



# / ASIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2007

## **Political context**

Following the proclamation of the state of emergency by President Iajuddin Ahmed on January 11, 2007, after several weeks of violent election-related clashes between supporters of the former coalition in power and those of the opposition parties, the elections that should have taken place on January 22 were postponed sine die and a new caretaker Government was set up with the support of the army. Many people have been arrested since then, notably in the framework of the fight against corruption, including top officials from the two main political parties, the Bangladesh Nationalist Party (BNP) and the Awami League. According to the organisation Odhikar, 395 people – mainly political activists – arrested under the state of emergency on the basis of the 1974 Special Powers Acts (SPA) were still being held in January 2008. Furthermore, at least 35 journalists were victims of attacks in 2007 and 13 were arrested. Therefore, a climate of auto-censorship currently dominates most of the media.

On January 12 and 25, 2007, the President issued two decrees, the Emergency Powers Ordinance and the Emergency Power Rules (EPR), which severely curtail freedoms of movement, assembly, association and expression. These two texts confer considerable powers on the bodies responsible for the implementation of law, in particular the power to arrest without a warrant any person suspected of attempting to participate in a “prejudicial act”, in infringements to the Emergency Power Rules, or in other offences punishable under criminal law. In addition, the 1974 SPA, which has been the basis for a number of cases of preventive detention without charges, now applies to crimes and offences defined under the EPR. Persons arrested for crimes against national security, including for the crime of corruption, may not ask to be freed on bail.

## Reprisals against defenders who denounce acts of violence by the Government and the security forces

In 2007, the many acts of violence (arbitrary detentions, torture, extrajudicial killings, etc.) committed by the security forces – beginning with the army, the police and the Rapid Action Battalion (RAB) – continued with full impunity, especially since the provisions of the Emergency Power Rules are so broad that they leave the door open to such violations. In addition, the Government has on several occasions invoked emergency laws to arrest human rights defenders, sometimes on the basis of alleged “anti-State activities” in order to discredit their activities.

Thus, during the night of May 10, 2007, Mr. **Tasneem Khalil** was arrested at his home and detained for nearly 24 hours as a result of wide-ranging discussions on his blog about human rights and the role of the army, and his participation as a consultant in the drafting of several Human Rights Watch reports on extrajudicial killings committed by the security forces. Similarly, on October 24, 2007, Mr. **Jahangir Alam Akash**, a journalist and Regional Coordinator of the Bangladesh Institute of Human Rights (BIHR) and the Task Force Against Torture (TFT), was arrested in the middle of the night in the town of Rajshahi by members of the RAB. On May 3, 2007, a documentary that he had directed was shown on television, in which RAB members were accused of firing on a man who put up no resistance, at his home and in front of his family. Although he was released on bail at the end of November 2007, a new arrest warrant was issued against him on January 7, 2008. As for the Director of Odhikar, Mr. **Nasiruddin Elan**, he was taken on May 3, 2007 to naval headquarters, following an enquiry carried out by the organisation concerning suspicious deaths in custody. He was intimidated and threatened, then released. On December 4, 2007, Mr. **Hasan Ali**, an Odhikar member who carried out several inquiries into extrajudicial killings, was taken to Kushtia police station. He was released a few hours later without being given any explanation on the reasons for his arrest.

## Obstacles to freedom of assembly

While the SPA already authorised the security forces to disperse or arrest any group of four or more people meeting in the same place, the EPR now prohibit any demonstration unrelated to “religious, social, State or Government authorised programmes”. Although these restric-

tions were partly lifted in Dhaka to allow certain political meetings to take place, they remained in force in the rest of the country, resulting in an environment that was not conducive to the preparation of free and fair elections. The EPR also restrict the activities of political parties and trade unions.

For instance, on August 21, 2007, in the aftermath of violent clashes between the army and students from Dhaka university, a march was organised on the Rajshahi university campus. On August 22, the students demanded the lifting of the state of emergency, the implementation of sanctions against the agents of the security forces responsible for the previous day's violence and police withdrawal from the campus. This demonstration was violently repressed and resulted in a curfew from August 22 to 27. The security forces arrested in particular professors from the universities of Rajshahi and Dhaka<sup>1</sup> and, on December 4, 2007, four of them – Messrs. **Moloy Kumar Bhoumik**, **Dulal Chandra Biswas**, **Sayed Selim Reza Newton** and **Abdullah Al Manun** – were sentenced to two years' imprisonment for taking part in the August 21 march, in violation of the EPR. In addition, several journalists were arrested and others were beaten while trying to cover the demonstrations, and the Government prohibited some of the media, including the TV channels *Ekushey Television* (ETV) and *CSB News*, from broadcasting “inflammatory” news and criticism of the Government on the basis of Article 5 of the EPR. Persons who violate the provisions of the EPR risk from two to five years in prison.

Other demonstrations were also repressed and certain participants arrested for violating the state of emergency. On September 3, 2007, a complaint was filed against 17 workers from a garment factory who had taken part in a demonstration to protest about their monthly wages, and 12 of them were arrested. Moreover, following a demonstration

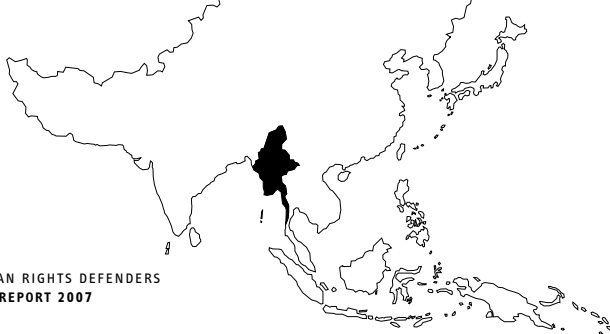
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1./ To that extent, the European Parliament expressed its deep concern “[...] about the disproportionate response of the military and the police against the student protests which erupted in late August 2007 at Dhaka university” and called for “the immediate release of the persons who have been arrested subsequent to the students’ and teachers’ unrest, including members of the teachers’ association Shikkhok Samity, i.e. **Anwar Hossain**, **Harun Ur Rashid**, **Saidur Rahman Khan** and **Abdus Sobhan**” (See European Parliament Resolution P6\_TA(2007)0385 of September 6, 2007, on Bangladesh.).

organised in Borguna on December 2, 2007 which was attended by nearly 500 victims of cyclone Sidr<sup>2</sup> to call for adequate aid for victims, 12 demonstrators were arrested for violating the EPR.

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2./ The cyclone hit Bangladesh on November 15, 2007, causing nearly 4,000 deaths and disappearances.



## / BURMA

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### Political context

The most significant event of 2007 was undoubtedly the unprecedented peaceful protest movement since 1988, triggered by the Government's decision, on August 15, 2007, to increase the price of fuel, in spite of a socio-economic situation that had already largely deteriorated. The demonstrations called for improvement in the quality of life and for dialogue with the Government on political reforms. They began in Rangoon and quickly spread, bringing together tens of thousands of people. Led by Buddhist monks, they were violently repressed by the police, the army and members of the Union Solidarity and Development Association (USDA), the civil branch of the military Government. On the evening of September 25, 2007, the authorities ordered a curfew and began systematic raids into monasteries. Several thousands of people were arrested, including monks and students, as well as members of the 88 Generation Students Group and the National League for Democracy (NLD)<sup>1</sup>.

The Burmese authorities' brutal repression was a reminder to the international community of the harshness of the Burmese military Government, led by the State Peace and Development Council (SPDC). It was strongly condemned, especially by Ms. Louise Arbour, High Commissioner for Human Rights<sup>2</sup>, the United Nations Council

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1./ According to the Assistance Association for Political Prisoners in Burma (AAPPB), as of December 1, 2007, 706 people remained in detention following the demonstrations, in addition to the 1,158 political prisoners who had been held prior to August 5, 2007.

2./ On October 2, 2007, Ms. Louise Arbour noted that "the peaceful protests we have witnessed in recent weeks [...] are only the most recent manifestations of the repression of fundamental rights and freedoms that have taken place for almost 20 years in Myanmar".

on Human Rights<sup>3</sup> and its Special Procedures<sup>4</sup>, the United Nations Security Council<sup>5</sup>, the Governing Body of the International Labour Organisation (ILO)<sup>6</sup>, the Association of Southeast Asian Nations (ASEAN)<sup>7</sup> and the European Union (EU)<sup>8</sup>.

Furthermore, Burma's National Convention, which was in charge since 1993 of drafting the principles of a new Constitution, ended its works on September 3, 2007, but excluded most of the political parties from the drafting process and prohibited by law any criticism of the convention.

In 2007, in spite of the climate of repression and of continued, serious and systematic violations, for the first time since 2003 the SPDC

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3./ On October 2, 2007, during its fifth Special Session, the Human Rights Council adopted a resolution deploring "the continued violent repression of peaceful demonstrations in Myanmar" and urging "the Government of Myanmar to release without delay those arrested and detained as a result of the recent repression of peaceful protests" (See United Nations document A/HRC/S-5/L.1/Rev.1, October 2, 2007).

4./ On September 28, 2007, Mr. Philip Alston, Special Rapporteur on extrajudicial, summary or arbitrary executions, Ms. Asma Jahangir, Special Rapporteur on freedom of religion or belief, Ms. Hina Jilani, Special Representative of the Secretary General on the situation of human rights defenders, Mr. Ambeyi Ligabo, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Manfred Nowak, Special Rapporteur on torture and other cruel inhuman or degrading treatment or punishment, Mr. Paulo Sérgio Pinheiro, Special Rapporteur on the situation of human rights in Myanmar, and Ms. Leila Zerrougui, Chairperson-Rapporteur of the Working Group on Arbitrary Detention, expressed their grave concern "over the growing number of reported deaths and serious injuries suffered by protesters and bystanders" (See United Nations Press Release, September 28, 2007).

5./ On October 11, 2007, the Security Council strongly deplored "the use of violence against peaceful demonstrators" and emphasised "the importance of the early release of all political prisoners and remaining detainees" (See United Nations Press Release SC/9139, October 11, 2007).

6./ The Governing Body "expressed its serious concern at the Government's crackdown in response to the recent peaceful protests" and "noted with deep regret the imprisonment of persons exercising their fundamental right to freedom of association and the freedom of expression it entails", "[calling on] the Government to immediately release those persons" (See 300<sup>th</sup> session of the Governing Body of the ILO, *Conclusions concerning Myanmar*, November 2007, GB.300/8(& Add.)).

7./ The ASEAN Ministers for Foreign Affairs demanded that the Myanmar Government "desist from the use of violence against demonstrators" and spoke of their "revulsion" on being informed that the demonstrations were being repressed by force (See Statement by ASEAN Chairperson, September 27, 2007).

8./ See Declaration by the EU Presidency of August 28, 2007 and European Parliament Resolutions P6\_TA(2007)0384 and P6\_TA(2007)0420 of September 6 and 27, 2007.

authorised the United Nations Special Rapporteur on the situation of human rights in Myanmar to visit the country as a result of the unprecedented international pressure put on the regime. However, the Rapporteur has not been able to return since then, nor has the Special Adviser to the Secretary-General of the United Nations, despite requests to do so made by the Security Council on November 14, 2007 and on January 17, 2008.

### Repression of all human rights activities

In Burma, it remains almost impossible to carry out human rights activities due to the heavy repression that defenders continue to suffer. On May 21, 2007, for example, Ms. **Phyu Phyu Thin**, an HIV/AIDS activist, was arrested by the special police for protesting against the lack of access to antiretroviral drugs in Government hospitals, placed in detention at the Kyaikkasan Centre in Rangoon and was questioned about her activities. She was released on July 2, 2007, and at no time did the authorities inform her of the reasons for her detention<sup>9</sup>. Moreover, on July 24, 2007, six members of the association Human Rights Defenders and Promoters (HRDP) – Messrs. **Ko Myint Naing** (alias Myint Hlaing), **Ko Kyaw Lwin**, **U Hla Shien**, **U Mya Sein**, **U Win** and **U Myint** – were given from four to eight years prison sentences for “attempting to disturb public order”. On April 17, 2007, the six men had actively taken part to the organisation of a human rights training seminar.

Trade union leaders are also the focus of repression. For instance, on September 7, 2007, Messrs. **Thurein Aung**, **Kyaw Kyaw**, **Wai Lin**, **Myo Min**, **Kyaw Win** and **Nyi Nyi Zaw**, six defenders of the right to work and freedom of association, were found guilty of “inciting hate and contempt of the Government” and some were accused of being members of “illegal associations”<sup>10</sup>. Messrs. Thurein Aung, Kyaw Kyaw, Wai Lin and Nyi Nyi Zaw were arrested on May 1, 2007 after organising a May Day celebration and planning to organise discussions on subjects related to labour and freedom of association at the American Centre of the United States Embassy in Rangoon. This event was can-

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9./ See AAPPB, July 2007.

10./ Messrs. Thurein Aung, Wai Lin, Myo Min and Kyaw Win were sentenced to 28 years in prison and Messrs. Nyi Nyi Zaw and Kyaw Kyaw were sentenced to 20 years.



celled immediately following these arrests. On May 10, 2007, Messrs. Kyaw Win and Myo Min were arrested while they were on their way to the border with Thailand with the intention of informing the international community about these arrests. Similarly, on November 28 2007, Mr. **U Tin Hla**, a member of the Federation of Trade Unions of Burma (FTUB) and the Burma Railway Union, was arrested together with his family at their home by the special police. The police accused Mr. U Tin Hla of having encouraged railway workers to join the September 2007 demonstrations.

In 2007, policy regarding the Internet and cyber dissidents, i.e. those defenders who use the Internet to promote human rights and democracy, continued to be extremely repressive. The *Myanmar Wide Web* sites, a national Intranet network composed of websites authorised by the regime, are the main sites – if not the only ones – to which Burmese have access. Furthermore, during the demonstrations in August and September, Internet connections were severely restricted, when they were not completely cut off, after Burmese citizens had used the Internet to send images and news of the violent repression of the demonstrations. Cybercafés in Rangoon were also closed down. On November 30, 2007, Mr. **Aung Gyi (aka) Aung Thwin** was arrested in a Rangoon cybercafé whilst sending photos taken the day before of security forces forcibly evicting the monks from Maggin monastery. Since these demonstrations, the authorities have tried to impose new restrictions on Internet use. The owners of cybercafés have thus been ordered to copy the data from their computers and send it to the special police each week<sup>11</sup>.

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11./ See US Campaign for Burma.



## / CAMBODIA

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### **Political context**

Whilst Cambodia has witnessed impressive economic progress in recent years, considerable improvements are still required in strengthening respect for human rights within the country, particularly regarding the fight against impunity for crimes committed under the Khmer Rouge regime. The executive branch has still not undertaken necessary reforms, in particular in the field of the fight against corruption or improvements in justice administration. Over the last ten years the system has more and more come to resemble that of a single party regime that rejects any responsibility for serious human rights violations, in a context of total absence of rule of law.

Furthermore, in June 2007, the Extraordinary Chambers in the Courts of Cambodia (ECCC) approved the internal rules of the tribunal created to bring to trial the main leaders of the Khmer Rouge regime, which, for the first time in the history of international criminal justice, recognised the possibility for the victims to join the proceedings as civil parties. However, the tribunal's image was tarnished even before the beginning of the trial, which is planned for April 2008, due to allegations of corruption targeting the Cambodian staff of the tribunal.

### **Stigmatisation of human rights defenders and serious obstacles to their work**

In 2007 the Government made constant attacks on defenders who dared to criticise its human rights policy. For instance, in May 2007, in response to a joint press release from NGOs, including the Cambodian League for the Promotion and Defence of Human Rights (LICADHO) and the Cambodian Human Rights and Development Association (ADHOC), expressing their concerns about the numerous human rights violations, the Interior Ministry Spokesman, Mr. Khieu Sopheak, reaffirmed that these organisations exaggerated the situation, explaining that it is their job to criticise the Government and that "if they don't say that things are bad, they don't get paid".

Cambodian defenders are not alone in being criticised by the Government. The UN Secretary-General's Special Representative for human rights in Cambodia, Mr. Yash Ghai, was thus subjected to virulent attacks by the Government throughout the year, just as his predecessors had been. On December 12, 2007, after the fourth official visit of the Special Rapporteur, Prime Minister Mr. Hun Sen indicated that he would no longer meet him, accusing him of being a "long term tourist". The Information Minister added that Mr. Ghai "represented the opposition parties rather than the United Nations". Mr. Ghai was also subject to acts of intimidation: on December 3, 2007, in Ratanakiri province, soldiers and police tried to interrupt a meeting between Mr. Ghai and villagers who denounced the confiscation of their lands, claiming that the Rapporteur had received no written authorisation from the local authorities. His terms of reference, however, allow him to travel freely throughout the Cambodian territory without prior authorisation.

### **Increased repression of defenders of the right to land, the environment and natural resources**

In spite of various promises made by Mr. Hun Sen, multiple attacks on freedoms of expression and assembly continued to occur in 2007, in a context of illegal confiscation of land and massive forcible expulsions. The courts continued to prosecute, arrest and sentence people for crimes related to agricultural disputes, in most cases with no respect for the right to a fair trial. It is also extremely difficult for human rights organisations to document violations that occur during forced evictions. For example, in March 2007, members of ADHOC and the Cambodian Centre for Human Rights (CCHR) were arrested by the police and questioned about why they were observing the eviction of over 100 families at the Angkor temple complex in Siem Reap. They were released one hour later. On November 27, 2007 the police prevented the holding of a public forum in Ratanakiri province, organised by the CCHR to hear the complaints of victims of illegal confiscation of lands in the region. And in 2007, journalists and members of civil society were on several occasions prevented from observing evictions and were kept away from the sites, as occurred with the forced eviction of families in the district of Chroy Chanva in Phnom Penh, on November 7, 2007.

Organisations and defenders who condemn the illegal and abusive exploitation of natural resources, especially forests, were also victims of acts of intimidation and reprisals. For instance, on June 3, 2007, Mr. Khieu Kanharith, the Information Minister, declared that the Government had decided to prohibit the publication of the latest report of the environmental organisation Global Witness, arguing that any copies found inside the country would be confiscated<sup>1</sup>. On June 4, 2007, Mr. Hun Neng, Governor of the province of Kompong Cham and brother of the Prime Minister, declared that if members of Global Witness came to Cambodia, he would “hit them until their heads are broken”. Moreover, on June 16, 2007, after publishing articles on deforestation in the province of Kompong Thom, Mr. **Lem Piseth**, a journalist with *Radio Free Asia*, received death threats by telephone. Mr. Piseth had to leave the country, fearing for his safety. These acts of reprisal sometimes go as far as killing: for example, on July 4, 2007, Mr. **Seng Sarorn**, a member of the Culture and Environment Preservation Association (CEPA), was killed at his home.

Furthermore, in July 2007, the Bar Association of the Kingdom of Cambodia sought to restrict the independence of Cambodian lawyers, particularly those working with NGOs that defend victims of land grabbing. The Bar Association, whose President is close to the Government, declared that lawyers could not be employed by NGOs or provide them with legal aid if the NGOs had not signed a memorandum of understanding with the Bar<sup>2</sup>. Furthermore, on June 24, 2007 the Secretary General of the Bar, Mr. Ly Tayseng, publicly declared that the Community Legal Education Centre (CLEC), an NGO that provides legal aid to communities threatened with eviction, was operating in violation of “Bar Law” for not having signed such a memorandum. He added that two other NGOs – the Legal Aid of Cambodia (LAC)

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1./ This report, entitled *Cambodia's Family Trees: Illegal logging and the stripping of public assets by Cambodia's elite*, was published on June 1, 2007. It accuses members of the Cambodian elite class, in particular close relations and associates of the Prime Minister, of pillaging natural resources.

2./ The stand taken by the Bar Association, which has no legal foundation, was announced shortly after Ms. Keat Kolney, the sister of the Finance Minister, had lodged a complaint, on June 19, 2007, against ten lawyers who were members of two NGOs that had filed a complaint against her in January 2007 for illegal land eviction. The trial received a great deal of media attention. As a result of Ms. Keat's complaint, the Bar began investigating the ten lawyers. By the end of 2007, seven of them had resigned from their NGOs.

and the Cambodian Defenders Project (CDP) – might also violate this law. The stand taken by the Bar Association has had a particularly damaging effect, with several lawyers preferring to resign from their positions within NGOs. It has also affected the availability of *pro bono* legal services to the poorest Cambodians, as less and less lawyers are available to provide their services.

### Trade union leadership, a high-risk activity

In 2007, trade union leaders were again a favourite target for the authorities, notably because their activities are in opposition to considerable political and economic interests. Most acts of intimidation carried out against them took place during strikes or union demonstrations. An example is the arrest of Mr. **Eng Vanna**, President of the Free Trade Union of Workers (FTU) of the municipal cable television company in Phnom Penh, Mr. **Ly Seng Horn**, his Deputy, and Mr. **Pol Sopheak**, Representative of the Free Trade Union of Workers in the Kingdom of Cambodia (FTUWKC), in Phnom Penh in January 2007 during a demonstration calling for eight of their colleagues to be reinstated in their job, after being sacked in 2006 for forming a union. Union leaders were also subjected to serious physical violence: for instance, Mr. **Hy Vuthy**, President of FTUWKC at the Suntex factory, was killed in Phnom Penh in February 2007. Mr. Hy is the third FTUWKC member to have been killed in three years. To that extent, it is worth noting that whilst, in April 2007, the Appeal Court upheld the sentences of Messrs. Born Samnang and Sok Sam Oeun for the murder in 2004 of Mr. **Chea Vichea**, then President of FTUWKC, this decision was reached at the end of a trial marred by numerous irregularities and despite many proofs of the innocence of both men<sup>3</sup>.

### Repression of defenders of religious freedom

In 2007, the Cambodian Government increased its repression of Khmer Krom monks attempting to defend their religious minority

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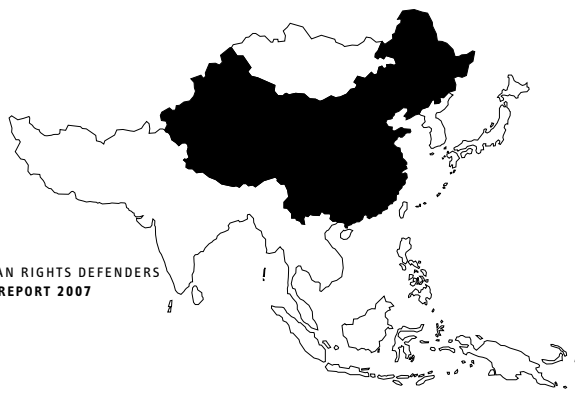
3./ On April 12, 2007, the Special Representative of the UN Secretary-General for human rights in Cambodia expressed his “deep regret over the decision of the Appeal Court [...] upholding the sentences of Born Samnang and Sok Sam Oeun” and called for an impartial investigation into the murder of Chea Vichea (See United Nations Press Release of April 12, 2007).

The International Labour Organisation (ILO) also expressed its grave concern following the decision of the Appeal Court (See Press Release ILO/07/11, *ILO statement on appeal hearing for the murder of Chea Vichea*, 12 April 2007). [See next page]

rights and end the persecution of their fellow monks in Viet Nam. Thus, on February 27, 2007, the police violently broke up a demonstration near the Vietnamese Embassy in Phnom Penh, which had been organised to protest against religious persecution in Viet Nam. In addition, on June 8, 2007, the Ministry of Cults and Religions and Supreme Patriarch Non Nget issued a directive ordering monks to refrain from engaging in peaceful demonstrations, since these would create “disorder”. Non Nget added that monks who took part in demonstrations would be “responsible before the law”.

In its 346<sup>th</sup> Report, published in June 2007, the ILO Committee on Freedom of Association also “strongly urge[d] the Government to reopen the investigation into the murder of Chea Vichea and to ensure that Born Samnang and Sok Sam Oeun may exercise, as soon as possible, their right to a full appeal before an impartial and independent judicial authority”, and to “institute immediately independent enquiries into [the murder of Hy Vuthy] [...]”.

Likewise, the European Parliament “condemn[ed] the killing of Hy Vuthy”, “urge[d] the Cambodian authorities to launch an urgent, impartial and effective investigation into the murders of Hy Vuthy, Chea Vichea, [...] and to bring the persons responsible to justice” and “to give Born Samnang and Sok Sam Oeun a prompt retrial which complies with international standards” (See European Parliament Resolution P6\_TA(2007)0085 of March 15, 2007, on Cambodia).



## Political context

The fact that Beijing will be the host of the Olympic Games in August 2008 had inspired the hope that progress would be made in the domain of human rights. This hope was very quickly dashed.

Indeed, throughout 2007, the Chinese authorities pursued their systematic violation of human rights and continued to muzzle all forms of dissident opinion against a backdrop of increasing social protests, in particular against the forced evictions of citizens from their homes, the expropriation of peasant farmers from their lands, unpaid wages, and local authority corruption. Repression of these protests was particularly virulent in the period preceding the 17<sup>th</sup> National Congress of the Chinese Communist Party, during which Mr. Hu Jintao was confirmed as Secretary General of the Party for five additional years.

In this context, lawyers became a favourite target for repression in 2007. In addition, censorship of the media and of Internet continued, with dozens of journalists and Internet users imprisoned by the end of 2007.

Furthermore, no reform has been undertaken to put an end to arbitrary detentions, which notably result subsequent to sentences of Re-Education Through Labour (RTL)<sup>1</sup>. The use of torture and other ill-treatments also remains widespread. In addition, China remains the country where the greatest number of people is executed each year, even though statistics on sentencing and executions are classified State secrets. However, since January 1, 2007, the Supreme Court

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1./ RTL is an administrative detention measure that permits the Public Security Bureau (PSB) to detain people for a maximum period of four years without judicial control. Detainees have no right to the assistance of a lawyer and may not appeal against these sentences. RTL is applied in the case of offences that are not sufficiently serious to be punished under the Criminal Code.

has been responsible for controlling the validity of all death sentences pronounced in China. This reform may have the effect of reducing the number of death sentences and of remedying some judicial errors.

China has also pursued its policy of repressing religious practice outside the State-recognised churches. In this regard, members of the Falun Gong spiritual movement are particularly targeted by the repression.

The Chinese Government pursued its policy of assimilation of Tibet, with the completion in 2006 of the railway line linking Lhasa to China, which will facilitate an increased presence of Chinese migrants in Tibet, the exploitation of the province's natural resources, and the militarisation of the region. The authorities also continued the repression of Tibetans protesting against violations of their minority rights. Thus, on August 1, 2007, the monk Ronggye A'drak was arrested and placed in detention in Lihang after speaking to a large crowd about the importance of the return of the Dalai Lama to Tibet.

### **A particularly restrictive environment for all human rights activities**

In 2007, the Chinese authorities continued to use the legislative framework to silence all dissident voices, in particular through the arrest and prosecution of human rights defenders for crimes vaguely defined such as “endangering State security” (Articles 102-113 of the Criminal Code), which includes “inciting subversion of State power” (Article 105(2)), “disclosure of State secrets”, and “disturbing social order”.

Moreover, despite an increase in the number of NGOs in China, their freedom of action is seriously restricted, in particular in terms of registration requirements and fundraising. Any civil organisation must indeed obtain the prior approval and support of a Government or Party Department or a State-affiliated organisation working in the same field, before being allowed to submit a registration application to the Ministry of Civil Affairs (MOCA) and its local sections. As a consequence, many organisations operate with no legal status and are therefore subjected to possible closure, Government confiscation of their material and the arrest of their members.

Likewise, the freedom of peaceful gathering is also greatly restricted. According to a Circular published by the Ministry of Public Security



on April 5, 2000, when peaceful gatherings are “stirred up by hostile elements that [...] exploit the conflicts between different social groups”, it is the duty of the police to “immediately crack down on the perpetrators”. Article 11, section 5 of this Circular further states that “dangerous items, banners, leaflets and other items of illegal propaganda must be confiscated and those carrying them treated according to the law”<sup>2</sup>. The Government has tried to intimidate and punish indiscriminately all those who have organised demonstrations, particularly protests against corruption, the collapse of the social State, pollution, forced evictions, or strike organisers. On January 19, 2007, for example, the police evacuated a sit-in organised by villagers protesting against the illegal sale of their land by the Government in Sanshan Village, Foshan, Guangdong Province. More than 40 demonstrators were beaten and arrested, including several elderly people<sup>3</sup>.

### **A harsher environment as the 2008 Olympic Games approach**

The context related to the run-up to the Olympic Games in August 2008 has continuously strengthened an environment already hostile to human rights and their defenders. Throughout 2007, the authorities intensified their repression in order to silence civil society, in particular by increasing the number of “soft” detentions or house arrests (especially to prevent defenders living in the provinces from travelling to Beijing), arbitrary arrests and unfair trials of human rights defenders. Furthermore, on November 16, 2007, Mr. Liu Shaowu, Director of the Security Department of the Committee for the Organisation of the Beijing Olympic Games, announced to the media that demonstrations would be strictly forbidden during the Games. On September 22, 2007, Mr. **Gao Zhisheng**, Director of the Shengzi Law Firm, was driven away from his home by ten plainclothes State Security Protection Officers. On September 13, 2007, Mr. Gao had written an Open Letter calling on members of the American Congress to express their concerns regarding the human rights situation in China in the run-up to the Olympic Games. After having been detained *incumminicado* for over a month, he was driven back to his home, in Beijing, at the beginning of November. Mr. **Zhang Wenhe**, a democracy activist, was forcibly interned in a psychiatric hospital after carrying a banner

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2./ See China Labour Bulletin.

3./ See Chinese Human Rights Defenders (CRD).

in October 2007 in the streets of Beijing, bearing the words “We want human rights and democracy, not fascist Olympic Games”. Mr. **Yang Chunlin** has remained held in detention since July 6, 2007 for having collected signatures for an Open Letter entitled “We want human rights, not the Olympics”. Mr. **Hu Jia** was also arrested on December 27, 2007 for “inciting subversion of State power” after publicly condemning the Government’s failure to keep its promise to promote and respect human rights, made on the occasion of its candidacy as the host of the Games<sup>4</sup>.

In such a context, the organisers of the Games have not been able to remind the host of its international commitment to the respect and promotion of human rights. On July 5, 2007 Mr. Hein Verbruggen, Chairman of the Beijing 2008 Coordination Commission, reportedly declared that “the way in which the Beijing Games are being used as a platform for groups with political and social agendas is often regrettable”. He further called on the Beijing Organising Committee for the Olympic Games (BOCOG) to “take steps to negate these agendas”. A few days later, Mr. Verbruggen publicly clarified his words, saying that he had merely advised NGOs not to “subordinate the Olympics to political ends”. However, on August 6, 2007 Mr. Jacques Rogge, President of the International Olympic Committee (IOC), stated in an interview given to the *Reuters* press agency, that it was “fully legitimate” for NGOs or other human rights associations to express themselves in parallel with the organisation of the Games.

### **Lawyers: a privileged target for repression**

In 2007, just as in 2006, there was an increased repression of lawyers, who work in an environment that is hostile to their activities. For example, Article 306 of the Criminal Code, Article 38 of the Criminal Procedure Code, and Article 45 of the Lawyers’ Law authorise prosecutors to arrest lawyers for “perjury” and “false testimony” and to sentence

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4./ To that extent, the European Parliament, in its Resolution P6\_TA(2007)0622, adopted on December 13, 2007, expressed its strong concern “at the recent increase of political persecution related to the Olympics of human rights defenders, journalists, lawyers, petitioners, civil society activists, ethnic groups such as the Uighurs, and religious people of all beliefs, especially Falun Gong practitioners” and “call[ed] on the Chinese authorities to release these people immediately and to put an end to these human rights violations, as well as to the demolition of substantial numbers of houses without compensation to make way for the Olympic infrastructures”.

them to up to seven years in prison. Furthermore, Article 34 of the Lawyers' Law, amended in 2007, imposes new restrictions on their freedom of expression during hearings: thus chapter 4, Article 37, states that "when a lawyer speaks in defence of an accused party, he or she cannot be subject to legal action. The provision excludes, however, protections for lawyers' pleadings if they threaten State security, maliciously defame others, or seriously disturb order in the court"<sup>5</sup>.

There are many examples of lawyers held in detention and sentenced on the grounds of their human rights activities. Mr. **Zheng Enchong**, a Shanghai lawyer, has for instance been under house arrest since his release in June 2006 and has been subjected to multiple acts of harassment. Many lawyers also suffered physical assault, as is the case of Mr. **Li Heping**, who was beaten on September 29, 2007 by a dozen men for several hours. A few days before, police from the national protection and security unit of the Beijing Public Security Bureau (PSB) had verbally ordered him to leave the city with his family. Similarly, on October 23, 2007, Mr. **Wang Guirong**, who supported migrant workers in their attempt to obtain the payment they were owed for their work on the black market, was attacked with a knife and lost his left hand. Mr. **Chen Guangcheng**, a self-taught jurist, remained, at the end of 2007, in prison for his active role in bringing legal action against the abortion and forced sterilisation campaign to which thousands of women from Linyi City, Shandong Province, had been subjected. His prison sentence of four years and three months was confirmed in appeal in January 2007.

### **Repression of defenders of economic, social and cultural rights**

In China, defenders of economic, social and cultural rights continued to pay a heavy price for their activities in support of the underprivileged and their opposition to powerful interest groups. The authorities' collusion – and even complicity – in the increasing number of attacks has also remained constant.

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5./ Unofficial translation.

### **Defenders fighting against expropriations and forced evictions**

In 2007, citizens who condemned forcible expulsions continued to be subjected to constant repression. Thus, on November 8, 2007, Mr. **Gong Haoming** was placed in detention for “intentionally revealing State secrets”. Mr. Gong has pursued legal action since 1996 against the Shanghai Government for violating the right to housing and property. On April 10, 2007, Messrs. **Liu Dehuo**, **Cui Yongfa**, **Chen Ningbiao**, **Chen Zhibiao**, **Shao Xixia**, **Guo Jianhua** and Ms. **Shao Xiaobing** were given prison sentences of between two and a half to four years after protesting in 2005 against forcible expropriations of land<sup>6</sup>.

### **Defenders of the right to environment**

Defenders of the right to environment have not escaped repression. For example, on August 10, 2007, the Yixing Municipal Court sentenced Mr. **Wu Lihong**, an environmental activist and peasant farmer from Zhoutie township (Yixing City, Jiangsu Province), to three years in prison and a fine of 500 RMB (around 48 euros) for “extortion of money”. Since 1991, Mr. Wu has regularly complained to Government authorities about companies which pour industrial waste into Lake Tai. Likewise, Mr. **Sun Xiaodi**, who for the last ten years has denounced radioactive contamination from a uranium mine in the Gannan Autonomous Tibetan Prefecture in Gansu Province, has been subjected to constant acts of harassment, together with his family.

### **Defenders of the right to health and fighting against HIV/AIDS**

Those who defend the right to health are also victims of acts of harassment. Ms. **Mao Hengfeng** is a symbol of such repression, a defender who campaigns against the single child policy and who, in January 2007, was sentenced to two and a half years in prison for “intentional destruction of property” for having broken a lamp in a hotel room where she had been placed in “soft” detention without a warrant on May 23, 2006.

HIV/AIDS activists are also targets of repression, especially those who question the public authorities’ responsibility in the evolution of the epidemic. Ms. **Li Xige** has remained under house arrest since 2006 as a result of her activities on behalf of women who have become HIV

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6./ See CRD.

positive following blood transfusions in state-run hospitals between 1993 and 2001, most frequently during Caesarean births.

### **Defenders of workers' rights**

Union freedom is still inexistent in China and it remains extremely difficult for workers to defend their rights. For example, on October 31, 2007 Mr. **Li Guohong**, a representative of workers laid off by the Zhongyuan petroleum company, was placed in administrative detention after visiting Puyang City, Henan Province, to obtain information on the judicial proceedings that dismissed workers considered initiating against the company. Mr. Li was due to be released on November 16, 2007 but the authorities sent him to an RTL camp for one and a half years. Furthermore, on November 20, 2007, Mr. **Huang Qingan**, a representative of the "Dangongzhe" Centre, an advice and support centre for workers in Shenzhen city, was attacked with a knife near the organisation's headquarters. The Centre itself had been sacked during two previous attacks, on October 11 and November 12, 2007. These acts appear to be linked to a much broader campaign against the Centre and especially against its activities in support of migrant workers<sup>7</sup>.

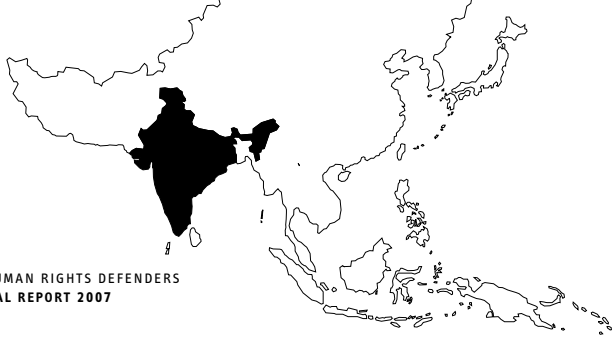
### **Obstacles to freedom of expression and repression of cyber-dissidents**

The Chinese Government is always concerned about its image and keeps a tight control on any information that concerns it. Cyber-dissidents, i.e. defenders who use the Internet to promote human rights and democracy, are particular targets of repression<sup>8</sup>. The authorities have been able to master the technology that enables Internet sites and their content to be filtered and monitored. For instance, in Mianyang City, Sichuan Province, over 2,000 Internet sites and forums were closed down in November 2007 as part of a "campaign to combat pornography on Internet", but which was mainly targeting so-called "sensitive" websites, including the *China Citizens Monitor Net*, a website that fights corruption. Cyber-dissidents were also imprisoned and given

7/ See Press Release of the International Trade Union Confederation (ITUC), November 27, 2007.

8./ In its Resolution P6\_TA(2007)0622, adopted on December 13, 2007, the European Parliament expressed its concern about "the surveillance and censorship of information on the Internet" and "call[ed] on the Chinese authorities to release [...] the [...] cyber-dissidents and web users imprisoned in China".

arbitrary sentences. Mr. **Zhang Jianhong**, aka Li Hong, founder and Editor-in-chief of the Internet site *Aegean Sea (Aiqinhai)*, which was closed down in March 2006, and a member of PEN, the association of independent writers, was sentenced to six years in prison on March 19, 2007 by the Ningbo Intermediate Court, for “inciting subversion of State power”.



## / INDIA

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

In 2007, most of the 28 Indian States continued to be affected by internal armed conflicts<sup>1</sup>. The parties to the conflicts in these highly militarised States frequently committed atrocities. These include extra-judicial killings by security forces, enforced disappearances, torture and ill-treatments, particularly during counter-revolutionary operations in Jammu and Kashmir, in Assam and Manipur, and in States where the security forces fought against Maoist insurrection.

Furthermore, the police and security forces continue to be protected by section 197 of the Criminal Procedure Code, which states that no court shall handle any offence alleged to have been committed by an official (including members of the armed forces) while acting in the course of duty without the prior authorisation of the Central Government, which is rarely granted. The army also benefits from further immunity under the Armed Forces Special Powers Act (AFSPA), which gives it full power in zones of armed rebellion, notably Kashmir and the North-Eastern States (including Manipur), regions that are affected by separatist uprisings<sup>2</sup>.

Whilst India's rapid economic transformation has had considerable impact on the country and its growth, there is still considerable discrimination against the poorest and most marginalised groups, primarily the Dalits and Adivasis. Indeed, although the cast system is now illegal,

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1./ Especially in the following States: Jammu and Kashmir, Assam, Manipur, Chhattisgarh, Malegaon, Mumbai, Varanasi, Madhya Pradesh, Gujarat, Uttar Pradesh, Goa, Rajasthan, Andhra Pradesh, Bihar, Jharkhand, Maharashtra, Orissa, Western Bengal.

2./ The AFSPA notably empowers soldiers with complete impunity to arrest, keep in detention and shoot at any person (Section 4.a) so as to "maintain public order" if the soldier has reasons to believe that he or she is an "insurgent". The act specifies that central Government authorisation is required to prosecute a member of the armed forces. Up to now, no soldier has been tried on the basis of this law.

it continues to have a strong influence on Indian society. The most vulnerable communities are regularly subjected to torture, ill-treatments, arrest and arbitrary detention, and often have no possibility of filing complaint and obtaining justice.

## **A restrictive environment for human rights activities**

### **Foreign Contribution Regulation Bill (FCR)**

In December 2006, the Government introduced the Foreign Contribution Regulation Bill (FCR) to replace the 1976 Foreign Contribution Regulation Act (FCRA). The FCR is even more restrictive than the current legislation, which already put serious constraints on NGOs registration and the reception of foreign funds<sup>3</sup>. Although the bill was due to be discussed by Parliament during its budget session in March 2007, it was still under consideration by the Standing Committee on Home Affairs at the end of 2007.

In particular, the FCR prohibits the acceptance and use of foreign contributions for “any activity prejudicial to national interests”. In addition, through the FCR, the Government would be able to control which organisations received foreign contributions, from whom, and for what purpose. The FCR also introduces a costly registration renewal requirement applicable every five years for NGOs receiving foreign contributions, whereas registration is free of charge and permanent under the FCRA. Lastly, the FCR sets a limit of 50% for the amount of foreign funds that NGOs can allocate for their administrative operations<sup>4</sup>.

### **Reaction of the National Human Rights Commission to the 2006 Observatory Annual Report**

In a letter dated July 6, 2007, in response to the 2006 Observatory Annual Report, the National Human Rights Commission (NHRC)

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3./ The FCRA restricts foreign contributions for NGOs by requiring them to register with the Interior Ministry and receive ministry authorisation prior to obtaining foreign funding. Human rights projects that the Government considers non-controversial, such as supplying aid to orphaned victims of AIDS, are approved relatively easily, while requests from NGOs attempting to document and denounce human rights violations and criticise the security forces (executions carried out by the security forces in Kashmir; torture of prisoners, etc.), are generally rejected, or given limited approval.

4./ For further details, see Observatory Annual Report 2006.



stated that it “disdainfully disagrees with the diatribes” of the report, which condemned the situation of human rights defenders in India and questioned their protection by the Indian State<sup>5</sup>. In the letter the NHRC denounced the allegations in the Observatory Report as being “completely unfounded” and tried especially to justify the need for the FCRA and the amendments made to reinforce it.

### **Reprisals against defenders who denounce exactions committed by the police and the armed forces**

In 2007, defenders who investigate human rights violations so that their authors might be punished continued to be particularly vulnerable, especially in cases when the police and armed forces commit such exactions.

Thus, Dr. **Binayak Sen**, Secretary General of the Chhattisgarh State branch of the Peoples Union for Civil Liberties (PUCL) and PUCL National Vice-President, has been held in detention since May 14, 2007, accused of having links with the Naxalite Maoist guerrilla group. Shortly before his arrest, he had condemned the killing, supposedly by policemen, of 12 Adivasis on March 31, 2007. Furthermore, defenders who had provided assistance to victims of inter-community violence that took place in Gujarat in March 2002, during which over 2,000 people were killed, mostly members of the minority Muslim community, were threatened with arrest on several occasions by the Gujarat Government. Examples of this are Mr. **Rais Khan Pathan** and Ms. **Teesta Setalvad**, respectively Gujarat Coordinator and Secretary of Citizens for Justice and Peace. In addition, Ms. **Irom Chanu Sharmila** continues to be detained and to be on hunger strike since 2000 in protest against the AFSPA, which has been at the root of many cases of police violence in the State of Manipur<sup>6</sup>.

5./ See <http://www.nhrc.nic.in/Word-image.doc> for the complete version of the letter.

6./ Ms. Sharmila's activities had begun following the Malom massacre on November 2, 2000, when members of the Assam Rifles killed ten people at a bus stop near Imphal, on suspicion of being insurgents. Ms. Sharmila was first arrested in November 2000 by the Manipur police for “attempted suicide” (Section 309 of the Criminal Code), and has refused to eat or drink since then. Since the maximum sentence under Section 309 of the Criminal Code is one year's detention, Ms. Sharmila is released every year and rearrested the next day, for the same reasons.

Furthermore, several members of the National Project on Prevention of Torture in India (NPPT) have been subjected to acts of harassment by the security forces after denouncing abuses committed by them. Thus, on February 8, 2007, police arrested Mr. **Gopen Sharma**, District Human Rights Officer of the NPPT in Murshidabad District, West Bengal, and a member of the human rights organisation “Manabadhikar Suraksha Mancha” (MASUM), whilst he was investigating three cases of human rights violations committed by security forces. Mr. Gopen Sharma was released on bail on March 20, 2007.

### **Reprisals against defenders of economic, social and cultural rights**

In a country characterised by unbridled economic growth and its uncontrolled consequences, and by the marginalisation of whole sections of the population regarding the redistribution of wealth obtained from the exploitation of natural resources, a phenomena that engender both violence and impoverishment, those who fought for economic, social and cultural rights were the first targets of repression.

#### **Defenders of marginalised groups**

In 2007, defenders who sought to defend marginalised groups, in particular the Dalits, continued to be victims of intimidation and harassment acts. For instance, on July 17, 2007, Mr. **Subash Mohapatra**, Director of the Forum for Fact-finding Documentation and Advocacy (FFDA), was arrested at the premises of the Chhattisgarh State Human Rights Commission while, at the Commission’s request, filing his comments on an investigation report concerning the case of a Dalit student whose grant had been seized because of his father’s debts<sup>7</sup>. Similarly, on December 4, 2007, Dr. **Lenin Raghuvanshi**, convener of the People’s Vigilance Committee on Human Rights (PVCHR)<sup>8</sup> in Daulatpur, Varanasi (Uttar Pradesh), which works on behalf of the Dalit community, received telephone death threats after he had drawn attention

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7/ As FFDA Director, Mr. Mohapatra has filed over 300 complaints with the Chattisgarh State Human Rights Commission, relating to human rights violations committed between 2001 and 2007. Mr. Mohapatra has also, on several occasions, brought into question the role of the Commission, criticising it for inefficiency and corruption.

8/ The PVCHR is a network of human rights bodies that campaign on various issues relating to the Dalit community, including the education of children, fair salaries, property title and the fundamental rights of members of this community.

to three cases of babies and young children starving in Uttar Pradesh, an issue closely related to the problem of caste discrimination, thus attracting general media attention to the Government of this State.

Defenders fighting for the rights of persons displaced by the construction of dams on the Narmada River were also subjected to numerous reprisals. The dams would affect the ecosystem and force the displacement of millions of poor peasants belonging mainly to tribal fishing communities and the Dalit caste. On March 22, 2007, 62 demonstrators who were taking part in a peaceful protest in New Delhi were arrested, including Ms. **Medha Patkar**, the founding Director of the Save the Narmada River Movement (*Narmada Bachao Andolan* - NBA), a coalition of local organisations fighting for the rights of persons who have been displaced because of the plan to build dams on the Narmada River.

#### **Defenders fighting for improvements in working conditions**

Defenders of workers' rights were also victims of repression. On September 26, 2007, for instance, a Bangalore Court judge issued an arrest warrant against members of the Clean Clothes Campaign (CCC), an association that fights for improved working conditions in the textile industries, and members of the India Committee of the Netherlands (ICN), an organisation whose aim is to provide information on the negative effects of globalisation policies on human rights in India. The arrest warrant was issued after a complaint filed by the company Fibres and Fabrics International (FFI) and its subsidiary Jeans Knit Pvt Ltd (JKPL), which had been accused of ill-treating their employees. In addition, on March 10, 2007, judicial proceedings, based on sections 427, 447 and 34 of the Criminal Code, were opened against Mr. **Phani Gopal Bhattacharjya**, Vice-President of MASUM, and 25 other members of the Indo Japan Steels Limited Employees Union, for having defended the rights of employees of this manufacturing company, which had closed in 1996 with no back-pay or compensation paid to workers.



## / INDONESIA

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### Political context

Indonesia has made significant progress in human rights matters since the fall of Suharto's authoritarian regime in 1998, even if much remains to be done, especially in the areas of reinforcing the state of law and the fight against impunity. The legal and institutional framework for the promotion and protection of human rights was strengthened following constitutional changes in 2002, the adoption in 1999 of the Human Rights Act 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 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.

However, these efforts have seen no subsequent concrete improvement in the human rights situation. In particular, the significance of military power has been notable since President Susilo Bambang Yudhoyono came to power in 2004.

One of the major problems confronting Indonesia is the impunity of those responsible for human rights violations, especially violations committed under the reign of President Suharto, who died in January 2008 without being prosecuted, and also violations committed in Timor-Leste in 1999, in Aceh and in East Papua. It is therefore regrettable that the Constitutional Court decided, in December 2006, to annul Law 27/2004, which mandated an Indonesian Commission of Truth and Reconciliation. Rights activists had challenged provisions allowing amnesty for perpetrators of severe human rights violations and limiting victims' ability to obtain compensation. However, the Court ruled that the whole law should be repealed as some of its articles violated the Constitution, and the annulment of individual articles would render the

rest of the law unenforceable. The annulment of the law left victims of past human rights violations without a compensation mechanism.

### **Human rights activities may be made criminal offences in the future**

The State Secrecy Bill and a State Intelligence Services Bill were under consideration at the end of 2007. The State Secrecy Bill, which defines confidential information as any information that jeopardises state sovereignty or safety, could be used in particular to silence criticism of Government policy. The Bill on the State Intelligence Services (BIN) would extend the role played by BIN agents, allowing them to arrest any person “suspected” of being directly or indirectly involved in activities deemed to be a threat to the nation, although the notion of a “threat to the nation” remains very vague. The draft law is of concern since human rights defenders regularly come under pressure from BIN and civil groups linked to the armed forces.

Furthermore, whilst the Constitutional Court issued a ruling in December 2006 that declared as unconstitutional Articles 134, 136 and 137 of the Criminal Code, which punished insults to the President or Vice-President with a prison sentence of up to six years; and whilst, on July 17, 2007, the Court also declared as unconstitutional Articles 154 and 155 of the Criminal Code (defamation against the Government), the Government introduced certain restrictive articles into the Bill on the right to information that was discussed in Parliament at the end of December 2007. Amongst other provisions, the bill imposes severe penalties, including imprisonment, for those “abusing” their right to information. This could have a dissuasive effect on defenders.

### **Impunity for crimes committed against defenders**

Crimes committed against defenders generally go unpunished. As an example, Mr. Philip Alston, UN Special Rapporteur on extrajudicial, summary or arbitrary executions, expressed his concern in March 2007, following the acquittal by the Indonesian Supreme Court in 2006 of the main suspect in the death of Mr. **Munir Said Thalib**, co-founder of the Commission for Disappearances and Victims of Violence (KONTRAS), who was killed in 2004<sup>1</sup>. Likewise, in June 2007, Ms.

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1./ See United Nations Press Release, March 28, 2007.

Hina Jilani, Special Representative of the United Nations Secretary-General on the situation of human rights defenders, recalled that this case was a test of the Government's willingness to protect defenders in the country<sup>2</sup>. Therefore, it is to be regretted that, although on January 25, 2008, the Supreme Court again sentenced the main suspect to twenty years' imprisonment, the responsibility of former senior executives of the State airline Garuda and high-ranked officials of BIN in this death has still not been recognised<sup>3</sup>.

### **A particularly critical situation for defenders in Papua**

Whilst the situation of defenders has considerably improved in the Province of Aceh since the 2005 Peace Agreement between the Government and the rebels of the Aceh Liberation Movement (GAM), a very strong separatist movement exists in West Papua, where defenders continue to face risks inherent to the heavy militarisation of the province. Thus, they frequently face death threats, judicial proceedings for defamation because they denounce violations, but also accusations of treason, rebellion, links with the separatist movement or of being separatist and "selling human rights for OPM" (Free Papua Movement, a separatist group) to discredit them. Some members of local human rights associations have sometimes been forced to leave the province after being subjected to intimidation because of their activities.

After her visit to Indonesia from June 5 to 12, 2007<sup>4</sup>, Ms. Hina Jilani expressed her regret that human rights defenders working in Papua continued to be the focus of "acts of harassment and intimidation by the police, the army and the security forces in the country". Ms. Jilani also expressed her concern that "defenders working for the preservation of the environment and the right to land and natural resources frequently receive threats from private actors with powerful economic interests, but are granted no protection by the police". She also spoke of being disturbed by the fact that defenders who expose abuse by the authorities or the security forces were "labelled as separatists in order to undermine their credibility"<sup>5</sup>.

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2./ See United Nations Press Release, June 12, 2007.

3./ See KONTRAS.

4./ During her visit, Ms. Jilani travelled to Jakarta, Jayapura (Papua) and Banda Aceh.

5./ See United Nations Press Release, June 12, 2007.

In addition, in 2007, a real campaign of systematic intimidation of defenders in Papua was set in motion, targeting especially those who had met with Ms. Jilani during her visit, to inform her of their working conditions, and also following the appointment of Colonel Burhanuddin Siagian as head of the army in the Jayapura District. The latter would indeed have declared on May 12, 2007 that he would not hesitate to “destroy” any person who continued to “betray the nation”<sup>6</sup>. It is against this background that Mr. **Yan Christian Warinussy**, Executive Director of the Institute of Research, Analysis and Development for Legal Aid (LP3BH) in Manokwari<sup>7</sup>, was placed under surveillance at his office and his home the day after his meeting with Ms. Jilani in Jayapura on June 8, 2007<sup>8</sup>. Following his meeting with Ms. Jilani on June 10, the Director of the National Human Rights Commission for Papua, Mr. **Albert Rumbekwan**, received numerous telephone messages threatening him and his family with death. Several men have also kept him under surveillance at his home and his office<sup>9</sup>.

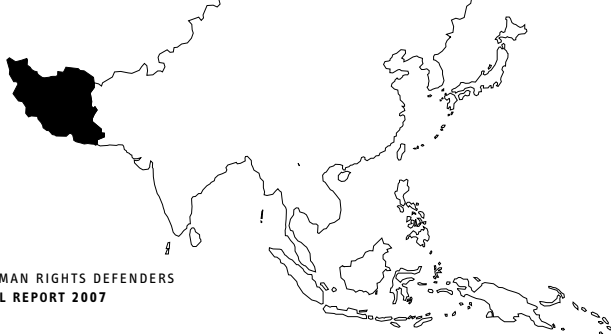
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6./ In 1999, Colonel Burhanuddin Siagian had publicly threatened to kill separatist supporters from Timor-Leste and gave the order to kill seven men in April 1999. Although on two occasions he was found guilty of crimes against humanity in Timor-Leste and was named a suspect by the commission appointed by Indonesia to enquire into human rights violations carried out in Timor at that time, Colonel Siagian has never been brought to trial.

7./ LP3BH frequently provides legal support to local activists involved in land-related disputes with foreign companies.

8./ See “Imparsial”.

9./ *Idem*.



## / IRAN

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

Since Mr. Mahmoud Ahmadinejad came to power in 2005, following elections whose result was a foregone conclusion as the reformers had been excluded automatically by the Council of Guardians, a body appointed by the Supreme Guide, the Iranian President has constantly made use of extreme nationalism to distract the attention of the Iranians from the serious problems to which they are confronted.

2007 was a particularly dark year for freedoms in Iran, and was marked by the unprecedented repression of all actors of civil society<sup>1</sup>. All dissident voices continued to be targets of repression, especially journalists, students, trade unionists, political opponents, university teachers and intellectuals, and moderate religious leaders, with recurring waves of arrests and arbitrary sentences. A number of newspapers and Internet publications were also banned and journalists were arrested and given extremely harsh sentences, especially those from the Kurdish province.

Use of the death penalty also increased considerably, with 265 people executed in 2007 (as opposed to 177 in 2006)<sup>2</sup>, including persons who were minors at the time of the offence, in flagrant violation of international law. Aside from the application of capital punishment for so-called “sexual” crimes (adultery, homosexuality), there was also a considerable increase in the recourse to sentences of amputation and stoning.

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1./ In its Resolution P6\_TA(2007)0488, adopted on October 25, 2007, the European Parliament expressed its deep concern “about the dramatic increase in the repression of civil-society movements in Iran over the past year” and called on “the Iranian authorities to put an end to harsh repression against women’s rights defenders, [...] student movements, minority rights defenders, intellectuals, teachers, journalists, web loggers and trade unionists”.

2./ See the website of Mr. Emmadeddin Baghi, a human rights journalist: [www.emmadbaghi.com](http://www.emmadbaghi.com).



The year 2007 also witnessed an increase in the repression of ethnic and religious minorities in the Islamic Republic of Iran: three Baha'is, arrested in Shiraz in May 2006 were sentenced to four years in prison in November 2007, allegedly for propaganda against the regime. One year suspended prison sentences were given to 51 others, conditional on attending classes given by the Islamic Propaganda Organisation. In reality, these people had taken part in a humanitarian project to provide educational support to poor children in Shiraz. The Azeri, Arab and Kurdish ethnic minorities were also targeted.

Despite the increasing level of repression by the authorities, civil society nevertheless remained dynamic and the "One Million Signatures Campaign", a movement calling for equal rights for men and women, continued to gain in popularity.

### **Repression of the "One Million Signatures Campaign"**

The organisers of the One Million Signatures Campaign, officially launched in August 2006, continued to be subject to harsh repression. In 2007, the Observatory documented the cases of 44 men and women activists who were prosecuted for their activities on behalf of women's rights in Iran<sup>3</sup>.

It may be recalled that repression against them began in June 2006, when several dozen activists took part in a peaceful gathering on Haft e-Tir Square in Tehran to call for changes in the laws discriminating against women. This peaceful gathering had been violently repressed and several activists arrested then released on bail. In 2007, twelve of the women were sentenced to jail or to lashing. They appealed against these decisions. It may also be noted that the most severe sentences

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3./ On April 5, 2007, Ms. Yakin Ertürk, United Nations Special Rapporteur on violence against women, its causes and consequences, Mr. Ambeyi Ligabo, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and Ms. Hina Jilani, Special Representative of the Secretary-General on the situation of human rights defenders, expressed their concerns on being informed that Iranian security agents had arrested four women and one man in Teheran on April 3 while collecting signatures for a campaign to change laws that discriminate against women. They noted that "the arrest of the five persons [...] is not a singular incident, but forms part of an ongoing, worrying trend", insofar as "women and men who have peacefully demonstrated or otherwise stood up for gender equality and women's rights have been arrested or attacked [...]" (See United Nations Press Release, April 5, 2007).

were handed out to young students with no activist record, probably to discourage young people from joining the movement.

Once arrested, activists are detained arbitrarily, charged, and then released on very high bail, until their trial. Bail may be as much as 250,000 Euros, a sum that in principle is applied for the most serious crimes. Such amounts are in themselves a form of repression and intimidation.

Four activists of the Campaign were still behind bars at the end of 2007: Ms. **Ronak Safarzadeh** and Ms. **Hanna Abdi**, also members of the Azarmehr association in favour of Kurdistan women's rights, and Ms. **Maryam Hosseinkhah** and Ms. **Jelveh Javaheri**. These activists have been the targets of an intimidation and defamation campaign in pro-Government media.

### **Repression of defenders who are journalists from minority groups**

At the end of 2007, many journalists who promote minority rights in the framework of their activities remained in prison, including four Kurdish journalists who defend human rights: Mr. **Mohammad Sadegh Kaboudvand**, Chairperson of *Voice of the People of Kurdistan*, a newspaper that defends the rights of Kurds, was detained awaiting trial; Mr. **Ejlal Ghavami**, from the same newspaper, was given a three year prison sentence in June 2007; Mr. **Abdolvahed Boutimar** and Mr. **Adnan Hassanpour**, two Kurdish journalists, were given death sentences in July 2007 in response to their articles demanding cultural rights for the Kurdish minority<sup>4</sup>.

### **Ongoing repression of trade union leaders**

Repression of trade union movements continued in 2007. In March 2007, for instance, demonstrations called for by several trade unions were held, condemning the Iranian Parliament's refusal to adopt a draft

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4./ On August 3, 2007, the European Union expressed its especial concern "about the death sentences on the two Kurdish journalists, Adnan Hassanpour and Abdolvahed Boutimar [...] [as well as] by the growing repression against all groups which exercise their right to freely express their opinions, in particular in Kurdish and Arab minority regions" (See EU Presidency Declaration on death sentences of Adnan Hassanpour and Abdolvahed Boutimar).

law on equal pay. As a result, in April 2007, several union headquarters were the target of attacks and closures. During these operations, several dozen union leaders were arrested, including Mr. **Mahmoud Salehi**, Spokesperson for the Organisation Committee to Establishment Trade Unions and former leader of the Saez Bakery Workers' Union, who was sentenced on March 11, 2007 to one year prison and a further three years' suspended sentence following his involvement in the organisation of the May 1, 2004 celebration in Saez, and whose poor state of health in detention required urgent medical treatment at the end of 2007.

On July 10, 2007, Mr. **Mansour Osanloo**, President of the Syndicate of Workers of Tehran and Suburbs Bus Company (*Sherkat-e Vahed*), was also imprisoned after being abducted on the orders of the Iranian authorities. He was subsequently charged with "threatening national security". He was still held in arbitrary detention at the end of 2007, despite needing constant medical attention due to his state of health. Mr. **Ebrahim Madadi**, Vice-President of the Syndicate, was also detained from August 9 to December 16, 2007. Mr. **Reza Dehghan**, a member of the Committee of Painters' Unions, was also jailed from November 18 to December 16, 2007 for having publicly supported Mr. Mansour Osanloo.

## Political context

While 2007 marked the 50<sup>th</sup> anniversary of the independence of Malaysia, during which time the Government wanted to emphasise its strong economic development, no significant progress has been made in terms of the protection and promotion of human rights. In particular, the freedoms of expression and assembly have continued to deteriorate, the judiciary is still characterised by its lack of independence, and the Government has continued to use emergency laws that undermine fundamental freedoms, such as the Internal Security Act (ISA) of 1960, which allows for detention without trial, and the Emergency Ordinance (EO). The number of deaths during detention also remained high in 2007: in November 2007, the NGO SUARA Rakyat Malaysia (SUARAM) reported 10 deaths in custody, with no investigation opened into them.

When he came to power in 2003, Prime Minister Abdullah Badawi promised to fight corruption. However, in 2007, several cases of corruption broke out publicly but the perpetrators were not prosecuted. Allegations of corruption were thus brought against the Deputy Minister of Internal Security Mr. Johari Baharum, the Inspector General of Police Mr. Musa Hassan, and the Head of the Department of Commercial Crimes Mr. Ramli Yusuff.

Migrants and refugees have also continued to be subjected to grave violations of their human rights. In particular, the People's Volunteer Corps (*Ikatan Relawan Rakyat* - RELA), a group which was given broad powers in 2005 to arrest migrants and refugees, continued its large-scale raids throughout the year, despite overcrowding and deteriorating conditions in detention camps.

## Obstacles to freedom of expression and repression against cyber-dissidents

While the Government continues to closely monitor the mass media, the year 2007 experienced a wave of web censorship and harassment by the authorities against “cyber-dissidents”, who were subjected to arbitrary arrests and police interrogations, or were at risk of being prosecuted on the basis of the ISA. For example, on July 24, 2007, the Deputy Minister of Justice, Mr. Nazri Abdul Aziz, said the Government would not hesitate to use the ISA, the Sedition Act of 1948<sup>1</sup> and Section 121b of the Criminal Code<sup>2</sup> to punish cyber-dissidents who deal with “too sensitive issues”. It is feared that this repression might be growing with the approach of elections scheduled for early 2008. For instance, Mr. **Nathaniel Tan** was detained for four days in July 2007 for having posted a link on his blog to a website publishing information described as a “State secret”, in connection with a corruption case involving Mr. Johari Baharum. He faces a maximum penalty of seven years’ imprisonment. The English-language newspaper *New Straits Times*, which supports the ruling party, decided in August 2007 to stop collaboration with Ms. **Zainah Anwar**, an activist for the rights of Muslim women and the Executive Director of the association Sisters in Islam (SIS), whose column addressed the issue of equality and justice for Muslim women<sup>3</sup>.

Non-governmental organisations also experience restrictions to their freedom of expression. For example, on May 15, 2007, ten copies of a book written by a member of the board of SUARAM, *May 13: Declassified documents of the Malaysian Riots of 1969*, were seized by agents of the Department of Homeland Security in a bookstore in Kuala Lumpur for “verification”. The book denounced the complicity of the State during the race riots of May 13, 1969.

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1./ The Sedition Act criminalises “seditious” speech, with up to three years in prison and/or a fine of 5,000 Ringgit (approximately 1,044 Euros).

2./ Section 121b of the Criminal Code criminalises “war against the King” with the death penalty or life imprisonment.

3./ See Press Release of the International Freedom of Expression Exchange (IFEX), August 17, 2007.

## Freedom of peaceful assembly under siege from all sides

In 2007, the Malaysian Government conducted an almost systematic repression of all public demonstrations that criticised governmental policy, particularly with regard to human rights. Peaceful rallies relating to the right to housing, the fight against impunity and corruption and the rights of Indian minorities have been violently dispersed by the police several times.

Thus, a demonstration organised on November 25, 2007 by Hindu Rights Action Force (HINDRAF) to protest against Government policies marginalising and discriminating against the Indian community was dispersed with tear gas and water cannons. HINDRAF had announced its intention to deliver a memorandum to the British High Commission in Kuala Lumpur to denounce the exploitation of Indians as a result of colonial and post-colonial oppression. More than 400 demonstrators were arrested, of which 99 were charged with “participation in an illegal meeting” and “riots”. Furthermore, after Prime Minister Abdullah Ahmad Badawi declared on November 27, 2007 that the ISA was likely to be used against any demonstrator arrested, five HINDRAF leaders were arrested on December 13, 2007 and prosecuted on the basis of Section 8(1) of ISA. Similarly, nine human rights lawyers were arrested on December 9, 2007 while trying to demonstrate in a celebration of International Human Rights Day. Accused of “participation in an illegal assembly” and “disobeying police orders” to disperse, they face up to two and a half years in jail.

In March 2007, the Commission on Human Rights of Malaysia (*Suruhanjaya Hak Asasi Manusia Malaysia* - SUHAKAM) concluded its report on the violent repression of a demonstration on May 28, 2006 against the increase in the price of oil in Kuala Lumpur, more commonly known as “Bloody Sunday”<sup>4</sup>. While the report recommended that several police officers should be prosecuted, no criminal proceedings had been initiated in late 2007. Conversely, on November 9, 2007, Mr. Siva Subramaniam, SUHAKAM Commissioner, said that the organisers of the demonstration on November 10, 2007 should have applied to the police for a permit, thus contradicting one of the recommendations of the Commission that “peaceful demonstrations

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4./ See Observatory Annual Report 2006.

should be allowed without having to apply for permits". In addition, the Commissioner subsequently claimed that the police had not used violence and had acted in a professional manner at the event, despite numerous reports that the police had violently dispersed the crowd. Subsequently, the Commission explained that the statement only reflected the personal opinion of the Commissioner and not the official position of SUHAKAM with regard to freedom of peaceful assembly.

## **Obstacles for defenders of economic, social and cultural rights**

### **Lack of freedom of association for defenders of the right to work**

While the Malaysian Trade Union Congress (MTUC) was accused by the Deputy Prime Minister for Human Resources, Mr. Abdul Rahman Bakar, of being a "tool for the opposition parties", reflecting the difficult climate in which trade unions operate in Malaysia, the Lower House of Parliament (*Dewan Rakyat*) passed amendments to two laws on labour in August 2007: the Industrial Relations Act of 1967 and the Trade Unions Act of 1958. These amendments render the formation of unions even more difficult. In December 2007, the Upper House (*Dewan Negara*) adopted these amendments, which were approved by the King in January 2008.

### **Obstacles to freedom of movement for human rights defenders of indigenous people in Sarawak**

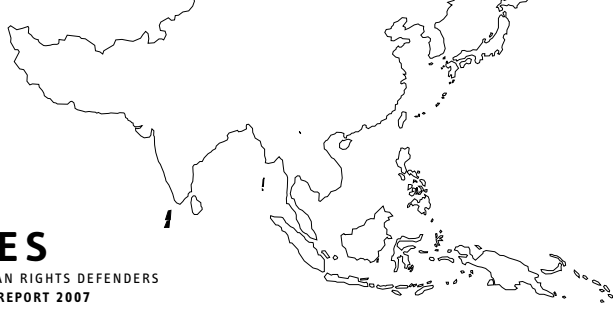
Over the past fifteen years, 12 human rights defenders experienced obstacles to their freedom of movement when they wanted to enter the territory of Sarawak (Borneo)<sup>5</sup>. While most of these people were not officially informed of the reasons why their access was restricted, they discovered they had been placed on a "blacklist" because of their involvement in "activities against logging". Most had taken part in the campaign against the proposed hydro-electric dam in Bakun, which caused the forced displacement of nearly 10,000 indigenous persons as well as deterioration of the environment. For instance, on August 23, 2007, Mr. **Kua Kia Soong**, a member of the administrative board of SUARAM, was refused entry in the State of Sarawak, and escorted

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5./ See SUARAM, *Memorandum to SUHAKAM - 44 Years of Nationhood: Malaysians still denied the right to travel abroad and within our own country!*, September 14, 2007.

back to Kuala Lumpur. One of the immigration officials of Sarawak had informed him that he was on “the blacklist because of his activities against the logging industry”. Mr. Kua Kia Soong is a staunch opponent of the Bakun dam project and had served on a fact-finding mission in 1999 on the conditions of indigenous people displaced in 1998-1999.





## / MALDIVES

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2007

### **Political context**

Politics in the Maldives continues to be largely dominated by President Maumoon Abdul Gayoom, who has been in power since 1978. In 2006, he committed himself to a programme of political and judicial reforms in order to create a modern democracy, through the first multiparty elections supposed to be held in October 2008. However, in 2007, the President slowed down the reform process. Facing a growing challenge from the opposition, the Head of State preferred to work with the conservatives, which has led to the resignation of several ministers.

Furthermore, freedoms of expression, association and assembly have continued to be subjected to numerous restrictions. In particular, the authorities have repeatedly repressed rallies organised by the opposition, which generally called for an acceleration of reforms, and police occasionally beat demonstrators. The authorities accused the demonstrators of hampering the reform process by their rallies which, according to the Government, unnecessarily threatened the public order.

Moreover, civil society in the Maldives lacks a legal framework within which it would otherwise be able to evolve. This explains in part the absence of a strong and active civil society, especially in the area of human rights. While a number of structures have been labelled “NGOs”, they are in reality principally sports or cultural clubs or committees established by the Government.

/ ASIA

## **Lack of legal recognition for most human rights organisations<sup>1</sup>**

In the Maldives, human rights organisations have encountered many difficulties in obtaining legal recognition; such was the case with the Maldivian Civil Society Network (MCSN), which since 2006 has networked several independent NGOs and works in an informal manner. Accordingly, the MCSN faces many obstacles, especially with regard to funding. Since its inception, the MCSN has been restricted in the number of activities it carries out due to limited funding. Similarly, registration was also refused to Maldives Aid, a local NGO registered with the British charity Friends of Maldives (FOM), which had provided support for the country's recovery after the tsunami in December 2006. Finally, the application for registration of the Human Rights Association of Maldives has remained unanswered since it was filed in 2005.

## **Obstacles to freedom of the press: journalists on the front line of repression**

While civil society continues to face a number of difficulties in terms of organisation, it is more often journalists who take over when it comes to the denunciation of human rights violations. They find themselves at the forefront of repression exercised by the authorities in order to prevent them from publishing articles critical of the Government.

On January 21, 2007, the Government of Maldives adopted a Law on defamation, which imposes a fine of 5,000 Rufiyaas (approximately 247 Euros) on any newspaper found to be guilty of defamation. Presented by the Government as a means to better protect the honour and reputation of fellow citizens, the law provides an extremely broad definition of defamation, including for example the publication of facts that could damage the "honour" or "reputation" of a person, thus allowing further restrictions on freedom of expression and silencing of any criticism<sup>2</sup>. Additionally, in August 2007, a law was passed which contained numerous restrictions on the freedom of the press. In particular, the law provides that words that could threaten the "sovereignty of the nation" or that could infringe on the maintenance of "public order" do not fall within the scope of freedom of expression.

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1./ See Maldivian Detainee Network.

2./ See the Asian Centre for Human Rights.

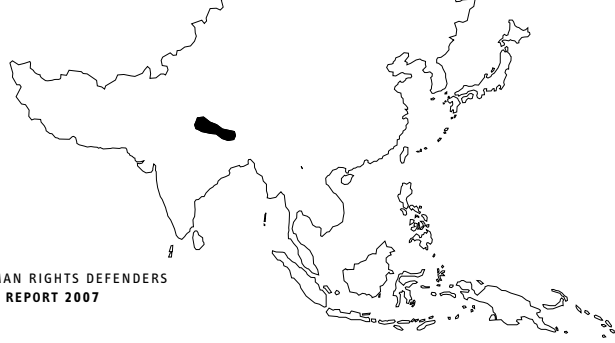
In this context, journalists were regularly subjected to harassment. For example, on January 19, 2007, the American reporter **Phillip Wellman**, a correspondent for *Minivannews.com*, was expelled and banned from the country for a period of two years on the pretext that he did not have “valid permission”<sup>3</sup>. In April 2007, Messrs. **Zeena Zahir**, of the pro-Government newspaper *Miadhu*, **Adam Miqdad**, Editor-in-chief of the website *e-Sandhaanu*, and **Mohamed Nasheed**, a photographer for *Minivan*, were arrested at the funeral of Mr. Hussein Salah, a former prisoner found dead, with his face and body swollen<sup>4</sup>. In addition, journalists working for the opposition newspaper *Minivan* have continued to be subject to multiple forms of retaliation in 2007, generally by prosecution, as with the example of Mr. **Imran Zahir** and Ms. **Aminath Najeeb**, Editor. The latter was summoned to courts on several occasions in 2007. She was accused of “civil disobedience” after having published an article in September 2006 in which a journalist had denounced the abuses of the judicial system<sup>5</sup>.

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3./ See Press Release of the Asian Centre for Human Rights, January 24, 2007.

4./ See Reporters Without Borders (RSF).

5./ See Maldivian Detainee Network.



## / NEPAL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2007

### Political context

It is indisputable that the restoration of the Nepali Parliament in April 2006, the end of the state of emergency which had been in force since February 1, 2005, and the signing in November 2006 of the Comprehensive Peace Agreement between the Government and the Communist Party of Nepal (Maoist) (CPN(M))<sup>1</sup>, followed by the establishment of a Parliament and an interim Government in January and April 2007, have put an end to large-scale repression and led to a marked improvement in the situation of human rights in the country. Nevertheless, in late 2007, the country continued to find itself in a real political deadlock following the withdrawal of the CPN(M) from the Government on September 18, 2007, which led to the suspension of elections meant to create a Constituent Assembly, postponing them to April 2008.

Moreover, although the Maoists agreed in April 2006 to lay down their arms, rebel groups have proliferated across the country during this period of political transition. They have been taking advantage of the fragility of the rule of law and capitalising on the prevailing impunity in the country, thereby threatening the peace process and the work of human rights defenders.

In addition, there is concern that acts of intimidation against defenders will multiply with the approach of elections scheduled for 2008, in order to dissuade them, among other things, from monitoring the elections.

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1./ Both sides were committed as part of the agreement to end more than a decade of conflict, to write a new constitution and to set up an interim Government.

## Defenders combating impunity and corruption on the front line

Political instability prevailing in Nepal is all the more worrying because it is accompanied by a genuine unwillingness to ascertain responsibility for atrocities committed in the past as well as for those continuing. Therefore, those who seek reparation for the victims of these abuses or who denounce them face growing obstacles from both State and non-State actors. Indeed, defenders are the target of State agents, such as the police and armed forces who regularly seek to intimidate and threaten them.

Thus, Mr. **Jitman Basnet**, Secretary General of the Lawyer's Forum for Human Rights (LAFHUR), received death threats on several occasions in May and July 2007 following the publication of a book describing his detention at the Bhairabnath prison in 2004, and many cases of torture, rape and murder of prisoners perpetrated by the prison staff going unpunished. Similarly, on December 20, 2007, several members of the International Institute for Human Rights, Environment and Development (INHURED International) were insulted and threatened by a Colonel in the military barracks of Shivapuri, in Kathmandu, during a visit to inspect a place of suspected burial in the Shivapuri National Park. They were told by the Colonel that "there was nothing to see" and they were only trying to "conspire against the army and defame it".

Furthermore, NGOs and defenders, including journalists, who denounced the rampant corruption within the administration, are also regularly threatened by the authorities they accuse. For example, on October 7, 2007, a Superintendent of Police threatened to arrest Mr. **Bhuvaneshwor Adhikari**, Editor-in-chief of the *Tikapur Daily*, following the publication of an article alleging irregularities in the police administration on tax collection.

## Defenders targeted by armed groups

When they were not themselves the direct victims of violence by armed groups, human rights defenders continued to work in a very precarious environment in 2007 because of the proliferation of rebel groups, such as the various factions of the Democratic Front for the Liberation of Terai (*Janatanrtik Terai Mukti Morcha* - JTMM) and Maoists.

In this context, Mr. **Madan Rimal**, Facilitator of the “Campaign for Peace” programme of the Informal Sector Service Centre (INSEC) in the district of Bardiya, was kidnapped on July 27, 2007 by six individuals who severely beat him, warned him that it was not in his interest to “conduct a campaign that ran counter to their interests,” and then left him unconscious. Similarly, on October 5, 2007, Mr. **Birendra Sah**, a journalist, was abducted and then killed by Maoists, after he repeatedly denounced abuses committed by them.

The situation of human rights defenders is particularly dire in the Terai region, in the south, where the major abuses (kidnappings, assassinations and other forms of violence) were committed by armed groups throughout the year. Thus, defenders who came out to observe the demonstrations that took place from January 16 to February 8, 2007, following the promulgation of the Interim Constitution and to denounce the marginalisation of the Madhesi community, an ethnic group that represents nearly 40% of the Nepalese people, have been subjected to intimidation. For example, two members of the NGO Advocacy Forum, Messrs. **Chumani Acharya** and **Balkrisna Achrya**, who had come to observe the demonstrations in Biratnagar (Morang district), were told by members of the political party “Madhesi Janaadhikar Manch” (MJM), the organiser of these events, that they “would not be responsible should something happen to them”<sup>2</sup>.

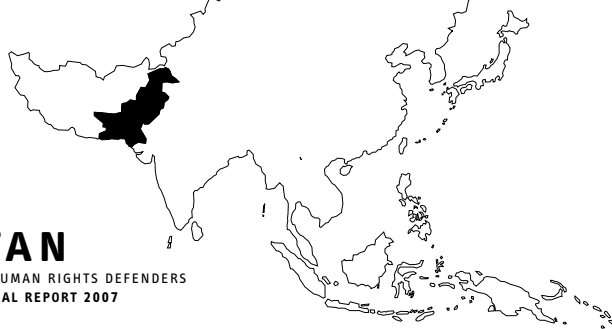
### **Serious recrudescence of targeted attacks against defenders of the rights of women and Dalits**

In 2007, defenders of the rights of women and Dalits were the target of attacks because of their activities in support of these groups. Thus, threats and harassment against members of the Women’s Rehabilitation Centre (WOREC) have repeatedly intensified during the year due to their denunciations of violence against women and their support for victims. Similarly, on August 22, 2007, several dozen women belonging to the Badi community, a small Dalit community in Nepal, were severely beaten and arrested during a demonstration in Kathmandu. The demonstration was calling for the rehabilitation of women victims of forced prostitution, the right to land, equal representation of candidates to the Constituent Assembly, and the establishment of courts

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2./ See Advocacy Forum.

at all levels of Government to deal with issues of racial discrimination, untouchability, and the legal status of children who are denied citizenship certificates.



## / PAKISTAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2007

### Political context

The year 2007 was a culmination of the deteriorating situation of human rights in Pakistan: systematisation of forced disappearances; widespread attacks against civilian populations during military operations, particularly in the framework of the fight against terrorism conducted in the north-west province; repression of movements demanding recognition of minority identity, especially in Baluchistan; restrictions on freedom of the press; arbitrary arrests of human rights defenders, etc. Furthermore, women and religious minorities (particularly the Ahmadi religious community) continued to be discriminated against by law. Moreover, women have continued to be victims of violence of all kinds (honour killings, rape, domestic violence, forced marriage).

The climax of this deterioration was the declaration, on November 3, 2007, of a state of emergency by President Musharraf, followed by a wave of arrests of journalists, lawyers, judges and political activists in the various provinces of the country<sup>1</sup>.

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1./ In this regard, on November 5, 2007, the High Commissioner for Human Rights, Ms. Louise Arbour, “voiced alarm at the suspension of fundamental rights and imposition of a state of emergency in Pakistan”, and by the fact that “leading judges, lawyers and political and human rights activists have been detained or placed under house arrest, including UN Special Rapporteur on freedom of religion and belief, Asma Jahangir” (See UN Press Release, November 5, 2007). Similarly, on November 6, 2007, Mr. Ban Ki-Moon, UN Secretary-General, called for “a return to democratic rule in Pakistan and the release of all detained political leaders and lawyers, as well as [...] Asma Jahangir” (See UN Press Release, November 6, 2007).

Furthermore, the Presidency of the European Union expressed that the EU was “deeply concerned with the declaration of the state of emergency and suspension of Pakistan’s constitution and fundamental liberties announced by President Musharraf on 3 November”, “[...] particularly [...] by reports of numerous arrests of leaders of political parties, lawyers, journalists, human rights defenders and representatives of civil society”. The EU then “call[ed] on the Government of Pakistan to take urgent action to [...] release all political prisoners, including members of the judiciary, as well as Ms. Asma Jahangir [...]” (See Press Release 14670/1/07 REV 1 (Press 254), P 97/07, November 8, 2007).



In a new drive to strengthen military control over the country, on November 10, 2007, General-President Pervez Musharraf promulgated an ordinance amending the Law on the Pakistani Army of 1952 and gave power to the military courts to prosecute civilians for a large number of offences under the Prevention of Anti-National Activities Act of 1974 and the Anti-Terrorism Act of 1997. Worse still, these amendments became effective with retroactive effect from January 1, 2003.

Additionally, Pakistani authorities have taken extremely severe measures against the media following the establishment of the state of emergency. Highly restrictive regulations for the written press and broadcast media were implemented, which prohibited reports on a number of so-called sensitive issues, such as suicide bombings, judicial procedures or matters “prejudicial to the ideology, security, sovereignty or integrity of Pakistan” or “prejudicing the Head of State, the army or institutions” with penalties including heavy fines, imprisonment and confiscation of equipment in the event of infringement.

Finally, even though the state of emergency was lifted on December 15, 2007, violations of human rights continued to be perpetrated. On December 27, 2007, the former Prime Minister and opponent Benazir Bhutto was attacked and killed as she was leaving a public meeting of her party. The attack also claimed the lives of more than fifteen people.

### **Attacks on the independence of judges and lawyers**

In 2007, judges and lawyers were at the forefront of the repression against human rights defenders, especially those demanding respect for the independence of the judiciary, individual freedoms and fundamental rights.

On November 8, 2007, Ms. Gay J. McDougall, Chair of the Coordination Committee of Special Procedures, expressed concern about “the detention and house arrest of leading judges, lawyers and human rights defenders. This includes [...] Asma Jahangir, the Chief Justice of the Supreme Court, and other members of the Supreme Court who were also placed under house arrest when they refused to take the oath of allegiance to the Provisional Constitutional Order”. The Chair further stated “we are alarmed that a detention order remains in place against Hina Jilani, the Special Representative of the Secretary-General on the situation of human rights defenders”.

The crackdown began on March 9, 2007, when the President of the Supreme Court, Mr. **Iftikhar Mohammad Chaudhry**, was removed from his position by President Musharraf for having asked the executive branch to hand over to justice the cases of disappeared persons and produce evidence concerning them. The suspension of the senior magistrate, both arbitrary and contrary to the Constitution, led to protests by judges, lawyers and the civil society<sup>2</sup>. After a wave of popular pressure, the Head of the highest court was returned to his post in July 2007. However, on November 3, 2007, after refusing to swear allegiance to the Provisional Constitutional Order (PCO) issued the same day by President Musharraf, Mr. Chaudhry was arrested and placed under house arrest. In late 2007, Judge Chaudhry and his family remained illegally held under house arrest. Fifty-nine other judges were dismissed from their posts for having refused to swear allegiance to the PCO.

Many lawyers were also arrested after the declaration of the state of emergency, and some of them were reportedly tortured, detained in secret places and deprived of contact with their families. While most of them have since been released, Mr. **Aitzaz Ahsan**, President of the Bar of the Supreme Court, Mr. **Muneer Malik** and Mr. **Tariq Mahmood**, two former Presidents of the same Bar, and Mr. **Ali Ahmed**, former Vice-Chairman of the Bar Council of Pakistan, were still in custody at the end of 2007.

### **Attacks against members of the Human Rights Commission of Pakistan in the framework of the state of emergency**

In Pakistan, the Human Rights Commission of Pakistan (HRCP) is one of the most virulent NGOs in the denunciation of human rights violations in the country, which is why it is usually first in line for repression by authorities.

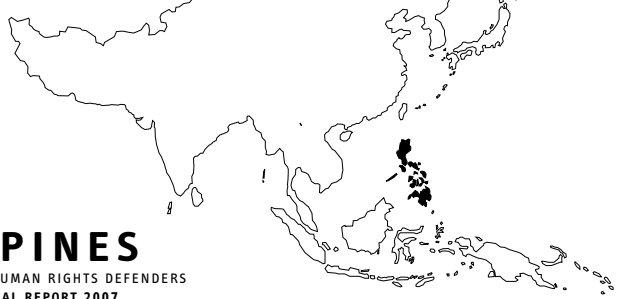
Thus, in the aftermath of the establishment of the state of emergency, police invested the HRCP office in Lahore and arrested 55 people,

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2./ On March 21, 2007, Mr. Leandro Despouy, Special Rapporteur on the independence of judges and lawyers, and Ms. Hina Jilani expressed "serious distress about recent events in Pakistan" after that "on 9 March 2007, President Pervez Musharraf suspended the Chief Justice of Pakistan, Iftikhar Chaudhry [...]". The two experts said they were also "concerned about the excessive force used against peaceful demonstrators [who were denouncing this attack against the independence of the judiciary]" (See United Nations Press Release HR/07/42, March 21, 2007).

including Mr. **Syed Iqbal Haider** and Mr. **I. A. Rehman**, respectively Secretary General and Executive Director of the HRCP. They were released on bail two days later, but the charges against them were not dropped.

On November 3, 2007, Ms. **Asma Jahangir**, President of the HRCP and United Nations Special Rapporteur on freedom of religion or belief, was placed under house arrest, while Ms. **Hina Jilani**, Vice-President of the HRCP and UN Special Representative of the Secretary-General on the situation of human rights defenders, was subjected to a detention order. These orders were lifted on November 16, 2007, following a large international mobilisation on their behalf.



## / PHILIPPINES

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2007

### Political context

In 2007, the Philippines continued to witness a great number of extrajudicial executions. The main victims of these killings were left-wing political opponents, journalists, activists fighting against the mining companies, leaders and members of organisations of peasant farmers and fishers, of teachers' and women's associations, or of trade unions, which the authorities view as being close to the Philippine Communist Party and its armed wing, the New People's Army (NPA). According to the organisation PAHRA, 409 cases of arrest and arbitrary detention were registered between January 2001, the year in which Ms. Gloria Macapagal Arroyo became President of the Republic, and September 2007. 259 cases of enforced disappearance were also registered as of December 10, 2007<sup>1</sup>. According to KARAPATAN, there were 68 victims of extrajudicial executions in 2007. Although the number of executions and cases handled by the Observatory has diminished in 2007, probably as a result of the national and international outcry resulting from the unprecedented degree of violence of preceding years, the words and actions of the authorities remain however the same and the political, social and legal organisations are still a favourite target for repression.

The Government has adopted a number of limited measures to put an end to extrajudicial killings. In January 2007, the independent commission set up in 2006 to investigate assassinations of journalists and activists – the Melo Commission – stressed in its report that certain members of the armed forces share responsibility for an unspecified number of killings by permitting and tolerating, even encouraging them. Furthermore, on September 25, 2007, the Supreme Court adopted a resolution authorising the recourse to *amparo*, which may be invoked by “any person whose life, liberty and security is violated or threatened

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1./ See PAHRA, Statement on the Occasion of the 59<sup>th</sup> International Human Rights Day.

with violation by an unlawful act or omission of a State official or of a private individual or entity". The possibility of access to such recourse, which application is retroactive, constitutes undeniable progress.

However, impunity remains the rule in the Philippines. In particular, as Mr. Philip Alston, United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, noted following his visit to the country in February 2007<sup>2</sup>, no member of the armed forces, whose responsibility in a great many cases of extrajudicial executions or enforced disappearance is in no doubt, has been prosecuted. Indeed, the police are often reluctant to investigate violations involving the army. Furthermore, there is no effective witness protection programme, which explains why witnesses are reluctant to give evidence because of the considerable risks involved<sup>3</sup>.

### **Criminalisation of human rights activities under the pretext of the fight against terrorism and "communist insurrection"**

In 2007, the Government continued its policy of criminalising and stigmatising human rights activities as part of the fight against terrorism and against the NPA. The Human Security Act (HSA), or anti-terrorism act, came into force on July 15, 2007, with the risk of reinforcing impunity in the country and further diminishing the protection of civil liberties. As a matter of fact, this law broadens the executive's powers and permits the indefinite detention of all persons suspected of having committed or taken part to terrorist acts (Article 19). It also broadly defines terrorism as committing an act punishable under any of a list of provisions with the intention of "creating a condition of widespread and extraordinary fear and panic among the populace, in order to coerce the Government to give in to an unlawful demand" (Article 3). The new law also gives very broad powers to the Anti-Terrorism Council, which is made up of Government officials. In particular, it may order the speedy investigation and pursuit of any

2./ See United Nations document A/HRC/4/20/Add.3, March 22, 2007.

3./ In its Resolution P6\_TA(2007)0171, adopted on April 26, 2007, the European Parliament "condemn[ed] in the strongest terms the murder of Mrs. Siche Bustamante-Gandinao, a dedicated human rights activist who was killed just days after testifying to the UN Special Rapporteur on extrajudicial, summary or arbitrary executions", [...] "and call[ed] on the Philippine government to adopt measures to end the systematic intimidation and harassment of witnesses in connection with prosecutions for killings and to ensure truly effective witness protection [...]".

person accused of terrorism, freeze the assets and bank accounts of persons suspected of terrorism, and give monetary rewards to informers who might help terrorists to be arrested. The act does not address the issue of the eventual responsibility of members of the Anti-Terrorist Council for human rights violations they might commit in the exercise of their far-reaching powers<sup>4</sup>.

Furthermore, Government officials continued to label human rights defenders as “communists”, “left-wing” or “enemies of the State”, which encourages the reprisals carried out against them by army and paramilitary forces involved in counter-insurgent operations<sup>5</sup>. For instance, on November 2, 2007, Mr. **Ricardo Belamia y Beceril**, a member of the workers’ rights organisation Kilusang Mayo Uno (KMU) and the National Federation of Labour in Cebu, was arrested at his home and charged with “rebellion” by the Danao City Court. He was accused in particular of being an NPA leader.

Finally, in July and August 2007, during the Meeting of Ministers of the Association of Southeast Asian Nations (ASEAN) in Manila from July 21 to August 2, 2007, the Government drew up a blacklist banning around 500 people from entering the country, including expatriate Filipinos. Included in the list were members of foreign non-governmental organisations such as the Centre for Constitutional Rights (CCR), an American organisation, or Philippine organisations such as Gabriela/GabNet, a worldwide network of women who denounce human rights violations in the Philippines<sup>6</sup>.

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4./ On March 12, 2007, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Mr. Martin Scheinin, spoke of his concern that the law establishes “an overly broad definition [of terrorist acts] [...] incompatible with article 15 of the International Covenant on Civil and Political Rights”, and that “various bodies [are] authorized to review detention of an individual since some of these are members of the executive rather than an independent judicial body” (See United Nations Press Release, document HR/07/36/E, March 12, 2007).

5./ To that extent, the European Parliament stressed that “most of those killed, such as opposition party members, church people, community leaders, peasants, journalists, lawyers, human rights activists, trade unionists or simply witnesses of extra-judicial killings, have been accused by government representatives of being members of front organisations for illegal armed groups and “terrorists”” (See European Parliament Resolution P6\_TA(2007)0171, April 26, 2007).

6./ See Press Releases of Gabriela, August 17, 2007, and Human Rights Watch, September 28, 2007.

## Union and peasant leaders, a favourite target for repression

In 2007, as was the case in 2006, the killings of several peasant leaders were linked to the agrarian reform law. Police investigations are very inadequate in these cases and the rich and powerful landowning families benefit from total impunity. This is the case, for example, of Mr. **Franklin Cabiguin Labial**, a peasant leader who was shot and killed on August 10, 2007 in Mindanao. In July he had received death threats after he had queried the application of the Comprehensive Agrarian Reform Law and condemned the killings of peasants and indigenous people who had claimed their right to obtain a parcel of land. In 2007, numerous union and peasant leaders were also subjected to judicial proceedings, aggression and kidnapping.

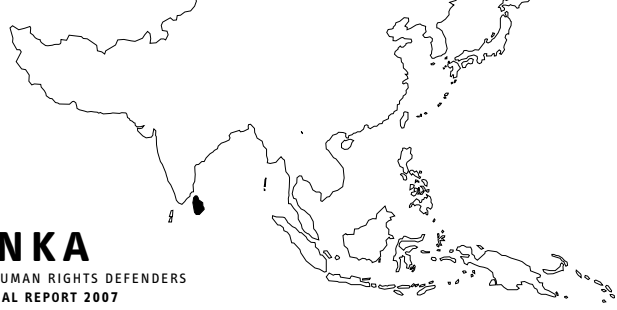
Similarly, peaceful demonstrations protesting against conflicts linked to the agrarian reform were repressed on a regular basis. On September 7, 2007, several peasant farmers were injured when police used violence to disperse their peaceful rally in front of the headquarters of the Department of Agrarian Reform (DAR) in the city of Quezon and, on January 12, 2007, three trade union leaders were arrested during a peaceful demonstration in front of the Cebu International Convention Centre in the city of Mandaue and accused of “disobeying the security forces”.

Moreover, the Committee on Freedom of Association of the International Labour Organisation in its 346<sup>th</sup> Report recalled “that all practices involving the blacklisting of trade union officials or members constitute a serious threat to the free exercise of trade union rights [...]”<sup>7</sup> and requested the Government “to keep it informed of the progress of the investigation to be carried out by the special joint fact-finding body concerning the killings of trade union leaders and members [...]” and “to give adequate instructions to the law enforcement authorities so as to eliminate the danger entailed by the use of excessive violence when controlling demonstrations”<sup>8</sup>.

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7/ See International Labour Organisation (ILO), 346<sup>th</sup> Report of the Committee on Freedom of Association, *Complaint against the Government of the Philippines presented by the Federation of Free Workers (FFW) - Visayas Council*, June 2007.

8./ See ILO, 346<sup>th</sup> Report of the Committee on Freedom of Association, *Complaint against the Government of the Philippines presented by the Kilusang Mayo Uno (KMU) Labour Centre*, June 2007.



## / SRI LANKA

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

Since the resumption of hostilities in 2006 between the Government of President Mahinda Rajapakse and the Liberation Tigers of Tamil Eelam (LTTE), a group that has been fighting the army for more than 30 years for the creation of a State for the Tamil minority, the human rights situation in Sri Lanka has deteriorated dramatically, especially in the Jaffna peninsula. Enforced disappearances, extrajudicial killings, recruitment of child soldiers, torture, threats, and, in general, massive violations of human rights and war crimes have increased, resulting in a real climate of fear and insecurity throughout the country. The civilian population therefore found itself trapped in the crossfire between LTTE fighters – especially in the north and east of the country – and the security forces, assisted by the Tamil militia of the Eelam People's Democratic Party (EPDP). Additionally, it is feared that the official end of the cease-fire on January 2, 2008 will lead to a further escalation of violence.

### Reprisals against defenders fighting impunity and corruption

In 2007, the safety of defenders considerably worsened, especially following denunciations of abuses committed by the parties in conflict, corruption and impunity, in a context where the number of attacks and threats from all parties to the conflict against them increased dramatically. Journalists have been particularly affected by acts of retaliation and intimidation because of their role in these denunciations. For instance, on February 26, 2007, Mr. **Dushantha Basnayake**, Spokesman and Chief Financial Officer of the Standard Newspapers Private Limited, which publishes the weekly *Mawbima*, was arrested and detained for more than two months. The weekly *Mawbima* is known for criticising the Government and denouncing human rights violations and corrup-



tion in Sri Lanka<sup>1</sup>. On April 29, 2007, Mr. **Rajivarnam Selvarajah**, a reporter for *Uthayan* who regularly denounced enforced disappearances in Sri Lanka, was killed by a man passing on a motorcycle in Jaffna<sup>2</sup>.

The Government has also contributed to the degradation of the environment in which defenders work, in particular by reducing the number of security personnel assigned to defenders at risk. In August 2007, the Government reduced the number of security staff working for *Sunday Times* journalist **Iqbal Athas** after he denounced the rampant corruption within the Government, particularly involving purchases linked to defence<sup>3</sup>. Similarly, on December 18, 2007, the Department of Defence withdrew the security assigned to Mr. **Mano Ganesan**, a Parliamentarian and the founder of the Civil Monitoring Commission on Extra-Judicial Killings and Disappearances (CMC), one week after he was awarded the runner up position for the United States Government's Freedom Defenders Award 2007.

### Humanitarian workers on the frontline

In 2007, the increase in violence against humanitarian workers was accompanied by growing constraints and security restrictions imposed by the parties to the conflict: their vehicles and offices were raided, their visas and work permits were regularly issued late, and it became increasingly difficult to gain access to areas where the conflict continues. As a result, humanitarian agencies have decreased or suspended their activities, and some have withdrawn from areas at risk.

Many Sri Lankan aid workers have paid with their lives for their commitment. On June 1, 2007, Mr. **Karthakesu Chandramohan** and Mr. **Sinnarasa Shanmugalingam**, two Sri Lankan Red Cross volunteers in Batticaloa, were arrested by two men in civilian clothes claiming to belong to the Criminal Investigation Department (IDC). The next day, the bodies of the two men were found riddled with bullets in Kiriella,

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1./ See Press Release of the Free Media Movement (FMM) and the International Freedom of Expression Exchange (IFEX), February 28, 2007.

2./ See FMM Press Release, December 24, 2007.

3./ See FMM E-Bulletin October 2007, November 1, 2007.

more than 40 km south of Colombo<sup>4</sup>. On July 23, 2007, an employee of the Danish Refugee Council, Mr. **Arumainayagam Aloysius**, was assassinated in Anaikkoaddai (Jaffna). He had previously worked for Halo Trust, an international demining organisation<sup>5</sup>. On September 26, 2007, Rev. **Nicholaspillai Packiaranjith**, who had worked to assist internally displaced persons, and who served as Regional Coordinator of the Jesuit Refugee Service (JRS), was killed by a mine explosion in Mallavi while transporting humanitarian supplies to a camp and an orphanage in Vidathalvu for those affected by the war. Finally, on December 14, 2007, Mr. **Sooriyakanthi Thavarajah**, an employee in the Jaffna section of the Sri Lankan Red Cross for many years, was abducted from his home in Jaffna by gunmen. His body was found two days later in Kaithady<sup>6</sup>.

The Government has also instituted more stringent regulations for international NGOs working in Sri Lanka<sup>7</sup>. While most of these NGOs were able to renew work permits for their employees, many delays in obtaining them were observed. In 2007, they also had to obtain permits from the police for their local staff. In late July 2007, the Commander of the security forces in the east, Mr. Parakrama Pannipitiya, summoned local and international NGOs in Vakarai, a region where many displaced persons settled in March 2007 at the initiative of the military, asking them not to undertake development activities without the permission of the Secretary of the District. He also called on security

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4./ On June 4, 2007, the UN Secretary General “strongly condemn[ed] the abduction and murder of two workers of the Sri Lanka Red Cross Society” and reminded the parties to the conflict that “aid workers have a right to protection at all times”. Similarly, on June 7, 2007, Ms. Hina Jilani, Special Representative of the Secretary-General on the situation of human rights defenders, and Mr. Philip Alston, Special Rapporteur on extrajudicial, summary or arbitrary executions, “strongly condemn[ed] the abduction and murder of two workers of the Sri Lanka Red Cross Society that occurred in Colombo on 1 June 2007 [...]”, underscoring that it reflected a “trend of deliberate targeting of aid workers [...]”. They also voiced concern that “the killings of humanitarian workers, including the 17 workers of Action contre la Faim, in August 2006, remain[ed] unsolved”.

5./ See Press Release of the Asian Centre for Human Rights (ACHR), April 25, 2007.

6./ See Press Release of the Red Cross, December 17, 2007.

7./ In late August 2006, a circular was issued by the Ministry of Defence asking for all humanitarian workers to register with the Ministry of Defence in addition to their registration with the Ministry of Social Protection (See Annual Report 2006 of the Observatory).

forces in the region to ensure that NGOs would not begin projects without due permission from governmental agencies<sup>8</sup>.

### **Stigmatisation of defenders, who are accused of being terrorists or supporters of the LTTE**

In 2007, the Government established a policy to discredit, almost systematically, human rights activities, particularly by accusing defenders of being “supporters of the LTTE”, “traitors” or “enemies of the State”. On several occasions, the Government challenged the “allegations” of human rights defenders who dared to question its policy on human rights, saying they were “unfounded” and influenced by LTTE propaganda. Given the December 2006 Emergency (Prevention and Prohibition of Terrorism and Specified Terrorist Activities) Regulations<sup>9</sup>, which criminalise “any act of complicity with the LTTE”, the assimilation of defenders with the LTTE could be extremely dangerous and can only seek to silence defenders.

For example, on October 2, 2007, a text published on the website of the Ministry of Defence and reprinted by a pro-Government newspaper accused journalist **Iqbal Athas** of being a “traitor” and of supporting the “psychological operations of the LTTE terrorists”. The article added that “anyone who tries to hinder public support for the security forces or attempts to undermine the loyalty of soldiers to their officers can only be seen as serving the terrorists’ cause.” As early as September 30, 2007, the Spokesman of the army, Brigadier Udaya Nanayakakara, had already accused Mr. Athas of “supporting terrorism” through some of his articles<sup>10</sup>. Similarly, following the session of the United Nations Human Rights Council in September 2007, the Government denigrated reports submitted by Sri Lanka and international civil society on attacks against religious leaders and places of worship, describing them as “isolated incidents” and “desperate attempts by a small number of NGOs to portray Sri Lanka as a country where religious leaders and

8./ See Press Release of the FMM, July 27, 2007.

9./ In particular, these regulations introduce broad and vague definitions for terrorist offences, which could criminalise human rights, particularly regarding freedoms of expression, association and assembly. It is feared that those seeking a peaceful solution to the conflict, humanitarian workers, human rights defenders, protesters or journalists could be prosecuted on the basis of these regulations (See Annual Report 2006 of the Observatory).

10./ See FMM E-Bulletin October 2007, November 1, 2007.

places of worship are subject to constant attack”. Further, on October 31, 2007, the Sri Lankan organisation Law & Society Trust, in collaboration with four other organisations, published a report documenting cases of extrajudicial killings and forced disappearances between January 1 and August 31, 2007. Following its publication, Minister for Human Rights Mahinda Samarasinghe referred, in an article published in the *Daily Mirror*, “to three NGOs that have compiled a list of people who they say have been kidnapped”. After the veracity of the report was discredited, the authors of the report were accused of “working for unknown parties – perhaps the LTTE”<sup>11</sup>.

UN agencies and experts are not spared by these governmental policies of denial and stigma. Thus, following the official visit of Mr. John Holmes, United Nations Under-Secretary-General for Humanitarian Affairs, in August 2007, Prime Minister Ratnasiri Wickremanayake reported to Parliament that “the Government of Sri Lanka [...] reject[ed] the statement by Mr. John Holmes that Sri Lanka wasn’t safe for aid workers” and “[could] not help but get the impression that Mr. John [sought] to discredit the Government and tarnish its international image”. Similarly, the Ministries of Foreign Affairs and Defence have sought to challenge the UN expert’s statement, in a letter to the press and during a press conference on August 11 and 14, 2007, respectively.

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11./ See Law & Society Trust, Civil Monitoring Commission and the FMM, *Second submission to the Presidential Commission of Inquiry and public on human rights violations in Sri Lanka: January - August 2007*, August 31, 2007.



## / THAILAND

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

More than a year after the *coup d'état* of September 19, 2006, which overthrew the elected Government of Mr. Thaksin Shinawatra, the martial law that was declared immediately afterwards by the Government of General Sonthi Boonyaratglin remains in force in several border provinces, especially in the north and south of the country, imposing severe restrictions on fundamental freedoms. On September 17, 2007, the Council for National Security (military junta) announced that martial law would remain in force in 27 provinces; at the end of 2007, 36 provinces continued to be governed by martial law. Furthermore, while the People Power Party (PPP) won the elections on December 23, it is feared that the military will retain practical control over public affairs.

At the same time, violence in the context of the armed conflict in southern provinces of Thailand, with a majority of Muslim population, has worsened in 2007; armed separatists continued to cause numerous civilian casualties, while the authorities engaged in arbitrary arrests and failed to investigate atrocities that were denounced in a timely fashion.

On December 21, 2007, the National Legislative Assembly adopted a Law on Internal Security which 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), an entity known for its military atrocities committed in the 1970s under the control of the Prime Minister. The ISOC is thus now able to restrict fundamental freedoms, since Article 17 authorises indefinite restriction on the freedoms of expression, assembly, association and movement, with no responsibility before the Parliament or courts (Article 22), as the 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. In addition, officials who commit human rights abuses on the basis of this law shall be immune from any prosecution (Article 23). As of late 2007, the King had not yet enacted this law.

### **Repression of any critical voice against the army and security forces**

In 2007, defenders who sought to obtain redress for victims of human rights violations were regularly harassed, especially when those violations involved members of the security forces. While those who commissioned the disappearance in 2004 of Mr. **Somchai Neelaphaijit**, President of the Muslim Lawyers Association and Vice-Chairman of the Committee on Human Rights of the Lawyers Association of Thailand, had still not been identified or brought to justice by late 2007, his widow, Mrs. **Angkhana Wongrachen**, was threatened several times because of her persistence in demanding justice for her husband. Similarly, on October 10, 2007, Mr. **Ma-usoh Malong** was killed near his home in Tak Bai, Narathiwat. He was the husband of Mrs. **Yaena Solaemae**, known for her work with the victims and relatives of those who were killed as a result of anti-Government demonstrations in Tak Bai in October 2004<sup>1</sup>. The assassination was seen as an attempt to intimidate and silence defenders who seek justice and compensation for those victims.

In this context, it is feared that the 2007 Law on Internal Security will be used against human rights defenders as an instrument of repression regarding denunciations of human rights violations committed by the army and security forces.

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1/ On October 25, 2004, various units of the security forces had been mobilised to disperse Muslim demonstrators in front of a police station in the district of Tak Bai (province of Narathiwat). Seven demonstrators were shot dead at the scene while 78 others died of asphyxiation or were crushed during their transport to detention centres. While General Surayud Chulanont apologised publicly in November 2006, no member of the security forces has been brought to justice in this case.

## Computer Crime Act and repression of “cyber-dissidents”

The Government continued to be very active in silencing “cyber-dissidents” and thousands of Internet sites, mainly political, were said to have been closed by order of the Ministry of Information and Communication Technology (MICT) for having denounced the coup d'état, such as the site of the September 19 Network against the Coup, which was closed twice<sup>2</sup>. Additionally, the websites *www.prachathai.com* and *www.pantip.com* were temporarily closed after being warned to remove all criticism of military authorities from their pages.

Furthermore, on July 18, 2007, the Computer Crime Act came into force, undermining freedom of expression on the Internet. While the Act is primarily aimed at punishing piracy and Internet pornography, it also allows the police to seize computer equipment of persons suspected of posing a threat to national security and to prosecute them, which, in the absence of a clear definition, can lead to abuse, especially for those with a critical position of the Government. For instance, bloggers “Pichai Praya” and “Thonchan” were arrested on August 24, 2007 before being released on bail on September 6 and charged with “defamation” and “undermining the security of the country” (Section 14). The Thai authorities eventually dropped the charges against them for lack of evidence.

## Serious violations of freedom of peaceful assembly

The martial law declared immediately after the coup d'état caused serious restrictions on public assemblies, as gatherings of more than five people were banned, the sanction being six months<sup>3</sup>. Thus, on May 13, 2007, 2,000 demonstrators in the province of Surat Thani, who were demanding that plots of land be allocated for poor farmers, were dispersed with tear gas, batons and water cannons<sup>3</sup>. Similarly, on July 22, 2007, the royal police violently dispersed a peaceful rally of more than 5,000 protesters, organised by the Democratic Alliance Against Dictatorship (DAAD), a coalition of more than 15 anti-coup organisations. The protest took place in front of the home of General Prem Tinsulanonda, who was suspected of being the main instigator

2./ See Joint Report of the Campaign for Popular Media Reform (CPMR) and Forum-Asia, *Thailand: One Year After the Military Coup and its Effects on the Three Freedoms*, September 19, 2007.

3./ *Idem*.

of the coup d'état of 2006, calling for the resignation of key players in this coup, the reintroduction of the 1997 Constitution, and immediate elections. On July 26, 2007, nine members of the DAAD who had participated in the rally were arrested, including Mr. **Jaran Dita-Apichai**, a member of the National Commission on Human Rights, and accused of “conspiring with more than ten people to create disorder in the city” and “disobedience towards law enforcement order”. On September 26, 2007, Mr. Jaran Dita-Apichai was removed from office by the National Legislative Assembly (NLA) for “acting against the interest of the unity of the State in a partisan fashion”. Similarly, ten human rights defenders were being prosecuted as of late 2007 following their participation, on December 12, 2007, in a demonstration before the Parliament in Bangkok, to protest attempts by the NLA to pass eight bills undermining civil liberties in Thailand, including the Law on Internal Security.





# / VIET NAM

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

Despite having obtained several marks of international recognition, especially with its entry into the World Trade Organisation (WTO), its election to the United Nations Security Council, its removal from the American list of “Countries of Particular Concern” with respect to religious freedom and its hosting of the Asia-Pacific Economic Cooperation Summit (APEC) in November 2006, the Vietnamese Government nevertheless pursued its policy of repression of dissident voices in 2007. Particular targets are activists who demand political reforms that would enable a real protection of human rights and the establishment of democracy: religious leaders, trade union members, independent journalists, peasant farmers who protest against the enforced expropriation of land, and university members whose actions attempt to challenge the monopoly of the Vietnamese Communist Party.

## A particularly restrictive legislative environment that is hostile to all human rights activity

### Criminalisation of human rights activities

In spite of the recommendations of the UN Human Rights Commission (2002), of the Special Rapporteur on religious intolerance (1998) and the Working Group on Arbitrary Detention (1994), Viet Nam continues to criminalise human rights activities on the basis of Criminal Code articles that include particularly vague crimes such as “preventing the implementation of solidarity policies” (Article 87 of the Criminal Code), “profiting from democratic freedom to threaten State interests” (Article 258), “spying” (Article 80), or “conducting propaganda against the Socialist Republic of Viet Nam” (Article 88), which entail extremely heavy prison sentences. The Vietnamese authorities have again this year arrested several human rights defenders. Mr. **Nguyen Van Dai**, a lawyer, pro-democracy activist and founder of the Viet Nam Human Rights Committee, was thus sentenced on May 11, 2007 to

five years in prison for “conducting propaganda against the Socialist Republic of Viet Nam”. As for Father **Nguyen Van Ly**, he was sentenced on March 30, 2007 to eight years in prison on the same charges<sup>1</sup>.

Furthermore, although, at the end of March 2007, Viet Nam strongly repealed Decree 31/CP on “administrative detention”, the authorities continue to arrest defenders and assign them to house arrest without trial, on the grounds of Ordinance 44 on “Regulation of Administrative Violations” which came into force on October 1, 2002 and fulfils the same function as the Decree, additionally permitting dissidents to be placed in psychiatric hospitals.

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

No truly independent NGO, association or free trade union exists in Viet Nam. There is only one official, party-controlled trade union, the Viet Nam General Confederation of Labour, which serves mainly to repress any strike movement.

Moreover, international NGOs may only operate in Viet Nam if they have Government approval and work under its control. In 2006 for instance, the Observatory was not permitted to carry out an international fact-finding mission and was forced to send mission investigators unofficially<sup>2</sup>.

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1./ To that extent, the Presidency of the European Union expressed its concern “that several peaceful human rights defenders [**Father Nguyen Van Ly**, and Messrs. **Nguyen Phong**, **Nguyen Binh Thanh**, **Nguyen Bac Truyen**, **Huynh Nguyen Dao**, **Le Nguyen Sang**, **Nguyen Van Dai**, **Le Thi Cong Nhan**, **Tran Quoc Hien**] have been arrested and given long prison sentences on charges of “conducting propaganda against the Socialist Republic of Viet Nam”” and requested “the government of Viet Nam to release all non-violent political activists who have simply exercised their rights to freedom of expression and association [...]” (See Declaration by the Presidency on behalf of the EU on the sentencing of human rights defenders in Viet Nam, May 15, 2007). Similarly, in its Resolution P6\_TA(2007)0359, adopted on July 12, 2007, the European Parliament called for “the immediate and unconditional release of all individuals imprisoned for the sole reason that they have peacefully and legitimately exercised their right to freedom of opinion, freedom of expression, freedom of the press and freedom of religion [...]” and called on “the Government to put an end to all forms of repression of [these] people [...]”.

2./ See Report of the Observatory International Fact-Finding Mission, *Vietnam: Twelve human rights defenders have the floor*, April 2007.

## Threats to the freedom of expression: repression of cyber-dissidents

Although the cyber-dissident **Nguyen Vu Binh** was released in June 2007, after being sentenced to seven years in prison in 2003 for publishing articles “of a reactionary character”, including one that was sent to the American Congress and provided evidence of human rights violations, the Vietnamese authorities nevertheless continued their strict control of Internet and severely repress defenders who use Internet to promote human rights and democracy. Thus, six cyber-dissidents who advocate democracy and fundamental freedoms were given prison sentences in May 2007 after being arrested under Article 88 of the Viet Nam Criminal Code, forbidding the dissemination of any “propaganda hostile to the Socialist Republic of Viet Nam”.

## Ongoing repression of defenders of religious freedom

In 2007, there was continued, even increased, repression of leaders of the Unified Buddhist Church of Viet Nam (UBCV), a prohibited movement that peacefully promotes religious freedom, democracy and human rights. These leaders include **Thich Huyen Quang** and **Thich Quang Do**, who were more and more regularly subjected to house arrest, summons to police stations, arbitrary arrests, restrictions on their freedom of movement, etc. The members of 20 Provincial Committees of poor provinces, set up to assist deprived populations, were also regularly harassed, interrogated, arrested and threatened so that they resign from the committees in the provinces of Binh Dinh, Thua Thien-Hue, Dong Nai and Bac Lieu in particular.

Similarly, the Vietnamese authorities see the activities of the Khmer Krom monks as a threat to national integrity, in that they regularly inform the international community about violations of religious freedom by the Vietnamese regime. On November 8, 2007 for instance, Mr. **Tim Sa Khorn**, a Khmer Krom bonze and member of the Unrepresented Nations and Peoples’ Organisation (UNPO), was brought before the People’s Court of Justice of the An Giang Province, Southern Viet Nam, to be tried for “sabotaging the unification policy” under Article 87 of Viet Nam’s Criminal Code. Mr. Tim Sa Khorn was sentenced to one year of imprisonment and denied the right to appeal, in the framework of a trial that took place after four months of incommunicado detention.

## **Obstacles encountered by defenders of the rights of peasant farmers and workers**

The authorities also used repression against peasant farmers who protest against corruption and the confiscation of lands by the State. Indeed, following the ban on demonstrations in front of public buildings (Decree 38/2005), the authorities have systematically made use of violence to control the growing protests of “Victims of Injustice”, i.e. the hundreds of thousands of peasants expropriated from their land by the State with no indemnity or with derisory compensation, and who regularly come from the rural regions to lodge complaints and demonstrate in front of Government buildings in Hanoi and Ho Chi Minh City.

Moreover, since its creation in 2006, the United Workers-Farmers Organisation (UWFO) and its members have regularly been subjected to acts of harassment and some have been forced to carry on their activities secretly<sup>3</sup>. For instance, Mr. **Tran Quoc Hien** was arrested in January 2007, two days after being appointed UWFO Spokesperson. Four other UWFO leaders who had been arrested in November 2006 were sentenced to several years in prison in December 2007. On May 15, 2007, Mr. Tran Quoc Hien was in turn given a five-year prison sentence for “spreading anti-Government propaganda” and “endangering national security”.

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3./ In a country in which trade unions are not authorised, the UWFO, which is not recognised by the Government, works for the protection and promotion of workers' rights, including the right to form or belong to a trade union without Government interference. The organisation also calls for justice for people whose lands or goods have been illegally confiscated by Government officials, and for an end to the use of cheap labour and dangerous working conditions.