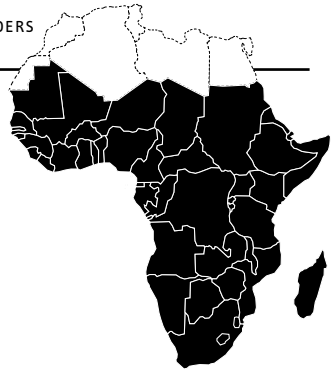


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# SUB-SAHARAN AFRICA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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# REGIONAL ANALYSIS SUB-SAHARAN AFRICA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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In 2009, democratic transition remained the exception on the African continent. While Sub-Saharan Africa has several leaders who have remained in power for years with no challengers (*Angola, Cameroon, Djibouti, Zimbabwe*), the Presidents of *Niger* and *Cameroon* did not hesitate this year to initiate proceedings modifying the Constitution to run for another term. Moreover, while several States in the region agreed to cooperate with the United Nations or African Union (AU) mechanisms protecting human rights and hosted visit by Special Rapporteurs (*Botswana, Burundi, Central African Republic (CAR), Chad, Democratic Republic of Congo (DRC), Kenya, Liberia, Mauritania, Senegal, Somalia, Sudan, Uganda, Zambia*), others continued to ignore requests for visits from several Special Procedures of the United Nations, including those of the UN Special Rapporteur on the Situation of Human Rights Defenders (*Chad, Equatorial Guinea, Kenya, Mozambique, Zimbabwe*), or did not hesitate to revoke their commitments, as this was the case of *Zimbabwe* with respect to a visit from the Special Rapporteur on Torture, Mr. Manfred Nowak<sup>1</sup>.

The year 2009 was also marked by an increase in assassinations of defenders in countries such as *Burundi, DRC, Kenya, Nigeria, the Republic of the Congo* and *Somalia*. The intensification of repression against defenders was facilitated through systematic denigration by certain heads of State, like in *The Gambia* President Yahya Jammeh who, during a television programme held in September, openly threatened to kill human rights defenders, accusing them of seeking to “destabilise the country”. Following these statements, the African Commission on Human and Peoples’ Rights (ACHPR) unsuccessfully appealed to the AU to provide extra-budgetary resources to enable the holding of its 46th session in Ethiopia or any other AU Member State other than the Gambia, and to examine the possibility of transferring its secretariat in another country. Despite this appeal, the 46th session was finally held in Gambia and, while no incident hampered

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1/ See UN Special Rapporteur on Torture Press Release, October 29, 2009. Manfred Nowak was turned back at the airport in October while preparing to lead a tour of Zimbabwe in a context of renewed crisis between President Mugabe and Prime Minister Tsvangirai.

the session, the President's remarks remain representative of the difficult environment in which defenders operate in the Gambia.

### **Acts of harassment against human rights defenders in the context of elections or political crises**

In 2009, human rights defenders were particularly at risk during political crises, as in *Guinea-Conakry* following the events of September 28, when soldiers of the presidential guard violently suppressed a peaceful demonstration of opposition to the candidacy of *de facto* President Moussa Dadis Camara in the presidential election scheduled for 2010. In this context, several defenders were arrested. Defenders were also found at the forefront of crackdowns during crisis situations related to contested or flawed elections (*Mauritania, Nigeria, Republic of the Congo*). Those who denounced post-election violence (*Kenya, Zimbabwe*) or called for the holding of free elections (*Sudan*) were assimilated to the opposition and threatened, arrested, attacked or harassed. In other countries, defenders were subjected to campaigns of intimidation ahead of elections (*Ethiopia, Rwanda*). In *Niger*, several demonstrations against the reform of the Constitution aiming to lift presidential term limits were violently repressed by the police and led to arrests of supporters, some of whom were then subjected to judicial harassment. Finally, in the *DRC*, defenders who had called for respect of democratic principles during an inter-institutional crisis were either threatened, arrested or threatened with prosecution.

### **The precarious situation of human rights defenders in areas of conflict or post-conflict**

The barriers against defenders operating in countries affected by conflict or in post-conflict situations continued in 2009 and humanitarian personnel continued to be exposed to considerable risks (*Somalia, Sudan*). In these countries, protection of humanitarian workers has meant the suspension of their activities in some areas that have become too dangerous, to the detriment of civilian populations. In *Sudan*, the closure of three national NGOs involved in assisting victims of torture in Darfur and the expulsion of thirteen international humanitarian aid organisations thus resulted in a reduced ability to monitor the human rights situation in the country.

### **Human rights defenders fighting against impunity still a major target of repression**

The year 2009 saw no improvement in the repression of defenders fighting against impunity and defending the rights of victims, especially those before the International Criminal Court (ICC). The attacks, intimidation, threats and accusations of tarnishing the public image of the country

particularly intensified in *CAR*, *Sudan* and *DRC*, where human rights defenders identifying violations committed by parties to conflicts and providing support to victims continued to be exposed to considerable risk. Since the opening before the ICC in 2007 of the case “Prosecutor v. Jean-Pierre Bemba”, in the context of the situation in the *CAR*, lawyers, witnesses and families of victims have been routinely subjected to threats, harassment and intimidation, not only in the *CAR*, but also in the *DRC*, from where Mr. Jean-Pierre Bemba originates. These threats further increased following the opening in January and November 2009 of the trials of Messrs. Thomas Lubanga, Germain Katanga and Mathieu Ngudjolo for “war crimes” and “crimes against humanity”, and when civil society organisations opposed the provisional release of Mr. Bemba in November 2009, for fear of reprisals against victims. Similarly, in *Sudan*, in the context of the arrest warrant issued by the ICC against President Omar Al Bashir for “war crimes”, “crimes against humanity” and “genocide”, defenders involved in the fight against impunity were assimilated to “traitors to the nation”. The reluctance of some African countries to fight impunity and cooperate with the ICC, as evidenced by the decision taken by Heads of State and Governments during a meeting at the AU Conference on July 3, 2009 in Syrte<sup>2</sup> and the delays in the establishment of the court in Senegal to try former Chadian dictator Hissène Habré, led to the creation of a climate conducive to repressive practices against human rights defenders, both by the armed forces (*DRC*, *Guinea-Bissau*) and police forces (*Chad*, *DRC*, *Kenya*, *Mauritania*, *Zimbabwe*).

At the national level, in most countries, impunity remained the rule and those fighting against impunity for perpetrators of serious crimes were threatened with death (*Burundi*, *DRC*, *Ethiopia*, *Guinea-Bissau*, *Kenya*) or rape (*DRC*), and subjected to arrests and judicial harassment (*Ethiopia*, *Gambia*, *Guinea*). In *Togo*, an organisation committed in the assistance to victims was also the subject of several burglaries.

More worrying still, a particular trend was confirmed this year, increasing the danger for human rights defenders. During the visits of Special Rapporteurs, human rights defenders who through their testimony questioned the actions of security forces were the target of direct attacks, as was the case in *Kenya*, where two defenders whose organisation had provided

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2/ The UN Security Council refused to consider the request of the AU to defer prosecution against Sudanese President Omar Al Bashir, the latter refusing to follow the provisions of Article 98 of the Rome Statute on Immunities regarding his arrest and transfer to the ICC. See AU Conference, *Decision on the Commission report on the meeting of African States Parties to the Rome Statute of the International Criminal Court*, Document Assembly/AU/Dec. 245 (XIII) Rev.1, July 3, 2009.

information to the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions were murdered in March.

## Repression of defenders of economic and social rights

### Defenders denouncing corruption, plunder of natural resources, organised crime or the embezzlement of public funds

In 2009, the increased repression of defenders of economic, social and cultural rights on the continent, especially those who exposed corruption, resulted in the murder of a defender in *Burundi* who worked on highly sensitive issues of corruption involving the highest authorities of the State, of a journalist who investigated the corruption of the police in *Kenya*, and of Mr. **John Igbiowubo**, who was killed in *Nigeria* during a peaceful demonstration against forced evictions and house demolitions by members of the elite unit responsible for controlling the insurgency in the Niger Delta<sup>3</sup>. Finally, in the *Republic of Congo*, a journalist who had blamed the authorities for corruption cases died as a result of the fire caused to his house under mysterious circumstances. Similarly, defenders fighting corruption received death threats (*Cameroon, DRC*), were assaulted (*Guinea Bissau*), victims of attempted murder (*Chad*) or were the subject of arrests and prosecutions (*Burundi, Cameroon, CAR, DRC, Gabon, Guinea-Bissau, Niger, Somalia, Zimbabwe*). Crackdowns also led to threats of closure of NGOs (*Chad, Gabon*), barriers to freedom of peaceful assembly and arbitrary arrests following demonstrations (*Cameroon, Kenya, Nigeria*). The case of the “ill-gotten gains” (“*biens mal acquis*”)<sup>4</sup> in particular had an impact on the harassment of defenders, including at the judicial level (*DRC, Gabon, Republic of Congo*).

### Repression of trade union movements

Trade union freedom also continued to be hampered in several countries on the continent. For example, *Ethiopia* and *Djibouti* authorities did not hesitate in establishing non-independent and non-representative trade unions and usurping the name, qualifications and role of trade unions already in existence. In other countries, obstacles led to the arrests of union leaders (*Gambia, Zimbabwe*) and obstacles to the freedom of association of trade unions (*Kenya, Nigeria*).

3/ See CLO.

4/ Judicial proceedings conducted in European countries against African leaders suspected of embezzling public funds to acquire luxury goods in Europe.

## Obstacles to freedom of association

In 2009, many States again made use of restrictive laws on freedom of association to regulate or muzzle civil society: intervention in the affairs of organisations (*Ethiopia*), dissolution or abusive freezing of assets (*Burundi*, *Sudan*). In addition, the adoption in early 2009 of a draft NGO Law under discussion for several years in Ethiopia created a highly restrictive environment for defenders. Any NGO with more than 10% of foreign funds – which is the case for 95% of Ethiopian NGOs – are now subject to very stringent rules. In *Rwanda* and *Uganda*, two draft amendments to the Criminal Code were also presented to Parliament in October and November respectively, in order to criminalise activities to promote awareness and advocate for the rights of lesbian, gay, bisexual and transgender people (LGBT). Faced with domestic and international pressure, the two governments finally abandoned or rejected projects, which represented a serious threat to the freedom of association. Finally, in *Rwanda*, the methods used by the authorities, in a more insidious way, tackled the legislative framework in which defenders operate. The recent adoption of draconian provisions on interception of communications, the fight against terrorism and regulation of the press has helped create a climate of fear and self-censorship throughout civil society.

## Ongoing repression against journalists exposing violations of human rights

While freedom of the press has gained ground in some countries like *Senegal*, restrictive legal framework and summons persisted during the year, and journalists denouncing human rights violations have met with death during the exercise of their functions. Thus, in *Somalia*, at least four journalists covering the chaotic situation facing the country were killed, including Mr. **Mohamed Amin Adan Abdulle**, a reporter with *Radio Shabelle*, and Mr. **Hassan Zubeyr Haji Hassan**, a cameraman for *Al-Arabia*<sup>5</sup>. As mentioned above, a journalist who was investigating corruption within the police force was tortured and murdered in Kenya.

The practice of their profession has again proven extremely difficult. Thus, several States continued to weigh on press offenses, and journalists faced prison sentences for “defamation”, “seditious publication” and “publishing false news”, especially in the context of denouncing embezzlement or challenging the Government such as in *Cameroon*, *Mauritania*, *Niger*, the *Republic of the Congo* or *Rwanda*, where journalists denouncing the atrocities and abuses committed by the authorities run the risk of being

accused of “genocide ideology”. Freedom of expression also remained restricted around the issue of armed conflict (*DRC*) and during elections (*Niger, DRC, Sudan*). In addition, some States like the *Republic of Congo* did not hesitate to manipulate the media to broadcast denigrating remarks on the advocacy and promotion of human rights.

### Urgent Interventions issued by The Observatory in 2009 on countries of the region for which there is no country fact-sheet

COUNTRY	Names	Violations / Follow-up	Reference	Date of Issuance
CAMEROON	Ms. Maximilienne Ngo Mbe and nine members of the Citizen's Association in Defence of the Collective Interest (ACDIC), including Messrs. Nono Théophile, Mowha Franklin and Bernard Njongang	Harassment / Threats	Urgent Appeal CMR 001/0309/OBS 042	March 9, 2009
CAMEROON	Mr. Jean Bosco Talla and Mr. Jean-Marc Bikoko	Threats	Joint Press Release	July 2, 2009
GABON	Messrs. Gregory Ngbwa Mintsa, Marc Ona Essangui, Georges Mpaga, Dieudonné Koungou and Gaston Asseko	Arbitrary arrests	Joint Press Release	January 6, 2009
	Messrs. Thierry Lévy, Ruphin Koulou, Gregory Ngbwa Mintsa, Marc Ona Essangui, Georges Mpaga, Dieudonné Koungou and Gaston Asseko		Press Release	January 9, 2009
			Press Release	January 14, 2009
GUINEA-CONAKRY	Messrs. Mamadou Kaly Diallo, Sékou Bamba, Thierno Amadou Sow, Laye Sangare, Alpha Amadou Bah, Thierno Souleymane Balde, Jean Kamano, Christophe Kone and Ms. Ibrahima Sidibe	Arbitrary detention	Press Release	October 30, 2009
GUINEA-CONAKRY	Mr. Mouktar Diallo	Arbitrary detention	Press Release	December 1, 2009
		Judicial harassment	Press Release	December 16, 2009
RWANDA	Mr. François-Xavier Byuma	Judicial proceedings	Urgent Appeal RWA 001/0607/OBS 059.2	February 6, 2009
RWANDA		Obstacles to freedom of association	Press Release	December 16, 2009

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# BURUNDI

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

The year 2009 was marked by significant progress in the implementation of the peace process from the 2000 Arusha Agreement and the preparation of five elections – including the election of President of the Republic by universal and direct vote – scheduled between May and September 2010. In particular, on April 18, 2009, members of the Party for the Liberation of Hutu People – National Forces of Liberation (*Parti pour la libération du peuple hutu – Forces nationales de libération – Palipehutu-FNL*) a rebel movement, definitively renounced the armed struggle and the movement was registered as a political party, the FNL, on April 21<sup>1</sup>. This decision suggests a real hope for peace in this country, which was in the grip of a bloody civil war for decades. The only drawback remains issues related to the fight against impunity for perpetrators of serious crimes and establishing transitional justice mechanisms, which are well behind schedule. National consultations on this theme were organised throughout the country.

While the end of the rebellions led to the preparation of the 2010 elections, issues of election-related security and resolution of electoral disputes remained sensitive. In the pre-election context, the National Council for the Defence of Democracy – Forces for the Defence of Democracy (*Conseil national pour la défense de la démocratie – Forces de défense de la démocratie – CNDD-FDD*), the ruling party, tried to control the outcome of elections to ensure its re-election, without hesitating to restrict spaces for democratic debate and tighten freedoms. Violations of the freedom of assembly of political parties were reported, as well as violence between young members of political parties.

Among the positive developments, the new Criminal Code promulgated by President Pierre Nkurunziza on April 22, 2009 abolished the death penalty, severely punished perpetrators of sexual violence and criminalised torture, genocide, war crimes and crimes against humanity. Moreover, the majority of criminality for children was raised from 13 to 15 years. However, this same Code provides, in Section 567, that persons found guilty of having homosexual relations can be sentenced to three months'



to two years' imprisonment and a fine of 50,000 to 100,000 francs CFA (75 to 150 euros), with sexual practices between people of the same-sex becoming illegal for the first time in the history of Burundi<sup>2</sup>.

Finally, during the Universal Periodic Review (UPR) of Burundi by the United Nations Human Rights Council in December 2008, a delay in the establishment of an independent National Commission on Human Rights was reported<sup>3</sup>. Although it was expected early 2009, the Bill remained on the Government's table throughout the year. The first version, which was not in accordance with the Paris Principles, would be presented to Parliament in early 2010.

### Attacks against defenders denouncing corruption

The year 2009 was marked by an intensification of repression against defenders fighting corruption. In the night of April 8 to 9, 2009, Mr. **Ernest Manirumva**, Vice-President of the Observatory for the Fight Against Corruption and Economic Embezzlement (*Observatoire de lutte contre la corruption et les malversations économiques* – OLUCOME) and also Vice-Chairman of the Regulatory Authority Procurement Committee (*Autorité de régulation des marchés publics*) and member of the National Committee for Monitoring and Management of Expenses in Heavily Indebted Poor Countries (*Comité national de suivi et de gestion des dépenses des pays pauvres très endettés*), was killed in Bujumbura by strangers, who also confiscated his documents. The same night, the door of his office was forced open and documents were stolen. Shortly before, Mr. Manirumva had been regularly threatened by phone or through flyers placed in his office or by attacks on websites. On January 5, 2009, some OLUCOME members had received threats ordering them to surrender certain records, including those relating to the misuse of public funds for the benefit of the Interpetrol society and the case of the presidential plane Falcon 50<sup>4</sup>. On January 7, 2009, a complaint was lodged with the Prosecution Mayor of Bujumbura, but no action had been taken. On April 10, 2009, an initial commission of inquiry was formed, but as it was deemed ineffective and incompetent to interrogate alleged perpetrators, it was replaced on April

2/ See Burundian and international NGOs Petition against the criminalisation of homosexuality in Burundi, April 24, 2009.

3/ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Burundi*, United Nations Document A/HRC/10/71, January 8, 2009.

4/ This case concerns the sale of the presidential jet Falcon 50 at the Delaware Corporation company at a price considered ridiculous and a shortfall, according to OLUCOME, by more than five billion CFA francs (approximately 3,153,482 euros). A committee was appointed following a resolution of the National Assembly on August 15, 2007 but its report was never discussed by the Assembly. See OLUCOME Letter, October 16, 2009.

22 by another judicial inquiry. In addition, the United States Federal Bureau of Investigation (FBI) and Interpol, as part of a collaboration by the police, acceded to the request for international support to Burundian civil society and delegated agents in the country to provide technical and logistical support. On October 8, 2009, in the absence of progress in the investigation, OLUCOME informed the Attorney General of the Court of Appeal of Bujumbura that he would serve as plaintiff in the case of Mr. Ernest Manirumva's assassination. On October 22, 2009, a third judicial commission of inquiry was formed, with Mr. Adolphe Manirazika, First Deputy to the Court of Appeal of Bujumbura, as President. As of the end of 2009, the investigation had still not progressed. Furthermore, on April 21, 2009, Mr. **Gabriel Rufyiri**, President of OLUCOME, received death threats by telephone following which he filed a complaint against persons unknown to the Public Prosecutor of Bujumbura town. However, as of late 2009, no action had been taken on this complaint.

### **Acts of harassment against defenders exposing miscarriages of justice**

In 2009, several lawyers were summoned by the judiciary, following a broadcast between July 14 and 16, 2009 after they denounced corruption in the High Court of Ngozi. Mr. **Marc Kirura**, journalist of *Radio publique africaine*, and the person he interviewed, Mr. **Stany Mbazumutima**, member of Ngozi branch of the Burundian Human Rights League Iteka (*Ligue burundaise des droits de l'Homme Iteka*), appeared before the Prosecutor of Ngozi on July 23, 2009 for questioning following a complaint for "false statements". Mr. **Jean Bosco Ndayiragije**, Head of the radio station, also appeared on July 28, 2009 before the Prosecutor of Ngozi. By decision of the National Communications Council (*Conseil national des communications*), all cases were subsequently closed due to lack of evidence<sup>5</sup>.

### **Obstacles to freedom of peaceful assembly**

In 2009, several meetings organised by civil society on human rights were banned in accordance with the Law on Public Meetings and Demonstrations of 1981. For instance, on June 29, 2009, a day of information and awareness on the national consultations for the establishment of transitional justice mechanisms, organised in the province of Karuzi by the Forum for the Strengthening of Civil Society (*Forum pour le renforcement de la société civile* – FORSC)<sup>6</sup> was banned on the grounds that the authorities had not been informed. Demonstrations denouncing

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5/ See Iteka League.

6/ The FORSC is an organisation that gathers 146 Burundian civil society associations with the aim of strengthening these associations' capacities.

Mr. Manirumva's assassination and calls for serious investigation and assaults suffered by albinos were also banned during the year<sup>7</sup>.

### Acts of harassment against defenders fighting impunity

In 2009, several human rights defenders and organisations were threatened and harassed because of their fight against impunity. For example, FORSC and its members suffered various acts of harassment after calling for a campaign to conduct serious investigations into the murders of Mr. Ernest Manirumva and Mr. Salvator Nsabirihho, who died on November 5, 2009 after being tortured by the guards of the Governor of Kayanza on October 13, 2009 during a case linked to the transfer of land plots. In mid-November 2009, the Delegate General of FORSC, Mr. **Pacifique Ninihazwe**, and Mr. **Pierre Claver Mbonimpa**, President of the Association for the Protection of Human Rights and Detained Persons (*Association pour la protection des droits humains et des personnes détenues* – APRODH), were placed under supervision by the National Intelligence Services. Similarly, on November 18 2009, FORSC, OLUCOME, Iteka League, the Observatory of Government Action (*Observatoire de l'action gouvernementale* – OAG) and APRODH published an Open Letter to the President of the Republic, to denounce the “unsustainable demonization” of civil society organisations indulged in by “some high administrative authorities”, including the Ministry of the Interior and the CNDD-FDD<sup>8</sup>. The same day, representatives of these five associations convened and met with the Minister of the Interior, who threatened to take “measures” against those organisations. Furthermore, on November 19, 2009, members of APRODH saw several people in the vicinity of the association's premises, monitoring the movements of its members. On November 21, 2009, Mr. Pacifique Ninihazwe received a series of anonymous death threats. Fearing for his safety, he had to live in hiding for over a month. Finally, on November 23, 2009, the Minister of the Interior signed an order rescinding the approval of FORSC, citing a technical error in the order, approved by that same ministry in May 2006. This is the first NGO to be banned in Burundi. In a letter dated December 5, 2009, the Minister reversed his decision suspending the effects of the order of November 23, and a technical committee consisting of four members of FORSC and three members of the Ministry of the Interior was appointed to overcome the crisis. The Ministry of the Interior considered that organisations without the legal status of non-profit association within FORSC should leave it. As of the end of 2009, FORSC had still not been re-registered as an association.

7/ See Iteka League.

8/ In particular, these organisations denounced the threats to their representatives, the prohibition of their protests and the surveillance of their members.

**Urgent Interventions issued by The Observatory in 2009**

<b>Names</b>	<b>Violations / Follow-up</b>	<b>Reference</b>	<b>Date of Issuance</b>
Mr. Ernest Manirumva	Assassination	Urgent Appeal BDI 001/0409/OBS 061	April 14, 2009
Forum for the Strengthening of Civil Society (FORSC) / Mr. Pacifique Ninihazwe	Obstacles to freedom of assembly / Threats / Intimidation	Urgent Appeal BDI 002/1209/OBS 176	December 1, 2009

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# CENTRAL AFRICAN REPUBLIC

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

In 2009, efforts made towards settling the conflict in northern Uganda between the Central African Armed Forces (*Forces armées centrafricaines* – FACA) and rebel groups were not accompanied by an enhanced respect for human rights. While the Central African Republic authorities launched a disarmament, demobilisation and reintegration programme in early 2009, by the year's end the process had not advanced due to resistance by the rebels of the Convention of the Patriots for Justice and Peace (*Convention des patriotes pour la justice et la paix* – CPJP)<sup>1</sup> and the Union of Democratic Forces for Unity (*Union des forces démocratiques pour le rassemblement* – UFDR). New massacres took place, with those responsible for past violations never having been prosecuted and a climate of general insecurity prevailing in the north-west. Summary executions of civilians, recruitment of child soldiers, sexual violence, torture and looting also caused the forced displacement of over 100,000 people<sup>2</sup>. In its report published in May 2009, the United Nations Special Rapporteur on Summary Executions noted that the most urgent issues to resolve remained protecting the population against crime, abolition of the state of general lawlessness, the fight against impunity and reform of the security forces, which are to a large extent absent of accountability<sup>3</sup>. The Lord's Resistance Army (LRA) also stepped up attacks in south-eastern regions of the Central African Republic following the bombardment of their camps in the Democratic Republic of Congo (DRC) during joint military operation conducted in December 2008 by Uganda, Sudan and the DRC.

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1/ The CPJP is headed by Mr. Charles Massi, who was several times minister under President Ange-Felix Patassé, overthrown in 2003, and the current President Francois Bozizé. On December 18, 2009, Mr. Massi was caught at the border with Chad and exchanged between Chadian President Idriss Deby and President Francois Bozizé on December 31, 2009.

2/ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review- Central African Republic*, United Nations Document A/HRC/12/2, June 4, 2009.

3/ See Human Rights Council, *Report of the Special Rapporteur on summary or arbitrary executions, Addendum - Mission to the Central African Republic*, United Nations Document A/HRC/11/2/Add. 3, May 27, 2009.

After the appointment in January 2009 of a consensus government, a Monitoring Committee of the Recommendations from the Inclusive Political Dialogue (*Comité de suivi des recommandations du dialogue politique inclusif* – CSDPI) was established on February 5, 2009 in preparations for the 2010 general elections. This committee, consisting of twenty-five members, included representatives of political parties, international, regional and sub-regional institutions and only two representatives of civil society. Preparations ahead of the 2010 elections occurred under tension, as evidenced by the promulgation of the Electoral Code on August 3, despite the fact that some parts were declared unconstitutional by the Constitutional Court, as well as the difficulties met during the nominations of members of a national independent electoral commission. The election date was also marked by the return of former President Ange-Felix Patassé, in exile in Togo since 2003, who reported his intention to run.

It is within this context that the Trial Chamber ordered on August 14, 2009 the provisional release of Mr. Jean-Pierre Bemba, former Vice-President of the Transitional Government in the DRC accused by the International Criminal Court (ICC) of being responsible for war crimes and crimes against humanity committed by the Congolese Liberation Movement (*Mouvement de libération du Congo* – MLC) in 2002 and 2003, when Mr. Patassé was presiding over the Central African Republic, causing fear on the part of victims and witnesses. On December 2, the ICC ordered on appeal the detention of the accused until the trial<sup>4</sup>.

Moreover, the media continued to be unable to report freely, especially on the armed conflict. For instance, on January 10, 2009, the newspaper *Le Citoyen* was denied publication for one month by a decision of the High Council of Communication (*Haut conseil de la communication* – HCC) for “insulting the authorities”, after categorising the Parliamentarians as “kpondas” (“insignificants” in Sango), arguing that the Parliament’s decisions only obeyed presidential will. The daily *L’Hirondelle* was also suspended by the HCC for a period of fifteen days from April 20, 2009 following its publication, on April 2, 2009, of an article alleged to have called for “the sedition of the armed forces”<sup>5</sup>. Although the daily published on April 3, 2009 the two rights of reply of the Ministry of Defence, the

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4/ See ICC Press Release, December 2, 2009.

5/ The article quoted a statement by the Collective of the Free Officers (*Collectif des officiers libres* - CORLC) led by former Army Captain Mr. Joaquim Kokaté, published on March 29, 2009 and which said President Bozizé was responsible for the lack of security in the country, accusing him *inter alia* of being “unpatriotic”. This statement further called for disobedience by the youth and refusal to go on a mission, considering the war as a ploy by the Government to hide the problems of governance.

HCC still felt that the newspaper had violated Article 29 of the Disclosure Act, which forbids any journalist to “put sovereignty in danger”<sup>6</sup>.

### Harassment and intimidation of defenders fighting against impunity

Human rights defenders fighting against impunity for international crimes committed in the Central African Republic, including those working for the ICC, continued in 2009 to be subject to threats and intimidation, as any attempt to denounce human rights violations was perceived as an attack on peace efforts, or support for rebels operating in the north and south-east. The presidential address on November 30, 2009 went to that effect, Mr. Francois Bozizé having issued the following hints on the eve of National Day on December 1: “Human rights, human rights ... the population from rebel areas also has rights, unfortunately human rights activists never talk about them ... If [it’s about] the presidential guard, then they speak”. Since the opening before the ICC in 2007 of the case “Prosecutor v. Jean-Pierre Bemba”, the lawyers, witnesses and families of the victims have been regularly subjected to threats, harassment and intimidation. For example, in the night of July 14-15, 2009, Mr. **Adolphe Ngouyombo**, President of the Movement for Human Rights and Humanitarian Action (*Mouvement pour les droits de l’Homme et d’action humanitaire* – MDDH), was shot by a bullet from an assault rifle in his living room. Mr. Ngouyombo works with victims of rape and sexual violence to ensure their right to justice<sup>7</sup>. In late 2009, no information had been obtained regarding the possible opening of an investigation. Similarly, the night after the women’s march held in Bangui on November 4, 2009 to protest the application for provisional release of Mr. Jean-Pierre Bemba and require the prosecution of his accomplices, Mr. **Erick Kpakpo**, Coordinator of the Organisation for Compassion and Development of Families in Distress (*Organisation pour la compassion et le développement des familles en détresse* – OCODEFAD), received anonymous death threats by telephone, the caller telling him to “go to the cemetery”<sup>8</sup>. In late 2009, no information had been obtained regarding the possible opening of an investigation into those threats. Furthermore, on November 17, Mr. **Mathias Morouba**, Vice-President of the Central African Observatory of Human Rights (*Observatoire centrafricain des droits de l’Homme* – OCDH), lawyer and assistant to the legal representative of victims in the “Prosecutor v. Jean-Pierre Bemba” case, received threats from a man identified as a supporter of Mr. Patassé. On November 18, 2009, a client of Mr. Morouba was also warned in his office and before witnesses that he

6/ See Journalists In Danger Press Release, April 22, 2009.

7/ See Organisation for Compassion and Development of Families in Distress (OCODEFAD).

8/ *Idem*.

was “disturbing” the “President” Patassé and that there was talk of him in meetings between supporters of the former President. The following week, Mr. Morouba complained to the Prosecutor, who referred the case to the police for an investigation to be opened<sup>9</sup>. Moreover, the Central African civil society remained deeply affected by the death, on December 27, 2008, of Mr. **Nganatouwa Goungaye Wanfiyo**, Chairman of the Central African League for Human Rights (*Ligue centrafricaine des droits de l’Homme* – LCDH) and lawyer who played a central role in denouncing human rights violations in the country, in unclear circumstances and which remained unresolved at the end of 2009.

### **Arbitrary detention and judicial harassment against defenders of the rights of refugees and the displaced**

In 2009, defenders who defended the rights of people displaced by armed conflict were also subject to harassment. For instance, on December 18, 2009, Mr. **Alexis Mbolinani**, Coordinator of the NGO “Youth United for Environmental Protection and Community Development” (*Jeunesse unie pour la protection de l’environnement et le développement communautaire* – JUPEDDEC), which defends the rights of refugees and displaced persons in the Upper-Mbomou after LRA incursions, was arrested in his home by policemen of the Research and Investigation Division (*section recherche et investigation* – SRI), while JUPEDDEC was due to receive funding from institutional donors in the days to come. The police also searched his home and confiscated his computer, his camera and his record collection. Mr. Mbolinani was arrested on a trumped up case against him, accusing him of collaborating with the LRA leader in Kenya, of being the focal point of the LRA in the Central African Republic, and of hiding weapons of war at home. Based on these false charges, Mr. Mbolinani was accused of “undermining the internal security of the State” and, on December 31, 2009, he was detained at the SRI, pending his trial<sup>10</sup>.

### **Urgent Intervention issued by The Observatory in 2009**

<b>Names</b>	<b>Violations / Follow-up</b>	<b>Reference</b>	<b>Date of Issuance</b>
Mr. Mathias Morouba	Harassment / Intimidation	Urgent Appeal CAF 001/1109/OBS 174	November 27, 2009

9/ On March 16, 2010, Mr. Morouba was contacted by the police to this effect.

10/ In April 2010, Mr. Mbolinani was finally released, with no explanation from the authorities.

See OCODEFAD.



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# CHAD

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

The armed attack against the Government in the capital by three rebel groups in February 2008 has left its mark. In this context, the United Nations Human Rights Committee denounced in August 2009 the acts of murder, rape, enforced disappearance, arbitrary detention, cases of torture, destruction of property, forced displacements and attacks against the civilian population perpetrated by the Chadian security forces<sup>1</sup>. Shortly after the offensive, the political and military authorities imposed a 15-day state of emergency, which relegated the question of human rights and fundamental freedoms to secondary importance. The power of the military increased, with the army benefitting from material and financial advantages and also total impunity. Furthermore, President Idriss Deby Itno continued to leave the opposition no room for manoeuvre and to put considerable pressure on the officials of civil society organisations after some of them refused to take part in marches in support of the Government that were initiated in February 2009 by the different ministries, including the Ministry of Human Rights.

On January 7, 2010, the President of the National Independent Election Commission (*Commission électorale nationale indépendante* – CENI) announced the election calendar<sup>2</sup>. Civil society stakeholders emphasised the fact that the prospect of elections constituted the sole progress made under the Global Political Agreement, for lack of introduction of a real dialogue on issues of governance and management of the State, particularly oil revenues and social injustice linked to the discrimination and favouritism enjoyed by Government allies<sup>3</sup>. Amongst other things, this agreement gave the rebels the chance to form a political party<sup>4</sup>. However, in May 2009, the start of fighting again between the rebels grouped within

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1/ See Human Rights Committee, *Concluding Observations of the Human Rights Committee*, United Nations Document CCPR/C/TCD/CO/1, August 11, 2009.

2/ In the framework of the Global Political Agreement concluded between the presidential majority and the radical opposition on August 13, 2007, the parliamentary elections should take place on November 28, 2010, followed by local elections on December 12, 2010 and the first round of the presidential elections, scheduled for April 23, 2011.

3/ See International Crisis Group Africa Report No. 65, August 26, 2009.

4/ See Chadian Association for the Defence and Promotion of Human Rights (*Association tchadienne pour la promotion et la défense des droits de l'Homme* - ATPDH).

the Union of Resistance Forces (*Union des forces de la résistance* – UFR) and Government forces once again threatened peace and security in the sub-region and also increased the risk of aggravating the humanitarian situation in the east of the country.

In this context, the United Nations Human Rights Committee reminded the Chadian Government, amongst other things, that it had an obligation to respect and protect human rights defenders and to lift non-conventional restrictions on freedom of association, freedom of the press and freedom of assembly<sup>5</sup>. Included in these provisions is Regulation No. 5, adopted in February 2008, which drastically restricts press freedom through provisions that penalise any critical reporting of sensitive subjects in Chad, notably Government business, the armed rebellion and ethnic relationships. This regulation had still not been repealed by the end of 2009.

Furthermore, although Chad gave political support to Senegal and promised financial support for trying former Chadian President Hissène Habré, accused for his presumed responsibility in the mass crimes committed under his regime, impunity remained commonplace in the country, and there was still no real political willingness to begin judicial proceedings against the holders of office under the Habré regime, guaranteeing senior positions in defence, security and civil administration institutions for the great majority<sup>6</sup>. Similarly, although the national commission of inquiry set up to investigate the repression that followed the N'Djamena attack in 2008 noted the responsibility of the Chadian army in the disappearance of political opponent Ibni Oumar Mahamat Saleh, no serious inquiry or judicial proceedings had been opened against those responsible by the end of 2009.

### **Intimidation of defenders who denounce impunity**

In 2009, defenders who were most at risk were again those who fight against impunity for the most serious crimes and abuses committed by agents of both the previous and the current State regime. As an example, human rights defenders working on the disappearance of Mr. Ibni Oumar Mahamat Saleh since February 3, 2008 were constantly under surveillance and exposed to threats and intimidation<sup>7</sup>. Furthermore, Messrs. **Michel Barka**, President of the Union of Chad Trade Unions (*Union des syndicats du Tchad* – UST), and **Tenebaye Massalbaye**, President of the Chadian

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5/ See Human Rights Committee, *Concluding Observations of the Human Rights Committee*, United Nations Document CCPR/C/TC/D/CO/1, August 11, 2009.

6/ See ATPDH.

7/ For security reasons, the names of the people concerned are not mentioned.

League of Human Rights (*Ligue tchadienne des droits de l'Homme – LTDH*), were particularly at risk after travelling in February 2009 to Paris and Brussels as delegates of the Monitoring Committee of the Appeal for Peace and Reconciliation (*Comité de suivi de l'appel à la paix et à la réconciliation – CSAPR*)<sup>8</sup> to alert the French authorities and European Union representatives on the political situation and law and order in Chad. In particular, they provided evidence concerning the blocking of implementation of the recommendations of the commission of inquiry set up to investigate the human rights violations committed during the coup d'état in February 2008. For instance, on October 13, 2009, while he was driving his car, Mr. Barka was tailed by several unmarked vehicles. An unidentified person wearing plain clothes then stopped in the middle of the road, blocking the way. In order to escape from what he believed to be an illegal arrest, Mr. Barka turned into another street. A motorbike followed him and its driver took advantage of Mr. Barka stopping and brandished a gun in his direction. Mr. Barka managed to escape. On the same day, and then again on October 14, 16 and 23, Mr. Massalbaye was also subjected to tailing and was watched by unidentified individuals. On October 23, around ten armed men entered his home while he was absent. On October 26, 2009, Messrs. Massalbaye and Barka filed a complaint against unknown persons with the Prosecutor General of the Republic for being followed and for attempted murder. The case was sent to the N'Djamena Court of First Instance. On October 20, 2009, Mr. Massalbaye was received by the Minister of the Interior and Public Security, accompanied by the Director of the national police, the Director of public security and the Director of intelligence services, who assured him that they would take all measures necessary to guarantee his safety and that of Mr. Barka, as well as open an extensive investigation into the facts. On October 29, 2009, the authorities took steps to guarantee the safety of Mr. Massalbaye. During five days, security officers were assigned to his home and police also accompanied him when he travelled around. As of the end of 2009, there had been no progress in the police investigation and the complaint to the Prosecutor. Furthermore, on October 26, 2009, Mr. **Bertin Djim-Ambingam**, a journalist with *Radio Arc en ciel* and a member of the Orientation, Strategy and Political Analysis Committee (*Comité d'orientation, de stratégie et d'analyse politique – COSAP*), one of the CSAPR bodies, was attacked by three people near his home. One of the attackers fired at him but was

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8/ CSAPR is the civil society follow-up structure for the Appeal for Peace and Reconciliation launched at the end of a day organised on November 16, 2002 in Chad to consider the issue of peace. This appeal was signed by 150 members of civil society, opposition political parties and hundreds of Government allies as well as representatives of religious denominations. The CSAPR is trying to organise national dialogue and to implement a procedure for national reconciliation.

unable to hit him. On the same day, he had broadcast a programme on modernisation of public life in Chad in which questions on good governance had been broached. One of the attackers was arrested on October 29, 2009 and then released. As of the end of 2009, there had been no progress in the police investigation.

### **Urgent Interventions issued by The Observatory in 2009**

<b>Names</b>	<b>Violations / Follow-up</b>	<b>Reference</b>	<b>Date of Issuance</b>
<b>Mr. Michel Barka and Mr. Massalbaye Tenebaye</b>	Attempted murder / Threats / Surveillance	Urgent Appeal TDC 001/1009/OBS 153	October 22, 2009
<b>Messrs. Michel Barka, Massalbaye Tenebaye and Bertin Djim-Ambingam</b>	Harassment	Urgent Appeal TDC 001/1009/OBS 153.1	October 30, 2009

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# DEMOCRATIC REPUBLIC OF CONGO

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

The “Kimia II” Operation – launched in the provinces of north and south Kivu in February 2009 by the Armed Forces of the Democratic Republic of Congo (*Forces armées de la République démocratique du Congo* – FARDC), and supported by the United Nations Mission in the DRC (MONUC) to neutralise the Democratic Forces for the Liberation of Rwanda (*Forces démocratiques pour la libération du Rwanda* – FDLR) and other rebel groups – ended on December 31, 2009. It took a very high toll on civilian populations and the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions described the results in terms of human rights as “catastrophic” following his visit conducted in October 2009. Humanitarian workers were also targeted several times while trying to help people affected by the conflict<sup>1</sup>. On August 23, 2009, Mr. Bruno Koko Chirambiza, a journalist from *Radio Star*, was assassinated by a group of eight armed men 150 metres from a police station in Bukavu, south Kivu, bringing the number of journalists killed in this city to three since 2007<sup>2</sup>. In the eastern province on the border with Uganda, operations by the FARDC and MONUC forces against the Lord’s Resistance Army (LRA), particularly since March 2009 as part of “Rudi II” Operation, also resulted in serious violations of human rights and humanitarian law, and reprisals against civilians by the LRA<sup>3</sup>. Furthermore, in order to avoid critical reporting on the security situation and the role of the army in the east, the Minister of Communication and Media warned journalists in February 2009 not to broadcast any information that would demoralise the FARDC. It is in this context that the contract of broadcasting of *Radio France internationale*, deemed too critical, was terminated on July 26, 2009 first in Bukavu and Bunia and then in the rest of the country<sup>4</sup>.

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1/ See UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, October 15, 2009.

2/ See Committee for the Protection of Journalists (CPJ) Press Release, August 24, 2009.

3/ *Idem*.

4/ See Journalists In Danger (*Journalistes en danger* - JED) Annual Report 2009, *Liberté de la presse au quotidien : entre la peur et la survie, l'état de la liberté de la presse en Afrique centrale*, December 15, 2009.

Following reports from international humanitarian and human rights organisations, the MONUC publicly announced that it would halt all cooperation with the offensives of the FARDC, accused of committing serious human rights violations. Its mandate, which was renewed by the Security Council in December 2009, now emphasises the role of the MONUC in the protection of civilians, including human rights defenders.

In March 2009, seven UN Special Procedures<sup>5</sup> recommended the Congolese authorities to fight impunity and strengthen the areas of law and order and justice, to reform the security sector, to prevent re-recruitment of children by armed groups, to protect the rights of women and ensure gender equality in law and society, to deal with underlying economic causes of human rights violations, to protect the rights of internally displaced peoples and minorities, and to ensure access to health care<sup>6</sup>.

Furthermore, impunity generally prevailed. For instance, General Bosco Ntaganda, who has an arrest warrant issued against him by the International Criminal Court (ICC), continued to operate among the FARDC and the authorities refused to transfer him to the ICC. During the Universal Periodic Review (UPR) of the UN Human Rights Council, the DRC authorities also rejected all recommendations to fight against impunity in the FARDC, to establish a monitoring mechanism to exclude known perpetrators of serious human rights violations and put an end to intimidation, threats and arrests of human rights defenders and journalists, and to release the remaining political prisoners<sup>7</sup>. Meanwhile, January 26, 2009 marked the beginning of the ICC trial of Mr. Thomas Lubanga, which represents a milestone in the fight against impunity<sup>8</sup>. Indeed, this is the first case before an international court for which the use of child soldiers is being considered as a war crime. The trial of Messrs. Germain Katanga

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5/ The Special Rapporteur on Violence Against Women, its Causes and Consequences, the Secretary-General Representative for Human Rights of Indigenous People, the Special Rapporteur on the Independence of Judges and Lawyers, the Special Rapporteur on the Right of Everyone to the Highest Attainable Standard of Physical and Mental Health, the Special Rapporteur on the Situation of Human Rights Defenders, the Special Rapporteur on the Question of Human Rights and Transnational Corporations and Other Businesses and the Special Representative of the Secretary-General for Children and Armed Conflict.

6/ See Human Rights Council, *Combined report of seven thematic special procedures on technical assistance to the Government of the Democratic Republic of the Congo and urgent examination of the situation in the east of the country*, UN Document A/HRC/10/59, March 5, 2009.

7/ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review\* - Democratic Republic of the Congo*, UN Document A/HRC/13/8, January 4, 2010.

8/ See Declaration of the European Union Presidency after the opening of Mr. Thomas Lubanga's trial before the ICC in January 2009, January 28, 2009.

and Mathieu Ngudjolo Chui for “war crimes” and “crimes against humanity” committed in the Ituri district also started on November 24, 2009.

Similarly, during her visit to the DRC from May 21 to June 3, 2009, the UN Special Rapporteur on the Situation of Human Rights Defenders noted a “widespread impunity for violations committed against human rights defenders”<sup>9</sup>. Indeed, complaints filed by defenders and those seeking justice due to violations of human rights defenders are rarely subject to a serious investigation, and often the trial does not respect the right to a fair trial. This context of impunity is compounded by the lack of operational mechanisms to ensure the protection of defenders. In south Kivu, the Provincial Assembly was declared incompetent and rejected a proposed edict protecting defenders brought by Deputy Ngongo on February 14, 2009. Moreover, the protection programme for witnesses and human rights defenders in eleven provinces set up by MONUC, with funding from the European Union, does not seem to produce the desired results<sup>10</sup>. In addition, defenders were regularly stigmatised by the authorities and by non-State actors, who presented them as “enemies”, “traitors” or “opponents”, exposing them to serious dangers<sup>11</sup>.

### Harassment of defenders calling for the preservation of democracy

Throughout the year, advocates raising questions about democracy in the DRC were subject to harassment. Thus, on March 24, 2009, Mr. **Davy Shabani**, Head of Communications for the Collective of Youth Organisations Supportive of the Congo (*Collectif des organisations des jeunes solidaires du Congo – COJESKI*), was threatened through an anonymous phone call. On March 13, members of COJESKI had co-signed an Open Letter to the President of the Republic to denounce the forced resignation of Mr. Vital Kamerhe<sup>12</sup>, and on March 24, the COJESKI had published a report on the inter-institutional crisis in the DRC. On March 26, two unidentified gunmen appeared at the home of Mr. Shabani, who was absent, and between April 2 and 5, several people looking like soldiers in plain clothes monitored the premises of COJESKI. Fearing reprisal, Mr. Shabani fled the DRC on April 28, 2009. Neither COJESKI nor the members of the Synergy of Civil Society Organisations in the DRC (*Synergie des organisations de la société civile de la RDC*),

9/ See UN Special Rapporteur on the Situation of Human Rights Defenders Press Release, June 3, 2009.

10/ See Human Rights Council, *Combined report of seven thematic special procedures on technical assistance to the Government of the Democratic Republic of the Congo and urgent examination of the situation in the east of the country*, UN Document A/HRC/10/59, March 5, 2009.

11/ See UN Special Rapporteur on the Situation of Human Rights Defenders Press Release, June 3, 2009.

12/ The President of the National Assembly of the DRC, forced to resign on March 25, 2008 for having criticised Rwanda's participation in an operation against Rwandan Hutu rebels in eastern DRC.

in which COJESKI participates, filed a complaint, discouraged by the lack of follow-up to complaints submitted by defenders. On March 15, 2009, officials of the armed national police and others in plain clothes arrested Mr. **Floribert Chebeya Bahizire**, Executive Director of Voice of the Voiceless (*Voix des sans-voix* – VSV), National Executive Secretary of the National Network of Human Rights NGOs Rights of the DRC (*Réseau national des ONG des droits de l'Homme de la RDC* – RENADHOC) and member of OMCT General Assembly, Mr. **Dolly Ibefo Mbunga**, VSV Deputy Executive Director, Mr. **Donat Tshikaya**, Responsible for Reception at RENADHOC, and Mr. **Coco Tanda**, a cameraman for *Canal numérique télévision* (CNTV). The arrest followed a press conference on the inter-institutional crisis in the DRC that had been held at the headquarters of RENADHOC in Barumbu, and which aimed at announcing a peaceful march and rally outside the Hall of the People on March 16 and submitting a memorandum to the Chairmen of the Senate and National Assembly calling for the preservation of democracy in the DRC. During a raid by police at the headquarters of RENADHOC, computer equipment, office material and a camera belonging to the privately-owned Canal Congo TV were seized. Messrs. Floribert Chebeya Bahizire, Dolly Ibefo Mbunga, Donat Tshikaya and Coco Tanda were held incommunicado at the National Intelligence Agency (*Agence nationale de renseignements* – ANR) in Kinshasa / Gombe before being taken in the evening to solitary confinement at Kin Maziere, headquarters branch for the General Information and Special Services (*Direction des renseignements généraux et des services spéciaux* – DRGS) of police. During their detention, the four men were abused. On March 17, they were released without any charges against them. The Synergy of Civil Society Organisations in the DRC filed a complaint on March 17 with the Attorney General of the Republic, which had not been addressed as of the end of 2009.

### **Reprisals against defenders fighting against impunity for serious crimes**

In 2009, all security and police forces, the ANR, the Republican guard, the DRGS and the Military Detection of Anti-Patriotism (*Détection militaire des activités anti-patrie* – DEMIAP) continued to seek to silence anyone denouncing the abuses they commit, and these acts generally went unpunished<sup>13</sup>. For instance, as of the end of 2009, the murder of Messrs. **Serge Maheshe** in 2007 and **Didace Namujimbo** in 2008, journalists of *Radio Okapi*, which plays a key role in the fight against violence, particularly in

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13/ See UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions Press Release, October 15, 2009.



eastern DRC, remained unpunished<sup>14</sup>. On April 20, 2009, members of the FARDC military base in Muanda Kitona, Bas-Congo, repeatedly threatened to kill Mr. **Willy Iloma Ikilelo**, President of the human rights NGO “Brotherhood of Rights of the Child” (*Fraternité des droits de l’enfant* – FDE), which had denounced the acts of abuse against two women soldiers on *Radio Okapi.net*. In late 2009, no information had been obtained regarding the possible opening of an investigation into those threats. In addition, in Kisangani on September 18, 2009, during a military parade at the Sergeant Ketele military camp and a briefing held the same day at the headquarters of the Ninth Military Region, Brigadier General John Claude Kifwa attacked the report of the Lotus Group (*Groupe Lotus – GL*), entitled *Evaluation de l’implication de l’Etat congolais dans la lutte contre l’impunité des crimes graves et violations massives et flagrantes des droits humains commis en République démocratique du Congo de novembre 2002 à mai 2009*<sup>15</sup>, published in May 2009, as well as its Chairman, Mr. **Dismas Kitenge**, calling him a “lunatic” and “corrupt to blow \$100 for writing false reports and conducting smear campaigns against himself and the Congolese authorities”. Mr Kitenge was accused of “working on behalf of foreign powers seeking to destabilise the Congolese Government”, of “tarnishing the image of the Congolese army”, of having “nothing to contribute to the development of the eastern province” and, finally, of “wanting to disturb the peace in this province as a non-native”. The statements issued at the press briefing aired during two days in the television news and various stations of the Congolese army on *Radio télévision nationale congolaise de Kisangani* as well as several radio and TV stations. In addition, on October 5, 2009, Mr. Dismas Kitenge received an oral ban to leave the city of Kisangani by officials of the Directorate General of Migration (*Direction générale de migration* – DGM) and from the ANR posted at the international airport of Bangboka, Kisangani. The next day, he was finally able to leave the country to The Hague (The Netherlands), where he attended appointments with the ICC<sup>16</sup>.

### **Acts of harassment against women defenders denouncing sexual violence**

Women defenders who denounce sexual violence committed by the army and with impunity were also particularly exposed. For example, during the

14 / After having been postponed several times in 2009, the trial for the murder of Mr. Namujimbo finally began on January 7, 2010 before the Military Tribunal in Bukavu.

15 / *Evaluation of the involvement of the Congolese in the fight against impunity for serious crimes and mass and flagrant human rights violations committed in the Democratic Republic of Congo from November 2002 to May 2009*.

16 / See GL Press Release, October 6, 2009.

night of October 1, 2009, eight men broke into the home of Ms. **Rebecca Agamile**, Treasurer of the Women's Association for Solidarity, Peace and Integral Development (*Solidarité féminine pour la paix et le développement intégral* – SOFEPADI) in Bunia. The men accused her of blaming men belonging to armed groups for human rights violations. They threatened to rape and kill her and her daughter, and robbed her of her personal belongings, including her mobile phone. On October 7, relatives of Ms. Agamile received a call from the mobile phone stolen by the attackers. The caller again made threats against Ms. Agamile, who complained. As of late 2009, no investigation had been opened<sup>17</sup>. Likewise, the assaults in 2008 of defenders because of their activities for the disclosure of sexual violence went unpunished in 2009, like the assassination of Ms. **Wabihu Kasubi**, in charge of monitoring within the organisation Voice of Those with no Voice nor Freedom (*Voix des sans voix ni liberté* – VOVOLIB) and Counsellor at the listening house for victims of sexual violence in Panzi, who was killed on May 18, 2008 in south Kivu, and the attack in November 2008 against Ms. **Noella Usumange Aliswa**, SOFEPADI Coordinator in the town of Bunia<sup>18</sup>.

### Harassment of defenders of economic and social rights

In 2009, defenders of economic and social rights were subjected to numerous acts of harassment because of the sensitivity of the issues raised in the context of their activities. Faced with this situation, the Committee on Economic, Social and Cultural Rights adopted a recommendation on the protection of human rights defenders in the DRC<sup>19</sup>.

#### Obstacles and acts of judicial harassment against defenders denouncing poor working conditions

Those who denounced poor working conditions suffered retaliation in 2009. For example, on August 31, 2009, Mr. **Robert Ilunga Numbi**, National President of Friends of Nelson Mandela in the Defence of Human Rights (*Amis de Nelson Mandela pour la défense des droits humains* – ANMDH) in the province of Bas-Congo, Ms. **Marie-Thérèse Kalonda**, in charge of the programme “Woman and Family” within the ANMDH, Mr. **Jean-Paul Itupa**, Public Relations Officer in the Kalamu branch of ANMDH, and Mr. **Ndumba Toutou**, a member of the ANMDH, were

17/ See League of Electors (*Ligue des électeurs*).

18/ Although the Military Prosecutor took Ms. Usumange Aliswa's case, three suspects arrested were subsequently released one after the next.

19/ See Committee for Economic, Social and Cultural Rights, *Final Observations of the Committee for Economic, Social and Cultural Rights - Democratic Republic of the Congo*, UN Document E/C.12/COD/CO/4, December 16, 2009.

arrested without a warrant at their workplace in Matonge by two ANR agents. The arrest came two weeks after the publication by the ANMDH of a press release denouncing the working conditions of workers in the General Industrial Society (*Société générale industrielle* – SGI), and following a press conference on August 24, 2009 in Kinshasa on the same subject. While Ms. Kalonda, Mr. Itupa and Mr. Toutou were all released later that evening, Mr. Ilunga Numbi was held in custody on the premises of the ANR in Kinshasa/Gombe for nine days instead of the 48 hours prescribed by law, without the reasons for his arrest communicated to him and without access to his lawyer. He was referred to the Prosecutor of Kinshasa on September 8, when he was formally charged with “defamation”, “incitement to rebellion” and “incitement to civil disobedience to the public authorities”, and taken to the central Kinshasa prison. On September 28, the High Criminal Court (*Tribunal de grande instance* – TGI) in Gombe ordered Mr. Ilunga Numbi’s provisional release, after having paid a bail of 20,000 Congolese francs and one thousand dollars (equivalent to a total of approximately 700 euros). However, the conditions of his release, including the fact that the court did not want to set a record for the decision, prevents him from freely exercising his activities. As of the end of 2009, he remained sued for libel. Furthermore, Messrs. Chebeya and Ibefo Mbfunga, who had planned a peaceful demonstration in support of Mr. Ilunga Numbi at the Summit of the South African Development Community (SADC), which was held in Kinshasa on September 7 and 8, had to cancel the event after being threatened with arrest.

### **The fight against corruption: a high-risk activity**

In 2009, defenders fighting against corruption were regularly subjected to harassment. Thus, on January 19, 2009, Mr. **Nginamau Malaba**, President of the Union Committee at the Ministry of National Economy and Commerce, was arrested by five officers of the ANR while he was preparing to submit a memorandum denouncing the embezzlement of public funds by the Minister of National Economy and Foreign Trade and demanding the surrender of revenue made via bonus and incentive payments to Ministry officials. Mr. **Richard Kambale Ndayango** and Mr. **Israël Kanumbaya Yambasa**, two other union signatories of the memorandum submitted by Mr. Malaba, were arrested on January 11 and 16, 2009. On February 19, Mr. Malaba went before the Instructing Magistrate at the Bokango Office of the Prosecutor General of Gombe in Kinshasa after a complaint was lodged by the Minister of National Economy and Foreign Trade. At the hearing, the Bokango magistrate refused to consider the complaint lodged by Mr. Malaba on his arrest and arbitrary detention by the ANR, nor the torture he underwent during that time. On February 23, Messrs. Malaba, Ndayango and Yambasa were transferred to

the Penitentiary and Re-education Centre in Kinshasa (*Centre pénitentiaire et de rééducation de Kinshasa* – CPRK). On February 26, the Court of Peace of Kinshasa/Gombe ordered their release pending trial, but they were detained following an appeal by the prosecution. On March 19, the TGI of Kinshasa/Gombe ordered bail on appeal. On March 23, Messrs. Nginamau Malaba, Richard Kambale Ndayango and Israël Kanumbaya Yambasa were released after having paid a bail of 150 dollars per person (equivalent to approximately 110 euros). As of the end of 2009, they remained within the scope of a complaint lodged by the Minister of National Economy and Foreign Trade, which alleges that “officers of [its] Ministry” made a false travel order, in which names of the three defenders would appear at any time. All three were abused during their detention. Yet, in late 2009, no investigation into the acts of abuse had been opened, although the Bokango magistrate did inform their lawyer that the Prosecutor’s Office in Kinshasa/Gombe would forward the matter to court.

### **Sensitive issues in the management of natural resources**

Defenders of economic and social rights denouncing the Congolese and foreign mining companies that develop their activities outside of the national legal framework and international instruments, particularly in the provinces of Katanga and Equateur, and the environmental consequences of these activities, continued to be exposed to threats and obstacles in the course of their work. In addition, local authorities, which enjoy a certain freedom from the central Government, were regularly accused of collusion with some of these companies by the defenders and lawyers in the region, which caused them to be the target of these same authorities. The harassment suffered by Mr. **Golden Misabiko**, President of the Katanga branch of the African Association for the Defence of Human Rights (*Association africaine pour la défense des droits de l’Homme* – ASADHO/Katanga), is particularly emblematic of this situation. On July 24, 2009, Mr. Misabiko was arrested by the ANR/Katanga following the publication by ASADHO/Katanga of a report alerting readers to the dangers of artisanal mining of uranium in violation of Shinkolobwe Presidential Decree No. 04/17 of January 27, 2004. When the judge sat to consider the request for continued detention made by the prosecution, the Minister of Communication and Media, Mr. Mende Omalanga, held a press briefing in Kinshasa, during which he attacked the activities of the FIDH and its member organisations in the DRC and expressed the Government’s desire to prosecute Mr. Misabiko. Mr. Misabiko was remanded into custody until August 20, before being released on bail for medical reasons. On September 21, the Court of Peace of Lubumbashi sentenced Mr. Golden Misabiko to a one year suspended sentence following a trial marred by numerous irregularities. Lawyers for Mr. Misabiko appealed that deci-

sion but, as of the end of 2009, the appeal had not yet occurred. In addition, on August 6, 2009, a peaceful demonstration that a group of 17 civil society organisations held in support of Mr. Golden Misabiko to demand his immediate release was banned by the Mayor of Lubumbashi. The show of support was finally held on August 7, after having informed the authorities, and resulted in the arrest of Messrs. Dismas Kitenge, Floribert Chebeya, **Timotheé Mbuya**, Vice-President of the Katanga branch of ASADHO, **Jean-Marie Kabanga**, a member of the Evangelical Non-Violent Action Group (*Groupe d'action non violente évangélique*), and **Elie Kadima**, member of the Movement for Human Rights and Reconciliation (*Mouvement pour les droits de l'Homme et la réconciliation*). All were released without charge several hours later. Finally, in September 2009 in Lubumbashi, many defenders who had supported the report of ASADHO/Katanga were threatened with reprisals. Thus, on September 16, 17, 18 and 21, 2009, Mr. **Emmanuel Umpula**, Executive Director of Action Against Impunity for Human Rights (*Action contre l'impunité pour les droits humains – ACIDH*), Mr. Timothy Mbuya, Mr. **Grégoire Mulamba**, member of the Centre for Human Rights and Humanitarian Law (*Centre pour les droits de l'Homme et le droit humanitaire*), and Ms. **Dominique Munongo**, member of the Centre for Development for Women (*Centre de développement pour la femme – CDF*), received threats from the same phone number. On September 17, 2009, Mr. Umpula, Mr. Mbuya, Mr. Mulamba and Ms. Munongo complained to the Prosecutor but, as of the end of 2009, no serious investigation had been conducted. On September 28, Messrs. Umpula and Mbuya, fearing for their lives, left Lubumbashi until November, but continued to receive threatening messages, which prevented them from fully resuming their activities. Ms. Munongo had to leave Lubumbashi from September 29 to October 3. She received new threats following an interview on *Radio Okapi* on October 14, 2009. Furthermore, on October 18, 2009, Mr. Mulamba was kidnapped by two men while returning home by taxi. These men threatened him with a firearm after having blindfolded him and dropped him off at night in the cemetery of Gecamines, near Lubumbashi. Mr. Mulamba complained to the Prosecutor of Lubumbashi in December 2009.

### Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Paul Henry Mundela and Mr. François Toussaint Kalonda Omanyana	Arbitrary detention / Risk of torture	Urgent Appeal COD 001/0109/OBS 011	January 21, 2009
Mr. Nginamau Malaba	Arbitrary detention / Risk of torture	Urgent Appeal COD 002/0209/OBS 026	February 17, 2009

<b>Names</b>	<b>Violations / Follow-up</b>	<b>Reference</b>	<b>Date of Issuance</b>
<b>Messrs. Nginamau Malaba, Richard Kambale Ndayango and Israël Kanumbaya Yambasa</b>		Urgent Appeal COD 002/0209/OBS 026.1	February 19, 2009
		Urgent Appeal COD 002/0209/OBS 026.2	February 26, 2009
	Arbitrary detention / Judicial harassment / Torture and ill-treatment	Urgent Appeal COD 002/0209/OBS 026.3	March 12, 2009
	Release / Prosecution / Ill-treatment	Urgent Appeal COD 002/0209/OBS 026.4	March 24, 2009
<b>Messrs. Floribert Chebeya Bahizire, Dolly Ibefo Mbfunga, Donat Tshikaya and Coco Tand</b>	Arbitrary detention / Fear for physical safety / Search	Urgent Appeal COD 003/0309/OBS 049	March 16, 2009
	Release / Inhuman and degrading treatment	Urgent Appeal COD 003/0309/OBS 049.1	March 18, 2009
<b>Messrs. Eric Muvomo, Raymond Badesirwe Namalingo and Peter Kihuha Byagolo / Association Against Malnutrition and for Youth Education (ACMEJ)</b>	Threats	Urgent Appeal COD 004/0309/OBS 050	March 23, 2009
<b>Mr. Fernandez Murhola and Mr. Davy Shabani / Collective of Organisations of Youth Solidarity in Congo-Kinshasa (COJESKI)</b>	Threats / Judicial harassment	Urgent Appeal COD 005/0409/OBS 056	April 1, 2009
<b>Mr. Willy Iloma Ikilelo</b>	Death threats	Urgent Appeal COD 006/0509/OBS 074	May 14, 2009
<b>Mr. Golden Misabiko and Mr. Timothée Mbuya</b>	Arbitrary detention / Release	Urgent Appeal COD 007/0709/OBS 110	July 27, 2009
	Arbitrary detention / Judicial harassment	Press Release	July 30, 2009
		Urgent Appeal COD 007/0709/OBS 110.1	August 5, 2009
	Arbitrary detention / Judicial harassment / Obstacles to freedom of peaceful assembly	Urgent Appeal COD 007/0709/OBS 110.2	August 7, 2009
<b>Messrs. Golden Misabiko, Dismas Kitenge, Floribert Chebeya, Timothée Mbuya, Jean-Marie Kabanga and Elie Kadima</b>	Arrest / Release / Arbitrary detention / Obstacles to freedom of peaceful assembly	Urgent Appeal COD 007/0709/OBS 110.3	August 10, 2009
<b>Mr. Golden Misabiko</b>		Urgent Appeal COD 007/0709/OBS 110.4	August 18, 2009
	Provisional release / Judicial harassment	Urgent Appeal COD 007/0709/OBS 110.5	August 26, 2009
	Judicial harassment	Press Release	September 2, 2009
		Urgent Appeal COD 007/0709/OBS 110.6	September 4, 2009

Names	Violations / Follow-up	Reference	Date of Issuance
		Urgent Appeal COD 007/0709/OBS 110.7	September 15, 2009
	Condemnation	Urgent Appeal COD 007/0709/OBS 110.8	September 22, 2009
		Press Release	November 25, 2009
Mr. Dismas Kitenge	Threats / Harassment	Urgent Appeal COD 008/0709/ OBS 112	July 31, 2009
	Defamation campaign	Urgent Appeal COD 009/0909/OBS 137	September 22, 2009
Committee of Observers of Human Rights (CODHO) and Centre for Studies and Popular Training for Human Rights (CEFOP-DH) / A member of the CEFOP-DH	Aggression / Ill-treatment / Theft / Acts of intimidation	Urgent Appeal COD 009/0809/OBS 115	August 7, 2009
Ms. Marie-Thérèse Kalonda and Messrs. Jean-Paul Itupa, Robert Ilunga Numbi and Ndumba Toutou	Arrest / Arbitrary detention	Urgent Appeal COD 007/0909/OBS 132	September 2, 2009
Mr. Robert Ilunga Numbi	Provisional release / Judicial harassment	Urgent Appeal COD 007/0709/OBS 132.1	October 8, 2009
		Press Release	November 25, 2009
Messrs. Emmanuel Umpula, Timothée Mbuya and Grégoire Mulamba / Action Against Impunity for Human Rights (ACIDH), African Association for the Defence of Human Rights, Katanga branch (ASADHO-Katanga), Centre for the Development of Women (CDF) and Centre for Human Rights and Humanitarian Law (CDH)	Death threats	Urgent Appeal COD 008/0909/OBS 136	September 18, 2009
Messrs. Emmanuel Umpula, Timothée Mbuya, Grégoire Mulamba and Ms. Dominique Munongo	Death threats	Urgent Appeal COD 008/0909/OBS 136.1	September 22, 2009
Defenders of economic, social and cultural rights	Harassment	Note of Situation to the Committee on Economic, Social and Cultural Rights	October 26, 2009
		Press Release	November 25, 2009

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# DJIBOUTI

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

In 2009, the global economic crisis added to the many failings of the public services and denunciation was severely repressed, in a country where demonstrations are systematically repressed. As an example, on October 4, 2009, 189 young Djiboutians aged from 11 to 16 years old were arrested in Djibouti City following a demonstration to denounce electricity cuts and, in particular, cuts in drinking water that can sometimes last for several days. The 189 young people were brought to emergency trial in the middle of the night, without any lawyers, for “disturbing public order” and were all sentenced to six months’ imprisonment. Although the President pardoned 130 of them on October 15, 2009, around thirty were still held in Gabode prison on December 31, 2009<sup>1</sup>. In addition, the request for special permission to visit the young detainees made to the Minister of Justice by the Djibouti League of Human Rights (*Ligue djiboutienne des droits humains* – LDDH), which had undertaken to make an independent report on the events, remained unanswered as of the end of 2009<sup>2</sup>.

Furthermore, in its analysis of the human rights situation, the rule of law, democracy and governance in all the countries of the Horn of Africa, the European Parliament expressed great concern regarding credible reports of arbitrary arrests, forced labour, torture and ill-treatment of prisoners and persecution of journalists in Djibouti. In addition, the European Parliament called on the Djibouti authorities to protect the political rights of opposition parties and independent human rights organisations, including full guarantees of press freedom, freedom of assembly and freedom of expression<sup>3</sup>. Indeed, there is still very little room for manoeuvre for all the actors of public life, with strict control of their activities, particularly of meetings, and self-censorship of the already limited number of media, for fear of arrest. The European Parliament also stressed the need for a meaningful dialogue between Government and opposition, leading to

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1/ See Association for the Respect of Human Rights in Djibouti (*Association pour le respect des droits de l’Homme à Djibouti* - ARDH) Alerts, October 4 and 15, 2009 and January 17, 2010.

2/ See LDDH Open Letter to the authorities, October 12, 2009.

3/ See European Parliament Resolution P6\_TA (2009)0026 on the situation in the Horn of Africa, January 15, 2009.



adaptation of the electoral law to permit fairer representation of existing political parties in Parliament<sup>4</sup>.

Finally, during the Universal Periodic Review by the United Nations Human Rights Council in February 2009, Djibouti refused recommendations relating to necessary guarantees of trade union freedom and calling for an end to physical and judicial harassment of union representatives and intimidation of journalists<sup>5</sup>.

### **Judicial harassment of a defender who denounced malfunctions of justice**

In 2009, Mr. **Jean-Paul Noël-Abdi**, President of LDDH, continued to be subjected to harassment, particularly following his denunciation of malfunctions of justice. On April 4, 2009, members of the Search and Documentation Centre (*service de recherche et de documentation* – SRB) of the national gendarmerie arrested him in the town centre of the capital of Djibouti, without presenting an arrest warrant. He was verbally informed that the arrest followed “public insults of the judicial authorities” that he had apparently made in a briefing note dated March 26, 2009 in which he had condemned the serious derelictions of the Djiboutian justice system, especially its lack of independence, illustrated by the lack of justification and drafting of certain judgements and judicial rulings, particularly in sensitive trials such as that of Father Sandro De Pretis, an Episcopal Vicar accused of paedophilia<sup>6</sup>. Mr. Noël-Abdi was then taken to the northern brigade of the Djibouti gendarmerie before being placed in custody. On April 5, 2009, Mr. Noël-Abdi was deferred before the court for an immediate hearing by the Deputy Prosecutor under the flagrant offence procedure. He was then questioned by the Examining Magistrate before being released. In compliance with the terms of the magistrate’s ruling, Mr. Noël-Abdi was placed under judicial control and required to register regularly at the Examining Magistrate’s office while waiting for an investigation to be started against him. Mr. Noël-Abdi benefited from a discharge on June 7,

4/ The Movement for Democratic Renewal and Development (*Mouvement pour le renouveau démocratique et le développement* - MRD) opposition party was indeed still banned by a simple presidential decree dated July 2008. See LDDH Briefing Note, February 28, 2009.

5/ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Djibouti*, United Nations Document A/HRC/11/16\*, October 5, 2009.

6/ Father Sandro De Pretis, an Italian Catholic priest held in preventive detention in Djibouti since October 28, 2007 for “receiving stolen goods” and “distribution of child pornography pictures”, was sentenced on March 26, 2009 to three months and four days in prison, plus a suspended sentence bringing the total to five months in prison. The Prosecutor of the Republic of Djibouti who ordered this arrest is himself subject to an arrest warrant issued by the French Government, accusing him of corrupting witnesses in the Borrel affair. LDDH noted many procedural irregularities.

2009 and is therefore free to travel. He is nevertheless, at his own request, still waiting for a ruling for dismissal of the case due to the absence of any complaint filed during questioning in the Examining Magistrate's office. In addition, the proceedings opened against Mr. Jean-Paul Noël-Abdi in 2007 by the Djibouti armed forces were marred by irregularities once again this year<sup>7</sup>. The trial was postponed *sine die* by the Supreme Court on November 29, 2008. A new date for the hearing was set for April 14, 2009 then postponed to April 19, 2009, without respecting the period allowed for Mr. Noël-Abdi to prepare his defence. Furthermore, no response was received to three letters sent on November 5 and 12 and April 14, 2009 by Mr. Tubiana, the French lawyer assisting in the defence of Mr. Noël-Abdi, in order to plead before the court on behalf of his client, although other foreign and Djibouti lawyers have been able to plead before the Supreme Court in other cases. A hearing was finally set on October 17, 2009 then postponed to January 17, 2010<sup>8</sup>. Apart from the April 2009 postponement, all the other postponements by the Supreme Court were decided on without any prior ruling on postponement.

### **Continuing obstacles to trade union freedom**

In 2009, several trades unions were again prevented from carrying out their work and filed numerous complaints with the International Labour Organisation (ILO) during its 98th Conference, held in Geneva (Switzerland) from June 2 to 19, 2009, relating to obstacles to trade union activities<sup>9</sup> and to a disagreement regarding workers' representation at the conference. Each year, this event indeed crystallises attacks on trade union freedom in Djibouti, with the unsatisfactory procedure for the appointment of workers' representatives to the delegation of Djibouti. On May 29, 2009, the Djiboutian Labour Union (*Union djiboutienne du travail* – UDT) and the General Union of Djiboutian Workers (*Union générale des travailleurs djiboutiens* – UGTD) submitted a complaint to the Credentials Committee for the 98th ILO Conference for violation of paragraphs 5, 8 and 9 of Article 3 of the ILO Constitution regulating the nomination of workers' delegates. Indeed, in 2009, as in previous years, the Government sent representatives of phantom organisations under the control of the

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7/ This trial was initiated in 2007 following the publication by the President of LDDH of a briefing note on the discovery of a mass grave in the village of Day, which included the bodies of seven civilians who were killed by Government forces in 1994.

8/ The hearing on January 17, 2010 was then postponed to January 31, 2010 then postponed again *sine die*. The reason given was that the court was being transferred to another location.

9/ Proceedings against Djibouti have been ongoing for the last ten years, started by several trade unions including the Djiboutian Labour Union (UDT), the General Union of Djiboutian Workers (UGTD), the Secondary Education Teachers' Union (*Union des professeurs du secondaire*) and the Primary Education Teachers' Union (SEP) following the unfair dismissal of union members.

authorities to the International Labour Conference. The dispute concerning the composition of the Djiboutian delegation has continued since 1997<sup>10</sup>. On June 8, 2009, the two confederations filed an additional complaint after they had learned the names of the members of the official delegation, who did not belong to the union movement and therefore were not workers' representatives<sup>11</sup>. Furthermore, on October 13, 2009, the forces of order entered the People's Palace where UDT was holding a training seminar, interrupted the seminar proceedings and brutally dispersed the participants. Two members of the UDT Executive Board, Mr. **Anouar Mohamed Ali**, Secretary General of the Djibouti Electricity Workers' Union (*Syndicat des travailleurs d'électricité de Djibouti* – STED), and Mr. **Abdourachid Mohamed Arreh**, a member of the Primary Education Teachers' Union (*Syndicat des enseignants du primaire* – SEP), were arrested and taken to the criminal brigade premises for questioning, before being released the same day with no charge brought against them<sup>12</sup>. On the same day, the management of the Djibouti Sheraton Hotel informed UDT that the conference room booking for the union's fourth ordinary congress, scheduled for October 14 and 15, 2009, had been automatically cancelled by order of the President's office and that written permission from the Ministry of the Interior was required. The UDT officials went to the Ministry of the Interior on the same day and were informed that all conferences and seminars organised by the two union confederations were now banned<sup>13</sup>. Moreover, on October 14, 2009, two police officers banned Mr. **Adan Mohamed Abdou**, Secretary of the UDT, from entering UDT headquarters under Article 215 of the Labour Code in force since January 2006, due to "the union's failure to register correctly". On November 8, 2009, the UDT filed a complaint with the ILO for "obstruction of organisation rights" and "prohibition of union activity"<sup>14</sup>. On December 29, 2009, the UDT filed a new complaint with the ILO for "obstruction of organisation rights", "prohibition of union activity" and "arbitrary interference with correspondence". In this complaint, in addition to the problems relating to the organisation of its congress, the UDT also

10/ Although the International Labour Conference did not recommend invalidation of the credentials of the workers' delegation, it nonetheless did not exclude taking this course of action in the future. See International Labour Conference, *Provisional record 4C, 98th session, Reports on Credentials, Second Report of the Credentials Committee*, 2009, especially paragraph 55.

11/ See UDT/UGDT Inter-Union Committee, *plainte additionnelle à celle du 29 mai 2009 destinée à la Commission de vérification des pouvoirs de la 98<sup>e</sup> conférence de l'OIT à Genève du 2 juin au 19 juin 2009*, June 8, 2009.

12/ See LDDH.

13/ *Idem*.

14/ See UDT, *plainte déposée auprès de l'OIT pour obstruction aux droits d'organisations et interdiction de l'activité syndicale*, November 8, 2009.

denounced the illegal appropriation during the 98th International Labour Conference of a letter addressed to the UDT from a shared pigeonhole by a member of the delegation of Djibouti and the confiscation of the key to a letter box in which the UDT receives its mail<sup>15</sup>.

### **Urgent Interventions issued by The Observatory in 2009**

<b>Names</b>	<b>Violations / Follow-up</b>	<b>Reference</b>	<b>Date of Issuance</b>
Mr. Jean-Paul Noël Abdi	Judicial harassment	Closed Letter to the authorities	March 12, 2009
	Arrest / Conditional release / Judicial harassment	Urgent Appeal DJI 001/0409/OBS 058	April 6, 2009
		Open Letter to the authorities	April 17, 2009

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# ETHIOPIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

In the perspective of the May 2010 general elections, the first since the contested 2005 elections that were marred by a severe repression of civil society, the Ethiopian Government sought in 2009 to muzzle all forms of opposition against Mr. Meles Zenawi's Ethiopian People's Revolutionary Democratic Front (EPRDF), particularly political opponents, journalists and human rights defenders. Thus, while the opposition sought to build a common front before the elections<sup>1</sup>, opposition parties alleged in November 2009 that nearly 450 of their members were jailed to stop them running as candidates<sup>2</sup>. Additionally, the EPRDF's ethnic federalism did not curb conflicts, but rather increased competition among groups over natural resources and power. In rebellion-torn areas like the Oromia and Ogaden regions, ethnic federalism remained artificial and the rebellion remained active.

On July 7, 2009, the Parliament adopted a drastic Anti-Terrorism Law, which allows for severe restrictions of freedom of expression, freedom of assembly and the right to a fair trial. It provides for a broad definition of the terrorist act and peaceful and legitimate dissent with the current administration, including political opposition as well as criticism by independent human rights groups, could fall within the definition provided by the law. A street protest against Government policies could be qualified as terrorist activity if, for example, private property is damaged in the course of the protest. Protesters as well as its organisers could face sentences up to 15 years to life imprisonment or even death. In addition, the Amharic-language weekly *Addis Neger*, known for being outspoken, announced on December 4, 2009 that its 28 November issue would be the last one until further notice. The management said it was forced to take this decision because of the Government's intention to prosecute the newspaper and its staff under the Anti-Terrorism Law<sup>3</sup>.

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1/ In June 2008, the Unity for Democracy and Justice Party was created by some of the opposition leaders who were imprisoned between 2005 and 2007.

2/ See Human Rights Watch Report, *One Hundred Ways of Putting Pressure, Violations of Freedom of Expression and Association in Ethiopia*, March 24, 2010.

3/ See Reporters Without Borders.

In 2009, the Ethiopian authorities also used the Freedom of the Mass Media and Access to Information Proclamation<sup>4</sup> to silence journalists<sup>5</sup> and, in January 2009, a Government agency, the Ethiopian Broadcasting Authority, was given exclusive authority over media regulation. The authority immediately issued directives not included in the Media Law stripping any media executive with more than two percent ownership share of any editorial authority in order to “avoid homogeneity of news and viewpoints”. In April 2009, the agency denied licenses to three journalists under the pretext that they had been convicted of “treason, outrages against the Constitution and incitement to armed conspiracy” in 2007 after covering the crackdown consecutive to the 2005 elections. In June 2009, it ordered private *Sheger Radio* to stop carrying programs for *Voice of America*<sup>6</sup>.

### **Adoption of legislative reforms restricting the environment for human rights activities and successive closure of several NGOs**

In the run-up to the general elections, the Ethiopian administration completed the existing restrictive legal framework with the adoption by the Parliament, on January 6, 2009, of the “Charities and Societies Proclamation Law” No. 621/2009 (CSO Law), which creates a very restrictive environment for human rights defenders and sharply restricts the activities of most civil society organisations, including foreign and domestic human rights NGOs. The text extends the definition of “foreign NGO” to all NGOs in Ethiopia receiving more than 10% of foreign funding, and bans such NGOs from carrying out a high number of human rights related activities, including women and children’s rights, disabled persons, ethnic issues, conflict settlement and resolution, governance, and democratisation. In a country where 95% of Ethiopian NGOs currently receive more than 10% of foreign funding and where local funding sources are virtually non-existent, this new legislation deeply undermines the civil society’s capacities of action. The new piece of legislation also provides for the creation of the Government-appointed “Charities and Societies Agency” (CSA) – with wide-ranging discretionary powers related to the registration, functioning and dissolution of NGOs. Before the new law, the Ministry of Justice decided on registration. In case of refusal, the applicant organisation had the possibility to appeal this decision before a court. With the new legislation, any application for the registration of a “foreign NGO” is

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4/ The law was adopted by Parliament on July 1, 2008. It stiffened existing penalties for libel and granted Government prosecutors the exclusive discretion to summarily block any publication for national security, but banned pre-trial detentions of journalists, at least in principle.

5/ For instance, four editors of Amharic-language weeklies were detained from three to 16 days on criminal charges in 2009.

6/ See Committee to Protect Journalists.

submitted to the CSA, and any refusal of registration can only be appealed before the board of this agency. A second refusal by this body is deemed a final decision. The agency has also exclusive competence with regard to the dissolution of “foreign NGOs”. The possibilities of appeal will be the same as these applied to registration. The agency has also the power to appoint and remove executive members sitting in such organisations. Moreover, the CSO Law imposes disproportionate criminal penalties for minor administrative breaches of the law, stating that executive members of all charities and societies who allocate more than 30% of their budget to administrative expenses shall be subjected to fines or imprisonment.

Since the adoption of this draconian law, most of local NGOs have been obliged to abandon their human rights activities so as to continue receiving foreign funds<sup>7</sup>. About eleven have chosen to re-register as “human rights” organisations, running the risk to face dissolution<sup>8</sup>. Additionally, the Ethiopian Human Rights Council (EHRCO) was forced to change its name because the CSA claimed that it should have branches in five regional States although the CSO Law only requires that membership-based charitable societies have their membership distributed in five regional States, which EHRCO fulfilled. The CSA also forced EHRCO to amend some provisions of its statute such as removing the monitoring of elections and provision of voter education, although this was in violation of the CSO Law<sup>9</sup>. On December 11, EHRCO was finally re-registered. In spite of these requirements and delays, the bank accounts of EHRCO and the Ethiopian Women Lawyers Association (EWLA) were frozen by the Agency on December 8, 2009 although the funds were from pre-existing grants and the law was not due to take effect until February 2010. CSA officials informed EHRCO staff that as an “Ethiopian organisation” under the CSO Law, this retroactive application of the law was legitimate, despite the CSO law provides the CSA with no such powers. Although EWLA appealed to the Prime Minister to unfreeze its bank account, at the end of 2009 the account remained frozen. As a consequence, on December 18,

7/ Among them the African Initiative for a Democratic World Order (AIDWO), the Action Professionals Association for People (APAP), the Organisation for Social Justice in Ethiopia (OSJE), the Society for the Advancement of Human Rights Education (SAHRE), the Ethiopian Human Right & Civic Education Promotion Association (EHRCEPA), the Centre for the Advancement of Peace & Democracy in Ethiopia (CAPDE), the Ethiopian Federation of Persons with Disabilities (EFPD), the Research Centre for Civic & Human Rights Education, “Hundee” (Roots), “Zega le-Idget”, “Zema Setoch Lefitih” and Kembatta Women’s Self-Help Center Ethiopia Association.

8/ Among them the Ethiopian Human Rights Council (EHRCO), the Ethiopian Women Lawyers’ Association (EWLA) and the Ethiopian Bar Association (EBA). The three were finally re-registered.

9/ The Electoral Law adopted in 2007 was also used to restrict the activities of human rights organisations in the electoral process. Indeed, those willing to undertake election monitoring or voter education now have to obtain a specific license from the Ethiopian National Board, which was not granted to all of them.

EHRCO had to close nine of its 12 field offices, and had to lay off 44 of its staff, several of whom also had to flee the country.

Moreover, in July 2009, the activities of 42 NGOs were reportedly suspended by the Ethiopian authorities, allegedly because their activities overtook their mandate and represented a threat to peace and development in southern Ethiopia. Most of the NGOs were engaged in the preservation of culture and environment, which was deemed as a threat to the ruling party as their action was considered a potential threat to State monopoly of land ownership. Regional authorities also ordered the bank accounts of these NGOs to be frozen and vowed to continue taking similar actions on others. However, Ethiopia's Southern Regional State Justice Office Chief, Mr. Yilma Meresa, refused to disclose the name of the suspended organisations<sup>10</sup>.

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

Over the past years, the Government has remained suspicious of anyone who tried to collect information on human rights violations in zones of rebellion, in particular in the Oromia and Somali regions<sup>11</sup>, and arbitrary arrests continued to be a tool of repression used by the authorities in 2009. The access to the armed conflicts zones like Ogaden also remained tightly monitored and forbidden to human rights defenders and humanitarian organisations, which have been compelled to leave the area over the past years. For example, Mr. **Paulos Abebe**, Head of EHRCO Arbaminch branch office (South region), was arrested in Derashe Special District and detained in Gidole police station without food, water and clothes from January 14 to 17, 2009, while conducting an investigation in Derashe, Southern Nation Nationalities of Peoples Region. He was arrested by Wereda officials on the ground that he had failed to report his visit to Derashe to the local authorities, although he had a letter explaining his mission and could not deliver it because the officials in charge were not available. On January 17, he was released on bail and the investigation was ongoing at the end of 2009. Further, by mid-2009, Mr. Abebe received death threats while investigating the acts of torture inflicted on prisoners in February 2009 in Arbaminch prison and was constantly followed, prevented from going to the prison and meeting victims of human rights violations. He subsequently fled to Addis Ababa but was pursued by plain

10/ See World Alliance for Citizen Participation (CIVICUS) Press Release, July 24, 2009.

11/ For instance, Mr. **Abdi Abate**, an EHRCO member, was arrested in July 2007 in Nektme and charged with "supporting the Oromo Liberation Front (OLF)". On May 4, 2009, the Federal High Court eventually dismissed the charges against him, and ordered his release.



clothes security agents who also tried to abduct him on August 26, and his two sources of information were imprisoned after he fled his home town. Fearing for his safety, he had to flee the country on October 4, 2009. Mr. **Muguleta Fentaw**, Head of EHRCO in Dessie (Ahmara region), as well as Ms. **Elsabet Gizaw**, a member of EHRCO, also faced hindrances in 2009 in relation with their human rights activities.

### **Human rights activities hampered by a prevailing climate of fear and of surveillance**

In 2009, the major obstacle faced by human rights defenders remained the climate of fear prevailing in the country because of the continuous intimidation and threat of detention and prosecution made by senior Government officials in the State media, especially following the issuance of the annual human rights reports by the US State Department and Human Rights Watch in February 2009. For instance, Ms. **Madhere Paulos**, Director of EWLA, fled the country, fearing prosecution following the Ministry of Foreign Affairs statements against US State Department's annual human rights report, which cited EWLA and EHRCO. Furthermore, human rights defenders' communications by phone and email were routinely under surveillance and the authorities sought to control information by blocking access to the websites of human rights organisations. Because of this climate of fear and of Government repression, many human rights defenders had not other option than to flee the country in 2009, for fear of reprisals against their human rights activities, as was the case for Messrs. **Yoseph Mulugeta**, EHRCO Secretary General, **Abiy Mesfin**, Editor of *Addis Neger*, **Manyawkal Mekonnen**, Director of the Organisation for Social Justice in Ethiopia (OSJE), and Mr. **Kassahun**, Programme Officer of the Peace and Development Committee.

### **Use of years-old criminal cases to silence journalists reporting on human rights violations**

The Ethiopian Government resumed in 2009 its long-standing practice of reviving years-old criminal cases, some of them seemingly dormant, as a way to silence critical journalists reporting on human rights violations. Thus, on August 24, 2009, Mr. **Ibrahim Mohamed Ali**, Editor of the weekly newspaper *Salafiyya*, and Mr. **Asrat Wedajo**, former Editor of *Seife Nebelbal*, a weekly that was banned amid the 2005 Government crackdown on the press, were sentenced to one year of prison and convicted under the Criminal Code and the 1992 Press Law, amended by the Freedom of the Mass Media and Access to Information Proclamation of 2008, in connection with coverage of sensitive topics dating back several years. Mr. Wedajo was charged in connection with a 2004 story alleging human rights violations against the Oromos. Mr. Ali was charged in con-

nection with a piece written by a guest columnist and published in 2007, criticising the Ministry of Education’s proposal to restrict headscarves for female Muslim students at public education institutions. Mr. Ali returned to court in September 2009 to face more charges over coverage of religious issues. Both announced that they intended to appeal the verdict and, as of the end of 2009, remained detained at Kality prison, outside Addis Ababa. At the end of 2009, the appeal was still pending. Likewise, on June 4, 2009, Mr. **Abebe Worke**, EHRCO Chairperson and *Voice of America* correspondent in Addis Ababa, and Mr. **Ababa Meleskachew Amaha**, Reporter for *Voice of America*, were arrested for alleged “illegal use of radio equipments” and “trying to sell equipment illegally”. The equipment in question was imported by Addis Broadcasting Company (ABC) with a grant from the Government of Norway a few years ago, hoping that it would secure the licence to operate a radio station. In May 2009, the Government shut down ABC and accused Messrs. Worke and Meleskachew, ABC shareholders, of illegally owning broadcasting equipment. Messrs. Worke and Meleskachew were taken to court on June 5, 2009 and the judge remanded them in custody until June 15, granting a request of police for more time to conduct investigation. They were held at the premises of the customs authority in Addis Ababa. Messrs. Worke and Meleskachew were released on bail on June 12, 2009 after the Federal First Instance Court ruled on the bail application on June 11, 2009<sup>12</sup>. On July 15, Mr. Meleskachew was acquitted and Mr. Worke was convicted. Mr. Worke filed an appeal, which was pending at the end of 2009.

### Urgent Intervention issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
	Obstacles to freedom of association	Press Release	January 9, 2009

54 12/ They respectively paid a bail of 15,000 birr and 30,000 birr (about 850 euros).

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# THE GAMBIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

Since the attempted coup d'état in 2006, the Gambian Government has increasingly disregarded fundamental freedoms and international obligations despite being the host of the African Commission on Human and Peoples' Rights (ACHPR). In particular, the Government continued to arrest political opponents, journalists or human rights defenders over the year, and prisoners were subjected to abuses, acts of torture and ill-treatments as well as poor conditions of detention.

Furthermore, in 2009, the deterioration of the country's media environment continued. The Gambian press, limited to private newspapers subject to close governmental scrutiny, attempted to survive in a climate in which the least incident was severely punished. Arbitrary arrests, threats, judicial harassment and police brutality against journalists were again commonplace in 2009 and translated into a culture of threat and silence. As a consequence, public protests ceased, self-censorship of the media predominated and individuals remained silent when their human rights were violated<sup>1</sup>. Several journalists also reportedly went into hiding from fear of Government retaliation. Nonetheless, opposition views regularly appeared in the independent press, and there was frequent criticism of the Government in the private media. In addition, on May 22, 2009, President Jammeh threatened immediate legal action against any media which reported on remarks made by the Iman of Kanifing, Baba Leigh, an opponent of the regime. On July 22, on the occasion of the 15th anniversary of the coup that brought him to power, Mr. Jammeh reiterated his threats against journalists<sup>2</sup>. And, as of the end of 2009, Mr. Ebrima Manneh, a journalist with the privately-owned daily *The Point*, was still missing<sup>3</sup>.

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1/ See Amnesty International Report, *Fear rules: Gambia*, November 11, 2008.

2/ See Reporters Without Borders (RSF) Press Release, July 29, 2009.

3/ Mr. Manneh was arrested by members of the National Intelligence Agency on July 7, 2006. The reason for his arrest never came to light and the Government has always refused to disclose his whereabouts, health or legal status. He was reportedly arrested because he had tried to re-publish a *BBC* story critical of President Jammeh or because of his reporting on the 2005 killing of Ghanaian immigrants in the Gambia. During an April 6, 2009 address to the National Assembly, the Attorney General and Justice Minister denied that "Chief" Ebrima Manneh was in State custody. See Committee to Protect Journalists Report, *Attacks on the Press 2009*, February 2010 and Media Foundation for West Africa Statement, July 7, 2010.

In this context, it was extremely difficult for human rights defenders to operate, in particular as denouncing any human rights violation remained to be seen as a criticism to the regime.

### **Death threats by President Jammeh against human rights defenders**

On September 21, 2009, appearing on State-owned *Gambia Radio and Television Services* (GRTS), President Jammeh publicly threatened to kill human rights defenders, together with anyone who sought to “destabilise the country”, adding that “We are not going to condone people posing as human rights defenders to the detriment of the country. If you are affiliated with any human rights group, be rest assured that your security, and personal safety would not be guaranteed by my Government. We are ready to kill saboteurs”. In his address, President Jammeh also claimed that he was aware of human rights defenders being used to tarnish the image of his Government and added that “troublemakers [should] keep away from the country”. He warned that cooperating with human rights groups was no guarantee of protection”. As a consequence, on October 9, the United Nations Special Rapporteur on the Situation of Human Rights Defenders, the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression and the ACHPR Special Rapporteur on the Situation of Human Rights Defenders in Africa issued a joint statement to express their concern for human rights defenders. Moreover, the ACHPR, meeting at its extraordinary session in Dakar from October 5 – 11, called on the African Union (AU) to intervene and ensure that President Jammeh withdrew threats made in his statement, which he refused. On October 11, the ACHPR adopted a resolution which called on the AU to consider relocating the Secretariat of the Commission from Banjul, due to the escalation of human rights violations such as hindrance to freedom of expression, arbitrary arrests and detentions, murder and judicial harassment of journalists and human rights defenders. The ACHPR also asked the AU to provide extra-budgetary resources to the African Commission to ensure that its 46th session would be held in November in Addis Ababa, Ethiopia, or any other member State of the AU. However, the request was disregarded by the AU and the session was held from November 11 to 25 in Banjul headquarters, in which the FIDH and OMCT refused to participate, urging the President to reconsider its statements. Though no incident marred the session, the President’s statements strengthened the feeling of fear prevailing in the country.

## Ongoing acts of reprisals against journalists who denounce human rights violations

In 2009, journalists who reported on sensitive issues were on various occasions arrested and subjected to acts of reprisals, in particular when they denounced human rights violations. For instance, on June 15, Ms. **Sarata Jabbi-Dibba**, Mr. **Emil Touray** and Mr. **Pa Modou Faal**, respectively Vice-President, Secretary General and Treasurer of the Gambian Press Union (GPU), were summoned for questioning by the National Intelligence Agency (NIA) in Banjul in relation to the statement published by the GPU in *The Point* and *Foroyaa* on June 12 calling on President Yahya Jammeh to accept the Government's responsibility in the 2004 murder of Mr. **Deyda Hydara**, Editor and co-Founder of *The Point*, which remains unpunished as of today<sup>4</sup>. They were subsequently arrested. The GPU statement that prompted their arrest criticised Gambian President Yahya Jammeh in relation to comments he had made on June 8 on Government television *GRTS*, denying any State implication in Mr. Hydara's murder. The GPU statement also denounced numerous instances of harassment and intimidation of journalists by the Gambian authorities, and deplored the state of media freedom in the country. Four other journalists were also arrested by NIA officers in plain clothes on June 15, namely Mr. **Sam Sarr**, Editor of the opposition newspaper *Foroyaa*, Mr. **Abubacarr Saidykhan**, journalist for *Foroyaa*, Mr. **Ebrima Sawaneh**, News Editor at *The Point*, and Mr. **Pap Saine**, Editor of *The Point* and *Reuters* correspondent in The Gambia. Messrs. Ebrima Sawaneh and Pap Saine are also GPU members. On June 18, the seven journalists appeared at Kanifing Police Court and were subsequently charged with "seditious publication". Messrs. Emil Touray, Pa Modou Fall, Pap Saine and Ebrima Sawaneh, Sam Sarr and Abubacarr Saidykhan were then imprisoned in Banjul's Mile Two jail. Only Ms. Sarata Jabbi-Dibba, mother of a young child, was released on a bail of 200,000 dalasis (about 5,400 euros). On June 22, 2009, Messrs. Emil Touray, Pa Modou Fall, Pap Saine, Ebrima Sawaneh, Sam Sarr and Abubacarr Saidykhan were brought to Kanifing Police Court and all were released on a bail of 200,000 dalasis. In addition, on June 22, Mr. **Augustine Kanjia**, journalist of *The Point*, was arrested while covering the appearance in court of the six journalists, allegedly for taking pictures of the hearing. On June 24, Mr. Kanjia was released on a bail of 50,000 dalasis (about 1,350 euros). On July 3, 2009, the seven

4/ Mr. Deyda Hydara, also a correspondent in Gambia for *Agence France-Presse* and Reporters Without Borders was shot dead on December 16, 2004, while driving his car in Banjul. Mr. Hydara was known in particular for his commitment to the freedom of the press and to human rights, and had notably, a few days prior to his death, published two articles in his paper criticising the adoption of two particularly restrictive laws of the press that were secretly signed in December 2004 by the President of the Republic.

journalists were summoned to appear before Banjul High Court, charged with the initial charges of sedition and three other counts of defamation. The Court then revoked their initial bail conditions, and sent them back to Mile Two State central prison. Hours later, Ms. Sarata Jabbi-Dibba was released with a bail of 400,000 dalasis (about 10,600 euros). On July 6, Messrs. Emil Touray, Pa Modou Fall, Pap Saine and Ebrima Sawaneh, Sam Sarr and Abubacarr Saïdykhan were released on a bail of 400,000 dalasis. On July 28, Mr. Saïdykhan was acquitted and discharged over “wrong” charges by the High Court. On August 6, Ms. Sarata Jabbi Dibba and Messrs. Emil Touray, Pa Modou Faal, Pap Saine, Ebrima Sawaneh and Sam Sarr were convicted and sentenced by Banjul High Court to two years’ imprisonment and to a 250,000 dalasis (about 6,625 euros) fine each upon charges of “sedition” and “defamation”. All were transferred to serve their sentence in Mile Two State central prison. On September 3, the six journalists were released following presidential pardon.

### Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Ms. Sarata Jabbi-Dibba, Messrs. Emil Touray, Pa Modou Faal, Pap Saine, Abubacarr Saïdykhan, Ebrima Sawaneh, Sam Sarr and Deyda Hydera	Arbitrary detention / Release on bail / Judicial harassment	Urgent Appeal GMB 001/0609/OBS 088	June 24, 2009
Ms. Sarata Jabbi-Dibba, Messrs. Emil Touray, Pa Modou Faal, Pap Saine, Ebrima Sawaneh and Sam Sarr	Sentencing / Arbitrary detention	Urgent Appeal GMB 001/0609/OBS 088.1	August 10, 2009
	Release	Urgent Appeal GMB 001/0609/OBS 088.2	September 11, 2009
Human rights defenders	Death threats	Joint Press Release	September 25, 2009

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# GUINEA BISSAU

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

On March 2, 2009, President João Bernardo Vieira was shot by renegade soldiers, the day after a bomb attack killed the army's chief, General Batista Tagmé Na Waié. These killings removed two very powerful political rival figures who had escaped several assassination attempts since the November 2008 parliamentary elections. The assassinations appeared to be related to political tension stemming from old rivalries, ethnic divisions and instability in the military ranks, and the ever-increasing presence of drug trafficking interests in the country<sup>1</sup>. On June 5, 2009, a few weeks ahead of the presidential election, political violence against high-profile personalities resurged when armed men killed presidential candidate Mr. Baciro Dabó and Mr. Helder Proença, a former Minister and Member of Parliament. As of the end of 2009, there had been no progress in the investigation into those assassinations, though in March the Government had convened a national commission of inquiry into the killings, mainly because of the lack of independence of the judicial system and the lack of collaboration of the military authorities<sup>2</sup>.

Despite these tensions, the presidential election took place peacefully on June 28, 2009. After a run-off on July 26, 2009, Mr. Malam Bacai Sanhá of the ruling African Party for the Independence of Guinea and Cape Verde (*Partido Africano da Independência da Guiné e Cabo Verde* – PAIGC) won the election with 63 percent of the votes and was inaugurated as President on September, 8, 2009. The international community welcomed the commitment of the new President to combat impunity, foster national reconciliation and achieve socio-economic development<sup>3</sup>.

## Threats against defenders denouncing the abuses of the armed forces

In 2009, the context of political tension and the presence of the military in all aspects of public life continued to make it difficult for human rights defenders to work, in particular when they criticised the influence of the military, denounced human rights violations committed by them or acts of corruption. For instance, on April 1, 2009, an unidentified individual

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1/ See European Parliament Resolution P6\_TA-PROV(2009)0143 on Guinea-Bissau, March 12, 2009.

2/ See Guinean League for Human Rights (LGDH).

3/ *Idem*.

dressed in civilian clothes and armed with a gun visited the Guinean League for Human Rights (*Liga Guineense dos Direitos Humanos* – LGDH) offices and asked for Mr. **Luis Vaz Martins**, lawyer and President of the organisation with a threatening tone. Mr. Vaz Martins was out of the office at that moment. The man reportedly asked for his residential address and stated that he wanted to kill him because the organisation was “too talkative”. No action was taken during the year against those responsible for those threats. This visit came a few hours after the issuance of a press release denouncing the serious human rights violations committed by elements of the Bissau–Guinean military the weeks before. The press release referred in particular to the attack sustained by Dr. **Francisco José Fadul**, leader of the opposition Party for Democracy, Development and Citizenship (*Partido para a Democracia Desenvolvimento e Cidadania* – PADEC) and President of the Court of Public Auditors, on April 1, 2009, when he was beaten at his home by four military officials who hit him with the butts of their firearms, after he denounced the growing influence of the military in public life and called on the Government to hold the military accountable for corruption and other crimes during a press conference on March 30, 2009. As of the end of 2009, no action had been taken against those responsible for Mr. Francisco José Fadul’s torture and abuses. LGDH had also denounced the torture suffered from March 23 to 26, 2009 by Mr. Pedro Infanda, the lawyer of the former chief of the armed forces José Américo Bubo Na Tchute, currently in exile, after he had expressed, at a press conference held on March 23, 2009, his client’s opinion that the newly appointed Chief of Staff of the Armed Forces was not competent for the post.

### Urgent Intervention issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Messrs. Luis Vaz Martins, Bubacar Ture and Dr. Francisco José Fadul / Guinean League for Human Rights (LGDH)	Threats	Press Release	April 2, 2009



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# KENYA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

In 2009, the country had still not recovered from the political violence that followed the December 2007 general elections<sup>1</sup> and had yet to implement the reforms set out under the National Accord and Reconciliation Act 2008. Following the political agreement decided by President Kibaki and Prime Minister Odinga on December 17, 2008, and in accordance with the recommendations of the Waki Commission<sup>2</sup>, a special tribunal to try the crimes and human rights violations committed during the post-elections violence should have been established by January 30, 2009. However, Parliamentarians rejected it twice, on January 29 and February 13, 2009, after a constitutional amendment motion to institute the tribunal by the Government was defeated. Although the Kenyan authorities announced in July 2009 that they would carry out accelerated police, prosecution and judicial reforms to ensure investigation and prosecution of perpetrators, they provided no time-frame and further specified that they would not support the establishment of such tribunal. As a result, on November 5, the Prosecutor of the International Criminal Court (ICC) announced the ICC would get involved and submit a request under Article 15(3) of the Rome Statute for the authorisation to open an investigation. On November 6, pursuant to the Rome Statute, the Presidency of the ICC assigned the situation to Pre Trial Chamber II to call upon the opening of an investigation<sup>3</sup>. At the end of 2009, the request for authorisation was still pending<sup>4</sup>. The European Union also called upon Kenya to urgently

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1/ The December 2007 Presidential elections were marred by serious irregularities and set off a wave of violence throughout Kenya until the end of February 2008, which claimed over 1,000 lives and displaced over 300,000 people. Serious human rights violations included organised violence by militia, gender-based violence, and spontaneous, disorganised uprisings of mobs protesting the flaws, during which there was a disproportionate and excessive use of force by the police against protesters, mainly in opposition strongholds.

2/ Following the election violence, a Commission of Inquiry led by Justice Philip Waki was set up to investigate the violations.

3/ See ICC Press Release ICC-CPI-20091106-PR473, November 6, 2009.

4/ See ICC Press Release ICC-CPI-20100219-PR497, February 19, 2010. On March 31, 2010, Pre-Trial Chamber II authorised the Prosecutor to investigate crimes against humanity committed in Kenya between June 1, 2005 (date of entry into force of the Rome Statute for Kenya) and November 26, 2009.

adopt measures to end impunity and fight corruption and to ensure full respect for human rights<sup>5</sup>.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions, who conducted a fact-finding mission in the country from 16 to 25 February, reported “the existence of systematic, widespread, and carefully planned extrajudicial executions undertaken on a regular basis by the Kenyan police”, and a complete lack of accountability that prevails in an overwhelming majority of cases. The report concluded that there were no independent police internal affairs unit to investigate police killings and reliably assess the legality of the use of force, and also denounced the existence of opaque appointments, and “extraordinary levels” of corruption made the judiciary unable to address such issues. The Rapporteur also denounced a systematic attempt to silence criticism voiced against the security forces, in particular in the Mount Elgon district<sup>6</sup>, where from 2006 to 2008, both the Sabaot Land Defence Forces (SLDF) and the Government’s security forces engaged in widespread brutality, including torture and unlawful killings, against the civil population<sup>7</sup>. Detailed reports from a broad range of sources documenting these abuses were not seriously investigated by the police or the military.

Moreover, on January 2, 2009, President Mwai Kibaki signed into law a controversial media law that imposes new restrictions on the press despite mobilisation at local and international level. Indeed, the Kenya Communications (Amendment) Act (2009) provides for heavy fines and prison sentences for press offences, gives the information and internal security ministries the authority over the issuing of broadcast licences and the production and content of news programmes, as well as search and surveillance powers. Following a concerted campaign by civil society, on May 9, 2009, the Kenyan Government published amendments to the Communications Act, which will delete a controversial clause that allows the Government to raid broadcasting houses and destroy or confiscate equipment in the name of “public safety”. The amendments will also get

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5 / See EU Declaration by the Presidency on behalf of the European Union on Kenya, October 1, 2009.

6 / See Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions Philip Alston, Addendum - Mission to Kenya*, UN Document A/HRC/11/2/Add.6, May 26, 2009.

7 / SLDF is a guerrilla militia operating in the Mount Elgon district of Kenya (western province of Kenya) since 2005. A large scale military assault in March 2008 has resulted in allegations of serious human rights abuses by the Kenyan army, including murder, torture, rape, and arbitrary detention. According to the Kenyan NGO Independent Medico-Legal Unit (IMLU), the military operation reportedly resulted in mass arrests and subsequent prosecution of over 1,200 persons with most of the persons arrested raising complaints of torture.

rid of provisions granting the Government power to control content on TV and radio. The task will now fall under a new Broadcast Content Advisory Council, which will include the Permanent Secretary in the Ministry of Information and six other members to be appointed by the Information Minister. The amendments were agreed upon between the media and the Government as interim measures pending a further and more elaborate review of the law governing communications and the media. At the end of 2009, the Parliament had still not examined the amendments.

### **Reprisals against human rights defenders who denounced human rights violations by the police forces**

In the context of total impunity of police and military forces, human rights defenders who denounced human rights violations committed by those forces faced acts of reprisals in 2009. For instance, on September 15, 2009, Messrs. **Samson Owimba Ojiayo** and **Godwin Kamau Wangoe**, members of the grass-roots movement “Bunge La Mwananchi”, which aims at fighting social injustice and promotes accountable leadership in Kenya, were arrested in Nairobi by plain clothes police officers after they had been campaigning to end impunity for serious economic crimes and extrajudicial killings. Their abduction came weeks after the replacement of controversial police chief, Mr. Mohamed Hussein Ali, who had been widely criticised for his role in the post-election violence. During their detention, Messrs. Kamau Wangoe and Owimba Ojiayo were reportedly denied access to a lawyer and Mr. Wangoe was subjected to ill-treatment. On September 16, Mr. Owimba Ojiayo was released without charge and Mr. Kamau Wangoe was brought before a Nairobi magistrate, charged with “belonging to an illegal organisation” and released on bail on September 18. Following their release, Messrs. Wangoe and Ojiayo as well as their families were subjected to threats and harassment from the security forces. On September 16, the same day Mr. Ojiayo was released, unidentified men approached his 12-year-old daughter and asked her about her fathers’ whereabouts. Police officers in plain clothes also visited their respective homes twice asking about two defenders<sup>8</sup>. As of the end of 2009, no further information could be obtained regarding the status of the proceedings against Mr. Wangoe. Moreover, in 2009, after the Kenya National Commission on Human Rights (KNCHR) publicly released the testimony of a police whistle-blower, Mr. Bernard Kiriinya Ikunyua, who acted as a driver for one of the police death squads that are operating in Nairobi and Central Province with the explicit mandate to exterminate suspected Mungiki<sup>9</sup> members, and was killed in October 2008 after he testified on

8 / See Kenyan Human Rights Commission (KCHR).

9 / An organised crime sect.

how the police extra-judicially executed some 58 suspects whom they had arrested<sup>10</sup>, the police issued a statement questioning the reason why the KNCHR had released the statement as well as KNCHR's commitment to human rights, and intimating that KNCHR officers receive payments from the Mungiki. In the past, the KNCHR had already faced similar reaction from the police because of its investigations into alleged executions and disappearance of persons attributed to the police.

In particular, many of the human rights defenders who testified before the Special Rapporteur on extrajudicial, summary or arbitrary executions during his mission reported they were threatened and harassed by members of the security forces and other Government officials. Thus, two activists who had been particularly active in reporting on police death squads were murdered just two weeks after the mission ended. Mr. **Oscar Kamau King'ara**, lawyer and Chief Executive Officer of the Oscar Foundation Free Legal Aid Clinic Kenya (OFFLACK), and Mr. **John Paul Oulu**, OFFLACK Communications and Advocacy Officer, an organisation providing free legal services in Kenya, were murdered on March 5, 2009. The Oscar Foundation had carried out research on police brutality in urban areas of Kenya, as well as on corruption in the police force and in prisons. On February 18, it had presented its findings on ongoing extrajudicial killings in Kenya to the Ministry of Education for use in a parliamentary debate. The organisation had also provided information to the Special Rapporteur on extrajudicial, summary or arbitrary executions during his mission. Furthermore, the Oscar Foundation had presented a report on extrajudicial killings, entitled *The Killing Fields*, to the KNCHR and a report on organised gangs to the Kioni Committee of the Kenyan Parliament. Although an investigation was opened immediately into the murder of Messrs. King'ara and Oulu, the Government declined the assistance offered by the Federal Bureau of Investigation (FBI) and police Spokesperson Eric Kiraithe alleged that Mr. King'ara's murder might have been the result of rivalries within the Mungiki sect. As of the end of 2009, the investigation was ongoing.

### **Intimidation of human right defenders who denounced corruption**

Human rights defenders denouncing corruption also remained subjected to harassment in 2009. On January 15, 2009, Mr. **George Nyongesa**, a community organiser who works with Bunge la Mwananchi, was attacked in Nairobi by four men, three of whom had guns. He was severely beaten and his assailants took his laptop, camera, and other valuables before

leaving him within 100 meters of the gate of his house. Mr. Nyongesa reported the assault to the central police station and later recorded a statement with the Criminal Investigations Department. However, since that date, the police has not contacted Mr. Nyongesa<sup>11</sup>. On January 29, 2009, Mr. Francis Nyaruri, a journalist who wrote on corruption cases for the private *Weekly Citizen* under the pen name Mong'are Mokuu, and who had been missing since January 15, was found decapitated and with evidence of torture to his body in Koderia Forest near his home-town of Nyamira. Mr. Nyaruri had written a series of articles that exposed financial scams and other malpractice by the local police department, and had reportedly told his colleagues of unspecified threats by police officers related to articles he had written in the *Weekly Citizen*. An investigation was immediately opened, which was still ongoing at the end of 2009<sup>12</sup>.

### **Intimidation of human rights defenders who denounced human rights violations in Mount Elgon district**

In Mount Elgon, both the SLDF and the Government's security forces remained in 2009 in denial of abuses they are said to have committed, and their response to systematic civil society reporting was to methodically intimidate human rights defenders and witnesses. In particular, before, during and after the visit of the UN Special Rapporteur in February, human rights defenders were systematically intimidated by the police, military and Government officials in an attempt to silence all those who held information on human rights violations committed in this district by the authorities. In its report, the Special Rapporteur mentions that human rights defenders were told not to bring witnesses or victims to meet with him, and not to personally testify about abuses committed by the police or military, but to speak only about abuses by the SLDF armed group. They were further warned by text message, telephone calls, and in person. In one instance, officials addressed an internally displaced persons (IDP) camp, saying that the residents should tell the Special Rapporteur about killings by the SLDF only and that if they did not follow these instructions, they would no longer receive food aid from the Government. During the Special Rapporteur's visit to Mount Elgon, National Security Intelligence Officers unsuccessfully attempted to obtain from NGOs the list of witnesses whom he was going to meet with. Civil society organisations were also repeatedly harassed for them to provide information about the programme and schedule of the Special Rapporteur, as well as details of the NGOs' involvement in the mission. During meetings, the Special Rapporteur was alerted to the nearby presence of intelligence officers. Subsequent to the Special

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11/ See KCHR.

12/ See Committee to Protect Journalists Press Release, January 30, 2009.

Rapporteur's meetings with witnesses, police, military and Government officials went to the homes and workplaces of human rights defenders, in an attempt to obtain lists of those who had testified before the Special Rapporteur. Individuals were told that they would be arrested if they did not hand over the list of names. This led a number of specifically targeted individuals from the Western Kenya Human Rights Watch and Muratikho Torture Survivor's Organisation to flee the area. They were delivered further messages by telephone to "keep away" and "not come back". Following the Special Rapporteur's press statement, demonstrations were held in Mount Elgon against NGOs, and individuals were told that they would be denied their food assistance if they did not participate<sup>13</sup>. Furthermore, on October 9, 2009, Mr. **Ken Wafula**, a journalist and the Director of the Centre for Human Rights and Democracy (CHRD), was arrested, interrogated by the local police in Eldoret and released the same day but told not to leave the city. Between October 10 and 15, Mr. Wafula was summoned at least three times to report to the police station, where he was obliged to give further statements on allegations of inciting the public and causing national disturbance. On October 23, Mr Wafula was charged with "incitement". On October 7, Mr Wafula had reported on the clandestine re-arming of communities in the Rift Valley with the support of Government officials for their communities, partly in anticipation of violence during the 2012 parliamentary poll. His report received widespread coverage. As of the end of 2009, the charges held against him were still pending. During the same period of time, the police reportedly tried to trap Mr. Wafula. On October 15, 2009, a retired senior police officer by the name of Mr. Paul Sugutt came to CHRD office claiming that on October 10, 2009, a consignment of 300 guns and 3,000 rounds of ammunition was seen in Eldoret going towards Nakuru from Lwakhakha, and insisting that he would like to work with Mr. Ken Wafula to ensure that the guns are eliminated. However, despite the fact that he was formerly a senior police officer, Mr. Sugutt had not reported this information to the police, and called CHRD's offices up to four times a day during several days. Additionally, a person who identified himself as a human rights activist active in the SLDF also called and asked if he and Mr. Wafula could meet outside the city of Eldoret in order to give Mr. Wafula a report with information that SLDF members were being trained. Within minutes, Officer Sugutt had also called with the same information and to vouch for the human rights activist, but the activist has not been heard from again since Mr. Wafula suggested that they meet only in Eldoret<sup>14</sup>.

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13/ See Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Addendum - Mission to Kenya*, UN Document A/HRC/11/2/Add.6, May 26, 2009.

14/ See Front Line Statement, October 19, 2009.

## Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Messrs. Oscar Kamau King'ara and John Paul Oulu	Assassination	Urgent Appeal KEN 001/0309/OBS 043	March 9, 2009
		Joint Open Letter to the authorities	April 20, 2009

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# MAURITANIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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The situation that arose from the coup d'état of August 6, 2008, which overthrew the President of the Republic and the Government installed in office after the presidential election in March 2007, was brought back to normal with the presidential elections based on the Dakar Agreement. Under this Agreement, which was signed on June 2, 2009, the three major poles of Mauritanian political life – the National Front for the Defence of Democracy (*Front national de défense de la démocratie* – FNDD), the Assembly of Democratic Forces (*Rassemblement des forces démocratiques* – RFD) and the Union for the Republic (*Union pour la République* – UPR) – committed to setting up a Transitional Government of National Unity, to establishing an Independent National Election Commission (*Commission électorale nationale indépendante* – CENI) and to organising presidential elections on July 18, 2009. The latter brought the putsch General, Mr. Mohamed Ould Abdel Aziz, to office. The opposition denounced fraud such as the distribution of pre-marked specimen and official ballot papers and the massive police presence in and around the polling stations. International observers, such as the International Organisation of the Francophonie (*Organisation internationale de la Francophonie* – OIF), also noted irregularities, though they considered that these did not call into question the final result<sup>1</sup>.

This year saw international progress in the fight against impunity, with repercussions at national level. On March 30, 2009, the European Court of Human Rights confirmed the Nimes Criminal Court ruling of July 2005, sentencing, for the first time in France on the basis of universal jurisdiction, Mr. Ely Ould Dah, a captain in the Mauritanian army, for acts of torture committed in Mauritania against Mauritanian citizens. Even before publication of this decision, which was long-awaited by the authorities, the State had hastily organised a conference in Kaedi on the “humani-

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1/ See Press Release by the OIF Observation Mission to the presidential elections in Mauritania, July 21, 2009 and the Declaration by the Presidency on behalf of the European Union, July 23, 2009.



tarian backlog”<sup>2</sup>, following which General Mohamed Ould Abdel Aziz, then President of the High State Council (*Haut conseil d’Etat* – HCE), announced on March 24 that consideration of the humanitarian backlog and human rights violations in the 1990s<sup>3</sup> was “permanently closed”. However, the problems related to the humanitarian backlog are far from resolved: the police have continued to use brutality and torture with total impunity, the land problem remains intact and the Mauritanian deportees who were repatriated with the assistance of the High Commission for Refugees (HCR) have had to cope with administrative obstacles to obtain official civil status and the return of their lands<sup>4</sup>.

In addition, the United Nations Special Rapporteur on Contemporary Forms of Slavery, Ms. Gulnara Shahinian, during a press conference in Nouakchott on November 3, 2009 at the end of her visit to Mauritania from October 24 to November 4, denounced the persistence in the country of slavery practices such as “serfdom and domestic slavery”, whose victims are “utterly deprived of their basic human rights”<sup>5</sup>, in spite of the existing Law No. 2007-48 “criminalising slavery and repressing slavery practices” adopted by the Mauritanian National Assembly in August 2007.

Furthermore, in 2009, several foreigners were abducted in Mauritania. Three humanitarian workers belonging to the Spanish NGO “Solidarity Caravan” (*Caravana Solidaria*) were abducted on November 29, 2009. Al Qaeda in the Islamic Maghreb (AQIM) claimed responsibility for the abduction in a recording sent to the *Al Jazeera* channel on December 8, 2009. On December 18, 2009, two Italian travellers were also kidnapped in the south of the country. At the end of 2009, AQIM was holding a total of six hostages and demanded the release of detainees in Mali and sums of money<sup>6</sup>.

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2/ The objective of the conference was to convince victims to withdraw their complaints filed in Mauritania with the help of the Collective of Organisations for the Victims of Repression in Mauritania (*Coordination des organisations des victimes de la répression en Mauritanie* - COVIRE), a collective that brings together surviving widows and military fugitives to obtain symbolic compensation rather than to establish a transitional justice procedure (such as the establishment of a truth and reconciliation body that is sought by many civil society organisations). See Mauritanian Human Rights Association (*Association mauritanienne des droits de l’Homme* - AMDH).

3/ At the beginning of the 1990s, tens of thousands of negro-Mauritanians were deported beyond the borders; those who were in the army and civil administration were arrested and tortured.

4/ See AMDH.

5/ See United Nations Special Rapporteur on Contemporary Forms of Slavery, Including its Causes and Consequences Press Release, November 4, 2009.

6/ In the same recording the group claimed responsibility for the abduction of a French citizen in Mali on November 25, 2009. See AMDH.

Since the coup d'état, threats intensified in the press, on the Internet, during sermons in mosques, or by telephone against those who denounced the putsch (journalists, NGO representatives or members of the opposition). Indeed, those civil society movements were held responsible for the sanctions adopted by the international community against the ruling junta and any criticism of the Government was considered as a form of political opposition. Normalisation of the political climate through the presidential elections did not change this situation. Defenders continued to be marginalised with regard to State activities, just as did the political movements that are independent of the junta, which grouped together within the Coordination of Democratic Opposition (*Coordination de l'opposition démocratique* – COD) since December 2009<sup>7</sup>. This was in particular demonstrated by the lack of consultation with civil society and smear campaigns against its representatives, and by the repression and banning of demonstrations. As an example, on December 17, a demonstration organised in Nouakchott by the families of Islamic business men who were detained and accused of misappropriation of public funds, which called for their release, was repressed. Several women were beaten and injured by the police forces, especially by the anti-riot police and the court-house police<sup>8</sup>.

### **Repression of the freedom of peaceful assembly in the framework of institutional crisis**

While, after the coup d'état, many civil society movements, including members of human rights NGOs and union members, took part in peaceful demonstrations to call for the return of constitutional order and respect for economic and social rights and to protest against the imposition of an electoral calendar, the junta banned many peaceful assemblies and demonstrations<sup>9</sup>. Several of these demonstrations were brutally repressed by the security forces, and police and gendarmes were deployed even for authorised demonstrations. The national guard was in charge of patrolling the poor neighbourhoods and breaking up any social meetings. For instance, on April 2, 2009, Mr. **Boubacar Messaoud**, President of SOS-Slaves (*SOS-Esclaves*) and a member of OMCT General Assembly, after expressing the opinion that the Government should support respect for fundamental freedoms, was severely beaten by the police during a peaceful demonstration organised by the Coordination of Democratic Forces

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7/ The coalition of nine opposition parties officially signed a policy statement on December 10, 2009.

8/ See AMDH.

9/ On May 21, 2009, HCE banned any demonstration until the presidential election, which at that time was scheduled for June 6, 2009, before being postponed until July. At the end of 2009, demonstrations continued to be regularly banned or repressed by the authorities.

(*Coordination des forces démocratiques – CFD*), which brings together opposition political parties and civil society organisations, including human rights organisations. Already known to the police services, he was attacked by Police Superintendent Ould Nejib and his colleagues from the courthouse police station who had come to back up the anti-riot police. The police officers were trying to put Mr. Messaoud in the boot of a car when they were challenged by two women who managed to make them run off. At the same demonstration, around a dozen people were beaten and seriously injured by the police. Similarly, on April 19, 2009, a peaceful demonstration by women Members of Parliament, which had been called by the FNDD and the RFD in front of United Nations headquarters in Nouakchott to protest against the date of elections and the lack of a return to constitutional order, was also harshly repressed. Several women were beaten by members of the police forces, including the anti-riot brigade<sup>10</sup>.

### **Judicial harassment of journalists who denounce human rights violations**

In 2009, several trials were opened against journalists who were independent from the Government and who had denounced human rights violations. As an example, on June 17, 2009, following a complaint filed on May 22 by a presidential election candidate, Mr. Ibrahima Moctar Sarr, a member of the Alliance for Justice and Democracy / Movement for Renovation (*Alliance pour la justice et la démocratie / Mouvement pour la rénovation – AJD/MR*), opposition party, the journalist Mr. **Hanevy Ould Dehah**, Director of the electronic newspaper *Taqadoumy*, was arrested<sup>11</sup>. The complaint followed the journalist's publication of an article on the candidate's purchase of a villa and his "sudden" fortune. On August 19, 2009, Mr. Hanevy Ould Dehah was sentenced to six months in prison for "publications contrary to Islam and decent behaviour" by the Nouakchott Court Correctional Tribunal, a sentence that was upheld in appeal on November 24. Mr. Hanevy was due to be released on December 24, 2009 but the prosecution, which had called for a sentence of five months in prison and a fine of five million ouguiyas (12,500 euros), asked the Supreme Court to suspend his release until the criminal chamber of the Supreme Court had ruled on its appeal. In reaction to this situation, Mr. Hanevy, who was detained at Dar Naim prison in Nouakchott, went on hunger strike for two weeks, seriously endangering his health. On January 14, 2010, the Supreme Court quashed the ruling and sent the case before an

10/ See AMDH.

11/ See AMDH, Association of Women Heads of Families (*Association des femmes chef de famille - AFCF*) and SOS-Slaves Alert, June 22, 2009.

examining magistrate<sup>12</sup>. Furthermore, on March 15, 2009, access to the electronic newspaper *Taqadoumy* was blocked to Mauritanian Internet users and, following the publication on March 15 of an article in which he denounced the violations committed by the junta, one of its editors, **Mr. Abou El Abass Ould Braham**, was arrested on March 17 for “defamation” and “attempt to destabilise the country”, before being released without being charged on March 19, 2009. He was also criticised for other articles that had been published on November 18 and 26 and December 27, 2008, relating to the putsch and the army’s obligation to declare the personal assets of its generals<sup>13</sup>.

### **Harassment of defenders who denounce the persistent practice of slavery**

Denunciation of the persistent practice of slavery in the country in 2009 caused the authorities to put increased pressure on human rights defenders who fight against slavery. For example, since taking part in the conference entitled “Slavery in the land of Islam: why don’t Mauritanian masters free their slaves?”, organised on February 17, 2009 at the Foreign Press Centre (*Centre d’accueil de la presse étrangère – CAPE*) in Paris, **Mr. Biram Ould Dah Ould Abeid**, Advisor to the Mauritanian National Human Rights Commission (*Commission nationale mauritanienne des droits de l’Homme*), President of the Initiative for the Resurgence of the Abolitionist Movement in Mauritania (*Initiative de résurgence du mouvement abolitionniste en Mauritanie – IRA*) and a representative of SOS-Slaves, was the focus of particular attention from the Mauritanian authorities. During the conference, he had in particular condemned the persistence of slavery and its legitimisation through the application of Sharia Law in Mauritania, and his statements had been repeated in several African newspapers. Acts of harassment against Mr. Biram Ould Dah Ould Abeid intensified following the press conference given on November 3, 2009 by the United Nations Special Rapporteur on Contemporary Forms of Slavery at the end of her visit to Mauritania. The authorities criticised Mr. Biram Ould Dah Ould Abeid for having informed the Rapporteur of the persistence of slavery practices and the seriousness of the problem in Mauritania. As an example, in November 2009, an anonymous article that included defamatory statements against him, in particular alleging that he had links with the Israeli secret services, was published on the *elbidaya.net* news website and picked up by a considerable number of Mauritanian websites. During

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12/ Mr. Hanevy was released on February 26, 2010 when President Mohamed Ould Abdel Aziz granted a presidential pardon to around one hundred prisoners to mark the festival of Mawlid (the Prophet Mohammed’s birthday). See AMDH and SOS-Slaves.

13/ See AMDH, AFCF and SOS-Slaves Alert, June 22, 2009.

the same period, an unidentified individual tried to enter his home before making his escape. In addition, on November 23, 2009, the Minister of the Interior warned Mr. Biram Ould Dah Ould Abeid via a person who was close to him that he had been given “a mandate by the President of the Republic to deal with him” and also ordered him to “put an end to any statement and action to fight against slavery” and to “come to him to present any case of slavery he knew of”.

### **Urgent Intervention issued by The Observatory in 2009**

<b>Names</b>	<b>Violations / Follow-up</b>	<b>Reference</b>	<b>Date of Issuance</b>
Mr. Boubacar Messaoud	Attack / Attempted abduction	Press Release	April 6, 2009

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# NIGER

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

The announcement made on May 5, 2009 by President Mamadou Tandja of his intention to call a referendum to permit him to extend his term of office by three years, contrary to the provisions of the Constitution and when his term of office was due to end on December 22, 2009, was largely damaging to the process of setting up the democratic institutions provided for by the Constitution of the 5th Republic, promulgated on August 9, 1999 after several years of political instability. Based on supposedly spontaneous popular demonstrations calling for his re-election<sup>1</sup>, Mr. Mamadou Tandja did all he could to organise the referendum: the National Assembly was dissolved on May 26, 2009; the Constitutional Court was dismissed on June 29, 2009<sup>2</sup>; and he granted himself exceptional powers on June 26, 2009<sup>3</sup>. All these measures were denounced and strongly condemned by civil society and the political opposition, despite the repression to which they were subject. On July 8, 2009, President Tandja also modified Law 2006-24 on the Organisation, Attribution and Function of the Higher Council for Communication (*Conseil supérieur de la communication* – CSC), granting the CSC Chairman discretionary powers to suspend any “organ of the press that broadcasts or publishes information likely to disturb public order or to harm the safety of the State”.

In spite of the condemnations and threats of sanctions expressed by the international community, in particular the African Union, the European Union<sup>4</sup>, the Economic Community of West African States (ECOWAS)<sup>5</sup>

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1/ The demonstrations of support referred to by the President to justify his intention to modify the Constitution to permit him to seek a third term of office were in reality just demonstrations organised by the authorities that were given broad media coverage on national radio and TV.

2/ On May 25, 2009, after being petitioned by a group of Members of Parliament, the Constitutional Court had issued a favourable opinion on the possibility of holding a referendum on the adoption of a new constitution. Following the signature, on June 5, 2009, of Decree No. 2009-178/PRN/MI/SP/D calling the electorate to a referendum on the Constitution of the 6th Republic, several political opposition groups seized the Constitutional Court with a remedy for ultra vires. The Court issued a ruling that the decree of June 12, 2009 was unconstitutional.

3/ In application of Article 53 of the Constitution.

4/ On July 11, 2009, the EU decided to block the transfer of budgetary aid for Niger to put pressure on President Tandja to suspend the referendum.

5/ In a Resolution on September 22, 2009, the ECOWAS Parliament condemned the referendum organised in Niger.

and also the International Organisation of the Francophonie (*Organisation internationale de la Francophonie*)<sup>6</sup>, the referendum on reform of the Constitution was organised on August 4, 2009. Boycotted by the opposition, the “yes” vote accounted for nearly 90% of the poll according to official sources. On August 18, 2009, a new constitution was promulgated, establishing the principle of an unlimited number of possible presidential mandates, increasing the current presidential mandate by three years as from December 22, 2009, and moving from a semi-presidential to a full presidential regime.

There has been an increase in the obstacles to fundamental freedoms since the constitutional reform. Statements, interviews, statements and other press briefings in opposition to the referendum were regularly censored by the national press. The private media that published these opinions were subject to judicial or administrative harassment. Additionally, all applications by the opposition parties to demonstrate were systematically banned, and demonstrations organised in spite of the bans led to acts of repression against members of the opposition. During the month of August 2009, several demonstrations that aimed to denounce the reform of the Constitution were brutally repressed by the forces of order, leading to numerous arrests. On August 23, 2009 for example, a demonstration organised by the opposition parties in the streets of Niamey led to the arrest and detention of 157 people, both in Niamey and the rest of the country. All these people were subsequently released. On August 30, 2009, violent clashes broke out between the forces of order and former parliamentary deputies who were on their way to Parliament in order to take their seats again in protest against the dissolution of the National Assembly; several people were injured.

The parliamentary elections organised on October 20, 2009, which were boycotted by the opposition, saw the overwhelming victory of the ruling party, the National Movement for the Society of Development (*Mouvement national pour la société de développement – MNSD*)<sup>7</sup>. They were denounced by national and international NGOs and the international community and, on October 21, 2009, ECOWAS, which had called for the

6/ See Statement of the Secretary General of the International Organisation of the Francophonie on July 1, 2009 and the Resolution of the 73rd session of the OIF Permanent Council, July 10, 2009.

7/ MNSD obtained 76 of the 113 seats in Parliament, according to the Independent Electoral Commission. The opposition boycott permitted MNSD to increase its seats, since it only held 47 in the previous Parliament, which was dissolved by President Mamadou Tandja because of its opposition to him remaining in power beyond the end of his term of office in December 2009. Despite the accusations of massive fraud made by the opposition and the international community, the Constitutional Court validated these results at its hearing on November 10, 2009.

elections to be postponed, suspended its bodies from its bodies since it did not recognise the election results and accused Niamey of having violated community texts on democracy. On December 22, 2009, ECOWAS also took note “of the [sanction] on December 22, 2009 of the legal end of the mandate” of President Mamadou Tandja<sup>8</sup>. Similarly, on November 6, 2009, the EU suspended its development aid to Niger and gave the Niamey authorities a delay of one month to begin “consultations” with a view to returning to “constitutional order”. On December 23, 2009, the American administration also suspended its non-humanitarian aid to Niger and imposed restrictions on the movements of several Government officials to sanction the refusal of President Mamadou Tandja to renounce his mandate. In spite of the opposition boycott and the disapproval expressed by the international community, municipal elections were also held on December 27, 2009.

With regard to the conflict in the region of Agadez, in the north of the country, on October 23, 2009, a decree was promulgated for a general amnesty for all acts resulting from the armed rebellion. Amongst other things, this marked the end of proceedings against the journalist Mr. Moussa Kaka, a correspondent with *Radio France internationale* and Director of the *Radio Saraouniy* private radio station, who had become a symbol of media muzzling after he was detained from September 20, 2007 to October 6, 2008<sup>9</sup> and accused of “complicity in a conspiracy against State authority” for having had regular contact, as part of his professional activity, with the rebel Tuareg faction of the Nigerien Justice Movement (*Movement des Nigériens pour la justice – MNJ*). The “state of alert”<sup>10</sup>, decreed on August 24, 2007 by President Tandja after MNJ began the armed rebellion<sup>11</sup> and which gave full power to the army in the Agadez region, was lifted on November 26, 2009, since the rebel movement seemed to have gone quiet following the constitutional reform. NGOs have restarted their activities in the region since then.

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8/ See ECOWAS Press Release, December 22, 2009.

9/ The Prosecution Chamber of the Niamey Appeal Court had indeed decided to requalify the charges against him to “actions liable to harm national defence”, no longer a crime, but an offence liable to five years in prison and a heavy fine.

10/ This measure is provided for in the Constitution of Niger and is an exceptional measure to restrict individual and collective freedoms.

11/ MNJ calls for respect for the 1995 agreements signed by the Government, improved distribution of wealth, especially the income from uranium, and measures to support families displaced due to the exploitation of the uranium deposits.



## Harassment of defenders who denounce the reform of the constitution

In 2009, human rights defenders and NGOs that criticised the concentration of power in the hands of the executive were seriously hindered in their work, with obstacles placed in particular on their freedom to protest. As an example, the Niger Civil Society Collective (*Collectif des organisations de la société civile* – CSCN) was on 16 occasions refused permission to organise or to convene peaceful marches calling for respect for the rule of law<sup>12</sup>. On June 29, 2009, Mr. Marou Amadou, President of the United Front for the Protection of Democracy (Front uni pour la sauvegarde des acquis démocratiques – FUSAD)<sup>13</sup>, the Independent Advisory and Orientation Committee for the Defence of Democratic Gains (*Comité de réflexion et d'orientation indépendant pour la sauvegarde des acquis démocratiques* – CROISADE), a member of the national board of the Network of Organisations for Transparency and Budget Analysis – Publish What You Pay (*Réseau des organisations pour la transparence et l'analyse budgétaire* – *Publiez ce que vous payez* – ROTAB PCQVP) and a civil society representative on the Independent National Election Committee (*Commission électorale nationale indépendante* – CENI), was arrested by the Niger police in Niamey. On June 30, he was accused of “inciting the defence and security forces to disobey”, “conspiracy against State authority” and “undertaking to demoralise the army” under Articles 76, 78 and 79 of the Criminal Code – crimes which are liable for capital punishment – as well as “flagrant press offences” (Article 48 of the Regulation on Freedom of the Press<sup>14</sup>. On July 2, 2009, Mr. Marou Amadou was released, but proceedings against him were still ongoing. However, he was arrested again on August 10, 2009 by the judicial police for “offence against the security of the State” after, in his capacity as President of FUSAD, he had read a statement on the tenth anniversary of the 5th Constitution of Niger on August 9, which in particular denounced the corrupt regime of President Tandja and the referendum on August 4, 2009 and recalled that the ruling of the Constitutional Court on June 12, 2009 had declared the referendum to be illegal. On August 11, 2009, Mr. Amadou was discharged

12/ See Niger Human Rights Defence Association (*Association nigérienne pour la défense des droits de l'Homme* - ANDDH).

13/ FUSAD is a network of civil society organisations established to preserve democratic structures in the context of Niger's political crisis.

14/ These accusations came after Mr. Amadou spoke during a programme broadcast on the Dounia television channel on June 29, when he referred to a statement by the Front for the Defence of Democracy (*Front de défense de la démocratie* - FDD) calling on the army to respect Article 13 of Niger's Constitution, which stipulates that “nobody shall be permitted to carry out any apparently illegal order”. Furthermore, on June 30, 2009, the radio and TV group *Dounia* was closed by order of the CSC President for having broadcast “a statement calling for an insurrection by the defence and security forces”, following Mr. Amadou's TV appearance. On July 2, 2009, the Summary Magistrate annulled the suspension of the *Dounia* group and ordered the immediate resumption of its activities.

by the Niamey High Criminal Court (*Tribunal de grande instance "hors classe"* – TGI). While several members of Nigerien civil society ad met in front of the Niamey civil prison were waiting for the formalities for Mr. Amadou's release to be completed, two vehicles belonging to the National Intervention and Security Forces (*Forces nationales d'intervention et de sécurité*) took him away and drove him back to Niamey civil prison at around 9 pm. Mr. Amadou was then charged with the "creation and/or administration of a non-declared association", as FUSAD did not have legal identity, a crime that carries a one year prison sentence. On September 1, 2009, the Public Ministry appealed against the ruling, provisionally releasing Mr. Marou Amadou. On September 15, 2009, the Niamey Appeal Court Prosecution Chamber confirmed the application for provisional release granted by the Senior Magistrate on September 1, 2009 and which had been blocked by the Niamey Court since that date<sup>15</sup>. In addition, on August 22, 2009, Mr. **Wada Maman**, Secretary General of the Nigerien Association for the Fight against Corruption (*Association nigérienne de lutte contre la corruption* – ANLC), an active member of ROTAB PCQVP and Secretary General of FUSAD, was arrested in Niamey by members of the Republican guard and taken to the Niamey police camp, without having access to a lawyer; he was accused of taking part in the illegal demonstration that had been organised on the same day by the opposition parties to denounce the amendments to the Constitution, despite Mr. Maman asserting that he had not taken part in this demonstration. At the end of the day of August 26, Mr. Maman was granted a provisional release. However, proceedings against him continued for "participation in an unauthorised demonstration" and "destruction of a bridge, public monuments and an administrative vehicle". At the end of 2009, the case of Mr. Wada Maman remained pending at the office of the Senior Examining Magistrate of the Niamey High Criminal Court.

### **Repression of journalists who denounce corruption**

In 2009, journalists who denounced Government corruption were subject to harassment. As an example, on August 1, 2009, the police arrested and questioned the directors of eight private weekly publications, Messrs. **Abdoulaye Tiemogo**, of *Canard déchainé*, **Ali Soumana**, of *Courrier*, **Assane Sadou**, of *Démocrate*, **Ibrahim Souley**, of *l'Enquêteur*, **Moussa Askar**, of *l'Événement*, **Zakari Alzouma**, of *l'Opinion*, **Omar Lalo Keita**, of *Républicain* and **Abarad Moudour Zakara**, of *l'Actualité*, for implicating the son of President Tandja in a case of corruption relating to the

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15/ On January 25, 2010, the Niamey Appeal Court sentenced Mr. Marou Amadou to a suspended three months' prison sentence for "regionalist propaganda". The lawyers introduced an appeal against this ruling before the Supreme Court.

signing of a mining contract. They were all released without charge on the same day, except for Mr. Ali Soumana, who was released at a later date to wait for his trial, which had still not taken place as of the end of 2009, and Mr. Abdoulaye Tiemogo, who was kept in custody for four days at the Niamey central police station. On August 18, 2009, the Niamey High Criminal Court sentenced Mr. Tiemogo to three months in prison for “throwing discredit on a jurisdictional act” after he had appeared on July 30, 2009 on the *Dounia* TV channel and commented on the Prosecutor’s decision to issue an international arrest warrant against former Prime Minister Hama Amadou, who lives abroad and is accused of corruption<sup>16</sup>. On August 31, 2009, the journalist, who appealed against the decision, was forcibly transferred despite his poor state of health to the prison in Ouallam, 100 km to the north of Niamey. On October 26, the Niamey Appeal Court decided to reduce the sentence of Mr. Abdoulaye Tiemogo to two months in prison, at the same time confirming the charge. Since he had already spent 86 days in detention, he was released on the same day<sup>17</sup>. On September 20, 2009, Mr. **Ibrahim Soumana Gaoh**, Editor-in-chief of the independent weekly *Le Témoin*, was arrested by the police and charged with “defamation” on September 22, 2009 after the publication of an article announcing that the former Communications Minister, Mr. Mohamed Ben Omar, was the target of a criminal investigation for corruption, following the findings of a parliamentary commission of enquiry in 2008 that revealed the misappropriation of more than two billion CFA francs (around 3.12 million euros) by the Nigerien Telecommunications Company (*Société nigérienne des télécommunications* – SONITEL), leading to the arrest of several of its directors. Arrested after a complaint was filed by Mr. Mohamed Ben Omar, he was finally released on September 30, 2009 after the latter withdrew his complaint<sup>18</sup>.

### Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Marou Amadou	Arbitrary detention / Judicial harassment / Closure of premises	Urgent Appeal NER 001/0709/OBS 095	July 1, 2009
	Provisional release	Urgent Appeal NER 001/0709/OBS 095.1	July 2, 2009
	Arbitrary arrest	Urgent Appeal NER 001/0709/OBS 095.2	August 10, 2009

16/ See ANDDH.

17/ *Idem*.

18/ *Idem*.

<b>Names</b>	<b>Violations / Follow-up</b>	<b>Reference</b>	<b>Date of Issuance</b>
	Arbitrary detention	Urgent Appeal NER 001/0709/OBS 095.3	August 10, 2009
	Discharged / Enforced disappearance	Urgent Appeal NER 001/0709/OBS 095.4	August 11, 2009
	Arbitrary detention / Judicial harassment	Urgent Appeal NER 001/0709/OBS 095.5	August 12, 2009
		Urgent Appeal NER 001/0709/OBS 095.6	September 15, 2009
	Provisional release / Judicial harassment	Urgent Appeal NER 001/0709/OBS 095.7	September 16, 2009
<b>Mr. Wada Maman</b>	Arbitrary detention / Provisional release / Judicial harassment	Urgent Appeal NER 002/0809/OBS 128	August 27, 2009

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# REPUBLIC OF THE CONGO

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

On July 12, 2009, the presidential elections were held in a tense climate, marked by high abstention and many irregularities<sup>1</sup>. There was considerable tension after the official results announcing, with no surprise, the victory of the incumbent President Denis Sassou Nguesso, in power since 1997, with over 78 % of the votes. During a peaceful protest march, organised by the opposition on July 15, 2009, the same day the results were published, the security forces brutally attacked demonstrators and international journalists present in Brazzaville. Real bullets were fired at the demonstrators, injuring at least one person. Broadcasting equipment belonging to journalists from the international press who were covering the event, such as Mr. Arnaud Zajtman and Ms. Marlène Rabaud, special correspondents for the French TV channel *France 24*, and Mr. Thomas Fessy, correspondent for *BBC* radio, was broken or confiscated<sup>2</sup>. Members of the Government had criticised the international media on several occasions, accusing them of transmitting false information<sup>3</sup>.

Furthermore, the authorities once again did not consult civil society on decisions relating to the management of resources, particularly forestry resources, regardless of the mechanisms set up to do so, and the rights of indigenous peoples on their lands, especially the Pygmies, continued to be flouted. More generally, the situation regarding negotiation of the Partnership Agreements between the Republic of the Congo and the European Union were symbolic of the Government's failure to take civil

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1/ See Congolese Observatory of Human Rights (OCDH) Press Release, July 13, 2009. The OCDH termed the election as barely credible and denounced irregularities such as multiple votes, ballot box stuffing, and the swelling of voting numbers.

2/ See Journalists In Danger (*Journalistes en danger* - JED) Annual Report 2009, *Liberté de la presse au quotidien : entre la peur et la survie. L'état de la liberté de la presse en Afrique centrale*, December 15, 2009.

3/ See OCDH.

society concerns into account, even when required by treaties<sup>4</sup>. On March 23, 2009, the United Nations Committee on the Elimination of Racial Discrimination confirmed this tendency in its report on the situation in the Congo<sup>5</sup>.

### **Intimidation of defenders who denounced irregularities in the holding of the presidential elections**

In 2009, human rights defenders who denounced voting conditions in the July election were threatened and harassed, including by the authorities in office. As an example, the Territorial Surveillance Directorate (*Direction générale de la surveillance du territoire*) refused permission for the FIDH pre-election observation mission to enter the Republic of the Congo in June 2009, requesting that it be postponed until after the vote on the presidency. There was no response to the letter addressed by the Congolese Observatory of Human Rights (*Observatoire congolais des droits de l'Homme – OCDH*) to the officials of the Territorial Surveillance Directorate on June 24, 2009 requesting an explanation for this refusal<sup>6</sup>. As a result, OCDH was the only truly independent organisation that was able to observe the presidential vote. On July 13, 2009, OCDH Executive Director, Mr. **Roger Bouka Owoko**, received anonymous telephone calls on the same day that OCDH published its communiqué after its observation of the election vote. One of the messages told him: “Keep on selling your country to the outside world; you’ll see what will happen to you, say whatever you like”. In addition, on July 15, 2009, at the end of a demonstration organised by the opposition, two people who introduced themselves under a false identity as members of Mr. Bouka’s family went to OCDH offices to meet him. He was away and they promised to come back. On the next day, they phoned to ask to meet Mr. Bouka privately to

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4/ In February 2009, the Platform of Civil Society Organisations for the Sustainable Management of Forests in the Republic of the Congo (*Plateforme des organisations de la société civile pour la gestion durable des forêts en République du Congo*) called for postponement of the agreement negotiation session scheduled to take place in Brussels from February 16 to 19, 2009, on the grounds that the civil society consultation procedure and the rights of local communities and indigenous peoples had not been respected. See Position Paper of the Association for the Defence and Promotion of the Rights of Indigenous People (*Association de défense et de promotion des droits des peuples autochtones - ADDPA*), OCDH, the Junior Legal Desk (*Comptoir juridique junior - CJJ*), the Organisation for Development and Human Rights in the Congo (*Organisation pour le développement et les droits humains au Congo - ODDHC*) and the Forum for Governance and Human Rights (*Forum pour la gouvernance et les droits de l'Homme - FGDH*), February 11, 2009.

5/ See Committee for the Elimination of Racial Discrimination, *Concluding Observations of the Committee for the Elimination of Racial Discrimination*, United Nations Document CERD/COG/CO/9, March 23, 2009.

6/ See OCDH Letter to the authorities, June 24, 2009. A copy of this letter was sent to the Minister of Security.

discuss the OCDH stand in the election and hinted at the possibility of working together. There was no follow-up. Furthermore, on July 13, the Committee to Monitor Peace and Reconstruction in the Congo (*Comité de suivi pour la paix et la reconstruction du Congo*), a body that accredits national organisations to observe the election, ordered OCDH to give it the election observation report so that it could be published in the body's summary report. The aim of this manoeuvre was to make sure that OCDH would not be able to take a stand in opposition to the official position.

### Reprisals against defenders who denounce corruption

Any criticism also remained a risky activity: people who denounced cases of corruption and poor management of natural resources also continued to pay a high price, as illustrated by the death in suspicious circumstances of Mr. **Bruno Ossébi**, a journalist and reporter for the on-line newspaper *Mwindu*, who died on February 2, 2009 following a fire that took place at his home on January 21. On the same day, an identical incident took place at the home of the Congolese political dissident in exile in France, Mr. Benjamin Toungamani. These fires occurred three days after *Mwindu* published an exclusive interview with Mr. Toungamani in which the latter accused the President of corruption. Mr. Ossébi was known for his criticism of the Congolese Government and his involvement in cases of corruption. Mr. Ossébi and Mr. Toungamani both envisaged filing civil party complaints against Mr. Sassou-Nguesso and the Presidents of Equatorial Guinea and Gabon concerning "ill-gotten gains" in France. In January 2009, Mr. Ossébi had also revealed that the National Petroleum Company of the Congo had applied for funding amounting to 100 million U.S. dollars from a French bank because of poor management of petroleum profits by the Congolese Government. While a post-mortem was not carried out, the committee of investigation appointed by the Examining Magistrate on February 25, 2009, which was supposed to publish its findings within one week, has never issued a report and, as of the end of 2009, there had been no progress in the investigation<sup>7</sup>. In addition, based on an article that appeared in the French weekly magazine *Le Point* on July 30, 2009, which discussed NGO transparency and asked questions about NGO involvement in the ill-gotten gains affair, two editorials on August 25 and 26, 2009 appeared in the daily paper *Les dépêches de Brazzaville*, attacking both international and local NGOs, accusing them of trying to "destabilise the African Governments" and appealing to the same Governments to

7/ See Reporters Without Borders and JED Report, *République du Congo, Mort du journaliste franco-congolais Bruno Jacquet Ossébi : mystères et négligences*, July 2009 and JED Annual Report 2009, *Liberté de la presse au quotidien : entre la peur et la survie. L'état de la liberté de la presse en Afrique centrale*, December 15, 2009.

make the battle for transparency for NGOs that “harass them” a priority for action. The campaign was aimed in particular at international NGOs such as Transparency International, Survival (*Survie*), Global Witness and Sherpa, which are involved in denouncing the corruption of certain African leaders and their ill-gotten gains in Europe<sup>8</sup>. Defenders working on the issue of the conditions that should be required in response to the request to cancel the debt of the Congolese State were particular targets, including Mr. **Christian Mounzé**, President of the NGO Meeting for Peace and Human Rights (*Rencontre pour la paix et les droits de l’Homme* – RPDH), and Mr. **Brice Makosso**, Permanent Secretary to the “Justice and Peace” Episcopal Commission (*Commission épiscopale “justice et paix”*), who had already been harassed in 2006 for their participation in the “Publish What You Pay” Coalition (coalition “Publiez ce que vous payez”), as well as Mr. Mounzé’s French lawyer, Mr. **William Bourdon**. During programmes broadcast by national television on August 4, 5, 6 and 7, 2009, which repeated these accusations, Mr. William Bourdon was directly mentioned as President of Sherpa and Mr. Mounzé’s lawyer, Mr. Makosso and Mr. Mounzé were presented as henchmen of these international organisations and as dangerous elements whose intention was to destabilise the country<sup>9</sup>. In addition, on November 6, 2009, Mr. Mounzé received calls from advisors to the Minister of Mines and Geology and the Finance Minister while he was about to travel to Milan and Berlin for publication of a report on respect for human rights in the Italian Petroleum Company’s (*Ente Nazionale Idrocarburi* – ENI) new investment projects on tar sands and biofuel. The advisors to the two Ministers, who did not understand why this report might be published before they had seen it and given their permission for publication, dissuaded him from leaving as that “could be dangerous” for the country and for himself. When Mr. Mounzé returned, he continued to receive anonymous threatening phone calls<sup>10</sup>.

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8/ See Meeting for Peace and Human Rights (RPDH).

9/ RPDH tried, unsuccessfully, to obtain a copy of the programme and was therefore not able to file a complaint. See RPDH.

10/ See RPDH.



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# SENEGAL

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

The elections that took place on March 22, 2009 saw the slide of the “Sopi” (“change” in the Wolof language) Coalition led by President Abdoulaye Wade, in office since 2000, and several large towns, including the capital, Dakar, fell to the opposition. In this new context, the Senegalese President took some steps towards normalising relations with the press, which was often considered to side with the opposition. In particular, he re-launched consultations on the de-criminalisation of press offences, as the current Press Code, dating from 1996, established a climate of self-censorship by putting pressure on journalists who might denounce corruption or abuses by the authorities with the risk of being sentenced to imprisonment<sup>1</sup>. As an example, following a seminar on access to information organised on December 16 and 17, 2009 by the Panos Institute West Africa in partnership with the Civil Forum (*Forum civil*)<sup>2</sup>, a committee of eleven members<sup>3</sup> was set up to work on a Bill on the Access to Information<sup>4</sup>. A new Press Code was also due to be adopted in 2010. However, these efforts did not prevent new sentences being passed on journalists, and newspapers from being suspended<sup>5</sup>. In addi-

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1/ See Committee to Protect Journalists (CPJ) Press Release, October 26, 2009.

2/ The Civil Forum is the local branch of the NGO Transparency International, created in Senegal to promote, amongst other things, global participative democracy, transparency, good governance and the fight against corruption.

3/ Including representatives of Forum civil, the Panos Institute, ARTICLE 19, the Ministry of Information and Communication, the Council for Ethics and Deontology (*Comité d'observation des règles éthiques et de déontologie* - CORED), journalists from community radios and a local elected official.

4/ See International Freedom of Expression eXchange (IFEX) Press Release, January 6, 2010.

5/ Messrs. Pape Samba Sène and Abdou Dia, respectively correspondents for the daily newspaper *L'AS and Radio futures média (RFM)* in the Kaolack and Kaffrine regions, were arrested on September 18, 2009 and detained following a complaint made by the Governor of the Kaffrine region for “defamation”, “publishing false news” and “criminal conspiracy” after the publication of articles denouncing the misappropriation by the Governor of peanut seed intended for peasant farmers. They were finally granted provisional release on September 30, 2009. Furthermore, on November 3, 2009, the Dakar District Court handed down a three months’ suspended prison sentence for Mr. Abdoulatif Coulibaly, Publication Director of the magazine *La Gazette*, and Mr. Cheikh Fadel Barro, a reporter with *La Gazette*, for “publishing false news”, and ordered the magazine to pay one million CFA francs in damages and interest to the Senegalese National Lottery (*Loterie nationale sénégalaise* - LONASE) after an article published in the April 2-9, 2009 edition of *La Gazette* highlighted the LONASE deficit and its debts to its French partners. However, the suit of LONASE Executive Director, Mr. Baïla Alioune Wane, who had sought 50 million CFA francs in personal damages and interest, was dismissed and the two journalists were discharged of the offences of “defamation” and “public insult”. The latter appealed the decision.

tion, at the end of the year the competent authorities refused to attribute a frequency to the *Télévision futurs médias* (TFM) TV channel although all the administrative conditions had been met, demonstrating how hostile the Government is to the private press, especially to media that are independent of the Government<sup>6</sup>.

The year was also marked by official statements that were hostile to international justice and by the lack of will in the case of Hissène Habré, the former dictator of Chad who had taken refuge in Senegal and who is presumed responsible for mass crimes when he was in power. On May 18, 2009, President Abdoulaye Wade declared that “Africa must withdraw its membership until the International Criminal Court (ICC) becomes democratic, fair and equitable”, as part of a disinformation campaign against the ICC and its Prosecutor led by the African Union and certain Heads of State, including Senegal<sup>7</sup>. Furthermore, no tangible progress in the Hissène Habré affair was noted in 2009 and the Senegalese authorities held their ground that they will not organise the trial of the former Chadian dictator until they have received the total amount of funding, which they have estimated at 27.4 million euros, including eight million euros to renovate a law court<sup>8</sup>. Further grey areas were the recurrence of torture, a structural practice during custody, particularly at the level of police stations and gendarmerie brigades, and the impunity that continued to surround violations of the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment<sup>9</sup>.

### **Continued harassment of journalists who denounce human rights violations and corruption**

Although human rights defenders now seem to operate in a healthier working environment, unexpected summons to the Criminal Investigation Division (*Division des investigations criminelles* – DIC) without any judicial consequences were still used too frequently against journalists and other media personnel who are critical of the Government, especially when

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6/ See Amnesty International-Senegal, the African Assembly for the Defence of Human Rights (*Rencontre africaine pour la défense des droits de l'Homme* - RADDHO) and the National Human Rights Organisation (*Organisation nationale des droits de l'Homme* - ONDH) Press Conference, November 30, 2009.

7/ See Amnesty International - Senegal, RADDHO, Action of Christians for the Abolition of Torture (ACAT) Senegal, ONDH and the African Network for Integrated Development (*Réseau africain pour le développement intégré* - RADI) Joint Press Release, June 5, 2009.

8/ Although the European Union, Chad, France, Switzerland, Belgium and the Netherlands have already agreed to assist Senegal to finance the trial, at the end of 2009 they were still waiting for a credible budget. In addition, international practice is to finance this kind of trial in stages year-by-year.

9/ See ONDH and RADDHO. However, defenders who work on these issues seem not to be subjected to harassment.

they denounce human rights violations. As an example, on September 17, 2009, Mr. **Mody Niang**, the author of several works that were critical of the President, and who is known for his virulent columns about the Government, was summoned to the DIC after a complaint was filed by Mr. Cheikh Amar, a businessman, for “defamation and publishing false news”. At a press briefing during the conference on economic governance organised by the National Alliance of Managerial Staff (*Alliance nationale des cadres pour le progrès* – ANCP) on September 10, Mr. Mody Niang had made references to State favours that the businessman would have enjoyed for the construction of presidential villas. The case was finally dismissed for lack of evidence after the plaintiff withdrew his complaint on September 18, 2009<sup>10</sup>. In other cases, people with close links to the Government attacked the media with total impunity, bringing accusation against them. For example, on September 25, 2009, disciples of the religious leader Mr. Serigne Modou Kara Mbacké burst into the premises of the daily newspaper *Wal-Fadjri*, attacking the staff and wrecking equipment, following the publication of an article in the paper and referred to in the daily review of the press on radio *Walf FM*, according to which a religious leader was supporting the President of the Republic in exchange for “services”. The Chief Executive Officer, Mr. **Sidy Lamine Niasse**, was forcibly taken to a private property before being released a few minutes later. Mr. Niasse did not file a complaint but an enquiry was opened, based in particular on film taken by the *Wal-Fadjri* cameramen who were on the premises. On September 28, 2009, the DIC interviewed the younger brother of Mr. Serigne Modou, Mr. Mame Thierno Mbacké, who was accused of being behind these actions. No progress has been made in the enquiry since then<sup>11</sup>. Finally, on February 23, 2009, the Dakar Appeal Court upheld the ruling of the Dakar Special Regional Court which, on September 12, 2008, had sentenced the Publishing Director of the private daily newspaper *24 Heures Chrono*, Mr. **El Malick Seck**, to three years’ imprisonment, in particular for “publishing false news” after his paper had stated that President Abdoulaye Wade and his son were involved in laundering money from the hold-up against the Central Bank of West African States (*Banque centrale des Etats de l’Afrique de l’ouest* – BCEAO) in Bouake, Côte d’Ivoire, in August 2002. He was held at the Dakar prison camp for eight months and then released on April 24, 2009 following a presidential pardon that also applied to the people responsible for wrecking the offices of the daily paper in August 2008<sup>12</sup>.

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10/ See ONDH and RADDHO.

11/ See Amnesty International-Senegal, RADDHO and ARTICLE 19 Press Release, September 27, 2009.

12/ See Observatory Annual Report 2009.

## Attacks on freedom of peaceful assembly

In 2009, sanctions were also imposed on freedom of peaceful assembly. As an example, on December 23, 2008, the security forces brutally repressed a march organised in Kédougou to protest against the economic situation of the inhabitants of the region, causing the death of Mr. **Mamadou Sina Sidibé** and injuring several people<sup>13</sup>. On January 9, 2009, the Tambacounda District Court handed down sentences of between five and ten years in prison to 19 demonstrators for “violence and assault and battery against agents of the public forces”, “voluntary destruction and damage of goods belonging to another person and to the State”, “looting and burning public buildings” and “organising an unauthorised demonstration”<sup>14</sup>. These people were held at Tambacounda remand and detention centre before being released on March 17, 2009, following a presidential pardon<sup>15</sup>.

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13/ This march took place after a three-day forum organised by the Association of Pupils and Students (*Association des élèves et des étudiants*) from Kédougou district to debate on their living conditions and the poverty of the inhabitants of the area, which nevertheless has an abundance of mineral resources that are exploited by foreign companies.

14/ Including **Alphousseynou Diallo**, **Saloum Taouda**, **Amadou Tidiane Diallo**, **Kaly Samuel Boubane**, **Ithiar Bundia**, **Jeremy Bianquich**, **Souleymane Diallo** and **Assane Diallo** (sentenced to ten years in prison); **Aliou Manékhata** and **Issa Diallo** (sentenced to seven years in prison); **Youssef Sidibé**, **Mady Kanté**, **Mamadou Dian Diallo**, **Fatim Bâ**, **Lamanara Diallo** and **Boubacar Médoune Diop** (sentenced to five years in prison).

15/ See ONDH and RADDHO.

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# SUDAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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Despite the Comprehensive Peace Agreement signed in 2005 brought an end to twenty years of civil war between the Sudanese Government and the Sudan's People Liberation Army, violence resumed in 2009, stemming from multiple and sometimes overlapping sources including conflicts within joint north-south military units and between southern tribes as well as from attacks by the rebel Lord's Resistance Army. In 2009, the Sudanese population particularly suffered the consequences of the governmental decision to evict international humanitarian agencies in March and of the resuming of the attacks launched either by the authorities or the rebels since September 2009 in Korma, Meliet, Jebal Moo, Jebal Mediob and eastern Jebal Marra in North Darfur State. Heavy military equipments including fighter planes and artillery were used intensively causing indiscriminate damage on civilian targets. Widespread burning of dwellings and destruction of social facilities followed by organised looting of goods and livestock from the villagers were reported in many places. In 2009 alone, at least 2,500 people were killed and more than 390,000 were displaced<sup>1</sup>.

Those who challenged the President's achievements, including its human rights records, were even more at risk in 2009 considering the upcoming 2010 presidential elections to which President Omar Al Beshir is a candidate despite the international arrest warrant issued by the International Criminal Court (ICC) on March 4, 2009 for "war crimes" and "crimes against humanity" in Darfur. Indeed, to be in a position to win the elections, Mr. Al Beshir did everything possible to silence all opposition and criticism. In December 2009, several peaceful demonstrations organised by the Juba Declaration Forces, which aimed at presenting a petition to Parliament detailing needed legislative changes and demanding the establishment of an enabling environment for free and fair national elections, were violently repressed across Sudan. On December 7, 2009, the riot police used violence against tens of thousands engaged in peaceful protests in Omdurman, Greater Khartoum North, and other cities across Sudan. Rubber bullets and tear gas were fired into crowds, and security agents confiscated cameras from the international media. In Khartoum, over

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1/ As of the end of 2009, the Internal Displacement Monitoring Centre (IDMC) counted 4.9 million of internally displaced people (IDP) in the country. See IDMC, *Estimates for the total number of IDPs for all of Sudan*, January 2010.

250 people were arrested, including prominent lawyers, students, journalists and opposition figures. Dozens of people were also seriously injured. Similarly, on December 14, 2009, the security forces violently dispersed another peaceful protest, which led to at least seven people being seriously injured and the arrest of hundred of people<sup>2</sup>.

Furthermore, the National Intelligence and Security Services (NISS) continued to operate against all dissenting voices<sup>3</sup>. In particular, newspapers worked under incredible duress in 2009, as it was a daily practice for NISS officers to monitor daily censorship of publications and remove articles or paragraphs at their discretion, without providing any motive, often making it impossible to publish the newspaper at all. This policy affected several newspapers including in particular *Al-Meedan*, *Agras Al-Horreya*, *Ray' ilShaab* and *Al-Akhbar*<sup>4</sup>. In addition, on December 20, 2009, the Parliament passed the new controversial National Security Act, under which the NISS retain the power to conduct arrest and confiscation of property<sup>5</sup>, and NISS officers enjoy full immunity, which can only be removed by the NISS Director. In the current context, it is feared that this law will be used to continue harassing human rights defenders. Moreover, on June 8, 2009, the Press and Publications Act of 2009 was adopted by the National Assembly and despite the opposition of 168 members of the Assembly, entrusting Government authorities with the power to impose restrictions on the press on vague grounds related to national security and public order and gives the Press Council<sup>6</sup> the power to ban newspapers for a period of three days without judicial mandate. The law appears to be in contradiction with the 2005 Interim Constitution of Sudan, which includes important safeguards for freedom of expression, especially as sensitive issues like the ICC, corruption, Darfur and the elections will probably continue to be subjected to censorship<sup>7</sup>.

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2/ See African Centre for Justice and Peace Studies (ACJPS).

3/ For instance, on February 15, 2009, the Khartoum North Criminal Court sentenced Mr. Kamal Omer Abd-alsalam to six months in prison for "defamation" after he wrote an article in *Ray-Elshaab* newspaper in 2007, which alleged that the NISS excluded Darfurians from its ranks. Mr. Omer spent two months in Omdurman prison before being released.

4/ See Arab Network for Human Rights.

5/ Under the previous law, the NISS had the power to detain people for three months, renewable for another six months after getting permission from the National Security Council. Under the new law, the NISS may only detain people for one month, renewable once by the NISS Director without judicial supervision.

6/ The Press Council is controlled by the State, and consists of 21 members, six of whom are appointed by the President himself.

7/ See ACJPS, *Report on the situation of the freedom of expression and the freedom of the press in Sudan, January 1, 2009 - September 30, 2009*, October 19, 2009.

On a positive note, on April 21, 2009 the Parliament passed the National Human Rights Commission Act, which contains many strong elements in line with the Paris Principles related to the status of national human rights institutions. However, as of the end of 2009, the Commission had not been set up yet.

### Ongoing attacks against humanitarian workers

In 2009, humanitarian workers continued to work in a very difficult environment and face attacks. In particular, several of them were kidnapped throughout the year<sup>8</sup>. Thus, on March 11, 2009, five staff members of Doctors Without Borders-Belgium (*Médecins sans frontières* – MSF), three international and two national, were kidnapped in Saraf Umra in North Darfur. All five were subsequently released, one national staff the same day, and the others on March 14<sup>9</sup>. On April 4, 2009, four NGO workers were kidnapped near Edd al-Fursan, South Darfur. Two were released the following day, and the other two were released later<sup>10</sup>. On October 22, 2009, Mr. **Gauthier Lefevre**, a French national working for the International Committee of the Red Cross (ICRC), was abducted in West Darfur, near the border with Chad, by gunned men a few kilometres away from the city of El Geneina<sup>11</sup>. And while on October 18, 2009, Ms. **Sharon Commins** and Ms. **Hilda Kawuki**, from the Irish humanitarian NGO Goal, were released following 107 days of detention<sup>12</sup>, as of the end of 2009, two civil workers of the African Union/United Nations Hybrid Operation in Darfur (UNAMID) remained abducted<sup>13</sup>.

Furthermore, on March 4, 2009, Sudanese authorities ordered thirteen foreign aid NGOs to leave the country, including Action Against Hunger (*Action contre la faim* – ACF), Care International, CHF International, the International Rescue Committee (IRC), Mercy Corps, the French and Dutch branches of MSF, the Norwegian Refugee Council, Oxfam GB, Solidarity, PATCO and Save the Children Fund of both the United Kingdom and the United States. Government officials acting on orders entered aid agency compounds and took property from the NGOs. The seizures were aimed only at laptops and communications equipment. According to the United Nations, roughly 6,500 national and international personnel, which equates to 40 percent of aid workers in Darfur, had to

8/ Kidnapping is seen by some groups as a source of money and by others as a way to limit international scrutiny on human rights violations.

9/ See ACJPS, *Sudan Human Rights Monitor, Issue No.1*, March-May 2009.

10/ *Idem*.

11/ Mr. Lefevre was released on March 18, 2010. See ICRC Press Release, March 19, 2010.

12/ See ICRC Press Release, October 18, 2009.

13/ See UNAMID Press Release, November 30, 2009.

depart in the wake of the Sudan Government's decision<sup>14</sup>. At the end of 2009, these organisations remained closed down.

### **Crackdown against human rights defenders fighting against impunity, in particular on the eve of the ICC international arrest warrant**

In 2009, those who denounced human rights and humanitarian violations and their impunity as well as the unwillingness of the authorities to cooperate with the ICC faced State repression. Indeed, following the application on July 14, 2008 by the ICC Prosecutor for an international arrest warrant against President Al Beshir, the Sudanese administration launched a major attack against human rights defenders, with the aim of attempting to paralyse the human rights movement within Sudan. This trend increased in the weeks leading to the issue of the arrest warrant on March 4, 2009. On February 26, 2009, the General Director of the NISS, Mr. Salah "Gosh" Abdalla, gave a strong warning that "we will cut the hands, heads and body parts of whoever gets involved in implementing ICC plans because this is an issue beyond any compromise". On February 19, 2009, the bank account of the Khartoum Centre for Human Rights and Environmental Development (KCHRED) was frozen by decision of the Khartoum State's Humanitarian Aid Commissioner. This was accompanied by several acts of intimidation and harassment against KCHRED staff members, who were subjected to numerous summons for interrogation on the nature of KCHRED work and sources of funding. They were also defamed and targeted on numerous occasions in newspapers, such as Mr. **Amir Mohamed Suliman**, Chairperson, who was referred to as a traitor in the newspaper *Al Ra'id* on January 13, 2009, in relation to his alleged participation in a seminar on international justice. In February 2009, KCHRED was also subjected to a number of sudden raids carried out without prior notice by agents of the Federal and Khartoum State Humanitarian Aid Commissions (HAC). On March 1, 2009, the Minister of Social Affairs of Khartoum State issued Ministerial Decree No. 2/2009, in which he confirmed the recommendation of the Khartoum State's Humanitarian Aid Commissioner to cancel the registration of the KCHRED and to close it down. On the same day, the Federal HAC issued an order calling for the closure of KCHRED and two organisations operating in Darfur, the Sudan Social Development Organisation (SUDO)<sup>15</sup> and the El Fashir and Nyala branches of the Amal Centre for the Rehabilitation of Victims of

14/ See UNICEF Press Release, March 6, 2009.

15/ SUDO was one of the largest national organisations undertaking humanitarian and development assistance through ten offices across Sudan.



Torture<sup>16</sup>. On March 4, 2009, the NISS and the police broke the doors of KCHRED offices and SUDO offices in Nyala and Zalingei and removed everything from the offices. On March 5, 2009, the *National Radio of Omdurman* reported that KCHRED had been closed down because of its alleged cooperation with the ICC, and that all of its staff and, in particular, its “leader with dual nationality”, whose name was not given, would face trial for “crimes against the State”. On January 13, 2010, the Governor of Khartoum State rejected the appeal filed by the KCHRED<sup>17</sup> and, at the end of 2009, SUDO’s appeal was pending before the Administrative Court. Simultaneously, on March 3, 2009, Dr. **Ibrahim Adam Mudawi**, Chairperson of SUDO, was notified of a court case filed against him by the Federal and Khartoum State HAC for alleged “embezzlement” of 40,000 USD by SUDO in 2004<sup>18</sup>. On March 3, 2009, Sudanese national security agents raided the home of Mr. **Mossaad Mohammed Ali**, former Director of the Amal Centre in Nyala. His brother-in-law, who was in the house at the time of the raid, was questioned about his whereabouts, and Mr. Ali’s private car was confiscated by the security forces. On the same day, the father of Mr. **Mohamed Badawi**, former Director of the Amal Centre in El Fashir, was arrested and questioned about the whereabouts of his son. He was released a few hours later<sup>19</sup>.

### **Acts of harassment against lawyers providing support to victims of the conflict in Darfur<sup>20</sup>**

In 2009, several lawyers providing support to victims of the conflict in Darfur were harassed by the NISS. On March 28, 2009, Mr. **Abu Talib Hassan Emam**, a Sudanese lawyer from El Geneina, in Western Darfur, and a member of the Darfur Bar Association, was arrested by the NISS at his private house. He was immediately taken to the airport and transported to Khartoum. On March 30, 2009, he was released on bail, after the NISS had opened a criminal case against him for “crimes against the State”. Mr. Abu Talib Hassan Emam left the country on August 18, 2009 and at the end of 2009, the case was still pending. On March 6 and 8, 2009, Mr. **Ahmed Juma**, a legal aid lawyer formerly associated with the Amal Centre in El Fashir, and who represented many victims of human rights violations, including rape cases, before the national judicial system, received five threatening phone calls from NISS officers telling him that

16 / The Amal Centre was the major national NGO in North and South Darfur providing legal aid and psychosocial support to victims of human rights violations, with a special focus on torture and rape victims. It was handling more than 750 cases.

17 / An appeal was to be filed before the Administrative Court in 2010.

18 / On March 16, 2010, the Khartoum Central Criminal Court found Dr. Mudawi innocent.

19 / See ACJPS.

20 / *Idem*.

they would arrest him due to his work with the Amal Centre. Fearing for his safety, he was forced to leave the country on May 29, 2009. On April 1, 2009, Mr. **Muneer Mohamed Khater**, a legal aid lawyer who has provided legal aid services to victims of human rights violations in the Kutum area since 2008 and was formerly associated to the Amal Centre in El Fashir, attempted to board a UNAMID flight to Kutum town in North Darfur to conduct a field mission when he was stopped by the NISS. Mr. Khater then returned home followed by NISS officers, who continued to follow him for several days. On April 11, 2009, the NISS arrested Mr. **Mohamed Al-Mahjoub Abdalah abd Alwahab**, lawyer and Coordinator of the North Darfur branch of the Amal Centre, at his house in El Fashir. He was detained incommunicado for seven days and subjected to torture and to ill-treatment in the NISS premises in El Fashir, before being released without charge. None of his lawyers nor his family was able to visit him during his detention. On March 5, 2009, Mr. Al-Mahjoub had been ordered by the NISS not to leave El Fashir, on the basis of the National Security Forces Act 1999. This requirement was still in force as of the end of 2009. Also on April 11, 2009, Mr. **Suliman Ahmed Abd Elrahman Arbab**, a paralegal at the Abu Shook Justice and Confidence Centre (JCC) in North Darfur working in the Boyhood IDP camp, was arrested inside Abu Shook camp by police and NISS officials. Mr. Arbab was severely tortured in the NISS offices in El Fashir during his detention. He was released without charge after ten days of detention on April 21, 2009. Additionally, Mr. **Barood Sandal**, a prominent human rights lawyer who had represented Darfuri victims of arbitrary detention and torture in northern Sudan, was released on April 23, 2009 after eleven months of detention without trial. He had been detained by the NISS since May 12, 2008. Once ten months had elapsed, the NISS had filed a police complaint against him under the Criminal Act and Anti-Terrorism Act, alleging he had “undermined State security”. A criminal investigation then commenced and he was transferred from NISS to police detention. On April 5, 2009, a prosecutor dismissed the case for lack of evidence and ordered his immediate release. Instead, the NISS re-arrested him and held him without charge until his final release.

### **Repression of civil society activities promoting fair, transparent and free electoral processes**

In 2009, the NISS disrupted several events related to the 2010 elections and arrested several activists promoting fair and free electoral processes. For example, on September 8, 2009, the NISS ordered “Journalists for Unity”, a coalition of northern and southern journalists, to cancel a press conference that intended to address issues related to the upcoming elections and the referendum. On the same day, the NISS also prevented three

human rights organisations, the Asma organisation, the Maa Society and the Sudan Research and Development Organisation, from holding a symposium on elections to be held at Khartoum University<sup>21</sup>. On December 6, 2009, in Omdurman, Messrs. **Muhnad Umar** and **Hazim Khalifa**, two students and human rights activists, were approached by security forces while they were distributing fliers for “Grifna”, a campaign calling for free elections. The security forces chased the two students and fired shots into the air in order to force them to stop. When they stopped, they were arrested. Mr. Khalifa was beaten with the butt of a rifle by security agents and was knocked unconscious at the scene. They were then taken to the NISS offices, near the railway station in Khartoum, before being released late in the night without charge. Similarly, Ms. **Butheina Omar Al Sadiq**, Ms. **Randa Yousif** and Ms. **Nafisa Al-Nur Hajar**, lawyers promoting the holding of fair, transparent and pluralist elections at the Bar Association, were arrested on December 8, 2009 at the Al Kalakla Court complex in Khartoum for posting on behalf of the Lawyers’ Democratic Front fliers urging lawyers to renew their membership at the Bar Association and pay the related fees in order to be entitled to vote at the next Bar Association elections scheduled in January 2010. The lawyers were interrogated by the police and released the same day without being charged. However, immediately upon their release, NISS agents re-arrested them outside the police station, and took them to the NISS office in the Abu Adam area in Al Kalakla district, where the women remained in custody without access to their lawyers and families. They were again released the same day without charge.

### **Harassment of journalists reporting on human rights violations<sup>22</sup>**

In 2009, journalists continued to be harassed when they addressed sensitive human rights related issues. For instance, on February 28, 2009, Sudanese authorities expelled Ms. **Hiba Ali**, a Canadian-Egyptian journalist, for reporting on the Darfur crisis and the arms industry in Sudan. A freelance reporter for several news organisations including *Bloomberg*, the UN humanitarian news organisation *IRIN* and *The Christian Science Monitor*, Ms. Ali had reported from Sudan since June 2008. Sudan’s security services accused her of immigration violations, as her press accreditation ran out in January and she had not been able to renew it, despite repeated applications to the National Press Council. On March 1, 2009, Mr. **Zuhair Latif**, a resident Tunisian journalist working for the Arabic-language website of television news channel *France 24* and the London-based pan-Arab newspaper *Al-Hayat*, was detained for two days

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21/ *Idem*.

22/ *Idem*.

and expelled from the country. NISS agents stormed his apartment in Khartoum and confiscated his camera, tapes, and cell phones, before arresting him. Sudanese authorities had claimed that Mr. Latif had been expelled because he had “violated immigration procedures”, without specifying the violations. Before his expulsion, Mr. Latif had visited Darfur, where he had taken pictures and interviewed victims about the conflict. Moreover, Ms. **Ammal Habani**, a journalist for *Ajras Al-Hureya* newspaper and a defender of women’s rights in Sudan, faced judicial prosecution following the publication on July 12, 2009 of an article she wrote in defence of Ms. Lubna Ahmad Hussein, who was condemned for wearing “indecent clothing” to 40 lashes. In her article, Ms. Ammal Habani had criticised the restrictions in law and practice on women’s rights and freedoms in Sudan. On the same day, she had called for general support for Ms. Lubna Ahmad Hussein and attended her court hearing in solidarity. The police had also detained reporters from *Reuters*, *Al-Hurra* channel, *Al-Meedan* and *Agras Al-Horreya* who had congregated in front of the courthouse to cover the case of Ms. Hussein. On July 20, 2009, Ms. Habani was summonsed by the Press and Media Prosecutor and then charged with “defaming the Public Order Police (POP)”, in violation of Article 159 of the Criminal Code. The law suit that was brought by the POP seeks that she pays ten million Sudanese pounds (about 3.26 million euros) in compensation. As of the end of 2009, the date of the trial had not been scheduled yet<sup>23</sup>.

### Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Khartoum Centre for Human Rights and Environmental Development (KCHRED) / Mr. Amir Mohamed Suliman	Closure of an NGO / Freezing of bank account / Harassment / Campaign of intimidation	Urgent Appeal SDN 001/0309/OBS 037	March 4, 2009
Amal Centre for the Rehabilitation of Victims of Torture, Sudan Social Development Organisation (SUDO), KCHRED and 10 aid foreign NGOS / Mr. Ibrahim Adam Mudawi	Closure of NGOs / Eviction of relief and humanitarian NGOs / Confiscation of material and equipment / Harassment	Urgent Appeal SDN 001/0309/OBS 037.1	March 11, 2009
Mr. Mohamed Al Mahgoub / Amal Centre for the Rehabilitation of Victims of Torture	Incommunicado detention	Press Release	April 14, 2009
	Release	Press Release	April 21, 2009

<b>Names</b>	<b>Violations / Follow-up</b>	<b>Reference</b>	<b>Date of Issuance</b>
<b>Ms. Butheina Omar Al Sadiq, Ms. Randa Yousif and Ms. Nafisa Al-Nur Hajar</b>	Arbitrary detention	Urgent Appeal SDN 002/1209/OBS 186	December 10, 2009
	Release	Urgent Appeal SDN 002/1209/OBS 186.1	December 23, 2009
<b>Messrs. Muhnad Umar and Hazim Khalifa</b>	Arbitrary arrest / Release / Ill-treatments	Urgent Appeal SDN 003/1209/OBS 187	December 10, 2009
<b>Messrs. Hatem Salah, Adel Bakhit, Elshafeee Eldao and Amro Kamal Khalil</b>	Obstacles to the freedom of assembly / Intimidation	Urgent Appeal SDN 004/1209/OBS 194	December 18, 2009

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# TOGO

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

The early years of Mr. Faure Gnassingbé's presidency were marked by some progress in the respect of human rights, as evidenced by the abolition of the death penalty on December 10, 2008, the greater freedom of expression or the establishment on May 27, 2009 of the Commission for Truth, Justice and Reconciliation (*Commission vérité, justice et réconciliation*) to shed light on the political violence and serious human rights violations perpetrated since 2005<sup>1</sup>. However, the prospect of presidential elections in March 2010<sup>2</sup> revealed underlying tensions and sharply curtailed freedoms. Important debates surround the composition of the Independent National Electoral Commission (*Commission électorale nationale indépendante* – CENI) to organise the 2010 elections. Under Article 15 of the Electoral Code, the CENI is composed of 17 members, including three elected by the National Assembly on behalf of civil society and accredited to monitor all phases of the electoral process. Nonetheless, political parties have sought to instrumentalise civil society organisations<sup>3</sup>. Indeed, at a meeting on July 28, 2009 in Ouagadougou with the facilitator Blaise Compaoré, the three parties represented in the National Assembly<sup>4</sup> agreed on the choice of civil society members to sit before the CENI, contrary to the principle of impartiality.

In this pre-election context, freedom of the press was also undermined. Yet Togo is one of the few African countries that has decriminalised press offences<sup>5</sup>, and public support to the media, although insufficient, was adopted last year<sup>6</sup>. However, following the events of April 2009 involving

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1/ After the events of 2005, major political parties in Togo established a programme of political transition under the auspices of an international mediator, Mr. Blaise Compaoré, President of Burkina Faso, which included the creation of this commission.

2/ The elections were held on March 4, 2010 and resulted in the victory of Mr. Faure Gnassingbé with 60.9% of the vote. The conditions of the electoral process were strongly contested by opposition parties.

3/ See Group of Thinking and Action Women, Democracy and Development (*Groupe de réflexion et d'action femmes, démocratie et développement* - GF2D).

4/ The Rally of the Togolese People (*Rassemblement du peuple togolais* - RPT), the Union of Forces for Change (*Union des forces de changement* - UFC) and the Action Committee for Renewal (*Comité d'action pour le renouveau* - CAR).

5/ Togo decriminalised press offences on August 27, 2004 with the signature of 22 commitments made by the Togolese Government to the European Union on April 14, 2004.

6/ In 2009, 45 newspapers, 34 radios and four television stations benefited from this.

the President's family<sup>7</sup>, the authorities were extremely sensitive to media reporting. On April 17, 2009, the High Authority of Audiovisual and Communication (*Haute autorité de l'audiovisuel et de la communication* – HAAC) decided to “suspend any interactive program [...] until further notice on all radio and television” under threat of disciplinary sanctions in response to an alleged attempt to destabilise the institutions of the Republic<sup>8</sup>. Moreover, the adoption by the National Assembly on December 15, 2009 of a bill amending the functions of the HAAC and giving it the power to impose sanctions (including financial penalties, temporary or permanent, partial or total suspension of the programme, reducing the duration of the authorisation, the antenna input, withdrawal of authorisation) was denounced by civil society organisations as an illiberal law that reflected clear determination of those in power to muzzle the private press on the eve of presidential elections in 2010<sup>9</sup>.

Furthermore, in a report published in March 2009 following her visit to the country in 2008, the UN Special Rapporteur on the Situation of Human Rights Defenders expressed concern about the fate of women defenders and difficulties inherent in their activities, including unjustified delays in issuing certificates of registration to NGOs, illegitimate restrictions on freedom of peaceful assembly and freedom of opinion and expression, and impunity for past abuses against defenders<sup>10</sup>.

### **Acts of harassment against an NGO fighting impunity**

In 2009, the Collective of Local Associations Against Impunity in Togo (*Collectif des associations contre l'impunité au Togo* – CACIT), which provides assistance to victims of grave human rights violations, was burgled twice. The first time occurred in the night of August 28 to 29, 2009, and all computer equipment was stolen, raising concerns about the use that might be made of data collected by CACIT through its pursuit of accompanying victims. Following the burglary, on August 29, 2009, CACIT went to the police headquarters in the city of Lomé, which dispatched an agent

7/ On April 15, 2009, Mr. Kpatcha Gnassingbé, Deputy, former Defence Minister and brother of President Fauré Gnassingbé, was arrested by the Togolese authorities. During the search of his home, an entire arsenal, including sniper rifles and satellite phones, were discovered. Twenty officers from the army and another brother of the Head of State, Mr. Essolizam Gnassingbé, were also arrested. On April 17, 2009, during a speech on national television, President Faure Gnassingbé denounced an attempt to “destabilise the Republican institutions” and “coup d'état”.

8/ See HAAC Press Release, April 17, 2009.

9/ See Togolese League of Human Rights (*Ligue togolaise des droits de l'Homme* - LTDH) Statement, November 3, 2009.

10/ See Human Rights Council, *Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya - Addendum - Mission to Togo*, United Nations Document A/HRC/10/12/Add.2, March 4, 2009.

to examine the premises. However, the investigation yielded no results. In the night of October 7 to 8, 2009, the offices were again burgled. CACIT representatives filed a complaint and an investigation was opened but, as of the end of 2009, it had led to no results. On October 8, 2009, members of CACIT informed Mr. Yacoubou Hamadou, Minister for Human Rights, the Consolidation of Democracy and Civic Education, Mr. Koffi Kounte, President of the National Human Rights Commission (NHRC), and the Office of the United Nations High Commissioner for Human Rights (OHCHR). Thereafter, the NHRC and OHCHR visited CACIT representatives and the Minister of Human Rights expressed solidarity, while alleging that as a representative of the executive and under the separation of powers, he was unable to promote the investigation. On November 26, 2009, OHCHR agreed to provide financial support to CACIT for an exceptional twelve months to enable it to lease new premises. Beginning January 2010, the CACIT moved to new and more secure premises.

### **Urgent Interventions issued by The Observatory in 2009**

<b>Names</b>	<b>Violations / Follow-up</b>	<b>Reference</b>	<b>Date of Issuance</b>
Collective of Local Associations Against Impunity in Togo (CACIT)	Burglary	Urgent Appeal TGO 001/0909/OBS 131	September 2, 2009
		Urgent Appeal TGO 001/0909/OBS 131.1	October 13, 2009



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# ZIMBABWE

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2010

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## Political context

Due to ministerial differences between their respective political parties, the power-sharing agreement reached in September 2008 between Mr. Robert Mugabe, who has been President for 29 years, and opposition leader Mr. Morgan Tsvangirai, in which Mr. Mugabe remained President and Mr. Tsvangirai became Prime Minister, was not implemented until February 13, 2009. Despite this political achievement, there was little progress in 2009 in instituting any of the promised human rights reforms, in demonstrating respect for the rule of law and in charting a new political direction for the country. In addition, the first year of the power-sharing was greatly affected by the dispute over the arrest and prosecution of Mr. Roy Bennett, Deputy Minister of Agriculture who was appointed on February 10, 2009 by Mr. Tsvangirai<sup>1</sup>. The inaction of the new Government was due to an absence of political will as President Mugabe's Zimbabwe African National Union – Patriotic Front (ZANU-PF) retained control of all senior ministries including the Ministries of Defence, Justice, State Security and Foreign Affairs; and it co-chaired Home Affairs. The party therefore wielded significantly more power than Mr. Tsvangirai's Movement for Democratic Change (MDC) in the Government, and was unwilling to institute human rights and governance reforms. Although the MDC has formal control of some ministries, President Mugabe unilaterally appointed permanent secretaries to all ministries, ensuring that ZANU-PF maintains control of them. Lacking real political power to effect reforms, the MDC was unable to push for human rights reforms and appeared to be giving ground to ZANU-PF in order to ensure the survival of the power-sharing Government. One year after the signing of the Global Political Agreement (GPA) in Zimbabwe, ZANU-PF supporters continued to commit abuses against their perceived political opponents. Indeed, political discrimina-

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1/ Mr. Bennett was charged with "treason" in February 2009. Charges were later replaced with "conspiring to acquire arms with a view to disrupting essential services". When a magistrate ordered Mr. Bennett's release, the magistrate himself was arrested because "he has passed a judgment that is not popular with the State". Mr. Bennett was released from remand on March 12, 2009, but was ordered back on October 14, 2009. On October 16, 2009, Judge Hungwe instructed the prison to release him on his old bail conditions. On October 26, 2009, Mr. Tsvangirai announced that he suspended all contacts with Mr. Mugabe after Mr. Bennett was remanded into custody and indicted on terrorism charges on October 13, 2009. The trial opened on November 9, 2009 and was ongoing at the end of 2009. See Zimbabwe Human Rights Association (ZIMRIGHTS).

tion, intimidation and victimisation remained a major concern as violence across the political divide continued. MDC supporters and human rights activists remained exposed to the abuses by Government agents to protect the interests of the ruling elite<sup>2</sup>. The deportation on October 28-29, 2009 of Mr. Manfred Nowak, UN Special Rapporteur on Torture, as he was on his way to conduct a fact-finding mission from October 28 to November 4, 2009 is another example of this lack of political will<sup>3</sup>.

Access to information and freedoms of expression and assembly remained heavily restricted in 2009. Senior members of the Government and State-run media continued to use disparaging language to describe the MDC and civil society, although several MDC members and civil society activists who were prosecuted were acquitted at the end of the year, which restored a sense of confidence in the administration of justice and denoted some steps were taken towards the independence of the judiciary. 2009 also saw an intense harassment of legal practitioners by the police and Government, notably the Attorney General<sup>4</sup>, which later subsided after a demonstration on May 16, 2009 and the presentation of a petition to the Ministry of Justice on the same day<sup>5</sup>.

### **Judicial harassment of several defenders and their lawyers in the post-electoral context**

In 2009, several human rights defenders who had been abducted and detained incommunicado in 2008 in the aftermath of the results of the March 29, 2008 general elections after they had denounced political violence were prosecuted in 2009 for “terrorism” and “sabotage” charges. Lawyers who were involved in their defence also came under pressure. The most emblematic case was that of Ms. **Jestina Mukoko**, Executive Director of the Zimbabwe Peace Project (ZPP) and Board Member of the Zimbabwe Human Rights NGO Forum, and her colleagues, Messrs. **Broderick Takawira**, ZPP Provincial Coordinator, and **Pascal Gonzo**, ZPP driver, and Mr. **Andrisson Manyere**, a freelance journalist, who were abducted in December 2008 together with MDC activists and only

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2/ For instance, on October 27, 2009, Mr. Pasco Gwezere, MDC Transport Manager, was abducted by armed men from his home and detained at Marimba police station. He alleged that he was tortured since the time of his abduction and displayed serious injuries on his head, wrist, mouth, ear, feet, leg, buttocks back and genitals.

3/ See Press Release of the UN Special Rapporteur on Torture, Mr. Manfred Nowak, October 29, 2009.

4/ The latest victim was Mr. Mordekai Mahlangu, a lawyer who was arrested for representing Mr. Peter Hitchman, a witness in the trial of Mr. Roy Bennet, who through Mr. Mahlangu had written an affidavit that was sent to the Attorney General stating that he had no intention to testify as a State witness as he had no evidence to adduce which could assist the State case. See ZIMRIGHTS.

5/ See ZIMRIGHTS.

re-appeared on December 24, 2008 after weeks of incommunicado detention. During her detention, Ms. Mukoko was subjected to simulated drowning, locked in a freezer and beaten as the security forces tried to make her confess to plotting to overthrow Mr. Mugabe. On February 6 and 26, March 2 and April 9 respectively, Mr. Pascal Gonzo, Mr. Broderick Tarawira, Ms. Jestina Mukoko and Mr. Andrisson Manyere were released on bail<sup>6</sup>. On May 4, Magistrate Catherine Chimwanda granted the State leave to indict Ms. Mukoko, Mr. Takawira, Mr. Manyere as well as 12 MDC political activists for “terrorism and sabotage” and remanded the accused in custody. The indictment was opposed on the basis that there was an appeal pending before the Constitutional Court, in which Ms. Mukoko alleged a breach of her constitutional right to be afforded the full protection of the law. On May 6, the Court granted some activists, including Ms. Mukoko and Mr. Takawira, bail of 600 USD under the condition that they surrender their passports and report to police once a week. On September 28, 2009, the Constitutional Court decided to grant a permanent stay of prosecution in favour of Ms. Jestina Mukoko due to the violation of several of her fundamental rights by State agents. All charges pending against her were therefore withdrawn. As Ms. Mukoko was the sole applicant in the Constitutional Court case, other ex-abductees did not benefit from the stay of prosecution and were still facing criminal charges as of the end of 2009. They therefore lodged constitutional applications with the Supreme Court alleging the same violations of their rights as Ms. Mukoko and seeking permanent stays of their trials. At the end of 2009, the matter was still to be heard by the Supreme Court. Moreover, on May 6, 2009, Mr. **Alec Muchadehama**, who represented several victims of State-sponsored abduction and torture, including Ms. Mukoko and Mr. Manyere, was arrested by officers of the Law and Order Section of the police at the Rotten Row Magistrates Court and accused of “contempt of court”, after having reportedly secured the “unlawful release” on bail of Mr. Manyere and two MDC officials who had been granted bail by High Court Judge Justice Charles Hungwe on April 9, 2009<sup>7</sup>. On May 15, 2009, he was released on bail after payment of 100 USD (approximately 69,66 euros). Throughout the proceedings, the trial was adjourned, postponed and restarted several times. On December 10, 2009, Mr. Muchadehama was finally acquitted by the Harare Rotten Row Magistrates

6/ Subsequently, Mr. Gonzo was not charged of any offense.

7/ The State alleged that Mr. Muchadehama “unlawfully and intentionally impaired the dignity, reputation or authority of a court or realising that there was real risk or possibility of impairing the dignity, reputation or authority of a court” by causing the release of the three ex-abductees while he was aware of Justice Bhunu’s judgment in which he granted the State leave to appeal against an earlier bail order by Justice Charles Hungwe.

Court, as the prosecutors failed to prove the essential elements of the crime, notably as the State did not file its appeal against Justice Hungwe's order granting bail to Mr. Manyere and the two MDC officials<sup>8</sup>.

### **Ongoing obstacles to peaceful assembly and the holding of meetings**

In 2009, several human rights activists, including trade unionists, who participated in peaceful protests were again arrested and charged either under the notorious Public Order and Security Act (POSA) – despite a High Court ruling prohibiting the use of POSA against trade unions and despite numerous calls by NGOs to repeal the POSA; under Sections 37 (1a) and 37 (1b) of the Criminal Law (Codification and Reform) Act – which relates to “any person [who] [...] in any place or at any meeting performs any action, utters any words or distributes or displays any writing, sign or other visible representation that is obscene, threatening, abusive or insulting, intending thereby to provoke a breach of the peace or realising that there is a risk or possibility that a breach of the peace may be provoked” – or Section 13 (1a) of the Act related to disturbing the peace; or under Section 46 (2) (v) of the Third Schedule to the Criminal Law (Codification and Reform) Act – which relates to anybody who “employs any means whatsoever which are likely materially to interfere with the ordinary comfort, convenience, peace or quiet of the public or any section of the public, or does any act which is likely to create a nuisance or obstruction”.

In particular, peaceful demonstrations that were organised throughout the year by Women of Zimbabwe Arise (WOZA) and Men of Zimbabwe Arise (MOZA) led to systematic violence and arrests by the police. For example, on February 10, 2009, approximately 600 members of WOZA and MOZA took part in a peaceful demonstration outside the Parliament building in Harare in order to call upon Zimbabweans to keep demanding social justice. On the same day, Ms. **Nelia Hambarume**, Ms. **Clara Bongwe**, Ms. **Auxilia Tarumbwa**, Ms. **Gracy Mutambachirimo**, Ms. **Linda Moyo**, Ms. **Keure Chikomo**, Ms. **Edina Saidi** and Ms. **Kundai Mupfukudzwa**, all of them WOZA members, as well as of Ms. **Roselyn Hanzi** and Mr. **Tawanda Zhuwarara**, two lawyers and members of Zimbabwe Lawyers for Human Rights (ZLHR), were arrested by the Zimbabwe Republic Police (ZRP). The group remained in custody over night without being told what the reason of their arrest was. Three of the women were beaten in police custody. On February 11, 2009, they were all subjected to interrogation and were finally allowed access to ZLHR lawyers. On February 12, 2009, they

were all released on free bail but remained charged with “causing a breach of peace”, an offence under the POSA. On February 14 and June 17, 2009, the police also violently repressed peaceful protests organised by WOZA respectively in Harare to deliver a petition to the Minister of Education urging “to put children’s education first”, and six peaceful protests organised in Harare and four in Bulawayo held to commemorate International Refugee Day<sup>9</sup>. Ms. **Jennifer Williams**, WOZA National Coordinator, and her Deputy, Ms. **Magodonga Mahlangu**, also faced intensive judicial harassment throughout the year following their participation in a peaceful march organised by WOZA on October 16, 2008 to denounce the alarming economic and social situation. They had been arrested on the same day, charged for allegedly “disturbing the peace, security or order of the public” and released on bail on November 6, 2008. Ms. Williams and Ms. Mahlangu had to appear in court on remand 21 times for these charges. On December 21, 2009, the Bulawayo Magistrate’s Court refused their request to remove them off remand, and they were further remanded to February 24, 2010. Furthermore, on October 25, 2009, Ms. **Dadirai Chikwengo**, Board Chairperson of the National Association of Non Governmental Organisations (NANGO), and Mr. **Cephus Zinhumwe**, NANGO Chief Executive Officer, were arrested at the airport of Victoria Falls by members of the ZRP and the Central Intelligence Organisation after participating in the Annual NGO Directors Summer School<sup>10</sup> in this resort town, allegedly for contravening Section 25(1)(b) of the POSA by holding a “public and/or political meeting without police clearance”<sup>11</sup>. On October 27, 2009, Ms. Chikwengo and Mr. Zinhumwe were remanded out of custody on a USD 100 (approximately 69,66 euros) bail each, following decision of the Victoria Falls Court who ruled that the State had failed to clarify what regulation they had violated under POSA. On November 25, 2009, Ms. Chikwengo and Mr. Zinhumwe were summoned to appear before the Victoria Falls Magistrates Court and were acquitted on all charges<sup>12</sup>. On October 28, 2009, Messrs. **Thulani Ndhlovu** and **Ndodana Ndhlovu**, Zimbabwe Election Support Network (ZESN)<sup>13</sup> staff

9/ See WOZA.

10/ The Directors’ Summer School is an annual event organised by NANGO and bringing together directors from NGOs in Zimbabwe to reflect on their work, discuss the way forward for civil society, and issue statements targeted at the development of Zimbabwe. In 2009, the Summer School was officially opened by the Minister of Public Service and Social Welfare.

11/ The charges against Ms. Chikwengo and Mr. Zinhumwe would be linked to the statement issued by 120 NGO leaders at the close of the Summer School, in which they called for the intervention of Southern African Development Community (SADC) and the African Union (AU) to ensure that the GPA between Zimbabwe’s ruling coalition parties was honoured.

12/ See ZLHR.

13/ ZESN is a coalition of NGOs formed to co-ordinate activities pertaining to elections in Zimbabwe. ZESN promotes free and fair elections as well as democratic processes in general.

members in Hwange, were arrested in Dete, Hwange, for conducting a public outreach workshop on election education and constitutional reform, allegedly without police clearance. They were arrested after the workshop despite the fact that police had been present throughout. Mr. Ndodana Ndhlovu was released later on the same day while Mr. Thulani Ndhlovu remained in custody until he was released on bail on October 30, 2009. Mr. Thulani Ndhlovu was charged under Section 24 of the POSA<sup>14</sup> and was due to appear again in court on November 26, 2009, when he was further remanded to February 4, 2010, and then to March 30<sup>15</sup>.

Trade unions were not spared by this repression. For instance, on November 8, 2009, Mr. **Lovemore Matombo**, President of the Zimbabwe Congress of Trade Unions (ZCTU), and four members of his staff, Messrs. **Michael Kandukutu**, **Dumisani Ncube**, **Nawu Ndlovu** and **Percy Mcijo**, were arrested in Victoria Falls by officers from the Criminal Investigations Department (CID) whilst Mr. Matombo was addressing members of the ZCTU Victoria Falls District Executive, purportedly for failing to comply with POSA under which the police has to be informed of any public meeting. Mr. Matombo and his four colleagues remained in police custody at Victoria Falls police station beyond the prescribed 48-hour period, after police issued a warrant of further detention without notice to the five men or their lawyers. The ZCTU leaders were finally brought before Victoria Falls Magistrates Court on November 10, 2009, but only after their lawyers of ZLHR had filed an Urgent Chamber Application in the High Court in Harare on November 9, 2009 seeking the immediate release of the trade unionists. The lawyers also wanted the arrest and detention of the ZCTU leaders to be declared unlawful and the warrant of further detention to be declared invalid and set aside. On November 12, 2009, the Court finally held that the meeting convened by the ZCTU in Victoria Falls was a bona fide meeting of the labour union and that the police must carefully read the laws before arresting individuals. In throwing out the charges, the Court criticised the police for their over-zealous behaviour and stipulated that the POSA does not apply to trade unions. The five human rights defenders were released on the same day<sup>16</sup>.

### **Harassment of journalists denouncing human rights violations**

In 2009, journalists covering sensitive issues remained subject to harassment. For instance, on October 8, 2009 freelance photo-journalist **Annie**

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14/ Section 24 of POSA stipulates that an organiser shall notify the regulatory authority of intention to hold a public gathering.

15/ See ZESN.

16/ See ZLHR.

**Mpalume** was arrested in Manicaland province on allegations of unlawfully entering a protected area without a pass in violation of the Protected Areas Act, as she was filming and taking photographs in Chiadzwa diamond fields where the Zimbabwe army and police are facing accusations of mass murder in a crackdown on illegal diamond mining. On October 12, 2009, she was granted a USD 30 (approximately 21 euros) bail and on October 26, 2009, she was further remanded out of custody to December 14, 2009. However, at the end of 2009, she remained prosecuted<sup>17</sup>.

### Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Ms. Jestina Mukoko, and Messrs. Broderick Takawira and Pascal Gonzo	Arbitrary detention / Torture / Ill-treatments / Judicial harassment	Urgent Appeal ZWE 008/1208/OBS 206.2	January 6, 2009
	Release on bail	Urgent Appeal ZWE 008/1208/OBS 206.3	March 9, 2009
Ms. Jestina Mukoko, and Messrs. Broderick Takawira and Andrisson Manyere	Re-arrest / Indictment / Release on bail	Urgent Appeal ZWE 008/1208/OBS 206.4	May 6, 2009
	Stay of prosecution / Judicial harassment / Ill-treatments	Urgent Appeal ZWE 008/1208/OBS 206.5	September 30, 2009
Women of Zimbabwe Arise (WOZA) / Ms. Nelia Hambarume, Ms. Clara Bongwe, Ms. Auxilia Tarumbwa, Ms. Gracy Mutambachirimo, Ms. Linda Moyo, Ms. Keure Chikomo, Ms. Edina Saidi, Ms. Kundai Mupfukudzwa, Ms. Roselyn Hanzi, and Mr. Tawanda Zhuwarara	Arbitrary detention / Ill-treatments / Release on bail / Judicial proceedings	Urgent Appeal ZWE 001/0209/OBS 024	February 13, 2009
Mr. Alec Muchadehama and Ms. Jestina Mukoko	Judicial harassment	Urgent Appeal ZWE 002/1009/OBS 147	October 13, 2009
Ms. Dadirai Chikwengo and Mr. Cephus Zinhumwe	Arbitrary arrest / Judicial harassment / Release on bail	Urgent Appeal ZWE 003/1009/OBS 156	October 28, 2009

17/ See Media Institute of Southern Africa (MISA).