exert pressure on the people to ensure they vote in favour of the Constitution, as well as severe restrictions on access to information and on freedoms of expression, assembly and association to discourage any informed substantial public debate on the Constitution. Criticism of and opposition to the draft constitution and referendum were expressly proscribed by domestic laws<sup>5</sup> and the whole process was described as being “devoid of any democratic legitimacy”<sup>6</sup>. The reported result that 92.48 per cent approved the Constitution therefore lacks credibility. The National League for Democracy (NLD) and various groups<sup>7</sup> formally announced their rejection of the Constitution and the process by which it was adopted. The new Constitution calls for a multiparty democracy with regular elections<sup>8</sup>, yet it bars Ms. Aung San Suu Kyi – whose house arrest was extended for another year in May 2008 – from running for election as President of the Union of Myanmar. The Constitution was also criticised as it maintains the military’s dominant role in politics<sup>9</sup> and because the drafting process did not allow for input from other stakeholders<sup>10</sup>.

Following Cyclone Nargis, the Burmese Government authorised a visit by Mr. Ban Ki-moon, which took place on May 22-23, 2008, the first visit of a UN Secretary-General to the country in 44 years. The newly appointed UN Special Rapporteur on the situation of human rights in Myanmar, Mr. Tomás Ojea Quintana, also visited the country in August 2008 and the Special Adviser to the Secretary-General

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5./ See UN Document A/63/341, *Situation of human rights in Myanmar: Note by the Secretary-General*, September 5, 2008.

6./ See European Parliament Press Release, April 24, 2008.

7./ Including the United Nationalities Alliance, the “88 Generation” students’ group, the All Burma Monks’ Alliance, the All Burma Federation of Student Unions and a number of exile groups with constituencies inside Burma. See UN Document A/63/356, *Situation of human rights in Myanmar: Report of the Secretary-General*, September 17, 2008.

8./ The first regular election is due to take place in 2010.

9./ See Dr. Ibrahim Gambari, Special Adviser to the Secretary-General on Myanmar, in an interview with the *Straits Times*, Singapore, March 26, 2008.

10./ See UN Document A/63/356, *Situation of human rights in Myanmar: Report of the Secretary-General*, September 17, 2008.



made a number of visits throughout the year. However, whilst this may be viewed as progress, plans for the UN Secretary-General to make a further visit in December 2008 were called into question when the UN Secretary-General said that he would cancel his planned visit to Burma if the SPDC failed to make any discernible progress in implementing democratic reforms, which would include the release of Ms. Aung San Suu Kyi and other political prisoners. In the end, Mr. Ban did not go to Burma<sup>11</sup>.

On September 23, 2008, the regime took some positive steps when it released eight political prisoners. However, the hope that more prisoners would be released was short-lived when Ms. Aung San Suu Kyi's personal assistant, Mr. Win Htein, one of those released, was re-arrested within 17 hours, followed by the arrest of nine NLD members on November 27<sup>12</sup>. Indeed, despite repeated requests for release of political prisoners by the international community<sup>13</sup>, the political repression intensified throughout 2008, with the number of political prisoners increasing from 1,192 in June 2007 to 2,123 in September 2008<sup>14</sup>.

In 2008, Burma remained characterised by its severe repression of all human rights activities.

### **Crackdown on freedom of assembly**

In Burma, anyone campaigning for the respect of human rights or for democracy continued in 2008 to face heavy repression from the military regime. This repression was stepped up after the protests of September 2007 – frequently referred to as the “Saffron Revolution” –, through the use of its draconian “security laws” and spurious legal proceedings<sup>15</sup>. The majority of those targeted in 2008 had some connection with or involvement in the 2007 demonstrations, either through direct

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11./ See ALTSEAN, *Burma Bulletin Issue 22*, October 2008.

12./ See US Campaign for Burma and European Parliament Resolution P6\_TA-PROV(2008)10-23, October 23, 2008.

13./ Including the European Parliament, the UN High Commissioner for Human Rights, the UN Security Council, the UN Human Rights Council, the UN General Assembly and the UN Special Rapporteur on the human rights situation in Myanmar.

14./ See Assistance Association for Political Prisoners (AAPP) and US Campaign for Burma, *The Future in the Dark: The Massive Increase in Burma's Political Prisoners*, September 2008.

15./ See ALTSEAN Press Release, September 22, 2008.

participation in the protests or through attempts to provide accounts of or visual information regarding the crackdown. Monks were also the victims of harassment, arrests and arbitrary detentions. For example, in September 2008, the authorities increased their presence in and around monasteries, as well as their surveillance of monks' activities and also imposed travel restrictions<sup>16</sup>.

In May 2008, about 127 persons were arrested in connection with the referendum. Between July and September 2008, at least 91 political activists and human rights defenders were arrested and at least 60 were sentenced to imprisonment. Many of these arrests and imprisonments were related to their involvement in the September 2007 protests<sup>17</sup> or in response to a crackdown by the regime in August, fearing a wave of demonstrations to commemorate the 20<sup>th</sup> anniversary of the uprising on August 8, 1988 and again in September, in the days leading up to the anniversary of the Saffron Revolution<sup>18</sup>.

Towards the end of the year, the regime stepped up court actions against political activists, monks, nuns, journalists and labour activists, many of whom were convicted during summary secret trials held in prisons. In November 2008 alone, more than one hundred detained activists and monks were sentenced. The international community expressed deep concern about these harsh and excessive sentences imposed on activists after unfair trials, without legal representation<sup>19</sup>. For instance, on November 11, 2008, Ms. **Nilar Thein** was sentenced to 65 years' imprisonment, and was transferred to Thayet prison, Magwe division, about 225 miles away from Rangoon. Ms. Nilar Thein was one of the leading woman activists involved in the early protest marches in August 2007; she went into hiding to escape the regime's crackdown. Whilst in hiding, Ms. Nilar Thein continued to issue public appeals

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16./ See ALTSEAN, *Burma Bulletin Issue 21*, September 2008.

17./ See AAPP and US Campaign for Burma, *The Future in the Dark: The Massive Increase in Burma's Political Prisoners*, September 2008.

18./ See ALTSEAN, *Burma Bulletin Issue 20*, August 2008, and *Burma Bulletin Issue 21*, September 2008.

19./ See UN Press Release, November 12, 2008; Declaration by the EU Presidency on the prison sentences handed down to human rights activists in Burma, November 12, 2008; and ASEAN Inter-Parliamentary Myanmar Caucus' Statement, November 12, 2008. Various States also expressed their concern, including the UK, Canada and the USA.

calling for the international community to take action in resolving the grave human rights abuses that women suffer under the military regime in Burma. However she was arrested on September 10, 2008. Likewise, Ms. **Su Su Nway**, labour activist and a member of the youth wing of the NLD, was sentenced on November 11 to 12 years and a half in prison. She was arrested on November 13, 2007 during a UN visit to Myanmar to investigate the September 2007 crackdown, after attempting to put up leaflets near the hotel where a UN investigator was staying<sup>20</sup>. Concerns were also raised by the international community about the harsh conditions of detention, including the use of torture and forced labour, as well as the denial of medical treatment<sup>21</sup>.

### Repression against human rights lawyers

Human rights lawyers defending activists involved in particular in the Saffron Revolution were also targeted by the authorities. For example, on October 30, 2008, Mr. **Nyi Nyi Htwe** and Mr. **Saw Kyaw Kyaw Min** were sentenced to six months' imprisonment for "interruption and insulting the judiciary proceedings" due to their involvement in the defence of 11 NLD youths. On November 7, 2008, two NLD lawyers, Mr. **U Aung Thein** and Mr. **U Khin Maung Shein**, were sentenced to four months' imprisonment by the Supreme Court for contempt of court, after they tried to withdraw their representation of four activists, who had instructed them to withdraw given that they had no confidence in the judiciary system, and had therefore concluded that they no longer needed defence lawyers and would no longer cooperate with the court. As these two lawyers represent over 100 democracy activists, their imprisonment may result in the trials of detained activists continuing without any defence lawyer<sup>22</sup>.

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20./ Ms. Su Su Nway was the first person to successfully prosecute local authorities for their practice of forced labour in 2005. She had already been imprisoned after successfully taking legal action against village authorities over their use of forced labour. The officials concerned received prison terms, following which Ms. Su Su Nway was charged with criminal intimidation and sentenced to 18 months in jail in October 2005. She was later released in June 2006. See US Campaign for Burma.

21./ See UN Press Release, February 5, 2008; European Parliament Resolution P6\_TA-PROV(2008)10-23, October 23, 2008.

22./ See US Campaign for Burma.

## Repression against media workers and cyber-dissidents

Following the Saffron Revolution in September 2007, the military also intensified its crackdown on the media. In 2008, journalists and bloggers, who reported on and sent footage of the regime's brutal repression of the protests, were arrested and imprisoned, and publications were banned or suspended for allegedly failing to comply with the Government's censorship legislation. For example, on February 15, 2008, the police raided the offices of *Myo Myanmar* ("Myanmar Nation") in Yangon and arrested its Editor-in-chief, Mr. **Thet Zin**, and its Office Manager, Mr. **Sein Win Maung** (alias Ko Soe). The police found and confiscated video footage of the September 2007 protests, a copy of the UN Special Rapporteur's report and several books and disks. The Government banned the publication and distribution of *Myo Myanmar* on February 19, 2008 and, in early March 2008, charged Messrs. Thet Zin and Sein Win Maung under the Printers and Publishers Registration Law. On November 28, 2008, they were both sentenced to seven years' imprisonment<sup>23</sup>.

Cyber-dissidents also continued to be arrested and imprisoned for attempting to express their political opinion and also for posting information relating to the September 2007 protests. For example, the blogger Mr. **Nay Phone Latt** (alias Nay Myo Kyaw) was arrested on January 29, 2008 and then sentenced on November 10 to twenty years in prison for crimes against public tranquillity and offences under video and electronics laws in relation to his web-postings and reports of the protests in September 2007<sup>24</sup>. The Burmese military also paralysed Internet access to the free media, with Internet café owners being required to monitor and report on user's activity to the military<sup>25</sup>.

Journalists exposing corruption were also targeted. For example, Messrs. **Tun Tun Thein** and **Khin Maung Aye**, respectively reporter and Editor of the *News Watch Journal*, were arrested on November 7, 2008 and sentenced to three months' imprisonment for respectively

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23./ See US Campaign for Burma and also UN Document A/HRC/7/24, *Report of the Special Rapporteur on the situation of human right in Myanmar*, March 7, 2008.

24./ See US Campaign for Burma.

25./ See US Campaign for Burma and also European Parliament Resolution P6\_TA-PROV(2008)10-23 of October 23, 2008.

writing and editing an article published in July 2008 that exposed corruption within the judiciary<sup>26</sup>.

### Repression against labour activists

Labour activists were also subjected to arbitrary detention and harsh sentences. For instance, on September 16, 2008, Mr. **U Thet Way**, a labour activist actively working to prevent the recruitment of child soldiers and forced labour and who had provided information to the International Labour Organisation (ILO) on these issues, was sentenced to two years' imprisonment with hard labour. He had been arrested on January 9, 2008 while attending the trial of Mr. U Ohn Than, who was arrested for having participated in a sole protest in Rangoon, after police officials had found and confiscated a memory stick containing the documents he had sent to the ILO. When he complained about the police search and confiscation of the memory stick without a proper warrant, he was charged with "obstruction of performance of official's duty".

### Repression against aid workers

In addition to the repression of Burmese activists, 2008 marked increased restrictions on aid workers from international NGOs. Thus, in January 2008, officials from the Ministry of Health warned aid workers that they must comply with the rules and also report on their activities. Furthermore, travel restrictions were put in place, with foreign aid workers having to be accompanied by a Ministry's Liaison Officer and travel permits for field work being issued for one month only instead of three<sup>27</sup>. International NGOs working in health education and counselling for HIV/AIDS patients in particular were targeted. In March, NGOs working in this sector were ordered by the authorities to stop their activities at the grassroots level. This included Save the Children Fund, Population Services International (PSI), Marie Stopes International (MSI), Care International in Myanmar (Care-Myanmar) and World Vision. Moreover, following Cyclone Nargis, the SPDC arrested 21 individuals for carrying out relief activities in the Irrawaddy delta, including Mr. **Nyan Tun**, who was given a 14 years' imprison-

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26./ See US Campaign for Burma.

27./ See UN Document A/HRC/7/18, Report of the *Special Rapporteur on the situation of human rights in Myanmar*, March 7, 2008.

ment sentence in September 2008<sup>28</sup>, and prominent comedian, film director and activist **Zarganar**, who was sentenced on November 21 and 27, 2008 to, respectively, 45 years' and 14 years' imprisonment for multiple charges, including "committing disaffection towards the State and Government by using the Internet"<sup>29</sup>.

### Urgent Interventions issued by the Observatory in 2008<sup>30</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Nyi Nyi Htwe and Mr. Saw Kyaw Kyaw Min	Arbitrary detention / Judicial proceedings	Urgent Appeal MMR 002/1008/OBS 174	October 30, 2008
	Sentencing	Urgent Appeal MMR 002/1008/OBS 174.1	October 31, 2008
Mr. U Thet Way	Sentencing / Arbitrary detention	Urgent Appeal MMR 001/0908/OBS 155	September 24, 2008

28./ On June 27, 2008, Mr. Nyan Tun was arrested because he was trying to appeal to the SPDC headquarters in Nay Pyi Taw about the forcible removal of Nargis victims from a camp in Labutta Township by local authorities. On September 28, 2008, he was given a 14 years' imprisonment at Myaungmya Township Court in Irrawaddy Division. As of the end of 2008, he was detained in Pegu Division of Tharawaddy prison.

29./ As of the end of 2008, Mr. Zarganar was being held in Myitkyina prison, in Kachin State. See AAPP, *Chronology of Political Prisoners in Burma for January 2009*, 2009.

30./ See the Compilation of cases in the CD-Rom attached to this report.



## / CAMBODIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

The key political event of 2008 in Cambodia was the fourth parliamentary elections in July, in which the ruling Cambodian People's Party (CPP) increased its majority. Although these elections were not tainted by the same level of violence shown in previous elections, they were nonetheless characterised by serious flaws and shortcomings<sup>1</sup>. The run-up to the elections was marked by a misuse of State resources by the CPP through the use of money and gifts from election candidates, an increasing pressure on opposition MPs and activists to defect to the CPP, reprisals against those who refused to defect and a serious crackdown on the freedoms of expression and information, the ruling party holding a virtual monopoly on the media. As the elections grew nearer, violations against non-ruling political activists and journalists increased, through threats, harassment, intimidation, arrests, physical assaults, and even murder. Independent or pro-opposition media, in particular, were the targets of this repression. For example, the radio station *FM 105.25* in Kratie was closed down on May 28, 2008 because it sold airtime to political parties competing against CPP in the election<sup>2</sup>, and Mr. Dam Sith, the Editor-in-chief of *Moneaksekar Khmer* (a newspaper affiliated with the Sam Rainsy Party - SRP) and also an SRP candidate in the national election, was arrested on June 8, 2008, charged with "defamation and disinformation" and detained in Prey Sar prison for a week after reporting comments by opposition leader Sam Rainsy about the role played by the Minister of Foreign Affairs during

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1./ It should be noted in particular that many people found their names unaccountably missing from voter lists on election day and were therefore denied their right to vote.

2./ The Government argued that it had been closed due to violation of a condition in its radio licence that it had to seek Ministry of Information permission before selling airtime to anyone, despite there being no requirement for this under Cambodian law.

the Khmer Rouge regime<sup>3</sup>. Finally, fears were mounting that Cambodia could progressively become a one-party State.

In August 2008, the Extraordinary Chambers in the Courts of Cambodia (ECCC) formally indicted former Khmer Rouge prison chief Kaing Guek Eav (alias Duch), which would make him the first leader to stand trial. The ECCC also denied requests by former Khmer Rouge officials Nuon Chea and Ieng Sary to be examined by court-appointed medical experts for the purposes of determining fitness to stand trial and refused a release request by former Khmer Rouge Head of State Khieu Samphan who had argued that the court had insufficient evidence to continue his detention. However, despite these developments, the first trial of Khmer Rouge officials was postponed until 2009 because of appeals and other legal procedures. Further, allegations of corruption and other irregularities in the management of the ECCC continued to put the integrity, credibility and independence of the court at risk<sup>4</sup>.

### **Restrictive environment for human rights defenders and NGOs**

Throughout the year, but especially in the tense political climate surrounding the elections, human rights defenders were frequently viewed by the Government as being associated with the opposition and as advocating against the Government, rather than as counterparts in the promotion of human rights<sup>5</sup>. Indeed, severe repression of human rights defenders and NGOs continued with the criminal justice system, in particular, frequently being misused as a weapon of intimidation against community representatives, journalists and trade unionists. NGOs in the north east of Cambodia (for example in Rattanakiri, Mondolkiri and Kratie) also reported increased restriction of movement by local authorities, who have forced them to report their movements and activities and threatened to close their organisations<sup>6</sup>.

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3./ Mr. Dam Sith was released on bail one week later and the Minister of Foreign Affairs said he would drop the charges against Mr. Sith. See Report of the Cambodian League for the Promotion and Defence of Human Rights (LICADHO), *Promoting and Defending Human Rights in Cambodia: January - June 2008, August 2008*.

4./ See also Mr. Yash Ghai's comments to the Human Rights Council, UN Press Release, September 15, 2008.

5./ See Cambodia Centre for Human Rights (CCHR).

6./ *Idem*.



This restrictive environment to human rights activities was highlighted when, at the first post-election meeting of the Council of Ministers in September 2008, Mr. Hun Sen announced that the “NGO law” (the Law on Associations and Non-Governmental Organisations) would be a priority for the new Government. It is feared that this law will introduce repressive regulations governing the activities and funding of NGOs, which are considered as the only remaining channel of criticism of the activities of the authorities in a country where the party in power has an overwhelming majority in Parliament. The latest version of the draft law was not made public by the Government but previous versions of the law included complex registration requirements that would be onerous for smaller NGOs and community-based associations. Such requirements would provide the Government with the opportunity to delay or deny registration to NGOs or associations it dislikes. Other provisions included the criminalisation of unregistered associations and a prohibition on conducting activities for undefined “political interests”, which could be used to prevent NGOs from taking up the cases of repressed political activists. The Government claimed that the law is necessary to ensure that NGOs are not financed by terrorist groups. However, the link between NGOs and terrorism is unwarranted and, given the previous drafts of the law and the Government’s attitude towards human rights defenders, there is good reason to fear that the law would be selectively used to restrict legitimate work by civil society organisations working on human rights and other sensitive issues<sup>7</sup>.

Furthermore, as already reported in 2007, Mr. Yash Ghai, Special Representative of the UN Secretary-General for Human Rights in Cambodia, bore the brunt of some of the Government’s harshest attacks. 2008 marked no change in this attitude. For instance, Mr. Ghai faced visa difficulties that prevented him from visiting the country<sup>8</sup>. In September 2008, Mr. Ghai tendered his resignation as Special Representative, after repeating many of the recommendations the first Special Representative had made, and citing the failure of the Cambodian Government to implement many of the recommendations made by himself and his predecessors as well as the lack of support

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<sup>7</sup>/ See LICADHO.

<sup>8</sup>./ See UN Press Release, September 15, 2008.

from the UN and the international community given to him, which, he said, had merely encouraged Prime Minister Hun Sen to insult him continuously<sup>9</sup>.

Finally, 2008 also saw a return of serious repression against the media, with the murder of Mr. **Khim Sambo**, a journalist for *Moneaksekar Khmer* (“Khmer Conscience”), during the national election campaign in July – the first such killing of a journalist in five years. On July 11, 2008, less than two weeks before the elections, Mr. Khim Sambo was shot dead by two men on a motorcycle, in Phnom Penh. His son was also killed in the attack. Mr. Sambo had written many articles exposing abuses, corruption and nepotism by high-ranking Government officials, in particular in the ruling Cambodia People’s Party<sup>10</sup>. As of the end of 2008, no one had been arrested for his murder.

### **Continuing repression against defenders of the right to land and natural resources**

In 2008, it was estimated that 150,000 Cambodians were at risk of being forcibly evicted as a result of land-grabbing and land disputes. Community activists who tried to assist their fellow villagers to protect their land were often targeted, whilst the rich and the powerful responsible for both the evictions and the repression of defenders of the right to land continued to enjoy widespread impunity. The authorities showed themselves to be willing accessories to these actions, assisting in violent evictions, rather than resolving disputes through peaceful negotiation. A climate of fear, violence and confusion prevailed. In addition, impunity continued to be a key feature of these violations. The death of a community activist from Stung Treng, Mr. **Seng Sarorn**, in July 2007, and the fatal shootings of two unarmed Preah Vihear villagers during an eviction in November 2007 had still not been properly investigated as of the end of 2008. In many cases, human rights defenders themselves were subject to criminal investigations and prosecutions, rather than the perpetrators of violations against them.

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9./ According to Mr. Ghai, Mr. Hun Sen had called him “deranged”, “short term tourist” and “lazy”. See UN Press Release, September 15, 2008.

10./ See CCHR.

Heavy police presence, physical assault, threats, arrests, detentions and groundless and arbitrary criminal charges were all used to intimidate community activists and other defenders advocating for the right to land, adequate housing and against illegal exploitation of natural resources. In January 2008, Ms. **Ros Pov**, a female community representative at Phnom Penh's Dey Krahorm village, was sentenced to six months' imprisonment, with a further 18 months suspended, for "physical assault" in relation to an incident in August 2007, in which it was alleged that she had assaulted and injured several employees of 7NG (the company that claims the land). The conviction relied solely on evidence from 7NG employees and no evidence was produced by the prosecution showing the alleged injuries. Land rights defenders were also targeted elsewhere. For example, in May 2008, the authorities prohibited a protest march against land-grabbing and illegal logging of ancestral lands by ethnic minorities including Jarai, Phnong, Kreung and Tompoun people in Rattanakiri province. When a public meeting was held instead, a heavy police presence was used to intimidate the participants. This incident is just one in an ongoing dispute between ethnic Jarai villagers and Ms. Keat Kolney, sister of the Finance Minister and wife of the Land Management Minister, who is clearing disputed land for a rubber plantation<sup>11</sup>. In June 2008, representatives of five communities that had filed public complaints against land-grabbing were prevented from holding meetings and were threatened by police to deter them from delivering the complaints to the authorities in Phnom Penh. A public forum to discuss the complaints was also shut down by the authorities and reports of physical violence and other forms of intimidation were received.

Moreover, human rights organisations were prevented by the authorities from investigating and documenting forced evictions and illegal land appropriation. On June 24, 2008, members of the Cambodian League for the Promotion and Defence of Human Rights (LICADHO) and the Cambodian Human Right and Development Association (ADHOC)

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11./ The lawyers acting in the case against Ms. Keat Kolney were called to the court on August 1, 2008 and "informed" by the judge that the criminal investigation into the lawyers was not yet concluded and that they should be careful about speaking with the media as they may face defamation charges. The lawyers subsequently filed a motion to remove the judge from the case, after which one of the lawyers received an anonymous threatening call. See Community Legal Education Centre (CLEC).

were prevented from entering Chey Sena village in Kampot province where soldiers had set up roadblocks in response to the villagers' resistance to forced evictions, which reportedly were to make room for a tree nursery<sup>12</sup>. Later in the year, further evictions occurred in the same area, with soldiers once more setting up roadblocks to prevent human rights monitors and medical workers from witnessing the evictions. Besides, defenders and journalists reporting on land-grabbing and the illegal and abusive exploitation of natural resources were also victims of intimidation and reprisals, including having their identity cards confiscated, and death threats. For instance, on March 6, 2008, two villagers and Mr. **Chun Sophea**, ADHOC provincial activist in Banteay Meanchey, were reported of receiving death threat after reporting illegal logging committed by provincial military police. On March 3, 2008, Mr. **Chan Thy**, reporter of the provincial newspaper *Kampuchea Thmei*, received death threat while he tried to require response from armed force allegedly involved in such violations. On March 17, 2008, three journalists in Kratie, Messrs. **Ly Yut**, **Sor Phearith** and **Prak Nath**, were stripped of their identity cards after investigating deforestation in the province<sup>13</sup>.

### Intimidation and violence against trade unionists

In 2008, the Government finally agreed to allow an International Labour Organisation (ILO) mission to Cambodia to evaluate what efforts had been made by the authorities to investigate murders and other violence against trade unionists. In particular, the mission examined the murders of Mr. **Chea Vichea**, President of the Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC) in January 2004, and of his fellow union officials Messrs. **Ros Sovannareth** (May 2004) and **Hy Vuthy** (February 2007). The ILO mission took place in April 2008 and, according to a November report by the ILO Committee on Freedom of Association, found that the three murders had not been subjected to a transparent, independent and impartial investigation by Cambodian authorities. The mission criticised the grossly unfair trials given to Messrs. Born Samnang and Sok Sam Oeun, two men convicted

12./ ADHOC and LICADHO were later allowed to visit the area together with employees of the UN High Commissioner for Human Rights, but were restricted in their activities, given the continuous observation by soldiers. All remaining villagers were later forced out of the area, with four being arrested and several injured.

13./ See CCHR, *Human Rights Alert, Volume 1, Issue 4*, April 2008.

of Mr. Chea Vichea's murder, as well as that of Mr. Chan Sopheap, known as Thach Saveth, the man convicted of Mr. Ros Sovannareth's killing. Furthermore, the mission concluded that the Government had "demonstrated an unwillingness to engage in fully frank discussions over these serious matters, and provided no concrete indications that it would act upon [...] any of the [ILO] Committee's [...] recommendations" for serious investigations into the killings<sup>14</sup>. However, in a welcome development, the Cambodian Supreme Court ordered on December 31, 2008 the release on bail of Messrs. Born Samnang and Sok Sam Oeun and sent the case back to the Court of Appeals to be retried. The two men spent close to five years in prison on false charges of killing Mr. Chea Vichea in a judicial process marred by political interference, intimidation of witnesses, and other violations of international legal standards. Nonetheless, Mr. Thach Saveth, who received a blatantly unfair trial and was sentenced to 15 years' imprisonment in February 2005 for Mr. Ros Sovannareth's murder, remained in prison as of the end of 2008.

In 2008, trade union leaders and members continued to be the targets of assault, and the perpetrators continued to mostly go unpunished. Union representatives and members in the garment industry in particular were the focus of attacks. In early January 2008, police forcibly dispersed 300 Khmer Youth Union Federation workers at the Cambodia Apparel Industry Ltd in Kampong Speu province who were complaining about labour rights violations and the dismissal of probation workers and union leaders. On February 6, 2008, at least ten members of the Cambodia Confederation of Apparel Worker Democratic Unions (CCAWDU), who were striking to demand the reinstatement of 19 union representatives dismissed in June 2007 and demanding payment of wages, were injured (five of whom were hospitalised) when police and military police used excessive force to clear them from the entrance to the Kingsland garment factory in Phnom Penh. On February 28, 2008, Mr. **Keo Sokun**, FTUWKC President at the New Mingda garment factory in Phnom Penh, was assaulted by four men carrying a samurai sword. Two of the four perpetrators were caught and were subsequently convicted of physical assault, receiving disproportion-

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14./ See Conclusions of the ILO Committee on Freedom of Association regarding violence against Cambodian trade unionists, November 2008.

ately light sentences<sup>15</sup>. Mr. Keo Sokun had been negotiating with factory management and the pro-Government union, Cambodian Union Federation, for better working conditions and higher wages.

### Repression faced by defenders of religious freedom and asylum-seekers

The end of 2007 was marked by the violent suppression by the authorities of a peaceful gathering of 48 Khmer Kampuchea Krom monks in front of the Vietnamese Embassy on December 17, 2007. The monks had gathered to submit a petition calling for the release of a Khmer Krom monk, Mr. **Tim Sakhorn**, who had been deported and imprisoned in Viet Nam, and subsequently subjected to house arrest. Both the continuing restrictions on Mr. Tim Sakhorn's liberty and this violent suppression of support for him continued to have significant repercussions for Khmer Krom monks throughout 2008, who feared that further violence would occur if they held any public events or gatherings, at a time when harassment of Khmer Krom monks has persisted.

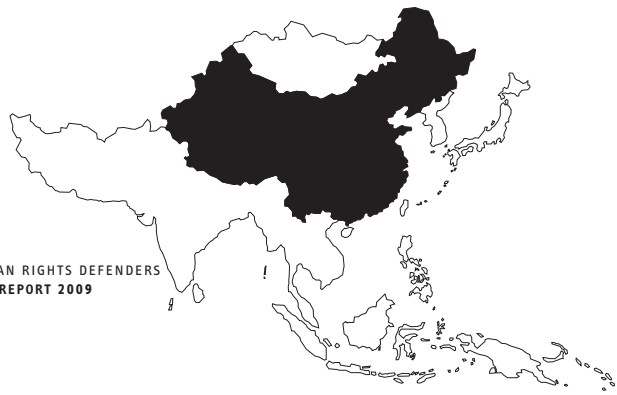
Those assisting asylum seekers also continued to be the targets of harassment, arrests and detentions. For example, in June 2008, the Phnom Penh Court sentenced Messrs. **Phan Savang** and **Leir Yainghay** to four months' imprisonment for helping members of the Montagnard tribe seeking asylum under the UN Refugee Convention due to political and religious persecution in Viet Nam.

### Urgent Interventions issued by the Observatory in 2008<sup>16</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Chea Vichea	Assassination / Impunity	Joint Press Release	January 22, 2008
		Joint Press Release	December 28, 2008
Defenders of economic, social and cultural rights		Joint Press Release / International Fact-Finding Mission Report	February 19, 2008

15./ One was sentenced to six months' imprisonment. The other received an 18-month prison sentence but it was fully suspended. See LICADHO.

16./ See the Compilation of cases in the CD-Rom attached to this report.



## / CHINA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

Despite hopes that the Olympic Games would contribute to a better respect of human rights in China and promises made by the regime to this effect, the opposite in fact occurred. In 2008, room for dissent was indeed further eroded, and crackdown on dissenting or critical voices continued unabated.

Various human rights violations were perpetrated in connection with the Olympics: hundreds of thousands of people were evicted from their homes, frequently without any compensation, to make way for Olympic venues; thousands of migrant workers involved in the construction of these venues were ordered to leave Beijing; and, in an attempt to beautify the city, Beijing was cleared of its beggars, hawkers and prostitutes. Everything was done by the Chinese authorities to prevent any protest during the Games<sup>1</sup>.

In March 2008, mass protests erupted in Tibet. Demonstrations to celebrate the anniversary of the Tibetan rebellion against Beijing's rule in Tibet in 1959 escalated into riots after some of the protesters (many of whom were monks) were arrested by the security forces. Excessive force and violence, including beatings and the use of live ammunition, extra-judicial killings, enforced disappearances and arbitrary arrests were used against protesters in Tibet during this crackdown, although precise details remained unknown, given the restrictions placed on independent observers and the foreign media in accessing the areas

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1./ The failure to improve the human rights situation despite pledges to the contrary resulted not only in criticisms of the Chinese Government but also of the International Olympic Committee for its failure to ensure that China honoured those pledges.

concerned<sup>2</sup>. Informal talks between Chinese officials and representatives of Tibet's spiritual leader, the Dalai Lama, subsequently resumed in May 2008, but made no progress in resolving the future of Tibet.

2008 was also marked by the earthquake on May 12, 2008, in southwest China, affecting in particular Sichuan province, which resulted in the death of nearly 80,000 people and affected millions more. Despite the Chinese authorities' quick and open response to the disaster, restrictions on media coverage of the earthquake were introduced, individuals reporting on the disaster and the Government's handling of it were harassed and detained, and those seeking to provide humanitarian assistance to earthquake victims or to collect donations were interrogated and intimidated<sup>3</sup>. A large number of victims remained as of the end of 2008 without shelter.

The contaminated milk scandal provoked another shock wave in the country in September 2008. This episode reflected once again China's restrictive media environment and the political and economic elite's disregard for the ordinary people. News of contaminated milk products came to light after four infants died and over 6,000 others became ill (the number quickly rising to more than 13,000). Evidence of tainted milk had been discovered in July 2008, but had not been publicised due to the authorities' concern of negative media coverage before the Olympic Games. Media censorship of the issue continued following the breaking news, with the authorities issuing guidelines to the media, including ordering newspapers not to publish articles on the scandal without prior approval by the authorities, and censoring Internet coverage by deleting references to the scandal and blocking blogs and articles on websites<sup>4</sup>.

In 2008, the Party's interference in the judiciary remained strong as demonstrated by the election, on March 16, 2008, of Mr. Wang

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2./ The European Parliament condemned the repression by Chinese security forces and called for an independent inquiry by the UN into the demonstrations and repression in Tibet. See European Parliament Press Release, April 10, 2008. UN Special Procedures mandate holders were also deeply concerned by "reports of security forces firing on protesters and alleged killings". See UN Press Release, April, 10, 2008.

3./ See Chinese Human Rights Defenders (CHRD) Press Release, May 23, 2008.

4./ See CHRD Press Release, September 29, 2008.



Shengjun as the New President of the Supreme Court. With no formal legal education, Mr. Wang occupied various prestigious positions in the Communist Party, and his election as well as some of his first rulings represented a clear setback, contrasting with past signals towards more independence of the judiciary<sup>5</sup>.

In 2008, the authorities continued to use legislation to persecute human rights defenders. In particular, the crime of “inciting subversion of State power” under Article 105(2) of the Chinese Criminal Code was used against those exercising the right to freedom of expression; “illegal possession of State secrets” was arbitrarily invoked against defenders so as to deny them access to legal representation under Article 96 of the Criminal Procedure Law; and arbitrary detention, in particular in “black jails” (illegal and secret detention facilities) or under the Re-education Through Labour (RTL) system<sup>6</sup>, was used against anyone considered a threat. Additionally, reports of torture and ill-treatment of those detained continued to be rife<sup>7</sup>.

### **Obstacles to freedom of association**

In 2008, restrictions on the establishment of independent NGOs persisted, including the requirement for the NGO to be sponsored by an official body and to provide a large sum of money to the administration. The same was also still applying to independent trade unions, prohibited under the Trade Union Law of 1992 amended in 2001, which allows only the All China Confederation of Trade Unions (ACFTU). Indeed, Article 12 of the Trade Union Law implicitly requires that trade unions belong to the ACFTU, by stating that “[t]rade union organisations across the country form the All-China Confederation of

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5./ In 2001, the Supreme Court ordered the payment of damages to a plaintiff for violation of its constitutional right to education (see Qi Yuling Decision). This appeared as the first step towards the justiciability of the Constitution. In January 2009 however, the Supreme People’s Court officially cancelled its 2001 ruling, merely arguing that “it is no longer applied”.

6./ RTL is an administrative detention measure according to which, without any proper legal procedures or court proceedings, the Public Security Bureau can send individuals to detention facilities for a maximum of four years.

7./ The UN Committee Against Torture expressed its concern about allegations of systematic and widespread torture and ill-treatment of suspects in police detention in its report on China. See Concluding Observations of the Committee Against Torture on China, UN Document CAT/C/CHN/CO/4, November 21, 2008.

Trade Unions”. Article 4 of the law provides that trade unions “shall observe and safeguard the Constitution, take [the Constitution] as the fundamental criterion for their activities, take economic development as the central task, uphold the socialist road, the people’s democratic dictatorship, leadership by the Communist Party of China, and Marxism-Leninism, Mao Zedong Thought and Deng Xiaoping Theory, persevere in reform and the open policy, and conduct their work independently in accordance with the Constitution of trade unions”.

### **Increase of the repression against human rights defenders in the run-up to the Olympics – and beyond**

In the run-up to, and during the Olympics, the authorities increased surveillance, harassment and intimidation of human rights defenders fighting for “a peaceful society concerned with the preservation of human dignity” and “respect for universal fundamental ethical principles”, in accordance with the Olympic Charter. In an attempt to stifle potential criticism, dissidents, journalists and human rights activists were frequently arrested, detained or forced out of Beijing to prevent them carrying out potentially politically embarrassing activities. For example, Mrs. **Zeng Jinyan**, a human rights activist and the wife of prominent activist Mr. Hu Jia, was taken by police from her home in Beijing on August 7, 2008 and detained in a hotel until August 23, 2008. Both before and after this detention, she was under strict residential surveillance (house arrest) and warned against speaking about her own and her husband’s situation.

Furthermore, in the framework of the Olympics, the authorities set up three special “Protest Zones”, located far from the main sports venues, and thus intended to avoid disruption by dissenting voices. However, not one of the 77 applications to petition in these zones was granted<sup>8</sup>. Besides, some of those who submitted applications were punished by the authorities. For example, Mr. **Liu Xueli**, an activist and petitioner against forced evictions, was sentenced to 21-months’ RTL on September 24, 2008 for applying to protest at the “Protest Zones” in Beijing in early August 2008 against the forcible appropriation of his village land by the local Government.

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8./ See Human Rights in China (HRIC) Press Release, August 24, 2008.

In addition to new arrests and detentions, human rights defenders due to be released shortly before the Olympic Games after serving their prison terms saw their detention extended. For example, Mr. **Ye Guozhu**, due to be released on July 26, 2008 after serving four years in prison for his activities against forced eviction in the context of the Olympic Games, was kept in incommunicado detention by the police reportedly to keep him and his family “out of trouble” during the Olympics. Additionally, many of those arrested and detained in 2007 as a result of their criticisms of Olympic-related human rights violations continued to be held and were sentenced throughout 2008. They were also frequently the victims of ill-treatment and torture. For example, Mr. **Hu Jia**, an HIV/AIDS activist who had written articles and given interviews critical of the Chinese Government’s general human rights record prior to the Olympic Games, was sentenced on April 3, 2008 to three and a half years’ imprisonment and one year’s deprivation of political rights for “inciting subversion of State power”. During his detention from December 27, 2007 Mr. Hu was subjected to abuse and other acts of humiliating and ill-treatment, including being hand and leg-cuffed and placed in solitary confinement and being denied adequate medical treatment. Similarly, Mr. **Yang Chunlin**, a human rights defender and farmers’ representative detained on July 6, 2007 and formally arrested on August 13, 2007 for collecting signatures in the framework of the “We Want Human Rights, not the Olympics” campaign, was sentenced to five years’ imprisonment and two years’ deprivation of political rights for “inciting subversion of State power” on March 24, 2008. During his detention, Mr. Yang was subjected to acts of torture and ill-treatment by prison guards.

### **Repression against journalists denouncing human rights violations**

Although temporary media regulations adopted for foreign journalists in January 2007, which were made permanent by a decision by the Chinese Government in October 2008, provided greater freedom for foreign journalists reporting in China, some of the latter continued to report “interference incidents”, including acts of intimidation and violence. In March 2008 for instance, several foreign journalists were prevented from working freely as they tried to cover the situation in the Tibetan regions, as illustrated by the arrest of a Finnish TV crew on March 17, 2008 in Xiahe (Gansu province), where there had been Tibetan demonstrations against the Chinese Government. The TV crew

was threatened and its video recordings were confiscated despite its protests<sup>9</sup>. On August 4, 2008, two accredited Japanese journalists, Messrs. **Masami Kawakita**, a photographer with the daily *Chunichi Shimbun*, and **Shinji Katsuta**, a reporter with *Nippon Television Network*, were violently removed from the street by Chinese paramilitary forces in Kashgar, Xinjiang province, as they were covering attacks on sixteen policemen a few days ahead of the Olympics in Kashgar. They were taken to an official hotel, where they were beaten and their equipment was broken. They were released two hours later with minor injuries<sup>10</sup>.

Furthermore, as the media regulations did not extend to Chinese journalists, those seeking to report on human rights or other sensitive issues continued to run the risk of being severely restricted, harassed, beaten or even detained<sup>11</sup>. For example, on December 1, 2008, Mr. **Guan Jian**, a reporter with the Beijing-based weekly *Wangluo Bao* (*Network News*), was arrested by police officers from Zhangjiakou while investigating allegedly corrupt real estate transactions in Taiyuan, the capital of the northern province of Shanxi. Likewise, Ms. **Li Min**, *CCTV* reporter, was arrested at her Beijing home on December 4 by four policemen who had been sent by Shanxi Prosecutor He Shusheng, whom Ms. Li had accused of abuse of authority in a report broadcast by *CCTV*. Both journalists were subsequently charged with “bribery” and remained detained as of the end of 2008<sup>12</sup>.

Those who gave interviews to the media were also punished, frequently by criminal detention. For example, Ms. **Zhang Wei** and Ms. **Ma Xiulan**, both members of a group seeking redress for forced eviction from their home, were detained on August 6, 2008 on suspicion of “disturbing social order” after speaking to foreign journalists<sup>13</sup>.

### Lawyers under attack

In 2008, lawyers working on cases considered as sensitive by the authorities such as defending political dissidents, human rights defend-

9./ See Reporters Without Borders (RSF) Press Release, March 20, 2008.

10./ See HRIC, *China Human Rights Forum 2008 (4)*, January 2009.

11./ See HRIC Press Release, August 24, 2008.

12./ See CHRD and RSF Press Release, December 15, 2008.

13./ See CHRD Press Release, August 16, 2008.

ers, members of the Uighurs or Tibetan minorities and Falun Gong practitioners continued to face repression and various obstacles in performing their professional duties.

On June 1, 2008, a revised Lawyers' Law came into force, intending to protect the legal practice by providing, *inter alia*, the right for lawyers to consult with criminal suspects and defendants without permission from judicial authorities. However, because of flawed local implementation and the continued abuse by the authorities of China's highly restrictive State secrets laws, in practice the Lawyers' Law did not bring additional protection for the independence of lawyers. On the contrary, Article 37 of this amended law, which refers to national security, defines this concept so vaguely that any comment against the Communist Party could be interpreted as "damaging national security"<sup>14</sup>. The Chinese authorities also abused the lawyer registration system to harass lawyers who defend people's rights. For instance, on May 31, 2008, the authorities refused to renew the lawyer's license of Mr. **Teng Biao**, a prominent lawyer who was among the 21 rights defence lawyers who signed a letter offering legal assistance to Tibetans detained following the March 2008 protests. Article 306 of the Criminal Law also continued to be used to accuse lawyers of fabricating evidence in the course of collecting evidence to support their client's case. For instance, Ms. **Xue Hui**, a lawyer of the Beijing Kangsheng Law Firm, was sentenced to one and a half year's imprisonment on the basis of this provision<sup>15</sup>. Likewise, Mr. **Huang Zhenghong**, a lawyer from Wuzhou City, Guangxi Province, was also found guilty on May 4, 2008 on the basis of this provision, but exempted from criminal sanction on September 22, following a six-month detention period<sup>16</sup>.

Significant pressure was also exerted by local authorities on a group of voluntary lawyers seeking redress for child victims of contaminated milk products in September 2008. Lawyers were told that they would face "serious repercussions if they stayed involved". In another example, some of the 35 lawyers who published an appeal on the Internet on August 26, 2008 calling for direct election of the officials of the State-

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14./ See HRIC Press Release, June 19, 2008.

15./ See HRIC.

16./ *Idem*.

controlled Beijing Lawyers Association were subsequently dismissed for signing the online appeal. Thus, at the beginning of September 2008, Mr. **Tang Jitian** was asked by his superiors at the Beijing Haodong Law Firm to leave, “for the sake of the future of the firm”<sup>17</sup>. Similarly, Messrs. **Cheng Hai**, **Li Subin** and three other lawyers were dismissed from the Yitong Law Firm on October 30, 2008, reportedly following strong pressure from the authorities<sup>18</sup>.

Repression of human rights lawyers was not limited to restrictions on freedom of expression. On March 6, 2008, Mr. Teng Biao<sup>19</sup> was abducted by unknown people and detained until March 8, 2008. During his detention, he was reportedly questioned by officers of the Beijing Public Security Bureau about essays he had written and other “activities”. Mr. Teng had co-written with Mr. Hu Jia an open letter criticising the human rights record of pre-Olympic China as well as other essays critical of the Governments human rights policies. Following Mr. Hu’s arrest, Mr. Teng had been closely monitored by security police and warned not to write about Mr. Hu’s detention or other sensitive topics, including the Olympics.

### **Defenders of economic, social and cultural rights still a target for repression**

Defenders of economic, social and cultural rights continued to face repression in 2008, including being subjected to arbitrary detention and acts of ill-treatment. Indeed, as widespread social unrest continued throughout 2008 to protest notably against unpaid wages, corruption, forced evictions of people from their home, or massive lay-offs of workers, those defending petitioners continued to be a target of repression. For example, Mr. **Zheng Enchong**, a human rights lawyer in Shanghai who had provided legal aid to petitioners and victims of land grabs, was beaten by police officers on February 16 and 17, 2008 before being summoned to the police station where he was kept in detention for over 12 hours. Whilst in detention, he was beaten and questioned about the legal aid he had provided, as well as interviews he had given regarding corruption to the *Epoch Times* on February 12, 2008. On February 19,

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17./ See HRIC Press Release, October 31, 2008.

18./ *Idem*.

19./ See above.

2008, the interview to the *Epoch Times* was published and, the following day, Mr. Zheng was again arrested and beaten before being released later the same evening.

Those who were already in detention as a result of their activities faced harsh sentences, harassment and even ill-treatment and torture. A prime example of this is Mrs. **Mao Hengfeng**, a defender of housing rights and women's reproductive rights. Reportedly, Mrs. Mao was subjected to abusive and humiliating treatment, beatings and other forms of torture and ill-treatment during her detention at Shanghai Women's Prison. In particular, on June 3, 2008, she was taken to a prison hospital where she was stripped naked and tied to a bed for fourteen days, during which doctors forcibly injected her with a dozen different unknown medications leading to discomfort and pain, and forcibly withdrew blood from her. She was released on November 29, 2008 after completing a sentence of two and a half years' imprisonment but detained once again on January 12, 2008 for seven days for "disturbing public order" after she petitioned attendees of the annual Shanghai Municipal People's Congress and the Shanghai Municipal Political Consultative Conference.

### **Silencing critical voices in Sichuan province**

Ahead of the Olympic Games, those bringing bad publicity to China by questioning the Government's role in the Sichuan earthquake disaster were targeted. Mr. **Huang Qi**, a cyber-dissident and human rights activist, was detained on June 10, 2008 and formally charged with "illegal possession of State secrets" on July 18, 2008. Shortly before his arrest, Mr. Huang had visited the Sichuan earthquake zone on a number of occasions to investigate allegations that poor construction had contributed to the collapse of schools, provided aid to the victims and had published information on his website ([www.64tianwang.com](http://www.64tianwang.com)) regarding the plight of parents who had lost their children. As of the end of 2008, he remained in detention. Similarly, on June 25, 2008, Mr. **Liu Shaokun**, a school teacher, was arrested on "suspicion of the crime of inciting subversion" after he had taken photos of collapsed school buildings and put them online, and had also expressed his anger in a media interview at the "shoddy 'tofu' buildings". He was sentenced to one year of RTL but, on September 24, 2008, was released by the authorities to serve his sentence outside the labour camp. He nonetheless remained under residential surveillance.

Those criticising the Government's policies also came under attack. For example, Mr. **Chen Daojun**, a cyber-activist and freelance writer based in Sichuan province, was sentenced to three years of both imprisonment and deprivation of political rights on November 21, 2008 after being convicted of "inciting subversion of State power". This was ostensibly for posting articles on the Internet supporting the March 2008 Tibetan protesters, although Mr. Chen had in fact been apprehended on May 9, 2008 for protesting against the activities of a petrochemical plant.

### **Harsh crackdown in run-up to 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights and on Charter 08 activists**

Towards the end of 2008, the Chinese authorities continued their crackdown on human rights activities, despite hopes that restrictive measures taken before and during the Olympics under the guise of security would be relaxed. In the run-up to the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights (UDHR), activists preparing to celebrate this event were threatened and intimidated by the authorities. For example, on November 10 and 11, 2008, Messrs. **Chen Xi**, **Shen Youlian** and **Liao Xuangyuan**, leaders of a group that had scheduled a seminar for December 10, 2008 to commemorate the 60<sup>th</sup> anniversary of the UDHR, were summoned for extensive questioning, ordered to cancel all activities on the basis that these would be "illegal" and threatened with imprisonment. Furthermore, all three, together with Messrs. **Huang Yanming** and **Du Heping**, were subsequently abducted by the police on December 4, 2008, before being subsequently released.

Furthermore, on the eve of the 60<sup>th</sup> anniversary, human rights and democracy activists launched "Charter 08" on the Internet, collecting signatories calling for political reforms that promote human rights and democracy. More than 7,500 people from all across China had signed the Charter by January 2009. However, the authorities responded with a campaign of severe intimidation and harassment against "Charter 08" signatories and leading drafters. By January 8, 2009, at least 101 signatories had been questioned, summoned and intimidated by the police in 19 municipalities and provinces. Additionally, leading drafters of the Charter were arrested and detained by the police. For example, Messrs. **Liu Xiaobo** and **Zhang Zuhua** were detained on December 8, 2008. Police also searched their homes and confiscated documents and personal possessions. Mr. Zhang was released, but was again taken from



his home on December 26, 2008 and interrogated for three hours, during which he was threatened with “severe consequences” for his family and friends if he continued to engage in activities, including media interviews, promoting the Charter. Mr. Liu continued to be subjected to residential surveillance at an undisclosed location in Beijing as of the end of 2008. In addition to the harassment and intimidation of signatories and drafters, websites and blogs displaying the “Charter 08” were blocked or suppressed by the Government.

### Urgent Interventions issued by The Observatory in 2008<sup>20</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Hu Jia	Arbitrary detention / Forced disappearance / Harassment	Urgent Appeal CHN 009/1107/OBS 141.1	January 3, 2008
		Urgent Appeal CHN 009/1107/OBS 141.2	January 7, 2008
		Open Letter to the authorities	January 18, 2008
	Judicial proceedings	Urgent Appeal CHN 009/1107/OBS 141.3	February 1, 2008
		Urgent Appeal CHN 009/1107/OBS 141.4	March 19, 2008
	Sentencing	Urgent Appeal CHN 009/1107/OBS 141.5	April 3, 2008
		Urgent Appeal CHN 009/1107/OBS 141.6	April 21, 2008
	Denial of medical care	Open Letter to the authorities	July 3, 2008
	Acts of ill-treatment and torture	Press Release	October 23, 2008
Mr. Li Jinsong	House arrest / Harassment	Open Letter to the authorities	January 18, 2008

20./ See the Compilation of cases in the CD-Rom attached to this report.

<b>Names of human rights defenders</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Mr. Li Fangping</b>	Harassment / Intimidation	Open Letter to the authorities	January 18, 2008
		Press Release	October 1, 2008
<b>Mr. Lü Gengsong</b>	Sentencing / Arbitrary detention / Judicial proceedings	Urgent Appeal CHN 003/0807/OBS 099.1	February 5, 2008
		Urgent Appeal CHN 003/0807/OBS 099.2	April 18, 2008
<b>Mr. Yang Chunlin</b>	Arbitrary detention / Judicial proceedings / Ill-treatments	Urgent Appeal CHN 001/0208/OBS 024	February 20, 2008
	Sentencing	Urgent Appeal CHN 001/0208/OBS 024.1	March 25, 2008
	Torture and ill-treatments	Urgent Appeal CHN 001/0208/OBS 024.2	April 1, 2008
<b>Mr. Zheng Enchong and Ms. Jiang Meili</b>	Arbitrary arrest / Ill-treatments / Ongoing harassment	Urgent Appeal CHN 001/0803/OBS 041.12	February 21, 2008
<b>Mrs. Liu Jie</b>	Sentencing / Arbitrary detention / Ill-treatment	Urgent Appeal CHN 007/1007/OBS 129.3	February 22, 2008
		Urgent Appeal CHN 007/1007/OBS 129.4	June 12, 2008
		Urgent Appeal CHN 007/1007/OBS 129.5	August 22, 2008
<b>Mr. Teng Biao</b>	Arbitrary arrest / Release / Harassment	Urgent Appeal CHN 002/0308/OBS 036	March 11, 2008
	Hindrances on freedoms of movement and expression	Open Letter to the authorities	July 3, 2008

<b>Names of human rights defenders</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Ms. Zheng Mingfang</b>	Arbitrary detention /Risk of torture or ill-treatment / Harassment	Urgent Appeal CHN 008/1007/OBS 132.1	April 21, 2008
<b>Mr. Qi Chonghuai</b>	Sentencing / Arbitrary detention / Ill-treatments	Urgent Appeal CHN 003/0508/OBS 085	May 16, 2008
<b>Mr. Chen Guangcheng and Ms. Yuan Weijing</b>	Hindrance to freedom of movement / Arbitrary detention / Judicial proceedings	Urgent Appeal CHN 006/0706/OBS 087.6	May 19, 2008
<b>Mr. Huang Qi</b>	Arbitrary detention / Judicial proceedings	Urgent Appeal CHN 004/0608/OBS 105	June 18, 2008
		Urgent Appeal CHN 004/0608/OBS 105.1	July 22, 2008
<b>Messrs. Li Baiguang, Jiang Tianyong, Li Heping, Li Xiongbing, Li Fangping, Fan Yafeng, Zhang Xingshui and Liu Xiaobo</b>	Hindrances on freedoms of movement and expression	Open Letter to the authorities	July 3, 2008
<b>Mr. Yao Lifa</b>	Abduction	Open Letter to the authorities	July 3, 2008
<b>Mr. Sun Lin</b>	Sentencing / Arbitrary detention	Open Letter to the authorities	July 3, 2008
<b>Mr. Yang Maodong, alias Guo Feixiong</b>	Arbitrary detention / Harassment to his family	Open Letter to the authorities	July 3, 2008
	Arbitrary detention / Ill-treatment	Urgent Appeal CHN 001/0206/OBS 018.4	November 5, 2008

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mrs. Mao Hengfeng	Arbitrary detention / Acts of torture and ill-treatment	Urgent Appeal CHN 004/0406/OBS 044.6	July 11, 2008
	Release	Urgent Appeal CHN 004/0406/OBS 044.7	December 4, 2008
Mr. Ye Guozhu	Incommunicado detention	Urgent Appeal CHN 005/0708/OBS 125	July 24, 2008
Mr. Liu Shaokun	Arbitrary detention / Sentencing	Urgent Appeal CHN 006/0708/OBS 129	July 30, 2008
	Release	Urgent Appeal CHN 006/0708/OBS 129.1	September 29, 2008
Ms. Zeng Jinyan	Absence of information / Fear for safety	Urgent Appeal CHN 007/0808/OBS 133	August 12, 2008
	Arbitrary detention / Ill-treatments / Harassment	Urgent Appeal CHN 007/0808/OBS 133.1	August 26, 2008
Ms. Wang Xiaoqiao	Sentencing / Arbitrary detention	Urgent Appeal CHN 008/0808/OBS 144	August 26, 2008
Group of voluntary lawyers	Intimidation	Press Release	October 1, 2008
Mr. Gao Zhisheng	Arbitrary detention / Acts of ill-treatment and torture	Press Release	October 23, 2008
Mr. Liu Xueli	Arbitrary detention / Judicial harassment	Urgent Appeal CHN 009/1108/OBS 190	November 14, 2008
Messrs. Chen Xi, Shen Youlian and Liao Xuangyuan	Threats / Harassment	Urgent Appeal CHN 010/1108/OBS 193	November 17, 2008
	Enforced disappearance / Arbitrary detention	Urgent Appeal CHN 011/1108/OBS 209	December 8, 2008
		Open Letter to the authorities	December 12, 2008

<b>Names of human rights defenders</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
Mr. Chen Daojun	Sentencing / Arbitrary detention	Urgent Appeal CHN 011/1108/OBS 200	November 25, 2008
Messrs. Huang Yanming and Du Heping	Arbitrary arrest / Arbitrary detention / Enforced disappearance	Urgent Appeal CHN 011/1108/OBS 209	December 8, 2009
		Open Letter to the authorities	December 12, 2008
Mr. Liu Xiaobo	Arbitrary detention / Judicial proceedings	Open Letter to the authorities	December 12, 2008
Mr. Zhang Zhuhua	Arbitrary arrest / Release	Open Letter to the authorities	December 12, 2008
Mr. Wen Kejian	Harassment / Intimidation	Open Letter to the authorities	December 12, 2008



## / INDIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

During 2008, parts of India continued to experience internal armed conflict and/or situations of random or general unrest. In many of the highly militarised areas, the Indian Government failed to uphold and defend human rights either indirectly, by failing to take measures to protect the targeted communities or by not taking action against the perpetrators of violence, or directly, through violence perpetrated by the police, paramilitary and other security forces. Such violence included enforced disappearances, extrajudicial killings, torture and rape, and was particularly prevalent during counter-insurgency operations in Jammu and Kashmir, in the north-eastern States of Assam and Manipur, in addition to the strongholds of Naxalite insurrection<sup>1</sup>.

Impunity also continued, with the police and security forces being protected from prosecution under section 197 of the Criminal Procedure Code<sup>2</sup>. The military enjoyed further immunity under the Armed Forces Special Powers Act (AFSPA)<sup>3</sup>, which still applied to areas of separatist and armed rebellion in Jammu and Kashmir and in the States of Assam and Manipur. The prevailing culture of impunity was exacerbated by the incapacity of the National Human Rights Commission (NHRC) to independently investigate complaints of human rights violations by the armed forces<sup>4</sup>.

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1./ See “Banglar Manabadhikar Suraksha Mancha” (MASUM).

2./ This provides that no court will consider any offence alleged to have been committed by an official (including a member of the armed forces) during the course of official duty, unless it has been authorised to do so by the Federal Government.

3./ The AFSPA not only grants the military sweeping powers to arrest, detain and shoot at any person to “maintain public order”, but also prevents the prosecution of members of the armed forces without prior Federal Government authorisation.

4./ See MASUM. Section 19 of the Human Rights Protection Act 1993 provides that the NHRC has no power to carry out independent investigations. It can only request a report from central Government and make recommendations.

In addition to situations of internal armed conflict, terrorist attacks also wrought havoc in India during 2008. Bomb attacks in Jaipur (Rajasthan) on May 13, 2008, Bangalore (Karnataka) and Ahmadabad (Gujarat) on July 26, Delhi on September 13, and three towns in Assam on October 30, as well as a highly coordinated terrorist attack and hostage taking in Mumbai on November 26-29, all caused considerable loss of civilian life as well as injuries, increasing the insecurity and instability of the country, as well as raising questions on both the capacity and professionalism of the police force and once again raising the case of developing “stronger” counter-terrorism legislation.

### **Silencing those exposing or denouncing violations and violence**

Those who sought to expose and seek remedial action for human rights violations were targets for repression in 2008. These actions against human rights defenders intimidated not only human rights organisations, but also sent a warning to victims who feared that, if the State can act with such impunity towards the organisations representing them, there are no limits on what could happen to them as victims. For example, on April 20, 2008, 400 participants in “The Long March for Justice for Special Task Force (STF) Victims”, including Messrs. **Henri Tiphagne**, Executive Director of People’s Watch, and **Mahaboob Batcha**, a member of Society for Community Organisation Trust, were arrested in Sathyamangalam in Tamil Nadu State. They were released later that day. The following day, 115 protesters (including 38 women and one child) were arrested after continuing their march. Again they were released the same day. The protesters had been peacefully campaigning for justice for violations, including extrajudicial killings, torture and rape, committed by the STF in Karanataka and Tamil Nadu States. They suspended their march after this date given assurances from the Chief Minister of Tamil Nadu that all STF victims would be considered for compensation.

During 2008, the National Project on Prevention of Torture in India (NPPTI) organised a number of People’s Tribunals on Torture (PTT) throughout the country, the aim of which was to enable victims to speak about their experiences of torture by the police and security forces. Many of those involved with this national campaign suffered intimidation and harassment, in particular through police investigations and searches, as well as being the victim of false criminal charges brought by

the police. For example, a number of participants were arrested during the PTT in Tamil Nadu, and false charges were filed against Messrs. Henri Tiphagne, also National Director of the NPPTI, **S. Martin**, **G. Ganesan**, both members of People's Watch, and **Prabakar**, Madurai District Human Rights Monitor for the NPPTI. In West Bengal, following the successful completion of a PTT held on June 9-10, 2008, fabricated charges were also filed against Mr. **Kirity Roy**, President of "Banglar Manabadhikar Suraksha Mancha" (MASUM), a human rights organisation based in West Bengal. Furthermore, on June 12, 2008, MASUM offices were arbitrarily raided by plain-clothes police officers, who confiscated both documents and audiovisual equipment. Further harassment took place on September 27, 2008, when police served a summons on MASUM for three documents relating to victims of torture who had given evidence during the PTT. These actions are likely to be retribution for involvement in the PTT as well as for MASUM's exposure of serious human rights violations by police officers and Border Security Forces, including torture and abuse of authority.

Furthermore, human rights defenders seeking to expose violence committed both by State forces and armed opposition groups were frequently demonised as "terrorists" and supporters of anti-State forces such as the Naxalites or the Maoists, or were even killed for their human rights activities. For example, on May 5, 2008, Mr. **Ajay T.G.**, filmmaker, journalist and a member of Peoples' Union for Civil Liberties (PUCL), was arrested and detained under the Chhattisgarh State Public Security Act (CSPSA) in Raipur on charges of "sedition" and "association with an unlawful organisation", the Communist Party of India (Maoist). The State police had no evidence against Mr. Ajay T.G. except a letter that it claimed had been written by him to a Maoist leader. Mr. Ajay T.G. had been actively involved in documenting human rights violations against the "adivasi" (indigenous/tribal) communities in Chhattisgarh committed by both the Maoists and Salwa Judum, an armed anti-Maoist group reportedly supported by the State. On August 5, 2008, Mr. Ajay T.G. was released on statutory bail after over 90 days in jail as the police were unable to produce a charge-sheet. However, as of the end of 2008, the charges against him had not been dropped despite the lack of evidence, and Mr. Ajay T.G. remained under his bail



restrictions<sup>5</sup>. Mr. Ajay T.G. is the second human rights defender to be arrested under the CSPA, the first being Dr. **Binayak Sen**, National Vice-President of PUCL and Secretary General of the PUCL branch in the Chhattisgarh State, who continued to be detained without trial at the end of 2008 after his arrest on May 14, 2007. Mr. Ajay T.G had also made a film on Dr Sen's work after his incarceration.

### **Repression of those defending the rights of marginalised groups and communities**

Despite the illegality of the caste system, discrimination persisted with NGOs working to promote the rights of Dalit and other marginalised communities coming under attack both from members of the upper caste as well as the authorities. Thus, during meetings of the Preparatory Committee for the Durban Review Conference on racism, racial discrimination, xenophobia, and related intolerance in Geneva between October 6 and 17, 2008, the Indian delegation opposed the accreditation of national human rights organisations fighting against caste-based discrimination and for the protection and advancement of Dalit rights. India's opposition was on the grounds that caste-based discrimination does not fall under the scope of the International Convention against Racial Discrimination (CERD) and the activities of the organisations, therefore, do not fall under the objectives of the Durban Review Conference as such. Despite India's opposition, a number of such NGOs were accredited, with support from the European Union<sup>6</sup>. Furthermore, Dr. **Lenin Raghuvanshi**, Convener of the People's Vigilance Committee on Human Rights (PVCHR), began receive threatening telephone calls in April 2008. Dr. Raghuvanshi had previously received death threats in 2007, in relation to his work with the Dalit community. Between April 25 and May 18, 2008, Dr. Raghuvanshi received at least 18 telephone calls to his mobile phone, threatening him to stop working for the Dalit communities, particularly in Varanasi. Dr. Raghuvanshi registered a complaint with the police after receiving the first call and his mobile phone line was subsequently monitored. However, despite this, no action was taken and the State

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5./ See MASUM and People's Watch.

6./ These were the National Campaign on Dalit Human Rights (NCDHR), Swadikar and the International Dalit Solidarity Network (IDSN). See Asian Legal Resource Centre Press Release, October 15, 2008, and Centre for Organisation Research and Education (CORE).

authorities failed to provide any protection to Dr. Raghuvanshi or other PVCHR activists, or to the relevant Dalit communities<sup>7</sup>.

Defenders of land rights of marginalised communities were also the victims of harassment and repression. Many activists peacefully campaigning for land rights of indigenous groups were accused by the police of having links with armed Maoist groups which sought land reform through violent means. For example, on July 11, 2008, Mr. **Duskar Barik**, Ms. **Mamata Barik**, Ms. **Jyanti Sethy** and Mr. **Ranjan Patnaik**, four activists working for the Keonjhar Integrated Rural Development and Training Institution (KIRDTI), an organisation that advocates for the land rights of adivasis, ecological protection from mining and illegal felling of woods in Keonjhar district, in the State of Orissa<sup>8</sup>, fled Keonjhar district after being informed that they were under investigation by the police in relation to alleged connections with armed Maoist groups, as they feared that they too would face torture and ill-treatment in police custody. On July 12, local newspapers published articles according to which Keonjhar police would believe that KIRDTI activities were linked with armed Maoists groups, a claim denied by KIRDTI staff and human rights organisations who work with them. At the beginning of July 2008, four of their colleagues had already been arrested by police and accused of having links with armed Maoist groups. One of those arrested was severely beaten whilst in police custody. As of the end of 2008, no further information could be obtained on the situation of those KIRDTI activists<sup>9</sup>. Also in the State of Orissa, Mr. **Abhaya Sahoo**, President of the “POSCO Pratirodh Sangram Samiti” (PPSS), a movement of the people of Dhinkia, Gobindapur, and Nuagaon panchayats in the Kujang Tehsil of Jagatsinghpur district, which has been relentlessly resisting the take-over of their resources for the establishment of a 12-million-tonne mega steel plant by POSCO, the second largest steel-making company of the world<sup>10</sup>, was arrested on October 12, 2008. According to the police, 25 cases were lodged

7./ See PVCHR Press Release, May 21, 2008.

8./ KIRDTI is also involved in working on development activities with the “Juang” tribal community.

9./ See MASUM and CORE.

10./ The project will have large-scale, irreversible socio-economic and environmental impacts not only on the areas under the threat of immediate acquisition but over vast numbers of the State's people, and huge tracts of its forests and other lands.

against him<sup>11</sup>. On December 3, 2008, Mr. Sahoo was hospitalised after his blood sugar levels rose up and he was illegally chained to the leg of a bed for a few days. He was subsequently sent back to prison and, as of the end of 2008, he remained detained<sup>12</sup>. Activists in the State of Uttarakhand were also targeted. For instance, on February 29, 2008, Mr. **Gopal Bhatt**, an activist of a local organisation called “Mazdoor Kisan Sangharsh Samiti” (MKSS), which works on land rights of the Tharu’s, a poor tribal community of the hills, in Bindu Khatta, State of Uttarakhand, was arrested in the night by policemen to “clear some confusion” and was remanded in Khatima<sup>13</sup>. Mr. Bhatt was reportedly tortured while in detention and made to sign blank pages. The police also warned his neighbours not to come out in public in his favour and took down their names. Mr. Bhatt had already been detained in late December 2007 for one night and one day. As of the end of 2008, three cases remained pending against Mr. Bhatt<sup>14</sup>.

### **Death threats against NGOs fighting against human trafficking**

Human rights organisations working against human trafficking and forced prostitution in Varanasi were also victims of reprisals in 2008. On July 8, 2008, for instance, human rights defenders working for “Guria”, a human rights organisation working against human trafficking and for the rehabilitation, health, education and other rights of women in prostitution and their children, were threatened by four unknown men in Varanasi. The men attended the Bal Kendra (child centre) in Varanasi,

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11./ Cases were registered under sections 147 (“punishment for rioting”), 148 (“rioting, armed with deadly weapon”), 149 (“offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly”), 307 (“attempt to murder”), 323 (“punishment for voluntarily causing hurt”), 349 (“use of force”), 395 (“punishment for dacoity”), 427 (“mischief causing damage to the amount of fifty rupees”), 436 (“mischief by fire or explosive substance with intent to destroy house, etc.”) and 506 (“punishment for criminal intimidation”) of the Indian Criminal Code and sections 25 (“punishment for certain offences”) and 27 (“punishment for using arms”) of the Indian Arms Act.

12./ See People’s Watch.

13./ *Idem*.

14./ Mr. Bhatt has been charged, among others, with “punishment of criminal conspiracy” (section 120 B of the Criminal Code), “waging, or attempting to wage war, or abetting waging of war, against the Government of India” (section 121), “conspiracy to commit offences punishable by section 121” (section 121A), “assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power” (section 124), “sedition” (section 124A) and “imputations, assertions prejudicial to national-integration” (section 153B).

looking for Mr. **Ajeet Singh**, the President of Guria, who was at Guria's office in Khajuri at that time. The four men spoke with his wife, Ms. **Santwana Manju**, and threatened to kill both her and Mr. Singh if they continued to work against human trafficking. The men then telephoned Guria's offices in Khajuri and demanded that Mr. Singh stop working on the anti-trafficking cases. Mr. Singh filed a complaint with the police on July 12, 2008, but no action was taken nor was any protection provided by the police to Guria activists. Guria human rights defenders had previously been the target of intimidation and repression: in 2005, the police registered fabricated cases against Guria human rights activists, including Mr. Singh, allegedly following pressure by brothel owners and their mafia. This was intended to intimidate the activists to withdraw statements given in court in relation to cases brought against brothel owners for forced prostitution and raised the suspicion of local police involvement with the sex trade industry<sup>15</sup>.

### Urgent Interventions issued by The Observatory in 2008<sup>16</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Lachit Bordoloi	Arbitrary detention / Search / Judicial proceedings	Urgent Appeal IND 001/0208/OBS 018	February 14, 2008
		Urgent Appeal IND 001/0208/OBS 018.1	February 15, 2008
Mr. Arumugam Katuraja Kanagaraj	Arbitrary arrest / Ill-treatment / Judicial proceedings / Death threats	Urgent Appeal IND 002/0208/OBS 020	February 20, 2008
Mr. Julfikar Ali	Judicial proceedings / Harassment	Urgent Appeal IND 003/0208/OBS 027	February 27, 2008
Dr. Binayak Sen	Solitary confinement / Arbitrary detention	Urgent Appeal IND 004/0408/OBS 055	April 11, 2008

15./ See CORE.

16./ See the Compilation of cases in the CD-Rom attached to this report.

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Messrs. Henri Tiphagne, Mahaboob Batcha and V.P. Gunasekaran</b>	Arbitrary arrest	Urgent Appeal IND 005/0408/OBS 058	April 21, 2008
	Release	Urgent Appeal IND 005/0408/OBS 058.1.	April 22, 2008
<b>Mr. Sapam Kangleipal Meitei</b>	Arbitrary detention / Judicial proceedings	Urgent Appeal IND 006/0508/OBS 076	May 14, 2008
		Urgent Appeal IND 006/0508/OBS 076.1	May 19, 2008
<b>Messrs. Henri Tiphagne, S. Martin, G. Ganesan, and Prabakar</b>	Judicial proceedings / Harassment	Urgent Appeal IND 007/0608/OBS 097	June 6, 2008
<b>Mr. Kirity Roy / MASUM</b>	Judicial proceedings / Search / Harassment	Urgent Appeal IND 007/0608/OBS 097.1	June 12, 2008
		Urgent Appeal IND 007/0608/OBS 097.2	September 29, 2008
<b>Mr. Konsom Rishikanta</b>	Assassination	Urgent Appeal IND 008/1108/OBS 203	November 27, 2008



# / INDONESIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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## Political context

The death of former President Suharto on January 27, 2008 might have signalled the end of an era, but many saw his death as the final nail in the coffin for justice to be achieved for the atrocities committed by him and his political allies. Impunity continued to prevail for violations carried out under his watch, as well as to dominate the current human rights situation in Indonesia. In particular, after much delay, on July 15, 2008, the Commission of Truth and Friendship delivered its final report to the Government. It concluded that the Indonesian military bore institutional responsibility for widespread and systematic gross violations of human rights committed in East Timor in August 1999. Whilst these findings exceeded the expectations of many, the Commission was unable to assign individual responsibility, recommend prosecution or order reparations.

Indonesia's human rights record came under international scrutiny in 2008. Reports were submitted to the UN Human Rights Council by the UN Special Representative of the Secretary-General on the situation of Human Right Defenders and the UN Special Rapporteur on Torture in January and March 2008 respectively, following visits to Indonesia in 2007. Indonesia was also considered by the UN Committee Against Torture (CAT) in May 2008 and by the UN Human Rights Council under the Universal Periodic Review process in June 2008. Key concerns raised by all these mechanisms were the persistence and widespread use of torture, the lack of a definition and criminalisation of torture in penal legislation and impunity for human rights violations<sup>1</sup>.

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1/ See UN Document A/HRC/7/28/Add.2, *Report of the Special Representative of the Secretary-General on the situation of human rights defenders - Mission to Indonesia*, January 28, 2008; UN Document A/HRC/7/3/Add.7, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment - Mission to Indonesia*, March 10, 2008; UN Document CAT/C/IDN/CO/2, *Concluding Observations of the Committee Against Torture on Indonesia*, July 2, 2008; and UN Document A/HRC/8/23, *Report of the Working Group on the Universal Periodic Review: Indonesia*, May 14, 2008.

Violence against minority groups, in particular the Ahmadiyah and other minority religious communities continued in 2008. On April 16, 2008, the Coordinating Board for Monitoring Mystical Beliefs in Society (Bakor Pakem) published its recommendation that the Government should ban the Ahmadiyah by issuing a decree on the basis that it is a deviant sect. This incited violent attacks by other religious groups against Ahmadiyah communities and, despite requests from Ahmadiyah representatives and their lawyers, the police and authorities failed to provide any protection for these religious groups. The Committee Against Torture also noted “persistent, disturbing allegations of a routine failure to investigate such violence”<sup>2</sup>. In the end, the Government did not issue a regulation disbanding the Ahmadiyah, but the Religious Minister, the Home Affairs Minister and the Attorney General issued a joint ministerial decree on June 9, 2008, which banned the dissemination of Ahmadiyah teachings in Indonesia. In this context of increased religious tensions, 2008 saw the emergence of a new trend of fundamental religious groups attacking those who advocate religious tolerance and pluralism. Defenders of women’s human rights were particularly vulnerable to violence by Islamic fundamentalists.

In 2008, human rights defenders continued to be under threat, in particular through criminalisation of their activities, stigmatisation as separatists (particularly in the conflict areas of Aceh and Papua) or communists, intimidation and restrictions on freedoms of expression and assembly. In addition, impunity remained the rule for violations against defenders, as illustrated by the emblematic case of Mr. **Munir Said Thalib**, co-founder of the Commission for Disappearances and Victims of Violence (KontraS) who was killed in 2004, and which was seen as an attempt to intimidate and threaten all human rights defenders<sup>3</sup>.

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2./ See UN Document CAT/C/IDN/CO/2./ Concluding Observations of the Committee Against Torture on Indonesia/, July 2, 2008.

3./ Although former Deputy Chief of Indonesia’s National Intelligence Agency (BIN) Mr. Muchdi Purwopranjono was prosecuted for “premeditated murder”, which was seen as a breakthrough in the fight against impunity, given that it was the first time a member of the BIN had been arrested for a criminal offence and was the first acknowledgement that State authorities may have been involved in Mr. Munir Said Thalib’s assassination, on December 31, 2008, the South Jakarta District Court decided to acquit Mr. Muchdi for want of evidence.

## Some positive steps, but still legislative shortcomings in the promotion of human rights

The then Special Representative on the Situation of Human Rights Defenders, Ms. Hina Jilani, noted a number of positive steps that had been taken to strengthen the legal and institutional framework for the promotion of human rights<sup>4</sup>, but identified a number of shortcomings, in particular the absence of “concrete measures dealing directly with the protection of human rights defenders”<sup>5</sup>. She recommended that legislation and procedures be established to prevent the prosecution of human rights defenders when carrying out legitimate activities. However, there was little progress in 2008 in this regard; a bill providing legislative protection for human rights defenders was still in the course of being drafted with no clear date for its finalisation, having still not been debated by Parliament by the end of 2008. The establishment in 2008 of a Victims and Witness Protection Agency (LPSK) under the Witness Protection Act 2006 may offer some hope of better protection for human rights defenders, but it was still not operational at the end of 2008<sup>6</sup>.

Furthermore, in August 2008, the Ministry of Home Affairs approved a decree requiring State approval of foreign funding of Indonesian organisations after minimal public consultation (Permendagri<sup>7</sup> n°38/2008), and which was only widely disseminated in December. Although the Ministry of Home Affairs said the Government’s intention was to clarify the Law n°8 of 1985 that provides for the suspension of organisations that have received foreign funding without Government permission, the new regulation might be used to impede freedom of association in Indonesia, in particular through restricting foreign funding of NGOs

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4./ The legal and institutional framework for the promotion and protection of human rights was strengthened following constitutional changes in 2002, the adoption of the Human Rights Act in 1999 and of the Witness Protection Act in 2006, and ratification, in 2006, of the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. Similarly, the establishment of *ad hoc* human rights tribunals, of the National Human Rights Commission (Komnas HAM) and of the National Commission on Violence Against Women (Komnas Perempuan) has been an important development in terms of protection and promotion of human rights, providing a framework in which defenders may carry out their activities.

5./ See UN Document A/HRC/7/28/Add.2, *Report of the Special Representative of the Secretary-General on the situation of human rights defenders - Mission to Indonesia*, January 28, 2008.

6./ The LPSK was inaugurated on July 15, 2008 but remains un-operational due to budget issues.

7./ A regulation of the Ministry of Home Affairs.



wanting to monitor the 2009 legislative and presidential elections. Indeed, it requires NGOs to register with the Government, seek Interior Ministry approval for foreign funding, pay tax on the funds and publicise foreign-funded activities through the media. Foreign donors are also required to register with the Government so that the latter can “make sure foreigners are not seeking to undermine national security or development”. Besides, the Bank of Indonesia also issued in December 2008 a policy that request all banks in Indonesia to ask their customers about the usage of money received abroad. As of the end of 2008, both the Ministries of Home Affairs and of Justice were also drafting new laws on the treatment of civil society organisations, including NGOs<sup>8</sup>.

### **Repression of human rights defenders in conflict areas of Aceh and Papua**

Repression of human rights defenders in Aceh and Papua continued in 2008, frequently taking the form of intimidation, stigmatisation as separatists, criminalisation of activities – predominantly through charges of sedition – and attacks on freedom of expression and assembly. Indeed, whilst there were some improvements in the post-conflict area of Aceh, human rights defenders continued to be the target of military, police and intelligence operations. Any seminar or workshop held by Acehnese human rights organisations was investigated by intelligence officers. This included seminars/workshops held by Kontras Aceh, LBH Banda Aceh, Aceh Judicial Monitoring Institute (AJMI) and Koalisi NGO HAM<sup>9</sup>. The Special Representative on Human Rights Defenders, Ms. Hina Jilani, expressed concerns regarding this following her visit to Indonesia in June 2007, stating that whilst she welcomed some improvements, “concerns remain with regard to surveillance activities by law enforcement authorities, stigmatisation of defenders, restrictions that affect the work of women human rights defenders, and the score of unresolved cases”<sup>10</sup>.

Land rights activists, particularly, came under attack in Aceh for speaking out against violations. On August 14, 2008, eight lawyers

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8./ See Imparsial.

9./ *Idem*.

10./ See UN Document A/HRC/7/28/Add.2, *Report of the Special Representative of the Secretary-General on the situation of human rights defenders - Mission to Indonesia*, January 28, 2008.

and human rights activists of the Legal Aid Foundation Banda Aceh (LBH Banda Aceh), Messrs. **Kamaruddin, Muksalmina, Yulisa Fitri, Sugiono, Mustiqal Syahputra, Muhammad Jully Fuadi, Mardiaty and Juanda**, were charged and convicted of “disseminating hate against the Government” and “incitement of violence against public officials”. They were sentenced to three months’ imprisonment, with six months’ probation. The activists had been distributing leaflets about the land rights of more than 1,000 people affected by evictions from a palm oil plantation owned by the Bumi Flora Corporation in East Aceh<sup>11</sup>.

In West Papua, intimidation and harassment of human rights defenders through surveillance was also used by the authorities and the lack of accountability for State violence in this province continued to obstruct the resolution of the conflict, with increased military presence adversely affecting the capacity of human rights defenders to carry out their work. Additionally, human rights defenders in West Papua continued to be the victims of systematic intimidation following the visit in June 2007 by the Special Representative<sup>12</sup>. In particular, those expressing their views or exposing violations came under attack. For example, Mr. **Iwanggin Sabar Olif**, a West Papua human rights lawyer and a member of the Institute for Human Rights Study and Advocacy (ELSHAM), was arrested on October 18, 2007 by anti-terrorist officers and subsequently charged under Article 160 of Indonesia’s Criminal Code<sup>13</sup> for inciting “in public to commit a punishable act, a violent action against the public authority or any other disobedience”, for allegedly sending an SMS message critical of President Susilo Bambang Yudhoyono<sup>14</sup>. Released in January 2008, his subsequent trial took over 15 months,

11./ See Tapol and Imparsial.

12./ See UN Document A/HRC/7/28/Add.2, *Report of the Special Representative of the Secretary-General on the situation of human rights defenders - Mission to Indonesia*, January 28, 2008.

13./ This article, which carries a maximum sentence of six years’ imprisonment, has been used in the past against human rights defenders in Indonesia, including in Aceh, Java, East Kalimantan and Maluku, to suppress freedoms of expression and assembly.

14./ This message reportedly asked people to be careful because President Susilo Bambang Yudhoyono had ordered a deadly program together with the army aimed at “eradicating” the Papuan population through food poisoning and other violent actions. This text message would have been in circulation since July 2007, and thousands of Papuans would have already received it. Mr. Iwanggin Sabar Olif always denied having written or sent this message, or even having received it. During police interrogation, Mr. Iwanggin Sabar Olif did not have access to a lawyer. He would also have been intimidated by the police to confess he was the original sender of the text message.

which prevented him from carrying out his legitimate work as a human rights defender in Papua. On January 29, 2009, the Jayapura District Court finally cleared Mr. Iwanggin Sabar Olif of all charges brought against him<sup>15</sup>. On July 20, 2008, a book entitled *The Genocide of Ethnic Melanesia: Breaking the silent history of violence in Papua* by Rev. **Socratez Sofyan Yoman** was banned by the Attorney General<sup>16</sup>, thus reinforcing the general climate of fear.

## Repression of the media and freedom of expression

Restrictions on freedom of expression were not confined to conflict areas. In 2008, journalists were frequently prosecuted by the Government and by the community for exercising their right to freedom of expression. Rather than using the Press Law of 1999 to resolve disputes relating to press reports, the Criminal Code, which was inherited from Dutch colonialists, was used to criminalise the press. The charges generally brought against journalists related to “defamation” and “crimes against dignity”. For example, in September 2008, the news magazine *Tempo* was ordered to pay a fine of Rp. 50 million (about 3,280 Euros) under the Criminal Code and to apologise publicly for its investigation into and report on corruption and tax evasion by palm oil product, Asian Agri<sup>17</sup>.

Freedom of expression was further curtailed in 2008 with the adoption of the Law on Electronic Information and Transactions (ITE). The Law contains provisions that sanction defamation with longer terms of imprisonment and higher fines than those stipulated in the Criminal Code, and media groups expressed concern that this could silence the press. In September 2008, legislator Mr. Alvin Lie initiated defamation proceedings against Mr. **Narliswandi Piliang**, blogger and journalist for *Tempo*. Mr. Piliang had written an article alleging that a coal mining company, PT Adaro Energy, had bribed the National Mandate Party through Mr. Lie to influence an investigation by the House of Representatives into the company’s initial public offering of shares. If convicted, the journalist faces up to six years’ imprisonment and a fine of Rp. 1 billion<sup>18</sup>.

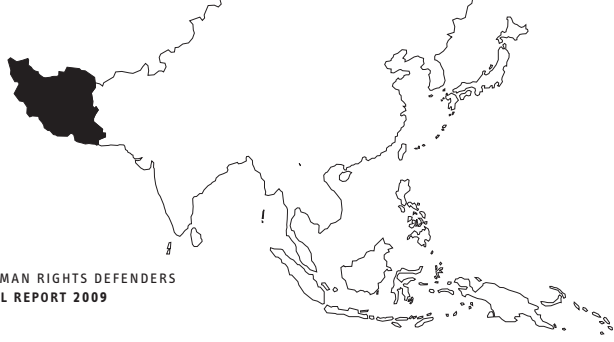
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15./ See Tapol.

16./ See Imparsial.

17./ Indonesia’s Judicial Review Commission was to investigate this district court decision.

18./ See FORUM-ASIA, *Fortnightly E-newsletter*, September 22, 2008.



## / IRAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

In March and April 2008, Iran held parliamentary (or Majlis) elections, which resulted in the conservatives, supportive of President Mahmoud Ahmadinejad, retaining control of Parliament. However, over a third of prospective candidates, predominantly reformists, were excluded from standing for election by the Council of Guardians on ideological grounds, on the basis that they were not sufficiently loyal to the Iranian revolution or Islamic values. Additionally, severe restrictions were imposed on media coverage of the elections, and independent election monitors were denied access to polling stations. The election process thus failed to comply with international standards and did not allow any genuine democratic choice for voters<sup>1</sup>.

2008 saw a surge in executions, with 29 people being hanged in one day alone, on July 27, 2008. This increasing recourse to the death penalty, and in particular Iran's lamentable position as the world leader in the execution of juvenile offenders, led to widespread condemnation by the international community<sup>2</sup>. By the end of October 2008, Iran had executed six child offenders, with at least a further 130 on death row, in

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1./ See EU Presidency Statement on the conduct of parliamentary elections in Iran, March 15, 2008; and US Department of State Press Statement, March 14, 2008.

2./ The European Union issued a number of statements in 2008 condemning the rise in executions, in particular of minors. See, for example, the Declaration by the EU Presidency concerning death sentences in Iran, January 25, 2008 and EU Presidency Statements on the imminent execution of juvenile offenders in Iran, June 4 and 10, 2008. The UN Human Rights Committee also expressed concern over the "extremely high number of death sentences, many resulting from trials in which the guarantees of due process of law had not been properly applied". See UN Press Release, October 20, 2008.

flagrant violation of international law<sup>3</sup>. Additionally stoning continued to be used as a punishment<sup>4</sup>.

2008 was also characterised by a deterioration in the freedom of religion in Iran. The Iranian Constitution expressly provides that Islam is the official religion, but nonetheless recognises Zoroastrian, Jewish and Christian Iranians as religious minorities, free to follow their religion within the confines of the law<sup>5</sup>. Despite this, discrimination against religious minorities increased in 2008. In particular, Iranian converts to Christianity and members of the Baha'i community suffered persecution, including arrests, arbitrary detentions and violence. Concern for religious freedom grew in February 2008 when the Iranian Parliament began to consider a draft Criminal Code, which would include apostasy as one of the crimes punishable by death. This measure, thought specifically to target the Baha'i faith, would be in direct contravention of Iran's international human rights obligations including the right to change one's religion and the right to have no religion<sup>6</sup>.

### **Ongoing crackdown on the “One Millions Signatures Campaign” members**

2008 saw no change in the systematic campaign of repression against women's rights activists. Since repression against them began in June 2006, when a peaceful gathering was violently repressed by the authorities, more than one hundred women's rights activists have been arrested,

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3./ See OMCT Press Release, October 17, 2008. No other country was known to have executed a juvenile offender in 2008. On October 16, 2008, the Iranian judiciary issued a directive abolishing execution sentences for juvenile offenders. However, two days later, a statement was released qualifying the ban, stating that death sentences could continue to be handed down in murder cases; the ban applying only to drug crimes and thus of limited application.

4./ See UN General Assembly Resolution, UN Document A/RES/62/168. See also Declaration by the EU Presidency concerning death sentences in Iran, February 7, 2008.

5./ Article 13 of the Iranian Constitution.

6./ Whilst the death penalty has been handed down in the past for apostasy, it was not established by law. See Declaration by the EU Presidency concerning the consideration of a draft Criminal Code in Iran, February 25, 2008 and Declaration by the EU Presidency on the situation of people belonging to religious minorities in Iran, September 26, 2008.

interrogated or sentenced<sup>7</sup>. A particular target in 2007, the Campaign for Equality, which calls for the end of legal discrimination against women in Iran, was once again repressed by the authorities. Thus, human rights defenders who were active in the “One Million Signatures Campaign” (established in August 2006) were sentenced to prison or to lashings for writing and publishing articles and reports, holding private meetings at home, organising and attending peaceful gatherings and collecting signatures. Most were charged with the vaguely worded offences against national security under the Islamic Criminal Code. One of the activists, Ms. **Hana Abdi**, was given the maximum possible sentence of five years’ imprisonment in exile on June 18, 2008, on charges of “taking part in a gathering” and “colluding to threaten national security”. On October 7, 2008, her sentence was reduced to one year and a half in prison and her sentence to imprisonment in exile was nullified. She was however sent in October to a prison of Hamedan province, out of Iranian Kurdistan. Ms. Abdi was convicted solely based on interrogations by Intelligence Ministry officials during her detention, during which she had been held in solitary confinement, repeatedly tortured and denied access to her lawyer. At the end of 2008, Ms. **Ronak Safarzadeh**, another member of the Campaign, remained detained awaiting trial in Sanandaj prison, Kurdistan province. The Government also continued its trend of releasing women’s rights activists on high bail until their trial. For example, bail of 2,000 million Rials (about 160,600 Euros) was set for the release of Ms. **Esha Momeni**, a student at California State University Northridge, who was arrested on October 15, 2008 when visiting Tehran. She was held in solitary confinement until her bail was met on November 10, 2008. Through this action, which in itself is a form of harassment and intimidation given that many are unable to meet such high bail amounts, the Government has raised over one million Euros.

In addition to judicial harassment and harsh sentencing, these women human rights defenders also saw their freedom of movement restricted. For example, on March 3, 2008, Ms. **Parvin Ardalan**, who in April

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7/ In November 2008, the UN Special Rapporteurs on Human Rights Defenders and on Violence Against Women criticised Iran’s harassment of women’s rights activists including members of the One Million Signatures Campaign. The Special Rapporteurs also noted a lack of cooperation from Iranian authorities (See UN Joint Press Release, November 27, 2008).

2007 had been sentenced to three years' imprisonment (with two and a half years' suspended), was forced to get out of a plane en route to Stockholm where she was due to collect the Olaf Palme Human Rights Prize<sup>8</sup> for her contribution to women's rights. Similarly, Ms. **Sussan Tahmasebi's** passport was retained at the airport on October 26, 2008 and she was prevented from travelling. Her home was also searched and her laptop, books and other materials seized on the same day. This was the fourth time she was prevented from travelling.

Repression was not only directed against individual women's rights activists. In an attempt to silence the voices of gender equality activists, the authorities blocked the website of the campaign Change for Equality twice in less than two weeks at the end of November/beginning of December 2008. The website has been blocked about twenty times since it was launched.

### **Repression of minority rights defenders**

As in 2007, defenders of minority rights, both cultural and religious, faced repression by the authorities. Several notable human rights defenders and journalists who had promoted Kurdish human rights continued to be detained in prison at the end of 2008 as a result of exercising their right to freedoms of expression or assembly, including Messrs. **Mohammed Sadigh Kaboudvand, Abdolvahid (aka Hiwa) Boutimar, Adnan Hassanpour and Massoud Korpour**. Human rights defenders continued to be targeted on the basis of having contact or collaborating with "illegal Kurdish organisations", a crime punishable by death. For instance, on November 6, 2008, Mr. **Yasser Goli**, a Kurdish rights activist and Secretary General of the Kurdish Students' Union of Iranian Universities, detained since October 9, 2007, was sentenced by the second branch of the Revolutionary Court of Sanandaj to 15 years in prison and to his banishment to Kerman, in the east of the country, for having contacts with "illegal Kurdish organisations" (Article 168 of the Islamic Criminal Code).

Those defending the rights of the Baha'i religious minority also came under attack. For example, one of Iran's most prominent human

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8./ The Olaf Palme Foundation is an independent and non-governmental entity, which awards annual prizes to human rights activists.

rights defenders and 2003 Nobel Peace Prize winner, Ms. **Shirin Ebadi**, a lawyer and Secretary General of the Defenders of Human Rights Centre (DHRC), was the focus of a harsh slandering campaign by the State-controlled media in 2008, following her decision to defend seven members of the Baha'i minority in court. This campaign included articles criticising her for her support of the Baha'i, for defending homosexuals and for criticising Islamic punishments, as well as reports accusing her organisation of being financed by the US. Given that she had previously received death threats on April 5, 2008 for her human rights activities, this public attack could be perceived as an incitement to further harassment. Furthermore, on December 21, 2008, the DHRC headquarter in Tehran was closed by the police. A private meeting was scheduled on the very same day to commemorate the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights.

### **No respite for labour activists and trade unionists**

Anti-union attacks by the authorities continued in 2008. In the run-up to May Day, a number of arrests took place, intended to intimidate trade unionists and create a climate of fear. For example, Mr. **Shays Amani**, a founder of the National Union of Dismissed and Unemployed Workers (NUDUW), was arrested on April 23, 2008. On May Day itself, the authorities attempted to suppress all peaceful celebrations arresting a number of activists and imposing fines and flogging others. For example, Messrs. **Javanmir Moradi** and **Taha Azadi**, two members of the Free Union of Iranian Workers (FUIW), were arrested, together with a number of worker activists in Asalouyeh in the south of Iran<sup>9</sup>. They were subsequently released.

A number of trade unionists also continued to be detained in prison. For example, Mr. **Mansour Osanloo**, President of the Syndicate of Workers of Tehran and Suburbs Bus Company (*Sherkat-e Vahed*), who had been arrested on July 10, 2007 by security services and subsequently sentenced to five years' imprisonment on grounds of propaganda and activities against the State, continued to be held despite serious health concerns<sup>10</sup>. On April 6, 2008, Mr. **Mahmoud Salehi**, Spokesperson for the Organisation Committee to Establish Trade Unions and former

9./ See International Trade Union Confederation (ITUC) Press Release, May 7, 2008.

10./ See ITUC Press Release, July 10, 2008.



leader of the Saqez Bakery Workers' Union in Kurdistan province, was released from Sanandaj prison reportedly on bail of 40 million Toman (approximately 32,120 Euros). Mr. Salehi had spent over five years in prison since mid-1980s for his trade union activities. This was a positive step in some respects, however, Mr. Salehi had been due to be released on March 23, 2008 but the authorities had refused to release him. New charges were brought against him on March 17, 2008 to justify his detention beyond his release date.

### Urgent Interventions issued by The Observatory in 2008<sup>11</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Emadeddin Baghi	Deterioration of health conditions / Ill-treatment / Arbitrary detention	Urgent Appeal IRN 006/0807/OBS 088.2	January 3, 2008
Ms. Maryam Hosseinkhah and Ms. Jelveh Javaheri	Release on bail	Press Release	January 8, 2008
		Press Release	September 5, 2008
Ms. Ronak Safarzadeh	Arbitrary detention	Press Release	January 8, 2008
		Press Release	September 4, 2008
Ms. Hana Abdi	Arbitrary detention / Sentencing	Press Release	January 8, 2008
		Urgent Appeal IRN 013/1107/OBS 154.1	July 4, 2008
		Press Release	September 4, 2008
Ms. Raheleh Asgarizadeh and Ms. Nasim Khosravi	Arbitrary detention / Judicial proceedings	Urgent Appeal IRN 001/0208/OBS 021	February 20, 2008
	Release on bail / Harassment	Urgent Appeal IRN 001/0208/OBS 021.1	March 4, 2008

11./ See the Compilation of cases in the CD-Rom attached to this report.

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Ms. Ehteram Shadfar and Ms. Parvin Ardalan</b>	Sentencing / Judicial harassment / Obstacles to the freedom of movement	Urgent Appeal IRN 002/0308/OBS 030	March 4, 2008
<b>Mr. Mahmoud Salehi</b>	Release on bail	Urgent Appeal IRN 003/0805/OBS 074.4	April 8, 2008
<b>Ms. Khadijeh Moghaddam</b>	Arbitrary detention / Judicial proceedings / Ill-treatments	Urgent Appeal IRN 003/0408/OBS 051	April 9, 2008
<b>Ms. Shirin Ebadi</b>	Death threats	Urgent Appeal IRN 004/0408/OBS 056.	April 14, 2008
	Slandering campaign	Press Release	August 8, 2008
	Obstacles to freedom of expression	Press Release	October 14, 2008
	Harassment / Search	Press Release	December 30, 2008
<b>Ms. Nashrin Afzali and Ms. Nahid Jafari</b>	Sentencing / Ongoing harassment	Urgent Appeal IRN 005/0408/OBS 064	April 23, 2008
<b>Ms. Zeynab Peyghambarzadeh</b>	Sentencing / Ongoing harassment	Urgent Appeal IRN 005/0408/OBS 064	April 23, 2008
		Joint Open Letter to the authorities	November 5, 2008
<b>Ms. Rezvan Moghadam</b>	Sentencing / Ongoing harassment	Urgent Appeal IRN 006/0506/OBS 073	May 2, 2008
<b>Ms. Parvin Ardalan</b>		Urgent Appeal IRN 006/0506/OBS 073	May 2, 2008
	Press Release	September 5, 2008	
<b>Mr. Amir Yaghoub-Ali</b>	Sentencing	Urgent Appeal IRN 007/0508/OBS 090	May 28, 2008
<b>Mr. Saman Rasoulpour</b>	Incommunicado detention	Urgent Appeal IRN 008/0708/OBS 130	July 31, 2008

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Mr. Massoud Kordpour</b>	Incommunicado detention	Urgent Appeal IRN 009/0808/OBS 138	August 19, 2008
		Press Release	September 4, 2008
<b>Messrs. Adnan Hassanpour and Abdoulvahid (Hiwa) Boutimar</b>	Arbitrary detention / Judicial proceedings / Sentencing	Press Release	September 4, 2008
		Urgent Appeal IRN 007/0807/OBS 092.2	September 5, 2008
<b>Mr. Mohamad Sadigh Kaboudvand</b>	Arbitrary detention / Sentencing	Press Release	September 4, 2008
		Urgent Appeal IRN 003/0707/OBS 072.1	July 4, 2008
		Urgent Appeal IRN 003/0707/OBS 072.2	October 28, 2008
	Deterioration of health conditions	Urgent Appeal IRN 003/0707/OBS 072.3	December 22, 2008
<b>Mr. Yasser Goli</b>	Sentencing / Arbitrary detention	Press Release	September 4, 2008
		Urgent Appeal IRN 012/1008/OBS 187	November 12, 2008
<b>Ms. Fatemeh Goftari</b>	Sentencing / Arbitrary detention	Press Release	September 4, 2008
<b>Ms. Zeynab Bayazidi</b>	Arbitrary detention	Press Release	September 4, 2008
<b>Ms. Nahid Keshavarz</b>	Sentencing	Press Release	September 5, 2008
<b>Ms. Esha Momeni</b>	Arbitrary detention	Urgent Appeal IRN 010/1008/OBS 166	October 20, 2008
		Joint Open Letter to the authorities	November 5, 2008
	Release on bail / Judicial proceedings	Urgent Appeal IRN 010/1008/OBS 166.1	November 13, 2008

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Ms. Negin Sheikholeslami</b>	Arbitrary detention	Urgent Appeal IRN 011/1008/OBS 176	October 31, 2008
	Release on bail	Urgent Appeal IRN 011/1008/OBS 176.1	December 16, 2008
<b>Ms. Parastoo Alahyaari</b>	Search / Harassment	Joint Open Letter to the authorities	November 5, 2008
<b>Ms. Sussan Tahmasebi</b>	Obstacles to the freedom of movement	Joint Open Letter to the authorities	November 5, 2008
<b>Ms. Masoumeh Zia</b>	Sentencing / Harassment	Urgent Appeal IRN 013/1108/OBS 189	November 12, 2008
<b>Mr. Youssef Azizi Bani-Torof</b>	Sentencing / Harassment	Urgent Appeal IRN 014/1108/OBS 192	November 17, 2008
<b>Defenders Human Rights Centre (DHRC)</b>	Closure of an NGO	Press Release	December 22, 2008



## Political context

The key political event of 2008 in Malaysia was the 12<sup>th</sup> General Election, which took place on March 8, 2008. This election saw the ruling National Front coalition (*Barisan Nasional* - BN) win, but experience its worst performance in Malaysian electoral history, failing for only the second time since independence in 1957 to obtain a two-thirds majority in Parliament, required to pass amendments to the Malaysian Constitution. The opposition coalition, “Pakatan Pakyat”, won 82 of the 222 seats in Parliament and took control of five of the thirteen State Governments. The election results sent a clear message to the ruling coalition that the electorate wished to see change, reform and greater respect for human rights.

Following the elections, the ruling coalition experienced a leadership crisis, with criticisms of Prime Minister Abdullah Badawi coming from both within and outside the coalition. This crisis was compounded by the landslide victory of Mr. Anwar Ibrahim, the leader of the opposition People’s Justice Party (*Parti Keadilan Rakyat* - PKR) in the Permatang Pauh by-election in August 2008. Mr. Anwar brought further pressure to bear by announcing his intention to lure Members of Parliament into the opposition to form a new government. However, Mr. Anwar’s political future was called into question when sodomy charges were brought against him, widely believed to be politically motivated and aimed at preventing him from leading a new government.

Despite calls for change, the political crisis led to an increased and arbitrary use by the Government of restrictive laws – including the Emergency Ordinance 1969, the Sedition Act 1948, the Official Secrets Act 1972 and the Police Act 1967 – to silence the opposition as well as any critics. The law most frequently used or threatened to be used against human rights defenders as well as political opponents continued to be the Internal Security Act (ISA) 1960, which permits indefinite

detention without charge or trial<sup>1</sup>. Whilst demands for the review or abolition of the ISA had been made in the past by civil society and opposition parties, 2008 was notable for the criticisms of the ISA that came from within the ruling coalition. In September 2008, Mr. Zaid Ibrahim, the Cabinet Minister responsible for legal affairs, resigned from his position because of the Government's use of the ISA to detain a Member of Parliament<sup>2</sup>, a blogger and a journalist on September 12, 2008. The following month, a number of major coalition parties called for the ISA to be reviewed. As of the end of 2008, however, no steps had been taken in response to these demands.

2008 was also a year of escalating religious tensions. After suffering heavy losses in the General Election, the ruling coalition, which has traditionally drawn support from all three major ethnic groups in Malaysia, increasingly used religion as a pretext to repress or attack defenders and political opponents, given the emotive nature of this issue.

### **Gagging the media and other restrictions on freedom of expression**

2008 was a dark year for the media and freedom of expression. Journalists and bloggers critical of the ruling coalition and seeking to expose wrongdoings were the victims of arrest and detention under national security laws. For example, on May 6, 2008, Mr. **Raja Petra Kamaruddin**, a blogger well-known for exposing scandals, in particular corruption, on his website *Malaysia Today*, was charged with "sedition" for his on-line article about the murder of a Mongolian national, Ms. Atlantuya Shaariibuu. Posted on April 25, 2008, the article intimated that the Deputy Prime Minister, Mr. Najib Razak, and his wife, Ms. Rosmah Mansor, had been involved in the murder of Ms. Atlantuya in October 2006. Mr. Raja Petra Kamaruddin was arrested and charged with "criminal defamation" under the Criminal Code on July 17, 2008 after he made a statutory declaration containing these allegations against Ms. Rosmah Mansor. *Malaysia Today* was then blocked on

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1./ As of December 5, 2008, ten arrests had been made under the ISA throughout the year and 46 people continued to be held in detention under the ISA. See Suara Rakyat Malaysia (SUARAM), *Malaysia Civil and Political Rights Report 2008: Overview*, December 2008.

2./ Opposition MP Ms. Teresa Kok was detained from September 12 to 19, 2008 for allegedly inciting racial and religious tension. She was held in solitary confinement without a trial and was allowed only a short visit from her lawyer.

the instructions of the Malaysian Communications and Multimedia Commission (MCMC) in August 2008, reportedly due to some comments on the website being “insensitive” and “bordering on incitement”. The website ban was lifted on September 11, 2008 but, the following day, Mr. Raja Petra Kamaruddin was again arrested; this time under the ISA. He was alleged to have posted articles that were deemed seditious and insulting to Islam, although it is believed that religion, in this case, was simply used as an emotive pretext to silence his criticisms of the Government. He was released on November 7, 2008 after a successful *habeas corpus* application<sup>3</sup>.

Organs of the media also suffered from Government repression. Under the Printing Presses and Publications Act 1984, the Government has the discretion to grant and revoke a newspaper’s publishing licence without independent review. In 2008, it continued to exercise this power arbitrarily. For example, on April 16, 2008, the Tamil-language newspaper *Makkal Osai*, which had given broad coverage to the demonstration organised by the Hindu Rights Action Force (HINDRAF) in November 2007 to demand equality and fair treatment for and protest the marginalisation of Indian Malaysians, was initially refused a publication permit, before being later granted a permit on April 24, 2008.

### **Freedoms of assembly and association under severe restrictions<sup>4</sup>**

Although freedom of assembly is already seriously curtailed as a result of the authorities’ reliance on the Police Act 1967 – which renders it compulsory to obtain a licence for any public assembly, meeting or procession –, developments in 2008 caused further concern. On July 3, 2008, it was reported that Inspector-General of Police had referred to the possibility of military involvement in police operations to maintain peace and order during public demonstrations, and that the police and armed forces had been carrying out joint security exercises. This was three days before a mass demonstration was due to be held against the fuel price increase. 2008 also revealed an increasing trend of the police obtaining court orders prohibiting specified individuals from accessing areas near the venues of planned assemblies. For example, in January

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3./ See SUARAM, *Malaysia Civil and Political Rights Report 2008: Overview*, December 2008.

4./ See SUARAM.

2008, five organisers of a demonstration against the rise in the fuel price were served with court orders barring them from being in the vicinity of the planned demonstration in Kuala Lumpur city centre. During the demonstration, police arrested 35 protesters, including the five who were charged with violating the court order. This marked the start of a year of severe restrictions on protests, public assemblies and demonstrations, with arrests and detentions being the usual response to those attempting to exercise their right to freedoms of assembly and association.

Moreover, the five HINDRAF leaders, Messrs. **P. Uthayakumar, M. Manoharan, V. Ganabathirau, R. Kenghadharan and T. Vasanthakumar**, detained since December 13, 2007 for organising the mass demonstration on November 25, 2007 to demand equality and fair treatment for and protest the marginalisation of Indian Malaysians, remained detained in poor conditions in Kamunting prison as of the end of 2008. Further, on October 15, 2008, the Government banned HINDRAF.

On November 9, 2008, an assembly held to commemorate the anniversary of the rally organised by the Coalition for Clean and Fair Elections (BERSIH) was broken up by the police, who arrested 23 of the protesters. Reportedly, the police punched and assaulted some of the protesters, causing at least one injury. Further, the Police Chief of the State of Selangor likened participants of public assemblies to criminals. Later that month, on November 23, 2008, seven individuals were arrested during an anti-ISA demonstration organised by the Abolish ISA Movement (*Gerakan Mansuhkan ISA - GMI*). Two additional supporters were arrested when they visited the seven who were being detained at the police station.

Significantly, the Government's harsh repression of freedoms of assembly and association did not extend to demonstrations and rallies in support of the Government or against the opposition. For example, on the same day the anti-ISA demonstration was put down, another rally in support of the use of the ISA was permitted.

### **Rise in religious tensions put defenders of religious freedom at risk**

Those working on religious conflict issues were frequently impeded from carrying out their work. For example, in August 2008, a mob,



led by members of the ruling United Malays National Organisation (UMNO), the opposition PKR and Pan-Malaysian Islamic Party (*Parti Islam Se-Malaysia* - PAS) and several other Malay and Islamic-based NGOs, forcibly dispersed a forum organised by the Bar Council to discuss the conflict of law facing those caught between the separate jurisdictions of civil and Syariah laws. In November 2008, the Inspector-General of the Police, Mr. Musa Hassan, issued a warning to non-Muslim NGOs not to interfere in matters involving Syariah laws or Muslim affairs or to risk serious action by the police. This was after various NGOs had criticised and demonstrated against the National Fatwa Council's fatwa on "tomboys"<sup>5</sup> in October 2008. Their protests were considered as a threat to national security<sup>6</sup>.

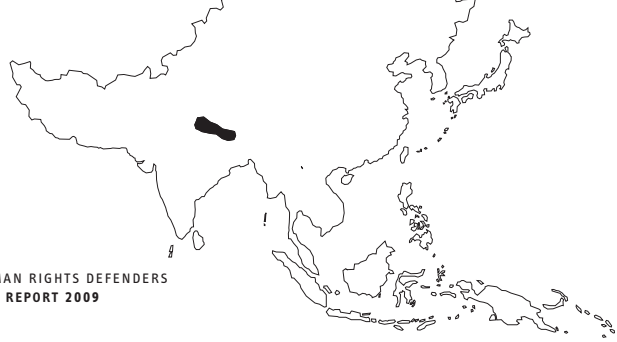
### Urgent Interventions issued by The Observatory in 2008<sup>7</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Kelesau Naan	Enforced disappearance / Death	Urgent Appeal MYS 001/0108/OBS 001	January 9, 2008
Messrs. P. Uthayakumar, M. Manoharan, V. Ganabathirau, R. Kenghadharan and T. Vasanthakumar	Arbitrary detention / Health deterioration	Press Release	January 31, 2008
		Urgent Appeal MYS 002/0408/OBS 061	April 22, 2008
	Press Release / International Judicial Observation Mission Report	May 28, 2008	
Ms. Irene Fernandez	Acquittal	Press Release	November 24, 2008

5./ "Tomboy" behaviour covers dressing like men and homosexual relationships between women.

6./ See SUARAM.

7./ See the Compilation of cases in the CD-Rom attached to this report.



## / NEPAL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

The end of 2007 was marked by political uncertainty after the Communist Party of Nepal (Maoist) (CPN(M)) withdrew from the interim Government on September 18, 2007, citing the failure to abolish the monarchy as the key reason. The Maoists rejoined the Government when all parties agreed to the abolition of the monarchy, albeit only after the Constituent Assembly elections, which were rescheduled for April 2008. The run-up to the historic elections was tense and the election campaign was marred by serious acts of violence, intimidation and violations of human rights by all parties. However, the elections themselves, held on April 10, 2008, largely passed off in a transparent and peaceful manner<sup>1</sup>, with the Maoists emerging as the largest party – although without a majority – and thus dominating the new Government. The monarchy was abolished a month later and Nepal was declared a republic. In July 2008, Nepal's first President, Mr. Ram Baran Yadav, was elected by the Constituent Assembly. The following month, Mr. Pushpa Kamal Dahal, also known as Prachanda, the Chairman of the CPN(M), took office as Prime Minister.

Despite these positive steps in the peace process and in establishing a democracy, violence and intimidation, in particular by armed groups, persisted after the elections. Such violence was encouraged by the culture of impunity that continued to prevail. Human rights violations during the armed conflict that opposed Government forces and the Maoists between 1996-2006 went unpunished, with not one perpetrator – either from Government or Maoist forces – being brought to justice. As noted by the UN Deputy High Commissioner for Human Rights, “[t]he con-

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1/ This was the conclusion of the European Union's Election Observation Mission to Nepal as well as by the UN. See Declaration by the EU Presidency on the Constituent Assembly elections in Nepal, April 15, 2008 and UN Press Release, April 10, 2008.

solidation of the peace process will continue to be at risk without political will on the part of the authorities to end this culture of impunity”<sup>2</sup>. One positive step in this regard taken by the Nepalese Government in November 2008 was the tabling of the Disappearances (Crime and Punishment) Bill, which would criminalise enforced disappearances and establish an independent commission to investigate disappearances during the ten-year armed conflict. Whilst there were concerns that the bill did not comply fully with international law, it illustrated at least a first step in bringing perpetrators to justice, as well as signalling that violations of this kind would not enjoy impunity in the future<sup>3</sup>.

In comparison to previous years, the situation for human rights defenders in 2008 improved slightly. Given the change in the political situation and the ostensible commitment by the political parties to respect and promote human rights, the environment was more amenable to people speaking out against human rights violations and putting pressure on the Government to be accountable to its electorate.

### **Despite marginal improvements, human rights defenders documenting violations remained under attack**

During 2008, human rights defenders continued to face obstacles and repression whilst working for the protection and promotion of human rights. In particular, those working for Advocacy Forum, a human rights NGO, were the victims of physical violence, intimidations, harassment and death threats. For example, on January 26, 2008, Mr. **Raj Kumar Mahaseth**, a human rights activist working as a lawyer for Advocacy Forum in Janakpur, Dhanusha district, was severely beaten with batons by the Nepal armed police whilst monitoring a mass meeting organised by the seven political parties as well as documenting the use of force by the police against the demonstrators. Although Mr. Mahaseth filed a torture compensation case before the Court of Dhanusha District on February 29, 2008, as of the end of the year the case was still pending in court and no investigation had been carried out<sup>4</sup>. Mr. **Sushil Kumar Lakhe**, a human rights lawyer and Regional Coordinator for

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2./ See UN Press Release, February 3, 2008.

3./ See Joint Letter from Advocacy Forum and Human Rights Watch to the Speaker of Nepal's Constituent Assembly, November 25, 2008.

4./ See Advocacy Forum.

Advocacy Forum in Nepalgunj, was also the victim of harassment and intimidation. On May 2, 2008, Mr. Lakhe, on his way home from the police station in Banke District, where he had filed a first information report against two army personnel who were suspected of murder, was followed by two unidentified people who threatened that they would “finish him off”, given his human rights activities. Mr. Lakhe managed to escape. On May 11, 2008, Mr. Lakhe’s home was searched by the police without a search warrant. No investigation was carried out in the case. Furthermore, on September 17, 2008, Maoist District Secretary of Banepa district Tulsi Narayan Shrestha threatened to kill Mr. **Bhojraj Timilsina**, Kavre District Representative of the Informal Sector Service Centre (INSEC), after the latter published an article on INSEC website, reporting that Mr. Tulsi Narayan had brutally beaten a man named Mr. Umesh Shrestha, a plaintiff of a case of fraud in property share against Mr. Tulsi Narayan, at the premises of Dhulikhel District Court on September 16. The local newspaper Sanjivani had published the same news, and was forced to disclose that the news was taken from INSEC’s news portal. Maoist cadres had then searched for INSEC representative in Banepa. They later called Mr. Bhojraj Timilsina on his mobile phone in the evening of September 17, threatening him of death. Subsequently, the police and local administration made security arrangements for Mr. Timilsina<sup>5</sup>.

### **Defenders continued to be the target of attacks by armed groups in the Terai region**

Although the political situation improved in 2008, the armed conflict continued in certain parts of the country. The Terai region in southern Nepal, in particular, was a hotbed of instability. The emergence of a number of armed groups all claiming to be fighting for the rights of people living in the Terai region, but who were committing violations of human rights themselves, escalated the level of violence. This, together with the failure of the State to fulfil its responsibility to provide security to its citizens, created a dangerous environment for human rights defenders who were unable to carry out their activities given the serious risk of attack by armed groups. Furthermore, human rights defenders were directly threatened by armed groups to cease their activities and to leave Terai. For example, in early 2008, human rights defenders

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5./ See Informal Sector Service Centre (INSEC).

attempting to monitor the situation during strikes called by various armed groups and political parties and also monitor demonstrations held from February 13 to 19, 2008 by campaigners for the rights of ethnic Madhesis were threatened and prevented from doing so by Terai armed groups<sup>6</sup>.

The repression went beyond threats. On June 29, 2008, one of the region's most prominent civil society leaders, Mr. **Govinda Pandey**, Coordinator of Civil Society Network Bardiya as well as a District Committee member of the Communist Party of Nepal – United Marxist-Leninist (CPN-UML), was shot dead. Mr. Pandey, well respected by all political parties, had been active in a number of areas, including raising awareness of nationality, national sovereignty and border-related issues, environmental and conservation issues and land rights. On June 30, the Jwala Singh faction of the Democratic Front for the Liberation of Terai (*Janatantrik Terai Mukti Morcha* - JTMM), a rebel group in the Terai region, accepted responsibility for his murder. However, the perpetrators were not arrested, given the police's failure to carry out a thorough investigation. This was partly due to the climate of insecurity and witnesses' fear of retribution<sup>7</sup>.

### Harassment faced by journalists

Journalists who were critical of JTMM's actions or who sought to expose violations and corruption were also the victims of intimidation and harassment, including death threats. For example, on October 11, 2008, Mr. **Krishna Prasad Dhakal**, Editor of the *Kapilvastu Sandesh* weekly newspaper and Advisor of Kapilvastu chapter of the Federation of Nepalese Journalists (FNJ), received death threats from Mr. Sikandar, the Army Commander of JTMM (Jwala Singh). Mr. Dhakal had written an article about the forceful donation drive of armed groups in the region.

The JTMM was not the only group threatening human rights defenders and journalists. Although the CPN(M) joined mainstream politics, renounced its armed activities, and was then given a clear mandate by the people to lead the country, Maoist cadres, in particular the Maoists'

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6./ See Advocacy Forum.

7./ See INSEC.

youth wing, the Young Communist League (YCL), continued to intimidate and attack human rights defenders, with journalists again being a favourite target for attack. For example, Mr. **Nabaraj Pathik**, Chief Editor of the local weekly newspaper *Nayan Sapthaik* and District Representative of INSEC in Ramechhap district, was threatened on March 4 and 5, 2008 by Maoist activist, Mr. Bimal Dhungel, due to his editorial article entitled “Criminalisation in politics” that reported on corruption. Mr. Pathik was told that if he continued to write such articles, the Maoists would “crack” his legs. The Editor of the newspaper, Mr. Tika Bhatta, later went to speak with the person in-charge at the Maoist District Committee and was also threatened. On March 7, 2008, an article published in the Maoist magazine *Jaapuspa* stated that journalists like Mr. Pathik would be physically attacked, which further intimidated Mr. Pathik<sup>8</sup>.

### **Pressure from China results in repression of Tibetan activists and human rights defenders in Nepal**

Peaceful protests against China’s crackdown on Tibet were crushed by the Nepalese authorities, in particular the police, at the behest of China. In the period of March to July 2008, thousands of Tibetan activists and human rights defenders were arbitrarily arrested, with excessive force being used by the police to disperse protests. On March 10, 2008, for example, the Nepalese police arrested 148 people, including thirteen Nepalese human rights defenders<sup>9</sup> and on March 24, 2008, approximately twelve people were injured and more than 250 arrested – including human rights demonstrators – in Kathmandu<sup>10</sup>. Protesters were also threatened by the police with violence and deportation in an attempt to discourage the protests, a clear violation of freedoms of assembly and expression. Journalists reporting on the violent repression of the protests were also the victims of harassment and abuse by the police. For example, on March 17, 2008, a foreign journalist trying to photograph protesters who were being arrested was hit in the face by a police officer.

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8./ See Advocacy Forum.

9./ See FORUM-ASIA Fortnightly Newsletter, April 4, 2008.

10./ See Article 19 Press Release, March 26, 2008 and INSEC.

## **Gender specific risks and vulnerabilities on the rise: women human rights defenders still in need of protection and security**

In 2008, women human rights defenders remained the target of repression. They were in particular subjected to risks and vulnerabilities from private and State actors on different degrees, as this was sadly illustrated by the murder of Ms. **Laxmi Bohara**, a health volunteer and an active women's rights activist engaged in advocating for health rights of women, Secretary of the Women's Empowerment Centre and a member of the Women Human Rights Defender Network in Kanchanpur. On June 6, 2008, Ms. Laxmi Bohara passed away after being beaten and physically injured by her husband and mother in law. In the past, she had been severely criticised and harassed by her husband and mother in law for committing herself to social work, suspicious if she talked with anyone on the road, she had been submitted to "sexual baiting"<sup>11</sup> (including public insults based on her gender and sexuality), and regularly beaten up by her husband. Furthermore, when members of the Women Human Rights Defender Network in Kanchanpur went to meet the District Superintendent of police, the latter was aggressive and he said that he was not scared of anyone and "even if the women's movement took their protest to the streets, it would not make any difference to anyone". Since then, such threats and harassment have become common against members of the Women Human Rights Defender Network in Kanchanpur.

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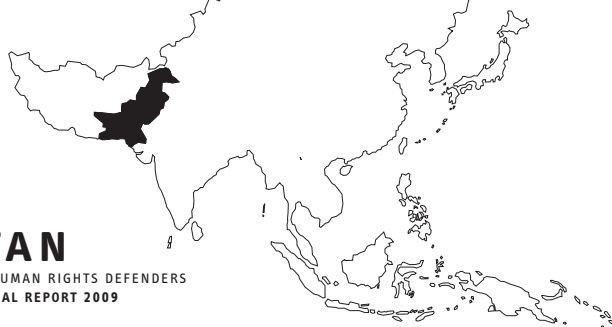
11./ Sexuality-baiting is a politically motivated name-calling designed to ruin women human rights defenders' reputations (or that of their organisations) on the basis of their reproductive or marital status, or their assumed sexual orientation. See Asia Pacific Forum on Women, Law and Development (APWLD), *Claiming Rights, Claiming Justice: A Guidebook on Women Human Rights Defenders*, 2007.

## Urgent Interventions issued by The Observatory in 2008<sup>12</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Sushil Kumar Lakhe	Police search / Death threats / Harassment	Urgent Appeal NPL 001/0508/OBS 080	May 15, 2008
Ms. Laxmi Bohara	Assassination / Harassment	Urgent Appeal NPL 002/0608/OBS 102	June 16, 2008
Messrs. Kebab Raut and Krishna Yadav	Assassinations / Arbitrary arrests / Releases	Urgent Appeal NPL 003/0908/OBS 150	September 9, 2008
Mr. Krishna Prasad Dhakal	Death threats	Urgent Appeal NPL 004/1108/OBS 182	November 5, 2008

12./ See the Compilation of cases in the CD-Rom attached to this report.





## / PAKISTAN

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ANNUAL REPORT 2009

### Political context

Following the unprecedented confrontation between the judiciary and the executive power, followed by the declaration of the State of emergency in November 2007 and the parliamentary elections, held on February 18, 2008, hailing the victory of opposition parties against the regime of President Musharraf, the year 2008 marked a new era for the country, initiating a long period of transition and uncertainty. The two main opposition parties, the Pakistan People's Party (PPP), led by the widower of Ms. Benazir Bhutto, Mr. Asif Ali Zardari, as well as the Pakistan Muslim League (PML-N) of former Prime Minister Nawaz Sharif, triumphed in the elections, following an electoral period marred with repression and intimidation (pressure on women by fundamentalist groups and bans to access polling stations, threats and attacks committed against voters by polling staff and unknown individuals, bomb attacks, etc.). After laborious negotiations, a coalition Government was formed in March 2008, led by the current Prime Minister, Mr. Yousuf Raza Gilani. The PML-N left the coalition in July as the PPP failed to restore the judges sacked by President Musharraf<sup>1</sup>. Although the country has now an elected civilian Government, as of the end of 2008 the military high command had yet to cede the authority in key policy areas, including counter-terrorism.

The terrorist attacks throughout 2008 highlighted the threat that militant jihadi groups such as the "Lashkar-e-Tayyaba" (LeT) and "Tehrik-e-Taliban Pakistan" pose to Pakistan's fragile democratic transition. In addition, the fight against terrorism was accompanied by a poor human rights record of the authorities, in particular a series of grave human rights violations such as the recurrent use of torture as well as

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1./ See Human Rights Commission of Pakistan (HRCP) and below.

enforced disappearances of suspects<sup>2</sup>, which fuelled a total loss of confidence of people in the State, promoted the use of violent responses, and severely undermined any democratic alternative, all while repressing defenders of public and individual freedoms. Rise in religious extremism also emerged in 2008 as one of the country's major issues.

Despite the arrival to power of a new Government, which was followed by the ratification by Pakistan of the International Covenant of Economic, Social and Cultural Rights (ICESCR) as well as by the signature of the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), laws and regulations posing a serious threat to the civil society still remained valid, such as the Anti-Terrorism Act (ATA) of 1997, which enshrines a system of emergency and an accelerated procedure, officially to prevent and suppress terrorism, sectarian violence and appeals to hatred.

Furthermore, the attacks and other tactics used against media professionals continued in 2008. Thus, at the beginning of 2008, 45 television channels remained closed, and cases of gags on the media were reported in the run-up to the elections, on the basis of further restrictive amendments made to the Pakistan Electronic Media Regulatory Authority (PEMRA) Ordinance and promulgated by President Pervez Musharraf under emergency rule in November 2007. On top of this, in May 2008 the Supreme Court directed the media not to publish or telecast any report concerning judges without prior clearance.

### **Defenders of the independence of the judiciary and of rule of law at risk**

At the very beginning of 2008, prominent lawyers and judges who played a key role in the movement for independence of judiciary, rule of law, freedom of press and restoration of democracy, such as Barrister **Aitzaz Ahsan**, President of the Supreme Court Bar Association, Mr.

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2./ The number of incidents of enforced disappearances reported fell considerably after the new Government was sworn in. However, some cases were reported, mainly from Baluchistan. The recovery rate of disappeared people remained extremely slow and not even one single hearing was held in the petitions pending against the illegal practice with the Supreme Court throughout 2008. The last hearing was held before the November 2007 sacking of superior courts judges by General Musharraf.

**Ali Ahmed Kurd**, member of the Pakistan Bar Council, as well as Mr. **Tariq Mehmood**, former President of Supreme Court Bar Association, were still illegally maintained under house arrest. However, Messrs. Kurd and Mehmood were freed on February 1, 2008, while Mr. Ahsan was released on March 3, after the parliamentary elections. Some of these senior leaders had successfully pleaded the case of Chief Justice **Iftikhar Muhammad Chaudhry**, who, along other judges, remained under house arrest until March 2008, when the newly sworn in Prime Minister ordered their release.

The two biggest parties after the 2008 election, the PPP and the PML-N failed to implement an agreement they had reached for the reinstatement of judges who were dismissed by General Musharraf after they refused to take an oath under the unconstitutional order of November 2007, mainly on account of reluctance by the PPP. The PPP argued that superior courts judges sacked by President Musharraf who would agree to a fresh oath would be reinstated, and many were indeed reinstated in August and September 2008. However, deposed Chief Justice Iftikhar Chaudhry and some judges did not agree to a fresh oath, arguing that this would have implied that their sacking was legitimate, even though President Musharraf had acknowledged that his actions in imposing the emergency were not legal. As of the end of 2008, Chief Justice Iftikhar Chaudhry and some others had not yet been reinstated in their functions.

### **Security deficit for journalists denouncing human rights violations**

In 2008, journalists denouncing human rights violations were targeted by non-State actors: for instance, on April 9, 2008, five journalists were attacked by masked men and their cameras snatched as they were attempting to cover the abuses committed amid incidents of violence that erupted in Karachi. Ms. **Lala Rukh**, camerawoman with the private television network *Geo News*, suffered a broken arm. The other journalists attacked were Messrs. **Arshad Mahmood**, reporter with *KTN channel*, **Mohammad Junaid** of *Express Television*, **Sabir Mazhar** of the *Urdu daily* newspaper, and **Makhdoom Adil**, of the *Online* news agency<sup>3</sup>. Furthermore, Mr. **Abdul Razzak Johra**, a journalist for the *Royal TV*

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3./ See International Freedom of Expression Exchange (IFEX).

channel in Mianwali, Punjab region, was killed on November 3, after being dragged out of his home by six armed men, probably in connection with his reports on drug-related crimes<sup>4</sup>. In both incidents, as of the end of 2008, no information could be obtained as to whether any investigation was conducted.

### **Attacks against human rights defenders in uncontrolled areas**

In 2008, human rights defenders remained particularly targeted in Baluchistan, Kashmir, Waziristan or the North-West Frontier Province (NWFP), where effective State control was insufficient or absent. For instance, on February 25, 2008, unknown individuals attacked the premises of the NGO Plan International in Mansehra and killed four people, injuring several others. Plan International is an organisation working on education, health and food issues as well as children's rights<sup>5</sup>. This attack followed a series of others that occurred in previous years against several NGOs working in Baluchistan, NWFP, Punjab and Pakistan's tribal areas<sup>6</sup>.

### **Urgent Intervention issued by The Observatory in 2008<sup>7</sup>**

Name of human rights defender	Violations	Intervention Reference	Date of Issuance
Mr. Iftikhar Mohammad Chaudhry	House arrest / Harassment	Press Release	March 7, 2008

4./ See UNESCO Press Release, December 1, 2008.

5./ See Plan International Press Release, February 25, 2008.

6./ See Annual Report 2005.

7./ See the Compilation of cases in the CD-Rom attached to this report.



## / PHILIPPINES

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

The year 2008 was marked in the Philippines by continued counter-insurgency operations against leftist rebels and Muslim separatists. In particular, the situation in the southern region of Mindanao deteriorated with intensified conflict between Government forces and the Moro Islamic Liberation Front (MILF). Peace talks, which had resulted in a Memorandum of Agreement on Ancestral Domain (MoA) after eleven years of negotiations, failed when the Supreme Court issued a restraining order on August 4, 2008 to halt the signing of the agreement, following protests and petitions against it. The opposition came from Muslims, Christians, “Lumads”<sup>1</sup> and other sectors of Philippine society who felt they had not been consulted on the MoA and were going to be adversely affected by the creation of the “Bangsamoro Juridical Entity” (BJE)<sup>2</sup>. Infuriated by the MoA not being signed, some MILF commanders initiated attacks on civilian populations and engaged Government forces. This violence led to the deaths both of Government soldiers and MILF rebels, to the indiscriminate killing of civilians as well as to the internal displacement of over 390,000 people by mid-October<sup>3</sup>. On October 14, 2008, the Supreme Court declared the draft MoA unconstitutional, which effectively put an end to any hope of peacefully resolving the conflict in Mindanao in the short term. This increased militarisation not only led to the deaths of innocent civilians, but also created a dangerous environment for human rights

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1./ Lumads are indigenous peoples who did not convert to Islam.

2./ Under the proposed MoA, the Government and the BJE were to exercise “shared authority and responsibility” over the Bangsamoro homeland. In particular, the BJE was to have jurisdiction over the management, conservation, development, protection, utilisation and disposition of all natural resources within its territory.

3./ Figures from International Crisis Group Policy Briefing, *The Philippines: the Collapse of Peace in Mindanao*, October 23, 2008. Other organisations report that over 600,000 people have been displaced as a result of military operations. See, for example, the National Alliance of Women’s Organisations in the Philippines (GABRIELA).

defenders and humanitarian aid workers, who were either caught up in the fighting between Government and MILF forces, or were directly targeted.

Although enforced disappearances and extrajudicial executions were at lower levels in 2008 than in previous years, these violations continued to be the norm. The victims of such attacks included left-wing political opponents, human rights activists seeking to expose violations committed by the authorities, religious leaders, leaders and members of peasant or fishers' organisations or women's rights groups, as well as labour and trade union activists. The Government also continued to implement its policy of political repression against any legitimate criticism or dissident voice considered to be linked to, or at least supportive of, the Communist Party of the Philippines (CPP) and its armed wing, the New People's Army (NPA).

Impunity for such violations remained a major problem in 2008, with inadequate investigations into human rights offences committed by military and police officers, as the perpetrators continued to go unpunished. Although there had been a glimmer of hope when the Supreme Court promulgated the *writ of amparo and the writ of habeas data* in 2007, in 2008 the courts routinely dismissed such applications<sup>4</sup>. Furthermore, a decision by the Supreme Court on March 25, 2008 increased the level of impunity by upholding and broadening the scope of the doctrine of executive privilege, permitting the Government to withhold certain categories of information from the public, courts and the Congress. This climate of impunity not only continued to impede the work of human rights defenders, it also put their physical integrity at considerable risk.

### **Human rights defenders targeted by the authorities as “enemies of the State” and under attack by non-State actors**

In the context of counter-insurgency and the fight against terrorism, the authorities continued to criminalise human rights activities, branding human rights organisations as “enemies of the State” or “terrorist organisations”, thus rendering them legitimate targets. Although the

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4./ A small number of applications were granted but, overall, the anticipated impact of the new rules did not materialise.

number of extrajudicial killings of human rights defenders decreased in 2008, other forms of harassment and intimidation increased. Human rights defenders were frequently subjected to surveillance, arrest and arbitrary detention and, in some cases, were included by the authorities in “orders of battle”, which identified individuals and organisations as fronts of the communist underground, thus encouraging army and paramilitary elements involved in counter-insurgency operations to carry out acts of violence and reprisals against them<sup>5</sup>.

Organisations seeking to expose the authorities’ human rights violations were particular targets for stigmatisation and attacks. For example, in July and August 2008, members of Ilocos Human Rights Alliance (IHRA) were threatened, harassed and subjected to a vilification campaign on a radio programme, “The Soldier’s Voice” (*Timek ti Soldado*). The organisation and the human rights organisation Alliance for the Advancement of People’s Rights (KARAPATAN) were labelled a “communist front” accused of seeking to “protect and defend the rights of their fellow NPAs”. Various members of KARAPATAN who were seeking to expose atrocities committed by the military were also targeted. For example, from June 2008, Ms. **Zara Alvarez** and Mr. **Fred Cana**, both officials of KARAPATAN-Negros, together with Mr. **Erwin Sabijon**, Chairperson of the peasant organisation KAUGMAON, in Oriental Negros first district, were threatened, harassed and the target of a campaign of violence, which included burning effigies of Messrs. Cana and Sabijon in a military-sponsored rally on June 14, 2008. These actions came following Mr. Cana and Mr. Sabijon’s efforts to expose violations committed by soldiers in Negros Oriental. Similarly, five KARAPATAN-Central Visayas human rights workers, Ms. **Concordia Oyao**, Ms. **Vimarie Arcilla**, Ms. **Jean Suarez** and Messrs. **Dennis Abarrientos** and **Paz Silva**, received threatening messages on August 21, 2008 after their involvement in exposing military human rights violations<sup>6</sup>. Furthermore, on September 26, 2008, Ms. **Helen Asdolo**, Secretary General of the women’s rights group, the National Alliance of Women’s Organisations in the Philippines (GABRIELA), in Southern Tagalog, and Ms. **Amy Sto. Tomas**, GABRIELA-Cavite Chairperson

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5./ See Free Legal Assistance Group (FLAG) and the Philippine Alliance of Human Rights Advocates (PAHRA).

6./ See the Alliance for the Advancement of People’s Rights (KARAPATAN).

and GABRIELA Women's Party Coordinator for Cavite, were falsely charged with "arson" and "conspiracy to commit rebellion" in relation to the burning of a Globe cell site in the town of Lemery in Batangas province on August 2, 2008 (the "Batangas case"), an incident for which the NPA had already claimed responsibility. The two women were also charged with "multiple murder" in connection with an alleged NPA attack on March 3, 2006 in Oriental Mindoro. On that day, GABRIELA members and leaders had been conducting a number of activities, including educational discussions and forums, in preparation for the International Women's Day on March 8<sup>7</sup>. Seventy-one others, including leaders and spokespersons of civil society organisations and political activists from Southern Tagalog, were also charged in the same multiple murder case. These included members of KARAPATAN and peasant leaders<sup>8</sup>. The lodging of these fabricated charges was believed to be an attempt by authorities to silence and impede activists from conducting their human rights activities in the region.

If not targeted by the authorities, human rights defenders were at risk of attack from non-State actors. For example, on September 14, 2008, Ms. **Merlie Mendoza** and Ms. **Esperancita Hupida**, both aid-workers working for the rehabilitation of communities in war zones, were kidnapped in Basilan, Mindanao. The kidnappers were reportedly an armed group, believed to be linked with "Abu Sayyaf", an Islamist separatist group. On October 30, 2008, Ms. Hupida was released by her captors, reportedly after they demanded payment for "board and lodging". Ms. Mendoza was released on November 14, 2008<sup>9</sup>.

### Land rights activists still a target for repression

As in previous years, 2008 was marked by repression of those asserting their rights under the agrarian reform programme (CARP) as well as those advocating for land rights, including those of the indigenous minorities. Farmers and communities campaigning for agrarian reform were targeted and harassed by soldiers. In early 2008, Government

7./ See GABRIELA.

8./ Such as Ms. **Luz Baculo**, Secretary General of the May First Movement (KMU) in Southern Tagalog, Ms. **Doris Cuario**, Southern Tagalog Secretary General of KARAPATAN, Ms. **Dina Capetillo**, KARAPATAN Batangas Spokesperson, Ms. **Karen Ortiz**, Deputy Secretary General of the Ecumenical Movement for Justice and Peace in Cavite, as well as Atty. Remigio Saladero (see below).

9./ See FLAG.



soldiers reportedly displaced around 10,000 anti-CARP farmers in Quezon, burning the houses of and displacing at least 25 peasant families in Nasugbu and Batangas who were advocating for the Genuine Agrarian Reform Bill – also known as House Bill 3059 –, which was proposed to replace the CARP<sup>10</sup>. Members and leaders of peasant groups, in particular the Peasant Movement of the Philippines (KMP) and its allied organisations, were also the victims of harassment, trumped up charges and arrests, arbitrary detentions, enforced disappearances and extrajudicial executions. For instance, on July 5, 2008, 13 peasants, all members of PAMACAD, an organisation affiliated with KMP, were arrested and accused of illegal logging. Four of the thirteen, namely Messrs. **Romulo Villanueva**, **Santiago Antipuesto**, **Jaime Lamberto** and **Jose Perez**, remained in detention at the end of 2008. Similarly, on August 31, 2008, Messrs. **Renato Alvarez**, **Franco Romero**, **Neshley Cresino**, **Felix Nardo**, **Bernardo Derain**, **Jomel Igana**, Ms. **Yolanda Caraig** and Ms. **Janice Javier**, eight peasant right activists, were arrested on their return from a meeting to discuss peasant activities. They were detained for two days, during which they reportedly suffered inhuman and cruel treatment. Subsequently, the eight were also charged with multiple murder in relation to the alleged NPA ambush in Mindoro Oriental<sup>11</sup>. Besides, on October 30, 2008, three men identifying themselves as operatives of the Criminal Investigation and Detention Group (CIDG) abducted Mr. **Norbeto Murillo**, technical consultant for the farmers' organisation, Life and Food for Leyte Evacuees (LFLE). The abduction occurred outside the Department of Agrarian Reform (DAR) building where Mr. Murillo had attended a meeting regarding a LFLE land claim. On October 31, 2008, the Philippines National Police (PNP) confirmed that Mr. Murillo was being detained in Camp Crame in Quezon City. He was then transferred to the Manila City Jail, where he remained at the end of 2008. A few days later, on November 6, 2008, Mr. **Danillo N. Qualbar**, Public Information Officer of Compostela Farmers Association (CFA), an affiliate of KMP, and Cluster Coordinator of "Bayan Muna" (People First) Party List, was assassinated on his way home by unidentified gunmen in the district of Osmeña, in Compostela Valley, Mindanao<sup>12</sup>. On

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10./ See the Peasant Movement of the Philippines (KMP).

11./ See KARAPATAN.

12./ As of the end of 2008, an enquiry into Mr. Qualbar's death was ongoing.

September 17, 2008, Mr. **James Balao**, a researcher of the Cordillera People's Alliance, an independent federation of indigenous peoples' organisations, disappeared in Baguio City. Prior to his disappearance, Mr. Balao was reportedly under surveillance and was believed to have been included in the military's "order of battle" list. It is believed that he was targeted due to his work in favour of the rights of indigenous people, in particular his work on a project relating to land rights and the expulsion of indigenous peoples from their ancestral lands<sup>13</sup>. As of the end of 2008, Mr. Balao remained disappeared. However, the Cordillera People's Alliance was reportedly informed that he was still alive and was being held by State security forces at an unknown location.

Whilst many of the incidents were committed by the PNP or the Armed Forces of the Philippines (AFP), some attacks were attributed to non-State actors, including landowners and their estate personnel or armed goons. For example, on June 6, 2008, Mr. **Armando Dolorosa**, Vice-President of the National Federation of Sugarcane Workers (NFSW) and the leader of an agrarian reform group in Manapla, Negros Occidental, was gunned down in his house by three masked men. It is believed that his assassination is related to the implementation of the agrarian reform programme, pursuant to which Mr. Dolorosa had been granted land ownership certificates in 2007 in relation to part of a sugar estate. Since then, Mr. Dolorosa had been receiving death threats from men, whom his wife identified as "planters".

### **Labour rights and trade union activists on the front line**

In 2008, those defending the rights of workers and trade unions frequently came under attack, with fatal consequences in some instances. For instance, on July 19, 2008, Mr. **Maximo Baranda**, the former Chairperson of Compostela Workers Association (CWA), an affiliate of the labour movement May First Movement (KMU), was assassinated by three unidentified men in San Jose, Compostela Valley. Before his murder, Mr. Baranda had served as CWA adviser in its Collective Bargaining Agreement negotiations with management<sup>14</sup>.

13./ See FLAG and KARAPATAN.

14./ As of the end of 2008, an enquiry into Mr. Baranda's death was ongoing. See KARAPATAN.

Lawyers working on labour rights and trade union issues were also targeted. On October 23, 2008, Attorney **Remigio Saladero**, chief legal counsel of KMU, Board Chairperson of the Pro-Labour Legal Assistance Centre (PLACE) and member of the Free Legal Assistance Group (FLAG) and the National Union of People's Lawyers, was arrested on the basis of a defective warrant by members of the PNP. His office was searched and his computer and mobile phone confiscated. Atty. Saladero and 72 others were charged with "multiple murder" and "multiple frustrated murder"<sup>15</sup>. It is believed the charges were manufactured to harass and intimidate Atty. Saladero for his work as a labour rights and trade union rights defender. Atty. Saladero had already been targeted in the past, predominantly by the military for providing legal counsel to suspected NPA members. Further, the organisation PLACE was subjected to harassment and surveillance by unidentified men believed to be military agents. The attack on Atty. Saladero was seen as a broader attack against the legal profession, given that he was simply exercising his profession. On February 5, 2009, the Calapan City Regional Trial Court quashed the charges of multiple murder and frustrated murder and ordered Atty. Saladero's release on technical grounds, along with five other labour rights leaders from Southern Tagalog<sup>16</sup>. However, barely one week after his release, another murder case was filed against Atty. Saladero and four other activists, who filed a petition for *writ of amparo* at the Supreme Court on February 16, 2009.

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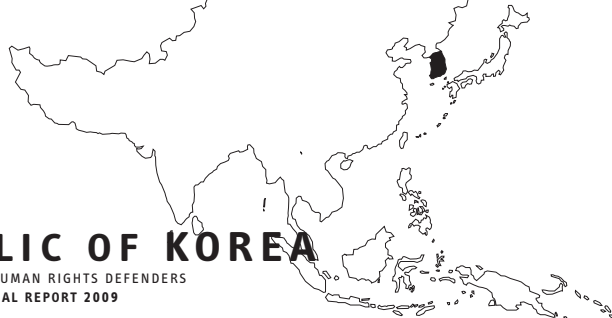
15./ See above.

16./ Namely Messrs. **Emmanuel Dionida, Rogelio Galit, Nestor San Jose, Crispin Zapanta and Leonardo Arceta.**

## Urgent Interventions issued by The Observatory in 2008<sup>17</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Armando Dolorosa	Extrajudicial killing	Urgent Appeal PHL 001/0608/OBS 099	June 11, 2008
Atty. Remigio Saladero Jr.	Arbitrary detention / Judicial proceedings	Urgent Appeal PHL 002/1008/OBS 175	October 30, 2008
Mr. Norbeto Murillo	Enforced disappearance	Urgent Appeal PHL 003/1008/OBS 177	October 31, 2008
	Arbitrary detention / Judicial proceedings / Ill-treatments	Urgent Appeal PHL 003/1008/OBS 177.1	November 6, 2008
Mr. Danilo N. Qualbar	Assassination	Urgent Appeal PHL 004/1108/OBS 201	November 26, 2008

<sup>17/</sup> See the Compilation of cases in the CD-Rom attached to this report.



# / REPUBLIC OF KOREA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

## Political context

2008 was marked by a setback on the progress made by the Republic of Korea (South Korea) over the past two decades in promoting and protecting human rights. In particular, freedoms of expression and peaceful assembly were seriously undermined during the protests held against the renewal of US beef imports over fears of Bovine Spongiform Encephalopathy (BSE) or mad cow disease, on which occasion the police used excessive force against peaceful protesters. Many of them were subjected to arbitrary arrest and detention<sup>1</sup>. These demonstrations, which were organised by the People’s Conference Against Mad Cow Disease, a coalition of 1,700 organisations from throughout the country, began on May 2, 2008 and continued almost daily for more than two months, until July 10, 2008. The protesters voiced their discontent not only with the Government’s trade policies, but with a broad range of President Lee Myung-bak’s other policies, including the project for the construction of a Grand Canal, the privatisation of the health care system and the revision of the media law<sup>2</sup>.

In this context, media’s freedom of opinion and expression was further restricted through the use of defamation laws. For instance, the Ministry for Food, Agriculture, Forestry and Fisheries took a number of actions against four producers of *MBC TV*’s “PD Notebook” documentary programme over a report it broadcast on April 29, 2008 about US beef and mad cow disease. These actions included criminal and civil defamation cases and a complaint before the Press Arbitration

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1./ See Joint Written Statement submitted by the Asian Legal Resource Centre (ALRC) and the Asian Forum for Human Rights and Development (FORUM-ASIA) to the ninth session of the Human Rights Council, August 25, 2008, as well as FORUM-ASIA and the Asian Human Rights Commission (AHRC), *Joint Fact-Finding Mission to South Korea, Final Report*, 2008.

2./ As of the end of 2008, those policies remained under discussion and had not yet been implemented.

Commission. In addition, the Korea Communications Commission (KCC) ordered *MBC TV* to make a public apology for this programme. The proposal of the Ministry of Justice to extend the coverage of criminal defamation laws to the Internet was further cause for concern<sup>3</sup>.

Furthermore, December 1, 2008 marked the 60<sup>th</sup> anniversary of South Korea's National Security Law (NSL), which was still used as a tool to silence dissent voices and to prosecute individuals who are peacefully exercising their rights to freedoms of expression and association. For instance, in 2008, the Prosecutor's Office issued twice a warrant for the arrest of Professor Oh Se-chul – in August and in November – for his “enemy-benefiting” activities and involvement in the Socialist Labour Solidarity movement. However, on both occasions, the Seoul Central District Court dismissed the charges citing “not enough proof that he tried to overthrow the country and the democratic system”. Furthermore, NSL prohibits “anti-State” and “espionage” activities, but does not clearly define them. NSL has also been used as a form of censorship, to punish people for publishing and distributing material deemed to “benefit” North Korea. In 2008, seven people were detained for violating NSL, all of whom were charged with engaging in pro-North Korean activities, merely for having discussed reunification with North Korea, publishing socialist or “pro-North Korean” material or having views considered to be similar to those of the North Korean Government<sup>4</sup>.

Finally, in South Korea some of the most basic workers' rights, such as the rights to organise, to elect their own representatives or to strike, continued to be violated. In particular, while migrant workers remained particularly vulnerable to discrimination and exploitation, the Government pursued in 2008 its crackdown on irregular migrant workers, which led to their arrest, detention and deportation.

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3./ See above-mentioned Joint Written Statement submitted by ALRC and FORUM-ASIA to the ninth session of the Human Rights Council as well as FORUM-ASIA and AHRC above-mentioned Mission Report.

4./ See Amnesty International, Public Statement ASA 25/011/2008, November 28, 2008.

## **Obstacles to freedom of peaceful assembly and police violence against human rights defenders monitoring the demonstrations against the Government's trade policies<sup>5</sup>**

In 2008, human rights defenders who monitored the demonstrations against the agreement between the United States and South Korea to lift US beef import restrictions were not immune from police violence. For instance, at about 1:30 a.m. on June 26, 2008, Mr. **Lee Joon-hyung**, a lawyer working with MINBYUN-Lawyers for a Democratic Society, an NGO that provided legal assistance to arrested demonstrators, was hit in the forehead with a shield by a riot policeman, letting him unconscious. Yet, he was wearing a vest that clearly identified him as a member of "A group of lawyers monitoring human rights violations". In another incident, two staff members of the National Human Rights Commission of Korea (NHRCK) who were monitoring a protest on June 28, 2008 were injured by the police after being beaten with batons and hit by metal objects thrown by the police, even though they were clearly identified as NHRCK members<sup>6</sup>.

The police also obtained warrants to search on June 30, 2008 the offices of the People's Conference Against Mad Cow Disease and Korea Solidarity of Progressive Movements (KSPM), two organisations perceived by the Government to be leading and organising the protests. During the search, the police seized and confiscated office computers and paraphernalia materials related to the protests, including placards and banners. More importantly, the police took away two police fire extinguishers that had been thrown at demonstrators and police water bottles. These objects indicated the police station from which the police had been deployed and had been collected at the rallies as evidence for legal action.

Furthermore, following a general strike on July 2, 2008 against the Government's decision to resume the beef imports as well as to express solidarity with workers from the E-Land retail company employed under precarious and exploitative employment arrangements in viola-

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5./ See above-mentioned Joint Written Statement submitted by ALRC and FORUM-ASIA to the ninth session of the Human Rights Council as well as FORUM-ASIA and AHRC above-mentioned Mission Report.

6./ See MINBYUN-Lawyers for a Democratic Society.

tion of safeguards introduced into law in July 2007, the Prosecutor and the Ministry of Labour declared that the strike was illegal on the grounds that it did not specifically focus on issues related to wages and working conditions. On July 24, 2008, arrest warrants were issued on the basis of the provisions in Section 314 of the Criminal Code for “obstruction of business” against several trade union leaders involved in the strike. Following the issue of the arrest warrants, Mr. **Lee Yong-shik**, General Secretary of the Korean Confederation of Trade Unions (KCTU), and Ms. **Jin Young-ok**, KCTU First Vice-President, were arrested in July 2008 and subsequently released on bail. On December 5, 2008, Mr. **Lee Suk-haeng**, KCTU President, was arrested pursuant to the warrants issued in July 2008, together with four other officials of the KCTU and its metals-sector affiliate the Korean Metal Workers’ Union (KMWU), namely Ms. **Jin Young-ok**, Mr. Lee Yong-shik, Mr. **Jung Gab-deuk**, KMWU President, and Mr. **Nam Taek-gyu**, KMWU First Vice-President<sup>7</sup>. Six of the top elected officers of the Hyundai Motor Branch, namely Messrs. **Yoon Hae-mo**, **Kim Tae-gon**, **Kim Jong-il**, **Jung Chang-bong**, **Joo In-koo** and **Jo Chang-min**, were also indicted on the basis of the same arrest warrants but not detained. Only Mr. Lee Suk-haeng remained detained as of the end of 2008. Subsequently, the KCTU headquarters were surrounded by the police, people entering the premises were subjected to searches, and homes and family members of KCTU leaders were subjected to police surveillance.

### **Ongoing repression against the Migrant Trade Union and its members**

In 2005, the Seoul-Gyeonggi-Incheon Migrants Trade Union (MTU), an affiliated of KCTU, was formed as a union for and by migrant workers regardless of visa status. MTU especially seeks to improve working conditions and stop the crackdown against undocumented migrant workers. Since then, the Ministry of Labour and the Government have been refusing to grant MTU a legal union status based on the assertion that undocumented migrant workers do not have the right to freedom of association under Korean law. Yet, in February 2007, the Seoul High Court ruled in favour of MTU’s legal union status, stating clearly that

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7/ Mr. Jung Gab-deuk and Mr. Nam Taek-gyu were subsequently released on bail, and Ms. Jin Young-ok and Mr. Lee Young-shik were released on probation.



undocumented migrant workers are recognised as workers under the South Korean Constitution and the Trade Union Law, and therefore the subjects of legally protected basic labour rights, including the right to freedom of association<sup>8</sup>.

However, this did not prevent the repression of MTU leaders, who have been regularly subjected to arrest and deportation since the union was formed. Thus, on May 2, 2008, Messrs. **Torna Limbu** and **Abdus Sabur**, respectively President and Vice-President of MTU, were arrested and, on May 15, 2008, they were taken from the Cheongju Foreigners' Detention Centre and forced to board a plane at Incheon airport a few hours later, in application of a decision of the Ministry of Justice and Immigration Authorities. The decision took place at the same time as actions protesting the arbitrary arrest of the two MTU leaders were taking place in Seoul, Cheongju, Daegu and Busan. Furthermore, on May 15, 2008, the NHRCK had accepted an MTU appeal to postpone the deportation until the investigation into the human rights violations associated with the arrests of Messrs. Torna Limbu and Abdus Sabur proceeded. The Ministry of Justice was informed orally of this decision, and it is understood that they then rushed to carry out the deportation before they received the formal notice.

The repression against MTU members increased at the end of the year, as the Supreme Court was about to rule on MTU's legal union status. However, as of the end of 2008, MTU had received no further information and did not know when the ruling was going to be made.

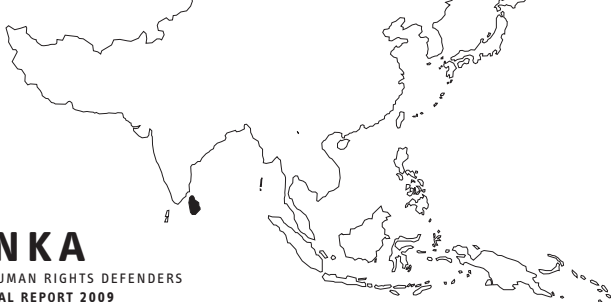
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8./ See KCTU.

## Urgent Interventions issued by The Observatory in 2008<sup>9</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Messrs. Torna Limbu and Abdus Sabur	Arbitrary arrests / Deportation / Obstacles to the freedom of association	Urgent Appeal KOR 001/0508/OBS 086	May 20, 2008
Messrs. Lee Suk-haeng, Lee Yong-shik, Jung Gab-deuk, Nam Taek-gyu, Yoon Hae-mo, Kim Tae-gon, Kim Jong-il, Jung Chang-bong, Joo In-koo, Jo Chang-min and Ms. Jin Young-ok	Arbitrary arrest / Judicial harassment / Obstacles to the freedom of association	Urgent Appeal KOR 002/1208/OBS 211	December 10, 2008

9./ See the Compilation of cases in the CD-Rom attached to this report.



## / SRI LANKA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

Whilst fighting between Government forces, the Liberation Tigers of Tamil Eelam (LTTE) and armed Tamil groups believed to be aligned with the Government was already intense following the resumption in hostilities in 2006, the situation worsened when the Government officially abrogated the 2002 Ceasefire Agreement on January 16, 2008<sup>1</sup>. Intensified fighting between Government forces and the LTTE resulted in a significant increase in human rights violations by all parties to the conflict, as well as in thousands being internally displaced. In the first month after the collapse of the ceasefire, the International Committee of the Red Cross (ICRC) noted an increase in the number of civilians killed in the cross-fire or in targeted or indiscriminate attacks, stating that this had reached “appalling levels”<sup>2</sup>. The LTTE-controlled areas of northern Sri Lanka, known as the Vanni, were particularly affected due to the large-scale military operation taking place there<sup>3</sup>. Enforced disappearances, abductions and killings were reported regularly from the Vanni region and the surrounding areas, in particular the district of Jaffna. Tamils were the most affected by these human rights abuses, and restrictions imposed by the LTTE on leaving the Vanni for Government-controlled areas exacerbated the situation<sup>4</sup>. The

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1./ The international community expressed its regret and concern regarding this decision by the Government. See, for example, the Declaration of the European Union Presidency, January 8, 2008; UN Press Release, January 15, 2008; and Statement by the UN Secretary-General, January 3, 2008.

2./ See ICRC Press Release, February 13, 2008.

3./ See Joint Oral Statement by International Movement Against All Forms of Discrimination and Racism (IMADR) and Asian Forum for Human Rights and Development (FORUM-ASIA) to the ninth session of the UN Human Rights Council, September 17, 2008.

4./ The LTTE has a pass system for those who wish to leave the area. However, requests for passes are frequently denied. Further, they are given only to individuals rather than families, which can result in families being split up and left behind. See Law and Society Trust.

Government also placed severe restrictions on internally displaced persons leaving refugee camps, most of whom were Tamils fleeing the fighting in the Vanni, and increased the registration and identification requirements for people from the north and east<sup>5</sup>. In addition, restrictions were placed on human rights defenders and aid workers, in particular foreign nationals, travelling to the area.

Media workers also became high profile targets in the course of 2008, particularly those who reported on the conflict that intensified following the collapse of the ceasefire. Journalists were often barred from the conflict areas, the LTTE not allowing independent reporting in LTTE-controlled areas and those who were allowed into such areas frequently fled given the considerable risks to their security. To silence the media, media workers and journalists were threatened, intimidated, violently assaulted and even murdered. Anti-terrorism legislation was also used to arrest and detain those seen as a risk.

At the international level, Sri Lanka was considered under the United Nations Universal Periodic Review in May 2008. Concerns raised during this process included the need to address the culture of impunity, the incidents of enforced disappearances and extrajudicial killings, the repression of human rights defenders and humanitarian workers and the attacks on freedom of expression, the media and journalists<sup>6</sup>. On May 21, 2008, Sri Lanka lost its seat on the UN Human Rights Council. This followed widespread opposition from Sri Lankan and international NGOs on the basis of continuing systematic human rights violations by the Government, in particular widespread disappearances, extrajudicial killings, torture, and a failure to cooperate with UN human rights experts<sup>7</sup>.

### **Silencing of critical voices**

Throughout 2008, the security forces continued to exercise the sweeping powers granted under the current version of the emergency regula-

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5./ See Forum-Asia Press Release, October 13, 2008.

6./ See UN Document A/HRC/8/46, *Report of the Working Group on the Universal Periodic Review: Sri Lanka*, June 5, 2008.

7./ See NGO Coalition for an Effective Human Rights Council Press Release, May 21, 2008.

tions<sup>8</sup>, searching, arresting without warrant and detaining individuals for up to one year without judicial review. Most of those arrested and detained were ethnic Tamils. However, anyone speaking out against the Government or its policies was at risk of repression. Muslim and Sinhalese human rights defenders, journalists and others voicing dissent were often accused by the Government of having links with the LTTE and seen as undermining the war against terrorism waged by the Government. They were thus branded terrorists or traitors, or at the very least accused of acts “demoralising the armed forces”<sup>9</sup>. For instance, on July 12 and 13, 2008, representatives of four human rights organisations<sup>10</sup> were interrogated for over eight hours by the Colombo Crime Division over leaflets distributed on December 10, 2007. The leaflets highlighted the human rights situation, in particular, the current spate of disappearances and called for accountability of the police and armed forces and for the ending of impunity. The police alleged that they were attempts to demoralise the armed forces. The organisations’ representatives were informed that the files would be sent to the Attorney General’s Department, which would decide on the further course of action. Those questioned feared that legal action could be taken against their organisations, or against them or other members personally, under the emergency regulations. However, as of the end of 2008, the four human rights defenders had not been subjected to new interrogations or judicial proceedings.

The Christian Solidarity Movement (CSM), an independent group of Christians from various denominations that actively investigates and documents the human rights and humanitarian crisis in the Vanni region and is campaigning for protection and assistance for civilians affected by war, was also a target for intimidation and repression by the Government. In October 2008, Fr. **Sarath Iddamalgoda**, founding member of CSM, was accused by Mr. Sarath Gunaratne, MP and Deputy Minister of Ports and Aviation, of misleading innocent people by distributing materials against the Government and the Armed Forces.

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8./ The current version was introduced in August 2006 after the assassination of Foreign Minister Lakshaman Kadirgama.

9./ See Law and Society Trust.

10./ Right to Life Human Rights Centre, Law and Society Trust, Civil Monitoring Commission and Janasansadaya.

At a public meeting on October 13, Mr. Gunaratne tried to intimidate CSM into stopping its campaign, saying he had brought the matter to the attention of the Presidential Advisor and Mr. Gotabaya Rajapakse (Defence Secretary and brother of the President) as well as the Church authorities. On March 7, 2008, Mr. **Jayaprakash Tissainayagam**, a Tamil journalist and co-Director of the website *Outreach Multimedia*, was arrested and detained by the Terrorist Investigation Division (TID)<sup>11</sup>. No reason was initially given for his arrest although Government sources suggested that Mr. Tissainayagam had links with the LTTE, but they produced no evidence of this. Mr. Tissainayagam was detained for more than five months without charge, before being indicted in August under the Prevention of Terrorism Act and the Emergency Regulations for promoting terrorism through the magazine *Northeastern Monthly* in 2006 and his activities as a website editor. Mr. Tissainayagam had been critical of the Government in a number of respects, but the relevant articles criticised the Government's military operations carried out in Tamil regions, because of their "indiscriminate impact on civilians"<sup>12</sup>. As of the end of 2008, Mr. Tissainayagam remained in detention.

Less visible, and extremely difficult to document and expose given the tight media controls in LTTE-controlled areas, were the abuses unleashed by the LTTE on human rights defenders, particularly dissident voices within the Tamil community who do not see the LTTE as the sole representative of the Tamil population and who condemn the violence inflicted by the LTTE on all civilians<sup>13</sup>. For example, on May 13, 2008, Ms. **Maheswary Velautham**, an ethnic Tamil, human rights lawyer and founder of the NGO Forum for Human Dignity, was shot dead in Jaffna by unknown gunmen believed to be acting for the LTTE<sup>14</sup>.

Furthermore, in 2008, the situation of human rights defenders was exacerbated by reductions in security protection assigned to those at risk. In December 2007, the security assigned to Mr. **Mano Ganesan**, a

11./ His Co-Director Mr. N. Jasiharan and his wife, Ms. V. Valamathy, were also arrested.

12./ See Joint Oral Statement by IMADR and FORUM-ASIA to the ninth session of the UN Human Rights Council, September 17, 2008. See also Law and Society Trust.

13./ See Law and Society Trust.

14./ *Idem*.

Member of Parliament, President of the Democratic Workers' Congress and the founder of the Civil Monitoring Commission on ExtraJudicial Killings and Disappearances (CMC), was severely curtailed without notice. It is believed this was aimed at sanctioning his human rights activities, particularly given that it took place one week after he had been awarded the runner up position for the US Government's Freedom Defenders Award 2007. Mr. Ganesan left Sri Lanka at the end of 2007 given his fear for his safety but returned in 2008. He continued to face threats, intimidation and harassment by the authorities throughout the year. For example, on August 26, he was summoned by the TID and interrogated for more than seven hours in relation to visits to Kilinochchi on Government business to speak with officers of the LTTE during the 2002-2005 ceasefire. The TID wanted to know if he had established a special relationship with the LTTE. The Government had also reduced the security assigned to Mr. **Thiyagarajah Maheswaran**, a Member of Parliament for the opposition United National Party (UNP), from eighteen persons to two in December 2007. On January 1, 2008, Mr. Maheswaran was killed by unknown gunmen. His assassination took place just hours after he had informed the media that he would soon reveal details in Parliament of how the Sri Lankan Government carried out abductions and killings in Jaffna through the Eelam People's Democratic Party (EPDP) paramilitary.

### **No relief for humanitarian workers**

In 2008, the Government continued to restrict access for aid workers, in particular foreign nationals, to those areas most affected by the conflict as well as restricting the provision of essential items. For instance, on September 5, 2008, the Government advised all UN agencies and international NGOs that it could no longer guarantee the safety of aid workers in the Vanni area of northern Sri Lanka and ordered all international NGOs and the UN to withdraw from the area with the exception of the ICRC<sup>15</sup>.

In addition to restrictions, aid workers were threatened, abducted and killed. Despite the large number of attacks, no successful investigations were carried out into the attacks and the perpetrators therefore enjoyed

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15./ See Joint Oral Statement by IMADR and FORUM-ASIA to the ninth session of the UN Human Rights Council, September 17, 2008.

complete impunity<sup>16</sup>. For example, Mr. **Sebastian Goodfellow**, an ethnic Tamil and driver for the aid agency Norwegian Refugee Council, disappeared on May 15, 2008, and has not been seen since. It is feared he was abducted possibly by an armed group, with the acquiescence of State security forces<sup>17</sup>. On November 27, Mr. **A. Vigneswaran**, a construction-supervisor also working for the Norwegian Refugee Council, was shot dead by unidentified gunmen after being pulled from his house in the eastern district of Batticaloa<sup>18</sup>.

### Lawyers under attack

The legal profession, as well as the judiciary, was increasingly under threat in 2008. Lawyers acting for victims of human rights abuses all too often found themselves the victims of attacks. Those who represented suspected terrorists in particular were targeted as “traitors”. The repression of lawyers was intended to reinforce the climate of fear and to intimidate and terrorise lawyers into ceasing to act for complainants. For instance, on September 27, 2008, Mr. **J. C. Weliamuna**, a human rights lawyer and Executive Director of the Sri Lanka chapter of Transparency International (TI) that campaigns against Government corruption, was the target of a grenade attack. Late in the evening, an unidentified gang threw two grenades at his home, damaging the property but fortunately not causing any physical harm to Mr. Weliamuna or his family. On September 23, 2008, TI had published a report which put Sri Lanka in 92<sup>nd</sup> place out of a list of 184 corrupt Governments in the world. Further, Mr. Weliamuna is known for his involvement in human rights and corruption cases, many of which involve Government officials and police officers and, on the very day of the attack, Mr. Weliamuna had proposed a motion at the Bar Association regarding

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16./ In June 2008, the UN Working Group on Enforced or Involuntary Disappearances (WGEID) raised concerns that 22 disappearances had occurred in April-May, with 18 disappearances in the month of May alone and that both women and humanitarian aid workers were being targeted. The WGEID expressed concern that the number could be considerably higher given that disappearances may not have been reported due to fear of reprisals. See UN Press Release, June 11, 2008.

17./ See Law and Society Trust and Norwegian Refugee Council Press Release, November 19, 2008.

18./ See Norwegian Refugee Council Press Release, November 28, 2008, as well as UN Press Release, December 3, 2008, in which Mr. Neil Buhne, UN Humanitarian Coordinator in Sri Lanka, condemned “the shooting death of A. Vigneswaran” and urged the authorities to “vigorously pursue” the perpetrators.



a lawyer who had received death threats due to his appearance in the extrajudicial killing case of Mr. Sugath Nishantha Fernando, who had brought complaints of bribery and torture against the police, including senior police officials, in the Negombo area<sup>19</sup>.

On October 21, 2008, a letter was sent to a number of lawyers and court registrars by a group calling itself “Mahason Balakaya” (“Ghosts of Death Battalion”). This letter made death threats to lawyers representing suspected terrorists, accusing them of being “traitors to the Nation”<sup>20</sup>. As of the end of 2008, there had been no official investigation into these death threats. Then, in November 2008, the Ministry of Defence published a report referring to some lawyers as traitors, given that they had acted on behalf of alleged LTTE suspects in applications before the Supreme Court. Both the letter from “Mahason Balakaya” and the Ministry of Defence’s report unjustly attack lawyers simply for carrying out their profession and undermine the legal profession as a whole<sup>21</sup>. They may also incite further attacks against lawyers.

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19./ The international community condemned the attack, asking the Sri Lankan Government to conduct investigations, and has expressed concerns about threats to lawyers. See Press Release issued on October 15, 2008 by the Embassy of France in its capacity as the Local Presidency of the EU, which expressed concern over “the trend in attacks and threats on journalists, civil society organizations and now a lawyer”. However, as of the end of 2008, there had been no serious investigation into the attack.

20./ See Open Letter from the International Bar Association to the President of Sri Lanka and Law and Society Trust, November 6, 2008.

21./ See Law and Society Trust.

## Urgent Interventions issued by The Observatory in 2008<sup>22</sup>

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Mr. Mano Ganesan and Mr. Thiyagarajah Maheswaran</b>	Threats / Extrajudicial killing	Urgent Appeal LKA 001/0108/OBS 004	January 14, 2008
<b>Reverend Fr. M. X. Karunaratnam</b>	Extrajudicial killing	Urgent Appeal LKA 002/0408/OBS 060	April 22, 2008
<b>Mr. J. C. Weliamuna</b>	Attack / Threats	Urgent Appeal LKA 003/0908/OBS 157	September 30, 2008
<b>The Christian Solidarity Movement (CSM) and Mr. Fr. Sarath Iddamalgada</b>	Threats / Harassment	Urgent Appeal LKA 004/1008/OBS 165	October 17, 2008

22./ See the Compilation of cases in the CD-Rom attached to this report.



## / THAILAND

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

Whilst the People Power Party (PPP) won the national elections on December 23, 2007, this outcome did not mark the start of a political stability in Thailand, nor the immediate end of military control and martial law. 2008 was indeed a year of political turmoil.

Following the December 2007 elections, Mr. Samak Sundaravej, an ally of exiled former Prime Minister Thaksin Shinawatra, took office as Prime Minister. The People's Alliance for Democracy (PAD), led by opponents of former Prime Minister Thaksin, challenged Mr. Samak's Government, arguing that it was simply a proxy for Mr. Thaksin. On May 25, 2008, PAD began street protests against the Government, demanding Mr. Samak's resignation. Throughout the summer, clashes between the PAD and pro-Government supporters as well as police continued. On August 26, 2008, PAD protesters took over the Government House, including the Prime Minister's office. This resulted in further violence at the end of August/beginning of September and, in response to the escalating violence, the Government declared a state of emergency on September 2. Whilst PAD failed to force Mr. Samak to resign, he was ordered to step down on September 9 after the Constitutional Court ruled that he had violated constitutional conflict-of-interest rules by being paid for appearing on a television programme. The state of emergency was then lifted and Mr. Somchai Wongsawat, Mr. Thaksin's brother-in-law, won a majority parliamentary vote to become Prime Minister in mid-September.

In October 2008, political tension increased when the police arrested two PAD leaders. As a result, on October 7, more violence erupted when 2,000 anti-Government protesters gathered outside Parliament in an attempt to stop Mr. Somchai convening the Parliament to make a policy statement. Police used tear gas and rubber bullets to disperse protesters, and PAD protesters responded violently with various weapons including guns, metals poles, and slingshots. In October, leaders of

the anti-Government protests surrendered to the police. Meanwhile, protesters continued to occupy the grounds of Government House and, on November 24, tens of thousands of protesters led by PAD surrounded the Parliament in the hope of forcing out the Government. On November 26, the protests took a more dramatic turn when PAD protesters stormed and took over Bangkok's Survarnabhumi airport and stated that they would not move until Mr. Somchai resigned. They later took over a second Bangkok airport. On December 2, 2008, the Constitutional Court found the PPP, as well as two coalition partners, the "Machima Thipatai" and the Chart Thai parties, guilty of vote-buying, and ordered them to be disbanded. Dozens of PPP executive members, including Prime Minister Somchai Wongsawat, were also found guilty of personal involvement and banned from politics for five years. However, this may not resolve the country's national crisis.

Despite this political turmoil, martial law, which had been imposed by the military Government that took power in 2006 following a coup, was lifted in April 2008 in all areas except the three southern provinces of Yala, Pattani and Narathiwat, where violence continued between Muslim separatists and the authorities, as well as in four districts in Songkhla province. In addition, on February 27, 2008, the King signed the Internal Security Act, which had been adopted on December 21, 2007 by the National Legislative Assembly. It confers emergency powers to respond to threats to national security, even in the absence of a declaration of a state of emergency, to the Internal Security Operation Command (ISOC), a military entity known for the serious crimes it committed in the 1970s, under the control of the Prime Minister<sup>1</sup>. However, it was not specifically invoked in 2008.

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1./ ISOC has now the authority to restrict fundamental freedoms, as Article 17 authorises indefinite restrictions placed on the freedoms of expression, assembly, association and movement: ISOC is authorised to monitor, prevent, suppress or take corrective measures against any action seen as a threat to society. According to Article 19, any person who is recognised as representing a threat to the security of the country is likely to be sentenced to a term of up to six months' detention in re-education camps, and it is feared that this provision could be abused in order to silence all dissenting voices. The Act also provides that ISOC shall not be responsible before the Parliament or any court (Article 22). In addition, officials who commit human rights abuses on the basis of this law shall be immune from any prosecution (Article 23).

Finally, the Government, together with the Ministry of Information and Communication Technology (MICT), continued in 2008 to silence “cyber-dissidents” and restrict freedom of expression and opinion, increasingly using the law on *lèse majesté* as a pretext. Thailand’s *lèse majesté* law, one of the harshest in the world, provides for penalties ranging from three to fifteen years’ imprisonment and has frequently been used for political motives. In May 2008, the MICT was asked by the Democrat Party to shut down 29 websites because they contained material content that was considered to be insulting towards the monarchy. On May 27, the Interior Minister stated that all websites had been contacted to “adjust” their content<sup>2</sup>. At the beginning of November 2008, the MICT decided to create an Internet firewall to filter and block all sites that insult the monarchy and are therefore violating the *lèse majesté* law. There are considerable concerns that this will further control Internet access and content and thus increase censorship of the online media<sup>3</sup>.

### Silencing of critical voices

In 2008, those who exposed or made allegations of corruption against politicians and local Government officials were often the victims of attacks, including enforced disappearances and extrajudicial killings. This affected both human rights defenders fighting against corruption and journalists reporting on such cases. For example, on February 7, 2008, Mr. **Komol Lausopaphan** disappeared from a police station in the north-eastern province of Khon Kaen. Mr. Komol had been investigating corrupt practices in a construction work located on land belonging to the Railway Authority of Thailand. This had brought him into conflict with the police and, after suffering an assault at the hands of local police, he requested witness protection on January 20, 2008. He followed this up with a formal complaint in early February. Mr. Komol had then visited the police station early on February 7. His family called the police station in the evening and was informed that Mr. Komol was still at the station. At around 11 p.m., Mr. Komol called his family, but his call was disconnected. He did not return home. His family reported his disappearance on February 9, and were informed

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2./ This included the sites: *Prachathai.com*, *Arayachon.org*, *Truthaksin.com* and *Thansin comeback.org*.

3./ See Reporters Without Borders (RSF) Press Release, November 18, 2008.

that Mr. Komol had left the station at 11:40 p.m. Mr. Komol's car was found three weeks later, parked about 800 metres from the police station. He has not been seen since February 7, and his family fears that he has been killed. As of the end of 2008, there had been no investigation into Mr. Komol's disappearance and the perpetrators were therefore not identified or punished. Since his disappearance, Mr. Komol's family is frightened to leave the house for fear of also being targeted<sup>4</sup>.

Furthermore, the second half of 2008 saw a spike in the killings of journalists. For instance, two provincial correspondents for the Bangkok daily newspaper *Matichon* were fatally shot – Mr. **Ahiwat Chanurat** in the southern city of Nakhon Si Thammarat on August 1, 2008 and Mr. **Jaruek Rangcharoen**, in the central province of Suphan Buri on September 27, 2008. Both men had reported on local Government corruption, and in the absence of any other motive, this was believed to be the reason for the assassinations. Suspects in both cases were arrested<sup>5</sup>. Only a few weeks later, on October 5, 2008, Mr. **Wallop Bounsampop** was shot by two men at a restaurant in Chonburi province. Mr. Bounsampop was the Editor of *Den Siam*, a newspaper in Chonburi province, southern Thailand, and had written controversial articles on local politics, criticising political opponents. In particular, he had investigated into corruption within local organs of administration<sup>6</sup>.

### Activists and religious leaders in the south targeted as Muslim insurgents

With the backdrop of the continuing martial law in the south of the country, the army continued to engage in counter-insurgency operations, resulting in arrests, torture and extrajudicial killings being to engage in with impunity.

In particular, arbitrary detention and torture were used against human rights activists whom the authorities suspected of involvement in Muslim insurgent activities. For example, on January 27, 2008, two student activists from Yala Rajabhat University, Mr. **Ismael Tae** and Mr. **Amisi Manak**, were arrested and detained in the Special Task

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4./ See Union for Civil Liberty (UCL).

5./ See UCL and RSF Press Releases, September 30 and November 7, 2008.

6./ See UCL and RSF Press Release, October 7, 2008.

Force Unit 11 with five other students, where they were subjected to torture. The authorities stated that the reason for their arrest was suspected involvement in insurgent activities. However, it is believed that they were targeted in reprisal for their involvement in human rights training two days earlier in a village in Yala province. The two students were released without charge on February 4, after a complaint had been filed at Yala Court. On August 15, 2008, Mr. Tae and Mr. Manak disappeared from their university dormitory, along with Mr. **Ruslan Tuyong**, Mr. **Waerosalee Latae** and Mr. **Romlee Latae**, all students at Yala Rajabhat University. They were all actively involved with the Student Federation of Yala, a body that organises human rights activities, and had been involved in providing training on legal aid and in organising discussion on human rights in the community. Friends of the five reported their disappearance later that day and requested assistance from the Muslim Attorney Centre (MAC) in Yala. MAC made enquiries with the Special Taskforce Unit 11 and discovered that the students were being held there. There were concerns that they could be at risk of torture. The five students were subsequently released without charge<sup>7</sup>.

### Urgent Intervention issued by The Observatory in 2008<sup>8</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Messrs. <b>Jon Ungphakorn,</b> <b>Pairoj Polpetch,</b> <b>Sirichai Mai-ngarm,</b> <b>Sawit Kaewwan,</b> <b>Amnat Palamee,</b> <b>Nutzer Yeehama,</b> <b>Anirut Chaosanit,</b> <b>Pichit Chaimongkol,</b> Ms. Supinya Klang-narong and Ms. Saree Ongsomwang.	Judicial proceedings	Urgent Appeal THA 001/0208/OBS 013	February 1, 2008

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7/ See UCL.

8./ See the compilation of cases in the CD-Rom attached to this report.



## / VIET NAM

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

Viet Nam in 2008 was characterised by the Government's two diametrically-opposed policies: on the one hand, relentless and systematic repression of human rights defenders and all dissenting voices and, on the other, a show of openness for the benefit of the international community to enhance Viet Nam's economic and political standing. This was not unlike the approach taken by the Vietnamese Government in 2006 when it made a number of requests to the international community, including the request to join the World Trade Organisation (WTO) and to be removed from the US list of "Countries of Particular Concern" (CPCs) with respect to religious freedom. After being granted both requests, the Vietnamese Government launched in 2007 a harsh campaign of repression against dissidents and human rights defenders. In 2008, this policy of repression continued, whilst at the same time the Government tried to defuse international criticisms of its human rights record, particularly to avoid being put back on the US blacklist of CPCs. In May 2008, however, the US Commission on International Religious Freedom (USCIRF) recommended that Viet Nam be designated once again a CPC.

As in 2007, the Government continued to use laws and decrees as an instrument of repression. Most notable are the provisions of the Criminal Code on crimes against "national security" and "espionage", which provide for heavy penalties, including in certain cases the death penalty. The United Nations has expressed concern on a number of occasions that critics of the Government could be sentenced to death under these provisions simply for exercising their right to freedom of expression. These vague and imprecise provisions make no distinction between non-violent acts – such as the peaceful exercise of freedom of expression –, and violent actions – such as terrorism. Despite strong recommendations by the UN Special Rapporteur on Religious Intolerance (1998) and the UN Human Rights Committee (2002), the Government continued to rely on these provisions, which criminalise dissent and



freedom of expression, as well as on decrees and ordinances restricting assembly and religious activities to silence its critics and others it perceives as a threat to its authority<sup>1</sup>. As a result, defending human rights remained construed by the authorities as a violation of the law.

In 2008, the Government also continued to control most religious organisations and restrict their activities through the process of requiring official recognition, pursuant to the 2004 Ordinance on Beliefs and Religion. Independent religious activity remained illegal, and the Government clamped down on peaceful assembly and freedom of expression exercised by religious leaders, who continued to be active advocates for legal and political reform and, as a result, were seen as attempting to destabilise the Government and as such as a threat to national security. Members of Hoa Hoa, Cao Dai and Khmer Buddhist religious communities, the Unified Buddhist Church of Viet Nam (UBCV) and Catholic and Protestant leaders were all subjected to discrimination, restrictions and repression. The systematic repression and abuses committed against these religious communities were repeatedly condemned by the international community<sup>2</sup> and Viet Nam was once again on the USCIRF's radar for re-designation as a CPC<sup>3</sup>.

### **Harassment of journalists reporting on corruption or calling for democracy**

In 2008, there was still no independent media in Viet Nam, and restrictions placed upon journalists remained widespread. Similar restrictions were used to control the Internet, a fast-growing sector in Viet Nam. On December 2, 2008, the Government announced that new rules would be issued to regulate blogging, thus placing further restrictions on freedom of expression.

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1./ Including Decree 38/2005 banning peaceful demonstrations and the 2004 Ordinance on Beliefs and Religion.

2./ The European Parliament passed on October 22, 2008 Resolution P6\_TA-PROV(2008)0514 relating to the new EU-Viet Nam Partnership and Cooperation Agreement, in which it called on the EU to ensure that Viet Nam cease these "systematic violations of democracy and human rights" and called for effective mechanisms to enforce human rights and democracy clauses in the new Agreement.

3./ Although the USCIRF noted that there had been some progress, it was still concerned about the persistent abuse and repression of certain religious communities. See USCIRF Press Release, May 2, 2008.

Despite the Government's claim to be tough on corruption and on embezzlement of public funds, in 2008 journalists who reported on corruption were the targets of retaliation and intimidation. This frequently took the form of arrests and detentions on the grounds of "abusing democratic freedoms to infringe upon the interests of the State", pursuant to Article 258 of the Criminal Code. For example, two journalists of the State-controlled press, Mr. **Nguyen Van Hai**, reporter for *Tuoi Tre* (Youth Magazine), and Mr. **Nguyen Viet Chien**, journalist for *Thanh Nien* (Young People), were arrested on May 12, 2008 and charged with "inaccurate reporting and abuse of power". Both journalists had brought to light a major corruption scandal at Viet Nam's Transport Ministry involving several high-ranking Communist officials who had embezzled millions of dollars from the Ministry to bet on European football matches. This had resulted in the arrest of the Vice-Minister for Transport, Mr. Nguyen Viet Tien, who was later released for lack of evidence. On October 15, 2008, the two men were found guilty of "abusing democratic freedoms to infringe upon the interests of the State". Mr. Nguyen Van Hai was sentenced to two years' imprisonment, whilst Mr. Nguyen Viet Chien was sentenced to two years of re-education, suspended for time already served, after he pleaded guilty<sup>4</sup>. Two months later, the Editors of *Thanh Nien* and *Tuoi Tre* were fired without any explanation. On July 18, 2008, Mr. **Truong Minh Duc**, a journalist, was sentenced to five years' imprisonment under Article 258 for his reports on farmers who had been victims of corruption<sup>5</sup>.

Those expressing criticisms of Government policy or calling for democracy were also targeted. On April 19, 2008, cyber-dissident **Nguyen Hoang Hai** (pen-name Dieu Cay), a founding member in 2006 of the Club of Free Journalists, was arrested after posting articles on the Internet calling for respect of human rights and democratic reform, and unfurling banners in front of the Ho Chi Minh Opera House protesting against China's claims of sovereignty over the disputed Spratly and Paracel islands in January. On September 10, 2008, he was sentenced to 30 months' imprisonment following an unfair closed trial at the Ho Chi Minh City People's Court. The sentence was

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4./ The EU expressed its regret at these sentences, which it saw as an attack on the freedom of expression. See Statement by the EU Presidency, October 16, 2008.

5./ See Vietnam Committee on Human Rights.

upheld on appeal on December 4, 2008. Mr. Dieu Cay was convicted of tax evasion although the procedural flaws as well as the police unit that arrested him – belonging to the Department of Internal Security and Counter-Intelligence, which usually deals with monitoring and political repression – suggest that this was only a pretext for repression<sup>6</sup>.

## **No respite for defenders of freedom of religion**

### **The largest Buddhist church still outlawed and repressed<sup>7</sup>**

The Unified Buddhist Church of Viet Nam (UBCV) represents more than three-quarters of Vietnamese Buddhists and is a prominent advocate for human rights. Outlawed by the Government following the establishment of the State-sponsored Viet Nam Buddhist Sangha, UBCV members have been a key target for repression by the authorities. Such repression has taken the form of harassment by the police, evictions from pagodas, surveillance, threats, interrogations, disappearances, arrests and detentions – including house arrest. After the USCIRF issued on May 2, 2008 its recommendation that Viet Nam be put back on the CPC list, the Government set about organising grand events to celebrate the UN International Day of Vesak<sup>8</sup>. However, only the Buddhists of the State-sanctioned Buddhist Sangha were allowed to celebrate this holiday, the Buddhists of UBCV being excluded from the celebrations. The elaborate celebrations of one of the most important dates in the Buddhist calendar were in sharp contrast to the increased repression of UBCV monks. In the run-up to the Vesak, a number of UBCV pagodas were seized by the State-sanctioned Buddhist Sangha for the celebrations, with the UBCV monks either being imprisoned in their pagodas or evicted.

On July 5, 2008, **Thich Huyen Quang**, the Patriarch of UBCV, died at the age of 88 years whilst under house arrest in the Nguyen Thieu Monastery, in Binh Dinh province. He had been detained for more than 26 years. Following the funeral, the Government reinforced controls, surveillance and harassment of UBCV monks. On August 15, 2008, **Thich Quang Do** was named Supreme Patriarch of UBCV. As of the end of 2008, he remained under house arrest in the Thanh Minh

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6./ *Idem.*

7./ *Idem.*

8./ Vesak is Buddha's birthday and is a holiday recognised by the United Nations.

Zen Monastery, in Ho Chi Minh City. His telephone line was cut off, and all visits that he received were closely monitored. Further, he had still not been issued with a residence permit and was therefore at risk of being arrested at any moment. On December 23, 2008, Mr. Marco Pannella, Member of the European Parliament, and Italian Senator Marco Perduca were prevented from boarding a plane from Phnom Penh to Saigon to visit Viet Nam. Both had obtained regular visas to enter Viet Nam and were scheduled to visit Thich Quang Do before travelling to Hanoi to meet Vietnamese officials and members of the National Assembly on December 24-25, 2008. The authorities said that they would “not be permitted to enter/exit Viet Nam any more” as they were “not in a position to guarantee their personal security”, after they received “several letters and messages of protest concerning the visit”.

### **Khmer Krom Monks still perceived as a threat to national security**

The Vietnamese authorities also continued to view the Khmer Kampuchea Krom monks as a threat to national security. Although the Khmer Krom bonze Mr. **Tim Sa Khorn** was released from prison on June 28, 2008, the Vietnamese authorities continued to restrict his liberty and freedom of movement by placing him under house arrest following his release. Mr. Sa Khorn had been arrested in Cambodia in June 2007 and sent to Viet Nam, where he was subsequently sentenced to one year’s imprisonment on November 8, 2007, on charges of “sabotaging the unification policy”.

### **Urgent Interventions issued by The Observatory in 2008<sup>9</sup>**

<b>Names of human rights defenders</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Messrs. Nguyen Van Hai and Nguyen Viet Chien</b>	Sentencing / Arbitrary deprivation of liberty	Urgent Appeal VNM 001/1008/OBS 168	October 21, 2008
<b>Mr. Nguyen Hoang Hai (Dieu Cay)</b>	Sentencing / Arbitrary deprivation of liberty	Urgent Appeal VNM 002/1208/OBS 210	December 9, 2008

9./ See the Compilation of cases in the CD-Rom attached to this report.



# **/ EUROPE AND THE COMMONWEALTH OF INDEPENDENT STATES (CIS)**

**OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009**



## / REGIONAL ANALYSIS WESTERN EUROPE<sup>1</sup>

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS

ANNUAL REPORT 2009

Whereas in 2008 the European Union (EU) was particularly proactive towards human rights defenders in countries that do not belong to the European Community, defenders in EU countries also had to face obstacles of some importance to their activities in defence of human rights and fundamental freedoms. On February 6, 2008, the Committee of Ministers of the Council of Europe adopted a declaration with a view to “improve the protection of human rights defenders and promote their activities”<sup>2</sup>. The Committee of Ministers called on Member States to “create an environment conducive to the work of human rights defenders” and on all Council of Europe institutions to “pay special attention to issues concerning human rights defenders”. The Committee also invited the Commissioner for Human Rights to provide strong and effective protection to defenders, in particular by continuing to meet with a broad range of defenders during his country visits<sup>3</sup> and by reporting publicly on the situation of human rights defenders, and also by intervening with the competent authorities on the problems human rights defenders may face, especially in situations where there is a need for urgent action.

However, on the pretext of striking a balance between freedom and security, European Governments have at times in recent years developed initiatives that limit individual rights – electronic surveillance, increase in the number of data bases recording personal data, etc. On

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1./ The countries of Western Europe include the Member States of the European Union and the States Parties to the European Free Trade Agreement. Turkey is also included in this analysis owing to the historic nature of its negotiations with the European Union.

2./ See Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities, February 6, 2008.

3./ In 2008, for Western Europe, the Commissioner for Human Rights paid official visits to the Netherlands, Belgium, Monaco and San Marino in particular.

migration, the adoption by the European Parliament of the “return” directive on June 18, 2008<sup>4</sup> and the European Pact on Immigration and Asylum<sup>5</sup> helped to legitimise harsher policies and to criminalise irregular immigration. In this context, despite active mobilisation on human rights defenders issues, notably in the framework of their foreign policy, several European States adopted a certain number of restrictions on the action of defenders.

Although in 2008 some obstacles have been raised against the freedom of association of human rights organisations, the most commonly used methods to deter and hinder defenders’ activities in Western Europe are still acts of violence, threats and judicial harassment, both by the authorities and private companies, in order to attempt to silence all dissenting voices.

Generally speaking, although the obstacles encountered by defenders in Western European countries were not systematic, as in other regions, the fact remains that such obstacles, sometimes more insidious and dissimulated, have regularly been found to exist.

## Obstacles to the activities of defenders of migrants

### Statutory obstacles and threats to criminalise activities in defence of migrants’ rights

In a certain number of States in the region, for several years now, there has been a trend to increase the number of obstacles placed against the defence of migrants’ rights – which in some cases has led to the criminalisation of the assistance provided to undocumented aliens. In *France*, in *Spain* and in *Ireland*, certain legal or statutory provisions that are either in force or in the process of being adopted have, in 2008, allowed the beginning of the criminalisation of activities in the defence of the rights of migrants; at all events, a strongly deterrent climate has developed. In *France*, the vagueness of the provisions concerning the

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4./ See Directive of the European Parliament and the Council on Common Standards and Procedures Applicable in Member States Regarding the Return of Illegal Immigrants, adopted on June 18, 2008.

5./ On October 15 and 16, 2008 the European Council adopted the European Pact on Immigration and Asylum. It is designed to harmonise asylum and immigration policies in the EU.

offence of “giving assistance to illegal residency”<sup>6</sup>, and in particular the lack of any clear and unconditional exemption from judicial proceedings for non-profit making activities, leaves room for a degree of ambiguity that is dangerous for any person or association providing legal, social or humanitarian support to undocumented migrants in distress, making it possible to criminalise such action. In *Spain*, the bill to reform the law on immigration that was adopted in December 2008 by the Council of Ministers makes it a serious offence to promote “the maintaining of illegal residency of an alien in Spain”, liable to a maximum fine of 10,000 Euros<sup>7</sup>; in *Ireland*, the Immigration, Residence and Protection Bill punishes any lawyer defending migrants in “futile” cases, an expression that is dangerously vague.

In *France*, by a decree dated August 22, 2008, the Ministry for Immigration put an end to the monopoly enjoyed since 1984 by the Ecumenical Support Service (*Service œcuménique d’entraide - CIMADE*) for the provision of legal assistance in detention centres for illegal immigrants (*Centres de rétention administrative*)<sup>8</sup>, giving access to the centres to other associations or bodies willing to apply. The decree was followed by a call for tenders, specifying that the “provider of the service” would only be called upon to give information and documentation, thereby eliminating in fact the other activities, in particular the defence of migrants’ rights provided by organisations engaged in defending those rights, in particular CIMADE – these include informing the detained aliens of their rights, lodging administrative appeals, fulfilling asylum requests, etc. The rules governing the submission of tenders<sup>9</sup> also included an obligation of confidentiality and neutrality on the part of the applicant associations, which some saw as an attempt to “prevent testimonies and alerts concerning situations contrary to

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6./ See Article L. 622-1 to 4 of the Code on Entry and Residency of Aliens and the Right of Asylum (*Code sur l’entrée, le séjour des étrangers et le droit d’asile - CESEDA*).

7./ See Migreuropa and Salas Javier, Canarias 7, February 26, 2009.

8./ “*Rétention administrative*” is the possibility for the administration to detain, for a period laid down by law, foreigners in the process of being deported or who are not authorised to remain on French territory, and who cannot leave the country immediately.

9./ These rules are embodied in a document (*règlement de la consultation*), which is attached to all calls for tenders regarding public contracts. It describes the characteristics of a public contract and lays down how the tender should be sent and how the decision is made. See Article 11-1 of the Regulation.



respect for fundamental rights”<sup>10</sup>. Most associations consider that the call for tenders is designed to make it more difficult, if not impossible, to draw up the annual report that CIMADE has published since 2000 on the situation prevailing in the administrative detention centres. The decree was challenged on October 22 by several associations before the Supreme Administrative Court (*Conseil d’État*), which at the end of 2008 had still not handed down its decision. The call for tenders was suspended, and then cancelled on October 30, 2008 by a decision of the Paris Administrative Court of First Instance, following an appeal lodged by several associations involved in the defence of migrants. A second call for tenders was issued on December 18, 2008, which no longer included the obligation of confidentiality and neutrality.

Such fears that the defence of migrants’ rights be criminalised were on occasion exacerbated by public statements made by certain political figures reflecting a hostile attitude towards defenders of migrants’ rights. In *Belgium*, for instance, on July 24, 2008, Ms. Annemie Turtelboom, the Minister for Immigration Policy and Asylum, declared: “One cannot by law forbid people to go on a hunger strike, but I shall look into what can be done to call to account those who accompany and advise asylum seekers”<sup>11</sup>. In France, on October 16, 2008, the French Member of Parliament Mr. Philippe Cochet, a member of the Union for a Popular Movement, in his opinion on the draft budget for 2009 stressed the intention of the Government to continue the arrest of persons who provided assistance “in some form or another” to undocumented aliens, thereby adding further to the uncertainties regarding the field of application of existing provisions.

### **Acts of physical violence and harassment against defenders of migrants’ rights**

In 2008, the hostility of the police towards any action in defence of or solidarity with migrants increasingly made itself felt when illegal migrants were deported by air. In the context of harsher European migratory policies, more and more people – members of human rights

10./ See CIMADE, *Lettre ouverte à monsieur Brice Hortefeux, Ministre en charge de l’immigration*, October 23, 2008.

11./ See Institute of Race Relations (IRR), *IRR European Race Bulletin No. 65*, autumn 2008, and <http://www.annemieturtelboom.be/FR/asielbeleid/08/6.htm>. Unofficial translation.

NGOs or ordinary citizens – on boarding their flight expressed their indignation at the acts of violence to which migrants about to be deported were subjected. These persons have often been forced by the police to leave the plane, and some have been held in custody, and even prosecuted. Such repression is sometimes compounded by obstacles to their freedom of movement raised by some airlines, which refused to accept as passengers persons who had previously been forced to alight or who had been prosecuted following such incidents.

Such practices were recorded in *Belgium* and *France*<sup>12</sup>. In March 2008, Ms. **Fatima M'Baye**, a lawyer, President of the Mauritanian Association for Human Rights (*Association mauritanienne pour les droits de l'Homme* - AMDH) and FIDH Vice-President, had to disembark from a plane after having protested against the ill-treatment to which a foreigner deported by force to Mauritania on an Air France plane was subjected by the police. She was placed in police custody for the night, and on two occasions asked to undress, for a body search. At the end of 2008, no information was available concerning possible judicial proceedings initiated against her. On April 16, 2008, Mr. **André Barthélémy**, President of Acting Together for Human Rights (*Agir ensemble pour les droits de l'Homme* - AEDH), was also placed in police custody after having taken the defence of two Congolese nationals deported to the Republic of the Congo who complained of ill-treatment. At the end of 2008, Mr. Barthélémy incurred a maximum sentence of two months' imprisonment and a 7,500 euros fine for "incitement to rebellion", and five years' imprisonment and/or a fine of 18,000 euros for "obstructing the movement of an aircraft". Likewise, in *Belgium*, on April 26, 2008, Messrs. **Serge Fosso**, **Philippe Leonardon** and **Claude Moussa** were brutally removed by the police from a Brussels Airlines flight to Douala and placed in police custody after the first two had, before take-off, loudly denounced the attack on the human dignity of a passenger held down by four police officers, and calling for help. Messrs. Fosso and Moussa were punched and kicked, and insulted by the police officers. The three men were also banned from all Brussels Airlines flights for six months. Also, on May 16, 2008, Ms. **Hermine Rigaud**, Deputy Mayor of Chevilly-Larue (France), was manhandled and threatened by the police after having protested on a transit flight in Brussels against

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12./ See Institute of Race Relations, *op. cit.*

the ill-treatment of an undocumented migrant about to be deported to the Democratic Republic of Congo. Ms. Rigaud was also banned from all Brussels Airlines flights.

Defenders were also subjected to acts of harassment in connexion with peaceful demonstrations of solidarity towards migrants. In *Cyprus*, for instance, a peaceful demonstration organised on January 27, 2008 in front of the Ministry for Foreign Affairs to show solidarity with the families of asylum seekers detained for an indefinite period ended with the arrest of Mr. **Doros Polycarpou**, Secretary General of Action for Support, Equality and Anti-Racism (KISA), an NGO engaged in the fight against xenophobia, racism and discrimination, and calling for respect for the rights of migrants and refugees. Mr. Polycarpou was placed in police custody for five hours, and then accused of “inflicting bodily harm on a police officer” and “resisting arrest”. At the end of 2008, the Ministry of Justice decided to drop the proceedings against him<sup>13</sup>. In *Sweden*, on August 21, 2008, the police used tear gas to disperse several members of the SAC trade union which had organised a sit-in in Stockholm and were handing out leaflets calling on the management of a restaurant to pay the wages due to a group of undocumented workers who had worked in the restaurant<sup>14</sup>.

Finally, several defenders were harassed because of their professional activity in the defence of migrants' rights. In *Belgium*, on April 28, 2008, two lawyers defending the rights of migrants, Messrs. **Alexis Deswaef** and **Vincent Lurquin**, were manhandled, humiliated and insulted by police officers as they were trying to meet with a group of undocumented migrants in the Brussels Law Courts (*Palais de Justice*)<sup>15</sup>. In *Greece*, there are very few migrant workers calling for decent working conditions, owing in particular to the hostility of public opinion towards migrants. It is in such a context that Ms. **Constantina Kuneva**, a Bulgarian migrant worker and Secretary General of the All Attica Union of Cleaners and Domestic Workers (PEKOP), was seriously injured on December 22, 2008 in Athens, losing the use of an eye and her vocal cords following an attack with sulphuric acid. The attack

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13./ See KISA.

14./ See Institute of Race Relations, *op. cit.*

15./ See League for Human Rights (*Ligue des droits de l'Homme* - LDHB).

came after a series of threats made against her. At the end of 2008, the police enquiry had yielded no concrete results.

### **Judicial harassment, obstacles and threats against defenders of ethnic and religious minority rights**

In some countries of the region, ethnic and religious minorities were still, in 2008, a particularly sensitive issue, and those defending their rights were subjected to acts of judicial harassment and intimidation, and their freedom of assembly was restricted. In *Turkey*, defenders of minority rights had to operate in a very restrictive, even repressive environment owing to a strong current of nationalism<sup>16</sup>, and were regularly subjected to acts of harassment, even of a judicial nature. On March 3, 2008, for instance, the sentencing of Mr. **Ridvan Kizgin**, a leading member of the Association for Human Rights (*Insan Haklari Dernegi* - IHD), to two years' and six months' imprisonment for having investigated and published a report on five assassinations committed in the Kurdish village of Bingöl in 2003, was confirmed on appeal. At the end of 2008, Mr. Kizgin was still detained in the Erzurum prison. In addition, it was only on March 12, 2008 that Mr. **Tahir Alçi**, a lawyer, accused on January 19, 2007 of a breach of Article 288 of the Turkish Criminal Code on "attempting to influence the decision of a court of justice" after having issued a press release in which he called for the conditions of a fair trial to be met, in connexion with the trial of two police officers accused of having killed two Kurds through an excessive use of force, was acquitted by the Eskisehir High Criminal Court<sup>17</sup>. Finally, Mr. **Orban Kemal**, a lawyer, received threatening letters in January 2008, for his defence of victims of assassinations committed in April 2007 against the employees of a Christian publishing house in Malatya<sup>18</sup>. In *Greece*, defenders of minority rights, in particular of the Roma minorities, were on several occasions hindered in their work<sup>19</sup>.

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16./ According to Article 301 of the Turkish Criminal Code, "denigrating Turkish identity in public" and that of "the Government of the Republic of Turkey, the judicial institutions of the State, the military or security structures of the Republic" can incur respectively from six months' to three years' and from six months' to two years' imprisonment.

17./ See Association for a Human Rights Agenda (*Insan Hakları Gündemi Derneği* - IHG), *Turkey: Defend Human Rights Defenders*, 2008.

18./ *Idem*.

19./ See Greek Helsinki Monitor.

## Obstacles to the freedom of peaceful assembly and intimidation of defenders of LGBT rights in the Baltic countries

Despite some evolution, in particular in *Estonia*, where a relatively favourable political context enabled a parliamentary debate to take place on a bill governing same-sex marriages, the obstacles to the fundamental freedoms of defenders of the rights of lesbian, homosexual, bisexual and transgender persons (LGBT) were still present in 2008 in a certain number of Western European States. In *Lithuania* and *Latvia* in particular, the proximity of the State to the Church and the influence of religion on civil society encouraged the crystallisation of a generally hostile climate towards defenders of LGBT rights.

In 2008, the annual march of the LGBT movement (Gay Pride) was banned in *Lithuania*. It was able to take place in *Latvia*, but it was severely controlled by strong police forces; it had to take place away from the city centre and the route had been imposed and fenced off by the authorities, officially for security reasons. Police officers were stationed at the only access to the procession, and questioned participants about their sexual orientation. And the day before the 2008 march, unidentified persons broke into the server of the website of the Alliance of LGBT and their Friends “Mozaika”, erased most of the data and stole the organisation’s list of members. Whereas a police enquiry was initiated, it had yielded no result by the end of 2008<sup>20</sup>.

## Practice of abuse of power against defenders by companies in a dominant position

In 2008, legal action for damages by private enterprises were initiated or continued against small human rights NGOs in an attempt to silence them. In France, the Network for Alert and Intervention for Human Rights (*Réseau d’alerte et d’intervention pour les droits de l’Homme* - RAIDH), a human rights organisation that focus in particular on the issue of police abuse and the use of Taser guns, was sued in 2007 by the company SMP “Technologies Taser France” for “excess of freedom of expression” and “disparagement of the trademark and trade

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20./ See Mozaika.

name Taser”<sup>21</sup>. The company claimed 50,000 euros in damages from RAIDH, 8,000 euros for publication costs and 3,000 euros in lawyers’ fees, directly threatening the capacity of the organisation, whose resources are already limited. On October 27, 2008, the Paris Court of First Instance dismissed all claims by SMP Technologies. SMP Technologies has since launched an appeal against RAIDH, demonstrating once again its determination to silence the organisation.

Similar actions were undertaken in Lithuania against defenders working for the right to a healthy environment<sup>22</sup>. In 2004, a movement to protect the common public space and the historical centre of *Vilnius* (a UNESCO World Heritage site), formalised under the name “For Lithuania Without the Question Marks”, was formed following the decision of developer M2Invest and its subsidiary “Rojaus apartment” to destroy a series of archaeological, historical and hydrogeologic sites in the city to make room for construction after it received a building permit from the county of Vilnius. Members of the movement filed a complaint on January 21, 2007 against the county for “violation of the right to participate in decision-making procedures relating to environmental issues,” as enshrined in the Aarhus Convention and national legislation in Lithuania. On July 27, 2007, Rojaus apartment brought charges against four activists of the movement, Mr. **Tomas Bakucionis**, Mr. **Vytautas Domasevicius**, Ms. **Gediminas Urbonas** and Ms. **Jurate Markeviciene**, before the Administrative Court of Vilnius, claiming one million litas (about 320,000 euros) in damages as well as the seizure of movable and immovable property, arguing that legal action had frozen the building permit granted by the county of Vilnius and had therefore caused a financial loss<sup>23</sup>. On April 21, 2008, the Administrative Court of Vilnius held that the building permit was invalid. However, no final decision on the question of damages would have been issued as of late 2008.

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21./ See RAIDH Press Release, October 28, 2008. The charges refer to the campaign that RAIDH led for three years on the regulation of the use of Tasers in France and, more recently, the request for an annulment of the decree from the Ministry of Interior on September 22, 2008, which authorises the use of Tasers by municipal police.

22./ See Lithuanian Association for Human Rights (*Lietuvos Žmogaus Teisiu Asociacija*).

23./ *Idem*.

## Obstacles to freedom of association in Ireland

While freedom of association for human rights organisations is not particularly threatened in countries of Western Europe, concerns nevertheless revealed themselves in *Ireland*. On December 11, 2008, the *Seanad* (Upper House of the Irish Parliament) voted against an amendment to the new Charities Bill, proposed by Senators of the opposition, which sought to include the “promotion of human rights” in the objectives of such organisations. Most donors to Irish associations and organisations require charity status. In addition, these organisations are exempted from certain taxes and can claim an exemption from rates. It is therefore feared that the exclusion of “the promotion of human rights” as the goal of charitable organisations may deprive human rights associations that already exist and those that are not yet registered of a number of advantages, limiting their capacity for action<sup>24</sup>. Some organisations even fear that, in some cases, the only way for them to retain their charitable status is to not mention their human rights activities<sup>25</sup>. Despite opposition from some Senators and NGOs, the text entered into force on February 28, 2009. These developments are unfavourable for Irish national institutions for the promotion and defence of fundamental freedoms. In July 2008, the Government announced its decision to merge a series of institutions for the protection of human rights. Although the Government abandoned the merger in late 2008 due to the mobilisation of Equality and Rights Alliance, a coalition of 60 NGOs and trade unions, it nevertheless severely limited the budgets of some of these institutions<sup>26</sup>.

## Protection of public order: the temptation to unduly restrict the right to privacy for human rights defenders in France

Allegedly to better protect public order, the right to privacy for citizens and the exercise of civil liberties continued to be threatened in *France* in 2008, and human rights defenders were specifically targeted. By Decree of June 27, 2008, the Ministry of the Interior created a new

24./ See Law Society of Ireland, *Memorandum to the members of Seanad*, December 3, 2008.

25./ See position paper from Amnesty International Ireland, Free Legal Advice Center (FLAC), Irish Council for Civil Liberties (ICCL) and Front Line, *Charities Bill 2007: Excluding Human Rights - The Repercussions*, December 8, 2008.

26./ Budgets for the Irish Human Rights Commission and Equality Authority were reduced respectively by 24% and 43%, while other agencies, including the National Consultant Committee against Racism and Intolerance (NCCRI) and Combat Poverty Agency, were closed. See FLAC.

police file for Documentary Exploitation and Utilisation of General Information (*Exploitation documentaire et valorisation de l'information générale* - EDVIGE), which was finally withdrawn on November 20, 2008, following the mobilisation of several civil society and political organisations. The decree allowed the police to “centralise and analyse information relating to natural or legal persons who apply for or exercise a political, trade union, or economic mandate, or play an institutional role of economic, social or religious significance, provided that such information is necessary for the Government or its representatives to exercise their responsibilities” and to “centralise and analyse information relating to individuals, groups, organisations and legal persons who, because of their individual or collective activity, are likely to prejudice public order”. The scope of this decree was dangerously large, and gave authorities the power to create files on those belonging to vaguely and broadly defined categories, which may include human rights defenders, and gather any personal information concerning them.

### **Harassment of defenders denouncing serious violations caused by mafia groups in Italy**

In *Italy*, human rights defenders denouncing the negative consequences of mafia groups on civil liberties again found themselves in the line of fire in 2008. In March 2008, Ms. **Rosaria Capacchione**, a journalist from the daily newspaper *Il Mattino*, Mr. **Raffaele Cantone**, former Anti-Mafia Prosecutor for the district of Naples, Mr. **Roberto Saviano**, a journalist for *La Repubblica* and author of the book *Gomorra*, all three joined as plaintiffs the judicial proceedings held before the Naples Court of Assize against sixteen “godfathers” of the Neapolitan mafia clan, the Camorra<sup>27</sup>, a criminal organisation operating in particular in the region of Naples. The three were seriously threatened by two “godfathers” of the organisation, who explicitly accused them of trying to “influence the work of judges” and “condition the evolution of the trial”. The situation of Mr. Roberto Saviano, who through his book *Gomorra* denounced human rights violations caused by the criminal activities of the Neapolitan mafia, remained critical throughout the year 2008: escorted 24 hours a day, Mr. Saviano received new death threats in October 2008 and left Italy in late 2008, fearing for his safety. The

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27/ The Court of Assize sentenced sixteen “godfathers” of the clan to life imprisonment, a decision that was upheld by the Court of Appeals on June 19, 2008.



local context in which he works further aggravates the situation, given that many members of the media are under strong pressure from the Camorra, which helps to extend operations to intimidate and discredit the journalist. The situation worsened following statements made by the Minister of the Interior, Mr. Roberto Maroni, who downplayed the threats faced by journalists and attempted to demobilise public opinion on the case.

### Urgent Interventions issued by The Observatory in 2008 on countries of the region<sup>28</sup>

Countries	Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
GREECE	Mr. Makis Nodaros	Attacks	Urgent Appeal GRE 002/1008/ OBS 173	October 28, 2008
TURKEY	Mr. Ethem Açıklalın	Arbitrary detention / Judicial harassment	Urgent Appeal TUR 001/0108/ OBS 011	January 28, 2008
TURKEY	Mr. Ridvan Kizgin	Arbitrary detention / Judicial harassment / Sentencing	Urgent Appeal TUR 002/0308/ OBS 039	March 18, 2008
TURKEY	Mr. Ethem Açıklalın and Mr. Hüseyin Beyaz	Excessive use of force by the police / Judicial harassment	Urgent Appeal TUR 003/0808/ OBS 137	August 19, 2008

28./ See the Compilation of cases in the CD-Rom attached to this report.



## / REGIONAL ANALYSIS EASTERN EUROPE AND CENTRAL ASIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

Throughout 2008, repression against human rights defenders increased in the region, albeit to very different degrees depending on the country: some of them were marked by a manifestly abrupt halt of the democratisation process, and others, by a tightening of repression. Furthermore, while attempts of *rapprochement* by *Belarus* and *Turkmenistan* – two of the most repressive regimes in the region – with the European Union in order to establish stable economic relations foreshadowed a possible improvement of the situation of human rights defenders in these countries, this hope did not materialise.

Generally speaking, bad human rights practices proliferated, particularly in the *Russian Federation*, where many acts of repression of all kinds against human rights defenders were recorded in a climate of almost total impunity, as well as in a number of neighbouring countries, particularly in Central Asia (*Kyrgyzstan*, *Turkmenistan*, *Uzbekistan*). A worrying evolution of the overall political situation in *Armenia*, *Georgia*, *Kyrgyzstan* and *Azerbaijan* was also noted in 2008, which, consequently, led to a deterioration of the situation of defenders.

Furthermore, most countries in the region continued to share an enduring post-Soviet legacy, characterised by the persistence of similar police and judicial structures that hindered the administration of a fair justice and therefore a genuine independence of the judiciary, but also by problems of corruption, common challenges of democratic transition and geopolitical repositioning amid a total or almost-total absence of independent press. Thus, in *Belarus*, *Turkmenistan* and *Uzbekistan*, all critical voices continued to be systematically repressed by the authorities, and the ability of defenders to operate was seriously hampered. Moreover, several repressive practices inherited from the past, such as the confinement of defenders in psychiatric asylums to silence and

intimidate them, were still implemented in *Azerbaijan* and *Uzbekistan*. Such practices also continued to constitute a potential threat against human rights defenders throughout the region.

Finally, informal or secret agreements on extradition remained prevalent in some Member States of the Commonwealth of Independent States (CIS) and/or the Shanghai Cooperation Organisation, representing a daily risk for defenders wherever they were, and sometimes forcing them into hiding or into exile outside the region (*Georgia, Uzbekistan*).

### **Ongoing physical and verbal attacks against defenders in a persistent climate of impunity**

Physical attacks against defenders, whether from State or non-State actors, increased in 2008 in a general climate of impunity. A number of defenders, particularly those involved in the defence of the rights of ethnic minorities as in the *Russian Federation*, suffered sometimes fatal attacks from unidentified persons. It was often impossible for them or their families to subsequently complain to the police, and even less possible to obtain compensation or to expect any result from a commission of inquiry or a court, which were often devoted to the executive power (*Azerbaijan, the Russian Federation, Turkmenistan, Uzbekistan*).

Serious attacks to the physical and psychological integrity of human rights defenders – and sometimes to their relatives – generally remained one of the main features of the repressive policies of *Turkmenistan* and *Uzbekistan*. In these extremely authoritarian contexts, police violence still increased, and the use of torture continued. Death threats against a human rights defender were also reported in *Bosnia and Herzegovina*.

Throughout the year 2008, several defenders of ethnic and sexual minorities as well as their relatives were also subjected to acts of defamation, harassment and verbal threats (*Azerbaijan, the Russian Federation, Serbia*).

### **Legislative and administrative obstacles to human rights activities**

In some countries of the region, the hindrances to the rights of human rights defenders were again based on a particularly restric-

tive legislative arsenal regarding freedoms of association (*Azerbaijan, Belarus, Kyrgyzstan, the Russian Federation, Turkmenistan*) and peaceful assembly (*Armenia, Belarus, Kyrgyzstan, the Russian Federation, Turkmenistan, Uzbekistan*), an arsenal that was sometimes reinforced in 2008, with direct consequences on the working conditions of human rights organisations and their members. In *Kyrgyzstan* for example, while the civil society remained active, the situation of human rights defenders significantly deteriorated in 2008 with the adoption of a new and particularly restrictive legislation on freedom of assembly.

Furthermore, the use of those repressive legislative arsenals and the misuse of certain provisions of domestic law often led to lawsuits against defenders for spurious reasons (*Armenia, Azerbaijan, Belarus, Kyrgyzstan, the Russian Federation, Uzbekistan*).

### **Defenders perceived as a threat to political stability**

The series of parliamentary or presidential elections held in 2008 in *Armenia, Azerbaijan, Belarus, Georgia, the Russian Federation, Serbia* and *Turkmenistan* did not lead to any real change in policy on the whole. However, such electoral contexts were generally marked by a restriction of freedoms of defenders (*Kyrgyzstan*), acts of defamation against them (*Belarus*), and even acts of violence against local observers (*Georgia*). In the framework of protests held to contest election results, repression against human rights defenders also increased.

Generally speaking, denunciations of human rights violations were regularly perceived as an attempt to call political stability into question, and in many cases defenders were therefore assimilated with the opposition by authorities, and thus suffered campaigns of harassment or defamation. The independence of Kosovo, a pivotal period, also led to violent protests in *Serbia* by groups of Serbian extremists and nationalists, during which many human rights defenders and journalists were attacked. Defenders in *Georgia* also experienced limitations on their actions in the context of the Russo-Georgian war of the summer of 2008.

In addition, in 2008, some defenders continued to be assimilated with extremist elements in order to facilitate prosecution against them, especially in *the Russian Federation* and *Kyrgyzstan*, and the relations of some of them with foreign countries were sometimes presented by

the authorities as dangerous and contrary to the national interest, thus providing an additional ground for harassment against them (*Belarus, Kyrgyzstan, the Russian Federation, Turkmenistan, Uzbekistan*).

Finally, faced with economic difficulties that, in some countries, undermined the political stability of regimes that benefited from important revenues of oil and gas until the summer of 2008, coupled since the fall of 2008 with the consequences of the financial and economic crisis that severely hit the countries of the region, the authorities feared that the social consequences of these situations would call their legitimacy into question. In this context, repression was stepped up against any protest, and the vigilance of the authorities was increased, especially against defenders denouncing violations of economic and social rights, who suffered a number of hostile measures, as in *the Russian Federation*.

### Journalists defending human rights under pressure

In a number of countries where the media is a means of disseminating information relating to the promotion and protection of human rights, restrictions of press freedom was experienced in 2008, both in fact and in law, which forced many journalists into self-censorship. In this context, independent journalists who decided to continue to denounce human rights violations, and in particular those who investigated corruption of the authorities, were frequently subjected to judicial proceedings, threats, or even sentenced to imprisonment (*Armenia, Belarus, Turkmenistan, Uzbekistan*).

### Urgent Intervention issued by the Observatory in 2008 on a country of the region for which there is no Country Fact-sheet<sup>1</sup>

Country	Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
BOSNIA AND HERZEGOVINA	Mr. Branko Todorovic	Death Threats	Urgent Appeal BIH 001/0708/OBS 128	July 29, 2008

1./ See the Compilation of cases in the CD-Rom attached to this report.

# / TESTIMONIAL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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## **BAKHTIOR KHAMROEV**

President of the Djizak branch of the Human Rights Society of Uzbekistan (HRSU)

The history of the human rights movement in Uzbekistan – which was born in February 1992 with the creation of the first public organisation dedicated to human rights defence since the disappearance of the USSR, the Human Rights Society of Uzbekistan (HRSU) – can be divided into two distinct periods. The first period continued up to the tragic events in Andijan on May 13, 2005; the second period began that same day.

Already during the first period, life was not easy for human rights defenders in Uzbekistan: the latter were placed under surveillance by intelligence services, which regularly arrested them. In July 2001, Chavrik Ruzimuradov, President of the Kachkadaria region branch of HRSU, was killed in the basement of the Ministry of Interior (where the isolation cells for the temporary detention of people arrested are located). In October 2002, nine of our organisation's activists were in prison or in psychiatric asylums. Thanks to pressure exerted by international organisations and embassies of democratic countries, they were all released in October 2003. Until the events in Andijan, human rights defenders used to demonstrate publicly to denounce the countless violations of the law, of which the State bodies – in particular the forces of order, the office of the Public Prosecutor, and the courts – were guilty; they protested against the restriction of their rights; they defended convicted comrades. And to a certain degree they succeeded.

Unfortunately, after the tragic events that took place in Andijan on May 13, 2005 (when Government troops fired live ammunition at a peaceful demonstration in which thousands of citizens were taking part), and following the expulsion from the country of international human rights organisations and other NGOs, Uzbek human rights activists found themselves in the situation of having to face a cruel

political regime alone. In order to quash the human rights movement completely, the Government incorporated numerous amendments into the existing legislation, including within the Criminal Code, with the following consequences:

- It has become almost impossible for human rights organisations to register legally at national level;
- Non-registered human rights organisations are forbidden to carry out any legal activity;
- The leaders of a non-registered human rights organisation are exposed to huge fines or two weeks' administrative arrest. They may even be criminally convicted if their organisation receives financial aid from abroad.

In Uzbekistan, the notion of “human rights defence” has to a great extent lost its original meaning. Since the tragic day of the Andijan massacre, the authorities have embarked on criminal proceedings against around forty human rights defenders, almost half of whom are behind bars. Nine HRSU members are still languishing in prison. The forces of order have launched a true hunt for human rights defenders. The latter have all, without exception, been placed under external surveillance; the authorities have radically reduced their freedom of movement within the country. They have also intensified judicial proceedings, focusing on human rights defenders who demonstrate in the street in protest against the constant persecution of their comrades and who demand the release of political detainees. But despite all this, it may be said that the authorities have not totally managed to crush the human rights movement in the country.

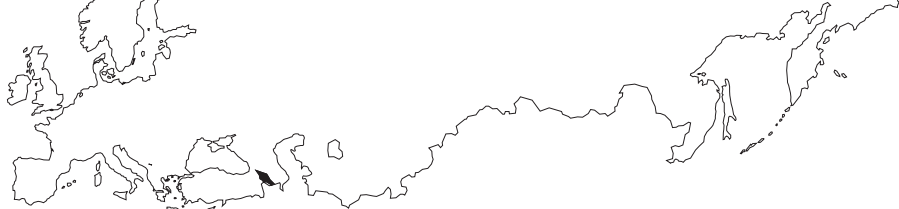
Today the human rights defence movement in Uzbekistan is experiencing the most difficult time in its history. No one can say how long Islam Karimov's cruel political regime will last. This regime has almost entirely suppressed democratic and religious opposition; it has eliminated all contestation and wishes to eradicate the human rights movement. Additionally, although some Uzbek human rights defenders manage to communicate relatively easily with international organisations, others suffer from too tenuous links with the same organisations, due to the lack of office and computer equipment and telephones, as well as to financial difficulties. This makes them vulnerable in the face of the authorities, given that they are unable to transmit their observations on the human rights situation in the country directly and in an

appropriate time-frame, nor can they let the outside world know about the problems they directly encounter.

And yet, although the country's leaders often ignore the demands of the international organisations and their constant calls for them to end the persecution of human rights defenders, these appeals by the international organisations represent the only hope for the safety of those people who are prosecuted. It does happen that the authorities on occasion retreat under international pressure and, for example, release certain human rights activists held in detention.

It is my view that international organisations should support human rights defenders even more. Currently within the country there is no internal force capable of changing the system. The role of the democratic countries and international organisations in pushing Uzbekistan towards democracy and freedom is therefore all the more important.





## / ARMENIA

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### Political context

Armenia experienced the most violent repression of recent years after the presidential elections, which were won on February 19, 2008 by Mr. Serzh Sarkisian with 52% of votes. The opposition did not recognise the results of the ballot at the end of February and organised demonstrations that were violently dispersed. These resulted in the deaths of ten people on March 1, 2008, eight of whom were demonstrators, as well as the arrest of hundreds of political opponents<sup>1</sup>. The state of emergency, decreed from March 1 to 21, resulted in a temporary ban on the independent media, a *de jure* suspension of the activities of NGOs and opposition parties, and the adoption of a new law on peaceful assembly that is particularly restrictive<sup>2</sup>. Peaceful rallies continued to be prevented and even banned<sup>3</sup> after the state of emergency was lifted, and the authorities continued to use violence against opposition activists as well as independent journalists. In addition, after the Ombudsman, an independent expert responsible for protecting human rights and fundamental freedoms in Armenia, presented a report that was severely critical of the events of March 2008<sup>4</sup>, the Ministry of Justice and the General Prosecutor contented themselves with making objections to the questions raised by the Ombudsman in his report,

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1./ See Civil Society Institute (CSI).

2./ See Resolution 1609 of the Parliamentary Assembly of the Council of Europe (PACE) of April 17, 2008 condemning the adoption of this law.

3./ In some cases the authorities argued that community administrative regulations, which imposed notification of the organisation of demonstrations of over 100 people, had been violated. In others, the organisers were confronted with refusal by the authorities or were forced to organise their demonstrations in locations imposed on them by the latter.

4./ In his report, the Ombudsman noted a certain number of irregularities committed during and after the March 1 demonstration, such as, in particular, the lack of credible evidence permitting criminal proceedings to be opened against certain demonstrators, the issue of the proportionality of police action taken to end the rally, and the abuses committed in implementing the provisions of the decree imposing the state of emergency.

rather than responding to them. For his part, former President Robert Kocharian declared in the media that he had made the wrong choice in proposing an Ombudsman to the Assembly<sup>5</sup>. In his report, the latter had also drawn a very critical picture of the economic and political situation in Armenia<sup>6</sup>.

Freedom of the media witnessed a considerable *de facto* regression in 2008. In October 2008, the Armenian Ombudsman denounced recent legislative amendments that introduced a moratorium on media licenses until mid-2011. These amendments made it impossible to create new – and difficult to develop the existing – independent radio and television channels<sup>7</sup>, contravening the recent ECHR judgement concerning the A1+ independent television channel<sup>8</sup> as well as a Resolution of the Parliamentary Assembly of the Council of Europe dated June 2008, recommending that Armenia should “ensure an open, fair and transparent licensing procedure”<sup>9</sup>.

Overall, the country remained marked by considerable corruption, the lack of independence of the judiciary and the recourse to torture by the police force. In the international arena, the Armenian and Turkish presidencies have been seen to move closer together for the first time. The first visit of the Turkish President to Yerevan on September 6 encouraged the hope that the two countries would become closer and, on November 2, the Presidents of Armenia, Azerbaijan and the Russian

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5./ The current Ombudsman was proposed by the President of the Republic and appointed by the Assembly on July 8, 2006.

6./ In his report, the Ombudsman also confirmed that distrust of public bodies, over-centralisation of power, the ineffective system of checks and balances, the lack of guarantees for the protection of civil rights and human rights, and the emergence of a privileged elite were all factors that encouraged a large part of society to demonstrate its dissatisfaction.

7./ These amendments provided for the simple extension of existing media licenses until 2011, and that no call for tender for broadcasting frequencies would be made until this date.

8./ On June 19, 2008, ECHR considered that the refusal to grant a license to the A1+ television channel violated Article 10 of the European Convention on Human Rights and sentenced the Armenian Government to pay an amount of 30,000 Euros in damages to A1+. According to the Government, refusal to grant a license was necessary in Armenia's transition to compulsory digital broadcasting in 2012. A1+ was an extremely popular independent channel that had been closed down by the Government in 2002 and which had not been able to obtain a new license since then.

9./ See PACE Resolution 1620, June 25, 2008.

Federation adopted a declaration calling for political resolution of the conflict<sup>10</sup>.

### **Pressure exerted on lawyers responsible for defending persons arrested during the events of March 2008**

In 2008, the lawyers of hundreds of people arrested at the beginning of March and whose trials continued until the end of the year faced great difficulty in doing their job. The opening of criminal proceedings against lawyers who sought to obtain justice for the abuses and violations of human rights that occurred during the events of March 2008 seems in fact to have been used as a means of intimidating and obstructing their professional activities, insofar as Article 38 of the Code of Ethics of the Bar Association forbids a lawyer to carry out his or her profession if proceedings have been opened against them. For instance, on August 28, 2008, criminal proceedings were opened against **Mr. Mushegh Shushanian**, the lawyer of five people arrested and imprisoned during the March events. These proceedings were started on the grounds of “disrespect towards the court” under Article 343 of the Criminal Code, after Mr. Shushanian apparently accused the court of making political rulings during a hearing involving one of his clients. His lawyer’s license, which was suspended after judicial proceedings were opened against him, was renewed on November 24 by the chamber of the Armenian Council of Armenian Lawyers. However, the prosecution of Mr. Shushanian continued at the end of 2008, and he incurred a fine of 100,000 drams (around 255 Euros)<sup>11</sup>.

### **Impunity for attacks and threats against journalists defending human rights**

In 2008, the intensification of media muzzling in Armenia resulted in the development of Internet-based activities of independent journalists, newspapers and information platforms. However, the lack of monitoring of investigations that were opened following different attacks against – and pressure put on – journalists put those who, amongst others, denounced corruption, in a particularly delicate position. On

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10./ The Nagorno-Karabakh conflict between Armenia and Azerbaijan has caused Armenia to be isolated, since its borders with Turkey and Azerbaijan have been closed since the start of the fighting and Armenia has no diplomatic relationship with these two countries.

11./ On December 19, his lawyers appealed against a ruling by the Kentron Court refusing to abandon the charges against him.

November 17, 2008, Mr. **Edik Baghdasaryan**, the President of the NGO “Investigative Journalists” and Editor of the on-line newspaper *HetqOnline*, which seeks to defend the independence of the investigative press and condemns corruption in Government circles, was violently attacked by three men in plain clothes and had to be taken to hospital. Government representatives demonstrated their support for him and affirmed that the Prosecutor was going to start an enquiry<sup>12</sup>. As at the end of 2008, a criminal case had been initiated for “bodily harm of medium gravity” (Article 113 of the Criminal Code) that, however, had led to no result.

### **Increasing difficulty for NGOs in organising human rights events**

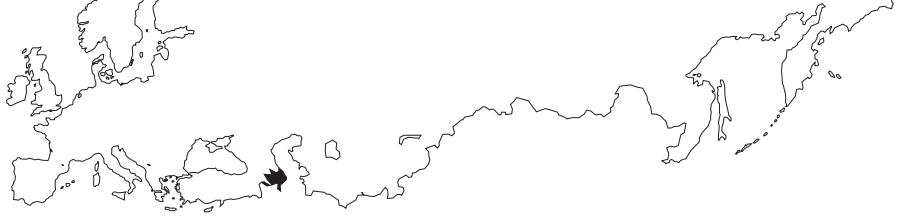
During 2008, it has become more and more difficult for NGOs to organise conferences, discussions or film screenings on human rights issues. Indeed, most of the big hotels, cinemas and conference centres time and again refused to rent their premises to civil society organisations that condemned human rights violations committed by the Government. The Government reportedly put pressure on most of the big hotels not to rent out their rooms for “meetings of a political nature”, pressure that had no legal basis and that would aim to hinder the holding of human rights-related events. At the beginning of October 2008, the hotel Congress initially agreed to host a day of conferences and discussions dealing with the country’s major human rights problems, such as corruption and the violation of freedoms of expression, peaceful assembly and association, which was organised by the Partnership for Open Society<sup>13</sup>. The hotel Congress then withdrew its agreement on the grounds that the event was of “political nature”. The staff explained to the organisers that they would probably be turned down by the major hotels. In fact, the hotel Marriott, to which the Open Society Institute (OSI) made a similar request, had to apply for prior authorisation from the authorities. The hotel Congress finally authorised the event to be held on October 9, 2008, following OSI mobilisation<sup>14</sup>.

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12./ One of the presumed attackers of Mr. Edik Baghdasaryan gave himself up to the police on November 26, 2008.

13./ The “Partnership for Open Society” is an initiative of more than sixty NGOs, coordinated by OSI.

14./ See Joint Declaration of around a dozen NGOs, including the CSI, the Helsinki Committee for Armenia and the Transparency International Anti-Corruption Centre for Armenia, December 3, 2008.



## / AZERBAIJAN

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### Political context

The year 2008 saw no improvement in the human rights situation in Azerbaijan: the authoritarian regime of President Aliyev was indeed reinforced and independent voices continued to be repressed. The presidential elections of October 15 took place without mishap, since the opposition boycotted the vote and organised no protest rallies. To no-one's surprise the President won the elections with more than 88% of the votes. Although the OSCE and the European Union were satisfied with some of the technical amendments to the Electoral Code, they nonetheless recalled that these elections could not be considered democratic<sup>1</sup>. In addition, on December 24, 2008, the Constitutional Court ratified a bill extending the limit to run for the Presidency beyond two terms, thus giving Mr. Ilham Aliyev the possibility of lifetime election. A referendum on the end to the limit was due to be organised on March 18, 2009.

Although five journalists were released in January, strong repression of the independent media continued throughout 2008. At the end of October 2008, Mr. Nushiravan Maharramli, the Chairman of the national radio and television, announced that as from January 1, 2009 the foreign radio stations *BBC*, *Voice of America* and *Radio Free Europe/Radio Liberty* (RFE/RL) would no longer be licensed to broadcast programmes on national waves, on the pretext of making frequencies available for local radio stations<sup>2</sup>.

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1./ See OSCE Report of the Election Observation Mission in Azerbaijan dated December 15, 2008 and the Declaration by the Presidency on behalf of the EU concerning the presidential elections in Azerbaijan, October 20, 2008. The EU noted in particular "that the elections still do not satisfy international standards of democracy, particularly as regards the organisation of public debate, the conduct of polling and the counting of votes".

2./ These radio stations are still able to broadcast their programmes via Internet and satellite, which, in view of the existing infrastructures, considerably limits their audience.

Furthermore, as of the end of 2008, many political opponents, journalists and human rights defenders were still in prison and detention conditions remained alarming<sup>3</sup>.

### **Persistent administrative obstacles to freedom of association**

Although the legislative framework for civil society organisations has been clarified and improved in recent years, in reality freedom of association remained precarious during 2008. With the creation in December 2007 of the Council of State Support to NGOs under the President, the registration of organisations in fact took on a considerable political and financial dimension, since only legally recognised organisations could participate in or were eligible for funding from the Council. In 2008, the latter received a budget of one and a half million dollars and began to allocate funding in August. In April, President Aliev appointed 11 members of the Council, including three Government representatives and eight NGO representatives, two of whom are representatives of human rights organisations. However, several members of civil society criticised the purely consultative nature of Council members' opinions regarding decisions for grant aid allocation.

Additionally, there remained many practical obstacles to the registration of organisations (in particular waiting periods and legal flaws), so that some NGOs, such as the Forum of Jurists of Azerbaijan and the Humanity and Environment Organisation were only registered after the European Court of Human Rights issued a judgement, following many years of legal battles<sup>4</sup>. Furthermore, in 2008 the withdrawal of registration remained one of the simplest ways of silencing human rights organisations. On May 14, the registration of the Election Monitoring Centre (EMC), one of the most important organisations in Azerbaijan in the field of election observation, was suspended, notably on the grounds that a change of address had not been declared. As a

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3./ On March 26, 2008, Mr. Eynulla Fatullaiev, the founder and Editor-in-chief of the opposition daily newspapers *Gundalik Azerbaijan* and *Realny Azerbaijan*, who was sentenced in October 2007 to eight and a half years in prison for "defamation", began a hunger strike to protest against media repression and detention conditions. He was joined by several journalists, human rights defenders and political opponents. The hunger strike was continued until April 7.

4./ See ECHR judgement No. 28736/05, *Alyev and others v. Azerbaijan*, December 18, 2008, and judgement No. 4439/04, *Ismayilov v. Azerbaijan*, January 17, 2008.

result the organisation was not able to send independent observers to the October 2008 presidential elections<sup>5</sup>.

Finally, in December 2008, Parliament amended the Code of Administrative Violations. The fines imposed for not declaring grant aid received, which were previously between 20 and 50 AZN (from 19 to 48 Euros) were now increased to amounts from 1,000 to 2,500 AZN (from 966 to 2,416 Euros). Although, as of the end of 2008, no NGO had been sentenced on the basis of the modified Code, the very existence of these new provisions placed a *de jure* restriction to freedom of association.

### **Impunity for violence against human rights defenders**

In 2008, attacks on human rights defenders continued, although the number of attacks lessened in comparison with previous years. In addition it remained extremely difficult for defenders who were attacked or in danger to obtain police protection or for their rights to be upheld by a judicial system that was in fact exploited by the authorities. As an example, in the Nakhchivan autonomous Republic, officials from the Human Rights Resource Centre (HRRC) continued in 2008 to be subjected to repeated acts of harassment in complete impunity. On August 27, 2008, Mr. **Elman Abbasov**, a member of HRRC and an expert with the Institute for Reporters' Freedom and Safety, as well as Ms. **Malahat Nasibova** and Mr. **Ilqar Nasibov**, correspondents of *RFE/RL*, were beaten by representatives of the forces of order and by civilians in the village of Nahram, while they were carrying out an investigation into cases of police intervention during attempts to hold peaceful rallies. They tried to file a complaint, which the police refused to register. Furthermore, no medical examination was made. Mr. Abbasov had already received death threats by phone on March 6, 2008<sup>6</sup>.

### **Judicial harassment and arbitrary detention of human rights defenders**

Against the background of the deterioration of freedom of expression, a new threshold was crossed when libel proceedings were opened against a prominent human rights defender. On December 13, 2008, Interior

5./ See Human Rights Centre of Azerbaijan (HRCA).

6./ *Idem*.

Minister Ramil Usubov accused Ms. **Leyla Yunus**, Director of the Institute for Peace and Democracy in Azerbaijan (IPD), of “attacking the honour and dignity” of the police and the Interior Minister, following the publication of an interview on December 3 on the *www.day.az* website<sup>7</sup>. In the article, Ms. Yunus criticised the fact that the right to a fair trial was not guaranteed in Azerbaijan, taking as an example the trial linked to the kidnapping of two girls, when police officers who were accused of human trafficking had not been prosecuted. Mr. Usubov claimed compensation of 100,000 manats (about 96,663 Euros), on the basis of Articles 4, 149 and 150 of the Civil Procedure Code and Articles 23.4, 23.6 and 44 of the Law on the Media. The trial of Ms. Yunus started in January 2009.

In addition, at the end of 2008, two human rights defenders were still deprived of liberty. Mr. **Novruzali Mammadov**, a defender of the rights of the Talysh ethnic minority, Head of the Talysh Cultural Centre, Editor-in-chief of the *Voice of the Talysh (Tolishi Sedo)* newspaper, and Department Head of the Linguistics Institute of the Science Academy, was sentenced on June 24, 2008 by the Court of Serious Crimes to ten years in prison for “high treason”, after the Court argued that he had collected information necessary for the establishment of an administrative autonomy in the territories of Azerbaijan populated by Talysh people and had spread a negative image of Azerbaijan. His sentence was confirmed in appeal on December 26 and, at the end of December 2008, Mr. Mammadov remained detained in the Bailov preventive detention centre No. 1. Furthermore, although criminal proceedings against Mr. **Sahib Teymurov**, Chairman of the NGO Support of Children’s Houses, who had defended the rights of an HIV-positive prostituted minor, were abandoned on May 20, 2008, the latter was on the same day forcibly placed in a psychiatric hospital, where he remained detained as of the end of 2008. Mr. Teymurov had been arrested in August 2007 for “extortion” and sentenced by the Court of Serious Crimes of the Republic of Azerbaijan. After being tortured by the police during his pre-trial detention, Mr. Teymurov began to suffer from mental problems<sup>8</sup>.

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7/ The title of the interview was: “In most cases, the courts in Azerbaijan are passing illegal and unwarranted decisions in relation to the protection of human rights and fundamental freedoms” (unofficial translation).

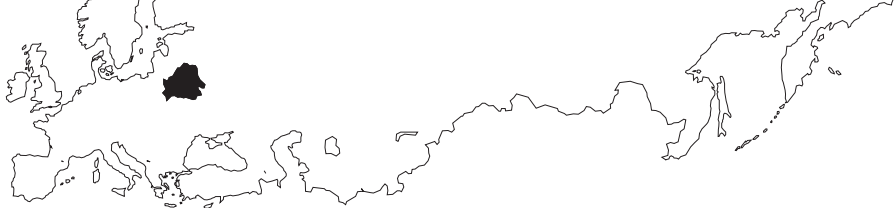
8./ See HRCA.



## Urgent Interventions issued by The Observatory in 2008<sup>9</sup>

Name of human rights defender	Violations	Intervention Reference	Date of Issuance
Mr. Novruzali Mammadov	Sentencing / Arbitrary detention / Torture / Ill-treatment	Urgent Appeal AZE 001/0808/OBS 139	August 20, 2008
		Urgent Appeal AZE 001/0808/OBS 139.1	October 27, 2008
		Press Release	December 15, 2008

9./ See the Compilation of cases in the CD-Rom attached to this report.



## / BELARUS

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

Although the September 2008 parliamentary elections, in which no seat was won by the opposition, were considered not to be transparent by international observers<sup>1</sup>, the European Union nevertheless noted several positive signs in Belarus, such as the release of the last political prisoners at the end of the summer and the reorientation of Belarusian foreign policy towards Europe<sup>2</sup>. As a result, at the end of September the EU decided to partially suspend the sanctions adopted in 2004 and to lift the ban on visits by senior Belarusian officials for a period of six months<sup>3</sup>. The OSCE Chairman-in-Office and Finnish Foreign Minister, Mr. Alexandre Stubb, also spoke in favour of greater cooperation with Belarus<sup>4</sup>. On the Belarus side, on November 14, 2008 the Head of the Presidential Administration, Mr. Uladzimir Makey, deploring the isolation of Minsk, promised “positive steps” in the media situation, words that were followed with acts at the end of November, with the return of the independent newspapers *Narodnaya Volya* and *Nasha Niva* in the official distribution circuits. On November 19, 2008, the country’s authorities additionally informed their European counterparts that they were ready to take into account OSCE recommendations on the Election Code.

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1./ “The preliminary report by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) on the conduct of the parliamentary elections in Belarus on Sunday 28 September concludes that these elections fell short of the OSCE’s democratic commitments, in spite of a measure of progress in relation to previous elections. [...] The Presidency has also noted the positive developments prior to the elections, particularly with regard to the release of the last political prisoners and the invitation to the OSCE to observe the parliamentary elections on 28 September”. See Declaration by the EU Presidency on the parliamentary elections in Belarus, September 30, 2008.

2./ In 2008, Belarus tried to develop closer economic ties with its European neighbours as a counterweight to the relationship with the Russian Federation.

3./ However, the EU reserved the right to renew the sanctions before the end of the six months period.

4./ See OSCE Chairman’s Press Release, October 7, 2008.

However, the positive developments of the end of the year 2008 should not mask the continued repression by the Belarusian authorities of opponents to the regime and civil society stakeholders. In 2008 for instance, the authorities sometimes used politically motivated dismissals or the exclusion of students from their universities to quash protests. Freedoms of assembly and association continued to be largely flouted. Since the State controls the judicial bodies, in 2008 several criminal proceedings were again opened against opponents and protesters, who remained at risk of prison terms, where detention conditions are extremely harsh. Furthermore, in 2008 journalists were subject to numerous threats and pressure, in an environment in which legislation relating to press freedom again became harsher this year, notably after a new law was signed in August 2008 by President Lukashenko, further restricting the freedom of the media, especially on-line publications, and making cooperation with foreign media more difficult<sup>5</sup>. Last but not least, Belarus remained the last State in the region to maintain capital punishment.

In addition, it was still not possible for many of the defenders appearing on the authorities' "special list" to leave the country. Although some defenders appearing on the list were given permission to travel abroad, they were systematically searched when they crossed the border.

### **Obstacles preventing human rights organisations from obtaining legal status**

In 2008, human rights organisations were again regularly denied registration for formal and fallacious reasons, or were subjected to requests for clarification or amendment as regards their registration application, or even for re-registration following arbitrary dissolution, thus making longer an already very slow procedure. Most human rights defenders consequently continued to risk proceedings under Article 193.1 of the Criminal Code for activities carried out in the framework of "an unregistered organisation". For instance, in August 2008, a letter from the Ministry of Justice informed the leaders of the Human Rights

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5./ This law which was deplored by Ms. Ferrero-Waldner, the European Commissioner for External Relations, in a statement on July 1, 2008, strengthens the media registration programme and makes it easier for the authorities to close down any of the media. It additionally establishes State control of Internet-based publications and requires Government accreditation for journalists working for foreign media. Finally, it prohibits financial and technical aid from foreign persons or organisations (unless these persons are co-founders).

Centre “Viasna” of the five official reasons for the refusal to register their organisation, that was ordered nearly a year before on October 26, 2007, by a ruling of the Supreme Court<sup>6</sup>. Although many NGOs did not succeed in obtaining legal status, those who did so also encountered great difficulty in carrying out their work. One of the concrete obstacles to NGO activities was the increase in rents for NGO premises, which caused the leaders of the Hrodna branch office of the NGO “BPF Adradzhenne” to give up renting their regional office<sup>7</sup>. On May 29, the branch was officially closed down on the grounds that it no longer had a legal address or office.

### **Multiple obstacles to freedom of peaceful assembly**

The year 2008 saw the continuation of practices intended to discourage human rights defenders from exercising their right to peaceful assembly. The Belarusian authorities resorted to acts of harassment before rallies, arrests and often refused to authorise demonstrations, thus making it possible to prosecute demonstrators for taking part in unauthorised demonstrations. A great number of protesters were arrested and detained in 2008, such as Messrs. Ales Bialiatski, FIDH Vice-President and President of the Human Rights Centre “Viasna”, Uladzimir Labkovich, Aleh Matskevich, Siarzhuk Sys, Aleh Kalinkou, Uladzimir Khilmanovich, Viktor Sazonau, Alexander Karaliou, Alexander Padalian, as well as Ms. Maryna Statkevch and Ms. Iryna Toustsik, who were arrested whilst they were celebrating the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights on December 10, 2008 and distributed copies of the Declaration in Minsk, Hrodna and Mahiliou. In addition, on December 4, 2008, a few days before the celebration of the sixtieth anniversary, a police officer went

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6./ The Ministry of Justice indicated that certain information relating to the founders of the association was false, without specifying which information. The Ministry used as a second argument the fact that 20 of the 69 founders had received administrative sentences. The third reason for denial of registration was the fact that, under Article 20.1 of the Law on Associations, associations may only defend their members’ rights, which is in contravention of the statutes of an organisation that conforms with the Universal Declaration of Human Rights. In the fourth place, the authorities put forward the fact that the name of the Human Rights Centre “Viasna” had not been changed from that of the organisation that had been dissolved, violating Article 12.6 of the Law on Associations. Finally, the Belarusian authorities argued that the financial document relating to the payment of costs for the Human Rights Centre “Viasna” did not mention the reason for the payments and therefore could not be accepted.

7./ See Human Rights Centre “Viasna”.

to the home of Mr. **Sergei Govcha**, a leader of the branch of “Viasna” in the town of Baranovitch, to search for “forbidden texts”<sup>8</sup>.

### **Discredit campaign in the official media and harassment of defenders by the authorities**

Since the main media are State-controlled, human rights NGOs and the work of defenders were often brought into popular discredit. After Mr. **Oleg Hulak**, President of the Belarusian Helsinki Committee, and Mr. Ales Bialiatski had taken part in a press conference on human rights on June 12, 2008, during which they declared their intention of organising the monitoring of future parliamentary elections, the first television channel broadcast a report in its Sunday programme “Panorama” that attacked their honour and dignity. In 2008, the authorities also began tax inspections against several defenders and their families, including Mr. Ales Bialiatski, Mr. Oleg Hulak, Mr. **Dmitri Markuchevski** and Ms. **Tatiana Protko**, members of the Helsinki Committee, as well as Mr. **Valentin Stefanovitch**, a member of the Human Rights Centre “Viasna”<sup>9</sup>.

In addition, the KGB directly intervened on several occasions to exert pressure on certain defenders, including students, and carried out inquiries and searches during which victims were often threatened. On May 23, 2008 for example, a search was made by three KGB officers at the home of Mr. **Leaniid Svetsik**, a human rights defender from Vitsebsk, who was prosecuted under Article 130.1 of the Criminal Code for “inciting national and religious hostility” in the context of threats made by the extreme right-wing organisation Russian National Unity (RNE) against citizens who Mr. Svetsik had supported. His computer and works relating to human rights were confiscated and Mr. Svetsik was questioned on several occasions at the KGB office. His trial was under way as of the end of 2008.

### **Increase in the number of searches and preventive measures taken against journalists defending human rights**

In Belarus, the radio stations remained the only way of broadcasting information on the promotion and protection of human rights. In 2008,

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8./ *Idem.*

9./ *Idem.*

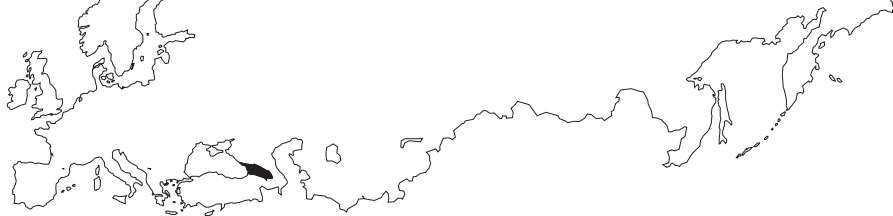
in order to stop independent journalists from doing their work of information supply, the authorities organised numerous repeated searches at their homes and offices. For instance, on March 27 and 28, 2008, throughout Belarus, KGB agents searched the private apartments and offices of a number of independent journalists, and confiscated computers. The offices of *Radio Racya*, *The European Radio for Belarus* and *BelSat TV Channel* were among the targets.

### Urgent Interventions issued by The Observatory in 2008<sup>10</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Leanid Svetsik	Searches / Judicial proceedings	Urgent Appeal BLR 001/0608/OBS 095	June 5, 2008
Messrs. Ales Bialiatski, Uladzimir Labkovich, Aleh Matskevich, Siarzhuk Sys, Aleh Kalinkou, Uladzimir Khilmanovich, Viktor Sazonau, Alexander Karaliou, Alexander Padalian, Ms. Maryna Statkevch and Ms. Iryna Toustsik	Arbitrary detention / Release	Press Release	December 15, 2008

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10./ See the Compilation of cases in the CD-Rom attached to this report.



## / GEORGIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

At the beginning of January 2008, the early presidential elections won in the first round by Mr. Mikhail Saakashvili did not put an end to the country's political instability. While the OSCE expressed some reservations about a campaign that was highly polarised<sup>1</sup>, the opposition strongly contested the validity of these elections. Firstly, a dialogue between the ruling party and the opposition group was opened, essentially on the question of election reforms, one of the main opposition's demands. However, the situation rapidly deteriorated at the end of March, after Parliament adopted amendments to the Election Code and the Constitution favourable to the ruling party<sup>2</sup>. This deterioration led to early parliamentary elections being held in May 2008, which were won by the President's United National Movement party, after a campaign in which the OSCE<sup>3</sup> and local observers noted a number of cases of intimidation and obstruction.

The persistent problems inherent to the country – corruption, lack of judicial independence, media censorship, worrying conditions of detention –, the emergence in the public debate of the issue of the large number of political prisoners, as well as the tension of the current regime in the face of popular discontent regarding economic and social problems, placed human rights defenders in a difficult situation throughout the two major crises of 2008. First of all, the election period was marked by numerous acts of verbal and physical violence, as well as by a certain number of acts of intimidation and threats by the representatives of the ruling party and the regional and electoral

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1./ See Report of the OSCE Election Observation Mission in Georgia, March 4, 2008.

2./ The amendments establish in particular the right to use administrative resources to fund election campaigns. These amendments were criticised by the Ombudsman, local observation organisations and the opposition parties for their lack of transparency and the absence of any consultation during the drafting phase.

3./ See Report of the OSCE Election Observation Mission in Georgia, September 9, 2008.

administration against civil servants working to hold free elections that were not falsified, NGO representatives, election observers and journalists. This atmosphere of violence reached its peak on May 21, 2008, the day of the parliamentary elections, and continued throughout the post-election period, during which human rights organisations reported cases of threats against independent journalists by local authority representatives<sup>4</sup>. Many civil servants who refused to campaign on behalf of the United National Movement were also dismissed. Furthermore, the war provoked by Georgia in August resulted in a particularly strong-arm reaction by the Russian Federation, resulting in considerable harm to the Georgian civilian population. This conflict brought to the fore once more the tensions in terms of freedom of expression: because the Georgian authorities were concerned to maintain a positive image during the conflict, human rights defenders, and in particular independent journalists, faced difficulties in providing evidence freely.

### **Pressure and acts of violence against defenders working for free elections**

In 2008, defenders working towards a good environment for the holding of elections were subjected to acts of harassment. For instance, Mr. **Sabir Makhetiev**, one of the most active election observers of the Public Movement “Multinational Georgia” (PMMG), was subjected to pressure, acts of harassment and intimidation, and was then arrested on April 23, 2008 while he was involved in pre-election monitoring aiming to prepare the parliamentary elections, for having refused to cease his human rights activities<sup>5</sup>. He was later obliged to leave Georgia.

On the day of the parliamentary elections, several local election observers were also subjected to insults, acts of intimidation, sometimes even death threats and ill-treatments, especially in rural areas. When these persons filed complaints, their cases were often destroyed. In

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4./ See Human Rights Centre (HRIDC).

5./ Mr. Sabir Makhetiev had reported violations of the Election Code during the January 2008 presidential elections. In the following months, considerable pressure was exerted by the regional administration. Mr. Aflatun Valiev, Representative of the Sadakhlo administrative territory, proposed that he should give up his activities as an observer and work with him, in exchange for the cancellation of an old debt with the Procredit bank. After he refused, the police and bank representatives went to his home on April 18, 2008 to confiscate his property. Five days later, Mr. Makhetiev was arrested for “armed resistance” and remanded in custody.



polling station No. 18 in Kabali, constituency No. 15 in Lagodekhi, Mr. **Gela Mtvlishvili**, an independent journalist and election observer for the Human Rights Centre (HRIDC), was physically attacked on May 21, 2008, the day of the elections, by Mr. Adalat Sardarov, an election committee official, and by some committee members, as he tried to draw up a complaint reporting election irregularities<sup>6</sup>. On the same day, HRIDC had to withdraw its observers during the last hours of polling, because their safety could not be guaranteed<sup>7</sup>.

In a context of increased State control of the television channels, the main sources of information, and of some radio stations, journalists became the disseminators of independent news, especially of reports of human rights violations. As a result journalists also found themselves in the front line of repression in 2008, when they tried to report on the violations that took place during the elections. On the day of the parliamentary elections, many journalists who were reporting from polling stations were ill-treated and their equipment sometimes damaged. In the Kakhetia district alone, five journalists were beaten, and numerous incidents of this kind were reported in other districts. On the same day, Mr. **Ilia Martkopelashvili**, an independent journalist, was threatened with arrest by employees of the Ministry of the Interior as he was about to inform mobile election observers about violations that had been noted.

### **Pressure on and acts of violence against defenders who condemned human rights violations during the war with Russia**

During the summer of 2008, journalists and NGO representatives faced great difficulty in reporting violations of human rights and international humanitarian law during the war with the Federation of Russia, not only in the regions occupied by Russian troops but also in neighbouring regions under Georgian control. They encountered material obstacles to reach these areas, as well as physical and moral pressure aiming to prevent them from denouncing violations. As an example, Mr. **Saba Tsitsikachvili**, an HRIDC Coordinator and jour-

6./ See HRIDC Report on the parliamentary elections, *Georgia's parliamentary elections - unprecedented brutality and election fraud. Monitoring of elections on May 21, 2008, June 2008.*

7./ On top of human rights defenders, representatives of various opposition parties were also subjected to threats or were beaten when they reported irregularities.

nalist who was investigating the situation of refugees in the Gori region in South Ossetia, was subject to threats and pressure exerted by regional Government officials on several occasions in August 2008. Pressure continued to be exerted during the following months. He was particularly encouraged to end his human rights activities or risk reprisals against himself and his family. For his part, Mr. **Ucha Nanuashvili**, HRIDC Executive Director, was questioned and then threatened with prosecution on August 29, 2008. Nothing had come of these threats as of the end of 2008.

### Urgent Interventions issued by The Observatory in 2008<sup>8</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Sabir Makhietiev	Arbitrary detention / Judicial proceedings	Urgent Appeal GEO 001/0508/OBS 082	May 16, 2008
Messrs. Saba Tsitsikashvili and Ucha Nanuashvili	Physical and verbal attacks / Threats	Urgent Appeal GEO 002/0908/OBS 145	September 4, 2008

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8./ See the Compilation of cases in the CD-Rom attached to this report.



## / KYRGYZSTAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

In 2008, the situation of human rights deteriorated in Kyrgyzstan, particularly following the adoption of new restrictive laws and the development of increasingly repressive practices. The Kyrgyz authorities adopted several unconstitutional laws: under the pretext of the fight against terrorism and extremism, a new law on freedom of worship, for example, passed by Parliament on November 6, 2008, restricts the recognition of religious movements. In addition, on November 14, 2008, the Parliament adopted a law on life imprisonment of former death row prisoners<sup>1</sup> that authorises the use of inhuman and degrading practices, even torture, in the framework of their detention. In addition, a new blow was struck in 2008 against freedoms of peaceful assembly and association, following the adoption of provisions and the implementation of practices contrary to international human rights standards.

Furthermore, in early 2008, NGOs were unable to obtain court rulings ordering the publication of the district-by-district results of the December 2007 parliamentary elections, which results were still contested in late 2008, and peaceful assembly protests that followed were repressed.

Finally, freedom of expression was significantly restricted by means of greater State control on public media. On June 4, 2008, President Bakiev signed a law giving him the power to appoint the Executive Director of the public consortium NKTR (public television and radio). On the other hand, pressure on the independent media exacerbated: the last two independent newspapers, *De facto* and *Alibi*, stopped publication in July and August 2008 due to lawsuits against some of their

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1./ The death penalty was abolished in June 2007.

leaders<sup>2</sup>. At the beginning of December 2008, *Radio Free Europe / Radio Liberty* (RFE/RL) and the *BBC* were also forced to stop radio broadcasting in Kyrgyzstan, following a unilateral decision that was not justified by the Government of Kyrgyzstan<sup>3</sup>.

## Systematic harassment and repression of defenders during demonstrations

Restrictions on freedom of peaceful assembly and repression of demonstrations continued and even strengthened in 2008, particularly following a decision by the Constitutional Court in July 2008 that allowed local authorities to significantly restrict the space for peaceful gatherings across the entire country<sup>4</sup>. Obstacles to freedom of assembly were translated into reality through bans on demonstrations and by the systematic arrest of demonstrators. For instance, the youth movement “I do not believe”, protesting against irregularities in the parliamentary elections of December 2007, had numerous brushes with the authorities in 2008, with each of their gatherings resulting in arrests and fines. For example, on January 28, 2008, twenty members of the movement who had gathered in front of the Parliament to protest peacefully against the fraud that marred the parliamentary elections of December 2007 were arrested within a few minutes. Several weeks later, the movement received a negative response from the administration of the city of Bishkek to organise a peaceful demonstration. Furthermore, Mr. **Maxim Kuleshov**, leader of the association “World-light of culture” and Coordinator of the Resource Centre for Human Rights in the city

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2./ On January 23 and 24, 2008, *Alibi* and *De facto* published an article involving the nephew of President Bakiev, Mr. Asylbek Saliev in a car accident causing a death in March 2007. Both newspapers were sentenced on June 4, 2008 to pay Mr. Saliev a million soms (about 19,047 Euros) for “moral damage”. Because the latter refused compensation several times, *Alibi* found it impossible to enforce the sentence of the Court of Pervomaisk (Bishkek) and was therefore banned from publication on August 22, 2008. *De facto*, whose readers had made contributions to pay the fine, had already stopped operations on July 1, following the judicial proceedings initiated against its Editor, Ms. Cholpon Orozobekova (see below).

3./ *BBC* programmes have been interrupted since December 6, 2008, and those of the *RFE/RL* since December 8.

4./ In late 2007, the city of Bishkek limited peaceful gatherings in three places: the “Youth Park” away from the centre, the Erkindik “Old Place”, near the Parliament, and Gorki Park. In July 2008, the Constitutional Court considered that the provisions adopted by the Bishkek City Council were in conformity with the Constitution, which now allows other municipal councils in the country to restrict freedom of assembly in certain places.

of Tomok, was also arrested repeatedly in 2008 for having organised rallies and peaceful demonstrations. For instance, his arrest on October 23, 2008 occurred minutes after he launched one of his “democratic street lessons” to encourage people to struggle peacefully for human rights and respect for the Constitution. Accused of violating the Law on Assemblies and disobeying the police, he was sentenced to a fine of 2,000 soms (about 40 Euros).

### **Intimidation and judicial harassment of human rights defenders**

In 2008, journalists who dared to denounce corruption and other human rights violations committed by the administration and Kyrgyz circles of power were victims of repression of various forms. The Editor of the independent newspaper *De facto*, Ms. **Cholpon Orozobekova**, was charged on July 3, 2008<sup>5</sup> for “deliberate publication of false information” under Section 329 of the Criminal Code. The charge followed the publication in her newspaper on June 12, 2008 of an open letter<sup>6</sup> highlighting the practices of corruption in tax collection that involved the Director of tax service in Bishkek, Mr. Taalaibek Dalbaev. Ms. Cholpon Orozobekova, who had already been harassed and threatened on several occasions in the past by strangers asking her to leave her position, had to leave Kyrgyzstan to protect her family.

As in other countries in the region, in 2008 the notion of extremist threat was also increasingly used in Kyrgyzstan as a pretext to prosecute human rights defenders. For example, on March 11, 2008, Mr. **Ravshan Gapirov**, Director of the Human Rights Centre “Justice and Truth”, was remanded in custody on a decision by the Court of the city of Osh; he was then charged under Article 299, paragraph 2, subparagraph 2, of the Criminal Code for “incitement to hatred of the nation or religious hatred”, following an open letter he sent on February 4, 2008 to Mr. Ruskyl Mondochev through websites such as *www.centrasia.ru* and *www.ca-oasis.info*. In the letter, Mr. Gapirov wanted to answer accusations of membership in the radical Islamic party “Hizb ut Tahrir”,

5./ A criminal investigation was opened on June 13.

6./ The author of the letter, who wrote under the pseudonym Zamira Moldoeva, disappeared. Ms. Orozobekova does not exclude the possibility that the whole affair was organised to discredit *De facto*. See RFE/RL article, July 14, 2008.

participation in a terrorist plot, and destabilisation of the country that had been made by Mr. Mondochev<sup>7</sup>. Mr. Ravshan Gapirov recalled in particular that he belonged to no party and invited Mr. Mondochev to issue a denial.

## Obstacles to freedom of association

Various obstacles to freedom of association increased in 2008. Echoing the barriers to funding of the associations raised by the guidelines of the Kyrgyz financial police in 2007, the Kyrgyz authorities prevented in 2008 the establishment of the office for Central Asia of the Norwegian Helsinki Committee (NHC). Their representative, Mr. **Ivar Dale**, was denied entry to the territory of Kyrgyzstan on October 12, 2008 while returning from a trip in Europe<sup>8</sup>. On September 5, Mr. Dale was tried by a local court in Bishkek for “illegal work in Kyrgyzstan”, the NHC not having been officially registered there, despite the completion of all formalities, and for providing “false information” in a visa application in November 2007. At that hearing, the court pointed out that the visa application submitted by the police had been falsified. Furthermore, the NGO “Mental Health and Society”, which runs an office for the defence of patients within the Mental Health Centre of the Republic (RMHC), the largest psychiatric treatment centre in Kyrgyzstan<sup>9</sup>, was subjected to constant harassment in 2008. In June, the Director of RMHC, Mr. Abjalbek Begmatov, demanded the NGO to be closed down and to leave RMHC premises after the NGO revealed financial

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7./ See Kyrgyz Committee for Human Rights (KCHR).

8./ Mr. Ivar Dale subsequently received confirmation by border police that he was banned from the territory of Kyrgyzstan for 10 years by the security services, on the grounds that his presence on the territory of Kyrgyzstan was considered as “contrary to national interests”. Mr. Dale also received a letter from the Shanghai Cooperation Organisation that the cause of the prohibition of entry into the territory was that the office of the NHC was not registered in accordance with Article 20 of the Administrative Code. Due to the absence of Mr. Dale, the office of the NHC was forced to close down in December 2008.

9./ The RMHC is a psychiatric hospital founded in 2004 with the assistance of the UNDP, the OSCE office in Bishkek, the Soros Foundation and the OSI, and in accordance to a memorandum signed in 2005 between the Kyrgyz Ombudsman, the International Mental Disabilities Advocacy Centre (MDAC) and the NGO “Mental Health and Society”. It is thanks to the support of the former Minister of Health that the organisation was able to use the premises of the RMHC.

irregularities within the RMHC<sup>10</sup>. In addition, pressure was brought against doctors who cooperated with the NGO; on October 20, 2008, Mr. Begmatov and hospital staff tried to evict by force the members of “Mental Health and Society” from their office. Since then, the NGO “Mental Health and Society” has remained formally closed, following a decision by the Director of RMHC, but its members continued their activities on its premises. The hospital administration filed a lawsuit on November 24, 2008 demanding that “Mental Health and Society” leave the premises of the centre, but the court did not consider the complaint for lack of presence of the plaintiff.

### Urgent Interventions issued by the Observatory in 2008<sup>11</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Ms. Tolekan Ismailova, Ms. Toktaim Umetalieva, Ms. Nazgul Turdubekova, Ms. Aigul Kizalakova, Ms. Natalia Utesheva, Mr. Mirsujlan Namazaliev and Ms. Jibek Ismailova	Arbitrary detention / Release / Sentencing	Urgent Appeal KGZ 001/0108/OBS 007	January 16, 2008
Mr. Maxim Kuleshov	Arbitrary detention / Release / Sentencing	Urgent Appeal KGZ 001/0108/OBS 007	January 16, 2008
	Arbitrary detention / Release / Sentencing	Urgent Appeal KGZ 002/1008/OBS 172	October 28, 2008
Mr. Ramazan Dyrlydaev and Ms. Guliza Omurzakova	Assault	Press Release	October 20, 2008
Mr. Ivar Dale	Obstacles to freedom of movement / Expulsion		

10./ In the context of cooperation between the Ministry of Finance, the Ministry of Health and the alliance “For a Transparent Budget” (of which the NGO “Mental Health and Society” is part), supported by the Ombudsman. See Open Viewpoint Public Foundation and Press Release from the organisation Mental Health and Society.

11./ See the Compilation of cases in the CD-Rom attached to this report.



## / RUSSIAN FEDERATION

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### **Political context**

In 2008, repression against Russian human rights defenders and the independent media worsened in a climate of tightening policies. The transfer of power from Mr. Vladimir Putin, now Prime Minister, to Mr. Dmitry Medvedev, the new President, did not change the policy of the country. The economic crisis, which severely affected the population at the end of the year, and the August war with Georgia in 2008, led to a consolidation of repression against defenders, opponents and, more generally, against anyone critical of the authorities. Opposition activists were again having trouble enforcing their right to peaceful assembly, and during the year the sometimes brutal arrests increased. Several protests of discontent were violently repressed by the police across the country, as seen with the “Dissenters’ Marches”, regularly organised by the opposition and which some human rights NGOs joined, or the event held in Vladivostok on December 21 following an increase in taxes on imported cars. On the other hand, in search of political stability, the Duma amended the Russian Constitution in November to extend the presidential term from four to six years without any public debate.

Moreover, legislative counter-terrorism efforts continued to be the authorities’ main instrument, which made extensive use of certain articles of the Criminal Code to investigate numerous “fabricated” cases, under the guise of the fight against terrorism and extremism. In addition, several legislative changes strengthened the exploitation of the judiciary: on December 12, 2008, the Duma adopted a new law, promulgated on December 31, 2008 by the President, which bars juries from hearing cases on terrorism, treason, hostage taking, insurrection and organisation of mass disorder. This new law represents a significant decrease of the possibilities for citizens to access justice, in a context where the judiciary is already widely exploited by the authorities.



Finally, against the backdrop of the financial crisis and global economy, migrant workers, already exposed to the xenophobia and violence of far-right groups, were increasingly used as scapegoats by the Government.

### **Administrative and judicial harassment of human rights organisations and their members**

In 2008, human rights organisations again faced many judicial and administrative obstacles. At the normative level, the noose continued to strangle civil society: on July 2, 2008, Prime Minister Putin signed a decree abolishing the list of foreign organisations whose grants were exempt from taxes, rendering the financing of independent NGOs even more difficult, particularly as human rights were not included on the list as being tax exempt.

During 2008, the 2006 Law on NGOs<sup>1</sup> had again negative effects on the development and functioning of civil society, and the proposals that its representatives sent to the authorities to improve and soften legislation were still dead-letter. Many NGOs therefore continued to face great difficulties in complying with the new legislative requirements. With Presidential Decree No. 724 of May 12, 2008, the responsibility for the registration and dissolution of NGOs, previously performed by the Federal Registration Service (FRS), was transferred to the Department of Justice, and the FRS was closed. These institutional changes led to a temporary suspension of inspection, registration of new organisations, and alteration of the statutes of existing organisations.

Nevertheless, the greatest danger to human rights defenders in 2008 was still inspection procedures. The legislation defines these procedures vaguely, giving the authorities even broader powers. Many organisations were thus subject to excessive searches, in which the authorities used any pretext to prosecute human rights defenders. Organisations' activities were scrutinised, and documents were often confiscated. Throughout 2008, the Nizhny Novgorod Foundation to Support Tolerance was for instance subjected to constant harassment from authorities. On March 20, the police confiscated all the organisation's computers, as well as the cell phone of Mr. **Stanislav Dmitrievsky**, a referent for the organisa-

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1./ See 2007 Annual Report.

tion. The homes of several members of the organisation, including Mr. **Ilya Shamazov** and Mr. **Yuri Staroverov**, who investigated war crimes and human rights violations committed during the war in Chechnya, as well as Ms. **Elena Evdokimova**, were also searched by the police. In addition, on September 16, the Dront Ecological Centre in Nizhny Novgorod, one of the most important environmental organisations in Russia, was subject to an inspection for a “tax return error”. All files were inspected, and some documents, including maps of the region dating from the mid-twentieth century, were confiscated. The leaders of the organisation pointed out that no mail was sent asking for the missing documents, nor giving notice of the inspection, as required by the law, and denounced the fact that the inspection was conducted in their absence<sup>2</sup>.

These inspections sometimes threatened all of an organisation’s activities. In May 2008, pressure from the FRS on the charity Child Dignity Unesco Club (CDUC), based in Volgograd, led to the temporary cessation of its activities: on May 19, the Department Against Economic Fraud (SFEC) of the Internal Affairs Division of Volgograd conducted an inspection and confiscated documents, even though a routine inspection had been carried out on May 8. On May 30, criminal proceedings were initiated against Ms. **Irina Malovichko**, President of the organisation, for “misuse of public funds” for an amount of 8,584 roubles (about 194 Euros), on the pretext that she had incorrectly completed financial forms related to the management of the organisation. Her home and her accountant’s home were subsequently searched without a warrant, and working documents, including invitations in support of visa applications, information on booking air tickets, and 64,400 roubles (about 1,455 Euros) in cash, which had been sent by the German “Ost-West Trikster” through the cooperation project “Students from Germany and Russia for Peace and Cultural Diversity,” were confiscated. In the wake of her indictment, Ms. Malovichko was pressured and threatened by investigators to plead guilty. The complaint she filed on June 7 with the Voroshilov District Tribunal (city of Volgograd) for “illegal actions” undertaken by the SFEC had not led to any result as of late 2008<sup>3</sup>. Ms. **Tatiana Zagumennova**, Vice-President of the organisation, was also

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2./ See “Demos” Centre.

3./ See Moscow Helsinki Group (MHG).

detained on December 1 following an interrogation in connection with this case. She was released the same day, following an intervention by the Ombudsman for the region<sup>4</sup>.

## **Repression of human rights organisations and their members under the pretext of the fight against extremism**

### **Assimilation of human rights organisations to extremist organisations**

The pretext of NGOs being manipulated by foreign or terrorist organisations to destabilise Russia was again repeatedly used in 2008 to discredit the work of human rights defenders within the general public. On April 8, 2008, Mr. Nikolay Patrushev, Director of the Federal Security Service of Russia (FSB), accused NGOs of being “the main support of terrorists” in the northern Caucasus, without giving concrete facts, and of “taking advantage of social and economic problems and ethnic and religious tensions” for recruiting terrorists in Russia. Additionally, on September 11, Prime Minister Vladimir Putin stated during a meeting with members of the Discussion Club of Valdais that if Russia did not provide military assistance in South Ossetia, certain NGOs, which he did not name, would lead a campaign for secession of the Caucasus Republics. Mr. Aleksander Torshin, Deputy Spokesman of the Federation Council of Russia in the Duma, also directly accused foreign NGOs of supporting “terrorists” on the Russian soil and said during the presentation of an informational report on the response to terrorism before the National Antiterrorist Committee (NAC) that “foreign NGOs are often used to recruit terrorists and extremists”.

### **Administrative and judicial harassment of human rights NGOs and their members on the basis of the Law Against Extremism**

In 2008, human rights organisations and their members were often prosecuted on the pretext of the Law Against Extremism amended in 2007, which facilitates telephone tapping, expands the definition of extremist crimes, and prohibits the media from disseminating information on organisations considered extremist<sup>5</sup>. On January 15, 2008 for instance, prosecutions were launched against the NGO “Voice of Beslan” for “extremist activity”, “outrage to public service officers” and

4./ See “Caucasian Knot”.

5./ See 2007 Annual Report.

“undermining national pride”. The association, composed of mothers of victims of the hostage siege in Beslan in 2004, who are struggling for the opening of an independent investigation into the death of their children, received an order for closure in December 2007. On February 8, 2008, Ms. **Emma Tagaeva-Betrozova**, President of the Voice of Beslan, Ms. **Ella Kesaeva**, Deputy Chair of the association, Ms. **Svetlana Margieva** and Ms. **Emilia Bzarova** were charged by federal investigators of the judicial police (UFSSP) of having assaulted police officers and a judge<sup>6</sup>. Criminal prosecutions were also brought against Ms. Ella Kesaeva on the basis of Articles 115 (“deliberate grief over a minor injury”), 116 (“beating a person or causing him physical pain”), 129 (“defamation”) and 130 (“insult”) of the Criminal Code<sup>7</sup>. As of late 2008, the Voice of Beslan was still not recognised as having a legal personality. Another case of misuse of these legal provisions reflected the worrying trend of the human rights situation in Russia: on December 4, 2008, a group of masked men, including two members of the Rapid Response Unit of the Ministry of Interior (SOBR), which deals with cases of dangerous criminals or armed groups, raided the office of the “Memorial” Research Centre in Saint Petersburg, which is internationally recognised for its work with the victims of Stalinism. The masked men were equipped with a search warrant from the Prosecutor of Saint Petersburg, produced as part of an investigation opened against the newspaper *Novyi Petersburg*, on the basis of Article 282 of the Criminal Code (“incitement to racial and religious hatred”), for publishing an article deemed extremist. While it was clear that members of the “Memorial” Research Centre were not related to this article, and that a court ruling of October 21 had already established that the article was not considered extremist, several members of the organisation who were in the premises were threatened and held in their offices for half a day. All computer hardware, including 20 years of research on Soviet repression and gulags, was confiscated. As of late 2008, this equipment had not been returned.

Furthermore, on December 12, 2008, a bill of particular concern was proposed to the Duma. This bill seeks to amend Sections 275 and 276

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6./ On April 24, 2008, the Administrative Court decided to end proceedings against them.

7./ A first hearing was held on April 7, 2008 and, after a friendly agreement was reached, charges against Ms. Kesaeva were dropped.

of the Criminal Code by providing a broader definition of the crimes of State treason and espionage. The concept of State security would also be extended to the “constitutional order, sovereignty and territorial and State integrity”, phrases sufficiently vague to be exploited against members of civil society. In addition, cooperation with foreign and international organisations, including information-sharing, could fall within the definition of “hostile activities”, increasing the risk of harassment against most human rights defenders<sup>8</sup>.

### Attacks on human rights organisations by unidentified actors

In 2008, some human rights organisations were the target of attacks by unidentified individuals. On the night of April 9, 2008 for example, the offices of the International Protection Centre and the All Russia Movement for Human Rights, located in the same building in Moscow, were attacked by men claiming to own the building and damaging the premises. Ms. **Svetlana Davydova**, a lawyer of the International Protection Centre, was at the time working on a Chechen case that resulted in a complaint before the European Court of Human Rights.

### Attacks against defenders of economic and social rights

In an environment generally hostile to civil society and a revival of socio-economic problems, advocates of labour rights, ecology, the right to land and the fight against corruption became victims of intimidation and brutal attacks in late 2008. Furthermore, no proper investigation was able to identify and prosecute the perpetrators of these attacks. For example, on November 13 and 14, four defenders were attacked almost simultaneously in four Russian cities. Ms. **Carine Clément**, a French sociologist active in defending labour laws in Russia, was the victim of an attack with a syringe, following two other assaults against her that occurred a few days earlier. Mr. **Mikhail Beketov**, Editor-in-chief of the *Khimkinskaya Pravda* newspaper, which denounces acts of corruption by local authorities, and an activist for the preservation

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8./ The examination of the bill by the Legislative Committee of the Duma, which President, Mr. Pavel Krashenninikov, is close to President Medvedev, was suspended on January 13, 2009. Mr. Vladislav Surkov, Head of the Presidential Administration, said on January 27, 2009 that President Medvedev had heard the criticism from the public opinion and asked that the law be reworked so as not to prejudice human rights. See articles from the *Moscow Times and Radio Free Europe / Radio Liberty* (RFE/RL), January 28, 2009.

of the forest from “real estate speculation”, was also found on the same day in a coma in the courtyard of his building in the town of Khimki after being beaten. Mr. **Sergei Fedotov**, defender of the rights of small landowners in the suburbs of Moscow and leader of a support group of small private landowners who lost their land as a result of fraudulent actions of privatisation, was also attacked on November 13. The next day, Mr. **Alexei Etmanov**, co-Chairman of the Inter-regional Trade Union of Automobile Industry worker (ITUA) in the region of Saint Petersburg, was attacked for the second time in a week.

### **Serious threats against journalists and defenders fighting against racism and xenophobia and for the promotion of minorities and migrants’ rights**

In 2008, human rights defenders and investigative journalists exposing the rise of xenophobia in Russia were particularly targeted. Discourse by authorities, sometimes with nationalist trend involving migrants as a reason for the financial crisis, contributed to the development of a wave of threats against those who fought for the rights of minorities and against racism. On April 17, 2008, the extremist website *www.vdesyatku.net* published an article accusing journalists of defamation against skinheads. After stating that “journalists and radio stations [were] Jewish”, the authors called on skinheads in Russia to “recognise the Jews as their true enemies” and concluded that “their elimination should be a priority”. A list containing the names and personal details of 34 journalists and human rights defenders working on the issue of minorities, racism and fascism was attached to the article, including those of Mr. **Alexander Verkhovsky**, President of the SOVA Centre, and Ms. **Valentina Uzunova**, a lawyer, member of the NGO “For a Russia Without Racism” and an expert on racial issues and hate crimes. Mr. Verkhovsky and Ms. Uzunova both defend persons belonging to ethnic minorities, including migrants. In August 2008, a criminal investigation was opened for “disclosure of personal data” and “death threats” after attempts by members of a neo-Nazi group to enter the home of Mr. Verkhovsky. As of late 2008, the investigation was still pending.

### **Violence and murders of defenders in the north Caucasian Republics**

The situation of human rights defenders in the Caucasian Republics, particularly in Dagestan and Ingushetia, remained of particular concern in 2008. More than in any other region, defenders were prosecuted,

arrested or executed under the guise of the fight against terrorism. It is in this context that Mr. **Mustapa Abdurakhmanov**, a member of the NGO “Mothers of Dagestan for Human Rights,” was found dead on October 30 in Makhachkala. Mr. Abdurakhmanov would have been tortured and then shot in the head. Witnesses reportedly saw members of the security forces arresting him. As of late 2008, no investigation had been opened to identify those responsible for his murder. The authorities also argued that Mr. Abdurakhmanov was part of an “illegal armed group”<sup>9</sup>. In addition, on July 25 2008, Mr. **Zurab Tsetchoev**, a member of the human rights organisation “Mashr” in the village of Troitskaya, in the Ingush district Sunjenski, which helps victims of torture and relatives of the disappeared, was arrested in his home by fifty officers of the security services, who conducted a violent and illegal search of his home. Mr. Tsetchoev’s computer and phones were confiscated, and the latter was taken, beaten, and then abandoned a few hours later on a road.

### **Obstacles to the freedom of movement of foreign human rights defenders**

Against a background of increased pressure on foreign organisations, in 2008 European and American human rights defenders faced an increasing number of problems with their Russian visas, in order to discourage them from organising and participating in seminars and conferences with their counterparts in Russia. For instance, members of the Norwegian Helsinki Committee, co-organisers of the seminar “Dialogue on Human Rights” held in Murmansk in November 2008, were fined 2,000 roubles (about 45 Euros) for having attended the seminar with tourist visas<sup>10</sup>.

9./ See Mothers of Dagestan for Human Rights.

10./ See Norwegian Helsinki Committee.

**Urgent Interventions issued by the Observatory in 2008<sup>11</sup>**

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Voice of Beslan</b>	Judicial proceedings / Harassment	Urgent Appeal RUS 001/0208/OBS 015	February 5, 2008
<b>Ms. Emma Tagaeva-Betrozova, Ms. Ella Kesaeva, Ms. Svetlana Margieva and Ms. Emilia Bzarova</b>	Judicial proceedings / Harassment	Urgent Appeal RUS 001/0208/OBS 015.1	February 11, 2008
<b>Ms. Ella Kesaeva, Ms. Svetlana Margieva, Ms. Emilia Bzarova and Ms. Marina Litvinovich</b>		Urgent Appeal RUS 001/0208/OBS 015.2	April 22, 2008
<b>Ms. Natacha Butler, Mr. Eric Josset and Mr. Dmitry Saltykovskiy</b>	Harassment	Press Release	February 11, 2008
<b>Mr. Ilya Shamazov, Mr. Yuri Staroverov, Ms. Elena Evdokimova and Ms. Oksana Chelysheva ; Nizhny-Novgorod Foundation for the promotion of tolerance</b>	Searches / Obstacles to freedom of association / Harassment	Urgent Appeal RUS 002/0308/OBS 041	March 20, 2008

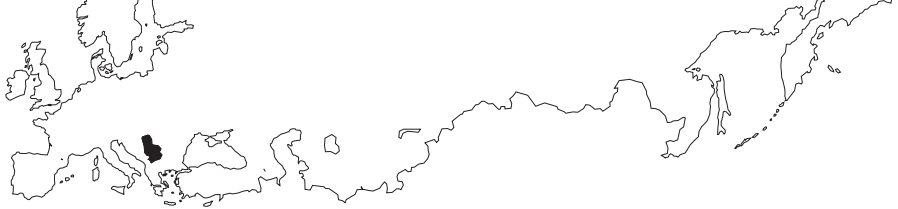
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11./ See the Compilation of cases in the CD-Rom attached to this report.



Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Stanislav Dmitrievsky and Ms. Svetlana Davydova	Attacks on premises / Obstacles to freedom of association / Harassment	Urgent Appeal RUS 003/0408/OBS 054	April 11, 2008
International NGOs and the Chechen Committee for National Salvation (CCNS)	Defamation	Press Release	April 11, 2008
CCNS	Obstacles to freedom of association / Harassment	Urgent Appeal RUS 004/0408/OBS 063	April 23, 2008
Mr. Alexander Verkhovsky and Ms. Valentina Uzunova	Threats / Harassment	Urgent Appeal RUS 005/0408/OBS 066	April 25, 2008
Mr. Shakhman Akbulatov, Ms. Zarema Mukusheva, Ms. Milana Bakhaeva and Mr. Yaraghi Gayrbekov	Arbitrary arrests / Release / Death threats	Urgent Appeal RUS 006/0608/OBS 108	June 23, 2008
Mr. Stanislav Dmitrievsky and Ms. Oksana Chelysheva	Defamation / Harassment	Urgent Appeal RUS 007/0708/OBS 118	July 11, 2008
Mr. Zurab Tsetchoev	Searches / Abduction / Liberation / Abuse / Harassment	Urgent Appeal RUS 008/0708/OBS 126	July 28, 2008
Mr. Stanislav Dmitrievsky	Attacks / Harassment / Intimidation	Urgent Appeal RUS 009/0808/OBS 141	August 21, 2008

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Ms. Karinna Moskalenko</b>	Poisoning attempt	Press Release	October 14, 2008
<b>Mr. Alexey Etmanov, Mr. Vladimir Lesik</b>	Attacks / Threats / Harassment	Urgent Appeal RUS 010/1108/OBS 194	November 20, 2008
<b>Ms. Carine Clément, Mr. Mikhail Beketov and Mr. Sergueï Fedotov</b>	Attacks / Harassment	Urgent Appeal RUS 011/1108/OBS 195	November 21, 2008
<b>Memorial Research Centre of Saint Petersburg</b>	Searches / Confiscation of material / Harassment	Urgent Appeal RUS 011/1208/OBS 207	December 5, 2008



## / SERBIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

Two weeks after the victory of pro-European candidate Mr. Boris Tadić at the February 3, 2008 presidential election, the declaration of independence by Kosovo on February 17, 2008 led to violent demonstrations held by nationalist and extremist groups, during which several human rights defenders and journalists, the United States and United Kingdom embassies, and members of the Albanian minority group (especially in the province of Vojvodina) were attacked and seriously harassed. The State did not provide adequate protection or open investigations. The reactions of Serbian authorities were, at the very least, ambivalent. While President Tadić and the Ombudsman virulently condemned these events, other official reactions rather contributed to legitimise the violence, and even to encourage it. For instance, Mr. Velimir Ilić, the Minister for Infrastructure, stated that these protests “of rage and anger” were “democratic”; the Prime Minister simply spoke of “spontaneous” reactions.

In addition, serious disagreement within Mr. Vojislav Koštunica’s Serbian Government as to what action to take on the issue of the European integration of Serbia led to early parliamentary elections in May 2008, which were won by President Tadić’s coalition “For a European Serbia”. Pro-European democrats and socialists subsequently claimed to prioritise *rapprochement* with the EU, which requires Serbia’s cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY), of which the arrest of Mr. Radovan Karadžić on July 21 remained the most significant example as of the end of 2008.

### Defamation campaigns and incitement to violence against human rights defenders

In a society in which nationalistic sentiments persist, human rights defenders who were fighting for recognition of war crimes committed in the 1990s as well as for justice were not particularly supported by the

authorities or by public opinion<sup>1</sup>. In 2008, these defenders continued to be subjected to insults and threats, particularly from violent extremist groups who considered them as enemies of the homeland, in a climate of impunity and without any real protection provided to them. The situation deteriorated further in early 2008 following the declaration of independence of Kosovo.

For example, insults and incitement to violence against Ms. **Nataša Kandić**, Executive Director of the Humanitarian Law Centre (HLC), were spread in February 2008 through many tabloids<sup>2</sup> that conducted a broad campaign of defamation against her, some calling for her arrest or elimination, in particular because of her cooperation with the ICTY<sup>3</sup> and for recognising Kosovo's independence. On February 19, 2008, Mr. Ivica Dačić, member of the Serbian Socialist Party, also accused Ms. Kandić of undermining "the independence and integrity of the State" after she attended the independence ceremony for Kosovo. On February 21, 2008, the premises of the HLC were attacked with a flare. As of the end of 2008, no investigation into these facts had been conducted. In addition, Ms. **Sonja Biserko**, President of the Helsinki Committee for Human Rights in Serbia (HCHRS), which works on crimes committed in the 1990s, was also subjected to attacks and threats in the media during October 2008, which accused her of treason, threatened her with death, and published her home address. On September 30, 2008, more direct threats were made against her by over a hundred activists of the far-right gathered outside the offices of HCHRS, with no reaction from the police. Following these threats, Ms. Biserko contacted the head of the police department, who told her that she did not have enough evidence to file a complaint. The situations of Ms. Kandić and Ms. Biserko are particularly representative of the level of social tension prevailing in Serbia and the degree of impunity enjoyed by perpetrators of violations against many defenders.

### **A hostile environment for defenders of LGBT rights**

In 2008, members of the gay and lesbian communities continued to be the subject of threats and smear campaigns in the media. In this

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1./ See Humanitarian Law Centre (HLC).

2./ Including through an article published in the journal *VeDernje Novosti* on February 19.

3./ Ms. Kandić is involved in numerous cases before the ICTY.

context, defenders of the rights of lesbian, gay, bisexual and transgender (LGBT) people were particularly targeted, and were victims of verbal abuse, harassment, or even physical abuse. Their freedom of peaceful assembly was also limited, amid inadequate police protection<sup>4</sup>. Between January and March 2008, the gay rights centre “Queeria”, which promotes a culture of non-violence and diversity, received numerous threats by email and on Internet forums. Because of the centre’s activities, including its cooperation with the Coalition for a Secular State<sup>5</sup>, Queeria activists were violently insulted on the neo-fascist site *Storm Front*, by means of hateful xenophobic and homophobic messages, as well as descriptions of “punishments” that would be imposed on the defenders. In cooperation with the Lawyers’ Committee for Human Rights (YUCOM), Queeria filed several complaints. Yet, as of the end of 2008, they had only received a telephone call from the Department of Justice in charge of the Internet, informing them that their complaint had been received but that the police did not have sufficient resources to deal with verbal attacks on the web<sup>6</sup>. Further, in March and April 2008, an activist of the organisation “Gay Straight Alliance” (GSA) was subjected to homophobic threats. He was threatened by phone and later found graffiti threatening and insulting him in front of his home. On April 18, the latter complained to the police in the Belgrade municipality of Palilula with the assistance of the GSA President, Mr. **Boris Miličević**. The police refused to register the complaint, arguing that the registrar of complaints was closed. Mr. Miličević was then insulted by a policeman, who forced him to leave the police station. The GSA activist and Mr. Miličević then went to the main police station of the

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4./ In 2008, the collective for the defence of LGBT rights “Queer Beograd” was careful not to announce in the media the location of the festival “Queer Belgrad”, scheduled from September 18 to 21 at the cinema Rex, so as to ensure the safety of its participants. In September 2008, a Belgrade tabloid published on the cover an article about a “clandestine gay festival”, leading to the attack of four people by ten members of the neo-fascist group “Obraz” during the event. Two attackers were quickly arrested by police. The organisation for the rights of lesbians LABRIS sued the leader of the gang who carried out these attacks, which were deplored on September 22, 2008 by the Ministry for Human Rights and Minorities. However, as of late 2008, the judicial proceedings had not led to any result (See LABRIS).

5./ The coalition, founded in early 2006 in response to a law on churches and religious communities that strengthened the involvement of the Church in the public sphere, is composed of a dozen NGOs, including Queeria, but also legal experts, academics and political activists. It organises conferences and meetings on human rights, publishes brochures, etc.

6./ See Queeria.

city of Belgrade, which quickly registered the complaint. The Court of Belgrade subsequently issued a fine of 10,000 dinars (about 100 Euros) or 20 days' imprisonment to the policeman in question, for violating Article 6.2 of the Public Order Act, according to Sections 84, 118, 232 and 235 of the Act on Crimes. Criminal prosecutions were also brought against the officer on the basis of Article 138.1 of the Criminal Code for "endangerment<sup>7</sup>".

### Urgent Intervention issued by the Observatory in 2008<sup>8</sup>

Name of human rights defender	Violations	Intervention Reference	Date of Issuance
Ms. Nataša Kandić	Attacks / Harassment / Threats / Fear for safety	Urgent Appeal SER 001/0208/OBS 026	February 26, 2008

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7./ See LABRIS, *Annual Report on LGBT Human Rights Defenders in the OSCE Region*, May 2008, and GSA.

8./ See the Compilation of cases in the CD-Rom attached to this report.



## / TURKMENISTAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

In 2008, Mr. Gurbanguly Berdymukhammedov, President of Turkmenistan since the death in December 2006 of Dictator Saparmurat Niyazov, persisted in his willingness to break with some of the policies of his predecessor, and in particular to rehabilitate Turkmenistan, a major gas producer, on the international scene. In continuation of the policies of 2007, reforms were undertaken to prove that Turkmenistan was on the way of democratisation and worthy of being a commercial partner<sup>1</sup>. These reforms remained, however, a façade. Among those reforms, a constitutional reform on September 26, 2008 formally gave citizens the right to form political parties and reiterated the right to property. This new Constitution, however, reinforces the power of the President, whose term of office changed from five to seven years and who now has the right to appoint directly regional governors<sup>2</sup>. It also officially gives back to the Parliament, a body which in effect remains at the service of the President, the powers transferred in 2003 to the People's Council (*Hal Maslahaty*)<sup>3</sup>, thus strengthening the omnipotence of the Head of State.

The parliamentary elections scheduled for December 14, 2008 illustrated once more the gap between the President's declarations of intent, the texts, and reality. For the first time, independent candidates have had the theoretical possibility to run for election, but none of these

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1./ On December 2, 2008, the European Commission launched the procedure for approval of an interim trade agreement with Turkmenistan.

2./ In theory, they are appointed locally. It is a formal strengthening of the powers of the President.

3./ The People's Council was the supreme body of Turkmenistan until September 2008, with more than 2,500 members. It included the President, who led the Council, deputies to the Parliament (*Majlis*), the President of the Supreme Court, the Attorney General, Government officials, elected representatives, local leaders of authorities, associations, and delegates nominated by the staff of public companies and institutions.

independent candidates succeeded to register in practice<sup>4</sup>, thus leaving room to candidates affiliated either with the ruling party or with other civil or political organisations controlled by the State<sup>5</sup>.

On the other hand, all public structures in Turkmenistan remained at the service of the regime and its ideology, and “justice” was actually used as a machine of repression against human rights defenders and political opponents. Although some political prisoners were released in 2008, no proceedings were initiated to review their cases, and widespread releases had not yet occurred. Many political prisoners remained detained arbitrarily and would reportedly suffer mistreatment and torture in full secrecy<sup>6</sup>.

All official media, whose leaders are appointed by the President, were closely monitored and censored, and foreign press was still prohibited. In addition, the February 3, 2003 Decree from the People’s Council entitled “Unlawful acts considered as high treason and penalties incurred by traitors”, was still in force. Accusations of high treason, with its still vague definition, could be used amongst others to sue defenders, in particular independent journalists who risked sentences that range up to life imprisonment.

In general, the constant pressure against dissidents, human rights defenders and independent journalists did not diminish in 2008, as they continued to undergo regular psychological pressure, provocation, risk of arbitrary arrests, or illegal questioning. A number of them and their families were also prevented from leaving the country, with authorities conducting meticulous control of the reasons for their leaving. In reality, the situation of human rights was still catastrophic and the Turkmen State remained the most repressive in the region.

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4./ Independent candidates were pressured at the local level. Most of the time, no official reason was given for the refusal of their candidacy.

5./ Pursuant to the campaign, NGOs in exile revealed very low voting participation. The official figure is 94% participation, but the Turkmen Initiative for Human Rights (TIHR) estimates participation to be between 3% and 20%.

6./ See TIHR.



## Denial of the freedom of association

Since the death of President Niyazov in late 2006, Turkmen civil society has hoped for a softening of laws on freedom of association. However, the especially restrictive “Law on Public Associations”, which organises the creation, registration, activities and liquidation of NGOs, was not amended, and the number of NGOs was therefore limited: in total, there were seven independent NGOs out of the 89 registered. In fact, only NGOs close to the Government were allowed to register: the only officially registered NGO since the arrival to power of President Berdymukhammedov – the Organisation of Industrialists and Entrepreneurs – was fully created by the President. The creation of such organisations with pure screening functions allows those in power to deny any legal existence to emerging or pre-existing independent organisations that have the same statutory purposes. In addition, administrative measures were designed to make the registration of independent organisations effectively impossible: a payment of 1.5 million manat (about 80 Euros) is required whether the response is positive or negative, as well as a letter of support from the Ministry, making it unfeasible to establish any truly independent association<sup>7</sup>. Many independent NGOs were victims of such measures in 2008<sup>8</sup>.

## Harassment of human rights defenders in contact with foreigners and activists in exile

In 2008, any advocacy for human rights - whether carried out within or outside the country – was met with repression by Turkmen authorities. No independent, intergovernmental or non-governmental organisation was authorised in 2008 to carry out research on violations of human rights committed within the country.

In 2008, this repression tended to increase in the run-up and following consultations with the EU, international meetings and elections. In April 2008, following a EU high-level meeting in Ashgabat, a wave of harassment affected many defenders in Turkmenistan and in exile. The apparent objective of the authorities was to update information sources on Turkmenistan used by NGOs and media based abroad, par-

7/ *Idem*.

8./ Their name is not mentioned so as not to endanger their members.

ticularly those of the Turkmen Initiative for Human Rights (TIHR), based in Vienna (Austria). In addition, several defenders were placed under house arrest, detained and had their telephone and Internet lines cut to prevent them from meeting with representatives of foreign Governments and international organisations visiting Turkmenistan.

Finally, during 2008, Turkmen defenders remained virtually unable to leave the territory. Such was the case of Mr. **Andrei Zatoka**, an environmental activist, who encountered an unmotivated order of refusal to leave the territory from the Attorney General, although he was scheduled to go to a meeting in Moscow organised by the International Social and Ecological Union and holds a Russian passport<sup>9</sup>.

### **Increased repression against journalists human rights defenders and the independent media**

Despite the wishful thinking expressed by the President in 2007, censorship of the Internet increased in 2008, with the strengthening of filters blocking access to websites of dissidents and human rights defenders, as well as websites critical against the regime. Fifty websites were banned, and email closely controlled, to capture articles transmitted abroad, criticising, *inter alia*, the policies of the regime on human rights. Independent journalists who reported about human rights violations also remained subjected throughout the year to arbitrary arrest and sometimes ill-treatments. Acts of repression were mainly directed to the correspondents of the Turkmen branch of *Radio Free Europe / Radio Liberty* (RFE/RL), to compel them to end their professional activities. Family members were not spared from such activities. For instance, Mr. **Sazak Durdymuradov**, independent correspondent for *RFE/RL* in the city of Bakhaden, specialising in education and constitutional reforms, was arrested on June 20, 2008 and placed in a psychiatric clinic, where he was beaten and tortured in order to sign a declaration asserting that he was ending his cooperation with *RFE/RL*. He was finally released on July 4, 2008 under pressure from human rights organisations and international diplomats. However, as of the end of 2008, his safety and that of his family remained threatened<sup>10</sup>.

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9./ See TIHR.

10./ See RFE/RL.

In addition, at the end of 2008 the Ministry of National Security was reportedly in the process of compiling a database of independent journalists, including those who left the country. Throughout 2008, raids occurred in several editorial offices in order to collect personal data of former employees and be granted access to archives. Senior editors or journalists were interrogated about former contributors. They were asked not only the names of their former colleagues, but also their current addresses and activities, as well as the names of the persons with whom the expatriate journalists remain in contact in Turkmenistan. One of the special services officers revealed during a raid that the President had been outraged by the publication of articles on the Internet referring to the lack of freedoms in Turkmenistan, and emphasising the social concern in the country. The President would thus have ordered to find at any price their authors in order to retaliate<sup>11</sup>.

Finally, as of the end of 2008, Turkmen authorities had still not opened any enquiry commission into the death of Ms. **Ogulsapar Muradova**, a journalist with *RFE* who passed away in prison in September 2006, and no information could be obtained about the situation of Mr. **Annakurban Amanklychev** or Mr. **Sapardurdy Khadjiev**, who were arrested at the same time as Ms. Muradova and sentenced on August 25, 2006 to seven years in prison for having taken part in the preparation of a documentary in Turkmenistan for the TV programme “*Envoiyé spécial*”, on the French television channel *France 2*.

### Urgent Intervention issued by the Observatory in 2008<sup>12</sup>

Names of human rights defenders	Violation	Intervention Reference	Date of Issuance
Messrs. <b>Annakurban Amanklychev</b> and <b>Sapardurdy Khajiev</b>	Incommunicado detention	Press Release	December 15, 2008

11./ See TIHR.

12./ See the Compilation of cases in the CD-Rom attached to this report.



## / UZBEKISTAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

Although in 2008, against the background of discussions regarding the possible lifting of EU sanctions, six of the 21 opponents and human rights defenders included on the list given to the Uzbek authorities by the European Union in 2007 were released, it is regrettable that the prisoners released in the context of the dialogue between the EU and Uzbekistan were treated during the negotiations as “special or exceptional cases” and that the release could therefore not be extended to other detainees. These fears were confirmed in October when two human rights defenders were sentenced to ten years in prison. Despite the passing of these sentences, the EU nonetheless decided to lighten the sanctions imposed on Uzbekistan at the end of 2005<sup>1</sup>.

Rare improvements included the following: in February 2008 the International Committee of the Red Cross (ICRC) obtained permission to visit detention centres again for a limited period of six months (from March to September)<sup>2</sup>; ILO Convention 182 on the elimination of the worst forms of child labour was ratified in June; and the authorities announced the imminent ratification of Convention 138 on the minimum employment age. In addition, since September child labour has been prohibited by Government decree<sup>3</sup>. Capital punishment was also abolished on January 1, 2008. However, equal justice was not always guaranteed for persons who had previously been sentenced to death and whose sentence had been commuted to life imprisonment.

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1./ Only the arms embargo now remains in force.

2./ The visits were stopped at the end of the six months period and, at the end of 2008, negotiations were under way between ICRC and the Uzbek authorities to decide on the next steps for cooperation concerning these visits. Between March and September, ICRC visited twenty detention centres and auditioned over a thousand detainees. See ICRC and the Human Rights Society of Uzbekistan (HRSU).

3./ However, this had still to be put into practice since children took part in the latest cotton harvest in 2008.

Detention conditions in Uzbek prisons remained appalling and torture was widely practiced, including on human rights defenders.

Overall, the authoritarian Uzbek regime pursued its policy of repression of opponents and civil society members. Over 5,000 people were deprived of their liberty on political or religious grounds<sup>4</sup>. Freedom of expression was still muzzled, since the national media remained Government-controlled and access was blocked to some websites that criticised the authorities. Furthermore, a number of foreign media and networks, such as *Deutsche Welle*, the *BBC*, *Radio Free Europe / Radio Liberty* (RFE/RL) or the Institute for War and Peace Reporting (IWPR)<sup>5</sup>, were not always granted accreditation in 2008 in Uzbekistan, and Uzbek laws continued to permit the authorities to prosecute persons whose declarations were considered hostile to the regime.

### Repression of peaceful rallies

In 2008, the authorities resorted again to numerous measures to prevent peaceful human rights rallies from taking place: once again this year, the police made massive arrests of protesters, followed sometimes by violent interrogations and arbitrary detentions. For instance, Ms. **Saida Kurbanova**, a defender of peasants' rights from the Human Rights Society of Uzbekistan (HRSU) in the Djizak region, was threatened with expulsion from her home in February 2008 for having organised and taken part in a series of peaceful demonstrations against the lack of domestic heating and electricity in the Djizak region. Unknown persons in plain clothes kept her under surveillance and the local authorities put pressure on her so that she leaves the region; she was also attacked in the street on several occasions, notably on February 22, 2008. Her family was also threatened<sup>6</sup>. In addition, on May 13, 2008, the members of the Human Rights Alliance of Uzbekistan (*Pravozashchitni Alians Uzbekistan* - PAU) organised a rally to commemorate the third anniversary of the Andijan massacre. On the day of the rally, the police prevented Ms. **Lyudmila Mingazova**, Ms. **Karima Kamalova**, Mr. **Akramhodzha Muhitidinov**, Mr. **Sahdmanbek Fazilov** and Ms.

4./ See the association "Human Rights in Central Asia".

5./ IWPR is an international network whose goal is to reinforce the capacity of local journalists for operating in conflict areas or in repressive countries. In Uzbekistan, IWPR helps local journalists to disseminate their writing within the country, the region and throughout the world.

6./ See HRSU.

**Tatyana Dovlatova**, PAU members, from leaving their homes and made threats against their families. Ms. **Elena Urlaeva**, President of PAU, was also remanded in custody in the morning by a member of the intelligence services and a police officer, and put under house arrest for the whole afternoon. Mr. **Saidagzam Askarov**, also a member of PAU, was arrested on his way to the rally location and forced to sign a statement obliging him to give up his human rights activities. In addition, the intelligence services prevented Ms. **Jana Ignatenko** and Mr. Alisher Mamadzhanov from laying a wreath of flowers in front of the “Monument to Courage” and tried to arrest Mr. **Anatoli Volkov** and Ms. **Victoria Bajenova**. Messrs. **Rasulzhon Tadjibaev** and **Shurat Ahmadjonov** were also arrested. All of these persons were quickly released during the day. Similarly, on December 6, 2008, Ms. **Ada Kim**, Ms. Victoria Bajenova, Ms. **Liudmila Koutepova**, Ms. Tatyana Davlateva, Ms. **Salomatoi Baimatova**, Ms. **Zulkumor Tuytchieva**, Ms. Elena Urlaeva and Messrs. **Oleg Sarapulov**, Anatoli Volkov and Akromokhodzha Mukhitdinov, ten members of the Prisoners of Conscience Committee, “Ezgulik” and PAU, were arrested while taking part in a rally in front of the Prosecutor General’s office before the commemoration of the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights on December 10 and Uzbek Constitution Day on December 8, in order to call for the release of defenders and political prisoners. The ten defenders were interrogated and ill-treated before being sentenced to fines of around 160 Euros, a sum equivalent to ten times the minimum wage, and released the same day.

Furthermore, during 2008 the homes of a number of defenders remained under surveillance and obstacles to their freedom of movement and preventive arrests increased, in particular before rallies were held. As an example, on March 16, 2008, the day before an internal HRSU meeting in Tashkent, the police arrested Mr. **Mamir Azimov**, President of HRSU in the district of Djizak, and prevented him from going to the meeting<sup>7</sup>.

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7/ *Idem*.

## Continued judicial harassment and arbitrary detention of human rights defenders

Although seven human rights defenders were released in 2008<sup>8</sup>, including Ms. **Mutabar Tadjibaeva**, leader of the Ardent Hearts' Club and Laureate in 2008 of the Martin Ennals Award for Human Rights Defenders, who was released in June, numerous cases against human rights defenders continued to be cobbled together so that they could be arbitrarily detained and silenced. As an example, Mr. **Akzam Turgunov**, Founder of the "Mazlum" human rights centre, was arrested on July 11, 2008 for "extortion", tortured during his interrogation then sentenced on October 23 to ten years in prison. As of the end of 2008, he was still detained in penal colony UYa 64/49 in the town of Karchi (Kashkadarya province). Likewise, Mr. **Salijon Abdurahmanov**, a human rights defender and a journalist who is critical of the local authorities<sup>9</sup>, was sentenced on October 10, 2008 to ten years in prison for "drug trafficking", a sentence that was upheld in appeal on November 20, 2008. As of the end of 2008, he remained detained in colony UYa 64/51 in Karchi.

### Obstacles to leaving the country

In 2008, it was particularly difficult for defenders to obtain the required exit visa to leave Uzbek territory<sup>10</sup>, as the authorities used various pretexts to prevent them from communicating with their colleagues abroad and from publishing information abroad on the situation inside Uzbekistan. Thus, applications for exit visas made between February and April 2008 by Mr. **Ikhtiyor Khamroev**, a member of HRSU, Ms. **Saida Kurbonova**, Chair of HRSU in the Pakhtakor district, Mr. **Ziyadullo Razakov**, Chair of the International Human Rights Society of Uzbekistan (IHRSU) in Djizak district, Mr. Mampir Azimov and Mr. **Uktam Pardaev**, Chair of the Independent Human Rights Society of Uzbekistan in Djizak district, were all refused, with

8./ In February 2008, Messrs. **Saidjakhon Zaynobitdinov** and **Ikhtiyor Khamroev** were released and the probation period that had been imposed on two other human rights defenders, Ms. **Gulbahor Turaeva** and Ms. **Umida Niazova**, released in 2007, was cancelled. Messrs. **Dilmurod Mukhitdinov** and **Mamarajab Nazarov** were released in October 2008.

9./ Mr. Abdurahmanov wrote on sensitive issues such as social and economic justice, human rights, corruption, etc. He worked closely with *UzNews*, an independent on-line news agency, as well as freelanced for *RFE/RL*, *Voice of America* and *IWPR*.

10./ Uzbek nationals need a visa, valid for two years, authorising them to leave the country.

no reason given, either because they had come out of prison or had problems with the police because of their human rights activities<sup>11</sup>.

### Urgent Interventions issued by The Observatory in 2008<sup>12</sup>

<b>Names of human rights defenders</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Ms. Mutabar Todjibaeva</b>	Arbitrary detention	Open Letter to the authorities	February 15, 2008
	Release	Press Release	June 3, 2008
<b>Mr. Ikhtiyor Khamroev, Mr. Saidjakhon Zaynobitdinov, Ms. Umida Niyazova and Mr. Bakhodir Mukhtarov</b>	Release	Open Letter to the authorities	February 15, 2008
<b>Messrs. Azam Formonov, Alisher Karamatov, Nasim Isakov, Djamshid Karimov, Rasulev Yuldash, Norboy Kholjigitov, Abdulsattor Irzaev, Habibulla Akpulatov, Abdurasul Abdunazarov, Zafar Rakhimov, Mamaradjab Nazarov and Dilmurod Mukhitdinov</b>	Arbitrary detention	Open Letter to the authorities	February 15, 2008
		Open Letter to the authorities	October 10, 2008
		Press Release	December 15, 2008

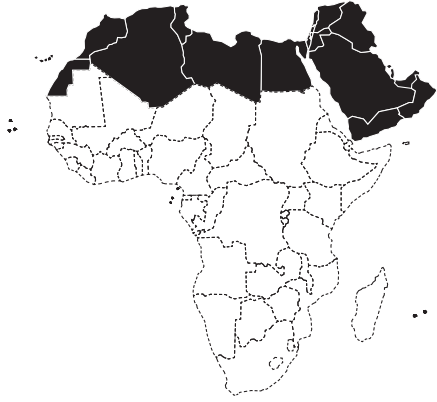
11./ See HRSU.

12./ See the Compilation of cases in the CD-Rom attached to this report.



<b>Names of human rights defenders</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Mr. Ulugbek Kattabekov and Mr. Karim Bobokulov</b>	Arbitrary detention	Open Letter to the authorities	February 15, 2008
<b>Messrs. Abdugafur Dadaboev and Musajon Bobojonov</b>	Harassment	Open Letter to the authorities	February 15, 2008
<b>Mr. Salijon Abdurahmanov</b>	Arbitrary detention / Judicial harassment	Urgent Appeal UZB 001/0908/OBS 151	September 16, 2008
		Open Letter to the authorities	October 10, 2008
	Sentencing / Arbitrary detention	Urgent Appeal UZB 001/0908/OBS 151.1	October 14, 2008
		Urgent Appeal UZB 001/0908/OBS 151.2	November 20, 2008
		Press Release	December 15, 2008
<b>Mr. Akzam Turgunov</b>	Arbitrary detention / Torture and ill-treatment / Judicial harassment	Urgent Appeal UZB 002/0908/OBS 153	September 18, 2008
		Open Letter to the authorities	October 10, 2008
	Sentencing	Urgent Appeal UZB 002/0908/OBS 153.1	October 24, 2008
			December 15, 2008
<b>Mr. Yusuf Jumaev</b>	Arbitrary detention	Open Letter to the authorities	October 10, 2008
		Press Release	December 15, 2008

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Ms. Lyudmila Koutepova, Ms. Victoria Bajenova, Ms. Yelena Urlaeva, Mr. A. Mukhitdinov, Ms. T. Davlateva, Ms. Zulkhumor Tuychieva, Mr. A. Volkov, Ms. S. Baymatova, Mr. O. Sarapulov and Ms. A. Kim	Arbitrary detention / Sentencing	Urgent Appeal UZB 003/1208/OBS 212	December 11, 2008
		Press Release	December 15, 2008



# **/ NORTH AFRICA/ MIDDLE EAST**

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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## / REGIONAL ANALYSIS NORTH AFRICA / MIDDLE EAST

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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The entry into force in March 2008 of the Arab Charter on Human Rights, binding the States of North Africa and the Middle East that ratified it, contrasts with the persistent human rights violations and the many obstacles to the defence of human rights noted in this region in 2008. This text, in spite of some weak points, includes provisions that may help to advance the recognition of human rights and fundamental freedoms in the region and in addition provides for the creation of an Arab Human Rights Committee responsible for monitoring application of the Charter and whose work was due to begin in the first half of 2009. Nonetheless, apart from the fact that, at the end of 2008, only 27 of the Member States of the League of Arab States had ratified the Arab Charter on Human Rights<sup>1</sup>, several provisions remain not consistent with international human rights standards and instruments. As an example, the Charter stipulates that national legislation may take precedence over the provisions of the text, notably for security reasons. This provision, which calls into question the principle of the legal superiority of international and regional instruments over national legislation, risks restricting implementation of the Charter, especially in countries where massive human rights violations under the pretext of national security are witnessed.

Human rights defenders were not spared in the persistent and resurgent internal conflicts in certain countries of the region: they were subjected to assassinations (*Iraq*), arbitrary detentions (*Yemen*) and obstacles to their freedom of movement (*Israel/Occupied Palestinian Territories*) throughout the year in these countries. The situation particularly deteriorated in the Occupied Palestinian Territories.

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1/ These are: Algeria, Bahrain, Jordan, Libya, the Palestinian Authority, the United Arab Emirates and Yemen.

Several countries in the region – *Syria* since 1963, *Egypt* since 1981 and *Algeria* since 1992 – remained under a state of emergency. Inherent emergency legislation provided a legal framework for certain attacks on human rights, especially the right to a fair trial. Indeed, civilians, including human rights defenders, continued to be tried by special courts set up through emergency legislation (*Egypt, Syria*).

There was also widespread recourse to the law to restrict defenders' fields of activity and to criminalise their work or silence them. Several countries armed themselves with a legislative arsenal intended to restrict freedoms of peaceful assembly (*Algeria, Bahrain, Egypt*) and of association (*Bahrain, Egypt, Jordan, Kuwait, Syria*). Other countries, such as *Libya* and *Saudi Arabia*, still did not recognise or, as was the case with *Qatar, Oman* and the *United Arab Emirates*, continued to severely restrict the right to freedom of association. Arbitrary judicial proceedings against defenders were legion, on the basis of common law provisions (*Algeria, Morocco, Tunisia, Yemen*), emergency legislation (*Syria*) or anti-terrorism laws (*Bahrain*).

Added to this were smear campaigns (*Bahrain, Tunisia*), arbitrary arrests and routine obstacles to freedom of movement (*Bahrain, Israel/Occupied Palestinian Territories, Syria, Tunisia, Yemen*), physical attacks (*Tunisia*), torture (*Bahrain, Egypt*) and enforced disappearances (*Syria*). In certain of the region's countries, the almost systematic repression of any dissenting voice acted as a dissuasive to any attempt to embark on public human rights activities and put those who tried to do so in considerable danger (*Libya, Saudi Arabia*). The absence of any independent human rights organisations in most of the Gulf States, with the exception of *Bahrain* and *Kuwait*, additionally made it difficult to monitor human rights violations on a daily basis.

### **Violation of freedom of association**

Despite being guaranteed in the Constitution of most of the region's countries (with the exception of *Israel, Libya, Saudi Arabia* and the *United Arab Emirates*), the right to freedom of association was often violated by legal provisions that require an association to obtain approval prior to its establishment. In States such as *Bahrain, Egypt, Libya* or *Syria*, the formation of an association is subject to obtaining administrative approval. In *Jordan*, the new Law on Associations adopted by Parliament on July 6, 2008 requires permission to form an association or

institution to be obtained from the relevant minister. In countries where the creation of an association appears *a priori* to be subjected solely to the principle of declaration, the administrative authorities' established practice, in particular the refusal to issue a registration receipt for filing, has made approval obligatory (*Algeria, Tunisia*). Associations that are not registered are deprived of the legal recognition needed to carry out their activities properly and their members are exposed to criminal prosecution and prison sentences of up to two years (*Jordan, Syria*). Nevertheless, the year 2008 also saw re-registration of one NGO and a trade union in Egypt, and registration of the Lebanese Centre for Human Rights (*Centre Libanais des droits de l'Homme - CLDH*) on February 22, 2008 in Lebanon<sup>2</sup>.

### **Freedom of movement under control**

As was the case for the whole of the Palestinian population, human rights defenders in the *Occupied Palestinian Territories* were victims of the isolation imposed by the Israeli authorities. The increased number of checkpoints on the West Bank and closures of the Gaza Strip made it extremely difficult and even routinely impossible for human rights defenders to move within and also to leave the Palestinian Territories and for defenders from the outside to enter the Territories. These obstacles directly affected the collection of information on the human rights situation in the Palestinian Territories. During the Israeli military operation at the end of 2008, the Israeli authorities completely sealed off access to the Gaza Strip.

In addition, many human rights defenders were prevented from leaving national territory to attend international conferences or for personal journeys (*Egypt, Tunisia*). The security services in some countries compiled a list of the names of defenders who were subject to a ban on leaving the country (*Bahrain, Israel/Occupied Palestinian Territories, Syria*). Communication of these lists to third-party countries with which security services cooperate meant that a check was kept on human rights defenders, who were prevented on an *ad hoc* basis from entering other States (*Bahrain* and the Member States of the Gulf Cooperation Council: *Bahrain, Kuwait, Oman, Qatar, Saudi Arabia* and the *United Arab Emirates*).

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<sup>2</sup>/ The latter had filed an application on October 9, 2006.

## Brutal repression of social movements

The year 2008 saw the emergence of several social protest movements. Their denunciation of the poverty, unemployment and social exclusion that specifically affect certain regions has undermined the image of “economic success” vaunted by certain of the region’s leaders and which they used to gloss over the human rights violations carried out under their regime. These movements were severely repressed by the authorities, which refused to recognise their economic and social nature (*Morocco, Tunisia*) or which tended to present them as threats to territorial integrity (*Yemen*). The use of force to disperse demonstrators was condemned on many occasions. The forces of order fired live ammunition at and killed several demonstrators (*Egypt, Tunisia, Yemen*). Hundreds of other protesters were arrested, arbitrarily detained or subject to unfair trial (*Bahrain, Egypt, Tunisia, Yemen*). Journalists, lawyers or NGO representatives who denounced violence committed by the forces of order or who investigated the fate of participants in these social movements did not escape acts of repression (*Tunisia, Yemen*).

## Acts of intimidation against defenders of the rights of minorities

Different ethnic or religious groups remained victim of specific economic, political and social discrimination. Human rights defenders who denounced this situation were subjected to various forms of repression. In *Bahrain* and *Syria*, defenders of the rights of Kurd and Shi’a communities respectively were the targets of smear campaigns and abusive judicial proceedings. In *Israel*, members of associations working specifically for the rights of Arab Israelis were victims of harassment by the Israeli intelligence services, which threatened them with prosecution if they continued their activities.

## Constant pressure on the media and journalists who denounce human rights violations

In most of the region’s States, the authorities targeted independent media and journalists because of their denunciation of human rights violations. In *Iraq*, journalists received death threats and some were murdered because of their criticisms of the corruption and nepotism within the political parties of Iraqi Kurdistan. In *Yemen*, journalists who covered the Saada war were given heavy prison sentences. Proceedings for defamation were also brought against journalists in the region, where press offences are liable to sentences of up to five years in prison

(*Morocco*). Several journalists, tried under the Criminal Code and not the Press Code, were given heavy sentences for “defamation” (*Algeria*), “collaborating with rebels” (*Yemen*) or “weakening the national sentiment” (*Syria*). In *Egypt* and *Tunisia*, various pressures were also exerted on several journalists denouncing human rights violations.

At the regional level, the authorities placed new restrictions on the regions’ satellite channels. On February 12, 2008, the Information Ministers of all the countries of the League of Arab States, with the exception of *Lebanon* and *Qatar*, adopted a document entitled “Principles for Organising Satellite Radio and TV Broadcasting in the Arab World”, which requires satellite channels “not to damage social harmony, national unity, public order or traditional values”. The provisions are expressed in vague terms and risk being used to justify suspension of the licence of any channel that is considered as being too critical and imprecise of the authorities, so constituting a new obstacle to freedom of expression.

### **Urgent Interventions issued by The Observatory in 2008 for countries of the region for which there is no Country Fact-sheet<sup>3</sup>**

Country	Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
JORDAN		Obstacles to freedom of association	Press Release	January 11, 2008
LEBANON	Messrs. Ghassan Abdallah and Edward Kattoura	Death threats / Harassment	Urgent Appeal LBN 001/0608/ OBS 104	June 17, 2008
LEBANON	Mr. Muhammad Mugraby	Judicial harassment	Joint Press Release	December 4, 2008

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<sup>3</sup>/ See the Compilation of cases in the CD-Rom attached to this report.



# / TESTIMONIAL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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## **ANWAR AL-BUNNI**

Lawyer and founding member of the Association for Human Rights in Syria, sentenced in April 2007 to five years' imprisonment and currently held in Adra prison

I was born in 1959 into a modest family in the town of Hamah. For as long as I can remember, an interest in public affairs has been a part of my brothers' and sisters' lives, especially as important events took place in the 1970s. My elder brother was put in prison during a wave of arrests that was launched in 1977 and that continued into 1978, when two of my other brothers and my sister were affected. Then I found myself victim to police pressure and questioning and I was put in prison for several days. Then I visited police stations, prisons and detention centres over the next three years. That was when I decided to register at university to become a lawyer and defend my brothers and sisters and their companions, some of whom were my school friends. This conviction was strengthened during the events in Hamah at the end of the 1970s and in the early 1980s. I had personal experience of the 1981 events and the dramas that affected the town. I finished my law studies and joined the bar in 1986, at the time of a new wave of arrests, of which my brothers and my sister were again victims. I was put in prison for several days, tortured and subjected to police pressure, as well as persecution and threats due to the commitment of my brothers over several years.

After everything I saw and experienced, I decided to devote myself to defending human rights and I committed to legal activism as the best way to carry out my plan. I defended detainees, prisoners of opinion and human rights activists before the Supreme State Security Court at the beginning of the 1990s. As my experience and expertise in the human rights field grew, I became convinced that the essential foundations of these rights are made concrete with fair laws that respect them and justice that is honest, independent and neutral, and which protects them from attacks and oppression.

For a while I worked alongside journalists who shared my concerns and firmly believed in human rights principles. I founded the Syrian Research and Legal Studies Centre, to develop the study of laws that protect human rights, and I helped create the Centre for the Defence of Freedom of Journalists and the Press. I have also contributed to making known many cases of human rights violations in Syria, as well as cases of attacks on freedom of expression, torture and discrimination on the basis of political allegiance, and I have contributed to the provision of information on prisons and detainees.

I have also worked on several legal studies, including one on the publishing law and another study on domination and control mechanisms in Syrian law. Since the Constitution is the basis of the law and the Syrian Constitution suffers from a grave imbalance based on the monopolisation and centralisation of power and on discrimination on a partisan basis, I drew up a draft for a new Constitution for Syria, which I published in order to provoke debate. I then prepared a draft law on political parties and I am currently preparing draft laws on elections, publishing and justice.

The Centre's relationships with Syrian, Arab and international human rights organisations have been reinforced and we have been able to take part in several human rights workshops and research. And I was appointed Director of the Human Rights Training Centre, a centre that was one of several projects created by the European Commission to support civil society in Syria, and that was closed down by the Syrian authorities a few days after it opened its doors.

I think that the decision to arrest me was a result of all this work and the activities I was carrying out, and because of my denunciation of human rights violations, especially those that are legalised. And also because of the strong credibility that the Centre that I run has gained with local, Arab and world stakeholders and with all those interested in human rights.

The draft Constitution that I proposed also played a considerable part in the decision to arrest me. The authorities had sent me a letter at the end of 2005, after the text was published, to try to fabricate judicial proceedings against me. Since this attempt failed, I was physically attacked in the street by unknown persons.

I think that the direct cause of my arrest was my appointment as Director of the Human Rights Training Centre, a centre that was opened at the initiative of the European Commission in February 2006 and closed the following March, shortly before my arrest in May 2006. The pretext used for the arrest was that I was one of 250 Syrians who signed the Beirut-Damascus Declaration on Syrian-Lebanese relations, and that I had revealed the death of a detainee under torture. I was detained by the State Internal Security branch after being kidnapped in the street in front of my home. I was beaten at branch headquarters prior to appearing prior to the Public Prosecutor the next day, where I was accused of spreading “false information damaging to the morale of the nation”, and of “belonging to international organisations”, referring to the Human Rights Training Centre.

Once we were in prison my companions and I were separated from each other, each of us in a wing holding common law detainees: one amid murderers, another with paedophiles and prostitutes, I was with thieves and another was among swindlers. All of this to prevent us from communicating or meeting.

Some detainees were appointed to watch us constantly and to annoy and even threaten us. I was beaten up by one of the criminals, directly encouraged by the prison managers; he even tried unsuccessfully to kill me by pushing me from a five-metre height. The prison management also put pressure on the prisoners to make false accusations against us, and we were brought before the court again on new charges. We are at all kinds of risk in prison. We are permanently in a state of stress, on the alert and fearful of everything around us, at every moment.

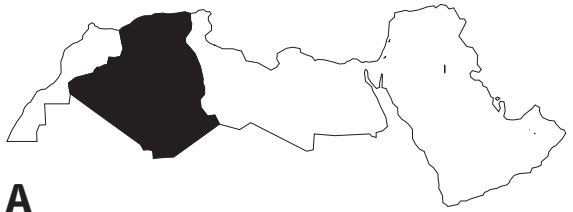
All visits by our family members are monitored and take place in the presence of a prison warden; the same for our lawyers' visits. It is forbidden to exchange documents with the latter, or to bring in books or belongings, or to receive visits by friends.

What we hope from those who are concerned about and act on behalf of human rights, is that the question of detainees remains one of their priorities and that they pressurise the Syrian authorities for their release. This question must remain present in public opinion and be constantly talked about and stressed at every world event and forum.

The Syrian authorities must be condemned for their practices, their violations of human rights and for their continued detention of political prisoners and prisoners of opinion. Furthermore, support for detainees must be demonstrated by honouring and constantly remembering them. Activists must also be supported and protected, especially human rights activists who are still free and whose work puts them in grave danger, threatening their life and the life of their family members, and their freedom. Their work must be made known and honoured, and the Syrian authorities must be warned not to harm them.

Perhaps the most important thing to do is to give us, as activists and as people, the possibility of legal recourse against those who violate human rights, and to give us the possibility of convicting them. Such recourse is likely on the one hand to curb violations, and on the other to stress the refusal of impunity.

We know that it is our country, our lives and our future that are at stake, and that it is our responsibility to work for their best interest. But the principles of freedom, justice, equality and human rights are universal principles recognised by the whole of the international community through the treaties and the Universal Declaration of Human Rights. It is the responsibility of the whole international community to protect populations and individuals from abuse and to put an end to this by binding, and even obliging, States to respect human rights so that all peoples may enjoy these rights.



## / ALGERIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### **Political context**

On November 12, 2008, the National Popular Assembly and the National Council adopted a constitutional reform relating in particular to the abolition of the restriction of the number of presidential mandates. Such a reform, which paves the way for an unlimited number of mandates for the position of Head of State, gives rise to the concern that the principle of alternation of Government, which constitutes one of the guarantees of a democratic system, will not be respected.

Algeria has furthermore been under a state of emergency since 1992, maintaining a security climate in which human rights defenders regularly find themselves confronted with numerous measures that prevent them from carrying out their work properly.

Whilst its peers at the United Nations Human Rights Council examined Algeria under the Universal Periodic Review (UPR) mechanism, in 2008 the Algerian authorities continued not to cooperate with UN human rights protection mechanisms, despite being called on to do so during the UPR on several occasions. Requests for invitations made by several of the United Nations Special Procedures were still not given consideration. Similarly, the Algerian authorities are still opposed to the visit of the ACPHR Special Rapporteur on human rights defenders in Africa. Furthermore, the Algerian Government refused the inclusion in the final report of one of the recommendations made in the course of the UPR, encouraging it not to take criminal proceedings against those who “criticise the Government”.

### **A restrictive legislative framework for human rights activities**

#### **Obstacles to freedom of association**

The right of association was still not guaranteed in Algeria. Indeed, Article 7 of Law No. 90-31 on Associations provides for a system of declaration for the creation of an association. However, the practice

established by the authorities makes approval an obligation that in effect deprives many associations of the legal recognition they need to do their job. Several human rights associations are still not able to file their registration application. This was notably the case for the associations SOS-Disappeared (*SOS-Disparu[e]s*) and Citizen Generations (*Génération citoyennes*), which, as at the end of 2008, had still not obtained legal recognition.

### **Adoption of a law making it possible to sanction defenders of migrants' rights**

On June 25, 2008, the Algerian authorities adopted a law under which a new category of human rights defenders, those who give support to migrants, incurs punishment. As a matter of fact, Law No. 88-11 on “the Entry, Stay and Movement of Foreigners” provides for prison sentences of two to five years for any person who, “directly or indirectly facilitates or attempts to facilitate the entry, the movement, the stay or the illegal exit of a stranger” (Article 46). These sentences may be increased to up to 10 years in prison for persons who provide means of transport or telecommunication to illegal migrants.

### **Legislative obstacles to freedom of assembly and repression of peaceful rallies**

Public assemblies and demonstrations are governed by Law No. 91-19 of December 2, 1991, which does not require an authorisation prior to holding a public meeting, but provides for a simple declaration to be made to the “Wali” (Governor) (Articles 4 and 5). However, the 1992 Decree establishing the state of emergency requires that associations that wish to organise a public assembly or demonstration should obtain authorisation from the Wali, as the Government authority responsible for maintaining public order. Granting of this authorisation is therefore at the Government’s discretion. In practice, the Algerian authorities systematically refused to authorise independent human rights associations to organise demonstrations or hold public meetings. In addition, a law dating from June 18, 2001, which is still in force today, forbids peaceful marches or any form of public demonstration in Algiers.

As a result, human rights defenders who organised public rallies despite the regulatory restrictions faced again in 2008 the reprisals of the authorities and the Algerian justice. On November 23, 2008, the authorities ordered a demonstration in front of the Ministry of Justice

organised by SOS-Disappeared to be broken up. When he wanted to approach the Ministry, Mr. **Hacène Ferhati**, a founding member of SOS-Disappeared, was forcibly detained by a group of police who threatened him and ordered him to leave the site, referring to the ban on rallies. He was then grabbed and dragged for several metres before being released. On March 26, 2008, the Constantine Court sentenced Ms. **Louisa Saker**, Secretary General of the Association of the Families of the Disappeared in Constantine (*Association des familles de disparus de Constantine* - AFDC), to a fine of 20,000 dinars (around 200 Euros) for “gathering crowds without weapons” because of her participation on September 20, 2004 in a peaceful rally in front of the temporary headquarters of the *ad hoc* Committee of the National Consultative Commission for the Promotion and Protection of Human Rights (*Commission nationale consultative pour la protection et la promotion des droits de l’Homme* - CNCPPDH). The Constantine Appeal Court confirmed this decision in a ruling made on November 19, 2008. Ms. Louisa Saker plans to appeal against this ruling.

Finally, whilst assemblies that are not open to the public do not require prior Government authorisation (Article 14 of Law No. 91-19), in 2008 the Algerian authorities put pressure on organisations not to host meetings that dealt with “political” matters in Algeria. For instance, the foundation that was due to host a debate on October 5, 2008, organised by the Algerian Human Rights Defence League (*Ligue algérienne pour la défense des droits de l’Homme* - LADDH) at the time of the commemoration of the events of October 5, 1988<sup>1</sup>, had to withdraw as host for “reasons beyond its control”<sup>2</sup>.

### **Legislative obstacles to freedom of association and repression of union members**

Freedom of association was still not guaranteed in Algeria. Indeed, Law No. 90-14 on Unions only permits the formation of trade unions from the same professions, branches or sectors of activity. Unions of

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1./ From October 4 to 12, 1988 (the date the state of siege was lifted), a general strike, which was called for October 5, 1988 to make social demands heard, turned into rioting that shook several Algerian towns. The demonstrations, during which public buildings were destroyed, were violently repressed, leading to 179 deaths according to official sources (over 400 deaths according to other sources).

2./ See LADDH.

Algerian workers such as the National Independent Union of Public Administration Personnel (*Syndicat national autonome des personnels de l'administration publique* - SNAPAP), or the National Union of Algerian Workers (*Syndicat national des travailleurs algériens* - SNATA), are consequently banned. In addition, the authorities refuse to register most autonomous unions, including those belonging to the same profession. This is especially the case for the Independent Union of Workers in Education and Training (*Syndicat autonome des travailleurs de l'éducation et de la formation* - SATEF), the Independent National Council of Secondary and Technical Education Professors (*Conseil national autonome des professeurs de l'enseignement secondaire et technique* - CNAPEST) or the Council of Secondary Schools of Algiers (*Conseil des lycées d'Alger* - CLA).

Union officials were also prevented from organising peaceful rallies. On April 15, 2008, members of the Independent Civil Service Inter-Union (*Intersyndicale autonome de la fonction publique* - IAFP) organised a rally on the “Grande Poste” square in Algiers to let the Government know about their disagreement with the wage review plan. The rally was quickly dispersed by anti-riot forces, which charged the demonstrators using their truncheons. Together with other people, Mr. **Nouar Larbi**, a CNAPEST member, was dragged along the street, arrested and then immediately released as a result of the pressure of his colleagues. Altogether ten people were arrested and questioned, before being released a few hours later.

### **Judicial and administrative harassment of human rights defenders fighting against impunity**

In 2008, the ordinance voted in February 2006 on the implementation of the Charter for Peace and National Reconciliation (*Charte pour la paix et la réconciliation nationale*) remained in force, restricting the freedoms of action and expression of human rights defenders. This ordinance indeed provides for prison sentences of three to five years and fines for any individual who, “by speech, writing, or any other act, uses or exploits the wounds of the national tragedy to harm the institutions of the Democratic and Popular Republic of Algeria, to weaken the State, or to undermine the good reputation of its agents who honourably served it, or to tarnish the image of Algeria internationally”. The law therefore punishes a large part of the activities of human rights defenders, especially those relating to the fight against impunity and



the search for truth and justice carried out notably by the Collective of the Families of the Disappeared in Algeria (*Collectif des familles de disparus en Algérie* - CFDA) or the associations of families of disappeared persons and the associations of families of victims of terrorism. Although these provisions were never used, they contributed to the climate of self-censorship within civil society, especially in the media, and were a dissuasion against holding any critical debate on the conflict of the last decade.

In this context, judicial or administrative proceedings continued into 2008 against human rights defenders who combat impunity in order to intimidate them. For instance, on April 13, 2008, Mr. **Abderrahmane Amine Sidhoum**, a lawyer and member of the association SOS-Disappeared, was given a six months' suspended prison sentence and fined 20,000 dinars (around 200 Euros) by the Sidi M'hamed Court in Algiers, for having "discredited a court ruling" and for "insulting a constituent body of the State". He was accused of having referred to "an arbitrary ruling" against one of his clients made by the Algiers Criminal Court, although the court had not yet issued a verdict<sup>3</sup>. On November 26, 2008, the Algiers Court of Appeal confirmed the ruling. The General Prosecutor, who had called for a one-year prison sentence, appealed against this decision. As at the end of 2008, the court had still not issued a verdict. In addition, on May 17, 2008, Ms. **Cherifa Kheddar**, President of "Djazairouna", an association that defends the rights of victims of terrorism, was downgraded from her position as in charge at the Blida Prefecture, where she worked for 12 years, and on August 18, 2008 she received notice of eviction from her on-site accommodation. Furthermore she continued to be subject to acts of harassment by the security services of the Blida Territorial Research and Investigation Centre (*Centre territorial de recherche et d'investigation* - CTRI). These acts followed a workshop forum on transitional justice and the Charter for Peace and National Reconciliation, which was co-organised by "Somoud", Djazairouna, SOS-Disappeared and the CFDA in the Djazairouna office in Blida on April 10, 2008. This event brought together for the first time victims of terrorism and victims of enforced disappearances caused by the Algerian authorities.

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3./ The Criminal Court pronounced its verdict in May 2005.

## Proceedings for “defamation” and reprisals against journalists who fight against corruption and denounce human rights violations

The year 2008 saw an escalation in the sentencing of journalists for “defamation” and “insult to an institution and constituent body”. This judicial harassment has been facilitated since the adoption in 2001 of an amendment to the Criminal Code (the Dilem Amendment) making it a crime to insult and defame public institutions in the press. Several journalists were prosecuted after denouncing corruption in certain State institutions and other human rights violations. For instance, Mr. **Yasser Abdelhaï**, from the daily *Echourouk Al-Youmi*, was served a debt recovery notice by a bailiff for the payment before March 15, 2008 of four million dinars (around 40,000 Euros), the amount he had been sentenced to pay by the Jijel Court on March 3, 2008, after four trials. The journalist was prosecuted by the Jijel Wali for having criticised the management of public affairs by the Prefecture<sup>4</sup>. Furthermore, Mr. **Slim Sadki**, the *Al-Watan* correspondent in the town of El Tarf (in the north-east), was sentenced on November 30, 2008 to a fine of 20,000 dinars (around 200 Euros) for “defamation”, following a complaint filed by a senior civil servant after publishing two articles in January 2008 denouncing acts of corruption within the local Government Education Authority in the El Tarf wilaya (province)<sup>5</sup>. Finally, on October 28, 2008, Mr. **Hassan Bouras**, a journalist and member of LADDH, was sentenced by default by the Saida Appeal Court to two months in prison and a fine of 40,000 dinars (around 3,600 Euros) for “defamation” and “attacking a constituent body”. The trial followed a complaint filed by the Wali of Al-Baydah concerning a report published on April 24, 2006 by the newspaper *Al-Bilad*, in which the journalist had denounced corruption within the province<sup>6</sup>.

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4./ See LADDH.

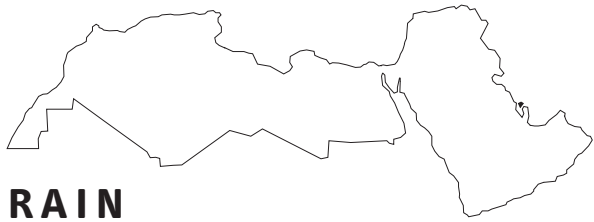
5./ The first article dealt with a teachers’ strike to protest against the withholding of salaries and the second with the dismissal of six young women who were employed and then dismissed a month later on the pretext that they were over-qualified. See *Al Watan* articles dated March 3, October 28 and November 30, 2008.

6./ See LADDH.

## Urgent Interventions issued by The Observatory in 2008<sup>7</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Ms. Louisa Saker	Judicial harassment	Urgent Appeal DZA 001/0108/OBS 003	January 10, 2008
Mr. Abderrahmane Amine Sidhoum	Judicial harassment	Joint Open Letter to the authorities	April 8, 2008
	Sentencing	Urgent Appeal DZA 001/0506/OBS 063.7	April 14, 2008
		Press Release	November 24, 2008
	Sentencing on appeal	Press Release	November 27, 2008
Mr. Nouar Larbi	Repression of a union demonstration	Press Release	April 22, 2008
Ms. Cherifa Kheddar	Abusive dismissal / Harassment	Urgent Appeal DZA 002/0508/OBS 089	May 22, 2008
		Urgent Appeal DZA 002/0508/OBS 089.1	September 19, 2008
Mr. Hacène Ferhati	Obstacles to freedom of peaceful assembly	Urgent Appeal DZA 003/1108/OBS 198	November 25, 2008

<sup>7</sup>/ See the Compilation of cases in the CD-Rom attached to this report.



## / BAHRAIN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

The review by the Human Rights Council member States of Bahrain's report during the Universal Periodic Review in April 2008 provided an opportunity for NGOs to launch a public debate on the situation of human rights in the country, particularly on the question of torture and cruel, inhuman and degrading treatment and the systematic discrimination faced by the Shia majority. Moreover, in May 2008, the Government launched an action plan in the presence of a representative of the United Nations High Commissioner for Human Rights in which the Minister of Foreign Affairs affirmed the determination of his country to establish a National Human Rights Institution (NHRI), which should begin its work in January 2009. However, since that announcement, several Bahraini human rights NGOs have repeatedly reminded the authorities of the necessity for this national institution to conform with the Paris Principles<sup>1</sup>.

Furthermore, while the *Shura* Council (Upper House of Parliament) approved a bill abolishing criminal penalties for press offenses<sup>2</sup>, the Government had still not submitted it to the National Assembly by the end of 2008. Press freedom thus remained largely threatened. For instance, on June 28 and 29, six journalists, of which three were working for the news organisation's political group *al-Wefaq* and three for the website *Arwaal.net*, were arrested by the police. Similarly, Mr. Abdullah Bu-Hassan, member of the National Democratic Action Society, was arrested on June 18, 2008 for "inciting hatred and insult against the

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1./ Principles relating to the status and functioning of national institutions for the promotion and protection of human rights adopted by the UN General Assembly on March 14, 1994.

2./ See Amendment of Act No. 47 on the Press (2002), which removes most penalties of imprisonment against journalists, as well as censorship of national and foreign publications, under certain conditions. See Bahrain Centre for Human Rights (BCHR).

regime”, following an article in which he criticised the political decisions of the Government and denounced its discriminatory practices<sup>3</sup>.

New obstacles to freedom of expression may also arise following the publication on November 5, 2008 of a press release in which the Minister of the Interior called for the strict enforcement of Articles 134 and 134 bis of the Criminal Code against any person who “participates in meetings abroad or with international bodies to discuss the internal affairs of the Kingdom”<sup>4</sup>. This article stresses that “every citizen who participates abroad without governmental permission at a conference or seminar that discusses the political, economic and social situation in Bahrain, which may weaken the economic confidence in the country, its diplomatic relations or its prestige is liable to an imprisonment of a minimum of three months and a fine”<sup>5</sup>. These provisions, drafted in 1976 when Bahrain was under a state of emergency, are considered as liberty-killer by most human rights organisations, which are calling for the drafting of a new criminal code.

### **Administrative, legislative and judicial obstacles to freedom of association**

Freedom of association remained not guaranteed insofar as Act No. 21 of 1989 regulating civil societies made necessary the prerequisite approval of any association, with the silence of the authorities signifying the rejection of that request. Therefore, several NGOs, such as the National Committee for the Unemployed and the Bahrain Youth Society for Human Rights (BYSHR)<sup>5</sup>, were still awaiting as of the end of 2008 for the Government’s response to their registration application. Similarly, the Bahrain Centre for Human Rights (BCHR), closed in September 2004, had still not been re-opened by the end of 2008. Without legal recognition, these NGOs are threatened with closure and their founders are threatened with reprisals. For instance, Mr. Mohammed Abdul Nabi Al-Maskati, President of BYSHR, incurs an imprisonment of six months and a fine of 500 Dinars (about 1,040 Euros) for “the activation of an unregistered organisation without prior notification of the registration statement”. He has waited since

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3./ See BCHR.

4./ *Idem*.

5./ Both applications were filed in 2005.

2005 for registration permission from the Ministry of Social Affairs. The beginning of his trial was scheduled for January 15, 2009.

### **Administrative and judicial obstacles to freedom of peaceful assembly and reprisals against defenders taking part in demonstrations**

Act No. 32 of 2006 regulating public gatherings provides for the mere prior notification of public rallies and meetings. However, taking into consideration the nature and purpose of the gathering, the law instructs the Director of Public Safety to determine whether the presence of police forces is necessary. In addition, the law prohibits organising a rally between sunset and sunrise and prohibits any speech or comment likely to affect public order or moral, without specifying the meaning of these two concepts. In September 2008, two decisions of the Civil Service Bureau (CSB) and the Ministry of the Interior reinforced these restrictions on the right to peaceful assembly by prohibiting students and governmental employees, subject to punishment, to participate in unauthorised rallies.

In 2008, unreported events or events held after sunset were violently repressed by the police, who assaulted demonstrators with tear gas and fire on them with rubber bullets. Several human rights defenders arrested at these gatherings were sentenced to heavy prison sentences. Thus, from December 21 to 28, 2007, sixty young militants were arrested by the special security forces following a demonstration on December 17, 2007 in Sanabis (west of Manama) calling for redress and reparation for victims of torture. They were accused of involvement in “unlawful gathering” and “theft and unauthorised possession of weapons and ammunition”. All those arrested denied the acts of violence and the possession of firearms. In addition, several human rights defenders denounced the continuing use of mistreatment during their detention. Several were detained in solitary confinement, hand-cuffed and blindfolded for long periods of time. Some complained of mistreatment or torture by the Criminal Investigation Bureau (CIB) to coerce them to confess<sup>6</sup>. On July 14, 2008, five of them, namely Messrs. **Hassan Abdalnabi** and **Maytham Bader Jassim al-Sheikh**, members of the Unemployed and Underpaid Committee (UUC), Mr. **Naji al-Fateel**,

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6./ See BCHR and the Bahrain Human Rights Society (BHRS).

member of the BYSHR, Mr. **Mohammed Abdullah al-Sengais**, founder of the Committee to Combat High Prices (CCHP), and Mr. **Isa Al-Sarh**, member of the Amal Political Society, were condemned by the High Criminal Court of Bahrain to prison terms ranging from five to seven years. Appeal of this conviction was denied on December 28, 2008.

### **Legislative restrictions on trade union rights and acts of intimidation against trade unionists**

According to Law No. 33 of 2002 on trade unions, a union acquires legal personality after the deposit of its statutes with the Ministry of Labour. However, according to an administrative resolution by the CSB, public sector employees are prohibited to form autonomous trade unions. The six existing public sector unions are therefore refused by authorities despite their recognition by the independent General Federation of Bahrain Trade Unions (GFBTU).

Moreover, it remained difficult for trade unionists to defend workers' rights without retaliation by their employers. For instance, several temporary work stoppages and interruption of salary payments were made against Ms. **Najiya Abdulghaffar** since her appointment as Vice-President of the postal union in 2003. On March 30, 2008, she was called before a committee of inquiry in order to force her to leave her post. These acts of intimidation occurred following a letter to the Minister of Social Affairs in 2003 and a statement to the press in July 2006 in which she denounced the poor working conditions for employees of the post office. Ms. Najiya Abdulghaffar filed a complaint against the decisions made against her. On December 30, 2008, the court ruled against her and confirmed the CSB decision. Similarly, Mr. **Abbas al-Omran**, a member of the workers' union of BAPCO Bahrain Petroleum Company and member of BCHR, was dismissed from his job in September 2008. In 2006, he had denounced corruption within the company. Since then, he had been harassed numerous times and was ordered not to communicate with the media until his dismissal<sup>7</sup>.

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<sup>7</sup>/ See BCHR.

## Smear campaigns and harassment of defenders who denounced discrimination against Shia people

In 2008, defamation campaigns were launched against defenders who denounced the discrimination faced by the Shia community. For instance, on October 16, 2008, MPs and journalists described Mr. **Nabeel Rajab**, BCHR President, Mr. **Al Abduljalil Alsingace**, Head of the human rights office at the political movement Haq for Civil Liberties and Democracy in Bahrain, and Ms. **Maryam Al-Khawaja**, former President of the International Association of Students in Economic and Business Sciences (IESEC), as “traitors” and “hostages of the United States”<sup>8</sup>. These charges were the result of their participation in a seminar in Washington on October 15, 2008 organised by thematic commissions of the U.S. Congress on “the impact of political reform on religious freedom in Bahrain”. Similarly, on December 28, 2008, staged confessions by alleged terrorist suspects were broadcast on Government-run *Bahrain satellite* channel, during which the names of several human rights defenders were mentioned as “instigators of acts of violence”<sup>9</sup>, including Mr. **Abdulhadi Al-Khawaja**, former President of the BCHR and Protection Coordinator at Front Line. Human rights defenders’ families were also subjected to acts of harassment. Thus, Mr. Nabeel Rajab’s wife was subjected to threats through postal service, electronic mail and telephone.

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8./ On October 16, 2008, inflammatory articles written by members of the House of Representatives and writers and editors of local newspapers on the mentioned defenders were published in Bahraini newspapers *al-Watan*, *al-Ayam*, *Akhbar al-Khaleej*, *al-Waqt* and *al-Bilad*, as well as in the regional newspapers *al-Khaleej* and *Khaleej Times*. See BCHR.

9./ The uncovering of this alleged “terror plot” gave rise to judicial proceedings against 35 suspects including seven human rights defenders – Mr. **Abbass Al-Omran**, BCHR Administrative Board member, Mr. **Abduljalil Alsingace**, Mr. **Hasan Mushaima**, Secretary General of the Haq Movement of Civil Liberties and Democracy, Mr. **Mohamed Habib Al-Meqdad**, a Shia religious scholar, Mr. **Abdul-redha Hassan Al-Saffar**, a human rights defender well-known for his role in organising peaceful sit-ins in collaboration with the families of detainees and the Unemployed Committee, Mr. **Ali Mushaima**, a former leading member of the Unemployed Committee living in the United Kingdom as political refugee, and Mr. **Abdulraoof Al-Shayeb**, former President of the National Committee for Martyrs and Victims of Torture living in the United Kingdom as political refugee. Their trial started on February 23, 2009.



## Restrictions on the freedom of movement of human rights defenders

In 2008, an increasing number of human rights defenders were restricted in their freedom of movement, both while leaving Bahrain or entering third countries. On December 2, 2008, Mr. **Abdulghani Al-Khanjar**, Spokesperson for the Bahraini National Committee for Martyrs and Victims of Torture, was prevented from entering Qatar while he was at the airport in Doha. The travel ban would be linked to the existence of a list of “political activists” drawn up by the Ministry of the Interior and transmitted to State members of the Gulf Cooperation Council (GCC) and other allies of Bahrain like Egypt and Jordan, in order to encourage them to refuse entry of persons engaged in defending human rights in Bahrain<sup>10</sup>. Though this list had been drawn up at the time Bahrain was under a state of emergency (1975-2002), it is still in force and is occasionally updated. Other human rights defenders like Mr. **Mohammed Majeed Aljeshi**, a lawyer working on some cases with BCHR, and Mr. Nabeel Rajab suffered restrictions to their freedom of movement in 2008. For instance, in August and December 2008, the latter was stopped at the airport and interrogated by the Jordanian security services while travelling to Amman<sup>11</sup>.

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10./ See BCHR.

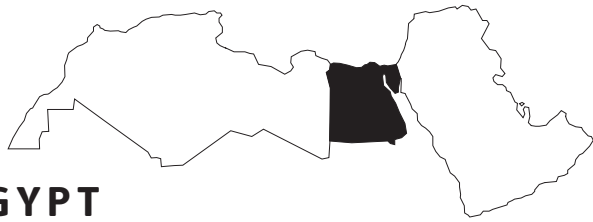
11./ *Idem*.

**Urgent Interventions issued by The Observatory in 2008<sup>12</sup>**

<b>Names of human rights defenders</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Messrs. Shaker Mohammed Abdul-Hussein Abdul-AL, Majid Salman Ibrahim Al-Haddad, Nader Ali Ahmad Al-Salatna, Maytham Bader Jassim Am-Sheikh, Hassan Abdelnabi Hassan, Abdullah Mohsen Abdulah Saleh, Ahmad Jaffar Mohammed Ali, Naji Al Fateel, Mohammed Abdullah Al Sengais and Ebrahim Mohamed Amin Al-Arab</b>	Arbitrary detention / Torture and ill-treatment / Judicial proceedings	Open Letter to the authorities	January 9, 2008
		Press Release	January 18, 2008
		Urgent Appeal BHR 001/0208/ OBS 017	February 13, 2008
		Urgent Appeal BHR 001/0208/ OBS 017.1	February 28, 2008
		Press Release	April 23, 2008
<b>Ms. Najiya Abdulghaffar</b>	Harassment	Open Letter to the authorities	April 3, 2008
<b>Mr. Nabeel Rajab, Dr. Abduljalil Al-Sengais and Ms. Maryam Al-Khawaja</b>	Slandering campaign	Urgent Appeal BHR 002/1008/ OBS 171	October 28, 2008

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12./ See the Compilation of cases in the CD-Rom attached to this report.



## / EGYPT

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

As the April 8, 2008 municipal and local elections drew near, hundreds of potential candidates and activists were arbitrarily arrested, detained or subjected to restrictions imposed by the Egyptian authorities<sup>1</sup>. Most of them were supporters of the Muslim Brotherhood, but they also included journalists or human rights defenders. The European Parliament denounced this repressive climate in a resolution condemning “the recent arrests and action against NGOs and human rights defenders [that] undermine the commitments entered into by the Egyptian Government concerning fundamental rights and freedoms”<sup>2</sup>. This decision was denounced as interfering in Egyptian affairs<sup>3</sup>, and had no impact on the repression exercised against human rights defenders.

Furthermore, the State of Emergency Law that has been in force since 1981 was extended for another two years in May 2008. It was used more and more often to restrict the exercise of the right to peaceful assembly and to prosecute before special courts those who exercise this right. On April 6-7, 2008, the police put down brutally demonstrations organised in support of a labour movement of textile workers in Mahalla, north of Cairo, and dispersed violently the ensuing protests against rising food costs and corruption. The event turned into a confrontation between the demonstrators and the police. Two persons were killed by shots fired by the police, and about 258 persons were arrested, including several bloggers. Most were released without charge, but for 49 persons the judicial proceedings before special courts were still pending as of the end of 2008<sup>4</sup>. These courts, composed of military tribunals

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1./ From January to April 2008, 650 supporters of the Muslim Brotherhood were arrested in Egypt. See the Egyptian Organisation for Human Rights (EOHR).

2./ See European Parliament Resolution P6\_TA(2008)0023, January 17, 2008.

3./ See Statement by the Egyptian Foreign Minister, Mr. Ahmed Aboul Gheit, to the official press agency MENA, January 19, 2008.

4./ See EOHR.

judging civilians, flout the fundamental guarantees of a right to a fair trial and accept as evidence information obtained under torture.

In 2008, recourse to ill-treatment and torture remained widespread in Egypt. In particular, several videos broadcast by Egyptians on the Internet showed police officers torturing suspects.

2008 was also marked by attacks on freedom of expression. On September 28, the Editor-in-chief of the *al-Dustour* daily newspaper, Mr. Ibrahim Eissa, was sentenced by the Boulaq Court of Appeal, in Cairo, to two months' imprisonment for having written an article on President Moubarak's health. The President of the Republic pardoned him on October 6<sup>5</sup>. However, other journalists continued to be subjected to acts of intimidation. Thus, on October 26, 2008, Mr. Nader Gohar, owner of the Cairo News Company (CNC), was sentenced by the al-Agouza Criminal Court in Cairo to a fine of 150,000 Egyptian Pounds (about 21,185 Euros) for having broadcast footage of the above-mentioned demonstrations without a licence<sup>6</sup>.

### **Restrictions to the freedom of movement of human rights defenders**

In 2008, the Egyptian authorities refused to authorise several human rights defenders to leave the territory, thereby preventing them from taking part in international conferences. For instance, in February 2008, Mr. **Hisham Bastawissi**, Vice-President of the Egyptian Court of Cassation, and Mr. **Ashraf al-Baroudy**, a judge sitting at the Alexandria Court of Appeal, were not authorised to leave the country to attend a conference on the independence of the judiciary in the Euro-Mediterranean region organised in Brussels from February 9 to 11. Again, in November, Mr. Ashraf al-Baroudy was not authorised to travel to Jordan to attend a seminar organised by FIDH on the independence of the High Judicial Councils. Furthermore, a veto from the Government that was issued in December 2007 prevented members of the Egyptian Initiative for Personal Rights (EIPR) from attending a meeting on AIDS organised at the UN General Assembly on June 10 and 11, 2008.

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5./ *Idem*.

6./ *Idem*.

## Reprisals against defenders fighting torture

This year, defenders denouncing the use of torture or ill-treatments were subjected to acts of intimidation, even of violence. For instance, on April 30, Dr. **Magda Adly**, a member of the Nadeem Centre for the Psychological Support and Rehabilitation of Victims of Violence, was attacked by a policeman armed with a knife in the Kafr El Dawwar Court, in the Beheira district. She had just attended a hearing during which she had exhibited bloodstained articles of clothing belonging to her clients, evidencing the physical violence to which they had been subjected to when they were arrested. Likewise, Mr. **Mohamed Bayoumi**, a lawyer at the Association for Human Rights and Legal Aid (AHRLA), an NGO providing legal assistance to victims of torture and asylum seekers, was subjected to acts of intimidation and harassment due to his defence of Ms. Awleel, a Sudanese refugee, who had been attacked and raped by two Egyptian police officers. In July 2008, one of the policemen offered Mr. Bayoumi money to withdraw the complaint against him. On August 2, family members of the policeman hit him in the leg in the street, and stole Ms. Awleel's file. On August 13, Mr. Bayoumi's family received a phone call at two o'clock in the morning informing him, erroneously, that Mr. Bayoumi had been shot dead in the street and that his body was in the hospital mortuary.

## Acts of harassment against journalists denouncing human rights violations

In 2008, journalists who denounced human rights violations were also subjected to acts of harassment. For instance, on January 28, 2008, Ms. **Howayda Taha** was arrested while working on a report on the physical abuse and the social problems to which Egyptian agricultural workers were subjected. The police confiscated her recordings and questioned her for four hours before releasing her<sup>7</sup>. Similarly, on July 8, 2008, the Rahmánya police initiated judicial proceedings against the journalist **Kkamal Murad**. On June 17, he had been arrested while interviewing peasants at Exbat Mohram and photographing police officers beating up peasants to force them to sign leases with a local businessman in Rahmánya, in the Buhaira region in the Delta. Mr. Murad was accused of "assuming a false identity", "assaulting the police", "inciting to violence" and "defamation". He incurs from six months' to three years' imprison-

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7/ *Idem*.

ment and, as of the end of 2008, the charges against him remained pending<sup>8</sup>.

### Re-registration of human rights organisations

In 2008, the courts authorised the re-registration of two human rights organisations, thereby cancelling decrees by the Minister for Social Solidarity ordering them to be closed down. In March-April 2007, several decrees had indeed led to the closing down of the headquarters and the regional offices of the Centre for Trade Union and Workers Services (CTUWS), an organisation defending workers' rights. Likewise, on September 8, 2007, the Minister for Social Solidarity issued a decree ordering the closing down of AHRLA. However, on March 30 and October 26, 2008 respectively, the Cairo Administrative Court cancelled the decisions, on the grounds that they were contrary to the freedom of association recognised by the Egyptian Constitution. Nonetheless, as of the end of 2008, the decisions of the Administrative Court had not been implemented neither by the Ministry for Social Solidarity nor by the Governor of Cairo.

### Urgent Interventions issued by The Observatory in 2008<sup>9</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Judges Hisham Bastawissi and Ashraf El-Baroudi	Obstacles to freedom of movement	Joint Open Letter to the authorities	February 7, 2008
Messrs. Kamal Abbas and Mohamed Helmy	Repeal of a sentencing	Urgent Appeal EGY 001/0407/OBS 035:3	March 4, 2008
Centre for Trade Union and Workers Services (CTUWS) and Association for Human Rights and Legal Aid (AHRLA)	Re-opening of a trade union / Obstacles to freedom of association	Joint Press Release	April 2, 2008
		Press Release	May 21, 2008
		Press Release	June 20, 2008

8./ *Idem*.

9./ See the Compilation of cases in the CD-Rom attached to this report.

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
	Re-opening of an NGO	Joint Press Release	October 28, 2008
<b>Ms. Magda Adly and Dr. Mona Hamed</b>	Assault / Intimidation acts	Urgent Appeal EGY 001/0508/OBS 074	May 7, 2008
<b>Egyptian Initiative for Personal Rights (EIPR)</b>	Obstacles to freedom of association	Joint Press Release	June 13, 2008
<b>Mr. Mohamed Bayoumi and Mr. Mohsen</b>	Assault / Intimidation acts	Urgent Appeal EGY 002/0808/OBS 136	August 19, 2008
<b>Mr. Nasser Amine and Mr. Hammad Wadi Sannd</b>	Death threats	Urgent Appeal EGY 003/1008/OBS 170	October 27, 2008



# / ISRAEL/OCCUPIED PALESTINIAN TERRITORY

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

## Political context

2008 in the Occupied Palestinian Territories (OPT) was marked by a serious humanitarian crisis caused by the blockade on Gaza. Indeed, while 80% of the population of the Gaza strip is dependant on humanitarian aid, the latter, which was suspended for many months when Hamas took power, is now limited by the restrictions imposed by the Israeli army. On June 19, 2008, an Egyptian-brokered truce was reached between Israel and Hamas. Although this enabled a trickle of goods and humanitarian aid to get through, the Israeli blockade had not been lifted by the end of 2008. On December 27, 2008, a week after the end of the truce, Israel launched massive aerial raids on the Gaza strip, killing 400 persons and injuring two thousand others. On the Israeli side, four persons were killed by rockets fired from the Gaza strip<sup>1</sup>.

Freedom of movement was still seriously hampered in the OPT. The multiplication of checkpoints within the West Bank – a 62% increase over the last three years – prevented the Palestinians from accessing basic services<sup>2</sup>. The activities of Israeli, Palestinian and international human rights defenders were deliberately hampered by the Israeli authorities, who restricted access to the West Bank, in particular to areas where the Palestinians were subjected to attacks by the settlers and to expropriation<sup>3</sup>. Entering or leaving Gaza was also seriously hindered by the checkpoints set up by the Israeli authorities. The Israeli authorities introduced

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1./ As to January 1, 2009.

2./ In September 2008, OCHA counted a total of 634 permanent roadblocks and checkpoints and 85 flying checkpoints in the West Bank. See the Association for Civil Rights in Israel (ACRI), *Report on the human rights situation in Israel and the Occupied Territories*, 2008.

3./ See ACRI above-mentioned report.



a new system of permits, which makes it practically impossible for the Gaza Palestinians to go to the West Bank, and vice versa<sup>4</sup>.

Activities of civil society organisations in the Gaza strip, including human rights ones, were also hampered by the shortages of fuel and electricity supplies; a crisis that impacted all aspects of life of the Palestinian civilian population. The Israeli authorities sharply decreased the amounts of fuel allowed into the Gaza strip, including energy fuel required for the operation of the Gaza power plant, which provides at least 30% of the electricity supplies in the Gaza strip.

At the internal level, the fragmentation led to continued deterioration in the human rights situation. The rival Palestinian factions engaged in repression against their opponents, and this generally led to massive human rights abuses, such as arbitrary arrests and detentions, torture and ill-treatments, and extrajudicial executions. Those who opposed Fatah (the party of Mr. Mahmoud Abbas, President of the Palestinian Authority) in the West Bank, and those who opposed Hamas in the Gaza strip kept living in fear. The two rival factions continued to restrict the Palestinians' right to freedoms of expression and peaceful assembly. During the last months of 2008, Hamas security services and armed militia in the Gaza strip dispersed by force several demonstrations and other public gatherings organised by Fatah, while in the West Bank many of the Hamas supporters went underground for fear of being arrested by the Palestinian Authority or Israeli forces<sup>5</sup>.

By the end of 2008, Fatah and Hamas took yet more stubborn positions, especially following the failure of the Egyptian mediation to launch an internal dialogue. These tensions could well intensify following the announcement by the Palestinian President on November 23, 2008 of his intention to organise by decree presidential and parliamentary elections early in 2009, although nothing in the Palestinian Basic Law<sup>6</sup> allows him to dissolve Parliament before the end of its

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4./ See Palestinian Centre for Human Rights (PCHR).

5./ *Idem*.

6./ The Palestinian Basic Law is to function as a temporary constitution for the Palestinian Authority until the establishment of an independent State and a permanent constitution for Palestine can be achieved.

present term, in 2010. As for Hamas, it declared that it will no longer recognise Mr. Mahmoud Abbas as President after January, when his term of office expires.

### **Obstacles to the freedom of movement of human rights defenders**

In 2008, as for most of the population, it remained impossible for Palestinian human rights defenders to go from Gaza to the West Bank. In addition to the multiplication of checkpoints in the West Bank in 2008, the freedom of movement of human rights defenders was significantly curtailed. For instance, since the second Intifada in September 2000, Mr. **Raji Sourani**, President of the Palestinian Centre for Human Rights – PCHR (Gaza), has been unable to go to the West Bank. Likewise, the Israeli military authorities have systematically forbidden Mr. **Shawan Jabarin**, Director General of the Palestinian NGO Al-Haq, to leave the territory, although he was invited to a number of international conferences in 2008. His request that the ban be lifted was rejected by the Supreme Court of Israel on July 7, 2008, on the grounds that “secret evidence” showed that Mr. Jabarin was an active member of a terrorist organisation. Similarly, Mr. **Yusuf Qawariq**, another Al-Haq staff member, was arrested on July 14, 2008 and detained for three hours by the Israeli forces as he was leaving Nablus via the Huwara checkpoint. His arrest was thought to be linked to his monitoring of human rights violations committed by the Israeli army. On September 2, 2008, the Israeli military authorities refused to grant an exit permit from Gaza to Messrs. **Issam Younis** and **Mahmoud Abu Rahma**, respectively Director and member of the al-Mezan Centre for Human Rights, Mr. **Raji Sourani** and Mr. **Iyad Nasr**, a member of the International Committee of the Red Cross (ICRC), who were to go to Brussels to attend meetings with their European counterparts. Over the year, the Israeli military authorities also refused to grant an exit permit from Gaza to the following staff members of the PCHR, who were to attend various human rights meetings and activities either in the West Bank or abroad: Mr. **Jaber Wishah**, Deputy Director; Mr. **Hamdi Shaqqura**, Director of Democratic Development Unit; Mr. **Iyad Alami**, Director of Legal Aid Unit; Ms. **Ibtissam Zaqqout**, Director of Field Work Unit; Ms. **Muna Shawa**, Director of Women’s Rights Unit; Messrs. **Ibrahim Sourani** and **Sameer Hassaniya**, lawyers; and Mr. **Rami Abu Sha’ban**, Accountant.

Several human rights defenders were also prevented in 2008 from going to the Gaza strip. Such was the case of members of Physicians for Human Rights-Israel (PHR), an organisation that strives for the respect of the right to health. For instance, on October 20 and 21, 2008, several PHR members and dozens of distinguished foreign visitors were prevented by the Israeli military authorities from reaching Gaza to take part in the Gaza Community Mental Health Programme's Fifth International Conference<sup>7</sup>.

Furthermore, Israeli authorities also hampered the freedom of movement of international observers mandated to monitor the human rights situation in the Palestinian territories. For instance, on December 14, 2008, the Israeli Minister for the Interior banned entry to the Palestinian territories to Mr. **Richard Falk**, UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. He was deported on December 15, 2008 from the Tel Aviv Ben Gurion airport<sup>8</sup>.

### **Harassment of defenders reporting on the situation in Gaza and the West Bank**

Harassment of human rights defenders increased in 2008 after the General Security Services (GSS) had declared on several occasions in 2007 that it was their duty to "counter the subversive activities of those who were liable to undermine the Jewish and democratic nature of the State of Israel, even when their activities were conducted with the help of instruments provided by democracy"<sup>9</sup>. This political line, supported by the Public Prosecutor, especially aimed at restricting the activities of defenders belonging to the Arab Israeli community. Following the declaration, GSS summoned for questioning journalists, human rights defenders and other activists, whose public activities were not considered "acceptable". Several of the persons interrogated were informed by the GSS that they were followed at all times, and threat-

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7./ See PCHR.

8./ *Idem*. See also the United Nations High Commissioner for Human Rights' Press Statement, December 16, 2008.

9./ For more information, see ACRI above-mentioned report.

ened with prosecution if they continued their activities<sup>10</sup>. For instance, on May 15, 2008, Mr. **Salah Haj Yehia**, a PHR member and Director of the dispensaries managed by the organisation, was summoned by GSS members to the Taybeh police station. He was questioned on the association's activities, its budget, its donors, and on other members of the association. The questions also touched on the relations between PHR and Hamas representatives in the Gaza strip<sup>11</sup>. In November, Mr. Salah Haj Yehia was again summoned to be interrogated by GSS members on his activities in Gaza.

Furthermore, on July 8, 2008, a military order issued by the Commandant of the Israeli Army in the West Bank ordered the closing down, for a period of two years, of the Nafha Association for the Defence of Prisoners and Human Rights. Nafha, an association registered with the Palestinian Authority in 2006, is one of the many NGOs that represent Palestinian detainees in Israeli courts. The Israeli military authorities accused it of "financing terrorist organisations". Nafha denied such allegations, pointing out that there was no evidence for such a claim. Furthermore, on July 16, 2008, the Israeli army made an incursion in Nablus into the private office of Mr. **Fares Abou al-Hassan**, a lawyer and Director of Nafha's legal department. The military broke into his apartment in the middle of the night and forced him to take them into his private office, where they confiscated several documents, files and computers<sup>12</sup>.

### **Attacks on freedom of peaceful assembly**

Law No. 12 on public gatherings of 1998 stipulates that public meetings and assemblies must be notified to the Director of the police or the Governor at least 48 hours before the date of the event. No authorisation is therefore necessary. Also, Article 2 of the same Law and Article 26(5) of the Palestinian Fundamental Law grant citizens the right to peaceful assembly. Nevertheless, several peaceful demonstrations were repressed in 2008. For instance, on September 6, 2008, the police brutally put down a demonstration organised in Gaza by the Islamic Union of Palestinian Teachers. The teachers were protesting

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10./ See ACRI above-mentioned report.

11./ See PHR.

12./ See PCHR.

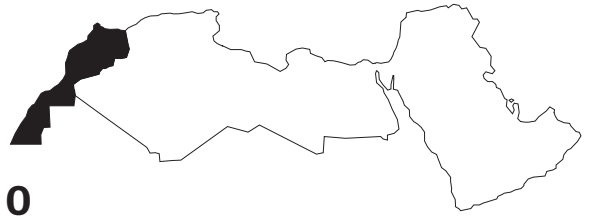
against the difficult working conditions faced by the educational sector, in particular since the conflict between Fatah and Hamas broke out. Eight teachers were arrested, before being released a few hours later. The police also prevented journalists from approaching the site of the demonstration. By way of justification, the Ministry of the Interior said that the organisers of the assembly had received no authorisation<sup>13</sup>.

### Urgent Interventions issued by The Observatory in 2008<sup>14</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Shawan Jabarin	Obstacles to freedom of movement / Harassment	Joint Press Release	June 25, 2008
		Urgent Appeal ISR 001/0607/ OBS 069.1	July 16, 2008
Nafha Society for the Defence of Prisoners and Human Rights	Closing down of an NGO	Urgent Appeal ISR 001/0708/OBS 119	July 15, 2008
Mr. Yusuf Qawariq	Obstacles to freedom of movement / Harassment	Urgent Appeal ISR 002/0708/OBS 127	July 29, 2008
Messrs. Issam Younis, Mahmoud Abu Rahma, Raji Sourani and Iyad Nasr	Obstacles to freedom of movement	Joint Press Release	September 23, 2008
		Joint Open Letter to the authorities	September 29, 2008

13./ See the press releases issued by PCHR in 2008 for more information on the violations of the rights to freedoms of expression, peaceful assembly and association in the West Bank and the Gaza strip.

14./ See the Compilation of cases in the CD-Rom attached to this report.



# / MOROCCO AND WESTERN SAHARA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

## Political context

In 2008, hopes that aroused in the promotion of human rights, in particular through the follow-up of recommendations issued by the Equity and Reconciliation Commission (*Instance équité et réconciliation* - IER), voluntary commitments and recommendations made under the Universal Periodic Review during the April 8, 2008 session<sup>1</sup>, as well as the development of a National Action Plan for Human Rights, raised many questions both in Morocco and abroad. While a new stage should be reached soon with regards to the equality between men and women following the announcement, on the occasion of 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights, of the lifting of reservations made in 1993 during ratification of the Convention on the Elimination of All Forms of Discrimination against Women, the implementation of other commitments was delayed. Recommendations issued by IER in terms of institutional reforms had still not been implemented as of late 2008. Little progress was also recorded towards the abolition of the death penalty, ratification of the Statute of the International Criminal Court, the criminalisation of arbitrary detention or the reform of the Higher Judicial Council (*Conseil supérieur de la magistrature*).

In addition, dozens of people, journalists, political activists and human rights defenders were prosecuted in 2008, and in some cases were sentenced to prison for having expressed their political views or taken part in public gatherings. In addition, under Article 179 of the Criminal Code and certain provisions of the Press Code, any “offence committed against the person of the King or heir to the Throne” or “attack against the monarchy” is punishable by sentences of up to five years’ imprisonment and heavy fines. On September 8, 2008, Mr.

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1./ See United Nations Human Rights Council, *Report of the Working Group on the Universal Periodic Review on Morocco*, United Nations Document A/HRC/8/22, May 22, 2008.

Mohamed Erraji, a Moroccan blogger, was sentenced to two years in prison and fined 5,000 dirhams (about 453 Euros) for “lack of respect due to the King”. The conviction followed the publication of an article on the Moroccan website *Hespress.com*, entitled “King encourages the People towards charity”<sup>2</sup>. Journalists were also prosecuted for “defamation” or “lack of respect due to the King”. For instance, Mr. Ahmed Reda Benchemsi, Director of the weekly newspapers *Nichan* and *Tel Quel*, has been subjected to judicial proceedings since Summer 2007 for “lack of respect due to the King” after publishing an editorial criticising a speech given by the Head of State on parliamentary elections in September 2007<sup>3</sup>.

Finally, the conflict in Western Sahara has remained unresolved since the failure of direct negotiations advocated by the United Nations Security Council Resolution dated April 30, 2007. The human rights situation in the region experienced no improvement in 2008. Authorities continued to suppress any form of challenge to the official position that Western Sahara is part of Morocco, the Government banned all peaceful demonstrations calling for the independence of Western Sahara, and security forces arbitrarily arrested many Saharawi demonstrators and suspected militants. They beat and tortured them, and forced them to sign incriminating statements, and this with complete impunity. Finally, in many cases, courts convicted and sentenced them to prison terms following unfair proceedings.

### **Obstacles to freedom of peaceful assembly and use of disproportionate force against demonstrators**

While freedom of assembly is guaranteed by Dahir (Royal Decree) No. 1-58-377 of 1958 on Public Gatherings, the police, on several occasions in 2008, resorted to disproportionate use of force to disperse sit-ins or gatherings of people protesting for their rights to be respected. For instance, several sit-ins held in 2008 by the National Association of Unemployed Graduates (*Association nationale des diplômés chômeurs* -

2./ On September 18, 2008, the Agadir Court of Appeals cancelled his sentence due to procedural defect.

3./ See Reporters Without Borders (*Reporters sans frontières* - RSF) Press Release, September 4, 2008. On September 3, 2008, Mr. Ahmed Reda Benchemsi's trial was reported *sine die* by the Casablanca Court.

ANDCM) in front of the Parliament in Rabat were violently dispersed by the police, leaving many injured<sup>4</sup>. Similarly, on April 12, 2008, the police brutally repressed a sit-in against rising prices held in front of Parliament by the Joint Committees for the Fight Against the High Cost of Living and the Deterioration of Public Services (Coordinations de lutte contre la cherté de la vie et la dégradation des services publics)<sup>5</sup>. On May 14, 2008, an event organised by the National Union of Moroccan Students (*Union nationale des étudiants marocains* - UNEM) in Marrakech was violently repressed by the police<sup>6</sup>. Eighteen students were arrested. Several reported having been abused during interrogations<sup>7</sup>. On August 12, the Court of Appeals in Marrakech confirmed the conviction of seven of them<sup>8</sup> to one year's imprisonment and a fine of 1,500 dirhams (about 136 Euros). Inmates in the Boulemdharez prison in Marrakech, they appealed the decision. As of the end of 2008, others remained also detained in the Boulemdharez prison and were awaiting trial<sup>9</sup>. On December 27 and 28, 2008, the police again brutally repressed two events organised by UNEM in Marrakech in solidarity with Gaza. Forty protesters were wounded, and ten were hospitalised<sup>10</sup>.

Acts of violence were also committed during the repression of a social movement in the city of Sidi Ifni, in south-western Morocco. On June 7, 2008, the police violently dispersed demonstrators who had blocked access to the port city of Sidi Ifni for one week in protest against the

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4./ See Moroccan Association for Human Rights (*Association marocaine des droits humains* - AMDH) Press Release, May 6, 2008.

5./ See Moroccan Organisation for Human Rights (*Organisation marocaine des droits humains* - OMDH) Press Release, April 16, 2008.

6./ The protest was organised following the poisoning of twenty students in the Marrakech University Centre and resulted in protests calling for better working conditions, upgrading of university scholarships, etc.

7./ This case was made famous by the testimony of Ms. Zohra Boudkhour, the only woman arrested during the demonstration, a student and member of the UNEM, who denounced the abuse she suffered at the time of her arrest in a letter to her family. See AMDH Press Release, July 16, 2008.

8./ Messrs. Nasser Ahsain, Younes Al-Salami, Mohamed Al-Idrissi, Hisham Al-Idrissi, Hafiz Al-Hafezi, Radawan Al-Zibiri and Mansour Aghdir.

9./ Ms. Zohra Boudkhour and Messrs. Galal Al-Qitbi, Abdelallah Al-Rashidi, Alaa Al-Dirbali, Mohamed Gamili, Youssef Mashdoufi, Mohamed Al-Arabi Gadi, Youssef Al-Alawi, Khaled Mouftah, Mourad Al-Chouni and Ousman Al-Chouni.

10./ See AMDH.



socio-economic situation in the region and to demand the implementation of a development policy that had been promised for several years by local and national authorities. After the blockade was lifted, the police raided homes, causing property damage and inflicting beatings and insults to the inhabitants. Women suffered sexual violence and assault<sup>11</sup>. The police arrested one hundred people, including Mr. **Ibrahim Bara**, Secretary General of the local committee for the Association for the Taxation of Financial Transactions for Aid to Citizens (*Association pour la taxation des transactions financières pour l'aide aux citoyennes et citoyens* - ATTAC) and a member of UNEM<sup>12</sup>, and Mr. **Brahim Sabaalil**, Head of the branch of the Moroccan Centre for Human Rights (*Centre marocain pour les droits de l'Homme*) in Sidi Ifni. On August 26, 2008, Mr. Sabaalil was sentenced by the Court of Appeals in Salé to six months in jail and a fine of 1,000 dirhams (about 90 Euros) for “insulting public authorities by reporting fictitious crimes” after having reported “deaths, disappearances and rapes” in Sidi Ifni at a press conference held in Rabat on June 26<sup>13</sup>. He was also accused of “complicity” and “spreading false information” in connection with another trial involving Mr. Hassan Rachidi, Head of the *Al-Jazeera* Rabat office, following the broadcast of a news piece reporting several deaths in Sidi Ifni. On July 10, 2008, the Court of First Instance in Rabat sentenced them to a fine of 50,000 dirhams (about 4 Euros). As of late 2008, 22 people linked to the events in Sidi Ifni were still being held by Moroccan authorities, and nine had been provisionally released<sup>14</sup>.

### **Intimidation of defenders denouncing abuses perpetrated within the framework of the fight against terrorism**

In 2008, several human rights defenders who denounced abuses perpetrated in the context of the fight against terrorism (enforced

11./ See OMDH Commission of Inquiry Report on the events of Sidi Ifni, July 1, 2008.

12./ He was arrested on June 18, 2008 after having taken refuge for eleven days in the mountains in the Sidi Ifni region.

13./ He was released on December 26, 2008 after serving his sentence.

14./ The Moroccan Government set up a Parliamentary Commission to investigate into the events of June 7, 2008 in Sidi Ifni. On December 17, the Commission submitted its report to the House of Representatives. The report refuted allegations of murder or rape committed by the police, but acknowledged property damages (broken doors), as well as the violence and insults by the police towards some inhabitants. The Moroccan Centre for Human Rights criticised the report which, according to it, ignored allegations of torture, attempted rape and sexual harassment.

disappearances, abductions, arrests without warrants, torture to extract confessions, etc.) were harassed by authorities because of their commitment in defending the rights of suspected terrorists. On July 24, 2008, the Rabat Court of Appeals, held *in camera*, imposed a reprimand for professional misconduct on Mr. **Taoufik Moussaïf Benhammou**, Attorney at the Rabat Bar, following his statements published on August 19, 2006 in the daily newspaper *Annahar Al Maghribia* about the terrorist network “Ansar Al Mahdi”, of which many members had been sentenced from two to 30 years in prison<sup>15</sup>. Mr. Moussaïf had questioned investigations conducted by security services and the judiciary on this issue by saying it was “fabricated from scratch”. Mr. Moussaïf was been summoned twice by security officers, who allegedly threatened him with reprisals if he did not “put an end to media coverage of cases involving Islamists”. The association Annassir for the Support of Islamist Prisoners (*Annassir pour le soutien des détenus islamistes*) was also subjected to acts of intimidation intended to hamper its activities and silence its claims. Most of the organisation’s sit-ins were repressed by the police, which sometimes used violence to disperse the detainees’ families, most of them being women. On May 27, 2008, the police violently dispersed a sit-in of the association held in front of the Oukacha prison in Casablanca. A mother and her child were hit by a security officer dressed in plain clothes. Mr. **Abderrahim Mohtad**, President of Annassir, was arrested and then released several hours later<sup>16</sup>. Furthermore, on October 30, 2008, a conference organised by Annassir and the British NGO “Reprieve” was cancelled by the police, which surrounded the place where the conference was to be held ; participants were forced to evacuate the room. The meeting was to focus on the situation of former Guantanamo detainees returned to Morocco<sup>17</sup>.

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15./ The Court had been seized by the King’s Prosecutor, who had previously brought the case before the Rabat Bar Council, which had decided on October 3, 2006 to close the case, stating that Mr. Taoufik Moussaïf had not disseminated any information to be kept secret as part of an ongoing investigation. The Council also concluded that the newspaper articles had misrepresented the remarks made by Mr. Moussaïf.

16./ See Annassir.

17./ *Idem*.

## Ongoing repression of human rights defenders in Western Sahara

In 2008, Saharawi human rights defenders continued to be subjected to harassment of all kinds. On April 28, 2008, Mr. **Ennaama Asfari**, Co-chairman of the Committee for the Respect of Freedoms and Human Rights in Western Sahara (*Comité pour le respect des libertés et des droits humains au Sahara occidental* - CORELSO), was sentenced to two months' imprisonment and a fine of 3,000 dirhams (about 272 Euros) for "violence against the authorities", "carrying a bladed weapon", and "drunk driving". Mr. Asfari, arrested on April 13, 2008 in Marrakech, was falsely accused of violence and drunk driving at the occasion of a car accident. He complained that he was only questioned about his political activities and suffered acts of ill-treatment and torture at the occasion of his arrest. On April 25, 2008, a delegation from Action by Christians for the Abolition of Torture (*Action des chrétiens pour l'abolition de la torture* - ACAT), which was investigating the situation of human rights in Western Sahara, was expelled by Moroccan authorities on the grounds that its members represented a risk to public order. On April 21, they had attended Mr. Asfari's trial. The latter was released on June 13, after serving his full sentence. On June 16, the Court of Appeal upheld the verdict and sentence<sup>18</sup>.

In 2008, members of the Saharawi Association of Victims of Grave Human Rights Violations Committed by the State of Morocco (*Association sahraouie des victimes de violations graves des droits de l'Homme commises par l'État marocain* - ASVDH), an association that is not recognised by the Moroccan authorities<sup>19</sup>, continued to be subjected to prosecution and to obstacles to their freedom of movement. On June 17, 2008, the police prevented relatives of Mr. **Brahim Sabbar**, ASVDH Secretary General, from visiting him at his home to congratulate him for his release after two years of detention. Some persons, including Mr. **Sidi Mohamed Dadach**, President of the Saharawi Committee for the Support of the Right to Self-determination (*Comité*

18./ See Saharawi Association of Victims of Grave Human Rights Violations Committed by the State of Morocco (ASVDH).

19./ Local authorities in Laayoun have always refused to acknowledge receipt of the application for registration of the ASVDH. On September 21, 2006, the Administrative Court of Agadir labelled the refusal to issue a receipt to the association an abuse of power. The authorities did not appeal this decision. However, as of late 2008 this decision had not yet been implemented.

*sabraoui pour le soutien du droit à l'autodétermination*), were physically assaulted by the police. Mr. Brahim Sabbar was then prevented from visiting Mr. **Embarek Hiji**, another ASVDH member, by security agents who surrounded Mr. Hiji's neighbourhood area and blocked people from approaching his home. On October 17, 2008, Mr. Brahim Sabbar was prevented by two police officers from visiting the neighbourhood, where Ms. **Elghalia Djimi**, Vice-President of the ASVDH, and Mr. Mohamed Dadach reside<sup>20</sup>. Moreover, although he was sentenced on December 4, 2007 to two and a half years in prison for "arson", Mr. **Mohamed Talhil**, Chairman of ASVDH Boujdour section, was told by the prison administration that the Laayoun Court of Appeal had again sentenced him on November 11, 2008 to a three-month suspended sentence and a fine of 2,000 dirhams (about 181 Euros) for "defamation of a State official in the performance of his duty"<sup>21</sup>. As of late 2008, he was still detained in the Laayoun prison.

Furthermore, in 2008, Moroccan police broke up several demonstrations organised in the cities of Western Sahara to denounce human rights violations and claim the right of the Saharawi people to self-determination; they proceeded to arrest and intimidate some of the protesters. For example, on September 21, 2008, following a demonstration organised in Smara in the wake of a visit by the international NGO Front Line in the region to denounce human rights violations and claim the right of the Saharawi people to self-determination, Ms. **Engiya Boukhari**, a member of the Saharawi Committee for Human Rights in Smara (*Comité sabraoui pour la défense des droits humains à Smara*), was physically assaulted by security forces. A few days later, the social support she received as part of a national promotion program was frozen in retaliation for her participation in the event. Dozens of demonstrators were also arrested, including Mr. **Brahim Cheikhi**, a member of the Saharawi Committee for Human Rights in Smara, Mr. **Baali Hmaim** and Mr. **Ahamad Basir Sidi**, who were still subjected to judicial proceedings at the end of 2008. Mr. **Hamad Al-Nassiri**, Secretary General of the Commission for the Defence of Human Rights in Smara (*Commission pour la défense des droits de l'Homme à Smara*) and a member of the Moroccan Association for

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20./ See ASVDH Press Release, October 17, 2008.

21./ See ASVDH Press Release, November 11, 2008.

Human Rights (*Association marocaine des droits humains - AMDH*), was also informed on October 3, 2008 that he was fired from his job at the municipality of Khouribga. His dismissal was linked to his participation in these events, as well as his meeting with Front Line in September 2008<sup>22</sup>. Mr. Al-Nassiri challenged his dismissal before the Administrative Court of Casablanca, which had not yet come to a decision as of the end of 2008.

Finally, police violence against Saharawi human rights defenders generally went unpunished. For example, the Prosecutor of the Laayoun Court of Appeal was asked to decide on a complaint filed in January 2008 by Mr. Dahla Rahmouni, member of ASVDH Executive Committee, and Mr. **Brahim al-Ansari**, member of the AMDH Laayoun section, in which they accused the police in Laayoun of having subjected them to acts of ill-treatment during their arrest in December 2007. However, on May 5, 2008, Moroccan authorities declared the investigation closed for “lack of evidence”, without calling in the two men to testify, and based solely on the defence’s statements<sup>23</sup>.

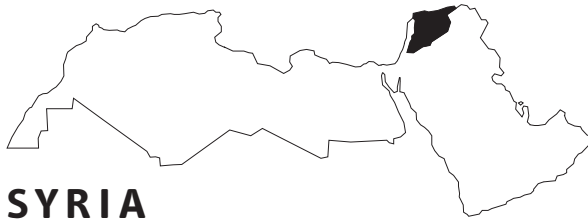
#### Urgent Interventions issued by the Observatory in 2008<sup>24</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Moroccan Association for Human rights (AMDH), National Association of Unemployed Graduates in Morocco (ANDCM), Moroccan Labour Union (UMT), Attac Morocco and Moroccan Forum for Truth and Justice	Arbitrary detention / Obstacles to freedom of peaceful assembly	Joint Press Release	February 15, 2008
Messrs. Brahim Sabbar, Sidi Mohamed Dadach, Ahmed Sbai, Oum Alfadli Ali Ahmed Babou and Embarek Hiji	Harassment	Urgent Appeal MAR 002/0606/ OBS 079.2	June 23, 2008

22./ See Front Line Press Release, December 10, 2008.

23./ See ASVDH.

24./ See the Compilation of cases in the CD-Rom attached to this report.



## / SYRIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

2008 was marked by the resumption of dialogue between Syria and some western countries. Nonetheless, inside Syria, dialogue between the authorities and civil society remained at a standstill. In addition, the state of emergency decreed in 1963 remained in force. In particular, the provisions of the emergency law provide the security forces and administrative authorities with powers they subsequently use to restrict the activities of human rights defenders and violate freedom of peaceful assembly, which is nonetheless recognised by Article 39 of the Syrian Constitution. Indeed, any demonstration or gathering of more than five people requires prior authorisation from the Ministry of the Interior. The authorities always refuse to issue such permits and unauthorised public meetings were systematically repressed by the authorities<sup>1</sup>.

In 2008, human rights defenders were again brought before military courts, which benefit from the laws under the state of emergency, in particular Decree No. 46 of 1966, which provides for the possibility of a ruling on cases involving civilians and whose procedures do not meet international standards for a fair trial. On September 30, 2008, the jurisdiction of these courts was expanded by Decree No. 69, which provides for the transfer to a military jurisdiction in the event of crimes of torture involving police or customs officers, as well as those involving members of internal or political security. This new legislation, by giving the general command of the army the sole power to prosecute members of security forces accused of crimes of torture, establishes a *de facto* impunity for these crimes<sup>2</sup>.

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1./ See Damascus Centre for Human Rights Studies (DCHRS) and National Organisation for Human Rights in Syria (NOHR-S).

2./ See Committees for the Defence of Democratic Freedoms and Human Rights (CDF).

Kurds in Syria, comprising about nine per cent of the population, continued to face severe discrimination because of their ethnicity. Thus, 200,000 Kurds were still denied Syrian citizenship, which is essential for the enjoyment of many rights (property rights, right to access to certain professions, etc.)<sup>3</sup>. Civil society activists who denounced the Kurdish situation were also particularly targeted by Government repression in 2008. Thus, Mr. Meshal Al-Tammo, Spokesman for the Kurdish Future Current (*Sepela Kurdi*), a non-authorized political party, was arrested in August 2008 and accused of “membership in an international organisation without Government permission”, “conspiracy”, “attack to trigger a civil war and factional fighting by arming the Syrians or encouraging them to arm themselves against each other or inciting to murder and looting” and “inciting sectarian strife”. If convicted, Mr. Al-Tammo incurs the death penalty<sup>4</sup>.

Furthermore, exercising the right to freedom of expression continued to be severely punished; blogger Tariq Bayasi and writer Firas Saad were thus sentenced to imprisonment<sup>5</sup>. In addition, more than 162 websites would have been blocked in 2008<sup>6</sup>.

In 2008, the practice of travel bans was further developed: from September 2008, expanded lists were drawn up and circulated by Syrian security services and, as of the end of 2008, more than 414 individuals would have been included in those lists<sup>7</sup>. For instance, Mr. Mohamed Malas, a film producer, was prevented from travelling to Paris in October 2008 as he was preparing a movie on Syrian children for *Al-Jazeera*.

### **Legislative obstacles to the right of association and refusal to register human rights organisations**

Under Law No. 93 of July 8, 1958, the creation of an association is subject to authorisation. For several years, applications for registration of human rights organisations have been systematically denied

3./ See CDF and NOHR-S.

4./ See CDF and NOHR-S. No date for the trial had been scheduled yet as of the end of 2008. Mr. Al-Tammo is also a member of the Committee for the Revitalisation of Civil Society.

5./ See Reporters Without Borders (RSF) Press Releases, May 14 and April 9, 2008.

6./ See Syrian Centre for Media and Freedom of Expression (SCM).

7./ *Idem*.

or have received no reply. For instance, as of the end of 2008, the appeal lodged by the National Organisation for Human Rights in Syria (NOHR-S) on December 27, 2006 following the refusal of registration by the Ministry of Social Affairs remained pending in the administrative court, which postponed the case on several occasions<sup>8</sup>. Therefore, members of those human rights organisations were forced to operate illegally under the threat of being prosecuted under Article 71 of Law No. 93, under which any activity conducted under a non-registered association is liable to a fine and a sentence of three months' imprisonment or under Article 306 of the Criminal Code prohibiting the creation of unlawful organisations.

### **Conviction, ongoing arbitrary detention and harassment while in detention of dozens of human rights defenders for “weakening the national sentiment” and “inciting sectarian, racial or religious strife”**

As of late 2008, dozens of human rights defenders remained detained in Syrian prisons for “weakening the national sentiment” by “issuing calls” or “spreading false or exaggerated information” (respectively Article 285 and 286 of the Syrian Criminal Code), jailed for the most part with ordinary criminal prisoners. Some were subjected to ill-treatments, while others were deprived of care. Moreover, Syrian authorities refused rights of ordinary criminal prisoners to human rights defenders. Indeed, Syrian law on penalties allots prisoners the right to request an amnesty after serving three quarters of their sentence. However, following a petition filed by the General Advocate of Public Prosecutions to Damascus, the Supreme Court, meeting in plenary on December 15, 2008, went back on its decision of November 2 to release Messrs. **Michel Kilo** and Mahmoud Issa. Both men were arrested in May 2006 and sentenced in May 2007 to three years in prison pursuant to Article 286 of the Criminal Code after having signed the Beirut-Damascus Declaration, which called on the Syrian and Lebanese Governments to normalise their relations. Likewise, Mr. **Anwar Al-Bunni**, a lawyer and founding member of the Association for Human Rights in Syria, who was also sentenced in April 2007 to five years' imprisonment for having signed the Beirut-Damascus Declaration, remained detained as of the end of 2008. While in detention, he was again brought before the

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8./ The next hearing was scheduled for February 24, 2009.



Military Court of Damascus for “defamation of a public administration” following a note found in his cell in which he criticised the Minister of Social Affairs and Labour. On February 7, 2008, the Military Court abandoned the charge as the offence had already been charged in his previous trial.

The persons who were at the origin of the 2005 Damascus Declaration for National Democratic Change also remained detained in 2008<sup>9</sup>. On December 9, 2007, in response to a meeting organised by the National Council of the Damascus Declaration (NCDD), founded on December 1, 2007, the police arrested 40 activists in several towns in Syria. On October 29, 2008, twelve of those arrested, leaders of the movement, including three journalists – Mr. **Akram al-Bunni**, Mr. **Ali Abdallah**, and Mr. **Fayez Sara**, respectively the founding member and members of the Committee for the Revitalisation of Civil Society in Syria – and nine members of the NCDD – Mr. **Jaber Al-Shouf**, a member of the Committees for the Defence of Democratic Freedoms and Human Rights (CDF), Mr. **Mohammed Haj Darwish**, a member of the CDF and of the Association of Human Rights in Syria, Ms. **Fida al-Hurani**, Mr. **Ahmad Tohme**, Mr. **Walid al-Bunni**, also a member of the Association of Human Rights in Syria, Mr. **Yasser Tayser Aleiti**, Mr. **Riad Seif**, Mr. **Talal Abu Dan** and Mr. **Marwan al-Esh** – were convicted by the Assizes Court of Damascus to two and a half years’ imprisonment for “disseminating false or exaggerated information to weaken the spirit of the Nation”, “membership of a secret organisation aiming to destabilise the State” and “incitement to racial, religious or sectarian strife” (Articles 285-286 and 307 of the Criminal Code). The convicted appealed the decision in late December 2008 but no date had been set as of the end of 2008.

Further to the NCDD case, in 2008, the Syrian authorities have especially increased the use of Article 285 of the Criminal Code to arrest and convict several other human rights defenders. On April 22, 2008, Mr. **Ahmed Al-Haji Al-Khalaf**, a member of the Syrian branch of the Arab Organisation for Human Rights, was sentenced to five

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9./ The Declaration is a text written by a large coalition of opposition activists and human rights defenders campaigning for political reform and the establishment of a democratic regime in Syria.

days' imprisonment by the Military Court of Raka for "defamation" and "an attack on the morale of the State" after publishing an article criticising the lack of transparency and democracy in the functioning of the Department of Education in Raka. Mr. Ahmed Al-Haji Al-Khalaf appealed this decision but the appeal had not been scheduled yet as of the end of 2008. The next day, Mr. **Kamal Al-Labwani**, who was serving a sentence of twelve years in prison for having defended the idea of peaceful reform in Syria, was sentenced under Article 285 by the Military Court of Damascus to three years of additional imprisonment for criticising the Syrian authorities in the presence of other inmates<sup>10</sup>. On June 29, 2008, the Military Court of Damascus condemned Mr. **Mohamed Bedia Dekalbab**, a member of the NOHR-S, to six months' imprisonment for "disseminating false or exaggerated information [...] likely to affect the prestige of the State" in response to an article criticising the lack of freedom of expression in Syria. He appealed the decision, but having served his sentence, he was released in September 2008<sup>11</sup>. Mr. **Habib Saleh**, a writer, was also arrested on May 7, 2008 for publishing articles on the Internet, including on the site *Elaph.com*, censored in Syria, calling for the establishment of democracy. Accused of "weakening the national sentiment", "incitement to civil war" (Article 298) and "attacking the President of the Republic" (Articles 374 and 377), he faces three years to life imprisonment<sup>12</sup>.

### Attacks on freedom of movement of human rights defenders

In 2008, more than 102 travel bans would have been issued by the authorities against human rights defenders who were prevented from leaving Syria to attend regional or international workshops and seminars<sup>13</sup>. For instance, Mr. **Radif Mustafa**, President of the Kurdish Committee for Human Rights, was prevented from travelling to Paris to attend a seminar from May 19 to 23 by the Euro-Mediterranean Network for Human Rights (EMHRN)<sup>14</sup>. On June 8, 2008, Mr. **Mazen Darwish**, Chairman of the Syrian Centre for Media and Freedom of Expression (SCM) and member of the CDF, was unable to travel

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10./ See CDF, DCHRS and NOHR-S.

11./ See CDF and NOHR-S.

12./ See NOHR-S. The next hearing for Mr. Saleh's trial was scheduled for January 20, 2009.

13./ See SCM.

14./ See SCM and DCHRS.

to Canada to attend the 29<sup>th</sup> Annual International Human Rights Training Programme. On November 2, 2008, Mr. **Ammar Qurabi**, President of the NOHR-S, was banned from travelling to a seminar on the United Nations system of human rights, to which he had been invited by the Geneva office of the Friedrich Ebert Foundation. In 2008, several CDF members, including Mr. **Ghazi Kaddour**, Dr. Niazi Habash and Mr. **Ala'edeen Biasi**, were also prevented from travelling on several occasions<sup>15</sup>.

### **Repression of defenders of economic, social and cultural rights**

In 2008, defenders of economic, social and cultural rights were subjected to arbitrary arrests, such as Mr. **Jean Rassoul**, a member of the Tal Zivan branch of the Committee on Grain Trade, known for his commitment to the defence of workers in Qamishli governorate (north-east of Syria), who was arrested on February 26, 2008 by security officers, two days after he gave a speech at the annual evaluation meeting of the Committee, in which he called for the respect of the workers' rights. His family had no news of him until May 27, 2008, when he was released without charge. Several human rights defenders were also arrested during demonstrations calling for a greater respect of economic, social and cultural rights. For instance, on May 17, 2008, about twenty Syrians were arrested in the city of Der Elzor during a demonstration against the high cost of living. As of the end of 2008, these persons remained detained by the security forces without any judicial investigation having been opened against them<sup>16</sup>.

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15./ See CDF.

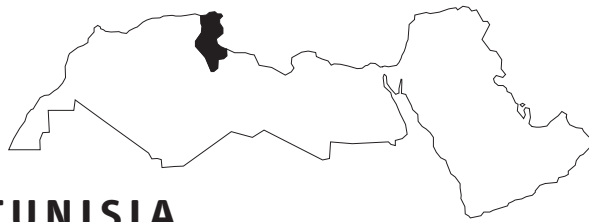
16./ See DCHRS and NOHR-S.

**Urgent Interventions issued by The Observatory in 2008<sup>17</sup>**

<b>Names of human rights defenders</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
Mr. Anwar Al-Bunni	Judicial harassment	Press Release	January 10, 2008
Messrs. Fayez Sarah, Mohammed Haj Darwish, Akram Al Bunni, Jaber Al Shoufie and Ali Al-Abdullah	Arbitrary detention	Urgent Appeal SYR 002/1207/OBS 169.1	January 11, 2008
	Arbitrary detention / Judicial harassment / Ill-treatment	Urgent Appeal SYR 002/1207/OBS 169.2	January 30, 2008
	Violation of the right to a fair trial	Joint Press Release	September 17, 2008
	Judicial harassment	Joint Press Release	October 28, 2008
Mr. Jean Rassoul	Forced disappearance	Urgent Appeal SYR 001/0208/OBS 028	February 28, 2008
Mr. Ahmed Al Haji Al Khalaf	Sentencing	Urgent Appeal SYR 002/0408/OBS 071	April 30, 2008
Mr. Mazen Darwish	Judicial and administrative harassment	Joint Press Release	June 17, 2008

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<sup>17/</sup> See the Compilation of cases in the CD-Rom attached to this report.



## / TUNISIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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### Political context

In 2008, Tunisian Government policy was marked by preparation for important election dates in 2009. In this context, the authorities increased measures intended to weaken and marginalise the principal opposition figures through repression and media clampdown. Members of the political opposition, human rights defenders and journalists had to contend with surveillance or arbitrary bans on travelling, telephones cut off and increased acts of violence. Magistrates were not exempt from these actions. The judiciary system was widely used as a weapon of repression against any dissident voices.

The Tunisian “economic miracle” should not hide the inequalities and severe repression suffered not only by the anti-establishment elite but also, since 2008, by unemployed young people and workers who decided to make their voice heard. Indeed, this year, south-west Tunisia was the scene of unprecedented social protest. The first demonstrations to denounce corruption, poverty and unemployment were seen in January in the town of Redeyef, in mining basin of the Gafsa region and gradually extended to other towns in the basin. National and international protest support groups were rapidly formed. During the summer of 2008, the Tunisian authorities intensified their repression against the movement participants, protestors and support committee leaders. Three protestors died during the demonstrations in Redeyef. The Government’s repressive response to the claims made by the inhabitants of the mining basin was a new illustration of the democratic deficiency that poisons Tunisia. As at the end of 2008, the judicial enquiries announced by the Government to determine responsibility for these tragic events had still not been carried out and those responsible had not been troubled.

Finally, despite the commitments made to the UN Human Rights Council by the Tunisian authorities in the context of the Universal Periodic Review, and the recommendations made to them by the United

Nations Human Rights Committee in 2008, no progress was noted this year in terms of respect and promotion of human rights, with the exception of the ratification of the Optional Protocol to the United Nations Convention on the Elimination of All Forms of Discrimination against Women and the withdrawal of its declaration No. 1 and reservations No. 1 and No. 3 regarding the United Nations Convention on the Rights of the Child. Furthermore, the Tunisian Government did not keep its promises to issue an invitation to the UN Special Procedures.

### **Judicial harassment of human rights defenders and journalists who denounce human rights violations**

Arbitrary judicial proceedings against defenders, including against journalists who denounced human rights violations continued during 2008. For instance, Mr. **Tarek Soussi**, a leading member of the International Association for the Support of Political Prisoners (*Association internationale de soutien aux prisonniers politiques - AISPP*), was arrested following the publication on August 25 of a press release on the arbitrary arrest and enforced disappearance of seven young men in Bizerte on August 22 and 23, 2008 and after his interview on the affair on the *Al Jazeera* news channel. He was released on September 25 but, as of the end of 2008, proceedings were ongoing for “spreading false information liable to disrupt public order”. The regime also continued attacks on the media and journalists. Mr. **Slim Boukhdir**, a correspondent of the London-based newspaper *Al Quds Al Arabi*, which regularly covers events relating to defenders, was sentenced at an appeal hearing on January 18, 2008 to one year’s imprisonment on false grounds<sup>1</sup>. Furthermore, since October 2008, harassment has intensified against the on-line newspaper and radio station *Kalima* and its contributors. This has taken the form of the questioning and arrest of journalists, a smear campaign, destruction of the web server, a false claim for payment of tax arrears, etc. On October 27, 2008, Ms. **Neziha Rejiba**, Editor-in-chief of *Kalima*, who attributed responsibility for the attack on the *Kalima* server to the Tunisian authorities, was questioned by the Deputy Prosecutor at the Tunis Law Court following a complaint for “allegations contrary to the law”. As of the end of 2008 there had been no follow-up to this complaint. The Interior Ministry

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1/ He allegedly refused to present his identity card to the police. He was released on July 21, 2008 but he has been refused a passport since 2003.

also banned distribution of the weekly newspaper *Mouwatinoun*, which had published the journalist's article.

### Repression of the Gafsa social protest movement

In the Gafsa mining region, repression affected both the demonstrators and those who expressed their solidarity and condemned the wave of repression. Arrests that contravened legal procedure were made of over 200 people, including trade unionists and human rights defenders, and judicial proceedings were instituted against them. Most of those imprisoned were ill-treated and some were tortured. Extremely heavy sentences were pronounced at the end of the trials, which were marred by serious irregularities, notably the systematic refusal by the judges to investigate the defendants' allegations of torture. On December 11, 2008, the Gafsa Court of First Instance sentenced 33 of the 38 persons considered to be leaders of the movement, for "forming a criminal group with the aim of destroying public and private property" and "armed rebellion by more than ten people and assault on officials during the exercise of their duties" for between two years' suspended prison sentence to up to ten years' imprisonment, in particular for trade union members Messrs. **Adnane Hajji**, **Bechir Labidi** and **Taeïb Ben Othmane**. Mr. **Mohieddine Cherbib**, President of the Tunisian Federation of the Citizens of Two Shores (*Fédération tunisienne des citoyens des deux rives* - FTCR) and a member of the Committee for the Respect of Freedoms and Human Rights in Tunisia (*Comité pour le respect des libertés et des droits de l'Homme en Tunisie* - CRLDHT), was sentenced by default to two years' imprisonment because of his activities in France in support of the people of the Gafsa basin. Mr. **Fahem Boukaddous**, a journalist with the independent television channel *Al Hiwar Attounsi*, who covered the events, was also sentenced *in absentia* to six years in prison. His trial was characterised by the massive presence of security forces and the lack of any contradictory debate or the hearing of the defendants<sup>2</sup>. The verdict led to further protests, which were also repressed by arrests, judicial proceedings and prison sentences<sup>3</sup>.

2./ At an appeal hearing, on February 3, 2009, the defendants were given from two years' suspended prison sentence to eight years in prison. The appeal trial was also marred by flagrant violations of the right to a fair trial.

3./ See National Support Committee for Inhabitants of the Gafsa Mining Basin Press Release, December 20, 2008.

Furthermore, Ms. **Zakia Dhifaoui**, a member of the Association for the Fight Against Torture in Tunisia (*Association de lutte contre la torture en Tunisie* - ALTT), the Kairouan branch of the Tunisian League for Human Rights (*Ligue tunisienne des droits de l'Homme en Tunisie* - LTDH) and the National Council for Freedoms in Tunisia (*Conseil national des libertés en Tunisie* - CNLT), was arrested without a warrant in Redeyef on July 27, 2008 after taking part in a peaceful march in support of the release of all the Gafsa detainees and at which Ms. Dhifaoui had been a speaker. On September 15, 2008, the Gafsa Appeal Court sentenced her to four and a half months in prison for “insubordination, disturbing public order, obstructing an official in the exercise of his duty, damaging other people’s property and attacking public morals”, ignoring the defendant’s allegations of torture and ill-treatment and in violation of several fundamental rules of the right to a fair trial. When she left prison, Ms. Dhifaoui was not reinstated to her job as a teacher. In parallel, several other defenders who supported the protest movement were not prosecuted for acts relating to the protest but were targeted and harassed by the authorities for other reasons. Messrs. **Othman Jmili** and **Ali Neffati**, AISPP members, together with Messrs. **Khaled Boujemaa** and **Faouzi Sadkaoui**, members of the association Equity and Freedom (*Équité et liberté*), were arrested on July 25, 2008 and, at an appeal hearing on October 28, 2008, were given a six months’ suspended prison sentence for “gathering on the public highway” and “attacking morality”. The authorities suspected them of having taken part in a peaceful rally in front of Bizerte town hall on July 25, in the company of political activists and human rights defenders, at the time of the anniversary of the Republic when slogans had been chanted in support of public liberties, against the high cost of living and against life presidency. Mr. **Mohamed Hedi Ben Saïd**, a member of the Bizerte branch of LTDH, was sentenced on September 4, 2008 for infringing the Highway Code, after he allegedly took part in the July 25 rally in front of Bizerte town hall. Finally, since March 2008, Mr. **Messaoud Romdhani**, President of the Kairouan branch of LTDH and Spokesperson for the National Support Committee for Inhabitants of the Gafsa Mining Basin (*Comité national de soutien à la population du bassin minier de Gafsa*), has suffered considerable police harassment. He was attacked by policemen on May 23 and since this date has been subject to a ban on residency in Tunis.



## Restrictions on human rights defenders' freedom of movement

In 2008, several defenders continued to be routinely prevented from circulating freely within the country and even from leaving national territory. In particular, Mr. **Ali Ben Salem**, Chair of the Bizerte branch of LTDH and Vice-President of ALTT, remained banned from leaving the country. On June 18, 2008, the Algerian border police turned back Ms. **Sihem Bensedrine**, CNLT Spokesperson, and Mr. **Omar Mestiri**, Managing Editor of the *Kalima* web magazine, while they were crossing the Oum T Boul border post near Tabarka (north-west Tunisia) for a private visit to Algeria, without being given any reason. The border police at Tunis Carthage airport also prevented Ms. Bensedrine from leaving the country in August 2008. Similarly, on December 10, Mr. **Lotfi Hidouri**, News Desk Editor of the magazine *Kalima* and a member of the Observatory for the Freedom of the Press, Publishing and Creation (*Observatoire pour la liberté de la presse, d'édition et de création* - OLPEC), was arrested at Tunis Carthage airport while he was preparing to board for Lebanon, where he was due to take part in the Third Arab Press Forum in Beirut, using as a pretext a two-year old fine of 100 dinars, which he had quickly paid within the required period<sup>4</sup>.

## Verbal and physical attacks on lawyers and human rights defenders who defend the rights of detainees

The Tunisian authorities' recourse to verbal or physical attacks, as well as tailing and almost permanent surveillance of defenders, continued in 2008, especially against lawyers and defenders who denounced prison detention conditions. On June 29, 2008, at Tunis Carthage airport, six plain-clothed policemen threatened Mr. **Anouar Kousri**, lawyer and Deputy President of LTDH, and Mr. **Samir Dilou**, lawyer and a member of AISPP, and used violence against them when they returned from Paris, where they had taken part in a press conference organised by Amnesty International for the publication of a report on human rights violations committed in the context of counter-terrorism in Tunisia, including against people detained in this connection. On February 13-18, 2008, while they were collecting the testimony of prisoners' families, Ms. **Fatma Ksila**, Secretary General of CRLDHT, and Ms.

4./ See OLPEC Press Release, December 12, 2008.

**Samia Abbou**, a member of ALTT, were subjected to verbal and physical attacks – insulting telephone messages, police cordons preventing them from reaching the families, tailings, beatings by police officers wearing plain clothes, confiscation of cash, a camera and a tape recorder.

Finally, lawyers working on sensitive cases, such as the Soliman or the Gafsa movement cases, were almost systematically attacked and prevented from meeting their clients in prison. As an example, Ms. **Radhia Nasraoui**, a lawyer, President of ALTT and a member of OMCT Assembly of Delegates, was regularly forbidden to meet her clients. For his part, Mr. **Abderrouf Ayadi**, a lawyer, former member of the Council of the Order of Lawyers and former CNLT Secretary General, was violently attacked by the Director of Mornagia prison on August 2, 2008, at the end of a visit to one of his clients.

### **Increased smear campaigns against human rights defenders**

In 2008, smear campaigns against defenders multiplied. During the first quarter of 2008, Ms. **Souhayr Belhassen**, President of FIDH, Ms. Sihem Bensedrine, Ms. Radhia Nasraoui, Mr. **Kamel Jendoubi**, President of CRLDHT, Mr. Khemais Chammari, Co-founding member of the Euro-Mediterranean Foundation of Support to Human Rights Defenders (*Fondation euro-méditerranéenne de soutien des défenseurs des droits de l'homme* - FEMDH), Mr. **Mokhtar Trifi**, President of LTDH, Mr. **Khémis Ksila**, Secretary General of LTDH in exile, and Mr. **Ahmed Nejib Chebbi**, the lawyer of many defenders, were victims of a smear campaign by editorial staff of the pro-Government newspaper *Al-Hadath*. Throughout 2008, the newspaper notably published several libellous articles of an obscene nature against these defenders, accusing them of being “traitors in the hands of foreign interests”, or “henchmen” of the Western embassies. In December, a smear campaign was also launched against Ms. Sihem Bensedrine, and relayed by various Tunisian, Arab and European newspapers and Lebanese television channels.

### **Ongoing obstacles to freedom of association**

In 2008, many independent human rights associations remained illegal, as was the case, for example, of CNLT, AISPP, ALTT, the Centre for the Independence of Justice and Lawyers (*Centre pour l'indépendance de la justice et des avocats* - CIJA), the Assembly for an International Development Alternative (*Rassemblement pour une*

*alternative internationale de développement* - RAID-Attac Tunisia) and OLPEC. In some cases the fate of certain organisations that are registered was no more enviable. LTDH continued to be prevented from carrying out its activities. As an example, on December 10, 2008, the police force prevented a reception from being held organised by LTDH to commemorate the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights. LTDH has been prevented from holding its congress since 2005. Finally, access to LTDH branch premises and its national headquarters remained blocked to everyone, with the exception of members of the Board Committee for the national headquarters. Similarly, harassment of former members of the Executive Board of the Association of Tunisian Magistrates (*Association des magistrats tunisiens* - AMT) elected in December 2004<sup>5</sup> continued, notably on December 21, 2008, when they were forcibly prevented from attending the AMT congress<sup>6</sup>.

### Urgent Interventions issued by The Observatory in 2008<sup>7</sup>

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Slim Boukhdir	Sentencing / Arbitrary detention / Ill-treatment	Press Release	February 1, 2008
	Conditional release	Urgent Appeal TUN 005/1207/OBS 170.1	July 23, 2008
Mr. Taoufik Ben Brik	Ban on residence	Press Release	February 1, 2008
Members of the General Union of Tunisian Students ( <i>Union générale des étudiants tunisiens</i> - UGET)	Arbitrary arrests / Judicial proceedings	Press Release	February 1, 2008

5./ Since their election, several members have been victims of acts of intimidation aimed at punishing magistrates who decided to be involved in defending the independence of AMT and the promotion of institutional reforms to guarantee the independence of justice.

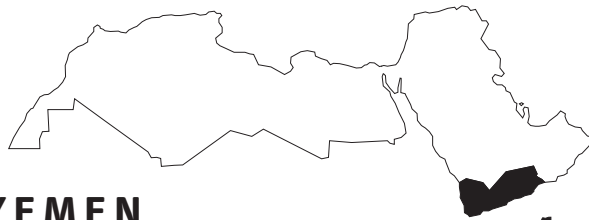
6./ See LTDH Press Release, December 22, 2008.

7./ See the Compilation of cases in the CD-Rom attached to this report.

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Ms. Fatma Ksila, Ms. Samia Abbou and Ms. Radhia Nasraoui</b>	Attacks / Harassment	Urgent Appeal TUN 001/0208/OBS 019	February 20, 2008
<b>Ms. Souhayr Belhassen, Ms. Sihem Bensedrine, Ms. Radhia Nasraoui, Messrs. Kamel Jendoubi, Khemais Chammari, Mokhtar Trifi and Khémais Ksila</b>	Defamation / Harassment	Urgent Appeal TUN 002/0308/OBS 031	March 4, 2008
<b>Mr. Omar Mestiri and Ms. Sihem Bensedrine</b>	Arrest / Attacks / Ill-treatment / Harassment	Urgent Appeal TUN 003/0308/OBS 032	March 4, 2008
	Refoulement at the border / Harassment	Urgent Appeal TUN 008/0608/OBS 107	June 20, 2008
	Acts of harassment / Ill-treatment	Urgent Appeal TUN 008/0608/OBS 107.1	August 21, 2008
<b>Messrs. Adnane Hajji, Foued Khenaiissi, Taeïb Ben Othmane, Boujomâa Chraïti, Bechir Laabidi and Mohieddine Cherbib</b>	Arbitrary arrests / Ill-treatment	Urgent Appeal TUN 004/0408/OBS 049	April 8, 2008
	Release / Arbitrary detention	Urgent Appeal TUN 004/0408/OBS 049.1	April 14, 2008
	Judicial harassment	Urgent Appeal TUN 004/0408/OBS 049.2	September 18, 2008
	Violation of the right to a fair trial	Press Release	December 13, 2008
<b>Mr. Khemais Chammari</b>	Acts of harassment	Urgent Appeal TUN 005/0408/OBS 057	April 14, 2008
<b>Mr. Taoufik Ben Brik and Ms. Radhia Nasraoui</b>	Acts of harassment and intimidation	Urgent Appeal TUN 006/0408/OBS 069	April 29, 2008

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Ms. Radhia Nasraoui, Ms. Saida Garrach, Messrs. Abderraouf Ayadi, Ridha Reddaoui, Zouari, Mohamed Abbou, Mondher Cherni, Ayachi Hammami, Khaled Krichi and Chokri Belaid</b>	Acts of harassment and intimidation / Attacks	Urgent Appeal TUN 001/0407/OBS 0373	May 22, 2008
	Attacks / Harassment	Urgent Appeal TUN 001/0407/OBS 0374	August 4, 2008
<b>Messrs. Messaoud Romdhani and Naceur Laagili</b>	Arbitrary arrest / Harassment	Urgent Appeal TUN 007/0508/OBS 091	May 28, 2008
<b>Messrs. Anouar Kousri and Samir Dilou</b>	Attacks / Ill-treatment / Harassment	Urgent Appeal TUN 009/0708/OBS 112	July 2, 2008
<b>Ms. Zakia Dhifaoui</b>	Arbitrary arrest / Judicial harassment	Press Release	July 31, 2008
	Sentencing	Press Release	August 19, 2008
	Sentencing on appeal	Press Release	September 16, 2008
	Conditional release	Press Release	November 7, 2008
<b>Messrs. Othman Jmili, Faouzi Sadkaoui, Lotfi Hajji, Mohamed Ben Saïd and Ali Ben Salem</b>	Arbitrary arrest / Harassment	Press Release	July 31, 2008
<b>Mr. Tarek Soussi</b>	Arbitrary detention / Ill-treatment	Urgent Appeal TUN 010/0908/OBS 147	September 5, 2008
	Judicial harassment / Provisional release	Urgent Appeal TUN 010/1008/OBS 158	October 1, 2008

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
Ms. Naziha Rjiba	Arbitrary detention / Harassment	Urgent Appeal TUN 011/1008/OBS 169	October 22, 2008
	Judicial proceedings	Urgent Appeal TUN 011/1008/OBS 169.1	October 24, 2008
		Urgent Appeal TUN 011/1008/OBS 169.2	October 29, 2008



## / YEMEN

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### Political context

In Yemen, the political situation remained marked in 2008 by the armed conflict that opposed from June 2004 until August 2008 the authorities and the rebellion led by partisans of the Zaidi religious leader Hussain Badr Al-Din Al-Huthi in the region of Saada, in the north of the country. The conflict resulted in hundreds of deaths and tens of thousands of displaced persons since the start of the clashes<sup>1</sup>. In addition, the authorities carried out numerous waves of arrests. Hundreds of rebels, some of their families and many people suspected of sympathising with the armed movement were arrested, essentially because they were Zaidi members. Arrests also comprised several political activists, journalists and human rights defenders who had condemned human rights violations, in particular the waves of arbitrary arrests carried out by the Yemeni authorities. For example, Mr. Mohamed Miftah, former Imam at the Sana'a Mosque and a member of the Al-Haqq political party, was arrested on May 21, 2008 and detained at a secret location until August 31, 2008, and released on September 7, 2008 without being brought before a judge<sup>2</sup>. The President of Yemen, Mr. Ali Abdullah Saleh, indeed ordered in September the release of numerous prisoners arrested in relation to the Saada conflict. However, as of the end of 2008, 69 of them were still held in detention without having been tried<sup>3</sup>.

In 2008, the Yemeni authorities also faced large-scale social demonstrations in the south of the country. Since the end of the civil war

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1./ In August 2008, official sources reported 90,000 internally displaced persons. However, the exact number of displaced persons varied according to the sources and the different periods of the conflict.

2./ As of the end of 2008, it had not been possible to obtain information regarding the charges against him. See Hewart Forum and Human Rights Watch Report, *Disappearances and Arbitrary Arrests in the Armed Conflict with Huthi Rebels in Yemen*, October 2008.

3./ See Front Line Press Release, December 15, 2008.

in 1994, many voices raised in the southern provinces to denounce, amongst others, the despoilment of previously nationalised lands and the discrimination against soldiers and civil servants in the south who had been forcibly retired after 1994<sup>4</sup>. The claims for an end to these discriminatory practises increasingly found echo in the southern population in the past few years. On January 13, 2008, tens of thousands of people gathered in Aden to support the demands made by the Committee of Retired Army Personnel. This demonstration and those that followed were violently repressed by the security forces, which fired live ammunition on demonstrators, killing seven people, including four on January 13, and wounding 75<sup>5</sup>. 860 people were also arrested, 20 of whom were still reported as missing as of the end of 2008<sup>6</sup>. Ninety people were deferred before the courts for “attacks on national unity” and 54 of them were given from one month’s suspended sentence to three years in prison<sup>7</sup>. As at the end of December 2008, hundreds of people were still held in different prisons in the country.

The Yemeni media were affected by the political and social tensions that shook the country during 2008. On March 14, 2008, the authorities banned distribution of the weekly newspaper *Al-Sabbah*, which was accused of covering demonstrations in the south of the country and in certain governorates in the north in a manner that was “detrimental to national unity”. The distribution of the monthly *Abwab*

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4./ At the end of the war thousands of military personnel and civil servants of the former Democratic Republic of Yemen (south Yemen) were forcibly retired. Since then they have continued their demands to benefit from pensions identical to those of other military personnel or, for the younger ones, to be employed in other positions.

5./ See Yemeni Observatory for Human Rights (YOHR), *Report on the Right to Peaceful Assembly*, 2008.

6./ *Idem*.

7./ In particular, Mr. Yahia Ghaleb Al-Shuaibi, a lawyer and member of the Yemeni Socialist Party (YSP), who had taken part in demonstrations in the south of the country, was arrested during the night of March 31, 2008. He was held at a secret location for 15 days before being deferred before a judge. The President of the Republic granted him a pardon on September 11. Mr. Al-Shuaibi, together with two other members of YSP, was accused of having encouraged demonstrations that led to clashes with the forces of order. See Yemen Centre for Human Rights Studies (YCHRS) and National Organization for Defending Rights and Freedoms (Hood).



was also banned by the authorities<sup>8</sup>. On April 5, 2008, the Information Ministry cancelled the licence of the weekly newspaper *Al-Wasat*<sup>9</sup>. The authorities also blocked access for several months to websites such as *yemenportal.net* and *aleshteraki.net*, the press organs of the main opposition party<sup>10</sup>.

### **Obstacles to freedom of peaceful assembly and harassment of lawyers involved in defending protestors**

In 2008, the authorities targeted some of the lawyers who defended persons arrested during the demonstrations that took place in the southern provinces. On May 17, 2008, Ms. **Afrae Al-Hariri**, a lawyer and Chair of the Women's Help and Protection Centre, was arrested in the company of Ms. Zahrae Saleh, Chair of the women's section of the League of Sons of Yemen political party (*Râbitat Abnâ' al-Yaman-Râ'y* - RAY), during a rally organised in solidarity with the protests in the southern provinces. She was detained for several hours before being transferred to a detention centre without a warrant. She was then released without charge. Two days later, Ms. Al-Hariri was arrested again by the security forces, who wrongly accused her of having driven off after accidentally knocking over a child. Proceedings were opened against her and were pending as of the end of 2008<sup>11</sup>. In addition, on August 11, 2008, the security services arrested Mr. **Mohamed Ali Al-Saqqaf** at Sana'a airport while he and his family were preparing to board the plane for Dubai. This arrest was apparently due to the involvement of Mr. Al-Saqqaf in defending persons arrested during the social demonstrations. He was then detained for two days in the prison of the criminal investigation department in Sana'a before being

8./ See Sisters' Arab Forum for Human Rights (SAF) Press Release, March 14, 2008. The Information Ministry reproached the weekly *Al-Sabbah* for not respecting the legal procedure when it was created. The monthly *Abwab* (printed abroad) was seized at Sana'a airport. The cover of the magazine showing President Ali Abdullah Saleh was judged disrespectful of the presidential function.

9./ The weekly newspaper, considered one of the main opposition newspapers, was accused of having "undermined national unity, stirred up religious divisions and damaged relations with neighbouring countries" after it published articles that were critical of Saudi Arabia. On April 5, the Yemeni courts cancelled the ruling of the Justice Ministry. See Reporters Without Borders (*Reporters sans frontières* - RSF) Press Release, April 10, 2008.

10./ See RSF Press Releases, January 24 and March 24, 2008.

11./ See YOHR.

released on August 13, on the condition that he present himself to the authorities as soon as he was asked to do so<sup>12</sup>.

### **Reprisals against defenders and journalists who denounce human rights violations**

In 2008, several human rights defenders, including journalists, were attacked by the authorities for having denounced, sometimes in briefings or in articles, grave human rights violations, in particular those linked to the management of the armed conflict in the northern provinces and the repression of demonstrations in the south of the country. As an example, the authorities tried to intimidate Mr. **Ali Al-Dailami**, Executive Director of the Yemeni Organisation for the Defence of Democratic Rights and Freedoms: on May 22, 2008, the police surrounded his house but, as they did not find him, they arrested his brother Hassan and took him to a detention centre where they beat him. He was released the next day with the order to inform his brother that he should stop his human rights activities<sup>13</sup>. On June 9, 2008, Mr. **Abdulkarim Al-Khaiwani**, former Editor-in-chief of the newspaper *Al-Shoura*, was sentenced to six years in prison by the Sana'a State Security Court for "collaborating with the rebels" after the publication of articles condemning the repression linked to the Saada war. Furthermore, Mr. Al-Khaiwani, who suffers from diabetes and has a heart problem, was denied medical treatment throughout his detention period<sup>14</sup>. The President of the Republic pardoned him on September 25, 2008<sup>15</sup>. Similarly, Mr. **Luai Al-Moayad**, a member of the Yemeni Organisation for the Defence of Democratic Rights and Freedoms and Executive Director of the website *yemenhurr.net*, was arrested at his home on June 30, 2008 following the publication of information on the Saada conflict. He was held at a secret location for over two months before being released on September 12, 2008 without charge. As at the end of 2008, Messrs. **Nayef Hassan**, **Nabeel Subei** and **Mahmoud Taha**, three journalists from the weekly newspaper *Al-Shari'*, were still prosecuted by the Defence Ministry for "the dissemination and publication of information likely to undermine army morale" following

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12./ *Idem*.

13./ See Hewar Forum.

14./ See YOHR, YCHRS and Hood.

15./ See RSF Press Release, September 25, 2008.

the publication of an article in June 2007 denouncing the regime's use of tribal combatants against Huthi rebels. They incur the death penalty<sup>16</sup>. Finally, on November 2, 2008, Mr. **Abd Al-Hafed Moejeb**, a correspondent for the daily newspaper *Al-Ayyam*, was arrested by the police force at a checkpoint at Ain Ali. The police searched his vehicle, scattered his belongings on the ground and hit him when he tried to make a phone call. They then took him to an unknown location where he was forced to sign blank documents. This arrest appeared to be linked to the work of Mr. Abd Al-Hafed Moejeb with *Al-Ayyam*, the daily newspaper with the largest distribution in the country, which became famous for its coverage of the demonstrations in the southern provinces<sup>17</sup>.

### **Attacks on human rights defenders' freedom of movement**

In 2008, several defenders were prevented from leaving the national territory because of their human rights activities. On November 29, 2008, Sana'a airport national security agents prevented Mr. Abdulkarim Al-Khaiwani<sup>18</sup> from going to Cairo where he was due to take part in a human rights conference organised on November 30 by the Egyptian National Human Rights Council and the Office of the UN High Commissioner for Human Rights. The authorities informed him that the ban was imposed at the request of the Sana'a airport passport department. Other people, notably Ms. Afrae Al-Hariri, were also prevented from taking the plane<sup>19</sup>.

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16./ See SAF and RSF Press Releases, March 20 and November 26, 2008.

17./ See Hood.

18./ See above.

19./ See SAF Press Release, November 30, 2008.

# **/ ANNEXES**

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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# / ANNEX 1

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

## Partner organisations and contributors

### International NGOs

- Action Against Hunger
- Agir ensemble pour les droits de l'Homme
- Amnesty International
- Article 19
- Association for the Prevention of Torture (APT)
- Centre de conseils et d'appui pour les jeunes en droits de l'Homme (CODAP)
- Committee to Protect Journalist (CPJ)
- Defence for Children International (DCI)
- Doctors Without Borders (MSF)
- Foundation Martin Ennals
- Front Line
- Human Rights First
- Human Rights Information and Documentation System (HURIDOCS)
- Human Rights Watch (HRW)
- Integrated Regional Information Networks (IRIN)
- Inter LGBT
- International Centre for Trade Union Rights (ICTUR)
- International Commission of Jurists (ICJ)
- International Committee of the Red Cross (ICRC)
- International Crisis Group
- International Federation for Actions by Christians for the Abolition of Torture (FIACAT)
- International Freedom of Expression Exchange (IFEX)
- International Gay and Lesbian Human Rights Commission (IGLHRC)
- International Lesbian and Gay Association (ILGA)
- International Rehabilitation Council for Torture Victims (IRCT)

- International Service for Human Rights (ISHR)
- International Trade Union Confederation (ITUC)
- International Union of Food Workers (IUF)
- Ligue internationale pour les droits et la libération des peuples (LIDLIP)
- Minority Rights Group International (MRG)
- Norwegian Helsinki Committee
- Open Society Institute (OSI)
- Pax Christi International
- Peace Brigades International (PBI)
- Protection International
- Reporters Without Borders (RSF)
- Solidarité internationale gay lesbiennes, gay bi et trans (SI-LGBT)
- Tjenbé Red

## Regional NGOs

### Africa

- African Centre for Democracy and Human Rights Studies (ACDHRS)
- East and Horn of Africa Human Rights Defenders Project (EHAHRDP)
- Ligue des droits de la personne dans la région des Grands lacs (LGDL)

### Americas

- Central Latinoamericana de Trabajadores (CLAT)
- Centro por la Justicia y el Derecho Internacional (CEJIL)
- Comisión Latinoamericana por los Derechos Humanos y Libertades de los Trabajadores y Pueblos (CLADEHLT)
- Comisión para la Defensa de los Derechos Humanos en Centroamérica (CODEHUCA)
- Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer (CLADEM)
- Enlace Mapuche Internacional
- Federación Latinoamericana de Asociaciones de Familiares de Detenidos-Desaparecidos (FEDEFAM)
- Federación Luterana Mundial
- Organización Regional Interamericana de Trabajadores (ORIT)

- Plataforma Interamericana de Derechos Humanos, Democracia y Desarrollo (PIDHDD)

### **Asia**

- Asian Federation Against Involuntary Disappearances (AFAD)
- Asian Forum for Human Rights and Development (Forum Asia)
- Asian Legal Resource Centre (ALRC)
- Human Rights in Central Asia
- South Asian Human Rights Documentation Centre (SAHRDC)

### **Europe and CIS**

- Association européenne pour la défense des droits de l'Homme (AEDH)
- Caucasian Institute for Peace, Democracy and Development (CIPDD)
- Caucasian Knot

### **North Africa / Middle East**

- Cairo Institute for Human Rights Studies (CIHRS)
- EuroMed Non-Governmental Platform
- Euro-Mediterranean Human Rights Network (EMHRN)

## **National NGOs**

### **Albania**

- Albanian Human Rights Groups (AHRG)
- Albanian Rehabilitation Centre for Trauma and Torture (ARCT)

### **Algeria**

- Association Djazairouna des victimes du terrorisme
- Collectif des familles de disparus en Algérie (CFDA)
- Coordination nationale des familles de disparus (CNFD)
- Ligue algérienne de défense des droits de l'Homme (LADDH)
- SOS Disparu(e)s

### **Angola**

- Associação Justiça, Paz e Democracia
- Central General de Sindicatos Independentes e Livres de Angola (CGSILA)

**Argentina**

- Abuelas de la Plaza de Mayo
- Centro de Estudios Legales y Sociales (CELS)
- Comité de Acción Jurídica (CAJ)
- Comité para la Defensa de la Salud, la Ética Profesional y los Derechos (CODESEDH)
- Derechos Human Rights - *United-States*
- Equipo Argentino de Antropología Forense - *United-States*
- Fundación Servicio de Paz y Justicia (SERPAJ)
- Hijas e Hijos por la Identidad y la Justicia contra el Olvido y el Silencio (HIJOS)
- Liga Argentina por los Derechos del Hombre (LADH)

**Armenia**

- Civil Society Institute (CSI)

**Australia**

- Pax Christi Australia
- Survivors of Torture and Trauma Assistance (STTARS)

**Austria**

- Österreichische Liga für Menschenrechte (OLFM)
- Pax Christi Austria

**Azerbaijan**

- Human Rights Centre of Azerbaijan (HRCA)
- Institute of Peace and Democracy (IPD)

**Bahrain**

- Bahrain Centre for Human Rights (BCHR)
- Bahrain Human Rights Society (BHRS)

**Bangladesh**

- Bangladesh Human Rights Commission (BHRC)
- Bangladesh Rehabilitation Centre for Trauma Victims (BRCT)
- Hotline Human Rights - Bangladesh (HHRB)
- ODIKHAR

**Barbados**

- Caribbean Rights / Human Rights Network



### **Belarus**

- Helsinki Committee for Human Rights
- Human Rights Center “VIASNA”

### **Belgium**

- Actions by Christians for the Abolition of Torture (ACAT) - Belgique francophone
- ACAT - Belgique Vlaanderen
- Association fraternelle internationale (AFI)
- Justice et paix
- Liga Voor Menschenrechten (LVM)
- Ligue des droits de l'Homme (LDHB)
- Pax Christi Vlaanderen
- Pax Christi Wallonie-Bruxelles

### **Benin**

- ACAT - Benin
- Enfants solidaires d'Afrique et du monde (ESAM)
- Ligue béninoise pour la défense des droits de l'Homme (LBDH)
- Tomorrow Children

### **Bhutan**

- Peoples' Forum for Human Rights and Democracy (PFHRB) (based in Kathmandu, Nepal)

### **Bolivia**

- Asamblea Permanente de los Derechos Humanos de Bolivia (APDHB)
- Centro de Estudios Jurídicos e Investigación Social (CEJIS)
- Instituto de Terapia é Investigación sobre las Secuelas de la Tortura y la Violencia Estatal (ITEI)

### **Botswana**

- The Botswana Centre for Human Rights (DITSHWANELO)

### **Brazil**

- ACAT - Brazil
- Agencia de Noticias Direitos da Infancia (ANDI)
- Centre for the Study of Violence (CSV)

- Centro de Defesa da Criança e do Adolescente Yves de Roussan (CEDECA/BA)
- Centro de Justiça Global (JC)
- Comissão Pastoral da Terra (CPT)
- Conectas Direitos Humanos
- Conselho Indigenista Missionário (CIMI)
- Departamento Nacional dos Trabalhadores da CUT (DNTR-CUT)
- Justiça e Paz
- Movimento dos Trabalhadores Rurais Sem Terra (MST)
- Movimento Nacional de Meninos et Meninas de Rua (MNMMR)
- Movimento Nacional dos Direitos Humanos (MNDH)
- Sociedad Paraense de Defensa dos Direitos Humanos (SDDH)
- Tortura Nunca Mais - RJ

### **Bulgaria**

- Assistance Centre for Torture Survivors (ACET)

### **Burkina Faso**

- ACAT - Burkina Faso
- Mouvement burkinabé des droits de l'Homme et des peuples (MBDHP)

### **Burma**

- Alternative ASEAN Network on Burma (ALTSEAN)
- Assistance Association for Political Prisoners in Burma (AAPPB)
- Burma Lawyers' Council (BLC)
- The Burma Campaign UK
- US Campaign for Burma

### **Burundi**

- ACAT-Burundi
- Association des femmes juristes du Burundi (AFJB)
- Centre indépendant de recherches et d'initiatives pour le dialogue (CIRID) - *Switzerland*
- Ligue burundaise des droits de l'Homme (ITEKA)
- Observatoire de lutte contre la corruption et les malversations économiques (OLUCOME)

### **Cambodia**

- Cambodian Association for Development and Human Rights (ADHOC)
- Cambodian Centre for Human Rights (CCHR)
- Cambodian League for the Promotion and Defence of Human Rights (LICADHO)
- Community Legal Education Centre (CLEC)

### **Cameroon**

- ACAT - Cameroon
- ACAT - Littoral
- Association for the Reconstruction of the Moko-Oh People (AFTRADEMOP)
- Maison des droits de l'Homme du Cameroun (MDHC)
- Mouvement pour la défense des droits de l'Homme et des libertés (MDDHL)

### **Canada**

- ACAT - Canada
- Human Rights Internet (HRI)
- Ligue des droits et des libertés du Québec (LDL)

### **Central African Republic**

- ACAT - Central African Republic
- Ligue centrafricaine des droits de l'Homme (LCDH)
- Organisation pour la compassion et le développement des familles en détresse (OCODEFAD)

### **Chad**

- Association jeunesse anti-clivage (AJAC)
- Association tchadienne pour la promotion et la défense des droits de l'Homme (ATPDH)
- Collectif des associations de défense des droits de l'Homme (CADH)
- Ligue tchadienne des droits de l'Homme (LTDH)

### **Chile**

- Centro de Salud Mental y Derechos Humanos (CINTRAS)
- Centro Regional de Derechos Humanos y Justicia de Género

- Corporación de Promoción y Defensa de los Derechos del Pueblo (CODEPU)
- Fundación de Ayuda Social de Las Iglesias Cristianas (FASIC)
- Fundación de Protección a la Infancia Dañada por los Estados de Emergencia (PIDEE)
- Observatorio Ciudadano

### **China**

- Asian Centre for the Progress of Peoples
- Chinese Human Rights Defenders (CRD)
- Human Rights in China (HRIC)
- Tibetan Centre for Human Rights and Democracy - *India*

### **Colombia**

- Asamblea Permanente de la Sociedad Civil por la Paz
- Asociación de Abogados Laboralistas al Servicio de los Trabajadores
- Asociación Campesinas de Arauca (ACA)
- Asociación Nacional de Ayuda Solidaria (ANDAS)
- Central Unitaria de Trabajadores (CUT)
- Centro de Investigación y Educación Popular (CINEP)
- Comisión Colombiana de Juristas (CCJ)
- Comisión Intereclesial de Justicia y Paz (CJP)
- Comité Permanente por la Defensa de Derechos Humanos (CPDH)
- Comunidad de Paz de San José de Apartadó
- Consultoría para los Derechos Humanos y el Desplazamiento (CODHES)
- Coordinación Colombia - Europa - Estados Unidos
- Corporación Colectivo de Abogados “José Alvear Restrepo” (CCAJAR)
- Corporación Jurídica Libertad (CJL)
- Corporación Jurídica “Yira Castro”
- Corporación para la Defensa y Promoción de los Derechos Humanos (REINICIAR)
- Corporación Regional para la Defensa de los Derechos Humanos (CREDHOS)
- Escuela Nacional Sindical de Colombia (ENS)
- Federación Nacional Sindical Unitaria Agropecuaria (FENSUAGRO - CUT)

- Fundación Comité de Solidaridad con los Presos Políticos (FCSP)
- Fundación Comité Regional de Derechos Humanos “Joel Sierra”
- Fundación Desarrollo y Paz (FUNDEPAZ)
- Instituto Latino Americano de Servicios Legales Alternativos (ILSA)
- Movimiento Nacional de Víctimas de Crímenes de Estado (MOVICE)
- Organización Femenina Popular (OFP)
- Organización Internacional de Derechos Humanos - Acción Colombia (OIDHACO)
- Sindicato Nacional de Trabajadores de las Industrias de Alimentos (SINALTRAINAL)
- Unión Sindical Obrera (USO)

#### **Congo (Democratic Republic of)**

- Action contre l’impunité pour les droits humains (ACIDH)
- Association africaine de défense des droits de l’Homme (ASADHO)
- Centre des droits de l’Homme et du droit humanitaire (CDH)
- Comité d’action pour le développement intégral (CADI) - *Burundi*
- Comité des observateurs des droits de l’Homme (CODHO)
- Comité pour le développement et les droits de l’Homme (CDDH)
- Femmes chrétiennes pour la démocratie et le développement (FCDD)
- Groupe Lotus (GL)
- Haki Za Binadamu-Maniema (HBM)
- Journalistes en danger (JED)
- Justice Plus
- Les amis de Nelson Mandela pour les droits de l’Homme (ANMDH)
- Ligue congolaise des droits de l’Homme (LDH)
- Ligue des électeurs (LE)
- Ligue de la zone Afrique pour la défense des droits des enfants et des élèves (LIZADEEL)
- Observatoire congolais des droits humains (OCDH)
- Observatoire national des droits de l’Homme (ONDH)
- Solidarité pour la promotion et la paix (SOPROP)

- Voix des sans voix pour les droits de l'Homme (VSV)

### **Congo (Republic of)**

- Association pour les droits de l'Homme et l'univers carcéral (ADHUC)
- Coalition congolaise publiez ce que vous payez
- Femmes congolaises chefs de famille et éducatrices (FCFE)
- Observatoire congolais des droits de l'Homme (OCDH)
- Rencontre pour la paix et les droits de l'Homme (RPDH)

### **Costa Rica**

- Asociación Centroamericana de Familiares (ACAFADE)
- Asociación Servicios de Promoción Laboral (ASEPROLA)

### **Côte d'Ivoire**

- ACAT - Côte d'Ivoire
- Femme et développement durable (FDD)
- Femmes actives de Côte d'Ivoire (OFACI)
- Ligue ivoirienne des droits de l'Homme (LIDHO)
- Mouvement ivoirien des droits humains (MIDH)

### **Croatia**

- Civic Committee for Human Rights (CCHR)

### **Cuba**

- Coalición de Mujeres Cubano-Americanas
- Comisión Cubana de Derechos Humanos y Reconciliación Nacional (CCDHRN)
- Consejo de Relatores de Derechos Humanos de Cuba
- Damas de Blanco
- Directorio Democrático Cubano

### **Cyprus**

- Action for Support, Equality and Anti-Racism (KISA)

### **Czech Republic**

- Human Rights League

### **Denmark**

- Treatment and Counselling for Refugees (OASIS)

### **Djibouti**

- Ligue djiboutienne des droits de l'Homme (LDDH)
- Union djiboutienne du travail (UDT)
- Union des travailleurs du port (UTP)

### **Dominican Republic**

- Comisión Nacional de los Derechos Humanos (CNDH)

### **Ecuador**

- Asamblea Permanente de Derechos Humanos del Ecuador (APDH)
- Centro de Derechos Económicos y Sociales (CDES)
- Centro de Documentación de Derechos Humanos “Segundo Montes Mozo” (CSMM)
- Comisión Ecuménica de Derechos Humanos (CEDHU)
- Comité de Familiares de Presos Políticos de Ecuador (COFPPE)
- Confederación de Nacionalidades Indígenas del Ecuador (CONAIE)
- Fundación Regional de Asesoría en Derechos Humanos (INREDH)

### **Egypt**

- Arab Centre for the Independence of the Judiciary and the Legal • Profession (ACIJLP)
- Arab Lawyers' Union (ALU)
- Arab Program for Human Rights Activists (APHRA)
- Association for Human Rights and Legal Aid (AHRLA)
- Centre for Trade-Unions and Workers' Services (CTUWS)
- Egyptian Initiative for Personal Rights
- Egyptian Organisation for Human Rights (EOHR)
- Hisham Mubarak Law Centre
- Human Rights Centre for the Assistance of Prisoners (HRCAP)
- Land Centre for Human Rights (LCHR)
- Nadeem Center

### **El Salvador**

- Comisión de Derechos Humanos de El Salvador (CDHES)

### **Ethiopia**

- Action Aid Ethiopia

- Ethiopian Free Press Journalists' Association (EFJA)
- Ethiopian Human Rights Council (EHRCO)
- Ethiopian Teachers' Association (ETA)

### **Finland**

- Finnish League for Human Rights (FLHR)

### **France**

- ACAT - France
- Justice et paix
- Ligue des droits de l'Homme et du citoyen (LDH)
- Observatoire international des prisons (OIP)
- Pax Christi France
- Pax Romana - Mouvement international des juristes catholiques
- Réseau d'alerte et d'intervention pour les droits de l'Homme (RAIDH)
- Santé, éthique et libertés (SEL)
- Service œcuménique d'entraide (CIMADE)

### **Gambia**

- International Society for Human Rights (ISHR)

### **Georgia**

- Georgian Association to Facilitate Women's Employment (AMAGDARI)
- Georgian Young Lawyers' Association (GYLA)
- Human Rights Centre (HRIDC)
- Public Health and Medicine Development Fund (PHMDF)

### **Germany**

- ACAT - Germany
- Diakonisches Werk der EKD - Human Rights Desk
- European Centre for European and Human Rights
- Internationale Liga für Menschenrechte (ILMR)
- Pax Christi Germany

### **Greece**

- Greek Helsinki Monitor (GHM)
- Hellenic League for Human Rights
- Marangopoulos Foundation for Human Rights



- Rehabilitation Centre for Torture Victims (RCTVI)

### **Guatemala**

- Casa Alianza
- Central General de Trabajadores de Guatemala (CGTG)
- Centro para la Acción Legal en Derechos Humanos (CALDH)
- Comisiatura de los Derechos Humanos de Guatemala
- Comisión de Derechos Humanos de Guatemala (CDHG)
- Coordinadora Nacional de Organizaciones Campesinas (CNOC)
- Grupo de Apoyo Mutuo (GAM)
- Hijos e Hijas por la Identidad y la Justicia contra el Olvido y el Silencio (HIJOS - Guatemala)
- Justicia y Paz - *United States*
- Movimiento Nacional de Derechos Humanos de Guatemala (MNDH)
- Unidad de Protección de Defensoras y Defensores de Derechos Humanos - Guatemala (UDEFEHUA-Guatemala)

### **Guinea - Bissau**

- Liga Guineense dos Direitos Humanos (LGDH)

### **Guinea**

- Organisation guinéenne des droits de l'Homme (OGDH)

### **Haiti**

- Centre œcuménique pour les droits humains (CEDH)
- Comité des avocats pour le respect des libertés individuelles (CARLI)
- Justice et paix (JILAP)
- Réseau national de défense des droits de l'Homme (RNDDH)

### **Honduras**

- Asociación ANDAR
- Centro para la Prevención, el Tratamiento y la Rehabilitación de las Víctimas de la Tortura (CPTRT)
- Comité de Familiares de Detenidos-Desaparecidos en Honduras (COFADEH)
- Comité para la Defensa de los Derechos Humanos en Honduras (CODEH)

**India**

- Association internationale des juristes démocrates (AIJD)
- Centre for Organisation Research and Education (CORE)
- Committee for the Protection of Democratic Rights (CPDR)
- Committee on Human Rights - Manipur
- Commonwealth Human Rights Initiative (CHRI)
- India Centre for Human Rights and the Law (ICHL)
- Jeevan Rekha Parishad (JRP)
- Manabadhikar Suraksha Mancha (MASUM)
- NGO Forum Combating Sexual Exploitation and Abuse of Children
- People's Initiative for Human Rights (JANANEETHI)
- People's Union for Civil Liberties (PUCL)
- People's Union for Democratic Rights (PUDR)
- People's Watch
- Rural People's Sangam (RPS)
- Society for Rural Education and Development

**Indonesia**

- The Commission for Disappearances and Victims of Violence (KONTRAS)
- Imparsial - The Indonesian Human Rights Monitor
- TAPOL - The Indonesia Human Rights Campaign - *United-Kindgom*

**Iran**

- Defenders of Human Rights Centre (DHRC)
- Ligue pour la défense des droits de l'Homme en Iran (LDDHI) - *France*

**Iraq**

- Iraqi Network for Human Rights Culture and Development (INHRCD)

**Ireland**

- Free Legal Advice Centre (FLAC)
- Irish Council for Civil Liberties (ICCL)
- Law Society of Ireland
- Pax Christi Ireland

### **Israel and Occupied Palestinian Territories (OPT)**

- Addameer
- Al-Haq
- Al-Mezan Centre for Human Rights
- Association for Civil Rights in Israel (ACRI)
- B'Tselem
- DCI - Palestine
- HaMoked - Centre for the Defence of the Individual
- Jerusalem Centre for Human Rights
- Legal Centre for Arab Minority Rights in Israel (Adalah)
- Palestine Human Rights Information Centre (PHRIC)
- Palestinian Centre for Human Rights (PCHR)
- Palestinian Human Rights Monitoring Group (PHRMG)
- Physicians for Human Rights - Israel
- Public Committee Against Torture in Israel (PCATI)
- Ramallah Centre for Human Rights Studies (RCHRS)
- The Association of Forty
- Palestinian Human Rights Organisation (PHRO)

### **Italy**

- ACAT - Italy
- Liga Italiana dei Diritti dell'Uomo (LIDU)
- Pax Christi Italy
- Unione Forense per la Tutela dei Diritti dell'Uomo (UFTDU)

### **Japan**

- Buraku Liberation and Human Rights Research Institute

### **Jordan**

- Amman Centre for Human Rights Studies (ACHRS)
- Jordan Society for Human Rights (JSHR)

### **Kazakhstan**

- Kazakhstan International Bureau for Human Rights and Rule of Law

### **Kenya**

- Independent Medico-Legal Unit (IMLU)
- International Commission of Jurists (ICJ) - Kenya
- Kenyan Human Rights Commission (KHRC)

**Kyrgyzstan**

- Civil Society Against Corruption
- Kyrgyz Committee for Human Rights (KCHR)

**Kosovo**

- Council for the Defence of Human Rights and Freedoms (CDHRF)

**Kuwait**

- Kuwait Human Rights Society (KHRS)

**Latvia**

- Alliance of LGBT and their friends “Mozaika”
- Latvian Human Rights Committee (LHRC)

**Lebanon**

- Association libanaise des droits de l’Homme (ALDHOM)
- Centre libanais des droits de l’Homme (CLDH)
- Fondation libanaise pour la paix civile permanente
- Foundation for Human and Humanitarian Rights in Lebanon
- Frontiers Center
- Khiam Rehabilitation Centre
- National Association for Lebanese Detainees in Israeli Prisons (NALDIP)
- Soutien aux Libanais détenus arbitrairement (SOLIDA)

**Liberia**

- Foundation for Human Rights and Democracy (FOHRD)
- Liberia Watch for Human Rights

**Libya**

- Libyan League for Human Rights

**Lithuania**

- Lithuanian Human Rights Association (LHRA)

**Luxembourg**

- ACAT - Luxembourg
- Pax Christi Luxembourg - Entraide d’église

### **Madagascar**

- ACAT- Madagascar

### **Malaysia**

- ALIRAN
- Suara Rakyat Malaysia (SUARAM)

### **Mali**

- Association malienne des droits de l'Homme (AMDH)
- Association pour le progrès et la défense des droits des femmes (APDF)
- Comité d'action pour les droits de l'enfant et de la femme (CADEF)
- LAKANA SO

### **Malta**

- Malta Association of Human Rights (MAHR)

### **Mauritania**

- Association des femmes chefs de familles (AFCF)
- Association mauritanienne des droits de l'Homme (AMDH)
- SOS Esclaves

### **Mexico**

- Academia Mexicana de Derechos Humanos (AMDH)
- ACAT - Mexico
- Asociación de Familiares de Detenidos-Desaparecidos y Víctimas (AFADEM-FEDEFAM)
- Centro de Derechos Humanos "Fray Bartolomé de las Casas"
- Centro de Derechos Humanos "Miguel Agustín Pro Juárez" (PRODH)
- Centro de Derechos Humanos y Asesoría a Pueblos Indígenas
- Centro Regional de Derechos Humanos "Bartolomé Carrasco Briseño"
- Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH)
- Comisión de Solidaridad y Defensa de Derechos Humanos (COSYDDHAC)
- Comité Cerezo
- Fomento Cultural y Educativo AC

- Liga Mexicana por la Defensa de los Derechos Humanos (LIMEDDH)
- Nuestras Hijas de Regreso a Casa
- Red Nacional de Organizaciones Civiles de Derechos Humanos “Todos por los Derechos Humanos”
- Servicio Internacional para la Paz (SIPAZ)
- Sin Fronteras

### **Moldova**

- League for the Defence of Human Rights of Moldova (LADOM)
- Moldova Helsinki Committee for Human Rights (MHC)

### **Morocco and Western Sahara**

- Annassir
- Association marocaine des droits humains (AMDH)
- Association sahraouie des victimes de violations graves des droits de l’Homme commises par l’Etat marocain (ASVDH)
- Centre marocain des droits de l’Homme
- Forum marocain vérité et justice (FMVJ)
- Organisation marocaine des droits humains (OMDH)

### **Mozambique**

- Liga Mocanbicana dos Direitos Humanos

### **Nepal**

- Advocacy Forum Nepal
- Forum for the Protection of Human Rights (FOPHUR)
- Informal Sector Service Centre (INSEC)
- Institute of Human Rights and Democracy (IHRD)
- International Institute for Human Rights, Environment and Development (INHURED)
- Group for International Solidarity (GRINSO)
- Women’s Rehabilitation Centre (WOREC)

### **Netherlands**

- ACAT - Netherlands
- Global Initiative on Psychiatry
- Liga Voor de Rechter Van de Mens (LVRM)
- Pax Christi Netherlands
- Studie-en Informatiecentrum Mensenrechten (SIM)

### **Nicaragua**

- Centro Nicaragüense de Derechos Humanos (CENIDH)

### **Niger**

- Association nigérienne de défense des droits de l'Homme (ANDDH)
- Collectif des organisations de défense des droits de l'Homme et de la démocratie (CODDHD)
- Comité de réflexion et d'orientation indépendant pour la sauvegarde des acquis démocratiques (CROISADE)
- Comité national de coordination de la Coalition équitée / qualité contre la vie chère au Niger
- Ligue nigérienne de défense des droits de l'Homme (LNDH)

### **Nigeria**

- Centre for Law Enforcement Education (CLEEN)
- Civil Liberties Organisation (CLO)
- Consulting Centre for Constitutional Rights and Justice (C3RJ)
- DCI - Nigeria
- Media Rights Agenda (MRA)
- Prisoners Rehabilitation and Welfare Action (PRAWA)

### **Pakistan**

- Human Rights Commission of Pakistan (HRCP)
- Umeed Welfare Organisation
- Voice Against Torture (VAT)
- World Peace Forum (WPF)

### **Peru**

- Asociación Pro Derechos Humanos (APRODEH)
- Centro de Asesoría Laboral (CEDAL)
- Centro de Estudios y Acción para la Paz (CEAPAZ)
- Coordinadora Nacional de Derechos Humanos (CNDDHH)
- Federación Nacional de Trabajadores Mineros, Metalúrgicos y Siderúrgicos del Perú (FNTMMSP)
- Instituto de Defensa Legal (IDL)

### **Philippines**

- Alliance for the Advancement of People's Rights (KARAPATAN)

- Episcopal Commission on Tribal Filipinos
- Free Legal Assistance Group (FLAG)
- Kababaihan Laban sa Karahasan Foundation (KALAKASAN)
- KAIBIGAN
- Kilusang Mayo Uno Labour Center (KMU)
- Medical Action Group (MAG)
- National Alliance of Women's Organisation in the Philippines (GABRIELA)
- National Secretary of Social Action Justice
- Pax Christi Philippines
- Philippine Alliance of Human Rights Advocates (PAHRA)
- Regional Council on Human Rights in Asia
- Task Force Detainees of the Philippines (TFDP)

#### **Poland**

- Helsinki Watch Committee

#### **Portugal**

- Civitas
- Comissão para los Direitos do Povo Maubere
- Confederação Geral dos Trabalhadores Portugueses
- Pax Christi Portugal

#### **Puerto Rico**

- Pax Christi Puerto Rico

#### **Republic of Korea**

- Korean Confederation of Trade Union (KCTU)
- MINBYUN - Lawyers for a Democratic Society
- SARANBANG

#### **Romania**

- The League for the Defence of Human Rights (LADO)

#### **Russian Federation**

- All-Russia Public Movement "For Human Rights"
- Anti-Discrimination Centre "Memorial", Saint-Petersburg
- Centre for the Development of Democracy and Human Rights
- Centre Sova
- Citizens' Watch



- “Demos” Centre
- Human Rights Centre “Memorial”, Moscow
- Mothers of Dagestan for Human Rights
- Moscow Helsinki Group
- Nizhny Novgorod Foundation for the Promotion of Tolerance
- Research Centre “Memorial”, Saint-Petersburg
- Russian-Chechen Friendship Society (RCFS)
- Russian Research Centre for Human Rights
- Soldiers’ Mothers of Saint-Petersburg

### **Rwanda**

- Association pour la défense des droits de l’Homme et libertés publiques (ADL)
- Collectif des ligues pour la défense des droits de l’Homme (CLADHO)
- Forum des activistes contre la torture (FACT)
- 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**

- Anti Sex Trafficking Action (ASTRA)
- Centre for Peace and Democracy Development (CPDD)
- Helsinki Committee for Human Rights in Serbia
- Humanitarian Law Centre (HLC)
- LABRIS
- Queeria

### **Sierra Leone**

- Centre for Democracy and Human Rights (CDHR)
- DCI - Sierra Leone
- Forum of Conscience (FOC)

**South Africa**

- Human Rights Institute of South Africa (HURISA)
- Lawyers for Human Rights (LHR)

**Spain**

- ACAT - Spain / Cataluña
- Asociación pro Derechos Humanos de España (APDHE)
- Federación de Asociaciones de Defensa y de Promoción de los Derechos Humanos (FADPDH)
- Justicia y Pau
- Pax Romana / Grupo Juristas Roda Ventura
- Taula Catalana por la Paz y los Derechos Humanos en Colombia

**Sudan**

- Amel Centre for Treatment and Rehabilitation of Victims of Torture
- Darfur Relief and Documentation Centre (DHRC)
- Khartoum Centre for Human Rights and Environment Development (KCHRED)
- Save Darfur Coalition
- Sudan Organisation Against Torture (SOAT)
- The Darfur Consortium

**Sri Lanka**

- Centre for Rule of Law
- Home for Human Rights (HHR)
- Law and Society Trust (LST)

**Switzerland**

- ACAT - Switzerland
- Action de carême catholique suisse / Fastenopfer
- Antenna International
- Justice et paix - Commission nationale suisse
- Ligue suisse des droits de l'Homme (LSDH)
- Pax Christi Switzerland
- Pax Romana Switzerland

**Syria**

- Comités de défense des libertés démocratiques et des droits de l'Homme en Syrie (CDF)

- Damascus Centre for Human Rights Studies (DCHRS)
- Human Rights Association in Syria (HRAS)
- National Organisation for Human Rights in Syria (NOHR-S)
- Syrian Centre for Media and Freedom of Expression (SCM)
- Syrian Human Rights Organisation (SHRO)

### **Tajikistan**

- Bureau on Human Rights and Rule of Law
- International Centre of Non Commercial Law

### **Tanzania**

- Centre pour l'éducation et la défense des droits de l'Homme (CEDH)
- Legal and Human Rights Centre (LHRC)

### **Thailand**

- Union for Civil Liberty (UCL)
- Working Group on Peace and Justice

### **Togo**

- ACAT-Togo
- Association togolaise de lutte contre la torture (ATLT)
- Ligue togolaise des droits de l'Homme (LTDH)

### **Tunisia**

- Association de lutte contre la torture en Tunisie (ALTT)
- Association tunisienne des femmes démocrates (ATFD)
- Centre d'information et de documentation sur la torture en Tunisie - *France*
- 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)

### **Turkey**

- Centre d'action sociale, de réhabilitation et d'adaptation (SOHRAM)
- Human Rights Agenda Association (HRAA)
- Human Rights Association (IHD)
- Human Rights Foundation of Turkey (HRFT)

- Legal Research Foundation (TOHAV)

### **Turkmenistan**

Turkmen Initiative for Human Rights (TIHR)

### **Uganda**

- Foundation for Human Rights Initiative (FHRI)
- Human Rights and Development Torch
- Sexual Minorities in Uganda (SMUG)

### **United Kingdom**

- ACAT - UK
- Anti-Slavery Society for the Protection of Human Rights
- Committee on the Administration of Justice (CAJ)
- Justice
- Justice for Victims of Human Rights Violations in Armed and Civil Conflicts
- Liberty
- Pax Christi - UK
- Quaker Peace and Service Abolition of Torture

### **United States**

- Center for Constitutional Rights (CCR)
- Center for Human Rights and Constitutional Law
- Human Rights Advocates
- National Council of Churches - Human Rights Office
- Pax Christi USA
- World Organization for Human Rights

### **Uruguay**

- Instituto de Estudios Legales y Sociales del Uruguay (IELSUR)
- Servicio Paz y Justicia - Uruguay

### **Uzbekistan**

- Human Rights in Central Asia
- Human Rights Society of Uzbekistan (HRSU)
- Legal Aid Society (LAS)

### **Venezuela**

- Comité de Familiares de Víctimas de los sucesos ocurridos entre el 27 de febrero y los primeros días de marzo de 1989 (COFAVIC)
- Comisión Latinoamericana por los Derechos y Libertades de Trabajadores y Pueblos (CLADEHLT)
- Observatorio Venezolano de Prisiones (OVP)
- Programa Venezolano de Educación-Acción en Derechos Humanos (PROVEA)
- Red de Apoyo por la Justicia y la Paz (REDAPOYO)

### **Viet Nam**

- Vietnam Committee on Human Rights

### **Yemen**

- Human Rights Information and Training Centre (HRITC)
- National Organization for Defending Rights and Freedoms (Hood)
- Sisters Arab Forum for Human Rights (SAF)
- Yemen Centre for Human Rights Studies (YCHRS)
- Yemen Observatory for Human Rights (YOHR)

### **Zimbabwe**

- Catholic Commission for Justice and Peace
- Media Monitoring Project of Zimbabwe (MMPZ)
- Women of Zimbabwe Arise (WOZA)
- Zimbabwe Human Rights Association (ZimRights)
- Zimbabwe Human Rights NGO Forum
- Zimbabwe Lawyers for Human Rights (ZLHR)

## **/ ANNEX 2**

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### **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 belief that strengthened co-operation and solidarity among human rights 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 of which defenders are victims.

With this aim, the Observatory seeks to establish:

- a) a mechanism of systematic alert of the international community on cases of harassment and repression of defenders of human rights and fundamental freedoms, particularly when they require urgent intervention;
- b) an observation of judicial proceedings, and whenever necessary, direct legal assistance;
- c) international missions of investigation and solidarity;
- d) a personalised assistance as concrete as possible, including material support, with the aim of ensuring the security of the defenders victims of serious violations;
- e) the preparation, publication and world-wide dissemination of reports on violations of the rights and freedoms of individuals or organisations working for human rights around the world;
- f) sustained action with the United Nations (UN) and more particularly the Special Rapporteur on Human Rights Defenders, and when necessary with geographic and thematic Special Rapporteurs and Working Groups;
- g) sustained lobbying with various regional and international inter-governmental institutions, especially the Organisation of

American States (OAS), the African Union (AU), 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, the Association of Southeast Asian Nations (ASEAN) and the International Labour Organisation (ILO).

The Observatory's activities are based on consultation and 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 OMCT and FIDH:

"Each person victim or at risk of being the victim of reprisals, harassment or violations, due to his or her commitment, exercised individually or in association with others, in conformity with international instruments of protection of human rights, to the promotion and realisation of the rights recognised by the Universal Declaration of Human Rights and guaranteed by the different international instruments".

To ensure its activities of alert and mobilisation, the Observatory has established a system of communication devoted to defenders in danger.

This system, known as the Emergency Line, is accessible through:

**E-mail : [Appeals@fidh-omct.org](mailto:Appeals@fidh-omct.org)**

**Tel. : + 33 1 43 55 55 05 / Fax : + 33 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 OMCT (Geneva) and FIDH (Paris), the Observatory is supervised by Eric Sottas, OMCT Secretary General, and Anne-Laurence Lacroix, OMCT Deputy Secretary General, and Antoine Bernard, FIDH Executive Director, and Juliane Falloux, Deputy Executive Director.

At OMCT, the Observatory is run by Delphine Reculeau, Coordinator, with the assistance of Clemencia Devia Suárez and Carlos Pampín García. OMCT wishes to thank Jastine Barrett for her collaboration in writing of this report, as well as Laëtitia Sedou, from OMCT-Europe, and Anaïs Pavret de La Rochefordière. The OMCT also thanks Esther Barrett, Shanti Bobin, Rachelle Cloutier, Cynthia Cortés Bernal, Víctor Díaz, Inés Díaz de Atauri, Najwa Ghannam, Svein Hermansen, Dennice Peniche Ramírez and Ricardo Saenz for their contribution to the translation of the report.

At FIDH, the Observatory is coordinated by Alexandra Poméon and Hugo Gabbero, Programme Officers, with the support of the teams responsible for the geographic regions and delegations, including Isabelle Brachet, Emmanouil Athanasiou, Jimena Reyes, Delphine Raynal, Alexandra Koulaeva, Françoise Petre, Marceau Sivieude, Florent Geel, Tchérina Jerolon, Stéphanie David, Marie Camberlin, Lobna Abulhassan, Antoine Madelin, Grégoire Théry, Catherine Absalom, Simia Ahmadi and Julie Gromellon. FIDH wishes to thank Farah Chami, Laurence Cuny and Vanessa Rizk for their collaboration in writing this report, as well as Mary Regan, Lizzie Rushing and Christopher Thiéry for their contribution to the report translation.

The Observatory's activities are assisted by all OMCT and FIDH local partners.

## **Operators of the Observatory**

### **FIDH**

Created in 1922, the International Federation for Human Rights (FIDH) brings together 155 leagues in more than 100 countries. It coordinates and supports their work and provides a relay for them at international level. FIDH works to protect the victims of human rights violations, to prevent these violations and to prosecute those responsible. FIDH takes concrete action for respect of the rights enshrined in the Universal Declaration of Human Rights - civil and political rights as well as economic, social and cultural rights. Seven priority themes guide the work of FIDH on a daily basis: protection of human rights defenders, promotion of women's rights, promotion of the rights of displaced migrants and refugees, promotion of the administration of justice and the fight against impunity, strengthening of respect for human rights



in the context of economic globalisation, strengthening of international and regional instruments and mechanisms to protect and support human rights and the rule of law in conflict periods, emergency situations and during political transition periods.

FIDH has either consultative or observer status with the United Nations, UNESCO, the Council of Europe, the OIF, the African Commission on Human and Peoples' Rights (ACHPR), the OAS and the ILO.

FIDH is in regular, daily contact with the UN, the EU and the International Criminal Court through its liaison offices in Geneva, New York, Brussels and The Hague. FIDH has also opened offices in Cairo and Nairobi to further its work with the League of Arab States and the AU. Every year, FIDH provides guidance to over 200 representatives of its member organisations, and also relays their activities on a daily basis.

The International Board is comprised of: Souhayr Belhassen, President; Florence Bellivier, Driss El Yazami, Paul Nsapu Mukulu, Luis Guillermo Perez, General Secretaries; Philippe Vallet, Treasurer; Yusuf Alatas (Turkey), Aliaksandr Bilaltski (Belarus), Amina Bouayach (Morocco), Juan Carlos Capurro (Argentina), Karim Lahidji (Iran), Fatimata Mbaye (Mauritania), Cynthia Gabriel (Malaysia), Vilma Nuñez de Escorcía (Nicaragua), Sorraya Gutierrez Arguello (Colombia), Raji Sourani (Palestine), Peter Weiss (United States), Tanya Ward (Ireland), Arnold Tsunga (Zimbabwe), Dan Van Raemdonck (Belgium), Dismas Kitenge Senga (DRC), Vice-Presidents and Antoine Bernard, Executive Director.

### **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 other types of cruel, inhuman or degrading treatment. It co-ordinates the SOS-Torture network that is made up of 294 non-governmental organisations in 92 countries and seeks to strengthen and accompany their activities in the field. The structure of the SOS-Torture network has enabled OMCT to reinforce local activities by promoting the access of national NGOs to international institutions. OMCT provides support to individuals who are victims of torture through urgent campaigns (notably on behalf of children, women, and human rights defenders as well as campaigns relating to violations of economic, social and cultural rights) and legal,

social and medical emergency assistance. It also provides global support through the submission of reports to the various United Nations mechanisms and through missions in the field. OMCT carries out lobbying activities for respect and strengthening the international human rights norms and mechanisms. Finally, in this framework, OMCT carries out lobbying activities in order to monitor the respect and the strengthening of international human rights standards and 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 ILO, the OIF, the ACHPR and the Council of Europe.

Its Executive Council is composed of Mr. Yves Berthelot, President (France), Mr. José Domingo Dougan Beaca, Vice-President (Equatorial Guinea), Mr. Anthony Travis, Treasurer (United Kingdom), Ms. Anna Biondi (Italy), Mr. José Burle de Figueiredo (Brazil), Ms. Aminata Dieye (Senegal), Mr. Kamel Jendoubia (Tunisia), Ms. Tinatin Khidasheli (Georgia), Ms. Jahel Quiroga Carrillo (Colombia), Ms. Christine Sayegh (Switzerland) and Mr. Henri Tiphagne (India).

### **Thanks**

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Uzbekistan . . . . .	432	Annex 1 . . . . .	506
		Annex 2 . . . . .	531

**Repression of demonstrations, trade union members arrested, NGOs under surveillance: for years these facts have been related to situations of economic and social imbalance and inequity. The rise in social discontent linked to the world economic crisis has increased the repression recorded in recent years. In inverse proportion to the fall of the stock exchanges, the inflation of freedom-killing practices and laws relating to the control of the social body was one of the significant characteristics of the problems encountered by human rights defenders in 2008.**

*“The year we are experiencing is perhaps the one when, because of the crisis, every citizen realises that human rights are a daily requirement [...]. Human rights are part of the air we breathe, and giving up knowing, understanding and acting means completely giving up one’s self, other people and giving up the future of what we will be. Let us not forget those women and men who fight for freedom, equality and justice. Together, we can and must see that this fight imprisons no one but sets us all free”.*

Roberto Saviano  
Italian journalist and writer

The Observatory is a programme of alert, protection and mobilisation set up in 1997 by the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT). Based on the need for a systematic response by NGOs and the international community to the repression of which human rights defenders are victims, it also aims to break the isolation these activists are faced with. In 2008, the Observatory issued 421 urgent interventions concerning 690 defenders and 83 NGOs in 66 countries.