



/ ASIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009

/ REGIONAL ANALYSIS ASIA

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In 2008, elections and referendums took place in a number of Asian States, many of which (*Burma, Cambodia, Iran*) were characterised by irregularities, intimidation and pressure by the authorities, and other undemocratic practices. In addition, in *Malaysia* and in *Pakistan*, the hope that electoral alternation would trigger stronger human rights policies from the Government was not met with concrete results. In *Nepal*, although the run-up to the historic elections was tense and the election campaign was marred by serious acts of violence, intimidation and violations of human rights by all parties, the elections of April 2008 largely passed off in a transparent and peaceful manner. Yet, violence and intimidation, in particular by armed groups, persisted after the elections. 2008 was also a period of political instability in *Thailand*, which experienced anti-Government protests. In *China*, the expectations that the holding of the Olympic games in Beijing would induce the authorities to pay greater respect for human rights was not met either, on the contrary: the repression increased in the months leading up to the Olympics, and has been continuing since then.

Many States also continued to be ravaged by internal conflicts (*India, Indonesia, the Philippines, Sri Lanka, Thailand*), which, together with terrorist attacks (*India, Pakistan*), added to the climate of mistrust and fear; the authorities increasingly using those tensions as a pretext for repression in these countries.

Furthermore, the economic and financial crisis that started at the end of 2008 has had a terrifying impact on economic and social rights in Asia, migrant workers, women and people working in the informal sectors being the first victims. The repression of social protest was a major trend in the region in 2008 (*Cambodia, China, Malaysia, South Korea* and *Viet Nam notably*), and one may expect further protests in connection with the crisis, and increasing repressive reactions by the Governments in place.

Last but not least, a number of countries in the Asian region continued to prevent the development of any nascent civil society movement active in the field of human rights, and their borders remained closed to external scrutiny by international human rights NGOs – *Burma, Laos, North Korea, Viet Nam* – and, in a certain extent, *China* and *Iran*, where one of the main independent human rights NGO was closed in December 2008.

In December 2008, the Charter of the Association of Southeast Asian Nations (ASEAN) entered into force, and the developments concerning the establishment of an ASEAN human rights body, as foreseen in the Charter, are a reason for hope. The mandate of the human rights body will be defined in the course of 2009: terms of reference will be proposed by a high level panel appointed by the ASEAN Governments, and then adopted by the Committee of Ministers of Foreign Affairs. There are serious risks that this mandate will be very limited (promotion rather than protection of human rights), but civil society in the ASEAN region is very much mobilised for this body to be independent, effective and open to civil society participation.

In such a context, acts of repression against human rights defenders in 2008 by both State and non-State actors remained widespread in Asia. In particular, defenders seeking to expose violations (past or present) by the authorities or armed opposition groups, and seeking redress for such violations, were victims of extrajudicial killings (*Bangladesh, Cambodia, Nepal, Philippines, Sri Lanka, Thailand*); arbitrary arrests and condemnation to harsh prison sentences were also registered in several countries in the region (*Cambodia, Indonesia, Iran, Malaysia, Viet Nam*). Furthermore, impunity remained the rule for acts of reprisals committed against defenders in the entire region, the perpetrators, be they State or non-State actors, continuing to go unpunished.

Use of repressive legislation to curtail the rights to freedoms of expression, assembly and association

In the Asian region, human rights defenders continued in 2008 to work in a restrictive environment characterised by repressive legislation abusively used to curtail the rights to freedoms of expression, assembly and association. Under the guise of national security, human rights defenders were arbitrarily arrested and condemned to harsh prison sentences (*China, Iran, Malaysia, Viet Nam*). In *Thailand*,

the *lèse-majesté* law was increasingly used to silence dissenting voices, while the adoption in 2008 of the Law on Electronic Information and Transactions in *Indonesia*, which includes harsh penalties for defamation, represented an additional threat to freedom of expression.

Legislation seeking to control the activities of NGOs (through, for example, restricting funding) or criminalising the activities of human rights organisations also continued to prevent defenders from carrying out their activities freely: in *China*, restrictions on the establishment of independent NGOs and trade unions persisted; in *Indonesia*, the Ministry of Home Affairs approved in August 2008 a decree requiring State approval of foreign funding of Indonesian organisations. It is feared that the new regulation might be used to impede freedom of association in the country, in particular through restricting foreign funding of NGOs wanting to monitor the 2009 legislative and presidential elections. Besides, the Bank of Indonesia also issued in December 2008 a policy that request all banks in Indonesia to ask their customers about the usage of money received abroad. Finally, in *Cambodia*, the restrictive environment to human rights activities was highlighted when, in September 2008, Prime Minister Hun Sen announced that the Law on Associations and NGOs would be a priority for the new Government. It is feared that this law will introduce regulations to repress the activities and restrict funding of NGOs.

Defenders at risks in areas of conflict and disaster zones

In countries undergoing internal conflict or deep political crisis (such as *Bangladesh, India, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand*), the situation for human rights defenders was particularly precarious. Not only did increased military presence adversely affect the capacity of human rights defenders to carry out their work, but they were also open to attack from all sides to the conflict. In militarised areas, the authorities either failed to protect defenders (frequently caught up in the conflict) and take action against the perpetrators of violence (*India, Nepal, the Philippines, Sri Lanka*), or the police, paramilitary and other security forces committed violations themselves (*Bangladesh, India, the Philippines, Sri Lanka, Thailand*).

Moreover, human rights defenders were frequently demonised by the authorities or Government-supporters as “terrorists”, separatists or supporters of anti-State forces (*India, Indonesia, the Philippines, Sri*

Lanka, Thailand) in order to discredit their activities and saw their activities restricted through surveillance and monitoring (*Indonesia*), criminalisation, attacks on freedoms of expression and assembly, interrogation, arrests, detention and fabricated charges (*India, Indonesia, the Philippines, Sri Lanka, Thailand*). In these areas, anyone criticising Government policy or exposing violations were at risk of attack, as were those who were critical of the actions of armed groups. For example, in *Sri Lanka*, journalists reporting on human rights violations were threatened, intimidated, violently assaulted and even murdered, and in *Nepal* journalists received death threats. Additionally, journalists, both national and foreign, were frequently prevented from covering protests in conflict areas (*China*), from accessing conflict zones (*Sri Lanka*) and from reporting on natural disasters (*Burma, China*).

Obstacles were also faced by intergovernmental organisations, such as UN aid agencies and international NGOs in these areas. In addition to frequently being caught up in internal conflicts, in some States humanitarian relief workers were denied access to the worst affected areas and also faced significant travel restrictions (*Burma, Sri Lanka*). Aid workers were also the target of threats, abductions (*Afghanistan, the Philippines, Sri Lanka*) and even murder (*Afghanistan, Sri Lanka*). Additionally, national aid workers, including citizens who attempted to assist those affected by disasters, were treated with suspicion and were intimidated, interrogated and arrested in *Burma* and *China*.

Human rights lawyers under attack

Lawyers defending human rights activists or involved in cases considered sensitive by the authorities were frequently targeted. In *Burma*, lawyers were detained and sentenced for representing activists. In *China*, lawyers saw their freedoms of movement and expression restricted and also faced detention for the promotion of human rights and, in *Sri Lanka*, lawyers representing suspected terrorists were labelled “traitors to the nation” and were the victims of death threats and physical attacks. In *the Philippines*, both lawyers and judges were the victims of attacks, including acts of harassment, intimidation and murder. In *Iran*, lawyers involved in human rights cases were prevented from leaving the country or victims of slanderous campaigns.

Silencing the media

In 2008, a restrictive media environment could be seen in most States in Asia. The media were frequently subjected to tight controls and intimidated into self-censorship through the use of criminal legislation rather than civil charges (*Indonesia*), threats – including death threats – (*Bangladesh*), arbitrary arrests and detentions (*Bangladesh, Burma, Sri Lanka, Viet Nam*), harsh sentences (*Burma, Viet Nam*), fabricated charges (*Bangladesh*), physical attacks (*Bangladesh*) and even murder (*Cambodia, Sri Lanka, Thailand*). Journalists across the region who were critical of the authorities frequently faced repression and censorship. For example, those reporting on corruption (*Bangladesh, Burma, Malaysia, Nepal, Thailand, Viet Nam*), police malpractice (*Bangladesh*) and human rights violations by State security forces (*Bangladesh*) were particularly targeted, as were those exposing political scandals, reporting on protests or criticising Government policies (*China, Malaysia, Viet Nam*). In addition to journalists, newspaper organisations were also frequently intimidated and threatened for writing reports critical of the authorities (*Bangladesh*), refused publishing licences (*Malaysia*) or were shut down or suspended for alleged failure to comply with censorship rules (*Burma*). Cyber-dissidents and the Internet also came under attack. Websites were frequently blocked or shut down by the authorities (*Iran, Malaysia, Thailand*) or were directly censored (*China*). In *Burma*, Internet cafes were required to monitor and report on user activity to the military. Cyber-dissidents expressing political opinions and reporting critically on Government policies received harsh sentences in *Burma* and were harassed and detained in *China*.

Defenders of economic, social and cultural rights – a favourite target of repression

In addition to defenders of civil and political rights, those protecting and promoting trade union and labour rights and protesting against forced evictions continued to face repression in 2008.

Trade union and labour rights activists

Trade union activists remained targeted in many countries, through arbitrary arrests and detention (*Bangladesh, Iran, South Korea*), sometimes deportation (*South Korea*), fines and physical attacks (*Iran*) and assassination (*the Philippines*). In *China*, restrictions continue to prevail in law and in practice on the establishment of independent trade unions, as was the case in *Laos, North Korea* or *Viet Nam*. In addition

to restrictions on trade union activities, those campaigning for labour rights and investigating violations came under attack; two activists were detained for investigating working conditions in *Bangladesh*, a labour activist working against the recruitment of child soldiers and forced labour was imprisoned in *Burma*, and protesters in the garment industry were physically injured in *Cambodia*.

Defenders advocating for the right to land, against forced evictions and illegal exploitation of natural resources

In many States, community activists and defenders advocating for the right to land, adequate housing and against illegal exploitation of natural resources came under attack from the authorities. Collusion of the authorities with private groups having strong economic interests was common in the region and those challenging those huge economic interests were facing high risks. In *China*, people mobilised against forced evictions from their home or their land were assaulted, and those in detention faced harsh sentences, harassment and ill-treatment and torture. In *Cambodia* and *the Philippines*, repression took the form of surveillance, physical assault, threats, arrests, detentions and fabricated criminal charges. Further, a significant number of peasant activists in *the Philippines* were the victim of enforced disappearances, torture and extrajudicial executions. Whilst many of these attacks were committed by State forces, some were attributed to non-State actors including landowners. In India, defenders of indigenous land rights were arrested and accused of having links with armed Maoist groups. In *Indonesia*, land right activists in the conflict area of Aceh were arrested and convicted after distributing leaflets relating to evictions from a palm oil plantation.

Repression of women's rights defenders

Those fighting for equality or advocating women's economic, social and cultural rights faced repression in the form of death threats and harsh sentences (*Afghanistan*) and murder (*Nepal*). In *Indonesia*, defenders of women's human rights were particularly vulnerable to violence by Islamic fundamentalists. In *Pakistan*, people committed to the defence of women's rights also remained targeted in the context of the heightened repressive actions of extremist groups. In *Iran*, the authorities continued their systematic campaign of repression against the "One Million Signatures Campaign", which calls for the end of legal discrimination against women, through harassment, restrictions to

freedom of movement, interrogations, arrests, setting of high bail and harsh sentences. Websites were also blocked. In *India*, those fighting against human trafficking and forced prostitution were the victims of threats, intimidation and fabricated cases.

Repression of defenders of indigenous and minority rights

Defenders of indigenous and minority rights were also targeted by the authorities. In *Bangladesh*, indigenous activists in the Chittagong Hill Tracts were victims of arrest and re-arrest as well as continuous harassment. In *India*, repression of promoters of the rights of Dalits and other marginalised communities took the form of opposition to accreditation of national human rights organisations, physical attacks and threats. In *Iran*, detention and harsh sentences were used to repress defenders of Kurdish human rights, whilst defenders of other minorities received death threats and were the target of slandering campaigns. In *Malaysia*, non-Muslim NGOs were threatened not to interfere in Muslim affairs and the Hindu Rights Action Force (HINDRAF), fighting against the marginalisation of Indian Malaysians, was banned by the Government, whilst five of its leaders continued to be detained without trial in deplorable conditions as of the end of 2008.

Urgent Interventions issued by The Observatory in 2008 on a country of the region for which there is no Country Fact-sheet¹

Country	Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
AFGHANISTAN	Mr. Pervez Kambaksh	Death sentence / Arbitrary detention	Urgent Appeal AFG 001/0208/OBS 023	February 20, 2008
			Urgent Appeal AFG 001/0208/OBS 023.1	October 23, 2008

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

/ TESTIMONIAL

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SOUSAN TAHMASEBI

A member of the One Million Signatures Campaign,
in Iran

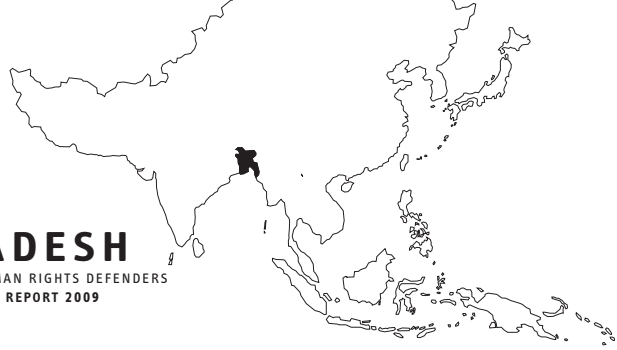
The situation of Iranian women is paradoxical. Sixty-five percent of university students are female, the fertility rate in Iran stands at 2.9%, the average age of marriage is 25, women are lawyers, doctors, entrepreneurs, even members of Parliament. Still Iranian women face structural and legal constraints. Most importantly, Iranian law discriminates against women. To address the disparity between the social and legal status of women, we started a Campaign, called the One Million Signatures Campaign. We use a face to face approach to engage in discussions with the public and to raise awareness and educate fellow citizens about the negative impact of discriminatory laws on women's lives and on society as a whole. Additionally, in the framework of the Campaign we collect signatures in support of a petition addressed to Parliament asking them to reform laws that discriminate against women. In the Campaign we are seeking: equal rights for women in marriage, equal rights for women to obtain divorce, the right for women to have the guardianship and custody of their children, an end to polygamy and temporary marriage, an increase in the age of criminal responsibility to 18 years old for girls and boys, equal compensation for bodily injury and death (blood money) for women, equal inheritance rights for women, equal testimony rights for women in court, the right for women to pass on their nationality to their spouses and children, and an end to laws that reduce punishments for honour killings.

Despite the peaceful and civic nature of the approach we use in the Campaign, we have systematically faced security pressure. We have been denied space for convening our meetings and have been forced to hold meetings in our homes. But these meetings are not tolerated either and they have repeatedly been broken up by police and security forces. Our members have been summoned for interrogation, summoned to court for questioning, they have been arrested for collecting

signatures, for writing on our website, or for holding meetings in their homes, inculpated with security charges such as endangering national security, and some have even been sentenced to prison. In an effort to isolate activists in the Campaign from the international community and to minimize the international support they receive, many have even been barred from travelling abroad. During interrogations, activists are often denied access to lawyers and they are often charged with vaguely worded security charges for their peaceful activism on behalf of women's rights.

In relation to a peaceful protest we organised in June 12, 2006 in support of women's rights, I was charged with endangering national security and sentenced to two years in prison, six months of which is mandatory. My case is still in appeal. On the day of my trial, along with four others, our friends gathered outside the courtroom to support us. When police began arresting them, we too exited the courtroom and were arrested. Thirty-three women's rights activists were imprisoned on that day (March 4, 2006). I have also been barred from travelling on several occasions, and recently, my home was also searched and my property seized. But none of us are deterred by these pressures. We believe that the work that we do is in fact legal and we believe that change is always difficult but we are willing to pay a price to ensure that the legal status of Iranian women is in line with their social gains.

International human rights organisations like FIDH and OMCT, in the framework of the Observatory for the Protection of Human Rights Defenders, have always been very supportive of Campaign activists as they have faced pressures and crackdowns. International human rights organisations play a critical role in bringing national and international attention to our cause and giving us support when we face harassment, arrest and violation of our rights. This type of publicity encourages the Government to re-evaluate its treatment of peaceful activists, like the ones involved in the Campaign. It's nice to know that there are people out there who care and are watching and supporting us in our struggle for women's rights.



/ BANGLADESH

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Political context

Despite both domestic and international calls, the state of emergency declared by President Iajuddin Ahmed on January 11, 2007 was not lifted until December 16, 2008, twelve days before national elections. Under the draconian legal framework of the emergency powers – the Emergency Powers Ordinance (EPO) and the Emergency Power Rules (EPR), both issued in January 2007 –, the police and the military continued to arrest and detain thousands of people without charge or trial, violating basic due process rights¹. The decision of the Appellate Division of the Supreme Court on April 23, 2008 that the prohibition on considering bail applications in EPR matters applied to all courts (including the Supreme Court itself) further exacerbated the situation, giving *carte blanche* to the Government to arrest and detain those considered as a threat. Torture of persons in custody, in some cases even leading to death, continued to be routine as did extrajudicial killings by the security forces, in particular the Rapid Action Battalion (RAB) and the police². Impunity also continued to prevail with no RAB or other law enforcement agent being held accountable for any killing.

In the course of 2008, the unelected Caretaker Government, which by its very nature had no authority to promulgate legislation unless it related to the holding of general elections³, passed or brought into effect

1./ In 2008, the human rights NGO Odhikar recorded 50,215 cases of arbitrary arrests. See Odhikar, *Human Rights Report 2008*, January 15, 2009.

2./ In 2008, Odhikar recorded 149 extrajudicial cases (See report above-mentioned), and the NGO Hotline Human Rights recorded 168 extrajudicial killings by RAB and police forces.

3./ The High Court Division of the Supreme Court of Bangladesh made this ruling on July 13, 2008 and also declared all ordinances made by the Caretaker Government to be unconstitutional, although it stayed this order for one month. See Asian Legal Resources Centre, *Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work*, August 21, 2008.

122 controversial laws. The Anti-Terrorism Ordinance, promulgated on June 11, 2008 without any prior consultation or public debate, contains a very broad definition of terrorist acts, which includes property crimes as well as physical attacks, contrary to recommendations by the UN⁴. It also allows the Government to ban an organisation based on “reasonable allegations” of involvement in terrorist activities, criminalises the financing of terrorist groups where there is “reasonable suspicion” that money may be used for terrorist activities⁵, and criminalises speech in support of a banned organisation, without the requirement to show that the speech incited criminal conduct⁶. The Ordinance could be used as a tool to persecute the political opposition, human rights defenders, trade unionists and other activists under the guise of ensuring the security of the State.

Two ordinances were adopted which, at first glance, appeared to promote human rights: the Right to Information Ordinance (October 20, 2008) and the National Human Rights Commission Ordinance (September 1, 2008). However, both have a number of shortcomings. A large number of authorities are excluded from the scope of the Right to Information Ordinance; some of these exceptions are legitimate, others are not, such as the blanket exclusion of information relating to tax, exchange rates, interest rates and the monitoring or administration of

4./ See Report by the Secretary General's High Level Panel on threats, challenges and changes, *A more secure world: a shared responsibility*, 2004, in which the High Level Panel proposed the following definition: “any action, in addition to actions already specified by the existing conventions on aspects of terrorism, the Geneva Conventions and Security Council resolution 1566 (2004) that is intended to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such an act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act”. In his recommendations following a visit to Turkey, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism stated that definitions of crimes constituting acts of terrorism should be confined to “acts of deadly or otherwise grave violence against persons or the taking of hostages” (See UN Document No. E/CN.4/2006/98/Add.2, March 24, 2006).

5./ This is a lower standard of proof than the criminal law requirement of “beyond a reasonable doubt”.

6./ This is contrary to freedom of expression under international law.

economic bodies⁷. The National Human Rights Commission Ordinance provides for the establishment of an “independent” body to safeguard rights. This independence is, however, questionable, as the Commission will rely on grants and contributions from the Government, and members of the Commission will be selected by a committee predominantly made up of Government officials. Furthermore, the Ordinance provides for the resolution of cases by arbitration or mediation, which may discourage or prevent criminal action against perpetrators.

At the very end of the year, on December 29, 2008, national elections took place, which saw the victory of the Grand Alliance led by the Awami League of former Prime Minister Sheikh Hasina, who won more than 75% of seats at the National Assembly.

Harassment of those seeking to expose human rights violations

In 2008, human rights organisations and defenders continued to be harassed by the authorities. This frequently took the form of threats as well as the monitoring of activities and funding sources. For example, Odhikar, a Bangladeshi organisation monitoring human rights violations, received intimidating calls from various intelligence agencies in 2008 and on May 27, 2008 its offices were visited by a person claiming to be the Deputy Assistant Director of National Security Intelligence, who stated that he was to investigate Odhikar’s activities and asked a number of questions regarding funding and on-going projects. When asked, he refused to show any official identification or authorisation for the investigation, claiming that he was entitled to carry out the investigation without official authorisation. A further example is Dr. **Hasan**, a leading member of the War Crimes Fact Finding Committee, who received death threats after the publication on April 3, 2008 of a list of people allegedly responsible for war crimes during the War of Independence in 1971. This highlights the culture of impu-

^{7/} The Ordinance provides eight security and intelligence agencies are totally excluded from the purview of this law. They are: National Security Intelligence Agency (NSI), Directorate of Forces Intelligence (DGFI), Defence Intelligence Units, Criminal Investigation Department of Bangladesh Police (CID), Special Security Forces (SSF), National Revenue Board’s Intelligence Cell, Special Branch of Bangladesh Police, RAB Intelligence Cells. Most of these agencies are responsible for serious human rights violations. This provision generates the unaccountability of said agencies.

nity that began with the failure to prosecute those responsible for war crimes during the War of Independence and persists today.

Continuing restrictions on freedoms of assembly and association

At the beginning of November 2008, the Government partially relaxed the restrictions under the EPR on freedoms of expression, assembly and association. However, this applied only to meetings, gatherings and rallies that were related to the upcoming elections. Human rights defenders and other civil society groups were therefore still prohibited from exercising these fundamental rights and the security forces as well as non-State actors continued to clamp down on any protest. For example, on March 30, 2008, at least ten people were injured whilst trying to prevent the eviction of the socio-cultural organisation “Lekhak Shibir” (Writers’ Guild) by hoodlums, who considered that the activities of the organisation were anti-Islamic, and who were assisted by the security forces. Three days later, cultural activists who were standing in a human chain protesting against the illegal eviction were again attacked by hoodlums in the presence of security forces.

Silencing the media

Throughout 2008, the Government continued its control over the media and journalists: 115 incidents of violence against journalists or pressure on freedom of expression were recorded⁸. Threats (including death threats), arrests, fabricated charges and physical attacks were all used to intimidate the media into self-censorship. Newspapers received intimidating calls or visits from law enforcement agencies threatening them not to publish reports that were critical of the Government and journalists were threatened with arrest without a warrant to prevent them writing such reports.

In that context, journalists reporting on human rights violations, harassment and corruption by the security forces and officials were particular targets. For example, Mr. **Jahangir Alam Akash**, a journalist who was initially arrested and imprisoned on an extortion charge on October 24, 2007, but then released on bail at the end of November 2007, continued to face harassment in 2008. On January 7, 2008, a

8./ See Odhikar, *Human Rights Report 2008*, January 15, 2009.

new warrant for his arrest for extortion was issued. On October 21, 2008, Mr. Akash appeared before a magistrate. At this hearing, the prosecution reportedly guided and prompted witnesses in recalling evidence against him, leading to concerns that he is being denied due legal process. This ongoing harassment and abuse of legal process are believed to be a result of his investigative reporting of extrajudicial killings and other human rights abuses by law enforcement agencies and corruption as well as his allegations of torture whilst in custody⁹. Another journalist faced an attack by prison guards on May 24, 2008. Mr. **Mirza Shakil**, a reporter for *The Daily Star*, was severely beaten by the guards, when working on a report on the harassment of visitors and corruption in the local prison. No action has been taken against the prison officials or the guards¹⁰.

On March 28, 2008, Mr. **Robiul Islam**, a journalist for *The Sunshine*, a Rajshahi-based newspaper, was arrested at his house without a warrant and taken to Durgapur police station where he was detained for approximately 12 hours until two a.m. the following morning. During his custody, the police intimidated him into signing a confession admitting his involvement in a robbery case. It was only after his relatives intervened and provided statements from the victim of the robbery confirming that Mr. Islam was not involved and from a suspect who confirmed he had been coerced into making a statement implicating Mr. Islam, that the police released him. Mr. Islam had written a number of reports of police malpractice, including arrests on fabricated charges and subsequent extortion of money from those detained, and it is believed that his arrest and detention were in retaliation for his reports revealing police malpractices.

Labour rights activists remained a target

With the lift of the state of emergency on December 16, 2008, all the bans that had been put in place were cancelled by the Government, including the ban on trade union activities. This enabled trade unions to hold elections on December 17, for the first time in 18 months. However, in practice, they were still not allowed to conduct other activities, therefore being forced to remain as ineffective as under the EPR.

9./ See IFEX Press Release, October 28, 2008.

10./ See Hotline Human Rights, *Hotline Newsletter, April-May 2008*, 154th Issue.

Indeed, throughout the emergency period, although the Government allowed professional organisations of lawyers and university professors to carry out their activities, blue collar workers and their trade-unions were not allowed to do so, therefore having no means of pressing for their demands, in particular for higher wages, which led to unrest and violence. In the course of campaigning for full payment of wages and other labour rights, many workers in jute mills and garment factories were arrested for violating the state of emergency.

In addition to restrictions on trade unions, labour rights activists were threatened, subjected to constant surveillance and also arrested under the EPR. For instance, early in January 2008, the Government brought criminal charges for breach of the EPR against several leading trade unionists, including members of the Bangladesh Independent Garment Workers' Union Federation (BIGUF). On January 22, 2008, Mr. **Ranjit Halder**, a Bangladeshi employee of the American Centre for International Labour Solidarity, was arrested and briefly detained after taking part in a workers' rights clinic. On January 24, 2008, Mr. **Mehedi Hasan** of the Workers Rights Consortium (WRC) was arrested in Dhaka by the Bangladesh Intelligence Service. The WRC is an independent labour rights monitoring organisation that carries out investigations of working conditions in factories worldwide. Mr. Hasan, had been carrying out a monitoring mission in Bangladesh, together with Mr. **Bent Gehrt**, WRC South East Asia Field Director and a Danish national. Mr. Hasan was remanded to police custody on January 25, 2008 for the purposes of "further interrogation". He was released on February 3, 2008 with no charges against him. Mr. Gehrt was arrested and interrogated for about an hour at Dhaka airport as he was about to board a plane to Thailand. He was released after being questioned about his and Mr. Hasan's activities over the past few weeks.

Repression against indigenous and minority rights' defenders

Following the horrific torture and resulting death of Mr. **Cholesh Ritchil**, leader of the Garo community, in March 2007, the security forces and army continued in 2008 the repression of indigenous and minority rights defenders. Frequently, this took the form of re-arrests of indigenous activists, particularly in the Chittagong Hill Tracts (CHT), soon after their release or bail from court, so as to keep them in detention for months. For example, Mr. **Rang Lai Mro**, an indigenous Murong community leader and head of the NGO Mrochet in

the CHT, remained detained throughout 2008 in Chittagong District Jail and refused medical treatment, despite a serious heart condition which could lead to a heart attack at any time. Mr. Rang Lai Mro, who had been arrested on January 27, 2007, was finally released on bail on January 8, 2009. In 2007, Mr. Rang Lai Mro had been convicted and sentenced to 17 years' imprisonment after an unfair trial for possession of an unlicensed pistol. Following his arrest, he was hospitalised after being severely beaten by army officers and it was discovered that he had suffered a heart attack. The torture inflicted by the army officers has never been investigated. It is believed that Mr. Rang Lai Mro was targeted as a result of his activities to improve facilities for the Mro people in the CHT.

Urgent Interventions issued by the Observatory in 2008¹¹

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Mehedi Hasan and Mr. Bent Gehrt	Arbitrary arrest / Interrogation	Urgent Appeal BGD 001/0108/OBS 012	January 29, 2008
	Release	Urgent Appeal BGD 001/0108/OBS 012.1	February 4, 2008

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



/ BURMA

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Political context

Perhaps the most significant event of 2008 in Burma was the grave humanitarian crisis caused by Cyclone Nargis, which hit the country on May 2-3, 2008, resulting in an estimated 140,000 dead or missing and an estimated 2.4 million people severely affected¹. Despite immediate offers of humanitarian assistance from the international community, the Burmese authorities initially denied international humanitarian aid operations access to the affected areas and refused to grant visas to aid workers and humanitarian experts. This restricted access exacerbated the already colossal scale of the disaster. When the regime did finally accept humanitarian aid, reports were made of corrupt practices in the distribution of aid and the diversion of aid funds for personal benefit². There were also reports of numerous human rights violations committed by members of the ruling State Peace and Development Council (SPDC) following the cyclone, including the recruitment of child soldiers, forced labour of cyclone survivors to carry out reconstruction work, confiscation of farmland and forced return of internally displaced persons to areas where they did not have access to aid³.

The other key political event occurred shortly after Cyclone Nargis hit the country. A new Constitution, which had been finalised by the SPDC in February 2008, was adopted through a referendum held on May 10 and 24, 2008. Despite the devastation caused by Cyclone Nargis and calls by the United Nations Secretary-General, Mr. Ban Ki-moon, to focus attention on and dedicate all resources to the emergency humanitarian response as a matter of priority⁴, the authorities

1./ See UN Document A/63/356, *Situation of human rights in Myanmar: Report of the Secretary-General*, September 17, 2008.

2./ See Alternative ASEAN Network on Burma (ALTSEAN), *Burma Bulletin Issue 22, October 2008*.

3./ See ALTSEAN, *Burma Bulletin Issue 22, October 2008*. See also UN Press Release, June 18, 2008.

4./ See UN Document A/63/356, *Situation of human rights in Myanmar: Report of the Secretary-General*, September 17, 2008.

decided to go ahead with the referendum on May 10, 2008, only postponing the referendum until May 24 for those areas most affected by the cyclone. The run up to the referendum was marked by a number of irregularities, intensified intimidation and violence by the regime to exert pressure on the people to ensure they vote in favour of the Constitution, as well as severe restrictions on access to information and on freedoms of expression, assembly and association to discourage any informed substantial public debate on the Constitution. Criticism of and opposition to the draft constitution and referendum were expressly proscribed by domestic laws⁵ and the whole process was described as being “devoid of any democratic legitimacy”⁶. The reported result that 92.48 per cent approved the Constitution therefore lacks credibility. The National League for Democracy (NLD) and various groups⁷ formally announced their rejection of the Constitution and the process by which it was adopted. The new Constitution calls for a multiparty democracy with regular elections⁸, yet it bars Ms. Aung San Suu Kyi – whose house arrest was extended for another year in May 2008 – from running for election as President of the Union of Myanmar. The Constitution was also criticised as it maintains the military’s dominant role in politics⁹ and because the drafting process did not allow for input from other stakeholders¹⁰.

Following Cyclone Nargis, the Burmese Government authorised a visit by Mr. Ban Ki-moon, which took place on May 22-23, 2008, the first visit of a UN Secretary-General to the country in 44 years. The newly appointed UN Special Rapporteur on the situation of human rights in Myanmar, Mr. Tomás Ojea Quintana, also visited the country in August 2008 and the Special Adviser to the Secretary-General

5./ See UN Document A/63/341, *Situation of human rights in Myanmar: Note by the Secretary-General*, September 5, 2008.

6./ See European Parliament Press Release, April 24, 2008.

7./ Including the United Nationalities Alliance, the “88 Generation” students’ group, the All Burma Monks’ Alliance, the All Burma Federation of Student Unions and a number of exile groups with constituencies inside Burma. See UN Document A/63/356, *Situation of human rights in Myanmar: Report of the Secretary-General*, September 17, 2008.

8./ The first regular election is due to take place in 2010.

9./ See Dr. Ibrahim Gambari, Special Adviser to the Secretary-General on Myanmar, in an interview with the *Straits Times*, Singapore, March 26, 2008.

10./ See UN Document A/63/356, *Situation of human rights in Myanmar: Report of the Secretary-General*, September 17, 2008.

made a number of visits throughout the year. However, whilst this may be viewed as progress, plans for the UN Secretary-General to make a further visit in December 2008 were called into question when the UN Secretary-General said that he would cancel his planned visit to Burma if the SPDC failed to make any discernible progress in implementing democratic reforms, which would include the release of Ms. Aung San Suu Kyi and other political prisoners. In the end, Mr. Ban did not go to Burma¹¹.

On September 23, 2008, the regime took some positive steps when it released eight political prisoners. However, the hope that more prisoners would be released was short-lived when Ms. Aung San Suu Kyi's personal assistant, Mr. Win Htein, one of those released, was re-arrested within 17 hours, followed by the arrest of nine NLD members on November 27¹². Indeed, despite repeated requests for release of political prisoners by the international community¹³, the political repression intensified throughout 2008, with the number of political prisoners increasing from 1,192 in June 2007 to 2,123 in September 2008¹⁴.

In 2008, Burma remained characterised by its severe repression of all human rights activities.

Crackdown on freedom of assembly

In Burma, anyone campaigning for the respect of human rights or for democracy continued in 2008 to face heavy repression from the military regime. This repression was stepped up after the protests of September 2007 – frequently referred to as the “Saffron Revolution” –, through the use of its draconian “security laws” and spurious legal proceedings¹⁵. The majority of those targeted in 2008 had some connection with or involvement in the 2007 demonstrations, either through direct

11./ See ALTSEAN, *Burma Bulletin Issue 22*, October 2008.

12./ See US Campaign for Burma and European Parliament Resolution P6_TA-PROV(2008)10-23, October 23, 2008.

13./ Including the European Parliament, the UN High Commissioner for Human Rights, the UN Security Council, the UN Human Rights Council, the UN General Assembly and the UN Special Rapporteur on the human rights situation in Myanmar.

14./ See Assistance Association for Political Prisoners (AAPP) and US Campaign for Burma, *The Future in the Dark: The Massive Increase in Burma's Political Prisoners*, September 2008.

15./ See ALTSEAN Press Release, September 22, 2008.

participation in the protests or through attempts to provide accounts of or visual information regarding the crackdown. Monks were also the victims of harassment, arrests and arbitrary detentions. For example, in September 2008, the authorities increased their presence in and around monasteries, as well as their surveillance of monks' activities and also imposed travel restrictions¹⁶.

In May 2008, about 127 persons were arrested in connection with the referendum. Between July and September 2008, at least 91 political activists and human rights defenders were arrested and at least 60 were sentenced to imprisonment. Many of these arrests and imprisonments were related to their involvement in the September 2007 protests¹⁷ or in response to a crackdown by the regime in August, fearing a wave of demonstrations to commemorate the 20th anniversary of the uprising on August 8, 1988 and again in September, in the days leading up to the anniversary of the Saffron Revolution¹⁸.

Towards the end of the year, the regime stepped up court actions against political activists, monks, nuns, journalists and labour activists, many of whom were convicted during summary secret trials held in prisons. In November 2008 alone, more than one hundred detained activists and monks were sentenced. The international community expressed deep concern about these harsh and excessive sentences imposed on activists after unfair trials, without legal representation¹⁹. For instance, on November 11, 2008, Ms. **Nilar Thein** was sentenced to 65 years' imprisonment, and was transferred to Thayet prison, Magwe division, about 225 miles away from Rangoon. Ms. Nilar Thein was one of the leading woman activists involved in the early protest marches in August 2007; she went into hiding to escape the regime's crackdown. Whilst in hiding, Ms. Nilar Thein continued to issue public appeals

16./ See ALTSEAN, *Burma Bulletin Issue 21*, September 2008.

17./ See AAPP and US Campaign for Burma, *The Future in the Dark: The Massive Increase in Burma's Political Prisoners*, September 2008.

18./ See ALTSEAN, *Burma Bulletin Issue 20*, August 2008, and *Burma Bulletin Issue 21*, September 2008.

19./ See UN Press Release, November 12, 2008; Declaration by the EU Presidency on the prison sentences handed down to human rights activists in Burma, November 12, 2008; and ASEAN Inter-Parliamentary Myanmar Caucus' Statement, November 12, 2008. Various States also expressed their concern, including the UK, Canada and the USA.

calling for the international community to take action in resolving the grave human rights abuses that women suffer under the military regime in Burma. However she was arrested on September 10, 2008. Likewise, Ms. **Su Su Nway**, labour activist and a member of the youth wing of the NLD, was sentenced on November 11 to 12 years and a half in prison. She was arrested on November 13, 2007 during a UN visit to Myanmar to investigate the September 2007 crackdown, after attempting to put up leaflets near the hotel where a UN investigator was staying²⁰. Concerns were also raised by the international community about the harsh conditions of detention, including the use of torture and forced labour, as well as the denial of medical treatment²¹.

Repression against human rights lawyers

Human rights lawyers defending activists involved in particular in the Saffron Revolution were also targeted by the authorities. For example, on October 30, 2008, Mr. **Nyi Nyi Htwe** and Mr. **Saw Kyaw Kyaw Min** were sentenced to six months' imprisonment for "interruption and insulting the judiciary proceedings" due to their involvement in the defence of 11 NLD youths. On November 7, 2008, two NLD lawyers, Mr. **U Aung Thein** and Mr. **U Khin Maung Shein**, were sentenced to four months' imprisonment by the Supreme Court for contempt of court, after they tried to withdraw their representation of four activists, who had instructed them to withdraw given that they had no confidence in the judiciary system, and had therefore concluded that they no longer needed defence lawyers and would no longer cooperate with the court. As these two lawyers represent over 100 democracy activists, their imprisonment may result in the trials of detained activists continuing without any defence lawyer²².

20./ Ms. Su Su Nway was the first person to successfully prosecute local authorities for their practice of forced labour in 2005. She had already been imprisoned after successfully taking legal action against village authorities over their use of forced labour. The officials concerned received prison terms, following which Ms. Su Su Nway was charged with criminal intimidation and sentenced to 18 months in jail in October 2005. She was later released in June 2006. See US Campaign for Burma.

21./ See UN Press Release, February 5, 2008; European Parliament Resolution P6_TA-PROV(2008)10-23, October 23, 2008.

22./ See US Campaign for Burma.

Repression against media workers and cyber-dissidents

Following the Saffron Revolution in September 2007, the military also intensified its crackdown on the media. In 2008, journalists and bloggers, who reported on and sent footage of the regime's brutal repression of the protests, were arrested and imprisoned, and publications were banned or suspended for allegedly failing to comply with the Government's censorship legislation. For example, on February 15, 2008, the police raided the offices of *Myo Myanmar* ("Myanmar Nation") in Yangon and arrested its Editor-in-chief, Mr. **Thet Zin**, and its Office Manager, Mr. **Sein Win Maung** (alias Ko Soe). The police found and confiscated video footage of the September 2007 protests, a copy of the UN Special Rapporteur's report and several books and disks. The Government banned the publication and distribution of *Myo Myanmar* on February 19, 2008 and, in early March 2008, charged Messrs. Thet Zin and Sein Win Maung under the Printers and Publishers Registration Law. On November 28, 2008, they were both sentenced to seven years' imprisonment²³.

Cyber-dissidents also continued to be arrested and imprisoned for attempting to express their political opinion and also for posting information relating to the September 2007 protests. For example, the blogger Mr. **Nay Phone Latt** (alias Nay Myo Kyaw) was arrested on January 29, 2008 and then sentenced on November 10 to twenty years in prison for crimes against public tranquillity and offences under video and electronics laws in relation to his web-postings and reports of the protests in September 2007²⁴. The Burmese military also paralysed Internet access to the free media, with Internet café owners being required to monitor and report on user's activity to the military²⁵.

Journalists exposing corruption were also targeted. For example, Messrs. **Tun Tun Thein** and **Khin Maung Aye**, respectively reporter and Editor of the *News Watch Journal*, were arrested on November 7, 2008 and sentenced to three months' imprisonment for respectively

23./ See US Campaign for Burma and also UN Document A/HRC/7/24, *Report of the Special Rapporteur on the situation of human right in Myanmar*, March 7, 2008.

24./ See US Campaign for Burma.

25./ See US Campaign for Burma and also European Parliament Resolution P6_TA-PROV(2008)10-23 of October 23, 2008.

writing and editing an article published in July 2008 that exposed corruption within the judiciary²⁶.

Repression against labour activists

Labour activists were also subjected to arbitrary detention and harsh sentences. For instance, on September 16, 2008, Mr. **U Thet Way**, a labour activist actively working to prevent the recruitment of child soldiers and forced labour and who had provided information to the International Labour Organisation (ILO) on these issues, was sentenced to two years' imprisonment with hard labour. He had been arrested on January 9, 2008 while attending the trial of Mr. U Ohn Than, who was arrested for having participated in a sole protest in Rangoon, after police officials had found and confiscated a memory stick containing the documents he had sent to the ILO. When he complained about the police search and confiscation of the memory stick without a proper warrant, he was charged with "obstruction of performance of official's duty".

Repression against aid workers

In addition to the repression of Burmese activists, 2008 marked increased restrictions on aid workers from international NGOs. Thus, in January 2008, officials from the Ministry of Health warned aid workers that they must comply with the rules and also report on their activities. Furthermore, travel restrictions were put in place, with foreign aid workers having to be accompanied by a Ministry's Liaison Officer and travel permits for field work being issued for one month only instead of three²⁷. International NGOs working in health education and counselling for HIV/AIDS patients in particular were targeted. In March, NGOs working in this sector were ordered by the authorities to stop their activities at the grassroots level. This included Save the Children Fund, Population Services International (PSI), Marie Stopes International (MSI), Care International in Myanmar (Care-Myanmar) and World Vision. Moreover, following Cyclone Nargis, the SPDC arrested 21 individuals for carrying out relief activities in the Irrawaddy delta, including Mr. **Nyan Tun**, who was given a 14 years' imprison-

26./ See US Campaign for Burma.

27./ See UN Document A/HRC/7/18, Report of the *Special Rapporteur on the situation of human rights in Myanmar*, March 7, 2008.

ment sentence in September 2008²⁸, and prominent comedian, film director and activist **Zarganar**, who was sentenced on November 21 and 27, 2008 to, respectively, 45 years' and 14 years' imprisonment for multiple charges, including "committing disaffection towards the State and Government by using the Internet"²⁹.

Urgent Interventions issued by the Observatory in 2008³⁰

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Nyi Nyi Htwe and Mr. Saw Kyaw Kyaw Min	Arbitrary detention / Judicial proceedings	Urgent Appeal MMR 002/1008/OBS 174	October 30, 2008
	Sentencing	Urgent Appeal MMR 002/1008/OBS 174.1	October 31, 2008
Mr. U Thet Way	Sentencing / Arbitrary detention	Urgent Appeal MMR 001/0908/OBS 155	September 24, 2008

28./ On June 27, 2008, Mr. Nyan Tun was arrested because he was trying to appeal to the SPDC headquarters in Nay Pyi Taw about the forcible removal of Nargis victims from a camp in Labutta Township by local authorities. On September 28, 2008, he was given a 14 years' imprisonment at Myaungmya Township Court in Irrawaddy Division. As of the end of 2008, he was detained in Pegu Division of Tharawaddy prison.

29./ As of the end of 2008, Mr. Zarganar was being held in Myitkyina prison, in Kachin State. See AAPP, *Chronology of Political Prisoners in Burma for January 2009*, 2009.

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



/ CAMBODIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009

Political context

The key political event of 2008 in Cambodia was the fourth parliamentary elections in July, in which the ruling Cambodian People's Party (CPP) increased its majority. Although these elections were not tainted by the same level of violence shown in previous elections, they were nonetheless characterised by serious flaws and shortcomings¹. The run-up to the elections was marked by a misuse of State resources by the CPP through the use of money and gifts from election candidates, an increasing pressure on opposition MPs and activists to defect to the CPP, reprisals against those who refused to defect and a serious crackdown on the freedoms of expression and information, the ruling party holding a virtual monopoly on the media. As the elections grew nearer, violations against non-ruling political activists and journalists increased, through threats, harassment, intimidation, arrests, physical assaults, and even murder. Independent or pro-opposition media, in particular, were the targets of this repression. For example, the radio station *FM 105.25* in Kratie was closed down on May 28, 2008 because it sold airtime to political parties competing against CPP in the election², and Mr. Dam Sith, the Editor-in-chief of *Moneaksekar Khmer* (a newspaper affiliated with the Sam Rainsy Party - SRP) and also an SRP candidate in the national election, was arrested on June 8, 2008, charged with "defamation and disinformation" and detained in Prey Sar prison for a week after reporting comments by opposition leader Sam Rainsy about the role played by the Minister of Foreign Affairs during

1./ It should be noted in particular that many people found their names unaccountably missing from voter lists on election day and were therefore denied their right to vote.

2./ The Government argued that it had been closed due to violation of a condition in its radio licence that it had to seek Ministry of Information permission before selling airtime to anyone, despite there being no requirement for this under Cambodian law.

the Khmer Rouge regime³. Finally, fears were mounting that Cambodia could progressively become a one-party State.

In August 2008, the Extraordinary Chambers in the Courts of Cambodia (ECCC) formally indicted former Khmer Rouge prison chief Kaing Guek Eav (alias Duch), which would make him the first leader to stand trial. The ECCC also denied requests by former Khmer Rouge officials Nuon Chea and Ieng Sary to be examined by court-appointed medical experts for the purposes of determining fitness to stand trial and refused a release request by former Khmer Rouge Head of State Khieu Samphan who had argued that the court had insufficient evidence to continue his detention. However, despite these developments, the first trial of Khmer Rouge officials was postponed until 2009 because of appeals and other legal procedures. Further, allegations of corruption and other irregularities in the management of the ECCC continued to put the integrity, credibility and independence of the court at risk⁴.

Restrictive environment for human rights defenders and NGOs

Throughout the year, but especially in the tense political climate surrounding the elections, human rights defenders were frequently viewed by the Government as being associated with the opposition and as advocating against the Government, rather than as counterparts in the promotion of human rights⁵. Indeed, severe repression of human rights defenders and NGOs continued with the criminal justice system, in particular, frequently being misused as a weapon of intimidation against community representatives, journalists and trade unionists. NGOs in the north east of Cambodia (for example in Rattanakiri, Mondolkiri and Kratie) also reported increased restriction of movement by local authorities, who have forced them to report their movements and activities and threatened to close their organisations⁶.

3./ Mr. Dam Sith was released on bail one week later and the Minister of Foreign Affairs said he would drop the charges against Mr. Sith. See Report of the Cambodian League for the Promotion and Defence of Human Rights (LICADHO), *Promoting and Defending Human Rights in Cambodia: January - June 2008, August 2008*.

4./ See also Mr. Yash Ghai's comments to the Human Rights Council, UN Press Release, September 15, 2008.

5./ See Cambodia Centre for Human Rights (CCHR).

6./ *Idem*.

This restrictive environment to human rights activities was highlighted when, at the first post-election meeting of the Council of Ministers in September 2008, Mr. Hun Sen announced that the “NGO law” (the Law on Associations and Non-Governmental Organisations) would be a priority for the new Government. It is feared that this law will introduce repressive regulations governing the activities and funding of NGOs, which are considered as the only remaining channel of criticism of the activities of the authorities in a country where the party in power has an overwhelming majority in Parliament. The latest version of the draft law was not made public by the Government but previous versions of the law included complex registration requirements that would be onerous for smaller NGOs and community-based associations. Such requirements would provide the Government with the opportunity to delay or deny registration to NGOs or associations it dislikes. Other provisions included the criminalisation of unregistered associations and a prohibition on conducting activities for undefined “political interests”, which could be used to prevent NGOs from taking up the cases of repressed political activists. The Government claimed that the law is necessary to ensure that NGOs are not financed by terrorist groups. However, the link between NGOs and terrorism is unwarranted and, given the previous drafts of the law and the Government’s attitude towards human rights defenders, there is good reason to fear that the law would be selectively used to restrict legitimate work by civil society organisations working on human rights and other sensitive issues⁷.

Furthermore, as already reported in 2007, Mr. Yash Ghai, Special Representative of the UN Secretary-General for Human Rights in Cambodia, bore the brunt of some of the Government’s harshest attacks. 2008 marked no change in this attitude. For instance, Mr. Ghai faced visa difficulties that prevented him from visiting the country⁸. In September 2008, Mr. Ghai tendered his resignation as Special Representative, after repeating many of the recommendations the first Special Representative had made, and citing the failure of the Cambodian Government to implement many of the recommendations made by himself and his predecessors as well as the lack of support

⁷/ See LICADHO.

⁸./ See UN Press Release, September 15, 2008.

from the UN and the international community given to him, which, he said, had merely encouraged Prime Minister Hun Sen to insult him continuously⁹.

Finally, 2008 also saw a return of serious repression against the media, with the murder of Mr. **Khim Sambo**, a journalist for *Moneaksekar Khmer* (“Khmer Conscience”), during the national election campaign in July – the first such killing of a journalist in five years. On July 11, 2008, less than two weeks before the elections, Mr. Khim Sambo was shot dead by two men on a motorcycle, in Phnom Penh. His son was also killed in the attack. Mr. Sambo had written many articles exposing abuses, corruption and nepotism by high-ranking Government officials, in particular in the ruling Cambodia People’s Party¹⁰. As of the end of 2008, no one had been arrested for his murder.

Continuing repression against defenders of the right to land and natural resources

In 2008, it was estimated that 150,000 Cambodians were at risk of being forcibly evicted as a result of land-grabbing and land disputes. Community activists who tried to assist their fellow villagers to protect their land were often targeted, whilst the rich and the powerful responsible for both the evictions and the repression of defenders of the right to land continued to enjoy widespread impunity. The authorities showed themselves to be willing accessories to these actions, assisting in violent evictions, rather than resolving disputes through peaceful negotiation. A climate of fear, violence and confusion prevailed. In addition, impunity continued to be a key feature of these violations. The death of a community activist from Stung Treng, Mr. **Seng Sarorn**, in July 2007, and the fatal shootings of two unarmed Preah Vihear villagers during an eviction in November 2007 had still not been properly investigated as of the end of 2008. In many cases, human rights defenders themselves were subject to criminal investigations and prosecutions, rather than the perpetrators of violations against them.

9./ According to Mr. Ghai, Mr. Hun Sen had called him “deranged”, “short term tourist” and “lazy”. See UN Press Release, September 15, 2008.

10./ See CCHR.

Heavy police presence, physical assault, threats, arrests, detentions and groundless and arbitrary criminal charges were all used to intimidate community activists and other defenders advocating for the right to land, adequate housing and against illegal exploitation of natural resources. In January 2008, Ms. **Ros Pov**, a female community representative at Phnom Penh's Dey Krahorm village, was sentenced to six months' imprisonment, with a further 18 months suspended, for "physical assault" in relation to an incident in August 2007, in which it was alleged that she had assaulted and injured several employees of 7NG (the company that claims the land). The conviction relied solely on evidence from 7NG employees and no evidence was produced by the prosecution showing the alleged injuries. Land rights defenders were also targeted elsewhere. For example, in May 2008, the authorities prohibited a protest march against land-grabbing and illegal logging of ancestral lands by ethnic minorities including Jarai, Phnong, Kreung and Tompoun people in Rattanakiri province. When a public meeting was held instead, a heavy police presence was used to intimidate the participants. This incident is just one in an ongoing dispute between ethnic Jarai villagers and Ms. Keat Kolney, sister of the Finance Minister and wife of the Land Management Minister, who is clearing disputed land for a rubber plantation¹¹. In June 2008, representatives of five communities that had filed public complaints against land-grabbing were prevented from holding meetings and were threatened by police to deter them from delivering the complaints to the authorities in Phnom Penh. A public forum to discuss the complaints was also shut down by the authorities and reports of physical violence and other forms of intimidation were received.

Moreover, human rights organisations were prevented by the authorities from investigating and documenting forced evictions and illegal land appropriation. On June 24, 2008, members of the Cambodian League for the Promotion and Defence of Human Rights (LICADHO) and the Cambodian Human Right and Development Association (ADHOC)

11./ The lawyers acting in the case against Ms. Keat Kolney were called to the court on August 1, 2008 and "informed" by the judge that the criminal investigation into the lawyers was not yet concluded and that they should be careful about speaking with the media as they may face defamation charges. The lawyers subsequently filed a motion to remove the judge from the case, after which one of the lawyers received an anonymous threatening call. See Community Legal Education Centre (CLEC).

were prevented from entering Chey Sena village in Kampot province where soldiers had set up roadblocks in response to the villagers' resistance to forced evictions, which reportedly were to make room for a tree nursery¹². Later in the year, further evictions occurred in the same area, with soldiers once more setting up roadblocks to prevent human rights monitors and medical workers from witnessing the evictions. Besides, defenders and journalists reporting on land-grabbing and the illegal and abusive exploitation of natural resources were also victims of intimidation and reprisals, including having their identity cards confiscated, and death threats. For instance, on March 6, 2008, two villagers and Mr. **Chun Sophea**, ADHOC provincial activist in Banteay Meanchey, were reported of receiving death threat after reporting illegal logging committed by provincial military police. On March 3, 2008, Mr. **Chan Thy**, reporter of the provincial newspaper *Kampuchea Thmei*, received death threat while he tried to require response from armed force allegedly involved in such violations. On March 17, 2008, three journalists in Kratie, Messrs. **Ly Yut**, **Sor Phearith** and **Prak Nath**, were stripped of their identity cards after investigating deforestation in the province¹³.

Intimidation and violence against trade unionists

In 2008, the Government finally agreed to allow an International Labour Organisation (ILO) mission to Cambodia to evaluate what efforts had been made by the authorities to investigate murders and other violence against trade unionists. In particular, the mission examined the murders of Mr. **Chea Vichea**, President of the Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC) in January 2004, and of his fellow union officials Messrs. **Ros Sovannareth** (May 2004) and **Hy Vuthy** (February 2007). The ILO mission took place in April 2008 and, according to a November report by the ILO Committee on Freedom of Association, found that the three murders had not been subjected to a transparent, independent and impartial investigation by Cambodian authorities. The mission criticised the grossly unfair trials given to Messrs. Born Samnang and Sok Sam Oeun, two men convicted

12./ ADHOC and LICADHO were later allowed to visit the area together with employees of the UN High Commissioner for Human Rights, but were restricted in their activities, given the continuous observation by soldiers. All remaining villagers were later forced out of the area, with four being arrested and several injured.

13./ See CCHR, *Human Rights Alert, Volume 1, Issue 4*, April 2008.

of Mr. Chea Vichea's murder, as well as that of Mr. Chan Sopheap, known as Thach Saveth, the man convicted of Mr. Ros Sovannareth's killing. Furthermore, the mission concluded that the Government had "demonstrated an unwillingness to engage in fully frank discussions over these serious matters, and provided no concrete indications that it would act upon [...] any of the [ILO] Committee's [...] recommendations" for serious investigations into the killings¹⁴. However, in a welcome development, the Cambodian Supreme Court ordered on December 31, 2008 the release on bail of Messrs. Born Samnang and Sok Sam Oeun and sent the case back to the Court of Appeals to be retried. The two men spent close to five years in prison on false charges of killing Mr. Chea Vichea in a judicial process marred by political interference, intimidation of witnesses, and other violations of international legal standards. Nonetheless, Mr. Thach Saveth, who received a blatantly unfair trial and was sentenced to 15 years' imprisonment in February 2005 for Mr. Ros Sovannareth's murder, remained in prison as of the end of 2008.

In 2008, trade union leaders and members continued to be the targets of assault, and the perpetrators continued to mostly go unpunished. Union representatives and members in the garment industry in particular were the focus of attacks. In early January 2008, police forcibly dispersed 300 Khmer Youth Union Federation workers at the Cambodia Apparel Industry Ltd in Kampong Speu province who were complaining about labour rights violations and the dismissal of probation workers and union leaders. On February 6, 2008, at least ten members of the Cambodia Confederation of Apparel Worker Democratic Unions (CCAWDU), who were striking to demand the reinstatement of 19 union representatives dismissed in June 2007 and demanding payment of wages, were injured (five of whom were hospitalised) when police and military police used excessive force to clear them from the entrance to the Kingsland garment factory in Phnom Penh. On February 28, 2008, Mr. **Keo Sokun**, FTUWKC President at the New Mingda garment factory in Phnom Penh, was assaulted by four men carrying a samurai sword. Two of the four perpetrators were caught and were subsequently convicted of physical assault, receiving disproportion-

14./ See Conclusions of the ILO Committee on Freedom of Association regarding violence against Cambodian trade unionists, November 2008.

ately light sentences¹⁵. Mr. Keo Sokun had been negotiating with factory management and the pro-Government union, Cambodian Union Federation, for better working conditions and higher wages.

Repression faced by defenders of religious freedom and asylum-seekers

The end of 2007 was marked by the violent suppression by the authorities of a peaceful gathering of 48 Khmer Kampuchea Krom monks in front of the Vietnamese Embassy on December 17, 2007. The monks had gathered to submit a petition calling for the release of a Khmer Krom monk, Mr. **Tim Sakhorn**, who had been deported and imprisoned in Viet Nam, and subsequently subjected to house arrest. Both the continuing restrictions on Mr. Tim Sakhorn's liberty and this violent suppression of support for him continued to have significant repercussions for Khmer Krom monks throughout 2008, who feared that further violence would occur if they held any public events or gatherings, at a time when harassment of Khmer Krom monks has persisted.

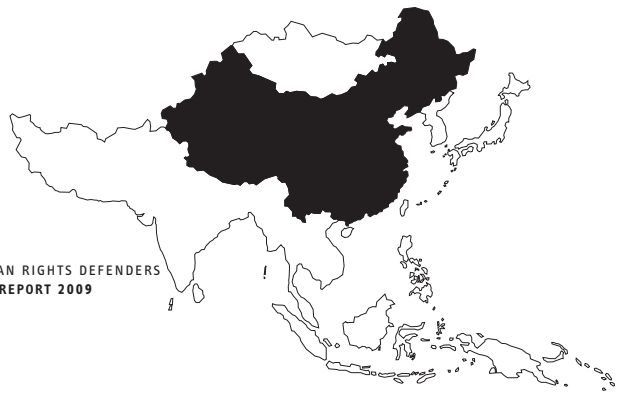
Those assisting asylum seekers also continued to be the targets of harassment, arrests and detentions. For example, in June 2008, the Phnom Penh Court sentenced Messrs. **Phan Savang** and **Leir Yainghay** to four months' imprisonment for helping members of the Montagnard tribe seeking asylum under the UN Refugee Convention due to political and religious persecution in Viet Nam.

Urgent Interventions issued by the Observatory in 2008¹⁶

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Chea Vichea	Assassination / Impunity	Joint Press Release	January 22, 2008
		Joint Press Release	December 28, 2008
Defenders of economic, social and cultural rights		Joint Press Release / International Fact-Finding Mission Report	February 19, 2008

15./ One was sentenced to six months' imprisonment. The other received an 18-month prison sentence but it was fully suspended. See LICADHO.

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



/ CHINA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009

Political context

Despite hopes that the Olympic Games would contribute to a better respect of human rights in China and promises made by the regime to this effect, the opposite in fact occurred. In 2008, room for dissent was indeed further eroded, and crackdown on dissenting or critical voices continued unabated.

Various human rights violations were perpetrated in connection with the Olympics: hundreds of thousands of people were evicted from their homes, frequently without any compensation, to make way for Olympic venues; thousands of migrant workers involved in the construction of these venues were ordered to leave Beijing; and, in an attempt to beautify the city, Beijing was cleared of its beggars, hawkers and prostitutes. Everything was done by the Chinese authorities to prevent any protest during the Games¹.

In March 2008, mass protests erupted in Tibet. Demonstrations to celebrate the anniversary of the Tibetan rebellion against Beijing's rule in Tibet in 1959 escalated into riots after some of the protesters (many of whom were monks) were arrested by the security forces. Excessive force and violence, including beatings and the use of live ammunition, extra-judicial killings, enforced disappearances and arbitrary arrests were used against protesters in Tibet during this crackdown, although precise details remained unknown, given the restrictions placed on independent observers and the foreign media in accessing the areas

1./ The failure to improve the human rights situation despite pledges to the contrary resulted not only in criticisms of the Chinese Government but also of the International Olympic Committee for its failure to ensure that China honoured those pledges.

concerned². Informal talks between Chinese officials and representatives of Tibet's spiritual leader, the Dalai Lama, subsequently resumed in May 2008, but made no progress in resolving the future of Tibet.

2008 was also marked by the earthquake on May 12, 2008, in southwest China, affecting in particular Sichuan province, which resulted in the death of nearly 80,000 people and affected millions more. Despite the Chinese authorities' quick and open response to the disaster, restrictions on media coverage of the earthquake were introduced, individuals reporting on the disaster and the Government's handling of it were harassed and detained, and those seeking to provide humanitarian assistance to earthquake victims or to collect donations were interrogated and intimidated³. A large number of victims remained as of the end of 2008 without shelter.

The contaminated milk scandal provoked another shock wave in the country in September 2008. This episode reflected once again China's restrictive media environment and the political and economic elite's disregard for the ordinary people. News of contaminated milk products came to light after four infants died and over 6,000 others became ill (the number quickly rising to more than 13,000). Evidence of tainted milk had been discovered in July 2008, but had not been publicised due to the authorities' concern of negative media coverage before the Olympic Games. Media censorship of the issue continued following the breaking news, with the authorities issuing guidelines to the media, including ordering newspapers not to publish articles on the scandal without prior approval by the authorities, and censoring Internet coverage by deleting references to the scandal and blocking blogs and articles on websites⁴.

In 2008, the Party's interference in the judiciary remained strong as demonstrated by the election, on March 16, 2008, of Mr. Wang

2./ The European Parliament condemned the repression by Chinese security forces and called for an independent inquiry by the UN into the demonstrations and repression in Tibet. See European Parliament Press Release, April 10, 2008. UN Special Procedures mandate holders were also deeply concerned by "reports of security forces firing on protesters and alleged killings". See UN Press Release, April, 10, 2008.

3./ See Chinese Human Rights Defenders (CHRD) Press Release, May 23, 2008.

4./ See CHRD Press Release, September 29, 2008.

Shengjun as the New President of the Supreme Court. With no formal legal education, Mr. Wang occupied various prestigious positions in the Communist Party, and his election as well as some of his first rulings represented a clear setback, contrasting with past signals towards more independence of the judiciary⁵.

In 2008, the authorities continued to use legislation to persecute human rights defenders. In particular, the crime of “inciting subversion of State power” under Article 105(2) of the Chinese Criminal Code was used against those exercising the right to freedom of expression; “illegal possession of State secrets” was arbitrarily invoked against defenders so as to deny them access to legal representation under Article 96 of the Criminal Procedure Law; and arbitrary detention, in particular in “black jails” (illegal and secret detention facilities) or under the Re-education Through Labour (RTL) system⁶, was used against anyone considered a threat. Additionally, reports of torture and ill-treatment of those detained continued to be rife⁷.

Obstacles to freedom of association

In 2008, restrictions on the establishment of independent NGOs persisted, including the requirement for the NGO to be sponsored by an official body and to provide a large sum of money to the administration. The same was also still applying to independent trade unions, prohibited under the Trade Union Law of 1992 amended in 2001, which allows only the All China Confederation of Trade Unions (ACFTU). Indeed, Article 12 of the Trade Union Law implicitly requires that trade unions belong to the ACFTU, by stating that “[t]rade union organisations across the country form the All-China Confederation of

5./ In 2001, the Supreme Court ordered the payment of damages to a plaintiff for violation of its constitutional right to education (see Qi Yuling Decision). This appeared as the first step towards the justiciability of the Constitution. In January 2009 however, the Supreme People’s Court officially cancelled its 2001 ruling, merely arguing that “it is no longer applied”.

6./ RTL is an administrative detention measure according to which, without any proper legal procedures or court proceedings, the Public Security Bureau can send individuals to detention facilities for a maximum of four years.

7./ The UN Committee Against Torture expressed its concern about allegations of systematic and widespread torture and ill-treatment of suspects in police detention in its report on China. See Concluding Observations of the Committee Against Torture on China, UN Document CAT/C/CHN/CO/4, November 21, 2008.

Trade Unions”. Article 4 of the law provides that trade unions “shall observe and safeguard the Constitution, take [the Constitution] as the fundamental criterion for their activities, take economic development as the central task, uphold the socialist road, the people’s democratic dictatorship, leadership by the Communist Party of China, and Marxism-Leninism, Mao Zedong Thought and Deng Xiaoping Theory, persevere in reform and the open policy, and conduct their work independently in accordance with the Constitution of trade unions”.

Increase of the repression against human rights defenders in the run-up to the Olympics – and beyond

In the run-up to, and during the Olympics, the authorities increased surveillance, harassment and intimidation of human rights defenders fighting for “a peaceful society concerned with the preservation of human dignity” and “respect for universal fundamental ethical principles”, in accordance with the Olympic Charter. In an attempt to stifle potential criticism, dissidents, journalists and human rights activists were frequently arrested, detained or forced out of Beijing to prevent them carrying out potentially politically embarrassing activities. For example, Mrs. **Zeng Jinyan**, a human rights activist and the wife of prominent activist Mr. Hu Jia, was taken by police from her home in Beijing on August 7, 2008 and detained in a hotel until August 23, 2008. Both before and after this detention, she was under strict residential surveillance (house arrest) and warned against speaking about her own and her husband’s situation.

Furthermore, in the framework of the Olympics, the authorities set up three special “Protest Zones”, located far from the main sports venues, and thus intended to avoid disruption by dissenting voices. However, not one of the 77 applications to petition in these zones was granted⁸. Besides, some of those who submitted applications were punished by the authorities. For example, Mr. **Liu Xueli**, an activist and petitioner against forced evictions, was sentenced to 21-months’ RTL on September 24, 2008 for applying to protest at the “Protest Zones” in Beijing in early August 2008 against the forcible appropriation of his village land by the local Government.

8./ See Human Rights in China (HRIC) Press Release, August 24, 2008.

In addition to new arrests and detentions, human rights defenders due to be released shortly before the Olympic Games after serving their prison terms saw their detention extended. For example, Mr. **Ye Guozhu**, due to be released on July 26, 2008 after serving four years in prison for his activities against forced eviction in the context of the Olympic Games, was kept in incommunicado detention by the police reportedly to keep him and his family “out of trouble” during the Olympics. Additionally, many of those arrested and detained in 2007 as a result of their criticisms of Olympic-related human rights violations continued to be held and were sentenced throughout 2008. They were also frequently the victims of ill-treatment and torture. For example, Mr. **Hu Jia**, an HIV/AIDS activist who had written articles and given interviews critical of the Chinese Government’s general human rights record prior to the Olympic Games, was sentenced on April 3, 2008 to three and a half years’ imprisonment and one year’s deprivation of political rights for “inciting subversion of State power”. During his detention from December 27, 2007 Mr. Hu was subjected to abuse and other acts of humiliating and ill-treatment, including being hand and leg-cuffed and placed in solitary confinement and being denied adequate medical treatment. Similarly, Mr. **Yang Chunlin**, a human rights defender and farmers’ representative detained on July 6, 2007 and formally arrested on August 13, 2007 for collecting signatures in the framework of the “We Want Human Rights, not the Olympics” campaign, was sentenced to five years’ imprisonment and two years’ deprivation of political rights for “inciting subversion of State power” on March 24, 2008. During his detention, Mr. Yang was subjected to acts of torture and ill-treatment by prison guards.

Repression against journalists denouncing human rights violations

Although temporary media regulations adopted for foreign journalists in January 2007, which were made permanent by a decision by the Chinese Government in October 2008, provided greater freedom for foreign journalists reporting in China, some of the latter continued to report “interference incidents”, including acts of intimidation and violence. In March 2008 for instance, several foreign journalists were prevented from working freely as they tried to cover the situation in the Tibetan regions, as illustrated by the arrest of a Finnish TV crew on March 17, 2008 in Xiahe (Gansu province), where there had been Tibetan demonstrations against the Chinese Government. The TV crew

was threatened and its video recordings were confiscated despite its protests⁹. On August 4, 2008, two accredited Japanese journalists, Messrs. **Masami Kawakita**, a photographer with the daily *Chunichi Shimbun*, and **Shinji Katsuta**, a reporter with *Nippon Television Network*, were violently removed from the street by Chinese paramilitary forces in Kashgar, Xinjiang province, as they were covering attacks on sixteen policemen a few days ahead of the Olympics in Kashgar. They were taken to an official hotel, where they were beaten and their equipment was broken. They were released two hours later with minor injuries¹⁰.

Furthermore, as the media regulations did not extend to Chinese journalists, those seeking to report on human rights or other sensitive issues continued to run the risk of being severely restricted, harassed, beaten or even detained¹¹. For example, on December 1, 2008, Mr. **Guan Jian**, a reporter with the Beijing-based weekly *Wangluo Bao* (*Network News*), was arrested by police officers from Zhangjiakou while investigating allegedly corrupt real estate transactions in Taiyuan, the capital of the northern province of Shanxi. Likewise, Ms. **Li Min**, *CCTV* reporter, was arrested at her Beijing home on December 4 by four policemen who had been sent by Shanxi Prosecutor He Shusheng, whom Ms. Li had accused of abuse of authority in a report broadcast by *CCTV*. Both journalists were subsequently charged with “bribery” and remained detained as of the end of 2008¹².

Those who gave interviews to the media were also punished, frequently by criminal detention. For example, Ms. **Zhang Wei** and Ms. **Ma Xiulan**, both members of a group seeking redress for forced eviction from their home, were detained on August 6, 2008 on suspicion of “disturbing social order” after speaking to foreign journalists¹³.

Lawyers under attack

In 2008, lawyers working on cases considered as sensitive by the authorities such as defending political dissidents, human rights defend-

9./ See Reporters Without Borders (RSF) Press Release, March 20, 2008.

10./ See HRIC, *China Human Rights Forum 2008 (4)*, January 2009.

11./ See HRIC Press Release, August 24, 2008.

12./ See CHRD and RSF Press Release, December 15, 2008.

13./ See CHRD Press Release, August 16, 2008.

ers, members of the Uighurs or Tibetan minorities and Falun Gong practitioners continued to face repression and various obstacles in performing their professional duties.

On June 1, 2008, a revised Lawyers' Law came into force, intending to protect the legal practice by providing, *inter alia*, the right for lawyers to consult with criminal suspects and defendants without permission from judicial authorities. However, because of flawed local implementation and the continued abuse by the authorities of China's highly restrictive State secrets laws, in practice the Lawyers' Law did not bring additional protection for the independence of lawyers. On the contrary, Article 37 of this amended law, which refers to national security, defines this concept so vaguely that any comment against the Communist Party could be interpreted as "damaging national security"¹⁴. The Chinese authorities also abused the lawyer registration system to harass lawyers who defend people's rights. For instance, on May 31, 2008, the authorities refused to renew the lawyer's license of Mr. **Teng Biao**, a prominent lawyer who was among the 21 rights defence lawyers who signed a letter offering legal assistance to Tibetans detained following the March 2008 protests. Article 306 of the Criminal Law also continued to be used to accuse lawyers of fabricating evidence in the course of collecting evidence to support their client's case. For instance, Ms. **Xue Hui**, a lawyer of the Beijing Kangsheng Law Firm, was sentenced to one and a half year's imprisonment on the basis of this provision¹⁵. Likewise, Mr. **Huang Zhenghong**, a lawyer from Wuzhou City, Guangxi Province, was also found guilty on May 4, 2008 on the basis of this provision, but exempted from criminal sanction on September 22, following a six-month detention period¹⁶.

Significant pressure was also exerted by local authorities on a group of voluntary lawyers seeking redress for child victims of contaminated milk products in September 2008. Lawyers were told that they would face "serious repercussions if they stayed involved". In another example, some of the 35 lawyers who published an appeal on the Internet on August 26, 2008 calling for direct election of the officials of the State-

14./ See HRIC Press Release, June 19, 2008.

15./ See HRIC.

16./ *Idem*.

controlled Beijing Lawyers Association were subsequently dismissed for signing the online appeal. Thus, at the beginning of September 2008, Mr. **Tang Jitian** was asked by his superiors at the Beijing Haodong Law Firm to leave, “for the sake of the future of the firm”¹⁷. Similarly, Messrs. **Cheng Hai**, **Li Subin** and three other lawyers were dismissed from the Yitong Law Firm on October 30, 2008, reportedly following strong pressure from the authorities¹⁸.

Repression of human rights lawyers was not limited to restrictions on freedom of expression. On March 6, 2008, Mr. Teng Biao¹⁹ was abducted by unknown people and detained until March 8, 2008. During his detention, he was reportedly questioned by officers of the Beijing Public Security Bureau about essays he had written and other “activities”. Mr. Teng had co-written with Mr. Hu Jia an open letter criticising the human rights record of pre-Olympic China as well as other essays critical of the Governments human rights policies. Following Mr. Hu’s arrest, Mr. Teng had been closely monitored by security police and warned not to write about Mr. Hu’s detention or other sensitive topics, including the Olympics.

Defenders of economic, social and cultural rights still a target for repression

Defenders of economic, social and cultural rights continued to face repression in 2008, including being subjected to arbitrary detention and acts of ill-treatment. Indeed, as widespread social unrest continued throughout 2008 to protest notably against unpaid wages, corruption, forced evictions of people from their home, or massive lay-offs of workers, those defending petitioners continued to be a target of repression. For example, Mr. **Zheng Enchong**, a human rights lawyer in Shanghai who had provided legal aid to petitioners and victims of land grabs, was beaten by police officers on February 16 and 17, 2008 before being summoned to the police station where he was kept in detention for over 12 hours. Whilst in detention, he was beaten and questioned about the legal aid he had provided, as well as interviews he had given regarding corruption to the *Epoch Times* on February 12, 2008. On February 19,

17./ See HRIC Press Release, October 31, 2008.

18./ *Idem*.

19./ See above.

2008, the interview to the *Epoch Times* was published and, the following day, Mr. Zheng was again arrested and beaten before being released later the same evening.

Those who were already in detention as a result of their activities faced harsh sentences, harassment and even ill-treatment and torture. A prime example of this is Mrs. **Mao Hengfeng**, a defender of housing rights and women's reproductive rights. Reportedly, Mrs. Mao was subjected to abusive and humiliating treatment, beatings and other forms of torture and ill-treatment during her detention at Shanghai Women's Prison. In particular, on June 3, 2008, she was taken to a prison hospital where she was stripped naked and tied to a bed for fourteen days, during which doctors forcibly injected her with a dozen different unknown medications leading to discomfort and pain, and forcibly withdrew blood from her. She was released on November 29, 2008 after completing a sentence of two and a half years' imprisonment but detained once again on January 12, 2008 for seven days for "disturbing public order" after she petitioned attendees of the annual Shanghai Municipal People's Congress and the Shanghai Municipal Political Consultative Conference.

Silencing critical voices in Sichuan province

Ahead of the Olympic Games, those bringing bad publicity to China by questioning the Government's role in the Sichuan earthquake disaster were targeted. Mr. **Huang Qi**, a cyber-dissident and human rights activist, was detained on June 10, 2008 and formally charged with "illegal possession of State secrets" on July 18, 2008. Shortly before his arrest, Mr. Huang had visited the Sichuan earthquake zone on a number of occasions to investigate allegations that poor construction had contributed to the collapse of schools, provided aid to the victims and had published information on his website (www.64tianwang.com) regarding the plight of parents who had lost their children. As of the end of 2008, he remained in detention. Similarly, on June 25, 2008, Mr. **Liu Shaokun**, a school teacher, was arrested on "suspicion of the crime of inciting subversion" after he had taken photos of collapsed school buildings and put them online, and had also expressed his anger in a media interview at the "shoddy 'tofu' buildings". He was sentenced to one year of RTL but, on September 24, 2008, was released by the authorities to serve his sentence outside the labour camp. He nonetheless remained under residential surveillance.

Those criticising the Government's policies also came under attack. For example, Mr. **Chen Daojun**, a cyber-activist and freelance writer based in Sichuan province, was sentenced to three years of both imprisonment and deprivation of political rights on November 21, 2008 after being convicted of "inciting subversion of State power". This was ostensibly for posting articles on the Internet supporting the March 2008 Tibetan protesters, although Mr. Chen had in fact been apprehended on May 9, 2008 for protesting against the activities of a petrochemical plant.

Harsh crackdown in run-up to 60th anniversary of the Universal Declaration of Human Rights and on Charter 08 activists

Towards the end of 2008, the Chinese authorities continued their crackdown on human rights activities, despite hopes that restrictive measures taken before and during the Olympics under the guise of security would be relaxed. In the run-up to the 60th anniversary of the Universal Declaration of Human Rights (UDHR), activists preparing to celebrate this event were threatened and intimidated by the authorities. For example, on November 10 and 11, 2008, Messrs. **Chen Xi**, **Shen Youlian** and **Liao Xuangyuan**, leaders of a group that had scheduled a seminar for December 10, 2008 to commemorate the 60th anniversary of the UDHR, were summoned for extensive questioning, ordered to cancel all activities on the basis that these would be "illegal" and threatened with imprisonment. Furthermore, all three, together with Messrs. **Huang Yanming** and **Du Heping**, were subsequently abducted by the police on December 4, 2008, before being subsequently released.

Furthermore, on the eve of the 60th anniversary, human rights and democracy activists launched "Charter 08" on the Internet, collecting signatories calling for political reforms that promote human rights and democracy. More than 7,500 people from all across China had signed the Charter by January 2009. However, the authorities responded with a campaign of severe intimidation and harassment against "Charter 08" signatories and leading drafters. By January 8, 2009, at least 101 signatories had been questioned, summoned and intimidated by the police in 19 municipalities and provinces. Additionally, leading drafters of the Charter were arrested and detained by the police. For example, Messrs. **Liu Xiaobo** and **Zhang Zuhua** were detained on December 8, 2008. Police also searched their homes and confiscated documents and personal possessions. Mr. Zhang was released, but was again taken from

his home on December 26, 2008 and interrogated for three hours, during which he was threatened with “severe consequences” for his family and friends if he continued to engage in activities, including media interviews, promoting the Charter. Mr. Liu continued to be subjected to residential surveillance at an undisclosed location in Beijing as of the end of 2008. In addition to the harassment and intimidation of signatories and drafters, websites and blogs displaying the “Charter 08” were blocked or suppressed by the Government.

Urgent Interventions issued by The Observatory in 2008²⁰

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Hu Jia	Arbitrary detention / Forced disappearance / Harassment	Urgent Appeal CHN 009/1107/OBS 141.1	January 3, 2008
		Urgent Appeal CHN 009/1107/OBS 141.2	January 7, 2008
		Open Letter to the authorities	January 18, 2008
	Judicial proceedings	Urgent Appeal CHN 009/1107/OBS 141.3	February 1, 2008
		Urgent Appeal CHN 009/1107/OBS 141.4	March 19, 2008
	Sentencing	Urgent Appeal CHN 009/1107/OBS 141.5	April 3, 2008
		Urgent Appeal CHN 009/1107/OBS 141.6	April 21, 2008
	Denial of medical care	Open Letter to the authorities	July 3, 2008
	Acts of ill-treatment and torture	Press Release	October 23, 2008
Mr. Li Jinsong	House arrest / Harassment	Open Letter to the authorities	January 18, 2008

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

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Li Fangping	Harassment / Intimidation	Open Letter to the authorities	January 18, 2008
		Press Release	October 1, 2008
Mr. Lü Gengsong	Sentencing / Arbitrary detention / Judicial proceedings	Urgent Appeal CHN 003/0807/OBS 099.1	February 5, 2008
		Urgent Appeal CHN 003/0807/OBS 099.2	April 18, 2008
Mr. Yang Chunlin	Arbitrary detention / Judicial proceedings / Ill-treatments	Urgent Appeal CHN 001/0208/OBS 024	February 20, 2008
	Sentencing	Urgent Appeal CHN 001/0208/OBS 024.1	March 25, 2008
	Torture and ill-treatments	Urgent Appeal CHN 001/0208/OBS 024.2	April 1, 2008
Mr. Zheng Enchong and Ms. Jiang Meili	Arbitrary arrest / Ill-treatments / Ongoing harassment	Urgent Appeal CHN 001/0803/OBS 041.12	February 21, 2008
Mrs. Liu Jie	Sentencing / Arbitrary detention / Ill-treatment	Urgent Appeal CHN 007/1007/OBS 129.3	February 22, 2008
		Urgent Appeal CHN 007/1007/OBS 129.4	June 12, 2008
		Urgent Appeal CHN 007/1007/OBS 129.5	August 22, 2008
Mr. Teng Biao	Arbitrary arrest / Release / Harassment	Urgent Appeal CHN 002/0308/OBS 036	March 11, 2008
	Hindrances on freedoms of movement and expression	Open Letter to the authorities	July 3, 2008

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Ms. Zheng Mingfang	Arbitrary detention /Risk of torture or ill-treatment / Harassment	Urgent Appeal CHN 008/1007/OBS 132.1	April 21, 2008
Mr. Qi Chonghuai	Sentencing / Arbitrary detention / Ill-treatments	Urgent Appeal CHN 003/0508/OBS 085	May 16, 2008
Mr. Chen Guangcheng and Ms. Yuan Weijing	Hindrance to freedom of movement / Arbitrary detention / Judicial proceedings	Urgent Appeal CHN 006/0706/OBS 087.6	May 19, 2008
Mr. Huang Qi	Arbitrary detention / Judicial proceedings	Urgent Appeal CHN 004/0608/OBS 105	June 18, 2008
		Urgent Appeal CHN 004/0608/OBS 105.1	July 22, 2008
Messrs. Li Baiguang, Jiang Tianyong, Li Heping, Li Xiongbing, Li Fangping, Fan Yafeng, Zhang Xingshui and Liu Xiaobo	Hindrances on freedoms of movement and expression	Open Letter to the authorities	July 3, 2008
Mr. Yao Lifa	Abduction	Open Letter to the authorities	July 3, 2008
Mr. Sun Lin	Sentencing / Arbitrary detention	Open Letter to the authorities	July 3, 2008
Mr. Yang Maodong, alias Guo Feixiong	Arbitrary detention / Harassment to his family	Open Letter to the authorities	July 3, 2008
	Arbitrary detention / Ill-treatment	Urgent Appeal CHN 001/0206/OBS 018.4	November 5, 2008

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mrs. Mao Hengfeng	Arbitrary detention / Acts of torture and ill-treatment	Urgent Appeal CHN 004/0406/OBS 044.6	July 11, 2008
	Release	Urgent Appeal CHN 004/0406/OBS 044.7	December 4, 2008
Mr. Ye Guozhu	Incommunicado detention	Urgent Appeal CHN 005/0708/OBS 125	July 24, 2008
Mr. Liu Shaokun	Arbitrary detention / Sentencing	Urgent Appeal CHN 006/0708/OBS 129	July 30, 2008
	Release	Urgent Appeal CHN 006/0708/OBS 129.1	September 29, 2008
Ms. Zeng Jinyan	Absence of information / Fear for safety	Urgent Appeal CHN 007/0808/OBS 133	August 12, 2008
	Arbitrary detention / Ill-treatments / Harassment	Urgent Appeal CHN 007/0808/OBS 133.1	August 26, 2008
Ms. Wang Xiaoqiao	Sentencing / Arbitrary detention	Urgent Appeal CHN 008/0808/OBS 144	August 26, 2008
Group of voluntary lawyers	Intimidation	Press Release	October 1, 2008
Mr. Gao Zhisheng	Arbitrary detention / Acts of ill-treatment and torture	Press Release	October 23, 2008
Mr. Liu Xueli	Arbitrary detention / Judicial harassment	Urgent Appeal CHN 009/1108/OBS 190	November 14, 2008
Messrs. Chen Xi, Shen Youlian and Liao Xuangyuan	Threats / Harassment	Urgent Appeal CHN 010/1108/OBS 193	November 17, 2008
	Enforced disappearance / Arbitrary detention	Urgent Appeal CHN 011/1108/OBS 209	December 8, 2008
		Open Letter to the authorities	December 12, 2008

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Chen Daojun	Sentencing / Arbitrary detention	Urgent Appeal CHN 011/1108/OBS 200	November 25, 2008
Messrs. Huang Yanming and Du Heping	Arbitrary arrest / Arbitrary detention / Enforced disappearance	Urgent Appeal CHN 011/1108/OBS 209	December 8, 2009
		Open Letter to the authorities	December 12, 2008
Mr. Liu Xiaobo	Arbitrary detention / Judicial proceedings	Open Letter to the authorities	December 12, 2008
Mr. Zhang Zhuhua	Arbitrary arrest / Release	Open Letter to the authorities	December 12, 2008
Mr. Wen Kejian	Harassment / Intimidation	Open Letter to the authorities	December 12, 2008



/ INDIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009

Political context

During 2008, parts of India continued to experience internal armed conflict and/or situations of random or general unrest. In many of the highly militarised areas, the Indian Government failed to uphold and defend human rights either indirectly, by failing to take measures to protect the targeted communities or by not taking action against the perpetrators of violence, or directly, through violence perpetrated by the police, paramilitary and other security forces. Such violence included enforced disappearances, extrajudicial killings, torture and rape, and was particularly prevalent during counter-insurgency operations in Jammu and Kashmir, in the north-eastern States of Assam and Manipur, in addition to the strongholds of Naxalite insurrection¹.

Impunity also continued, with the police and security forces being protected from prosecution under section 197 of the Criminal Procedure Code². The military enjoyed further immunity under the Armed Forces Special Powers Act (AFSPA)³, which still applied to areas of separatist and armed rebellion in Jammu and Kashmir and in the States of Assam and Manipur. The prevailing culture of impunity was exacerbated by the incapacity of the National Human Rights Commission (NHRC) to independently investigate complaints of human rights violations by the armed forces⁴.

1./ See “Banglar Manabadhikar Suraksha Mancha” (MASUM).

2./ This provides that no court will consider any offence alleged to have been committed by an official (including a member of the armed forces) during the course of official duty, unless it has been authorised to do so by the Federal Government.

3./ The AFSPA not only grants the military sweeping powers to arrest, detain and shoot at any person to “maintain public order”, but also prevents the prosecution of members of the armed forces without prior Federal Government authorisation.

4./ See MASUM. Section 19 of the Human Rights Protection Act 1993 provides that the NHRC has no power to carry out independent investigations. It can only request a report from central Government and make recommendations.

In addition to situations of internal armed conflict, terrorist attacks also wrought havoc in India during 2008. Bomb attacks in Jaipur (Rajasthan) on May 13, 2008, Bangalore (Karnataka) and Ahmadabad (Gujarat) on July 26, Delhi on September 13, and three towns in Assam on October 30, as well as a highly coordinated terrorist attack and hostage taking in Mumbai on November 26-29, all caused considerable loss of civilian life as well as injuries, increasing the insecurity and instability of the country, as well as raising questions on both the capacity and professionalism of the police force and once again raising the case of developing “stronger” counter-terrorism legislation.

Silencing those exposing or denouncing violations and violence

Those who sought to expose and seek remedial action for human rights violations were targets for repression in 2008. These actions against human rights defenders intimidated not only human rights organisations, but also sent a warning to victims who feared that, if the State can act with such impunity towards the organisations representing them, there are no limits on what could happen to them as victims. For example, on April 20, 2008, 400 participants in “The Long March for Justice for Special Task Force (STF) Victims”, including Messrs. **Henri Tiphagne**, Executive Director of People’s Watch, and **Mahaboob Batcha**, a member of Society for Community Organisation Trust, were arrested in Sathyamangalam in Tamil Nadu State. They were released later that day. The following day, 115 protesters (including 38 women and one child) were arrested after continuing their march. Again they were released the same day. The protesters had been peacefully campaigning for justice for violations, including extrajudicial killings, torture and rape, committed by the STF in Karanataka and Tamil Nadu States. They suspended their march after this date given assurances from the Chief Minister of Tamil Nadu that all STF victims would be considered for compensation.

During 2008, the National Project on Prevention of Torture in India (NPPTI) organised a number of People’s Tribunals on Torture (PTT) throughout the country, the aim of which was to enable victims to speak about their experiences of torture by the police and security forces. Many of those involved with this national campaign suffered intimidation and harassment, in particular through police investigations and searches, as well as being the victim of false criminal charges brought by

the police. For example, a number of participants were arrested during the PTT in Tamil Nadu, and false charges were filed against Messrs. Henri Tiphagne, also National Director of the NPPTI, **S. Martin**, **G. Ganesan**, both members of People's Watch, and **Prabakar**, Madurai District Human Rights Monitor for the NPPTI. In West Bengal, following the successful completion of a PTT held on June 9-10, 2008, fabricated charges were also filed against Mr. **Kirity Roy**, President of "Banglar Manabadhikar Suraksha Mancha" (MASUM), a human rights organisation based in West Bengal. Furthermore, on June 12, 2008, MASUM offices were arbitrarily raided by plain-clothes police officers, who confiscated both documents and audiovisual equipment. Further harassment took place on September 27, 2008, when police served a summons on MASUM for three documents relating to victims of torture who had given evidence during the PTT. These actions are likely to be retribution for involvement in the PTT as well as for MASUM's exposure of serious human rights violations by police officers and Border Security Forces, including torture and abuse of authority.

Furthermore, human rights defenders seeking to expose violence committed both by State forces and armed opposition groups were frequently demonised as "terrorists" and supporters of anti-State forces such as the Naxalites or the Maoists, or were even killed for their human rights activities. For example, on May 5, 2008, Mr. **Ajay T.G.**, filmmaker, journalist and a member of Peoples' Union for Civil Liberties (PUCL), was arrested and detained under the Chhattisgarh State Public Security Act (CSPSA) in Raipur on charges of "sedition" and "association with an unlawful organisation", the Communist Party of India (Maoist). The State police had no evidence against Mr. Ajay T.G. except a letter that it claimed had been written by him to a Maoist leader. Mr. Ajay T.G. had been actively involved in documenting human rights violations against the "adivasi" (indigenous/tribal) communities in Chhattisgarh committed by both the Maoists and Salwa Judum, an armed anti-Maoist group reportedly supported by the State. On August 5, 2008, Mr. Ajay T.G. was released on statutory bail after over 90 days in jail as the police were unable to produce a charge-sheet. However, as of the end of 2008, the charges against him had not been dropped despite the lack of evidence, and Mr. Ajay T.G. remained under his bail

restrictions⁵. Mr. Ajay T.G. is the second human rights defender to be arrested under the CSPA, the first being Dr. **Binayak Sen**, National Vice-President of PUCL and Secretary General of the PUCL branch in the Chhattisgarh State, who continued to be detained without trial at the end of 2008 after his arrest on May 14, 2007. Mr. Ajay T.G had also made a film on Dr Sen's work after his incarceration.

Repression of those defending the rights of marginalised groups and communities

Despite the illegality of the caste system, discrimination persisted with NGOs working to promote the rights of Dalit and other marginalised communities coming under attack both from members of the upper caste as well as the authorities. Thus, during meetings of the Preparatory Committee for the Durban Review Conference on racism, racial discrimination, xenophobia, and related intolerance in Geneva between October 6 and 17, 2008, the Indian delegation opposed the accreditation of national human rights organisations fighting against caste-based discrimination and for the protection and advancement of Dalit rights. India's opposition was on the grounds that caste-based discrimination does not fall under the scope of the International Convention against Racial Discrimination (CERD) and the activities of the organisations, therefore, do not fall under the objectives of the Durban Review Conference as such. Despite India's opposition, a number of such NGOs were accredited, with support from the European Union⁶. Furthermore, Dr. **Lenin Raghuvanshi**, Convener of the People's Vigilance Committee on Human Rights (PVCHR), began receive threatening telephone calls in April 2008. Dr. Raghuvanshi had previously received death threats in 2007, in relation to his work with the Dalit community. Between April 25 and May 18, 2008, Dr. Raghuvanshi received at least 18 telephone calls to his mobile phone, threatening him to stop working for the Dalit communities, particularly in Varanasi. Dr. Raghuvanshi registered a complaint with the police after receiving the first call and his mobile phone line was subsequently monitored. However, despite this, no action was taken and the State

5./ See MASUM and People's Watch.

6./ These were the National Campaign on Dalit Human Rights (NCDHR), Swadikar and the International Dalit Solidarity Network (IDSN). See Asian Legal Resource Centre Press Release, October 15, 2008, and Centre for Organisation Research and Education (CORE).

authorities failed to provide any protection to Dr. Raghuvanshi or other PVCHR activists, or to the relevant Dalit communities⁷.

Defenders of land rights of marginalised communities were also the victims of harassment and repression. Many activists peacefully campaigning for land rights of indigenous groups were accused by the police of having links with armed Maoist groups which sought land reform through violent means. For example, on July 11, 2008, Mr. **Duskar Barik**, Ms. **Mamata Barik**, Ms. **Jyanti Sethy** and Mr. **Ranjan Patnaik**, four activists working for the Keonjhar Integrated Rural Development and Training Institution (KIRDTI), an organisation that advocates for the land rights of adivasis, ecological protection from mining and illegal felling of woods in Keonjhar district, in the State of Orissa⁸, fled Keonjhar district after being informed that they were under investigation by the police in relation to alleged connections with armed Maoist groups, as they feared that they too would face torture and ill-treatment in police custody. On July 12, local newspapers published articles according to which Keonjhar police would believe that KIRDTI activities were linked with armed Maoists groups, a claim denied by KIRDTI staff and human rights organisations who work with them. At the beginning of July 2008, four of their colleagues had already been arrested by police and accused of having links with armed Maoist groups. One of those arrested was severely beaten whilst in police custody. As of the end of 2008, no further information could be obtained on the situation of those KIRDTI activists⁹. Also in the State of Orissa, Mr. **Abhaya Sahoo**, President of the “POSCO Pratirodh Sangram Samiti” (PPSS), a movement of the people of Dhinkia, Gobindapur, and Nuagaon panchayats in the Kujang Tehsil of Jagatsinghpur district, which has been relentlessly resisting the take-over of their resources for the establishment of a 12-million-tonne mega steel plant by POSCO, the second largest steel-making company of the world¹⁰, was arrested on October 12, 2008. According to the police, 25 cases were lodged

7./ See PVCHR Press Release, May 21, 2008.

8./ KIRDTI is also involved in working on development activities with the “Juang” tribal community.

9./ See MASUM and CORE.

10./ The project will have large-scale, irreversible socio-economic and environmental impacts not only on the areas under the threat of immediate acquisition but over vast numbers of the State's people, and huge tracts of its forests and other lands.

against him¹¹. On December 3, 2008, Mr. Sahoo was hospitalised after his blood sugar levels rose up and he was illegally chained to the leg of a bed for a few days. He was subsequently sent back to prison and, as of the end of 2008, he remained detained¹². Activists in the State of Uttarakhand were also targeted. For instance, on February 29, 2008, Mr. **Gopal Bhatt**, an activist of a local organisation called “Mazdoor Kisan Sangharsh Samiti” (MKSS), which works on land rights of the Tharu’s, a poor tribal community of the hills, in Bindu Khatta, State of Uttarakhand, was arrested in the night by policemen to “clear some confusion” and was remanded in Khatima¹³. Mr. Bhatt was reportedly tortured while in detention and made to sign blank pages. The police also warned his neighbours not to come out in public in his favour and took down their names. Mr. Bhatt had already been detained in late December 2007 for one night and one day. As of the end of 2008, three cases remained pending against Mr. Bhatt¹⁴.

Death threats against NGOs fighting against human trafficking

Human rights organisations working against human trafficking and forced prostitution in Varanasi were also victims of reprisals in 2008. On July 8, 2008, for instance, human rights defenders working for “Guria”, a human rights organisation working against human trafficking and for the rehabilitation, health, education and other rights of women in prostitution and their children, were threatened by four unknown men in Varanasi. The men attended the Bal Kendra (child centre) in Varanasi,

11./ Cases were registered under sections 147 (“punishment for rioting”), 148 (“rioting, armed with deadly weapon”), 149 (“offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly”), 307 (“attempt to murder”), 323 (“punishment for voluntarily causing hurt”), 349 (“use of force”), 395 (“punishment for dacoity”), 427 (“mischief causing damage to the amount of fifty rupees”), 436 (“mischief by fire or explosive substance with intent to destroy house, etc.”) and 506 (“punishment for criminal intimidation”) of the Indian Criminal Code and sections 25 (“punishment for certain offences”) and 27 (“punishment for using arms”) of the Indian Arms Act.

12./ See People’s Watch.

13./ *Idem*.

14./ Mr. Bhatt has been charged, among others, with “punishment of criminal conspiracy” (section 120 B of the Criminal Code), “waging, or attempting to wage war, or abetting waging of war, against the Government of India” (section 121), “conspiracy to commit offences punishable by section 121” (section 121A), “assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power” (section 124), “sedition” (section 124A) and “imputations, assertions prejudicial to national-integration” (section 153B).

looking for Mr. **Ajeet Singh**, the President of Guria, who was at Guria's office in Khajuri at that time. The four men spoke with his wife, Ms. **Santwana Manju**, and threatened to kill both her and Mr. Singh if they continued to work against human trafficking. The men then telephoned Guria's offices in Khajuri and demanded that Mr. Singh stop working on the anti-trafficking cases. Mr. Singh filed a complaint with the police on July 12, 2008, but no action was taken nor was any protection provided by the police to Guria activists. Guria human rights defenders had previously been the target of intimidation and repression: in 2005, the police registered fabricated cases against Guria human rights activists, including Mr. Singh, allegedly following pressure by brothel owners and their mafia. This was intended to intimidate the activists to withdraw statements given in court in relation to cases brought against brothel owners for forced prostitution and raised the suspicion of local police involvement with the sex trade industry¹⁵.

Urgent Interventions issued by The Observatory in 2008¹⁶

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Lachit Bordoloi	Arbitrary detention / Search / Judicial proceedings	Urgent Appeal IND 001/0208/OBS 018	February 14, 2008
		Urgent Appeal IND 001/0208/OBS 018.1	February 15, 2008
Mr. Arumugam Katuraja Kanagaraj	Arbitrary arrest / Ill-treatment / Judicial proceedings / Death threats	Urgent Appeal IND 002/0208/OBS 020	February 20, 2008
Mr. Julfikar Ali	Judicial proceedings / Harassment	Urgent Appeal IND 003/0208/OBS 027	February 27, 2008
Dr. Binayak Sen	Solitary confinement / Arbitrary detention	Urgent Appeal IND 004/0408/OBS 055	April 11, 2008

15./ See CORE.

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

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Messrs. Henri Tiphagne, Mahaboob Batcha and V.P. Gunasekaran	Arbitrary arrest	Urgent Appeal IND 005/0408/OBS 058	April 21, 2008
	Release	Urgent Appeal IND 005/0408/OBS 058.1.	April 22, 2008
Mr. Sapam Kangleipal Meitei	Arbitrary detention / Judicial proceedings	Urgent Appeal IND 006/0508/OBS 076	May 14, 2008
		Urgent Appeal IND 006/0508/OBS 076.1	May 19, 2008
Messrs. Henri Tiphagne, S. Martin, G. Ganesan, and Prabakar	Judicial proceedings / Harassment	Urgent Appeal IND 007/0608/OBS 097	June 6, 2008
Mr. Kirity Roy / MASUM	Judicial proceedings / Search / Harassment	Urgent Appeal IND 007/0608/OBS 097.1	June 12, 2008
		Urgent Appeal IND 007/0608/OBS 097.2	September 29, 2008
Mr. Konsom Rishikanta	Assassination	Urgent Appeal IND 008/1108/OBS 203	November 27, 2008



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Political context

The death of former President Suharto on January 27, 2008 might have signalled the end of an era, but many saw his death as the final nail in the coffin for justice to be achieved for the atrocities committed by him and his political allies. Impunity continued to prevail for violations carried out under his watch, as well as to dominate the current human rights situation in Indonesia. In particular, after much delay, on July 15, 2008, the Commission of Truth and Friendship delivered its final report to the Government. It concluded that the Indonesian military bore institutional responsibility for widespread and systematic gross violations of human rights committed in East Timor in August 1999. Whilst these findings exceeded the expectations of many, the Commission was unable to assign individual responsibility, recommend prosecution or order reparations.

Indonesia's human rights record came under international scrutiny in 2008. Reports were submitted to the UN Human Rights Council by the UN Special Representative of the Secretary-General on the situation of Human Right Defenders and the UN Special Rapporteur on Torture in January and March 2008 respectively, following visits to Indonesia in 2007. Indonesia was also considered by the UN Committee Against Torture (CAT) in May 2008 and by the UN Human Rights Council under the Universal Periodic Review process in June 2008. Key concerns raised by all these mechanisms were the persistence and widespread use of torture, the lack of a definition and criminalisation of torture in penal legislation and impunity for human rights violations¹.

1/ See UN Document A/HRC/7/28/Add.2, *Report of the Special Representative of the Secretary-General on the situation of human rights defenders - Mission to Indonesia*, January 28, 2008; UN Document A/HRC/7/3/Add.7, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment - Mission to Indonesia*, March 10, 2008; UN Document CAT/C/IDN/CO/2, *Concluding Observations of the Committee Against Torture on Indonesia*, July 2, 2008; and UN Document A/HRC/8/23, *Report of the Working Group on the Universal Periodic Review: Indonesia*, May 14, 2008.

Violence against minority groups, in particular the Ahmadiyah and other minority religious communities continued in 2008. On April 16, 2008, the Coordinating Board for Monitoring Mystical Beliefs in Society (Bakor Pakem) published its recommendation that the Government should ban the Ahmadiyah by issuing a decree on the basis that it is a deviant sect. This incited violent attacks by other religious groups against Ahmadiyah communities and, despite requests from Ahmadiyah representatives and their lawyers, the police and authorities failed to provide any protection for these religious groups. The Committee Against Torture also noted “persistent, disturbing allegations of a routine failure to investigate such violence”². In the end, the Government did not issue a regulation disbanding the Ahmadiyah, but the Religious Minister, the Home Affairs Minister and the Attorney General issued a joint ministerial decree on June 9, 2008, which banned the dissemination of Ahmadiyah teachings in Indonesia. In this context of increased religious tensions, 2008 saw the emergence of a new trend of fundamental religious groups attacking those who advocate religious tolerance and pluralism. Defenders of women’s human rights were particularly vulnerable to violence by Islamic fundamentalists.

In 2008, human rights defenders continued to be under threat, in particular through criminalisation of their activities, stigmatisation as separatists (particularly in the conflict areas of Aceh and Papua) or communists, intimidation and restrictions on freedoms of expression and assembly. In addition, impunity remained the rule for violations against defenders, as illustrated by the emblematic case of Mr. **Munir Said Thalib**, co-founder of the Commission for Disappearances and Victims of Violence (KontraS) who was killed in 2004, and which was seen as an attempt to intimidate and threaten all human rights defenders³.

2./ See UN Document CAT/C/IDN/CO/2./ Concluding Observations of the Committee Against Torture on Indonesia/, July 2, 2008.

3./ Although former Deputy Chief of Indonesia’s National Intelligence Agency (BIN) Mr. Muchdi Purwopranjono was prosecuted for “premeditated murder”, which was seen as a breakthrough in the fight against impunity, given that it was the first time a member of the BIN had been arrested for a criminal offence and was the first acknowledgement that State authorities may have been involved in Mr. Munir Said Thalib’s assassination, on December 31, 2008, the South Jakarta District Court decided to acquit Mr. Muchdi for want of evidence.

Some positive steps, but still legislative shortcomings in the promotion of human rights

The then Special Representative on the Situation of Human Rights Defenders, Ms. Hina Jilani, noted a number of positive steps that had been taken to strengthen the legal and institutional framework for the promotion of human rights⁴, but identified a number of shortcomings, in particular the absence of “concrete measures dealing directly with the protection of human rights defenders”⁵. She recommended that legislation and procedures be established to prevent the prosecution of human rights defenders when carrying out legitimate activities. However, there was little progress in 2008 in this regard; a bill providing legislative protection for human rights defenders was still in the course of being drafted with no clear date for its finalisation, having still not been debated by Parliament by the end of 2008. The establishment in 2008 of a Victims and Witness Protection Agency (LPSK) under the Witness Protection Act 2006 may offer some hope of better protection for human rights defenders, but it was still not operational at the end of 2008⁶.

Furthermore, in August 2008, the Ministry of Home Affairs approved a decree requiring State approval of foreign funding of Indonesian organisations after minimal public consultation (Permendagri⁷ n°38/2008), and which was only widely disseminated in December. Although the Ministry of Home Affairs said the Government’s intention was to clarify the Law n°8 of 1985 that provides for the suspension of organisations that have received foreign funding without Government permission, the new regulation might be used to impede freedom of association in Indonesia, in particular through restricting foreign funding of NGOs

4./ The legal and institutional framework for the promotion and protection of human rights was strengthened following constitutional changes in 2002, the adoption of the Human Rights Act in 1999 and of the Witness Protection Act in 2006, and ratification, in 2006, of the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. Similarly, the establishment of *ad hoc* human rights tribunals, of the National Human Rights Commission (Komnas HAM) and of the National Commission on Violence Against Women (Komnas Perempuan) has been an important development in terms of protection and promotion of human rights, providing a framework in which defenders may carry out their activities.

5./ See UN Document A/HRC/7/28/Add.2, *Report of the Special Representative of the Secretary-General on the situation of human rights defenders - Mission to Indonesia*, January 28, 2008.

6./ The LPSK was inaugurated on July 15, 2008 but remains un-operational due to budget issues.

7./ A regulation of the Ministry of Home Affairs.

wanting to monitor the 2009 legislative and presidential elections. Indeed, it requires NGOs to register with the Government, seek Interior Ministry approval for foreign funding, pay tax on the funds and publicise foreign-funded activities through the media. Foreign donors are also required to register with the Government so that the latter can “make sure foreigners are not seeking to undermine national security or development”. Besides, the Bank of Indonesia also issued in December 2008 a policy that request all banks in Indonesia to ask their customers about the usage of money received abroad. As of the end of 2008, both the Ministries of Home Affairs and of Justice were also drafting new laws on the treatment of civil society organisations, including NGOs⁸.

Repression of human rights defenders in conflict areas of Aceh and Papua

Repression of human rights defenders in Aceh and Papua continued in 2008, frequently taking the form of intimidation, stigmatisation as separatists, criminalisation of activities – predominantly through charges of sedition – and attacks on freedom of expression and assembly. Indeed, whilst there were some improvements in the post-conflict area of Aceh, human rights defenders continued to be the target of military, police and intelligence operations. Any seminar or workshop held by Acehnese human rights organisations was investigated by intelligence officers. This included seminars/workshops held by Kontras Aceh, LBH Banda Aceh, Aceh Judicial Monitoring Institute (AJMI) and Koalisi NGO HAM⁹. The Special Representative on Human Rights Defenders, Ms. Hina Jilani, expressed concerns regarding this following her visit to Indonesia in June 2007, stating that whilst she welcomed some improvements, “concerns remain with regard to surveillance activities by law enforcement authorities, stigmatisation of defenders, restrictions that affect the work of women human rights defenders, and the score of unresolved cases”¹⁰.

Land rights activists, particularly, came under attack in Aceh for speaking out against violations. On August 14, 2008, eight lawyers

8./ See Imparsial.

9./ *Idem*.

10./ See UN Document A/HRC/7/28/Add.2, *Report of the Special Representative of the Secretary-General on the situation of human rights defenders - Mission to Indonesia*, January 28, 2008.

and human rights activists of the Legal Aid Foundation Banda Aceh (LBH Banda Aceh), Messrs. **Kamaruddin, Muksalmina, Yulisa Fitri, Sugiono, Mustiqal Syahputra, Muhammad Jully Fuadi, Mardiaty and Juanda**, were charged and convicted of “disseminating hate against the Government” and “incitement of violence against public officials”. They were sentenced to three months’ imprisonment, with six months’ probation. The activists had been distributing leaflets about the land rights of more than 1,000 people affected by evictions from a palm oil plantation owned by the Bumi Flora Corporation in East Aceh¹¹.

In West Papua, intimidation and harassment of human rights defenders through surveillance was also used by the authorities and the lack of accountability for State violence in this province continued to obstruct the resolution of the conflict, with increased military presence adversely affecting the capacity of human rights defenders to carry out their work. Additionally, human rights defenders in West Papua continued to be the victims of systematic intimidation following the visit in June 2007 by the Special Representative¹². In particular, those expressing their views or exposing violations came under attack. For example, Mr. **Iwanggin Sabar Olif**, a West Papua human rights lawyer and a member of the Institute for Human Rights Study and Advocacy (ELSHAM), was arrested on October 18, 2007 by anti-terrorist officers and subsequently charged under Article 160 of Indonesia’s Criminal Code¹³ for inciting “in public to commit a punishable act, a violent action against the public authority or any other disobedience”, for allegedly sending an SMS message critical of President Susilo Bambang Yudhoyono¹⁴. Released in January 2008, his subsequent trial took over 15 months,

11./ See Tapol and Imparsial.

12./ See UN Document A/HRC/7/28/Add.2, *Report of the Special Representative of the Secretary-General on the situation of human rights defenders - Mission to Indonesia*, January 28, 2008.

13./ This article, which carries a maximum sentence of six years’ imprisonment, has been used in the past against human rights defenders in Indonesia, including in Aceh, Java, East Kalimantan and Maluku, to suppress freedoms of expression and assembly.

14./ This message reportedly asked people to be careful because President Susilo Bambang Yudhoyono had ordered a deadly program together with the army aimed at “eradicating” the Papuan population through food poisoning and other violent actions. This text message would have been in circulation since July 2007, and thousands of Papuans would have already received it. Mr. Iwanggin Sabar Olif always denied having written or sent this message, or even having received it. During police interrogation, Mr. Iwanggin Sabar Olif did not have access to a lawyer. He would also have been intimidated by the police to confess he was the original sender of the text message.

which prevented him from carrying out his legitimate work as a human rights defender in Papua. On January 29, 2009, the Jayapura District Court finally cleared Mr. Iwanggin Sabar Olif of all charges brought against him¹⁵. On July 20, 2008, a book entitled *The Genocide of Ethnic Melanesia: Breaking the silent history of violence in Papua* by Rev. **Socratez Sofyan Yoman** was banned by the Attorney General¹⁶, thus reinforcing the general climate of fear.

Repression of the media and freedom of expression

Restrictions on freedom of expression were not confined to conflict areas. In 2008, journalists were frequently prosecuted by the Government and by the community for exercising their right to freedom of expression. Rather than using the Press Law of 1999 to resolve disputes relating to press reports, the Criminal Code, which was inherited from Dutch colonialists, was used to criminalise the press. The charges generally brought against journalists related to “defamation” and “crimes against dignity”. For example, in September 2008, the news magazine *Tempo* was ordered to pay a fine of Rp. 50 million (about 3,280 Euros) under the Criminal Code and to apologise publicly for its investigation into and report on corruption and tax evasion by palm oil product, Asian Agri¹⁷.

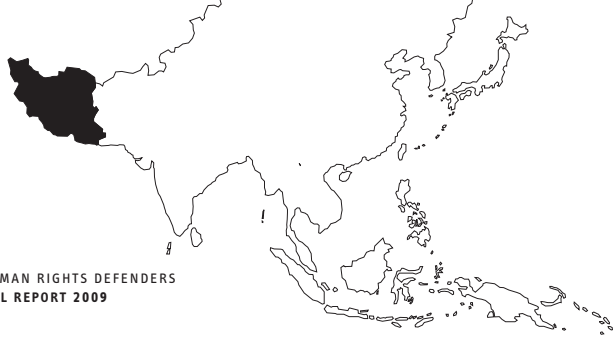
Freedom of expression was further curtailed in 2008 with the adoption of the Law on Electronic Information and Transactions (ITE). The Law contains provisions that sanction defamation with longer terms of imprisonment and higher fines than those stipulated in the Criminal Code, and media groups expressed concern that this could silence the press. In September 2008, legislator Mr. Alvin Lie initiated defamation proceedings against Mr. **Narliswandi Piliang**, blogger and journalist for *Tempo*. Mr. Piliang had written an article alleging that a coal mining company, PT Adaro Energy, had bribed the National Mandate Party through Mr. Lie to influence an investigation by the House of Representatives into the company’s initial public offering of shares. If convicted, the journalist faces up to six years’ imprisonment and a fine of Rp. 1 billion¹⁸.

15./ See Tapol.

16./ See Imparsial.

17./ Indonesia’s Judicial Review Commission was to investigate this district court decision.

18./ See FORUM-ASIA, *Fortnightly E-newsletter*, September 22, 2008.



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Political context

In March and April 2008, Iran held parliamentary (or Majlis) elections, which resulted in the conservatives, supportive of President Mahmoud Ahmadinejad, retaining control of Parliament. However, over a third of prospective candidates, predominantly reformists, were excluded from standing for election by the Council of Guardians on ideological grounds, on the basis that they were not sufficiently loyal to the Iranian revolution or Islamic values. Additionally, severe restrictions were imposed on media coverage of the elections, and independent election monitors were denied access to polling stations. The election process thus failed to comply with international standards and did not allow any genuine democratic choice for voters¹.

2008 saw a surge in executions, with 29 people being hanged in one day alone, on July 27, 2008. This increasing recourse to the death penalty, and in particular Iran's lamentable position as the world leader in the execution of juvenile offenders, led to widespread condemnation by the international community². By the end of October 2008, Iran had executed six child offenders, with at least a further 130 on death row, in

1./ See EU Presidency Statement on the conduct of parliamentary elections in Iran, March 15, 2008; and US Department of State Press Statement, March 14, 2008.

2./ The European Union issued a number of statements in 2008 condemning the rise in executions, in particular of minors. See, for example, the Declaration by the EU Presidency concerning death sentences in Iran, January 25, 2008 and EU Presidency Statements on the imminent execution of juvenile offenders in Iran, June 4 and 10, 2008. The UN Human Rights Committee also expressed concern over the "extremely high number of death sentences, many resulting from trials in which the guarantees of due process of law had not been properly applied". See UN Press Release, October 20, 2008.

flagrant violation of international law³. Additionally stoning continued to be used as a punishment⁴.

2008 was also characterised by a deterioration in the freedom of religion in Iran. The Iranian Constitution expressly provides that Islam is the official religion, but nonetheless recognises Zoroastrian, Jewish and Christian Iranians as religious minorities, free to follow their religion within the confines of the law⁵. Despite this, discrimination against religious minorities increased in 2008. In particular, Iranian converts to Christianity and members of the Baha'i community suffered persecution, including arrests, arbitrary detentions and violence. Concern for religious freedom grew in February 2008 when the Iranian Parliament began to consider a draft Criminal Code, which would include apostasy as one of the crimes punishable by death. This measure, thought specifically to target the Baha'i faith, would be in direct contravention of Iran's international human rights obligations including the right to change one's religion and the right to have no religion⁶.

Ongoing crackdown on the “One Millions Signatures Campaign” members

2008 saw no change in the systematic campaign of repression against women's rights activists. Since repression against them began in June 2006, when a peaceful gathering was violently repressed by the authorities, more than one hundred women's rights activists have been arrested,

3./ See OMCT Press Release, October 17, 2008. No other country was known to have executed a juvenile offender in 2008. On October 16, 2008, the Iranian judiciary issued a directive abolishing execution sentences for juvenile offenders. However, two days later, a statement was released qualifying the ban, stating that death sentences could continue to be handed down in murder cases; the ban applying only to drug crimes and thus of limited application.

4./ See UN General Assembly Resolution, UN Document A/RES/62/168. See also Declaration by the EU Presidency concerning death sentences in Iran, February 7, 2008.

5./ Article 13 of the Iranian Constitution.

6./ Whilst the death penalty has been handed down in the past for apostasy, it was not established by law. See Declaration by the EU Presidency concerning the consideration of a draft Criminal Code in Iran, February 25, 2008 and Declaration by the EU Presidency on the situation of people belonging to religious minorities in Iran, September 26, 2008.

interrogated or sentenced⁷. A particular target in 2007, the Campaign for Equality, which calls for the end of legal discrimination against women in Iran, was once again repressed by the authorities. Thus, human rights defenders who were active in the “One Million Signatures Campaign” (established in August 2006) were sentenced to prison or to lashings for writing and publishing articles and reports, holding private meetings at home, organising and attending peaceful gatherings and collecting signatures. Most were charged with the vaguely worded offences against national security under the Islamic Criminal Code. One of the activists, Ms. **Hana Abdi**, was given the maximum possible sentence of five years’ imprisonment in exile on June 18, 2008, on charges of “taking part in a gathering” and “colluding to threaten national security”. On October 7, 2008, her sentence was reduced to one year and a half in prison and her sentence to imprisonment in exile was nullified. She was however sent in October to a prison of Hamedan province, out of Iranian Kurdistan. Ms. Abdi was convicted solely based on interrogations by Intelligence Ministry officials during her detention, during which she had been held in solitary confinement, repeatedly tortured and denied access to her lawyer. At the end of 2008, Ms. **Ronak Safarzadeh**, another member of the Campaign, remained detained awaiting trial in Sanandaj prison, Kurdistan province. The Government also continued its trend of releasing women’s rights activists on high bail until their trial. For example, bail of 2,000 million Rials (about 160,600 Euros) was set for the release of Ms. **Esha Momeni**, a student at California State University Northridge, who was arrested on October 15, 2008 when visiting Tehran. She was held in solitary confinement until her bail was met on November 10, 2008. Through this action, which in itself is a form of harassment and intimidation given that many are unable to meet such high bail amounts, the Government has raised over one million Euros.

In addition to judicial harassment and harsh sentencing, these women human rights defenders also saw their freedom of movement restricted. For example, on March 3, 2008, Ms. **Parvin Ardalan**, who in April

7/ In November 2008, the UN Special Rapporteurs on Human Rights Defenders and on Violence Against Women criticised Iran’s harassment of women’s rights activists including members of the One Million Signatures Campaign. The Special Rapporteurs also noted a lack of cooperation from Iranian authorities (See UN Joint Press Release, November 27, 2008).

2007 had been sentenced to three years' imprisonment (with two and a half years' suspended), was forced to get out of a plane en route to Stockholm where she was due to collect the Olaf Palme Human Rights Prize⁸ for her contribution to women's rights. Similarly, Ms. **Sussan Tahmasebi's** passport was retained at the airport on October 26, 2008 and she was prevented from travelling. Her home was also searched and her laptop, books and other materials seized on the same day. This was the fourth time she was prevented from travelling.

Repression was not only directed against individual women's rights activists. In an attempt to silence the voices of gender equality activists, the authorities blocked the website of the campaign Change for Equality twice in less than two weeks at the end of November/beginning of December 2008. The website has been blocked about twenty times since it was launched.

Repression of minority rights defenders

As in 2007, defenders of minority rights, both cultural and religious, faced repression by the authorities. Several notable human rights defenders and journalists who had promoted Kurdish human rights continued to be detained in prison at the end of 2008 as a result of exercising their right to freedoms of expression or assembly, including Messrs. **Mohammed Sadigh Kaboudvand, Abdoulvahid (aka Hiwa) Boutimar, Adnan Hassanpour and Massoud Korpour**. Human rights defenders continued to be targeted on the basis of having contact or collaborating with "illegal Kurdish organisations", a crime punishable by death. For instance, on November 6, 2008, Mr. **Yasser Goli**, a Kurdish rights activist and Secretary General of the Kurdish Students' Union of Iranian Universities, detained since October 9, 2007, was sentenced by the second branch of the Revolutionary Court of Sanandaj to 15 years in prison and to his banishment to Kerman, in the east of the country, for having contacts with "illegal Kurdish organisations" (Article 168 of the Islamic Criminal Code).

Those defending the rights of the Baha'i religious minority also came under attack. For example, one of Iran's most prominent human

8./ The Olaf Palme Foundation is an independent and non-governmental entity, which awards annual prizes to human rights activists.

rights defenders and 2003 Nobel Peace Prize winner, Ms. **Shirin Ebadi**, a lawyer and Secretary General of the Defenders of Human Rights Centre (DHRC), was the focus of a harsh slandering campaign by the State-controlled media in 2008, following her decision to defend seven members of the Baha'i minority in court. This campaign included articles criticising her for her support of the Baha'i, for defending homosexuals and for criticising Islamic punishments, as well as reports accusing her organisation of being financed by the US. Given that she had previously received death threats on April 5, 2008 for her human rights activities, this public attack could be perceived as an incitement to further harassment. Furthermore, on December 21, 2008, the DHRC headquarter in Tehran was closed by the police. A private meeting was scheduled on the very same day to commemorate the 60th anniversary of the Universal Declaration of Human Rights.

No respite for labour activists and trade unionists

Anti-union attacks by the authorities continued in 2008. In the run-up to May Day, a number of arrests took place, intended to intimidate trade unionists and create a climate of fear. For example, Mr. **Shays Amani**, a founder of the National Union of Dismissed and Unemployed Workers (NUDUW), was arrested on April 23, 2008. On May Day itself, the authorities attempted to suppress all peaceful celebrations arresting a number of activists and imposing fines and flogging others. For example, Messrs. **Javanmir Moradi** and **Taha Azadi**, two members of the Free Union of Iranian Workers (FUIW), were arrested, together with a number of worker activists in Asalouyeh in the south of Iran⁹. They were subsequently released.

A number of trade unionists also continued to be detained in prison. For example, Mr. **Mansour Osanloo**, President of the Syndicate of Workers of Tehran and Suburbs Bus Company (*Sherkat-e Vahed*), who had been arrested on July 10, 2007 by security services and subsequently sentenced to five years' imprisonment on grounds of propaganda and activities against the State, continued to be held despite serious health concerns¹⁰. On April 6, 2008, Mr. **Mahmoud Salehi**, Spokesperson for the Organisation Committee to Establish Trade Unions and former

9./ See International Trade Union Confederation (ITUC) Press Release, May 7, 2008.

10./ See ITUC Press Release, July 10, 2008.

leader of the Saqez Bakery Workers' Union in Kurdistan province, was released from Sanandaj prison reportedly on bail of 40 million Toman (approximately 32,120 Euros). Mr. Salehi had spent over five years in prison since mid-1980s for his trade union activities. This was a positive step in some respects, however, Mr. Salehi had been due to be released on March 23, 2008 but the authorities had refused to release him. New charges were brought against him on March 17, 2008 to justify his detention beyond his release date.

Urgent Interventions issued by The Observatory in 2008¹¹

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Emadeddin Baghi	Deterioration of health conditions / Ill-treatment / Arbitrary detention	Urgent Appeal IRN 006/0807/OBS 088.2	January 3, 2008
Ms. Maryam Hosseinkhah and Ms. Jelveh Javaheri	Release on bail	Press Release	January 8, 2008
		Press Release	September 5, 2008
Ms. Ronak Safarzadeh	Arbitrary detention	Press Release	January 8, 2008
		Press Release	September 4, 2008
Ms. Hana Abdi	Arbitrary detention / Sentencing	Press Release	January 8, 2008
		Urgent Appeal IRN 013/1107/OBS 154.1	July 4, 2008
		Press Release	September 4, 2008
Ms. Raheleh Asgarizadeh and Ms. Nasim Khosravi	Arbitrary detention / Judicial proceedings	Urgent Appeal IRN 001/0208/OBS 021	February 20, 2008
	Release on bail / Harassment	Urgent Appeal IRN 001/0208/OBS 021.1	March 4, 2008

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

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Ms. Ehteram Shadfar and Ms. Parvin Ardalan	Sentencing / Judicial harassment / Obstacles to the freedom of movement	Urgent Appeal IRN 002/0308/OBS 030	March 4, 2008
Mr. Mahmoud Salehi	Release on bail	Urgent Appeal IRN 003/0805/OBS 074.4	April 8, 2008
Ms. Khadijeh Moghaddam	Arbitrary detention / Judicial proceedings / Ill-treatments	Urgent Appeal IRN 003/0408/OBS 051	April 9, 2008
Ms. Shirin Ebadi	Death threats	Urgent Appeal IRN 004/0408/OBS 056.	April 14, 2008
	Slandering campaign	Press Release	August 8, 2008
	Obstacles to freedom of expression	Press Release	October 14, 2008
	Harassment / Search	Press Release	December 30, 2008
Ms. Nashrin Afzali and Ms. Nahid Jafari	Sentencing / Ongoing harassment	Urgent Appeal IRN 005/0408/OBS 064	April 23, 2008
Ms. Zeynab Peyghambarzadeh	Sentencing / Ongoing harassment	Urgent Appeal IRN 005/0408/OBS 064	April 23, 2008
		Joint Open Letter to the authorities	November 5, 2008
Ms. Rezvan Moghadam	Sentencing / Ongoing harassment	Urgent Appeal IRN 006/0506/OBS 073	May 2, 2008
Ms. Parvin Ardalan		Urgent Appeal IRN 006/0506/OBS 073	May 2, 2008
	Press Release	September 5, 2008	
Mr. Amir Yaghoub-Ali	Sentencing	Urgent Appeal IRN 007/0508/OBS 090	May 28, 2008
Mr. Saman Rasoulpour	Incommunicado detention	Urgent Appeal IRN 008/0708/OBS 130	July 31, 2008

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Massoud Kordpour	Incommunicado detention	Urgent Appeal IRN 009/0808/OBS 138	August 19, 2008
		Press Release	September 4, 2008
Messrs. Adnan Hassanpour and Abdoulvahid (Hiwa) Boutimar	Arbitrary detention / Judicial proceedings / Sentencing	Press Release	September 4, 2008
		Urgent Appeal IRN 007/0807/OBS 092.2	September 5, 2008
Mr. Mohamad Sadigh Kaboudvand	Arbitrary detention / Sentencing	Press Release	September 4, 2008
		Urgent Appeal IRN 003/0707/OBS 072.1	July 4, 2008
		Urgent Appeal IRN 003/0707/OBS 072.2	October 28, 2008
	Deterioration of health conditions	Urgent Appeal IRN 003/0707/OBS 072.3	December 22, 2008
Mr. Yasser Goli	Sentencing / Arbitrary detention	Press Release	September 4, 2008
		Urgent Appeal IRN 012/1008/OBS 187	November 12, 2008
Ms. Fatemeh Goftari	Sentencing / Arbitrary detention	Press Release	September 4, 2008
Ms. Zeynab Bayazidi	Arbitrary detention	Press Release	September 4, 2008
Ms. Nahid Keshavarz	Sentencing	Press Release	September 5, 2008
Ms. Esha Momeni	Arbitrary detention	Urgent Appeal IRN 010/1008/OBS 166	October 20, 2008
		Joint Open Letter to the authorities	November 5, 2008
	Release on bail / Judicial proceedings	Urgent Appeal IRN 010/1008/OBS 166.1	November 13, 2008

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Ms. Negin Sheikholeslami	Arbitrary detention	Urgent Appeal IRN 011/1008/OBS 176	October 31, 2008
	Release on bail	Urgent Appeal IRN 011/1008/OBS 176.1	December 16, 2008
Ms. Parastoo Alahyaari	Search / Harassment	Joint Open Letter to the authorities	November 5, 2008
Ms. Sussan Tahmasebi	Obstacles to the freedom of movement	Joint Open Letter to the authorities	November 5, 2008
Ms. Masoumeh Zia	Sentencing / Harassment	Urgent Appeal IRN 013/1108/OBS 189	November 12, 2008
Mr. Youssef Azizi Bani-Torof	Sentencing / Harassment	Urgent Appeal IRN 014/1108/OBS 192	November 17, 2008
Defenders Human Rights Centre (DHRC)	Closure of an NGO	Press Release	December 22, 2008



Political context

The key political event of 2008 in Malaysia was the 12th General Election, which took place on March 8, 2008. This election saw the ruling National Front coalition (*Barisan Nasional* - BN) win, but experience its worst performance in Malaysian electoral history, failing for only the second time since independence in 1957 to obtain a two-thirds majority in Parliament, required to pass amendments to the Malaysian Constitution. The opposition coalition, “Pakatan Pakyat”, won 82 of the 222 seats in Parliament and took control of five of the thirteen State Governments. The election results sent a clear message to the ruling coalition that the electorate wished to see change, reform and greater respect for human rights.

Following the elections, the ruling coalition experienced a leadership crisis, with criticisms of Prime Minister Abdullah Badawi coming from both within and outside the coalition. This crisis was compounded by the landslide victory of Mr. Anwar Ibrahim, the leader of the opposition People’s Justice Party (*Parti Keadilan Rakyat* - PKR) in the Permatang Pauh by-election in August 2008. Mr. Anwar brought further pressure to bear by announcing his intention to lure Members of Parliament into the opposition to form a new government. However, Mr. Anwar’s political future was called into question when sodomy charges were brought against him, widely believed to be politically motivated and aimed at preventing him from leading a new government.

Despite calls for change, the political crisis led to an increased and arbitrary use by the Government of restrictive laws – including the Emergency Ordinance 1969, the Sedition Act 1948, the Official Secrets Act 1972 and the Police Act 1967 – to silence the opposition as well as any critics. The law most frequently used or threatened to be used against human rights defenders as well as political opponents continued to be the Internal Security Act (ISA) 1960, which permits indefinite

detention without charge or trial¹. Whilst demands for the review or abolition of the ISA had been made in the past by civil society and opposition parties, 2008 was notable for the criticisms of the ISA that came from within the ruling coalition. In September 2008, Mr. Zaid Ibrahim, the Cabinet Minister responsible for legal affairs, resigned from his position because of the Government's use of the ISA to detain a Member of Parliament², a blogger and a journalist on September 12, 2008. The following month, a number of major coalition parties called for the ISA to be reviewed. As of the end of 2008, however, no steps had been taken in response to these demands.

2008 was also a year of escalating religious tensions. After suffering heavy losses in the General Election, the ruling coalition, which has traditionally drawn support from all three major ethnic groups in Malaysia, increasingly used religion as a pretext to repress or attack defenders and political opponents, given the emotive nature of this issue.

Gagging the media and other restrictions on freedom of expression

2008 was a dark year for the media and freedom of expression. Journalists and bloggers critical of the ruling coalition and seeking to expose wrongdoings were the victims of arrest and detention under national security laws. For example, on May 6, 2008, Mr. **Raja Petra Kamaruddin**, a blogger well-known for exposing scandals, in particular corruption, on his website *Malaysia Today*, was charged with "sedition" for his on-line article about the murder of a Mongolian national, Ms. Atlantuya Shaariibuu. Posted on April 25, 2008, the article intimated that the Deputy Prime Minister, Mr. Najib Razak, and his wife, Ms. Rosmah Mansor, had been involved in the murder of Ms. Atlantuya in October 2006. Mr. Raja Petra Kamaruddin was arrested and charged with "criminal defamation" under the Criminal Code on July 17, 2008 after he made a statutory declaration containing these allegations against Ms. Rosmah Mansor. *Malaysia Today* was then blocked on

1./ As of December 5, 2008, ten arrests had been made under the ISA throughout the year and 46 people continued to be held in detention under the ISA. See Suara Rakyat Malaysia (SUARAM), *Malaysia Civil and Political Rights Report 2008: Overview*, December 2008.

2./ Opposition MP Ms. Teresa Kok was detained from September 12 to 19, 2008 for allegedly inciting racial and religious tension. She was held in solitary confinement without a trial and was allowed only a short visit from her lawyer.

the instructions of the Malaysian Communications and Multimedia Commission (MCMC) in August 2008, reportedly due to some comments on the website being “insensitive” and “bordering on incitement”. The website ban was lifted on September 11, 2008 but, the following day, Mr. Raja Petra Kamaruddin was again arrested; this time under the ISA. He was alleged to have posted articles that were deemed seditious and insulting to Islam, although it is believed that religion, in this case, was simply used as an emotive pretext to silence his criticisms of the Government. He was released on November 7, 2008 after a successful *habeas corpus* application³.

Organs of the media also suffered from Government repression. Under the Printing Presses and Publications Act 1984, the Government has the discretion to grant and revoke a newspaper’s publishing licence without independent review. In 2008, it continued to exercise this power arbitrarily. For example, on April 16, 2008, the Tamil-language newspaper *Makkal Osai*, which had given broad coverage to the demonstration organised by the Hindu Rights Action Force (HINDRAF) in November 2007 to demand equality and fair treatment for and protest the marginalisation of Indian Malaysians, was initially refused a publication permit, before being later granted a permit on April 24, 2008.

Freedoms of assembly and association under severe restrictions⁴

Although freedom of assembly is already seriously curtailed as a result of the authorities’ reliance on the Police Act 1967 – which renders it compulsory to obtain a licence for any public assembly, meeting or procession –, developments in 2008 caused further concern. On July 3, 2008, it was reported that Inspector-General of Police had referred to the possibility of military involvement in police operations to maintain peace and order during public demonstrations, and that the police and armed forces had been carrying out joint security exercises. This was three days before a mass demonstration was due to be held against the fuel price increase. 2008 also revealed an increasing trend of the police obtaining court orders prohibiting specified individuals from accessing areas near the venues of planned assemblies. For example, in January

3./ See SUARAM, *Malaysia Civil and Political Rights Report 2008: Overview*, December 2008.

4./ See SUARAM.

2008, five organisers of a demonstration against the rise in the fuel price were served with court orders barring them from being in the vicinity of the planned demonstration in Kuala Lumpur city centre. During the demonstration, police arrested 35 protesters, including the five who were charged with violating the court order. This marked the start of a year of severe restrictions on protests, public assemblies and demonstrations, with arrests and detentions being the usual response to those attempting to exercise their right to freedoms of assembly and association.

Moreover, the five HINDRAF leaders, Messrs. **P. Uthayakumar, M. Manoharan, V. Ganabathirau, R. Kenghadharan and T. Vasanthakumar**, detained since December 13, 2007 for organising the mass demonstration on November 25, 2007 to demand equality and fair treatment for and protest the marginalisation of Indian Malaysians, remained detained in poor conditions in Kamunting prison as of the end of 2008. Further, on October 15, 2008, the Government banned HINDRAF.

On November 9, 2008, an assembly held to commemorate the anniversary of the rally organised by the Coalition for Clean and Fair Elections (BERSIH) was broken up by the police, who arrested 23 of the protesters. Reportedly, the police punched and assaulted some of the protesters, causing at least one injury. Further, the Police Chief of the State of Selangor likened participants of public assemblies to criminals. Later that month, on November 23, 2008, seven individuals were arrested during an anti-ISA demonstration organised by the Abolish ISA Movement (*Gerakan Mansuhkan ISA - GMI*). Two additional supporters were arrested when they visited the seven who were being detained at the police station.

Significantly, the Government's harsh repression of freedoms of assembly and association did not extend to demonstrations and rallies in support of the Government or against the opposition. For example, on the same day the anti-ISA demonstration was put down, another rally in support of the use of the ISA was permitted.

Rise in religious tensions put defenders of religious freedom at risk

Those working on religious conflict issues were frequently impeded from carrying out their work. For example, in August 2008, a mob,

led by members of the ruling United Malays National Organisation (UMNO), the opposition PKR and Pan-Malaysian Islamic Party (*Parti Islam Se-Malaysia* - PAS) and several other Malay and Islamic-based NGOs, forcibly dispersed a forum organised by the Bar Council to discuss the conflict of law facing those caught between the separate jurisdictions of civil and Syariah laws. In November 2008, the Inspector-General of the Police, Mr. Musa Hassan, issued a warning to non-Muslim NGOs not to interfere in matters involving Syariah laws or Muslim affairs or to risk serious action by the police. This was after various NGOs had criticised and demonstrated against the National Fatwa Council's fatwa on "tomboys"⁵ in October 2008. Their protests were considered as a threat to national security⁶.

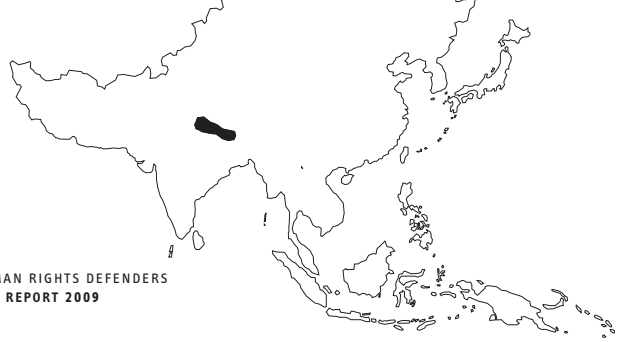
Urgent Interventions issued by The Observatory in 2008⁷

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Kelesau Naan	Enforced disappearance / Death	Urgent Appeal MYS 001/0108/OBS 001	January 9, 2008
Messrs. P. Uthayakumar, M. Manoharan, V. Ganabathirau, R. Kenghadharan and T. Vasanthakumar	Arbitrary detention / Health deterioration	Press Release	January 31, 2008
		Urgent Appeal MYS 002/0408/OBS 061	April 22, 2008
	Press Release / International Judicial Observation Mission Report	May 28, 2008	
Ms. Irene Fernandez	Acquittal	Press Release	November 24, 2008

5./ "Tomboy" behaviour covers dressing like men and homosexual relationships between women.

6./ See SUARAM.

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



/ NEPAL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009

Political context

The end of 2007 was marked by political uncertainty after the Communist Party of Nepal (Maoist) (CPN(M)) withdrew from the interim Government on September 18, 2007, citing the failure to abolish the monarchy as the key reason. The Maoists rejoined the Government when all parties agreed to the abolition of the monarchy, albeit only after the Constituent Assembly elections, which were rescheduled for April 2008. The run-up to the historic elections was tense and the election campaign was marred by serious acts of violence, intimidation and violations of human rights by all parties. However, the elections themselves, held on April 10, 2008, largely passed off in a transparent and peaceful manner^{1/}, with the Maoists emerging as the largest party – although without a majority – and thus dominating the new Government. The monarchy was abolished a month later and Nepal was declared a republic. In July 2008, Nepal's first President, Mr. Ram Baran Yadav, was elected by the Constituent Assembly. The following month, Mr. Pushpa Kamal Dahal, also known as Prachanda, the Chairman of the CPN(M), took office as Prime Minister.

Despite these positive steps in the peace process and in establishing a democracy, violence and intimidation, in particular by armed groups, persisted after the elections. Such violence was encouraged by the culture of impunity that continued to prevail. Human rights violations during the armed conflict that opposed Government forces and the Maoists between 1996-2006 went unpunished, with not one perpetrator – either from Government or Maoist forces – being brought to justice. As noted by the UN Deputy High Commissioner for Human Rights, “[t]he con-

1/ This was the conclusion of the European Union's Election Observation Mission to Nepal as well as by the UN. See Declaration by the EU Presidency on the Constituent Assembly elections in Nepal, April 15, 2008 and UN Press Release, April 10, 2008.

solidation of the peace process will continue to be at risk without political will on the part of the authorities to end this culture of impunity”². One positive step in this regard taken by the Nepalese Government in November 2008 was the tabling of the Disappearances (Crime and Punishment) Bill, which would criminalise enforced disappearances and establish an independent commission to investigate disappearances during the ten-year armed conflict. Whilst there were concerns that the bill did not comply fully with international law, it illustrated at least a first step in bringing perpetrators to justice, as well as signalling that violations of this kind would not enjoy impunity in the future³.

In comparison to previous years, the situation for human rights defenders in 2008 improved slightly. Given the change in the political situation and the ostensible commitment by the political parties to respect and promote human rights, the environment was more amenable to people speaking out against human rights violations and putting pressure on the Government to be accountable to its electorate.

Despite marginal improvements, human rights defenders documenting violations remained under attack

During 2008, human rights defenders continued to face obstacles and repression whilst working for the protection and promotion of human rights. In particular, those working for Advocacy Forum, a human rights NGO, were the victims of physical violence, intimidations, harassment and death threats. For example, on January 26, 2008, Mr. **Raj Kumar Mahaseth**, a human rights activist working as a lawyer for Advocacy Forum in Janakpur, Dhanusha district, was severely beaten with batons by the Nepal armed police whilst monitoring a mass meeting organised by the seven political parties as well as documenting the use of force by the police against the demonstrators. Although Mr. Mahaseth filed a torture compensation case before the Court of Dhanusha District on February 29, 2008, as of the end of the year the case was still pending in court and no investigation had been carried out⁴. Mr. **Sushil Kumar Lakhe**, a human rights lawyer and Regional Coordinator for

2./ See UN Press Release, February 3, 2008.

3./ See Joint Letter from Advocacy Forum and Human Rights Watch to the Speaker of Nepal's Constituent Assembly, November 25, 2008.

4./ See Advocacy Forum.

Advocacy Forum in Nepalgunj, was also the victim of harassment and intimidation. On May 2, 2008, Mr. Lakhe, on his way home from the police station in Banke District, where he had filed a first information report against two army personnel who were suspected of murder, was followed by two unidentified people who threatened that they would “finish him off”, given his human rights activities. Mr. Lakhe managed to escape. On May 11, 2008, Mr. Lakhe’s home was searched by the police without a search warrant. No investigation was carried out in the case. Furthermore, on September 17, 2008, Maoist District Secretary of Banepa district Tulsī Narayan Shrestha threatened to kill Mr. **Bhojraj Timilsina**, Kavre District Representative of the Informal Sector Service Centre (INSEC), after the latter published an article on INSEC website, reporting that Mr. Tulsī Narayan had brutally beaten a man named Mr. Umesh Shrestha, a plaintiff of a case of fraud in property share against Mr. Tulsī Narayan, at the premises of Dhulikhel District Court on September 16. The local newspaper Sanjivani had published the same news, and was forced to disclose that the news was taken from INSEC’s news portal. Maoist cadres had then searched for INSEC representative in Banepa. They later called Mr. Bhojraj Timilsina on his mobile phone in the evening of September 17, threatening him of death. Subsequently, the police and local administration made security arrangements for Mr. Timilsina⁵.

Defenders continued to be the target of attacks by armed groups in the Terai region

Although the political situation improved in 2008, the armed conflict continued in certain parts of the country. The Terai region in southern Nepal, in particular, was a hotbed of instability. The emergence of a number of armed groups all claiming to be fighting for the rights of people living in the Terai region, but who were committing violations of human rights themselves, escalated the level of violence. This, together with the failure of the State to fulfil its responsibility to provide security to its citizens, created a dangerous environment for human rights defenders who were unable to carry out their activities given the serious risk of attack by armed groups. Furthermore, human rights defenders were directly threatened by armed groups to cease their activities and to leave Terai. For example, in early 2008, human rights defenders

5./ See Informal Sector Service Centre (INSEC).

attempting to monitor the situation during strikes called by various armed groups and political parties and also monitor demonstrations held from February 13 to 19, 2008 by campaigners for the rights of ethnic Madhesis were threatened and prevented from doing so by Terai armed groups⁶.

The repression went beyond threats. On June 29, 2008, one of the region's most prominent civil society leaders, Mr. **Govinda Pandey**, Coordinator of Civil Society Network Bardiya as well as a District Committee member of the Communist Party of Nepal – United Marxist-Leninist (CPN-UML), was shot dead. Mr. Pandey, well respected by all political parties, had been active in a number of areas, including raising awareness of nationality, national sovereignty and border-related issues, environmental and conservation issues and land rights. On June 30, the Jwala Singh faction of the Democratic Front for the Liberation of Terai (*Janatantrik Terai Mukti Morcha* - JTMM), a rebel group in the Terai region, accepted responsibility for his murder. However, the perpetrators were not arrested, given the police's failure to carry out a thorough investigation. This was partly due to the climate of insecurity and witnesses' fear of retribution⁷.

Harassment faced by journalists

Journalists who were critical of JTMM's actions or who sought to expose violations and corruption were also the victims of intimidation and harassment, including death threats. For example, on October 11, 2008, Mr. **Krishna Prasad Dhakal**, Editor of the *Kapilvastu Sandesh* weekly newspaper and Advisor of Kapilvastu chapter of the Federation of Nepalese Journalists (FNJ), received death threats from Mr. Sikandar, the Army Commander of JTMM (Jwala Singh). Mr. Dhakal had written an article about the forceful donation drive of armed groups in the region.

The JTMM was not the only group threatening human rights defenders and journalists. Although the CPN(M) joined mainstream politics, renounced its armed activities, and was then given a clear mandate by the people to lead the country, Maoist cadres, in particular the Maoists'

6./ See Advocacy Forum.

7./ See INSEC.

youth wing, the Young Communist League (YCL), continued to intimidate and attack human rights defenders, with journalists again being a favourite target for attack. For example, Mr. **Nabaraj Pathik**, Chief Editor of the local weekly newspaper *Nayan Sapthaik* and District Representative of INSEC in Ramechhap district, was threatened on March 4 and 5, 2008 by Maoist activist, Mr. Bimal Dhungel, due to his editorial article entitled “Criminalisation in politics” that reported on corruption. Mr. Pathik was told that if he continued to write such articles, the Maoists would “crack” his legs. The Editor of the newspaper, Mr. Tika Bhatta, later went to speak with the person in-charge at the Maoist District Committee and was also threatened. On March 7, 2008, an article published in the Maoist magazine *Jaapuspa* stated that journalists like Mr. Pathik would be physically attacked, which further intimidated Mr. Pathik⁸.

Pressure from China results in repression of Tibetan activists and human rights defenders in Nepal

Peaceful protests against China’s crackdown on Tibet were crushed by the Nepalese authorities, in particular the police, at the behest of China. In the period of March to July 2008, thousands of Tibetan activists and human rights defenders were arbitrarily arrested, with excessive force being used by the police to disperse protests. On March 10, 2008, for example, the Nepalese police arrested 148 people, including thirteen Nepalese human rights defenders⁹ and on March 24, 2008, approximately twelve people were injured and more than 250 arrested – including human rights demonstrators – in Kathmandu¹⁰. Protesters were also threatened by the police with violence and deportation in an attempt to discourage the protests, a clear violation of freedoms of assembly and expression. Journalists reporting on the violent repression of the protests were also the victims of harassment and abuse by the police. For example, on March 17, 2008, a foreign journalist trying to photograph protesters who were being arrested was hit in the face by a police officer.

8./ See Advocacy Forum.

9./ See FORUM-ASIA Fortnightly Newsletter, April 4, 2008.

10./ See Article 19 Press Release, March 26, 2008 and INSEC.

Gender specific risks and vulnerabilities on the rise: women human rights defenders still in need of protection and security

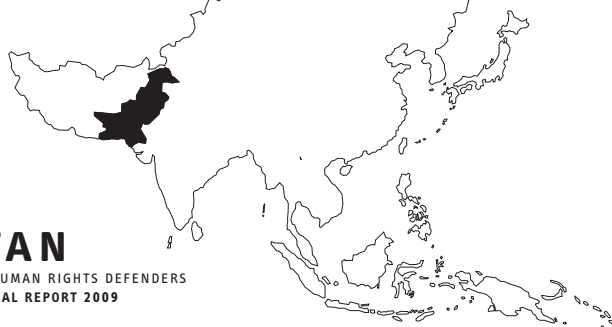
In 2008, women human rights defenders remained the target of repression. They were in particular subjected to risks and vulnerabilities from private and State actors on different degrees, as this was sadly illustrated by the murder of Ms. **Laxmi Bohara**, a health volunteer and an active women's rights activist engaged in advocating for health rights of women, Secretary of the Women's Empowerment Centre and a member of the Women Human Rights Defender Network in Kanchanpur. On June 6, 2008, Ms. Laxmi Bohara passed away after being beaten and physically injured by her husband and mother in law. In the past, she had been severely criticised and harassed by her husband and mother in law for committing herself to social work, suspicious if she talked with anyone on the road, she had been submitted to "sexual baiting"¹¹ (including public insults based on her gender and sexuality), and regularly beaten up by her husband. Furthermore, when members of the Women Human Rights Defender Network in Kanchanpur went to meet the District Superintendent of police, the latter was aggressive and he said that he was not scared of anyone and "even if the women's movement took their protest to the streets, it would not make any difference to anyone". Since then, such threats and harassment have become common against members of the Women Human Rights Defender Network in Kanchanpur.

11./ Sexuality-baiting is a politically motivated name-calling designed to ruin women human rights defenders' reputations (or that of their organisations) on the basis of their reproductive or marital status, or their assumed sexual orientation. See Asia Pacific Forum on Women, Law and Development (APWLD), *Claiming Rights, Claiming Justice: A Guidebook on Women Human Rights Defenders*, 2007.

Urgent Interventions issued by The Observatory in 2008¹²

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Sushil Kumar Lakhe	Police search / Death threats / Harassment	Urgent Appeal NPL 001/0508/OBS 080	May 15, 2008
Ms. Laxmi Bohara	Assassination / Harassment	Urgent Appeal NPL 002/0608/OBS 102	June 16, 2008
Messrs. Kebab Raut and Krishna Yadav	Assassinations / Arbitrary arrests / Releases	Urgent Appeal NPL 003/0908/OBS 150	September 9, 2008
Mr. Krishna Prasad Dhakal	Death threats	Urgent Appeal NPL 004/1108/OBS 182	November 5, 2008

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



/ PAKISTAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009

Political context

Following the unprecedented confrontation between the judiciary and the executive power, followed by the declaration of the State of emergency in November 2007 and the parliamentary elections, held on February 18, 2008, hailing the victory of opposition parties against the regime of President Musharraf, the year 2008 marked a new era for the country, initiating a long period of transition and uncertainty. The two main opposition parties, the Pakistan People's Party (PPP), led by the widower of Ms. Benazir Bhutto, Mr. Asif Ali Zardari, as well as the Pakistan Muslim League (PML-N) of former Prime Minister Nawaz Sharif, triumphed in the elections, following an electoral period marred with repression and intimidation (pressure on women by fundamentalist groups and bans to access polling stations, threats and attacks committed against voters by polling staff and unknown individuals, bomb attacks, etc.). After laborious negotiations, a coalition Government was formed in March 2008, led by the current Prime Minister, Mr. Yousuf Raza Gilani. The PML-N left the coalition in July as the PPP failed to restore the judges sacked by President Musharraf¹. Although the country has now an elected civilian Government, as of the end of 2008 the military high command had yet to cede the authority in key policy areas, including counter-terrorism.

The terrorist attacks throughout 2008 highlighted the threat that militant jihadi groups such as the "Lashkar-e-Tayyaba" (LeT) and "Tehrik-e-Taliban Pakistan" pose to Pakistan's fragile democratic transition. In addition, the fight against terrorism was accompanied by a poor human rights record of the authorities, in particular a series of grave human rights violations such as the recurrent use of torture as well as

1./ See Human Rights Commission of Pakistan (HRCP) and below.

enforced disappearances of suspects², which fuelled a total loss of confidence of people in the State, promoted the use of violent responses, and severely undermined any democratic alternative, all while repressing defenders of public and individual freedoms. Rise in religious extremism also emerged in 2008 as one of the country's major issues.

Despite the arrival to power of a new Government, which was followed by the ratification by Pakistan of the International Covenant of Economic, Social and Cultural Rights (ICESCR) as well as by the signature of the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), laws and regulations posing a serious threat to the civil society still remained valid, such as the Anti-Terrorism Act (ATA) of 1997, which enshrines a system of emergency and an accelerated procedure, officially to prevent and suppress terrorism, sectarian violence and appeals to hatred.

Furthermore, the attacks and other tactics used against media professionals continued in 2008. Thus, at the beginning of 2008, 45 television channels remained closed, and cases of gags on the media were reported in the run-up to the elections, on the basis of further restrictive amendments made to the Pakistan Electronic Media Regulatory Authority (PEMRA) Ordinance and promulgated by President Pervez Musharraf under emergency rule in November 2007. On top of this, in May 2008 the Supreme Court directed the media not to publish or telecast any report concerning judges without prior clearance.

Defenders of the independence of the judiciary and of rule of law at risk

At the very beginning of 2008, prominent lawyers and judges who played a key role in the movement for independence of judiciary, rule of law, freedom of press and restoration of democracy, such as Barrister **Aitzaz Ahsan**, President of the Supreme Court Bar Association, Mr.

2./ The number of incidents of enforced disappearances reported fell considerably after the new Government was sworn in. However, some cases were reported, mainly from Baluchistan. The recovery rate of disappeared people remained extremely slow and not even one single hearing was held in the petitions pending against the illegal practice with the Supreme Court throughout 2008. The last hearing was held before the November 2007 sacking of superior courts judges by General Musharraf.

Ali Ahmed Kurd, member of the Pakistan Bar Council, as well as Mr. **Tariq Mehmood**, former President of Supreme Court Bar Association, were still illegally maintained under house arrest. However, Messrs. Kurd and Mehmood were freed on February 1, 2008, while Mr. Ahsan was released on March 3, after the parliamentary elections. Some of these senior leaders had successfully pleaded the case of Chief Justice **Iftikhar Muhammad Chaudhry**, who, along other judges, remained under house arrest until March 2008, when the newly sworn in Prime Minister ordered their release.

The two biggest parties after the 2008 election, the PPP and the PML-N failed to implement an agreement they had reached for the reinstatement of judges who were dismissed by General Musharraf after they refused to take an oath under the unconstitutional order of November 2007, mainly on account of reluctance by the PPP. The PPP argued that superior courts judges sacked by President Musharraf who would agree to a fresh oath would be reinstated, and many were indeed reinstated in August and September 2008. However, deposed Chief Justice Iftikhar Chaudhry and some judges did not agree to a fresh oath, arguing that this would have implied that their sacking was legitimate, even though President Musharraf had acknowledged that his actions in imposing the emergency were not legal. As of the end of 2008, Chief Justice Iftikhar Chaudhry and some others had not yet been reinstated in their functions.

Security deficit for journalists denouncing human rights violations

In 2008, journalists denouncing human rights violations were targeted by non-State actors: for instance, on April 9, 2008, five journalists were attacked by masked men and their cameras snatched as they were attempting to cover the abuses committed amid incidents of violence that erupted in Karachi. Ms. **Lala Rukh**, camerawoman with the private television network *Geo News*, suffered a broken arm. The other journalists attacked were Messrs. **Arshad Mahmood**, reporter with *KTN channel*, **Mohammad Junaid** of *Express Television*, **Sabir Mazhar** of the *Urdu daily* newspaper, and **Makhdoom Adil**, of the *Online* news agency³. Furthermore, Mr. **Abdul Razzak Johra**, a journalist for the *Royal TV*

3./ See International Freedom of Expression Exchange (IFEX).

channel in Mianwali, Punjab region, was killed on November 3, after being dragged out of his home by six armed men, probably in connection with his reports on drug-related crimes⁴. In both incidents, as of the end of 2008, no information could be obtained as to whether any investigation was conducted.

Attacks against human rights defenders in uncontrolled areas

In 2008, human rights defenders remained particularly targeted in Baluchistan, Kashmir, Waziristan or the North-West Frontier Province (NWFP), where effective State control was insufficient or absent. For instance, on February 25, 2008, unknown individuals attacked the premises of the NGO Plan International in Mansehra and killed four people, injuring several others. Plan International is an organisation working on education, health and food issues as well as children's rights⁵. This attack followed a series of others that occurred in previous years against several NGOs working in Baluchistan, NWFP, Punjab and Pakistan's tribal areas⁶.

Urgent Intervention issued by The Observatory in 2008⁷

Name of human rights defender	Violations	Intervention Reference	Date of Issuance
Mr. Iftikhar Mohammad Chaudhry	House arrest / Harassment	Press Release	March 7, 2008

4./ See UNESCO Press Release, December 1, 2008.

5./ See Plan International Press Release, February 25, 2008.

6./ See Annual Report 2005.

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



/ PHILIPPINES

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2009

Political context

The year 2008 was marked in the Philippines by continued counter-insurgency operations against leftist rebels and Muslim separatists. In particular, the situation in the southern region of Mindanao deteriorated with intensified conflict between Government forces and the Moro Islamic Liberation Front (MILF). Peace talks, which had resulted in a Memorandum of Agreement on Ancestral Domain (MoA) after eleven years of negotiations, failed when the Supreme Court issued a restraining order on August 4, 2008 to halt the signing of the agreement, following protests and petitions against it. The opposition came from Muslims, Christians, “Lumads”¹ and other sectors of Philippine society who felt they had not been consulted on the MoA and were going to be adversely affected by the creation of the “Bangsamoro Juridical Entity” (BJE)². Infuriated by the MoA not being signed, some MILF commanders initiated attacks on civilian populations and engaged Government forces. This violence led to the deaths both of Government soldiers and MILF rebels, to the indiscriminate killing of civilians as well as to the internal displacement of over 390,000 people by mid-October³. On October 14, 2008, the Supreme Court declared the draft MoA unconstitutional, which effectively put an end to any hope of peacefully resolving the conflict in Mindanao in the short term. This increased militarisation not only led to the deaths of innocent civilians, but also created a dangerous environment for human rights

1./ Lumads are indigenous peoples who did not convert to Islam.

2./ Under the proposed MoA, the Government and the BJE were to exercise “shared authority and responsibility” over the Bangsamoro homeland. In particular, the BJE was to have jurisdiction over the management, conservation, development, protection, utilisation and disposition of all natural resources within its territory.

3./ Figures from International Crisis Group Policy Briefing, *The Philippines: the Collapse of Peace in Mindanao*, October 23, 2008. Other organisations report that over 600,000 people have been displaced as a result of military operations. See, for example, the National Alliance of Women’s Organisations in the Philippines (GABRIELA).

defenders and humanitarian aid workers, who were either caught up in the fighting between Government and MILF forces, or were directly targeted.

Although enforced disappearances and extrajudicial executions were at lower levels in 2008 than in previous years, these violations continued to be the norm. The victims of such attacks included left-wing political opponents, human rights activists seeking to expose violations committed by the authorities, religious leaders, leaders and members of peasant or fishers' organisations or women's rights groups, as well as labour and trade union activists. The Government also continued to implement its policy of political repression against any legitimate criticism or dissident voice considered to be linked to, or at least supportive of, the Communist Party of the Philippines (CPP) and its armed wing, the New People's Army (NPA).

Impunity for such violations remained a major problem in 2008, with inadequate investigations into human rights offences committed by military and police officers, as the perpetrators continued to go unpunished. Although there had been a glimmer of hope when the Supreme Court promulgated the *writ of amparo and the writ of habeas data* in 2007, in 2008 the courts routinely dismissed such applications⁴. Furthermore, a decision by the Supreme Court on March 25, 2008 increased the level of impunity by upholding and broadening the scope of the doctrine of executive privilege, permitting the Government to withhold certain categories of information from the public, courts and the Congress. This climate of impunity not only continued to impede the work of human rights defenders, it also put their physical integrity at considerable risk.

Human rights defenders targeted by the authorities as “enemies of the State” and under attack by non-State actors

In the context of counter-insurgency and the fight against terrorism, the authorities continued to criminalise human rights activities, branding human rights organisations as “enemies of the State” or “terrorist organisations”, thus rendering them legitimate targets. Although the

4./ A small number of applications were granted but, overall, the anticipated impact of the new rules did not materialise.

number of extrajudicial killings of human rights defenders decreased in 2008, other forms of harassment and intimidation increased. Human rights defenders were frequently subjected to surveillance, arrest and arbitrary detention and, in some cases, were included by the authorities in “orders of battle”, which identified individuals and organisations as fronts of the communist underground, thus encouraging army and paramilitary elements involved in counter-insurgency operations to carry out acts of violence and reprisals against them⁵.

Organisations seeking to expose the authorities’ human rights violations were particular targets for stigmatisation and attacks. For example, in July and August 2008, members of Ilocos Human Rights Alliance (IHRA) were threatened, harassed and subjected to a vilification campaign on a radio programme, “The Soldier’s Voice” (*Timek ti Soldado*). The organisation and the human rights organisation Alliance for the Advancement of People’s Rights (KARAPATAN) were labelled a “communist front” accused of seeking to “protect and defend the rights of their fellow NPAs”. Various members of KARAPATAN who were seeking to expose atrocities committed by the military were also targeted. For example, from June 2008, Ms. **Zara Alvarez** and Mr. **Fred Cana**, both officials of KARAPATAN-Negros, together with Mr. **Erwin Sabijon**, Chairperson of the peasant organisation KAUGMAON, in Oriental Negros first district, were threatened, harassed and the target of a campaign of violence, which included burning effigies of Messrs. Cana and Sabijon in a military-sponsored rally on June 14, 2008. These actions came following Mr. Cana and Mr. Sabijon’s efforts to expose violations committed by soldiers in Negros Oriental. Similarly, five KARAPATAN-Central Visayas human rights workers, Ms. **Concordia Oyao**, Ms. **Vimarie Arcilla**, Ms. **Jean Suarez** and Messrs. **Dennis Abarrientos** and **Paz Silva**, received threatening messages on August 21, 2008 after their involvement in exposing military human rights violations⁶. Furthermore, on September 26, 2008, Ms. **Helen Asdolo**, Secretary General of the women’s rights group, the National Alliance of Women’s Organisations in the Philippines (GABRIELA), in Southern Tagalog, and Ms. **Amy Sto. Tomas**, GABRIELA-Cavite Chairperson

5./ See Free Legal Assistance Group (FLAG) and the Philippine Alliance of Human Rights Advocates (PAHRA).

6./ See the Alliance for the Advancement of People’s Rights (KARAPATAN).

and GABRIELA Women's Party Coordinator for Cavite, were falsely charged with "arson" and "conspiracy to commit rebellion" in relation to the burning of a Globe cell site in the town of Lemery in Batangas province on August 2, 2008 (the "Batangas case"), an incident for which the NPA had already claimed responsibility. The two women were also charged with "multiple murder" in connection with an alleged NPA attack on March 3, 2006 in Oriental Mindoro. On that day, GABRIELA members and leaders had been conducting a number of activities, including educational discussions and forums, in preparation for the International Women's Day on March 8⁷. Seventy-one others, including leaders and spokespersons of civil society organisations and political activists from Southern Tagalog, were also charged in the same multiple murder case. These included members of KARAPATAN and peasant leaders⁸. The lodging of these fabricated charges was believed to be an attempt by authorities to silence and impede activists from conducting their human rights activities in the region.

If not targeted by the authorities, human rights defenders were at risk of attack from non-State actors. For example, on September 14, 2008, Ms. **Merlie Mendoza** and Ms. **Esperancita Hupida**, both aid-workers working for the rehabilitation of communities in war zones, were kidnapped in Basilan, Mindanao. The kidnappers were reportedly an armed group, believed to be linked with "Abu Sayyaf", an Islamist separatist group. On October 30, 2008, Ms. Hupida was released by her captors, reportedly after they demanded payment for "board and lodging". Ms. Mendoza was released on November 14, 2008⁹.

Land rights activists still a target for repression

As in previous years, 2008 was marked by repression of those asserting their rights under the agrarian reform programme (CARP) as well as those advocating for land rights, including those of the indigenous minorities. Farmers and communities campaigning for agrarian reform were targeted and harassed by soldiers. In early 2008, Government

7./ See GABRIELA.

8./ Such as Ms. **Luz Baculo**, Secretary General of the May First Movement (KMU) in Southern Tagalog, Ms. **Doris Cuario**, Southern Tagalog Secretary General of KARAPATAN, Ms. **Dina Capetillo**, KARAPATAN Batangas Spokesperson, Ms. **Karen Ortiz**, Deputy Secretary General of the Ecumenical Movement for Justice and Peace in Cavite, as well as Atty. Remigio Saladero (see below).

9./ See FLAG.

soldiers reportedly displaced around 10,000 anti-CARP farmers in Quezon, burning the houses of and displacing at least 25 peasant families in Nasugbu and Batangas who were advocating for the Genuine Agrarian Reform Bill – also known as House Bill 3059 –, which was proposed to replace the CARP¹⁰. Members and leaders of peasant groups, in particular the Peasant Movement of the Philippines (KMP) and its allied organisations, were also the victims of harassment, trumped up charges and arrests, arbitrary detentions, enforced disappearances and extrajudicial executions. For instance, on July 5, 2008, 13 peasants, all members of PAMACAD, an organisation affiliated with KMP, were arrested and accused of illegal logging. Four of the thirteen, namely Messrs. **Romulo Villanueva**, **Santiago Antipuesto**, **Jaime Lamberto** and **Jose Perez**, remained in detention at the end of 2008. Similarly, on August 31, 2008, Messrs. **Renato Alvarez**, **Franco Romero**, **Neshley Cresino**, **Felix Nardo**, **Bernardo Derain**, **Jomel Igana**, Ms. **Yolanda Caraig** and Ms. **Janice Javier**, eight peasant right activists, were arrested on their return from a meeting to discuss peasant activities. They were detained for two days, during which they reportedly suffered inhuman and cruel treatment. Subsequently, the eight were also charged with multiple murder in relation to the alleged NPA ambush in Mindoro Oriental¹¹. Besides, on October 30, 2008, three men identifying themselves as operatives of the Criminal Investigation and Detention Group (CIDG) abducted Mr. **Norbeto Murillo**, technical consultant for the farmers' organisation, Life and Food for Leyte Evacuees (LFLE). The abduction occurred outside the Department of Agrarian Reform (DAR) building where Mr. Murillo had attended a meeting regarding a LFLE land claim. On October 31, 2008, the Philippines National Police (PNP) confirmed that Mr. Murillo was being detained in Camp Crame in Quezon City. He was then transferred to the Manila City Jail, where he remained at the end of 2008. A few days later, on November 6, 2008, Mr. **Danillo N. Qualbar**, Public Information Officer of Compostela Farmers Association (CFA), an affiliate of KMP, and Cluster Coordinator of "Bayan Muna" (People First) Party List, was assassinated on his way home by unidentified gunmen in the district of Osmeña, in Compostela Valley, Mindanao¹². On

10./ See the Peasant Movement of the Philippines (KMP).

11./ See KARAPATAN.

12./ As of the end of 2008, an enquiry into Mr. Qualbar's death was ongoing.

September 17, 2008, Mr. **James Balao**, a researcher of the Cordillera People's Alliance, an independent federation of indigenous peoples' organisations, disappeared in Baguio City. Prior to his disappearance, Mr. Balao was reportedly under surveillance and was believed to have been included in the military's "order of battle" list. It is believed that he was targeted due to his work in favour of the rights of indigenous people, in particular his work on a project relating to land rights and the expulsion of indigenous peoples from their ancestral lands¹³. As of the end of 2008, Mr. Balao remained disappeared. However, the Cordillera People's Alliance was reportedly informed that he was still alive and was being held by State security forces at an unknown location.

Whilst many of the incidents were committed by the PNP or the Armed Forces of the Philippines (AFP), some attacks were attributed to non-State actors, including landowners and their estate personnel or armed goons. For example, on June 6, 2008, Mr. **Armando Dolorosa**, Vice-President of the National Federation of Sugarcane Workers (NFSW) and the leader of an agrarian reform group in Manapla, Negros Occidental, was gunned down in his house by three masked men. It is believed that his assassination is related to the implementation of the agrarian reform programme, pursuant to which Mr. Dolorosa had been granted land ownership certificates in 2007 in relation to part of a sugar estate. Since then, Mr. Dolorosa had been receiving death threats from men, whom his wife identified as "planters".

Labour rights and trade union activists on the front line

In 2008, those defending the rights of workers and trade unions frequently came under attack, with fatal consequences in some instances. For instance, on July 19, 2008, Mr. **Maximo Baranda**, the former Chairperson of Compostela Workers Association (CWA), an affiliate of the labour movement May First Movement (KMU), was assassinated by three unidentified men in San Jose, Compostela Valley. Before his murder, Mr. Baranda had served as CWA adviser in its Collective Bargaining Agreement negotiations with management¹⁴.

13./ See FLAG and KARAPATAN.

14./ As of the end of 2008, an enquiry into Mr. Baranda's death was ongoing. See KARAPATAN.

Lawyers working on labour rights and trade union issues were also targeted. On October 23, 2008, Attorney **Remigio Saladero**, chief legal counsel of KMU, Board Chairperson of the Pro-Labour Legal Assistance Centre (PLACE) and member of the Free Legal Assistance Group (FLAG) and the National Union of People's Lawyers, was arrested on the basis of a defective warrant by members of the PNP. His office was searched and his computer and mobile phone confiscated. Atty. Saladero and 72 others were charged with "multiple murder" and "multiple frustrated murder"¹⁵. It is believed the charges were manufactured to harass and intimidate Atty. Saladero for his work as a labour rights and trade union rights defender. Atty. Saladero had already been targeted in the past, predominantly by the military for providing legal counsel to suspected NPA members. Further, the organisation PLACE was subjected to harassment and surveillance by unidentified men believed to be military agents. The attack on Atty. Saladero was seen as a broader attack against the legal profession, given that he was simply exercising his profession. On February 5, 2009, the Calapan City Regional Trial Court quashed the charges of multiple murder and frustrated murder and ordered Atty. Saladero's release on technical grounds, along with five other labour rights leaders from Southern Tagalog¹⁶. However, barely one week after his release, another murder case was filed against Atty. Saladero and four other activists, who filed a petition for *writ of amparo* at the Supreme Court on February 16, 2009.

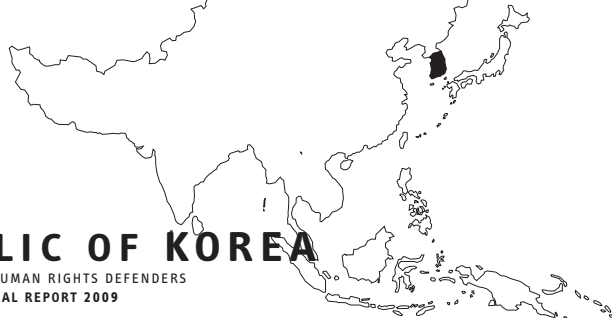
15./ See above.

16./ Namely Messrs. **Emmanuel Dionida, Rogelio Galit, Nestor San Jose, Crispin Zapanta and Leonardo Arceta.**

Urgent Interventions issued by The Observatory in 2008¹⁷

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Armando Dolorosa	Extrajudicial killing	Urgent Appeal PHL 001/0608/OBS 099	June 11, 2008
Atty. Remigio Saladero Jr.	Arbitrary detention / Judicial proceedings	Urgent Appeal PHL 002/1008/OBS 175	October 30, 2008
Mr. Norbeto Murillo	Enforced disappearance	Urgent Appeal PHL 003/1008/OBS 177	October 31, 2008
	Arbitrary detention / Judicial proceedings / Ill-treatments	Urgent Appeal PHL 003/1008/OBS 177.1	November 6, 2008
Mr. Danilo N. Qualbar	Assassination	Urgent Appeal PHL 004/1108/OBS 201	November 26, 2008

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



/ REPUBLIC OF KOREA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
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Political context

2008 was marked by a setback on the progress made by the Republic of Korea (South Korea) over the past two decades in promoting and protecting human rights. In particular, freedoms of expression and peaceful assembly were seriously undermined during the protests held against the renewal of US beef imports over fears of Bovine Spongiform Encephalopathy (BSE) or mad cow disease, on which occasion the police used excessive force against peaceful protesters. Many of them were subjected to arbitrary arrest and detention¹. These demonstrations, which were organised by the People’s Conference Against Mad Cow Disease, a coalition of 1,700 organisations from throughout the country, began on May 2, 2008 and continued almost daily for more than two months, until July 10, 2008. The protesters voiced their discontent not only with the Government’s trade policies, but with a broad range of President Lee Myung-bak’s other policies, including the project for the construction of a Grand Canal, the privatisation of the health care system and the revision of the media law².

In this context, media’s freedom of opinion and expression was further restricted through the use of defamation laws. For instance, the Ministry for Food, Agriculture, Forestry and Fisheries took a number of actions against four producers of *MBC TV*’s “PD Notebook” documentary programme over a report it broadcast on April 29, 2008 about US beef and mad cow disease. These actions included criminal and civil defamation cases and a complaint before the Press Arbitration

1./ See Joint Written Statement submitted by the Asian Legal Resource Centre (ALRC) and the Asian Forum for Human Rights and Development (FORUM-ASIA) to the ninth session of the Human Rights Council, August 25, 2008, as well as FORUM-ASIA and the Asian Human Rights Commission (AHRC), *Joint Fact-Finding Mission to South Korea, Final Report*, 2008.

2./ As of the end of 2008, those policies remained under discussion and had not yet been implemented.

Commission. In addition, the Korea Communications Commission (KCC) ordered *MBC TV* to make a public apology for this programme. The proposal of the Ministry of Justice to extend the coverage of criminal defamation laws to the Internet was further cause for concern³.

Furthermore, December 1, 2008 marked the 60th anniversary of South Korea's National Security Law (NSL), which was still used as a tool to silence dissent voices and to prosecute individuals who are peacefully exercising their rights to freedoms of expression and association. For instance, in 2008, the Prosecutor's Office issued twice a warrant for the arrest of Professor Oh Se-chul – in August and in November – for his “enemy-benefiting” activities and involvement in the Socialist Labour Solidarity movement. However, on both occasions, the Seoul Central District Court dismissed the charges citing “not enough proof that he tried to overthrow the country and the democratic system”. Furthermore, NSL prohibits “anti-State” and “espionage” activities, but does not clearly define them. NSL has also been used as a form of censorship, to punish people for publishing and distributing material deemed to “benefit” North Korea. In 2008, seven people were detained for violating NSL, all of whom were charged with engaging in pro-North Korean activities, merely for having discussed reunification with North Korea, publishing socialist or “pro-North Korean” material or having views considered to be similar to those of the North Korean Government⁴.

Finally, in South Korea some of the most basic workers' rights, such as the rights to organise, to elect their own representatives or to strike, continued to be violated. In particular, while migrant workers remained particularly vulnerable to discrimination and exploitation, the Government pursued in 2008 its crackdown on irregular migrant workers, which led to their arrest, detention and deportation.

3./ See above-mentioned Joint Written Statement submitted by ALRC and FORUM-ASIA to the ninth session of the Human Rights Council as well as FORUM-ASIA and AHRC above-mentioned Mission Report.

4./ See Amnesty International, Public Statement ASA 25/011/2008, November 28, 2008.

Obstacles to freedom of peaceful assembly and police violence against human rights defenders monitoring the demonstrations against the Government's trade policies⁵

In 2008, human rights defenders who monitored the demonstrations against the agreement between the United States and South Korea to lift US beef import restrictions were not immune from police violence. For instance, at about 1:30 a.m. on June 26, 2008, Mr. **Lee Joon-hyung**, a lawyer working with MINBYUN-Lawyers for a Democratic Society, an NGO that provided legal assistance to arrested demonstrators, was hit in the forehead with a shield by a riot policeman, letting him unconscious. Yet, he was wearing a vest that clearly identified him as a member of "A group of lawyers monitoring human rights violations". In another incident, two staff members of the National Human Rights Commission of Korea (NHRCK) who were monitoring a protest on June 28, 2008 were injured by the police after being beaten with batons and hit by metal objects thrown by the police, even though they were clearly identified as NHRCK members⁶.

The police also obtained warrants to search on June 30, 2008 the offices of the People's Conference Against Mad Cow Disease and Korea Solidarity of Progressive Movements (KSPM), two organisations perceived by the Government to be leading and organising the protests. During the search, the police seized and confiscated office computers and paraphernalia materials related to the protests, including placards and banners. More importantly, the police took away two police fire extinguishers that had been thrown at demonstrators and police water bottles. These objects indicated the police station from which the police had been deployed and had been collected at the rallies as evidence for legal action.

Furthermore, following a general strike on July 2, 2008 against the Government's decision to resume the beef imports as well as to express solidarity with workers from the E-Land retail company employed under precarious and exploitative employment arrangements in viola-

5./ See above-mentioned Joint Written Statement submitted by ALRC and FORUM-ASIA to the ninth session of the Human Rights Council as well as FORUM-ASIA and AHRC above-mentioned Mission Report.

6./ See MINBYUN-Lawyers for a Democratic Society.

tion of safeguards introduced into law in July 2007, the Prosecutor and the Ministry of Labour declared that the strike was illegal on the grounds that it did not specifically focus on issues related to wages and working conditions. On July 24, 2008, arrest warrants were issued on the basis of the provisions in Section 314 of the Criminal Code for “obstruction of business” against several trade union leaders involved in the strike. Following the issue of the arrest warrants, Mr. **Lee Yong-shik**, General Secretary of the Korean Confederation of Trade Unions (KCTU), and Ms. **Jin Young-ok**, KCTU First Vice-President, were arrested in July 2008 and subsequently released on bail. On December 5, 2008, Mr. **Lee Suk-haeng**, KCTU President, was arrested pursuant to the warrants issued in July 2008, together with four other officials of the KCTU and its metals-sector affiliate the Korean Metal Workers’ Union (KMWU), namely Ms. **Jin Young-ok**, Mr. Lee Yong-shik, Mr. **Jung Gab-deuk**, KMWU President, and Mr. **Nam Taek-gyu**, KMWU First Vice-President⁷. Six of the top elected officers of the Hyundai Motor Branch, namely Messrs. **Yoon Hae-mo**, **Kim Tae-gon**, **Kim Jong-il**, **Jung Chang-bong**, **Joo In-koo** and **Jo Chang-min**, were also indicted on the basis of the same arrest warrants but not detained. Only Mr. Lee Suk-haeng remained detained as of the end of 2008. Subsequently, the KCTU headquarters were surrounded by the police, people entering the premises were subjected to searches, and homes and family members of KCTU leaders were subjected to police surveillance.

Ongoing repression against the Migrant Trade Union and its members

In 2005, the Seoul-Gyeonggi-Incheon Migrants Trade Union (MTU), an affiliated of KCTU, was formed as a union for and by migrant workers regardless of visa status. MTU especially seeks to improve working conditions and stop the crackdown against undocumented migrant workers. Since then, the Ministry of Labour and the Government have been refusing to grant MTU a legal union status based on the assertion that undocumented migrant workers do not have the right to freedom of association under Korean law. Yet, in February 2007, the Seoul High Court ruled in favour of MTU’s legal union status, stating clearly that

7/ Mr. Jung Gab-deuk and Mr. Nam Taek-gyu were subsequently released on bail, and Ms. Jin Young-ok and Mr. Lee Young-shik were released on probation.

undocumented migrant workers are recognised as workers under the South Korean Constitution and the Trade Union Law, and therefore the subjects of legally protected basic labour rights, including the right to freedom of association⁸.

However, this did not prevent the repression of MTU leaders, who have been regularly subjected to arrest and deportation since the union was formed. Thus, on May 2, 2008, Messrs. **Torna Limbu** and **Abdus Sabur**, respectively President and Vice-President of MTU, were arrested and, on May 15, 2008, they were taken from the Cheongju Foreigners' Detention Centre and forced to board a plane at Incheon airport a few hours later, in application of a decision of the Ministry of Justice and Immigration Authorities. The decision took place at the same time as actions protesting the arbitrary arrest of the two MTU leaders were taking place in Seoul, Cheongju, Daegu and Busan. Furthermore, on May 15, 2008, the NHRCK had accepted an MTU appeal to postpone the deportation until the investigation into the human rights violations associated with the arrests of Messrs. Torna Limbu and Abdus Sabur proceeded. The Ministry of Justice was informed orally of this decision, and it is understood that they then rushed to carry out the deportation before they received the formal notice.

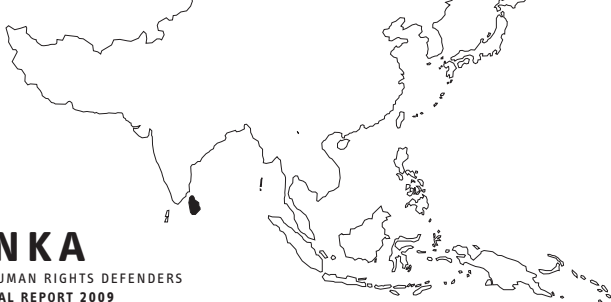
The repression against MTU members increased at the end of the year, as the Supreme Court was about to rule on MTU's legal union status. However, as of the end of 2008, MTU had received no further information and did not know when the ruling was going to be made.

8./ See KCTU.

Urgent Interventions issued by The Observatory in 2008⁹

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Messrs. Torna Limbu and Abdus Sabur	Arbitrary arrests / Deportation / Obstacles to the freedom of association	Urgent Appeal KOR 001/0508/OBS 086	May 20, 2008
Messrs. Lee Suk-haeng, Lee Yong-shik, Jung Gab-deuk, Nam Taek-gyu, Yoon Hae-mo, Kim Tae-gon, Kim Jong-il, Jung Chang-bong, Joo In-koo, Jo Chang-min and Ms. Jin Young-ok	Arbitrary arrest / Judicial harassment / Obstacles to the freedom of association	Urgent Appeal KOR 002/1208/OBS 211	December 10, 2008

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



/ SRI LANKA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
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Political context

Whilst fighting between Government forces, the Liberation Tigers of Tamil Eelam (LTTE) and armed Tamil groups believed to be aligned with the Government was already intense following the resumption in hostilities in 2006, the situation worsened when the Government officially abrogated the 2002 Ceasefire Agreement on January 16, 2008¹. Intensified fighting between Government forces and the LTTE resulted in a significant increase in human rights violations by all parties to the conflict, as well as in thousands being internally displaced. In the first month after the collapse of the ceasefire, the International Committee of the Red Cross (ICRC) noted an increase in the number of civilians killed in the cross-fire or in targeted or indiscriminate attacks, stating that this had reached “appalling levels”². The LTTE-controlled areas of northern Sri Lanka, known as the Vanni, were particularly affected due to the large-scale military operation taking place there³. Enforced disappearances, abductions and killings were reported regularly from the Vanni region and the surrounding areas, in particular the district of Jaffna. Tamils were the most affected by these human rights abuses, and restrictions imposed by the LTTE on leaving the Vanni for Government-controlled areas exacerbated the situation⁴. The

1./ The international community expressed its regret and concern regarding this decision by the Government. See, for example, the Declaration of the European Union Presidency, January 8, 2008; UN Press Release, January 15, 2008; and Statement by the UN Secretary-General, January 3, 2008.

2./ See ICRC Press Release, February 13, 2008.

3./ See Joint Oral Statement by International Movement Against All Forms of Discrimination and Racism (IMADR) and Asian Forum for Human Rights and Development (FORUM-ASIA) to the ninth session of the UN Human Rights Council, September 17, 2008.

4./ The LTTE has a pass system for those who wish to leave the area. However, requests for passes are frequently denied. Further, they are given only to individuals rather than families, which can result in families being split up and left behind. See Law and Society Trust.

Government also placed severe restrictions on internally displaced persons leaving refugee camps, most of whom were Tamils fleeing the fighting in the Vanni, and increased the registration and identification requirements for people from the north and east⁵. In addition, restrictions were placed on human rights defenders and aid workers, in particular foreign nationals, travelling to the area.

Media workers also became high profile targets in the course of 2008, particularly those who reported on the conflict that intensified following the collapse of the ceasefire. Journalists were often barred from the conflict areas, the LTTE not allowing independent reporting in LTTE-controlled areas and those who were allowed into such areas frequently fled given the considerable risks to their security. To silence the media, media workers and journalists were threatened, intimidated, violently assaulted and even murdered. Anti-terrorism legislation was also used to arrest and detain those seen as a risk.

At the international level, Sri Lanka was considered under the United Nations Universal Periodic Review in May 2008. Concerns raised during this process included the need to address the culture of impunity, the incidents of enforced disappearances and extrajudicial killings, the repression of human rights defenders and humanitarian workers and the attacks on freedom of expression, the media and journalists⁶. On May 21, 2008, Sri Lanka lost its seat on the UN Human Rights Council. This followed widespread opposition from Sri Lankan and international NGOs on the basis of continuing systematic human rights violations by the Government, in particular widespread disappearances, extrajudicial killings, torture, and a failure to cooperate with UN human rights experts⁷.

Silencing of critical voices

Throughout 2008, the security forces continued to exercise the sweeping powers granted under the current version of the emergency regula-

5./ See Forum-Asia Press Release, October 13, 2008.

6./ See UN Document A/HRC/8/46, *Report of the Working Group on the Universal Periodic Review: Sri Lanka*, June 5, 2008.

7./ See NGO Coalition for an Effective Human Rights Council Press Release, May 21, 2008.

tions⁸, searching, arresting without warrant and detaining individuals for up to one year without judicial review. Most of those arrested and detained were ethnic Tamils. However, anyone speaking out against the Government or its policies was at risk of repression. Muslim and Sinhalese human rights defenders, journalists and others voicing dissent were often accused by the Government of having links with the LTTE and seen as undermining the war against terrorism waged by the Government. They were thus branded terrorists or traitors, or at the very least accused of acts “demoralising the armed forces”⁹. For instance, on July 12 and 13, 2008, representatives of four human rights organisations¹⁰ were interrogated for over eight hours by the Colombo Crime Division over leaflets distributed on December 10, 2007. The leaflets highlighted the human rights situation, in particular, the current spate of disappearances and called for accountability of the police and armed forces and for the ending of impunity. The police alleged that they were attempts to demoralise the armed forces. The organisations’ representatives were informed that the files would be sent to the Attorney General’s Department, which would decide on the further course of action. Those questioned feared that legal action could be taken against their organisations, or against them or other members personally, under the emergency regulations. However, as of the end of 2008, the four human rights defenders had not been subjected to new interrogations or judicial proceedings.

The Christian Solidarity Movement (CSM), an independent group of Christians from various denominations that actively investigates and documents the human rights and humanitarian crisis in the Vanni region and is campaigning for protection and assistance for civilians affected by war, was also a target for intimidation and repression by the Government. In October 2008, Fr. **Sarath Iddamalgod**a, founding member of CSM, was accused by Mr. Sarath Gunaratne, MP and Deputy Minister of Ports and Aviation, of misleading innocent people by distributing materials against the Government and the Armed Forces.

8./ The current version was introduced in August 2006 after the assassination of Foreign Minister Lakshaman Kadirgama.

9./ See Law and Society Trust.

10./ Right to Life Human Rights Centre, Law and Society Trust, Civil Monitoring Commission and Janasansadaya.

At a public meeting on October 13, Mr. Gunaratne tried to intimidate CSM into stopping its campaign, saying he had brought the matter to the attention of the Presidential Advisor and Mr. Gotabaya Rajapakse (Defence Secretary and brother of the President) as well as the Church authorities. On March 7, 2008, Mr. **Jayaprakash Tissainayagam**, a Tamil journalist and co-Director of the website *Outreach Multimedia*, was arrested and detained by the Terrorist Investigation Division (TID)¹¹. No reason was initially given for his arrest although Government sources suggested that Mr. Tissainayagam had links with the LTTE, but they produced no evidence of this. Mr. Tissainayagam was detained for more than five months without charge, before being indicted in August under the Prevention of Terrorism Act and the Emergency Regulations for promoting terrorism through the magazine *Northeastern Monthly* in 2006 and his activities as a website editor. Mr. Tissainayagam had been critical of the Government in a number of respects, but the relevant articles criticised the Government's military operations carried out in Tamil regions, because of their "indiscriminate impact on civilians"¹². As of the end of 2008, Mr. Tissainayagam remained in detention.

Less visible, and extremely difficult to document and expose given the tight media controls in LTTE-controlled areas, were the abuses unleashed by the LTTE on human rights defenders, particularly dissident voices within the Tamil community who do not see the LTTE as the sole representative of the Tamil population and who condemn the violence inflicted by the LTTE on all civilians¹³. For example, on May 13, 2008, Ms. **Maheswary Velautham**, an ethnic Tamil, human rights lawyer and founder of the NGO Forum for Human Dignity, was shot dead in Jaffna by unknown gunmen believed to be acting for the LTTE¹⁴.

Furthermore, in 2008, the situation of human rights defenders was exacerbated by reductions in security protection assigned to those at risk. In December 2007, the security assigned to Mr. **Mano Ganesan**, a

11./ His Co-Director Mr. N. Jasiharan and his wife, Ms. V. Valamathy, were also arrested.

12./ See Joint Oral Statement by IMADR and FORUM-ASIA to the ninth session of the UN Human Rights Council, September 17, 2008. See also Law and Society Trust.

13./ See Law and Society Trust.

14./ *Idem*.

Member of Parliament, President of the Democratic Workers' Congress and the founder of the Civil Monitoring Commission on ExtraJudicial Killings and Disappearances (CMC), was severely curtailed without notice. It is believed this was aimed at sanctioning his human rights activities, particularly given that it took place one week after he had been awarded the runner up position for the US Government's Freedom Defenders Award 2007. Mr. Ganesan left Sri Lanka at the end of 2007 given his fear for his safety but returned in 2008. He continued to face threats, intimidation and harassment by the authorities throughout the year. For example, on August 26, he was summoned by the TID and interrogated for more than seven hours in relation to visits to Kilinochchi on Government business to speak with officers of the LTTE during the 2002-2005 ceasefire. The TID wanted to know if he had established a special relationship with the LTTE. The Government had also reduced the security assigned to Mr. **Thiyagarajah Maheswaran**, a Member of Parliament for the opposition United National Party (UNP), from eighteen persons to two in December 2007. On January 1, 2008, Mr. Maheswaran was killed by unknown gunmen. His assassination took place just hours after he had informed the media that he would soon reveal details in Parliament of how the Sri Lankan Government carried out abductions and killings in Jaffna through the Eelam People's Democratic Party (EPDP) paramilitary.

No relief for humanitarian workers

In 2008, the Government continued to restrict access for aid workers, in particular foreign nationals, to those areas most affected by the conflict as well as restricting the provision of essential items. For instance, on September 5, 2008, the Government advised all UN agencies and international NGOs that it could no longer guarantee the safety of aid workers in the Vanni area of northern Sri Lanka and ordered all international NGOs and the UN to withdraw from the area with the exception of the ICRC¹⁵.

In addition to restrictions, aid workers were threatened, abducted and killed. Despite the large number of attacks, no successful investigations were carried out into the attacks and the perpetrators therefore enjoyed

15./ See Joint Oral Statement by IMADR and FORUM-ASIA to the ninth session of the UN Human Rights Council, September 17, 2008.

complete impunity¹⁶. For example, Mr. **Sebastian Goodfellow**, an ethnic Tamil and driver for the aid agency Norwegian Refugee Council, disappeared on May 15, 2008, and has not been seen since. It is feared he was abducted possibly by an armed group, with the acquiescence of State security forces¹⁷. On November 27, Mr. **A. Vigneswaran**, a construction-supervisor also working for the Norwegian Refugee Council, was shot dead by unidentified gunmen after being pulled from his house in the eastern district of Batticaloa¹⁸.

Lawyers under attack

The legal profession, as well as the judiciary, was increasingly under threat in 2008. Lawyers acting for victims of human rights abuses all too often found themselves the victims of attacks. Those who represented suspected terrorists in particular were targeted as “traitors”. The repression of lawyers was intended to reinforce the climate of fear and to intimidate and terrorise lawyers into ceasing to act for complainants. For instance, on September 27, 2008, Mr. **J. C. Weliamuna**, a human rights lawyer and Executive Director of the Sri Lanka chapter of Transparency International (TI) that campaigns against Government corruption, was the target of a grenade attack. Late in the evening, an unidentified gang threw two grenades at his home, damaging the property but fortunately not causing any physical harm to Mr. Weliamuna or his family. On September 23, 2008, TI had published a report which put Sri Lanka in 92nd place out of a list of 184 corrupt Governments in the world. Further, Mr. Weliamuna is known for his involvement in human rights and corruption cases, many of which involve Government officials and police officers and, on the very day of the attack, Mr. Weliamuna had proposed a motion at the Bar Association regarding

16./ In June 2008, the UN Working Group on Enforced or Involuntary Disappearances (WGEID) raised concerns that 22 disappearances had occurred in April-May, with 18 disappearances in the month of May alone and that both women and humanitarian aid workers were being targeted. The WGEID expressed concern that the number could be considerably higher given that disappearances may not have been reported due to fear of reprisals. See UN Press Release, June 11, 2008.

17./ See Law and Society Trust and Norwegian Refugee Council Press Release, November 19, 2008.

18./ See Norwegian Refugee Council Press Release, November 28, 2008, as well as UN Press Release, December 3, 2008, in which Mr. Neil Buhne, UN Humanitarian Coordinator in Sri Lanka, condemned “the shooting death of A. Vigneswaran” and urged the authorities to “vigorously pursue” the perpetrators.

a lawyer who had received death threats due to his appearance in the extrajudicial killing case of Mr. Sugath Nishantha Fernando, who had brought complaints of bribery and torture against the police, including senior police officials, in the Negombo area¹⁹.

On October 21, 2008, a letter was sent to a number of lawyers and court registrars by a group calling itself “Mahason Balakaya” (“Ghosts of Death Battalion”). This letter made death threats to lawyers representing suspected terrorists, accusing them of being “traitors to the Nation”²⁰. As of the end of 2008, there had been no official investigation into these death threats. Then, in November 2008, the Ministry of Defence published a report referring to some lawyers as traitors, given that they had acted on behalf of alleged LTTE suspects in applications before the Supreme Court. Both the letter from “Mahason Balakaya” and the Ministry of Defence’s report unjustly attack lawyers simply for carrying out their profession and undermine the legal profession as a whole²¹. They may also incite further attacks against lawyers.

19./ The international community condemned the attack, asking the Sri Lankan Government to conduct investigations, and has expressed concerns about threats to lawyers. See Press Release issued on October 15, 2008 by the Embassy of France in its capacity as the Local Presidency of the EU, which expressed concern over “the trend in attacks and threats on journalists, civil society organizations and now a lawyer”. However, as of the end of 2008, there had been no serious investigation into the attack.

20./ See Open Letter from the International Bar Association to the President of Sri Lanka and Law and Society Trust, November 6, 2008.

21./ See Law and Society Trust.

Urgent Interventions issued by The Observatory in 2008²²

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Mano Ganesan and Mr. Thiyagarajah Maheswaran	Threats / Extrajudicial killing	Urgent Appeal LKA 001/0108/OBS 004	January 14, 2008
Reverend Fr. M. X. Karunaratnam	Extrajudicial killing	Urgent Appeal LKA 002/0408/OBS 060	April 22, 2008
Mr. J. C. Weliamuna	Attack / Threats	Urgent Appeal LKA 003/0908/OBS 157	September 30, 2008
The Christian Solidarity Movement (CSM) and Mr. Fr. Sarath Iddamalgada	Threats / Harassment	Urgent Appeal LKA 004/1008/OBS 165	October 17, 2008

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



/ THAILAND

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
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Political context

Whilst the People Power Party (PPP) won the national elections on December 23, 2007, this outcome did not mark the start of a political stability in Thailand, nor the immediate end of military control and martial law. 2008 was indeed a year of political turmoil.

Following the December 2007 elections, Mr. Samak Sundaravej, an ally of exiled former Prime Minister Thaksin Shinawatra, took office as Prime Minister. The People's Alliance for Democracy (PAD), led by opponents of former Prime Minister Thaksin, challenged Mr. Samak's Government, arguing that it was simply a proxy for Mr. Thaksin. On May 25, 2008, PAD began street protests against the Government, demanding Mr. Samak's resignation. Throughout the summer, clashes between the PAD and pro-Government supporters as well as police continued. On August 26, 2008, PAD protesters took over the Government House, including the Prime Minister's office. This resulted in further violence at the end of August/beginning of September and, in response to the escalating violence, the Government declared a state of emergency on September 2. Whilst PAD failed to force Mr. Samak to resign, he was ordered to step down on September 9 after the Constitutional Court ruled that he had violated constitutional conflict-of-interest rules by being paid for appearing on a television programme. The state of emergency was then lifted and Mr. Somchai Wongsawat, Mr. Thaksin's brother-in-law, won a majority parliamentary vote to become Prime Minister in mid-September.

In October 2008, political tension increased when the police arrested two PAD leaders. As a result, on October 7, more violence erupted when 2,000 anti-Government protesters gathered outside Parliament in an attempt to stop Mr. Somchai convening the Parliament to make a policy statement. Police used tear gas and rubber bullets to disperse protesters, and PAD protesters responded violently with various weapons including guns, metals poles, and slingshots. In October, leaders of

the anti-Government protests surrendered to the police. Meanwhile, protesters continued to occupy the grounds of Government House and, on November 24, tens of thousands of protesters led by PAD surrounded the Parliament in the hope of forcing out the Government. On November 26, the protests took a more dramatic turn when PAD protesters stormed and took over Bangkok's Survarnabhumi airport and stated that they would not move until Mr. Somchai resigned. They later took over a second Bangkok airport. On December 2, 2008, the Constitutional Court found the PPP, as well as two coalition partners, the "Machima Thipatai" and the Chart Thai parties, guilty of vote-buying, and ordered them to be disbanded. Dozens of PPP executive members, including Prime Minister Somchai Wongsawat, were also found guilty of personal involvement and banned from politics for five years. However, this may not resolve the country's national crisis.

Despite this political turmoil, martial law, which had been imposed by the military Government that took power in 2006 following a coup, was lifted in April 2008 in all areas except the three southern provinces of Yala, Pattani and Narathiwat, where violence continued between Muslim separatists and the authorities, as well as in four districts in Songkhla province. In addition, on February 27, 2008, the King signed the Internal Security Act, which had been adopted on December 21, 2007 by the National Legislative Assembly. It confers emergency powers to respond to threats to national security, even in the absence of a declaration of a state of emergency, to the Internal Security Operation Command (ISOC), a military entity known for the serious crimes it committed in the 1970s, under the control of the Prime Minister¹. However, it was not specifically invoked in 2008.

1./ ISOC has now the authority to restrict fundamental freedoms, as Article 17 authorises indefinite restrictions placed on the freedoms of expression, assembly, association and movement: ISOC is authorised to monitor, prevent, suppress or take corrective measures against any action seen as a threat to society. According to Article 19, any person who is recognised as representing a threat to the security of the country is likely to be sentenced to a term of up to six months' detention in re-education camps, and it is feared that this provision could be abused in order to silence all dissenting voices. The Act also provides that ISOC shall not be responsible before the Parliament or any court (Article 22). In addition, officials who commit human rights abuses on the basis of this law shall be immune from any prosecution (Article 23).

Finally, the Government, together with the Ministry of Information and Communication Technology (MICT), continued in 2008 to silence “cyber-dissidents” and restrict freedom of expression and opinion, increasingly using the law on *lèse majesté* as a pretext. Thailand’s *lèse majesté* law, one of the harshest in the world, provides for penalties ranging from three to fifteen years’ imprisonment and has frequently been used for political motives. In May 2008, the MICT was asked by the Democrat Party to shut down 29 websites because they contained material content that was considered to be insulting towards the monarchy. On May 27, the Interior Minister stated that all websites had been contacted to “adjust” their content². At the beginning of November 2008, the MICT decided to create an Internet firewall to filter and block all sites that insult the monarchy and are therefore violating the *lèse majesté* law. There are considerable concerns that this will further control Internet access and content and thus increase censorship of the online media³.

Silencing of critical voices

In 2008, those who exposed or made allegations of corruption against politicians and local Government officials were often the victims of attacks, including enforced disappearances and extrajudicial killings. This affected both human rights defenders fighting against corruption and journalists reporting on such cases. For example, on February 7, 2008, Mr. **Komol Lausopaphan** disappeared from a police station in the north-eastern province of Khon Kaen. Mr. Komol had been investigating corrupt practices in a construction work located on land belonging to the Railway Authority of Thailand. This had brought him into conflict with the police and, after suffering an assault at the hands of local police, he requested witness protection on January 20, 2008. He followed this up with a formal complaint in early February. Mr. Komol had then visited the police station early on February 7. His family called the police station in the evening and was informed that Mr. Komol was still at the station. At around 11 p.m., Mr. Komol called his family, but his call was disconnected. He did not return home. His family reported his disappearance on February 9, and were informed

2./ This included the sites: *Prachathai.com*, *Arayachon.org*, *Truthaksin.com* and *Thansin comeback.org*.

3./ See Reporters Without Borders (RSF) Press Release, November 18, 2008.

that Mr. Komol had left the station at 11:40 p.m. Mr. Komol's car was found three weeks later, parked about 800 metres from the police station. He has not been seen since February 7, and his family fears that he has been killed. As of the end of 2008, there had been no investigation into Mr. Komol's disappearance and the perpetrators were therefore not identified or punished. Since his disappearance, Mr. Komol's family is frightened to leave the house for fear of also being targeted⁴.

Furthermore, the second half of 2008 saw a spike in the killings of journalists. For instance, two provincial correspondents for the Bangkok daily newspaper *Matichon* were fatally shot – Mr. **Ahiwat Chanurat** in the southern city of Nakhon Si Thammarat on August 1, 2008 and Mr. **Jaruek Rangcharoen**, in the central province of Suphan Buri on September 27, 2008. Both men had reported on local Government corruption, and in the absence of any other motive, this was believed to be the reason for the assassinations. Suspects in both cases were arrested⁵. Only a few weeks later, on October 5, 2008, Mr. **Wallop Bounsampop** was shot by two men at a restaurant in Chonburi province. Mr. Bounsampop was the Editor of *Den Siam*, a newspaper in Chonburi province, southern Thailand, and had written controversial articles on local politics, criticising political opponents. In particular, he had investigated into corruption within local organs of administration⁶.

Activists and religious leaders in the south targeted as Muslim insurgents

With the backdrop of the continuing martial law in the south of the country, the army continued to engage in counter-insurgency operations, resulting in arrests, torture and extrajudicial killings being to engage in with impunity.

In particular, arbitrary detention and torture were used against human rights activists whom the authorities suspected of involvement in Muslim insurgent activities. For example, on January 27, 2008, two student activists from Yala Rajabhat University, Mr. **Ismael Tae** and Mr. **Amisi Manak**, were arrested and detained in the Special Task

4./ See Union for Civil Liberty (UCL).

5./ See UCL and RSF Press Releases, September 30 and November 7, 2008.

6./ See UCL and RSF Press Release, October 7, 2008.

Force Unit 11 with five other students, where they were subjected to torture. The authorities stated that the reason for their arrest was suspected involvement in insurgent activities. However, it is believed that they were targeted in reprisal for their involvement in human rights training two days earlier in a village in Yala province. The two students were released without charge on February 4, after a complaint had been filed at Yala Court. On August 15, 2008, Mr. Tae and Mr. Manak disappeared from their university dormitory, along with Mr. **Ruslan Tuyong**, Mr. **Waerosalee Latae** and Mr. **Romlee Latae**, all students at Yala Rajabhat University. They were all actively involved with the Student Federation of Yala, a body that organises human rights activities, and had been involved in providing training on legal aid and in organising discussion on human rights in the community. Friends of the five reported their disappearance later that day and requested assistance from the Muslim Attorney Centre (MAC) in Yala. MAC made enquiries with the Special Taskforce Unit 11 and discovered that the students were being held there. There were concerns that they could be at risk of torture. The five students were subsequently released without charge⁷.

Urgent Intervention issued by The Observatory in 2008⁸

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Messrs. Jon Ungphakorn, Pairoj Polpetch, Sirichai Mai-ngarm, Sawit Kaewwan, Amnat Palamee, Nutzer Yeehama, Anirut Chaosanit, Pichit Chaimongkol, Ms. Supinya Klang-narong and Ms. Saree Ongsomwang.	Judicial proceedings	Urgent Appeal THA 001/0208/OBS 013	February 1, 2008

7/ See UCL.

8./ See the compilation of cases in the CD-Rom attached to this report.



/ VIET NAM

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
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Political context

Viet Nam in 2008 was characterised by the Government's two diametrically-opposed policies: on the one hand, relentless and systematic repression of human rights defenders and all dissenting voices and, on the other, a show of openness for the benefit of the international community to enhance Viet Nam's economic and political standing. This was not unlike the approach taken by the Vietnamese Government in 2006 when it made a number of requests to the international community, including the request to join the World Trade Organisation (WTO) and to be removed from the US list of "Countries of Particular Concern" (CPCs) with respect to religious freedom. After being granted both requests, the Vietnamese Government launched in 2007 a harsh campaign of repression against dissidents and human rights defenders. In 2008, this policy of repression continued, whilst at the same time the Government tried to defuse international criticisms of its human rights record, particularly to avoid being put back on the US blacklist of CPCs. In May 2008, however, the US Commission on International Religious Freedom (USCIRF) recommended that Viet Nam be designated once again a CPC.

As in 2007, the Government continued to use laws and decrees as an instrument of repression. Most notable are the provisions of the Criminal Code on crimes against "national security" and "espionage", which provide for heavy penalties, including in certain cases the death penalty. The United Nations has expressed concern on a number of occasions that critics of the Government could be sentenced to death under these provisions simply for exercising their right to freedom of expression. These vague and imprecise provisions make no distinction between non-violent acts – such as the peaceful exercise of freedom of expression –, and violent actions – such as terrorism. Despite strong recommendations by the UN Special Rapporteur on Religious Intolerance (1998) and the UN Human Rights Committee (2002), the Government continued to rely on these provisions, which criminalise dissent and

freedom of expression, as well as on decrees and ordinances restricting assembly and religious activities to silence its critics and others it perceives as a threat to its authority¹. As a result, defending human rights remained construed by the authorities as a violation of the law.

In 2008, the Government also continued to control most religious organisations and restrict their activities through the process of requiring official recognition, pursuant to the 2004 Ordinance on Beliefs and Religion. Independent religious activity remained illegal, and the Government clamped down on peaceful assembly and freedom of expression exercised by religious leaders, who continued to be active advocates for legal and political reform and, as a result, were seen as attempting to destabilise the Government and as such as a threat to national security. Members of Hoa Hoa, Cao Dai and Khmer Buddhist religious communities, the Unified Buddhist Church of Viet Nam (UBCV) and Catholic and Protestant leaders were all subjected to discrimination, restrictions and repression. The systematic repression and abuses committed against these religious communities were repeatedly condemned by the international community² and Viet Nam was once again on the USCIRF's radar for re-designation as a CPC³.

Harassment of journalists reporting on corruption or calling for democracy

In 2008, there was still no independent media in Viet Nam, and restrictions placed upon journalists remained widespread. Similar restrictions were used to control the Internet, a fast-growing sector in Viet Nam. On December 2, 2008, the Government announced that new rules would be issued to regulate blogging, thus placing further restrictions on freedom of expression.

1./ Including Decree 38/2005 banning peaceful demonstrations and the 2004 Ordinance on Beliefs and Religion.

2./ The European Parliament passed on October 22, 2008 Resolution P6_TA-PROV(2008)0514 relating to the new EU-Viet Nam Partnership and Cooperation Agreement, in which it called on the EU to ensure that Viet Nam cease these "systematic violations of democracy and human rights" and called for effective mechanisms to enforce human rights and democracy clauses in the new Agreement.

3./ Although the USCIRF noted that there had been some progress, it was still concerned about the persistent abuse and repression of certain religious communities. See USCIRF Press Release, May 2, 2008.

Despite the Government's claim to be tough on corruption and on embezzlement of public funds, in 2008 journalists who reported on corruption were the targets of retaliation and intimidation. This frequently took the form of arrests and detentions on the grounds of "abusing democratic freedoms to infringe upon the interests of the State", pursuant to Article 258 of the Criminal Code. For example, two journalists of the State-controlled press, Mr. **Nguyen Van Hai**, reporter for *Tuoi Tre* (Youth Magazine), and Mr. **Nguyen Viet Chien**, journalist for *Thanh Nien* (Young People), were arrested on May 12, 2008 and charged with "inaccurate reporting and abuse of power". Both journalists had brought to light a major corruption scandal at Viet Nam's Transport Ministry involving several high-ranking Communist officials who had embezzled millions of dollars from the Ministry to bet on European football matches. This had resulted in the arrest of the Vice-Minister for Transport, Mr. Nguyen Viet Tien, who was later released for lack of evidence. On October 15, 2008, the two men were found guilty of "abusing democratic freedoms to infringe upon the interests of the State". Mr. Nguyen Van Hai was sentenced to two years' imprisonment, whilst Mr. Nguyen Viet Chien was sentenced to two years of re-education, suspended for time already served, after he pleaded guilty⁴. Two months later, the Editors of *Thanh Nien* and *Tuoi Tre* were fired without any explanation. On July 18, 2008, Mr. **Truong Minh Duc**, a journalist, was sentenced to five years' imprisonment under Article 258 for his reports on farmers who had been victims of corruption⁵.

Those expressing criticisms of Government policy or calling for democracy were also targeted. On April 19, 2008, cyber-dissident **Nguyen Hoang Hai** (pen-name Dieu Cay), a founding member in 2006 of the Club of Free Journalists, was arrested after posting articles on the Internet calling for respect of human rights and democratic reform, and unfurling banners in front of the Ho Chi Minh Opera House protesting against China's claims of sovereignty over the disputed Spratly and Paracel islands in January. On September 10, 2008, he was sentenced to 30 months' imprisonment following an unfair closed trial at the Ho Chi Minh City People's Court. The sentence was

4./ The EU expressed its regret at these sentences, which it saw as an attack on the freedom of expression. See Statement by the EU Presidency, October 16, 2008.

5./ See Vietnam Committee on Human Rights.

upheld on appeal on December 4, 2008. Mr. Dieu Cay was convicted of tax evasion although the procedural flaws as well as the police unit that arrested him – belonging to the Department of Internal Security and Counter-Intelligence, which usually deals with monitoring and political repression – suggest that this was only a pretext for repression⁶.

No respite for defenders of freedom of religion

The largest Buddhist church still outlawed and repressed⁷

The Unified Buddhist Church of Viet Nam (UBCV) represents more than three-quarters of Vietnamese Buddhists and is a prominent advocate for human rights. Outlawed by the Government following the establishment of the State-sponsored Viet Nam Buddhist Sangha, UBCV members have been a key target for repression by the authorities. Such repression has taken the form of harassment by the police, evictions from pagodas, surveillance, threats, interrogations, disappearances, arrests and detentions – including house arrest. After the USCIRF issued on May 2, 2008 its recommendation that Viet Nam be put back on the CPC list, the Government set about organising grand events to celebrate the UN International Day of Vesak⁸. However, only the Buddhists of the State-sanctioned Buddhist Sangha were allowed to celebrate this holiday, the Buddhists of UBCV being excluded from the celebrations. The elaborate celebrations of one of the most important dates in the Buddhist calendar were in sharp contrast to the increased repression of UBCV monks. In the run-up to the Vesak, a number of UBCV pagodas were seized by the State-sanctioned Buddhist Sangha for the celebrations, with the UBCV monks either being imprisoned in their pagodas or evicted.

On July 5, 2008, **Thich Huyen Quang**, the Patriarch of UBCV, died at the age of 88 years whilst under house arrest in the Nguyen Thieu Monastery, in Binh Dinh province. He had been detained for more than 26 years. Following the funeral, the Government reinforced controls, surveillance and harassment of UBCV monks. On August 15, 2008, **Thich Quang Do** was named Supreme Patriarch of UBCV. As of the end of 2008, he remained under house arrest in the Thanh Minh

6./ *Idem*.

7./ *Idem*.

8./ Vesak is Buddha's birthday and is a holiday recognised by the United Nations.

Zen Monastery, in Ho Chi Minh City. His telephone line was cut off, and all visits that he received were closely monitored. Further, he had still not been issued with a residence permit and was therefore at risk of being arrested at any moment. On December 23, 2008, Mr. Marco Pannella, Member of the European Parliament, and Italian Senator Marco Perduca were prevented from boarding a plane from Phnom Penh to Saigon to visit Viet Nam. Both had obtained regular visas to enter Viet Nam and were scheduled to visit Thich Quang Do before travelling to Hanoi to meet Vietnamese officials and members of the National Assembly on December 24-25, 2008. The authorities said that they would “not be permitted to enter/exit Viet Nam any more” as they were “not in a position to guarantee their personal security”, after they received “several letters and messages of protest concerning the visit”.

Khmer Krom Monks still perceived as a threat to national security

The Vietnamese authorities also continued to view the Khmer Kampuchea Krom monks as a threat to national security. Although the Khmer Krom bonze Mr. **Tim Sa Khorn** was released from prison on June 28, 2008, the Vietnamese authorities continued to restrict his liberty and freedom of movement by placing him under house arrest following his release. Mr. Sa Khorn had been arrested in Cambodia in June 2007 and sent to Viet Nam, where he was subsequently sentenced to one year’s imprisonment on November 8, 2007, on charges of “sabotaging the unification policy”.

Urgent Interventions issued by The Observatory in 2008⁹

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Messrs. Nguyen Van Hai and Nguyen Viet Chien	Sentencing / Arbitrary deprivation of liberty	Urgent Appeal VNM 001/1008/OBS 168	October 21, 2008
Mr. Nguyen Hoang Hai (Dieu Cay)	Sentencing / Arbitrary deprivation of liberty	Urgent Appeal VNM 002/1208/OBS 210	December 9, 2008

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