

# TOGO

## The time for accountability has finally arrived

*The facts described above demonstrate the existence throughout of systematic violations of human rights in Togo during 1998*  
(Report of the International Commission of Inquiry on Togo, February 2001)

### Introduction

A few days ago, on 22 February 2001, a report was made public on systematic human rights violations committed by the Togolese security forces in 1998. It was drawn up by the International Commission of Inquiry on Togo (the Commission) which was set up by the United Nations (UN) and the Organization of African Unity (OAU).

The Commission's report is the third in under a year, all published under the auspices of the UN, which accuses Togo of violating international standards, both in relation to human rights and to the arms embargo on Angola. Two UN reports, published in March and December 2000 respectively, accuse some African leaders, including General Gnassingbé Eyadéma, the Togolese head of state and current President of the OAU, of involvement in arms trading with the armed Angolan opposition group, the *União Nacional para a Independência Total de Angola* (UNITA), National Union for the Total Independence of Angola.

Representatives of the international community are as a result now sending clear indications to the Togolese authorities that they should respect international standards, to which they themselves have subscribed, and that the era of impunity must end.

The Commission was set up in June 2000. It was charged with "verifying the truth of allegations of hundreds of extrajudicial executions, which allegedly took place in Togo during 1998, made in Amnesty International's report published on 5 May 1999."

Amnesty International's information in this report, *Togo: State of terror*, included the discovery of hundreds of bodies out at sea or along the beaches of Togo and Benin during and after the presidential election of 1998. These claims were the subject of forceful protest by the Togolese authorities who went as far as to arrest and torture human rights activists, and to bring charges against the Secretary General of Amnesty International, Pierre Sané, including for conspiracy against the security of the state. Four other human rights defenders, Nestor Tengue,<sup>1</sup> Francois Gayibor, Brice Sant'Anna and Antoine Koffi Nadjombé (the latter a member of Amnesty International's Togolese Section), were also charged before being provisionally released in June 1999.

The position of the Togolese authorities was echoed by some politicians, particularly in France, who called into question the information published by Amnesty International.

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<sup>1</sup> Nestor Tengue died following an illness in January 2001

With regard to the discovery of bodies at sea and on the beaches of Benin, the Commission's findings confirm those of Amnesty International. The Commission makes clear in its report that "*The many testimonies collected support the claim that, during 1998, several fishermen saw, while they were fishing 'out at sea', a large number of floating bodies*". This confirmation of Amnesty International's published information follows similar findings from other investigations and demonstrates that the organization's work is based on sound testimonies and precise facts and that it was carried out impartially. The Commission was unable to confirm the exact number of bodies.

Amnesty International welcomes the fact that the Commission has not only confirmed its information but has also called for the appointment of a Special Rapporteur on Togo. If the UN Commission on Human Rights adopts this recommendation, made for the first time in this report, it would constitute a decisive step towards preventing human rights violations in Togo. This is particularly so as legislative elections are planned for October 2001 and elections have in the past given rise to human rights violations.

In relation to the present situation in Togo, Amnesty International has not been able to carry out investigations in the country since the publication of its report, for the simple reason that the Togolese authorities made it quite clear that the organization's presence in the country was undesirable. An Amnesty International delegation led by Pierre Sané, which wished to meet President Eyadéma, was turned back at the border with Ghana on 20 May 1999. However, the organization has learned of numerous cases of harassment of human rights defenders and of individuals wishing to testify about extrajudicial executions perpetrated in 1998. Since the publication of Amnesty International's report in May 1999, the Togolese authorities have intimidated, defamed, attempted to bribe and arbitrarily detained individuals suspected of having passed information to the organization. Some have been tortured. More than 30 individuals were forced, in a period of less than two years, to leave the country or to go into hiding to escape reprisals.

Although Amnesty International has repeatedly condemned it, the intimidation of witnesses continued during and after the Commission's inquiry in Togo, Ghana and Benin, including after the Togolese authorities learned of the inquiry's results. Since the beginning of 2001, Amnesty International has recorded at least 10 cases in which individuals in both Togo and Benin have been threatened by the Togolese authorities and have had to flee their homes. It is therefore a matter of urgency that Togo is made subject to international scrutiny by UN bodies and, in this regard, the nomination of a Special Rapporteur on Togo, as recommended by the Commission, is vital.

Amnesty International is also making an appeal to the Commission, which publicly committed itself to monitoring "*the protection of witnesses and any other individual providing it with information*" during its inquiry and says that it obtained assurances on this

subject from the Togolese authorities. Recent events do not inspire confidence in such assurances and Amnesty International calls on the Commission to take immediate steps to end attempts by the Togolese authorities to hide the truth and intimidate witnesses, including by sending envoys with responsibility for preventing undue pressure and reassuring in person those who have had the courage to testify. These individuals have taken a considerable risk in relying on the assurances of the international community. The international community has a moral duty to demonstrate that their faith was well founded.

Amnesty International is also appealing to the international community which, three times in the last year, has raised concerns with the Togolese government about its lack of respect for international law. The three reports, published in less than one year under the auspices of the UN, clearly illustrate the extent to which the Togolese Government has infringed its international obligations, in the very year in which President Eyadéma has taken up the Presidency of the OAU. As well as the incriminating evidence, including the extrajudicial executions in 1998 which were the subject of the Commission's inquiry, are 30 years of human rights violations in Togo. It is time to examine these violations, so as to bring to justice those responsible and to bring an end to impunity.

Since 1999, Amnesty International has published several reports under the covering title *Togo: Time for accountability*. The three UN reports give rise to increased hope that, with the nomination of a Special Rapporteur on Togo and constant vigilance by human rights organizations, the time for accountability -- so long awaited by hundreds of victims over decades -- is finally going to arrive.

### **MORE THAN THREE DECADES OF RELENTLESS ATTACKS ON HUMAN RIGHTS AND CRITICISMS BY NUMEROUS ORGANIZATIONS**

*As in previous years, members of the security forces repeatedly committed extrajudicial killings*

(The US State Department Country Reports on Human Rights Practices: Togo, published in February 1999)

Amnesty International has monitored the human rights situation in Togo for many years and, since 1986, has published around a dozen reports condemning human rights violations and the impunity enjoyed by members of the Togolese security forces.<sup>2</sup> Over the last decade, these attacks on human rights included:

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<sup>2</sup> In July 1999, Amnesty International published a compilation of the first five documents mentioned above in a report entitled: *Togo: Time for accountability - More than three decades of human rights abuse* (AI Index: AFR 57/022/1999)

- Hundreds of extrajudicial executions and “disappearances”, including the massacre at the Bé lagoon in April 1991; the massacre of over 20 people during a peaceful demonstration in January 1993; and the massacre of January 1994 in which 48 prisoners, including 36 civilians and 12 soldiers, were killed by the army at the Togolese Combined Regiment barracks;
- Arbitrary arrests followed by torture and sometimes by death in detention;
- Inhuman and degrading conditions of detention.

The report published in May 1999, *Togo: Rule of terror*, which was the focus of attacks on Amnesty International by the Togolese government, is not, therefore, an isolated report. It followed and preceded other documents drawing attention to the same practices.

In the last 10 years, Amnesty International has not been alone in criticizing these abuses. Both local and international organizations, and even foreign governments, have drawn attention to serious violations and asked in vain for independent inquiries into the facts. The National Commission on Human Rights (NCHR) on several occasions demanded that justice be done and that victims should have the right to compensation.<sup>3</sup> For example, in 1990 the NCHR recommended judicial sanctions against the Director of National Security after detainees were tortured “*by whipping and/or by electric shock*”. The justice system has never taken up these cases. Similarly, in a report published in July 1991 following the discovery in April 1991 of the bodies of 28 people in the Bé lagoon in the capital, Lomé, the NCHR raised concerns about the security forces and called on President Eyadéma to bring those responsible to justice. The NCHR inquiry concluded that “*The facts allow no possible doubt as to the responsibility of the army. It is self-evident that the non-communication of the names of the officers responsible for these crimes leads the NCHR to attribute responsibility purely and simply to the Commander-in-Chief of the Armed Forces [General Eyadéma] himself, with all the legal consequences that this entails.*” Despite this appeal, those responsible have not been identified or brought to justice.

Similarly, the Togolese Human Rights League concluded, in a report published in January 1993 about the human rights situation in 1992, “*Over the months, massive, serious and repeated human rights violations have been committed in Togo, largely by members of the army and the security forces, both uniformed and civilian.*”

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<sup>3</sup> Created by the Togolese Government in 1987, the National Commission on Human Rights freed itself from state control in the early 1990s during the period of transition which followed the holding of the National Conference, and it was impartial in its criticisms of attacks on human rights by the security forces. However, its last President, Maître Dovi Robert Ahlonko, was subjected to harassment and forced into exile, and the organization lost its independence of the authorities.

At the international level, other non-governmental organizations -- such as the *Fédération Internationale des Ligues des Droits de l'Homme* (FIDH), International Federation of Human Rights, and *Reporters sans Frontières*, Reporters without borders -- have denounced the arbitrary practices of the Togolese authorities over the last decade. For example, in a report published in 1992 about the attack on Gilchrist Olympio, a leading opposition politician and President of the *Union des Forces du Changement* (UFC), Union of Forces for Change, the FIDH clearly assigned responsibility to the Chief of Staff of the Togolese armed forces.<sup>4</sup> Similarly, *Reporters sans Frontières* has regularly criticized the arbitrary detention of Togolese journalists in its annual reports.

Some UN bodies have also condemned torture and ill-treatment by the Togolese security forces. Already by 1994, the UN Human Rights Committee was deploring “*the large number of cases of summary and arbitrary executions, enforced or involuntary disappearances, torture and arbitrary unlawful detention committed by members of the army, security or other forces.*” It also expressed regret that none of these violations had been the subject of inquiries and that no sanctions had been taken against those responsible. In particular, the Committee recommended that the authorities take the necessary measures to put an end to this climate of impunity.

For several years, the UN Special Rapporteur on extrajudicial, summary and arbitrary executions reported to the Commission on Human Rights allegations he had received of extrajudicial executions, death threats, harassment and intimidation by members of the Togolese security forces. In his report of December 1997, the Special Rapporteur said that he was “*concerned about the allegations of summary executions that continue to be made against soldiers and about the impunity they enjoy.*”

Human rights violations committed by the Togolese security forces were also criticized on several occasions by the United States government, including in the Department of State's annual Country Reports on Human Rights Practices. Since 1995 the Department of State reports have cited several cases of “disappearance” including that of David Bruce, official and principal adviser of Mgr Philippe Kpodzro, President of the High Council of the Republic, who was arrested on 6 September 1994 by armed men and taken away in a car accompanied by two military vehicles. He has not been seen since.<sup>5</sup> Under pressure from human rights organizations, the Togolese authorities instituted an inquiry into this “disappearance” but without result. This case symbolizes the attitude of the judicial authorities throughout the last decade. First, silence about the facts, then denial. If the pressure of public opinion becomes too strong, the authorities allow a semblance of an inquiry to be set up, but the goal of impunity is always attained.

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<sup>4</sup> See the FIDH report, published in 1992: “On the events at Soudou of 5 May 1992” (ISSN 0755-787)

<sup>5</sup> See the Amnesty International document published in November 1999, *TOGO: those responsible for the “disappearance” of David Bruce remain unpunished*, (Index AI AFR 57/42/99).

## **THE AMNESTY INTERNATIONAL REPORT OF MAY 1999 AND THE REACTION OF THE TOGOLESE AUTHORITIES**

The Amnesty International report published in May 1999 did not therefore appear in a void empty of information about repeated violations committed by the Togolese security forces over decades. It was the result of research undertaken largely on a fact-finding mission to Togo and Benin in November and December 1998. The report, the object of much dispute by the Togolese authorities, should be put in perspective; it constitutes only one link in a long chain of reports and information published over a period of years by a variety of national and international sources, including non-governmental, UN and even governmental bodies.

As with other documents published over the last 17 years about Togo, the May 1999 report covered numerous human rights violations committed by the Togolese security forces, including arbitrary arrests, torture and ill-treatment, and deaths in detention and under torture. The only section of the report formally contested by the Togolese authorities was the allegation that hundreds of people were killed during and especially after the period of the presidential election in June 1998. Amnesty International reported in particular the testimony of many fishermen from Togo and Benin who said they had seen hundreds of bodies out at sea or on the beaches during and after this electoral period.

The Togolese authorities reacted strongly to the publication of this information, using three tactics: they launched an extensive media offensive to deny the allegations, particularly in Europe; they arrested and tortured some Togolese human rights defenders, including members of Amnesty International; and they brought charges against human rights defenders culminating in charges being brought against Pierre Sané for allegedly conspiring against the security of the state. In addition, to prevent dissemination of the Amnesty International report, the Minister of the Interior forbade Togolese newspapers from commenting on it.

This reaction by the Togolese authorities appeared all the more surprising since they had been informed of the results of Amnesty International's 1998 investigation by the members of the delegation themselves. In December 1998 the delegation, in conformity with the organization's practice of seeking dialogue with governments and not just presenting them with a *fait accompli* in the form of a published report, clearly expressed their concerns about serious allegations to the Ministers concerned, including Armed Forces Ministers, the Minister of Justice and the Minister of the Interior. At the time of these official meetings, one of the Ministers, instead of ordering an independent inquiry into the facts, declared that "*Amnesty International was irritating and tiring him with its claims.*"

The Togolese authorities were therefore aware of the essence of the conclusions of Amnesty International's investigations five months before the report was published. In view of this fact, it is necessary to examine the exaggerated claim of the Minister of Defence who

declared, on the publication of the Amnesty International report, that it was “*a tissue of lies, false allegations, disinformation and biased views inspired by the bad faith of its authors.*”

Togo launched a vast media offensive and was also able to benefit from some heavyweight political allies. Some weeks after publication of the Amnesty International report, the Minister of Defence in Benin, Pierre Osho, rushed to assist the Togolese authorities, describing the report as “*a grotesque, even stinking, fable.*” The French President, Jacques Chirac, declared during a visit to Togo in July 1999, that the Amnesty International report constituted “*to a certain extent a manipulative operation, because there is no testimony, and one may ask where the information has come from and who originated it.*” The French President also supported the Togolese authorities’ pursuit of Amnesty International through the courts. Two weeks after he took this position, Amnesty International published an open letter calling on him to intervene with the Togolese authorities to end the reprisals against, and harassment of, human rights defenders.<sup>6</sup>

The Togolese authorities did not restrict themselves to verbal denials, propaganda campaigns and attempts at external pressure. They immediately launched attacks on some Togolese human rights defenders, accusing them of having cooperated with Amnesty International’s fact-finding mission. Repressive measures against human rights defenders began even before publication of the report. On 3 May 1999, two days before Amnesty International published the report, the Togolese authorities, who had been sent the text two weeks earlier, arrested three members of *l’Association Togolaise pour la Défense et la Promotion des Droits Humains*, Togolese Association for the Defence and Promotion of Human Rights, who were charged with “*false denunciation and undermining honour*” and who were detained for more than 40 days before being provisionally released.

In all, since the publication of the report in May 1999, not less than 30 people, including journalists, human rights defenders and students, have been arrested or forced to leave the country.<sup>7</sup> Some of them were tortured during their detention. This was the case with a member of Amnesty International’s Togolese Section, Antoine Koffi Nadjombé. During his detention by the security police, he was beaten and threatened with death. Members of the security services demanded that he make a public statement accusing Pierre Sané of being the author of the May 1999 report and of making agreements with opposition leaders to discredit the Togolese Government. On several occasions, Antoine Koffi Nadjombé was offered money to make such a statement. He was also threatened with lethal injections if he refused. His wife, Christine Adjoa, was warned that she would not see her husband alive again if he did not testify against

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<sup>6</sup> *Togo: open letter to Monsieur Jacques Chirac, President of the French Republic*, AI Index: AFR 57/021/1999

<sup>7</sup> Amnesty International denounced this harassment in a document published in October 1999 entitled: *Togo: Human rights defenders under attack*, AI Index: AFR 57/032/1999.

Amnesty International. After a month's detention, Antoine Koffi Nadjombé was released on bail; the criminal charges against him were not withdrawn.

The Togolese authorities also used bribery to induce people publicly to refute Amnesty International's information. Village chiefs from Benin were put under pressure to testify on Togolese television that no bodies had been found on the beaches of Benin. This aroused the indignation of local people in the area who demonstrated publicly in June 1999 against what they considered a dishonourable attitude.<sup>8</sup> The local population also proposed that the local area chiefs who had been bribed by the Togolese authorities "*be relieved of their duties.*"

Another daily newspaper in Benin, *La Nation*, also undertook an inquiry in July 1999 and discovered that some Benin nationals had gone to testify in Lomé in exchange for money. The newspaper related how "*our village heads were convinced by the promise of two million CFA francs when their mission was accomplished. Thus began the campaign to contest Amnesty International's claims, and to enrol other village heads for the trip to Lomé.*"

After the media campaign, the arrests and the attempts at bribery, the Togolese authorities attempted to use the justice system to silence the truth. In July 1999 they brought charges against Pierre Sané for allegedly "*undermining honour, spreading false information, inciting revolt and conspiring against the security of the state.*" He was called to appear before a Togolese judge. Over the years observers have criticized the partiality and lack of independence of the judiciary. In a report entitled *Togo: Totalitarian practices*, published in January 1999, the FIDH stated that "*corruption is a form of political patronage that is rotting the judicial system. The key posts in the justice system are held by individuals loyal to the party in power, the Rassemblement du Peuple Togolais [Assembly of the Togolese People] and to the President of the Republic, Gnassingbé Eyadéma.*"

## **INITIAL CONFIRMATION OF AMNESTY INTERNATIONAL'S INFORMATION**

The intimidation and increasingly hostile tone of the Togolese Government have fortunately not prevented independent observers, journalists and human rights organizations from conducting impartial investigations into the allegations of hundreds of bodies floating out at sea and on the beaches of Benin and Togo.<sup>9</sup> For example, Patrick de Saint Exupéry, a journalist from the French daily newspaper, *Le Figaro*, refused to make any pronouncement on the contested facts until he had undertaken his own inquiry. He went to the region in June 1999 and collected

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<sup>8</sup> The texts of most of the documents mentioned below were published by Amnesty International in November 1999, under the title: *Togo: urgent need for an international commission of inquiry*, AI Index: AFR 57/037/1999.

<sup>9</sup> Ibid.



testimonies from fishermen in Benin which corroborated Amnesty International's information about the discovery of bodies. In the words of the fishermen: *"We are the truth of those who have died...The sea vomited corpses... We asked ourselves if there was a battlefield there. Because we found the dead bodies in a state of disorder."*

An independent organization, the *Ligue pour la Défense des Droits de l'Homme au Bénin* (LDH), League for the Defence of Human Rights in Benin, undertook a long investigation in the field lasting for over a month in June and July 1999. The results of this inquiry speak for themselves. For the LDH, *"there is no doubt that bodies were discovered on the coast of Benin, at least one hundred floating out at sea."* According to this report, several corpses were *"almost naked, wearing only underpants"* and one of them was handcuffed and showed signs of torture. The fishermen in Benin, when questioned by the LDH, also indicated that the appearance of bodies at sea or on the beaches followed the presence of aeroplanes *"coming from the west, which flew up to Grand-Popo and then retraced their route."*

Little by little, the whole defensive edifice set up by the Togolese authorities has crumbled. The authorities put forward several arguments to refute Amnesty International's allegations. In particular, they argued that it was impossible for hundreds of people to have been killed in 1998 without it being reported by independent observers or journalists. The reasons for the scanty media coverage were explained clearly by a Togolese journalist working for the Togolese weekly, *Le Regard*, who acknowledged in May 1999: *"We were certainly informed about the bodies thrown up on the beach, but in view of the daily threats we experience we were obliged to censor ourselves and refrain from investigating the matter."*

Not only were some journalists aware of what had happened, but from the month of August 1998 at least two newspapers, *L'Aurore* and *Le Reporter*, mentioned, sometimes even on the front page, the disturbing discovery of bodies. For example *Le Reporter* noted under the headline, "The sea throws up more bodies":

*"Recently something horrible has been happening on our coastline. Bodies have been found, thrown up by the sea. One was of a man in a suit, another had been decapitated. The body of a man in uniform was also found with his bound [sic] behind him and that of another man who had been executed and bundled into a sack. All these bodies were found on the coast between Kpémé in Togo and Ayi Guinnou in Benin. It is strange that the authorities remain silent on these horrors. Observers are asking questions, noting that these macabre discoveries recall atrocities of the type which have characterised a period of terror that has marked our recent history."*

It is therefore contrary to the truth to claim, as the Togolese authorities would have us believe, that this phenomenon was never reported. It is also false, as Togo has attempted to

claim, that Western embassies were not informed of the phenomenon of extrajudicial executions and corpses thrown up by the sea. Several embassies, including the German, French and US embassies in Togo, received a letter in October 1998 informing them that in September 1998, “fishermen often find bodies in the sea. In general, the bodies are still handcuffed, often fully dressed, often with their throats cut and sometimes even with their heads completely shaved.” The US embassy acknowledged receipt of this letter and made clear to the author that it was taking this information very seriously. The German embassy informed the Togolese authorities, the day after the publication of Amnesty International’s report in May 1999, that it had indeed received this letter drawing attention to the discovery of bodies in Benin.

### **THE INVESTIGATION CONDUCTED BY THE INTERNATIONAL COMMISSION OF INQUIRY ON TOGO**

All these details corroborated Amnesty International’s information about extrajudicial executions and the finding of bodies on beaches and out at sea in 1998. Journalists and some embassies had been made aware of the discovery of bodies at sea even before Amnesty International undertook its inquiry in the field at the end of 1998.

However, in the face of denials and of serious accusations of manipulation made by the Togolese authorities against the organization, only an independent inquiry with proper facilities for a full investigation could shed light on the contested facts. For this reason, Amnesty International repeatedly requested the setting up of an independent commission of inquiry. This was one of the recommendations in its report of May 1999.<sup>10</sup> In the report, the organization called on the Togolese authorities to invite the UN Special Rapporteur on extrajudicial, summary and arbitrary executions, the Special Rapporteur on torture and the Working Group on forced or involuntary disappearances to visit Togo.

Togo finally accepted the principle of an international commission of inquiry in July 1999 and, one month later, the President of the UN Sub-Committee for the Protection and Promotion of Human Rights announced the establishment of such a commission jointly by the UN and the OUA. The Commission undertook an investigation in the region in November and December 2000 and the report it has just published confirms Amnesty International’s information about the discovery of many bodies at sea and on the beaches of Benin in 1998.

The conditions in which the Commission carried out its work were not easy because the Togolese authorities tried by every means possible to intimidate or bribe witnesses to dissuade them from talking to the Commission. The Commission directly witnessed these attempts at intimidation and threats. It cites the name of an individual who approached the fishermen in

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<sup>10</sup> This request by Amnesty International for an independent inquiry is not new. It appears in all the reports published by the organization since 1986.

Benin who wished to give evidence. According to the Commission, this man put pressure on the fishermen and *“persuaded them not to cooperate with the Commission, having recourse to bribery (gifts of money) or threats.”* These activities were successful to a degree since the Commission notes that certain fishermen in Benin, who had originally agreed to testify, afterwards refused to speak.

In December 2000 the Togolese authorities gave the members of the Commission, while they were in Togo, letters accusing Pierre Sané and Julien Togbadja, President of League for the Defence of Human Rights in Benin, of receiving large sums of money from opposition leader Gilchrist Olympio, UFC President, for attempting to tarnish the image of the Togolese government. Amnesty International rejects these accusations as completely unfounded. The organization has never received this correspondence and leaders of the UFC confirmed, at a press conference in Lomé in January 2001, that the letters were crude forgeries, one of them even bearing an erroneous address and post code.

In spite of these difficulties and attempts at manipulation, the Commission was able to complete its work successfully. In relation to the bodies found on the beaches of Togo and Benin and at sea, its report brought together numerous testimonies which were in agreement on the finding of the bodies.

Concerning the number of bodies found, the Commission was unable to give precise figures, but noted that: *“In response to the question, “How many bodies would you estimate that you saw?”, some replied many, others estimated that they had seen around sixty bodies and others between 100 and 150 corpses.”*

This information is consistent with that published by Amnesty International on the issue. There remain two questions: Who were these individuals and what was the cause of their death? The Commission took up these two questions:

*“In an attempt to be precise, the Commission asked the fishermen if the bodies were not those of local inhabitants of Benin. The fishermen were virtually unanimous in saying that, when there is a natural drowning or when a boat overturns, the people of the waterside alert each others’ communities in Togo or Benin and the families concerned come to fetch the bodies. In conclusion, according to the fishermen, the bodies found were not victims of natural drowning or of overturned boats. Given that the bodies were carried from west to east by the Gulf Stream, they could only, according to the fishermen, have come from Togo, which is to the west of Benin.”*

All the indications are, therefore, that the bodies were of Togolese people who did not drown naturally. Concerning the identity of the individuals found at sea or on the beaches, the

Commission, along with Amnesty International, the journalist from *Le Figaro* and the League for the Defence of Human Rights in Benin, were unable to give names of those who had “disappeared” and whose bodies were found at sea or on the beaches.

The absence of names is explicable by two factors:

- The fishermen of Benin were unable to identify unknown corpses;
- The Togolese families of these “disappeared” people have never dared to lodge a complaint, and this fear is fully justified when one sees the violence with which the Togolese authorities responded to journalists and human rights defenders after the publication of the Amnesty International report. Such fear is not new. Throughout the past decade, hundreds of individuals have been executed or have “disappeared” without their families bringing a complaint or even claiming the bodies of their relations. For example, the bodies of dozens of people extrajudicially executed in March 1993 and January 1994 have never been claimed by their relatives.

The impossibility of giving the names of individuals killed in 1998 and thrown up by the sea -- although the existence of the bodies, after the work of the Commission of Inquiry, cannot be in any doubt -- explains why Amnesty International chose to call its report of May 1999: *Togo: Rule of terror*. It is this terror that explains the silence of the relatives of “disappeared” victims and not the silence of the victims that calls the terror into doubt.<sup>11</sup>

There remains one more argument taken up by the Togolese authorities, namely, the silence of the fishermen in Benin faced with the discovery of bodies at sea or on the beaches. Here also, the Commission confirms one of the explanations suggested by Amnesty International of the silence of the fishermen who preferred not to alert the local police about the discovery of these bodies, so as to spare themselves administrative problems and the imposition of financial costs. The Commission makes clear:

*“Some fishermen who undertook to inform the local police regularly every time they fished out a body, soon tired of this. The police required payment of a sum amounting to 3000 to 5000 CFA francs (30 to 50 French francs) for each removal they carried out. Furthermore, frequent summonses to the police station dissuaded them from informing the authorities and they preferred to bury the bodies illicitly and secretly or simply to push them further out to sea so that they were carried elsewhere.”*

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<sup>11</sup> However, in its report, the Commission gives a list of names of individuals who were allegedly killed by extrajudicial execution or “disappeared”. Virtually all of these names appear in earlier reports by Amnesty International.

Although the Commission has confirmed the existence of bodies found at sea and on the beaches of Benin, much work remains to be done. As the Commission itself recommends, it will be necessary to send medico-legal experts to the scene to examine the bodies buried by the fishermen in Benin, to determine the cause of their death and to try to identify them.

The Commission also recommends sending a team of experts which could verify the state of functioning and the activities of Togolese Buffalo aircraft in 1998. The role of these aircraft was described by several witnesses interviewed by Amnesty International at the end of 1998. They noted that each discovery of bodies was preceded by the passage of planes and helicopters at very low altitudes. This information was confirmed by the League for the Defence of Human Rights in Benin in the report of its inquiry in July 1999.

The Commission did not restrict itself to verifying information published by Amnesty International and disputed by the Togolese government. It also investigated cases of rape committed by a militia. The report states:

*“Furthermore, members of an armed militia close to those in power, who appear to have been maintained and encouraged by the current Prime Minister, M. Agbéyomé Kodjo, and often acting as a group, reportedly raped peasant women in front of their husbands. They also appear to have forcibly abducted women to give them to other men as a means of retribution. During these nocturnal visits, members of the militia were alleged to have pillaged the belongings of their victims.”*

An independent Togolese paper also reported the rapes which were alleged to have been committed by members of the militia in 1999.<sup>12</sup> Concerning the role of this militia, in its report of May 1999 Amnesty International described the activities of this group, and in particular its involvement with the security forces in the extrajudicial execution of Kegbe Mathieu Kofi shortly after the presidential election in 1998.

In the face of repeated human rights violations, the Commission of Inquiry recommended the nomination of a Special Rapporteur on the human rights situation in Togo. Amnesty International welcomes and supports this suggestion which could have beneficial effects on the respect of human rights in Togo.

The Togolese authorities have produced a written response to the Commission, judging that it *“was partial and biased and that the Togolese government therefore judges it to be unacceptable.”*

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<sup>12</sup> See *Le Combat du peuple* of 24-28 January 2000

## THE NEED TO PROTECT WITNESSES

Since the establishment of the Commission, Amnesty International has repeatedly emphasized the importance of putting in place mechanisms for protecting witnesses. This is an essential condition for the investigative work of the Commission, to guarantee the security of those who have the courage to talk to it despite attempts at intimidation by the Togolese authorities.

In an information note published in August 2000, the Commission made clear that it intended to monitor *“the protection of witnesses and any other individual providing it with information or contacting it, as well as their families, in cases of pressure, intimidation, harassment, threats of reprisal or reprisals to which they may be subjected for having cooperated with it, or because they are accused or suspected of having done so.”*

The Commission also confirmed that it had obtained assurances from the Togolese authorities guaranteeing the security of witnesses. These assurances have not been respected, either during the Commission’s visit or after its departure. For example, when the Commission of Inquiry was in Togo in November 2000, one person in Kara, in President Eyadéma’s home area, was threatened by the President’s son.

The Commission itself witnessed such acts of intimidation. It indicates in its report that, *“During its investigations in Benin, for example in the prefectures of Grand-Popo and Agoué, the Commission came across acts of intimidation and bribery of fishermen whose testimony it wanted to hear.”*

The threats increased after the Commission had completed its report in December 2000, confirming the existence of bodies found at sea or on the beaches of Benin. Since the beginning of 2001, Amnesty International has recorded at least 10 cases of individuals in Togo, Ghana and Benin who have come under pressure from the Togolese security forces or from people close to those in power in Togo, in some cases because they had approached the Commission. All of them have had to flee the places where they were living. This increase in intimidation is linked to the fact that the Commission’s report was sent to the Togolese authorities at the beginning of 2001.

It is to be feared that, with the publication of the Commission’s report, further individuals will be the target of threats. They are the responsibility of the international community which, through the UN and the OAU, has charged the Commission with taking all necessary measures for the protection of witnesses and their families. Amnesty International believes that a presence in the field of representatives of the Commission could have both a deterrent effect and could reassure witnesses who have taken risks to bring the truth to light.

## TOGO DISCUSSED IN TWO UN REPORTS

In March and December 2000, two reports published by the UN shed light on the role played by some African states, including Togo, in arms trafficking in support of UNITA, the armed opposition group in Angola. This violates an arms embargo imposed by the UN Security Council which forbids all sales or provision of arms or military hardware destined for UNITA.

The UN investigators received consistent information from different sources showing that the leader of UNITA sought to establish secret links with Togo with a view to obtaining arms supplies. A UN report of March 2000 states that: *“Savimbi’s proposal that Togo play a more active role in support of UNITA (a proposal that also included Togo hosting some of Savimbi’s children), was accepted by President Eyadéma at late 1993. As a token of appreciation, Kallias [a UNITA representative] gave to Eyadéma “passport-sized” packet of diamonds on Savimbi’s behalf.”* The report adds that, *“according to this UNITA representative, the working agreement between Togo and UNITA provided for Togo to keep a share of the arms and military equipment that was imported for UNITA, normally 20%. In each case Eyadéma could decide whether Togo would take its share in kind or in cash.”*

Following the overthrow of President Mobutu Sese Seko of Zaire (now the Democratic Republic of Congo) in 1997, Togo appears to have replaced Zaire as UNITA’s principal provider of “end user” certificates for arms and military hardware. Togo has therefore become one of the focal points for arms traffic destined for UNITA. Arms have come mainly from East European countries such as Bulgaria, Belarus and Ukraine.

In its report of December 2000, a Commission set up by the UN to monitor observance of the embargo on arms supplies for UNITA concluded: *“The provision to ‘Karrica’ [a UNITA representative] of a genuine end user certificate demonstrates that UNITA operated in Togo with the consent and cooperation of Togolese authorities during the period in question. It is therefore reasonable to conclude that all events described concerning Togo could not have taken place without the consent or complicity of the authorities in the country.”*

It appears that the relations between the Togolese authorities and UNITA were essentially of a financial nature. In its report of March 2000, the UN states:

*“In the case of Togo, the source [close to Savimbi] recalled an incident in October 1998 when Savimbi had refused to pay what had been asked of him by President Eyadéma, and Eyadéma had as a result refused to allow the release to UNITA of a missile system that had been delivered to the airport at Kara for UNITA, and that*

*was to be sent to Andulo. The matter was a source of considerable tension between the two.”*

The two UN reports show clearly the extent to which some African countries, including Togo, have failed to respect sanctions voted by the UN Security Council, by facilitating arms traffic destined for UNITA.

## **CONCLUSION**

Since the publication of Amnesty International's report in May 1999, the Togolese authorities have repeatedly postponed the moment when they would be confronted with the irrefutable reality of the human rights violations committed by their security forces. They have issued denials; they have arrested and tortured human rights defenders; they have brought charges against the Secretary General of Amnesty International -- a new move aimed at muzzling human rights organizations. They have sought and obtained the support of foreign political leaders, including the French President, Jacques Chirac.

Even when the Togolese authorities finally accepted the establishment of an International Commission of Inquiry, they did not give up putting pressure on witnesses or buying their silence. But all these manoeuvres have ultimately failed. Despite difficulties, the International Commission of Inquiry on Togo was able to obtain testimonies which corroborate Amnesty International's information. The Togolese authorities and their external supporters will no longer be able to say that the corpses did not exist. The names of the "disappeared" people are unknown, for the moment, but it would only require genuine guarantees to the Togolese people to loosen tongues, to allow suffering relatives to find words of comfort and to enable anonymous corpses to retrieve the dignity of men and women with an identity.

Beyond the extrajudicial executions of 1998 investigated by the Commission lie nearly three decades of impunity in relation to human rights violations which ought now to be examined and judged. Togo continues to violate international standards to which it has itself committed, and the two reports published under the auspices of the UN, denouncing the involvement of General Eyadéma in arms and diamond trafficking in violation of embargos imposed by the UN Security Council, show that the defiance of international law is continuing.

For a long time, Togo has benefited from the silence, and sometimes the complicity, of some foreign governments, especially France. France for years provided Togo with security and police supplies which were used by the army and the police to repress opposition with force. The three UN reports have shown the beginning of awareness by the international community that Togo can no longer act with impunity, ruining lives, destroying reputations and executing its opponents. The next step, which will be indispensable to bring about truth and justice, is the nomination of a UN Special Rapporteur charged with monitoring respect for human rights in



Togo. The country's leaders must understand that the time of impunity has come to an end and that, finally, the time for accountability has arrived.