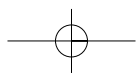
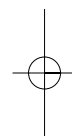
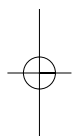
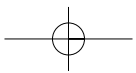
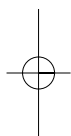
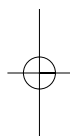




ASIA





THE SITUATION OF HUMAN RIGHTS DEFENDERS

Throughout 2004, human rights defenders faced an increasingly hostile environment in Asia. Not only did their security and working conditions deteriorate due to the persistently repressive context that followed the attacks on 11 September 2001, but in many places violence was perpetrated and/or condoned by government authorities. Defenders were also at risk in countries undergoing internal conflict or military operations, like in *Afghanistan, Indonesia, Nepal, Pakistan* and the *Philippines*. In several Asian countries, such as *Burma, China, Laos, North Korea* or *Vietnam*, freedoms of expression, assembly and association were so restricted that it was nearly impossible for individuals to get organised.

In Asia, in 2004, human rights defenders were victims of killing and extra-judicial execution¹ (*Afghanistan, Cambodia, India, Indonesia, Nepal, Pakistan, Philippines, Thailand*), death in custody (*Laos*), enforced disappearance (*Nepal, Pakistan, Thailand*), arbitrary arrest and detention (*Afghanistan, Bangladesh, Cambodia, China, India, Iran, Laos, Malaysia, Nepal* and *Vietnam*), violence and assault (*Bangladesh, China, India, Indonesia, Malaysia, Nepal, Pakistan, Philippines*), harassment and intimidation (*Cambodia, Indonesia, Malaysia, Nepal, Pakistan, Philippines*), legal prosecution aimed at hindering their human rights activities (*Bangladesh, China, Iran, Pakistan, Vietnam*), and other measures restricting their freedoms of expression, association and assembly. In addition, in a number of countries, defenders continued to be subjected to defa-

¹ In her report presented during the UN Commission on Human Rights, the Special Representative of the UN Secretary General on Human Rights Defenders pointed out that Asia was, after Latin America, the region where reports of assassinations of defenders were the most numerous (see United Nations Document E/CN.4/2004/94).

ASIA

mation campaigns in government-run media. Such attacks appear to be aimed at discrediting their objectives, work and integrity in order to undermine financial and public support for their activities, and make them even more vulnerable to non-State violence. Impunity for authors of human rights abuses against defenders also remained widespread: indeed, far from fulfilling their duty of protection, a number of States criminalised the activities of defenders and tolerated, if not legitimated, the abuses perpetrated against them. As a result, defenders frequently had to face a lack of response by the authorities to their situations or complaints, and in some cases defenders were interrogated, investigated and detained for having reported such incidents.

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

In the wake of the terrorist attacks on 11 September 2001, and then of the Bali bombing in October 2002, many Asian governments adopted or strengthened anti-terrorist security policies and legislation, resulting in growing restrictions on rights and freedoms. The enforcement of security legislation and special measures for countering terrorism eroded in particular the right to be presumed innocent and to fair trial guarantees. This hostile context damaged the ability of human rights defenders to investigate and denounce rights abuses. In addition, there were instances of anti-terrorist and national security legislation being instrumentalised to curb peaceful dissent, including in some cases, to silence human rights defenders.

On 17 September 2004, *India* repealed the controversial Prevention of Terrorism Act (POTA) enacted soon after the September 11 attacks - with effect in October 2004. POTA ensured a virtual culture of impunity for India's security forces in Kashmir and allowed security agencies to hold suspects for up to 180 days without filing charges. The National Human Rights Commission had no rights of scrutiny over the army or the police, and in the name of national security the judiciary were loath to enforce their authority. In practice, the law was often used against marginalised communities such as Dalits (so-called "untouchables"), indigenous groups, Muslims, and the political opposition. However, while POTA was repealed, its provisions dealing with terrorism were simultaneously included in the Unlawful Activities Prevention (Amendment) Ordinance. Under Section 15 of the Ordinance, the defi-

THE SITUATION OF HUMAN RIGHTS DEFENDERS

nition of a "terrorist act" continues to be very broad, and the failure to provide a definition of "abatement" of terrorist acts may result in arbitrary entrapment. The scheduled listing of a terrorist organisation as one that may be "involved in terrorism" remains devoid of any statutory procedure or requirements. Finally, additional provisions were included, which, rather than amending the deficiencies of POTA, further eroded the rights of the accused (any interceptions collected, even without any authorisation, shall be admissible as evidence).

In *Malaysia*, besides the ongoing use of the Internal Security Act (ISA)² as an indispensable weapon against terrorism, the Criminal Procedure Code (Amendment) 2003, if adopted at the next 2005 parliamentary session, would provide additional police powers for arrests without warrants and the interception, by order of the Public Prosecutor's office, of all forms of communication whether "received or transmitted by post or a telegraphic telephonic or other communication received or transmitted by electricity, magnetism or other means"³.

In *Nepal*, the adoption of a new anti-terrorist ordinance was likely to aggravate the implication of security forces in the widespread enforced disappearance of civilians. Indeed, the day after the Terrorist and Disruptive Activities (Punishment and Control) Act 2058 expired on 12 October 2004, the government promulgated the Terrorist and Disruptive Activities (Control and Punishment) Ordinance 2061, which grants ever larger discretion to security officials in conducting arrests and detentions. In particular, Clause 9 of the Ordinance extends the powers of the security officials to keep suspects of terrorist activities on remand for up to one year without charge, trial or judicial control. The

² The ISA allows the police to arrest without a warrant any person suspected of having acted, or who is likely to act, "in any manner prejudicial to the security of Malaysia". The suspect can be detained up to 60 days without trial and without access to legal counsel for the purposes of investigation. If the police believe that a person should be further detained, the Minister of Home Affairs will be advised accordingly, and may issue a two-year detention order, which can be renewed indefinitely. See Mission report of the Observatory, *Malaysia: Human Rights Defenders Under Close Surveillance*, March 2003.

³ See Human Rights First Report, *Defending Security: The Right to Defend Rights in an Age of Terrorism*, 2004.

ASIA

Chief District Officer is empowered to detain any person for six months and may do so for a further six months on authorisation by the Home Ministry. This new Ordinance intervened at a moment when enforced disappearances of civilians, but also journalists, lawyers, human rights defenders, victims and witnesses of atrocities, were occurring on an alarmingly widespread scale across the country, along with arbitrary detentions, torture, and extra-judicial and summary executions. Besides, the systematic impunity of security officials annihilates any probability of seeing the human rights violations they committed addressed through the judicial system.

In *Pakistan*, since 9/11, the government of General Pervez Musharraf benefits from the support of the international community, which gives him a free hand to curb peaceful dissent in the country. That repression was exercised against human rights defenders, media and other representatives of civil society through a wide array of methods: use of restrictive legislation in the field of freedoms of expression, association and assembly (the anti-terrorist law, but also the blasphemy law, the Industrial Relations Ordinance 2002 and certain provisions of the Criminal Procedure Code); direct attacks by officials or non-State actors; defamation, etc. On 14 May 2004, for instance, Lahore District Bar Association secretary general Mr. Raja Rashid Jaral was arrested under the Anti-Terrorism Act (the arrest was linked to the arrival in town of former Punjab Chief Minister Shahbaz Sharif, which led to a frantic move by the authorities to arrest political activists, journalists, and independent organisations). He was released on bail on 16 May, but the case against him was still pending by the end of 2004. Only a few days later, on 17 May 2004, 70 lawyers were arrested in Kasur: Messrs. Qurban Dogar and Saeed Ahmad, respectively president and secretary general of the District Bar Association, were indicted on terror charges, while 20 other lawyers were charged with "criminal intimidation", "obstructing the discharge of official duty", "damaging public property", and "breaching public peace by hooligan acts". They had been participating in a peaceful procession on 17 May 2004, in support of their Pattoki colleagues⁴.

⁴ See FIDH investigation mission report *In Mala Fide, freedoms of expression, association and assembly in Pakistan, January 2005*, chap. II.1, "Non-governmental organisations", in the framework of the Observatory's mandate.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

In the *Philippines*, all separatist movements were labelled as "terrorists" by the authorities while the conflict in Mindanao was escalating, resulting in the death, violence and displacement of numerous civilians. Longstanding counterinsurgency campaigns against rebels or armed separatists were recast as part of the war against terrorism. Human rights defenders were evolving in an extremely polarised climate where some of them were accused by government officials of being "fronts" for terrorist organisations, making them targets of the military and paramilitary forces engaged in counterinsurgency operations. Organisations like the May First Labour Movement (Kilusang Mayo Uno - KMU) or the New Patriotic Alliance (Bagong Alyansang Makabayan - Bayan), for instance, were branded as "covers" for terrorist organisations and for the New People's Army-Communist Party of the Philippines, and their members were consequently harassed, threatened, and even summarily executed.

In *South Korea*, the National Security Law (NSL), drawn up in 1948, continued to be used to curb non-violent political activities, in particular with regard to sensitive issues such as North Korea and "socialism"; under the latter, trade unions were regularly targeted. The law provides for long sentences or the death penalty for "anti-State" and "espionage" activities, terms that are not clearly defined and have often been arbitrarily used against people peacefully exercising their basic rights to freedom of expression and association. It also prescribes five years imprisonment for failure to report "anti-State" activities. Although the government intended to repeal the National Security Law, nothing had been done by the end of 2004.

In *Thailand*, martial law was declared in the four Southern provinces (where the majority of the population is Muslim), after military barracks were attacked on 4 January 2004 and 400 rifles seized; security forces were reportedly responsible for numerous instances of extra-judicial killings. Mr. Somchai Neelaphaijit, a lawyer who defended many human rights cases in the south of Thailand and protested against the use of martial law in those provinces, disappeared in March 2004⁵. Moreover, a proposal was being discussed in December 2004 to introduce a national security law similar to the Internal Security Act of Singapore and Malaysia⁶

⁵ See Compilation of cases below.

⁶ See Annual Report 2003.

ASIA

that allows prolonged detention without judicial recourse. In that draft legislation, the definition of terrorist acts is all catching because too vague, and might result in the repression of peaceful dissent. The government finally retreated and renounced the draft following mobilisation of civil rights groups and the international community.

Defenders in times of armed conflict or military operations

In zones of conflict, military, paramilitary and rebel armed forces continued to be responsible for abuses against human rights defenders.

In *Afghanistan*, more than 40 humanitarian workers were killed in 2004, e.g., on 2 June 2004, five volunteers of the NGO Doctors Without Borders (Médecins Sans Frontières - MSF) were killed in the northwest of the country. The Mullah Abdul Hakim Latifi, a Taliban spokesman twice claimed to be responsible for these murders. Likewise, three members of the Afghan NGO Voluntary Association for the Rehabilitation of Afghanistan (VARA) were killed on 28 November 2004, in Delaram, in the province of Nimroze (south), when attackers, who were believed to be Taliban, beleaguered their office at dawn.

In *Indonesia*, human rights defenders were still at risk, particularly in Nanggroe Aceh Darussalam (NAD), where human rights organisations were among those publicly accused by the security forces of links with the Free Aceh Movement (GAM), an armed rebel group. Although not as far-reaching as the actions of the military, GAM rebels also carried out grave abuses against civilians including murder, kidnapping and extortion. On 19 May 2004, the government downgraded the martial law governing the province to a "civil emergency" and appointed a civil administrator. Although civil rule returned, troop numbers in the province were not reduced. An estimated 2,000 people were killed with thousands more alleged rebels captured or surrendering since the military operation began. Besides, there was no progress in resolving the cases of human rights defenders believed to have been extra-judicially executed or who had "disappeared" in NAD, in 2003.

Mrs. Sidney Jones, a prominent US political analyst for the International Crisis Group (ICG), had her Indonesian working visa revoked on 1 June 2004, along with that of her researcher. The government also announced that it had placed 20 international and local human rights organisations and individuals on a "watch list" as threats to

the country's security. There was evidence that Mrs. Jones' expulsion was directly related to her criticisms of the military's campaigns in Aceh and Papua.

Mr. Munir, a prominent Indonesian human rights activist, died on 7 September 2004, on board of a flight to Amsterdam, after being poisoned. Mr. Munir was one of the founding members of the Commission for the Disappeared and Victims of Violence (KONTRAS), and had played a leading role in investigating human rights violations committed by the Indonesian Army, notably in East Timor. He had also taken up numerous cases of disappeared activists in Indonesia, from Aceh to Papua, during the Suharto dictatorship⁷.

In *Nepal*, the repression of human rights defenders continued escalating in 2004⁸. Since the breaking off of the peace negotiations in August 2003, the number of extra-judicial executions, forced disappearances, torture and arbitrary arrests increased considerably. Human rights defenders, investigating reports of widespread human rights violations committed by members of the Royal Nepal Army (RNA) and the Communist Party of Nepal (CPN - Maoists), often found their lives, and those of their families, in danger from both sides of the armed conflict. The climate of impunity prevailing throughout the country condoned such threats and attacks.

On the one hand, the State's response to the CPN (M) was to grant increasing and dangerous primacy to a military-led solution to the conflict, at the direct expense of civil society, including human rights defenders. In particular, the security forces were granted sweeping powers to arrest any person suspected of being involved in "terrorist" activities - powers which they did not hesitate to use. Investigations into the widespread human rights abuses continued to be perceived as an attack on the war against terror and a tool to undermine the morale of the security forces. As a consequence, human rights defenders, lawyers and journalists were increasingly seen as CPN (M) sympathisers and "terrorists". On the other hand, the CPN (M) denounced

⁷ *Idem*.

⁸ See Preliminary conclusions of the Observatory's fact-finding mission in Nepal, in March 2004.

ASIA

human rights organisations as tools of "US imperialism", and local staff working for international aid organisations were threatened and harassed by the CPN (M). This is why, in a joint press statement issued on 10 May 2004, ten international donors announced they were suspending their work in six districts of mid-western Nepal⁹.

From 8 April to 3 May 2004, there was a severe crackdown on peaceful demonstrations, leading to mass arrests, illegal and incommunicado detentions, ill treatment and violent repression in Kathmandu of hundreds of peaceful demonstrators calling for the reinstatement of an elected government¹⁰. It is estimated that well over 1,000 protesters were arrested during this period, when the Kathmandu District Administration declared the area within the Ring Road of Kathmandu Valley as "riot prone" under the Local Administration Act, thereby prohibiting public gatherings. Many protestors were also severely beaten in clashes with police.

A particularly alarming aspect of the conflict was the extent and intensity of acts of repression against lawyers, who were arbitrarily detained, tortured or victims of enforced disappearances¹¹. On 21 April 2004, between 300 and 500 lawyers were arrested during a demonstration¹². Its purpose was to protest against the government's decision to prohibit all demonstrations and against ongoing attacks on human rights defenders and the right to peaceful assembly. Likewise, mass arrests, beatings and even the killing of journalists covering or taking part in pro-democracy and human rights demonstrations were reported, e.g., on

⁹ These donors included the German Technical Cooperation (GTZ), the Swiss Agency for Development and Cooperation (SDC), the Canadian International Development Agency (CIDA), the British Department for International Development (DFID), the Netherlands Development Organisation (SNV), the European Union, the Japan International Cooperation Agency (JICA), the Royal Norwegian Embassy, the Danish International Development Agency (DANIDA) and the Embassy of Finland.

¹⁰ See Compilation of cases below.

¹¹ See Press Release by the UN Working group on enforced or involuntary disappearances after its visit to Nepal, on December 14, 2004: "Human Rights defenders are widely reported to be under constant threat for their work on disappearances, in particular in the regions of Nepal outside of Kathmandu".

¹² See Compilation of cases below.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

11 August 2004, Mr. Dekendra Raj Thapa, an adviser to the independent Human Rights and Peace Society (HURPES) and a journalist at *Radio Nepal*, was executed by the CPN(M). Staff members of the National Human Rights Commission (NHRC) also received increasing numbers of death threats from people believed to be members of the RNA or supporters loyal to them, e.g., on 21 February 2004, unidentified plain clothed security forces personnel arrested lawyer Bal Krishna Devkota from his home in Kathmandu. He was blindfolded and held in unidentified army barracks for five days where he was questioned about the reasons why he had volunteered to join the NHRC investigation team¹³.

In *Pakistan*, the military campaign against Al-Qaeda operatives in the tribal areas of the North West Frontier province (NWFP) and Balochistan was stepped up in 2004, with reports of massive violations against civilians in the region. The military zones were closed to both NGOs and journalists, and the authorities did not hesitate to detain and harass those who ventured in the area.

In the *Philippines*, human rights defenders were in the front line when they documented and denounced the serious human rights violations perpetrated in the context of the anti-insurgency campaign waged by the government against the New People's Army (NPA), the armed branch of the communist party. Thus in February 2004, Mrs. Juvy Magsino, a human rights lawyer, chairperson of Mindoro for Justice and Peace and vice mayor of Naujan, in Mindoro Oriental, and Mrs. Leima Fortu, a volunteer at Mindoro for Justice and Peace and the acting secretary general of KARAPATAN-Mindoro Oriental, were killed, allegedly by the 204th Infantry Brigade of the Philippines Army, which is also suspected of involvement in the abduction and extrajudicial execution of Mrs. Eden Marcellana (secretary general of the Tagalog-South office of KARAPATAN) and Mr. Eddie Gumanoy (chairman of the Kasama-TK peasant group) in April 2003¹⁴. Furthermore, Mr. Joel Barrameda Baclao, regional coordinator of the Promotion for Church People's Response (PCPR) in Albay, and coordinator of Andurog-Bikol,

¹³ See Preliminary conclusions of the Observatory's investigation mission in Nepal, March 2004.

¹⁴ See Compilation of cases below.

ASIA

a disaster relief programme of the United Church of Christ in Bicol, was killed outside his residence in Albay on 10 November 2004. Mr. Baclao lobbied strenuously against large-scale mining activities and continued militarisation in his province. He was also intensively involved in human rights activities like fact-finding missions. A week before his death, Mr. Baclao had been warned to take extra care because his name was already on a "list". It is believed that this list referred to an Order of Battle ("OB") released by the military. An OB usually contains names of rebels who are wanted by the government.

It should also be noted that the Communist Party of the Philippines (CPP) and its armed wing, the NPA, also used arbitrary killings in order to silence leftist leaders who do not share their views. Those extra-judicial killings of peaceful opponents contributed to a climate of fear which undermines freedom of expression and democracy; in this context, one can fear that human rights defenders who do not strictly share the political views of the NPA/CPP might be targeted. In December 2004, for instance, the name of Mr. Walden Bello, executive director of Focus on the Global South, an NGO working on the issue of globalisation, human rights and peace building, was included on a list of 14 names of "counter-revolutionaries", some of whom have already been killed, e.g., Mr. Arturo Tabara, chairman of a leftist party who was killed in Quezon City on 26 September 2004¹⁵. The names of Mrs. Lidy Nacpil and Mrs. Etta Rosales, two leaders of the Human Rights Committee of the Philippine House of Representatives, were also included in this list.

Restrictions to freedoms of expression, assembly and association

In *Bangladesh*, where civil society is extremely polarised, NGOs perceived to support Bangladesh National Party (BNP) worked undisturbed (and were sometimes co-opted by the government), whereas those perceived to be close to the Awami League were constantly targeted¹⁶.

¹⁵ The CPP said that Mr. Tabara "was slain while resisting arrest by a special team of the NPA tasked by the Special People's Court (SPC)". The latter is not an independent court but a body composed of CPP cadres and which definitely lacks all guarantees of a fair and impartial trial.

¹⁶ The BNP is the ruling party. The Awami League is the main opposition party.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

Pressure on the latter was permanent and created a very vulnerable environment for those NGOs. They faced repeated attempts to curb their activities through administrative, legal, fiscal and other means, and their leaders were regularly detained and sued. This was particularly the case with Proshika, whose president, Mr. Qazi Faruque, was detained for two months from May until July 2004¹⁷ and was still facing personal charges by the end of 2004, (including "sedition"); 42 other cases were still ending against Proshika officials. International Voluntary Services (IVS)-Bangladesh and its executive director, Mr. Abdul Matin, faced a similar type of harassment. Mr. Matin faced five cases filed by the authorities, including three filed in September 2004 on charges of "corruption". In 2004, several human rights defenders were arbitrarily arrested, e.g., on 21 August 2004, Mr. Rafique Al-Islam, co-ordinator of the International Campaign to Ban Landmines in Bangladesh, was illegally arrested and conducted to the "joint interrogation cell" in Dhaka. He was released on 19 September 2004. Foreign funding for a number of development NGOs was blocked because of pending judicial procedures, thereby hindering their activities. The government is contributing to the dangerous climate faced by human rights defenders by discrediting human rights NGOs through defamatory statements. In addition, by the end of 2004, the National Human Rights Commission had not been established yet, in spite of the fact that it was foreseen in a 1999 law.

NGOs concerned with religious minorities (mainly Christians and Hindus) reported a definite increase in the harassment they face in their daily work, which left them feeling extremely vulnerable to non-State pressure, especially from fundamentalist groups. The government (which includes religious parties) did not offer them any protection or recourse in this regard.

Extremist religious groups and mafia linked to local politicians who attacked human rights defenders benefited from total impunity.

Moreover, the government proposed an Amendment Bill to the Foreign Donations (Voluntary Activities) Regulations Ordinance, which, in its current form, constitutes an attempt to jeopardise freedoms of expression and association as well as the independence of NGOs. As

¹⁷ See Compilation of cases below.

ASIA

of December 2004, the Bill had not been passed. However, it is like a Damocles sword on the head of NGOs.

In *Cambodia*, the situation of human rights defenders clearly deteriorated in 2004¹⁸. Three human rights defenders were killed in 2004: two trade union leaders (see below) and Mrs. Mey Meakea, Cambodia programme manager for community development of the Christian Church World Service. She was killed on 4 October 2004 by an unknown assailant. She was deeply involved in promoting the rights of disadvantaged children and poor rural communities. She also worked on micro-disarmament and corruption. A police investigation was underway at the end of 2004. Associations fighting human trafficking were also targeted, such as the Srey Khan drop-in shelter of the NGO "Acting for Women in Distressing Situations" (AFESIP), which was attacked on 8 December 2004 in Phnom Penh. During the attack, 91 women and young girls were removed from the shelter by approximately 30 men - some in official uniform and armed. AFESIP staff members were threatened and their property damaged. The day before the attack, 83 young girls and women had been released by some members of the Anti-Trafficking and Juvenile Protection Unit of the Ministry of the Interior, together with monitors from AFESIP staff, from a hotel where they had been exploited as prostitutes and eight suspects had been arrested.

Defenders were regularly threatened in 2004 by soldiers, police, and local authorities, and through anonymous telephone calls and letters, etc. Discrediting statements were expressed at several levels of the government, in particular by high-profile figures such as Prime Minister Hun Sen; these declarations encouraged hostility towards defenders and undermined their security. In June 2004, the environmental NGO Global Witness, frequently targeted in the past few years for its outspoken criticism of the logging policy, was accused by the Prime Minister of lying in a new report about illegal, military-backed logging. Furthermore, in March 2004, the Ministries of the Interior and Foreign Affairs made inflammatory accusations against the UNHCR, including

18 For more information, see the Cambodian League for the Promotion and Defence of Human Rights (LICADHO) Briefing Paper, *Threats to Human Rights Defenders in Cambodia: 2004*, December 2004.

allegations that it was violating Cambodia's sovereignty and conducting "illegal activities".

Since the anti-Thai riots of January 2003, the authorities denied all requests by NGOs and other groups to hold marches, demonstrations and other public gatherings - with the exception of a December 2004 march through Phnom Penh by around 250 staff members of NGOs belonging to the Cambodian Human Rights Action Committee. But the police interfered with that march, which was organised to highlight the ongoing restrictions on freedom of assembly by the authorities, crackdowns on previous demonstrations and gatherings, and the negative impact that this had on democracy and development. The police at times violently dispersed demonstrations, and prevented attempts by human rights NGO staff to monitor them for excessive police brutality or other abuses. The authorities' ban on demonstrations was expanded so that it now prevents human rights NGO staff and civil society groups from holding public events to draw attention to pressing human rights and social problems¹⁹.

In 2004 in *China*, State controls increased and tightened as activism grew. The suppression of freedoms of information and expression on the Internet was increased through surveillance of online content and Internet cafes, as well as through legislation. These activities were considered by the authorities to be "subversive" or to "endanger State security". As a consequence, people continued to be detained or sentenced for expressing and disseminating their beliefs or information through the Internet. Many were denied due process and some were tortured or ill treated in custody²⁰. In early March 2004, the central government reportedly prohibited Internet news discussion chat rooms from running news forums about any subject not covered by State-run media. In April 2004, authorities in the Shanghai municipality and Shandong province announced new restrictions on the use of the Internet. The Shanghai Culture, Radio, Film and TV Administration said it would install video cameras and high-tech software to censor Internet use. As of June 2004, all customers of

¹⁹ *Idem*.

²⁰ See Compilation of cases below.

ASIA

Shanghai's Internet cafes had to enter an identification number to access the Internet, and any access to "illegal content" would sent an automatic message to a "remote supervisory centre" that monitored all of the city's Internet cafes²¹.

More generally, repression of any form of dissent was still widespread, e.g., against pro-democracy activists, critical journalists, dissatisfied workers as well as underground churches and religious practitioners such as the Falungong.

In *Iran*, in 2004, the judiciary increasingly curtailed civil society activists' and human rights defenders' freedoms of expression and association²². The parliamentary elections of February 2004, which were neither free nor fair, strengthened the Conservatives in the Parliament. The authorities arrested many on-line journalists in 2004; most were subsequently released. Mrs. Mahboubeh Abbasgholizadeh, the editor of the women's rights journal *Farzaneh*, was for instance arrested at her home on 2 November 2004 and released on bail on 30 November 2004. The situation in December 2004 saw several other journalists involved in human rights still in prison merely because they exercised their right to freedom of expression, such as Messrs. Akbar Ganji, Hassan Yusefi Eshkevari, Hossein Ghazian, Abbas Abdi, Reza Alidjani, Taghi Rahmani, Hoda Rezazadeh-Saber, Iraj Jamshidi and Ensafali Hedayat. Mr. Nasser Zarafshan, a lawyer and human rights defenders, also remained in jail²³.

Furthermore, the authorities imposed a ban on foreign travel of human rights defenders Mr. Emadeddin Baqi²⁴, two members of the Human Rights Defenders Center (Messrs. Mohammad-Ali Dadkhah and Mohammad Seyfzadeh), Mrs. Azam Taleghani, head of the Society of Islamic Revolution Women of Iran, and Mr. Mohammad Maleki, former Dean of Tehran University.

Moreover, freedom of peaceful assembly remained very restricted in 2004. Thus, at the initiative of Mrs. Shirin Ebadi, 2003 Nobel Peace Prize and secretary general of the Defenders of Human Rights Centre, a meeting against capital punishment for juveniles was supposed to be

21 See Human Rights in China, Newsletter Mid-February-Early May 2004.

22 See Amnesty International, MDE 13/045/2004, November 10, 2004.

23 See Compilation of cases below.

24 *Idem*.

held on 9 November 2004. Authorisation to hold the meeting was requested one month in advance but the day before the planned gathering, the permit was denied by the Ministry of Foreign Affairs.

Furthermore, on 12 January 2005, Mrs. Shirin Ebadi was summoned by the Revolutionary Public Prosecutor's office of Tehran. The summons did not specify why Mrs. Ebadi was called in but indicated that if she did not appear before the investigating judge within three days, she would be arrested and taken to the investigating judge's office²⁵. At a news conference on 18 January 2005, the judiciary spokesman, Mr. Jamal Karimirad, admitted that the Revolutionary Court summons for Mrs. Shirin Ebadi was illegal and said the matter would be dropped.

In *Pakistan*, repression against NGOs activists took various forms: regular insinuations in government-controlled media stated that NGOs (especially those working in the field of human rights) were "unpatriotic" and "un-Islamic", thus creating an atmosphere in which fundamentalist and ultra-nationalist groups can seriously endanger the functioning of such NGOs - and sometimes, even the life of their members²⁶ - in all impunity; the establishment of pro-governmental human rights organisations ("Gongos"); the multiplication of administrative and fiscal requirements for NGOs, aimed at limiting and delaying their activities, and the selective use, by the authorities, of Section 144 of the Pakistan Criminal Procedure Code, which authorises restrictions on public demonstrations. While religious groups and pro-government political parties were allowed to demonstrate freely, NGOs, opposition parties and trade unions were regularly prevented from holding peaceful demonstrations and their members were also often harassed or arrested if they disobeyed.

Furthermore, the police charged a group of approximately 50 representatives of social organisations, trade unions, political parties, and Hindu Panchayat with "sedition against the State" after they held a protest demonstration on 17 October 2004, at the Lakhi Gate Tower Ghawk, in the Sindh province. They wanted to express their concern over growing insecurity of life and property due to deteriorating law and order in Shikarpur district²⁷.

²⁵ See Urgent Appeal IRN 001/0105/OBS 003.

²⁶ See FIDH investigation mission report *In Mala Fide, freedoms of expression, association and assembly in Pakistan*, January 2005, chap. II.1, "Non-governmental organisations", in the framework of the Observatory's mandate, January 2005.

²⁷ *Idem*.

ASIA

Moreover, a draft bill on NGOs was prepared by the Pakistani Centre for Philanthropy (PCP)²⁸, and submitted to the government in 2003. The bill provides for a degree of control over NGOs that could threaten their independence. By late 2004 it had not yet reached the stage of the Cabinet and had remained in limbo.

The situation of human rights defenders (and in particular women's rights organisations) was even more difficult in the North-West Frontier province (NWFP) and in Balochistan, where the provincial governments did not view the NGOs' activities favourably, and where religious groups were given a much freer hand. The tribal areas were probably the most difficult for NGOs to work in, especially the non-local NGOs which faced enormous hurdles - administrative, religious, cultural, legal, political and judicial - in exercising their activities, however development-oriented they may be²⁹. Two members of the Aga Khan Foundation in Chitral were for instance killed in the night of 25 December 2004 by unknown assailants. The Foundation was carrying out a health programme in the area.

In *Singapore*, laws and policies were still used to prevent human rights defenders from fully carrying out their activities, e.g., they could be sentenced if they spoke in public without prior authorisation.

In *South Korea*, legislation on meetings and demonstrations was amended on 29 December 2003, and enacted in March 2004. The amendment considerably restricts freedoms of expression, assembly and association, and gives the police the power to deny freedom of assembly whenever they see fit.

In *Thailand*, the situation of human rights defenders deteriorated in 2004, and space for freedom of expression was reduced. The killing of Mr. Somchai Neelaphaijit, a human rights lawyer active in the south of Thailand (see above) and of three environment activists (see below), were not properly investigated by the authorities.

²⁸ The PCP is a new "NGO" formed in August 2001. Its most important mandate is two-fold: developing new laws regulating the work of civil sector organisations (and it is as such that the PCP drafted the latest version of the NGO bill) - and certifying NGOs for the purpose of registration. These two aspects obviously give it a tremendous power over other NGOs.

²⁹ See Compilation of cases below.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

The situation of Mrs. Supinya also illustrated that tendency. Mrs. Supinya, secretary general of the Campaign for Popular Media Reform (CPMR), was sued by the media conglomerate Shin Corp after she observed, in an article published in the *Thai Post* on 16 July 2003, that Shin Corp's profits had skyrocketed since Mr. Thaksin Shinawatra became Prime Minister. On 6 September 2004, the criminal court scheduled the first hearing into this libel suit for 19 July 2005, after the next general election in early 2005. Shin Corp also filed a Bt 400 million libel suit in the civil court against Mrs. Supinya and the *Thai Post* on 24 August 2004, with the approval of the criminal court. Shin Corp claimed that financial institutions downgraded its credit rating and that its credibility on the stock market was affected as a result of her comments in the article. On 11 October 2004, the civil court decided that the trial of this case would begin after the criminal court had decided on its case.

The authorities regularly labelled NGOs, notably in the government-controlled media, as "unpatriotic", thereby denigrating them in the eyes of the public. They also condoned impunity by asking people to "forgive and forget the past" and by instrumentalising Buddhism and the concept of "national unity". This was especially true for human rights violations in the south of Thailand.

In another vein, Burmese democrats and NGO activists based in Thailand were facing increasing difficulties in getting visas for Thailand. The immigration law was used as a barrier to their human rights activities. By preventing them from staying in Thailand legally, the Thai authorities made their situation much more vulnerable.

In *Vietnam*, several "cyber-dissidents" were still imprisoned for having spread human rights information on the Internet³⁰. Vietnamese cyber-dissident Mr. Do Nam Hai, for instance, was harassed for having openly criticised the authorities in articles posted on the Internet; he was arrested and held for two days in August 2004 and was questioned a dozen times by the police, usually in public places. Two months after being interviewed by the US-operated *Radio Free Asia* in October 2004, the police searched his home, took his computer and told him he would

³⁰ See Compilation of cases below.

ASIA

only be able to recover it "after the information on it has been erased". As of December 2004, four cyber-dissidents were in prison in Vietnam: Dr. Nguyen Dan Que³¹, former journalist Nguyen Vu Binh, Dr. Pham Hong Son and businessman Nguyen Khac Toan.

In addition, freedom of religion and the activities of religious organisations other than those approved by the State were still restricted by the government, and there were still no independent monitoring groups in Vietnam. The monks of the Unified Buddhist Church of Vietnam (UBCV), which was declared illegal by the government in 1981, were thus still subjected to systematic harassment and repression by the Vietnamese authorities because of their commitment to religious freedom, human rights and democracy in Vietnam³².

Economic, social and cultural rights

In several Asian countries, such as in *Cambodia, China, India, Indonesia, Nepal, Thailand* and *Vietnam*, human rights defenders were targeted because of their work on minority and land rights, and because they challenged economic interests. They were subjected to different forms of harassment and some were even assassinated.

In *Bangladesh's* Chittagong Hill Tracts region, Minority Rights Group's partners and their families reported regular, serious harassment and were threatened with violence for their minority rights activities.

In *Cambodia*, threats and interference at all levels of Cambodian authorities were reported against persons and organisations working to protect the rights of Vietnamese Montagnard asylum seekers in Cambodia as well as violence and intimidation against villagers, grassroots groups and advocacy organisations lobbying against land or forestry concessions which harm the local communities³³.

In *China*, the government appeared to be cracking down harder on anyone defending the interests of the farmers. Mr. Zhang Youren, for

³¹ *Idem.*

³² *Idem.*

³³ See the Cambodian League for the Promotion and Defence of Human Rights (LICADHO) Briefing Paper, *Threats to Human Rights Defenders in Cambodia: 2004*, December 2004.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

instance, leader of a farmers group in Tangshan, who was protesting against the terms of the group's forced relocation, was arrested on 6 July 2004, two days before a visit to Tangshan by Chinese Prime Minister Wen Jiabao. As of December 2004, Mr. Zhang Youren was still under house arrest, although he was suffering from a serious illness³⁴. Recently, police detained a farmers' advocate, Mr. Li Boguang, and in September 2004 detained *New York Times* researcher and journalist, Mr. Zhao Yan, who had previously worked with farmers on their appeals to local and central authorities³⁵. Mr. Li Guozhu, another farmers' rights advocate, was arrested on 12 November 2004, after he investigated deadly ethnic clashes in Henan province, an area placed under martial law after violent clashes between Han Chinese and Hui Muslim communities. Eight police officers and the local village chief went to the office of Sanchun Dadi (Spring on the Land), a grass-roots advocacy group on the outskirts of Beijing where Mr. Li works as a volunteer, to question him about his Henan trip. The group assists farmers in petitioning for government redress in cases on corrupted officials, property seizures, and other rural abuses. He was then detained. Officials made no statements on his whereabouts or the charges against him. Mr. Li had already been detained then released in August and September 2004 without charges.

People struggling against corruption in real estate projects and forced relocation in Chinese big cities were also repressed. This was illustrated by the case of Mr. Zheng Enchong, a lawyer who has been working on housing rights by defending displaced residents in Shanghai³⁶. HIV/AIDS activists also faced constant harassment, including arrest. Messrs. Wang Guofeng and Li Suzhi, for instance, were arrested on 12 July 2004 and released on 8 August. They were further sentenced to house arrest on charges of fraud and disrupting social order. They had protested against inadequate healthcare and other discrimination against those infected with HIV/AIDS in their city.

In *India*, Sarita and Mahesh Kant, two land rights activists, were murdered on 24 January 2004³⁷. They had been working with the local

34 See Compilation of cases below.

35 *Idem*.

36 *Idem*.

37 See Urgent Appeal IND 300104.ESCR.

ASIA

community in Shadbdo village over the past few years to achieve sustainable and equitable use of land resources. The situation of defenders who tried to obtain recognition of the rights of indigenous communities was also precarious. According to the NGO Minority Rights Group International (MRGI), on 11 October 2004, Indian rights defenders and Dalit rights activists were arrested in Tamil Nadu, when they protested against being denied their right to hold a public meeting to raise awareness of police abuses and rights violations.

In *Thailand*, three environment activists were killed in 2004, which makes a total of 18 human rights defenders killed in the country since 2001: Mr. Charoen Wat-askorn was protesting against a coal power plant project and exposed corruption on a public land claim in the Prachuap Khiri Khan province³⁸; Mr. Supol Sitichan had campaigned for forest conservation and had protested against illegal logging in Lampang province; Mrs Pakviapa Chalermklin had protested against a sand-shipping pier in the Ang Thong province.

Furthermore, in a number of Asian countries it was still very dangerous - if not completely impossible - to exercise activities in favour of labour rights. Restrictive legislation continued to be in force in a number of countries, while labour leaders continued to be persecuted, and strikes and protest actions were repressed. Certain countries (*Burma, China, Laos, North Korea, Singapore and Vietnam*) do not allow independent trade unions to be established.

In *Cambodia*, Mr. Chea Vichea, president of the Free Trade Union of the Workers of the Kingdom of Cambodia (FTUWKC), was killed on 22 January 2004 and Mr. Ros Sovannareth, president of the Trinonga Komara Garment Union and a member of the FTUWKC steering committee was killed on 7 May 2004. Yet the Cambodian government did not carry out a proper investigation into these murders, which were contract killings. Witnesses were threatened and key eye witnesses to the crimes disappeared, without giving testimony to the police. Furthermore, the judicial process was biased, and allegations of forced confessions and alibis were totally disregarded by the courts. Likewise,

³⁸ See Compilation of cases below.

on 23 June 2004, Ms. Lay Sophead, president of a union affiliated with the FTUWKC, was assaulted and left for dead.

In *China*, economic and social changes affecting workers in the context of globalisation produced a growing number of labour-related disputes (working conditions, unpaid salaries, and management corruption). The government responded by arresting and prosecuting the labour activists. Freedom of association, the right to organise and collective bargaining continued to be denied to Chinese workers, and trade unions at all levels were required to become affiliated to the All-China Federation of Trade Unions, which is controlled by the China's Communist Party. Mr. Wang Hanwu and eight other workers from the Tieshu Textiles Factory in Suizhou City, Hubei province, were detained by police following a mass public demonstration by over 1,000 workers on 8 February 2004. The Tieshu workers were protesting against the recent bankruptcy of the factory, which they alleged had resulted from extensive corruption on the part of the factory's managers. According to the now unemployed workers, the factory still owed them more than 200 million Yuan (around \$20 million) in unpaid wages and medical benefits, pension payments, and the shares of factory stock that workers were forced to buy some years ago and which are now worth only a quarter of their original value. "Disrupting social order" cases were successfully brought against three of the laid-off workers, resulting in sentences of up to one year in prison. In May 2004, ten workers from the Taiwan-invested Stella Shoe Factory in Dongguan City, Guangdong province, were arrested following a late-night protest against an arbitrary decision by management to count overtime pay at the weekday rate instead of the week-end rate, thus reducing their overtime pay substantially. The government's refusal of independent union organisations or genuine workers' representation resulted in an almost total absence of peaceful channels for the early resolution of disputes. In October and November 2004, the ten Stella workers were sentenced to prison terms of up to three and a half years³⁹.

In *Pakistan*, trade unions faced severe hardship. Government policies of interference in union politics, co-optation of leaders, setting up

³⁹ See China Labour Bulletin website: www.clb.org.

ASIA

of rival unions ("yellow unions") to break the strength of more autonomous unions, exclusion from all consultative processes, using undue influence in union elections, added to a lingering feudal mindset and a mind-numbing slowness of labour courts, weakened and factionalised trade unions in Pakistan. But the newly adopted Industrial Relations Ordinance 2002, which severely affects labour rights, probably constitutes one of the severest blows to trade union rights in Pakistan⁴⁰.

South Korea continued to use repressive measures against trade unions and their members. On 24 October 2003, South Korea started cracking down on undocumented migrant workers and their representatives, notably through forced deportation, arbitrary detention, and man-hunts⁴¹. In response to this situation, the Equality Trade Union-Migrants' Branch (ETU-MB) organised demonstrations and protests. Riot police and immigration authorities were said to have physically attacked ETU-MB members and supporters during the demonstrations. The government made it clear that it intended to break the ETU-MB and expel its leaders. On 1 April 2004, Mr. Samar Thapa, a prominent member of ETU-MB, was thus forcibly deported to Nepal, where Mr. Thapa is considered to be a terrorist because of his activities involving labour unions in South Korea⁴². Moreover, South Korea attempted again to introduce a bill on the Establishment and Operation of Public Officials' Trade Unions. The bill contains provisions restricting trade unions' rights and it is now being fast-tracked through official consultation procedures without regard to due process. On 19 October 2004, the government held a ministerial meeting to deliberate and confirm the bill, and decided to submit it to the National Assembly. The bill proposes, as originally drafted, that the Act will be enacted as the special law under the Trade Unions and Labour Relations Adjustment Act. While

⁴⁰ In particular, it limits the right to strike, restricts the possibility for unions to be registered, reduces to nil the role of the National Industrial Relations Commission (NIRC), and no longer provides for mandatory reinstatement of unfairly dismissed workers. This is to be added to the fact that trade unions rights are already very limited in Pakistan, due notably to the broad extension of sectors prevented from forming trade unions.

⁴¹ See Compilation of cases below.

⁴² See Urgent Appeals KOR 120101.ESCR and KOR 120104.1.ESCR.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

the Korean Government Employees' Union (KGEU) was holding a rally on 9 and 10 October 2004, in order to mobilise opposition to the proposed bill, the police responded violently, and ten union members were injured. Another 40 members were arbitrarily detained for 20 hours. Furthermore, at a press conference on 8 September 2004, the Minister of Government Administration and Home Affairs, Mr. Huh Sung Kwan, announced that all rallies and demonstrations would be banned, and organisers and participants charged with criminal acts. The Minister also announced that he might withhold subsidies from local government authorities negotiating collective agreements with KGEU, and that the Ministry would prevent KGEU from creating a "struggle fund", and prosecute the organisers. He further issued directives on 9 and 13 September 2004, prohibiting government departments from permitting the collection of union solidarity funds and the collection of union fees for the KGEU on the grounds that it is an illegal organisation⁴³.

Mobilisation for the regional, national and international protection of defenders*Civil society*

On 14 September 2004, the Asian Forum for Human Rights and Development (Forum-Asia), on behalf of its thirty-six human rights member organisations, made a statement at the 7th International Conference for National Human Rights Institutions (NHRIs), in Seoul, South Korea. In light of continuing attacks against human rights defenders in Asia, it welcomed the timing (14 June 2004) of the adoption of the European Union Guidelines on the Protection of Human Rights Defenders. Participants requested National Human Rights Institutions to do the same by extending their full support to the work of the UN Special Representative of the Secretary General on Human Rights Defenders. They urged members of the Asia Pacific Forum on National Human Rights Institutions to explore the possibility of creating a

⁴³ See the website of the International Confederation of Free Trade Unions (ICFTU), www.icftu.org.

ASIA

Human Rights Defenders Unit within its framework, which could facilitate a regional response to the calls for protection of human rights defenders.

United Nations (UN)

At the 60th session of the UN Commission on Human Rights held in Geneva from 15 March to 23 April 2004, the Special Representative of the UN Secretary General on Human Rights Defenders presented her report for 2003⁴⁴, in which she emphasised the number and type of violations being committed against human rights defenders. She noted that Asia had become the second region in terms of number of communications sent concerning defenders killed, allegations of death threats, physical assaults and frequency of assassination attempts. Communications were sent in this respect to the governments of China, India, Indonesia, Pakistan, Sri Lanka and Thailand. In 2003, 14.5% of communications sent by the UN Special Representative concerned Asia. During that year, the Special Representative reiterated her request to obtain invitations to visit India, Indonesia, Nepal and Pakistan.

The Special Representative also presented a report on her mission to Thailand from 19 to 27 May 2003⁴⁵. She pointed out the multiple arrests, detentions and prosecutions of defenders. She especially stressed the concerns of defenders who feared local police, in the context of the anti-drug campaign, would abusively target defenders who sought to bring out human rights issues. The Special Representative also emphasised that the role and security of Thailand's human rights defenders were not sufficiently assured by existing protection mechanisms, and that defenders supporting environmental and economic rights concerns on behalf of rural communities faced particular risks.

On 23 December, 2004, the Secretary General of the United Nations, Mr. Kofi Annan, expressed his concerns over the grave threats to the safety and security of human rights defenders in Nepal. The Secretary General further stated that: "the safety and ability of the

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

45 See United Nations Document E/CN.4/2004/94/Add.1.

THE SITUATION OF HUMAN RIGHTS DEFENDERS

National Human Rights Commission and all human rights activists to carry out their essential work should be guaranteed. In that regard, the recent signing of a Memorandum of Understanding between His Majesty's government of Nepal and the Office of the High Commissioner for Human Rights is a welcome step⁴⁶.

European Union

At the 20th inter-parliamentary meeting between the European Parliament and the People's Republic of China, held in Brussels in November 2003, the case of the "cyber-dissidents" was stressed, along with the repression of people carrying out so-called "subversive activities", as they were merely expressing themselves in Internet chat-rooms⁴⁷.

The European Parliament addressed the question of human rights defenders in several resolutions. On Burma, it noted that, in January 2004, the UN Special Rapporteur of the Human Rights Commission on the human rights situation in Burma reported that "the most urgent requirements today are the lifting of all remaining restrictions on the freedoms of expression, movement, information, assembly and associations; [and] the repeal of the related 'security' legislation"⁴⁸.

In its resolution on Cambodia, the European Parliament condemned the murder of Mr. Chea Vichea, president of the Cambodian Free Trade Union of Workers and a founding member of the Sam Rainsy Party, and regretted that the police investigations had been unsuccessful. It called on the government to put an end to the ongoing impunity in the country and bring the murderers of Mr. Chea Vichea to justice. It also urged the government to put in place the "much-needed reforms and law enforcement measures that would efficiently protect political and human rights activists from persecution"⁴⁹.

The Parliament also expressed its concern about the restriction of freedom of expression in Iran, in particular about the arrests of on-line

46 Statement attributable to the Spokesman for the Secretary General, New York, 23 December 2004.

47 See Report on the 20th EU/China Interparliamentary Meeting (PE 337.513).

48 See European Parliament Resolution on Burma, P5_TA(2004)0187.

49 See European Parliament resolution on Cambodia, P5_TA(2004)0101.

ASIA

journalists, as well as about the travel ban that was imposed on journalist and human rights activist Mr. Emadeddin Baghi⁵⁰.

In its resolution on the Maldives, the Parliament qualified the imposition of a state of emergency as a "disproportionate reaction by the authorities to what was a largely peaceful demonstration" organised to demand constitutional reform and the release of political prisoners. It also denounced the arbitrary arrests, the incommunicado detentions, the lack of an independent judiciary as well as the restriction on individual freedoms, underlining that several public figures were being held in incommunicado detention, including Mr. Husnoo Alsnood, a lawyer and member of the National Human Rights Commission⁵¹.

Finally, the Parliament said it was extremely disturbed by the consistent problems related to freedoms of expression and assembly as well as arbitrary arrests in Pakistan⁵².

An EU Troika visited Nepal from 13 to 16 December 2004. The aim of the Troika was to offer EU support to all efforts aimed at promoting multi-party democracy and human rights as well as curtailing violence and renewing dialogue between the government of Nepal and the Communist Party of Nepal (Maoist) - CPN(M). The EU was gravely concerned about the rapidly deteriorating human rights situation in Nepal. In particular, the EU expressed "its full support to the efforts of the National Human Rights Commission (NHRC) and the human rights movement in Nepal", and emphasised that "intimidation and harassment of human rights defenders are absolutely unacceptable". The EU drew attention to the importance it attaches to ensuring the safety and protection of human rights defenders in Nepal. The EU also welcomed "the recent signing of a Memorandum of Understanding between the Nepalese government and the United Nations Office of the High Commissioner for Human Rights". The EU emphasised that urgent, targeted and concrete measures were needed to address a syste-

⁵⁰ See European Parliament resolutions on Iran, P5_TA(2004)0166 and P5_TA(2004)0032, as well as compilation of cases below.

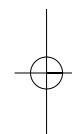
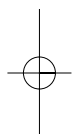
⁵¹ See European Parliament resolution on the political situation in the Maldives, P6_TA(2004)0017.

⁵² See European Parliament resolution on the situation concerning human rights and democracy in the Islamic Republic of Pakistan, P5_TA(2004)0374.

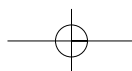


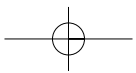
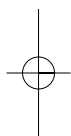
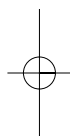
THE SITUATION OF HUMAN RIGHTS DEFENDERS

mic culture of impunity and to implement the government's human rights commitments of 26 March 2004. The EU will, in consultation with its other partners, revisit the human rights situation in Nepal at the 61st session of the Commission on Human Rights in Geneva in March-April 2005⁵³.



⁵³ See Council of the European Union, Press release 15858/04 (Press 352), "Nepal: EU Troika", 17 December 2004.





HUMAN RIGHTS DEFENDERS HARASSED

BANGLADESH

Legal restrictions on the independence of NGOs⁵⁴

The Amendment Bill to the Foreign Donations (Voluntary Activities) Regulations Ordinance proposed by the government continued to threaten Bangladeshi independent NGOs.

The Amendment Bill proposes the prohibition of "political activity", which "includes any activity which may be interpreted as political, or may affect politics, or such other activities which may be interpreted to be detrimental to national independence, sovereignty, culture, ethnic and religious sentiment (...)". The amendment fails to offer any guarantee that legitimate NGOs' activities, especially in the field of human rights, will not be targeted by the authorities under such a large and vague definition of political activities. In addition, the lack of precision as to what would be deemed "detrimental to (...) religious sentiment" reinforces apprehensions that women's groups, or organisations defending freedom of religion, might be undermined in their activities.

The proposed provisions also allow the authorities to remove the chief executive of an organisation if the government "is satisfied that the chief executive (...) has been responsible for any irregularity in respect of its funds or for any mal-administration in the conduct of its affairs, (...) or has caused the organisation to be involved in any political

⁵⁴ See Open Letter to the Bangladeshi authorities, 22 April 2004.

ASIA

activity, or any activity influencing politics directly". This provision grants the government the power to interfere with internal NGO management. Moreover, the bill empowers authorities to dissolve an NGO and to liquidate its assets. If the bill is adopted, such a provision would annihilate the core of the NGOs' independence.

During an interview with an FIDH delegation in Bangladesh during the first week of April 2004, a high-ranking official of the NGO Affairs Bureau explicitly supported and justified the draft bill.

As of December 2004, the Amendment Bill had not yet been adopted.

Attack on the HRCBM⁵⁵

On 17 April 2004, at around 8 p.m., officers of the Bangladesh Nationalist Party (BNP), under the leadership of a local Member of Parliament, broke into the premises of the Human Rights Congress for Bangladesh Minorities (HRCBM) in Dhaka, ransacked and looted the offices, and physically assaulted the office assistant, Mr. **Kazi Shuash Hasan**, who was later taken to the Dhaka Medical College Hospital for treatment. The perpetrators of the attack occupied the premises until 22 April 2004, and threatened local members and staff of HRCBM, including Mr. **Dulal Choudhury**, a lawyer and vice president of HRCBM-Dhaka, of "serious consequences" if the incident was reported.

At first, the Lalbagh police station refused to register the case, but later agreed. Nonetheless, none of the perpetrators were arrested, although they were seen near the HRCBM offices.

HRCBM-Dhaka also filed a criminal case with the court of the Metropolitan Magistrate under section 145 of the Code of Criminal Procedure for restoration of the possessions of the HRCBM office. The Magistrate ordered the police to send an enquiry report, but in late 2004 the police had not submitted any report to the court and the case was still pending.

On 29 May 2004, members of the Jamaat-e-Islam party (ruling coalition partner) made defamatory statements in the national daily *Inqilab*,

⁵⁵ See Urgent Appeal BGD 002/0404/OBS 029 and Open Letter to the Bangladeshi authorities, 10 June 2004.

asserting that HRCBM's work was "propaganda" planned to depict the country as militantly fundamentalist. On 30 May 2004, Mr. Moulana Matiur Rahman Nizami, Bangladeshi Minister of Industries and *Amir* (head) of the Jammat-e-Islam party, made slanderous statements, essentially reiterating the commentary of the daily *Inqilab*. The news was published in the national daily *Jugantor* dated 31 May 2004.

Arbitrary arrests and harassment of Proshika members⁵⁶

Proshika, a development NGO working on womens' rights and voters' education, has been targeted by the authorities since the BNP won the last election in October 2001, and has been under investigation for alleged mismanagement of funds for the past two years. The authorities also accused it of involvement in political activities, although no evidence supports these accusations. During this investigation, Proshika was not allowed to receive foreign funding, thus clearly hindering its ability to carry out its work. As of December 2004, the enquiry against Proshika had not yet been completed, and the association was still not allowed to receive foreign funding.

On 22 May 2004, two leaders of Proshika were arrested and detained in Dhaka. Dr. **Qazi Faruque Ahmed**, chairman of Proshika, was arrested while returning from the High Court, and Mr. **David William Biswas**, vice-chairman, was arrested at his home. Both were charged with "mismanagement of funds" and "fraud" under Section 402 of the Criminal Code. First, the lower court denied them bail, despite Dr. Faruque and Mr. Biswas' poor health (Dr. Faruque is a severe diabetic, and Mr. Biswas is partly paralysed). Since his detention, Dr. Faruque's health deteriorated. Finally, Mr. Biswas and Dr. Faruque were respectively released on bail beginning of June and end of July 2004, but had several cases pending against them. 17 fraud-and tax-related cases were filed against Proshika and/or Dr. Faruque. Recently, Proshika was accused of taking sides and campaigning for the Awami League (the main opposition party) during the last elections.

⁵⁶ See Open Letter to the Bangladeshi authorities, 10 June 2004.

ASIA

Harassment against PRIP Trust⁵⁷

Mrs. **Aroma Dutta**, director of PRIP Trust (an NGO working in humanitarian and social fields) and member of the Proshika executive board, has been subjected to threats and harassment since 2001. In May 2004, Bangladeshi authorities threatened to arrest her upon her return to Dhaka from New York, where she was a witness in a hearing on repression of religious freedom in Bangladesh, organised by the United States Commission on International Religious Freedom on 30 April. Upon her arrival in Dhaka on 7 May 2004, she was escorted by US embassy officials, and also felt it necessary to obtain anticipatory bail to protect herself and her family in the event of her arbitrary arrest. As of December 2004, the government was still intimidating and harassing PRIP Trust, especially since Mrs. Dutta was actively working on the rights of minorities in Bangladesh.

CHINA**Crackdown on cyber-activists⁵⁸***Cyber-activists still in jail*

As of December 2004, many cyber-dissidents involved in the promotion of human rights and democracy in China were still in jail, e.g., Mr. **Jiang Lijun**, sentenced in November 2003 to four years in prison for posting political views in favour of democracy on the Internet; Mr. **Huang Qi**, sentenced to five years in prison for publishing several articles about the Tiananmen massacre on his *Tianwang* website; Mr. **Tao Haidong**, sentenced to seven years in prison in January 2003 for publishing books and posting articles on web sites in China and overseas; Mr. **Luo Yongzhong**, sentenced to three years imprisonment with two years' subsequent deprivation of political rights in October

⁵⁷ *Idem*.

⁵⁸ See Annual Report 2003.

2003 after having published more than 150 articles online on topics such as the plight of the disabled and the need for constitutional reform; Messrs. **Jin Haike**, **Xu Wei** and **Zhang Honghai**, co-founders of the New Youth Society in May 2000, a study group that discussed political and democratic reforms, and Mr. **Yang Zili**, a New Youth Society member. The four of them were arrested in March 2001 and reportedly suffered harsh treatment in custody because of their refusal to admit guilt. Messrs. Jin and Xu were sentenced to ten years in prison in October 2003 while Messrs. Zhang and Yang were condemned to a eight years jail term. In June 2004, Mr. Xu Wei went on hunger strike to protest against the ill-treatment he was suffering in custody. Detention centre officials also refused to pass on a message to the four men by their families advising them to appeal their sentences.

Cyber-activists sentenced and/or still in jail

Moreover, some other cyber-dissidents who had been detained in 2002 or 2003 were sentenced to prison sentences at the very end of 2003 and in 2004, e.g.:

- Mr. **Ouyang Yi**, a political activist who had been arrested on 4 December 2002 and subsequently charged with "incitement to overthrow State power" for having criticised the Chinese government and used the Internet to spread his demands for democratic reforms. On 16 March 2004, the Chengdu Intermediate People's Court sentenced Mr. Ouyang Yi to two years in prison. He was tried in secret without any prior notice given to his family or even to his lawyer, who was unable to represent him in court. The evidence presented against him was a copy of the *Open Letter to the 16th Party Congress* disseminated through the Internet in mid-November 2002, initially drafted by Mr. Ouyang. The letter called for progress in China's democratisation and human rights, and was ultimately signed after finalisation by 192 dissidents.

- Mr. **Li Zhi** who, on 10 December 2003, was sentenced to eight years in prison on charges of "incitement to subvert State power", after having criticised official corruption. Mr. Li Zhi intended to make an appeal against this judgment but as of December 2004, the case was still pending.

- Mr. **Yan Jun**, another Internet activist, who was detained on 2 April 2003. He was sentenced to two years imprisonment for "subversion" on 8 December 2003 after he called for free labour unions, the release of

ASIA

Mr. Zhao Ziyang, former secretary general of the Chinese Communist Party, and free press.

- Mrs. **Ma Yalian**, who, on 16 March 2004, was sentenced by the Shanghai's Administrative Committee for Reeducation Through Labour (RTL) to one and a half years of RTL⁵⁹. The decision claimed that "from July 2003 until February 2004, Mrs. Ma Yalian, on numerous occasions, posted [...] websites articles falsely accusing the Shanghai authorities of causing her physical injury". The decision also stated that Mrs. Ma Yalian had "turned petitioning into pestering." The main reason for Mrs. Ma's arrest was an article she posted on several websites entitled *A True Record of Being Turned Away from the National Petitions and Letters Office and the Petitions Bureau of the National People's Congress*. In this article, Mrs. Ma Yalian reported on physical abuses suffered by petitioners from police and officials outside of Beijing's main petitions offices. The article included accounts by many petitioners describing their brutal treatment at the hands of the authorities, providing names, location and dates of the incidents. Accounts of petitioners who committed suicide outside the petitions offices were also included. Mrs. Ma Yalian described her own experience of physical abuse and humiliation at the petitions offices. She spent many years petitioning the authorities over her forcible removal during an urban redevelopment clearance operation in Shanghai. The Shanghai Public Security Bureau previously had sentenced her to one year of RTL in August 2001. While serving that RTL sentence, Mrs. Ma Yalian had both her legs broken by police. She has been physically disabled ever since.

- Finally, Messrs. **Du Daobin** and **Luo Changfu**, who had organised a campaign in favour of the release of Mrs. **Liu Di**, (a cyber-dissident who was released on bail on 28 November 2003⁶⁰), were arrested in October 2003 by officers of the Public Security Bureau (PSB) of Yingcheng, Hubei province.

In November 2003 Mr. Luo Changfu received a three-year prison sentence and was still in detention at the end of 2004.

On 17 February 2004, Mr. Du Daobin was ultimately charged with "subversion" by the Hubei Prosecution Office. He was put on trial on 18

⁵⁹ See Urgent Appeal CHN 002/0304/OBS 021.

⁶⁰ See Annual Report 2003.

May 2004 in closed proceedings and without the benefit of his chosen defence counsel. His lawyer had only been notified a few days before the hearing that he was to present his defence statement on Du's behalf at the Xiaogan Intermediate People's Court. The Court sentenced Mr. Du Daobin to three years in prison for "incitement to subvert State power".

In June 2004, the Intermediate Court suspended his three-year jail sentence for four years, with two years' subsequent deprivation of political rights, and the obligation to report to his local Public Security Bureau every week. After his sentencing, Mr. Du was allowed to return home and reunite with his family. The Supreme People's Court of the Hubei province upheld the Intermediate Court's decision in appeal in August 2004.

Deteriorating health conditions of Messrs. Yao Fuxin and Xiao Yunliang⁶¹

In 2004, the situation of Messrs. **Yao Fuxin** and **Xiao Yunliang**, two labour activists, continued to deteriorate.

Messrs. Yao Fuxin and Xiao Yunliang were arrested in March 2002 as the leaders of a mass workers' demonstration against corruption and unpaid benefits in the city of Liaoyang, Liaoning province. On 9 May 2003, they were sentenced to seven and four years in prison respectively on charges of "subverting State power" (Article 105 of the Criminal Code). Their appeals were rejected by a higher court, and their health, already very poor, grew worse since their transfer on 8 October 2003, from the Jinzhou prison to the Lingyuan prison, considered to be one of the most brutal prisons in China.

In March 2004, without prior notification to the family, Mr. Xiao Yunliang was transferred to the Shenyang municipal Dabei prison, and it is likely that the two men were separated intentionally to create division between the two families.

In May 2004, his family found that his stomach and his face were swollen so badly that he had difficulty in sleeping, breathing and eating. In addition, Mr. Xiao Yunliang suffered from pleurisy and was almost

⁶¹ *Idem.*

ASIA

entirely blind. On 2 June 2004, after many months of requests and pleas for improved medical care, Mr. Xiao, accompanied by his family, was sent to the Shenyang China medical university no. 2 hospital. He was found to have arteriosclerosis of the aorta, liver and gallbladder stones and chronic superficial gastritis - a possible symptom of other more threatening diseases. Despite this medical examination, Mr. Xiao was given no medicine and denied examination of his kidneys and lungs.

Mr. Yao was also still in a life-threatening situation despite some stabilisation in his condition. As of December 2004, he continued to suffer from intermittent heart failure and to lose consciousness regularly because of high blood pressure, which makes fear that he might have a heart attack at any moment. Further, he lost much of the use of his right leg, which began to turn black, and was deaf in his right ear due to an injury sustained while in detention in 2002.

Prison authorities treated Mr. Yao with particular harshness, fearing his continued influence among workers. He was not allowed to talk with other prisoners, to go outside for fresh air nor to read books or newspapers or telephone his family. Two prisoners were assigned to monitor Mr. Yao's every movement. Prison officials refused to issue padded garments to Mr. Yao or allowed his family to provide him with warmer clothes to ward off the winter chill. Finally, it was reported that prison officials threatened Mr. Yao with a curtailment of family visits if reports of his treatment and condition circulate outside. For that reason, Mr. Yao continued to bear his abusive treatment in silence for some time. However, instead of improving, his conditions deteriorated, and a letter to prison officials by his wife, Mrs. Guo Sujing, requesting better treatment, remained unanswered. As of December 2004, Mr. Yao had received no medical diagnosis or treatment.

Finally, in 2004, the wives of both men were forcibly removed from Beijing after vain attempts to raise the case of their husbands with the Provincial Supreme People's Court, the Ministry of Public Security and the Central Letters and Complaints Bureau, and to ask for a retrial. While at the Letters and Complaints Bureau, the women were picked up by officials from Liaoyang and taken to Huludao city where Liaoyang PSB officials forcibly took them back to Liaoyang. On their return, despite continued harassment, the two wives went again to the Provincial Supreme People's Court to demand a retrial. Their request was dismissed.

Arbitrary detention, harassment and ill treatment of activists involved in forced evictions

Detention of Mr. Zheng Enchong and abduction of his wife⁶²

Persecution of Mr. **Zheng Enchong**, a Shanghai lawyer involved in the defence of economic and social rights of displaced persons, and his family, continued in 2004.

Arrested on 6 June 2003, Mr. Zheng Enchong was sentenced in October 2003 to three years in prison and deprivation of his political rights for one year, on charges of "illegally providing state secrets to entities outside of China", by the Shanghai Second Intermediate People's Court. He was accused of sending two communications to the NGO "Human Rights in China". The Shanghai appeal court upheld the sentence on 18 December 2003⁶³.

On 13 January 2004, Mr. Zheng Enchong was transferred from the Shanghai municipal detention centre to Tilanqiao prison. He was kept in solitary confinement and suffered physical abuse.

On 28 February 2004, his wife, Mrs. **Jiang Meili**, went to Beijing to petition the National People's Congress on behalf of her husband. That night, five women and two men burst into Mrs. Jiang's hotel room, bound and gagged her. She was forced into a vehicle and taken to another hotel in Canzhou City, Hubei province. The next day, five people took her back to Shanghai, where she was held in the Guangdi Hotel. The persons involved in her detention included officials of the Shanghai Representative Office in Beijing, the Shanghai Letters and Petitions Office and the Shanghai municipal PSB. At no time was Mrs. Jiang Meili presented with an arrest warrant or given any reason for her detention.

She was finally released on 1 March 2004, and was allowed to return home. However, the police kept her under close surveillance, and she remained under house arrest. The authorities destroyed her two mobile telephones and disconnected her home phone line. On 4 March 2004, plain-clothed police officers prevented Mrs. Jiang Meili from leaving

⁶² See Open Letter to the Chinese authorities, 11 March 2004, and Urgent Appeal CHN 001/0803/OBS 041.4.

⁶³ See Annual Report 2003.

ASIA

her home to visit her husband. After she protested and continued walking, a group of people grabbed her by the hands and feet, and began to carry her away. After some struggling, her captors agreed to let her walk on her own feet and took her to the Guoqing Lu PSB. Mrs. Jiang Meili was released that same day. This was the third time Mrs. Jiang Meili was illegally detained since her husband was condemned.

At the end of July 2004, the police stopped watching her house, but they continued to visit her home from time to time.

On 10 November 2004, Mrs. Jiang Meili went to visit Mr. Zheng, along with other family members. During the visit, Mr. Zheng said he had been visited a number of times by the director of Shanghai's Judicial Bureau and Prisons Bureau, Mr. Miao Xiaobao, who told him that if he admitted wrongdoing, his three-year sentence would be reduced by one year. Mr. Zheng Enchong refused to do so.

Since the beginning of his imprisonment, Mr. Zheng has not been allowed to see his lawyer, and therefore has not been able to file an appeal against his sentence. His wife filed an appeal application on his behalf before the Shanghai Supreme People's Court but the Court did not register it.

During his wife's visit, Mr. Zheng also told his visitors that in spite of his relatively light sentence, he was housed in the prison's high security section, where he was obliged to share his 3.5 square meter cell with two other prisoners. In addition, repeated requests to telephone his family had been denied. Mr. Zheng also asked his wife to urge displaced residents to persevere in their legal action against Mr. Zhou Zhengyi, a wealthy property developer, and others involved in a redevelopment project. When he began speaking about this subject, prison guards immediately ended the visit, and five or six guards carried Mr. Zheng out of the visiting room.

Attack of Mrs. Mo Zhujie⁶⁴

On 5 March 2004, Mrs. **Mo Zhujie**, the mother of Mr. **Shen Ting**, a Hong Kong resident, was attacked by the Shanghai authorities because

⁶⁴ See Open Letter to the Chinese authorities, 11 March 2004.

of her son's campaign on behalf of Mr. Zheng Enchong and other Shanghai residents displaced by urban redevelopment projects.

While Mrs. Mo Zhujie was watching television at the home of a displaced resident, Mr. Ding Jundi, a group of eleven individuals, some wearing police uniforms, abducted her (one of the individuals was later identified as Yan Haipeng of the Shimen Erlu PSB). They forced her into a police vehicle, placed a plastic bag over her head, and threatened to kill her.

Mrs. Mo Zhujie was finally freed shortly after midnight.

*Arrest and ill treatment of Mr. Hua Huiqi*⁶⁵

In mid-February 2004, Mr. **Hua Huiqi**, a protestant church leader and a social activist campaigning against forced evictions in Beijing, was placed under *de facto* house arrest.

On 5 March 2004, Mr. Hua Huiqi and his wife, Mrs. **Wei Jumei**, were forced into a police vehicle and taken to the Fengtai PSB station after attempting to leave their home. Mr. Hua was beaten by several police officers and had to be taken to the hospital. While they were at the hospital, the police broke into their home, ransacked the place and stole their money.

When Mr. Hua and his wife later left their home to go to the Fengtai PSB station to report the theft, they were once again beaten by the police officers, who tried to bar their way. Once at the police station, the police showed no interest in pursuing their complaint.

Arbitrary detention and house arrest of "Tiananmen Mothers"⁶⁶

On 28 March 2004, Mrs. **Ding Zilin**, Mrs. **Zhang Xianling** and Mrs. **Huang Jinping**, three "Tiananmen Mothers" were arrested and their homes were subsequently searched by the police. Mrs. Ding Zilin, a key spokesperson for the victims' families, was arrested at her home by three police officers without presenting any arrest warrant. Mrs. Zhang Xianling was apprehended in her home by two police offi-

⁶⁵ *Idem*.

⁶⁶ See Urgent Appeal CHN 001/0304/OBS 019 and 019.1.

ASIA

cers, who presented a warrant stating that she was being detained under Article 50 of China's National Security Law. Police told her husband that the Tiananmen Mothers Campaign and the Tiananmen Mothers Network, as a group, were reactionary organisations through which entities inside and outside China were conspiring to harm national security and to incite subversion of State power. Mrs. Huang Jinping was arrested at her home by national security police bearing an arrest warrant.

The three women's arrest was linked with the importation of T-shirts from Hong Kong printed with a Tiananmen Mothers logo in commemoration of the 15th anniversary of the 1989 Tiananmen Massacre. It seems that a video CD that had been released earlier in Hong Kong, presenting the testimonies of six family members of June 4th victims, including Mrs. Ding Zilin, Mrs. Zhang Xianling and Mrs. Huang Jinping, was the alleged impetus for the arrests. This video CD had then been taken to Geneva by members of the Tiananmen Mothers Campaign, to be presented to the UN Commission's Working Group on Enforced or Involuntary Disappearances.

Mrs. Ding Zilin, Zhang Xianling and Huang Jinping were released on 1 April 2004, after confessing they had "conspired with overseas forces to evade Chinese customs and import illegal goods to China (...) and engaged in other activities in violation of China's State Security Law".

In May 2004, Mrs. Ding Zilin, Zhang Xianling and Huang Jinping and Mrs. **Yin Min**, also a member of the Tiananmen Mothers Network, were held under house arrest. They were planning to file a legal complaint with the Supreme People's Prosecution Office against former Prime Minister Mr. Li Peng on behalf of 126 people who lost a family member in the Tiananmen Massacre. Since then, no one was allowed to enter Mrs. Ding's home, and she and her husband were not allowed to leave home except for the purchase of basic necessities. On 25 May 2004, police warned Mrs. Ding Zilin not to go to the Prosecution Office.

On 28 May 2004, Mrs. Zhang Xianling and Mrs. Yin Min were again placed under surveillance. The police warned them not to file any legal complaints.

Up to December 2004, Mrs. Ding Zilin, Mrs. Zhang Xianling and Mrs. Yin Min were confined almost entirely to their homes, apart from closely monitored shopping trips.

Detention of a farmers group's leader⁶⁷

On 6 July 2004, public security police arrived at the home of Mr. **Zhang Youren**, the leader of a farmers group in Tangshan, Hubei province, who was protesting the terms of their forced relocation. They instructed him to pack his diabetes medication before taking him away - an indication that he would be held in custody for a certain period of time. After having arrested Mr. Zhang Youren, the police conducted a search of his home, and when his wife, Mrs. **Wang Yushu**, and his son, Mr. **Zhang Guodong**, declined to co-operate with the search, police officers beat Mrs. Wang and forcibly removed her to the local police station.

Mr. Zhang's detention was probably related to a visit to Tangshan by Chinese Prime Minister Wen Jiabao scheduled for 8-10 July 2004. The relocated farmers were planning to petition Wen Jiabao to intervene in their case, and the arrest of their leader was seen as an attempt to forestall any such action. Another peasant leader, Mr. **Li Tie**, anticipating similar treatment, fled the city.

As of December 2004, although seriously ill, Mr. Zhang Youren was still confined to his home under house arrest. Mr. Zhang is reported to be almost blind with glaucoma because his diabetic condition has become worse and the terms of his residential surveillance do not allow him to be in contact with other people and, thus, receive medical treatment.

Moreover, those assisting the peasant protesters have come under increasing pressure since Mr. Zhang Youren's detention. Indeed, Mr. **Zhao Yan**, a researcher for the Beijing bureau of the *New York Times* known for his reports on China's peasantry, has been held since 17 September 2004, and was formally arrested on 20 October on the charge of "divulging State secrets", which is punishable by the death penalty. Among other reasons, it seems that Chinese authorities wished to prevent Mr. Zhao Yan from starting a hunger strike on behalf of Mr. Zhang Youren. As of December 2004, Mr. Zhao was still detained, and his case was pending.

67 See Urgent Appeal CHN 003/0704/OBS 056.

ASIA

Arbitrary detention, adjournment of court proceedings and release of Mr. Yan Zhengxue⁶⁸

In late 2003, while Mr. **Yan Zhengxue**, an outspoken human rights promoter and a well-known artist and dissident, was in the United States, his mother was intimidated by thugs sent by Mr. Zhu Yongjie, of the Taizhou City Prosecution Office. After Mr. Yan returned to China, he went to ask for protection at the Zhejiang local police station but the police refused to investigate the incident. Short after, Mr. Zhu Yongjie and a group of thugs demanded that Mr. Yan hand over his flat and threatened him with serious bodily harm. Mr. Yan Zhengxue went to the Jiaojiang district public security substation to ask for protection, but the police not only refused to help and to pursue the case but also tried to discredit him with slander.

In June 2004, Mr. Yan filed a complaint against the Beijing and Zhejiang public security authorities and the Jiaojiang District public security authorities for "slandering his reputation with false information", with the Beijing No.2 Intermediate Court and the Jiaojiang District Court in Zhejiang.

Following Mr. Yan's complaint for slander, a court hearing took place on 27 October 2004. The presiding judge called for an adjournment after Mr. Yan brought some arguments against the records produced by the Jiaojiang district public security substation. No date has yet been set for resumption of the proceedings.

Finally, in the lead up to the meeting of the Central Party Committee of the 16th Party Congress, Mr. Yan Zhengxue was arrested and secretly detained by the State Security Department police on 14 September 2004. Mr. Yan Zhengxue was taken away by car from Taizhou City at 2.35 p.m. by the Zhejiang province State Security Department police. He was released without charges soon after being detained.

⁶⁸ See Urgent Appeal CHN 004/0904/OBS 071 and 071.1.

INDIA

Physical attack on human rights activists⁶⁹

Mr. **Kailash Satyarthi**, chairman of the "Save the Childhood Movement" (Bachpan Nachao Andolan), was attacked, threatened and sued in his attempt to rescue children enslaved and victim of sexual abuse in the "Great Roman Circus" in Gonda district, Uttar Pradesh.

On 15 June 2004, Mr. Satyarthi, acting on the complaints of eleven parents and accompanied by four of them, conducted a peaceful raid of the circus to rescue the children enslaved there. Since the raid was to be conducted in co-operation with the Sub-divisional Magistrate, the latter accompanied Satyarthi and the group of activists to the circus. Yet, as soon as the group arrived, the Magistrate turned against them in conspiracy with the circus administration, who launched an attack on Mr. Satyarthi and the other activists with knives, iron rods and guns. A circus manager threatened to shoot Mr. Satyarthi, if he tried to take any children away, and Mr. Satyarthi later suffered head injuries and a fractured leg. The Magistrate threatened the activists, saying that if they took up the cause, they had to "get ready for a bashing as well".

On 18 June 2004, Mr. Satyarthi began a hunger strike outside the Uttar Pradesh State Legislative Assembly in Lucknow, demanding the immediate release of the children trapped in the circus, as well as an inquiry into the conditions of children working in all circuses throughout India. Approximately 25 supporters joined in the strike, which ended when the police forcibly admitted Mr. Satyarthi to the hospital on 22 June 2004.

Although charges were filed against Mr. Satyarthi for "illegal activity", no attempt to investigate the attack and threats toward the activists was made by the authorities, and no charges were filed against them, not even by the Magistrate. Some of the circus staff were charged with sexual abuse, but only two of them were arrested.

⁶⁹ See Urgent Appeal IND 001/0704/OBS 053.

ASIA

Violent dispersal of a peaceful meeting⁷⁰

On 21 August 2004, activists of the Jangipara branch of the Association for the Protection of Democratic Rights (APDR), based in West Bengal, organised a peaceful street meeting against state-repression in Hooghly, greater Kolkata. The local APDR members were joined for the occasion by Mr. **Sujato Bhadra**, APDR general secretary, Mr. **Amitadyuti Kumar**, APDR vice-president, Prof. **Sanjib Acharya**, secretary of APDR Hooghly district committee, Mr. **Gautam Munshi**, treasurer of the Hooghly district committee, and secretariat members Messrs. **Bapi Dasgupta**, **Raghunath Chakraborty**, **Shankar Nandy**, **Sukumar Tiwari** and **Tushar Chakraborty**.

As APDR members assembled at the Jangipara bus stand, they were attacked by a group of 50 to 60 members of the Communist Party of India - Marxist (CPIM), who attacked the gathering by kicking and beating the members with their fists and poles, and verbally abusing them. The victims of the attack, among which were Messrs. Amitadyuti Kumar and Gautam Munshi, were later admitted to Walsh Hospital, Srirampur.

Although police officers were posted nearby the place of the attack, and the victims rushed to the police station, no police officers came to stop the violence or arrest the perpetrators. After breaking up the APDR meeting, the attacking group then began its own meeting, labelling APDR members as part of an opposition party plot.

On 21 September 2004, the National Human Rights Commission of India (NHRC) requested the Chief Secretary of the government of West Bengal to submit "requisite information/report" within four weeks from the date of receipt of the notice (case number 553/25/2004-2005/UC).

As of November 2004, no action had been taken against the police officers.

⁷⁰ See Urgent Appeal IND 002/0804/OBS 066.

Arbitrary arrests, subsequent releases and deliberate disruption of human rights activities⁷¹

On 11 October 2004, several members of the People's Watch-Tamil Nadu (PW-TN), an NGO that promotes human rights through monitoring, intervention and education, and of the Federation of Consumer Organisations Tamil Nadu & Pondicherry (FEDCOT), two organisations belonging to the National Core Group on NGOs of the National Human Rights Commission (NHRC), gathered for a training session to prepare the Campaign Against Torture-Tamil Nadu (CAT-TN) at the Cuddalore (Tamil Nadu) town hall. Later on the same day, they were going to organise a press conference on human rights violations committed by Mr. Prem Kumar, police superintendent in Cuddalore district, including sexual harassment of women, arbitrary detentions, intimidation and coercion.

When the training session was about to start, a group of policemen headed by deputy superintendent of police Payas Ferozkhan Abdullah, forced their way into the training hall and interrupted the programme, under the alleged reason that a press briefing was not allowed. When the defenders protested, the police warned them that they would be arrested. When Mr. **Henri Tiphagne**, the executive director of PW-TN, demanded a warrant, the policemen headed by superintendent Payas Ferozkhan demonstrated excessive physical force on him and carried him off to the town hall police station.

Thirteen other defenders, among whom Mr. **Nizamudeen**, State secretary general of the National Core Group on NGOs, and Mr. **Murugappan**, regional monitoring associate at PW-TN, along with two bystanders, were also arrested and taken to the Cuddalore police station.

All these persons were held for over seven hours on a provisional detention order, before being released on bail. Neither at the time of their arrest, nor during their detention were they informed of the legal grounds for their arrest. In a custody memo, the registered cause of arrest was that the campaigners had obstructed a computer class for women at the town hall, nothing more. Later on, People's Watch was

⁷¹ See Urgent Appeal IND 002/1103/OBS 061.1 and Annual Report 2003.

ASIA

officially notified that the defenders had been held for crime no.716/2004, under sections of the Criminal Amendment Act referring to rioting, assault or use of criminal force, disobedience to an order lawfully promulgated, and criminal intimidation, which contradictorily does not allow for release on bail.

On 11 October 2004, under national and international pressure, the NHRC registered the case and issued an order to the Director General of the police to conduct an investigation into the arrest of Mr. Tiphagne and his colleagues and provide a report on the facts within two weeks.

On 13 October 2004, PW-TN learned through the media that the State Human Rights Commission, Tamil Nadu (SHRC) had taken cognisance of the case *suo moto*. PW-TN addressed a letter to the SHRC's acting chairman requesting that the SHRC discontinue its enquiry, in application of section 36 of the Protection of Human Rights Act, and yield to the NHRC's prior motions on the case⁷². Nonetheless, the Inspector General of the police, Mr. Jangrid, responsible for northern Tamil Nadu including the district of Cuddalore, initiated his own enquiry.

Mr. Tiphagne had previously played a key role in having Mr. Prem Kumar convicted for human rights violations, in particular in the case of army veteran Mr. Subedhar Nallakaman, a resident of Vadipatti who was beaten and tortured in 1982, along with his wife and his son, by Mr Kumar, the then sub-inspector at the Vadipatti police station.

Furthermore, the police had raided the premises of PW-TN at Madurai, on 5 November 2003⁷³. Mr. Henri Tiphagne was at the time personally intimidated and threatened by senior police officials.

⁷² The founding articles of India's Human Rights Commissions specify that only one such body may take cognisance of a case; in this case, that power belongs to the NHRC, which was the first commission to have registered the case.

⁷³ See Urgent Appeal IDN/002/1103/OBS 061 and Annual Report 2003.

INDONESIA**Lack of investigation into the assassination and disappearance of two human rights volunteers⁷⁴**

In late 2004, no progress had been made on the cases of the assassination and disappearance of Messrs. **Abdussalam Muhamad Deli** and **Raja Ismail**.

Mr. Abdussalam Muhamad Deli, a 23 year-old volunteer of the Human Rights and Legal Aid post East Aceh (PB-HAM), an NGO that carries out advocacy through data collection, campaigning and legal assistance, has been missing since 11 May 2003. He was travelling from Central Langsa on a small public bus to visit his family's village when his bus was stopped by unknown men in civilian clothing. They forced him out of the bus into a car and drove away in the direction of the city of Langsa. No news of his whereabouts has been heard since then.

On the same day, Mr. Raja Ismail, a volunteer of PB-HAM, was reportedly abducted outside Langsa. On 13 May 2003, his body was found in the Titi Kembar river in Langsa Lama village, East Aceh district. The corpse showed signs of strangling, as well as knife wounds and bruises.

Assassination of Mr. Munir, co-founder of KONTRAS⁷⁵

In 2002 and May 2003, Mr. **Munir**, co-founder of the Commission for the Disappeared and Victims of Violence (Komisi untuk Orang Hilang dan Korban Tindak Kekerasan - KONTRAS), and other members of KONTRAS had been attacked by members of the Veterans' Youth (Pemuda Panca Marga - PPM) for their criticism against the Indonesian government's policy in handling the Aceh problem⁷⁶.

Mr. Munir died on 7 September 2004, on board of a flight to Amsterdam. It was reported that he started feeling sick before his trans-

⁷⁴ See Annual Report 2003.

⁷⁵ See Open Letter to the Indonesian authorities, 1 December 2004.

⁷⁶ See Annual Report 2003.

ASIA

it in Singapore and died shortly before landing in The Netherlands.

On 11 November 2004, the Dutch Forensic Institute made public the findings of an autopsy revealing the presence of a lethal dose of arsenic in Mr. Munir's body, which confirmed the fears that his death, during his travel from Jakarta (Indonesia) to Amsterdam (The Netherlands), was an assassination.

Mr. Munir, as a leader of KONTRAS, had played a leading role in investigating human rights violations committed by the Indonesian Army, notably in East Timor. He had taken up numerous cases of disappeared activists in Indonesia, from Aceh to Papua, during the Suharto dictatorship. He had also been active in the Legal Aid Institution.

On 20 November 2004, Mr. Munir's wife, Mrs. **Suciwati**, received a dead chicken by mail at her home with a threatening note warning her that if she linked her husband's murder to the TNI (the Indonesian Armed Forces), she would "end up like this chicken". She immediately reported the death threat to the police, who arrived at her house only four hours later. According to Mrs. Suciwati, she and her husband had received several threats in the past.

The Indonesian authorities initiated an enquiry into Mr. Munir's death following the announcement of the results of the autopsy. At a meeting in late November 2004, government representatives, Mrs. Suciwati and NGO representatives reportedly agreed upon the setting up of an independent team to investigate the case, in addition to the criminal investigation that was initiated, due to the seemingly political nature of the assassination.

Arbitrary detention and deteriorating health of Mr. Nasser Zarafshan⁷⁷

Mr. **Nasser Zarafshan**, a human rights lawyer, was still in prison at the end of 2004, despite several requests that his sentence be suspended for medical reasons.

Mr. Zarafshan, who is the lawyer of Mrs. Sima Pouhandeh, the widow of Mr. Mohammed Djafar Pouhandeh - a writer and human rights defender assassinated in 1998 -, was sentenced to three years in jail by the Tehran military court on 18 March 2002, for "possession of firearms and alcohol". He was also sentenced to two additional years of imprisonment and fifty whiplashes for his statements to the press regarding the lawsuit of the alleged murderers of Iranian intellectuals, which ended in January 2002.

The Tehran military court confirmed the sentenced in appeal on 15 July 2002, and Mr. Zarafshan was arrested in August 2002 and put in detention.

In December 2004, Mr. Zarafshan's health seriously deteriorated, following an nephritis attack while in detention. He was hospitalised on 2 December 2004, in the Evin prison. He was brought back to his cell three days later.

His family and his lawyer, Mrs. **Shirin Ebadi**, who visited him on 6 December 2004, asked for Mr. Zarafshan to be hospitalised outside the prison, but did not receive any answer.

Arbitrary detention and deteriorating health of Messrs. Akbar Ganji and Hassan Youssefi-Echkevari⁷⁸

The health of Messrs. **Akbar Ganji** and **Hassan Youssefi-Echkevari**, two journalists who were arrested in 2000 for having exercised their right to freedom of expression, deteriorated in an alarming way in 2004.

⁷⁷ See Annual Report 2003 and Urgent Appeal IRN 004/0012/OBS 125.6.

⁷⁸ See Annual Report 2003.

ASIA

Mr. Youssefi-Echkevari was sentenced to seven years of imprisonment in October 2002. Mr. Akbar Ganji, of the daily newspaper *Sobh-é-Emrooz*, was sentenced to ten years of imprisonment in July 2001 on the charge of "undermining national security and propaganda against institutions of the Islamic State". This condemnation was linked to several articles suggesting the involvement of the Iranian regime in the assassination of dissident intellectuals as well as his participation in a conference on the Iranian legislative elections in Berlin in April 1998.

Both men were still being detained in the Evin prison at the end of December 2004.

Restrictions on Mr. Emadeddin Baghi's freedom of movement and subsequent legal proceedings⁷⁹

Mr. **Emadeddin Baghi**, president of the Society for Defending Prisoners' Rights, and editor-in-chief of the daily newspaper *Jomhouriyat* (Republic) - banned in September 2004 -, was prevented from leaving Tehran on 4 October 2004. He was going to participate in the 2nd World Congress Against the Death Penalty, organised by Penal Reform International and Together Against the Death Penalty (Ensemble contre la peine de mort) in Montreal, Canada, from 6 to 9 October 2004. His passport was confiscated.

Moreover, on 17 October 2004, the suspensive character of a judicial decision pronounced against him by the Revolutionary Tribunal of Tehran in December 2003, was lifted *in absentia*. Mr. Baghi had been condemned to a one year suspended prison sentence for "subversive activities against the Islamic Republic of Iran", following the publication of articles against the death penalty.

Mr. Baghi, who already spent three years in prison (2000 to 2003) for similar charges, appealed the sentence at the end of October 2004.

As of December 2004, Mr. Emadeddin Baghi was still forbidden to leave Iran, and his passport had not been returned to him.

⁷⁹ See Urgent Appeals IRN 001/1004/OBS 075 and 075.1.

Death while in custody of Mr. Khamphouvieng Sisa-Ath⁸⁰

In October 1999, five members of the "Lao Students Movement for Democracy of 26 October 1999", Messrs. **Thongpaseuth Keuakoun, Khamphouvieng Sisa-ath, Seng-Aloun Phengphanh, Bouavanh Chanhmanivong** and **Keochay**, were arrested and sentenced to 20 years of imprisonment for "generating social turmoil and endangering national security". The group had organised a peaceful march in Vientiane on 26 October 1999 to denounce social injustice and to call for the respect of human rights and democratic reforms in Laos.

In May 2004, new information, which was previously concealed by Laotian authorities, revealed that Mr. Khamphouvieng Sisa-ath had died in late 2001 as a result of mistreatment while in detention in Samkhe prison, which is located in a suburb of Vientiane. According to co-detainees who had witnessed his death and were subsequently released, Mr. Khamphouvieng Sisa-At died after being exposed to heat for a long period of time. Mr. Sisa-At's ashes were not returned to his relatives.

The Laotian government always refused to provide any coherent information on the whereabouts or health conditions of the other members of the 26 October Movement. Messrs. Thongpaseuth Keuakoun, Sengaloun Phengphanh, Bouavanh Chanhmanivong and Keochay were allegedly still detained in Samkhe prison at the end of 2004.

⁸⁰ See Annual Report 2003 and Urgent Appeal LAO 001/0604/OBS 041.

ASIA

MALAYSIA**Mrs. Irene Fernandez sentenced⁸¹**

In 1995, Mrs. **Irene Fernandez**, director of Tenaganita, an NGO working with migrant women, was charged with "publishing false information with malevolent intentions", following the publication of a report entitled *Memorandum on abuses, acts of torture and inhuman treatment towards migrant workers in detention camps*, which contained allegations of ill treatment of migrant populations, based on Mrs. Fernandez's interviews with over 300 migrant workers. Convicted and sentenced to 12 months in prison on October 2003 by the Magistrate's court 5B, in Kuala Lumpur, Mrs. Fernandez was granted bail for RM 3000 and she filed an appeal with the Kuala Lumpur High Court on 17 October 2003.

At the end of 2004, the appeal was still pending.

Since she has been convicted, Mrs. Fernandez was barred from standing as a candidate for the 2004 Malaysian parliamentary elections, and the government is limiting the use of her passport, which she had to surrender to the court as part of her bail. This means that she must apply to the government whenever she wants to leave the country. Many of her requests were denied by the Kuala Lumpur Magistrate's court, in particular, her applications for the release of her passport to attend several international meetings in 2003.

On 26 February 2004, Mrs. Fernandez decided to withdraw her application due to the delay by the Kuala Lumpur High Court in hearing her travel ban appeal, after Judge Abdull Hamid Embong had said that the matter had been rendered academic, as the international meetings she had intended to attend were already over.

Mrs. Fernandez's passport application to attend the Food and Agricultural Organisation (FAO) Regional Conference of the International Planning Committee on Food Sovereignty for Asia Pacific to be held from 15 to 21 May 2004 in Beijing, China, was also rejected by the Kuala Lumpur Magistrate's court on 6 May 2004, without stating

⁸¹ See Annual Report 2003.

the grounds for the rejection. An immediate appeal was made at the High Court over the magistrate's decision.

On 10 May 2004, Judge Y.A. Dato' Abdul Kadir Bin Musa of Kuala Lumpur High Court approved Mrs. Fernandez's application for the release of her passport to participate in the conference, but the judge set a few conditions. Among others, she was required to report at the Malaysian embassy in China upon her arrival on 14 May 2004 and 48 hours before departure from China, and to uphold "the Malaysian Flag" (the country's image) while in China.

Mrs. Fernandez had to return her passport on 24 May to the Magistrate's court.

Infringements to freedom of assembly, arbitrary arrests and ill treatment of several defenders⁸²

On 28 February 2004, members of 64 NGOs and political parties gathered outside the Bukit Aman police station, in order to hand a memorandum on the misuse of police powers to the Inspector General of the police. They were protesting against numerous incidents involving, in particular, the death of suspects while in police custody, police shootings, violations of remand procedures, and the dispersion of peaceful assemblies.

During this peaceful demonstration, the police detained the message bearer and ordered the demonstrators to disperse. Then they attempted to arrest Mr. **Fahmi Reza**, a member of Suara Rakyat Malaysia (SUARAM), a Malaysian human rights NGO. When the crowd protested and demanded his release, Mr. Reza was beaten and trampled on, and the police tried to take away his glasses and belongings. The police then used two water cannons that sprayed chemical-laced water to disperse the crowd. Following this police intervention, 17 members of political parties and representatives of civil society, including Mr. **Eric Paulsen**, Mrs. **Elizabeth Wong** and Mr. Fahmi Reza, all three members of SUARAM, were arrested and sent to the police station at Jalan Hang Tuah.

Later that same day, all 17 demonstrators were released on bail. They were told to report back to the police on 15 March 2004. No charges were made against any of them. Mr. **Tian Chua**, vice president of

⁸² See Open Letter to the Malaysian authorities, 5 March 2004.

ASIA

the National Justice Party, and Mrs. Elizabeth Wong sustained bruises. Mrs. **Latheefa Koya**, another member of SUARAM, sustained minor injuries around her neck due to ill treatment in the hands of the police.

Reports against the police were filed by many groups.

As of December 2004, the only reaction to these reports came from the Human Rights Commission in Malaysia (SUHAKAM), which, in a letter, stated that the assembly was held without a permit and that organisers should have applied for it before the assembly. Yet, the 17 protestors had been arrested on the ground that one of them (Fahmi Reza) allegedly carried a sharp object and that the other 16 remained at the place even though they were asked to disperse. While SUHAKAM did not propose to investigate into the incident, the commission said it would raise the issue within the police forces in *fora* and workshops.

Physical attack and repeated acts of harassment against Mr. Ponnusamy Uthayakumar⁸³

On 27 April 2004, the windshield of the car of Mr. **Ponnusamy Uthayakumar**, a human rights lawyer, was smashed.

On 30 April 2004, he was arrested along with 11 other persons as they were about to file a complaint against the police concerning the death in custody of a 23 years old man.

On 10 May 2004, Mr. Ponnusamy Uthayakumar was attacked by three unidentified people wielding a sledge hammer, as he was on his way home from his office, on Jalan Medang Tandok road in the Bangsar area of Kuala Lumpur. During the incident one of the attackers pointed a gun at Mr. Uthayakumar. He managed to escape but suffered injuries to his body, face and head. Mr. Uthayakumar filed a report with the police alleging the attack was carried out by, or on the orders of members of the police forces. He requested the recently established Royal Commission on the police to investigate this attack.

A decision on this request was still pending at the end of 2004. Mr. Uthayakumar also applied for police protection and a firearms

⁸³ See Urgent Appeal MYS 001/0504/OBS 037.

licence to protect himself; he did not receive a response to either application.

As of December 2004, the Malaysian government had not yet carried out a fair, impartial and independent investigation into the attack on Mr. Uthayakumar, and the perpetrators had not been brought to justice. His suit against the authorities for unlawful detention was adjourned to 14 February 2005. Furthermore, in late December 2004, the authorities lifted the overseas travel ban that has been imposed on Mr. Uthayakumar, and the income tax department sent him a letter that they would refund part of the income tax they had imposed on him earlier.

Mr. Uthayakumar had already been subjected to acts of harassment in the past. In particular, he was arrested in January 2003 and held for two days after attending an inquiry concerning a case of death in custody. During this detention, he was abused, humiliated, stripped to the underwear, and photographed and video-taped in front of nine police officers. Mr. Uthayakumar was also denied legal representation. He was initially charged under Section 228 of the Criminal Code (contempt of court) and Section 506 (criminal intimidation) but all charges against him were dropped after the High Court found that the charges were brought against him in bad faith.

NEPAL

Assassination of Mr. Chet Prakash Khatri⁸⁴

Mr. **Chet Prakash Khatri**, a human rights defender working in the Binauna Village Development Committee (VDC) in Banke district, was killed on his way home on 24 December 2003, by a group of unidentified individuals in Sarragaon, in the Rapti River area close to the Indian border. The victim's body had a cord mark on his broken neck and a wound on his chin.

⁸⁴ See Annual Report 2003.

ASIA

Mr. Khatri was working as a facilitator for a peace programme launched by the Informal Sector Service Centre (INSEC) in that area. He was training students and locals on safety measures during conflicts. He was also working on children rights and was affiliated to the NGO Bheri Environmental Excellence Group (BEE Group).

The victim's family filed a complaint with the District police office of Nepalgunj in Banke district, but the government showed unwillingness to investigate the case. In December 2004, the case was, according to the police, still under investigation.

Continued harassment against the COCAP and Mr. Dinesh Raj Prasain⁸⁵

On 13 January 2004, Mr. **Dinesh Raj Prasain**, programme coordinator of the Collective Campaign for Peace (COCAP), was severely beaten by members of the Royal Nepalese Army (RNA) at his residence in Banasthali, Kathmandu.

Six or seven men dressed in civilian clothes identified themselves as security personnel and asked Mr. Prasain to open the door so they could search his apartment. The men were allegedly searching for a Maoist as well as documents and materials. When Mr. Prasain, fearful that the men were criminals, refused to open the door, one of the men pulled out a revolver and threatened to shoot him. The men broke the door and started to ruthlessly punch and kick him in the face, head, stomach, back and thighs. At least four of them participated in the beating. One of the men, whom the others referred to as the "Major", kept on beating Mr. Prasain while the others conducted the search. Some 15 members of the Nepalese Army in uniform surrounded the building during the incident.

A month earlier, Mr. Prasain had received death threats from a professional criminal gang after one of his articles exposing corruption within human rights NGOs was published (14 December 2003), in the *Nepal Samacharpatra*, a daily Nepalese newspaper.

Mr. Prasain lodged a formal application for a medical examination with the district police office in Kathmandu. He also faxed a petition to

⁸⁵ See Urgents Appeals NPL 001/0104/OBS 005 and 005.1.

the National Human Rights Commission and the Army's human rights cell calling for impartial investigations. However, by December 2004, no investigation had been carried out, and both the government and the Army systematically denied involvement in the beatings.

Thereafter, on 4 June 2004, three security agents from Anamnagar city police, in Kathmandu, arrived at the COCAP office and arrested Mr. Dinesh Prasain along with a photojournalist, Mrs. **Usha Titikchu**. As the officers were unable to produce the arrest warrants as Mr. Prasain and Mrs. Titikchu requested, the two of them refused to go with them. They were then forcibly taken into custody. Mr. Prasain was beaten by a police inspector. Approximately one hour later, the two detainees' lawyers, Messrs. **Govinda Bandi** and **Ramji Sharma**, visited the place of detention and were told by the police inspector that the order to arrest Mr. Prasain and Mrs. Titikchu had come from the Deputy Inspector General (DIG). The DIG stated that the two were to be detained "for their own protection". The arrests were probably intended to prevent a protest against the Indian military assistance to the Nepalese government, which was to take place during the visit of Indian Foreign Minister, Mr. Natwar Singh, in the afternoon of 4 June 2004.

Mr. Prasain and Mrs. Titikchu were released on 5 June 2004.

Crackdown on peaceful demonstrators and lawyers⁸⁶

Between 8 April and 3 May 2004, a severe crackdown on demonstrations led to mass arrests, illegal and incommunicado detentions, ill treatment and violent repression of hundreds of peaceful demonstrators in Kathmandu, who were calling for a return to multi-party democracy and the reinstatement of an elected government. Demonstrations were led especially by the country's five main opposition political parties. It was estimated that over 1,000 protesters were arrested during this period, when the Kathmandu District Administration issued an order banning public demonstrations and assemblies of more than five persons within the Kathmandu ring road and Lalitpur areas. Nepalese authorities justified the order by clai-

⁸⁶ See Open Letter to the Nepalese authorities, 26 April 2004.

ASIA

ming that they had "information" showing that some of the protest organisers had links with the Communist Party of Nepal - Maoist (CPN-Maoist), currently engaged in an armed conflict against the Nepalese armed forces within the country.

In this context, on 9 April 2004, approximately 400 lawyers from the Nepal Bar Association (NBA), including its president, Mr. **Sambhu Thapa**, and its former vice-president, Mr. **Govinda Bandi**, were arrested by security personnel after a demonstration in front of the Supreme Court and taken to a governmental warehouse. The lawyers had organised and were participating in a peaceful rally in favour of the establishment of democracy. They were subsequently released.

On 15 April 2004, the armed police arrested over 1,000 peaceful demonstrators, including the president of the Nepalese Congress, Mr. **Girija Prasad Koirala**, in the Bagbazaar area in Kathmandu.

On 17 April 2004, Dr. **Bhogendra Sharma**, president of the International Rehabilitation Council for Torture Victims (IRCT) and the Centre for Victims of Torture-Nepal (CVICT), as well as nine staff and executive committee members of CVICT, were arrested by the Nepalese police and then taken to the police station, as they were monitoring a peaceful demonstration in Kathmandu. Eight human rights defenders, including Dr. Sharma, were released on the same day; one CVICT volunteer was detained overnight and released the next day.

Finally, on 21 April 2004, several hundred lawyers were arrested during another peaceful demonstration organised by the NBA in Kathmandu. The purpose of that demonstration was to protest against the government's prohibition of demonstrations and the ongoing repression against human rights defenders and people exercising their right to peaceful assembly. They were subsequently released.

Arbitrary arrest of Mr. Madhu Sudhan Dhungel⁸⁷

On 20 June 2004, security forces arrested Mr. **Madhu Sudhan Dhungel**, a member of the Forum for the Protection of Human Rights

⁸⁷ See Preliminary conclusions of the international mission of investigation mandated by the Observatory in Nepal, March 2004.

(FOPHUR), at his residence in Kathmandu. Five persons in plain clothes wearing masks and carrying pistols entered the house. Challenged by Mr. Dhungel's family, they refused to show proof of identity but assured them that they were members of the security forces. Mr. Dhungel was blindfolded and taken away. Despite a *habeas corpus* petition on 28 June 2004, his whereabouts were still unknown in December 2004.

Assassination of Mr. Dekendra Raj Thapa⁸⁸

On 26 June 2004, Mr. **Dekendra Raj Thapa**, a journalist at *Radio Nepal* and an adviser to the independent Human Rights and Peace Society (HURPES), was kidnapped by members of CPN (Maoist), that accused him of spying.

On 11 August 2004, Mr. Thapa was executed.

On 17 August 2004, following his killing, the CPN (M) issued death threats against nine other journalists.

Release of Mr. S. K. Pradhan and obstacles to his freedom of movement⁸⁹

On 19 September 2001, Mr. **S. K. Pradhan**, secretary general of the Peoples Forum for Human Rights and Development (PFHRD), a Nepal-based Bhutanese human rights association, who was actively associated with the movement for human rights and democracy in Bhutan for the last decade, was arrested at his home in Kathmandu by plain clothes policemen, who did not present him with an arrest warrant. On the next day, he was transferred to the Chandragari prison in Jhapa and charged with complicity in the murder of Mr. R.K. Budhahathoki, chairman of the Bhutan Peoples' Party (BPP). However, at the time of the murder (9 September 2001), Mr. Pradhan apparently was in Kathmandu, 500 km from Damak, on his way home from South Africa where he had attended the UN World Conference on Racism.

⁸⁸ *Idem*.

⁸⁹ See Annual Report 2003, Urgent Appeal NPL 002/0904/OBS 069, Open Letters to the Nepalese authorities, 6 May 2004 and 10 January 2005.

ASIA

His request to be released on bail was rejected many times and on 2 May 2004, the District court of Chandragari postponed his trial to 9 May 2004. That was the 19th adjournment since his arrest. Finally, on 22 August 2004, the judgement of the District court of Chandragari, in Jhapa, Eastern Nepal, sentenced Mr. S. K. Pradhan to three years imprisonment, to be completed on 21 September 2004. He was effectively released that day.

Furthermore, Mr. S.K. Pradhan, and two members of his organisation, Mrs. **Sunita Pradhan**, his daughter, and Mr. **D.B. Bhandari**, PFHRD camp co-ordinator, were denied travel documents (needed to travel to the USA and Taiwan), on 25, 26 and 27 November 2004, and then on 10 December 2004. They had submitted their request to the Refugee Coordination Unit (RCU), Chandragari, Jhapa, on 10 November 2004.

Since then, their demand has been pending, although there was no official notification by the RCU officials, who simply kept saying that the application was being processed.

As a result, Mr. Pradhan was prevented from attending the World Forum for Democracy in Asia (WFDA) conference in Taiwan, which was held by the Taiwan Forum for Democracy from 14 to 17 December 2004. In the past, Mr. Pradhan had no problem in getting travel documents since he is a legally registered refugee.

PAKISTAN

Attack on women's rights NGOs⁹⁰

Khwendu Kor (KK), an NGO working for children and women's development in remote areas of the North-West Frontier province

⁹⁰ See FIDH investigation mission report *In Mala Fide, freedoms of expression, association and assembly in Pakistan*, January 2005, chap. II.1, "Non-governmental organisations", in the framework of the Observatory's mandate.

(NWFP) and the Federally Administered Tribal Areas (FATA), faced tremendous difficulties in the past few years, such as systematic discrediting propaganda, religious verdicts (*fatwas*) against its female staff, death threats etc.

On 8 January 2004, KK Karak office was attacked by a bomb blast.

On 14 June 2004, *The News* reported that a pamphlet had been circulating around Timergara in the previous days, warning NGOs and their female workers to "leave the area within one week otherwise they would be responsible for dire consequences after the deadline". The pamphlet was reportedly signed by the organisation Al-Qaeda Khudkush, which accused these NGOs of "violating the Islamic rules and the traditions of the area".

On 16 June 2004, the NGO's car was attacked on its way back from a regular supervisory visit at a community-based girls school in Noor Musa Khel Narmi Khel in FR Bannu. Both the KK employees, Mrs. **Bushra Wazir**, and the driver, Mr. **Asgher**, were wounded.

In July 2004, Mrs. **Rukhshanda Naz**, director of the Peshawar office of the Aurat Foundation, a nationwide women's organisation that has faced specific difficulties and obstacles in the NWFP, received two anonymous phone calls at her residence, threatening her nephew.

Lack of investigation into the kidnapping of Mr. Baloch⁹¹

On 23 March 2003, Mr. **Akhtar Baloch**, co-ordinator of the Hyderabad office of the Human Rights Commission of Pakistan (HCRP) was kidnapped. He was released several days later. He stated that, during his detention, he was questioned on numerous occasions about the activities of the HCRP and how it was financed. This action could have been designed to intimidate the HRCF, which had criticised the action of the State and denounced human rights violations committed by the Pakistani government. The HRCF requested that the authors of this arbitrary detention, in which the secret services were involved, be prosecuted and brought to trial.

However, at the end of 2004, no investigation had been carried out yet, and the question of taking action against those responsible had not arisen.

⁹¹ See Annual Report 2003.

ASIA

PHILIPPINES**Extra-judicial execution of Mrs. Juvy Magsino and Mrs. Leima Fortu⁹²**

On 13 February 2004, Mrs. **Juvy Magsino**, a human rights lawyer and chairperson of Mindoro for Justice and Peace (MFJP) and vice mayor of Naujan, in Mindoro Oriental, and Mrs. **Leima Fortu**, a MFPJ volunteer and acting secretary general of the Alliance for the Advancement of People's Rights (KARAPATAN), were both executed.

Two alleged members of the 204th Infantry Brigade of the Philippines Army (IBPA) followed Mrs. Magsino and Mrs. Fortu while they were driving to Pinagsabangan to get a computer from a friend. In Barangay Amuguis, the two men, who were driving a motorcycle without a license plate, peppered Mrs. Magsino's vehicle with bullets and shot dead Mrs. Magsino and Mrs. Fortu.

Mrs. Leima Fortu was a public teacher and a member of the party-list group Bayan Muna, in the Calapan City Chapter.

Mrs. Juvy Magsino, who was running for mayor of Naujan in Mindoro Oriental against current mayor Norberto Mendoza, had received two death threats stating that she would not live past 15 February 2004. Mrs. Magsino was a outspoken critic of the increasing military deployment in the island province. She also spoke out against former 204th IBPA commanding officer, Col. Jovito Palparan Jr., whose promotion as brigadier general was confirmed in February 2004 by the Commission on Appointments although human rights groups had filed a complaint against him with the Philippine Commission on Human Rights in July 2003. Col. Jovito Palparan Jr. is indeed suspected of involvement in the abduction and extra-judicial execution of Mrs. **Eden Marcellana**, secretary general of the Tagalog-South office of KARAPATAN, and Mr. **Eddie Gumanoy**, chairman of the Kasama-TK peasant group, both kidnapped as they were investigating human rights violations committed in the eastern province of Mindoro, in April 2003⁹³.

⁹² See Urgent Appeal PHL 001/0204/OBS 011.

⁹³ See Annual Report 2003.

In late 2004, the killers of Mrs. Marcellana and Mr. Gumanoy had not been brought to justice, in spite of an express request by the UN Human Rights Committee in December 2003. Likewise, the deaths of Mrs. Magsino and Mrs. Fortu remained unresolved at the end of December 2004.

Killing of Mr. Rashid Manahan⁹⁴

On 24 August 2004, Mr. **Rashid Manahan**, coordinator of the Movement for Restorative Justice (Mamamayang Tutol sa Bitay - MTB-Davao), a network of NGOs and human rights institutions involved in the struggle for the abolition of the death penalty, was killed in front of Ponce Suites, Bajada, Davao City, while he was on his way to attend a forum against the death penalty and salvaging at the University of the Philippines in Mindanao.

The assassination of Mr. Manahan took place during an OMCT mission that was part of the follow-up to the UN Human Rights Committee (HRC) recommendations. The mission was carried out together with the national coalition of NGOs (Task Force for Detainees in Philippines - TFDP, Women's Education, Development, Productivity and Research Organisation - WEDPRO and People's Recovery, Empowerment, Development, Assistance, Foundation - PREDA), which took part in the drafting of the alternative report submitted to the HRC in October 2003. During his stay in Manila, the OMCT coordinator, together with the national coalition of NGOs, had the opportunity to speak with the Chief State Counsel, and with Attorney Wilhem Dabu Soriano, commissioner at the Commission of Human Rights in the Philippines, about this killing and to request an investigation. Mr. Soriano said that the authorities would carry out an investigation into these events.

As of December 2004, the government of the Philippines had failed to carry out an impartial and independent investigation into the killing of Mr. Manahan, and the perpetrators of this crime had not yet been brought to justice. Yet, on 4 October 2004, Mr. Raul Gonzalez, Secretary of Justice, claimed that the Presidential Human Rights Committee

⁹⁴ See Open Letters to the Philippine authorities, 26 August and 3 September 2004.

ASIA

(PHRC) endorsed the investigation of Mr. Manahan's case before the National Bureau of Investigation (NBI).

Staff members of KARAPATAN and the EMJP subjected to harassment⁹⁵

On 9 October 2004, staff members of the National Office of the Alliance for the Advancement of People's Rights (KARAPATAN) and of the Ecumenical Movement for Justice and Peace (EMJP), as well as relatives and victims of human rights violations that were staying at the KARAPATAN office and other families living within the compound, were awakened by loud banging on their gate. Five masked men wearing bonnets shouted invectives against KARAPATAN members for about 30 minutes. The harassers also called for justice for the 26 September 2004 slaying of Mr. Arturo Tabara, founder of the Revolutionary Proletarian Army (RPMP-RPA) in 1992, which merged with the Alex Boncayao Brigade (ABB) in 1997 to form the RPA-ABB.

After the men's departure, the staff found flyers on the floor and posters on their gate, on the trees and on other entrances to the building. These posters, signed RPA-ABB, contained baseless messages linking KARAPATAN to the New People's Army, which had admitted its responsibility in the killing of Arturo Tabara.

The attack against KARAPATAN might be related to the organisation's documenting of human rights abuses by RPA-ABB against civilians, particularly in the Negro provinces in Central Philippines.

Summary execution of Mr. Marcelino Beltran⁹⁶

On 8 December 2004, Mr. **Marcelino Beltran**, chairman of the Peasants' Alliance in Tarlac (Alyansa ng Magbubukid sa Tarlac - AMT), and vice chairman of the Peasants' Alliance in Central Luzon (Alyansa ng mga Magbubukid sa Gitnang Luzon - AMGL), was killed by military elements in front of his house in San Sotero, Santa Ignacia, Tarlac.

⁹⁵ See Urgent Appeal PHL 002/1004/OBS 080.

⁹⁶ See Urgent Appeal PHL 003/1204/OBS 095.

HUMAN RIGHTS DEFENDERS HARASSED

As his wife and children scrambled out of the house after hearing some gunshots, they saw some armed men leaving and Mr. Beltran, still alive, told them that he had been shot by military soldiers.

His family brought him to the clinic, which they thought was the nearest place Mr. Beltran could get treatment or first aid. When they got there, they saw two soldiers on a motorcycle who asked them if they had brought a wounded person from San Sotero. Mr. Marcelino Beltran's son denied that they had brought his father to the clinic and told the soldiers that the injured person was from Calapayan. Since the clinic did not seem safe, they took Mr. Beltran to a nearby hospital, which was not able to provide the appropriate care, and they were thus obliged to transfer Mr. Beltran to the Tarlac provincial hospital, 20 kilometres away. Mr. Marcelino Beltran died on the way to the hospital.

Prior to his death, Mr. Marcelino Beltran joined the strike of peasant workers in the Luisita Hacienda to give them his organisation's support. The farmer leading the strike is also said to be a witness in the massacre in Luisita Hacienda on 16 November 2004, during which 14 people were killed and several hundreds were injured by the Philippines national police and military belonging to the 69th and 703rd Infantry Battalion who were ordered by the hacienda's management and the Department of Labour and Employment (DOLE) to crack down on the workers' strike.

SOUTH KOREA**Forced deportation and prosecution of two trade unionists⁹⁷**

During a demonstration on 26 October 2003, the South Korean police arrested two Bangladeshi activists, Mr. **Khademul Islam Bidduth**, a leader of the Equality Trade Union - Migrants' Branch (ETU-MB), and Mr. **Jamal Ali**, an active participant in the migrant movement. They

⁹⁷ See Urgent Appeal BGD 001/0104/OBS 003.

ASIA

were protesting against the brutal crackdown against undocumented migrant workers launched by the South Korean government on 24 October 2003.

On 30 December 2003, the South Korean authorities forcibly deported Messrs. Khademul Islam Bidduth and Jamal Ali to Bangladesh where they remained in detention until 4 January 2004, when they were released on bail.

It was reported that members and supporters of ETU-MB, the only migrant workers' trade union in South Korea, were regularly physically attacked by riot police and immigration authorities during demonstrations. Between October 2003 and January 2004, around 27,000 migrant workers were allegedly deported or left the country.

As of December 2004, the South Korean government continued to impose repressive measures against undocumented migrant workers as well as against members and supporters of ETU-MB, whose leaders were still being deported or facing prosecution.

THAILAND

Enforced disappearance of Mr. Somchai Neelaphaijit⁹⁸

On 12 March 2004, Mr. **Somchai Neelaphaijit**, chairman of the Muslim Lawyers Group and vice chairman of the Human Rights Committee of the Law Society of Thailand, was taken from his car, which was found abandoned on Ramkhamhaeng road in Mor Chit, after having been hit from behind. Mr. Somchai was last seen in the Bang Kapi district. He had told close friends that he was receiving threatening anonymous phone calls and that he feared for his safety. He was informed in the last call he received that his name had

⁹⁸ See Open Letter to the Thai authorities, 18 March 2004, and Letter to Ministers for Foreign Affairs, Commissioner Patten, EU High Representative for CFSP, 31 March 2004.

been placed by security forces on a list of members of terrorists groups.

Mr. Somchai Neelaphaijit had collected 50,000 signatures to support the end of the martial law in that region, and worked for the promotion of the rule of law and justice for Muslims suspected of terrorist activities and treason. His disappearance followed public statements he made about the excessive use of force against five of his clients accused of taking part in the 4 January 2004 raid on an army camp in Narathiwat. Mr. Somchai also requested permission from the court to have his clients undergo a medical examination and be transferred from police hands. The court agreed to this request and had the five suspects transferred from the Special Branch jail, where they were allegedly beaten, to Bang Khen central prison. These various activities created tension between Mr. Somchai Neelaphaijit and the security forces in the southern Thai provinces and have probably led to his enforced disappearance.

Mr. Somchai might have been abducted by State authorities, and deputy national police chief Pol Gen Charnchit Bhiraueus did not rule out the possibility that the abduction could have been carried out by "low-ranking officers". On 23 March 2004, the Senate voted to form a special committee to study Mr. Somchai's disappearance. His case, they said, could have serious implications for the country's judicial system.

Five police officers were identified as the alleged culprits who had removed Mr. Somchai from his car. They were charged with "coercion by threatening bodily harm or death", "assault" and "gang robbery", but not with kidnapping.

On 9 June 2004, the criminal court released the following four suspects: Major Ngern Thongsuk, Lieutenant Colonel Sinchai Nimpunyakhampong and Corporal Ransom Sithikhet of the Crime Suppression Division and Sergeant Chaiyaweng Phaduang of the Tourist Police Department, for a bail of 1,7 million Thai baht. At the same time, the special Senate committee, headed by Senator Sak Kosanguang, complained that the committee did not feel that the police were being cooperative in efforts to solve the case.

In September 2004, Mr. Somchai's wife, Mrs. **Angkana Neelaphaijit**, submitted the case of her husband's disappearance to the Special Investigation Department (SID), but a SID official refused to register it.

In October 2004, the Thai Minister of Justice, Mr. Pongthep Thepkanchana, declared that although the SID had not agreed to investigate Mr. Somchai's disappearance, SID intervention would be conside-

ASIA

red if there was no further progress. Earlier, the Minister had stated that the SID was already investigating the matter, but this obviously was not the case. As of December 2004, no light had been shed on the whereabouts of Mr. Somchai, and the authors of his disappearance remained unpunished. Moreover, Mr. Somchai's family was still being intimidated.

Assassination of Mr. Charoen Wat-aksorn⁹⁹

Mr. **Charoen Wat-aksorn**, an environmentalist and president of the Love Bo Nok group, was murdered near his home in the province of Prachuap Khiri Khan on the night of 21 June 2004. The Love Bo Nok group, a local environmental protection organisation, became well known for its successful campaign against the opening of a coal-fired power plant on public lands. The lands that were to be the site of the new plant were initially leased to Gulf Electric until opponents of the project were elected to the local administrative organisation which subsequently refused to renew the lease. Following the cancellation of the lease, there were allegations that local officials were accepting bribes for issuing deeds to the public land.

On the day of his murder, Mr. Wat-aksorn met with the House Committee on Corruption Investigation, encouraging them to investigate these allegations. Mr. Wat-aksorn had also filed complaints with the Minister of the Interior, the National Counter Corruption Commission and various House and Senate committees concerning the alleged bribes. Upon his return from Bangkok on 21 June, he was shot dead, just after arriving in Bo Nok.

Mr. Wat-aksorn's widow, along with other human rights activists, requested that the investigation of Mr. Wat-aksorn's death be handled by the Ministry of Justice's SID rather than local police, to ensure transparency. However, Prime Minister Thaksin Shinawatra refused this request and instead instructed the Bangkok police to aid the local Prachuap Khiri Khan authorities in the investigation.

As of December 2004, no investigation had been carried out into this crime.

⁹⁹ See Urgent Appeal THA 001/0604/OBS 050.

VIETNAM

Arbitrary detention and trials of cyber-activists¹⁰⁰

In the Socialist Republic of Vietnam, the communist authorities continued to blatantly stifle all form of criticism and dissent, as they increased the repression against all divergent opinions, thus increasingly restricting the freedoms of opinion and expression guaranteed by the 1992 Constitution.

Mr. **Nguyen Vu Binh**, a journalist, was sentenced to seven years imprisonment in 2003, and Mr. **Nguyen Khac Toan** was sentenced to twelve years and three months imprisonment in December 2002 for their human rights activities on the Internet. At the end of December 2004, they were still in jail.

Moreover, Dr. **Nguyen Dan Que**, a Vietnamese dissident and human rights activist, who was arrested on 17 March 2003 after publishing written statements denouncing infringements on freedoms of expression and of the press in Vietnam, was sentenced to two-and-a-half years imprisonment for "abusing democratic rights to jeopardize the interest of the State, and the legitimate rights and interest of social organisations and citizens", by the Ho Chi Minh People's Court, on 29 July 2004. Dr. Que did not have access to legal representation, and the trial only lasted three hours. At the beginning of the trial, he was allowed to make a statement in which he proclaimed his innocence. He was then removed from the courtroom to listen to the rest of the proceedings in a separate room. His health greatly deteriorated while in jail. He suffered from high blood pressure, a bleeding peptic ulcer, and kidney stones. His family provided the necessary medicine to the detention centre, but it was unclear if the medicine had reached him.

Colonel **Pham Que Duong**, a respected Communist Party veteran and military historian who had filed an application to set up an independent anti-corruption association and called for democratic reforms, and Mr. **Tran Khue**, a scholar, both arrested in December 2002 after they met in Ho Chi Minh City, were sentenced to prison terms in 2004.

¹⁰⁰ See Annual Report 2003.

ASIA

On 3 February 2004, Mr. Pham Que Duong was charged with espionage for having links to foreign reactionary organisations, using the Internet to receive and distribute documents hostile to the communist regime, and working as a correspondent for a Canadian magazine. On 14 July 2004, he was sentenced to 19 months in prison on charges of "abusing democratic freedoms to infringe upon the interests of the State", the more serious charge of espionage being dropped.

On 9 June 2004, Mr. Tran Khue was charged with espionage and violating a house arrest order. On 9 July 2004, he was acquitted of the more serious charge of espionage, but sentenced to 19 months imprisonment on charges of "taking advantage of democratic rights to infringe upon the interests of the State" (Article 258 of the Criminal Code, which carries a maximum penalty of seven years imprisonment) and of violating a house arrest order.

As their sentences included time already served, Mr. Pham Que Duong was released on 29 July and Mr. Tran Khue on 30 July 2004.

Religious leaders in arbitrary detention¹⁰¹

Patriarch **Thich Huyen Quang** and his deputy **Thich Quang Do**, members of the Unified Buddhist Church of Vietnam (UBCV), remained under house arrests. Thich Huyen Quang has been under house arrest since 1982 and Thich Quang Do was put under house arrest in October 2003 just after being released from administrative detention in June 2003. On 9 October 2003, the spokesperson of the Ministry of Foreign Affairs stated that the two monks were accused of "carrying State secrets" (Articles 263/264 of the Criminal Code).

In a letter addressed to the Vietnamese authorities on 25 October 2004, Venerable Thich Quang Do expressed his fear that these accusations might be "a prelude to a much more serious accusation" - that of "espionage", under Article 80 of the Code, which is punishable by 20 years in prison, a life sentence or even the death penalty; or perhaps that of "deliberately disclosing state secrets" under Article 263 of the Code, punishable by 15 years of imprisonment.

¹⁰¹ See Annual Report 2003, and Letter to the Vietnamese authorities, 9 November 2004.

On 21 November 2004, Thich Quang Do received a two-hour visit from a delegation of US diplomats at the Thanh Minh Zen monastery in Ho Chi Minh City. This was the first time the UBCV deputy leader was allowed to receive visits since he was arrested in 2003. He told the delegation about the current plight of the banned UBCV, and the US delegation informed him of the State Department's recent decision to designate Vietnam as a "country of particular concern" for its egregious violations of religious freedom.

On the next day, the Vietnamese police intercepted a mini-van with Venerable **Thich Vien Dinh** and nine other UBCV members as they drove towards the Thanh Minh Zen monastery in Ho Chi Minh City. They were going to accompany Thich Quang Do to visit Thich Huyen Quang, who is seriously ill. Thich Huyen Quang had been taken into the Quy Nhon general hospital on 18 November 2004. After checking the vehicle's papers and the monks' identity cards - all of which were in order - the police announced they were going to tow the van to the police station. Thich Vien Dinh refused to let the police impound the van, and alerted the nearby Giac Hoa pagoda of the incident. After a tense 4-hour stand-off, in which 50 monks staged a sit-in protest around the vehicle and large crowds of people gathered on the scene, the police eventually allowed the UBCV monks to drive on to the Thanh Minh Zen monastery. When Thich Vien Dinh and the UBCV monks arrived at the monastery, the police tried to prevent Thich Quang Do from leaving. After an hour of discussions, the police finally let Thich Quang Do leave Ho Chi Minh City in the van, with security police in a jeep and on motorbikes following behind. However, as they reached Trang Bom, local security police intercepted the vehicle. They ordered Thich Quang Do to return immediately to Ho Chi Minh City where the local police had "invited" him to attend "working sessions" (interrogations). Thich Quang Do refused and remained inside the vehicle with the other monks. The monks were held on the road for four hours before the police forcibly escorted them back to Ho Chi Minh City, where they were summoned for questioning. On 23 December 2004, Thich Quang Do was able to visit Thich Vien Dinh, while 30 policemen were watching his Giac Hoa pagoda.

On 23 November 2004, Thich Quang Do received a summons from the Phu Nhuan Ward People's Committee in Ho Chi Minh City (the local Communist Party authorities) to come for a "working session" at

ASIA

8 a.m. on the next day. The convocation stated that he was summoned to discuss his "appropriation of State secrets". The summons might be connected to the letter sent by Thich Quang Do to the communist leadership on 25 October 2004. Thich Quang Do was interrogated during four hours (from 8 am to 12 am). Following the questioning, Party officers presented him with a document that the police was said to have found on him at the time of his arrest on 9 October 2003, and which was the "State secret". However, this was not the document that had been confiscated on 9 October. The People's Committee finally allowed Thich Quang Do to go home to take the medicine for his heart and told him to come back in the next few days; Thich Quang Do refused. Vietnamese authorities thus strengthened the surveillance of the Zen Thanh Minh monastery (where Thich Quang Do lives) and cut all mobile telephone communications for reasons of "national security".

However, in mid-December 2004, the administrative detention of Thich Quang Do was relaxed, although he was still accused of possessing state secrets. On 23 December 2004, he was allowed to leave his pagoda to visit monks under house arrest in Ho Chi Minh City but he was accompanied by 30 policemen.

On 5 January 2005, the American ambassador in Vietnam, Mr. Michael W. Marine, was able to visit Thich Quang Do and talk to him.

This relatively new situation seems to result from strong American pressure, and in particular from the fact that the USA put Vietnam on the list of "Countries of particular concern" as regards religious freedom.

Release of Thich Tri Luc after completing sentence¹⁰²

Mr. **Pham Van Tuong**, a former monk and member of the UBCV known as **Thich Tri Luc**, was released on 26 March 2004, after 20 months in prison.

Mr. Pham Van Tuong had been arrested in Phnom Penh, Cambodia, having fled from Vietnam because of religious persecution in April 2002. At the time of his arrest, he was under UN protection in Cambodia since he had obtained the refugee status from the UN High Commissioner for Refugees (UNHCR) in Phnom Penh in June 2002.

¹⁰² See Annual Report 2003 and Urgent Appeal VTN 001/0903/OBS 048.1.

HUMAN RIGHTS DEFENDERS HARASSED

During the following year, his family did not know whether he was dead or alive, and Vietnamese authorities denied having any knowledge of his whereabouts.

In July 2003, Mr. Pham Van Tuong "reappeared" in a jail in Ho Chi Minh City, where he had been detained for 12 months. The Vietnamese Foreign Ministry admitted that security police had arrested him on 26 July 2002, allegedly at the Cambodian-Vietnamese border. His family was told that he would stand trial on 1 August 2003, but the trial was postponed indefinitely without any explanation.

On 12 March 2004, Mr. Pham Van Tuong was sentenced to 20 months in prison, at a closed trial at the People's Court in Ho Chi Minh City for "distorting the government's policies on national unity and contacting hostile groups to undermine the government's internal security and foreign affairs". Mr. Pham Van Tuong's trial lasted less than one hour, and he was not represented by a lawyer. His family was informed of the trial only the day before. As he had already served 19 months and 15 days in prison, he was released two weeks after the ruling.

During his 20 months in prison, Pham Van Tuong continually protested that he was a UN Refugee and claimed his right to UNHCR protection. Indeed, the original arrest warrant drawn up by the Vietnamese security police at the Tay Ninh border clearly stated that they had confiscated his refugee card upon his arrest. However, one month later, this warrant was replaced by a new one, signed by Ho Chi Minh City security police, which simply stated that Pham Van Tuong had been arrested on 26 July 2002, inside the Vietnamese border, with no mention of his refugee status. The Ho Chi Minh Police told Pham Van Tuong that his kidnapping in Cambodia was "none of their business", and they refused to allow him access to the UNHCR representative in Vietnam.

